



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Regular Meeting Agenda - Final City Council

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Tuesday, April 7, 2020

6:00 PM

City Council Chambers

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630 E. Hopkins

**Due to COVID-19, this will be a virtual meeting. To view the meeting please go to [www.sanmarcostx.gov/videos](http://www.sanmarcostx.gov/videos) or watch on Grande channel 16 or Spectrum channel 10.**

- I. Call To Order
- II. Roll Call
- III. Invocation
- IV. Pledges of Allegiance - United States and Texas
- V. 30 Minute Citizen Comment Period

*Persons wishing to speak during the citizen comment period please submit your written comments to [citizencomment@sanmarcostx.gov](mailto:citizencomment@sanmarcostx.gov) no later than 12:00pm on the day of the meeting. The first 20 comments will be read aloud during the citizen comment portion of the meeting. Comments shall have a time limit of three minutes each. Any threatening, defamatory or other similar comments prohibited by Chapter 2 of the San Marcos City Code will not be read.*

### PRESENTATIONS

1. Receive a presentation and update on the following semi-annual Preferred Scenario Map Amendment application(s); and provide direction to staff:

PSA-20-02 (Riverbend Ranch) - Request to amend the Preferred Scenario Map from "Area of Stability-Low Intensity" to "Growth Area-Medium Intensity" for +/- 1,142 acres of land, located approximately at the intersection of North Old Bastrop Highway and Staples Road.

### CONSENT AGENDA

*THE FOLLOWING ORDINANCES, RESOLUTIONS AND OTHER ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCIL MEMBER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.*

2. Consider approval, by motion, of the following meeting Minutes:
  - A. March 3, 2020 - Work Session Meeting Minutes
  - B. March 17, 2020 - Emergency Special Meeting Minutes

## C. March 24, 2020 - Special Meeting Minutes

3. Consider approval of Ordinance 2020-08, on the second of two readings, approving annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop, including procedural provisions; and providing an effective date.
4. Consider approval of Ordinance 2020-09, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend from "FD" Future Development District and "GC" General Commercial District to "PA" Planning Area District; and including procedural provisions.
5. Consider approval of Ordinance 2020-10, on the second of two readings, annexing into the City approximately 30.5 acres of land, generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road; including procedural provisions; and providing an effective date.
6. Consider approval of Ordinance 2020-12, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 18.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from "FD" Future Development District to "CD-4" Character District 4; and including procedural provisions.
7. Consider approval of Ordinance 2020-13, on the second of two readings, amending Chapter 38 of the City Code titled Fire Prevention and Protection, of the San Marcos City Code by revising the local amendments recommended in the 2015 edition of the International Fire Code to include provisions relating to mobile food vending operations, gate access, signage, location of fire extinguishers in multi-family structures and requiring buildings in certain zoned areas of the City that have been impacted by a fire event to install fire-sprinkler systems prior to re-occupancy, among other revisions, to enhance public safety in the City; providing for the repeal of any conflicting provisions; and providing an effective date.
8. Consider approval of Ordinance 2020-14, on the second of two readings, adopting fees to be charged by the City for various Parks and Recreation Facilities, including changes to existing fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
9. Consider approval of Ordinance 2020-15, on the second of two readings, amending Section 34.080 of the San Marcos City Code to establish an administrative fee and provide for the collection of costs related to the filing of a nuisance abatement lien; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.
10. Consider approval of Resolution 2020-75R, awarding a construction contract to Cash Construction Company, Inc. for the Main Lift Station Force Main Replacement Project in the total amount of \$9,286,059.00; authorizing the City Manager or his designee to execute the appropriate documents relating to this contract on behalf of the City; and declaring an effective date.

11. Consider approval of Resolution 2020-76R, approving a Change in Service to the engineering services agreement with Alan Plummer Associates, Inc. (Contract No. 218-394) relating to the Sunset Acres Subdivision Drainage Improvements Project to add engineering design services for replacing wastewater lines along Lockwood and Candlelight in the estimated amount of \$59,020.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.
12. Consider approval of Resolution 2020-77R, approving a commercial office lease amendment with Two Fold, LLC for the lease of the Women, Infants, and Children (WIC) Satellite Office at 641 North Walnut Avenue, New Braunfels, Texas for the purpose of extending the lease term for two additional years with an increase in rent from \$1,575 to \$1,600 per month the first year and \$1,625 per month the second year; and authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
13. Consider approval of Resolution 2020-78R, approving a fifth amendment to the Interlocal Agreement for Commercial Office Lease with Hays County for the Women, Infants, and Children (WIC) satellite office at 150 Lockhart Street, Kyle, Texas for the purpose of extending the lease term for five additional years; authorizing the City Manager or his designee to execute the amended interlocal agreement; and declaring an effective date.
14. Consider approval of Resolution 2020-79R, authorizing a participation in the U.S. Fixed Income Trust Investment Pools; designating authorized representatives; and declaring an effective date.
15. Consider approval of Resolution 2020-80R, approving a fourth amendment to the term sheet attached to Resolution 2014-143R regarding the advisability of the improvements in the Whisper Public Improvement District and declaring an effective date.
16. Consider approval of Resolution 2020-81R, approving the award of a contract to River City Power Washing for the cleaning of sidewalks in the downtown area of the City in the estimated annual amount of \$18,000 and authorizing three one-year extensions for a total contract price of \$72,000; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.
17. Consider approval of Resolution 2020-82R, approving a license agreement with E&T Real Estate LLC to allow the partial paving of a gravel section of Hillyer Street near Allen Street to a driveway standard to improve access to the lot at 1105 Hillyer Street; authorizing the City Manager, or his designee, to execute the license agreement on behalf of the City; and declaring an effective date.

## **NON-CONSENT AGENDA**

18. Consider approval of Ordinance 2020-18, on the first of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and

release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

19. Consider approval of Ordinance 2020-19, requiring a landlord to provide notice of a proposed eviction action prior to issuing an actual notice to vacate and provide tenants a ninety day period to cure any delinquency as a result of the COVID-19 pandemic; creating an offense and penalty, providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.
20. Consider approval of Ordinance 2020-20, temporarily waiving the 15 percent late charge and the 1 percent per month interest charge for delinquent payment of Hotel Occupancy Taxes under Section 78.103 of the San Marcos City Code due to the COVID-19 pandemic; providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.
21. Consider approval of Ordinance 2020-21, amending section 2.566 of the San Marcos City Code to authorize the City Manager to approve certain contracts on behalf of the City for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 in amounts up to \$500,000.00 without further City Council approval; including procedural provisions; providing for the adoption of this Ordinance on only one reading as an emergency measure; and declaring an effective date.
22. Consider approval of Resolution 2020-83R, filling a vacancy on the Board of Directors of the Alliance Regional Water Authority (ARWA), and declaring an effective date.
23. Receive a presentation and hold discussion regarding a possible budget amendment to provide funding for personal protective equipment and testing for COVID-19, and provide direction to the City Manager.

### **EXECUTIVE SESSION (If Necessary)**

*NOTE: The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The City Council may also publicly discuss any item listed on the agenda for Executive Session.*

24. Executive Session in accordance with the following Government Code Section(s):
  - A. Section §551.074 - Personnel Matters: to discuss the Appointee Review Process
  - B. Section §551.071 - Consultation with Attorney: to seek legal advice concerning a request for consideration by council of an anti-discrimination ordinance

### **DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION**

25. Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:
  - A. Section §551.074 - Personnel Matters: Appointee Review Process
  - B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

## VI. Question and Answer Session with Press and Public.

*This is an opportunity for the Press and Public to ask questions related to items on this agenda.*

## VII. Adjournment.

**POSTED ON WEDNESDAY, APRIL 1, 2020 @ 4:00PM**

**TAMMY K. COOK, INTERIM CITY CLERK**

## Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)



Legislation Text

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**File #:** ID#20-202, **Version:** 1

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**AGENDA CAPTION:**

Receive a presentation and update on the following semi-annual Preferred Scenario Map Amendment application(s); and provide direction to staff:

PSA-20-02 (Riverbend Ranch) - Request to amend the Preferred Scenario Map from “Area of Stability-Low Intensity” to “Growth Area-Medium Intensity” for +/- 1,142 acres of land, located approximately at the intersection of North Old Bastrop Highway and Staples Road.

**Meeting date:** April 7, 2020

**Department:** Planning & Development

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** N/A

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Direct Growth, Compatible with Surrounding Uses
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

One (1) application was received for the semi-annual Preferred Scenario Map Amendment (PSA) deadline.

HK Real Estate Development: +/- 1,142 acres located at North Old Bastrop Highway and Staples Road: Proposal to change from “Area of Stability-Low Intensity” to “Growth Area-Medium Intensity”: Proposal to change from ETJ to a Medium Intensity Planned Area District.

In addition to the required public hearings, Section 2.4.2.3 of the San Marcos Development Code stipulates that the Responsible Official schedule a series of informational meetings upon receiving an application for a Preferred Scenario Map Amendment. Those informational meetings include the following:

- An informational meeting with members of the Neighborhood Commission
- An informational meeting with members of the Planning and Zoning Commission
- **An informational meeting with the City Council prior to the first City Council public hearing**

The full schedule for required meetings and public hearings is below:

- TBD: Neighborhood Commission Informational Meeting
- **April 7<sup>th</sup>: City Council Informational Meeting**
- April 14<sup>th</sup>: Planning & Zoning Commission Informational Meeting
- April 28<sup>th</sup>: Planning & Zoning Commission Public Hearing & Action
- May 19<sup>th</sup>: City Council Public Hearing (No Action)
- June 2<sup>nd</sup>: City Council Public Hearing & Action
- June 16<sup>th</sup>: City Council Reconsideration

This staff presentation is for informational purposes only and is intended to provide Councilmembers an overview of the request and a schedule of upcoming meetings and public hearings.

**Council Committee, Board/Commission Action:**

**N/A-Informational Only**

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**PSA-20-02 (Riverbend Ranch) Preferred Scenario Amendment Review (By Comp Plan Element)**

**LAND USE – Preferred Scenario Map / Land Use Intensity Matrix**

	YES	NO (map amendment required)
Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?		<b>X</b>

**ECONOMIC DEVELOPMENT – Furthering the goal of the Core 4 through the three strategies**

STRATEGY	SUMMARY	Supports	Contradicts	Neutral
Preparing the 21 <sup>st</sup> Century Workforce	Provides / Encourages educational opportunities			<b>Applicant has not indicated that educational facilities will be included.</b>
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business	<b>Applicant has indicated that infrastructure will be extended.</b>		
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity			<b>Applicant has not indicated that opportunities for jobs and services will be included.</b>

**ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints**

	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint	<b>12%</b>	<b>57%</b>	<b>16%</b>	<b>1%</b>	<b>14%</b>
Constraint by Class					
Cultural	<b>95%</b>			<b>5%</b>	
Edwards Aquifer	<b>100%</b>				
Endangered Species	<b>100%</b>				
Floodplains	<b>83%</b>	<b>1%</b>		<b>11%</b>	<b>5%</b>
Geological	<b>100%</b>				
Slope	<b>98%</b>		<b>1%</b>		<b>1%</b>
Soils	<b>59%</b>	<b>37%</b>		<b>4%</b>	
Vegetation	<b>100%</b>				
Watersheds	<b>100%</b>				
Water Quality Zone	<b>73%</b>			<b>9%</b>	<b>18%</b>

**ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results**

Located in Subwatershed:	<b>N/A-Outside Comprehensive Plan area of study.</b>				
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed					
Notes: <b>N/A-Outside Comprehensive Plan area of study.</b>					

**NEIGHBORHOODS – Where is the property located**

CONA Neighborhood(s):	<b>N/A – Outside City Limits</b>
Neighborhood Commission Area(s):	<b>N/A – Outside City Limits</b>
Neighborhood Character Study Area(s):	<b>N/A</b>

**PARKS, PUBLIC SPACES AND FACILITIES –Availability of parks and infrastructure**

		YES	NO
Will Parks and / or Open Space be Provided?		<b>X</b>	
Will Trails and / or Green Space Connections be Provided?		<b>X</b>	
<b>In accordance with Development Agreement and San Marcos Development Code. To be dedicated as part of the overall Riverbend Ranch Development.</b>			
Maintenance / Repair Density	Low (maintenance)	Medium	High (maintenance)
Wastewater Infrastructure	<b>X</b>		
Water Infrastructure	<b>X</b>		
Public Facility Availability			
		YES	NO
Parks / Open Space within ¼ mile (walking distance)? <b>El Camino Real Park is located approximately ½ mile southwest of the most southwestern point of the proposed development. Parks will be required in the Riverbend Ranch Development Agreement.</b>			<b>X</b>
Wastewater service available? <b>As part of the Development Agreement extensions are required and developer will provide.</b>		<b>X</b>	
Water service available? <b>The City has service available adjacent to the property. As part of Development Agreement, construction of mains within the development are required and developer will provide.</b>		<b>X</b>	

**TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation**

		A	B	C	D	F
Existing Daily LOS	North Old Bastrop Highway Staples Road	X				
Existing Peak LOS	North Old Bastrop Highway Staples Road	X	X			
Preferred Scenario Daily LOS	North Old Bastrop Highway Staples Road	X		X		X
Preferred Scenario Peak LOS	North Old Bastrop Highway Staples Road	X				X
<p>The Transportation Demand Model shows that North Old Bastrop Highway is at a level of service A for the Existing Daily and a level of service C for the Existing Peak. It remains at a level of service A in the Preferred Scenario Daily and Peak. Staples Road is shown as a LOS A in the Existing Daily and Peak but drops to a LOS C and F in the Preferred Scenario Daily and Peak. A Transportation Impact Analysis will be required and the applicant may be responsible for improvements to these roadways if the analysis warrants improvements.</p>						
		N/A	Good	Fair	Poor	
Sidewalk Availability		X				
Sidewalks are required to be built as part of the development.						
		YES		NO		
Adjacent to existing bicycle lane?				X		
Adjacent to existing public transportation route?		X				
Notes: The Guadalupe/Redwood line runs along Redwood Road. The nearest stop is at Redwood Road and Poplar Street.						

## PSA-20-02 (Riverbend Ranch)

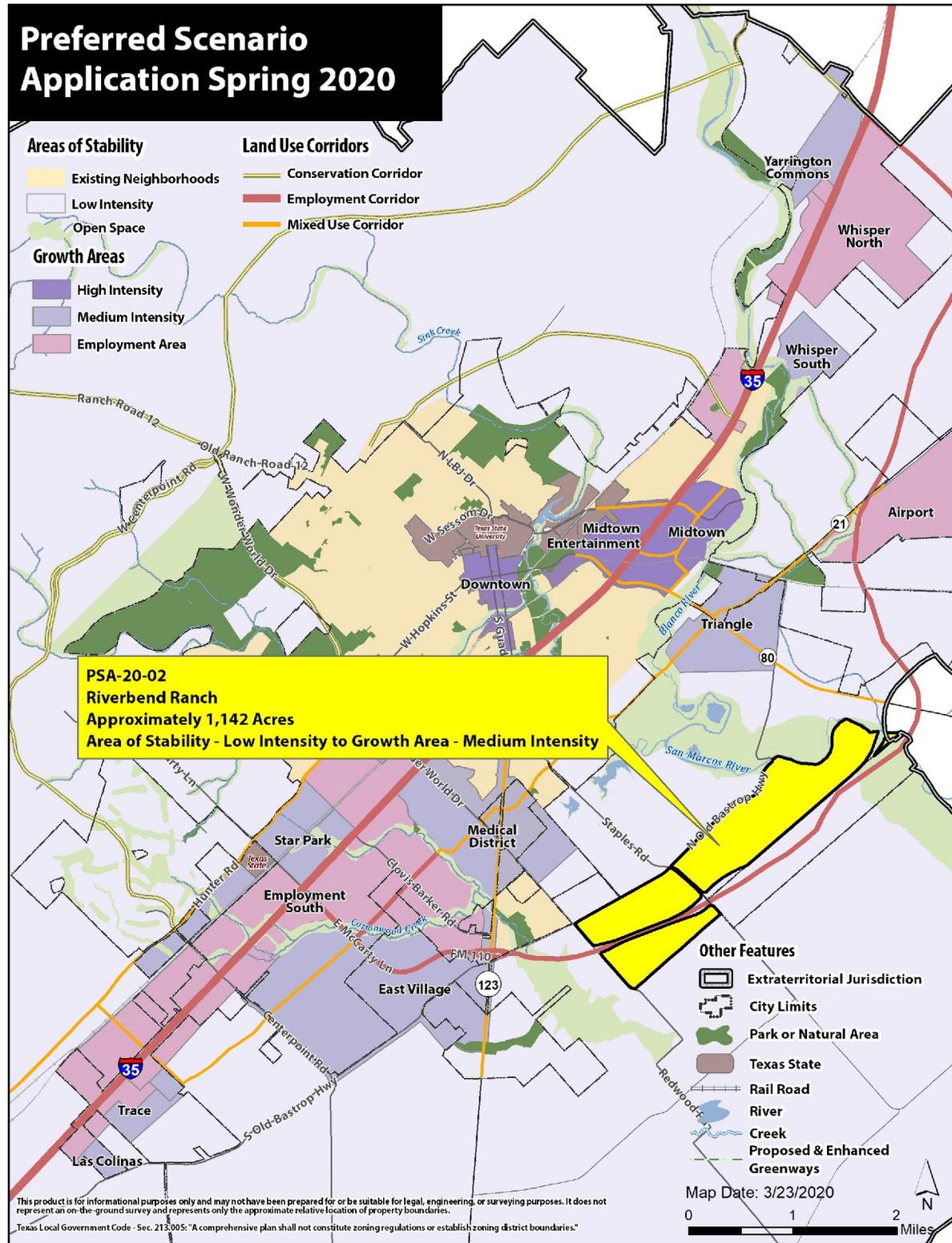
Receive a presentation and update on the following Spring 2020 Preferred Scenario Amendment Application:

PSA-20-02 (Riverbend Ranch)-A Preferred Scenario Amendment from "Area of Stability-Low Intensity" to "Growth Area-Medium Intensity", located approximately at the intersection of North Old Bastrop Highway and Staples Road.

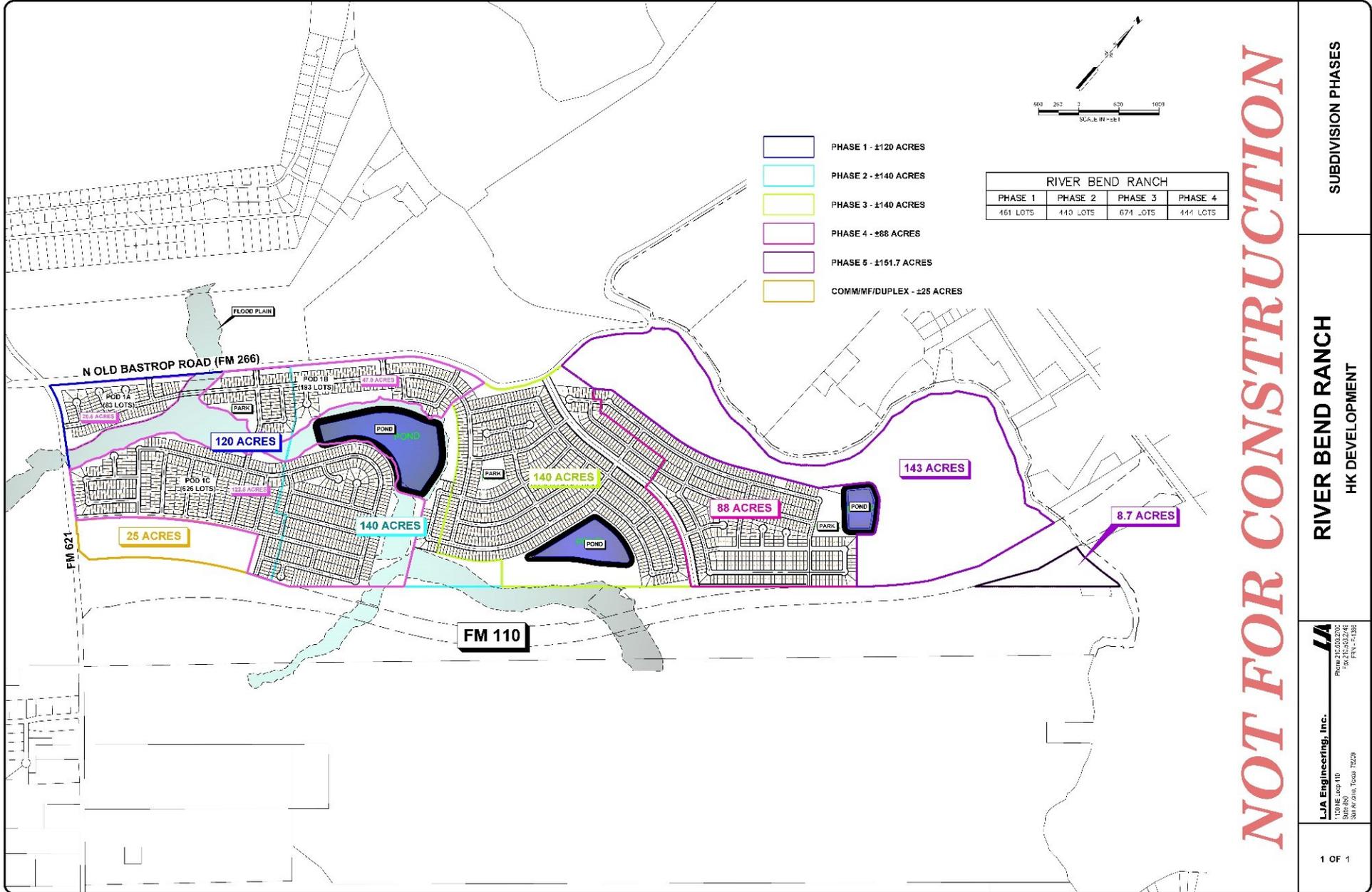


# Request:

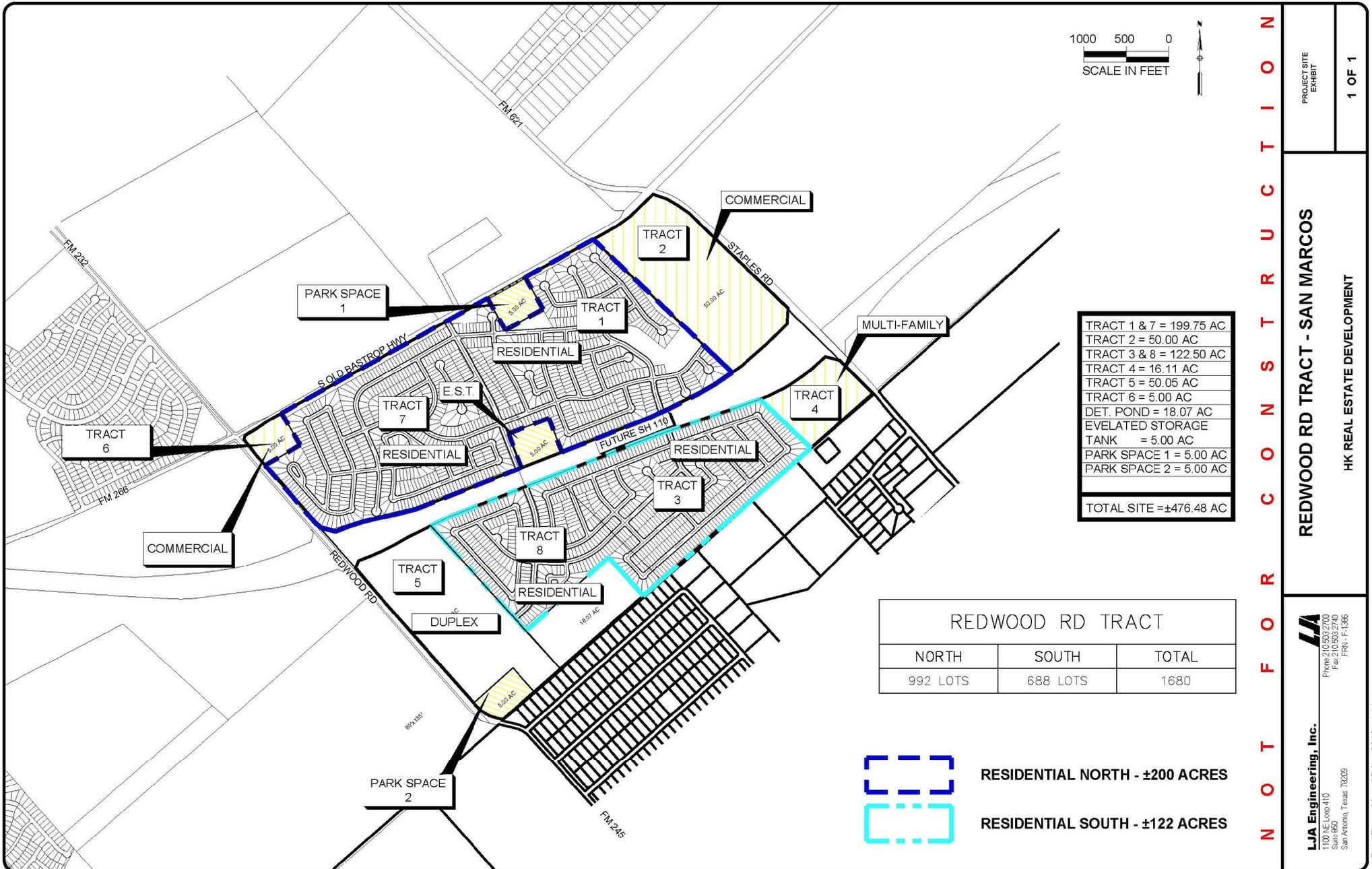
- Amend Preferred Scenario Map
- Area of Stability-Low Intensity to Growth Area-Medium Intensity
- ETJ Status to Medium Intensity Planning Area District



# Concept Plan



# Concept Plan



TRACT 1 & 7 = 199.75 AC
TRACT 2 = 50.00 AC
TRACT 3 & 8 = 122.50 AC
TRACT 4 = 16.11 AC
TRACT 5 = 50.05 AC
TRACT 6 = 5.00 AC
DET. POND = 18.07 AC
ELEVATED STORAGE TANK = 5.00 AC
PARK SPACE 1 = 5.00 AC
PARK SPACE 2 = 5.00 AC
<b>TOTAL SITE = ±476.48 AC</b>

REDWOOD RD TRACT		
NORTH	SOUTH	TOTAL
992 LOTS	688 LOTS	1680

- [ ] RESIDENTIAL NORTH - ±200 ACRES
- [ ] RESIDENTIAL SOUTH - ±122 ACRES

NOT FOR CONSTRUCTION

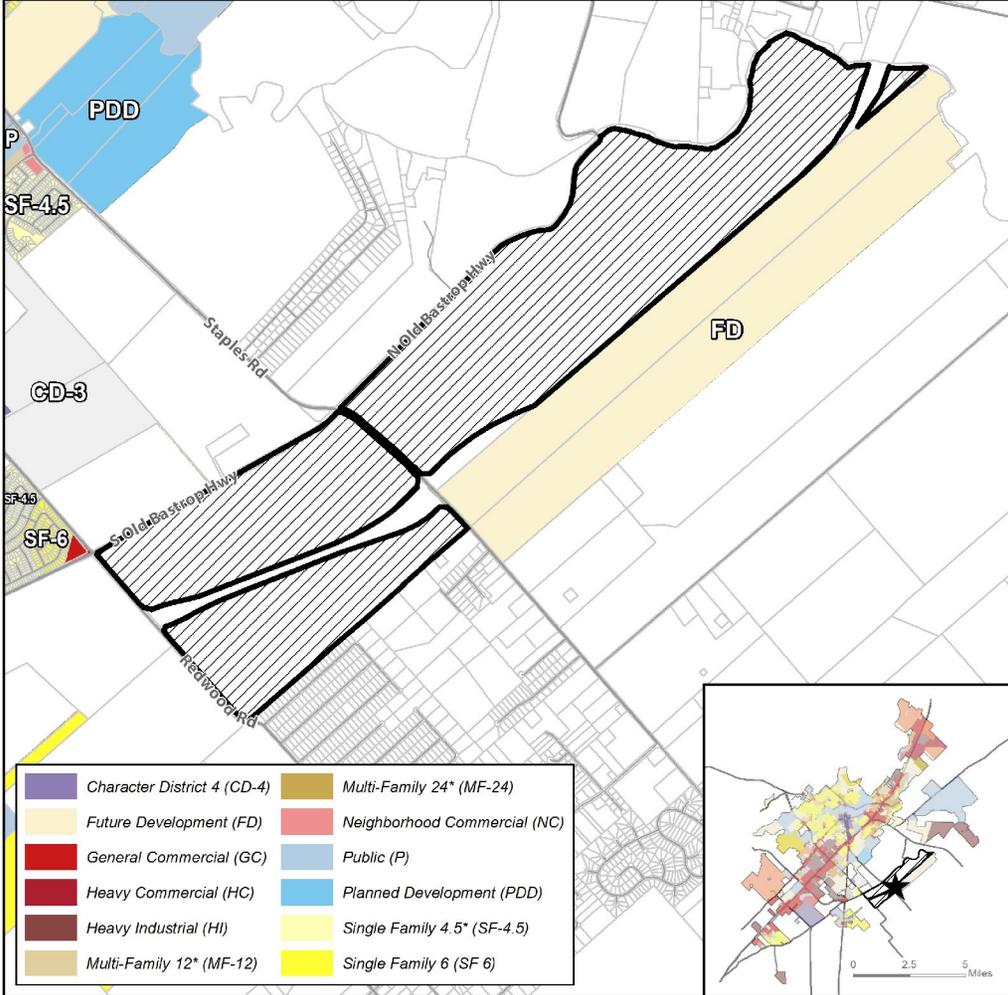
<p><b>REDWOOD RD TRACT - SAN MARCOS</b></p> <p>HK REAL ESTATE DEVELOPMENT</p>	<p>PROJECT SITE EXHIBIT</p> <p style="text-align: center;"><b>1 OF 1</b></p>
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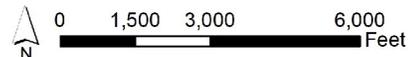
## **Schedule:**

- **TBD: Neighborhood Commission Informational Meeting**
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- **April 14th: P&Z Informational Meeting**
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**PSA-20-02  
Existing Zoning  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**

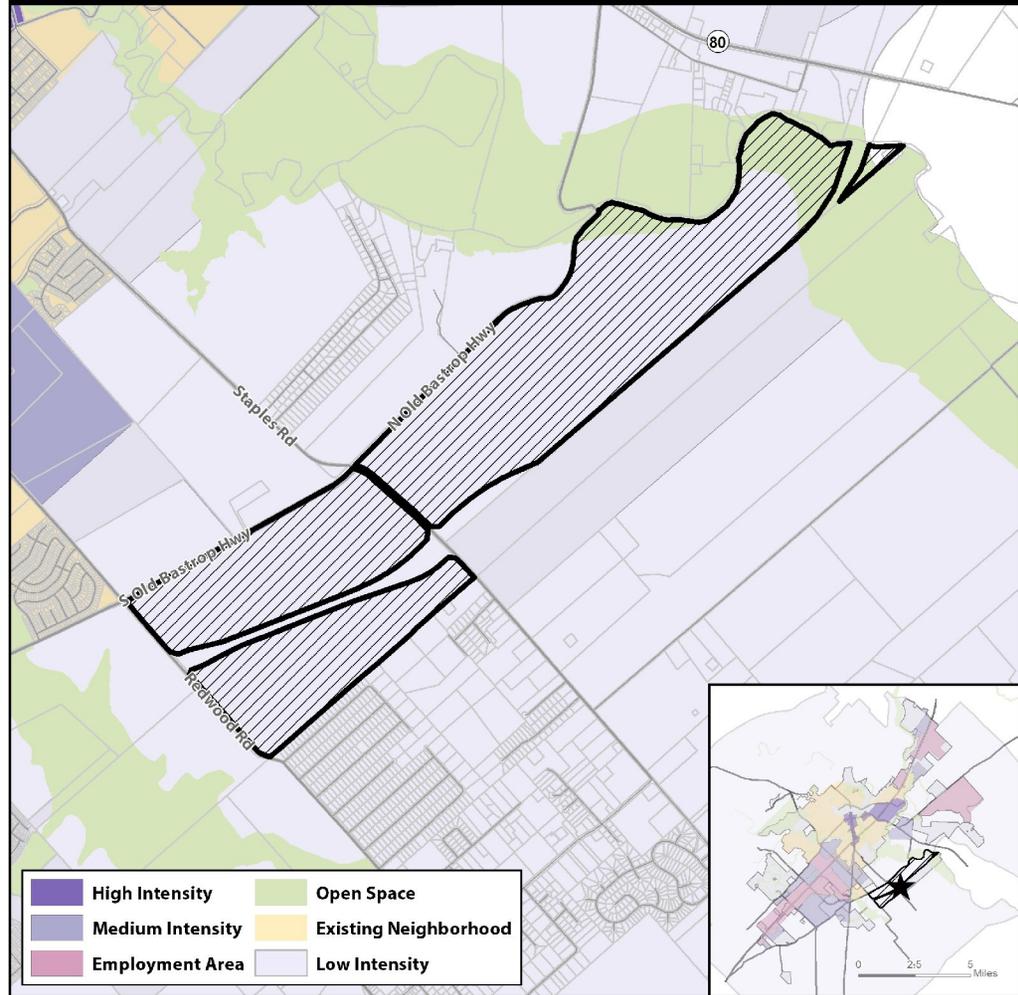


- ★ Site Location
- ▨ Subject Property
- ▭ Parcels
- ▭ City Limit

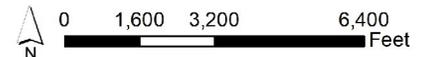


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Map Date: 3/23/2020

**PSA-20-01  
Preferred Scenario  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**

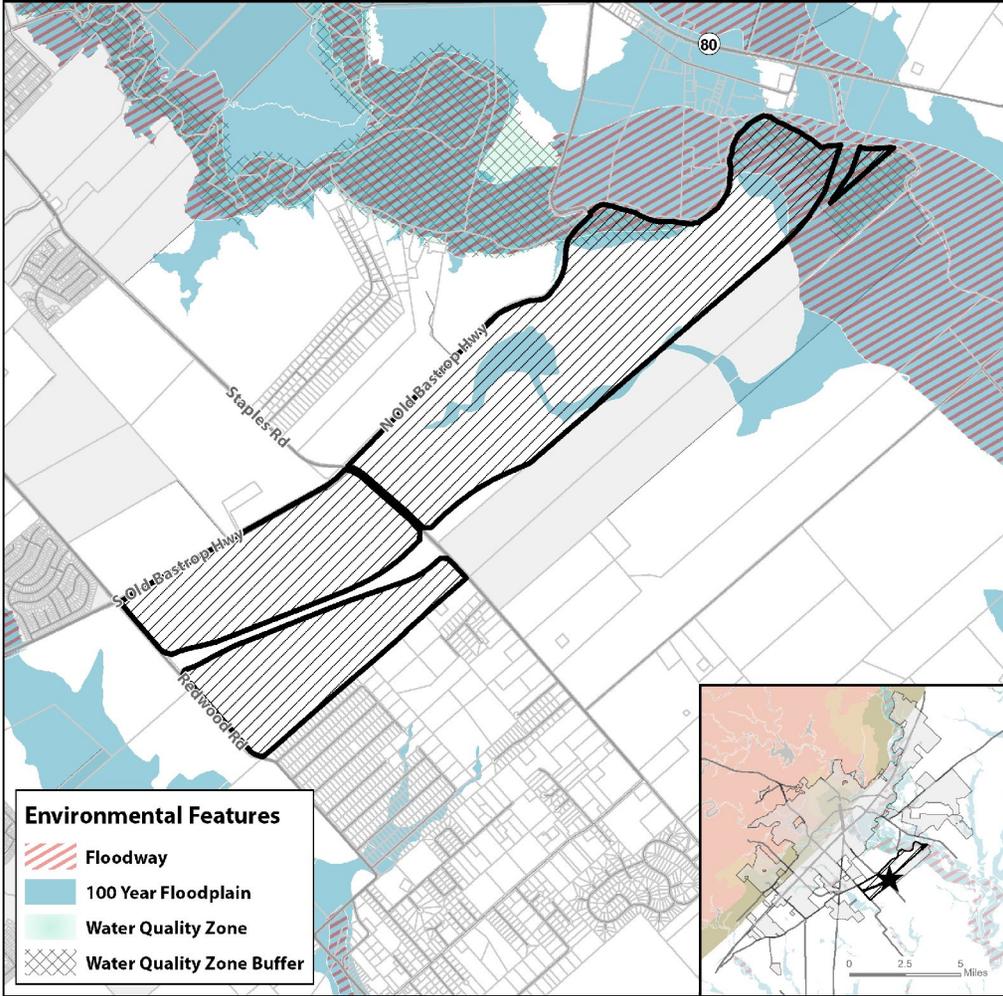


- ★ Site Location
- ▨ Subject Property
- ▭ Parcels
- ▭ City Limit



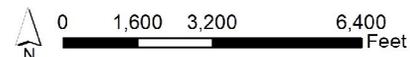
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Map Date: 3/23/2020

**PSA-20-02**  
**Environmental Features**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



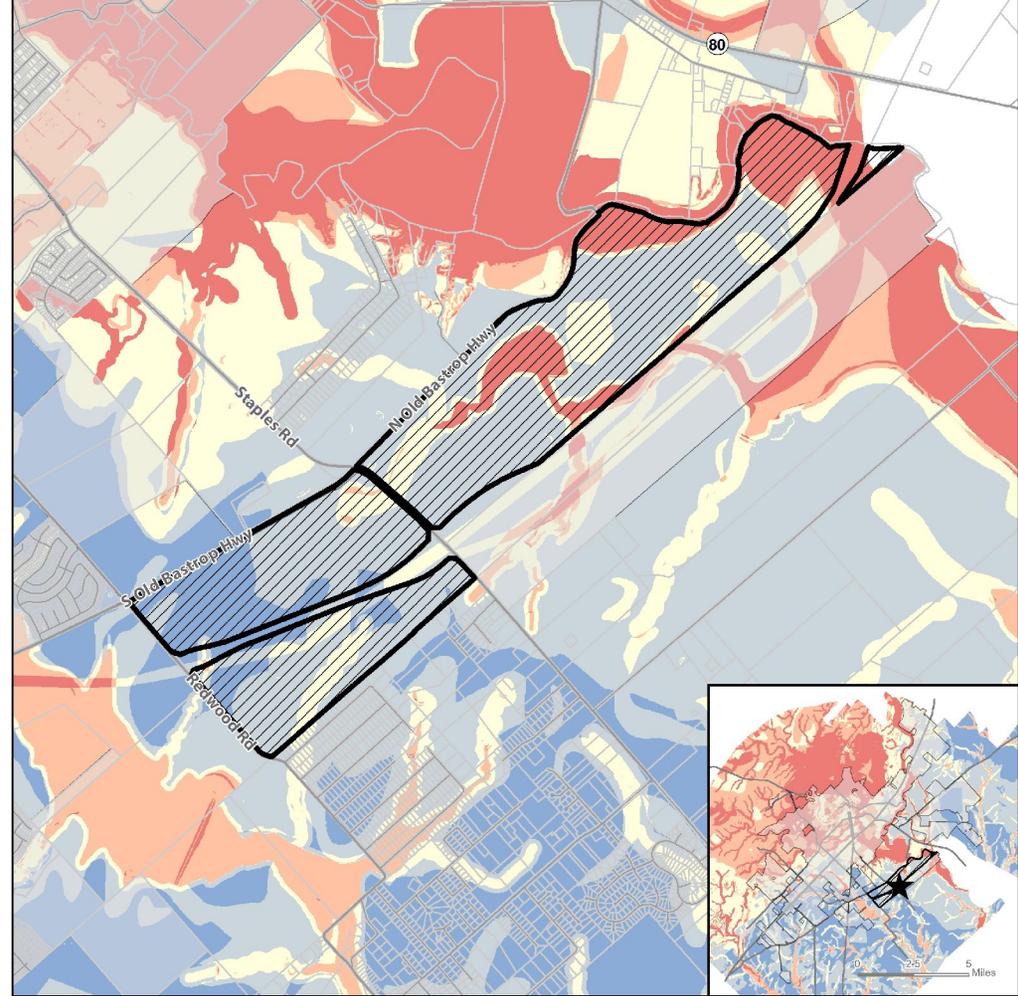
- Environmental Features**
- Floodway
  - 100 Year Floodplain
  - Water Quality Zone
  - Water Quality Zone Buffer

- Site Location
- Subject Property
- Parcels
- City Limit



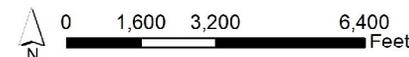
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**PSA-20-02**  
**Land Use Suitability**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



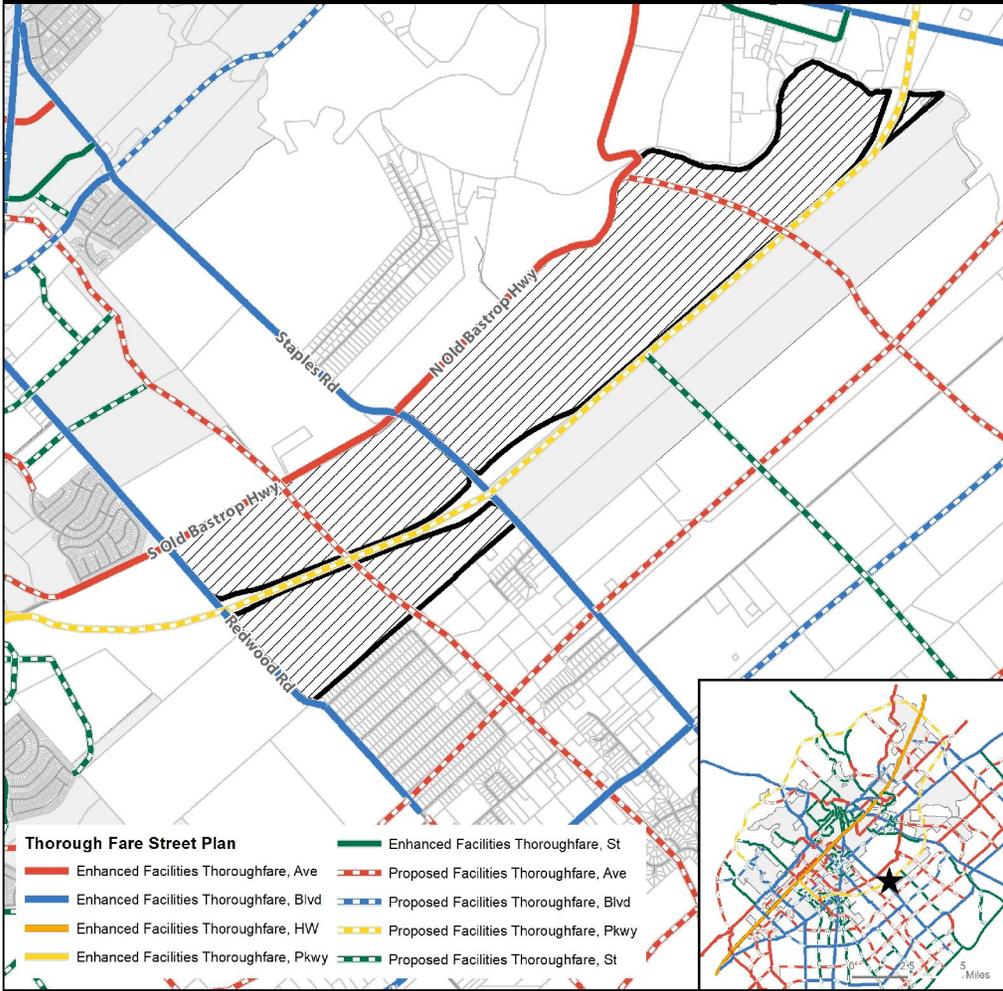
- Land Use Suitability**
- Value
- Least Constrained
  - 2
  - Moderately Constrained
  - 4
  - Most Constrained

- Site Location
- Subject Property
- Parcels
- City Limit



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 Map Date: 3/23/2020

**PSA-20-02  
Transportation Master Plan  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



- Site Location
- Subject Property
- Parcels
- City Limit

0 1,600 3,200 6,400 Feet

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Map Date: 3/23/2020

**PSA-20-02  
Water/Wastewater Lines  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



- Site Location
- Subject Property
- Parcels
- City Limit

- 
- 

Sanitary Main  
Water Main

0 1,600 3,200 6,400 Feet

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Map Date: 3/23/2020

**PSA -20-02**  
**TDM Existing Daily**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**  
*TDM derived from 2010 CAMPO Regional Model*



★ Site Location	<b>Level of Service (LOS)*</b>	 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Map Date: 3/23/2020
▨ Subject Property	LOS A (0.00 - 0.60)	
▭ Parcels	LOS B (0.61 - 0.70)	
▭ City Limit	LOS C (0.71 - 0.80)	
	LOS D (0.81 - 0.90)	
	LOS E (0.91 - 1.00)	
	LOS F (Over 1.00)	

\*Level of Service (LOS) defined by maximum volume over capacity.

**PSA-20-02**  
**TDM Existing Peak**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**  
*TDM derived from 2010 CAMPO Regional Model*

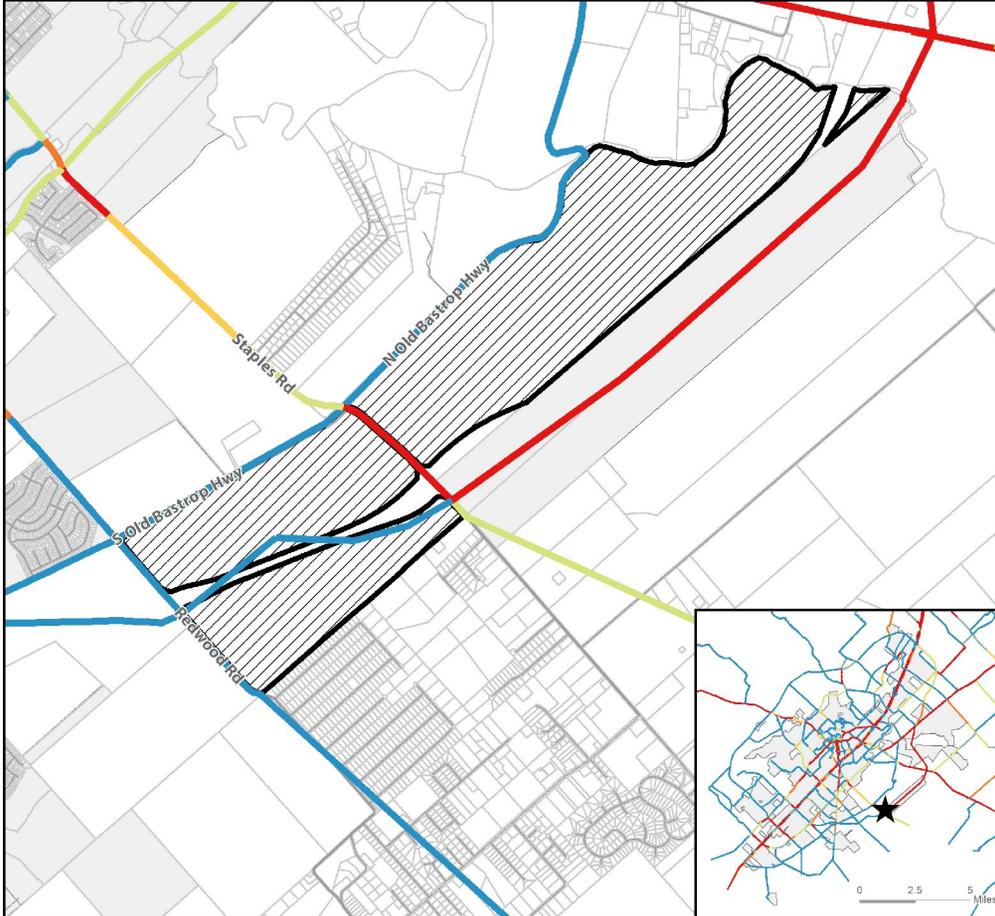


★ Site Location	<b>Level of Service (LOS)*</b>	 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Map Date: 3/23/2020
▨ Subject Property	LOS A (0.00 - 0.60)	
▭ Parcels	LOS B (0.61 - 0.70)	
▭ City Limit	LOS C (0.71 - 0.80)	
	LOS D (0.81 - 0.90)	
	LOS E (0.91 - 1.00)	
	LOS F (Over 1.00)	

\*Level of Service (LOS) defined by maximum volume over capacity.

**PSA-20-02  
TDM Future Daily  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**

TDM derived from 2010 CAMPO Regional Model



★ Site Location

▨ Subject Property

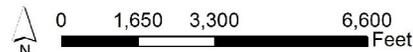
▭ Parcels

▭ City Limit

\*Level of Service (LOS) defined by maximum volume over capacity.

**Level of Service (LOS)\***

- LOS A (0.00 - 0.60)
- LOS B (0.61 - 0.70)
- LOS C (0.71 - 0.80)
- LOS D (0.81 - 0.90)
- LOS E (0.91 - 1.00)
- LOS F (Over 1.00)

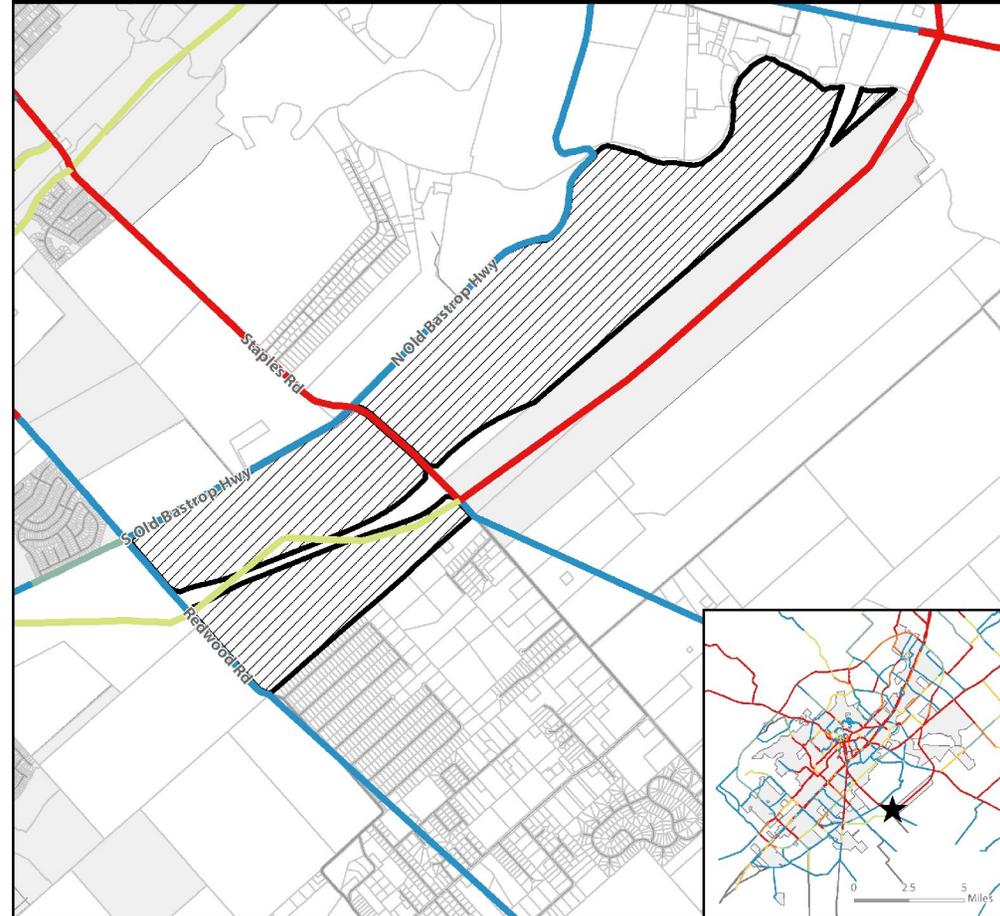


This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/23/2020

**PSA-20-02  
TDM Future Peak  
Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**

TDM derived from 2010 CAMPO Regional Model



★ Site Location

▨ Subject Property

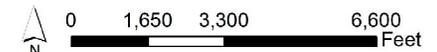
▭ Parcels

▭ City Limit

\*Level of Service (LOS) defined by maximum volume over capacity.

**Level of Service (LOS)\***

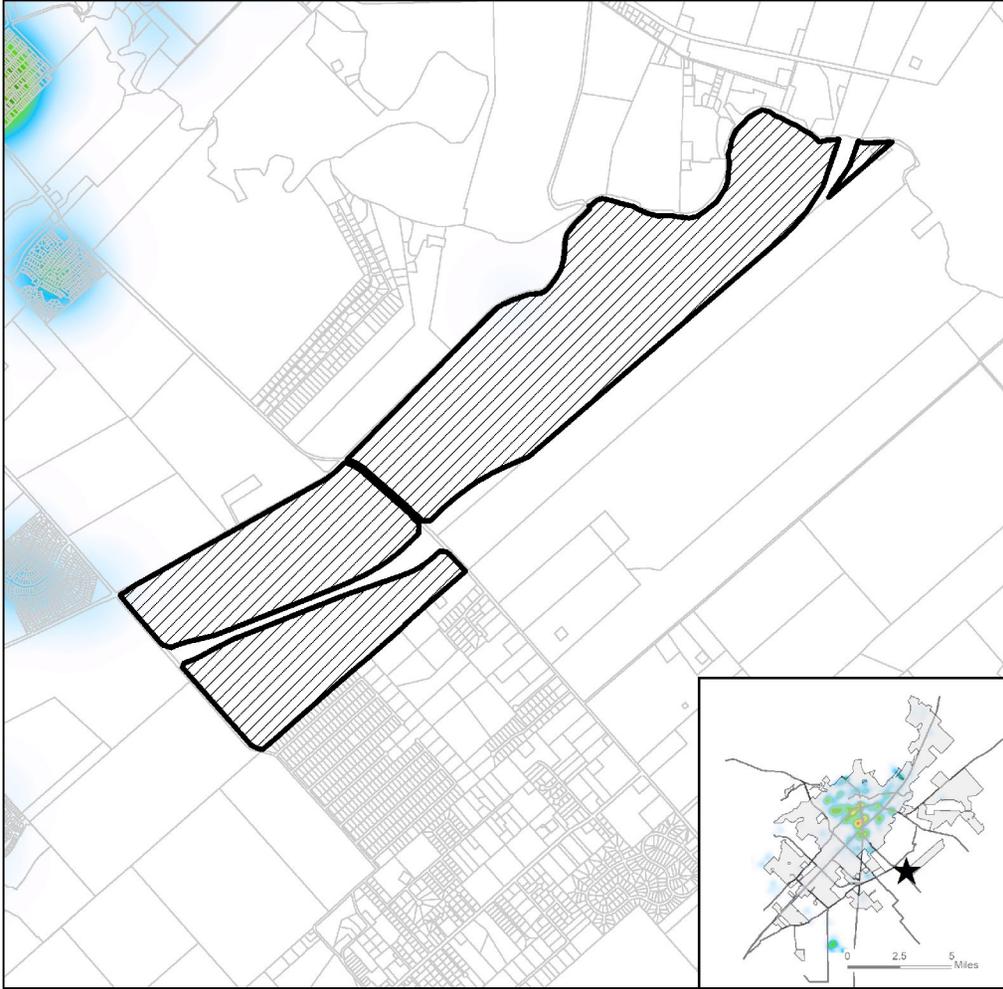
- LOS A (0.00 - 0.60)
- LOS B (0.61 - 0.70)
- LOS C (0.71 - 0.80)
- LOS D (0.81 - 0.90)
- LOS E (0.91 - 1.00)
- LOS F (Over 1.00)



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Map Date: 3/23/2020

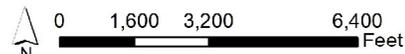
**PSA-20-02**  
**Water Hotspots**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



- Subject Property
- Site Location
- Parcels
- City Limit



Hotspot analysis based on service requests from 2013 to 2018.

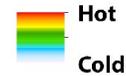


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 Map Date: 3/23/2020

**PSA-20-02**  
**Wastewater Hotspots**  
**Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.**



- Subject Property
- Site Location
- Parcels
- City Limit



Hotspot analysis based on service requests from 2013 to 2018.



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 Map Date: 3/23/2020

# Preferred Scenario Application Spring 2020

## Areas of Stability

- Existing Neighborhoods
- Low Intensity
- Open Space

## Growth Areas

- High Intensity
- Medium Intensity
- Employment Area

## Land Use Corridors

- Conservation Corridor
- Employment Corridor
- Mixed Use Corridor

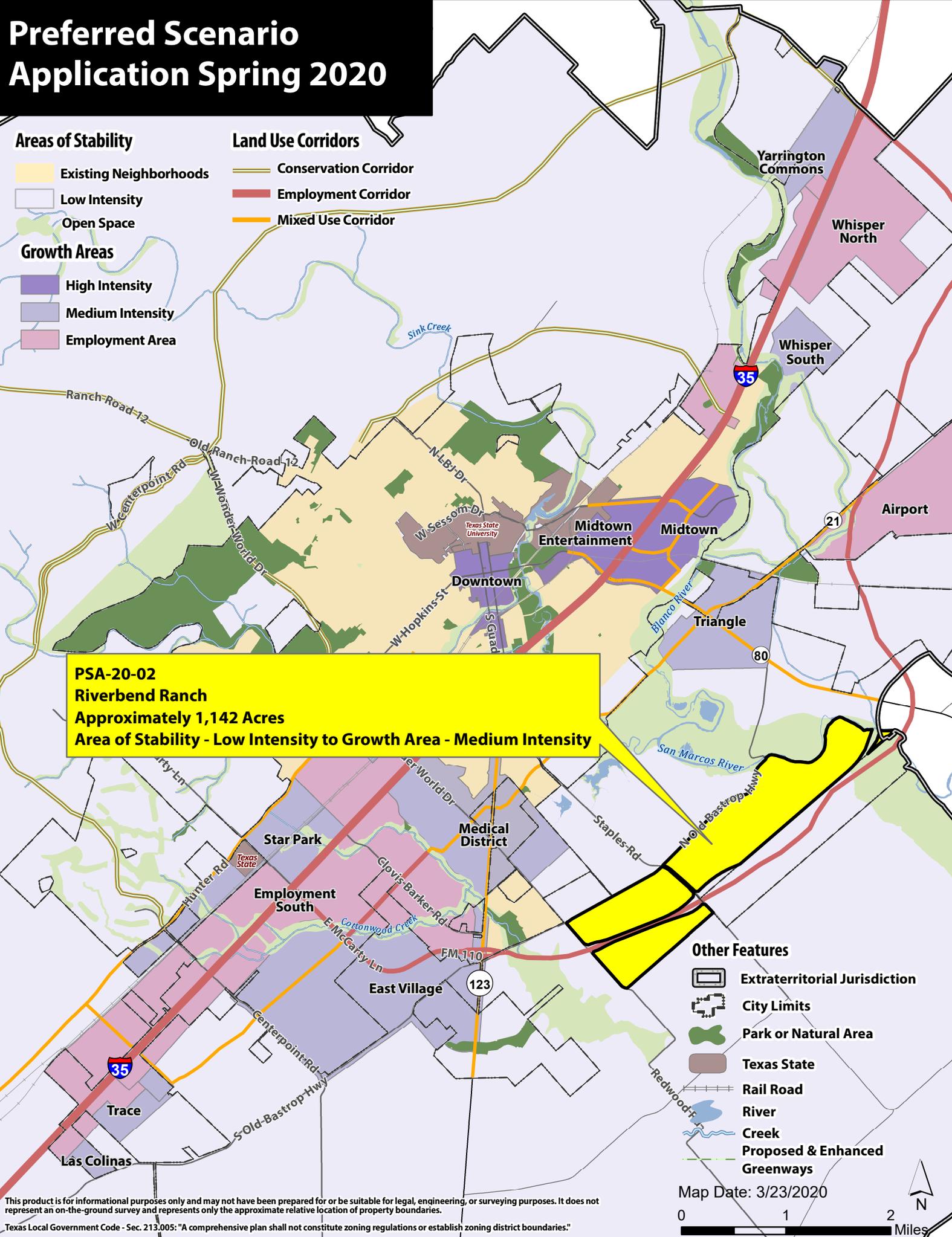
## Other Features

- Extraterritorial Jurisdiction
- City Limits
- Park or Natural Area
- Texas State
- Rail Road
- River
- Creek
- Proposed & Enhanced Greenways

Map Date: 3/23/2020

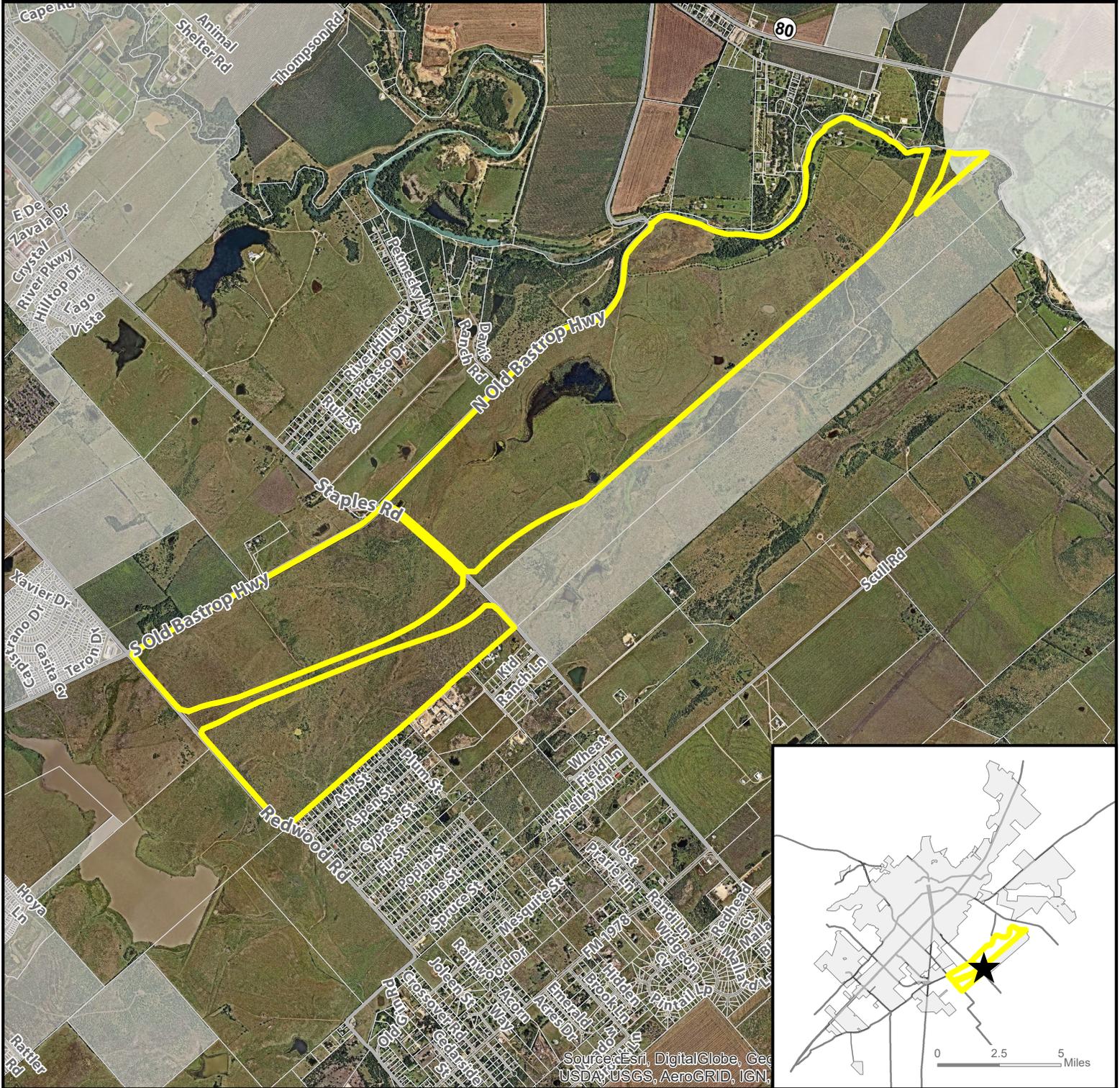
0 1 2 Miles

**PSA-20-02  
Riverbend Ranch  
Approximately 1,142 Acres  
Area of Stability - Low Intensity to Growth Area - Medium Intensity**

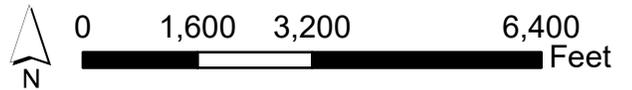


This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.  
Texas Local Government Code - Sec. 213.005: "A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries."

# PSA-20-02 Aerial View Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



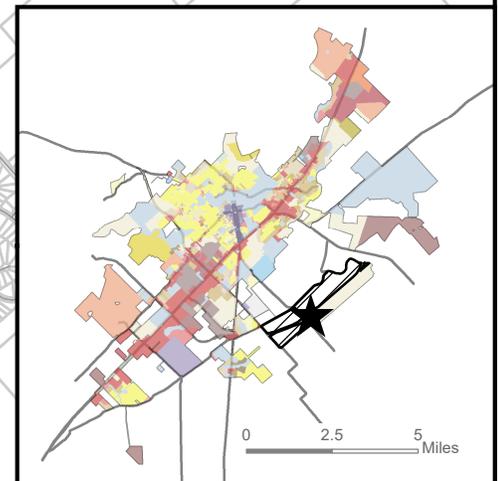
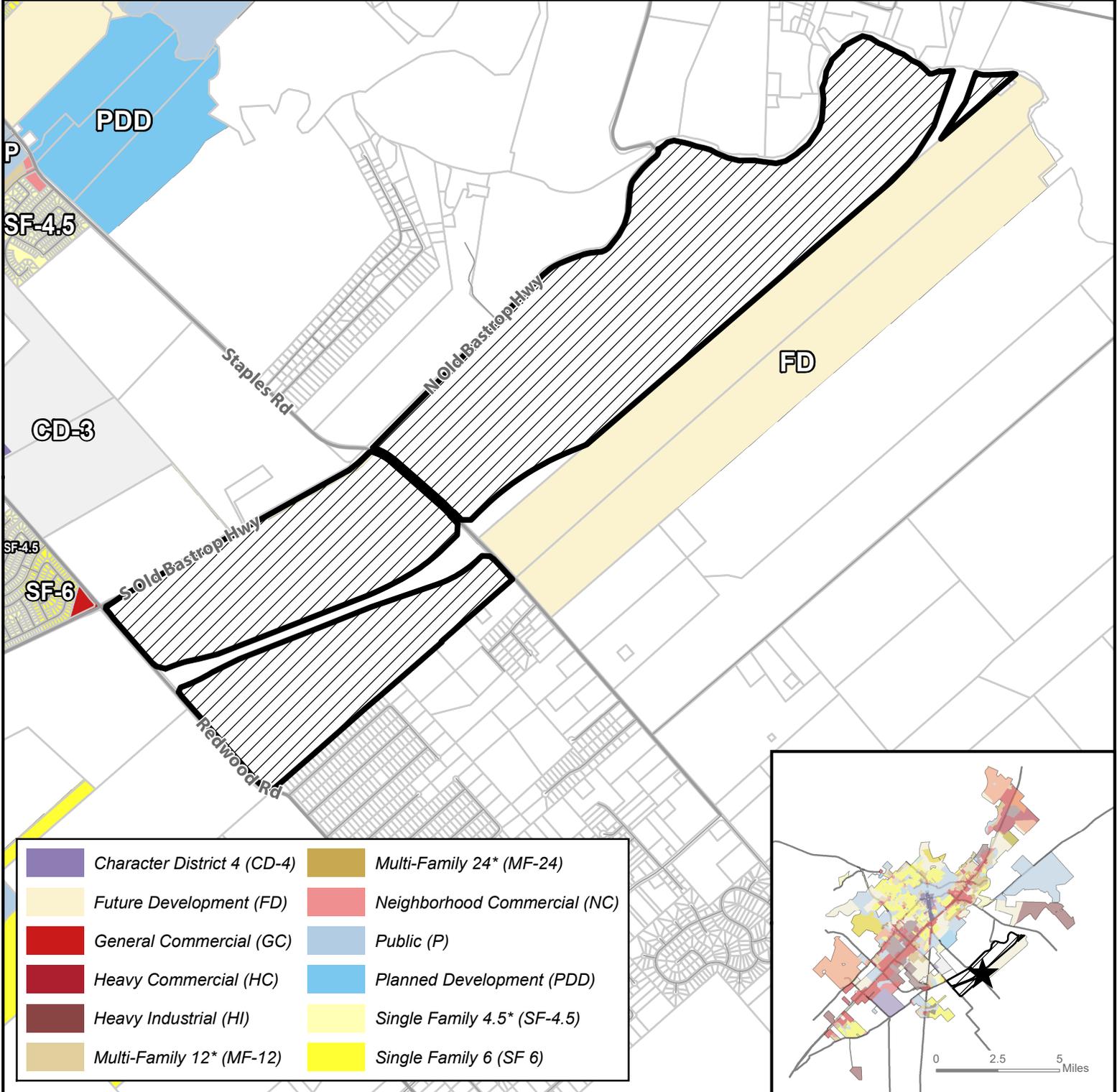
- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

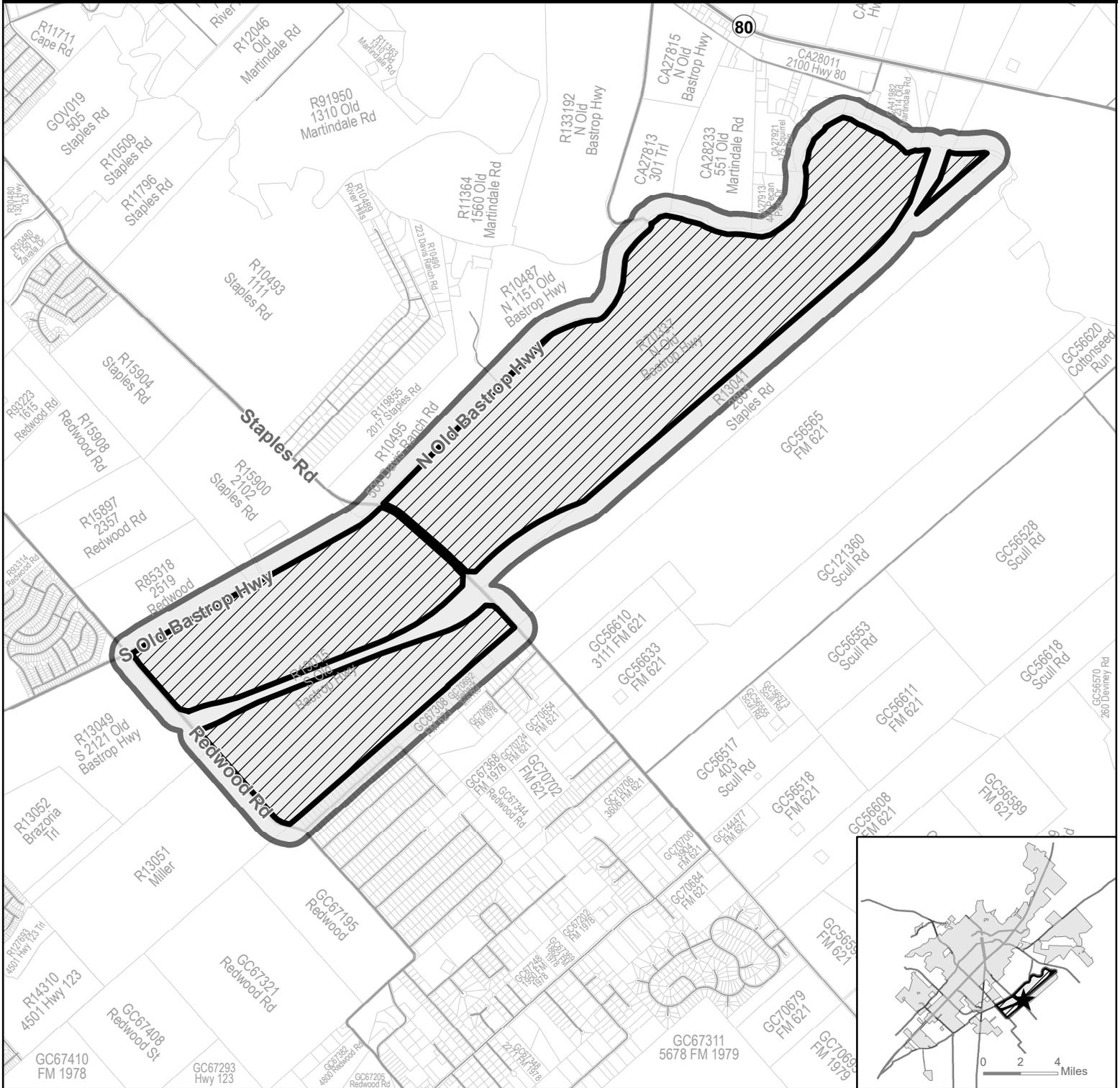
Map Date: 3/23/2020

# PSA-20-02 Existing Zoning Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

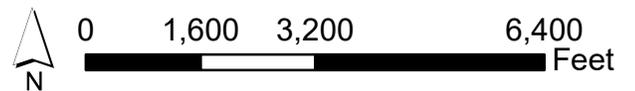


	<b>Site Location</b>	 0 1,500 3,000 6,000 Feet
	<b>Subject Property</b>	
	<b>Parcels</b>	<p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</p> <p>Map Date: 3/23/2020</p>
	<b>City Limit</b>	

# PSA-20-02 400' Notification Buffer Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



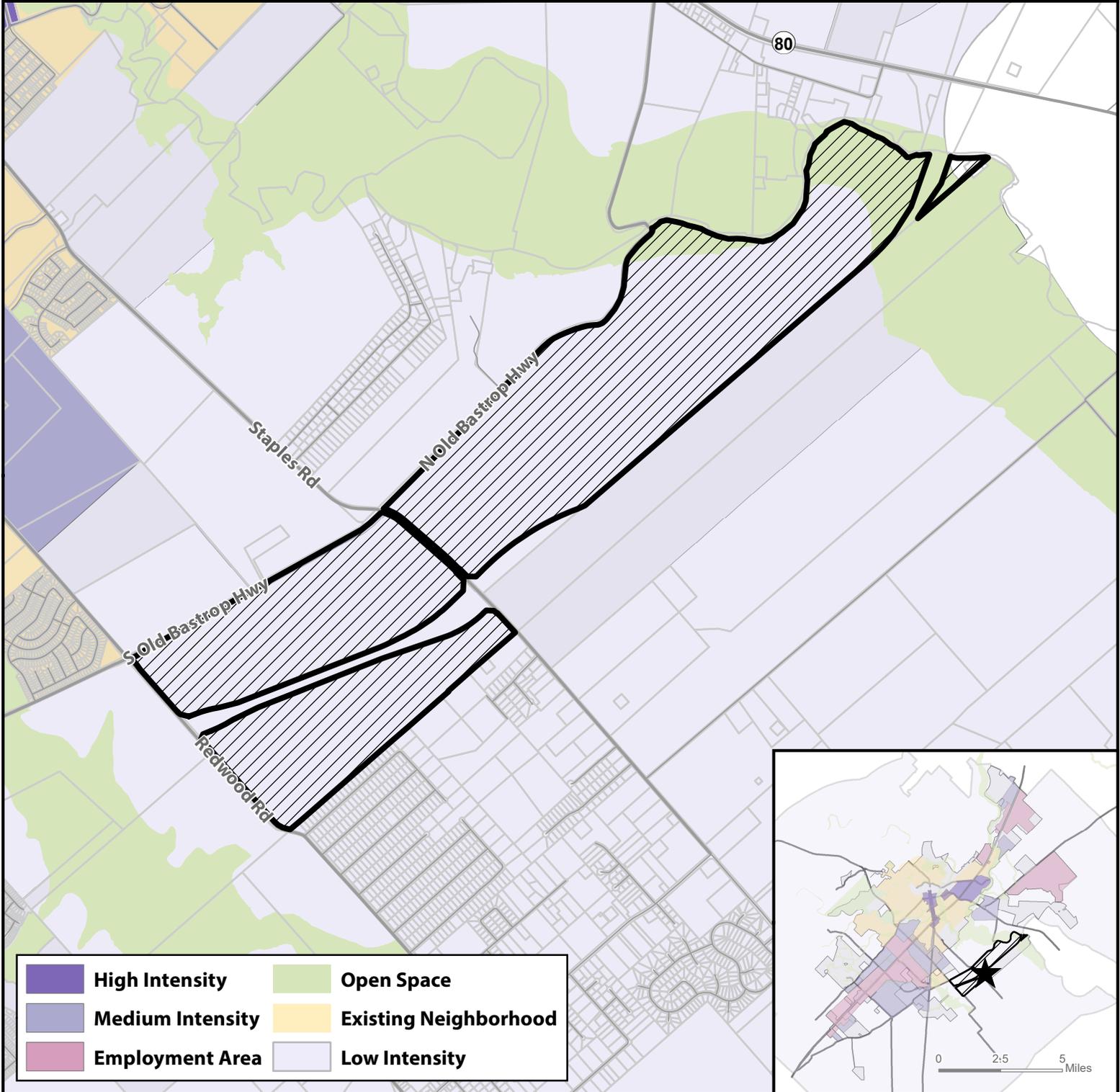
- ★ Site Location
-  Subject Property
-  400' Buffer
-  Parcel
-  City Limit



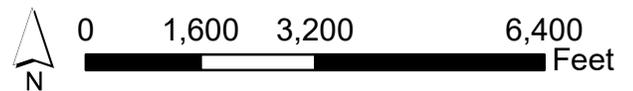
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/23/2020

# PSA-20-02 Preferred Scenario Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



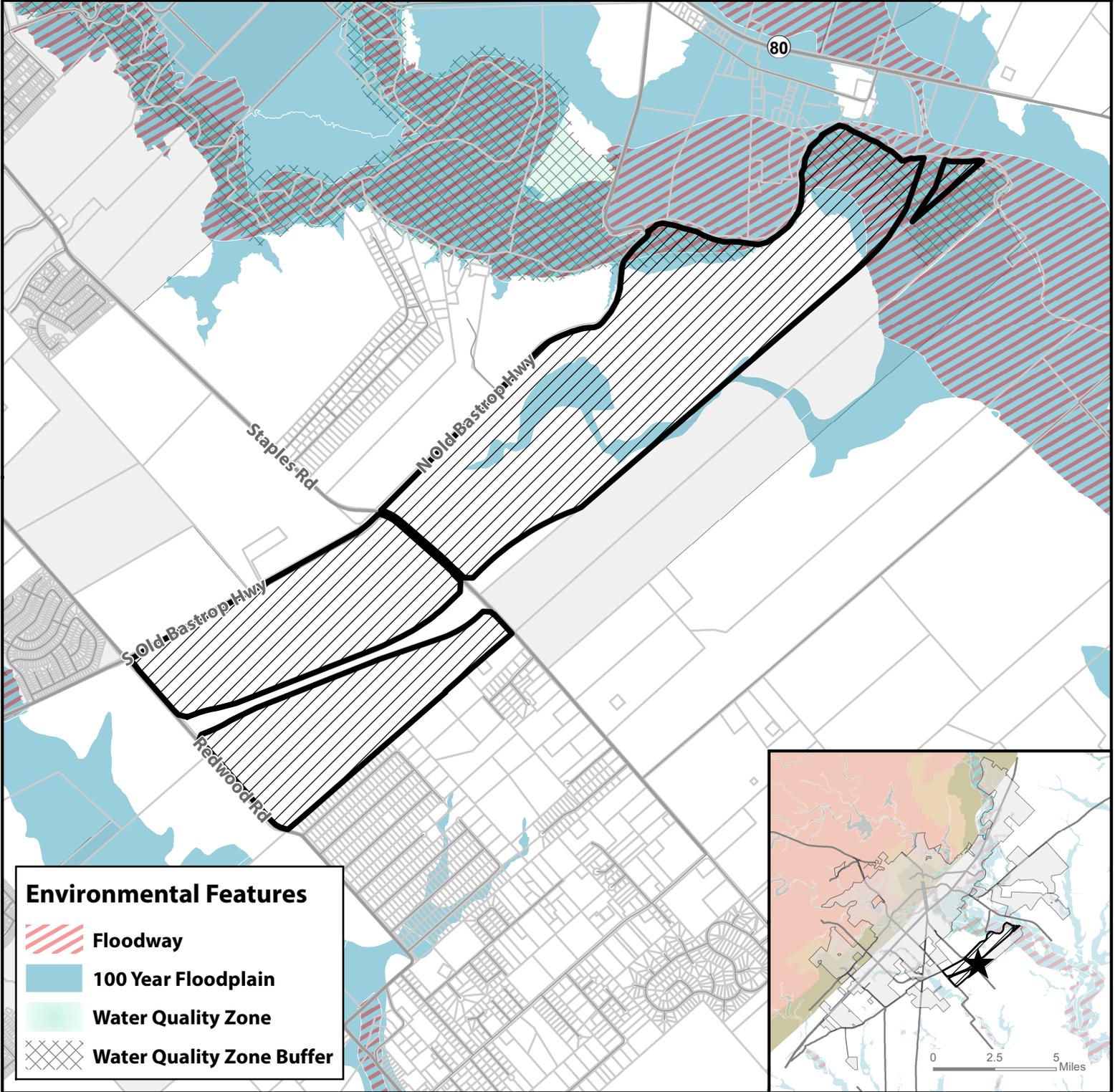
-  **Site Location**
-  **Subject Property**
-  **Parcels**
-  **City Limit**



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Map Date: 3/23/2020

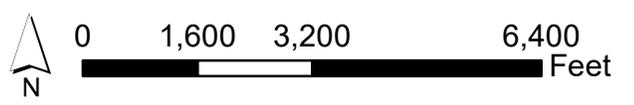
# PSA-20-02 Environmental Features Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



**Environmental Features**

-  Floodway
-  100 Year Floodplain
-  Water Quality Zone
-  Water Quality Zone Buffer

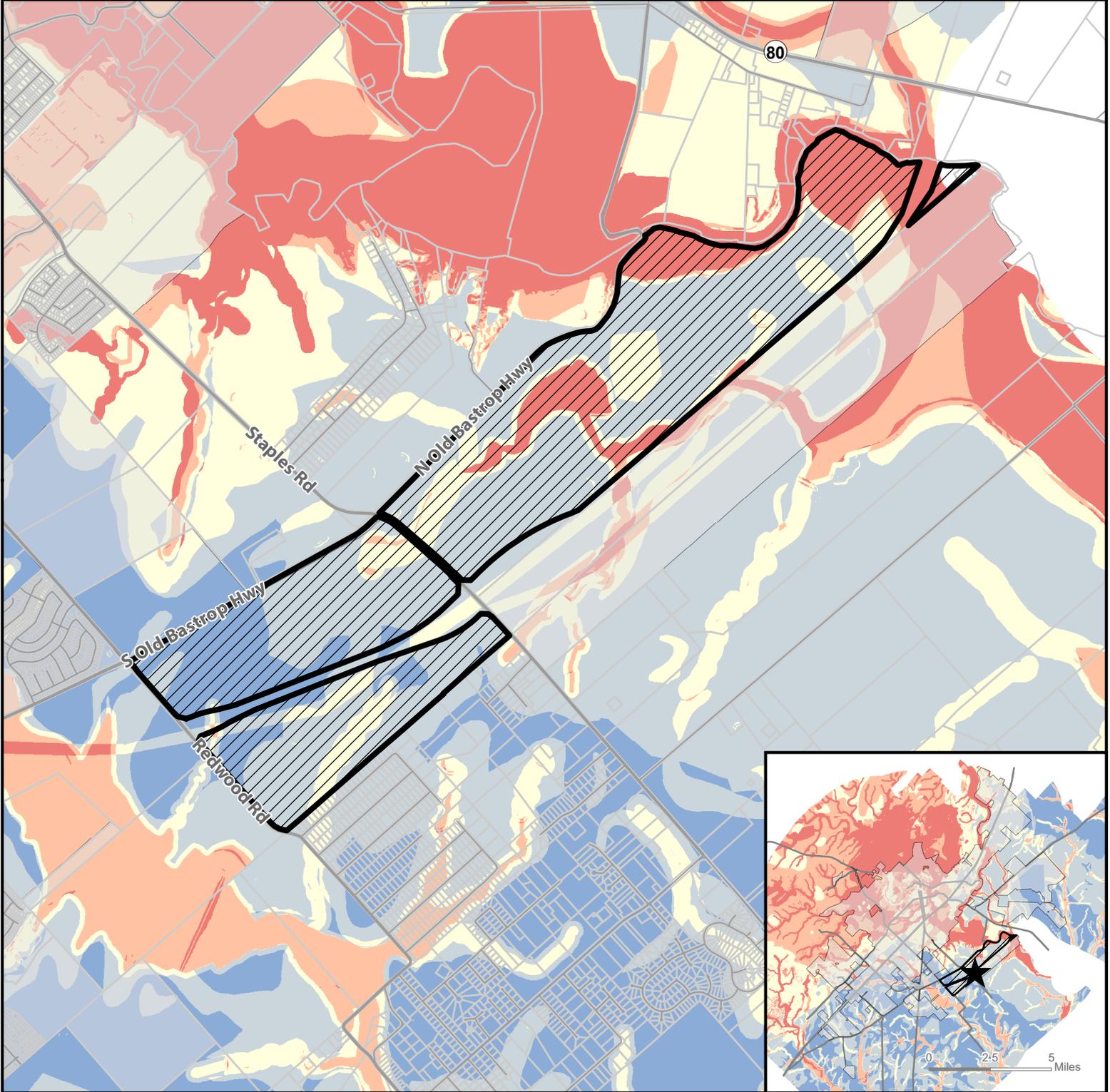
-  Site Location
-  Subject Property
-  Parcels
-  City Limit

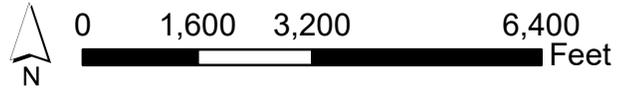


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Map Date: 3/23/2020

# PSA-20-02 Land Use Suitability Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

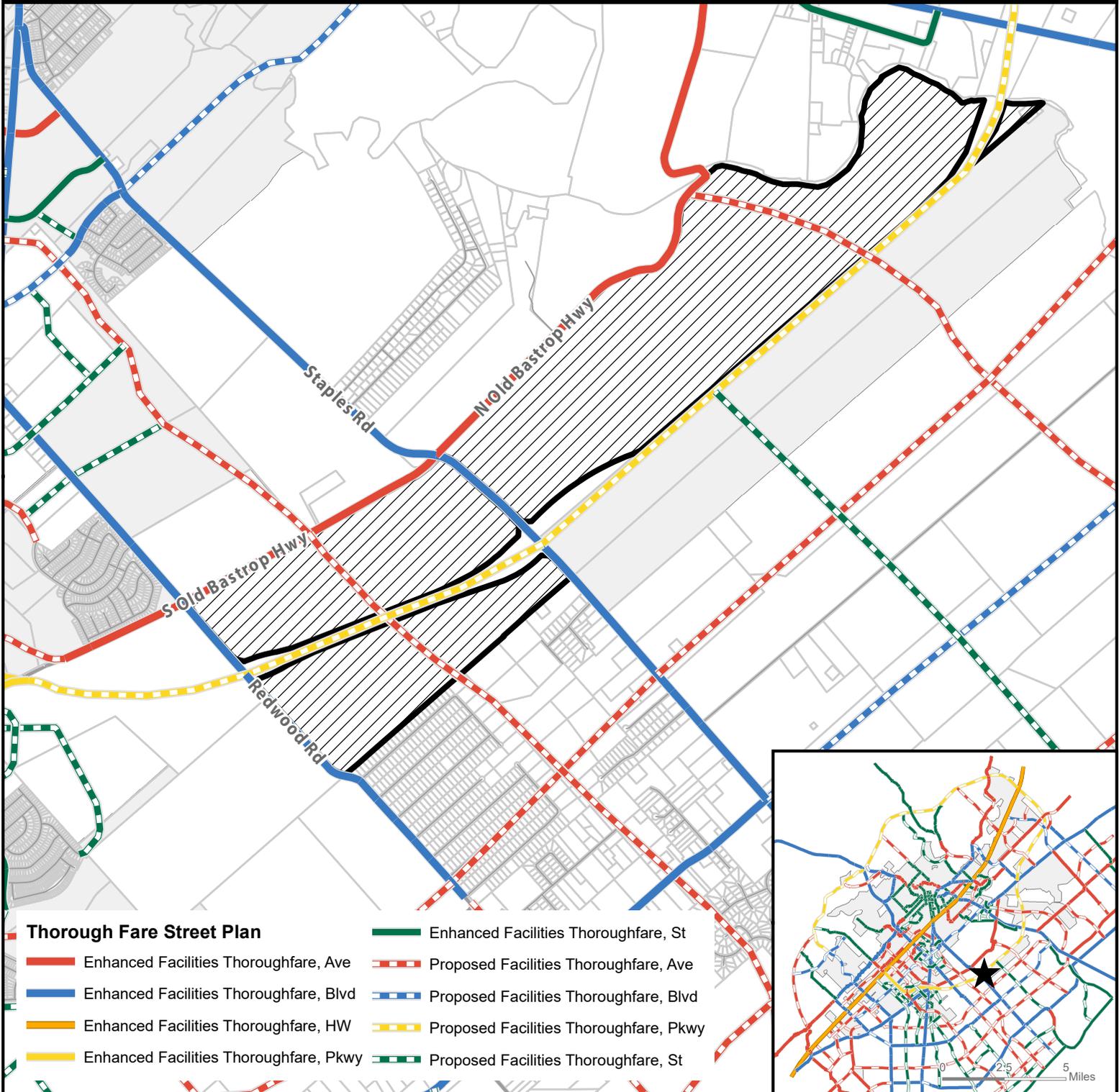


<ul style="list-style-type: none"> <li> <b>Site Location</b></li> <li> <b>Subject Property</b></li> <li> <b>Parcels</b></li> <li> <b>City Limit</b></li> </ul>	<table border="1"> <thead> <tr> <th colspan="2">LandUseSuitability Value</th> </tr> </thead> <tbody> <tr> <td></td> <td>Least Constrained</td> </tr> <tr> <td></td> <td>2</td> </tr> <tr> <td></td> <td>Moderately Constrained</td> </tr> <tr> <td></td> <td>4</td> </tr> <tr> <td></td> <td>Most Constrained</td> </tr> </tbody> </table>	LandUseSuitability Value			Least Constrained		2		Moderately Constrained		4		Most Constrained	 <p>0 1,600 3,200 6,400 Feet</p>
LandUseSuitability Value														
	Least Constrained													
	2													
	Moderately Constrained													
	4													
	Most Constrained													
<p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</p>														
<p>Map Date: 3/23/2020</p>														

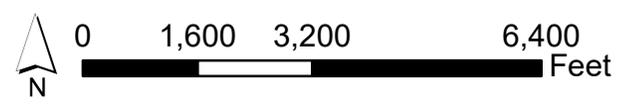
# PSA-20-02

## Transportation Master Plan

### Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



- ★ Site Location
- ▨ Subject Property
- Parcels
- City Limit

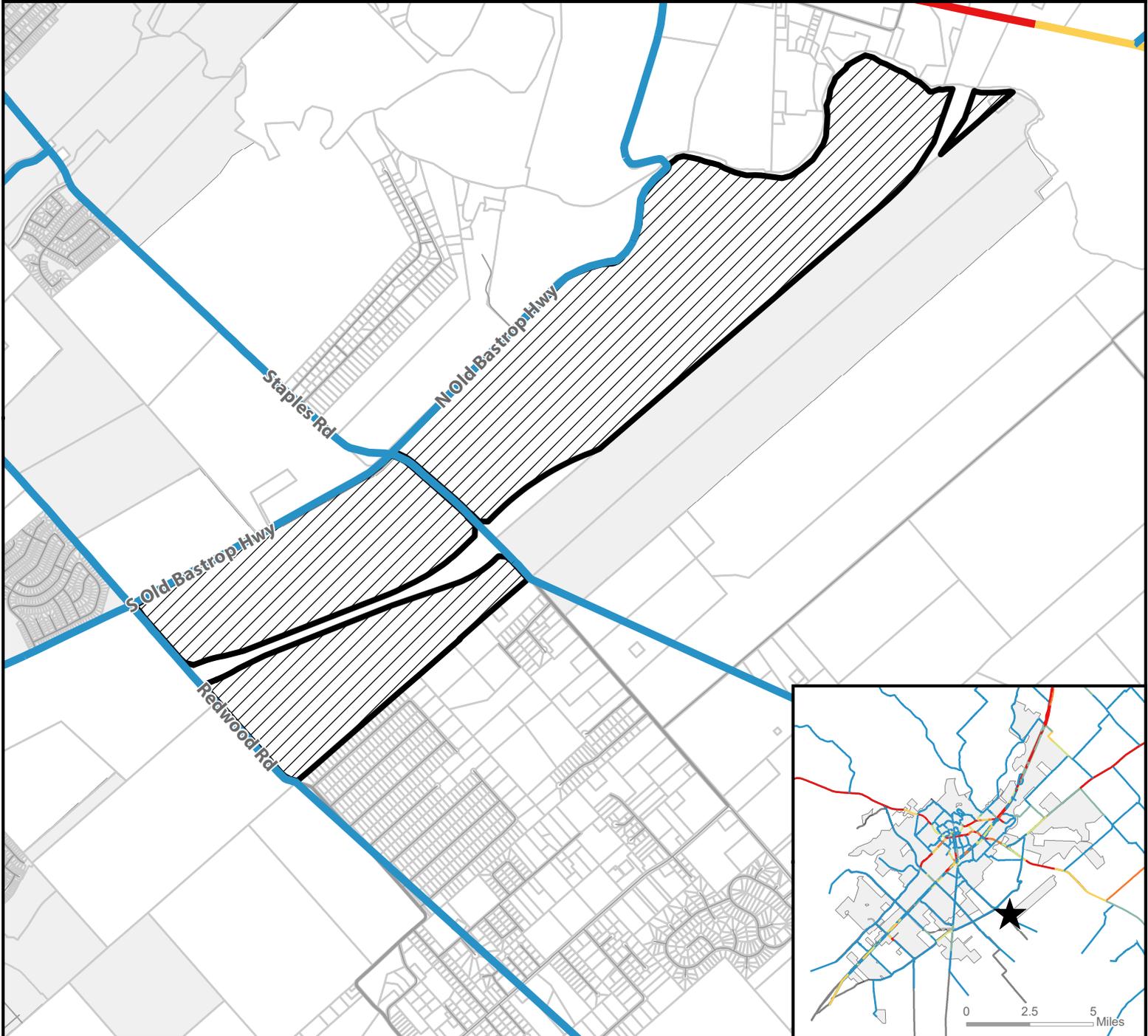


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Map Date: 3/23/2020

# PSA -20-02 TDM Existing Daily Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

TDM derived from 2010 CAMPO Regional Model



★ Site Location

▨ Subject Property

□ Parcels

■ City Limit

### Level of Service (LOS)\*

— LOS A (0.00 - 0.60)

— LOS B (0.61 - 0.70)

— LOS C (0.71 - 0.80)

— LOS D (0.81 - 0.90)

— LOS E (0.91 - 1.00)

— LOS F (Over 1.00)

\*Level of Service (LOS) defined by maximum volume over capacity.



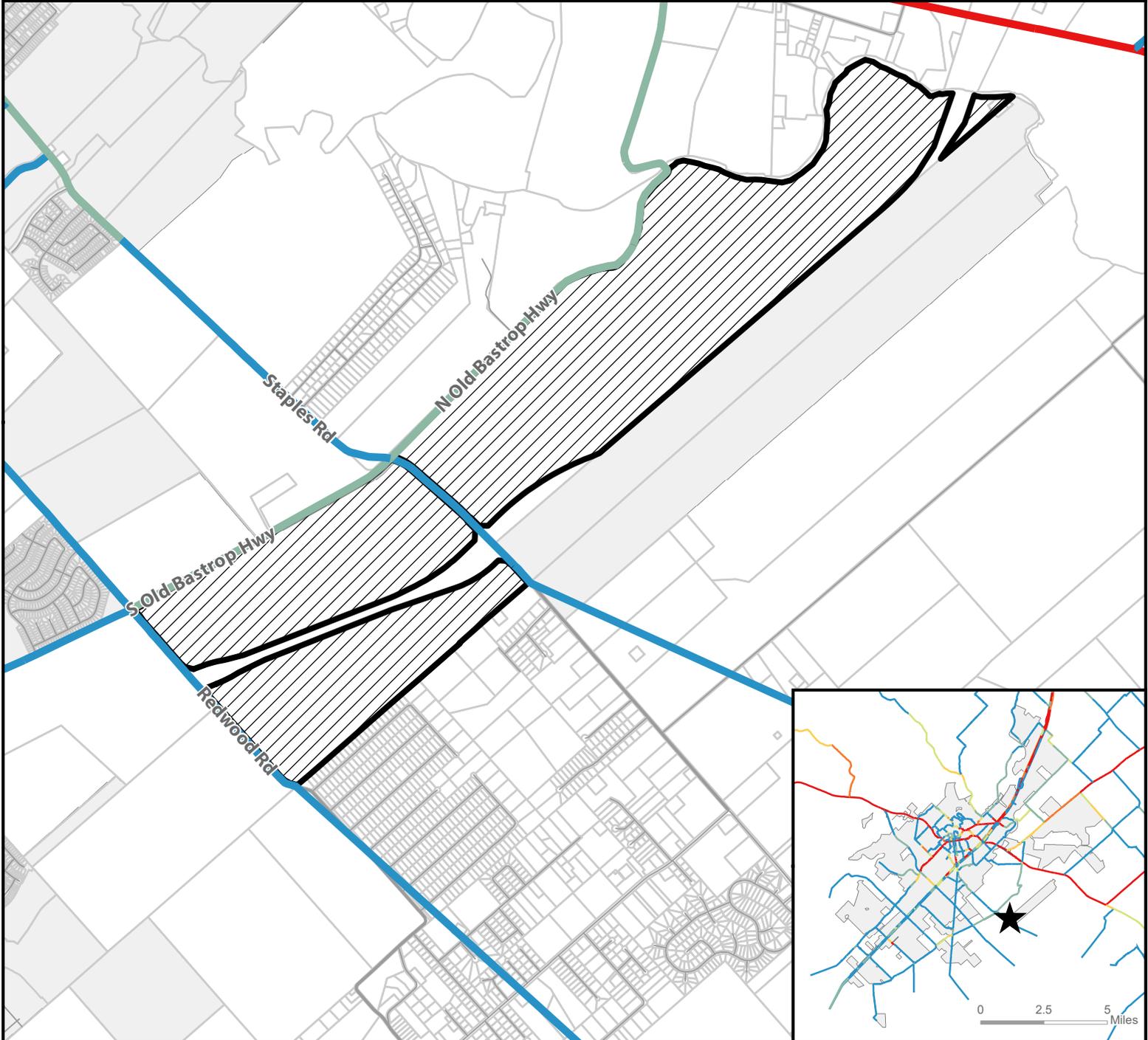
0 1,650 3,300 6,600 Feet

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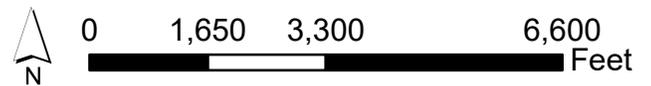
Map Date: 3/23/2020

# PSA-20-02 TDM Existing Peak Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

TDM derived from 2010 CAMPO Regional Model



- ★ Site Location
  - ▨ Subject Property
  - ▭ Parcels
  - ▭ City Limit
- | Level of Service (LOS)*                |                     |
|--|---------------------|
| <span style="color: blue;">—</span>    | LOS A (0.00 - 0.60) |
| <span style="color: green;">—</span>   | LOS B (0.61 - 0.70) |
| <span style="color: yellow;">—</span>  | LOS C (0.71 - 0.80) |
| <span style="color: orange;">—</span>  | LOS D (0.81 - 0.90) |
| <span style="color: red;">—</span>     | LOS E (0.91 - 1.00) |
| <span style="color: darkred;">—</span> | LOS F (Over 1.00)   |
- \*Level of Service (LOS) defined by maximum volume over capacity.

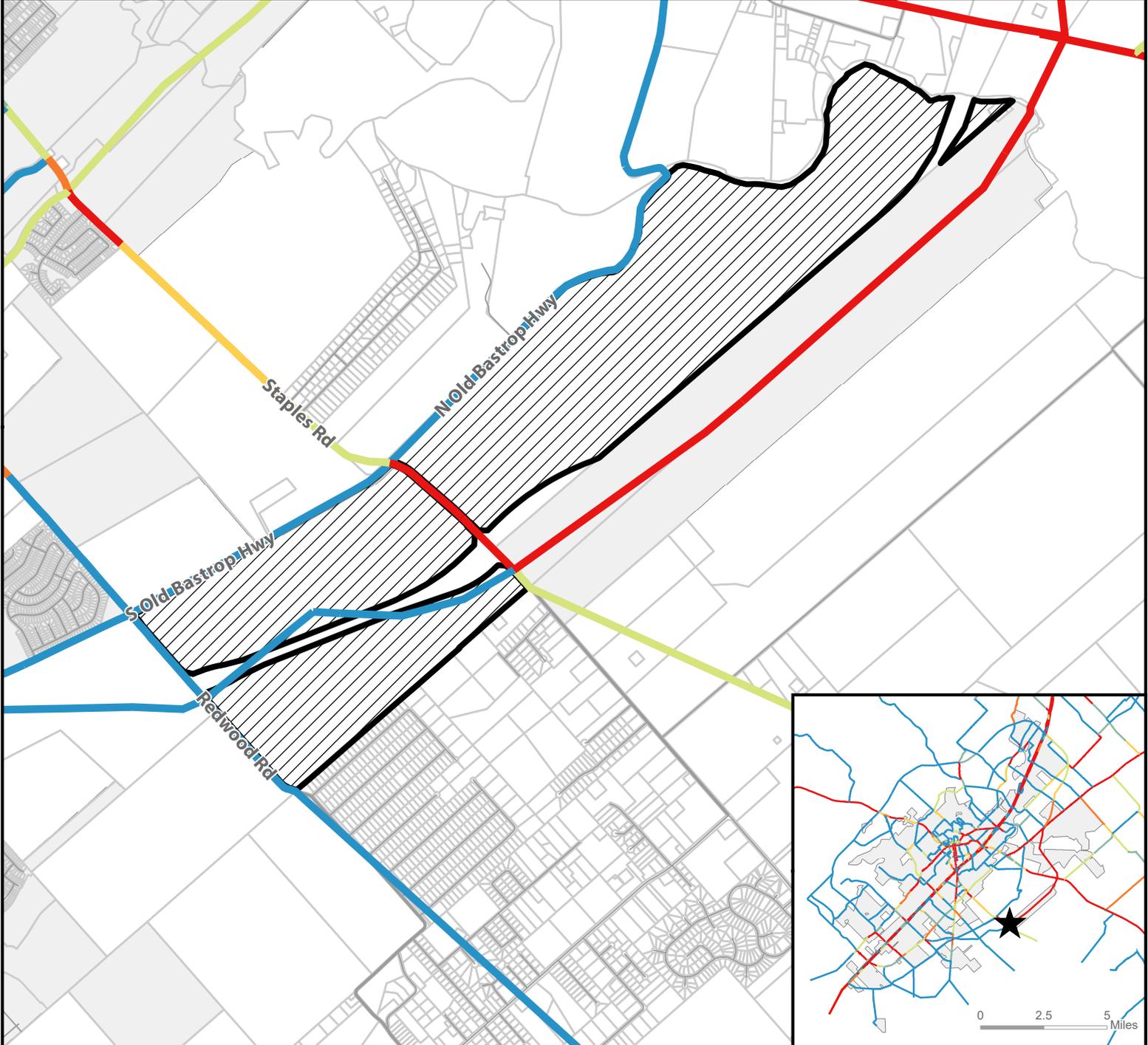


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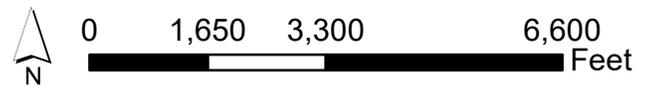
Map Date: 3/23/2020

# PSA-20-02 TDM Future Daily Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

TDM derived from 2010 CAMPO Regional Model



- ★ Site Location
  - ▨ Subject Property
  - Parcels
  - City Limit
- \*Level of Service (LOS) defined by maximum volume over capacity.
- | Level of Service (LOS)*                   |                     |
|---|---------------------|
| <span style="color: blue;">—</span>       | LOS A (0.00 - 0.60) |
| <span style="color: green;">—</span>      | LOS B (0.61 - 0.70) |
| <span style="color: lightgreen;">—</span> | LOS C (0.71 - 0.80) |
| <span style="color: yellow;">—</span>     | LOS D (0.81 - 0.90) |
| <span style="color: orange;">—</span>     | LOS E (0.91 - 1.00) |
| <span style="color: red;">—</span>        | LOS F (Over 1.00)   |

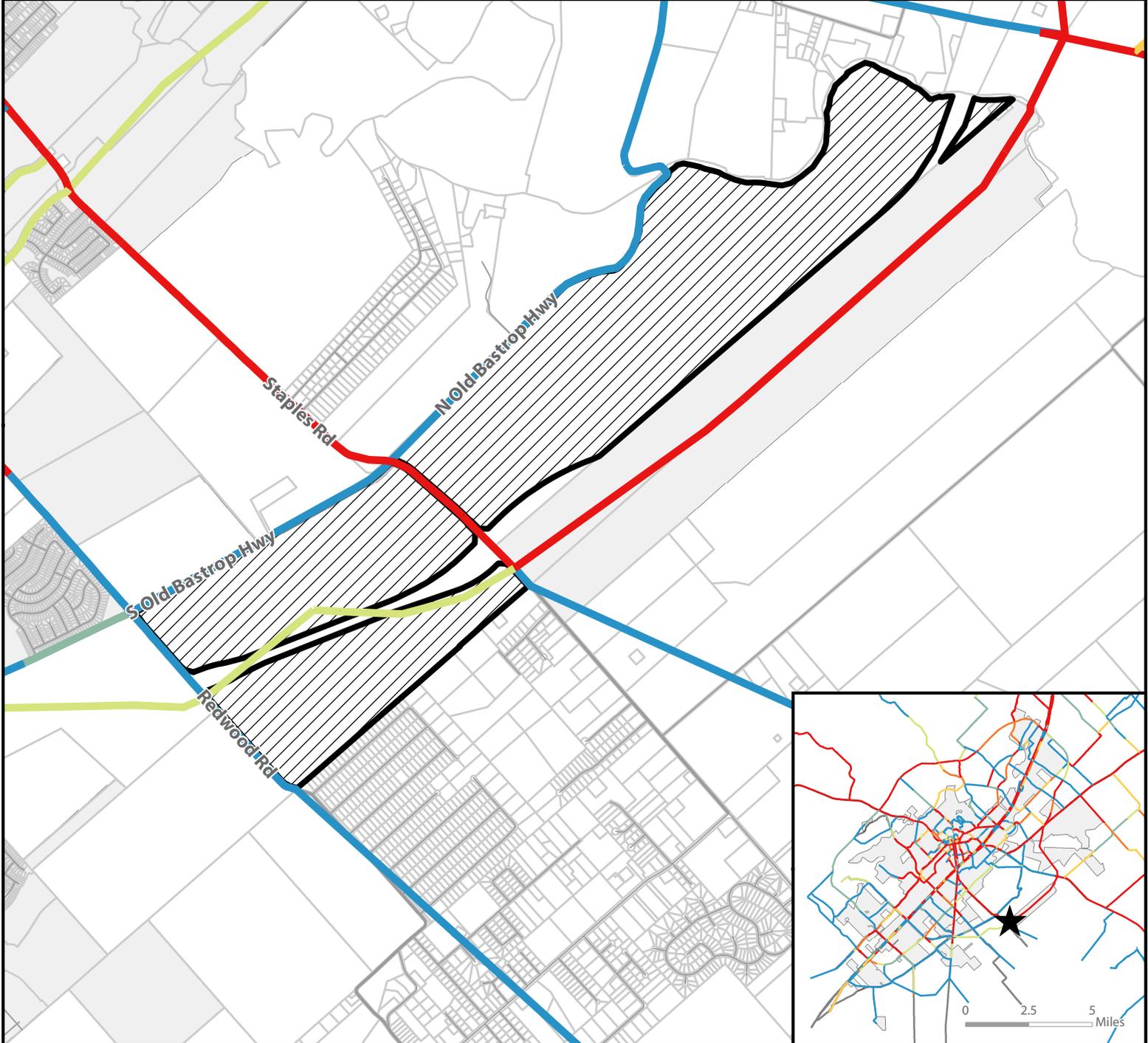


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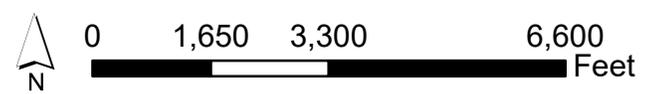
Map Date: 3/23/2020

# PSA-20-02 TDM Future Peak Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.

TDM derived from 2010 CAMPO Regional Model



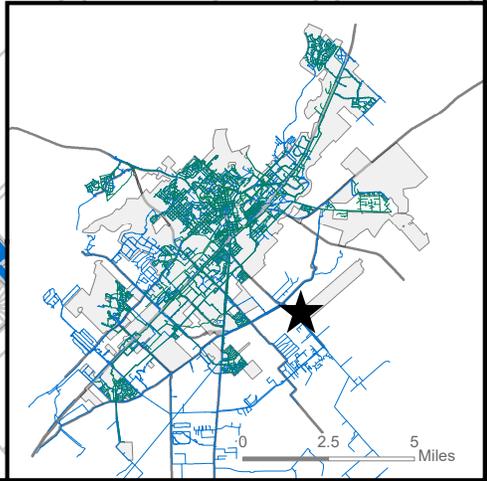
- ★ Site Location
  - ▨ Subject Property
  - ▭ Parcels
  - ▭ City Limit
- \*Level of Service (LOS) defined by maximum volume over capacity.
- | Level of Service (LOS)*               |                     |
|---------------------------------------|---------------------|
| <span style="color: blue;">—</span>   | LOS A (0.00 - 0.60) |
| <span style="color: green;">—</span>  | LOS B (0.61 - 0.70) |
| <span style="color: yellow;">—</span> | LOS C (0.71 - 0.80) |
| <span style="color: orange;">—</span> | LOS D (0.81 - 0.90) |
| <span style="color: red;">—</span>    | LOS E (0.91 - 1.00) |
| <span style="color: red;">—</span>    | LOS F (Over 1.00)   |



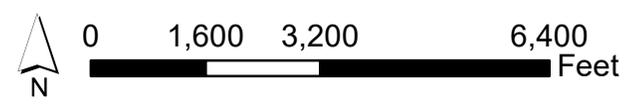
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Map Date: 3/23/2020

# PSA-20-02 Water/Wastewater Lines Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



- ★ Site Location
- ▨ Subject Property
- Parcels
- City Limit
- Sanitary Main
- Water Main



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Map Date: 3/23/2020

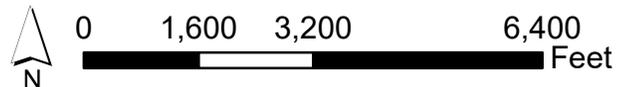
# PSA-20-02 Wastewater Hotspots Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



-  Subject Property
-  Site Location
-  Parcels
-  City Limit



Hotspot analysis based on service requests from 2013 to 2018.



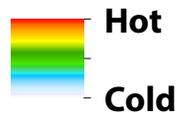
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Map Date: 3/23/2020

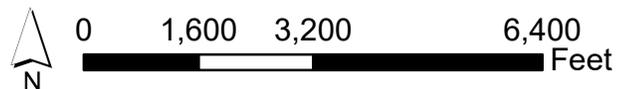
# PSA-20-02 Water Hotspots Riverbend Ranch PSA — North Old Bastrop Hwy. & Staples Rd.



-  **Subject Property**
-  **Site Location**
-  **Parcels**
-  **City Limit**



Hotspot analysis based on service requests from 2013 to 2018.



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Map Date: 3/23/2020

# PREFERRED SCENARIO MAP AMENDMENT APPLICATION

Updated: October, 2019



## CONTACT INFORMATION

Applicant's Name	Paul Kuo	Property Owner	Freeman Educational Foundation HK Baugh Ranch, LLC
Company	HK Real Estate Development	Company	
Applicant's Mailing Address	24607 Fairway Springs San Antonio, TX 78260	Owner's Mailing Address	See Attached List
Applicant's Phone #	210-363-4672	Owner's Phone #	See Attached List
Applicant's Email	pkuo@hkdevelopment.com	Owner's Email	See Attached List

## PROPERTY INFORMATION

Subject Property Address(es): Intersection of Old Bastrop Rd & Staples Rd

Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

Total Acreage: Approximately 1,142 acres Tax ID #: R 70337, 70338, 70350, 70351, 16583, 13040  
10915, 10957, 20294, 20295, 20304, 151626, 130384

Existing Preferred Scenario Designation: Low Intensity

Existing Zoning: Outside City Limits Existing Land Use(s): Outside City Limits

## DESCRIPTION OF REQUEST

Proposed Preferred Scenario Designation: Medium Intensity

Proposed Zoning: Single Family/Multi-family/Commercial Proposed Land Use(s): Single Family/Multi-family/Commercial

Reason for the Change: development of mix uses (single-family residential, multi-family residential and commercial within the City of San Marcos

## AUTHORIZATION

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.*

Filing Fee \$1,057 plus \$100 per acre      Technology Fee \$13      **MAXIMUM COST \$3,513**

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**

# Preferred Scenario Map Amendment

## Property Owner List

Freeman Educational Foundation  
Frost National Bank Trust  
Robert Wynn, Frost Bank Trustee  
PO Box 2950  
San Antonio, TX 78299-2950

HK Bauch Ranch LLC  
Paul Kuo, Manager  
24607 Fairway Springs  
San Antonio, TX 78260  
Phone: 210-363-4672  
Email: [pkuo@hkdevelopment.com](mailto:pkuo@hkdevelopment.com)

**PROPERTY OWNER AUTHORIZATION**

I, PAUL KUO (owner name) on behalf of  
HK BAUGH RANCH, LLC (company, if applicable) acknowledge that I/we  
am/are the rightful owner of the property located at  
Intersection of Old Bastrop Rd & Staples Rd (address).

I hereby authorize \_\_\_\_\_ (agent name) on behalf of  
\_\_\_\_\_ (agent company) to file this application for  
\_\_\_\_\_ (application type), and, if necessary, to work with  
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner:  \_\_\_\_\_ Date: 7.28.2020

Printed Name, Title: Paul Kuo, Manager

Signature of Agent: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name, Title: \_\_\_\_\_

**PROPERTY OWNER AUTHORIZATION**

I, Freeman Educational Foundation (owner name) on behalf of \_\_\_\_\_ (company, if applicable) acknowledge that I/we am/are the rightful owner of the property located at Intersection of Old Bastrop Rd & Staples Rd (address).

I hereby authorize Paul Kuo (agent name) on behalf of HK Real Estate Development (agent company) to file this application for Preferred Scenario Map Amendment (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

Signature of Owner: SEE ATTACHED AGENT LETTER Date: \_\_\_\_\_

Printed Name, Title: \_\_\_\_\_

Signature of Agent:  Date: 2.18.2020

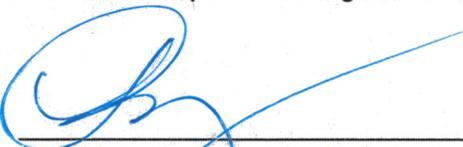
Printed Name, Title: HK REAL ESTATE DEVELOPMENT, MANAGER

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS  
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***
- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***

*I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.*

Signature:  \_\_\_\_\_

Date: 7.28.2020 \_\_\_\_\_

Print Name: Paul Eno \_\_\_\_\_

**PROPERTY OWNER AUTHORIZATION**

I, FROST BANK TRUSTEE (owner) acknowledge that I am the rightful owner of the property located at 467 ACRES S OLD BASTROP HWY, SAN MARCOS, TX 78666 (address).

I hereby authorize PAUL KUO (agent name) to file this application for \_\_\_\_\_ (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

Signature of Property Owner: *Frost Bank, Trustee*  
*Robert Wynn*

Date: 8/8/19

Printed Name: Robert Wynn

Signature of Agent: \_\_\_\_\_

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

Printed Name: PAUL KUO

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS  
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$88 plus an \$12 technology fee.***
- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$88 plus a \$12 technology fee.***

*I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.*

Signature: *Robert Wiggins*  
Print Name: Robert Wiggins

Date: 8/8/19



## CHECKLIST FOR PREFERRED SCENARIO MAP AMENDMENT APPLICATION

The following items are requested for consideration of this application. These and additional items may be required at the request of the Department	Comments
<input checked="" type="checkbox"/> Pre-development meeting with staff is recommended <ul style="list-style-type: none"> <li>• Please visit <a href="http://sanmarcostx.gov/1123/Pre-Development-Meetings">http://sanmarcostx.gov/1123/Pre-Development-Meetings</a> to schedule</li> </ul>	completed
<input checked="" type="checkbox"/> Completed Application for Preferred Scenario Map Amendment	completed
<input checked="" type="checkbox"/> Subdivision Plat or Metes and Bounds	attached
<input checked="" type="checkbox"/> CAD file in grid for GIS integration. Projection: NAD 1983 StatePlane Texas South Central FIPS 4204 Feet	attached
<input checked="" type="checkbox"/> Certificate of no tax delinquency	attached
<input checked="" type="checkbox"/> Name(s) and Address(es) of Property Lien Holder(s), if any	not applicable
<input checked="" type="checkbox"/> Agreement to the placement of notification signs and acknowledgement of notification requirements	completed
<input checked="" type="checkbox"/> Authorization to represent the property owner, if the applicant is not the owner	See Attached Agent Letter
<input checked="" type="checkbox"/> Application Filing Fee    \$1,057 + \$100 per acre (\$3,500 max) <input checked="" type="checkbox"/> Technology Fee                \$13	
<b>**San Marcos Development Code Section 2.3.1.1(C): "Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete..."</b>	



Legislation Text

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**File #:** ID#20-148, **Version:** 1

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**AGENDA CAPTION:**

Consider approval, by motion, of the following meeting Minutes:

- A. March 3, 2020 - Work Session Meeting Minutes
- B. March 17, 2020 - Emergency Special Meeting Minutes
- C. March 24, 2020 - Special Meeting Minutes

**Meeting date:** 4/7/2020

**Department:** City Clerk

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** Approval of Previous Meeting Minutes

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from below]

- Economic Development Choose an item.
- Environment & Resource Protection Choose an item.
- Land Use Choose an item.
- Neighborhoods & Housing Choose an item.
- Parks, Public Spaces & Facilities Choose an item.
- Transportation Choose an item.
- Not Applicable

**Master Plan:** [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

**Background Information:**

The following minutes are attached for review:

- A. March 3, 2020 - Work Session Meeting Minutes
- B. March 17, 2020 - Emergency Special Meeting Minutes
- C. March 24, 2020 - Special Meeting Minutes

**Council Committee, Board/Commission Action:** [Click or tap here to enter text.](#)

**Alternatives:**

**Recommendation:** Approve Minutes as attached



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Tuesday, March 3, 2020

3:00 PM

City Council Chambers

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### 630 E. Hopkins - Work Session

#### I. Call To Order

**With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Hughson at 3:03 p.m. Tuesday, March 3, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.**

#### II. Roll Call

**Council Member Marquez arrived after roll call at 4:00 p.m.**

**Present:** 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

#### PRESENTATIONS

1. Receive a Staff presentation and hold a discussion on the San Marcos Development Code amendments and Strategic Housing Action Plan, and provide direction to the City Manager.

**Bert Lumbreras, City Manager provided a brief introduction. He turned the presentation over to Amanda Hernandez, Planning Manager and Shannon Mattingly, Director of Planning and Development Services.**

**Ms. Hernandez provided the Land Development Code (LDC) background and summary:**

- April 2018 San Marcos Land Development Code Adoption
- March – May 2019 Solicitation of comments for annual update
- June 2019 Joint workshop between City Council and Planning and Zoning Commission. This workshop identified the following:
  - Items to expedite – Typos, Technical Errors, etc. (Phase 1)
  - Amendments requiring additional analysis (Phase 2 & 3)
  - Amendments not recommended for additional analysis
- December 2019 Adoption of Phase 1 amendments and discussion on Phase 2 & 3 amendments.
- March 3, 2020 Initial authorization for Phase 2 amendments and direction on amendments not recommended for additional analysis.

**Next Steps for Phase 2:**

- 1. March 24, 2020 Planning & Zoning Commission Public Hearing & Recommendation**
  - 2. April 21, 2020 City Council Public Hearing & First Reading**
  - 3. May 5, 2020 City Council Reconsideration Second Reading**
- \*Staff recommends analysis of Phase 3 items following the Comprehensive Plan Update**

**Greg Schwarz, Engineer, provided the recommendations from the Engineering Department:**

- Increase protection zone around sensitive geologic features.**
- Incorporate natural channel design for water quality zone reclamations.**
- Clarify delineation of Water Quality and Buffer Zones.**
- Waiver for geological assessment within Transition Zone and Contributing Zone within Transition Zone.**
- Fee-in-Lieu / Exception for detention / water quality for 4 or less residential lots.**
- Fee-in-Lieu of detention outside of the Urban Stormwater Management District.**
- Expand administrative approval for Qualified Watershed Protection Plans.**

**Council asked questions regarding watershed protection and the waiver for geological assessment. There were some reservations on this and Staff will address prior to adoption.**

**Alcohol Conditional Use Permit Committee Recommendations:**

- Expire conditional use permits after three years.**
- Limit appeal eligibility to the applicant.**
- Require permit holders to keep their site in clean and sanitary condition.**
- Update the noise ordinance.**

**Workforce Housing Task Force Recommendations:**

- Exempt infill from minimum lot depth-to-width requirement.**
- Add Strategic Housing Action Plan as zoning criteria.**
- Allow accessory dwelling unit parking in the second layer.**
- Modify the definition of RV & manufactured home to include tiny homes.**

**Additional Amendments:**

- Block Perimeter waiver for Heavy Industrial districts.**

- **City Council appellate body for City-owned properties denied by the Historic Preservation Commission.**
- **Align cross sections with Transportation Master Plan.**
- **Increase ETJ block perimeter.**
- **Remove initial authorization for code amendments by City.**
- **Update Concept Plat applicability.**
- **Provide definitions for House and Cottage.**
- **Include occupancy restrictions in CD-3.**
- **Make pre-development meetings mandatory.**
- **Include sustainability language per HPC-2019-03RR.\***
- **Add Event Center as a use.\***

**Neighborhood Density District Amendment Summary:**

- **Create an additional district to allow a moderate increase in density from conventional residential districts.**
- **Require a Comprehensive Plan map amendment any time higher density is requested by amending Table 4.1.**
- **Require “majority plus one” votes at the Planning & Zoning Commission and City Council for all Comprehensive Plan map amendments.**
- **Rename “Neighborhood Density Districts” to “Neighborhood Diversity Districts”**

**Amendments not recommended for additional analysis:**

- **24 amendments discussed on June 5, 2019 were not recommended for additional analysis.**
- **3 amendments moved to this list following adoption of House Bill 2439, limiting where cities can enforce durable building materials.**

**Options for the action item on the regular agenda:**

- 1) **Remove from the list of amendments to consider**
- 2) **Send back to P&Z for recommendation(s)**

**Strategic Housing Action Plan:**

- **Staff identified four actions which may result amendments to the San Marcos Development Code.**
- **All actions were identified as items which should be considered following the Comprehensive Plan Update except:**
  - **Adding Tiny Homes as an allowable use in the Manufactured Home zoning district.**
- **Staff is seeking direction on the Housing Action Plan approval process.**

**Staff is requesting the Housing Action Plan to be reviewed by the Workforce**

**Housing Committee or placed on future agenda for action. Council asked that this also include the chair and vice-chair of the Housing Task Force Committee.**

**Council provided consensus to move forward with the following:**

- **Remove the amendment to rename Neighborhood Density Districts - maintain current name**
- **Add the amendment to remove parking exemptions for projects with 10 or fewer units in CD-5 and CD-5D**
- **Add an amendment to remove the provision that allows on street parking to count toward multi-family requirements in CD-5D**
- **Add an amendment to require conditional use permits for accessory dwelling units**
- **Add an amendment to limit the height of commercial buildings to one-story when adjacent or across the street from single-family zoning districts**
- **Add an amendment that states the City's preference for durable building materials**

**Staff will update the Code amendment document, as recommended by Council, and ask for a motion to move forward at the regular meeting this evening.**

## **EXECUTIVE SESSION**

2. **Executive Session in accordance with Section § 551.089 - Security Devices: to discuss Security Measures and Deployment of Information Resources Technology.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore to enter into Executive Session at 4:40 p.m. The motion carried by the following vote:**

**For:** 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

## **III. Adjournment.**

**Mayor Hughson stated Executive Session concluded at 5:20 p.m.**

**A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to adjourn the work session meeting of the City Council at 5:21 p.m, February 18, 2020 The motion carried by the following vote:**

**For:** 4 - Council Member Derrick, Mayor Hughson, Council Member Marquez and Deputy Mayor Pro Tem Rockeymoore

**Against:** 0

**Absent:** 3 - Mayor Pro Tem Mihalkanin, Council Member Baker and Council Member Gonzales

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Tuesday, March 17, 2020

3:00 PM

City Council Chambers

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### 630 E. Hopkins - Special Meeting

#### I. Call To Order

**With a quorum present, the emergency meeting of the San Marcos City Council was called to order by Mayor Hughson at 3:02 p.m. Tuesday, March 17, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.**

#### II. Roll Call

##### **Council Member Derrick arrived after roll call at 3:06 p.m.**

**Present:** 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rokeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

**Absent:** 1 - Council Member Joca Marquez

1. Consider approval of Resolution 2020-74R, under the authority of Section 418.108 of the Texas Government Code, declaring and extending a local state of disaster in the City of San Marcos, Texas due to the Covid-19 Pandemic.

**Bert Lumbreras, City Manager, explained the need to extend this local state of disaster as the initial one is only valid for 7 days.**

**A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rokeymoore, to approve Resolution 2020-74R. The motion carried by the following vote:**

**For:** 5 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rokeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

**Absent:** 2 - Council Member Derrick and Council Member Marquez

2. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to staff.

**Bert Lumbreras, stated that we are meeting today under special circumstances. The topic to consider the extension of the disaster declaration was moved up instead of having a special called meeting on Friday.**

Along with this item, staff has prepared a presentation to go over all of the closures and actions City staff have announced in order to mitigate the spread of the virus.

This is a rapidly evolving situation, and City leadership has been in constant contact with State and local officials to stay apprised of the ongoing situation and coordinate our response. The City is following guidelines issued by both the Centers for Disease Control and Prevention as well as our local Health Authority to inform the actions we take.

As this situation continues, Staff is committed to keeping you informed on a regular basis and as changes occur.

Chase Stapp, Director of Public Safety led the presentation and provided information.

General update about known cases in the United States, Texas, and Hays County as of the March 16, 2020 4:00p.m. call with the Department of State Health Services (DSHS):

- 3,487 U.S. cases with 68 deaths in 53 states or territories
- 57 cases in Texas
- 3 in Hays County (additional cases under surveillance/pending testing)

A working group of local emergency response and critical infrastructure decision makers was established two weeks ago.

Since COVID-19 became a known issue, emergency response staff have been participating in daily conference calls held by Texas DSHS to monitor the event and to stay abreast of changing CDC recommendations

City director teams began discussions about measures to protect employees including social distancing measures, telework potential, increased disinfection practices in work areas, and the use of remote meeting technology

The San Marcos Office of Emergency Management created High Consequence Infectious Disease (HCID) and Pandemic Response Standard Operating Procedure (SOP) to help guide decisions about service delivery and emergency operations protocols. The SOP defines 5 levels of operation identified by DSHS. Each level is defined by certain trigger points related to the proliferation of the disease within the community. We are currently at Level 4 (multiple cases in Hays County, high to exceptional levels of media attention, International travel restrictions from the President of the United States

(POTUS), significant level of public panic.)  
Level 4 is titled “Escalated”

Next level (5) is titled “Emergency Ops” and would be triggered by:

- Multiple cases in Hays County combined with confirmed community spread
- Exceptional levels of media attention
- Widespread mandated closures by the Hays County Health Dept
- Expected infrastructure breakdown (ability to deliver core services)

Other local efforts include:

- San Marcos Consolidated Independent School District is closed until April 5
- Texas State University has also extended Spring Break through March 27, and remote instruction begins Monday, March 30 through at least April 12 to enable social distancing measures on campus
- Hays County reported its first presumptive case of COVID-19 on Saturday, March 14
- Mayor and County Judge declared state of disaster on Sunday, March 15  
This provides the Mayor authority to conduct certain restrictive activities aimed at reducing community spread and makes available state and federal assistance related to the disaster
- Yesterday, the Mayor signed an order related to limitations on gatherings larger than 50 people consistent with recommendations by CDC published March 15, 2020.

This does not impact schools, institutions of higher learning, and business settings (these could be impacted if Level 5 is reached.)

Effective March 17, 2020 the city has done the following:

- Closed the public library, activity center, discovery center, and senior center.
- Canceled all City-sponsored gatherings and programs with more than 50 people at city facilities.
- Limited library resources will be offered, social distancing procedures were implemented for all our outward-facing public areas, there have been changes to delivery of services, staff is working on outlining shift changes, the City Manager will review currently scheduled board and commission meetings, but the plan is to cancel or postpone all non-essential meetings through May 11
- agendas for Council, Planning & Zoning Commission, and Historic Preservation Commission will be evaluated and some items may be pushed to reduce duration of meetings
- Municipal Court is resetting all dockets scheduled through April 1 to a later date in April or May.

**Defendants with appearance dates scheduled between now and April 1 are asked to call the court to schedule a new date. The court counter remains open, but customers are encouraged to pay their fines online.**

**• City is suspending utility disconnections due to the effects the COVID-19 crisis may have on customers. Customers are encouraged to pay their bill online or by phone**

**Mr. Stapp displayed the following helpful links for our community:**

**<http://www.sanmarcostx.gov/279/Coronavirus-and-Flu-Information-and-Prev> - will include FAQs**

**<http://haysinformed.com/health-update/>**

**<https://www.smcisd.net/>**

**Council held discussion and asked questions regarding what we are doing at the County and City level regarding testing for COVID-19 and what measures we are taking to ensure safety of our emergency services personnel.**

**There is criteria for testing and the individual will be asked questions regarding recent travel, if they have been exposed to someone that has tested positive, and if they are exhibiting symptoms.**

**There were members of the business community in attendance and Council asked about the restrictions on bars/restaurants.**

**Currently, it will result in the closure of bars, but restaurants will open in limited fashion.**

**A question regarding the homeless population and what we are doing to prevent this in that area was asked. Staff stated this is hard to determine as they move around often. However, they will be treated like any other patient should they seek medical attention.**

**Another population that is of concern are those that travel or live in vans and trailers, is there any way of reaching out to them?**

**There were questions regarding monitoring and regulating the restaurants to make sure they are in compliance with this order.**

**Questions about library services for our residents was addressed. Mr. Lumbreras explained there are and will be numerous impacts that our community may face from childcare, to distance learning, to library services,**

**and many others. Changes are occurring rapidly.**

III. Adjournment.

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to adjourn the emergency meeting at 4:06 p.m., March 17, 2020. The motion carried by the following vote:**

**For:** 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

**Against:** 0

**Absent:** 1 - Council Member Marquez

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Meeting Minutes City Council

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Tuesday, March 24, 2020

4:00 PM

City Council Chambers

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### 630 E. Hopkins - Special Meeting

**MEETING IS VIRTUAL** stream online at [www.sanmarcostx.gov/videos](http://www.sanmarcostx.gov/videos) or watch on Grande channel 16 or Spectrum channel 10

#### I. Call To Order

**With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Hughson at 4:02 p.m. Tuesday, March 24, 2020. This meeting was held virtually.**

#### II. Roll Call

**Present:** 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

1. Receive status reports and updates on local response to COVID-19 pandemic; hold Council discussion, and provide direction to Staff.

**Chase Stapp, Director of Public Safety, provided status reports and updates on response to the COVID-19 pandemic.**

**Governor Abbott Issued the Executive Orders in accordance with federal guidelines to mitigate the spread of COVID-19 In Texas. On Thursday, March 19, 2020 the following were issued:**

- **Order No. 1: every person in Texas shall avoid social gatherings in groups of more than 10 people.**
- **Order No. 2: people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged**
- **Order No. 3: people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.**
- **Order No. 4: schools shall temporarily close.**

**On Sunday, March 22, 2020 the following were issued:**

- **Order No. 5: cancellation or postponement of all medical procedures not medically necessary**
- **Order No. 6: allowance for hospitals to maximize available bed space by caring for more than 1 patient per room**

**The City has closed all playgrounds and certain parks facilities where people are more likely to gather in close proximity:**

- **Playgrounds**
- **Dog and Skate parks**
- **Park restrooms**

**City efforts to address the emergency**

**Emergency management and response staff participating in multiple daily calls**

- **Monday 3/16 - Facility Closures with high public access like the Library and Activity Center and Pool**
- **Friday 3/20 - Public Facing City Counters Closure**
  - **Include Utility Billing, most of City Hall, as well as our public counters in the Municipal Building, Grant Harris Building and others.**
- **City Director team meeting via remote conference daily and established measures to protect employees**
  - **Virtual Meetings**
  - **Changes to delivery of services**
  - **Teleworking and Shift work separation**
- **3/23 Successfully tested Zoom remote meeting for Council**

**The city website is updated regularly with resource information for residents and businesses.**

**The City has initiated an awareness campaign regarding the need to wash your hands after touching gas pump and public building door handles**

**Joe Pantalione and Stephanie Reyes, Assistant City Managers, provided a presentation on financial assistance strategies to assist the local business community and residents due to COVID-19.**

**City Council provided direction to implement or further research the following strategies:**

**Strategies that are currently in place:**

- **Temporarily Halt Utility Service Disconnections for Nonpayment (evaluate after 90 days)**
- **Utility Bill Payment Arrangements**
- **Waive Utility Bill Late Fees (evaluate after 90 days)**

**Council agreed to the items above, implemented as suggested by staff.**

- **Waive/Modify Hotel Occupancy Tax (HOT) Late Payment Penalties – additional direction to waive penalties for small, local hotels, modify penalty**

structure for large chains (evaluate after 90 days)

Council agreed to consider this which this will require an ordinance on a future agenda.

**Strategies requiring additional research:**

- **Re-allocate CDBG Funds**
- **Grants and Loans – focus on local businesses and investigate all possibilities**
- **Increase City Manager Authority to \$500,000**
- **Strategic Initiative Funding/Special Economic Development Fund – additional request to focus on Downtown**

**NOT RECOMMENDED/NOT FEASIBLE UNDER CURRENT REGULATIONS**

**Property Tax, Sales Tax, Utility Rates reductions**

- **Hotel Occupancy Tax – Postpone Collection of Hotel Taxes**
- **Issue Certificates of Obligation for Business Assistance**

City Council requested that both of the following items be added to the information provided by the City at <http://www.sanmarcostx.gov/covid19info>:

- The U.S. Department of Housing and Urban Development (HUD) on March 18, 2020 authorized the Federal Housing Administration (FHA) to implement an immediate foreclosure and eviction moratorium for single family homeowners with FHA-insured mortgages for the next 60 days.

- The Texas Supreme Court issued an emergency order on March 19, 2020 halting all evictions until April 19.

Staff will continue to update City Council on the implementation of these strategies as well as information that is being shared with the public.

2. Discuss the Governor's proclamation regarding the resetting of elections to be held on May 2, 2020 as it applies to the scheduled special election to fill the vacancy for Place 5 on the City Council, and provide direction to Staff.

**Tammy Cook, Interim City Clerk, and Michael Cosentino, City Attorney provided a brief introduction on the item**

**Council provided consensus to postpone the May 2, 2020 Special Election to November 2020.**

III. Adjournment.

**Mayor Hughson stated:**

**"At this time I will entertain a motion to go into executive session under the**

**authority of section 551.071 of the Texas Government Code to seek advice from the city attorney regarding items posted on today's agenda."**

**A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to enter into Executive Session at 6:03p.m. This ended the public portion of the Special Meeting.**

**The motion carried by the following vote:**

**For: 7 -** Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

**Against: 0**

Executive Session

**Executive Session began at 6:10 p.m. and adjourned at 7:52 p.m.**

**Tammy K. Cook, Interim City Clerk**

**Jane Hughson, Mayor**



Legislation Text

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**File #:** Ord. 2020-08(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-08, on the second of two readings, approving annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop, including procedural provisions; and providing for an effective date.

**Meeting date:** April 7, 2020

**Department:** Planning & Development Services

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The City of San Marcos will provide water and wastewater services at the site. The developer will be responsible for extending water and wastewater facilities through the site. Pedernales Electric Cooperative will provide electric service for this development.

The City of San Marcos will provide Police, Fire, and EMS services to the site.

Below is a proposed schedule for this annexation, which complies with the Texas Local Government Code requirements:

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):**  
March 3, 2020
- **City Council Ordinance 1st Reading (Public Hearing):** March 17, 2020 (Today)
- **City Council Ordinance 2nd Reading:** April 7, 2020

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

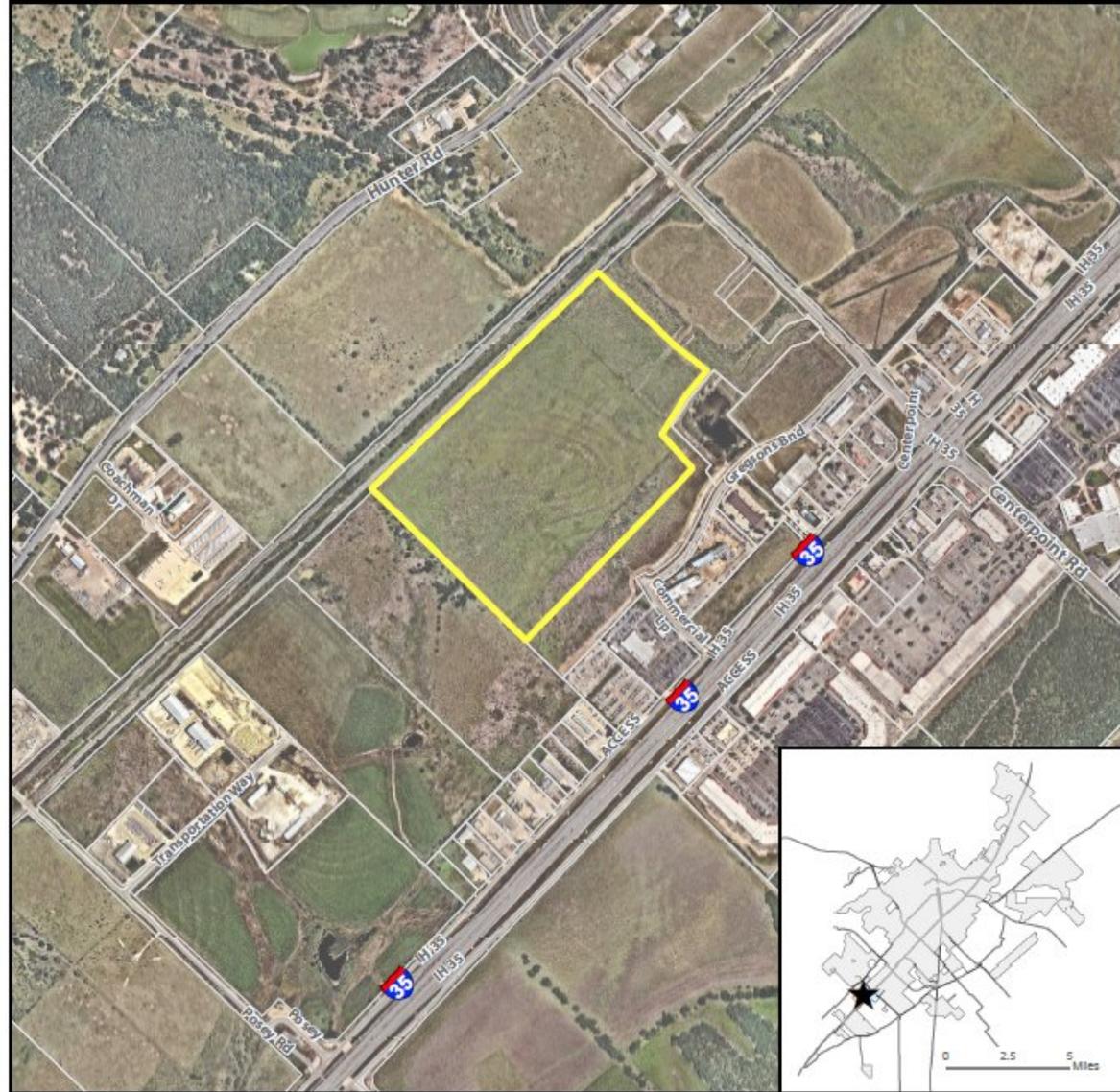
Click or tap here to enter text.

Consider approval of Resolution 2020-53R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a public hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

**AN-20-02  
Aerial View  
Annexation — Commercial Loop / Gregson Bend**

**Context:**

- Gregsons Bend & Commercial Loop
- 62.48 acres
- Employment Center
- Concurrent Zoning Change application to “Planning Area”
- Service Plan (Attachment)



<ul style="list-style-type: none"> <li>★ Site Location</li> <li>▭ Subject Property</li> <li>▭ Parcel</li> <li>▭ City Limit</li> </ul>	<p>0 500 1,000 2,000 Feet</p> <p>N</p> <p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.</p> <p>Map Date: 2/18/2020</p>
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## Annexation & Zoning Schedules:

\*This schedule reflects the new annexation schedule per Texas House Bill 347

### Annexation Schedule

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** March 3, 2020
  - **City Council Ordinance 1<sup>st</sup> Reading (Public Hearing):** March 17, 2020 (Today)
  - **City Council Ordinance 2<sup>nd</sup> Reading:** April 7, 2020
- 

### Zoning Schedule

- **Planning and Zoning Commission (Public Hearing):** February 25, 2020
- **City Council Ordinance 1<sup>st</sup> Reading (Public Hearing):** March 17, 2020
- **City Council Ordinance 2<sup>nd</sup> Reading:** April 7, 2020

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ANNEXING INTO THE CITY APPROXIMATELY 62.48 ACRES OF LAND GENERALLY LOCATED AT THE INTERSECTION OF GREGSONS BEND AND COMMERCIAL LOOP; INCLUDING PROCEDURAL PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS:**

1. The owner of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop, as further described by metes and bounds in Exhibit "A," attached hereto and incorporated herein for all purposes (the "Property"), made a request for the City to annex the Property. A location map of the Property is also shown in Exhibit "A."
2. Said owner of the Property has declined the offer of a development agreement from the City concerning the Property.
3. The Owner and the City have entered into a written agreement for the provision of services to the Property.
4. The Property is contiguous and adjacent to the current boundaries of the City.
5. The City Council held a public hearing regarding the request.
6. The City Council hereby finds and determines that the adoption of the following ordinance is in the interest of the public health, morals, welfare and safety.

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

**SECTION 1.** The recitals of this ordinance are approved and adopted.

**SECTION 2.** The Property is annexed to and is a part of the City of San Marcos, Texas and subject to the acts, ordinances, resolutions and regulations of the City.

**SECTION 3.** Services to the Property will be provided under the terms of the written agreement for the provision of services entered into between the Owner and the City as noted in Recital 3.

**SECTION 4.** The corporate limits of the City are extended to include the Property.

**SECTION 5.** The inhabitants of the Property are entitled to all the rights and privileges of other citizens of the City, and are bound by the acts, ordinances, resolutions and regulations of the City.

**SECTION 6.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 7.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 8.** This ordinance shall be effective only after its passage, approval and adoption on second reading and the purchase of the Property by Pursuant Ventures Development, LLC or its designated assigns as permitted in that certain Purchase and Sale Agreement dated December 2, 2019 by and between Pursuant Ventures Development, LLC and the City.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael Cosentino  
City Attorney

**EXHIBIT "A"**  
Property Description

#### FIELD NOTES DESCRIPTION

DESCRIPTION OF 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, A-63, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 62.48 ACRE TRACT, AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast right-of-way line of that certain 200-foot wide Union Pacific Railroad right-of-way, being the south corner of that 100-foot strip described in the deed to the Missouri, Kansas & Texas Railway Company of Texas of record in Volume 41, Page 23, Deed Records of Hays County, Texas, in the northeast line of a certain 29.07 acre tract designated as Tract Number 3 and described in the deed to Eugene A. Herry, Jr. and Frances K. Herry of record in Volume 276, Page 313, Deed Records of Hays County, Texas, at the west corner of the said 109.22 acre tract, for the west corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 46°39'30" E, leaving the northeast line of the said 29.07 acre tract, with the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract, with the northwest line of the tract described herein, a distance of 1903.09 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found, for the north corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract bears S 46°39'30" W, a distance of 160.21 feet;

**THENCE** leaving the said southeast railroad right-of-way line, crossing the said 109.22 acre tract, with the northeast, southeast and northeast lines of the tract described herein, the following seven (7) courses and distances:

1. S 46°27'37" E, a distance of 657.03 feet to a calculated angle point,
2. S 52°15'35" E, a distance of 229.85 feet to a calculated point for the most northerly east corner,
3. S 39°31'34" W, a distance of 198.77 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found,
4. S 32°44'39" W, a distance of 199.24 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a re-entrant corner,
5. S 46°16'38" E, a distance of 348.25 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at an east corner,
6. S 45°29'11" W, a distance of 46.11 feet to a ½-inch iron rod found at a re-entrant corner, and
7. S 36°50'33" E, a distance of 111.52 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast line of the said 109.22 acre tract, same being the curving northwest right-of-way line of Gregson's Bend, a 60-foot right-of-way, as shown on the Lot 2 and Gregson Road of Section 1, the Lowman Ranch Subdivision plat of record in Volume 7, Page 215, Plat Records of Hays County, Texas, for an east corner of the tract described herein;

**THENCE** with the west and northwest right-of-way line of said Gregson's Bend, with the east and southeast line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 360.00 feet, an arc distance of 69.66 feet, and a chord which bears S 31°22'59" W, a distance of 69.55 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
2. S 25°56'16" W, a distance of 277.98 feet to a ½-inch iron rod found at a point-of-curvature,

3. with the arc of a curve to the right, having a radius of 503.00 feet, an arc distance of 293.42 feet, and a chord which bears S 42°37'23" W, a distance of 289.28 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
4. S 59°20'03" W, a distance of 40.49 feet to a calculated point-of-curvature, and
5. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 40.54 feet, and a chord which bears N 74°10'24" W, a distance of 36.24 feet to a calculated point for the northeast terminus of Commercial Loop, a 70-foot right-of-way as shown on the Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1 plat of record in Volume 9, Page 62, Plat Records of Hays County, Texas, for a re-entrant corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN Survey" found bears N 62°00'33" E, a distance of 1.27 feet;

**THENCE** S 62°00'33" W, continuing across the said 109.22 acre tract, with the north terminus of said Commercial Loop, with a south line of the tract described herein, a distance of 70.00 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northwest terminus of said Commercial Loop and a reentrant corner of the tract described herein, and from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 62°00'33" W, a distance of 4.93 feet;

**THENCE** continuing across the said 109.22 acre tract, with the curving northwest right-of-way line of said Commercial Loop, with a northeast line of the tract described herein, with the arc of a curve to the left, having a radius of 1245.00 feet, an arc distance of 123.28 feet, and a chord which bears S 30°42'59" E, a distance of 123.23 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northerly east corner of Lot 3, said Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1, for a northeast corner of the tract described herein;

**THENCE** leaving the northwest right-of-way line of said Commercial Loop, continuing across the said 109.22 acre tract, with the north and northwest line of said Lot 3, Lowman Ranch Subdivision, Section 1, with a south and southeast line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 25.00 feet, an arc distance of 44.76 feet, and a chord which bears N 84°42'52" W, a distance of 39.02 feet to an "X" in concrete found at a point-of-tangency, and
2. S 43°35'28" W, at a distance of 21.70 feet, a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 46°24'32" E, a distance of 0.49 feet, and continuing for a total distance of 356.89 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 3, Lowman Ranch Subdivision, Section 1, and the north corner of Lot 5, Section 1, Lowman Ranch Subdivision of record in Volume 17, Page 134, Plat Records of Hays County, Texas, for an angle point in the southeast line of the tract described herein;

**THENCE** S 43°32'32" W, continuing across the said 109.22 acre tract, with the northwest line of said Lot 5, Section 1, Lowman Ranch Subdivision, with the southeast line of the tract described herein, a distance of 322.26 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 5, Section 1, Lowman Ranch Subdivision, in the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 acre tract, for the south corner of the tract described herein, from which a 3/8-inch iron rod found in the southwest line of the said 109.22 acre tract at the northeast corner of the said 29.07 acre tract, same being an angle point in the southwest line of said Lot 5, Section 1, Lowman Ranch Subdivision and the north corner of Lot 13, South Park Commercial Subdivision of record in Volume 4, Page 59, Plat Records of Hays County, Texas bears S 45°19'13" E, a distance of 172.98 feet;

**THENCE** with the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 tract, with the southwest line of the tract described herein, the following three (3) courses and distances:

1. N 45°12'23" W, a distance of 147.03 feet to a cedar fence post found at an angle point,
2. N 45°53'12" W, a distance of 1024.34 feet to a cedar fence post found, and

62.48 Ac.  
Edward Burleson Survey No. 18, A-63,  
Hays County, Texas

Job No. 070199-01-001  
FN1965(en)  
Page 3 of 3

3. N 45°57'03" W, a distance of 451.51 feet to the **POINT OF BEGINNING** and containing 62.48 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN1965(en)  
BOWMAN REF PLAN NO.: 3557  
H:\Survey\FieldNotes\FN-1900s\FN1965(en).doc

THE STATE OF TEXAS           §  
  §           KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS         §

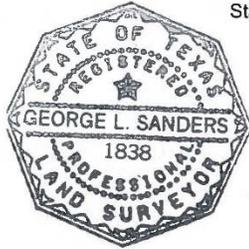
That I, George L. Sanders, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the months of November and December 2016, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 4<sup>TH</sup> of January, 2017 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



George L. Sanders  
Registered Professional Land Surveyor No. 1838  
State of Texas





**AGREEMENT FOR THE PROVISION OF SERVICES**  
(Pursuant to Tex. Local Gov't Code §43.0672)

**Date:** March 3, 2020

**Owner:** Outlet West Investors, Ltd., 415 N Guadalupe St, Ste 400

**City:** City of San Marcos, Texas, a home rule municipal corporation, 630 East Hopkins Street, San Marcos, Texas 78666

**Property:** As described in Exhibit A.

---

1. The Owner has petitioned the City and the City has elected to annex the Property into the corporate limits of the City. Pursuant to Tex. Local Gov't Code §43.0672, the Owner and the City enter this agreement (the "Agreement") for the provision of services to the Property when annexed.

2. By this Agreement, the Owner affirms its consent to such annexation of the Property by the City and that Owner does not wish to enter into and has declined the offer from the City of a development agreement under Sections 43.016 and 212.172 of the Texas Local Government Code.

3. In consideration of the mutual benefits to the Owner and the City arising from the annexation of the Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the City enter into this Agreement and agree that services to the Property will be provided as described in Exhibit B.

4. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in state courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

5. If any word, phrase, clause, sentence, or paragraph of this Agreement is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this Agreement will continue in force if they can be given effect without the invalid portion.

6. This Agreement shall be binding upon Owner, and Owner's heirs, successors and assigns, and all future owners of all or any portion of the Property.

7. This Agreement will become effective as of the date an ordinance annexing the Property is finally passed, approved and adopted by the City's city council (the Effective Date).

[SIGNATURES ON NEXT PAGES]

**CITY:**

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

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

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

**ACKNOWLEDGMENT**

STATE OF TEXAS           §

§

COUNTY OF HAYS         §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_, \_\_\_\_\_ of the City of San Marcos, in such capacity, on  
behalf of said municipality.

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

**OWNER:**  
**Outlet West Investors, Ltd.**

**By:** \_\_\_\_\_,  
**Its general partner**

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

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

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

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ §

§

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, general partner of Outlet West Investors, Ltd., in such capacity on behalf of said entity.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

# EXHIBIT A

62.48 Ac.  
Edward Burleson Survey No. 18, A-63,  
Hays County, Texas

Job No. 070199-01-001  
FN1965(en)  
Page 1 of 3

## FIELD NOTES DESCRIPTION

DESCRIPTION OF 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, A-63, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 62.48 ACRE TRACT, AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast right-of-way line of that certain 200-foot wide Union Pacific Railroad right-of-way, being the south corner of that 100-foot strip described in the deed to the Missouri, Kansas & Texas Railway Company of Texas of record in Volume 41, Page 23, Deed Records of Hays County, Texas, in the northeast line of a certain 29.07 acre tract designated as Tract Number 3 and described in the deed to Eugene A. Herry, Jr. and Frances K. Herry of record in Volume 276, Page 313, Deed Records of Hays County, Texas, at the west corner of the said 109.22 acre tract, for the west corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 46°39'30" E, leaving the northeast line of the said 29.07 acre tract, with the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract, with the northwest line of the tract described herein, a distance of 1903.09 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found, for the north corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract bears S 46°39'30" W, a distance of 160.21 feet;

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4. S 32°44'39" W, a distance of 199.24 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a re-entrant corner,
5. S 46°16'38" E, a distance of 348.25 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at an east corner,
6. S 45°29'11" W, a distance of 46.11 feet to a ½-inch iron rod found at a re-entrant corner, and
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4. S 59°20'03" W, a distance of 40.49 feet to a calculated point-of-curvature, and
5. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 40.54 feet, and a chord which bears N 74°10'24" W, a distance of 36.24 feet to a calculated point for the northeast terminus of Commercial Loop, a 70-foot right-of-way as shown on the Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1 plat of record in Volume 9, Page 62, Plat Records of Hays County, Texas, for a re-entrant corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN Survey" found bears N 62°00'33" E, a distance of 1.27 feet;

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**THENCE** leaving the northwest right-of-way line of said Commercial Loop, continuing across the said 109.22 acre tract, with the north and northwest line of said Lot 3, Lowman Ranch Subdivision, Section 1, with a south and southeast line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 25.00 feet, an arc distance of 44.76 feet, and a chord which bears N 84°42'52" W, a distance of 39.02 feet to an "X" in concrete found at a point-of-tangency, and
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2. N 45°53'12" W, a distance of 1024.34 feet to a cedar fence post found, and

62.48 Ac.  
Edward Burleson Survey No. 18, A-63,  
Hays County, Texas

Job No. 070199-01-001  
FN1965(en)  
Page 3 of 3

3. N 45°57'03" W, a distance of 451.51 feet to the **POINT OF BEGINNING** and containing 62.48 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN1965(en)  
BOWMAN REF PLAN NO.: 3557  
H:\Survey\FieldNotes\FN-1900s\FN1965(en).doc

THE STATE OF TEXAS       §  
  §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS       §

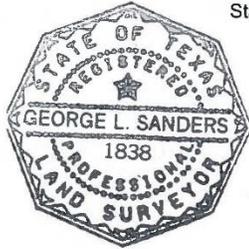
That I, George L. Sanders, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the months of November and December 2016, under my direction and supervision.

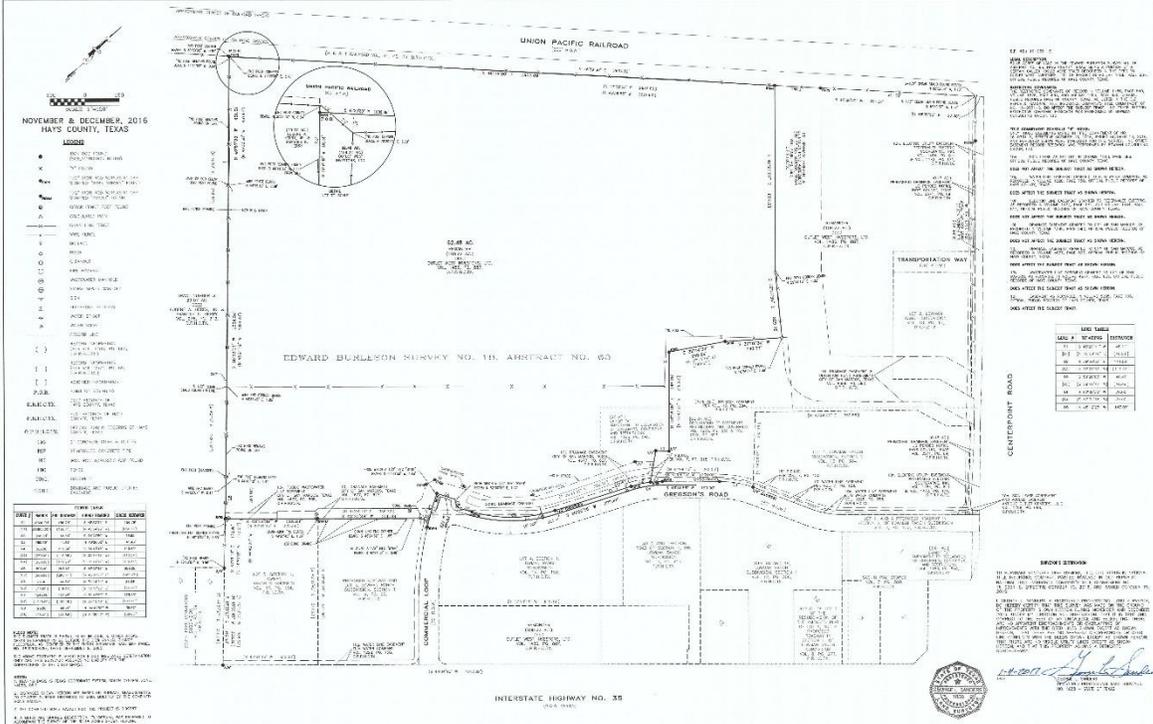
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 4<sup>TH</sup> of January, 2017 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



George L. Sanders  
Registered Professional Land Surveyor No. 1838  
State of Texas





NOVEMBER 8, DECEMBER, 2016  
HAYS COUNTY, TEXAS

- LEGEND**
- 1. 1/4 SECTION
  - 2. 1/2 SECTION
  - 3. 3/4 SECTION
  - 4. SECTION
  - 5. 1/4 SECTION
  - 6. 1/2 SECTION
  - 7. 3/4 SECTION
  - 8. SECTION
  - 9. 1/4 SECTION
  - 10. 1/2 SECTION
  - 11. 3/4 SECTION
  - 12. SECTION
  - 13. 1/4 SECTION
  - 14. 1/2 SECTION
  - 15. 3/4 SECTION
  - 16. SECTION
  - 17. 1/4 SECTION
  - 18. 1/2 SECTION
  - 19. 3/4 SECTION
  - 20. SECTION
  - 21. 1/4 SECTION
  - 22. 1/2 SECTION
  - 23. 3/4 SECTION
  - 24. SECTION
  - 25. 1/4 SECTION
  - 26. 1/2 SECTION
  - 27. 3/4 SECTION
  - 28. SECTION
  - 29. 1/4 SECTION
  - 30. 1/2 SECTION
  - 31. 3/4 SECTION
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  - 43. 3/4 SECTION
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  - 93. 1/4 SECTION
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  - 95. 3/4 SECTION
  - 96. SECTION
  - 97. 1/4 SECTION
  - 98. 1/2 SECTION
  - 99. 3/4 SECTION
  - 100. SECTION

**TABLE**

NO.	ACRES	FRAC.	SECTION	TOWNSHIP	RANGE	COUNTY	STATE
1	1.0000	1/4	36	10N	10E	HAYS	TEXAS
2	1.0000	1/4	37	10N	10E	HAYS	TEXAS
3	1.0000	1/4	38	10N	10E	HAYS	TEXAS
4	1.0000	1/4	39	10N	10E	HAYS	TEXAS
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6	1.0000	1/4	41	10N	10E	HAYS	TEXAS
7	1.0000	1/4	42	10N	10E	HAYS	TEXAS
8	1.0000	1/4	43	10N	10E	HAYS	TEXAS
9	1.0000	1/4	44	10N	10E	HAYS	TEXAS
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64	1.0000	1/4	99	10N	10E	HAYS	TEXAS
65	1.0000	1/4	100	10N	10E	HAYS	TEXAS

**NOTICE TO CONTRACTORS**

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES OF THE STATE OF TEXAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES OF THE STATE OF TEXAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES OF THE STATE OF TEXAS.

**LEG TABLE**

LEG #	DESCRIPTION	SECTION
1	1/4 SECTION	36
2	1/4 SECTION	37
3	1/4 SECTION	38
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63	1/4 SECTION	98
64	1/4 SECTION	99
65	1/4 SECTION	100

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## **EXHIBIT B**

When the Property is annexed, services will be provided to the Property as follows:

### **1. Police Protection**

Police services, including patrolling, response to calls and other routine services, will begin on the Effective Date of the annexation using existing personnel and equipment.

### **2. Fire Protection**

Fire protection services, including emergency response calls, will begin on the Effective Date of the annexation using existing personnel and equipment and within the limitations of the available water supply.

### **3. Emergency Medical Services**

Emergency medical services, including emergency response calls, will continue at the same level of service after the annexation. The City of San Marcos contracts for emergency medical services through the San Marcos – Hays County EMS, which already provides service to the area being annexed.

### **4. Solid Waste Collection**

Solid waste collection services, provided under contract with a private company, will be made available to all properties on the Effective Date of the annexation. Residents of the Property may elect to continue using the services of a private solid waste hauler for a period of two years after the Effective Date of the annexation. Businesses and institutions must make arrangements with private solid waste haulers.

### **5. Operation and Maintenance of Water and Wastewater Facilities**

**a. Water.** The Property is located within an area over which the City of San Marcos holds a Certificate of Convenience and Necessity (CCN) for water service. The City will make water service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is solely responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property.

**b. Wastewater.** The Property is not covered by a CCN for wastewater service, however, the City of San Marcos has wastewater lines adjacent to the Property and agrees to make wastewater service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is solely responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property. In addition, the City is in the process of adding the Property as an area covered by the City's CCN for wastewater service.

### **6. Construction, Operation and Maintenance of Roads and Streets**

As new development occurs within the Property, the Owner(s) of Property will be required to construct streets at the Owner's sole expense in accordance with applicable ordinances of the City.

## **7. Electric Service**

The Property is located in the Pedernales Electric Cooperative service area. Thus, the City will not provide electric service to the Property.

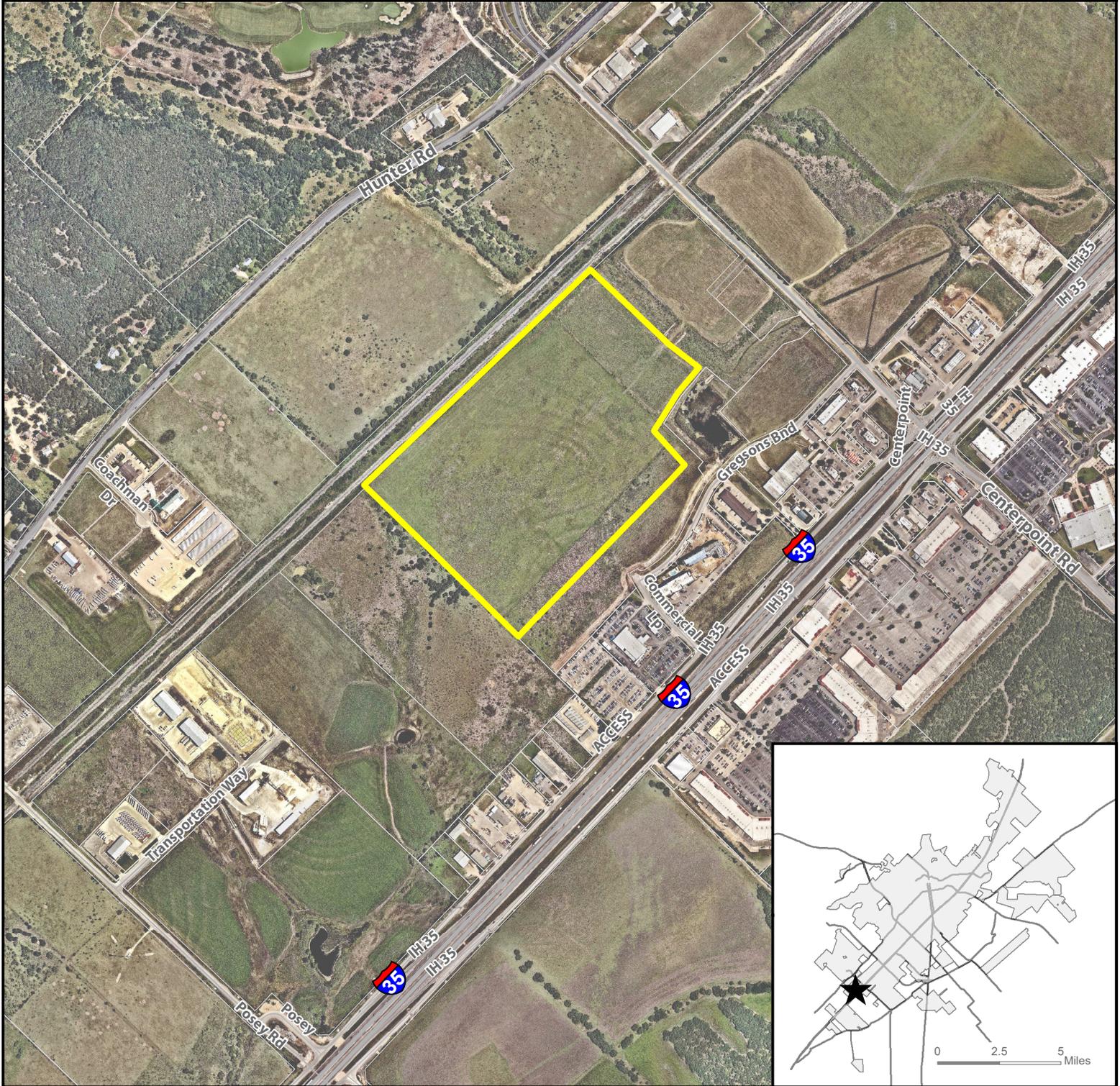
## **8. Operation and Maintenance of Parks, Playgrounds, and/or Swimming Pools**

No parks, playgrounds, and/or swimming pools currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding recreational facilities to serve the Property. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the city.

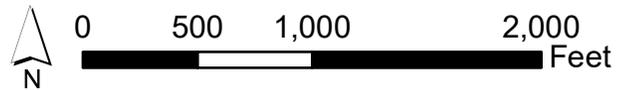
## **9. Operation and Maintenance of Other Public Facilities, Buildings, and Services**

No other public facilities, buildings, or services currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding other public facilities, building, and services. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal facilities, buildings, and services, subject to the same restrictions, fees, and availability that pertains to the use of those facilities and services by other citizens of the city.

# AN-20-02 Aerial View Annexation — Commercial Loop / Gregson Bend



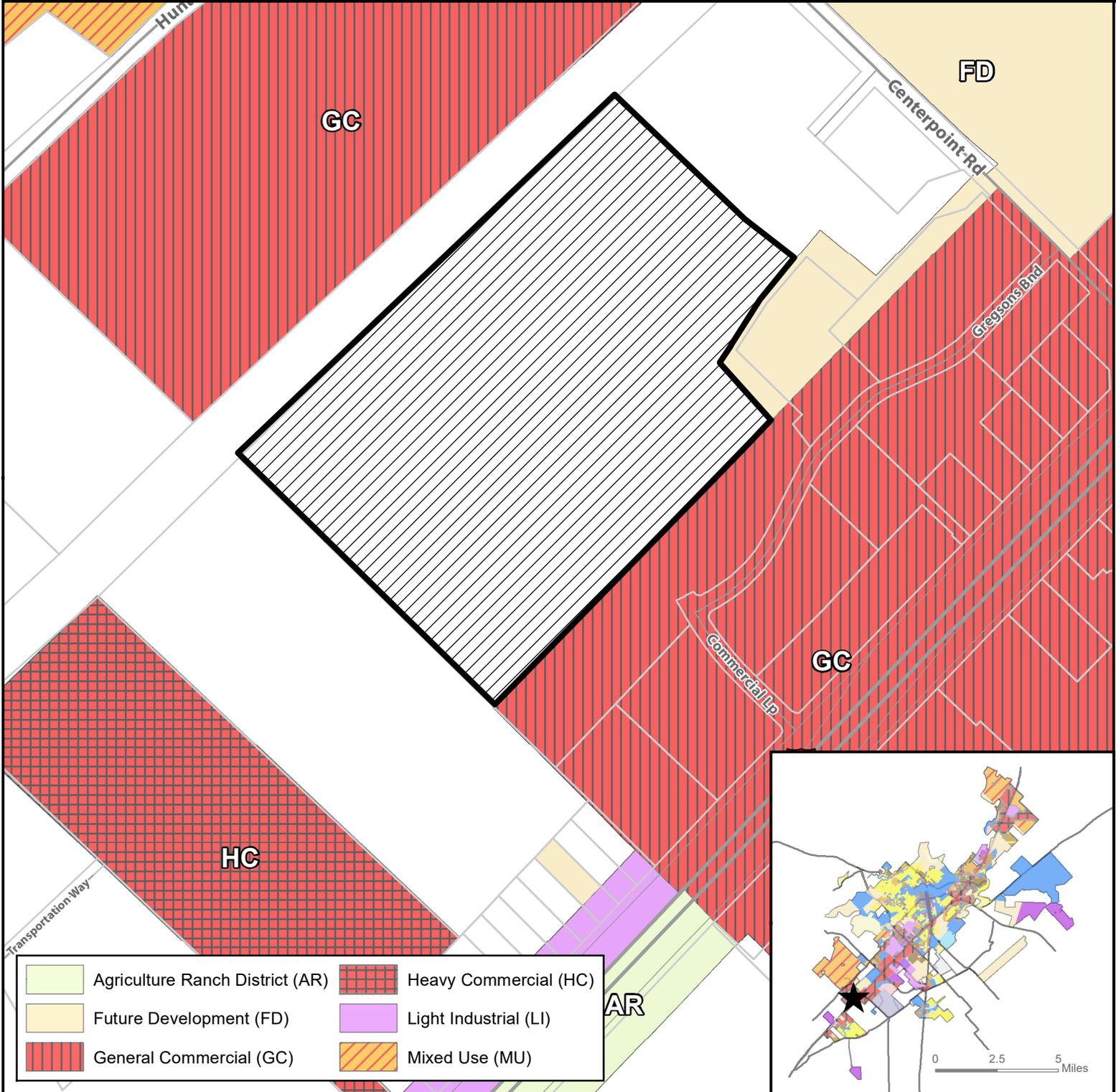
- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



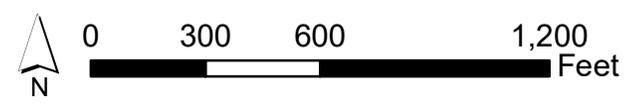
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 2/18/2020

# AN-20-02 Existing Zoning Map Annexation — Commercial Loop / Gregsons Bend



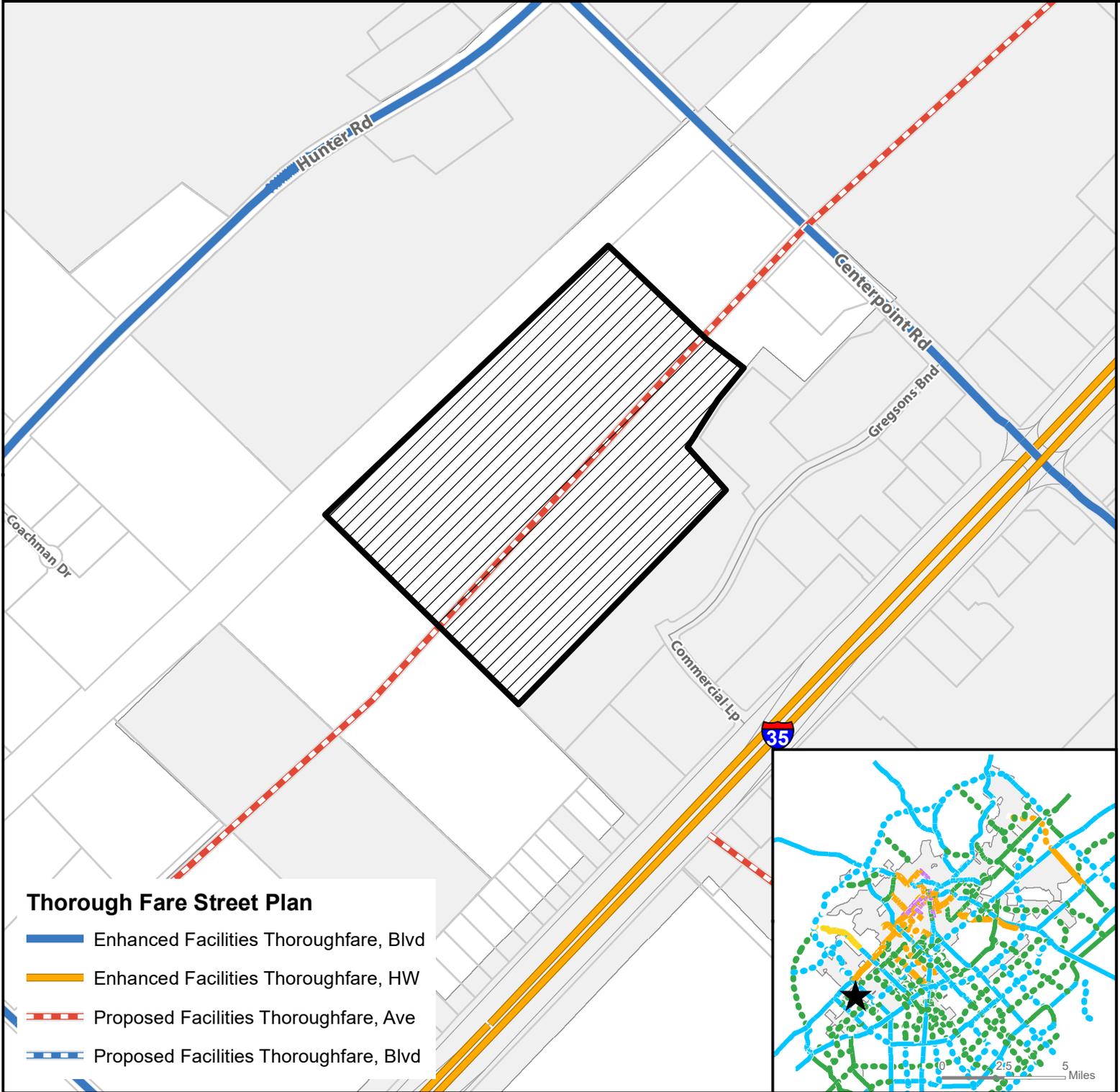
- Site Location**
- Subject Property**
- Parcels**
- City Limit**



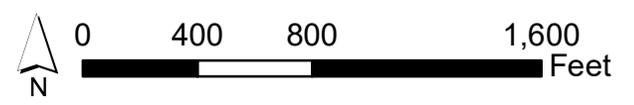
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/18/2020

# AN-20-02 Transportation Master Plan Annexation — Commercial Loop / Gregsons Bend



- ★ Site Location
- ▨ Subject Property
- Parcels
- City Limit

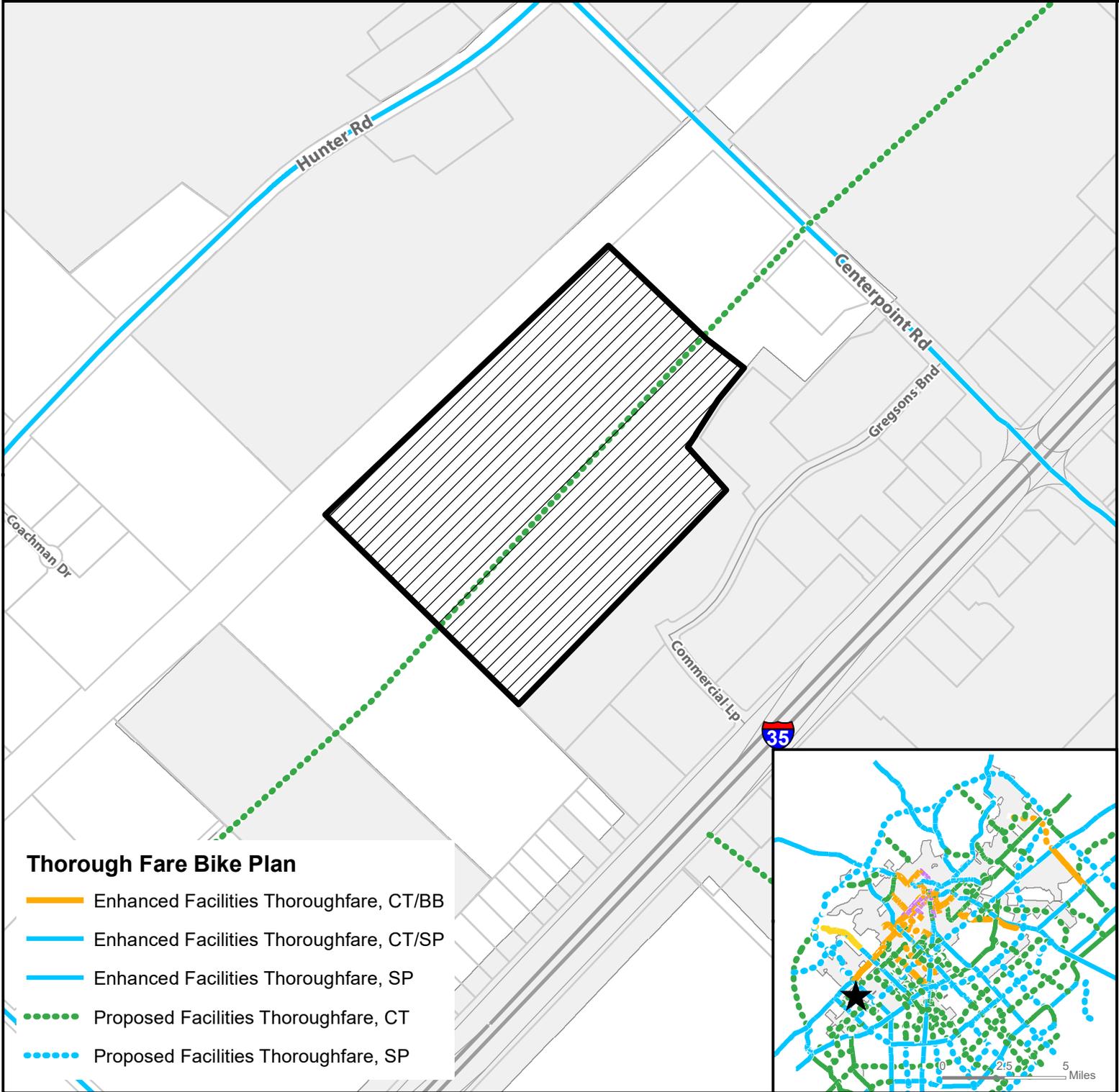


This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

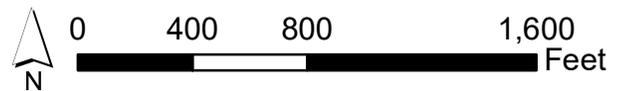
Map Date: 2/18/2020

# AN-20-02

## Transportation Master Plan - Bike Facilities Annexation — Commercial Loop / Gregsons Bend



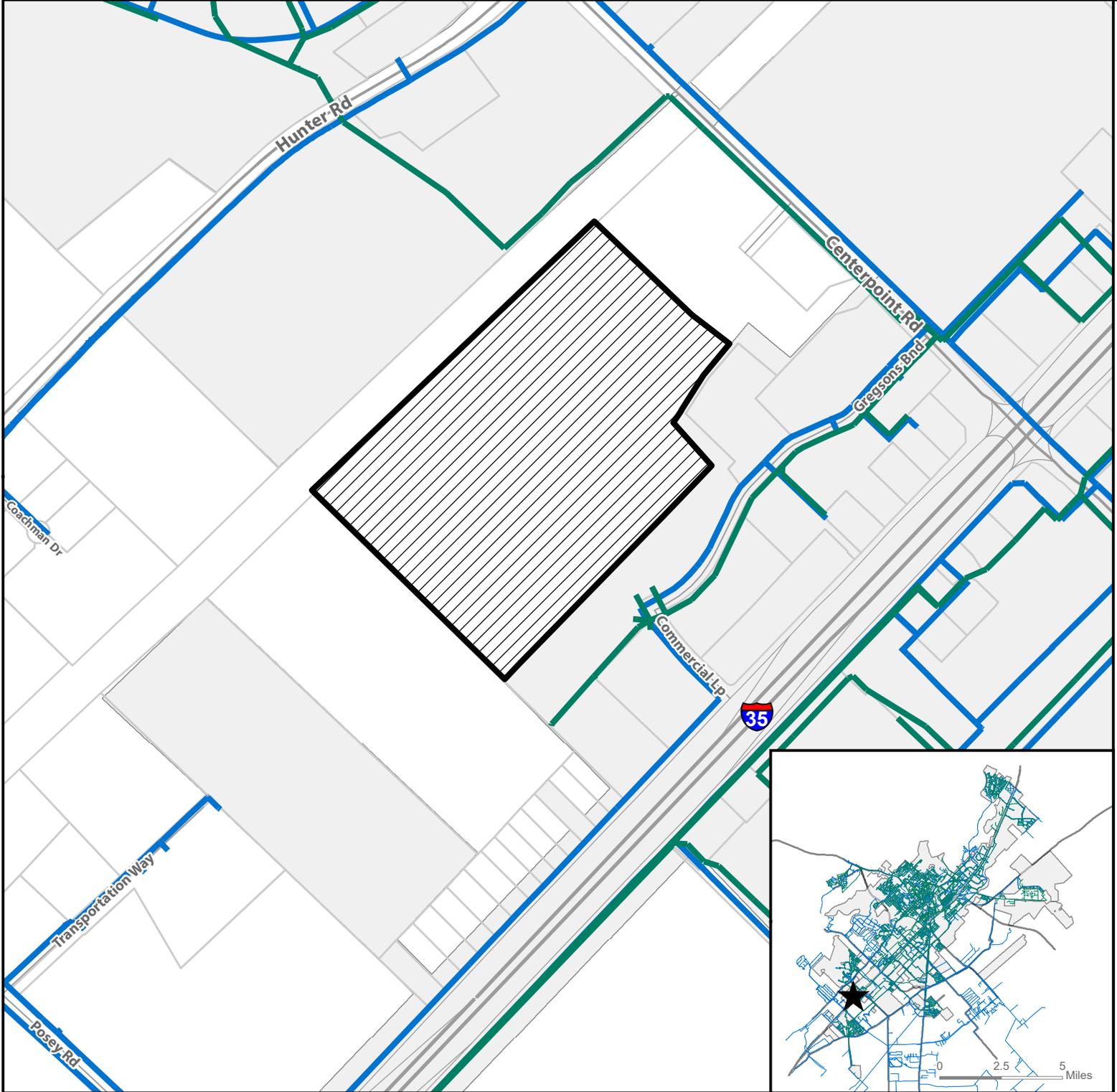
- ★ **Site Location**
- ▨ **Subject Property**
- **Parcels**
- **City Limit**



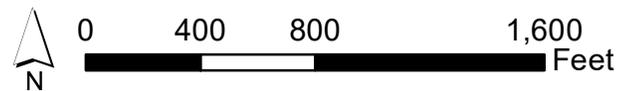
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/18/2020

# AN-20-02 Water/Wastewater Lines Annexation — Commercial Loop / Gregsons Bend



-  **Site Location**
-  **Subject Property**
-  **Parcels**
-  **City Limit**
-  **Sanitary Main**
-  **Water Main**



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/18/2020

# ANNEXATION APPLICATION

Updated: October, 2019



## CONTACT INFORMATION

Applicant's Name	Ed Theriot	Property Owner	Outlet West Investors, Ltd.
Company	Doucet & Associates, Inc.	Company	c/o Tyler Sibley Pursuant Ventures Development
Applicant's Mailing Address	7401B Hwy. 71 W., Ste. 160 Austin, TX 78735	Owner's Mailing Address	415 North Guadalupe, Ste. 400 San Marcos, Texas 78666
Applicant's Phone #	512-618-2865	Owner's Phone #	214-282-8970
Applicant's Email	etheriot@doucetengineers.com	Owner's Email	tylersibley1@gmail.com

## PROPERTY INFORMATION

Is the property adjacent to city limits  YES  NO

Is the property less than ½ mile in width  YES  NO

Are there less than 3 qualified voters living on the property  YES  NO

Proposed Use: Employment Area Proposed Zoning: Planning Area District

Reason for Annexation / Other Considerations: Development of the tract requires annexation to apply appropriate zoning controls.

## AUTHORIZATION

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.*

Filing Fee \$1,181      Technology Fee \$13      TOTAL COST \$1,194

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**

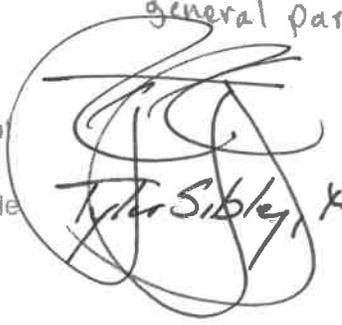
PROPERTY OWNER AUTHORIZATION

Robert C. Wilson, III, President  
I, of JOQ GP, LLC, as general partner (owner name) on behalf of  
Outlet West Investors, Ltd. (company, if applicable) acknowledge that I/we  
am/are the rightful owner of the property located at  
a portion of the property identified in the Hays County Appraisal District as R13080 (address).

I hereby authorize Tyler Sibley and his respective consultants (agent name) on behalf of  
Pursuant Ventures Development, LLC (agent company) to file this application for  
For the annexation of the subject property into the City of San Marcos City limits (application type), and, if necessary, to work with  
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner *General Partner  
JOQ GP, LLC  
Robert C. Wilson, III* Date: *26 Dec 19*

Printed Name, Title: Robert C. Wilson, III, President of JOQ GP, LLC,  
general partner of Outlet West Investors, Ltd.

Signature of Agent  Date: *12/29/19*  
Printed Name, Title: Tyler Sibley, Manager

Form Updated October 2019

PROPERTY OWNER AUTHORIZATION

I, See attached authorization (owner name) on behalf of Outlet West Investors, Ltd. (company, if applicable) acknowledge that I/we am/are the rightful owner of the property located at a portion of the property identified in the Hays County Appraisal District as R13080 \_\_\_\_\_ (address).

I hereby authorize Tyler Sibley and his respective consultants (agent name) on behalf of Pursuant Ventures Development, LLC (agent company) to file this application for For the annexation of the subject property in a manner agreeable to both the City of San Marcos & Pursuant Ventures Development, LLC (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name, Title: See attached authorization

Signature of Agent: \_\_\_\_\_ Date: 2019.12.30 16:06:19 -06'00' \_\_\_\_\_ Date: 12/30/19

Printed Name, Title: Ed Theriot, Project Manager



## CHECKLIST FOR ANNEXATION APPLICATION

The following items are requested for consideration of this application. These and additional items may be required at the request of the Department		Comments
✓	Pre-development meeting with staff is recommended <ul style="list-style-type: none"> <li>Please visit <a href="http://sanmarcostx.gov/1123/Pre-Development-Meetings">http://sanmarcostx.gov/1123/Pre-Development-Meetings</a> to schedule</li> </ul>	Pre-development meeting occurred 10-8-18
✓	Completed Application for Annexation	See attached
✓	Metes & Bounds description of the area to be annexed	See attached
✓	CAD file in grid for GIS integration. Projection: NAD 1983 StatePlane Texas South Central FIPS 4204 Feet	See attached
✓	Authorization to represent the property owner, if the applicant is not the owner	See attached authorization
✓	Written request to waive the timing requirements for processing annexation under Chapter 43 of the Texas Local Government Code, if the applicant wishes for concurrent consideration of a Zoning Change	Requested per this document
✓	Application Filing Fee    \$1,181 Technology Fee                \$13	
<p><b>**San Marcos Development Code Section 2.3.1.1(C): "Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete..."</b></p>		

### FIELD NOTES DESCRIPTION

DESCRIPTION OF 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, A-63, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 62.48 ACRE TRACT, AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast right-of-way line of that certain 200-foot wide Union Pacific Railroad right-of-way, being the south corner of that 100-foot strip described in the deed to the Missouri, Kansas & Texas Railway Company of Texas of record in Volume 41, Page 23, Deed Records of Hays County, Texas, in the northeast line of a certain 29.07 acre tract designated as Tract Number 3 and described in the deed to Eugene A. Herry, Jr. and Frances K. Herry of record in Volume 276, Page 313, Deed Records of Hays County, Texas, at the west corner of the said 109.22 acre tract, for the west corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 46°39'30" E, leaving the northeast line of the said 29.07 acre tract, with the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract, with the northwest line of the tract described herein, a distance of 1903.09 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found, for the north corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract bears S 46°39'30" W, a distance of 160.21 feet;

**THENCE** leaving the said southeast railroad right-of-way line, crossing the said 109.22 acre tract, with the northeast, southeast and northeast lines of the tract described herein, the following seven (7) courses and distances:

1. S 46°27'37" E, a distance of 657.03 feet to a calculated angle point,
2. S 52°15'35" E, a distance of 229.85 feet to a calculated point for the most northerly east corner,
3. S 39°31'34" W, a distance of 198.77 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found,
4. S 32°44'39" W, a distance of 199.24 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a re-entrant corner,
5. S 46°16'38" E, a distance of 348.25 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at an east corner,
6. S 45°29'11" W, a distance of 46.11 feet to a ½-inch iron rod found at a re-entrant corner, and
7. S 36°50'33" E, a distance of 111.52 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast line of the said 109.22 acre tract, same being the curving northwest right-of-way line of Gregson's Bend, a 60-foot right-of-way, as shown on the Lot 2 and Gregson Road of Section 1, the Lowman Ranch Subdivision plat of record in Volume 7, Page 215, Plat Records of Hays County, Texas, for an east corner of the tract described herein;

**THENCE** with the west and northwest right-of-way line of said Gregson's Bend, with the east and southeast line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 360.00 feet, an arc distance of 69.66 feet, and a chord which bears S 31°22'59" W, a distance of 69.55 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
2. S 25°56'16" W, a distance of 277.98 feet to a ½-inch iron rod found at a point-of-curvature,

3. with the arc of a curve to the right, having a radius of 503.00 feet, an arc distance of 293.42 feet, and a chord which bears S 42°37'23" W, a distance of 289.28 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
4. S 59°20'03" W, a distance of 40.49 feet to a calculated point-of-curvature, and
5. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 40.54 feet, and a chord which bears N 74°10'24" W, a distance of 36.24 feet to a calculated point for the northeast terminus of Commercial Loop, a 70-foot right-of-way as shown on the Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1 plat of record in Volume 9, Page 62, Plat Records of Hays County, Texas, for a re-entrant corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN Survey" found bears N 62°00'33" E, a distance of 1.27 feet;

**THENCE** S 62°00'33" W, continuing across the said 109.22 acre tract, with the north terminus of said Commercial Loop, with a south line of the tract described herein, a distance of 70.00 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northwest terminus of said Commercial Loop and a reentrant corner of the tract described herein, and from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 62°00'33" W, a distance of 4.93 feet;

**THENCE** continuing across the said 109.22 acre tract, with the curving northwest right-of-way line of said Commercial Loop, with a northeast line of the tract described herein, with the arc of a curve to the left, having a radius of 1245.00 feet, an arc distance of 123.28 feet, and a chord which bears S 30°42'59" E, a distance of 123.23 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northerly east corner of Lot 3, said Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1, for a northeast corner of the tract described herein;

**THENCE** leaving the northwest right-of-way line of said Commercial Loop, continuing across the said 109.22 acre tract, with the north and northwest line of said Lot 3, Lowman Ranch Subdivision, Section 1, with a south and southeast line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 25.00 feet, an arc distance of 44.76 feet, and a chord which bears N 84°42'52" W, a distance of 39.02 feet to an "X" in concrete found at a point-of-tangency, and
2. S 43°35'28" W, at a distance of 21.70 feet, a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 46°24'32" E, a distance of 0.49 feet, and continuing for a total distance of 356.89 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 3, Lowman Ranch Subdivision, Section 1, and the north corner of Lot 5, Section 1, Lowman Ranch Subdivision of record in Volume 17, Page 134, Plat Records of Hays County, Texas, for an angle point in the southeast line of the tract described herein;

**THENCE** S 43°32'32" W, continuing across the said 109.22 acre tract, with the northwest line of said Lot 5, Section 1, Lowman Ranch Subdivision, with the southeast line of the tract described herein, a distance of 322.26 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 5, Section 1, Lowman Ranch Subdivision, in the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 acre tract, for the south corner of the tract described herein, from which a 3/8-inch iron rod found in the southwest line of the said 109.22 acre tract at the northeast corner of the said 29.07 acre tract, same being an angle point in the southwest line of said Lot 5, Section 1, Lowman Ranch Subdivision and the north corner of Lot 13, South Park Commercial Subdivision of record in Volume 4, Page 59, Plat Records of Hays County, Texas bears S 45°19'13" E, a distance of 172.98 feet;

**THENCE** with the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 tract, with the southwest line of the tract described herein, the following three (3) courses and distances:

1. N 45°12'23" W, a distance of 147.03 feet to a cedar fence post found at an angle point,
2. N 45°53'12" W, a distance of 1024.34 feet to a cedar fence post found, and

3. N 45°57'03" W, a distance of 451.51 feet to the **POINT OF BEGINNING** and containing 62.48 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN1965(en)  
BOWMAN REF PLAN NO.: 3557  
H:\Survey\\_FieldNotes\FN-1900s\FN1965(en).doc

THE STATE OF TEXAS           §  
  §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS         §

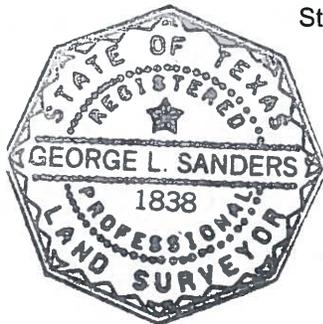
That I, George L. Sanders, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the months of November and December 2016, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 4<sup>TH</sup> of January, 2017 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



George L. Sanders  
Registered Professional Land Surveyor No. 1838  
State of Texas





NOVEMBER & DECEMBER, 2016  
HAYS COUNTY, TEXAS

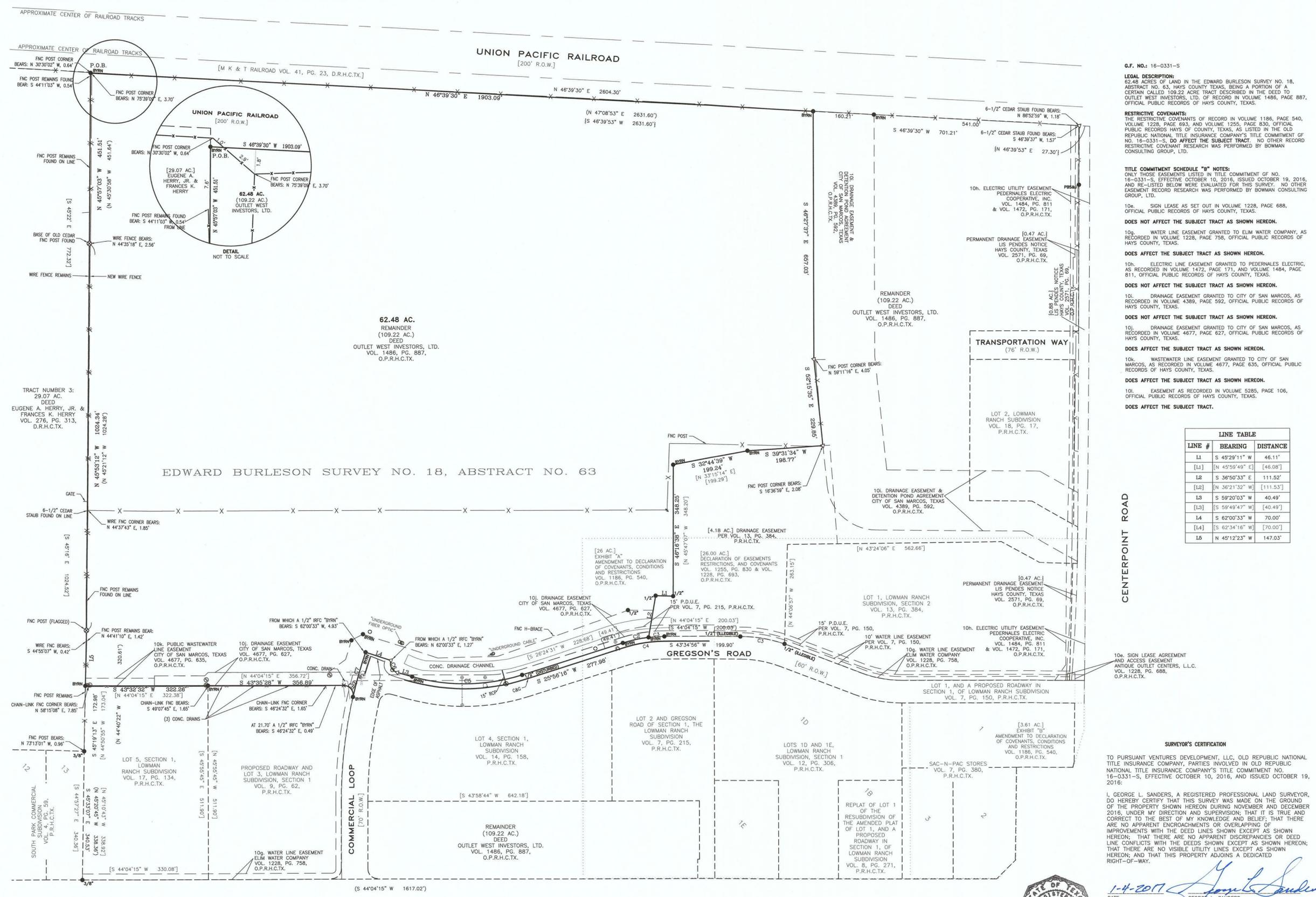
LEGEND

- IRON ROD FOUND (SIZE/CONDITION NOTED)
"x" FOUND
1/2" IRON ROD W/PLASTIC CAP STAMPED "BYRN SURVEY" FOUND
1/2" IRON ROD W/PLASTIC CAP STAMPED "P.B.S.&" FOUND
CEDAR FENCE POST FOUND
CALCULATED POINT
CHAIN LINK FENCE
WIRE FENCE
BOLLARD
RISER
CLEANOUT
FIRE HYDRANT
WASTEWATER MANHOLE
STORM SEWER MANHOLE
SIGN
TELEPHONE PEDESTAL
WATER SPOUT
WATER VALVE
RECORD LINE
RECORD INFORMATION (PER VOL. 1486, PG. 887, O.P.R.H.C.T.X.)
RECORD INFORMATION (PER VOL. 2571, PG. 69, O.P.R.H.C.T.X.)
ADJOINER INFORMATION
P.O.B. POINT OF BEGINNING
D.R.H.C.T.X. DEED RECORDS OF HAYS COUNTY, TEXAS
P.R.H.C.T.X. PLAT RECORDS OF HAYS COUNTY, TEXAS
O.P.R.H.C.T.X. OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
C&G 2" CONCRETE CURB & GUTTER
RCP REINFORCED CONCRETE PIPE
IRFC IRON ROD W/PLASTIC CAP FOUND
FNC FENCE
CONC. CONCRETE
P.D.U.E. DRAINAGE AND PUBLIC UTILITIES EASEMENT

CURVE TABLE with columns: CURVE #, RADIUS, ARC DISTANCE, CHORD BEARING, CHORD DISTANCE. Includes data for curves C1 through C8.

FLOOD NOTE: THE SUBJECT TRACT IS SHOWN TO BE IN ZONE X, OTHER AREAS, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN...

- NOTES: 1. BEARING BASIS IS TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, GRID. 2. DISTANCES SHOWN HEREON ARE BASED ON SURFACE MEASUREMENTS... 3. THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999871. 4. A METES AND BOUNDS DESCRIPTION, FN1965(en), WAS PREPARED TO ACCOMPANY THE SURVEY OF THE 62.48 ACRES SHOWN HEREON.



G.F. NO.: 16-0331-S
LEGAL DESCRIPTION: 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY TEXAS...

RESTRICTIVE COVENANTS: THE RESTRICTIVE COVENANTS OF RECORD IN VOLUME 1186, PAGE 540, VOLUME 1228, PAGE 693, AND VOLUME 1255, PAGE 830, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS...

TITLE COMMITMENT SCHEDULE "D" NOTES: ONLY THOSE EASEMENTS LISTED IN TITLE COMMITMENT OF NO. 16-0331-S, EFFECTIVE OCTOBER 10, 2016, ISSUED OCTOBER 19, 2016, AND RE-LISTED BELOW WERE EVALUATED FOR THIS SURVEY...

DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON. 10a. WATER LINE EASEMENT GRANTED TO ELM WATER COMPANY, AS RECORDED IN VOLUME 1228, PAGE 758, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON. 10h. ELECTRIC UTILITY EASEMENT GRANTED TO PEDERNALES ELECTRIC COOPERATIVE, INC. VOL. 1484, PG. 811 & VOL. 1472, PG. 171, O.P.R.H.C.T.X.

DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON. 10i. DRAINAGE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4389, PAGE 592, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON. 10j. DRAINAGE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4677, PAGE 627, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON. 10k. WASTEWATER LINE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4677, PAGE 635, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

DOES AFFECT THE SUBJECT TRACT. 10l. EASEMENT AS RECORDED IN VOLUME 5285, PAGE 106, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

LINE TABLE with columns: LINE #, BEARING, DISTANCE. Lists lines L1 through L6 with their respective bearings and distances.

CENTERPOINT ROAD

SURVEYOR'S CERTIFICATION: TO PURSUANT VENTURES DEVELOPMENT, LLC, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, PARTIES INVOLVED IN OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY'S TITLE COMMITMENT NO. 16-0331-S, EFFECTIVE OCTOBER 10, 2016, AND ISSUED OCTOBER 19, 2016:

I, GEORGE L. SANDERS, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY SHOWN HEREON DURING NOVEMBER AND DECEMBER 2016, UNDER MY DIRECTION AND SUPERVISION...

DATE: 1-4-2017
SIGNATURE: George L. Sanders
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1838 - STATE OF TEXAS



INTERSTATE HIGHWAY NO. 35 (R.O.W. VARIES)

Metadata table with columns: NO., REVISION, BY, DATE. Includes file path, date, scale, and job information.



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1120 South Capital of Texas Hwy, Bldg 3, Suite 220, Austin, Texas 78746
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www.bowmanconsulting.com Bowman Consulting Group, Ltd.
TBPE Firm No. F-14309 | TBPLS Firm No. 101206-00

LAND TITLE SURVEY
62.48 ACRES OUT OF THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY, TEXAS



## Legislation Text

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**File #:** Ord. 2020-09(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-09, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend from "FD" Future Development District and "GC" General Commercial District to "PA" Planning Area District; and including procedural provisions.

**Meeting date:** April 7, 2020

**Department:** Planning & Development Services

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** N/A

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

In November 2019, the City Council approved economic incentives and a land purchase agreement for a portion of this property for the use of sportsplex facility.

The Planning Area District is intended for larger greenfield tracts in low to medium intensity areas or employment areas where residential uses are incorporated into a corporate campus or similar employment type use. If approved, the developer would allocate a percentage of the development to the following zoning districts:

- “CD-4” Character District 4,
- “CD-5” Character District 5,
- “EC” Employment Center, and
- “LI” Light Industrial

**Council Committee, Board/Commission Action:**

At their February 25 meeting, the Planning & Zoning Commission voted to approve the request (8-0).

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff **recommends** approval of the zoning change as submitted.

## ZC-20-03 (Sportsplex)

Hold a public hearing and consider a request by Ed Theriot, on behalf of Outlet West Investors, Ltd., for a zoning change from “FD” Future Development and “GC” General Commercial to “PA” Planning Area District, for approximately 62.48 acres, more or less, out of the Edward Burleson Survey, generally located at the intersection of Commercial Loop and Gregsons Bend.(T. Carpenter)

## Location:

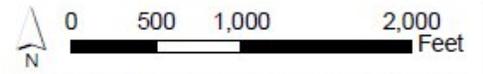
- Approximately 62.48 acres
- **Current Configuration:**  
Vacant / Agricultural land
- Surrounding uses include:
  - Hotels
  - Car Dealership
- Located outside the City Limits (Extraterritorial Jurisdiction) / General Commercial

ZC-20-03  
Aerial View

GC & FD to PA - Commercial Loop / Gregsons Bend



- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



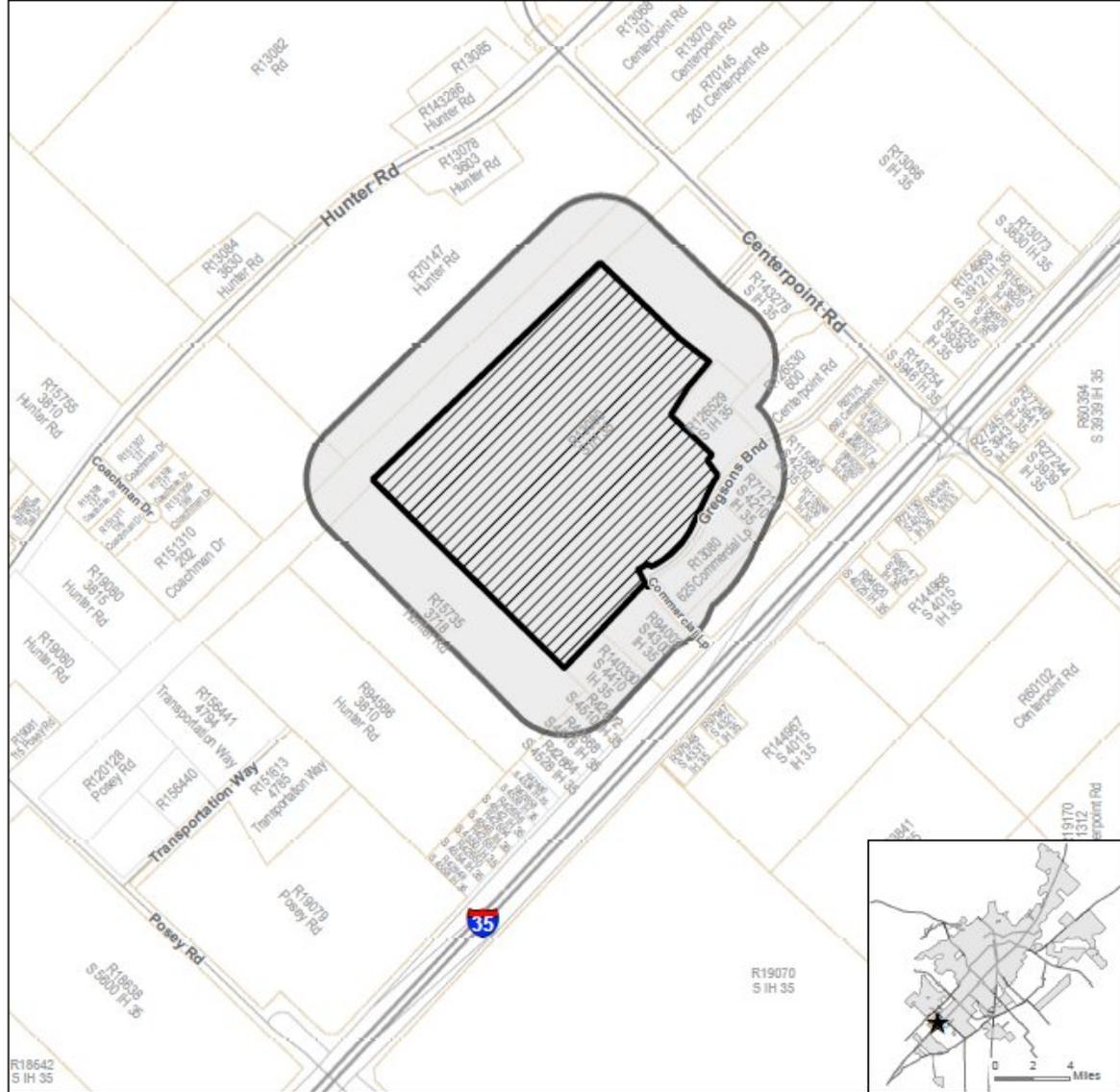
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 2/4/2020

# Context & History

- **Existing Zoning:**
  - Partially Outside City Limits (ETJ)
  - General Commercial
  - Future Development
- **Proposed Zoning:** Planning Area (PA)
- Annexation request is being processed concurrently for property located outside City Limits

## ZC-20-03 400' Notification Buffer GC & FD to PA - Commercial Loop / Gregsons Bend

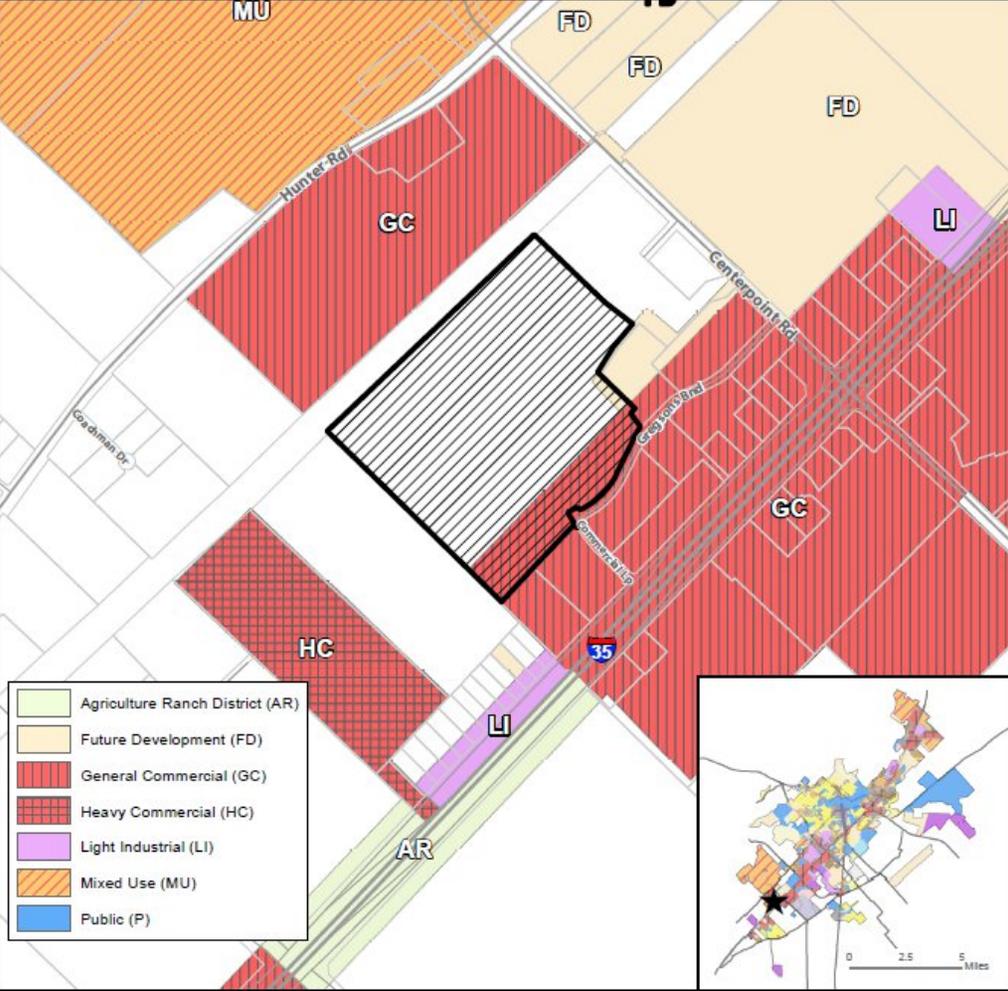


★ Site Location	
▨ Subject Property	
■ 400' Buffer	
□ Parcel	
■ City Limit	

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/4/2020

**ZC-20-03  
Zoning Map  
GC & FD to PA - Commercial Loop / Gregsons Bend**



★ Site Location

Subject Property

Parcels

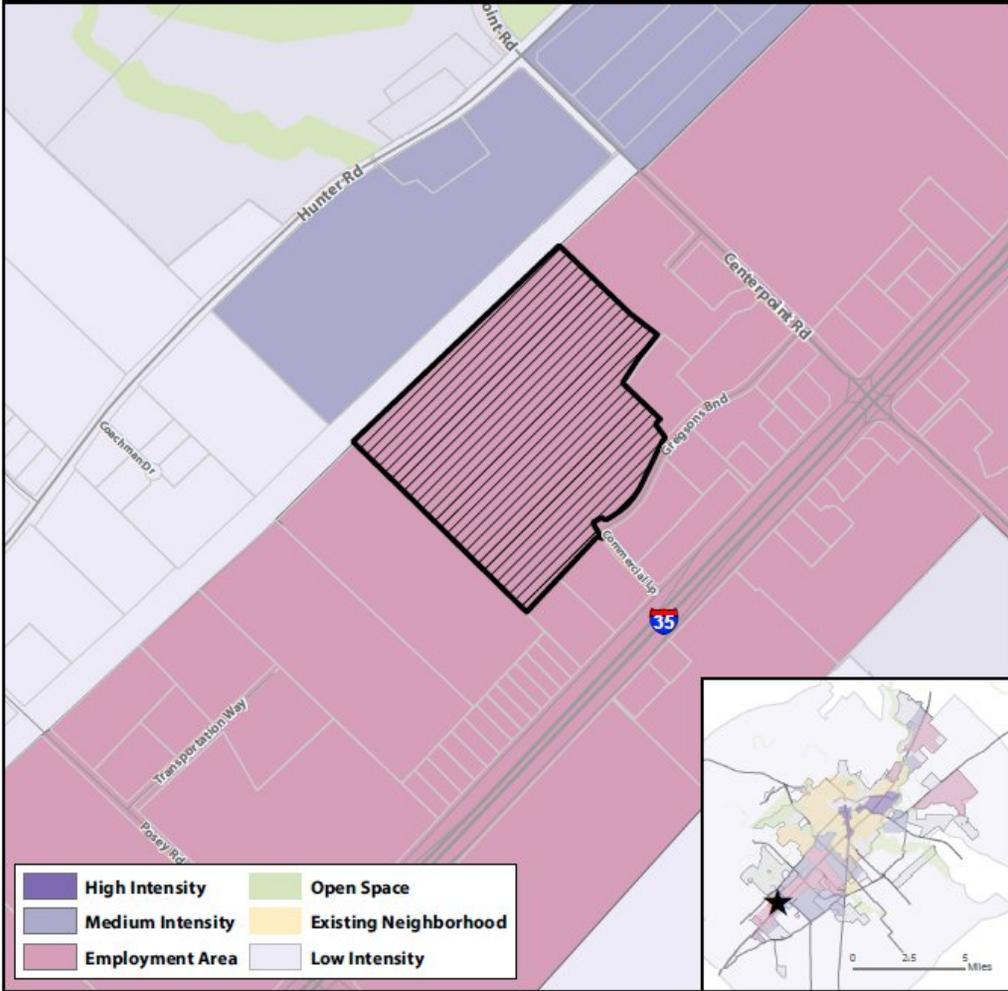
City Limit

0 500 1,000 2,000 Feet

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Map Date: 2/5/2020

**ZC-20-03  
Preferred Scenario  
GC & FD to PA - Commercial Loop / Gregsons Bend**



★ Site Location

Subject Property

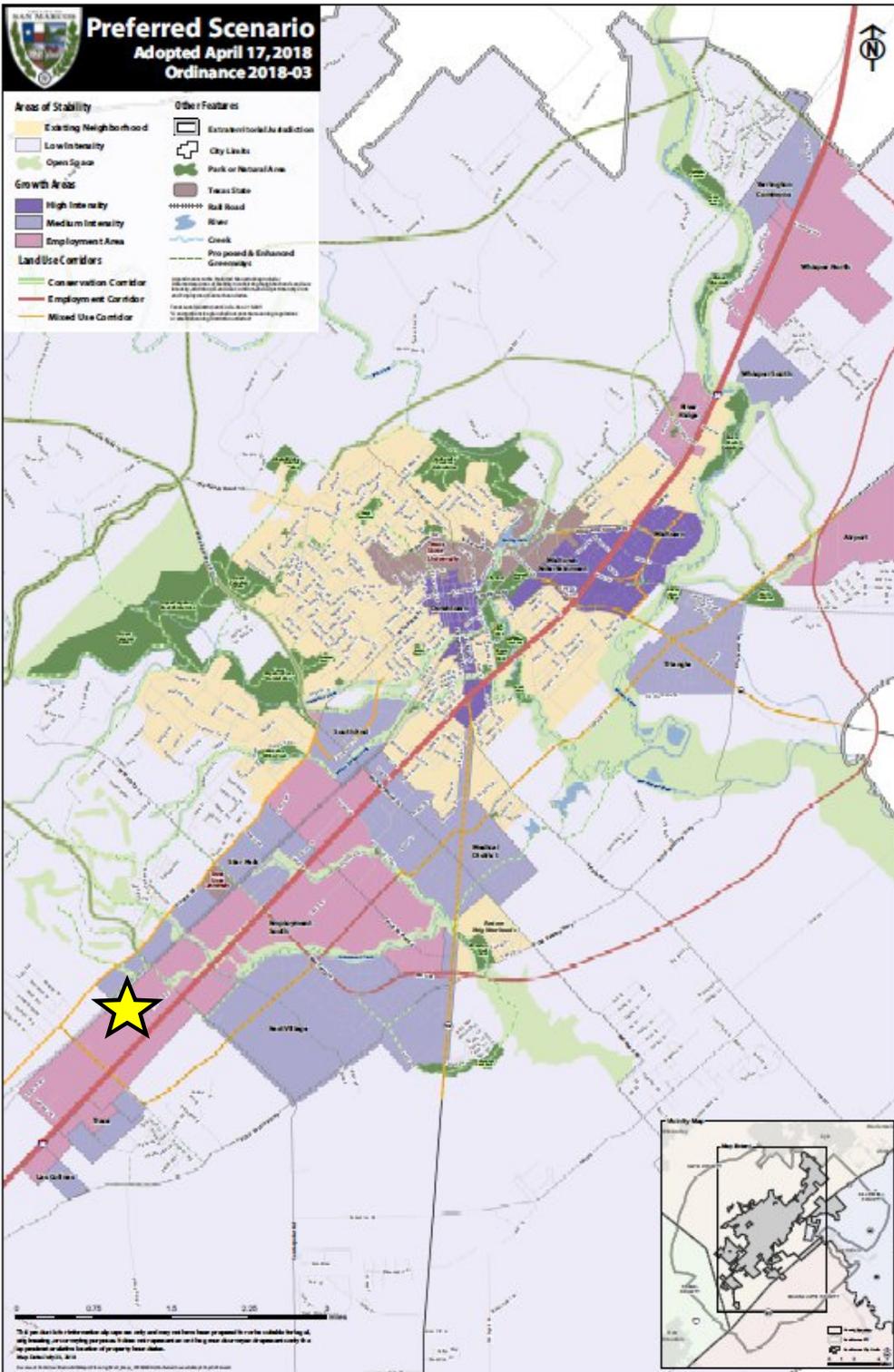
Parcels

City Limit

0 500 1,000 2,000 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/12/2020



# Comprehensive Plan Analysis

**Step 1:** Where is the property located on the Comprehensive Plan?

**Located in an Employment Center**

“An area intended to accommodate economic growth and the recruitment of major employers.” (4.1.1.6)

# Comprehensive Plan Analysis

**Step 2:** Is the request consistent with the Comprehensive Plan / District Translation Table?

Applicant is requesting a “Planning Area” (PA) within an Employment Center. Zoning request is NP – Not Preferred, and is further scrutiny is required to determine consistency with the Comprehensive Plan

**TABLE 4.1 COMPREHENSIVE PLAN / DISTRICT TRANSLATION**

DISTRICT CLASSIFICATION	COMPREHENSIVE PLAN DESIGNATIONS					
	OPEN SPACE/ AGRICULTURAL	LOW INTENSITY	EXISTING NEIGHBORHOOD	MEDIUM OR HIGH INTENSITY ZONE	EMPLOYMENT CENTER	CORRIDOR
Conventional Residential	NP	NP	C	--	--	--
Neighborhood Density Districts	NP	NP	See Section 4.1.2.4 - 4.1.2.5	NP	NP	C
<b>Character Districts</b>	NP	C	--	C	NP	C
Special Districts	--	NP	NP	NP	C	C
Legend	-- = Not Allowed (PSA Required)		NP=Not Preferred		C = Consider	

# PA Zoning Analysis:

- Employment Planning Area. The intention of the employment planning area is to accommodate large employers or a corporate campus that can incorporate some residential or mixed use.
- Proposed rezoning aligns with vision of the Comprehensive Plan, which states that the community needs **diversified housing options and additional park facilities.**
- The property is vacant.



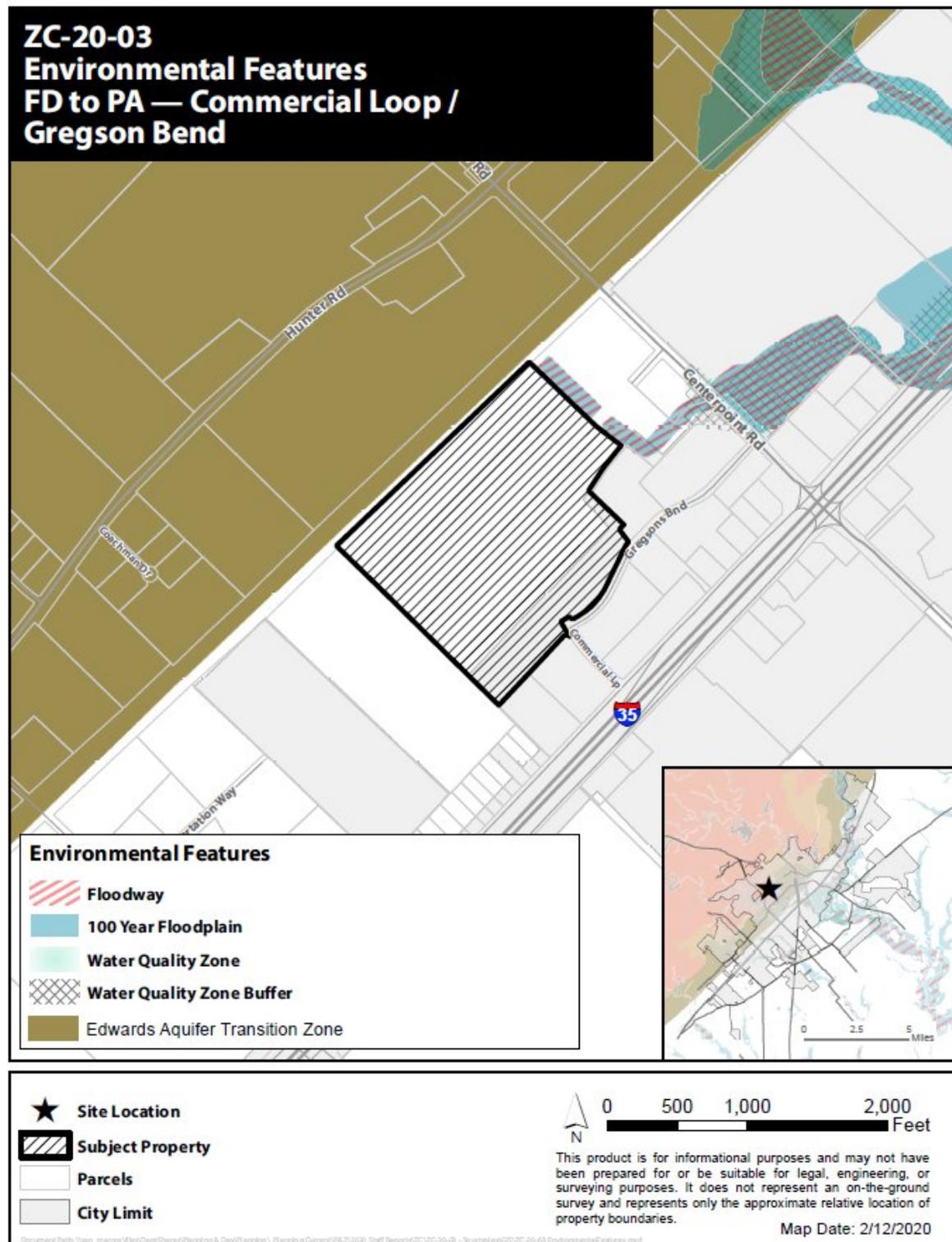
SECTION 4.4.3.7 PLANNING AREA DISTRICT

TABLE 4.14 PLANNING AREA DISTRICT ALLOCATION

PREFERRED SCENARIO AREA	PLANNING AREA DESCRIPTION	DISTRICT	% ALLOCATION (BUILDABLE LAND)
Employment Center	Employment Planning Area. The intention of the employment planning area is to accommodate large employers or a corporate campus that can incorporate some residential or mixed use.	CD-4	0 - 10%
		CD-5	10 - 40%
		EC	60 - 90%
		LI	0 - 30%
High Intensity Zone	High Intensity Planning Area. The intention of the high intensity planning area is to accommodate high intensity and high density infill development within a compact mixed use area.	CD-1, 2, or 3	0 - 10%
		CD-4	10 - 30%
		CD-5	60 - 90%
Medium Intensity Zone	Medium Intensity Planning Area. The intention of the medium intensity planning area is to accommodate new master planned communities with diverse housing types developed around a 5 minute walk to all services.	CD-1, 2, or 3	10 - 30%
		CD-4	30 - 60%
		CD-5	10 - 30%
Low Intensity Area	Conservation Planning Area. The intention of the conservation planning area is to preserve large areas of environmentally sensitive or prime agricultural lands while providing for clustered residential development in appropriate areas.	CD-1 or 2	50% min.
		CD-3	20 - 40%
		CD-4	10 - 30%
		CD-5	0 - 5%

## Environmental Analysis

- Not located in floodplain.
- Not located within any Edwards Aquifer Zone.
- Not located on significant slopes.
- Not located within a sensitive watershed.





**PLAN LEGEND**

	BUILDABLE AREA
	NON-BUILDABLE AREA
	PROPOSED R.O.W.
	APPROXIMATE WATER SERVICE SOURCE WATER DISTRIBUTION MAP
	APPROXIMATE WASTEWATER SERVICE SOURCE WASTEWATER COLLECTION MAP

- NOTES:**
1. SUBJECT PROPERTY IS WITHIN THE JURISDICTION OF CITY OF SAN MARCOS FIRE DEPARTMENT AND POLICE DEPARTMENT. THE PROPERTY IS ALSO WITHIN THE SAN MARCOS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
  2. NO EXISTING OR PROPOSED NEIGHBORHOODS ARE ADJACENT TO SUBJECT PROPERTY.
  3. PROPERTY IS NOT SUBJECT ANY OVERLAY DISTRICTS.
  4. R.O.W. LOCATIONS ARE SUBJECT TO CHANGE BASED ON FINAL DESIGN.

**DA DOUCET & ASSOCIATES**  
 Civil Engineering - Planning - Geospatial  
 7401 E. Highway 71 W, Suite 110  
 San Marcos, TX 78682-3800  
 www.doucetandassociates.com  
 TSPS Firm Number: 3937  
 TSPS Firm Number: 10103860

**PLANNING AREA DISTRICT  
 DEVELOPMENT PLAN**

**CENTERPOINT COMMONS  
 SAN MARCOS, TX**

THESE PLANS ARE RELEASED UNDER THE AUTHORITY OF JOE GRASSO, P.E., TSPS#22385, ON 1/16/2020, FOR THE PURPOSES OF REVIEW AND ARE NOT TO BE USED FOR CONSTRUCTION PRIOR TO APPROVAL BY THE CITY OF SAN MARCOS.

Scale:	As Noted
Designed:	ET
Drawn:	BB
Reviewed:	JS
Date:	1/16/2020
<b>SHEET</b>	
<b>1</b>	
<b>OF 1</b>	
Project No.:	2055-001-01



## Staff Recommendation:

Staff provides this request to the Commission for your consideration and recommends **approval** of the request for a zoning change from “GC” General Commercial and “FD” Future Development to “PA” Planning Area District.

## Zoning District Comparison Chart

Topic	Existing Zoning: N/A - Extraterritorial Jurisdiction (ETJ)	Existing Zoning: Future Development (FD)	Proposed Zoning: Planning Area (PA)
Zoning Description	The City does not have zoning outside of City Limits. The City primarily regulates the subdivision of land within the ETJ.	The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.	PA is intended for larger greenfield tracts in low to medium intensity areas or in employment areas where residential uses are incorporated into a corporate campus or similar employment type use. The planning area district creates urban environments with a mix of housing, civic, retail and service choices within a compact, walkable environment. These walkable environments are defined by an area encompassed within a one-quarter to one-half-mile radius. This distance is the average most pedestrians will walk before they consider other modes of transportation.
Uses	No zoning restrictions	Residential and Agricultural (See Land Use Matrix)	Residential with some limited commercial. (See Land Use Matrix)
Parking Location	No zoning standards	No location standards	Varies based on district
Parking Standards	No zoning standards	2 spaces per dwelling unit (if single family detached)	Varies based on use
Max Residential Units / acre	Based on County Septic restrictions.	0.4 units per acre (max)	Based on parking
Occupancy Restrictions	N/A	N/A	N/A
Landscaping	No zoning standards	Tree and shrub requirements	Parking lot and Street Tree requirements
Building Height (max)	No zoning standards	2 stories	CD-4: 3 stories CD-5: 5 stories EC: 4 stories LI: 4 Stories
Setbacks	No zoning standards	Based on Zoning District	5-12' front Setback, 5' side setback, 15' rear set back.

Topic	Existing Zoning: N/A - Extraterritorial Jurisdiction (ETJ)	Existing Zoning: Future Development (FD)	Proposed Zoning: Planning Area (PA)
Impervious Cover (max)	No zoning standards	30%	CD-4: 80% CD-5: 100% EC: 80% LI: 80%
Lot Sizes	No zoning standards	Allows a variety of lot sizes depending on Building Type.	Lot size varies depending on zoning district and building type.
Streetscapes	Dependent on use.	Residential Street: 5' sidewalk for lots smaller than 1 acre, street trees every 40' on center average, 7' planting area.	Conventional and Mixed Use.
Blocks	3,000 ft. Block Perimeter max.	No Block Perimeter Required	CD-4: 2,400 ft. block perimeter CD-5: 2,000 ft. block perimeter HC & LI: 5,000 ft. block perimeter

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY REZONING APPROXIMATELY 62.48 ACRES OF LAND GENERALLY LOCATED AT THE INTERSECTION OF COMMERCIAL LOOP AND GREGSONS BEND FROM “FD” FUTURE DEVELOPMENT DISTRICT AND “GC” GENERAL COMMERCIAL DISTRICT TO “PA” PLANNING AREA DISTRICT; AND INCLUDING PROCEDURAL PROVISIONS.**

**RECITALS:**

1. On February 25, 2020, the Planning and Zoning Commission of the City of San Marcos held a public hearing regarding a request to change the zoning designations from “FD” Future Development District and “GC” General Commercial District to “PA” Planning Area District for approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend.
2. The Planning and Zoning Commission voted to recommend that the request be approved by the City Council.
3. The City Council held a public hearing on March 17, 2020 regarding the request.
4. All requirements pertaining to Zoning Map amendments have been met.
5. The City Council hereby finds and determines that the adoption of the following ordinance is in the interest of the public health, morals, welfare and safety.

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

**SECTION 1.** The Official Zoning Map of the City is amended to rezone the tract of land described in Exhibit A, attached hereto and made a part hereof, from “FD” Future Development District and “GC” General Commercial District to “PA” Planning Area District.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 4.** This ordinance will take effect after its passage, approval and adoption on second reading and annexation by the City of all portions of the Property located in the City’s extraterritorial jurisdiction.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

Approved:

Michael J. Cosentino  
City Attorney

# EXHIBIT A

62.48 Ac.  
Edward Burleson Survey No. 18, A-63,  
Hays County, Texas

Job No. 070199-01-001  
FN1965(en)  
Page 1 of 3

## FIELD NOTES DESCRIPTION

DESCRIPTION OF 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, A-63, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 62.48 ACRE TRACT, AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast right-of-way line of that certain 200-foot wide Union Pacific Railroad right-of-way, being the south corner of that 100-foot strip described in the deed to the Missouri, Kansas & Texas Railway Company of Texas of record in Volume 41, Page 23, Deed Records of Hays County, Texas, in the northeast line of a certain 29.07 acre tract designated as Tract Number 3 and described in the deed to Eugene A. Herry, Jr. and Frances K. Herry of record in Volume 276, Page 313, Deed Records of Hays County, Texas, at the west corner of the said 109.22 acre tract, for the west corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 46°39'30" E, leaving the northeast line of the said 29.07 acre tract, with the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract, with the northwest line of the tract described herein, a distance of 1903.09 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found, for the north corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract bears S 46°39'30" W, a distance of 160.21 feet;

**THENCE** leaving the said southeast railroad right-of-way line, crossing the said 109.22 acre tract, with the northeast, southeast and northeast lines of the tract described herein, the following seven (7) courses and distances:

1. S 46°27'37" E, a distance of 657.03 feet to a calculated angle point,
2. S 52°15'35" E, a distance of 229.85 feet to a calculated point for the most northerly east corner,
3. S 39°31'34" W, a distance of 198.77 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found,
4. S 32°44'39" W, a distance of 199.24 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a re-entrant corner,
5. S 46°16'38" E, a distance of 348.25 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at an east corner,
6. S 45°29'11" W, a distance of 46.11 feet to a ½-inch iron rod found at a re-entrant corner, and
7. S 36°50'33" E, a distance of 111.52 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast line of the said 109.22 acre tract, same being the curving northwest right-of-way line of Gregson's Bend, a 60-foot right-of-way, as shown on the Lot 2 and Gregson Road of Section 1, the Lowman Ranch Subdivision plat of record in Volume 7, Page 215, Plat Records of Hays County, Texas, for an east corner of the tract described herein;

**THENCE** with the west and northwest right-of-way line of said Gregson's Bend, with the east and southeast line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 360.00 feet, an arc distance of 69.66 feet, and a chord which bears S 31°22'59" W, a distance of 69.55 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
2. S 25°56'16" W, a distance of 277.98 feet to a ½-inch iron rod found at a point-of-curvature,

3. with the arc of a curve to the right, having a radius of 503.00 feet, an arc distance of 293.42 feet, and a chord which bears S 42°37'23" W, a distance of 289.28 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
4. S 59°20'03" W, a distance of 40.49 feet to a calculated point-of-curvature, and
5. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 40.54 feet, and a chord which bears N 74°10'24" W, a distance of 36.24 feet to a calculated point for the northeast terminus of Commercial Loop, a 70-foot right-of-way as shown on the Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1 plat of record in Volume 9, Page 62, Plat Records of Hays County, Texas, for a re-entrant corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN Survey" found bears N 62°00'33" E, a distance of 1.27 feet;

**THENCE** S 62°00'33" W, continuing across the said 109.22 acre tract, with the north terminus of said Commercial Loop, with a south line of the tract described herein, a distance of 70.00 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northwest terminus of said Commercial Loop and a reentrant corner of the tract described herein, and from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 62°00'33" W, a distance of 4.93 feet;

**THENCE** continuing across the said 109.22 acre tract, with the curving northwest right-of-way line of said Commercial Loop, with a northeast line of the tract described herein, with the arc of a curve to the left, having a radius of 1245.00 feet, an arc distance of 123.28 feet, and a chord which bears S 30°42'59" E, a distance of 123.23 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northerly east corner of Lot 3, said Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1, for a northeast corner of the tract described herein;

**THENCE** leaving the northwest right-of-way line of said Commercial Loop, continuing across the said 109.22 acre tract, with the north and northwest line of said Lot 3, Lowman Ranch Subdivision, Section 1, with a south and southeast line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 25.00 feet, an arc distance of 44.76 feet, and a chord which bears N 84°42'52" W, a distance of 39.02 feet to an "X" in concrete found at a point-of-tangency, and
2. S 43°35'28" W, at a distance of 21.70 feet, a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 46°24'32" E, a distance of 0.49 feet, and continuing for a total distance of 356.89 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 3, Lowman Ranch Subdivision, Section 1, and the north corner of Lot 5, Section 1, Lowman Ranch Subdivision of record in Volume 17, Page 134, Plat Records of Hays County, Texas, for an angle point in the southeast line of the tract described herein;

**THENCE** S 43°32'32" W, continuing across the said 109.22 acre tract, with the northwest line of said Lot 5, Section 1, Lowman Ranch Subdivision, with the southeast line of the tract described herein, a distance of 322.26 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 5, Section 1, Lowman Ranch Subdivision, in the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 acre tract, for the south corner of the tract described herein, from which a 3/8-inch iron rod found in the southwest line of the said 109.22 acre tract at the northeast corner of the said 29.07 acre tract, same being an angle point in the southwest line of said Lot 5, Section 1, Lowman Ranch Subdivision and the north corner of Lot 13, South Park Commercial Subdivision of record in Volume 4, Page 59, Plat Records of Hays County, Texas bears S 45°19'13" E, a distance of 172.98 feet;

**THENCE** with the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 tract, with the southwest line of the tract described herein, the following three (3) courses and distances:

1. N 45°12'23" W, a distance of 147.03 feet to a cedar fence post found at an angle point,
2. N 45°53'12" W, a distance of 1024.34 feet to a cedar fence post found, and

62.48 Ac.  
Edward Burleson Survey No. 18, A-63,  
Hays County, Texas

Job No. 070199-01-001  
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Page 3 of 3

3. N 45°57'03" W, a distance of 451.51 feet to the **POINT OF BEGINNING** and containing 62.48 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, NAD 83, South Central Zone, Grid.

BOWMAN WORD FILE: FN1965(en)  
BOWMAN REF PLAN NO.: 3557  
H:\Survey\FieldNotes\FN-1900s\FN1965(en).doc

THE STATE OF TEXAS       §  
  §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS       §

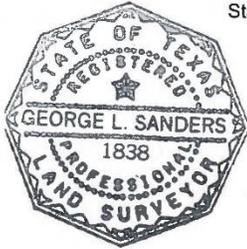
That I, George L. Sanders, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the months of November and December 2016, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 4<sup>TH</sup> of January, 2017 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



George L. Sanders  
Registered Professional Land Surveyor No. 1838  
State of Texas





<b>Zoning Request</b>	<b>Commercial Loop &amp; Gregsons Bend</b>
<b>ZC-20-03</b>	



**Summary**

<b>Request:</b>	Zoning change from GC / FD to PA		
<b>Applicant:</b>	Ed Theriot Doucet & Associates, Inc. 7401 B Hwy 71 W Austin, TX 78735	<b>Property Owner:</b>	Outlet West Investors, LTD 415 N Guadalupe St, Ste 400 San Marcos, TX 78666

**Notification**

<b>Application:</b>	December 31, 2019	<b>Neighborhood Meeting:</b>	N/A
<b>Published:</b>	February 9, 2020	<b># of Participants</b>	N/A
<b>Posted:</b>	February 7, 2020	<b>Personal:</b>	February 7, 2020
<b>Response:</b>	None as of the date of this report		

**Property Description**

<b>Legal Description:</b>	Edward Burleson Survey, Tract pt of 4		
<b>Location:</b>	Commercial Loop & Gregsons Bend		
<b>Acreage:</b>	62.48 acres	<b>PDD/DA/Other:</b>	N/A
<b>Existing Zoning:</b>	FD / GC	<b>Proposed Zoning:</b>	PA
<b>Existing Use:</b>	Vacant	<b>Proposed Use:</b>	Sports Complex
<b>Existing Occupancy:</b>	N/A	<b>Occupancy:</b>	N/A
<b>Preferred Scenario:</b>	Employment Center	<b>Proposed Designation:</b>	Employment Center
<b>CONA Neighborhood:</b>	N/A	<b>Sector:</b>	9
<b>Utility Capacity:</b>	Adequate	<b>Floodplain:</b>	No
<b>Historic Designation:</b>	N/A	<b>My Historic SMTX Resources Survey</b>	No

**Surrounding Area**

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Preferred Scenario</b>
<b>North of Property:</b>	ETJ	Vacant	Employment Center
<b>South of Property:</b>	ETJ	Vacant	Employment Center
<b>East of Property:</b>	GC	Hotels / Car Dealership	Employment Center
<b>West of Property:</b>	ETJ	Railroad / Vacant	Medium Intensity

<b>Zoning Request</b>	<b>Commercial Loop &amp; Gregsons Bend</b>
<b>ZC-20-03</b>	



**Staff Recommendation**

<input checked="" type="checkbox"/>	<b>Approval as Submitted</b>	<input type="checkbox"/>	Alternate Approval	<input type="checkbox"/>	Denial
<b>Staff:</b> Tory Carpenter, AICP, CNU-A		<b>Title :</b> Planner		<b>Date:</b> March 12, 2020	

**Commission Recommendation**

<input checked="" type="checkbox"/>	Approval as Submitted	<input type="checkbox"/>	Approval with Conditions / Alternate	<input type="checkbox"/>	Denial
<b>Speakers in favor:</b>					
<ul style="list-style-type: none"> <li>• Ed Theriot</li> </ul>					
<b>Recommendation from the Planning and Zoning Commission Meeting held February 25, 2019:</b>					
A motion was made by Commissioner Kelsey, seconded by Commissioner Rand, that ZC-20-03 be approved.					
<b>For: 8</b>					
<b>Against: 0</b>					
<b>Absent: 1</b>					

**History**

In November 2019, the City Council approved economic incentives and a land purchase agreement for a portion of this property for the use of sportsplex facility.

**Additional Analysis**

The Planning Area District is intended for larger greenfield tracts in low to medium intensity areas or employment areas where residential uses are incorporated into a corporate campus or similar employment type use.

Planning Area District is indicated as “not preferred” on table 4.1, therefore, further scrutiny is required to determine consistency with the Comprehensive Plan.

**Comments from Other Departments**

<b>Police</b>	No Comment
<b>Fire</b>	No Comment
<b>Public Services</b>	No Comment
<b>Engineering</b>	No Comment

Zoning Request	<b>Commercial Loop &amp; Gregsons Bend</b>
ZC-20-03	



Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
<u>X</u>			Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan and preferred scenario map. <b><i>This zoning change is appropriate for this designated Employment Center.</i></b>
		<u>N/A</u>	Whether the proposed zoning map amendment is consistent with any adopted small area plan or neighborhood character study for the area. <b><i>Studies were not complete at the time of this request.</i></b>
		<u>N/A</u>	Whether the proposed zoning map amendment is consistent with any applicable development agreement in effect. <b><i>This property is requesting annexation, therefore no Development Agreement is proposed.</i></b>
<u>X</u>			Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses shall be appropriate in the immediate area of the land to be reclassified. <b><i>The proposed uses are consistent with existing surrounding commercial uses.</i></b>
<u>X</u>			Whether the proposed zoning will reinforce the existing or planned character of the area. <b><i>The proposed development is consistent with existing surrounding commercial uses.</i></b>
<u>X</u>			Whether the site is appropriate for the development allowed in the proposed district. <b><i>The site has few development constraints.</i></b>
		<u>N/A</u>	Whether there are substantial reasons why the property cannot be used according to the existing zoning. <b><i>The majority of the property is currently outside the City Limits.</i></b>
<u>X</u>			Whether there is a need for the proposed use at the proposed location.
<u>X</u>			Whether the City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, public safety, and emergency services, while maintaining sufficient levels of service to existing development. <b><i>Roads and utility infrastructure will be required to extend into and through the development. Per the Economic Incentive Agreement, The City is cost participating in these improvements.</i></b>

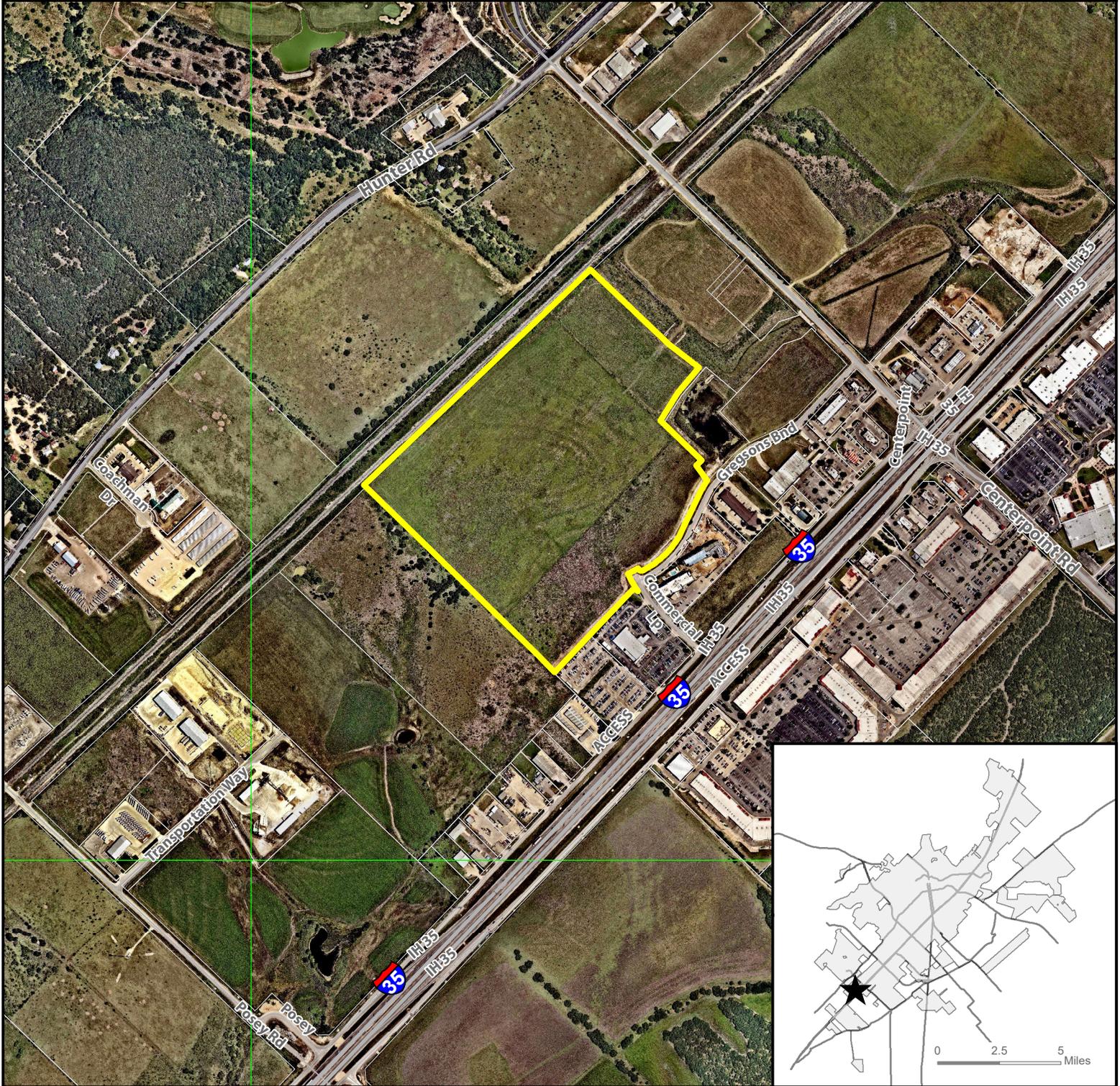
Zoning Request	Commercial Loop & Gregsons Bend
ZC-20-03	



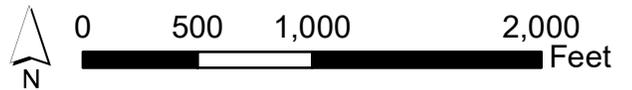
Evaluation			Criteria for Approval (Sec.2.5.1.4)
Consistent	Inconsistent	Neutral	
<u>X</u>			<p>Whether the proposed rezoning will have a significant adverse impact on property in the vicinity of the subject property.</p> <p><b><i>The proposed development is consistent with existing surrounding commercial uses.</i></b></p>
		<u>N/A</u>	<p>For requests to a Neighborhood Density District, whether the proposed amendment complies with the compatibility of uses and density in Section 4.1.2.5.</p> <p><b><i>This is not a request for a Neighborhood Density District.</i></b></p>
<u>X</u>			<p>The impact the proposed amendment has with regard to the natural environment, including the quality and quantity of water and other natural resources, flooding, and wildlife management.</p> <p><b><i>This property is located within an area that has little environmental constraints according to the Land Use Suitability Map.</i></b></p>
<u>X</u>			<p>Any other factors which shall substantially affect the public health, safety, morals, or general welfare.</p> <p><b><i>None noted.</i></b></p>

# ZC-20-03 Aerial View

## GC & FD to PA - Commercial Loop / Gregsons Bend



- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit

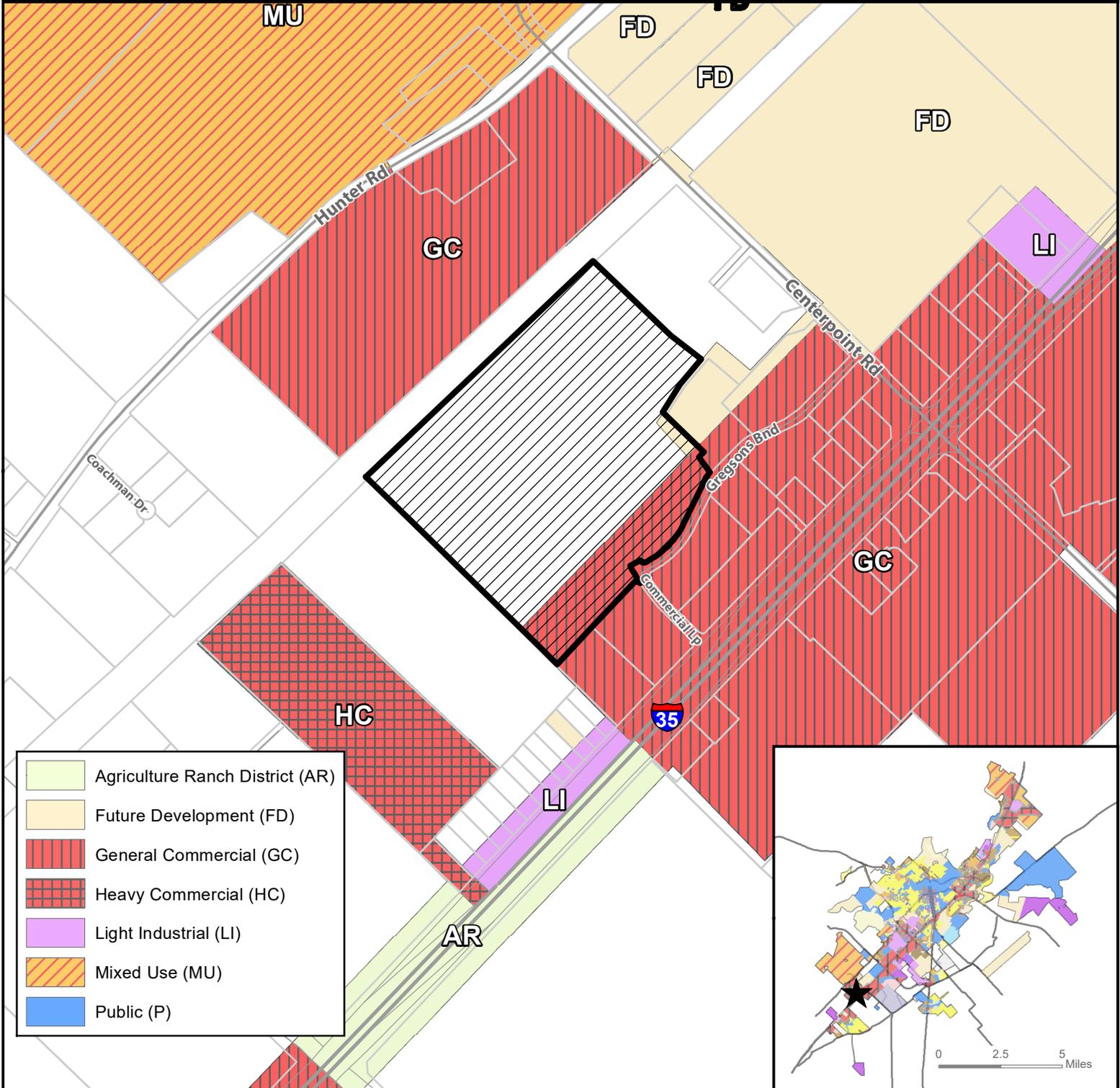


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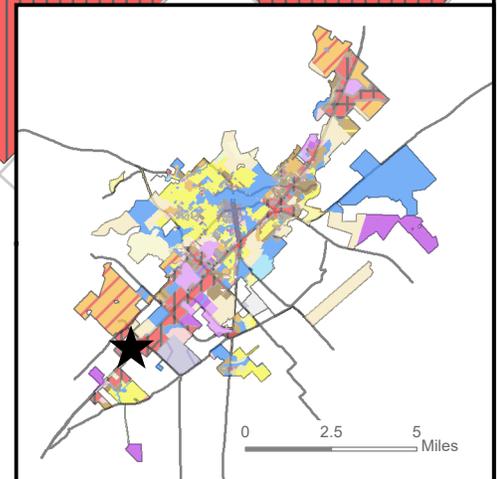
Map Date: 2/4/2020

# ZC-20-03 Zoning Map

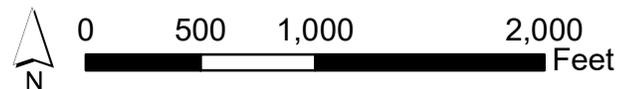
## GC & FD to PA - Commercial Loop / Gregsons Bend



-  Agriculture Ranch District (AR)
-  Future Development (FD)
-  General Commercial (GC)
-  Heavy Commercial (HC)
-  Light Industrial (LI)
-  Mixed Use (MU)
-  Public (P)



-  **Site Location**
-  **Subject Property**
-  **Parcels**
-  **City Limit**



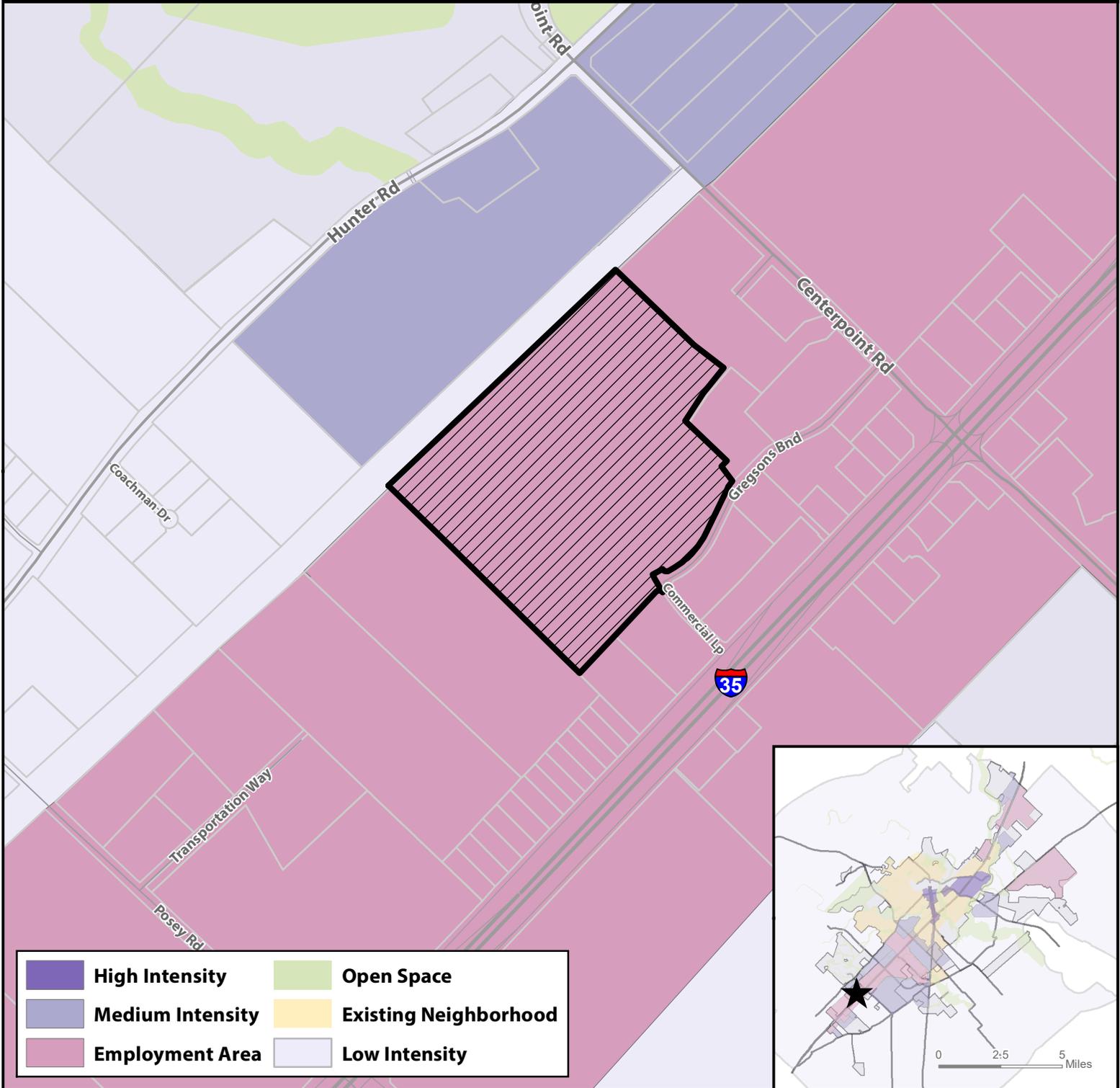
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Map Date: 2/5/2020

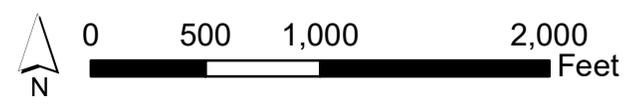
# ZC-20-03

## Preferred Scenario

### GC & FD to PA - Commercial Loop / Gregsons Bend



- Site Location
- Subject Property
- Parcels
- City Limit



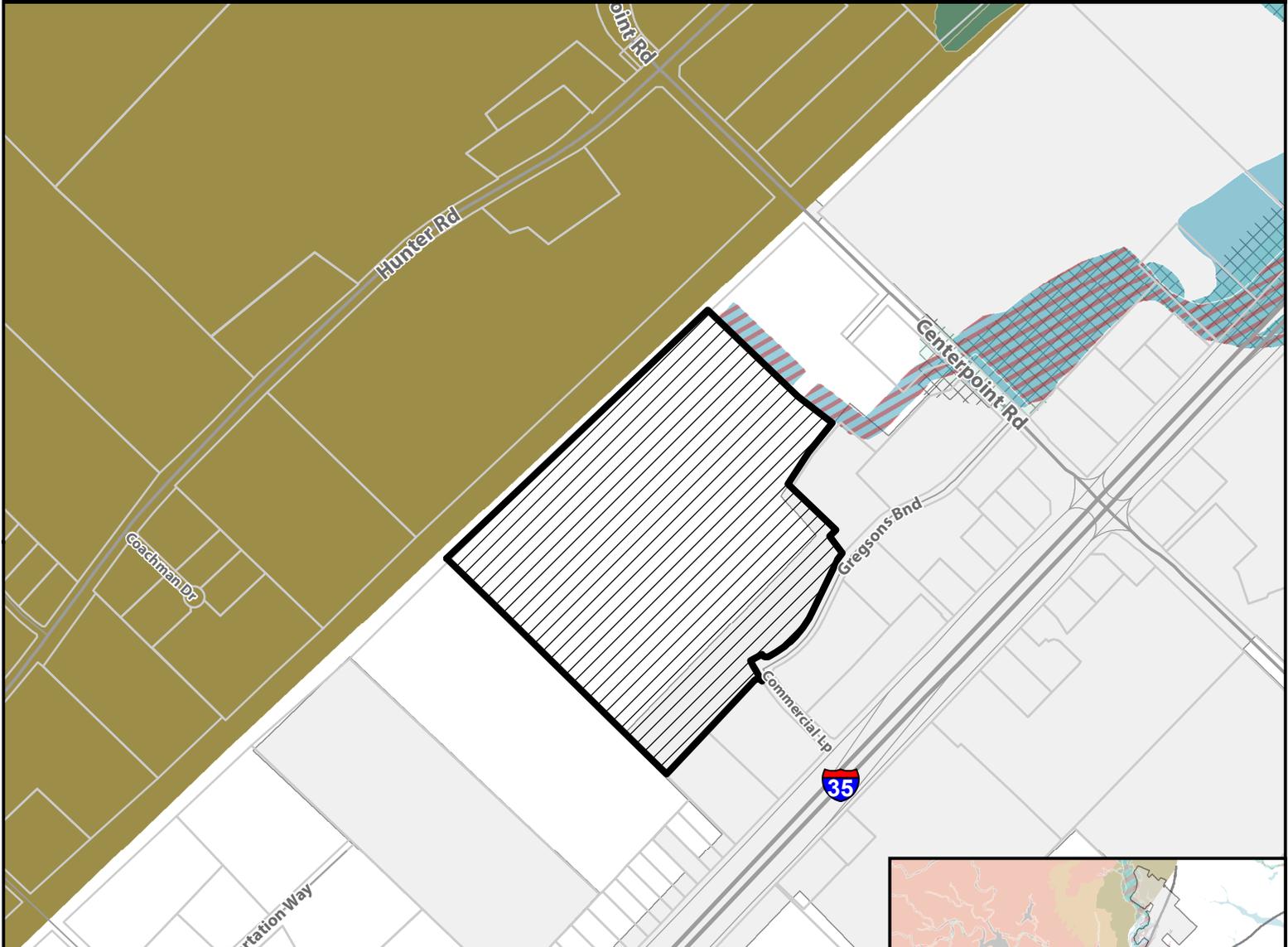
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Map Date: 2/12/2020

# ZC-20-03

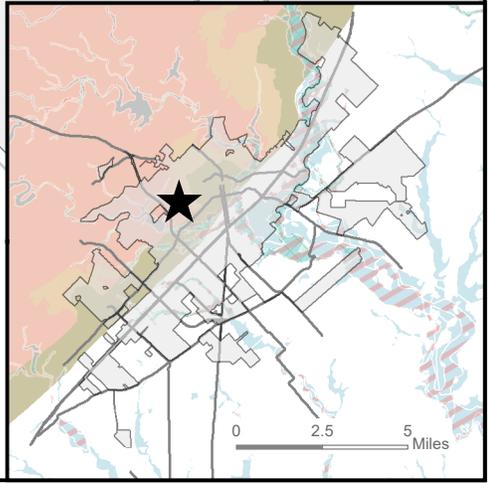
## Environmental Features

### GC & FD to PA - Commercial Loop / Gregsons Bend

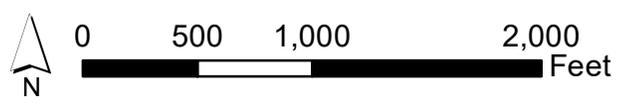


**Environmental Features**

- Floodway
- 100 Year Floodplain
- Water Quality Zone
- Water Quality Zone Buffer
- Edwards Aquifer Transition Zone



- Site Location
- Subject Property
- Parcels
- City Limit



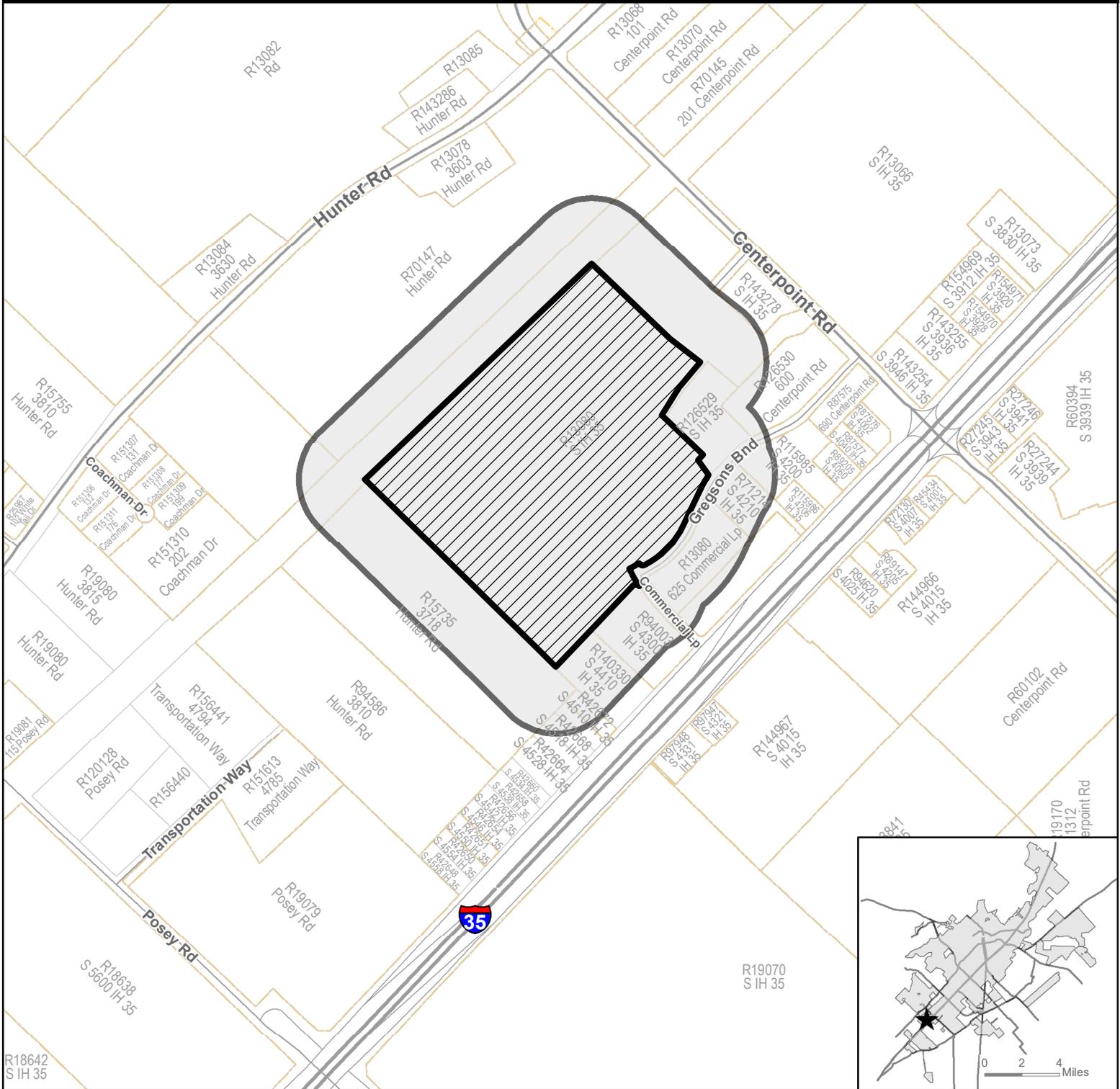
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Map Date: 2/12/2020

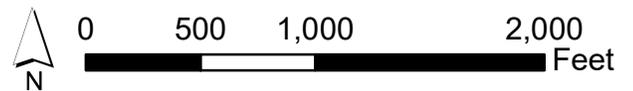
# ZC-20-03

## 400' Notification Buffer

### GC & FD to PA - Commercial Loop / Gregsons Bend



- ★ Site Location
- ▨ Subject Property
- 400' Buffer
- Parcel
- City Limit



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Map Date: 2/4/2020

Property ID	Subject Address	Owner	Address	City	State	ZIP
R94003	4300 S IH 35	JNG REALTY LLC	P O BOX 1666	SAN MARCOS	TX	78667-1666
R42670	4514 S IH 35	PEARSON ROBERT H JR & WARD DELL OUTLET SELF STORAGE	4510 S IH 35	SAN MARCOS	TX	78666
R126530	600 CENTERPOINT RD	OUTLET WEST INVESTORS LTD	1300 POST OAK BLVD STE 1650	HOUSTON	TX	77056-3162
R71214	4210 S IH 35	SHIVAM HOTELS INVESTMENTS LTD	3013 N HWY 123 BYPASS	SEGUIN	TX	78155
R115985	4200 S IH 35	YEAKEY FAMILY TRUST & GILL MICHAEL J LIVING TRUST &	11760 GEEVNORMAN RD	BELGRADE	MT	59711-8415
R70147	HUNTER RD	CARMA PASO ROBLES LLC	11501 ALTERRA PKWY STE 100	AUSTIN	TX	78758
R42666	4522 S IH 35	HERRY EUGENE A JR & FRANCES K	3718 HUNTER RD	SAN MARCOS	TX	78666
R42668	4518 S IH 35	PATEL KUNDAN N & CHETNA K	930 IH 35 N	SAN MARCOS	TX	78666
R42672	4510 S IH 35	PEARSON ROBERT H JR & WARD DELL	4510 S IH 35	SAN MARCOS	TX	78666
	CONA	SARA LEE UNDERWOOD-MYERS	1415 HARPER DR	SAN MARCOS	TX	78666
	Neighborhood Commission	LIZBETH DOBBINS	2705 LESLIE LN	SAN MARCOS	TX	78666

## Zoning District Comparison Chart

Topic	<i>Existing Zoning:</i> N/A - Extraterritorial Jurisdiction (ETJ)	<i>Existing Zoning:</i> Future Development (FD)	<i>Proposed Zoning:</i> Planning Area (PA)
<b>Zoning Description</b>	The City does not have zoning outside of City Limits. The City primarily regulates the subdivision of land within the ETJ.	The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.	PA is intended for larger greenfield tracts in low to medium intensity areas or in employment areas where residential uses are incorporated into a corporate campus or similar employment type use. The planning area district creates urban environments with a mix of housing, civic, retail and service choices within a compact, walkable environment. These walkable environments are defined by an area encompassed within a one-quarter to one-half-mile radius. This distance is the average most pedestrians will walk before they consider other modes of transportation.
<b>Uses</b>	No zoning restrictions	Residential and Agricultural ( <i>See Land Use Matrix</i> )	Residential with some limited commercial. ( <i>See Land Use Matrix</i> )
<b>Parking Location</b>	No zoning standards	No location standards	Varies based on district
<b>Parking Standards</b>	No zoning standards	2 spaces per dwelling unit (if single family detached)	Varies based on use
<b>Max Residential Units / acre</b>	Based on County Septic restrictions.	0.4 units per acre (max)	Based on parking
<b>Occupancy Restrictions</b>	N/A	N/A	N/A
<b>Landscaping</b>	No zoning standards	Tree and shrub requirements	Parking lot and Street Tree requirements
<b>Building Height (max)</b>	No zoning standards	2 stories	<b>CD-4:</b> 3 stories <b>CD-5:</b> 5 stories <b>EC:</b> 4 stories <b>LI:</b> 4 Stories
<b>Setbacks</b>	No zoning standards	Based on Zoning District	5-12' front Setback, 5' side setback, 15' rear set back.

<b>Topic</b>	<b>Existing Zoning: N/A - Extraterritorial Jurisdiction (ETJ)</b>	<b>Existing Zoning: Future Development (FD)</b>	<b>Proposed Zoning: Planning Area (PA)</b>
<b>Impervious Cover (max)</b>	No zoning standards	30%	<b>CD-4:</b> 80% <b>CD-5:</b> 100% <b>EC:</b> 80% <b>LI:</b> 80%
<b>Lot Sizes</b>	No zoning standards	Allows a variety of lot sizes depending on Building Type.	Lot size varies depending on zoning district and building type.
<b>Streetscapes</b>	Dependent on use.	Residential Street: 5' sidewalk for lots smaller than 1 acre, street trees every 40' on center average, 7' planting area.	Conventional and Mixed Use.
<b>Blocks</b>	3,000 ft. Block Perimeter max.	No Block Perimeter Required	<b>CD-4:</b> 2,400 ft. block perimeter <b>CD-5:</b> 2,000 ft. block perimeter <b>HC &amp; LI:</b> 5,000 ft. block perimeter

Section 5.1.1.2 Land Use Matrix **Future Development (FD) VS.**

**Character District 4 (CD-4)**  
**Character District 5 (CD-5)**  
**Light Industrial (LI)**  
**Employment Center**

**TABLE 5.1 LAND USE MATRIX**

TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL				NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS				DEFINITION USE STANDARDS		
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI		MH	EC
<b>AGRICULTURAL USES</b>																				
Barns or agricultural buildings	P	L	--	--	--	--	--	--	P	P	L	--	--	--	P	--	--	--	--	Section 5.1.2.1
Stables	P	L	--	--	--	--	--	--	--	P	L	--	--	--	P	--	--	--	--	Section 5.1.2.2
Community Garden	P	P	L	L	L	L	L	--	P	P	L	L	L	L	P	P	P	P	P	Section 5.1.2.3
Urban Farm	P	C	C	C	C	L	L	C	P	P	L	L	C	C	P	P	--	P	C	Section 5.1.2.4
Plant Nursery	L	--	--	--	--	--	--	P	--	L	--	--	P	P	P	P	P	--	P	Section 5.1.2.5
<b>ACCESSORY USES AND STRUCTURES</b>																				
Accessory Building/Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.3.1
Accessory Dwelling Unit	L	L	L	L	L	L	P	P	--	P	L	P	P	P	--	--	--	--	--	Section 5.1.3.1
Accessory Use, except as listed below:	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.3.2
Outdoor Storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	L	P	--	L	Section 5.1.3.2
Outdoor Display	--	--	--	--	--	--	--	L	--	--	--	--	L	L	P	--	--	--	L	Section 5.1.3.2
Food Truck	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.3.1
Drive-thru or Drive-in	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.3.2
Home Occupation	L	L	L	L	L	L	L	--	--	L	L	L	--	--	--	--	--	--	--	Section 5.1.3.4
Family Home Care	P	P	P	P	P	P	P	--	--	P	P	P	--	--	--	--	--	--	--	Section 5.1.3.5
Short Term Rental	L	L	L	L	L	L	L	P	--	L	L	P	P	P	--	--	--	L	P	Section 5.1.3.6
<b>RESIDENTIAL USES</b>																				
Single Family Detached	P	L	L	L	L	L	L	--	--	P	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Cottage Court	--	--	--	--	--	L	L	--	--	--	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Two Family	--	--	--	--	--	L	L	--	--	--	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Single Family Attached	--	--	--	--	L	L	L	L	--	--	P	P	P	P	--	--	--	--	--	Section 5.1.4.1
Small Multi-Family (up to 9 units)	--	--	--	--	--	L	L	L	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Courtyard Housing (up to 24 units)	--	--	--	--	--	--	L	L	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Multi-family (10 or more units)	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Purpose Built Student Housing	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	--	--	Section 5.1.4.1
Manufactured Home	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	Section 5.1.4.1
Mobile Home Community	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	Section 5.1.4.1

TABLE 5.1 LAND USE MATRIX

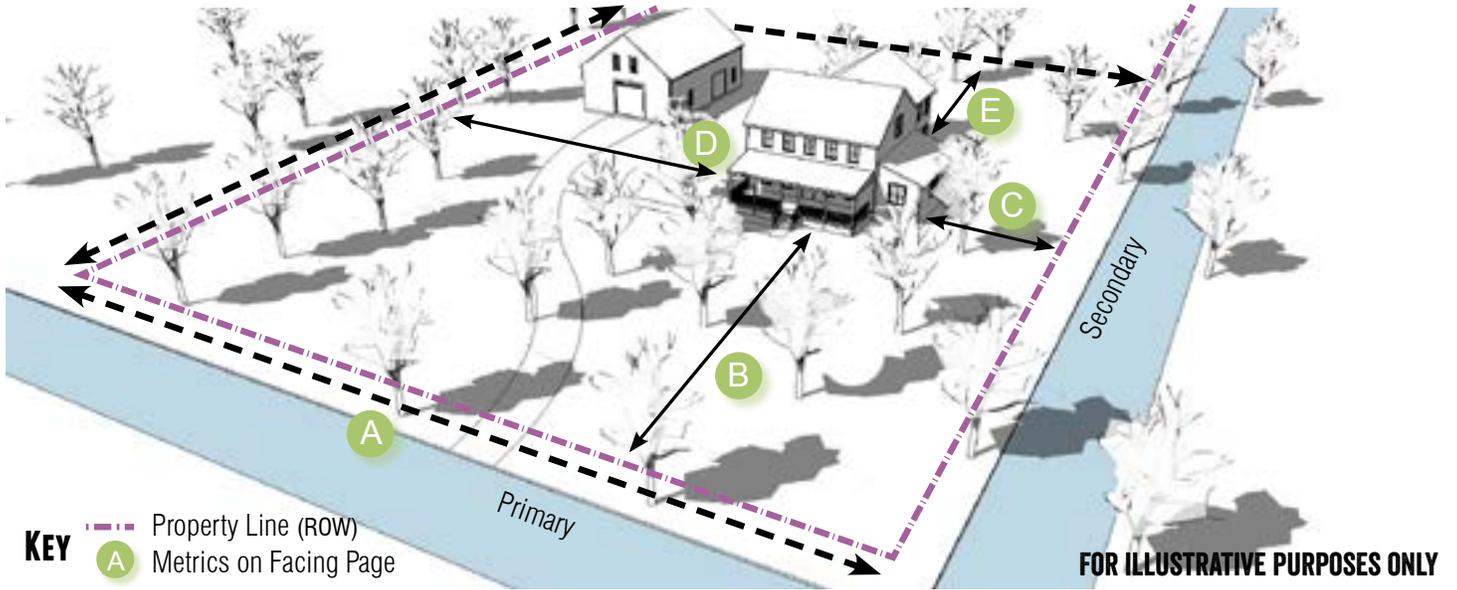
TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL				NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS				DEFINITION USE STANDARDS		
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI		MH	EC
Community Home	L	L	L	L	L	L	P	P	--	P	P	P	P	P	--	--	--	L	--	Section 5.1.4.12
Fraternity or Sorority Building	--	--	--	--	--	--	C	C	--	--	--	C	P	P	--	--	--	--	--	Section 5.1.4.12
<b>COMMERCIAL USES</b>																				
Professional Office	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	P	--	--	P	Section 5.1.5.1
Medical, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.2
Urgent care, emergency clinic, or hospital	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	--	--	P	Section 5.1.5.2
Nursing/ retirement home	--	--	--	--	--	--	P	P	--	--	--	P	P	P	P	--	--	--	P	Section 5.1.5.2
Personal Services, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.3
Animal care (indoor)	C	--	--	--	--	--	--	P	--	--	--	--	P	P	P	--	--	--	P	Section 5.1.5.3
Animal care (outdoor)	C	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	C	Section 5.1.5.3
Funeral Home	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.3
Adult Oriented Businesses	See Section 18, Article 6 of the City Code																			
All Retail Sales, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.4
Gasoline Sales	--	--	--	--	--	--	--	L	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.4
Truck stop	--	--	--	--	--	--	--	--	--	--	--	--	--	--	L	--	--	--	L	Section 5.1.5.4
Tattoo, body piercing	--	--	--	--	--	--	C	C	--	--	--	C	P	P	P	--	--	--	P	Section 5.1.5.4
Building material sales	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	P	P	--	P	Section 5.1.5.4
Vehicle Sales/ Rental	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.4
Pawnshop	--	--	--	--	--	--	--	C	--	--	--	C	P	P	P	--	--	--	P	Section 5.1.5.4
Restaurant/ Bar, as listed below:																				
Eating Establishment	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.5
Bar	--	--	--	--	--	--	--	C	--	--	--	--	C	C	C	--	--	--	C	Section 5.1.5.5
Mobile Food Court	--	--	--	--	--	--	--	C	--	--	--	--	P	P	--	--	--	--	--	Section 5.1.5.5
Sale of Alcohol for on premise consumption	--	--	--	--	--	--	C	C	--	--	--	C	C	C	C	--	--	--	C	Section 5.1.5.5
Overnight Lodging, as listed below:																				Section 5.1.5.6
Bed and Breakfast (up to 8 rooms)	L	C	C	C	C	L	L	P	--	P	C	P	P	P	--	--	--	--	P	Section 5.1.5.6
Boutique Hotel (9 - 30 rooms)	--	--	--	--	--	--	C	P	--	--	--	P	P	P	--	--	--	--	P	Section 5.1.5.6

TABLE 5.1 LAND USE MATRIX

TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL				NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS				DEFINITION USE STANDARDS		
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI		MH	EC
Hotel/ Motel (more than 30 rooms)	--	--	--	--	--	--	--	P	--	--	--	--	P	P	--	--	--	--	P	Section 5.1.5.6
Outdoor Recreation, except as listed below:	--	--	--	--	--	--	--	C	--	--	--	--	P	C	P	--	--	--	P	Section 5.1.5.7
Golf Course	C	C	C	C	C	C	C	C	C	C	C	C	C	C	--	--	--	C	C	Section 5.1.5.7
Traveler Trailers/ RVs Short Term stays	P	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	Section 5.1.5.7
Shooting Range	C	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	C	Section 5.1.5.7
Indoor Recreation, except as listed below:	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.5.8
Gym/ Health club	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	P	P	--	P	Section 5.1.5.8
Smoking Lounge	--	--	--	--	--	--	--	C	--	--	--	--	P	C	--	--	--	--	P	Section 5.1.5.8
Charitable Gaming Facility	--	--	--	--	--	--	--	--	--	--	--	--	C	--	C	--	--	--	C	Section 5.1.5.8
<b>PUBLIC &amp; INSTITUTIONAL</b>																				
Civic, except as listed below:	P	L	L	L	L	L	P	P	L	L	L	P	P	P	P	P	P	P	P	Section 5.1.6.1
Day Care Center	C	--	--	--	C	C	L	P	--	C	C	L	P	P	P	--	--	--	P	Section 5.1.6.1
Parks, Open Space, and Greenways	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.6.2
Minor Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.6.3
Major Utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	--	Section 5.1.6.3
Antenna	See Section 5.1.6.3D																			
<b>INDUSTRIAL</b>																				
Light Industrial	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	P	--	C	Section 5.1.7.1
Light Manufacturing	--	--	--	--	--	--	--	C	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.7.2
Vehicle Service, as listed below:	Section 5.1.7.3																			
Car Wash	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	C	Section 5.1.7.3
Vehicle repair (minor)	--	--	--	--	--	--	--	C	--	--	--	--	P	P	P	P	P	--	C	Section 5.1.7.3
Vehicle repair (major)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	C	Section 5.1.7.3
Warehouse & Distribution	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	P	P	--	P	Section 5.1.7.4
Waste-Related service	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	P	P	--	--	Section 5.1.7.5
Wholesale trade	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	P	Section 5.1.7.6
Self Storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	C	Section 5.1.7.7
Research and Development	--	--	--	--	--	--	--	--	--	--	--	--	C	C	P	P	P	--	C	Section 5.1.7.8
Wrecking/Junk Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	Section 5.1.7.9

## FD

### SECTION 4.4.1.1 FUTURE DEVELOPMENT DISTRICT



#### GENERAL DESCRIPTION

The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.

#### DENSITY

Units Per Gross Acre	.4 max.
Impervious Cover	30% max.

#### TRANSPORTATION

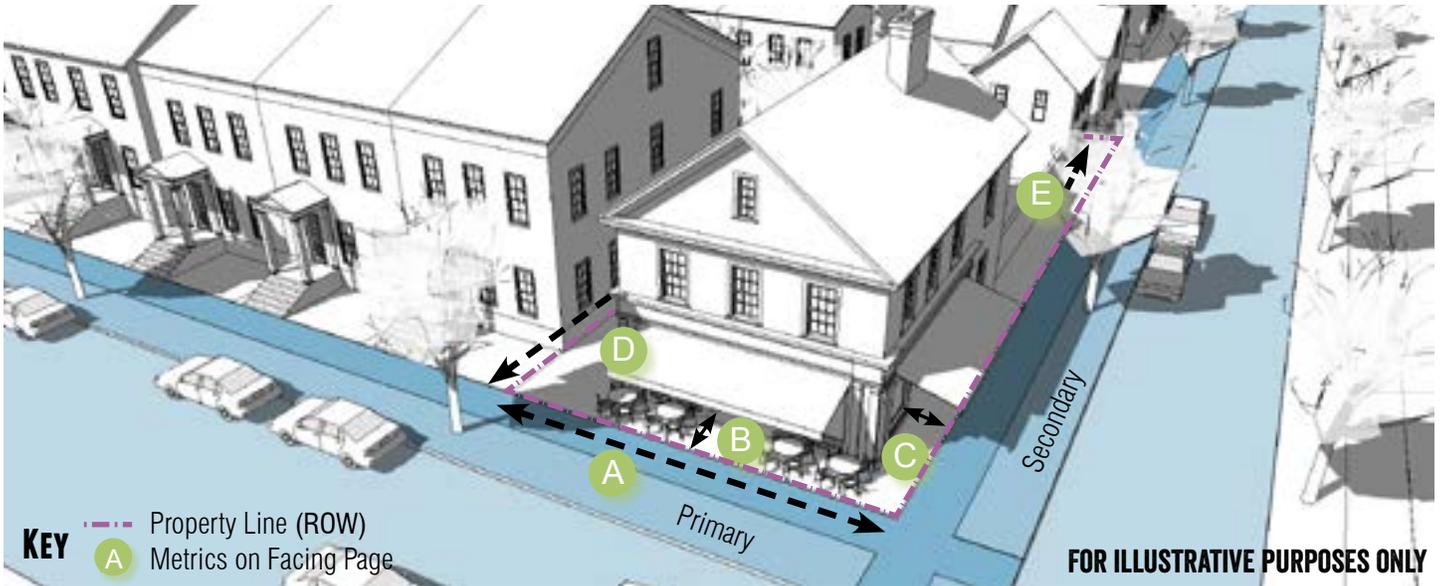
Streetscape Type	Residential	Section 3.8.1.10
Sidewalks are not required for lots greater than 1 acre		

#### BUILDING TYPES ALLOWED

Accessory Dwelling	Section 4.4.6.1
House	Section 4.4.6.2
Civic	Section 4.4.6.15

CD-4

SECTION 4.4.3.4 CHARACTER DISTRICT - 4



**GENERAL DESCRIPTION**

The CD-4 district is intended to accommodate a variety of residential options including single-family, two-family and multifamily with limited commercial or mixed use on the corners.

**DENSITY**

Impervious Cover 80% max.

**TRANSPORTATION**

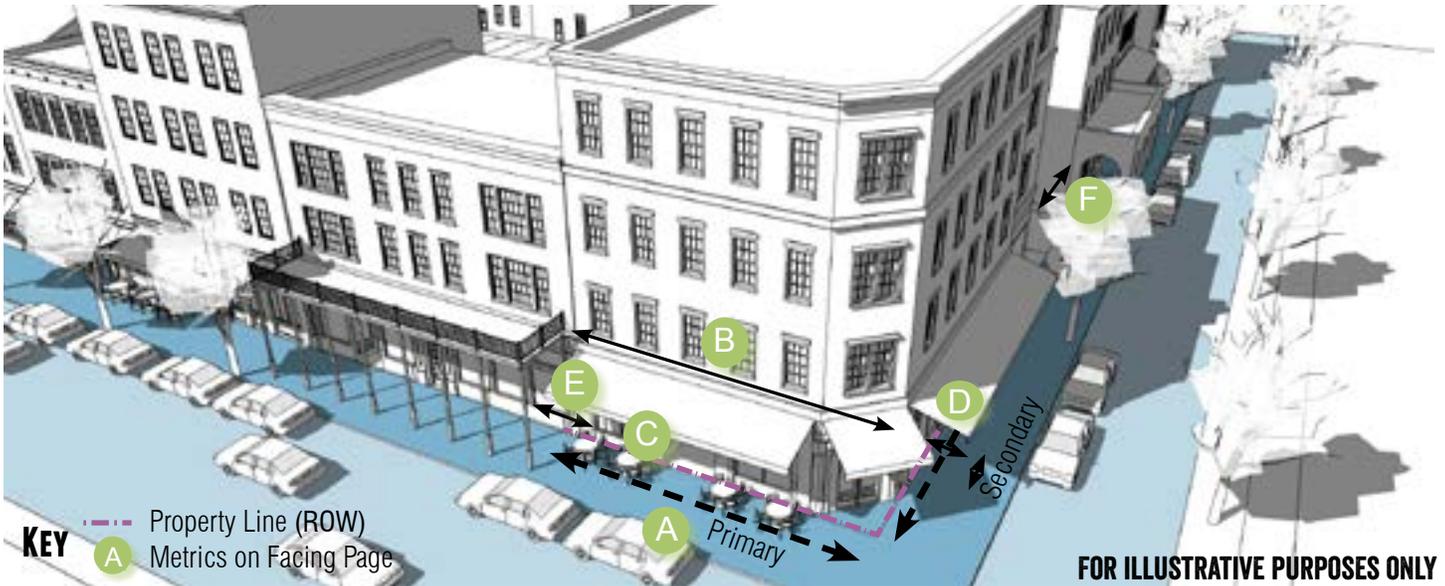
Block Perimeter	2,400 ft. max	Section 3.6.2.1
Streetscape Type	Residential	Section 3.8.1.10
	Conventional	Section 3.8.1.7
	Mixed Use	Section 3.8.1.8

**BUILDING TYPES ALLOWED**

Accessory Dwelling	Section 4.4.6.1
Cottage	Section 4.4.6.3
Duplex	Section 4.4.6.5
Townhouse	Section 4.4.6.7
Courtyard Housing	Section 4.4.6.9
Apartment	Section 4.4.6.10
Live/ Work	Section 4.4.6.11
Neighborhood Shopfront	Section 4.4.6.12
Civic Building	Section 4.4.6.15

CD-5

SECTION 4.4.3.5 CHARACTER DISTRICT - 5



GENERAL DESCRIPTION

The CD-5 district is intended to provide for a variety of residential, retail, service and commercial uses. To promote walkability and compatibility, auto-oriented uses are restricted. CD-5 promotes mixed use and pedestrian-oriented activity.

TRANSPORTATION

Block Perimeter	2,000 ft. max	Section 3.6.2.1
Streetscape Type	Main Street Multi-Way	Section 3.8.1.6 Section 3.8.1.9

DENSITY

Impervious Cover	100% max.
------------------	-----------

BUILDING TYPES ALLOWED

Accessory Dwelling	Section 4.4.6.1
Townhouse	Section 4.4.6.7
Apartment	Section 4.4.6.10
Live/ Work	Section 4.4.6.11
Mixed Use Shopfront	Section 4.4.6.14
Civic Building	Section 4.4.6.15

PA

SECTION 4.4.3.7 PLANNING AREA DISTRICT

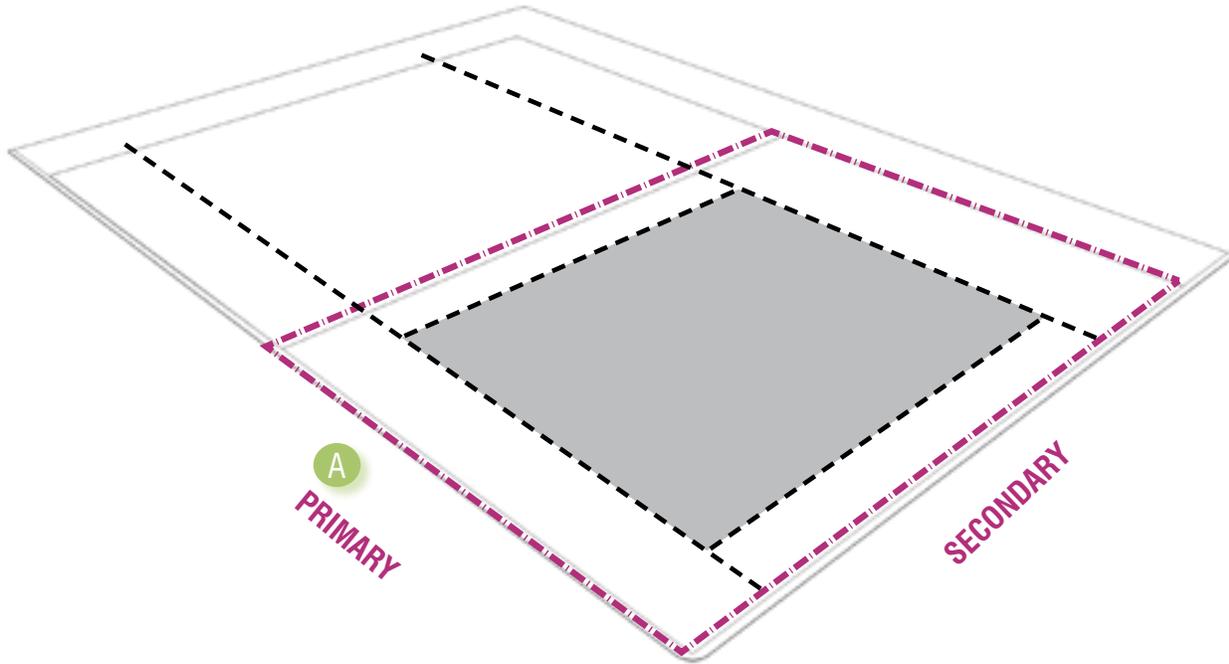


TABLE 4.14 PLANNING AREA DISTRICT ALLOCATION

PREFERRED SCENARIO AREA	PLANNING AREA DESCRIPTION	DISTRICT	% ALLOCATION (BUILDABLE LAND)
Employment Center	Employment Planning Area. The intention of the employment planning area is to accommodate large employers or a corporate campus that can incorporate some residential or mixed use.	CD-4 CD-5 EC LI	0 - 10% 10 - 40% 60 - 90% 0 - 30%
High Intensity Zone	High Intensity Planning Area. The intention of the high intensity planning area is to accommodate high intensity and high density infill development within a compact mixed use area.	CD-1, 2, or 3 CD-4 CD-5	0 - 10% 10 - 30% 60 - 90%
Medium Intensity Zone	Medium Intensity Planning Area. The intention of the medium intensity planning area is to accommodate new master planned communities with diverse housing types developed around a 5 minute walk to all services.	CD-1, 2, or 3 CD-4 CD-5	10 - 30% 30 - 60% 10 - 30%
Low Intensity Area	Conservation Planning Area. The intention of the conservation planning area is to preserve large areas of environmentally sensitive or prime agricultural lands while providing for clustered residential development in appropriate areas.	CD-1 or 2 CD-3 CD-4 CD-5	50% min. 20 - 40% 10 - 30% 0 - 5%

## EC

### SECTION 4.4.5.1 EMPLOYMENT CENTER



**KEY**

- - - Property Line (ROW)
- A Metrics on This and Facing Page
- Setbacks
- Building Footprint

#### DISTRICT INTENT STATEMENTS

EC is intended to serve as a commercial gateway and to take advantage of proximity to major roadways, therefore the quality and aesthetics of new development is very important. EC should be applied along highway corridors that serve as entrances to downtown or other pedestrian oriented activity areas.

#### DENSITY

Impervious Cover                      80% max.

#### TRANSPORTATION

Block Perimeter	5,000 ft. max.	Section 3.6.2.1
Streetscape Type	Conventional	Section 3.8.1.7

#### BUILDING TYPES ALLOWED

Live/ Work	Section 4.4.6.11
General Commercial	Section 4.4.6.13
Mixed Use Shopfront*	Section 4.4.6.14
Civic Building	Section 4.4.6.15

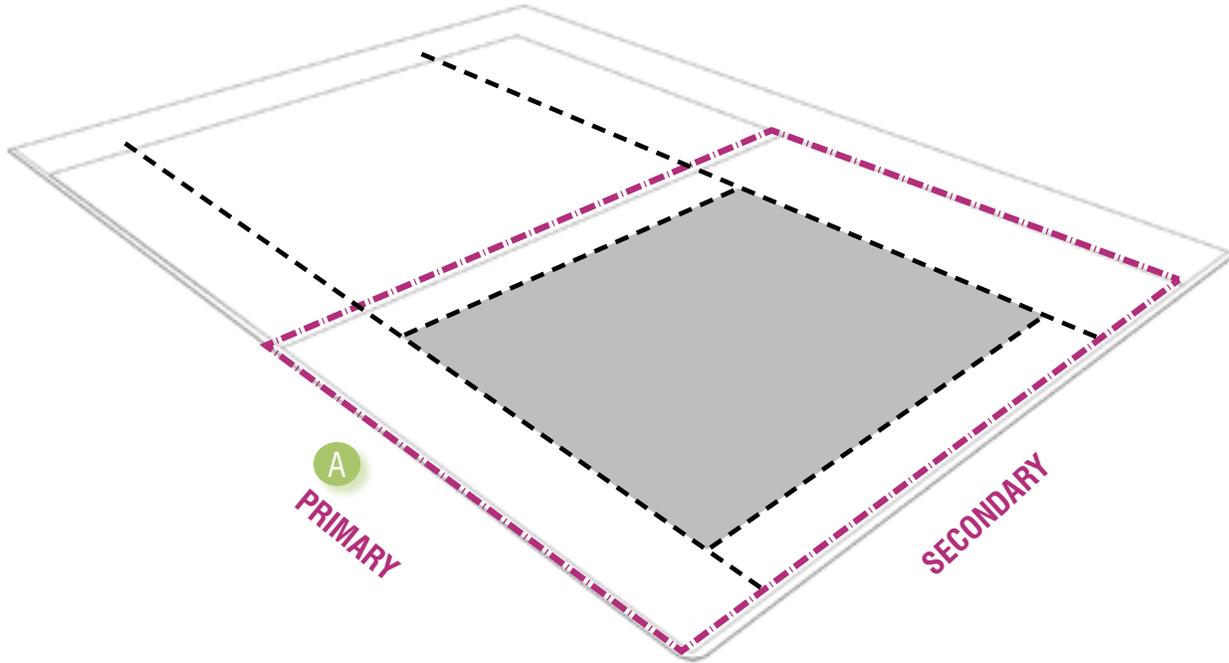
\*No Residential on the ground floor

#### BUILDING STANDARDS

Principle Building Height	4 stories max.	62 ft. max.
Accessory Structure Height	N/A	24 ft. max.

## LI

### SECTION 4.4.5.3 LIGHT INDUSTRIAL



**KEY**

- - - Property Line (ROW)
- A Metrics on This and Facing Page
- Setbacks
- Building Footprint

**DISTRICT INTENT STATEMENTS**

LI is intended to accommodate manufacturing and light industrial uses in order to promote economic viability, encourage employment growth, and limit the encroachment of non-industrial development within established industrial areas. Development should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or commercial uses.

**DENSITY**

Impervious Cover	80% max.
------------------	----------

**TRANSPORTATION**

Block Perimeter	5,000 ft. max.	Section 3.6.2.1
Streetscape Type	Conventional	Section 3.8.1.7

**BUILDING TYPES ALLOWED**

General Commercial	Section 4.4.6.13
Civic Building	Section 4.4.6.15

**BUILDING STANDARDS**

Principle Building Height	4 stories max.	62 ft. max.
Accessory Structure Height	N/A	24 ft. max.

**ZC-20-05 (Vantage 2) Zoning Change Review (By Comp Plan Element)**

**LAND USE – Preferred Scenario Map / Land Use Intensity Matrix**

	YES	NO (map amendment required)
Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?	X	

**ECONOMIC DEVELOPMENT – Furthering the goal of the Core 4 through the three strategies**

STRATEGY	SUMMARY	Supports	Contradicts	Neutral
Preparing the 21 <sup>st</sup> Century Workforce	Provides / Encourages educational opportunities			Applicant has not indicated that educational facilities will be included.
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business	The Developer will extend utilities through this site		
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity	The sportsplex could function as a community amenity		

**ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints**

	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint	X	X	X	X	
Constraint by Class					
Cultural	X				
Edwards Aquifer	X				
Endangered Species	X				
Floodplains	X	X	X		
Geological	X				
Slope	X				
Soils	X	X			
Vegetation	X				
Watersheds	X				
Water Quality Zone	X				

**ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results**

Located in Subwatershed:	Cottonwood Creek				
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed					X
Notes: <b>This watershed currently has very little impervious cover compared to its size. Cottonwood Creek is not a tributary to the San Marcos River. With larger more concentrated growth, best management practices such as retention ponds and biofiltration gardens can be incorporated into the site planning process.</b>					

**NEIGHBORHOODS – Where is the property located**

CONA Neighborhood(s):	N/A
Neighborhood Commission Area(s):	9
Neighborhood Character Study Area(s):	N/A

**PARKS, PUBLIC SPACES AND FACILITIES –Availability of parks and infrastructure**

	YES	NO
Will Parks and / or Open Space be Provided?	X	
Will Trails and / or Green Space Connections be Provided?		X
<b>The applicant has indicated a desire to include Parks / Open Space within the development.</b>		
<b>Maintenance / Repair Density</b>	Low (maintenance)	High (maintenance)
Wastewater Infrastructure	X	
Water Infrastructure	X	
Public Facility Availability		
	YES	NO
Parks / Open Space within ¼ mile (walking distance)?		X
Wastewater service available?	X	
Water service available?	X	

**TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation**

		A	B	C	D	F
Existing Daily LOS	Centerpoint Rd S IH 35 Access Road	X				
Existing Peak LOS	Centerpoint Rd S IH 35 Access Road	X				
Preferred Scenario Daily LOS	Centerpoint Rd S IH 35 Access Road	X				X
Preferred Scenario Peak LOS	Centerpoint Rd S IH 35 Access Road	X				X

	N/A	Good	Fair	Poor
Sidewalk Availability	X			
Sidewalks are required to be built as part of the development.				
	YES		NO	
Adjacent to existing bicycle lane?			X	
Adjacent to existing public transportation route?			X	
Notes:				



**PLANNING AND DEVELOPMENT SERVICES**

**2/06/2020**

**ZC-20-03**

**Notice of Public Hearing  
Zoning Change Request  
Future Development to Planning Area**

*Hold a public hearing and consider a request by Ed Theriot, on behalf of Outlet West Investors, Ltd., for a zoning change from "FD" Future Development, and "GC" General Commercial to "PA," Planning Area District, for approximately 62.48 acres, more or less, out of the Edward Burluson Survey, generally located at the intersection of Commercial Loop and Gregsons Bend.*

The San Marcos Planning and Zoning Commission will consider the above request at an upcoming public hearing and will either approve or deny the request. This recommendation will be forwarded to the San Marcos City Council. Before making a decision, the Commission and Council will hold public hearings to obtain citizen comments. Because you are listed as the owner of property located within 400 feet of the subject property, we would like to notify you of the following public hearings and seek your opinion of the request:

- A public hearing will be held at the Planning Zoning Commission Meeting on **Tuesday, February 25, 2020** at 6:00 p.m. in the Council Chambers in City Hall, 630 East Hopkins.
- A public hearing will be held at the City Council Meeting on **Tuesday, March 17, 2020** at 6:00 p.m. in the Council Chambers in City Hall, 630 East Hopkins.

All interested citizens are invited to attend and participate in the public hearing. If you cannot attend but wish to comment, you may write to the below address. Your written comments will be given to the Planning & Zoning Commission and City Council if they are received before 5 PM on the day of the meeting.

Development Services-Planning  
630 East Hopkins  
San Marcos, TX 78666  
[planninginfo@sanmarcostx.gov](mailto:planninginfo@sanmarcostx.gov)

For more information regarding this request, contact the case manager **Tory Carpenter**, at **(512) 393-8234**. When calling, please refer to case number **ZC-20-03**.

*The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)*

PLANNING AND DEVELOPMENT SERVICES  
Enclosure: Map (See Reverse)

CITY HALL • 630 EAST HOPKINS • SAN MARCOS, TEXAS 78666 • 512.393.8230 • FACSIMILE 855.759.2843  
SANMARCOSTX.GOV

# ZONING CHANGE TO PLANNING AREA DISTRICT APPLICATION

Updated: October, 2019



## CONTACT INFORMATION

Applicant's Name	Ed Theriot	Property Owner	Outlet West Investors, Ltd.
Company	Doucet & Associates, Inc.	Company	c/o Tyler Sibley Pursuant Ventures Development
Applicant's Mailing Address	7401B Hwy. 71 W., Ste. 160 Austin, TX 78735	Owner's Mailing Address	415 North Guadalupe, Ste. 400 San Marcos, Texas 78666
Applicant's Phone #	512-618-2865	Owner's Phone #	214-282-8970
Applicant's Email	etheriot@doucetengineers.com	Owner's Email	tylersibley1@gmail.com

## PROPERTY INFORMATION

**Subject Property Address(es):** a portion of the property identified in the Hays County Appraisal District as R13080

**Legal Description:** Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

**Total Acreage:** 62.48 acres **Tax ID #:** R 13080

**Preferred Scenario Designation:** Employment Area **Existing Zoning:** N/A (ETJ)

**Existing Land Use(s):** Vacant

## DESCRIPTION OF REQUEST

**Proposed Zoning District(s):** Planned Area District

**Proposed Land Uses / Reason for Change:** Apply zoning controls to the tract for development:

## AUTHORIZATION

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.*

Filing Fee\* \$1,057 plus \$100 per acre    Technology Fee \$13    **MAXIMUM COST \$3,013**  
 \*Existing Neighborhood Regulating Plan Included.

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**

PROPERTY OWNER AUTHORIZATION

Robert C. Wilson, III, President  
I, of JOQ GP, LLC, as general partner (owner name) on behalf of  
Outlet West Investors, Ltd. (company, if applicable) acknowledge that I/we  
am/are the rightful owner of the property located at  
a portion of the property identified in the Hays County Appraisal District as R13080 (address).

I hereby authorize Tyler Sibley and his respective consultants (agent name) on behalf of  
Pursuant Ventures Development, LLC (agent company) to file this application for

(in the zoning of the subject property in a manner approved by the City of San Marcos & Pursuant Ventures Development, LLC)  
for the zoning of the subject property in a manner approved by the City of San Marcos & Pursuant Ventures Development, LLC  
manner agreeable to both the City of San Marcos & Pursuant Ventures Development, LLC  
the Responsible Official Department on my behalf throughout the process

Signature of Owner: *General Partner  
JOQ GP, LLC  
Robert C. Wilson, III*

Date: 20 Dec 2019  
*Approved  
12/21/19*

Printed Name, Title: Robert C. Wilson, III, President of JOQ GP, LLC,  
general partner of Outlet West Investors, Ltd.

Signature of Agent: *[Signature]* Date: 12/29/19

Printed Name, Title: Tyler Sibley, Manager

Form Updated October, 2019

PROPERTY OWNER AUTHORIZATION

I, See Attached Authorization (owner name) on behalf of Outlet West Investors, Ltd. (company, if applicable) acknowledge that I/we am/are the rightful owner of the property located at a portion of the property identified in the Hays County Appraisal District as R13080 \_\_\_\_\_ (address).

I hereby authorize Tyler Sibley and his respective consultants (agent name) on behalf of Pursuant Ventures Development, LLC (agent company) to file this application for For the zoning of the subject property in a manner agreeable to both the City of San Marcos & Pursuant Ventures Development, LLC (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name, Title: See attached authorization

Signature of Agent: \_\_\_\_\_ Date: 2019.12.30 16:00:50 -06'00' Date: 12/30/19

Printed Name, Title: Ed Theriot, Project Manager

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS  
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***
- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***

*I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.*

Signature: \_\_\_\_\_ Date: 2019.12.30  
16:02:21 -06'00'

Date: 12/30/19

Print Name: Ed Theriot



## CHECKLIST FOR ZONING CHANGE TO PLANNING AREA DISTRICT

	The following items are requested for consideration of this application. These and additional items may be required at the request of the Department	Comments
<input checked="" type="checkbox"/>	Pre-application conference with staff is recommended Please call 512-393-8230 to schedule	Pre-application meeting held on 10/08/19
<input checked="" type="checkbox"/>	Completed Application for Zoning Change to Planning Area District	<b>See attached</b>
<input checked="" type="checkbox"/>	Figures sufficient to address <a href="#">Section 4.4.3.7(A)(3)</a> of the San Marcos Development Code	See attached conceptual plan
<input checked="" type="checkbox"/>	Copy of Subdivision Plat or Metes & Bounds	Metes & Bounds and Survey are attached
<input checked="" type="checkbox"/>	CAD file in grid for GIS integration. Projection: NAD 1983 StatePlane Texas South Central FIPS 4204 Feet	Attached.
<input checked="" type="checkbox"/>	Certificate of no tax delinquency	Account Summary and Tax Statement showing 2019 taxes have been paid is attached.
<input checked="" type="checkbox"/>	Proof of Ownership	<b>Warranty Deed is attached.</b>
<input type="checkbox"/>	Lien Holder(s) Name and Mailing Address(es)	There are no lienholders per attached title commitment
<input checked="" type="checkbox"/>	Agreement to the placement of notification signs and acknowledgement of notification requirements	<b>See attached</b>
<input checked="" type="checkbox"/>	Authorization to represent the property owner, if the applicant is not the owner	<b>Owners Authorization Attached</b>
<input type="checkbox"/>	Filing Fee \$1,057 + \$100 per acre (\$3,000 max) Technology Fee \$13	
<p><b>**San Marcos Development Code Section 2.3.1.1(C): "Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete..."</b></p>		

### FIELD NOTES DESCRIPTION

DESCRIPTION OF 62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, A-63, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 62.48 ACRE TRACT, AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast right-of-way line of that certain 200-foot wide Union Pacific Railroad right-of-way, being the south corner of that 100-foot strip described in the deed to the Missouri, Kansas & Texas Railway Company of Texas of record in Volume 41, Page 23, Deed Records of Hays County, Texas, in the northeast line of a certain 29.07 acre tract designated as Tract Number 3 and described in the deed to Eugene A. Herry, Jr. and Frances K. Herry of record in Volume 276, Page 313, Deed Records of Hays County, Texas, at the west corner of the said 109.22 acre tract, for the west corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 46°39'30" E, leaving the northeast line of the said 29.07 acre tract, with the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract, with the northwest line of the tract described herein, a distance of 1903.09 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found, for the north corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast railroad right-of-way line and the northwest line of the said 109.22 acre tract bears S 46°39'30" W, a distance of 160.21 feet;

**THENCE** leaving the said southeast railroad right-of-way line, crossing the said 109.22 acre tract, with the northeast, southeast and northeast lines of the tract described herein, the following seven (7) courses and distances:

1. S 46°27'37" E, a distance of 657.03 feet to a calculated angle point,
2. S 52°15'35" E, a distance of 229.85 feet to a calculated point for the most northerly east corner,
3. S 39°31'34" W, a distance of 198.77 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found,
4. S 32°44'39" W, a distance of 199.24 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a re-entrant corner,
5. S 46°16'38" E, a distance of 348.25 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at an east corner,
6. S 45°29'11" W, a distance of 46.11 feet to a ½-inch iron rod found at a re-entrant corner, and
7. S 36°50'33" E, a distance of 111.52 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found in the southeast line of the said 109.22 acre tract, same being the curving northwest right-of-way line of Gregson's Bend, a 60-foot right-of-way, as shown on the Lot 2 and Gregson Road of Section 1, the Lowman Ranch Subdivision plat of record in Volume 7, Page 215, Plat Records of Hays County, Texas, for an east corner of the tract described herein;

**THENCE** with the west and northwest right-of-way line of said Gregson's Bend, with the east and southeast line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 360.00 feet, an arc distance of 69.66 feet, and a chord which bears S 31°22'59" W, a distance of 69.55 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
2. S 25°56'16" W, a distance of 277.98 feet to a ½-inch iron rod found at a point-of-curvature,

3. with the arc of a curve to the right, having a radius of 503.00 feet, an arc distance of 293.42 feet, and a chord which bears S 42°37'23" W, a distance of 289.28 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at a point-of-tangency,
4. S 59°20'03" W, a distance of 40.49 feet to a calculated point-of-curvature, and
5. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 40.54 feet, and a chord which bears N 74°10'24" W, a distance of 36.24 feet to a calculated point for the northeast terminus of Commercial Loop, a 70-foot right-of-way as shown on the Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1 plat of record in Volume 9, Page 62, Plat Records of Hays County, Texas, for a re-entrant corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BYRN Survey" found bears N 62°00'33" E, a distance of 1.27 feet;

**THENCE** S 62°00'33" W, continuing across the said 109.22 acre tract, with the north terminus of said Commercial Loop, with a south line of the tract described herein, a distance of 70.00 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northwest terminus of said Commercial Loop and a reentrant corner of the tract described herein, and from which a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 62°00'33" W, a distance of 4.93 feet;

**THENCE** continuing across the said 109.22 acre tract, with the curving northwest right-of-way line of said Commercial Loop, with a northeast line of the tract described herein, with the arc of a curve to the left, having a radius of 1245.00 feet, an arc distance of 123.28 feet, and a chord which bears S 30°42'59" E, a distance of 123.23 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the northerly east corner of Lot 3, said Proposed Roadway and Lot 3, Lowman Ranch Subdivision, Section 1, for a northeast corner of the tract described herein;

**THENCE** leaving the northwest right-of-way line of said Commercial Loop, continuing across the said 109.22 acre tract, with the north and northwest line of said Lot 3, Lowman Ranch Subdivision, Section 1, with a south and southeast line of the tract described herein, the following two (2) courses and distances:

1. with the arc of a curve to the left, having a radius of 25.00 feet, an arc distance of 44.76 feet, and a chord which bears N 84°42'52" W, a distance of 39.02 feet to an "X" in concrete found at a point-of-tangency, and
2. S 43°35'28" W, at a distance of 21.70 feet, a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found bears S 46°24'32" E, a distance of 0.49 feet, and continuing for a total distance of 356.89 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 3, Lowman Ranch Subdivision, Section 1, and the north corner of Lot 5, Section 1, Lowman Ranch Subdivision of record in Volume 17, Page 134, Plat Records of Hays County, Texas, for an angle point in the southeast line of the tract described herein;

**THENCE** S 43°32'32" W, continuing across the said 109.22 acre tract, with the northwest line of said Lot 5, Section 1, Lowman Ranch Subdivision, with the southeast line of the tract described herein, a distance of 322.26 feet to a ½-inch iron rod with a plastic cap stamped "BYRN SURVEY" found at the west corner of said Lot 5, Section 1, Lowman Ranch Subdivision, in the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 acre tract, for the south corner of the tract described herein, from which a 3/8-inch iron rod found in the southwest line of the said 109.22 acre tract at the northeast corner of the said 29.07 acre tract, same being an angle point in the southwest line of said Lot 5, Section 1, Lowman Ranch Subdivision and the north corner of Lot 13, South Park Commercial Subdivision of record in Volume 4, Page 59, Plat Records of Hays County, Texas bears S 45°19'13" E, a distance of 172.98 feet;

**THENCE** with the southwest line of the said 109.22 acre tract and the northeast line of the said 29.07 tract, with the southwest line of the tract described herein, the following three (3) courses and distances:

1. N 45°12'23" W, a distance of 147.03 feet to a cedar fence post found at an angle point,
2. N 45°53'12" W, a distance of 1024.34 feet to a cedar fence post found, and

3. N 45°57'03" W, a distance of 451.51 feet to the **POINT OF BEGINNING** and containing 62.48 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, NAD 83, South Central Zone, Grid.

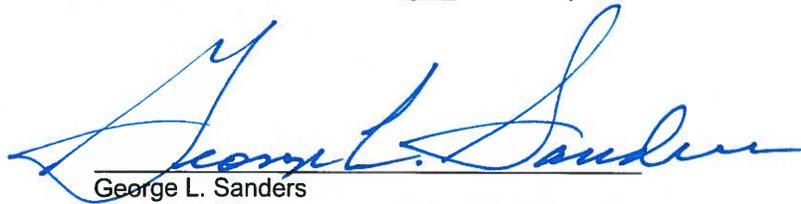
BOWMAN WORD FILE: FN1965(en)  
BOWMAN REF PLAN NO.: 3557  
H:\Survey\\_FieldNotes\FN-1900s\FN1965(en).doc

THE STATE OF TEXAS           §  
  §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS         §

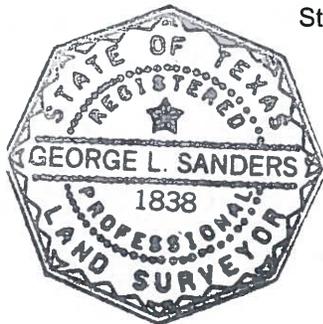
That I, George L. Sanders, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the months of November and December 2016, under my direction and supervision.

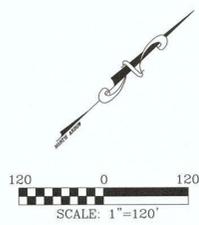
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 4<sup>TH</sup> of January, 2017 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



George L. Sanders  
Registered Professional Land Surveyor No. 1838  
State of Texas





NOVEMBER & DECEMBER, 2016  
HAYS COUNTY, TEXAS

**LEGEND**

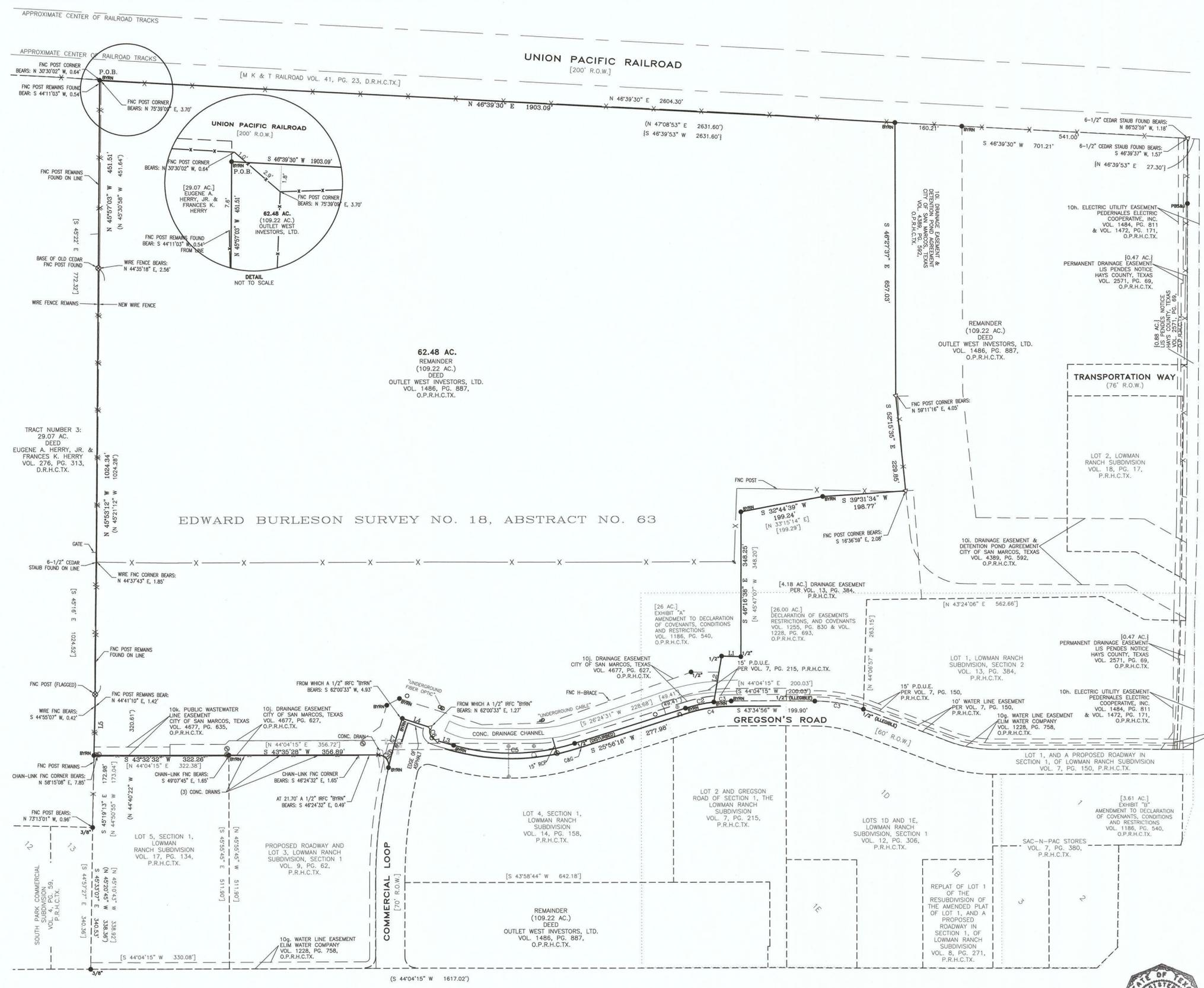
- IRON ROD FOUND (SIZE/CONDITION NOTED)
- × "X" FOUND
- 1/2" IRON ROD W/PLASTIC CAP STAMPED "BYRN SURVEY" FOUND
- 1/2" IRON ROD W/PLASTIC CAP STAMPED "P.B.S.&" FOUND
- CEDAR FENCE POST FOUND
- △ CALCULATED POINT
- CHAIN LINK FENCE
- WIRE FENCE
- ⊕ BOLLARD
- RISER
- CLEANOUT
- FIRE HYDRANT
- WASTEWATER MANHOLE
- STORM SEWER MANHOLE
- SIGN
- ⊕ TELEPHONE PEDESTAL
- WATER SPOUT
- WATER VALVE
- RECORD LINE
- ( ) RECORD INFORMATION (PER VOL. 1486, PG. 887, O.P.R.H.C.T.X.)
- { } RECORD INFORMATION (PER VOL. 2571, PG. 69, O.P.R.H.C.T.X.)
- [ ] ADJOINER INFORMATION
- P.O.B. POINT OF BEGINNING
- D.R.H.C.T.X. DEED RECORDS OF HAYS COUNTY, TEXAS
- P.R.H.C.T.X. PLAT RECORDS OF HAYS COUNTY, TEXAS
- O.P.R.H.C.T.X. OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- C&G 2" CONCRETE CURB & GUTTER
- RCP REINFORCED CONCRETE PIPE
- IRFC IRON ROD W/PLASTIC CAP FOUND
- FNC FENCE
- CONC. CONCRETE
- P.D.U.E. DRAINAGE AND PUBLIC UTILITIES EASEMENT

CURVE #	RADIUS	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE
C1	18800.00'	156.79'	S 45°32'24" E	156.79'
[C1]	18800.00'	[156.71']	[N 45°54'29" W]	[156.71']
C2	360.00'	69.66'	S 31°22'59" W	69.55'
[C2]	360.00'	[41.48']	[N 40°20'52" E]	[41.46']
C3	360.00'	111.04'	S 34°43'45" W	110.69'
[C3]	360.00'	[110.98']	[S 35°14'19" W]	[110.54']
[C4]	360.00'	[110.98']	[S 35°14'19" W]	[110.54']
C5	503.00'	293.42'	S 42°37'23" W	289.28'
[C5]	[503.00']	[293.41']	[N 43°07'07" E]	[289.27']
C6	25.00'	40.54'	S 74°10'24" W	36.24'
[C6]	[25.00']	[40.46']	[S 73°47'58" E]	[36.19']
C7	1245.00'	123.28'	S 30°42'59" E	123.23'
[C7]	[1245.00']	[123.16']	[S 30°15'46" E]	[123.11']
C8	25.00'	44.76'	N 84°42'52" W	39.02'
[C8]	[25.00']	[44.86']	[N 84°30'47" W]	[39.08']

**FLOOD NOTE:**  
THE SUBJECT TRACT IS SHOWN TO BE IN ZONE X, OTHER AREAS, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS IDENTIFIED BY THE FLOOD INSURANCE RATE MAP PANEL NO. 48209C0478F, DATED SEPTEMBER 2, 2005.

THE ABOVE STATEMENT IS MEANT FOR FLOOD INSURANCE DETERMINATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED MAP(S).

- NOTES:**
- BEARING BASIS IS TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, GRID.
  - DISTANCES SHOWN HEREON ARE BASED ON SURFACE MEASUREMENTS, TO CONVERT SURFACE DISTANCES TO GRID, MULTIPLY BY THE COMBINED SCALE FACTOR.
  - THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999871.
  - A METES AND BOUNDS DESCRIPTION, FN1965(en), WAS PREPARED TO ACCOMPANY THE SURVEY OF THE 62.48 ACRES SHOWN HEREON.



**G.F. NO. 16-0331-S**  
**LEGAL DESCRIPTION:**  
62.48 ACRES OF LAND IN THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY TEXAS, BEING A PORTION OF A CERTAIN CALLED 109.22 ACRE TRACT DESCRIBED IN THE DEED TO OUTLET WEST INVESTORS, LTD. OF RECORD IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**RESTRICTIVE COVENANTS:**  
THE RESTRICTIVE COVENANTS OF RECORD IN VOLUME 1186, PAGE 540, VOLUME 1228, PAGE 693, AND VOLUME 1255, PAGE 830, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AS LISTED IN THE OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY'S TITLE COMMITMENT OF NO. 16-0331-S, DO NOT AFFECT THE SUBJECT TRACT. NO OTHER RESTRICTIVE COVENANT RESEARCH WAS PERFORMED BY BOWMAN CONSULTING GROUP, LTD.

**TITLE COMMITMENT SCHEDULE "D" NOTES:**  
ONLY THOSE EASEMENTS LISTED IN TITLE COMMITMENT OF NO. 16-0331-S, EFFECTIVE OCTOBER 10, 2016, ISSUED OCTOBER 19, 2016, AND RE-LISTED BELOW WERE EVALUATED FOR THIS SURVEY. NO OTHER EASEMENT RECORD RESEARCH WAS PERFORMED BY BOWMAN CONSULTING GROUP, LTD.

**DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10a. SIGN LEASE AS SET OUT IN VOLUME 1228, PAGE 688, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10b. WATER LINE EASEMENT GRANTED TO ELM WATER COMPANY, AS RECORDED IN VOLUME 1228, PAGE 758, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10c. ELECTRIC UTILITY EASEMENT GRANTED TO PEDERNALES ELECTRIC COOPERATIVE, INC. VOL. 1484, PG. 811 & VOL. 1472, PG. 171, O.P.R.H.C.T.X.

**DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10d. PERMANENT DRAINAGE EASEMENT, LIS PENDES NOTICE HAYS COUNTY, TEXAS VOL. 2271, PG. 69, O.P.R.H.C.T.X.

**DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10e. ELECTRIC LINE EASEMENT GRANTED TO PEDERNALES ELECTRIC, AS RECORDED IN VOLUME 1472, PAGE 171, AND VOLUME 1484, PAGE 811, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES NOT AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10f. DRAINAGE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4389, PAGE 592, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10g. DRAINAGE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4677, PAGE 627, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES AFFECT THE SUBJECT TRACT AS SHOWN HEREON.**  
10h. WASTEWATER LINE EASEMENT GRANTED TO CITY OF SAN MARCOS, AS RECORDED IN VOLUME 4677, PAGE 635, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**DOES AFFECT THE SUBJECT TRACT.**  
10i. EASEMENT AS RECORDED IN VOLUME 5285, PAGE 106, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**LINE TABLE**

LINE #	BEARING	DISTANCE
L1	S 45°29'11" W	46.11'
[L1]	[N 45°59'49" E]	[46.08']
L2	S 36°50'33" E	111.52'
[L2]	[N 36°21'32" W]	[111.53']
L3	S 59°20'03" W	40.49'
[L3]	[S 59°49'47" W]	[40.49']
L4	S 62°00'33" W	70.00'
[L4]	[S 62°34'16" W]	[70.00']
L5	N 45°12'23" W	147.03'

**SURVEYOR'S CERTIFICATION**  
TO PURSUANT VENTURES DEVELOPMENT, LLC, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, PARTIES INVOLVED IN OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY'S TITLE COMMITMENT NO. 16-0331-S, EFFECTIVE OCTOBER 10, 2016, AND ISSUED OCTOBER 19, 2016:

I, GEORGE L. SANDERS, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY SHOWN HEREON DURING NOVEMBER AND DECEMBER 2016, UNDER MY DIRECTION AND SUPERVISION; THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT THERE ARE NO APPARENT ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS WITH THE DEEDS LISTED SHOWN EXCEPT AS SHOWN HEREON; THAT THERE ARE NO APPARENT DISCREPANCIES OR DEED LINE CONFLICTS WITH THE DEEDS SHOWN EXCEPT AS SHOWN HEREON; THAT THERE ARE NO VISIBLE UTILITY LINES EXCEPT AS SHOWN HEREON; AND THAT THIS PROPERTY ADJOINS A DEDICATED RIGHT-OF-WAY.

DATE: 1-4-2017  
  
 GEORGE L. SANDERS  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 NO. 1838 - STATE OF TEXAS



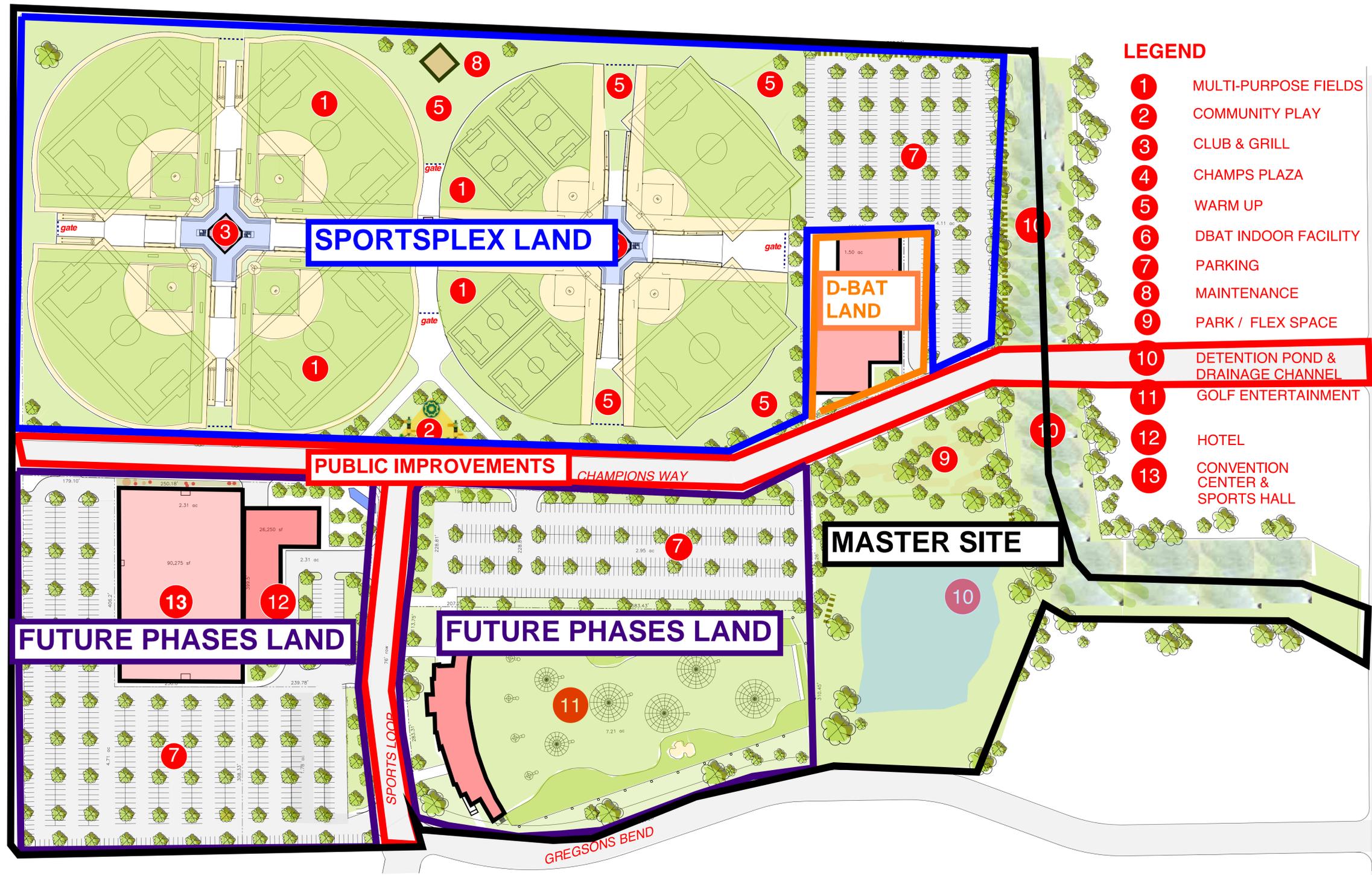
INTERSTATE HIGHWAY NO. 35  
(R.O.W. VARIES)

FILED: P:\010199 - S HCS of Centropark Rd San Marcos TX\010199-01-001 (S)R - S HCS of Centropark Rd San Marcos Texas	DATE: 12-05-16	DRAWN BY: EN	CHECKED BY: G.L.S.	CREW: CAF, CW, MK, BE, JD	FB #: 393, 397
	SCALE: 1"=120'	DRAWING: TITLE		PLAN #: 3557	
	JOB #: 070199				
NO.	REVISION	BY	DATE		

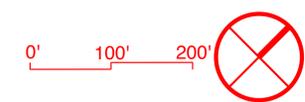


Bowman Consulting Group, Ltd.  
 1120 South Capital of Texas Hwy, Bldg 3, Suite 220, Austin, Texas 78746  
 Phone: (512) 327-1180 Fax: (512) 327-4062  
 www.bowmanconsulting.com Bowman Consulting Group, Ltd.  
 TBPE Firm No. F-14309 | TBPLS Firm No. 101206-00

**LAND TITLE SURVEY**  
 62.48 ACRES OUT OF THE EDWARD BURLESON  
 SURVEY NO. 18, ABSTRACT NO. 63,  
 HAYS COUNTY, TEXAS



- LEGEND**
- 1 MULTI-PURPOSE FIELDS
  - 2 COMMUNITY PLAY
  - 3 CLUB & GRILL
  - 4 CHAMPS PLAZA
  - 5 WARM UP
  - 6 DBAT INDOOR FACILITY
  - 7 PARKING
  - 8 MAINTENANCE
  - 9 PARK / FLEX SPACE
  - 10 DETENTION POND & DRAINAGE CHANNEL
  - 11 GOLF ENTERTAINMENT
  - 12 HOTEL
  - 13 CONVENTION CENTER & SPORTS HALL





## Legislation Text

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**File #:** Ord. 2020-10(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-10, on the second of two readings, annexing into the City approximately 30.5 acres of land, generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road; including procedural provisions; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** Planning and Development Services

**Amount & Source of Funding**

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

**Account Name:** NA

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Direct Growth, Compatible with Surrounding Uses

Neighborhoods & Housing - Diversified housing options to serve citizens with varying needs and interests

Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

This is a request for a voluntary annexation submitted by Vantage San Marcos on behalf of Mohnke Poor Farm, LLC, for approximately 31 +/- acres out of the J.F. Geister Survey, No 6 and No 7, Hays County, generally located on the east side of highway 123 between Monterrey Oak Drive and Old Bastrop Highway.

The City of San Marcos will provide water and wastewater services at the site. The developer will be responsible for extending water and wastewater facilities through the site. Bluebonnet Electric Cooperative will provide electric service for this development.

The City of San Marcos will provide Police, Fire, and EMS services to the site.

Below is a proposed schedule for this annexation, which complies with the Texas Local Government Code requirements:

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** March 3, 2020 (Approved)
- **City Council Ordinance 1st Reading (Public Hearing):** March 17, 2020 (Today)
- **City Council Ordinance 2nd Reading:** April 7, 2020

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

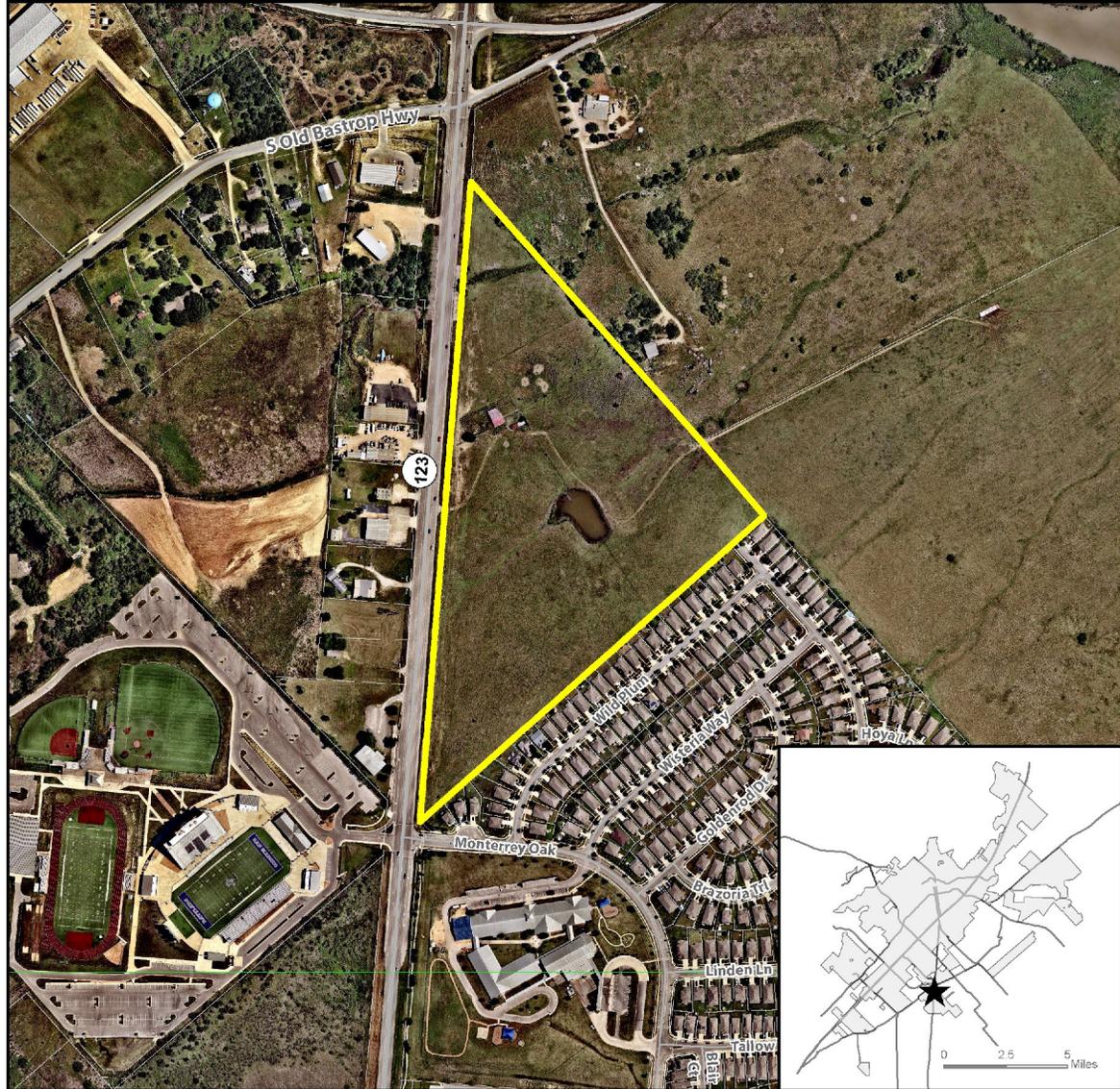
Staff recommends **approval** of the voluntary annexation request.

## AN-20-03 (Vantage San Marcos – Annexation)

Receive a Staff presentation and hold a Public hearing to receive comments for or against Ordinance 2020-XX, annexing into the City approximately 31 acres of land out of the J.F. Geister Survey, No. 6 & 7, generally located on the East Side of Highway 123, between Monterey Oak Drive and Old Bastrop Highway; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-XX, on the first of two readings.

**Context:**

- East side of Highway 123 between Old Bastrop Highway and Monterrey Oak Drive
- 31 acres
- Applicant proposes to develop property for single-family development (12.5 acres) and multifamily (18.5 acres) between Old Bastrop Highway and Monterrey Oak Drive.
- Service Plan (Attachment)



<ul style="list-style-type: none"> <li>★ Site Location</li> <li>▭ Subject Property</li> <li>▭ Parcel</li> <li>▭ City Limit</li> </ul>	<p>0 300 600 1,200          Feet</p> <p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.</p> <p>Map Date: 2/4/2020</p>
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## Annexation & Zoning Schedules:

\*This schedule reflects the new annexation schedule per Texas House Bill 347

### Annexation Schedule

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** March 3, 2020 (*Approved*)
  - **City Council Ordinance 1<sup>st</sup> Reading (Public Hearing):** March 17, 2020 (*Today*)
  - **City Council Ordinance 2<sup>nd</sup> Reading:** April 7, 2020
- 

### Zoning Schedule

- **Planning and Zoning Commission (Public Hearing):** February 25, 2020 (*Approved*)
- **City Council Ordinance 1<sup>st</sup> Reading (Public Hearing):** March 17, 2020 (*Today*)
- **City Council Ordinance 2<sup>nd</sup> Reading:** April 7, 2020

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ANNEXING INTO THE CITY APPROXIMATELY 30.5 ACRES OF LAND GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 123 BETWEEN OLD BASTROP ROAD AND MONTERREY OAK ROAD; INCLUDING PROCEDURAL PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS:**

1. The owner of approximately 30.5 acres of land generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road, as further described by metes and bounds in Exhibit "A," attached hereto and incorporated herein for all purposes (the "Property"), made a request for the City to annex the Property. A location map of the Property is also shown in Exhibit "A."
2. Said owner of the Property has declined the offer of a development agreement from the City concerning the Property.
3. The Owner and the City have entered into a written agreement for the provision of services to the Property.
4. The Property is contiguous and adjacent to the current boundaries of the City.
5. The City Council held a public hearing regarding the request.
6. The City Council hereby finds and determines that the adoption of the following ordinance is in the interest of the public health, morals, welfare and safety.

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

**SECTION 1.** The recitals of this ordinance are approved and adopted.

**SECTION 2.** The Property is annexed to and is a part of the City of San Marcos, Texas and subject to the acts, ordinances, resolutions and regulations of the City.

**SECTION 3.** Services to the Property will be provided under the terms of the written agreement for the provision of services entered into between the Owner and the City as noted in Recital 3.

**SECTION 4.** The corporate limits of the City are extended to include the Property.

**SECTION 5.** The inhabitants of the Property are entitled to all the rights and privileges of other citizens of the City, and are bound by the acts, ordinances, resolutions and regulations of

the City.

**SECTION 6.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 7.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 8.** This ordinance shall be effective upon its adoption on second reading.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

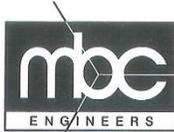
Approved:

Tammy K. Cook  
Interim City Clerk

Michael Cosentino  
City Attorney

# EXHIBIT "A"

## Property Description



MACINA • BOSE • COPELAND and ASSOCIATES, INC  
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302  
TBPE Firm Registration #784 | TBPLS Firm Registration #10011700 | SBE Certified #214046463  
www.mbcengineers.com

### METES AND BOUNDS DESCRIPTION TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT

BEING 12.43 ACRES (541,632 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 12.43 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

**COMMENCING** at a 1/2-inch Iron Rod found on the East Right-of-Way line of State Highway 123 and the Southeast Right-of-Way line of Old-Bastrop Highway and marking the Westernmost corner of a called 225.25 Acre Tract as described in deed recorded in Document number 18004464, of the Deed records of Hays County, Texas;

**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found marking the Northernmost corner of said 30.9 Acre Tract;

**THENCE** S 04° 24' 31" W a distance of 1506.69 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 85° 35' 29" E a distance of 127.50 feet departing the East Right-of-Way line of said State Highway 123, into and across said 30.9 Acre Tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the left;

**THENCE** along and with said curve to the left having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = N 71° 29' 57" E and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 48° 35' 24" E a distance of 607.78 feet to a 1/2-Inch Iron Rod with cap "MBC" on the West line of a called 100 Acre tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 310.02 feet along and with the West line of said 100 Acre tract, to a fence post Found and marking the Northernmost corner of Lot 1, Block F, Cottonwood Creek Phase I, Section 1-B, according the plat thereof recorded in Volume 14, Page 294 of the Map and Plat records of Hays County, Texas;

**THENCE** S 48° 35' 24" W a distance of 1674.24 feet along and with the Northwest line of said Cottonwood Creek Phase I, Section 1-B Subdivision, to a Fence Post Found on the East Right-of-Way of said State Highway 123 and marking the Southernmost corner of this tract;

**THENCE** N 04° 24' 31" E a distance of 813.01 feet along and with the East Right-of-Way line of said State Highway 123, to the **POINT OF BEGINNING** and containing 12.43 acres, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.

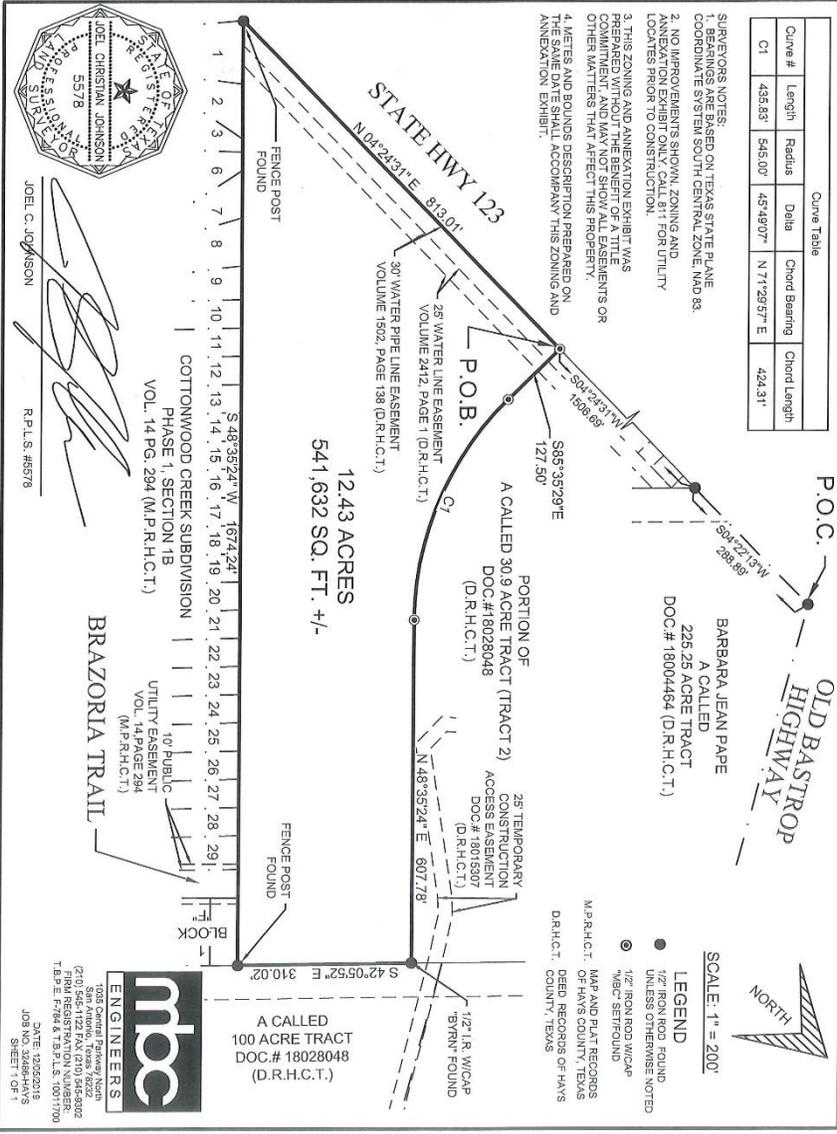
  
Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS

Curve Table					
Curve #	Length	Radius	Delta	Chord Bearing	Chord Length
C1	455.83'	545.00'	45°49'07"	N 71°29'57" E	424.31'

SURVEYORS NOTES:  
 1. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED IN ACCORDANCE WITH THE TEXAS PROFESSIONAL SURVEYING ACT AND THE TEXAS ZONING ACT.  
 2. AND IMPROVEMENTS SHOWN, ZONING AND ANNEXATION MATTERS THAT AFFECT THIS PROPERTY, LOCATES PRIOR TO CONSTRUCTION.  
 3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED IN ACCORDANCE WITH THE TEXAS PROFESSIONAL SURVEYING ACT AND THE TEXAS ZONING ACT.  
 4. LETTERS AND BOLDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.



JOEL CHRISTIAN JOHNSON  
 5578  
 R.P.L.G. #6578



**1035 Central Parkway, North**  
**HOUSTON, TEXAS 77060**  
 (210) 545-1122 FAX (210) 545-8082  
 FIRM REGISTRATION NUMBER:  
 T.E.B.E. P.924 8/13/11, L.S. 1007780



**METES AND BOUNDS DESCRIPTION  
TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

**COMMENCING** at a 1/2-inch Iron Rod found on the East Right-of-Way line of State Highway 123 and the Southeast Right-of-Way line of Old-Bastrop Highway and marking the Westernmost corner of a called 225.25 Acre Tract as described in deed recorded in Document number 18004464, of the Deed records of Hays County, Texas;

**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 41° 37' 44" E a distance of 811.88 feet, along and with the West line of said 225.25 Acre Tract and with the East line of this tract to a Fence Post Found;

**THENCE** S 41° 49' 45" E a distance of 440.41 feet, continuing along and with said 225.55 Acre Tract to a 1/2-Inch Iron Rod with cap "BYRN" Found and marking the Westernmost corner of a called 100 Acre Tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 54.41 feet along and with the West line of said 100 Acre tract, to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** S 48° 35' 24" W a distance of 607.78 feet departing the West line of said 100 Acre tract, into and across said 30.9 Acre tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the right;

**THENCE** along and with said curve to the right having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = S 71° 29' 57" W and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 85° 35' 29" W a distance of 127.50 feet to a 1/2-Inch Iron Rod with cap "MBC" Set on the East Right-of-Way line of said State Highway 123;

**THENCE** N 04° 24' 31" E a distance of 1506.69 feet along and with the East Right-of-Way line of said State Highway 123 to the **POINT OF BEGINNING** and containing 18.58 acres, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.



Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS



SCALE: 1" = 200'

- LEGEND**
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
  - ⊙ 1/2" IRON ROD W/CAP "MC" SET FOUND
  - M.P.R.: H.C.T.
  - DR. H.C.T.

Curve Table			
Curve #	Length	Radius	Delta
C1	435.83'	545.00'	45°49'07"
			Chord Bearing
			S 71°29'57" W
			Chord Length
			424.31'

OLD BASTROP HIGHWAY

P.O.C.

P.O.B.

25' WATER LINE EASEMENT  
VOLUME 1502, PAGE 138

WATER LINE EASEMENT  
VOLUME 205, PAGES 202-203

BARBARA JEAN PAPE  
A CALLED  
225.25 ACRE TRACT  
DOC # 18004464 (D.R.H.C.T.)

STATE HWY 123

18.58 ACRES  
809,506 SQ. FT. +/-

25' WATER LINE EASEMENT  
VOLUME 24-12, PAGE 1 (D.R.H.C.T.)

30' WATER PIPE LINE EASEMENT  
VOLUME 1502, PAGE 138 (D.R.H.C.T.)

60' RIGHT OF WAY RESERVATION  
VOLUME 355, PAGE 644

MATCH LINE

- SURVEYORS NOTES:  
1. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED BY M.P.R.: H.C.T. FOR THE CITY OF MARCOS, HAYS COUNTY, TEXAS. THE ZONING AND ANNEXATION EXHIBIT LOCATES PRIOR TO CONSTRUCTION.
2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION EXHIBIT LOCATES PRIOR TO CONSTRUCTION.
3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED BY M.P.R.: H.C.T. FOR THE CITY OF MARCOS, HAYS COUNTY, TEXAS. THE ZONING AND ANNEXATION EXHIBIT LOCATES PRIOR TO CONSTRUCTION.
4. METES AND BOUNDS DESCRIPTION PREFERRED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.



JOEL C. JOHNSON  
R.P.L.S. #5578

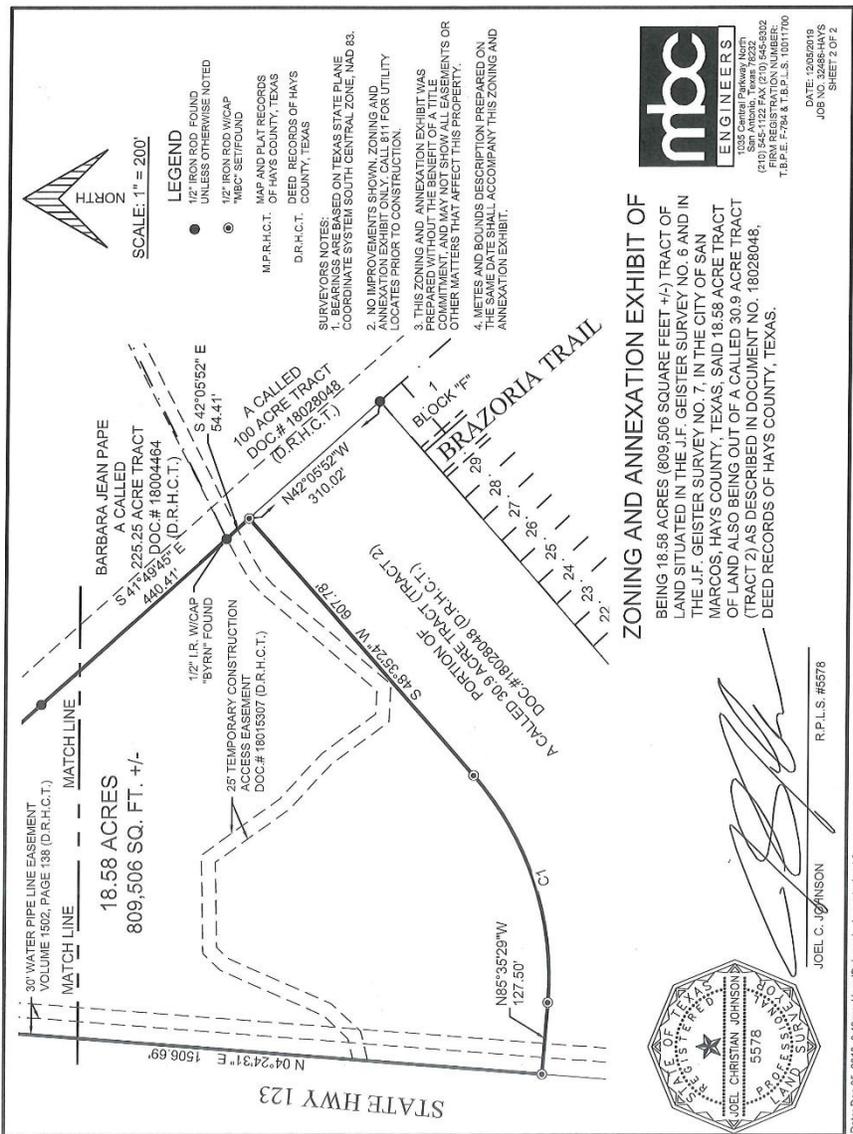
**ZONING AND ANNEXATION EXHIBIT OF**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT OF LAND ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS.



1036 Central Parkway North  
(210) 545-1222 FAX (210) 545-0002  
FIRM REGISTRATION NUMBER  
T.S.P.E. 19758 & T.S.P.L.S. 10011700

DATE: 12/05/2018  
JOB NO. 32465-HAYS  
SHEET 1 OF 2



SCALE: 1" = 200'

- LEGEND**
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
  - 1/2" IRON ROD W/CAP "MBC" SET/FOUND
  - MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
  - DEED RECORDS OF HAYS COUNTY, TEXAS

**SURVEYORS NOTES:**

1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH, CENTRAL ZONE, NAD 83.
2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION EXHIBIT ONLY. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.
3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.
4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

**ZONING AND ANNEXATION EXHIBIT OF**  
 BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT OF LAND ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS.

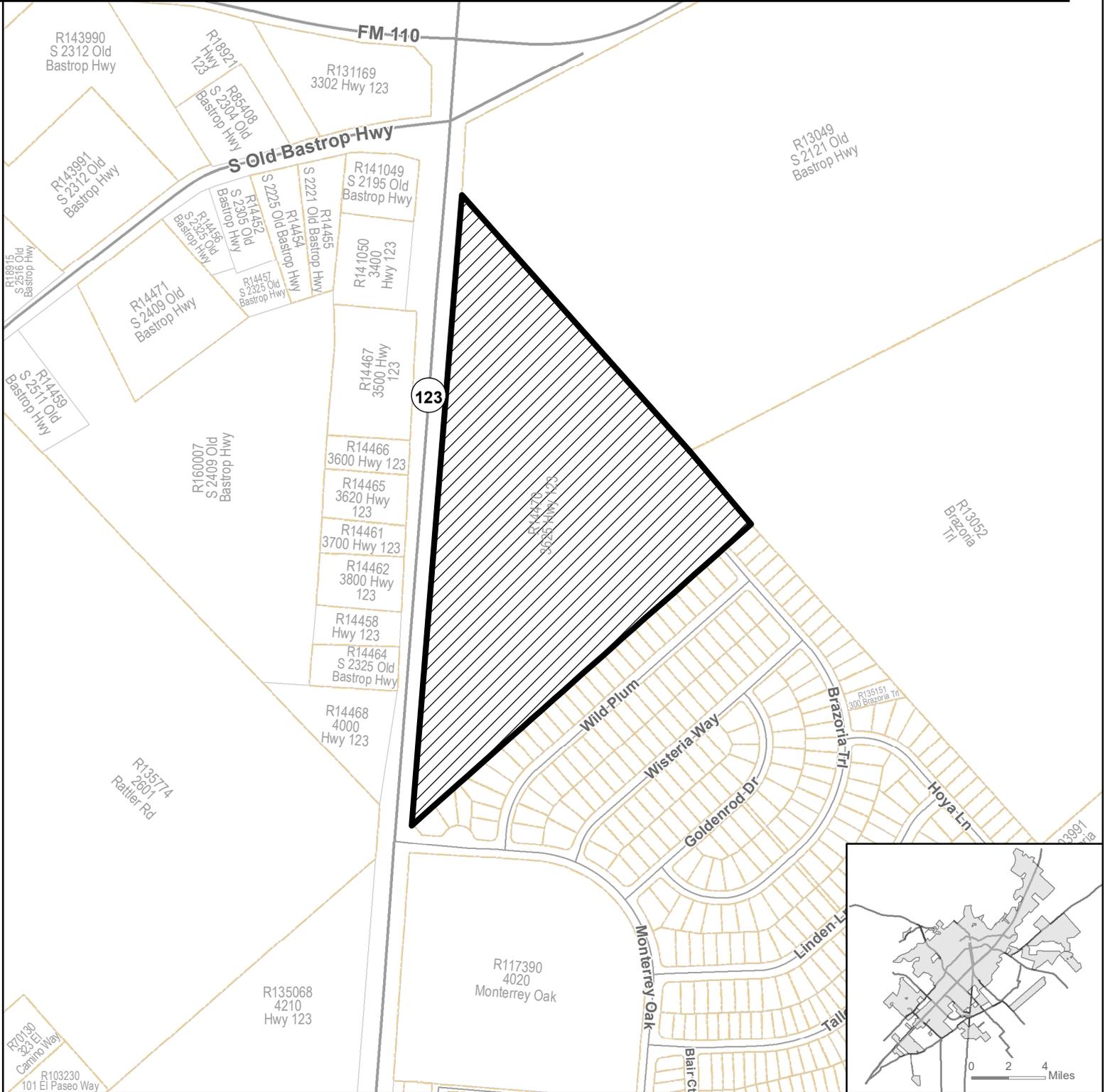


JOEL C. JOHNSON  
 R.P.L.S. #5578



DATE: 12/28/2019  
 JOB NO.: 19028048  
 SHEET 2 OF 2

# AN-20-03 Location Map Annexation — 3625 Highway 123

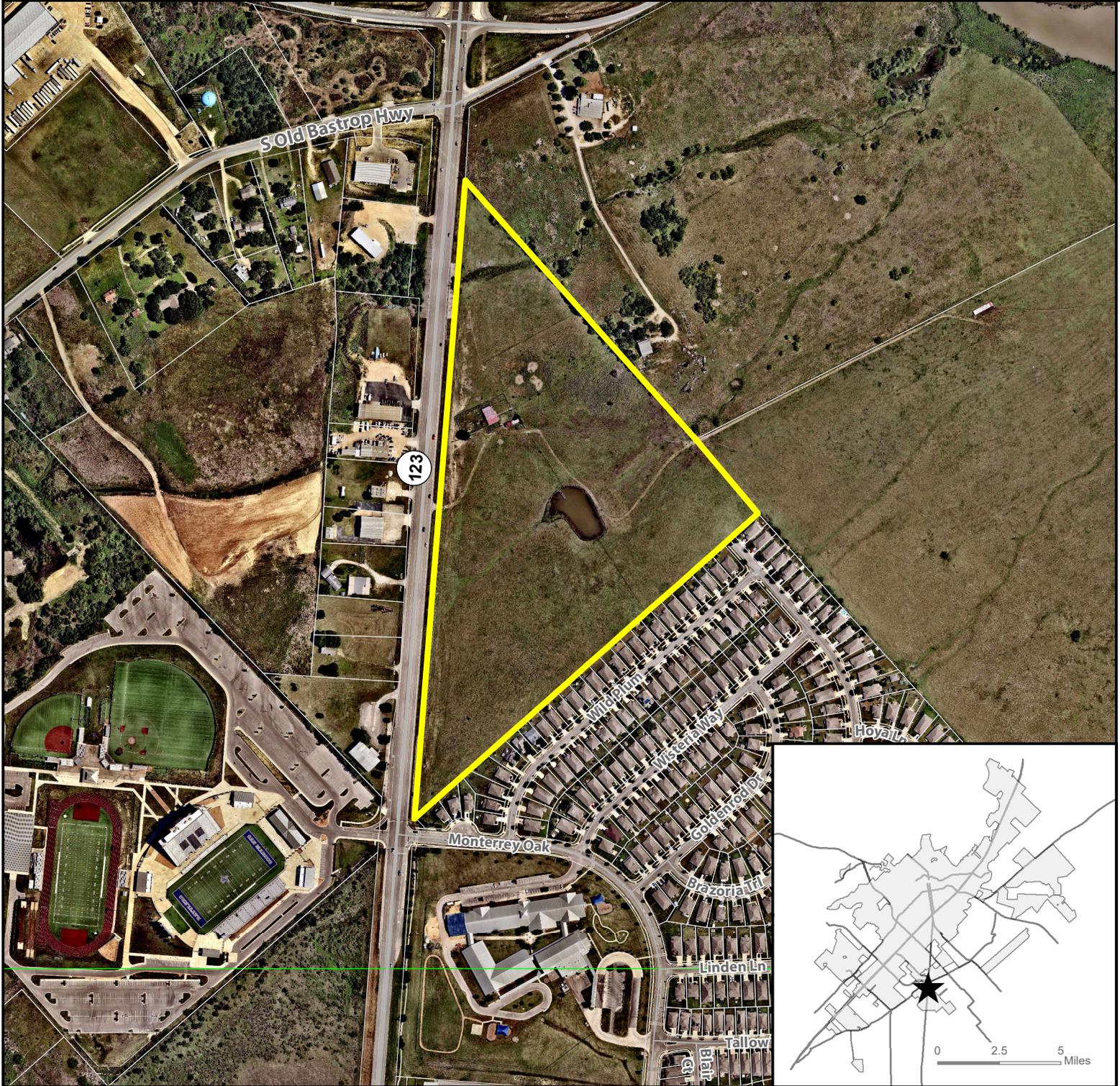


<ul style="list-style-type: none"> <li> <b>Site Location</b></li> <li> <b>Subject Property</b></li> <li> <b>400' Buffer</b></li> <li> <b>Parcel</b></li> <li> <b>City Limit</b></li> </ul>	<p>0    300    600    1,200 Feet</p>
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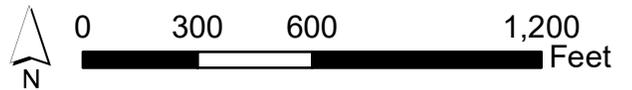
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/4/2020

# AN-20-03 Aerial View Annexation — 3625 Highway 123



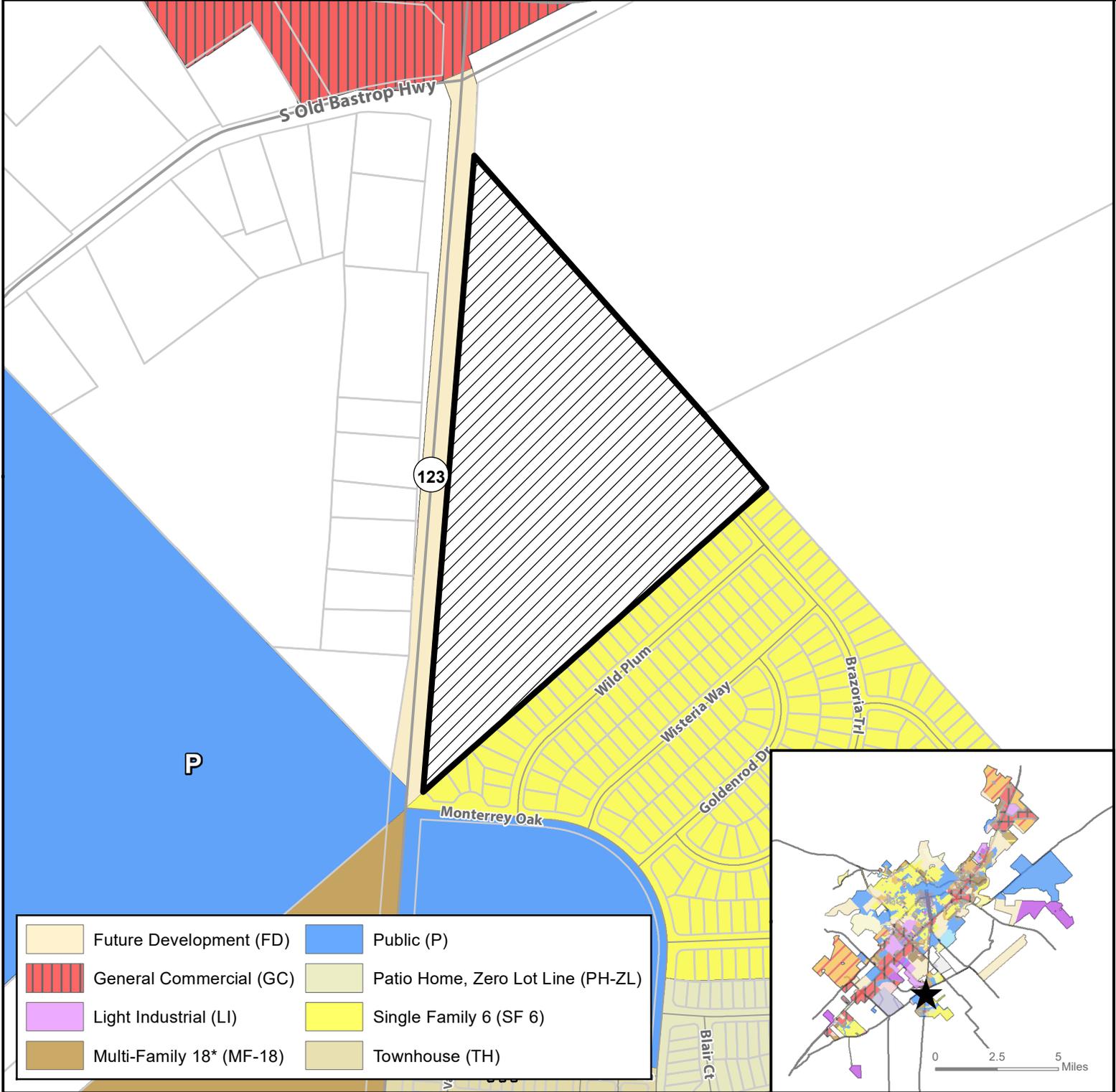
- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



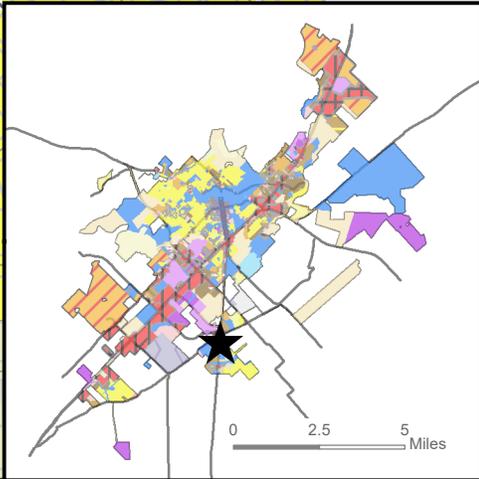
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Map Date: 2/4/2020

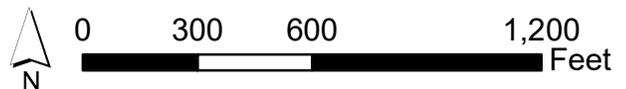
# AN-20-03 Existing Zoning Map Annexation — 3625 Highway 123



	Future Development (FD)		Public (P)
	General Commercial (GC)		Patio Home, Zero Lot Line (PH-ZL)
	Light Industrial (LI)		Single Family 6 (SF 6)
	Multi-Family 18* (MF-18)		Townhouse (TH)



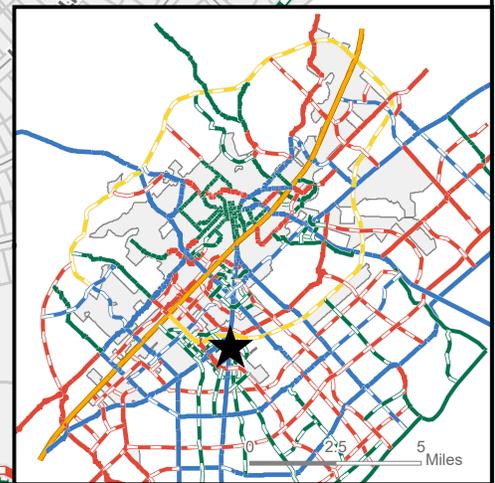
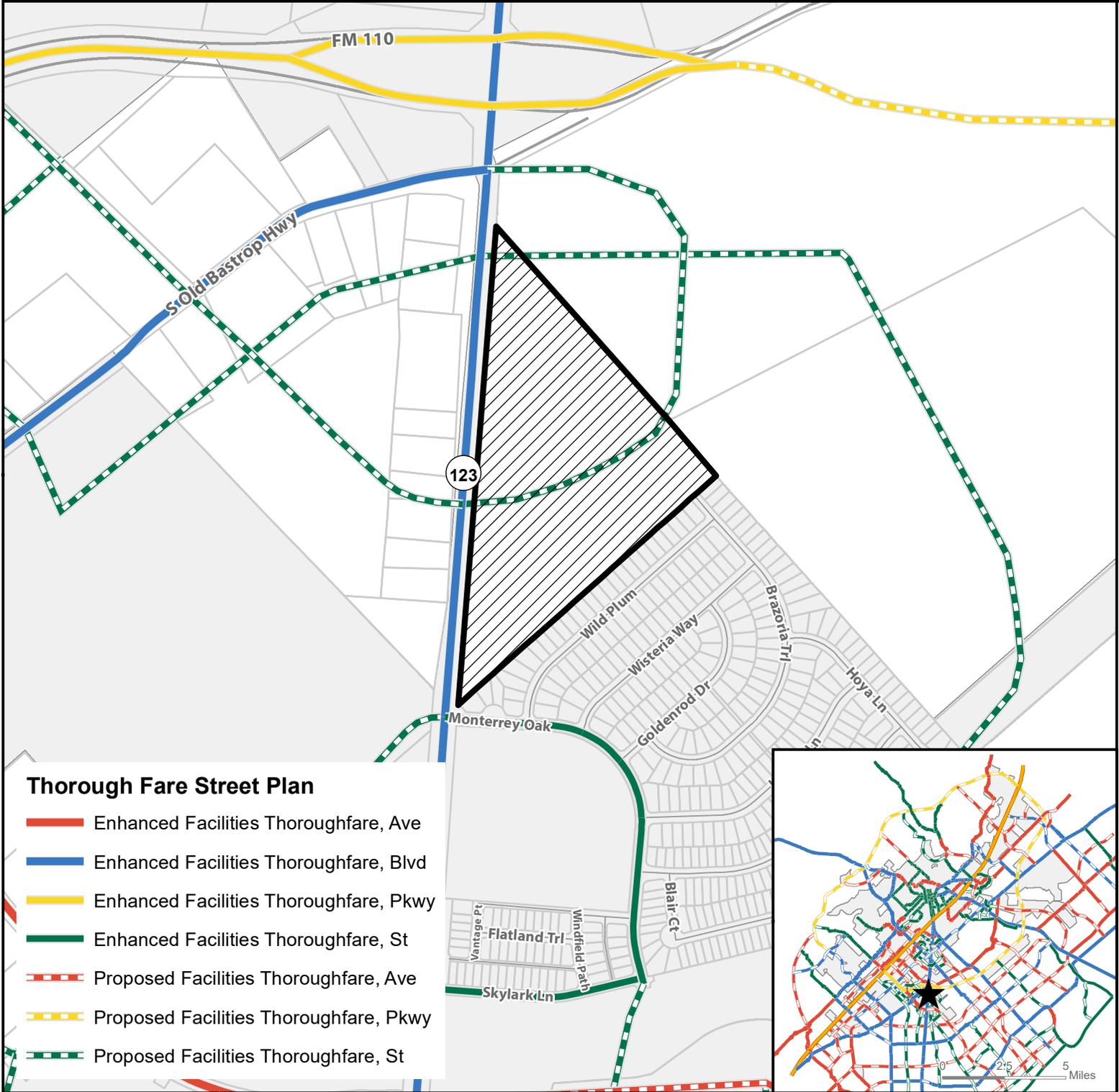
-  **Site Location**
-  **Subject Property**
-  **Parcels**
-  **City Limit**



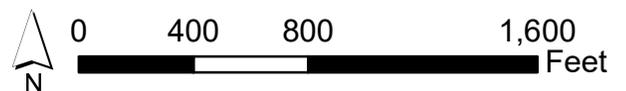
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Map Date: 2/4/2020

# AN-20-03 Transportation Master Plan Annexation — 3625 Highway 123



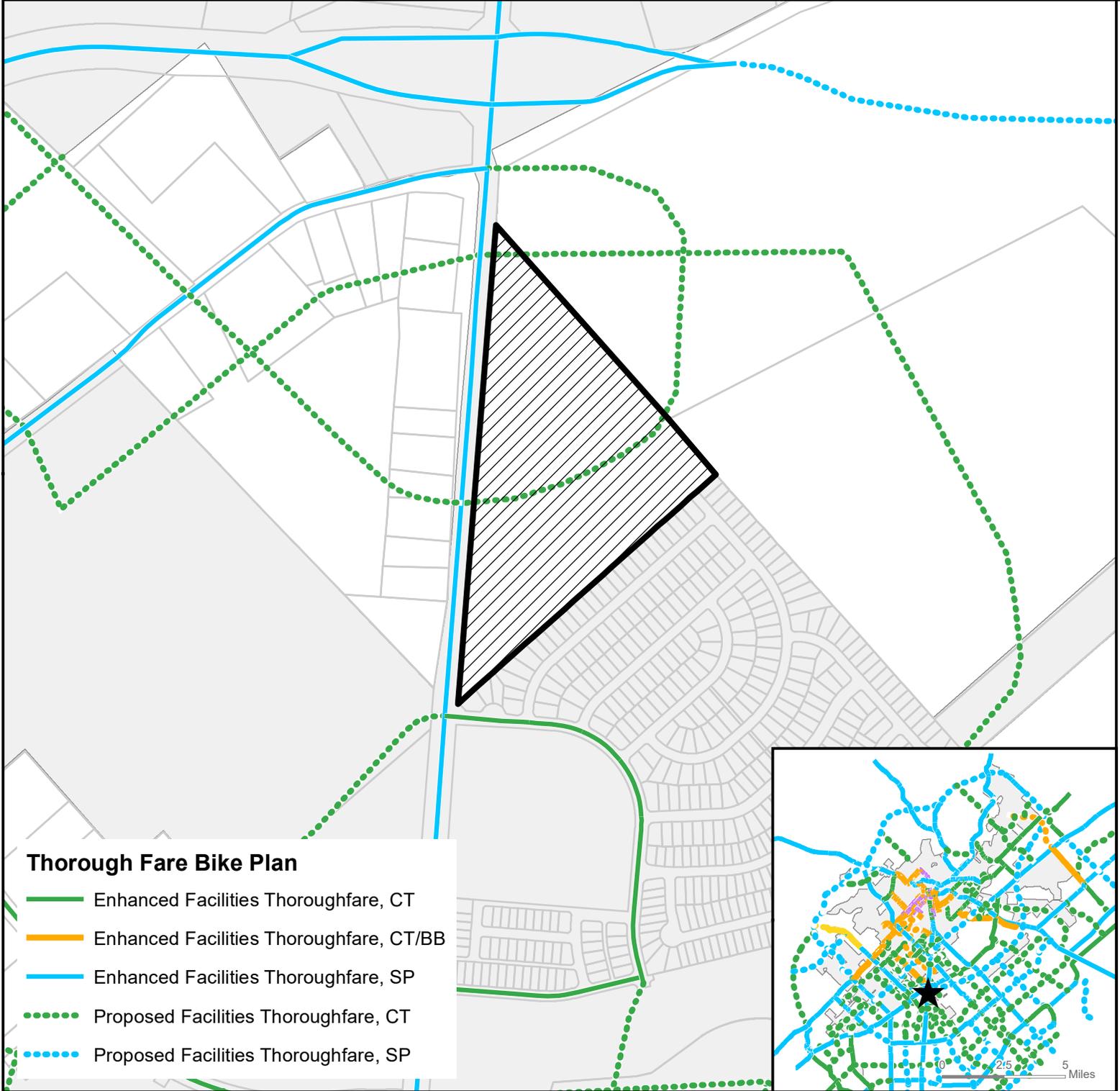
- ★ Site Location
- ▨ Subject Property
- Parcels
- City Limit



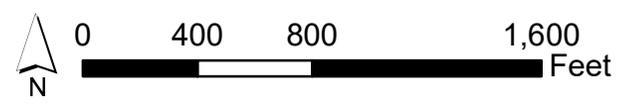
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/4/2020

# AN-20-03 Transportation Master Plan - Bike Facilities Annexation — 3625 Highway 123



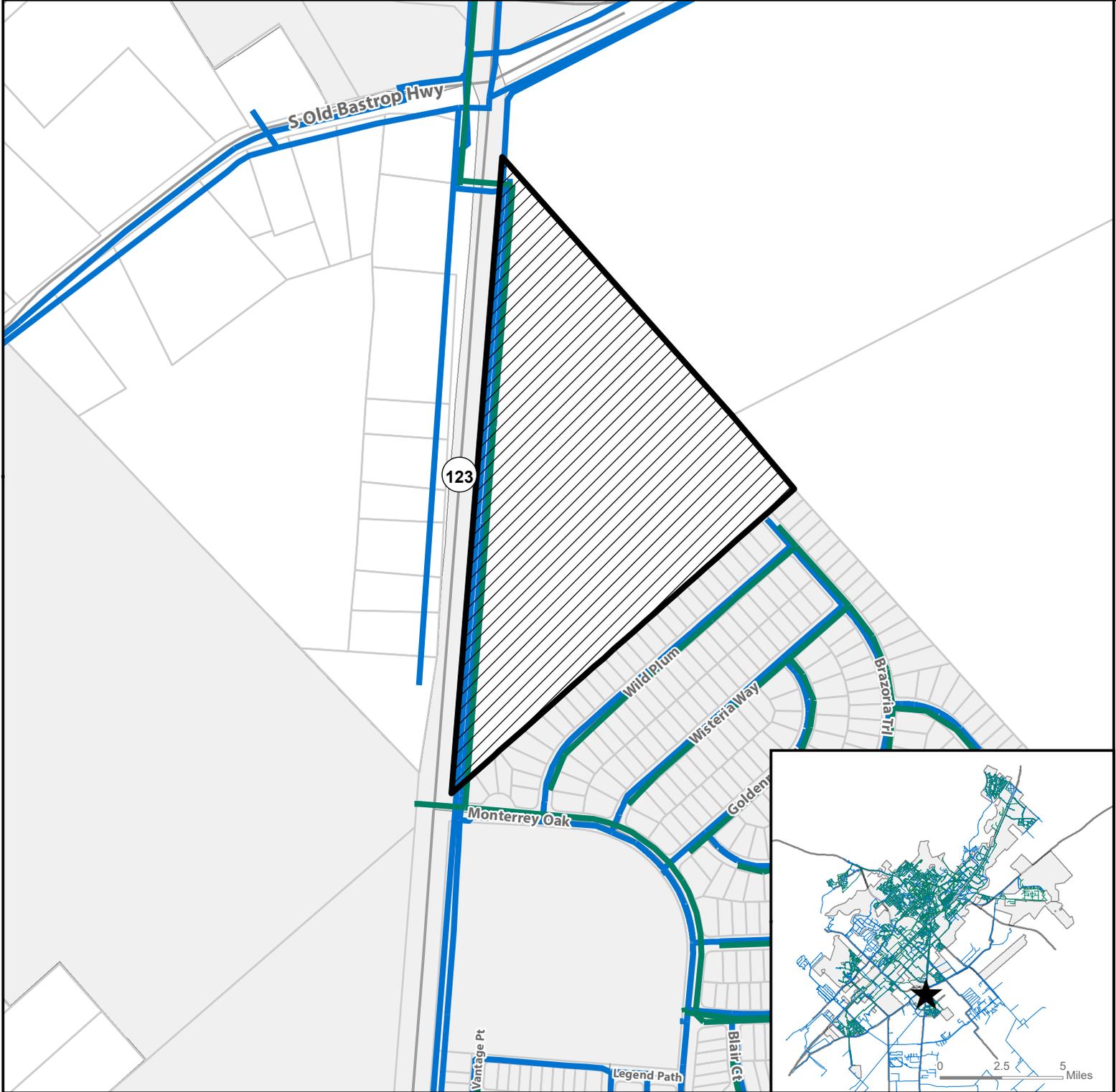
- ★ **Site Location**
- ▨ **Subject Property**
- **Parcels**
- **City Limit**



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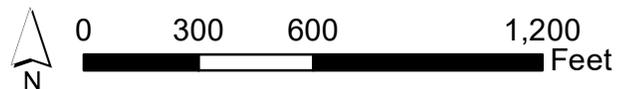
Map Date: 2/4/2020

# AN-20-03 Water/Wastewater Lines Annexation — 3625 Highway 123



- ★ Site Location
- ▨ Subject Property
- Parcels
- City Limit

- Sanitary Main
- Water Main



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Map Date: 2/4/2020

## AGREEMENT FOR THE PROVISION OF SERVICES

(Pursuant to Tex. Local Gov't Code §43.0672)

**Date:** March 3, 2020

**Owner:** Mohnke Poor Farm LLC, 540 Mission Valley Road, New Braunfels, TX 78132

**City:** City of San Marcos, Texas, a home rule municipal corporation, 630 East Hopkins Street, San Marcos, Texas 78666

**Property:** As described in Exhibit A.

---

1. The Owner has petitioned the City and the City has elected to annex the Property into the corporate limits of the City. Pursuant to Tex. Local Gov't Code §43.0672, the Owner and the City enter this agreement (the "Agreement") for the provision of services to the Property when annexed.

2. By this Agreement, the Owner affirms its consent to such annexation of the Property by the City and that Owner does not wish to enter into and has declined the offer from the City of a development agreement under Sections 43.016 and 212.172 of the Texas Local Government Code.

3. In consideration of the mutual benefits to the Owner and the City arising from the annexation of the Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the City enter into this Agreement and agree that services to the Property will be provided as described in Exhibit B.

4. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in state courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

5. If any word, phrase, clause, sentence, or paragraph of this Agreement is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this Agreement will continue in force if they can be given effect without the invalid portion.

6. This Agreement shall be binding upon Owner, and Owner's heirs, successors and assigns, and all future owners of all or any portion of the Property.

7. This Agreement will become effective as of the date an ordinance annexing the Property is finally passed, approved and adopted by the City's city council (the Effective Date).

[SIGNATURES ON NEXT PAGE]

**CITY:**

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

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

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

**ACKNOWLEDGMENT**

STATE OF TEXAS           §

                                  §

COUNTY OF HAYS         §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, \_\_\_\_\_ of the City of San Marcos, in such capacity, on behalf of said municipality.

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

**OWNER:**  
**Mohnke Poor Farm LLC**

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

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

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

**ACKNOWLEDGMENT**

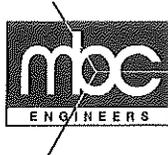
STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ of Mohnke Poor Farm, LLC, in such capacity on behalf of said entity.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

**EXHIBIT A-PROPERTY DESCRIPTION**  
**[FOLLOWING PAGES]**



MACINA • BOSE • COPELAND and ASSOCIATES, INC  
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302  
TILE Firm Registration #704 1 TILES Firm Registration #10011700 1 SBE Certified #214016163  
www.mbcengineers.com

**METES AND BOUNDS DESCRIPTION  
TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT**

BEING 12.43 ACRES (541,632 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 12.43 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

COMMENCING at a 1/2-inch Iron Rod found on the East Right-of-Way line of State Highway 123 and the Southeast Right-of-Way line of Old-Bastrop Highway and marking the Westernmost corner of a called 225.25 Acre Tract as described in deed recorded in Document number 18004464, of the Deed records of Hays County, Texas;

**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found marking the Northernmost corner of said 30.9 Acre Tract;

**THENCE** S 04° 24' 31" W a distance of 1506.69 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 85° 35' 29" E a distance of 127.50 feet departing the East Right-of-Way line of said State Highway 123, into and across said 30.9 Acre Tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the left;

**THENCE** along and with said curve to the left having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = N 71° 29' 57" E and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 48° 35' 24" E a distance of 607.78 feet to a 1/2-Inch Iron Rod with cap "MBC" on the West line of a called 100 Acre tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 310.02 feet along and with the West line of said 100 Acre tract, to a fence post Found and marking the Northernmost corner of Lot 1, Block F, Cottonwood Creek Phase I, Section 1-B, according the plat thereof recorded in Volume 14, Page 294 of the Map and Plat records of Hays County, Texas;

**THENCE** S 48° 35' 24" W a distance of 1674.24 feet along and with the Northwest line of said Cottonwood Creek Phase I, Section 1-B Subdivision, to a Fence Post Found on the East Right-of-Way of said State Highway 123 and marking the Southernmost corner of this tract;

**THENCE** N 04° 24' 31" E a distance of 813.01 feet along and with the East Right-of-Way line of said State Highway 123, to the **POINT OF BEGINNING** and containing 12.43 acres, more or less as surveyed by Mucina, Bose, Copeland, and Associates, Inc.

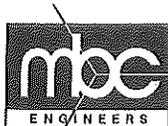
Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.

  
Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS





MACINA • BOSE • COPELAND and ASSOCIATES, INC  
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302

THE Firm Registration #784 | TSPS Firm Registration #10011700 | SBE Certified #214016463  
www.mbcengineers.com

**METES AND BOUNDS DESCRIPTION  
TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

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**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 41° 37' 44" E a distance of 811.88 feet, along and with the West line of said 225.25 Acre Tract and with the East line of this tract to a Fence Post Found;

**THENCE** S 41° 49' 45" E a distance of 440.41 feet, continuing along and with said 225.55 Acre Tract to a 1/2-Inch Iron Rod with cap "BYRN" Found and marking the Westernmost corner of a called 100 Acre Tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 54.41 feet along and with the West line of said 100 Acre tract, to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** S 48° 35' 24" W a distance of 607.78 feet departing the West line of said 100 Acre tract, into and across said 30.9 Acre tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the right;

**THENCE** along and with said curve to the right having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = S 71° 29' 57" W and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 85° 35' 29" W a distance of 127.50 feet to a 1/2-Inch Iron Rod with cap "MBC" Set on the East Right-of-Way line of said State Highway 123;

THENCE N 04° 24' 31" E a distance of 1506.69 feet along and with the East Right-of-Way line of said State Highway 123 to the POINT OF BEGINNING and containing 18.58 acres, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.



Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS



J.C. JOHNSON  
R.P.L.S. 48578

J.C. JOHNSON  
R.P.L.S. 48578

Date: Oct 05, 2018 8:42am User: J.C. Johnson Layout: Sheet 2  
 Project: 1809506 - Survey to San Marcos Water Utility District Tract 1 & 2 (809.506 Acres) Sheet 2

OLD BASTROP  
HIGHWAY

Curve #	Length	Radius	Delta	Chord Bearing	Chord Length
C1	455.83'	545.00'	45°49'07"	S 71°29'57" W	424.31'

SCALE: 1" = 200'

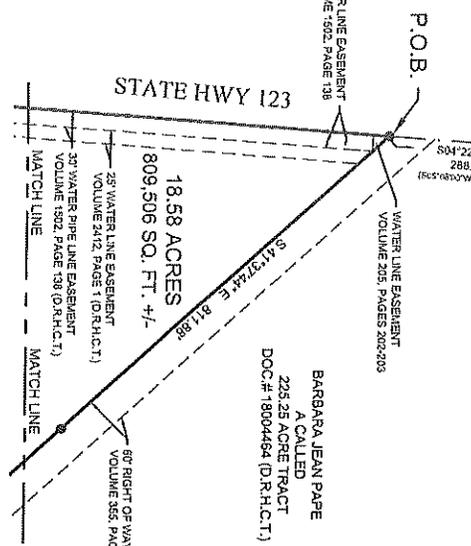
NORTH

**LEGEND**

- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- ⊗ 1/2" IRON ROD W/ CAP
- ⊙ "ABC" SETTING
- MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
- DEED RECORDS OF HAYS COUNTY, TEXAS

**SURVEYOR'S NOTES:**

1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION EXHIBIT ONLY. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.
3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SURVEY AND SHOULD NOT BE USED FOR SETTLEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.
4. METERS AND BOUNDS DESCRIPTION PREPARED ON THIS EXHIBIT. ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.



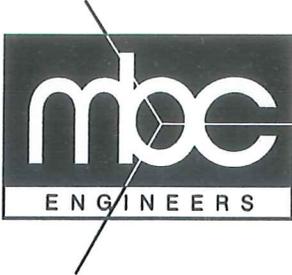
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**mbc ENGINEERS**  
 1345 Capital Parkway, Suite 100  
 San Antonio, Texas 78203  
 (210) 349-1234  
 TX REG. REGISTRATION NUMBER: 178 P.E. 7704 & 178 P.L.S. 1501778

DATE: 10/05/2018  
 JOB NO.: 1809506  
 SHEET 1 OF 2





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Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS

Curve Table			
Curve #	Length	Radius	Delta
C1	435.83'	545.00'	45°49'07"
			N 71°29'57" E
			424.31'

**SURVEYORS NOTES:**  
 1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.

2. NO IMPROVEMENTS SHOWN. ZONING AND ANNEXATION EXHIBIT ONLY. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.

3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.

4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

**P.O.C.**  
 OLD BASTROP HIGHWAY

BARBARA JEAN PAPE  
 A CALLED  
 225.25 ACRE TRACT  
 DOC.# 18004464 (D.R.H.C.T.)

PORTION OF  
 A CALLED 30.9 ACRE TRACT (TRACT 2)  
 DOC.# 18028048  
 (D.R.H.C.T.)

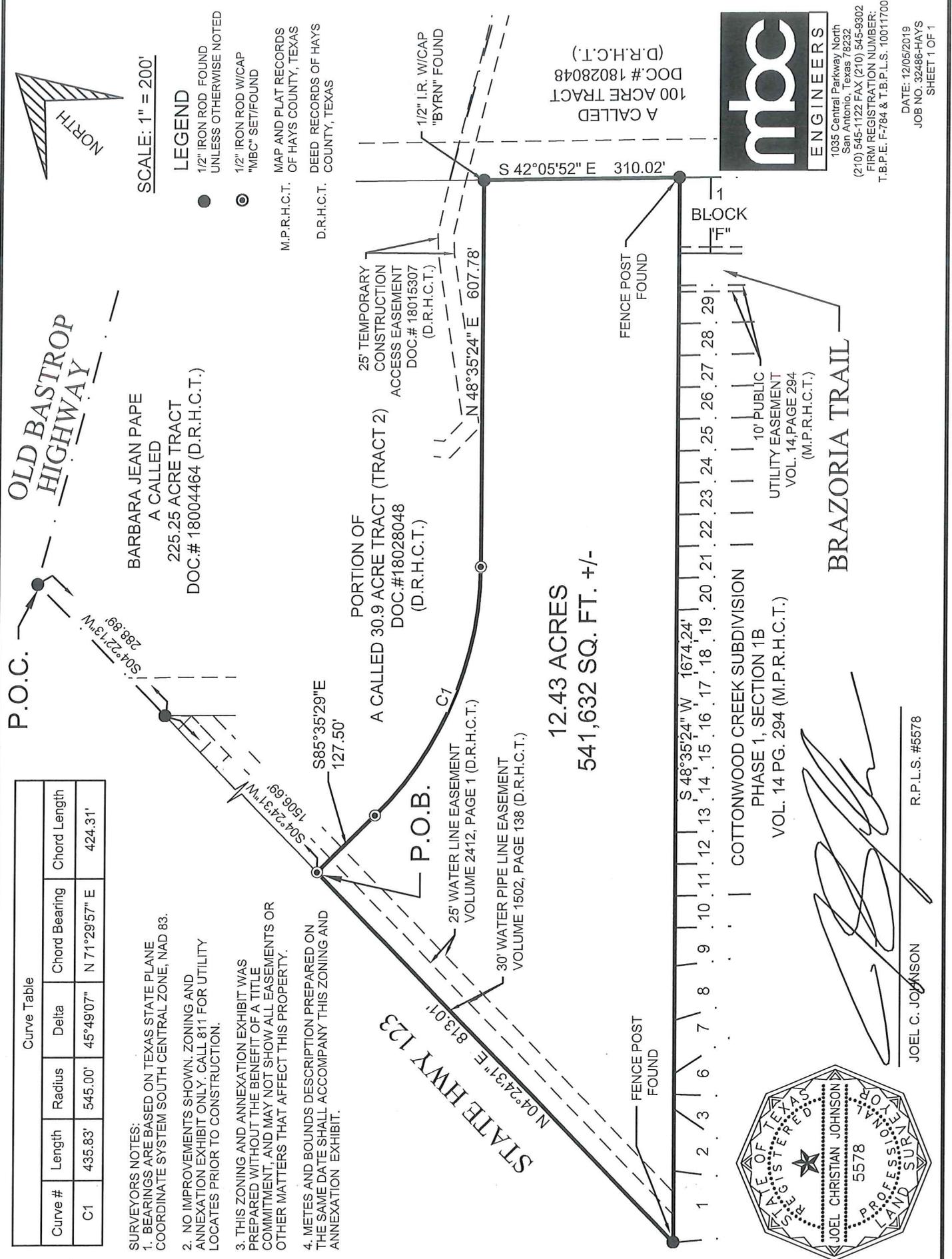
**12.43 ACRES**  
**541,632 SQ. FT. +/-**



*[Signature]*  
 JOEL C. JOHNSON  
 R.P.L.S. #5578



1035 Central Parkway North  
 San Antonio, Texas 78232  
 (210) 545-1122 FAX (210) 545-9302  
 FIRM REGISTRATION NUMBER:  
 T.B.P.E. F-784 & T.B.P.L.S. 10011700  
 DATE: 12/05/2019  
 JOB NO. 32486-HAYS  
 SHEET 1 OF 1

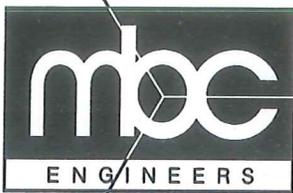


SCALE: 1" = 200'

**LEGEND**

- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- ⊙ 1/2" IRON ROD W/CAP "MBC" SET/FOUND
- MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
- M.P.R.H.C.T.
- D.R.H.C.T.
- DEED RECORDS OF HAYS COUNTY, TEXAS





**METES AND BOUNDS DESCRIPTION  
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Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS

OLD BASTROP  
HIGHWAY

P.O.C.

P.O.B.

S04°22'13"W  
288.89'  
(S05°08'00"W 288.86')

Curve Table					
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- MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
- M.P.R.H.C.T. DEED RECORDS OF HAYS COUNTY, TEXAS
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BARBARA JEAN PAPE  
A CALLED  
225.25 ACRE TRACT  
DOC.# 18004464 (D.R.H.C.T.)

WATER LINE EASEMENT  
VOLUME 205, PAGES 202-203

25' WATER LINE EASEMENT  
VOLUME 1502, PAGE 138

STATE HWY 123

18.58 ACRES  
809,506 SQ. FT. +/-

25' WATER LINE EASEMENT  
VOLUME 2412, PAGE 1 (D.R.H.C.T.)

30' WATER PIPE LINE EASEMENT  
VOLUME 1502, PAGE 138 (D.R.H.C.T.)

60' RIGHT OF WAY RESERVATION  
VOLUME 355, PAGE 644

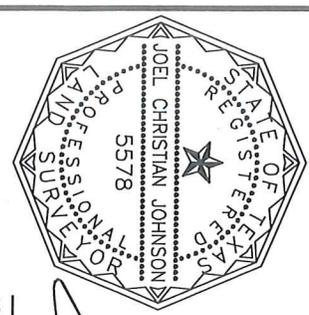
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DATE: 12/05/2019  
JOB NO. 32486-HAYS  
SHEET 1 OF 2



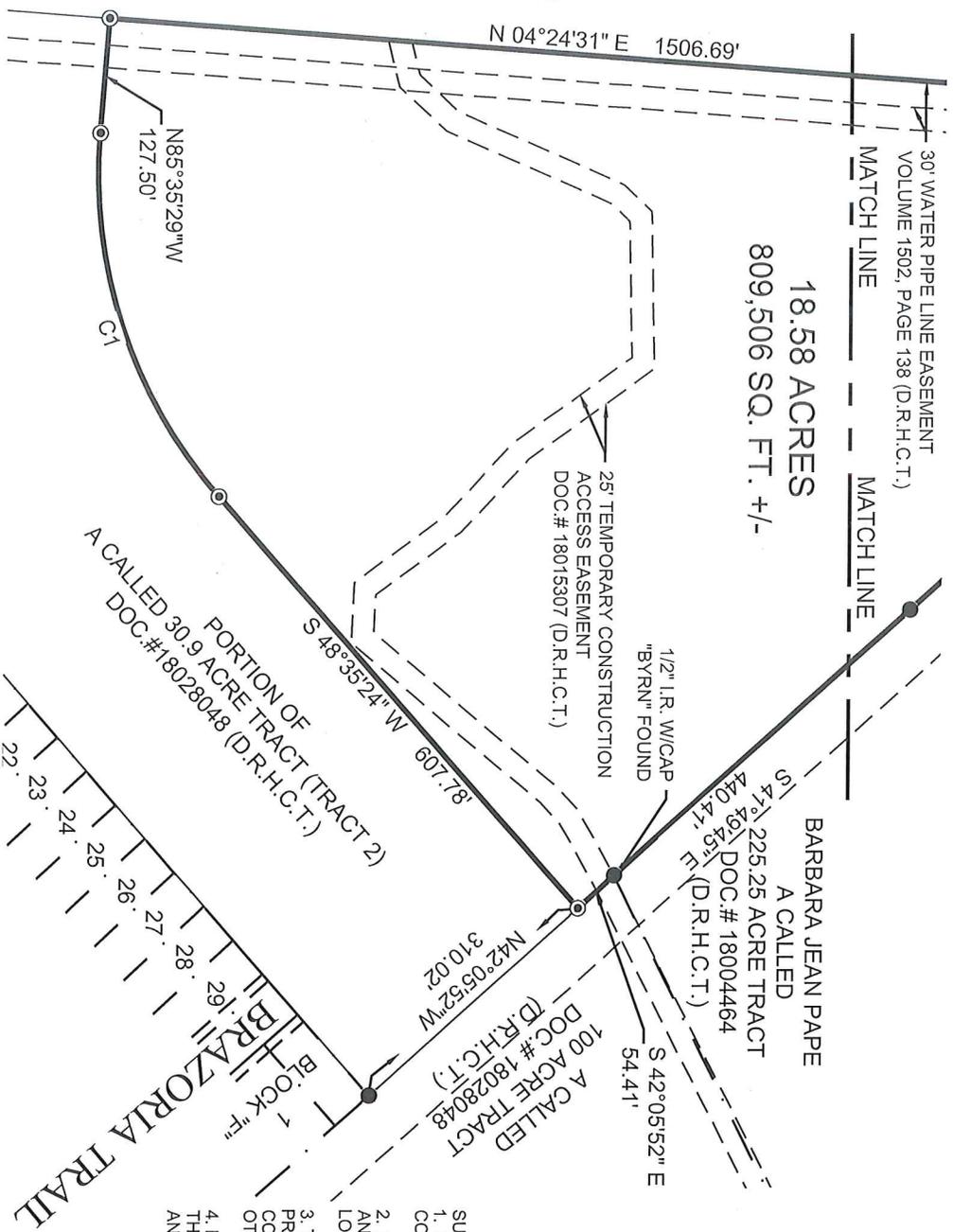
JOEL C. JOHNSON

R.P.L.S. #5578

30' WATER PIPE LINE EASEMENT  
VOLUME 1502, PAGE 138 (D.R.H.C.T.)

18.58 ACRES  
809,506 SQ. FT. +/-

STATE HWY 123



SCALE: 1" = 200'

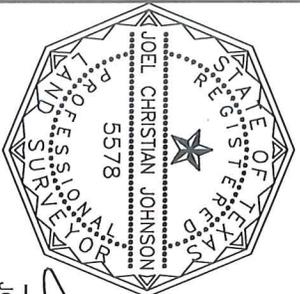
**LEGEND**

- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- ⊙ 1/2" IRON ROD W/CAP "MBC" SET/FOUND
- M.P.R.H.C.T. MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
- D.R.H.C.T. DEED RECORDS OF HAYS COUNTY, TEXAS

- SURVEYORS NOTES:**
1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
  2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION EXHIBIT ONLY. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.
  3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.
  4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

**ZONING AND ANNEXATION EXHIBIT OF**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT OF LAND ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS.



JOEL C. JOHNSON

R.P.L.S. #5578



1035 Central Parkway North  
San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302  
FIRM REGISTRATION NUMBER:  
T.B.P.E. F-784 & T.B.P.L.S. 100117100

DATE: 12/05/2019  
JOB NO. 32486-HAYS  
SHEET 2 OF 2

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### OWNER'S CONSENT TO ANNEXATION OF LAND

**Date:** February 3, 2020

**City:** City of San Marcos, Texas, a home rule municipal corporation

**Owner:** Mohnke Poor Farm LLC, 540 Mission Valley Road New Braunfels TX 78132

**Property:** 31 acres, more or less, of land area in the J.F. Geister Survey No. 6 and No. 7  
Hays County, Texas

---

Owner petitioned the City to initiate proceedings to annex the Property. Owner acknowledges and agrees that, in connection with annexation of the Property:

1. Owner does not wish to enter into a development agreement with the City under Section 212.172 and has declined the offer by the City of such a development agreement.

2. Unless specifically authorized by a written agreement with Owner approved by the City Council under applicable ordinances, the City has no obligation to extend water, wastewater, or electric utility services, roads, or other infrastructure to the Property at the City's expense, and the City has made no offers, representations or promises that the City will, at the City's expense, extend water, wastewater, or electric utility services, roads, or other infrastructure to the Property. Such extensions to the Property shall be made available in the same manner and on the same basis as available to other areas of the City, whereby it shall be Owner's sole obligation, and at Owner's sole expense, to construct and install all infrastructure necessary to extend such services to the Property under applicable ordinances.

3. Owner waives any and all rights of Owner to assert any claim or demand, or to file suit against, and covenants not to sue, the City on the basis that the annexation of the Property by the City is invalid, void or voidable, in whole or in part.

4. This instrument is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings concerning this instrument shall lie in State courts having jurisdiction located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

5. If any word, phrase, clause, sentence,

or paragraph of this instrument is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this instrument will continue in force if they can be given effect without the invalid portion.

**6.** This instrument may be recorded in the Official Public Records of the County or Counties in which the Property is located and is binding on Owner's successors, heirs and assigns, and any future owners of the Property.

[SIGNATURE(S) ON NEXT PAGE]



**DECLINATION OF OFFER OF DEVELOPMENT AGREEMENT**

The attached Development Agreement was offered by the City of San Marcos to the owner of the property subject to the following application/petition (check one):

Out of City Utility Connection of Extension Application

Petition for Annexation (without OCU Request)

By signing below, the owner of the subject property declines the offer to enter into such Development Agreement.

**OWNER (Entity):**

By: Mohnke Poor Farm LLC  
Name: Lora Ann Chafin Lora Ann Chafin  
Title: Managing Member  
Date: December 31, 2019



## Legislation Text

---

**File #:** Ord. 2020-12(b), **Version:** 1

---

**AGENDA CAPTION:**

Consider approval of Ordinance 2020-12, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 18.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from “FD” Future Development District to “CD-4” Character District 4; and including procedural provisions.

**Meeting date:** April 7, 2020

**Department:** Planning and Development Services

**Amount & Source of Funding**

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

**Account Name:** NA

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Direct Growth, Compatible with Surrounding Uses

Neighborhoods & Housing - Diversified housing options to serve citizens with varying needs and interests

Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

This property is located within the San Marcos Extraterritorial Jurisdiction (ETJ) and is adjacent to approximately 12.5 acres that the same developer is requesting to zone to Character District - 3 (CD-3). This request is to zone approximately 18.5 acres to Character District 4 (CD-4), which is primarily a residential zoning district that allows for one and two family dwellings, apartments, and limited commercial development.

**Council Committee, Board/Commission Action:**

The Planning and Zoning Commission heard this request at their regular meeting on February 25, 2020, and recommended approval of the request by a vote of 5 to 3.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff has reviewed the request and recommends **approval** as submitted.

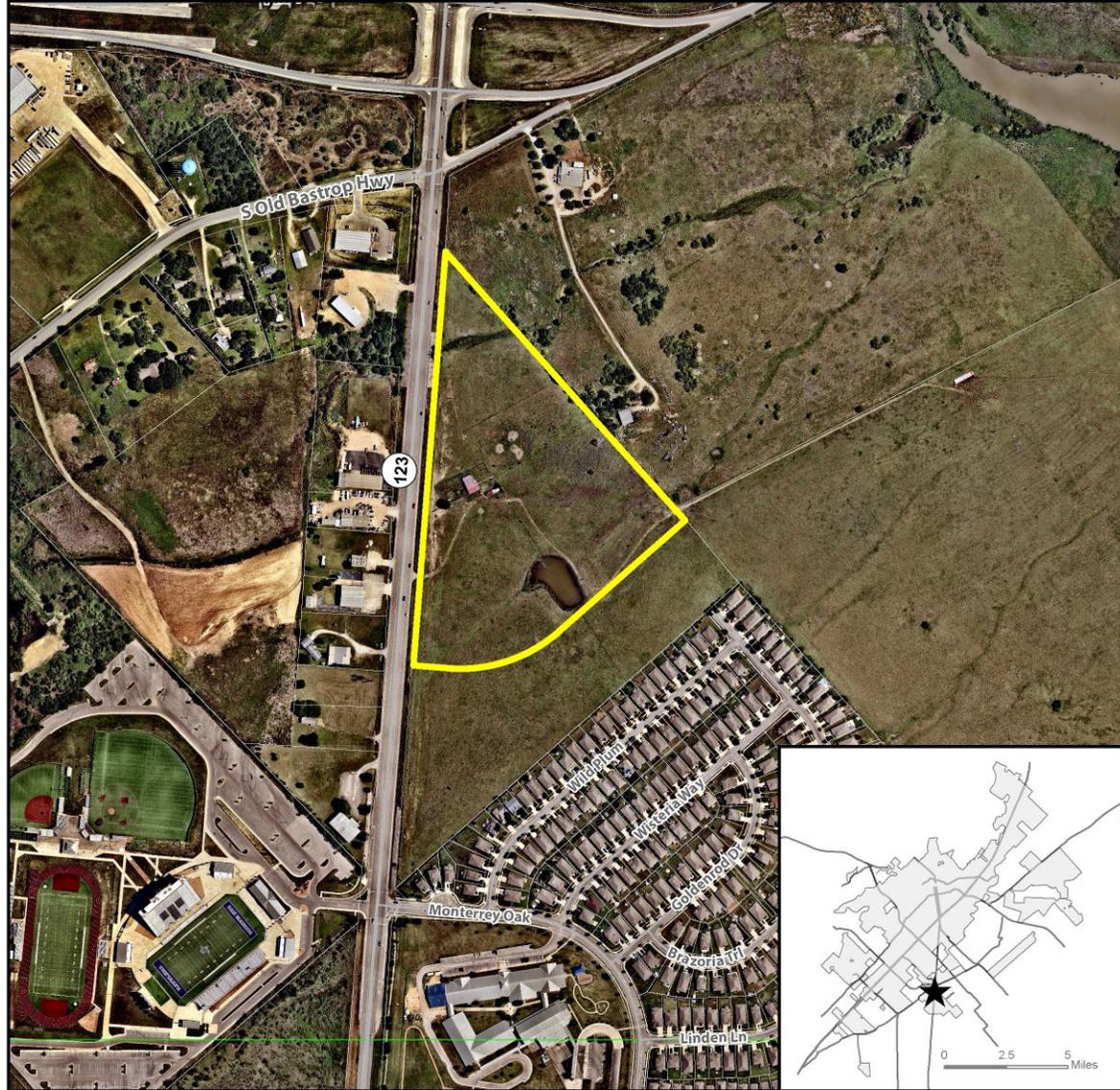
## ZC-20-05 (Vantage 2)

Hold a public hearing and consider a request by , on behalf of Mohnke Poor Farm, LLC, for a zoning change from “FD” Future Development to “CD-4” Character District 3, for approximately 18.5 acres, more or less, out of the J.F. Geister Survey, No 6 and No 7, Hays County, generally located north of the intersection of Highway 123 and Monterey Oak Drive. (W. Parrish)

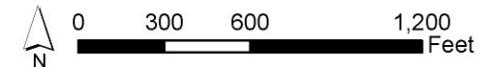
## Location:

- Approximately 18.5 acres
- **Current Configuration:**  
Vacant / Agricultural land
- Surrounding uses include:
  - Veterinary Clinic
  - Vacant / Agricultural
- Located outside the City Limits (Extraterritorial Jurisdiction)

### ZC-20-05 Aerial View FD to CD-4 — 3625 State Highway 123



- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit

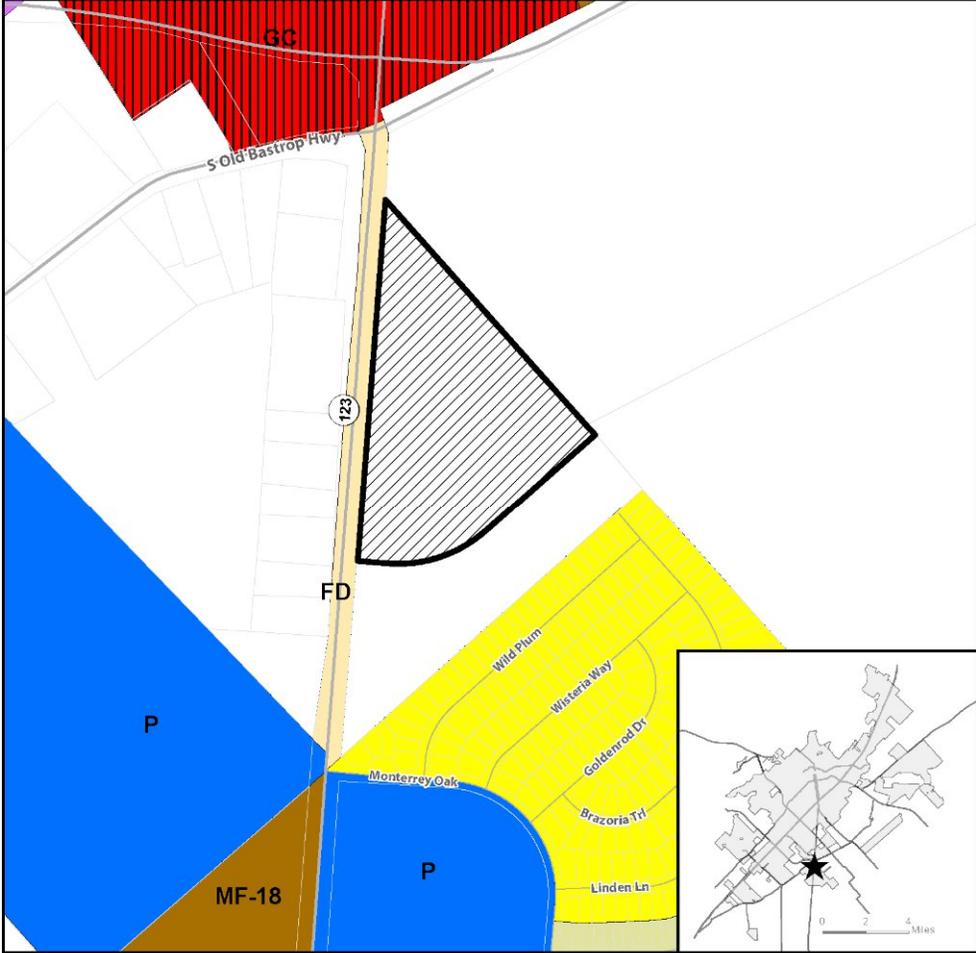


This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 1/9/2020



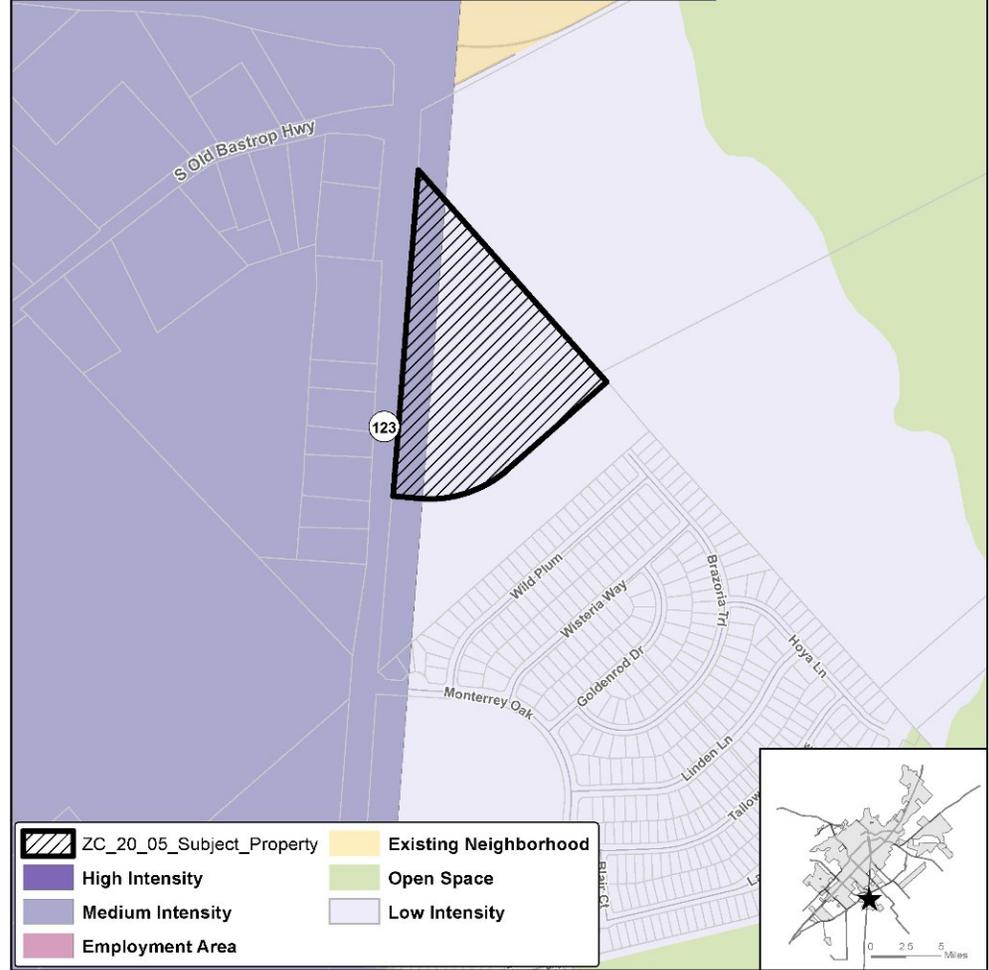
## ZC-20-05 Zoning Map FD to CD-4



★ Site Location  
 ▨ Subject Property  
 □ Parcel  
 □ City Limit

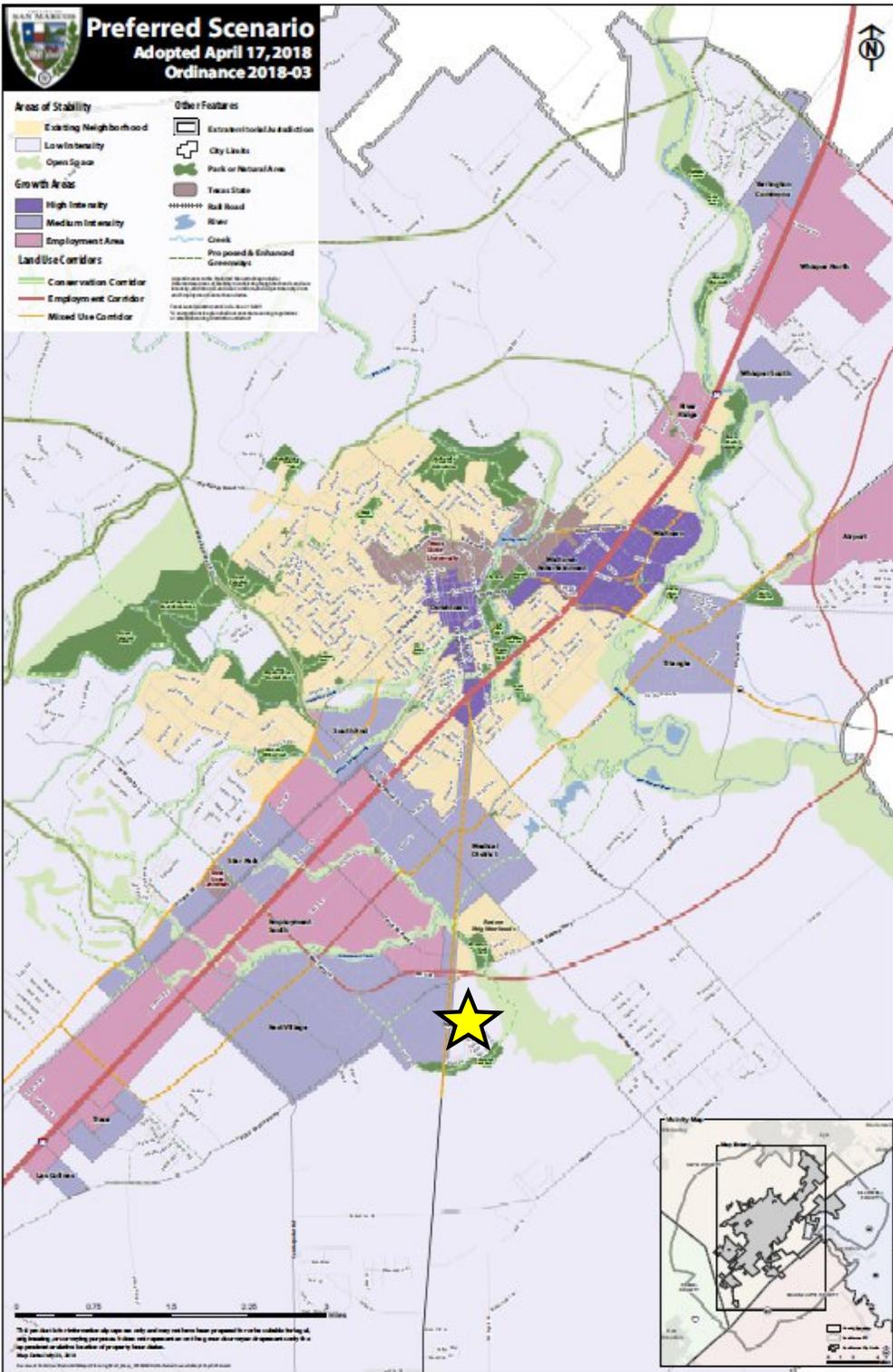
0 300 600 1,200 Feet  
 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.  
 Map Date: 1/17/2020

## ZC-20-05 Preferred Scenario FD to CD-4 - Vantage 2



★ Site Location  
 ▨ Subject Property  
 □ Parcel  
 □ City Limit

0 335 670 1,340 Feet  
 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.  
 Map Date: 1/17/2020



# Comprehensive Plan Analysis

**Step 1:** Where is the property located on the Comprehensive Plan?

## Located in a Low Intensity Zone

“Low Intensity Areas are varied and diverse with respect to environmental sensitivity and development suitability of the land. They are generally made up of larger undeveloped tracts of land where the preservation of sensitive environmental areas, flood hazard areas and agricultural lands should be considered as part of any development proposal. Development in these areas should be guided by the Land Use Suitability Map of the Comprehensive Plan. ” (4.1.1.6)

# Comprehensive Plan Analysis

**Step 2:** Is the request consistent with the Comprehensive Plan / District Translation Table?

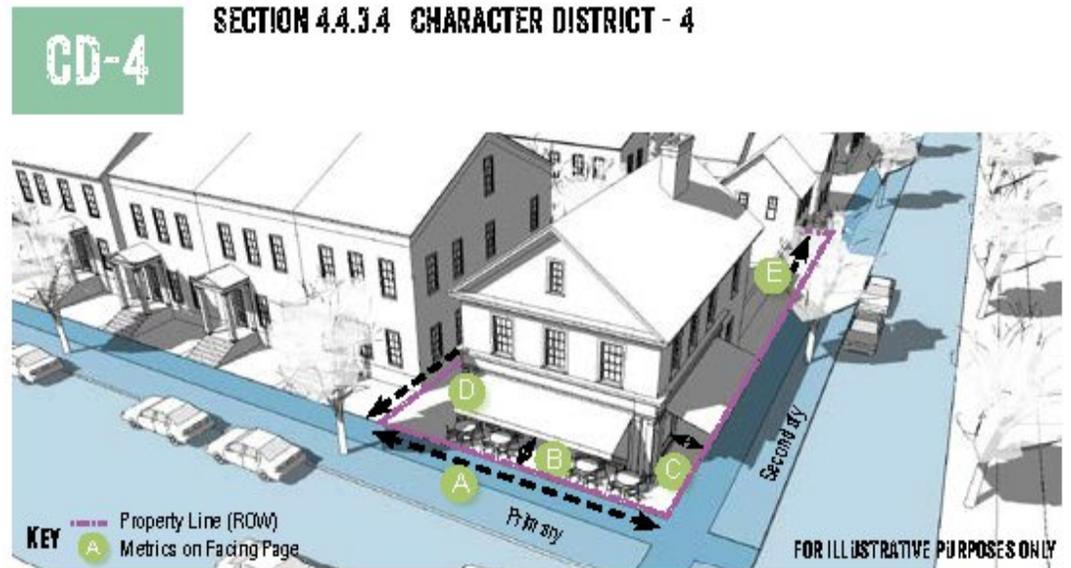
Applicant is requesting a “Character District” (CD-4) within a Low Intensity Zone. Zoning request is C – Considered, and is consistent with the San Marcos Development Code.

**TABLE 4.1 COMPREHENSIVE PLAN / DISTRICT TRANSLATION**

DISTRICT CLASSIFICATION	COMPREHENSIVE PLAN DESIGNATIONS					
	OPEN SPACE/ AGRICULTURAL	LOW INTENSITY	EXISTING NEIGHBORHOOD	MEDIUM OR HIGH INTENSITY ZONE	EMPLOYMENT CENTER	CORRIDOR
Conventional Residential	NP	NP	C	--	--	--
Neighborhood Density Districts	NP	NP	See Section 4.1.2.4 - 4.1.2.5	NP	NP	C
Character Districts	NP	C	--	C	NP	C
Special Districts	--	NP	NP	NP	C	C
Legend	-- = Not Allowed (PSA Required)		NP=Not Preferred		C = Consider	

## CD-4 Zoning Analysis:

- CD-4 zoning is primarily intended to accommodate one and two family houses. Uses that would substantially interfere with the residential nature of the district are not allowed.
- **Allowable Building Types:** *Cottage, Accessory Dwelling Unit, Duplex, Townhouse, Courtyard Housing, Apartment, Live/Work, Neighborhood Shopfront, and Civic Building.*
- Proposed rezoning aligns with vision of the Comprehensive Plan, which states that the community needs **diversified housing options.**
- The property is vacant.



### GENERAL DESCRIPTION

The CD-4 district is intended to accommodate a variety of residential options including single-family, two-family and multifamily with limited commercial or mixed use on the corners.

### DENSITY

Impervious Cover 80% max.

### TRANSPORTATION

Block Perimeter	2,400 ft. max.	Section 3.6.21
Streetscape Type	Residential	Section 3.8.1.10
	Conventional	Section 3.8.1.7
	Mixed Use	Section 3.8.1.8

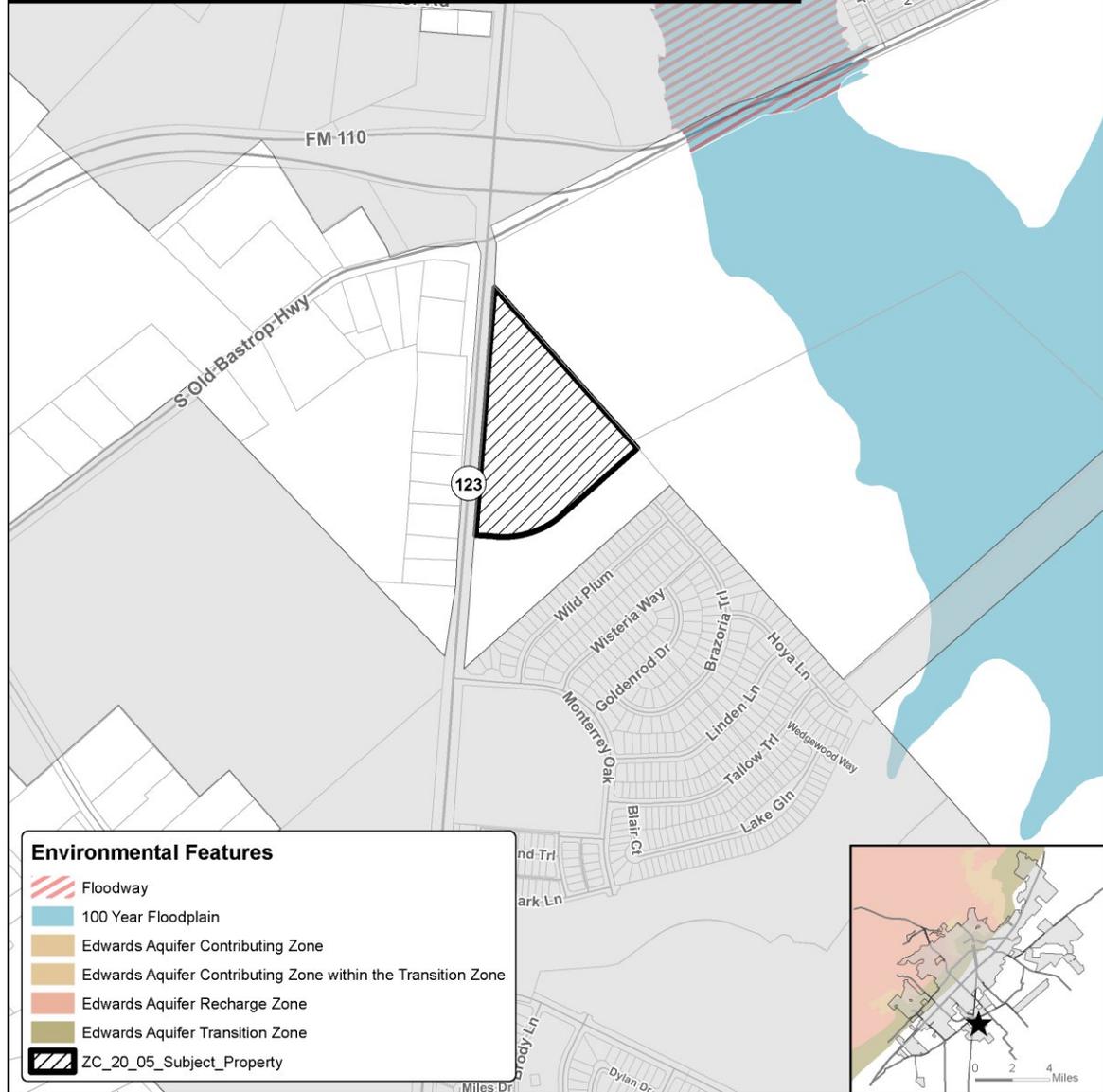
### BUILDING TYPES ALLOWED

Accessory Dwelling	Section 4.4.6.1
Cottage	Section 4.4.6.3
Duplex	Section 4.4.6.5
Townhouse	Section 4.4.6.7
Courtyard Housing	Section 4.4.6.9
Apartment	Section 4.4.6.10
Live/Work	Section 4.4.6.11
Neighborhood Shopfront	Section 4.4.6.12
Civic Building	Section 4.4.6.15

# Environmental Analysis

- Not located in floodplain.
- Not located within any Edwards Aquifer Zone.
- Not located on significant slopes.
- Not located within a sensitive watershed.

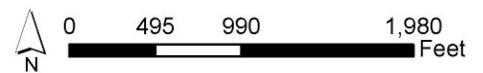
## ZC-20-05 Environmental Features FD to CD-4 - Vantage 2



**Environmental Features**

- Floodway
- 100 Year Floodplain
- Edwards Aquifer Contributing Zone
- Edwards Aquifer Contributing Zone within the Transition Zone
- Edwards Aquifer Recharge Zone
- Edwards Aquifer Transition Zone
- ZC\_20\_05\_Subject\_Property

- Site Location
- Subject Property
- Parcel
- City Limit



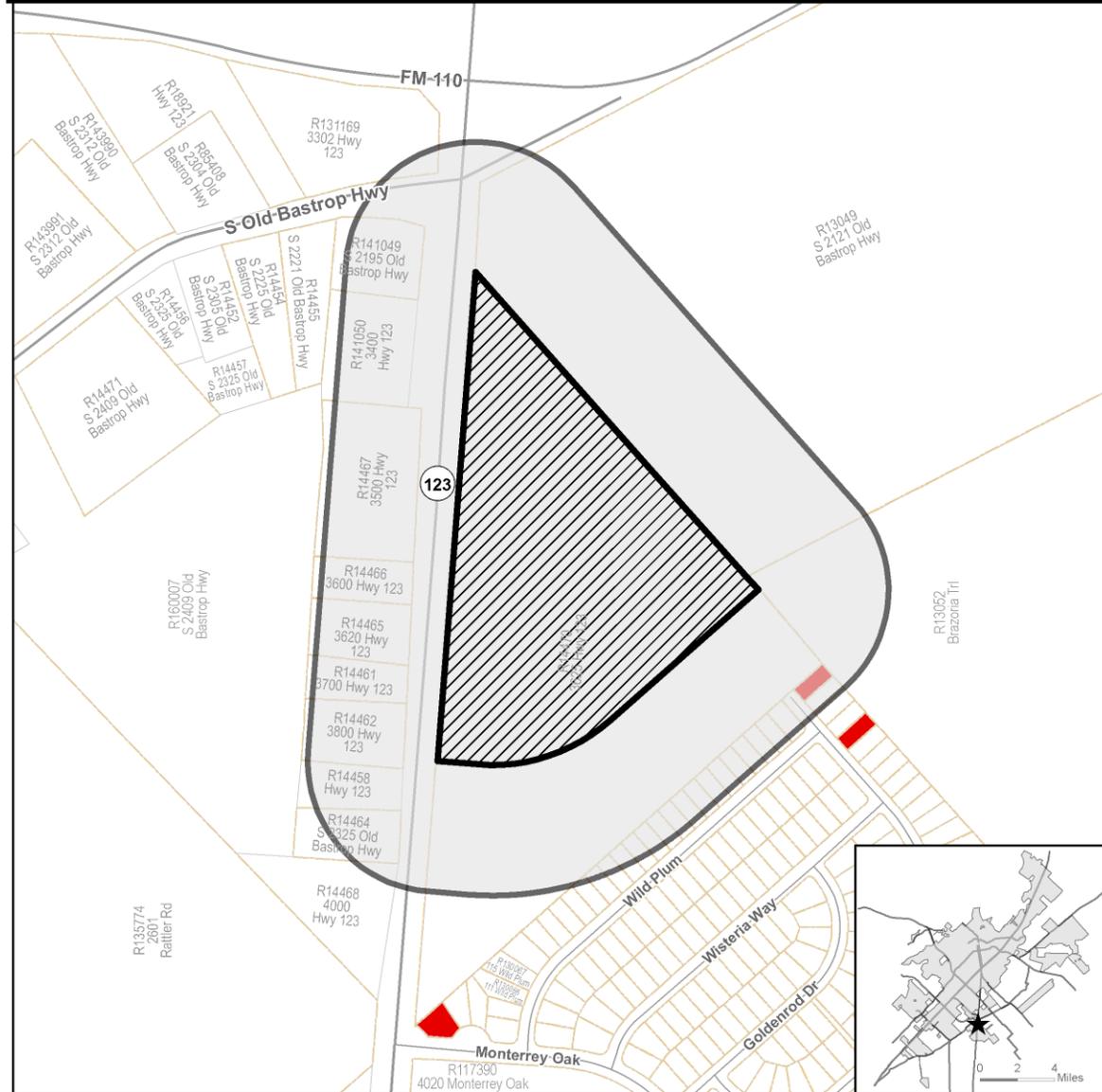
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Map Date: 1/16/2020



## Opposition

- Three community members spoke against this request at P&Z.



- ★ Site Location
- Subject Property
- 400' Buffer
- Parcel
- City Limit
- Spoke Against Rezoning at P&Z



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Map Date: 2/27/2020

## **Planning and Zoning Recommendation:**

The Planning and Zoning Commission recommended approval of the request by a vote of 5-3.

## **Staff Recommendation:**

Staff provides this request to the Commission for your consideration and recommends **approval** of the request for a zoning change from “FD” Future Development to “CD-4” Character District – 4.

## Zoning District Comparison Chart

Topic	Existing Zoning: N/A - Extraterritorial Jurisdiction (ETJ)	Existing Zoning: Future Development (FD)	Proposed Zoning: Character District – 4 (CD-4)
<b>Zoning Description</b>	The City does not have zoning outside of City Limits. The City primarily regulates the subdivision of land within the ETJ.	The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.	The CD-4 District is intended to accommodate a variety of residential options including single-family, two family, and multifamily with limited commercial or mixed use on the corners.
<b>Uses</b>	No zoning restrictions	Residential ( <i>See Land Use Matrix</i> )	Residential with some limited commercial. ( <i>See Land Use Matrix</i> )
<b>Parking Location</b>	No zoning standards	No location standards	Parking allowed in the Second and Third Layer
<b>Parking Standards</b>	No zoning standards	2 spaces per dwelling unit (if single family detached)	1 space per dwelling unit, 3 spaces per 1,000 sq ft office, 4 spaces per 1,000 sq ft retail.
<b>Max Residential Units / acre</b>	Based on County Septic restrictions.	0.4 units per acre (max)	Based on parking
<b>Occupancy Restrictions</b>	N/A	N/A	N/A
<b>Landscaping</b>	No zoning standards	Tree and shrub requirements	Parking lot and Street Tree requirements
<b>Building Height (max)</b>	No zoning standards	2 stories	3 stories
<b>Setbacks</b>	No zoning standards	Based on Zoning District	5-12' front Setback, 5' side setback, 15' rear set back.
<b>Impervious Cover (max)</b>	No zoning standards	30%	80%
<b>Lot Sizes</b>	No zoning standards	Allows a variety of lot sizes depending on Building Type.	Allows a variety of lot sizes depending on Building Type.
<b>Streetscapes</b>	Dependent on use.	Residential Street: 5' sidewalk for lots smaller than 1 acre, street trees every 40' on center average, 7' planting area.	Residential, Conventional, and Mixed Use. See attached.
<b>Blocks</b>	3,000 ft. Block Perimeter max.	No Block Perimeter Required	2,400 ft. Block Perimeter max.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY REZONING APPROXIMATELY 18.5 ACRES OF LAND GENERALLY LOCATED NORTH OF THE INTERSECTION OF HIGHWAY 123 AND MONTEREY OAK DRIVE, FROM “FD” FUTURE DEVELOPMENT DISTRICT TO “CD-4” CHARACTER DISTRICT 4; AND INCLUDING PROCEDURAL PROVISIONS.**

**RECITALS:**

1. On February 25, 2020, the Planning and Zoning Commission of the City of San Marcos held a public hearing regarding a request to change the zoning designation from “FD” Future Development District to “CD-4” Character District 4 for approximately 18.5 acres of land generally located north of the intersection of Highway 123 and Monterey Oak Drive.
2. The Planning and Zoning Commission voted to recommend that the request be approved by the City Council.
3. The City Council held a public hearing on March 17, 2020 regarding the request.
4. All requirements pertaining to Zoning Map amendments have been met.
5. The City Council hereby finds and determines that the adoption of the following ordinance is in the interest of the public health, morals, welfare and safety.

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

**SECTION 1.** The Official Zoning Map of the City is amended to rezone the tract of land described in Exhibit A, attached hereto and made a part hereof, from “FD” Future Development District to “CD-4” Character District 4.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 4.** This ordinance will take effect after its passage, approval and adoption on second reading.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

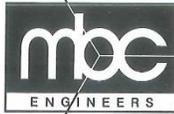
Attest:

Tammy K. Cook  
Interim City Clerk

Approved:

Michael J. Cosentino  
City Attorney

# EXHIBIT A



MACINA • BOSE • COPELAND and ASSOCIATES, INC  
CONSULTING ENGINEERS AND LAND SURVEYORS

1035 Central Parkway North, San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302

TBPE Firm Registration #784 | TBPLS Firm Registration #10011700 | SBE Certified #214046463  
www.mbcengineers.com

## METES AND BOUNDS DESCRIPTION TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

**COMMENCING** at a 1/2-inch Iron Rod found on the East Right-of-Way line of State Highway 123 and the Southeast Right-of-Way line of Old-Bastrop Highway and marking the Westernmost corner of a called 225.25 Acre Tract as described in deed recorded in Document number 18004464, of the Deed records of Hays County, Texas;

**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 41° 37' 44" E a distance of 811.88 feet, along and with the West line of said 225.25 Acre Tract and with the East line of this tract to a Fence Post Found;

**THENCE** S 41° 49' 45" E a distance of 440.41 feet, continuing along and with said 225.55 Acre Tract to a 1/2-Inch Iron Rod with cap "BYRN" Found and marking the Westernmost corner of a called 100 Acre Tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 54.41 feet along and with the West line of said 100 Acre tract, to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** S 48° 35' 24" W a distance of 607.78 feet departing the West line of said 100 Acre tract, into and across said 30.9 Acre tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the right;

**THENCE** along and with said curve to the right having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = S 71° 29' 57" W and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 85° 35' 29" W a distance of 127.50 feet to a 1/2-Inch Iron Rod with cap "MBC" Set on the East Right-of-Way line of said State Highway 123;

**THENCE** N 04° 24' 31" E a distance of 1506.69 feet along and with the East Right-of-Way line of said State Highway 123 to the **POINT OF BEGINNING** and containing 18.58 acres, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.

  
Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS



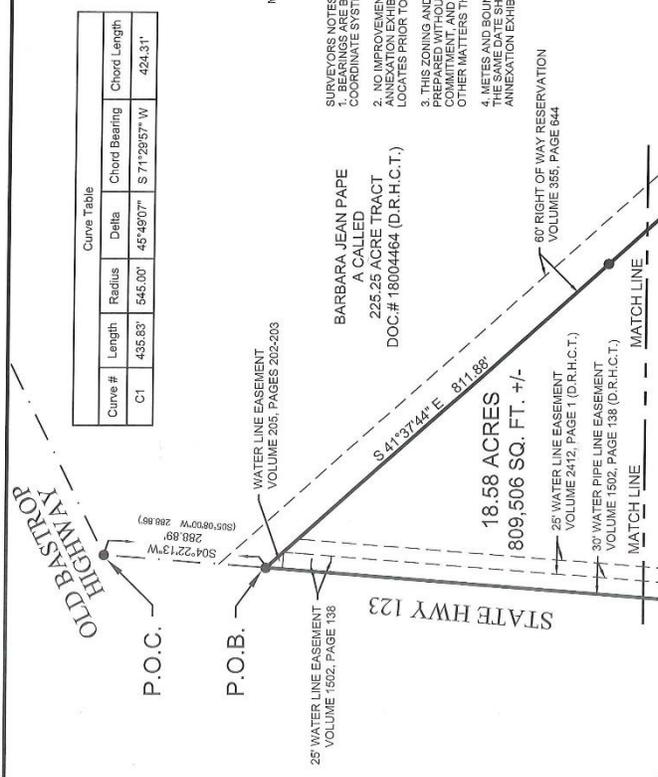
SCALE: 1" = 200'

**LEGEND**

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- M.P. & PLAT RECORDS OF HAYS COUNTY, TEXAS
- DEED RECORDS OF HAYS COUNTY, TEXAS
- D.R.H.C.T.

1. SURVEYORS NOTES BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION SUBJECT TO UTILITY LOCATES PRIOR TO CONSTRUCTION.
3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED FOR THE CITY OF MARCOS, TEXAS. IT IS NOT A COMMITMENT, AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.
4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

Curve Table			
Curve #	Length	Radius	Chord Bearing
C1	435.63'	545.00'	45°49'07" S 71°29'57" W
			424.31'



**ZONING AND ANNEXATION EXHIBIT OF**

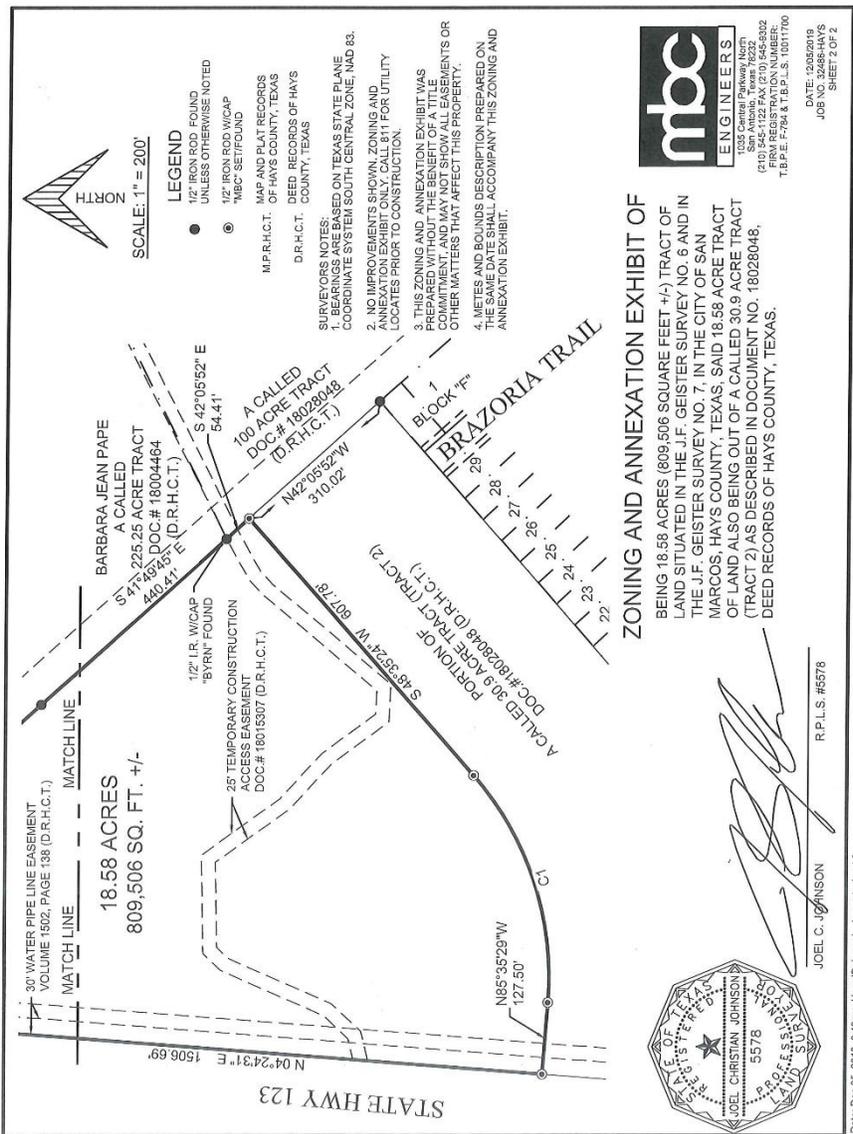
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JOEL C. JOHNSON  
R.P.L.S. #5578



535 Central Parkway, North  
(210) 545-1122 FAX (210) 545-6002  
FIRM REGISTRATION NUMBER:  
R.P.L.S. #1798 & 1837, P.L.S. 1011700

DATE: 12/05/2018  
JOB NO. 32486-HAYS  
SHEET 1 OF 2



SCALE: 1" = 200'

- LEGEND**
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
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4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

**ZONING AND ANNEXATION EXHIBIT OF**  
 BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT OF LAND ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS.

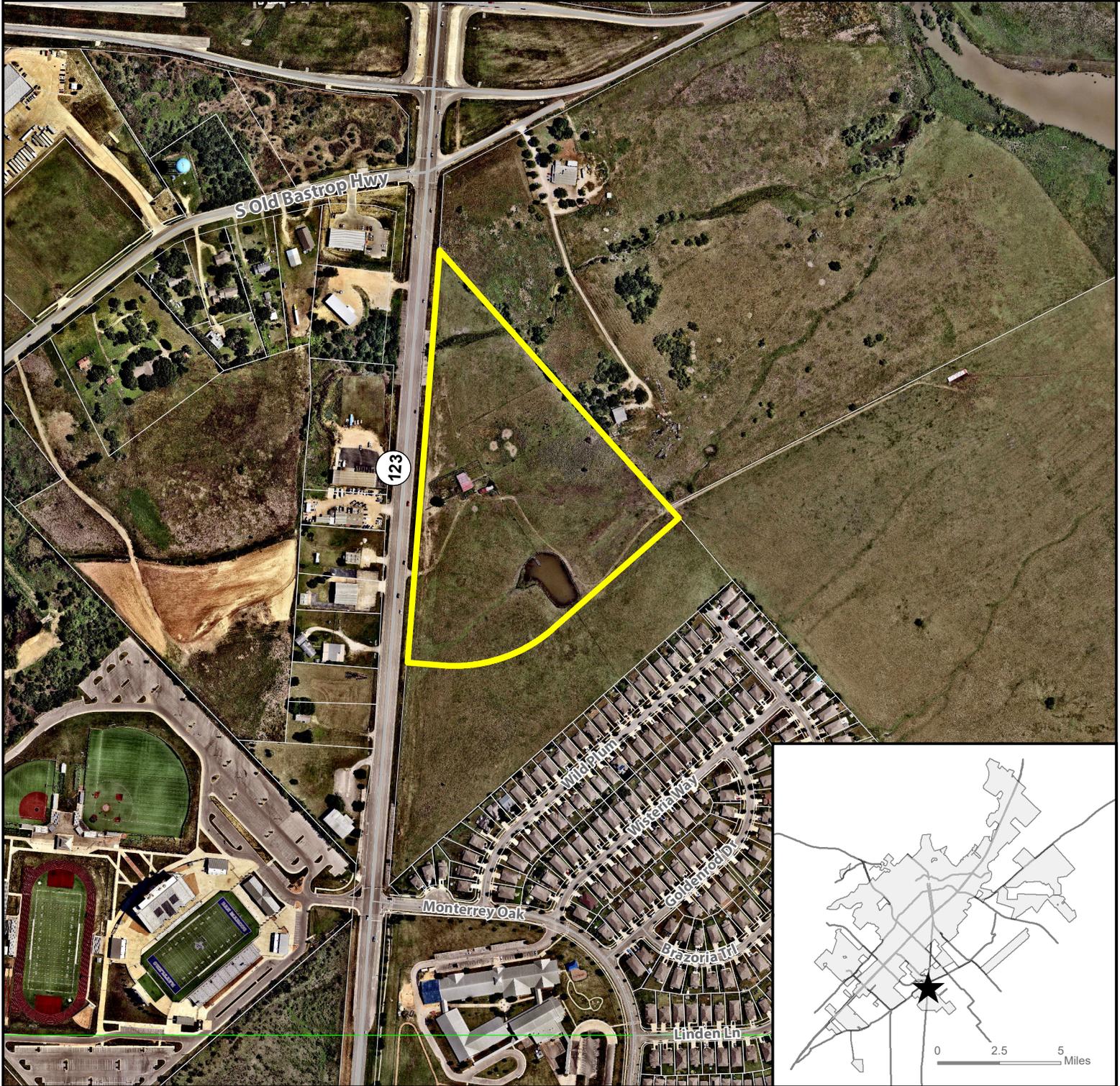


JOEL C. JOHNSON  
 R.P.L.S. #5578

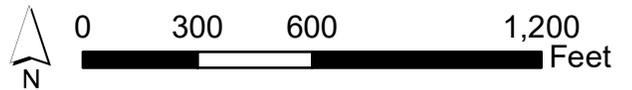


DATE: 12/28/2019  
 JOB NO.: 19028048  
 SHEET 2 OF 2

# ZC-20-05 Aerial View FD to CD-4 — 3625 State Highway 123



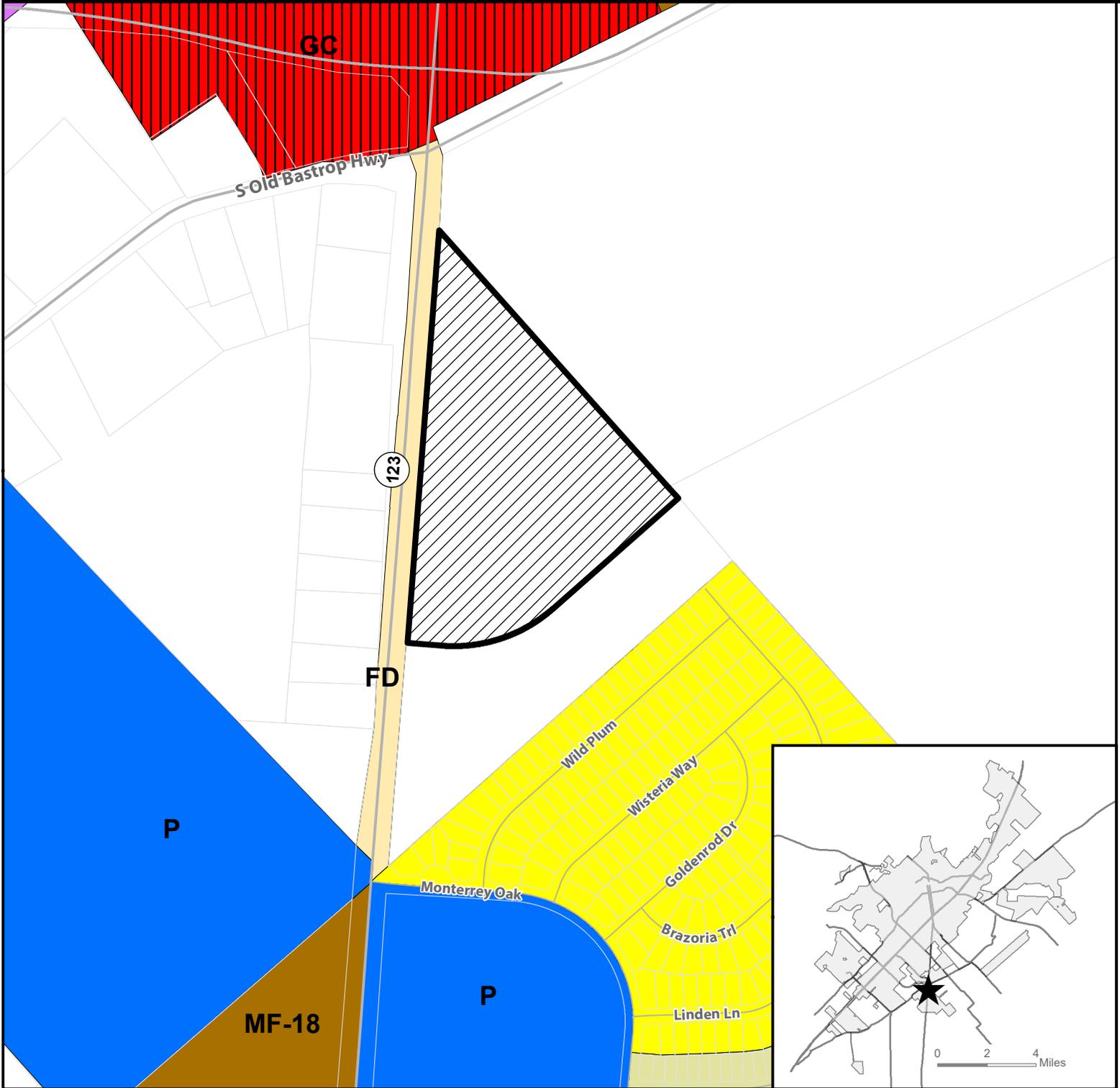
- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



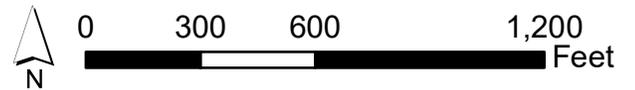
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 1/9/2020

# ZC-20-05 Zoning Map FD to CD-4



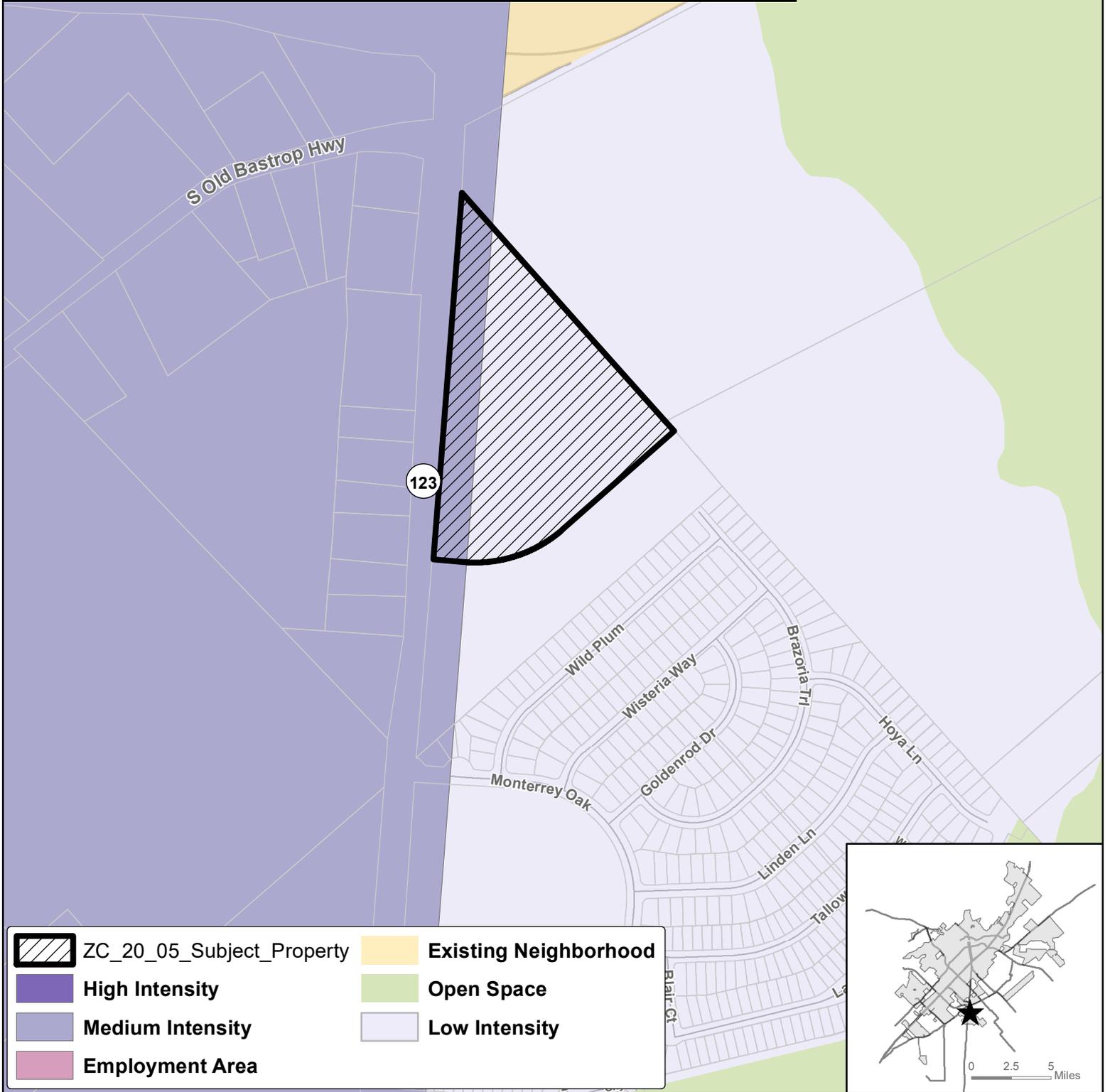
- ★ Site Location
- ▨ Subject Property
- Parcel
- City Limit



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 1/17/2020

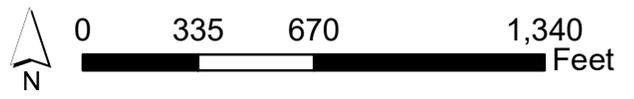
# ZC-20-05 Preferred Scenario FD to CD-4 - Vantage 2



	ZC_20_05_Subject_Property		Existing Neighborhood
	High Intensity		Open Space
	Medium Intensity		Low Intensity
	Employment Area		



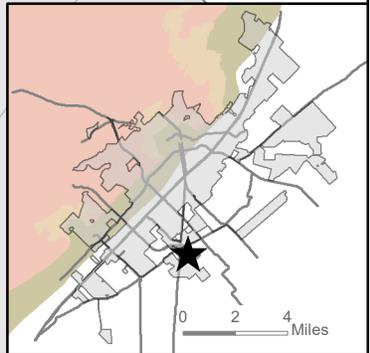
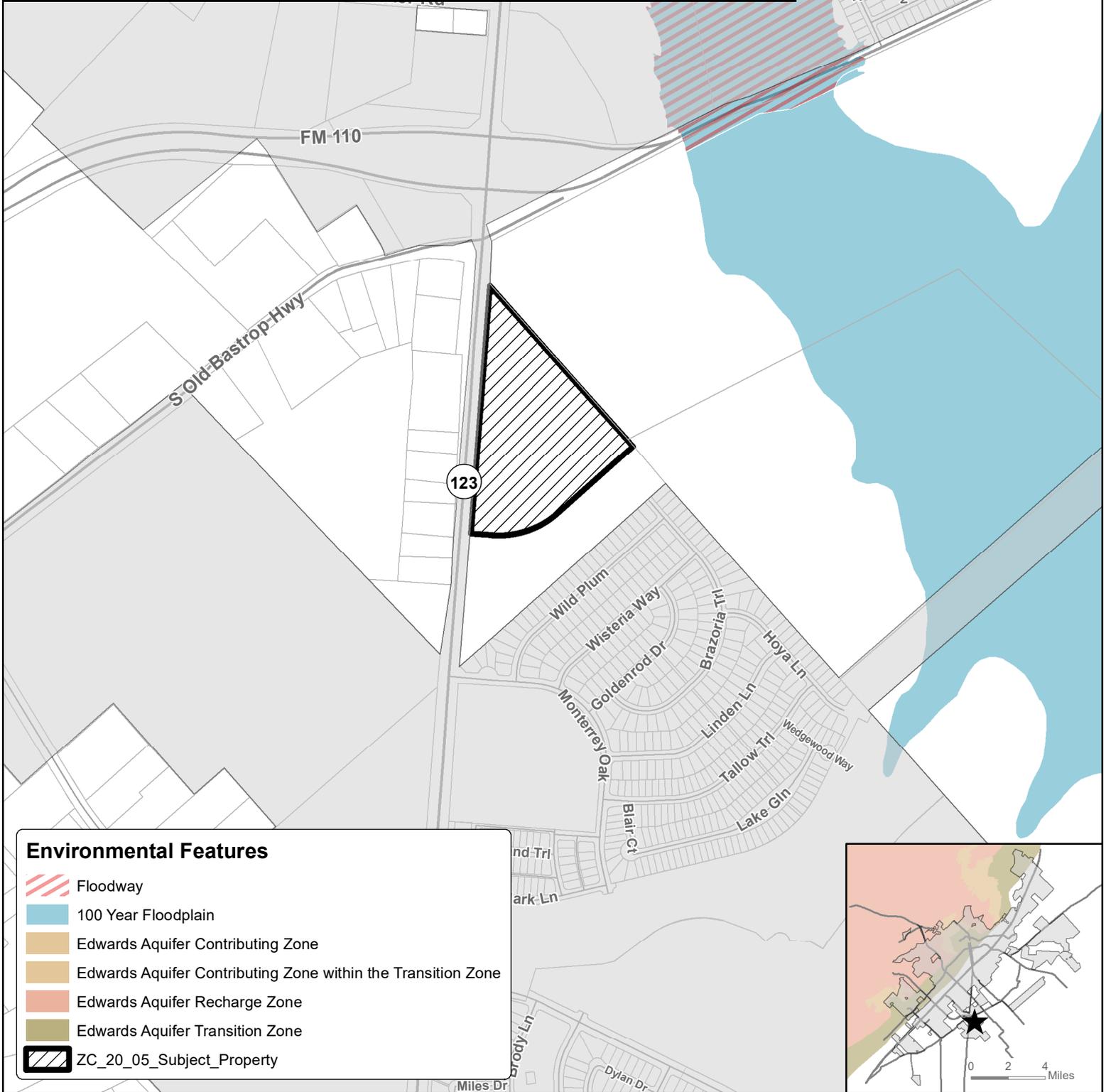
	Site Location
	Subject Property
	Parcel
	City Limit



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 1/17/2020

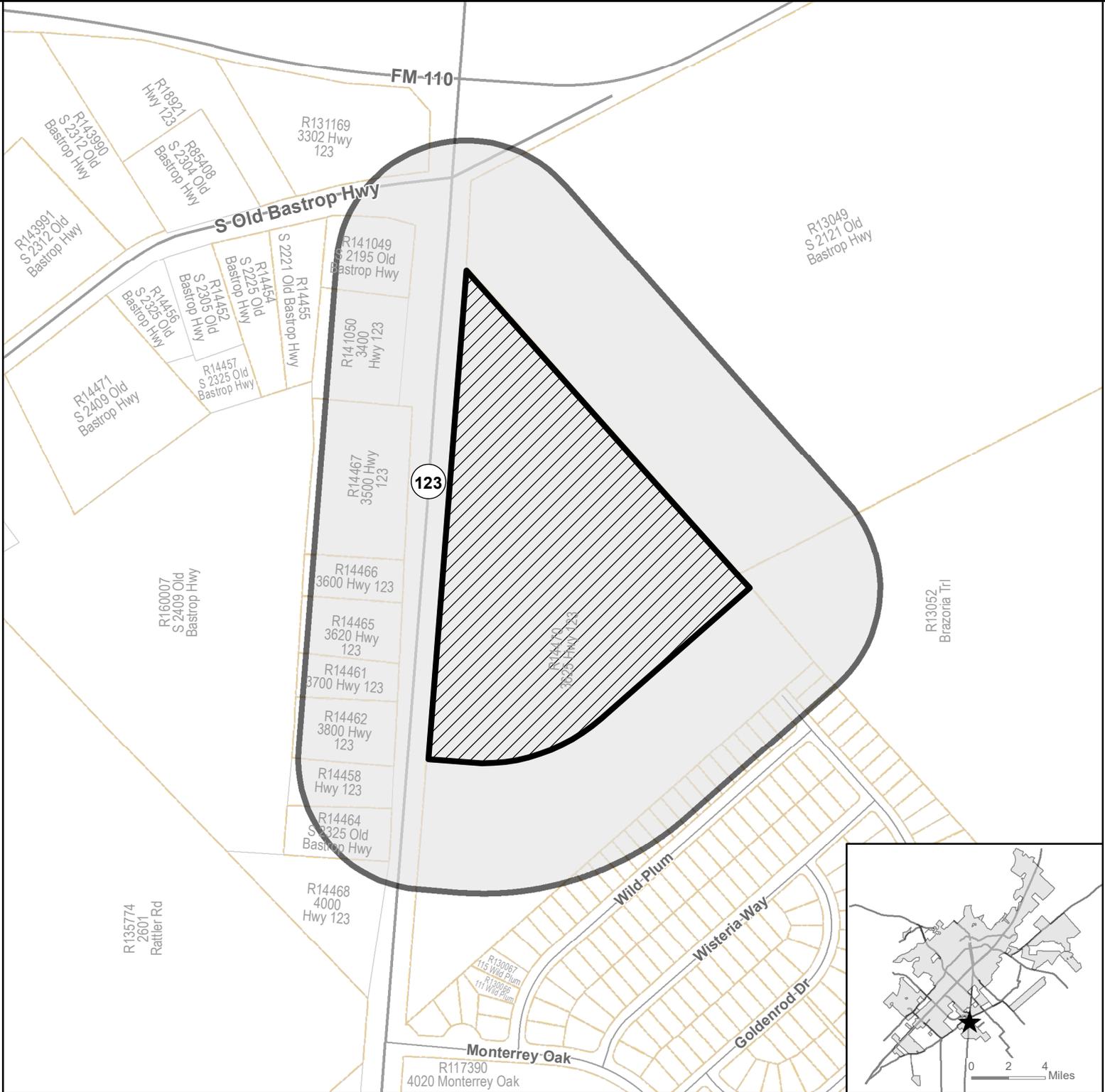
# ZC-20-05 Environmental Features FD to CD-4 - Vantage 2



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 1/16/2020

# ZC-20-05 400' Notification Buffer FD to CD-4 — 3625 State Highway 123



	<b>Site Location</b>	 
	<b>Subject Property</b>	
	<b>400' Buffer</b>	
	<b>Parcel</b>	
	<b>City Limit</b>	

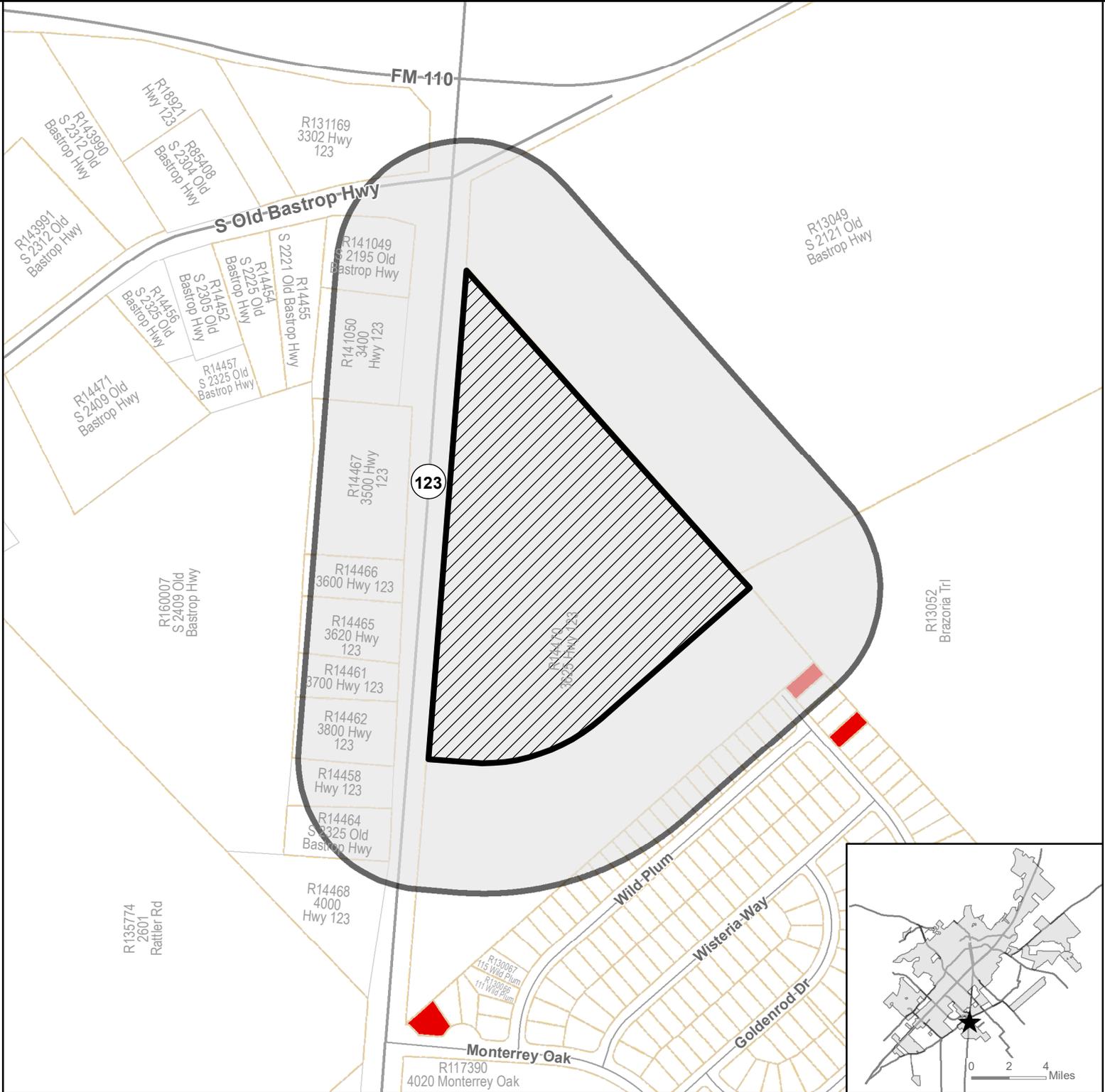
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 1/29/2020

Property ID	Subject Address	Owner	Address	City	State	ZIP
R141049	2195 S OLD BASTROP HWY	PETROMAX BRAZOS LLC	603 MAIN ST STE 201	GARLAND	TX	75040-6332
R131169	3302 HWY 123	LIMEROCK FARMS LTD TX LTD PARTNERSHIP	6325 REDWOOD RD	SAN MARCOS	TX	78666
R14470	3625 HWY 123	MOHNKE, A H	P O BOX 99	SAN MARCOS	TX	78667-0099
R14467	3500 HWY 123	MANN WILLIAM R	99 RIVER BEND LN	MARTINDALE	TX	78655-3817
R13052	BRAZORIA TRL	MOHNKE, A H	P O BOX 99	SAN MARCOS	TX	78667-0099
R14464	2325 OLD BASTROP HWY	FIRST ASSEMBLY OF GOD OF SAN MARCOS INC	P O BOX 1554	SAN MARCOS	TX	78667-1554
R14466	3600 HWY 123	CORAZON NEGRO LLC	3600 HIGHWAY 123	SAN MARCOS	TX	78666
R14465	3620 HWY 123	JEWELL, ARNOLD W Attn: BRIAN JEWELL	3620 HWY 123	SAN MARCOS	TX	78666-2036
R14461	3700 HWY 123	BIZTRONICS LLC	3700 S HWY 123	SAN MARCOS	TX	78666
R14462	3800 HWY 123	LIGHTHOUSE BAPTIST CHURCH	3800 N SH 123	SAN MARCOS	TX	78666
R13049	2121 S OLD BASTROP HWY	PAPE GLENN R RESIDUARY TRUST PAPE BARBARA JEAN TRUSTEE	2123 OLD BASTROP HWY	SAN MARCOS	TX	78666
R130073	201 WILD PLUM	TRAMMELL ALANA JOY & CLINTON CODY	201 WILD PLUM	SAN MARCOS	TX	78666-5277
R130078	221 WILD PLUM	JOHNSON, JIMMY RAY	221 WILD PLUM	SAN MARCOS	TX	78666-5277
R130077	217 WILD PLUM	PADILLA ELENA E & MICHAEL J	217 WILD PLUM	SAN MARCOS	TX	78666-5277
R130076	213 WILD PLUM	MARTINEZ PATRICIA A & GUZMAN JASON J	213 WILD PLUM	SAN MARCOS	TX	78666

R130075	209 WILD PLUM	PALACIOS JACQUELINE ARLENE & CRUZ REUBEN PADILLA JR	11510 CARISIO CT	RICHMOND	TX	77406- 4502
R130085	309 WILD PLUM	GOBLE MARIE H	309 WILD PLUM	SAN MARCOS	TX	78666- 5281
R130084	305 WILD PLUM	GLISSON-MUNIER CORY & GEORGE	305 WILD PLUM	SAN MARCOS	TX	78666- 5281
R130083	301 WILD PLUM	WARE JOEL JR	301 WILD PLUM	SAN MARCOS	TX	78666
R130082	237 WILD PLUM	KNIGHT DAMON & MICHELLE D	570 RIVER MOUNTAIN RD	WIMBERLEY	TX	78676- 5866
R130081	233 WILD PLUM	SLAUGHTER, DUSTIN J	233 WILD PLUM	SAN MARCOS	TX	78666- 5277
R130080	229 WILD PLUM	VALENZUELA CESAR & CYNTHIA	212 FOSSIL HILLS LOOP	SPRING BRANCH	TX	78070- 6043
R130079	225 WILD PLUM	PEREZ JOSHUA	225 WILD PLUM	SAN MARCOS	TX	78666- 5277
R130074	205 WILD PLUM	LAI CHUAN SOON & E CHOON KWEE	205 WILD PLUM	SAN MARCOS	TX	78666
R130153	506 BRAZORIA TRL	BARNETT DANNY L	506 BRAZORIA TRL	SAN MARCOS	TX	78666- 2845
R130089	325 WILD PLUM	KIMURA TOBI & NATHAN (LIFE ESTATE) % SERIES 2 OF THE KBAY CENTRAL GROUP LLC	P O BOX 4936	KANEOHE	HI	96744
R130154	502 BRAZORIA TRL	HENDERSON MICHAEL G & MARY K	502 BRAZORIA TRL	SAN MARCOS	TX	78666- 2845
R130152	510 BRAZORIA TRL	SELVAGE WILLIAM R JR & BARBARA J	510 BRAZORIA TRL	SAN MARCOS	TX	78666
R130088	321 WILD PLUM	RENDON PEDRO JR & VIRGINIA MARIE	321 WILD PLUM	SAN MARCOS	TX	78666- 5281
R130087	317 WILD PLUM	JENTSCH PATRICIA SUE	202 TWIN OAK RD	SEGUIN	TX	78155- 7426
R130086	313 WILD PLUM	RODRIGUEZ MINERVA D & LEON ANTONIO G	313 WILD PLUM	SAN MARCOS	TX	78666- 5281

# ZC-20-05 Public Hearing Speakers Map FD to CD-4



	<b>Site Location</b>	  0      250      500      1,000 Feet
	<b>Subject Property</b>	
	<b>400' Buffer</b>	
	<b>Parcel</b>	
	<b>City Limit</b>	
	<b>Spoke Against Rezoning at P&amp;Z</b>	<p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</p> <p style="text-align: right;">Map Date: 2/27/2020</p>

Future Development (FD) VS. Character District 4 (CD-4)

Section 5.1.1.2 Land Use Matrix

TABLE 5.1 LAND USE MATRIX

TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL			NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS					DEFINITION USE STANDARDS		
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI		MH	EC
<b>AGRICULTURAL USES</b>																				
Barns or agricultural buildings	P	L	--	--	--	--	--	--	P	P	L	--	--	--	P	--	--	--	--	Section 5.1.2.1
Stables	P	L	--	--	--	--	--	--	--	P	L	--	--	--	P	--	--	--	--	Section 5.1.2.2
Community Garden	P	P	L	L	L	L	L	--	P	P	L	L	L	L	P	P	P	P	P	Section 5.1.2.3
Urban Farm	P	C	C	C	C	L	L	C	P	P	L	L	C	C	P	P	--	P	C	Section 5.1.2.4
Plant Nursery	L	--	--	--	--	--	--	P	--	L	--	--	P	P	P	P	P	--	P	Section 5.1.2.5
<b>ACCESSORY USES AND STRUCTURES</b>																				
Accessory Building/Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.3.1
Accessory Dwelling Unit	L	L	L	L	L	L	P	P	--	P	L	P	P	P	--	--	--	--	--	Section 5.1.3.1
Accessory Use, except as listed below:	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.3.2
Outdoor Storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	L	P	--	L	Section 5.1.3.2
Outdoor Display	--	--	--	--	--	--	--	L	--	--	--	--	L	L	P	--	--	--	L	Section 5.1.3.2
Food Truck	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.3.1
Drive-thru or Drive-in	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.3.2
Home Occupation	L	L	L	L	L	L	L	--	--	L	L	L	--	--	--	--	--	--	--	Section 5.1.3.4
Family Home Care	P	P	P	P	P	P	P	--	--	P	P	P	--	--	--	--	--	--	--	Section 5.1.3.5
Short Term Rental	L	L	L	L	L	L	L	P	--	L	L	P	P	P	--	--	--	L	P	Section 5.1.3.6
<b>RESIDENTIAL USES</b>																				
Single Family Detached	P	L	L	L	L	L	L	--	--	P	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Cottage Court	--	--	--	--	--	L	L	--	--	--	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Two Family	--	--	--	--	--	L	L	--	--	--	P	P	--	--	--	--	--	--	--	Section 5.1.4.1
Single Family Attached	--	--	--	--	L	L	L	L	--	--	P	P	P	P	--	--	--	--	--	Section 5.1.4.1
Small Multi-Family (up to 9 units)	--	--	--	--	--	L	L	L	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Courtyard Housing (up to 24 units)	--	--	--	--	--	--	L	L	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Multi-family (10 or more units)	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	Section 5.1.4.1
Purpose Built Student Housing	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	--	--	Section 5.1.4.1
Manufactured Home	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	Section 5.1.4.1
Mobile Home Community	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	Section 5.1.4.1

TABLE 5.1 LAND USE MATRIX

TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL				NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS					DEFINITION USE STANDARDS	
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI	MH		EC
Community Home	L	L	L	L	L	L	P	P	--	P	P	P	P	P	--	--	--	L	--	Section 5.1.4.12
Fraternity or Sorority Building	--	--	--	--	--	--	C	C	--	--	--	C	P	P	--	--	--	--	--	Section 5.1.4.12
<b>COMMERCIAL USES</b>																				
Professional Office	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	P	--	--	P	Section 5.1.5.1
Medical, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.2
Urgent care, emergency clinic, or hospital	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	--	--	P	Section 5.1.5.2
Nursing/ retirement home	--	--	--	--	--	--	P	P	--	--	--	P	P	P	P	--	--	--	P	Section 5.1.5.2
Personal Services, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.3
Animal care (indoor)	C	--	--	--	--	--	--	P	--	--	--	--	P	P	P	--	--	--	P	Section 5.1.5.3
Animal care (outdoor)	C	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	C	Section 5.1.5.3
Funeral Home	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.3
Adult Oriented Businesses	See Section 18, Article 6 of the City Code																			
All Retail Sales, except as listed below:	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.4
Gasoline Sales	--	--	--	--	--	--	--	L	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.4
Truck stop	--	--	--	--	--	--	--	--	--	--	--	--	--	--	L	--	--	--	L	Section 5.1.5.4
Tattoo, body piercing	--	--	--	--	--	--	C	C	--	--	--	C	P	P	P	--	--	--	P	Section 5.1.5.4
Building material sales	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	P	P	--	P	Section 5.1.5.4
Vehicle Sales/ Rental	--	--	--	--	--	--	--	C	--	--	--	--	C	C	P	--	--	--	P	Section 5.1.5.4
Pawnshop	--	--	--	--	--	--	--	C	--	--	--	C	P	P	P	--	--	--	P	Section 5.1.5.4
Restaurant/ Bar, as listed below:																				
Eating Establishment	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	--	--	--	P	Section 5.1.5.5
Bar	--	--	--	--	--	--	--	C	--	--	--	--	C	C	C	--	--	--	C	Section 5.1.5.5
Mobile Food Court	--	--	--	--	--	--	--	C	--	--	--	--	P	P	--	--	--	--	--	Section 5.1.5.5
Sale of Alcohol for on premise consumption	--	--	--	--	--	--	C	C	--	--	--	C	C	C	C	--	--	--	C	Section 5.1.5.5
Overnight Lodging, as listed below:																				
Bed and Breakfast (up to 8 rooms)	L	C	C	C	C	L	L	P	--	P	C	P	P	P	--	--	--	--	P	Section 5.1.5.6
Boutique Hotel (9 - 30 rooms)	--	--	--	--	--	--	C	P	--	--	--	P	P	P	--	--	--	--	P	Section 5.1.5.6

TABLE 5.1 LAND USE MATRIX

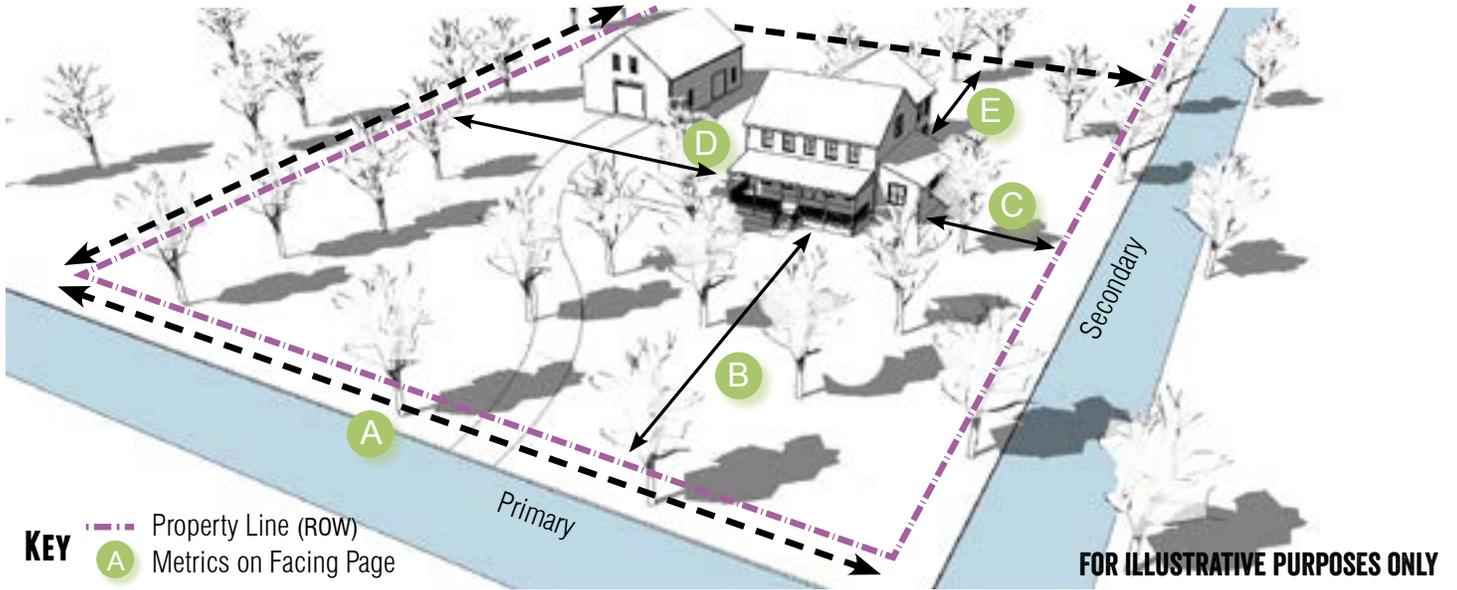
TYPES OF LAND USES	CONVENTIONAL RESIDENTIAL				NEIGHBORHOOD DENSITY DISTRICTS				CHARACTER DISTRICTS					SPECIAL DISTRICTS					DEFINITION USE STANDARDS	
	FD	SF-R	SF-6	SF-4.5	ND-3	ND-3.5	ND-4	N-MS	CD-1	CD-2	CD-3	CD-4	CD-5	CD-5D	HC	LI	HI	MH		EC
Hotel/ Motel (more than 30 rooms)	--	--	--	--	--	--	--	P	--	--	--	--	P	P	--	--	--	--	P	Section 5.1.5.6
Outdoor Recreation, except as listed below:	--	--	--	--	--	--	--	C	--	--	--	--	P	C	P	--	--	--	P	Section 5.1.5.7
Golf Course	C	C	C	C	C	C	C	C	C	C	C	C	C	C	--	--	--	C	C	Section 5.1.5.7
Traveler Trailers/ RVs Short Term stays	P	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	Section 5.1.5.7
Shooting Range	C	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	C	Section 5.1.5.7
Indoor Recreation, except as listed below:	--	--	--	--	--	--	--	P	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.5.8
Gym/ Health club	--	--	--	--	--	--	L	P	--	--	--	L	P	P	P	P	P	--	P	Section 5.1.5.8
Smoking Lounge	--	--	--	--	--	--	--	C	--	--	--	--	P	C	--	--	--	--	P	Section 5.1.5.8
Charitable Gaming Facility	--	--	--	--	--	--	--	--	--	--	--	--	C	--	C	--	--	--	C	Section 5.1.5.8
<b>PUBLIC &amp; INSTITUTIONAL</b>																				
Civic, except as listed below:	P	L	L	L	L	L	P	P	L	L	L	P	P	P	P	P	P	P	P	Section 5.1.6.1
Day Care Center	C	--	--	--	C	C	L	P	--	C	C	L	P	P	P	--	--	--	P	Section 5.1.6.1
Parks, Open Space, and Greenways	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.6.2
Minor Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 5.1.6.3
Major Utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	--	Section 5.1.6.3
Antenna	See Section 5.1.6.3D																			
<b>INDUSTRIAL</b>																				
Light Industrial	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	P	--	C	Section 5.1.7.1
Light Manufacturing	--	--	--	--	--	--	--	C	--	--	--	--	P	P	P	P	P	--	P	Section 5.1.7.2
Vehicle Service, as listed below:																				Section 5.1.7.3
Car Wash	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	C	Section 5.1.7.3
Vehicle repair (minor)	--	--	--	--	--	--	--	C	--	--	--	--	P	P	P	P	P	--	C	Section 5.1.7.3
Vehicle repair (major)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	C	Section 5.1.7.3
Warehouse & Distribution	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	P	P	--	P	Section 5.1.7.4
Waste-Related service	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	P	P	--	--	Section 5.1.7.5
Wholesale trade	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	P	Section 5.1.7.6
Self Storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	C	Section 5.1.7.7
Research and Development	--	--	--	--	--	--	--	--	--	--	--	--	C	C	P	P	P	--	C	Section 5.1.7.8
Wrecking/Junk Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Section 5.1.7.9

## Zoning District Comparison Chart

<b>Topic</b>	<b>Existing Zoning: N/A - Extraterritorial Jurisdiction (ETJ)</b>	<b>Existing Zoning: Future Development (FD)</b>	<b>Proposed Zoning: Character District – 4 (CD-4)</b>
<b>Zoning Description</b>	The City does not have zoning outside of City Limits. The City primarily regulates the subdivision of land within the ETJ.	The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.	The CD-4 District is intended to accommodate a variety of residential options including single-family, two family, and multifamily with limited commercial or mixed use on the corners.
<b>Uses</b>	No zoning restrictions	Residential ( <i>See Land Use Matrix</i> )	Residential with some limited commercial. ( <i>See Land Use Matrix</i> )
<b>Parking Location</b>	No zoning standards	No location standards	Parking allowed in the Second and Third Layer
<b>Parking Standards</b>	No zoning standards	2 spaces per dwelling unit (if single family detached)	1 space per dwelling unit, 3 spaces per 1,000 sq ft office, 4 spaces per 1,000 sq ft retail.
<b>Max Residential Units / acre</b>	Based on County Septic restrictions.	0.4 units per acre (max)	Based on parking
<b>Occupancy Restrictions</b>	N/A	N/A	N/A
<b>Landscaping</b>	No zoning standards	Tree and shrub requirements	Parking lot and Street Tree requirements
<b>Building Height (max)</b>	No zoning standards	2 stories	3 stories
<b>Setbacks</b>	No zoning standards	Based on Zoning District	5-12' front Setback, 5' side setback, 15' rear set back.
<b>Impervious Cover (max)</b>	No zoning standards	30%	80%
<b>Lot Sizes</b>	No zoning standards	Allows a variety of lot sizes depending on Building Type.	Allows a variety of lot sizes depending on Building Type.
<b>Streetscapes</b>	Dependent on use.	Residential Street: 5' sidewalk for lots smaller than 1 acre, street trees every 40' on center average, 7' planting area.	Residential, Conventional, and Mixed Use.
<b>Blocks</b>	3,000 ft. Block Perimeter max.	No Block Perimeter Required	2,400 ft. Block Perimeter max.

**FD**

**SECTION 4.4.1.1 FUTURE DEVELOPMENT DISTRICT**



**GENERAL DESCRIPTION**

The Future Development (FD) District is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be zoned for a particular Use. Characterized by primarily agricultural use with woodlands and wetlands and scattered buildings.

**DENSITY**

Units Per Gross Acre	.4 max.
Impervious Cover	30% max.

**TRANSPORTATION**

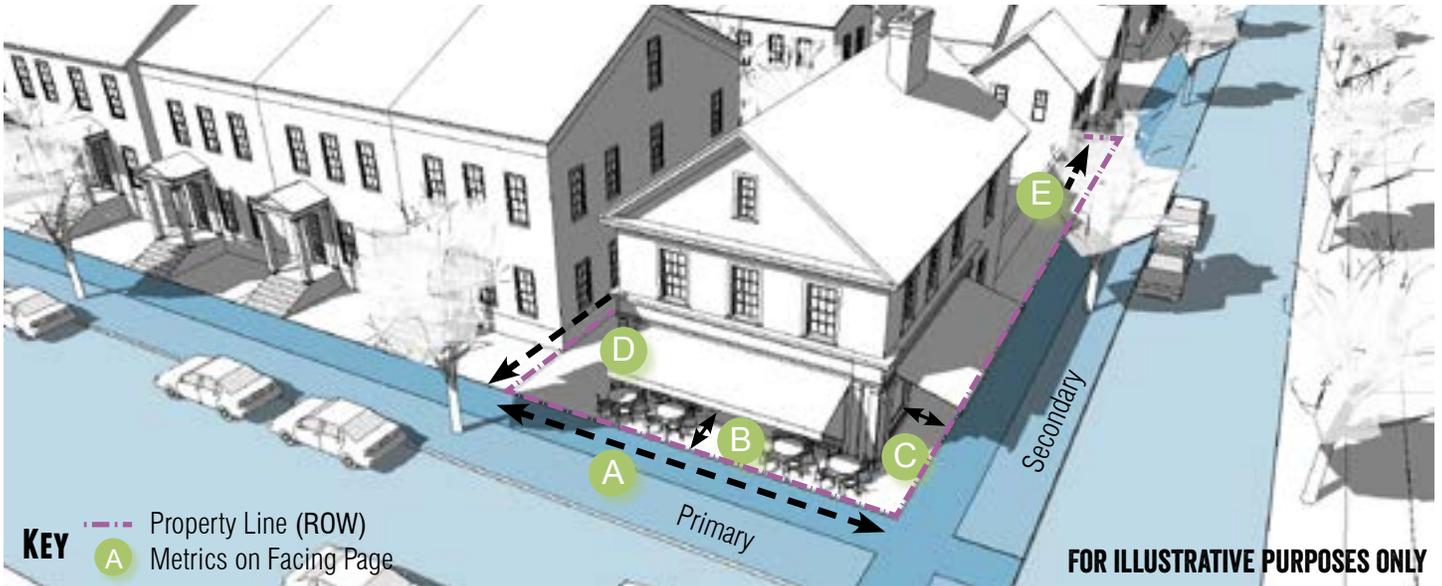
Streetscape Type	Residential	Section 3.8.1.10
Sidewalks are not required for lots greater than 1 acre		

**BUILDING TYPES ALLOWED**

Accessory Dwelling	Section 4.4.6.1
House	Section 4.4.6.2
Civic	Section 4.4.6.15

CD-4

SECTION 4.4.3.4 CHARACTER DISTRICT - 4



**GENERAL DESCRIPTION**

The CD-4 district is intended to accommodate a variety of residential options including single-family, two-family and multifamily with limited commercial or mixed use on the corners.

**DENSITY**

Impervious Cover 80% max.

**TRANSPORTATION**

Block Perimeter	2,400 ft. max	Section 3.6.2.1
Streetscape Type	Residential	Section 3.8.1.10
	Conventional	Section 3.8.1.7
	Mixed Use	Section 3.8.1.8

**BUILDING TYPES ALLOWED**

Accessory Dwelling	Section 4.4.6.1
Cottage	Section 4.4.6.3
Duplex	Section 4.4.6.5
Townhouse	Section 4.4.6.7
Courtyard Housing	Section 4.4.6.9
Apartment	Section 4.4.6.10
Live/ Work	Section 4.4.6.11
Neighborhood Shopfront	Section 4.4.6.12
Civic Building	Section 4.4.6.15

**ZC-20-05 (Vantage 2) Zoning Change Review (By Comp Plan Element)**

**LAND USE – Preferred Scenario Map / Land Use Intensity Matrix**

	YES	NO (map amendment required)
Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?	X	

**ECONOMIC DEVELOPMENT – Furthering the goal of the Core 4 through the three strategies**

STRATEGY	SUMMARY	Supports	Contradicts	Neutral
Preparing the 21 <sup>st</sup> Century Workforce	Provides / Encourages educational opportunities			Applicant has not indicated that educational facilities will be included.
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business			Applicant has not indicated that infrastructure will be extended.
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity			Applicant has not indicated that opportunities for jobs and services will be included.

**ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints**

	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint		X	X		
Constraint by Class					
Cultural	X				
Edwards Aquifer	X				
Endangered Species	X				
Floodplains	X				
Geological	X				
Slope	X				
Soils		X		X	
Vegetation	X				
Watersheds	X				
Water Quality Zone	X				

**ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results**

Located in Subwatershed:	<b>Cottonwood Creek</b>				
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed					<b>X</b>
Notes: <b>This watershed currently has very little impervious cover compared to its size. Cottonwood Creek is not a tributary to the San Marcos River, with larger more concentrated growth, best management practices such as retention ponds and biofiltration gardens can be incorporated into the site planning process.</b>					

**NEIGHBORHOODS – Where is the property located**

CONA Neighborhood(s):	<b>N/A – Outside City Limits</b>
Neighborhood Commission Area(s):	<b>N/A – Outside City Limits</b>
Neighborhood Character Study Area(s):	<b>N/A</b>

**PARKS, PUBLIC SPACES AND FACILITIES –Availability of parks and infrastructure**

	YES	NO
Will Parks and / or Open Space be Provided?	<b>X</b>	
Will Trails and / or Green Space Connections be Provided?		<b>X</b>
<b>The applicant has indicated a desire to include Parks / Open Space within the development.</b>		
<b>Maintenance / Repair Density</b>	Low (maintenance)	High (maintenance)
Wastewater Infrastructure	<b>X</b>	
Water Infrastructure	<b>X</b>	
Public Facility Availability		
	YES	NO
Parks / Open Space within ¼ mile (walking distance)?		<b>X</b>
Wastewater service available?	<b>X</b>	
Water service available?	<b>X</b>	

**TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation**

	A	B	C	D	F
Existing Daily LOS		<b>X</b>			
Existing Peak LOS	<b>X</b>				
Preferred Scenario Daily LOS		<b>X</b>			<b>X</b>
Preferred Scenario Peak LOS			<b>X</b>		<b>X</b>
<b>The Transportation Demand Model shows that Highway 123 is anticipated experience a decrease in Level of Service in the future. One reason for this is the anticipated intersection with the future Loop 110. Additional connectivity based on the requirements of our 2018 Transportation Master Plan may help alleviate the anticipated congestion.</b>					

	N/A	Good	Fair	Poor
Sidewalk Availability	X			
<b>Sidewalks are required to be built as part of the development.</b>				
	YES		NO	
Adjacent to existing bicycle lane?			X	
Adjacent to existing public transportation route?			X	
Notes: <b>The Transportation Master Plan indicates that this development will be required to construct bicycle infrastructure along HWY 123. This infrastructure is anticipated to be part of a larger network in the future.</b>				



**PLANNING AND DEVELOPMENT SERVICES**

**1/23/2020**

**ZC-20-05**

**Notice of Public Hearing  
Zoning Change Request  
FD to CD-4**

*Hold a public hearing and consider a request by Vantage at San Marcos, on behalf of Mohnke Poor Farm, LLC, for a zoning change from FD to "CD-4" Character District 4, for approximately 18.5 acres, more or less, out of the J.F. Geister Survey, No 6 and No 7, Hays County, generally located north of the intersection of Highway 123 and Monterey Oak Drive.*

The San Marcos Planning and Zoning Commission will consider the above request at an upcoming public hearing and will either approve or deny the request. This recommendation will be forwarded to the San Marcos City Council. Before making a decision, the Commission and Council will hold public hearings to obtain citizen comments. Because you are listed as the owner of property located within 400 feet of the subject property, we would like to notify you of the following public hearings and seek your opinion of the request:

- A public hearing will be held at the Planning Zoning Commission Meeting on **Tuesday, February 25, 2020** at 6:00 p.m. in the Council Chambers in City Hall, 630 East Hopkins.
- A public hearing will be held at the City Council Meeting on **Tuesday, March 17, 2020** at 6:00 p.m. in the Council Chambers in City Hall, 630 East Hopkins.

All interested citizens are invited to attend and participate in the public hearing. If you cannot attend but wish to comment, you may write to the below address. Your written comments will be given to the Planning & Zoning Commission and City Council if they are received before 5 PM on the day of the meeting.

Development Services-Planning  
630 East Hopkins  
San Marcos, TX 78666  
[planninginfo@sanmarcostx.gov](mailto:planninginfo@sanmarcostx.gov)

For more information regarding this request, contact the case manager **Will Parrish**, at **(512) 805-2658**. When calling, please refer to case number **ZC-20-05**.

*The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)*

PLANNING AND DEVELOPMENT SERVICES  
Enclosure: Map (See Reverse)

CITY HALL • 630 EAST HOPKINS • SAN MARCOS, TEXAS 78666 • 512.393.8230 • FACSIMILE 855.759.2843  
SANMARCOSTX.GOV

# ZONING CHANGE, OVERLAY OR ESTABLISHMENT OF A HISTORIC DISTRICT/LANDMARK APPLICATION



Updated: October, 2019

## CONTACT INFORMATION

Applicant's Name		Property Owner	
Company	Vantage at San Marcos, LLC	Company	Mohnke Poor Farm, LLC
Applicant's Mailing Address	7334 Blanco RD, Suite 200 San Antonio, TX 78216	Owner's Mailing Address	540 Mission Valley Rd., New Braunfels, TX 78132
Applicant's Phone #	210.381.9813	Owner's Phone #	830-708-3023
Applicant's Email	cweigand@housingdev.com	Owner's Email	lachafin.nb@gmail.com

## PROPERTY INFORMATION

Subject Property Address(es): 3625 State Highway 123, San Marcos, TX 78666  
 Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Total Acreage: 18.58 Tax ID #: R14470 & R14472  
 Preferred Scenario Designation: \_\_\_\_\_ Existing Zoning: N/A  
 Existing Land Use(s): Pastureland

## DESCRIPTION OF REQUEST

Proposed Zoning District(s): CD-4  
 Proposed Land Uses / Reason for Change: Multifamily  
 (Site): \_\_\_\_\_

## AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee\* \$1,057 plus \$100 per acre Technology Fee \$13 **MAXIMUM COST \$3,013**  
 \*Existing Neighborhood Regulating Plan Included.

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**

**PROPERTY OWNER AUTHORIZATION**

I, Lora Ann Chafin (owner name) on behalf of  
Mohnke Poor Farm, LLC (company, if applicable) acknowledge that I/we  
am/are the rightful owner of the property located at  
3625 State Highway 123, San Marcos, TX 78666 (address).

I hereby authorize Chris Weigand or assigns (agent name) on behalf of  
Vantage at San Marcos, LLC (agent company) to file this application for  
Zoning and other development related applications (application type), and, if necessary, to work with  
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner:  Date: 11/25/2019  
Printed Name, Title: Lora Ann Chafin

Signature of Agent:  Date: 1/14/20  
Printed Name, Title: Chris Weigand, Project Manager

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS  
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- **Notification Signs:** if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- **Published Notice:** if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***
- **Personal Notice:** if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***

*I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.*

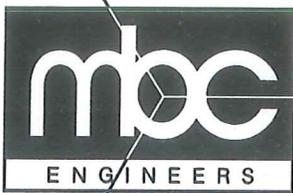
Signature: 

Date: 1/14/20

Print Name: Chris Weigand

I hereby  
agree

Form Updated October, 2019



**METES AND BOUNDS DESCRIPTION  
TO ACCOMPANY ZONING AND ANNEXATION EXHIBIT**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

**COMMENCING** at a 1/2-inch Iron Rod found on the East Right-of-Way line of State Highway 123 and the Southeast Right-of-Way line of Old-Bastrop Highway and marking the Westernmost corner of a called 225.25 Acre Tract as described in deed recorded in Document number 18004464, of the Deed records of Hays County, Texas;

**THENCE** S 04° 22' 13" W a distance of 288.89 feet, along and with the East Right-of-Way line of said State highway 123 to a 1/2-Inch Iron Rod Found at the **POINT OF BEGINNING**;

**THENCE** S 41° 37' 44" E a distance of 811.88 feet, along and with the West line of said 225.25 Acre Tract and with the East line of this tract to a Fence Post Found;

**THENCE** S 41° 49' 45" E a distance of 440.41 feet, continuing along and with said 225.55 Acre Tract to a 1/2-Inch Iron Rod with cap "BYRN" Found and marking the Westernmost corner of a called 100 Acre Tract as described in deed recorded in Document number 18028048 of the Deed records of Hays County, Texas;

**THENCE** S 42° 05' 52" E a distance of 54.41 feet along and with the West line of said 100 Acre tract, to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** S 48° 35' 24" W a distance of 607.78 feet departing the West line of said 100 Acre tract, into and across said 30.9 Acre tract to a 1/2-Inch Iron Rod with cap "MBC" Set at the point of curvature of a curve to the right;

**THENCE** along and with said curve to the right having the following parameters: Radius = 545.00 feet, Arc length = 435.83 feet, Chord Bearing = S 71° 29' 57" W and Chord Distance = 424.31 feet to a 1/2-Inch Iron Rod with cap "MBC" Set;

**THENCE** N 85° 35' 29" W a distance of 127.50 feet to a 1/2-Inch Iron Rod with cap "MBC" Set on the East Right-of-Way line of said State Highway 123;

THENCE N 04° 24' 31" E a distance of 1506.69 feet along and with the East Right-of-Way line of said State Highway 123 to the **POINT OF BEGINNING** and containing 18.58 acres, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc.

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.

  
Joel Christian Johnson, R.P.L.S.  
TBPLS Firm Registration 10011700



Date: December 04, 2019  
Job No: 32486-HAYS

OLD BASTROP HIGHWAY

P.O.C.

P.O.B.

S04°22'13"W  
288.89'  
(S05°08'00"W 288.86')

Curve Table					
Curve #	Length	Radius	Delta	Chord Bearing	Chord Length
C1	435.83'	545.00'	45°49'07"	S 71°29'57" W	424.31'



SCALE: 1" = 200'

**LEGEND**

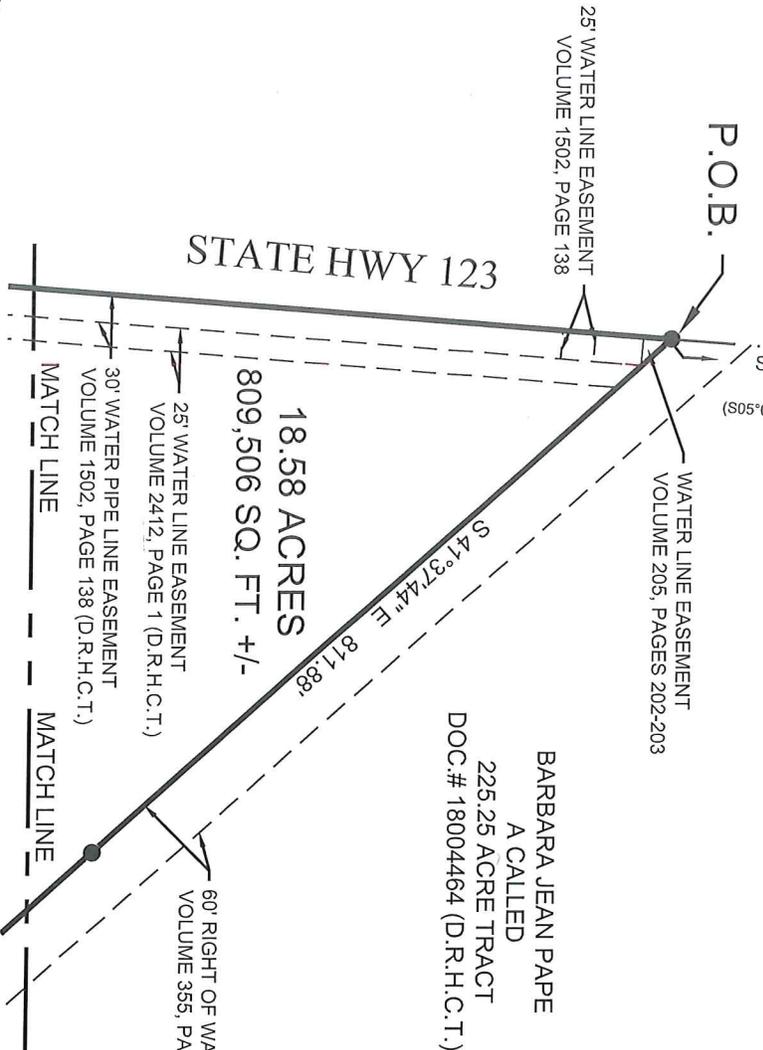
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- ◎ 1/2" IRON ROD W/CAP "MBC" SET/FOUND
- MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
- M.P.R.H.C.T. DEED RECORDS OF HAYS COUNTY, TEXAS
- D.R.H.C.T. DEED RECORDS OF HAYS COUNTY, TEXAS

**SURVEYORS NOTES:**

1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
2. NO IMPROVEMENTS SHOWN, ZONING AND ANNEXATION EXHIBIT ONLY. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.
3. THIS ZONING AND ANNEXATION EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.
4. METES AND BOUNDS DESCRIPTION PREPARED ON THE SAME DATE SHALL ACCOMPANY THIS ZONING AND ANNEXATION EXHIBIT.

BARBARA JEAN PAPE  
A CALLED  
225.25 ACRE TRACT  
DOC.# 18004464 (D.R.H.C.T.)

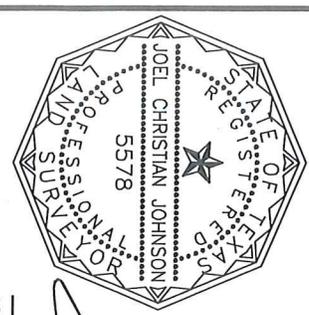
STATE HWY 123



18.58 ACRES  
809,506 SQ. FT. +/-

**ZONING AND ANNEXATION EXHIBIT OF**

BEING 18.58 ACRES (809,506 SQUARE FEET +/-) TRACT OF LAND SITUATED IN THE J.F. GEISTER SURVEY NO. 6 AND IN THE J.F. GEISTER SURVEY NO. 7, IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, SAID 18.58 ACRE TRACT OF LAND ALSO BEING OUT OF A CALLED 30.9 ACRE TRACT (TRACT 2) AS DESCRIBED IN DOCUMENT NO. 18028048, DEED RECORDS OF HAYS COUNTY, TEXAS.



JOEL C. JOHNSON  
R.P.L.S. #5578



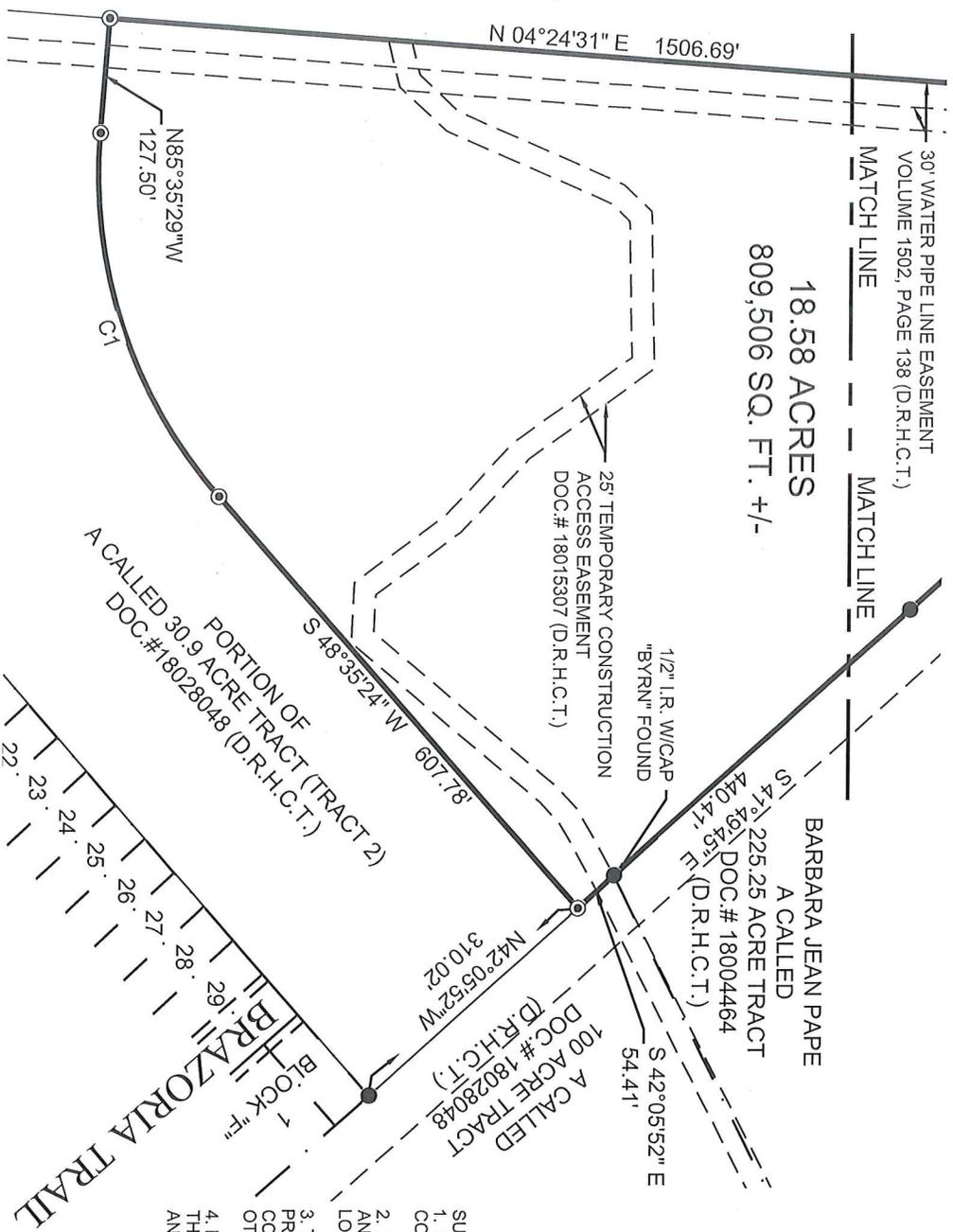
1035 Central Parkway North  
San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9902  
FIRM REGISTRATION NUMBER:  
T.B.P.E. F-784 & T.B.P.L.S. 10011700

DATE: 12/05/2019  
JOB NO. 32486-HAYS  
SHEET 1 OF 2

30' WATER PIPE LINE EASEMENT  
VOLUME 1502, PAGE 138 (D.R.H.C.T.)

18.58 ACRES  
809,506 SQ. FT. +/-

STATE HWY 123



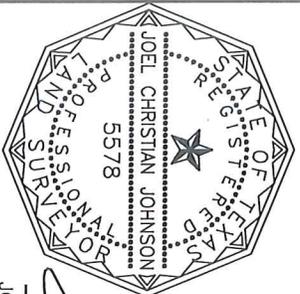
SCALE: 1" = 200'

- LEGEND**
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
  - ⊙ 1/2" IRON ROD W/CAP "MBC" SET/FOUND
  - M.P.R.H.C.T. MAP AND PLAT RECORDS OF HAYS COUNTY, TEXAS
  - D.R.H.C.T. DEED RECORDS OF HAYS COUNTY, TEXAS

- SURVEYORS NOTES:**
1. BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
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JOEL C. JOHNSON  
R.P.L.S. #5578



1035 Central Parkway North  
San Antonio, Texas 78232  
(210) 545-1122 FAX (210) 545-9302  
FIRM REGISTRATION NUMBER:  
T.B.P.E. F-784 & T.B.P.L.S. 100117100

DATE: 12/05/2019  
JOB NO. 32486-HAYS  
SHEET 2 OF 2



## Legislation Text

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**File #:** Ord. 2020-13(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-13, on the second of two readings, amending Chapter 38 of the City Code titled Fire Prevention and Protection, of the San Marcos City Code by revising the local amendments recommended in the 2015 edition of the International Fire Code to include provisions relating to mobile food vending operations, gate access, signage, location of fire extinguishers in multi-family structures and requiring buildings in certain zoned areas of the City that have been impacted by a fire event to install fire-sprinkler systems prior to re-occupancy, among other revisions, to enhance public safety in the City; providing for the repeal of any conflicting provisions; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** Fire Department/Fire Prevention Division

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action N/A:**

**City Council Strategic Initiative:**

N/A

Choose an item.

**Comprehensive Plan Element (s):**  Not Applicable

**Master Plan:** N/A

**Background Information:**

The City Council passed an ordinance containing several revisions (“local amendments”) to Chapter 38 of the City Code titled Fire Prevention and Protection in May, 2019, after a work session on April 2, 2019. The

revisions were based on updates to the 2015 International Fire Code which is the Code currently adopted by the City and the City's regional public safety partners like neighboring cities and counties. Staff informed Council at that time that the next comprehensive update to the Code will be in 2021 when an updated International Fire Code is expected to be released. Staff explained the benefit of having all regional partners consistently using the same standards for fire prevention in commercial and multi-family structures. These standards are being updated periodically to ensure that new scientific and technological advances are considered to ensure best practices in the area of fire prevention / protection. Periodic proposed amendments to the International Fire Code are consensus developed by fire prevention / protection professionals in the State.

Some of the revisions proposed in this Ordinance were topics discussed during the previous work session. Council expressed interest in requiring that properties zoned R-1, R-2, R-3 and R-4 be required to install proper fire sprinkler equipment before re-occupying after a fire event. Other topics covered by this Ordinance, some of which were discussed earlier, include proper address identification for businesses and multi-family buildings, regulation of mobile food vending units, and requirement of fire sprinklers in all new buildings with a building area of 6,000 square feet or greater and in all existing buildings that are enlarged to be 6,000 square feet or greater. Regulations relating to mobile food vending operations are also included and recommended for approval.

For Council's second reading of this Ordinance, the amendment made during first reading to strike the words "on a daily basis" and replace them with "at the end of each business day" in Section 6804.2(1) has been included.

**Council Committee, Board/Commission Action:**

**N/A**

**Alternatives:**

**Remain under current amendments.**

**Recommendation:**

Recommend adoption of the Fire Code amendments as proposed.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 38, FIRE PREVENTION AND PROTECTION, OF THE SAN MARCOS CITY CODE BY REVISING THE LOCAL AMENDMENTS RECOMMENDED IN THE 2015 EDITION OF THE INTERNATIONAL FIRE CODE TO INCLUDE PROVISIONS RELATING TO MOBILE FOOD VENDING OPERATIONS, GATE ACCESS, SIGNAGE, LOCATION OF FIRE EXTINGUISHERS IN MULTI-FAMILY STRUCTURES AND REQUIRING BUILDINGS IN CERTAIN ZONED AREAS OF THE CITY THAT HAVE BEEN IMPACTED BY A FIRE EVENT TO INSTALL FIRE-SPRINKLER SYSTEMS PRIOR TO RE-OCCUPANCY, AMONG OTHER REVISIONS, TO ENHANCE PUBLIC SAFETY IN THE CITY; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.** Section 38.033 titled Amendments to adopted code, contained in Chapter 38 of the City Code titled Fire Prevention and Protection is hereby amended as follows (added text is underlining and deleted text is indicated by strikethroughs):

**Section 503.4; change to read as follows:**

***503.4 Obstruction of fire apparatus access roads.*** Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in sections 503.2.1 and ~~503.2.2~~ any area marked as a fire lane as described in Section 503.3 shall be maintained at all times.

Section 503.6 is amended to read as follows:

***503.6. Gates.*** All gates that obstruct emergency access roads or drives, whether on public or private property, must be permitted by the fire code official and approved by the fire chief. Where gates are installed across fire access roads they shall have an approved means of emergency operation. The gates and the emergency operation shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

**Section 503.6.1; add 503.6.1 to read as follows:**

**503.6.1 Gate access information.** The owner, owner's authorized agent, operator, occupant or person responsible for the gate shall immediately provide to the fire code official, in the manner prescribed by the fire code official, any code, combination, and information necessary for accessing any gate that obstructs emergency access roads or drives, whether on public or private

property. The code, combination, or information must be provided prior to the new or existing gate obstructing any emergency access roads or drives.

**Section 503.6.1.1; add 503.6.1.1 to read as follows:**

**503.6.1.1 Penalty.** A violation of 503.6.1 shall be punishable by a fine of \$1000.00.

**Section 504.1; amend to read as follows:**

**504.1 Required access.** Exterior doors and openings required by this code or the International Building Code shall be maintained readily accessible for emergency access by the fire department and law enforcement acting in the scope of duty. ~~An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.~~

**Section 504.1.1; add 504.1.1 to read as follows:**

**504.1.1 Required access information.** The owner, owner's authorized agent, operator, occupant or person responsible for the door(s) shall immediately provide to the fire code official, in the manner prescribed by the fire code official, any code, combination, or information necessary for accessing any exterior doors and openings required by this code or the International Building Code. The code, combination, and information must be provided prior to the new or existing door being secured.

**Section 504.1.1.1; add 504.1.1.1 to read as follows:**

**504.1.1.1 Penalty.** A violation of 504.1.1 shall be punishable by a fine of \$1000.00.

Section 505.1; change to read as follows:

**505.1 Address Identification.** New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 12 inches (304.8 mm) high with a minimum stroke width of ½ inch (12.7 mm). Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road, buildings do not immediately front a street, and/or the building cannot be viewed from the public way, a monument, pole or other sign with approved 6 inch (152.4 mm) height building numerals or addresses and 4 inch (101.6 mm) height suite/apartment numerals of a color contrasting with the background of the building or other approved means shall be used to identify the structure. Numerals or addresses shall be posted on a minimum 20 inch (508 mm) by 30 inch (762 mm) background on border. Address identification shall be maintained.

Exceptions:

1. R-3 Single Family occupancies shall have approved numerals of a minimum 3 ½ inches (88.9 mm) in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.
2. Structures located within the historic district may utilize a minimum of 6 inches (152.4 mm) high numbers as approved by the Fire Code Official.

*Section 505.3; add to read as follows:*

**505.3:** Where new and existing buildings contain multiple tenant spaces whose primary access is from an interior corridor or, where the entrances to the tenant spaces are not immediately apparent from the exterior, those buildings shall provide numbered signs to assist emergency services personnel with locating any specific tenant space. Signs shall be durable and shall have characters that contrast with their background. Characters shall contain Arabic numbers and/or alphabetical letters. Numbers shall not be spelled out. Each character shall not be less than 1 inch in height. Signs shall be placed, at a minimum:

1. On the opposite wall of a corridor across from any elevator or bank of elevators.
2. On the opposite wall of a corridor across from a stairway or stairway access.
3. At the confluence of two or more corridors.
4. At the beginning of a corridor from any vestibule, foyer, exterior access door or other point of ingress.
5. At any location, as directed by the Fire Code Official or their designee.

Section 506.1; change to read as follows:

**506.1** Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require one or more key boxes to be installed in approved locations. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. An approved key box shall be provided on the following structures:

1. On new and existing structures:
  - a. At fire sprinkler riser/fire pump rooms, if one is provided, or
  - b. At main entry if equipped with other automatic fire protection system.
2. On all existing commercial structures comprised of multiple tenant spaces: a single approved Key Box may serve multiple occupancies in a single building provided the box is located in an approved location and is adequately sized for the number of keys.

Section 507.1; add a new paragraph to read as follows:

Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. Existing fire hydrants on public streets are allowed to be considered as available where

streets are not provided with median dividers which cannot be crossed by fire fighters pulling hose lines.

Section 507.2.1 is amended to read as follows:

**507.2.1 Private fire service mains.** Private fire service mains and appurtenances shall be installed in accordance with NFPA 24 and local jurisdiction construction standards.

Section 507.4; change to read as follows:

**507.4 Water Supply Test Date and Information.** The water supply test used for hydraulic calculation of fire protection systems shall be conducted in accordance with NFPA 291 "Recommended Practice for Fire Flow Testing and Marking of Hydrants" and within one year of sprinkler plan submittal. The fire code official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the fire code official, as required. The exact location of the static/residual hydrant and the flow hydrant shall be indicated on the design drawings. All fire protection plan submittals shall be accompanied by a hard copy of the waterflow test report, or as approved by the fire code official. Reference Section 903.3.5 for additional design requirements.

Section 507.5 is amended to read as follows:

**507.5. Fire hydrant systems.**

- (a) A fire hydrant is an approved national standard three-way hydrant connected to six-inch or larger water mains.
- (b) A two-way hydrant is not recognized unless it was installed before January 1, 1985 or it was installed in conjunction with nationally approved sprinkler systems.
- (c) Fire hydrants shall conform to the latest version of the AWWA Standard for Dry Barrel Fire Hydrants.
- (d) Fire hydrants shall have one 4.5 inch steamer and two 2.5 inch side connections with National Standard threads. The centerline of the steamer connection shall be a minimum of 18 inches above the ground surface.
- (e) The City of San Marcos Water Department shall have the authority to develop and approve new fire hydrant installation methods and standards consistent with the application of this section.
- (f) Hydrants shall be installed in accordance with local jurisdiction construction standards.

Section 507.5.1.2; add new sections to read as follows:

**507.5.1.2 Intersections.** Fire hydrants shall be at every street intersection, or as otherwise required by the fire code official.

**507.5.1.2.1 Location.** Fire hydrants shall be located within 6 feet of the edge of the pavement unless the fire department determines another location is acceptable for fire department use.

Section 507.5.2 is amended by adding the following:

**507.2.1 Cost.** The cost of maintaining fire hydrants on private property will be the burden of the occupant and/or owner of that property.

Section 507.5 is amended by adding the following:

**Section 507.5.4; change to read as follows:**

**507.5.4 Obstruction.** Unobstructed access to fire hydrants shall be maintained at all times. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

**507.5.7. Marking.** The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

Section 508.1.6.12 is amended by adding the following:

- 12.1** Any or all of the above documents will be placed in a wall mounted document box, as prescribed by the fire code official. No documents or other such items, other than those required by the fire code official, will be permitted to be stored in this cabinet.

Section 509.1.2; add new Section 509.1.2 to read as follows:

**509.1.2 Sign Requirements.** Unless more stringent requirements apply, lettering for signs required by this section shall have a minimum height of 2 inches (50.8 mm) when located inside a building and 6 inches (101.6 mm) when located outside, or as approved by the fire code official. The letters shall be of a color that contrasts with the background.

Section 609.2; change to read as follows:

**609.2 Where Required.** A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors, including but not limited to cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, or any form of roofed enclosure, as required by the fire code official.

Exceptions:

1. Tents, as provided for in Chapter 31.
2. {No change to existing Exception.}

Additionally, fuel gas and power provided for such cooking appliances shall be interlocked with the extinguishing system, as required by Section 904.12.2. Fuel gas containers and piping/hose shall be properly maintained in good working order and in accordance with all applicable regulations.

Section 901.4 change to read as follows:

**901.4.7 Wall Mounted Document Box.** A wall mounted document box shall be placed in fire sprinkler riser rooms or at any fire alarm control unit. Documents stored in this box shall include building floor plans, alarm plans, sprinkler plans and any other documents required by the fire code official.

Section 901.6.3; add Sections 901.6.3 and 901.6.3.1 to read as follows:

**901.6.3 False Alarms and Nuisance Alarms.** False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner.

**901.6.3.1 False Alarm and Nuisance Alarm Penalty.** The owner or manager of an occupancy in which the fire alarm system signals or transmits more than three false alarms, as the result of a mechanical, electrical, or component failure within the alarm system, in any rolling 12-month period shall be fined as follows for subsequent false or nuisance alarm beyond the third false or nuisance alarm in the rolling 12-month period:

- a) Fourth false or nuisance alarm shall be fined at \$500
- b) Fifth false or nuisance alarm shall be fined at \$1,000
- c) Sixth and all subsequent false or nuisance alarms shall be fined at \$1,500.

False alarms as the result of weather-related activation or false alarms caused by the initiation of the alarm system by the activation of a manual pull station, or the activation by a person(s) tampering with a detection or signaling device or component of the alarm system, shall not be subject to penalty.

Section 903.2.9; add Section 903.2.9.3 to read as follows:

**Section 901.8.2; change to read as follows:**

**901.8.2 Removal of existing occupant-use hose lines.** The fire code official is authorized to permit the removal of existing occupant-use hose lines and hose valves where all of the following conditions exist:

1. Installation is not required by this code or the International Building Code.
2. The hose line(s) would not be utilized by trained personnel or the fire department.
3. If the remaining outlets for occupant-use hose lines are removed, but the hose valves are required to remain as per the fire code official, such valves shall be ~~are~~ compatible with local fire department fittings.

**903.2.9.3 Self-Service Storage Facility.** An automatic sprinkler system shall be installed throughout all self-service storage facilities.

*Exception:* One-story self-storage facilities that have no interior corridors.

*Section 903.2.10; change to read as follows:*

**903.2.10 Group S-2 enclosed parking garages.** An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 of the International Building Code or where located beneath other groups.

**Section 903.2.11; change 903.2.11.3 and add 903.2.11.7, 903.2.11.8, and 903.2.11.9 as follows:**

**903.2.11.3 Buildings 55 feet or more in height.** An automatic sprinkler system shall be installed throughout buildings that have one or more stories with an occupant load of 30 or more other than penthouses in compliance with Section 1510 of the International Building Code, located 55 feet (16 764mm) or more above the lowest level of fire department vehicle access, measured to the finished floor.

Exceptions:

1. Open parking structures in compliance with Section 406.5 of the International Building Code, having no other occupancies above the subject garage.
2. Occupancies in Group F-2.

**903.2.11.7 High-Piled Combustible Storage.** For any building with a clear height exceeding 12 feet (4572 mm), see Chapter 32 to determine if those provisions apply.

**903.2.11.8 Spray Booths and Rooms.** New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system.

**903.2.11.9 Buildings Over 6,000 sq.ft.** An automatic sprinkler system shall be installed throughout all buildings with a building area 6,000 sq. ft. or greater and in all existing buildings that are enlarged to be 6,000 sq. ft. or greater. For the purpose of this provision, fire walls shall not define separate buildings.

Exception: Open parking garages in compliance with Section 406.5 of the International Building Code.

*Section 903.3.1.2.3; add section to read as follows:*

**Section 903.3.1.2.3 Attics and Attached Garages.** Sprinkler protection is required in attic spaces of such buildings three or more stories in height, in accordance with NFPA 13 and or NFPA 13R requirements, and attached garages.

Section 903.3.1.2.4; add section to read as follows:

**Section 903.3.1.2.4 Exterior closets.** Sprinkler protection shall be provided in closets (regardless of size) that are accessible from the exterior of the building.

Section 903.3.1.4; add to read as follows:

**903.3.1.4 Freeze protection.** Freeze protection systems for automatic fire sprinkler systems shall be in accordance with the requirements of the applicable referenced NFPA standard and this section.

**903.3.1.4.1 Attics.** Only dry-pipe, preaction, or listed antifreeze automatic fire sprinkler systems shall be allowed to protect attic spaces.

Exception: Wet-pipe fire sprinkler systems shall be allowed to protect non-ventilated attic spaces where:

1. The attic sprinklers are supplied by a separate floor control valve assembly to allow ease of draining the attic system without impairing sprinklers throughout the rest of the building, and
2. Adequate heat shall be provided for freeze protection as per the applicable referenced NFPA standard, and
3. The attic space is a part of the building's thermal, or heat, envelope, such that insulation is provided at the roof deck, rather than at the ceiling level.

Section 903.3.5; add a second paragraph to read as follows:

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every water-based fire protection system shall be designed with a 5 psi safety factor. Reference Section 507.4 for additional design requirements.

Section 903.4; add a second paragraph after the exceptions to read as follows:

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 903.4.2; add second paragraph to read as follows:

The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed as close as practicable to the fire department connection.

2. R-2 occupancies of four stories or less in height having no interior corridors.
5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located to serve the roof or at the highest landing of an exit stairway with stair access to the roof provided in accordance with Section 1011.12.
6. {No change.}

7. When required by this Chapter, standpipe connections shall be placed at two hundred feet (200') intervals along major corridors thereafter, or as otherwise approved by the fire code official.

valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering. Section 906.1 is amended by deleting the exception.

**Section 1103; add new Sections 1103.5.5 and 1103.5.6 to read as follows:**

**Section 1103.5.5 Spray booths and rooms.** Existing spray booths and spray rooms shall be protected by an automatic fire-extinguishing system in accordance with Section 2404.

**Section 1103.5.6 Existing R-1, 2, 3, and 4 Occupancies.** In R-1, 2, 3, and 4 occupancies where a fire has occurred and displaces one or more occupants, the affected building shall be fire-sprinklered prior to the re-occupancy of the unit/building.

**Chapter 68; add Chapter 68 to read as follows:**

### **SECTION 6801 General**

**6801.1 Scope.** The provisions of this chapter shall apply to the operation of mobile food vending in which cooking operations are conducted.

**6801.2 Construction Documents.** Every vendor desiring to engage in mobile food vending shall make a written application to the Fire Department for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the Fire Department and be accompanied by permit application fee.

**6801.3 Fees.** An application for a permit under this chapter shall be accompanied by a fee in the amount of \$100. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the Fire Department.

**6801.4 Permits.** It shall be unlawful to operate a mobile food vending unit without a permit as required by Section 105.6. All permits shall be prominently displayed on the mobile food vending unit.

**6801.4.1 Duration; non-transferability.** Permits will be issued for a calendar year from the date of issuance. Any permit issued under this chapter is non-transferable.

### **SECTION 6802 DEFINITIONS**

**MOBILE FOOD VENDING.** Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit.

**MOBILE FOOD VENDING UNIT.** Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which cooking apparatus or cooking equipment may be or is used.

**VENDOR.** Any individual engaged in the business of mobile food vending; if more than one individual is operating a single means of conveyance, then vendor shall mean all individuals operating such means of conveyance.

**OPERATE.** All activities associated with the conducting of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

### **SECTION 6803 INSPECTIONS**

**6803.1 General.** Inspections of mobile food operations shall be set forth as outlined in this section.

**6803.2 Permit Inspections.** Once application for a permit is received by the Fire Department, the vendor shall coordinate an inspection with the Fire Department to verify all statements and requirements within this chapter are provided.

**6803.3 Inspections.** Mobile food vending units shall be inspected at least annually by the Fire Department, or as deemed necessary. Inspections shall be coordinated with the Environmental Health Department when possible.

### **SECTION 6804 OPERATIONAL REQUIREMENTS**

**6804.1 General.** Mobile food vending operations shall be as set forth in this section.

**6804.2 Operational Requirements.** Any vendor engaging in mobile food vending shall comply with the following requirements:

1. Provide appropriate waste receptacles at the site of the unit and remove all litter, debris, and other waste attributable to the vendor on a daily basis at the end of each business day.
2. Shall not be parked, situated or operated in a manner than restricts or blocks emergency vehicle apparatus access.
3. Shall not be parked, situated, or operated in a manner than restricts or blocks fire hydrants, fire lanes, or other fire protection equipment or access.
4. Not use any flashing or blinking lights or strobe lights.
5. Not use loud music, amplification devices or "crying out", or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City of San Marcos.
6. Comply with the city's Noise Ordinance, Sign Ordinance and any other applicable ordinances.

7. Comply with all applicable federal, state, county and municipal regulations.
8. Not represent the granting of a permit under this chapter as an endorsement by the City of San Marcos.
9. Cooking operations in which grease laden vapors are or can be created, shall be provided with a Type I hood and fire suppression system.
10. All cooking equipment must be mounted on non-combustible surfaces and maintain all clearance requirements, as recommended by the manufacturer.
11. All hot surfaces and/or cooking areas must be adequately protected from the public.
12. Fire suppression system shall be inspected by a licensed company every six months.
13. A minimum of 1 K- Class fire extinguisher shall be provided.
14. A minimum of 1 2A-10BC fire extinguisher shall be provided.
15. Propane cylinders shall be secured to the vehicle and installed in accordance with NFPA 58.
16. All temporary electrical shall comply with the provisions of this code and any other applicable city ordinances or codes.
- 17.

**6804.3 Maintenance.** Maintenance of systems on mobile food preparation vehicles shall be in accordance with Sections 6804.3.1 through 6804.3.3.

**6804.3.1 Exhaust system.** The exhaust system, including hood, grease-removal devices, fans, ducts, and other appurtenances shall be inspected and cleaned in accordance with Section 607.3.

**6804.3.2 Fire protection systems and devices.** Fire protection systems and devices shall be maintained in accordance with Section 901.6.

**6804.3.3 Fuel gas systems.** LP-gas containers installed on the vehicle and fuel-gas piping systems shall be inspected annually by an approved inspection agency or a company that is registered with the U.S. Department of Transportation to requalify LP-gas cylinders, to ensure that system components are free from damage, suitable for the intended service and not subject to leaking. CNG containers shall be inspected every 3 years in a qualified service facility. CNG containers shall not be used past their expiration date as listed on the manufacturer's container label. Upon satisfactory inspection, the approved inspection agency shall affix a tag on the fuel gas system or within the vehicle indicating the name of the inspection agency and the date of satisfactory inspection.

## **SECTION 6805 FIRE EXTINGUISHERS**

**6805.1 Fire Extinguishers.** Fire extinguishers shall be required in mobile food vending units in all of the following locations:

1. Mobile food vending units shall have at minimum one 2A-10BC portable fire extinguisher mounted in a conspicuous place within the kitchen area.

2. Mobile food vending units with portable generators shall have a 2A-10BC portable fire extinguisher in addition to the other fire extinguishers.
3. Mobile food vending units who utilize deep fat fryers, grills, or other cooking devices in which grease laden vapors may be generated, shall have a K Class portable fire extinguisher, as required by Section 904.12.5.
4. Mobile food vending units who utilize solid fuel cooking appliances or devices with a fuel box shall have one 2A fire extinguisher; in addition to the other fire extinguishers.

**6805.2 Inspections.** All portable fire extinguishers shall be serviced, inspected, and tagged at least annually, or as otherwise required by this code or state requirements.

### **SECTION 6806 COMMERCIAL COOKING SYSTEMS**

**6806.1 Commercial cooking systems.** A Type 1 hood shall be installed above all commercial cooking equipment that produce grease laden vapors in accordance with the edition of the International Mechanical Code as adopted by the City and Section 609.

**6806.2 Fire protection for commercial cooking systems.** Cooking equipment shall be protected by automatic fire extinguishing systems in accordance with Section 904.12. All fire suppressions systems shall comply with UL300, or other equivalent standards.

**6806.3 Applicable NFPA Standards.** All commercial cooking systems shall comply with the applicable provisions of the NFPA 96 Annex B, and other applicable standards.

### **SECTION 6807 CLEARANCES**

**6807.1 Clearances.** In addition to the requirements in 6804.2, the following minimum clearances shall be provided from the mobile food vending unit:

Not closer than 20 feet to any structure

1. At least 15 feet from any fire hydrant

**6807.2 Clearance to adjacent mobile food vending units.** A minimum of 10-foot clearance shall be provided to adjacent mobile food vending units.

Exception: When in the opinion of the Fire Code Official, the clearance distance can be reduced if this would not pose any additional risks.

### **SECTION 6808 USE OF LPG**

**6808.1 Use of LPG.** Liquefied Petroleum Gas systems shall comply with Sections 6808.2 through 6808.14.

**6808.2 LPG container location.** Shall be located and secured on the exterior of the mobile food vending unit, open to atmosphere or if containers are kept in compartment, said compartment must

be separate from the interior food preparation area. Access must be from the exterior of the unit and compartment floor and exterior door must be vented to the atmosphere.

**6808.2.1 Additional LPG Container Locations.** Propane cylinders, including spare cylinders, shall not be located:

- a. On rear bumpers, on exterior sides of the vehicle, or roofs;
- b. Below the lowest part of the vehicle frame;
- c. Inside improperly vented or unvented compartments, trunks, or beds of vehicles;
- d. Inside passenger compartments of vehicles;
- e. On the ground.

**6808.2.2 Propane storage compartments.** A propane storage compartment on a mobile food vending unit shall be ventilated with at least two vents; one vent must be located at the top of the unit; one vent must be located at the bottom of the compartment. Each vent must have an aggregate area equal to at least 0.5 inches for each seven (7) pounds of the total fuel capacity of the maximum number of the largest cylinders the compartment can hold.

**6808.2.3 Additional propane cylinder requirements.** Propane cylinders must be:

- a. In an upright position at all times;
- b. In good condition without dents, scrapes, gouges, or defects;
- c. Stored at least 10 feet from trash and combustible materials;
- d. Equipped with an approved regulator;
- e. Mounted, used, and stored in compliance with NFPA 58;
- f. Constructed and marked in accordance with specifications for propane cylinders as required by the U.S. Department of Transportation.

**6808.3 No smoking signs.** All mobile food vending units with propane shall post a "NO SMOKING" sign next to or directly above the propane bottle and visible to the public. Such sign shall be posted with a minimum of four-inch lettering.

**6808.4 Hoses and couplings.** Any hose used to pipe L.P. Gas to a device shall be listed by UL, FM, or other approved agency. All couplings, fittings, and any other devices shall meet the requirements for LP Gas Service as outlined in the International Fuel Gas Code, NFPA 58 and/or 54. Propane piping cannot be located on the sides, rear, or roof of a mobile food vending unit.

**6808.4.1 Metal Flex Hoses.** Metal flex hose must not penetrate through walls, floor, or ceiling to the interior of the mobile food vending unit. Rigid pipe must be used to penetrate solid assemblies. A maximum of 60 inches of metal flex hose shall be allowed for each appliance to connect to the propane rigid pipe.

**6808.5 Annual Testing.** All piping, hoses, and couplings shall be tested annually at not less than 3psig for 10 minutes before appliances are connected and at system pressure after connection of appliances, by a Texas Railroad Commission licensed LPG Technician. Documentation of the

test, on the approved City of San Marcos form, within 90 days of the inspection, must be provided at the time of the inspection and must include:

- 1.Original testing/inspection document from licensed LPG Technician (copies are not accepted);
- 2.Pressure and duration of test;
- 3.Name, address, license number, and phone number of technician performing test;
- 4.License plate number and vehicle identification number (VIN) of mobile food vending unit.

**6808.6 LPG tank separation distance.** LPG tanks shall be located outside the mobile food establishment a minimum of five feet from the primary means of egress.

Exception. LPG tanks that are installed securely on the unit or as a permanent fixture inside a compartment.

**6808.7 Maximum aggregate volume.** The maximum aggregate capacity of LP-gas containers transported on the vehicle and used to fuel cooking appliances only shall not exceed two (2)-100 pounds containers. The cylinders cannot be manifolded together. Each propane cylinder must be requalified every 12 years. A current date of manufacture or requalification stamp is required on all cylinders.

**6808.8 Propane Cylinders at time of inspection.** The permit applicant and/or mobile food vending unit operator will be required to have propane cylinders on the mobile food vending unit at the time of inspection to demonstrate how the cylinders are secured to the vehicle. Propane cylinders must be secured as to prevent the propane bottles from leaving the mount or cage in the event of a vehicle crash or rollover.

**6808.9 Mounting and storage.** The mounting and storage of propane cylinders must be in compliance with NFPA 58.

**6808.10 Manual shut-off valves.** Manual shut-off valves are required at the point of use, on each appliance, and at the source.

**6808.11 Relief Valve Discharge.** The relief valve discharge from the propane cylinder shall not be less than three (3) feet, measured horizontally along the surface of the vehicle to:

1. Openings in the vehicle;
2. Propane burning appliance intake or exhaust vents;
3. All internal combustion engine exhaust terminations.

**6808.12 LP-gas alarms.** A listed LP-gas alarm shall be installed within the mobile food vending unit in the vicinity of LP-gas system components, in accordance with the manufacturer's instructions. The alarm is required to be equipped with back-up battery operation and must be able to activate when the unit is occupied and is not occupied.

**6808.13 Carbon Monoxide Alarm.** A listed carbon monoxide alarm shall be installed within the mobile food vending unit, in accordance with the manufacturer's instructions.

**6808.14 Combination alarm.** A single listed combination alarm meeting the requirements of 6808.12 and 6808.13 is permitted.

**6808.15 Fuel sources other than LPG.** When a fuel source other than LPG is used, it shall be installed and maintained in accordance with this code and any other applicable code. Use of fuels other than LPG shall be subject to the approval of the Fire Code Official.

### **SECTION 6809 SOLID FUEL**

**6809.1 Scope.** The provisions of this section shall apply to the use of wood, charcoal, or other solid fuel.

**6809.2 Fuel Storage.** Solid fuel shall not be stored within 3 feet of any heat producing device, cooking appliance or vent. Solid fuel shall not be stored within 3 feet of any flammable liquids, ignition sources, chemical or food and food supplies.

**6809.3 Debris.** Ash, cinders and other fire debris shall be removed from the firebox or cooking appliance at regular intervals. Removed debris shall be placed in a closed metal container at least 3 feet from the cooking appliances.

### **SECTION 6810 ELECTRICAL**

**6810.1 General.** Mobile food vending units shall meet the following requirements, at a minimum, regarding the electrical components of the unit:

1. Units may not use electricity from a nearby structure;
2. No excessive use of extension cords are permitted; extension cords must comply with 605.5.1 through 605.5.4.
3. Breaker boxes and junction boxes shall have proper cover and comply with 605.6.
4. All wiring must be in conduit and comply with 605.6;
5. The improper use of electrical accessories and overloading of circuits is prohibited;
6. Mobile food vending units must also comply with 605.1, 605.3.1, 605.4, and 605.10.

### **SECTION 6811 GENERATORS**

**6811.1 General.** All generators must be in safe working condition.

**6811.2 Generator Storage Compartment.** The generator storage compartment on or within the mobile food vending unit must be vented to the exterior and properly sealed.

6811.3 Refueling of generators. Shall be performed in an approved manner. Fuel shall be stored in a UL or FM approved flammable liquid safety container in an approved location.

### **SECTION 6812 HOUSEKEEPING**

6812.1 Housekeeping. Trash and other combustible materials shall be removed at regular intervals. Storage of combustible rubbish shall not produce conditions that will create a nuisance or hazard to the public health, safety or welfare.

6812.2 Clearances. Combustible rubbish shall not be stored, or otherwise located, within 3 feet of any fuel source, ignition sources, or heat producing appliances. Rubbish shall not be located within the means of egress of the mobile food vending unit.

### **SECTION 6813 REVOCATION**

6813.1 Revocation. The Fire Department shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this chapter or violates any other federal, state or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the Fire Department shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void.

### **SECTION 6814 VIOLATIONS**

6814.1 Violations. Any vendor or mobile food truck that violates this shall be subject to violations and fines in accordance with Section 109.

**SECTION 2.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

**SECTION 3.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 4.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 5.** This ordinance will take effect after its passage, approval and adopted on second reading, and publication in accordance with section 3.12 of the City Charter.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney

## Chapter 38 - FIRE PREVENTION AND PROTECTION<sup>[1]</sup>

### Footnotes:

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**Editor's note**— Ord. No. [2019-11](#), § 1, adopted May 7, 2019, amended chapter 38 in its entirety to read as herein set out. Former chapter 38, §§ 38.002, 38.028—38.031, 38.051—38.060, pertained to similar subject matter. See Code Comparative Table for complete derivation.

**Cross reference**— Buildings and building regulations, ch. 14; nuisances, § 34.061 et seq.

**State Law reference**— Fire safety, V.T.C.A., Health and Safety Code § 791.001 et seq.; liquified petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq.; liquified petroleum gas containers, Vernon's Ann. Civ. St. art. 8610a; gasoline stations, V.T.C.A., Health and Safety Code § 753.001 et seq.; duties of state fire marshal, V.T.C.A., Government Code § 417.001 et seq.; fire protection, V.T.C.A., Local Government Code § 342.001 et seq.

### ARTICLE 1. - IN GENERAL

Sec. 38.001. - Reserved.

Sec. 38.002. - Arson reward.

- (a) The city hereby offers a reward of \$250.00 for information leading to the arrest and conviction of any person committing the crime of arson within the corporate limits of the city.
- (b) This reward is a standing offer, and shall be paid out of the general fund of the city.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Secs. 38.003—38.025. - Reserved.

### ARTICLE 2. - FIRE MARSHAL

Sec. 38.026. - Appointment of fire marshal.

The fire marshal shall be appointed by the fire chief. The appointment shall be in accordance with civil service laws as modified by a current meet and confer agreement.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.027. - Reserved.

Sec. 38.028. - Appointment of peace officers.

- (a) The San Marcos Fire Department shall function as a law enforcement agency, if approved as a law enforcement agency by the Texas Commission on Law Enforcement (TCOLE).
- (b) If approved by TCOLE, the fire marshal shall be the TCOLE agency administrator for the San Marcos Fire Department. In the event the fire marshal is not a sworn Texas Peace Officer, the fire chief may appoint a current sworn peace officer, to be the agency administrator for TCOLE purposes.

- (c) The fire marshal, with approval of the fire chief, may assign licensed peace officers to perform law enforcement duties related to the responsibilities of this chapter and other state mandated law enforcement activities required by law.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.029. - Reserved.

Sec. 38.030. - Investigation of fire.

The fire marshal or the fire marshal's designee shall investigate all fires as required by departmental policy, local ordinance, or state law.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.031. - Fire prevention and safety education.

The fire marshal, or the fire marshal's designee, may develop educational programs and disseminate materials necessary to educate the public effectively regarding methods of fire prevention and safety.

(Ord. No. [2019-11](#), § 1, 5-7-19)

### ARTICLE 3. - FIRE CODE STANDARDS

Sec. 38.032. - Code adopted.

- (a) The International Fire Code 2015, to include appendices B, D, E, F and G and references thereto, is hereby adopted and incorporated by reference as the fire code of the city, subject to and including by reference such revisions, corrections, additions and deletions as shall appear in this article. In the interpretation and application, the provisions of this article shall be held to be minimum requirements adopted for the promotion of public health, safety, morale and general welfare. A copy of the fire code is on file in the city fire marshal's office and the city secretary's office.
- (b) In the event there is a conflict between this article and the adopted codes herein and any city, state or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.
- (c) A violation of this chapter is a strict liability offense, and requires no culpable mental state.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.033. - Amendments to adopted code.

The following sections, paragraphs, and sentences of the International Fire Code, 2015 edition are hereby amended as follows:

*Section 101.1; insert:*

*101.1 Title.* These regulations shall be known as the Fire Code of the City of San Marcos, hereinafter referred to as "this code."

*Section 102.6. add Section 102.6.1 to read as follows:*

*102.6.1 Historical Portions of Building.* The exemptions provided by 102.6 shall apply only to the portion of the building designated as historical or comply with section 1103.1.1 whichever is more restrictive.

*Section 103.2 is amended to read as follows:*

*103.2 Appointment.* The fire code official shall be appointed in accordance with the prescribed procedures of this jurisdiction.

*Section 105.7; add Section 105.7.19 to read as follows:*

*105.7.19 Electronic access control systems.* Construction permits are required for the installation or modification of an electronic access control system, as specified in Chapter 10. A separate construction permit is required for the installation or modification of a fire alarm system that may be connected to the access control system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

*Section 109.4; insert:*

*109.4 Violation penalties.* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a Class C Offense, punishable by a fine of not more than \$2,000 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*Section 111.4; insert:*

*111.4 Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$0.00 dollars or more than \$2,000 dollars.

*Section 202; amend and/or add definitions as follows:*

**AMBULATORY CARE FACILITY.** Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing, or similar care on a less than 24-hour basis to persons who are rendered incapable of self-preservation by the services provided. This group may include but not be limited to the following:

- Dialysis centers
- Procedures involving sedation
- Sedation dentistry
- Surgery centers
- Colonic centers
- Psychiatric centers

**DEFEND IN PLACE.** A method of emergency response that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves remaining in place, relocating within the building, or both, without evacuating the building.

**FIRE WATCH.** A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire code official, for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.

**HIGH-PILED COMBUSTIBLE STORAGE.** Add a second paragraph to read as follows:

Any building classified as a group S Occupancy or Speculative Building exceeding 12,000 sq. ft. that has a clear height in excess of 14 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high-piled storage. When a specific product cannot be identified, a fire protection system and life safety features shall be installed as for Class IV commodities, to the maximum pile height.

**HIGH-RISE BUILDING.** A building with an occupied floor located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access.

**REPAIR GARAGE.** A building, structure or portion thereof used for servicing or repairing motor vehicles. This occupancy shall also include garages involved in minor repair, modification and servicing of motor vehicles for items such as lube changes, inspections, windshield repair or replacement, shocks, minor part replacement, and other such minor repairs.

**SELF-SERVICE STORAGE FACILITY.** Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

**STANDBY PERSONNEL.** Qualified fire service personnel, approved by the Fire Code Official. When utilized, the number required shall be as directed by the Fire Code Official. Charges for utilization shall be as normally calculated by the jurisdiction.

**UPGRADED OR REPLACED FIRE ALARM SYSTEM.** A fire alarm system that is upgraded or replaced includes, but is not limited to the following:

- Replacing one single board or fire alarm control unit component with a newer model
- Installing a new fire alarm control unit in addition to or in place of an existing one
- Conversion from a horn system to an emergency voice/alarm communication system
- Conversion from a conventional system to one that utilizes addressable or analog devices

The following are not considered an upgrade or replacement:

- Firmware updates
- Software updates
- Replacing boards of the same model with chips utilizing the same or newer firmware

*Section 307.1 is amended to read as follows:*

**307.1. General.** A person shall not kindle or maintain or authorize to be kindled or maintained any open burning, bonfire, recreational fire, or portable outdoor fireplace, unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

*Section 307.2 is amended to read as follows:*

**307.2. Permit Required.** A permit shall be obtained from the fire code official in accordance with 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

*Section 307.4.1 is DELETED*

*Section 307.4.2 is DELETED*

*Section 307.4.3 is amended to read as follows:*

**307.4.1 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

*Exception:* Portable outdoor fireplaces used at one- and two-family dwellings.

*Section 307.4.2. add Section 307.4.2 to read as follows:*

**307.4.2 Trench burns.** Trench burns shall be conducted in air curtain trenches and in accordance with Section 307.2.

*Section 308.1.4 is amended to read as follows:*

**308.1.4. Outdoor cooking.** Charcoal burners, open flame cooking appliances, LP gas burners, outdoor grills, barbecue grills, or any other outdoor cooking appliance that generates sufficient heat to cook in, on, or about the appliance, shall not be operated or stored on balconies or within 15 feet of a structure or combustible material.

*Exceptions:*

1. One- and two-family dwellings
2. Delete
3. Delete

*Section 308.1.6.2, Exception #3; change to read as follows:*

*Exceptions:*

3. Torches or flame-producing devices in accordance with Section 308.1.3.

*Section 503.1.1; add sentence to read as follows:*

Except for one- or two-family dwellings, the path of measurement shall be along a minimum of a ten feet (10') wide unobstructed pathway around the external walls of the structure, unless otherwise approved by the Fire Code Official.

*Section 503.2.1; change to read as follows:*

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

*Exception:*

1. When approved by the Fire Code Official, vertical clearance may be reduced; provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

*Section 503.2.3; change Section 503.2.3 to read as follows:*

**503.2.3 Surface.** Fire apparatus access roads shall be designed in accordance with the City of San Marcos Engineering Standards and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

*Section 503.2.4; change Section 503.2.4 to read as follows:*

**503.2.4 Turning radius.** The required turning radius of a fire apparatus access road shall be in accordance with:

1. For buildings less than 30-feet and less than 3 stories in height:
  - a. 20-feet (inside) for turns less than or equal to 90 degrees
  - b. 25-feet (inside) for turns greater than 90 degrees
2. For buildings 30-feet or more and/or 3 or more stories in height minimum interior turning radius of 30 feet.

For purposes of this section, the building height is measured from the lowest finished grade of the fire access roads to the point of accessible roof level, including parapet walls. For buildings with pitched roofs, the height is measured to the roof plate.

*Section 503.3; change to read as follows:*

**503.3 Marking.** Striping, signs, or other markings, when approved by the fire code official, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Striping, signs and other markings shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

*Examples of acceptable markings:*

1. Striping - Fire apparatus access roads shall be continuously marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four inch (4") white letters at 25 feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.
2. Signs - Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be 12" wide and 18" high. Signs shall be painted on a white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty feet (50') apart along both sides of the fire lane. Signs may be installed on permanent buildings or walls or as approved by the Fire Code Official.

**Section 503.4; change to read as follows:**

**503.4 Obstruction of fire apparatus access roads.** Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in sections 503.2.1 and ~~503.2.2~~ any area marked as a fire lane as described in Section 503.3 shall be maintained at all times.

*Section 503.6 is amended to read as follows:*

**503.6. Gates.** All gates that obstruct emergency access roads or drives, whether on public or private property, must be permitted by the fire code official and approved by the fire chief. Where gates are installed across fire access roads they shall have an approved means of emergency operation. The gates and the emergency operation shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

**Section 503.6.1; add 503.6.1 to read as follows:**

**503.6.1 Gate access information.** The owner, owner's authorized agent, operator, occupant or person responsible for the gate shall immediately provide to the fire code official, in the manner prescribed by the

fire code official, any code, combination, and information necessary for accessing any gate that obstructs emergency access roads or drives, whether on public or private property. The code, combination, or information must be provided prior to the new or existing gate obstructing any emergency access roads or drives.

**Section 503.6.1.1; add 503.6.1.1 to read as follows:**

**503.6.1.1 Penalty.** A violation of 503.6.1 shall be punishable by a fine of \$1000.00.

**Section 504.1; amend to read as follows:**

**504.1 Required access.** Exterior doors and openings required by this code or the International Building Code shall be maintained readily accessible for emergency access by the fire department and law enforcement acting in the scope of duty. ~~An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.~~

**Section 504.1.1; add 504.1.1 to read as follows:**

**504.1.1 Required access information.** The owner, owner's authorized agent, operator, occupant or person responsible for the door(s) shall immediately provide to the fire code official, in the manner prescribed by the fire code official, any code, combination, or information necessary for accessing any exterior doors and openings required by this code or the International Building Code. The code, combination, and information must be provided prior to the new or existing door being secured.

**Section 504.1.1.1; add 504.1.1.1 to read as follows:**

**504.1.1.1 Penalty.** A violation of 504.1.1 shall be punishable by a fine of \$1000.00.

**Section 505.1; change to read as follows:**

**505.1 Address Identification.** New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 12 inches (304.8 mm) high with a minimum stroke width of ½ inch (12.7 mm). Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road, buildings do not immediately front a street, and/or the building cannot be viewed from the public way, a monument, pole or other sign with approved 6 inch (152.4 mm) height building numerals or addresses and 4 inch (101.6 mm) height suite/apartment numerals of a color contrasting with the background of the building or other approved means shall be used to identify the structure. Numerals or addresses shall be posted on a minimum 20 inch (508 mm) by 30 inch (762 mm) background on border. Address identification shall be maintained.

*Exceptions:*

1. R-3 Single Family occupancies shall have approved numerals of a minimum 3 ½ inches (88.9 mm) in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.
2. Structures located within the historic district may utilize a minimum of 6 inches (152.4 mm) high numbers as approved by the Fire Code Official.

**Section 505.3; add to read as follows:**

505.3: Where new and existing buildings contain multiple tenant spaces whose primary access is from an interior corridor or, where the entrances to the tenant spaces are not immediately apparent from the exterior, those buildings shall provide numbered signs to assist emergency services personnel with locating any specific tenant space. Signs shall be durable and shall have characters that contrast with their background. Characters shall contain Arabic numbers and/or alphabetical letters. Numbers shall not be spelled out. Each character shall not be less than 1 inch in height. Signs shall be placed, at a minimum:

1. On the opposite wall of a corridor across from any elevator or bank of elevators.
2. On the opposite wall of a corridor across from a stairway or stairway access.
3. At the confluence of two or more corridors.
4. At the beginning of a corridor from any vestibule, foyer, exterior access door or other point of ingress.
5. At any location, as directed by the Fire Code Official or their designee.

Section 506.1; change to read as follows:

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require one or more key boxes to be installed in approved locations. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. An approved key box shall be provided on the following structures:

1. On new and existing structures:
  - a. At fire sprinkler riser/fire pump rooms, if one is provided, or
  - b. At main entry if equipped with other automatic fire protection system.
2. On all existing commercial structures comprised of multiple tenant spaces: a single approved Key Box may serve multiple occupancies in a single building provided the box is located in an approved location and is adequately sized for the number of keys.

Section 507.1; add a new paragraph to read as follows:

Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. Existing fire hydrants on public streets are allowed to be considered as available where streets are not provided with median dividers which cannot be crossed by fire fighters pulling hose lines.

Section 507.2.1 is amended to read as follows:

507.2.1 Private fire service mains. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24 and local jurisdiction construction standards.

Section 507.4; change to read as follows:

507.4 Water Supply Test Date and Information. The water supply test used for hydraulic calculation of fire protection systems shall be conducted in accordance with NFPA 291 "Recommended Practice for Fire Flow Testing and Marking of Hydrants" and within one year of sprinkler plan submittal. The fire code official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the fire code official, as required. The exact location of the static/residual hydrant and the flow hydrant shall be indicated on the design drawings. All fire protection plan submittals shall be accompanied by a hard copy

of the waterflow test report, or as approved by the fire code official. Reference Section 903.3.5 for additional design requirements.

*Section 507.5 is amended to read as follows:*

**507.5. Fire hydrant systems.**

- (a) A fire hydrant is an approved national standard three-way hydrant connected to six-inch or larger water mains.
- (b) A two-way hydrant is not recognized unless it was installed before January 1, 1985 or it was installed in conjunction with nationally approved sprinkler systems.
- (c) Fire hydrants shall conform to the latest version of the AWWA Standard for Dry Barrel Fire Hydrants.
- (d) Fire hydrants shall have one 4.5 inch steamer and two 2.5 inch side connections with National Standard threads. The centerline of the steamer connection shall be a minimum of 18 inches above the ground surface.
- (e) The City of San Marcos Water Department shall have the authority to develop and approve new fire hydrant installation methods and standards consistent with the application of this section.
- (f) Hydrants shall be installed in accordance with local jurisdiction construction standards.

*Section 507.5.1.2; add new sections to read as follows:*

**507.5.1.2 Intersections.** Fire hydrants shall be at every street intersection, or as otherwise required by the fire code official.

**507.5.1.2.1 Location.** Fire hydrants shall be located within 6 feet of the edge of the pavement unless the fire department determines another location is acceptable for fire department use.

*Section 507.5.2 is amended by adding the following:*

**507.2.1 Cost.** The cost of maintaining fire hydrants on private property will be the burden of the occupant and/or owner of that property.

*Section 507.5 is amended by adding the following:*

**Section 507.5.4; change to read as follows:**

**507.5.4 Obstruction.** Unobstructed access to fire hydrants shall be maintained at all times. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

**507.5.7. Marking.** The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

*Section 508.1.6.12 is amended by adding the following:*

- 12.1 Any or all of the above documents will be placed in a wall mounted document box, as prescribed by the fire code official. No documents or other such items, other than those required by the fire code official, will be permitted to be stored in this cabinet.

*Section 509.1.2; add new Section 509.1.2 to read as follows:*

**509.1.2 Sign Requirements.** Unless more stringent requirements apply, lettering for signs required by this section shall have a minimum height of 2 inches (50.8 mm) when located inside a building and 6 inches (101.6 mm) when located outside, or as approved by the fire code official. The letters shall be of a color that contrasts with the background.

*Section 609.2; change to read as follows:*

**609.2 Where Required.** A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors, including but not limited to cooking equipment used in fixed, mobile, or temporary concessions, such as trucks, buses, trailers, pavilions, or any form of roofed enclosure, as required by the fire code official.

*Exceptions:*

1. Tents, as provided for in Chapter 31.
2. {No change to existing Exception.}

Additionally, fuel gas and power provided for such cooking appliances shall be interlocked with the extinguishing system, as required by Section 904.12.2. Fuel gas containers and piping/hose shall be properly maintained in good working order and in accordance with all applicable regulations.

*Section 901.4 change to read as follows:*

**901.4.7 Wall Mounted Document Box.** A wall mounted document box shall be placed in fire sprinkler riser rooms or at any fire alarm control unit. Documents stored in this box shall include building floor plans, alarm plans, sprinkler plans and any other documents required by the fire code official.

*Section 901.6.3; add Sections 901.6.3 and 901.6.3.1 to read as follows:*

**901.6.3 False Alarms and Nuisance Alarms.** False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner.

**901.6.3.1 False Alarm and Nuisance Alarm Penalty.** The owner or manager of an occupancy in which the fire alarm system signals or transmits more than three false alarms, as the result of a mechanical, electrical, or component failure within the alarm system, in any rolling 12-month period shall be fined as follows for subsequent false or nuisance alarm beyond the third false or nuisance alarm in the rolling 12-month period:

- a) Fourth false or nuisance alarm shall be fined at \$500
- b) Fifth false or nuisance alarm shall be fined at \$1,000
- c) Sixth and all subsequent false or nuisance alarms shall be fined at \$1,500.

False alarms as the result of weather related activation or false alarms caused by the initiation of the alarm system by the activation of a manual pull station, or the activation by a person(s) tampering with a detection or signaling device or component of the alarm system, shall not be subject to penalty.

*Section 903.2.9; add Section 903.2.9.3 to read as follows:*

**Section 901.8.2; change to read as follows:**

**901.8.2 Removal of existing occupant-use hose lines.** The fire code official is authorized to permit the removal of existing occupant-use hose lines and hose valves where all of the following conditions exist:

1. Installation is not required by this code or the *International Building Code*.
2. The hose line(s) would not be utilized by trained personnel or the fire department.
3. If the remaining outlets for occupant-use hose lines are removed, but the hose valves are required to remain as per the fire code official, such valves shall be ~~are~~ compatible with local fire department fittings.

903.2.9.3 *Self-Service Storage Facility*. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

*Exception:* One-story self-storage facilities that have no interior corridors.

Section 903.2.10; change to read as follows:

903.2.10 *Group S-2 enclosed parking garages*. An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 of the International Building Code or where located beneath other groups.

**Section 903.2.11; change 903.2.11.3 and add 903.2.11.7, 903.2.11.8, and 903.2.11.9 as follows:**

903.2.11.3 *Buildings 55 feet or more in height*. An automatic sprinkler system shall be installed throughout buildings that have one or more stories with an occupant load of 30 or more other than penthouses in compliance with Section 1510 of the International Building Code, located 55 feet (16 764mm) or more above the lowest level of fire department vehicle access, measured to the finished floor.

Exceptions:

1. Open parking structures in compliance with Section 406.5 of the International Building Code, having no other occupancies above the subject garage.
2. Occupancies in Group F-2.

**903.2.11.7 High-Piled Combustible Storage.** *For any building with a clear height exceeding 12 feet (4572 mm), see Chapter 32 to determine if those provisions apply.*

**903.2.11.8 Spray Booths and Rooms.** *New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system.*

**903.2.11.9 Buildings Over 6,000 sq.ft.** *An automatic sprinkler system shall be installed throughout all buildings with a building area 6,000 sq. ft. or greater and in all existing buildings that are enlarged to be 6,000 sq. ft. or greater. For the purpose of this provision, fire walls shall not define separate buildings.*

**Exception:** *Open parking garages in compliance with Section 406.5 of the International Building Code.*

Section 903.3.1.2.3; add section to read as follows:

Section 903.3.1.2.3 *Attics and Attached Garages*. Sprinkler protection is required in attic spaces of such buildings three or more stories in height, in accordance with NFPA 13 and or NFPA 13R requirements, and attached garages.

Section 903.3.1.2.4; add section to read as follows:

Section 903.3.1.2.4 *Exterior closets*. Sprinkler protection shall be provided in closets (regardless of size) that are accessible from the exterior of the building.

Section 903.3.1.4; add to read as follows:

903.3.1.4 *Freeze protection*. Freeze protection systems for automatic fire sprinkler systems shall be in accordance with the requirements of the applicable referenced NFPA standard and this section.

903.3.1.4.1 *Attics*. Only dry-pipe, preaction, or listed antifreeze automatic fire sprinkler systems shall be allowed to protect attic spaces.

*Exception:* Wet-pipe fire sprinkler systems shall be allowed to protect non-ventilated attic spaces where:

1. The attic sprinklers are supplied by a separate floor control valve assembly to allow ease of draining the attic system without impairing sprinklers throughout the rest of the building, and
2. Adequate heat shall be provided for freeze protection as per the applicable referenced NFPA standard, and
3. The attic space is a part of the building's thermal, or heat, envelope, such that insulation is provided at the roof deck, rather than at the ceiling level.

*Section 903.3.5; add a second paragraph to read as follows:*

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every water-based fire protection system shall be designed with a 5 psi safety factor. Reference Section 507.4 for additional design requirements.

*Section 903.4; add a second paragraph after the exceptions to read as follows:*

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

*Section 903.4.2; add second paragraph to read as follows:*

The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed as close as practicable to the fire department connection.

*Section 905.2; change to read as follows:*

*905.2 Installation Standard.* Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

*Section 905.3; add Section 905.3.9 and exception to read as follows:*

*905.3.9 Buildings Exceeding 10,000 sq. ft.* In buildings exceeding 10,000 square feet in area per story and where any portion of the building's interior area is more than 200 feet (60960 mm) of travel, vertically and horizontally, from the nearest point of fire department vehicle access, Class I automatic wet or manual wet standpipes shall be provided.

*Exceptions:*

1. Automatic dry and semi-automatic dry standpipes are allowed as provided for in NFPA 14.
2. R-2 occupancies of four stories or less in height having no interior corridors.

*Section 905.4, change Item 1, 3, and 5, and add Item 7 to read as follows:*

1. In every required exit stairway, a hose connection shall be provided for each story above and below grade plane. Hose connections shall be located at an intermediate landing between stories, unless otherwise approved by the fire code official.
2. {No change.}
3. In every exit passageway, at the entrance from the exit passageway to other areas of a building.  
*Exception:* Where floor areas adjacent to an exit passageway are reachable from an exit stairway hose connection by a {No change to rest.}
4. {No change.}

5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located to serve the roof or at the highest landing of an exit stairway with stair access to the roof provided in accordance with Section 1011.12.
6. {No change.}
7. When required by this Chapter, standpipe connections shall be placed at two hundred feet (200') intervals along major corridors thereafter, or as otherwise approved by the fire code official.

*Section 905.9; add a second paragraph after the exceptions to read as follows:*

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

*Section 906.1 is amended by deleting the exception.*

*Section 907.1; add Section 907.1.4 to read as follows:*

**907.1.4 Design Standards.** Where a new fire alarm system is installed, the devices shall be addressable. Fire alarm systems utilizing more than 20 smoke detectors shall have analog initiating devices.

*Section 907.2.1; change to read as follows:*

**907.2.1 Group A.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies having an occupant load of 300 or more persons or more than 100 persons above or below the lowest level of exit discharge. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the International Building Code shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy.

*Exception: {No change.}*

Activation of fire alarm notification appliances shall:

1. Cause illumination of the means of egress with light of not less than 1 foot-candle (11 lux) at the walking surface level, and
2. Stop any conflicting or confusing sounds and visual distractions.

*Section 907.2.3; change to read as follows:*

**907.2.3. Group E.** A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E educational occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

*Exceptions:*

1. {No change.}

- 1.1. Residential In-Home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2½ or less years of age, see Section 907.2.6.) {No change to remainder of exceptions.}

*Section 907.2.13, Exception 3; change to read as follows:*

3. Open air portions of buildings with an occupancy in Group A-5 in accordance with Section 303.1 of the International Building Code; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants, and similarly enclosed areas.

*Section 907.4.2; add Section 907.4.2.7 to read as follows:*

*907.4.2.7 Type.* Manual alarm initiating devices shall be an approved double action type.

*Section 907.6.1; add Section 907.6.1.1 to read as follows:*

*907.6.1.1 Wiring Installation.* All fire alarm systems shall be installed in such a manner that a failure of any single initiating device or single open in an initiating circuit conductor will not interfere with the normal operation of other such devices. All signaling line circuits (SLC) shall be installed in such a way that a single open will not interfere with the operation of any addressable devices (Class A). Outgoing and return SLC conductors shall be installed in accordance with NFPA 72 requirements for Class A circuits and shall have a minimum of four feet separation horizontal and one foot vertical between supply and return circuit conductors. The initiating device circuit (IDC) from a signaling line circuit interface device may be wired Class B, provided the distance from the interface device to the initiating device is ten feet or less.

*Section 907.6.3; delete all four Exceptions.*

*Section 909.22; add to read as follows:*

*909.22 Stairway or Ramp Pressurization Alternative.* Where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 and the stair pressurization alternative is chosen for compliance with Building Code requirements for a smokeproof enclosure, interior exit stairways or ramps shall be pressurized to a minimum of 0.10 inches of water (25 Pa) and a maximum of 0.35 inches of water (87 Pa) in the shaft relative to the building measured with all interior exit stairway and ramp doors closed under maximum anticipated conditions of stack effect and wind effect. Such systems shall comply with Section 909, including the installation of a separate fire-fighter's smoke control panel as per Section 909.16, and a Smoke Control Permit shall be required from the fire department as per Section 105.7.

*909.22.1 Ventilating equipment.* The activation of ventilating equipment for the stair or ramp pressurization system shall be by smoke detectors installed at each floor level at an approved location at the entrance to the smokeproof enclosure. When the closing device for the stairway or ramp shaft and vestibule doors is activated by smoke detection or power failure, the mechanical equipment shall activate and operate at the required performance levels. Smoke detectors shall be installed in accordance with Section 907.3.

*909.22.1.1 Ventilation Systems.* Smokeproof enclosure ventilation systems shall be independent of other building ventilation systems. The equipment, control wiring, power wiring and ductwork shall comply with one of the following:

1. Equipment, control wiring, power wiring and ductwork shall be located exterior to the building and directly connected to the smokeproof enclosure or connected to the smokeproof enclosure by ductwork enclosed by not less than 2-hour fire barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.
2. Equipment, control wiring, power wiring and ductwork shall be located within the smokeproof enclosure with intake or exhaust directly from and to the outside or through ductwork enclosed

by not less than 2-hour barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.

3. Equipment, control wiring, power wiring and ductwork shall be located within the building if separated from the remainder of the building, including other mechanical equipment, by not less than 2-hour fire barriers constructed in accordance with Section 707 of the Building Code or horizontal assemblies constructed in accordance with Section 711 of the Building Code, or both.

*Exceptions:*

1. Control wiring and power wiring utilizing a 2-hour rated cable or cable system.
2. Where encased with not less than 2 inches (51 mm) of concrete.
3. Control wiring and power wiring protected by a listed electrical circuit protective system with a fire-resistance rating of not less than 2 hours.

**909.22.1.2 Standby Power.** Mechanical vestibule and stairway and ramp shaft ventilation systems and automatic fire detection systems shall be provided with standby power in accordance with Section 2702 of the Building Code.

**909.22.1.3 Acceptance and Testing.** Before the mechanical equipment is approved, the system shall be tested in the presence of the fire code official to confirm that the system is operating in compliance with these requirements.

*Section 910.2; change Exception 2 and 3 to read as follows:*

2. Only manual smoke and heat removal shall be required in areas of buildings equipped with early suppression fast-response (ESFR) sprinklers. Automatic smoke and heat removal is prohibited.
3. Only manual smoke and heat removal shall be required in areas of buildings equipped with control mode special application sprinklers with a response time index of  $50(m^*S)^{1/2}$  or less that are listed to control a fire in stored commodities with 12 or fewer sprinklers. Automatic smoke and heat removal is prohibited.

*Section 910.2; add subsections 910.2.3 with exceptions to read as follows:*

**910.2.3 Group H.** Buildings and portions thereof used as a Group H occupancy as follows:

1. In occupancies classified as Group H-2 or H-3, any of which are more than 15,000 square feet (1394 m<sup>2</sup>) in single floor area.

*Exception:* Buildings of noncombustible construction containing only noncombustible materials.

2. In areas of buildings in Group H used for storing Class 2, 3, and 4 liquid and solid oxidizers, Class 1 and unclassified detonable organic peroxides, Class 3 and 4 unstable (reactive) materials, or Class 2 or 3 water-reactive materials as required for a high-hazard commodity classification.

*Exception:* Buildings of noncombustible construction containing only noncombustible materials.

*Section 910.3; add section 910.3.4 to read as follows:*

**910.3.4 Vent Operation.** Smoke and heat vents shall be capable of being operated by approved automatic and manual means. Automatic operation of smoke and heat vents shall conform to the provisions of Sections 910.3.2.1 through 910.3.2.3.

**910.3.4.1 Sprinklered buildings.** Where installed in buildings equipped with an approved automatic sprinkler system, smoke and heat vents shall be designed to operate automatically.

The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least 100 degrees F (approximately 38 degrees Celsius) greater than the temperature rating of the sprinklers installed.

*Exception:* Manual only systems per Section 910.2.

**910.3.4.2 Nonsprinklered Buildings.** Where installed in buildings not equipped with an approved automatic sprinkler system, smoke and heat vents shall operate automatically by actuation of a heat-responsive device rated at between 100°F (56°C) and 220°F (122°C) above ambient.

*Exception:* Listed gravity-operated drop out vents.

*Section 912.2; add Section 912.2.3 to read as follows:*

**912.2.3 Hydrant Distance.** An approved fire hydrant shall be located within 100 feet of the fire department connection as the fire hose lays along an unobstructed path.

*Section 912.4.1; change to read as follows:*

**912.4.1 Locking fire department connection caps.** Approved, locking caps shall be installed on any fire department connection that is installed as a result of new construction. Additionally, where remodeling of a building or structure requires the addition of an approved sprinkler or standpipe system, locking caps shall be installed. Where fire department connections exist on current buildings but the caps are missing or damaged, they must be replaced with locking caps, as approved by the fire code official.

*Section 913.1; add second paragraph and exception to read as follows:*

When located on the ground level at an exterior wall, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. - 8 in. in height, regardless of any interior doors that are provided. A key box shall be provided at this door, as required by Section 506.1.

*Exception:* When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by Section 506.1.

*Section 1010.1.9.4 Bolt Locks; change Exceptions 3 and 4 to read as follows:*

*Exceptions:*

3. Where a pair of doors serves an occupant load of less than 50 persons in a Group B, F, M or S occupancy. {Remainder unchanged}
4. Where a pair of doors serves a Group A, B, F, M or S occupancy. {Remainder unchanged}

*Section 1015.8 Window Openings; change number 1 to read as follows:*

1. Operable windows where the top of the sill of the opening is located more than 55 feet (16 764 mm) above the finished grade or other surface below and that are provided with window fall prevention devices that comply with ASTM F 2006.

*Section 1031.2; change to read as follows:*

**1031.2 Reliability.** Required exit accesses, exits and exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.

**Section 1103; add new Sections 1103.5.5 and 1103.5.6 to read as follows:**

**Section 1103.5.5 Spray booths and rooms.** Existing spray booths and spray rooms shall be protected by an automatic fire-extinguishing system in accordance with Section 2404.

**Section 1103.5.6 Existing R-1, 2, 3, and 4 Occupancies.** In R-1, 2, 3, and 4 occupancies where a fire has occurred and displaces one or more occupants, the affected building shall be fire-sprinklered prior to the re-occupancy of the unit/building

Section 1103.7; add Section 1103.7.8 and 1103.7.8.1 to read as follows:

**1103.7.8 Fire Alarm System Design Standards.** Where an existing fire alarm system is upgraded or replaced, the devices shall be addressable. Fire alarm systems utilizing more than 20 smoke and/or heat detectors shall have analog initiating devices.

*Exception:* Existing systems need not comply unless the total building, or fire alarm system, remodel or expansion exceeds 30% of the building. When cumulative building, or fire alarm system, remodel or expansion initiated after the date of original fire alarm panel installation exceeds 50% of the building, or fire alarm system, the fire alarm system must comply within 18 months of permit application.

**1103.7.8.1 Communication requirements.** Refer to Section 907.6.6 for applicable requirements.

Table 3206.2, footnote j; change text to read as follows:

- j. Where storage areas are protected by either early suppression fast response (ESFR) sprinkler systems or control mode special application sprinklers with a response time index of  $50 (m \cdot s)^{1/2}$  or less that are listed to control a fire in the stored commodities with 12 or fewer sprinklers, installed in accordance with NFPA 13, manual smoke and heat vents or manually activated engineered mechanical smoke exhaust systems shall be required within these areas.

Section 3310.3, add Section 3310.3:

**3310.3 Fencing.** Where construction or demolition sites have fencing or some other type of security barrier installed around the site, an approved padlock shall be installed on no less than one gate. Approved padlocks may be required by the fire code official on additional gates. These padlocks shall be purchased by the property owner or contractor but shall be keyed, as directed, by the fire code official.

Section 5601.1.3; add second paragraph and exception to read as follows:

The possession, manufacture, storage, handling and use of fireworks are prohibited outside the city limits for a distance of five thousand (5,000) feet, provided that the territory encompassed within the five thousand (5,000) feet outside the city limits is not within the extraterritorial jurisdiction of another municipality. A violation of this ordinance is declared to be a common and public nuisance. The owner, lessee or occupant of the property or structure where fireworks are being stored or used shall be deemed responsible for violation of this section.

*Exceptions:*

5. The possession of fireworks otherwise allowed by State Law.

Section 5703.6; add a sentence to read as follows:

**5703.6 Piping Systems.** Piping systems, and their component parts, for flammable and combustible liquids shall be in accordance with Sections 5703.6.1 through 5703.6.11. An approved method of secondary containment shall be provided for underground tank and piping systems.

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited), to read as follows:

*5704.2.9.6.1 Locations where above-ground tanks are prohibited.* Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

*Section 5704.2.11.4; add a sentence to read as follows:*

*5704.2.11.4 Leak Prevention.* Leak prevention for underground tanks shall comply with Sections 5704.2.11.4.1 through 5704.2.11.4.3. An approved method of secondary containment shall be provided for underground tank and piping systems.

*Section 5704.2.11.4.2; change to read as follows:*

*5704.2.11.4.2 Leak Detection.* Underground storage tank systems shall be provided with an approved method of leak detection from any component of the system that is designed and installed in accordance with NFPA 30 and as specified in Section 5704.2.11.4.3.

*Section 5704.2.11.4; add Section 5704.2.11.4.3 to read as follows:*

*5704.2.11.4.3 Observation Wells.* Approved sampling tubes of a minimum 4 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling tube at the corners of the excavation with a minimum of 4 tubes. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers, a minimum of two are required.

*Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited) to read as follows:*

*5706.2.4.4 Locations where above-ground tanks are prohibited.* The storage of Class I and II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

*Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited) to read as follows:*

*5806.2 Limitations.* Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited otherwise by City of San Marcos Ordinance.

*Section 6104.2: delete.*

**Chapter 68; add Chapter 68 to read as follows:**

**SECTION 6801 General**

**6801.1 Scope.** *The provisions of this chapter shall apply to the operation of mobile food vending in which cooking operations are conducted.*

**6801.2 Construction Documents.** *Every vendor desiring to engage in mobile food vending shall make a written application to the Fire Department for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the Fire Department and be accompanied by permit application fee.*

**6801.3 Fees.** *An application for a permit under this chapter shall be accompanied by a fee in the amount of \$100. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the Fire Department.*

**6801.4 Permits.** It shall be unlawful to operate a mobile food vending unit without a permit as required by Section 105.6. All permits shall be prominently displayed on the mobile food vending unit.

**6801.4.1 Duration; non-transferability.** Permits will be issued for a calendar year from the date of issuance. Any permit issued under this chapter is non-transferable.

### **SECTION 6802 DEFINITIONS**

**MOBILE FOOD VENDING.** Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit.

**MOBILE FOOD VENDING UNIT.** Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which cooking apparatus or cooking equipment may be or is used.

**VENDOR.** Any individual engaged in the business of mobile food vending; if more than one individual is operating a single means of conveyance, then vendor shall mean all individuals operating such means of conveyance.

**OPERATE.** All activities associated with the conducting of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

### **SECTION 6803 INSPECTIONS**

**6803.1 General.** Inspections of mobile food operations shall be set forth as outlined in this section.

**6803.2 Permit Inspections.** Once application for a permit is received by the Fire Department, the vendor shall coordinate an inspection with the Fire Department to verify all statements and requirements within this chapter are provided.

**6803.3 Inspections.** Mobile food vending units shall be inspected at least annually by the Fire Department, or as deemed necessary. Inspections shall be coordinated with the Environmental Health Department when possible.

### **SECTION 6804 OPERATIONAL REQUIREMENTS**

**6804.1 General.** Mobile food vending operations shall be as set forth in this section.

**6804.2 Operational Requirements.** Any vendor engaging in mobile food vending shall comply with the following requirements:

1. Provide appropriate waste receptacles at the site of the unit and remove all litter, debris, and other waste attributable to the vendor on a daily basis.
2. Shall not be parked, situated or operated in a manner than restricts or blocks emergency vehicle apparatus access.
3. Shall not be parked, situated, or operated in a manner than restricts or blocks fire hydrants, fire lanes, or other fire protection equipment or access.
4. Not use any flashing or blinking lights or strobe lights.
5. Not use loud music, amplification devices or "crying out", or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City of San Marcos.
6. Comply with the city's Noise Ordinance, Sign Ordinance and any other applicable ordinances.

7. Comply with all applicable federal, state, county and municipal regulations.
8. Not represent the granting of a permit under this chapter as an endorsement by the City of San Marcos.
9. Cooking operations in which grease laden vapors are or can be created, shall be provided with a Type I hood and fire suppression system.
10. All cooking equipment must be mounted on non-combustible surfaces and maintain all clearance requirements, as recommended by the manufacturer.
11. All hot surfaces and/or cooking areas must be adequately protected from the public.
12. Fire suppression system shall be inspected by a licensed company every six months.
13. A minimum of 1 K- Class fire extinguisher shall be provided.
14. A minimum of 1 2A-10BC fire extinguisher shall be provided.
15. Propane cylinders shall be secured to the vehicle and installed in accordance with NFPA 58.
16. All temporary electrical shall comply with the provisions of this code and any other applicable city ordinances or codes.

**6804.3 Maintenance.** Maintenance of systems on mobile food preparation vehicles shall be in accordance with Sections 6804.3.1 through 6804.3.3.

**6804.3.1 Exhaust system.** The exhaust system, including hood, grease-removal devices, fans, ducts, and other appurtenances shall be inspected and cleaned in accordance with Section 607.3.

**6804.3.2 Fire protection systems and devices.** Fire protection systems and devices shall be maintained in accordance with Section 901.6.

**6804.3.3 Fuel gas systems.** LP-gas containers installed on the vehicle and fuel-gas piping systems shall be inspected annually by an approved inspection agency or a company that is registered with the U.S. Department of Transportation to requalify LP-gas cylinders, to ensure that system components are free from damage, suitable for the intended service and not subject to leaking. CNG containers shall be inspected every 3 years in a qualified service facility. CNG containers shall not be used past their expiration date as listed on the manufacturer's container label. Upon satisfactory inspection, the approved inspection agency shall affix a tag on the fuel gas system or within the vehicle indicating the name of the inspection agency and the date of satisfactory inspection.

## **SECTION 6805 FIRE EXTINGUISHERS**

**6805.1 Fire Extinguishers.** Fire extinguishers shall be required in mobile food vending units in all of the following locations:

1. Mobile food vending units shall have at minimum one 2A-10BC portable fire extinguisher mounted in a conspicuous place within the kitchen area.
2. Mobile food vending units with portable generators shall have a 2A-10BC portable fire extinguisher in addition to the other fire extinguishers.

3. Mobile food vending units who utilize deep fat fryers, grills, or other cooking devices in which grease laden vapors may be generated, shall have a K Class portable fire extinguisher, as required by Section 904.12.5.
4. Mobile food vending units who utilize solid fuel cooking appliances or devices with a fuel box shall have one 2A fire extinguisher; in addition to the other fire extinguishers.

**6805.2 Inspections.** All portable fire extinguishers shall be serviced, inspected, and tagged at least annually, or as otherwise required by this code or state requirements.

### **SECTION 6806 COMMERCIAL COOKING SYSTEMS**

**6806.1 Commercial cooking systems.** A Type 1 hood shall be installed above all commercial cooking equipment that produce grease laden vapors in accordance with the edition of the International Mechanical Code as adopted by the City and Section 609.

**6806.2 Fire protection for commercial cooking systems.** Cooking equipment shall be protected by automatic fire extinguishing systems in accordance with Section 904.12. All fire suppressions systems shall comply with UL300, or other equivalent standards.

**6806.3 Applicable NFPA Standards.** All commercial cooking systems shall comply with the applicable provisions of the NFPA 96 Annex B, and other applicable standards.

### **SECTION 6807 CLEARANCES**

**6807.1 Clearances.** In addition to the requirements in 6804.2, the following minimum clearances shall be provided from the mobile food vending unit:

Not closer than 20 feet to any structure

1. At least 15 feet from any fire hydrant

**6807.2 Clearance to adjacent mobile food vending units.** A minimum of 10-foot clearance shall be provided to adjacent mobile food vending units.

**Exception:** When in the opinion of the Fire Code Official, the clearance distance can be reduced if this would not pose any additional risks.

### **SECTION 6808 USE OF LPG**

**6808.1 Use of LPG.** Liquefied Petroleum Gas systems shall comply with Sections 6808.2 through 6808.14.

**6808.2 LPG container location.** Shall be located and secured on the exterior of the mobile food vending unit, open to atmosphere or if containers are kept in compartment, said compartment must be separate from the interior food preparation area. Access must be from the exterior of the unit and compartment floor and exterior door must be vented to the atmosphere.

**6808.2.1 Additional LPG Container Locations.** Propane cylinders, including spare cylinders, shall not be located:

- a. On rear bumpers, on exterior sides of the vehicle, or roofs;
- b. Below the lowest part of the vehicle frame;
- c. Inside improperly vented or unvented compartments, trunks, or beds of vehicles;

d. Inside passenger compartments of vehicles;

e. On the ground.

**6808.2.2 Propane storage compartments.** A propane storage compartment on a mobile food vending unit shall be ventilated with at least two vents; one vent must be located at the top of the unit; one vent must be located at the bottom of the compartment. Each vent must have an aggregate area equal to at least 0.5 inches for each seven (7) pounds of the total fuel capacity of the maximum number of the largest cylinders the compartment can hold.

**6808.2.3 Additional propane cylinder requirements.** Propane cylinders must be:

a. In an upright position at all times;

b. In good condition without dents, scrapes, gouges, or defects;

c. Stored at least 10 feet from trash and combustible materials;

d. Equipped with an approved regulator;

e. Mounted, used, and stored in compliance with NFPA 58;

f. Constructed and marked in accordance with specifications for propane cylinders as required by the U.S. Department of Transportation.

**6808.3 No smoking signs.** All mobile food vending units with propane shall post a "NO SMOKING" sign next to or directly above the propane bottle and visible to the public. Such sign shall be posted with a minimum of four-inch lettering.

**6808.4 Hoses and couplings.** Any hose used to pipe L.P. Gas to a device shall be listed by UL, FM, or other approved agency. All couplings, fittings, and any other devices shall meet the requirements for LP Gas Service as outlined in the International Fuel Gas Code, NFPA 58 and/or 54. Propane piping cannot be located on the sides, rear, or roof of a mobile food vending unit.

**6808.4.1 Metal Flex Hoses.** Metal flex hose must not penetrate through walls, floor, or ceiling to the interior of the mobile food vending unit. Rigid pipe must be used to penetrate solid assemblies. A maximum of 60 inches of metal flex hose shall be allowed for each appliance to connect to the propane rigid pipe.

**6808.5 Annual Testing.** All piping, hoses, and couplings shall be tested annually at not less than 3psig for 10 minutes before appliances are connected and at system pressure after connection of appliances, by a Texas Railroad Commission licensed LPG Technician. Documentation of the test, on the approved City of San Marcos form, within 90 days of the inspection, must be provided at the time of the inspection and must include:

1. Original testing/inspection document from licensed LPG Technician (copies are not accepted);

2. Pressure and duration of test;

3. Name, address, license number, and phone number of technician performing test;

4. License plate number and vehicle identification number (VIN) of mobile food vending unit. \_\_\_\_\_

**6808.6 LPG tank separation distance.** LPG tanks shall be located outside the mobile food establishment a minimum of five feet from the primary means of egress.

**Exception.** LPG tanks that are installed securely on the unit or as a permanent fixture inside a compartment.

**6808.7 Maximum aggregate volume.** The maximum aggregate capacity of LP-gas containers transported on the vehicle and used to fuel cooking appliances only shall not exceed two (2)-100 pounds containers. The cylinders cannot be manifolded together. Each propane cylinder must be requalified every 12 years. A current date of manufacture or requalification stamp is required on all cylinders.

**6808.8 Propane Cylinders at time of inspection.** The permit applicant and/or mobile food vending unit operator will be required to have propane cylinders on the mobile food vending unit at the time of inspection to demonstrate how the cylinders are secured to the vehicle. Propane cylinders must be secured as to prevent the propane bottles from leaving the mount or cage in the event of a vehicle crash or rollover.

**6808.9 Mounting and storage.** The mounting and storage of propane cylinders must be in compliance with NFPA 58.

**6808.10 Manual shut-off valves.** Manual shut-off valves are required at the point of use, on each appliance, and at the source.

**6808.11 Relief Valve Discharge.** The relief valve discharge from the propane cylinder shall not be less than three (3) feet, measured horizontally along the surface of the vehicle to:

1. Openings in the vehicle;
2. Propane burning appliance intake or exhaust vents;
3. All internal combustion engine exhaust terminations.

**6808.12 LP-gas alarms.** A listed LP-gas alarm shall be installed within the mobile food vending unit in the vicinity of LP-gas system components, in accordance with the manufacturer's instructions. The alarm is required to be equipped with back-up battery operation and must be able to activate when the unit is occupied and is not occupied.

**6808.13 Carbon Monoxide Alarm.** A listed carbon monoxide alarm shall be installed within the mobile food vending unit, in accordance with the manufacturer's instructions.

**6808.14 Combination alarm.** A single listed combination alarm meeting the requirements of 6808.12 and 6808.13 is permitted.

**6808.15 Fuel sources other than LPG.** When a fuel source other than LPG is used, it shall be installed and maintained in accordance with this code and any other applicable code. Use of fuels other than LPG shall be subject to the approval of the Fire Code Official.

## **SECTION 6809 SOLID FUEL**

**6809.1 Scope.** The provisions of this section shall apply to the use of wood, charcoal, or other solid fuel.

**6809.2 Fuel Storage.** Solid fuel shall not be stored within 3 feet of any heat producing device, cooking appliance or vent. Solid fuel shall not be stored within 3 feet of any flammable liquids, ignition sources, chemical or food and food supplies.

**6809.3 Debris.** Ash, cinders and other fire debris shall be removed from the firebox or cooking appliance at regular intervals. Removed debris shall be placed in a closed metal container at least 3 feet from the cooking appliances.

## **SECTION 6810 ELECTRICAL**

**6810.1 General.** Mobile food vending units shall meet the following requirements, at a minimum, regarding the electrical components of the unit:

1. Units may not use electricity from a nearby structure;
2. No excessive use of extension cords are permitted; extension cords must comply with 605.5.1 through 605.5.4.
3. Breaker boxes and junction boxes shall have proper cover and comply with 605.6.
4. All wiring must be in conduit and comply with 605.6;
5. The improper use of electrical accessories and overloading of circuits is prohibited;
6. Mobile food vending units must also comply with 605.1, 605.3.1, 605.4, and 605.10.

### **SECTION 6811 GENERATORS**

**6811.1 General.** All generators must be in safe working condition.

**6811.2 Generator Storage Compartment.** The generator storage compartment on or within the mobile food vending unit must be vented to the exterior and properly sealed.

**6811.3 Refueling of generators.** Shall be performed in an approved manner. Fuel shall be stored in a UL or FM approved flammable liquid safety container in an approved location.

### **SECTION 6812 HOUSEKEEPING**

**6812.1 Housekeeping.** Trash and other combustible materials shall be removed at regular intervals. Storage of combustible rubbish shall not produce conditions that will create a nuisance or hazard to the public health, safety or welfare.

**6812.2 Clearances.** Combustible rubbish shall not be stored, or otherwise located, within 3 feet of any fuel source, ignition sources, or heat producing appliances. Rubbish shall not be located within the means of egress of the mobile food vending unit.

### **SECTION 6813 REVOCATION**

**6813.1 Revocation.** The Fire Department shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this chapter or violates any other federal, state or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the Fire Department shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void.

### **SECTION 6814 VIOLATIONS**

**6814.1 Violations.** Any vendor or mobile food truck that violates this shall be subject to violations and fines in accordance with Section 109.

Appendix B, Section B103.1; change to read as follows:

*B103.1 Decreases.* The fire code official is authorized to reduce the fire-flow requirements for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical.

*Appendix B, Section B103.2; change to read as follows:*

*B103.2 Increases.* The fire code official is authorized to increase the fire-flow requirements where conditions indicate an unusual susceptibility to group fires or conflagrations. An increase shall not be more than twice that required for the building under consideration.

*Appendix D, Section D102.1; change to read as follows:*

*D102.1 Access and loading.* Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg) in accordance with the City of San Marcos Engineering Standards.

*Appendix D, Section D103.1; change to read as follows:*

*D103.1 Access road width with a hydrant.* Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26-feet.

*Appendix D, Section D103.2; change to read as follows:*

*D103.2 Grade.* Fire apparatus access roads shall not exceed 10% in grade and not exceed 5% on cross-slope.

*Exception:* Grades steeper than 10% as approved by the Fire Code Official.

*Appendix D, Section D103.3; change to read as follows:*

*D103.3 Turning radius.* The minimum turning radius shall be in accordance with:

1. For buildings less than 30-feet and less than 3 stories in height:
  - a. 20-feet (inside) for turns less than or equal to 90 degrees
  - b. 25-feet (inside) for turns greater than 90 degrees
2. For buildings 30-feet or more and/or 3 or more stories in height minimum interior turning radius of 30 feet.

For purposes of this section, the building height is measured from the lowest finished grade of the fire access roads to the point of accessible roof level, including parapet walls. For buildings with pitched roofs, the height is measured to the roof plate.

*Appendix D, Section D103.5; change to read as follows:*

*D103.5 Fire apparatus access road gates.* Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. Where a single gate is provided, the gate width shall be not less 24 feet. Where a fire apparatus road consists of a divided roadway, the gate width shall be not less than 12 feet (3658 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.

5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Methods of locking shall be submitted for approval by fire code official.
7. Electric gate operators, where provided, shall be listed in accordance with UL 325.
8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.

*Appendix D, Section D105.2; change to read as follows:*

*D105.2 Width.* Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Secs. 38.034—38.053. - Reserved.

Sec. 38.054. - Violations declared nuisances: extraterritorial application.

(a) The following are declared public nuisances:

- (1) The sale, possession, storage, discharge, or offer for sale of fireworks; or
- (2) Any violation of this article which poses a serious danger to the safety of persons or property.

(b) It is unlawful for a person to create or maintain a public nuisance, or to engage in any activity that constitutes a public nuisance, within the city limits or within 5,000 feet of the city limits.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.055. - Motor vehicle parking.

It is unlawful for a person to store, park or stand a motor vehicle inside a residential unit, a storage facility attached to a residential unit or a stairwell or under a stairway or a balcony, on premises of a multifamily dwelling.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.056. - Establishment of motor vehicle routes for transportation of hazardous chemicals.

The U.S. Department of Transportation regulations referenced in chapter 27 of the fire code shall be followed, except that tank vehicles transporting hazardous chemicals to local businesses may take the shortest route to the business served.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.057. - New materials, processes or occupancies which may require a permit.

The city manager, the fire chief and the fire marshal may act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which will require permits, in addition to those described in the fire prevention code. The fire marshal will post a list of any permit requirements in a conspicuous place in his office and distribute copies to interested persons.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.058. - Flow meters.

- (a) A flow meter device is required on all private water service lines connected to a public water supply, including all separate taps from the public water supply to private property.
- (b) Acceptable flow meter device standards and specifications can be obtained from the city engineering department.
- (c) The flow meter device must be inspected by a certified flow meter device installer using prescribed forms by the city.
- (d) The flow meter device must be protected by a concrete (or comparable quality) vault meeting city engineering department standards.
- (e) The flow meter must be installed in the public right-of way for access by city personnel.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.059. - Backflow prevention in fire suppression systems.

Where a private fire suppression or fire sprinkler system exists, a required backflow prevention device may be off-set up to 75 feet from the tap, for the fire system only, with approval of the water purveyor.

(Ord. No. [2019-11](#), § 1, 5-7-19)

Sec. 38.060. - Hazardous materials spills.

- (a) Any person who causes or permits a release or spill of hazardous material affecting property within the city or its extraterritorial jurisdiction shall be responsible for the abatement, control, capture and proper disposal of such hazardous material and for all associated costs incurred by the fire department and other city departments and agencies that assist to abate the release or spill.
- (b) The abatement activities shall be under the direction and control of the fire chief or his authorized representative. The fire chief may relinquish his direction and control to another agency, firm or other licensed party for the purposes of extended operations, remediation, control, capture or proper disposal of the hazardous materials. The fire chief can reinstate his direction and control at any point in order to protect the health and welfare of persons or property or to expedite the abatement, control, capture or proper disposal of the hazardous material and/or any by-products thereof. It is unlawful for any person to fail to obey an order given by the fire chief at the scene of a hazardous material release or spill.
- (c) For purposes of this section, costs incurred by the fire department or other departments of the city shall include, but shall not be limited to, all expenses attributable to the cleanup or abatement of any hazardous materials incident, including costs of equipment operations, materials utilized, specialists, experts, contract labor, overtime costs, costs incurred by area fire departments requested through mutual aid agreement with the city, and any other incidental costs of the city as a result of the incident. Costs do not include fire suppression, rescue, medical treatment and similar services which are within the scope of fire department duties.
- (d) Cost recovery shall be in the manner and form designated by the fire department. Any individual, agency, corporation, firm, or party who fails to respond within ten days to a certified notice of collection under this section is in violation of this section.
- (e) Any violation of this section punishable by a fine of at least \$1,000.00.

(f) The remedies provided by this section is in addition to any other remedies provided by law. Nothing in this section prohibits the city from pursuing other legal actions to recover the costs of abatement.

(Ord. No. [2019-11](#), § 1, 5-7-19)



## Legislation Text

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**File #:** Ord. 2020-14(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-14, on the second of two readings, adopting fees to be charged by the City for various Parks and Recreation Facilities, including changes to existing fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing and effective date.

**Meeting date:** April 7, 2020

**Department:** Parks and Recreation

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** City Council adopted a Fee Policy on June 4, 2019.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

November 6, 2019: Cost Recovery Work Session

- Presentation by Melissa Neel and Drew Wells
- Provided the proposed assumptions in finalizing cost recovery implementation for Parks and Recreation Programs and Services.
- Council direction was to move forward with taking the proposed assumptions to the
- Parks and Recreation Advisory Board for their recommendation.

December 19, 2020: Parks and Recreation Advisory Board Regular Meeting

- The Board created a committee to review the proposed fees and to bring back a recommendation to the Board.

January 13, 2020: Parks and Recreation Advisory Board Regular Meeting

- The Board received the committee's recommendations and adopted a Recommendation Resolution recommending the proposed fees within this presentation.

February 18, 2020: Cost Recovery Work Session Update

- City Council requested that staff evaluate the Non-Profit fee further and provide options.
- City Council provided consensus on the following:
  - Change the qualifying age for the senior discount to 60 years of age, instead of the proposed 65 years of age.
  - Increase the Non-Resident Rental Rates another 5% of the proposed rate.

**Non-Profit Rate Evaluation**

Staff evaluated the rental fee structures of eight (8) peer cities to determine if a Non-Profit rate was part of their structure. Cities evaluated were: Austin, Bryan, Buda, Cedar Park, College Station, Hutto, Kyle and Leander. Of the cities evaluated the City of Hutto was the only city that offered a Non-Profit rate for facility rentals. The rentals are specific in location (park pavilions & The Saul House) and duration. The rate charged is half of the Resident Rate.

Staff still recommends that Non-Profits receiving Community Development Block Grant (CDBG) Funding or Human Services Grants for the provision of social and human services/programs have facility rental fees waived up to 9 times per month. It is recommended that facility rental fees be waived when the non-profit is utilizing the facility to provide social and human services or programs to the community, and not for fundraising or similar events. The reservation process would be unchanged and would remain subject to availability.

Staff has prepared incremental options for the Council to consider if the Non-Profit rate is desired to be kept. It is attached for your consideration and review.

**Proposed Fee Changes**

In an effort to simplify the number of fee categories the Parks and Recreation Advisory Board approved a

recommendation that would make the following changes:

- Remove the fee categories of:
- Non-Profit
- Business/Commercial
- Senior Spouse (will only have Senior rate)
- Only have categories for Resident, Non-Resident, Senior and Youth
- Increase the qualifying age for the senior discount from 50 to 65.
- Incremental Increases are proposed and reflected in the exhibit attached.

An effective date of September 1, 2020 for all new fees is proposed. If anyone has a current facility rental those agreements would be grandfathered in under the previous fee structure.

Patrons with current Activity Center Memberships will pay the fee that is in effect at the time of their membership expiration.

**Council Committee, Board/Commission Action:**

January 13, 2020: Parks and Recreation Advisory Board approved a Recommendation Resolution recommending the proposed fees to the City Council.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ADOPTING FEES TO BE CHARGED BY THE CITY FOR VARIOUS PARKS AND RECREATION FACILITIES, INCLUDING CHANGES TO EXISTING FEES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS:**

Pursuant to applicable provisions of State law and City ordinances, the City Council may establish fees to be charged for various City services to recover costs to the City associated with the use of such facilities.

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

**SECTION 1.** The City Council hereby adopts the fees to be charged for various City services as set forth in Exhibit “A,” attached hereto and made a part hereof for all purposes.

**SECTION 2.** Any such fees provided for under Section 1 will be waived for a nonprofit organization receiving Community Development Block Grant (CDBG) funding or human services grants for the provision of social and human services or programs when the nonprofit organization is utilizing a city facility to provide social and human services or programs to the community, and not for fundraising or similar events.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 4.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed. To the extent the provisions of any ordinance provide for establishment of a fee or fees by resolution of the City Council, such provisions are superseded by this ordinance and the fees as adopted in this ordinance shall govern.

**SECTION 5.** After its passage, approval and adoption on second reading, this ordinance shall be effective on September 1, 2020.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

Approved:

Michael J. Cosentino  
City Attorney

## **EXHIBIT A**

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>DUNBAR RECREATION CENTER</b>								
Resident-Large Room	5	101%	*31.00	17%	<b>*39.00</b>	22%	8.00	26%
Resident-Small Room	5	101%	*16.00	9%	<b>*20.00</b>	13%	4.00	25%
Resident 2 rooms	5	101%	*47.00	27%	<b>*59.00</b>	27%	12.00	26%
Non-Resident-Large Room	5	101%	*84.00	47%	<b>133.00</b>	<b>75%</b>	26.00	31%
Non-Resident-Small Room	5	101%	*42.00	24%	<b>128.00</b>	<b>75%</b>	14.00	33%
Non-Resident 2 rooms	5	101%	*126.00	71%	<b>**151.00</b>	85%	25.00	20%
<b>OLD FISH HATCHERY</b>								
Resident	5	101%	*26.00	28%	<b>*33.00</b>	38%	7.00	27%
Non-Resident	5	101%	*52.00	57%	<b>**68.00</b>	75%	16.00	31%
<b>SAN MARCOS PLAZA PARK</b>								
Resident per day	4	81%	261.00	5%	<b>326.00</b>	6%	65.00	25%
Non-Resident per day	5	101%	523.00	11%	<b>**3500.00</b>	<b>75%</b>	56.00	11%
<b>RECREATION HALL</b>								
Resident	5	101%	*42.00	18%	<b>*53.00</b>	23%	11.00	26%
Non-Resident	5	101%	*84.00	26%	<b>**260.00</b>	<b>75%</b>	26.00	31%
<b>VERAMENDI GAZEBO</b>								
Resident per day	3	51%	76.00	13%	<b>95.00</b>	16%	19.00	25%
Non-Resident per day	4	81%	152.00	16%	<b>**710.00</b>	<b>75%</b>	48.00	32%
<b>RIO VISTA PAVILION A</b>								
Resident per day	3	51%	131.00	93%	<b>131.00</b>	93%	-	0%
Non-Resident per day	4	81%	261.00	117%	<b>**274.00</b>	123%	13.00	5%
<b>RAMON LUCIO PAVILION C</b>								
Resident per day	3	51%	105.00	23%	<b>131.00</b>	39%	26.00	25%
Non-Resident per day	4	81%	209.00	29%	<b>**550.00</b>	<b>75%</b>	65.00	31%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>CHILDRENS PARK - PAVILION D</b>								
Resident per day	3	51%	79.00	28%	<b>99.00</b>	35%	20.00	25%
Non-Resident per day	4	81%	157.00	35%	<b>**335.00</b>	<b>75%</b>	49.00	31%
<b>CHILDRENS PARK - #1 PICNIC AREA</b>								
Resident per day	3	51%	26.00	9%	<b>33.00</b>	12%	7.00	27%
Non-Resident per day	4	81%	52.00	12%	<b>**330.00</b>	<b>75%</b>	16.00	31%
<b>CHILDRENS PARK- #2 PICNIC AREA</b>								
Resident per day	3	51%	26.00	9%	<b>33.00</b>	12%	7.00	27%
Non-Resident per day	4	81%	52.00	12%	<b>**338.00</b>	<b>75%</b>	16.00	31%
<b>RIO VISTA PICNIC AREA #1</b>								
Resident per day	3	51%	26.00	11%	<b>33.00</b>	13%	7.00	27%
Non-Resident per day	4	81%	52.00	13%	<b>**290.00</b>	<b>75%</b>	13.00	31%
<b>ACTIVITY CENTER</b>								
<b>Meeting Rooms</b>								
Resident - 1Room only	5	101%	*42.00	23%	<b>*53.00</b>	30%	11.00	26%
Resident - Kitchen Access for 1 Room	5	101%	*26.00	53%	<b>*33.00</b>	67%	7.00	27%
Resident - 2 Rooms only	5	101%	*58.00	18%	<b>*73.00</b>	22%	15.00	26%
Resident - Kitchen Access for 2 Rooms	5	101%	*53.00	63%	<b>*64.00</b>	76%	11.00	21%
Resident - 3 Rooms only	5	101%	*73.00	17%	<b>*91.00</b>	21%	18.00	25%
Resident - Kitchen Access for 3 Rooms	5	101%	*79.00	71%	<b>*90.00</b>	81%	11.00	14%
Resident-Multi-Purpose Room Only	5	101%	*31.00	17%	<b>*39.00</b>	22%	8.00	26%
Resident- Kitchen Access for Multi-Purpose Room	5	101%	*26.00	51%	<b>*33.00</b>	65%	7.00	27%
Non-Resident- 1 Room only	5	101%	*84.00	47%	<b>**135.00</b>	<b>75%</b>	26.00	30%
Non-Resident - Kitchen Access for 1 Room	5	101%	*26.00	51%	<b>**39.00</b>	<b>75%</b>	9.00	35%
Non-Resident- 2 Rooms only	5	101%	*115.00	35%	<b>**245.00</b>	<b>75%</b>	36.00	31%
Non-Resident - Kitchen Access for 2 Rooms	5	101%	*52.00	62%	<b>**67.00</b>	80%	15.00	29%
Non-Resident- 3 Rooms only	5	101%	*147.00	34%	<b>**325.00</b>	<b>75%</b>	46.00	31%
Non-Resident - Kitchen Access for 3 Rooms	5	101%	*79.00	70%	<b>**95.00</b>	85%	16.00	20%
Non-Resident-Multi-Purpose room only	5	101%	*63.00	35%	<b>**134.00</b>	<b>75%</b>	20.00	32%
Non-Resident - Kitchen Access Multi-Purpose Room	5	101%	*26.00	51%	<b>**39.00</b>	<b>75%</b>	9.00	35%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Gymnasium Rental</b>								
Resident - 1 court rental	3	51%	*58.00	52%	<b>*58.00</b>	52%	-	0%
Resident – Rental of both courts	3	51%	*68.00	30%	<b>*83.00</b>	37%	15.00	22%
Non-Resident – 1 court rental	4	81%	*115.00	103%	<b>**127.00</b>	114%	12.00	11%
Non-Resident – Rental of both courts	4	81%	*136.00	61%	<b>**166.00</b>	<b>75%</b>	23.00	17%
Youth Practice - 1 court	3	51%	*21.00	19%	<b>*26.00</b>	23%	5.00	24%
Resident/Non-Resident Practice – 1 court	3	51%	*31.00	28%	<b>*39.00</b>	35%	8.00	26%
<b>Equipment Rental</b>								
			<i>One Time Fee</i>		<i>One Time Fee</i>			
Dance Floor Fee 24x24	5	101%	152.00	46%	<b>190.00</b>	57%	38.00	25%
Dance Floor Fee 27x24	5	101%	178.00	45%	<b>223.00</b>	56%	45.00	25%
Dance Floor Fee 18x21	5	101%	102.00	34%	<b>128.00</b>	43%	26.00	25%
Dance Floor Fee 18x24	5	101%	127.00	41%	<b>159.00</b>	52%	32.00	25%
Screen Rental 10x10	5	101%	26.00	39%	<b>33.00</b>	50%	7.00	27%
Screen Rental 6x6	5	101%	10.00	19%	<b>13.00</b>	24%	3.00	30%
Podium Rental	5	101%	3.00	23%	<b>4.00</b>	30%	1.00	33%
PA Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
TV Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
VCR Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
Platform Fee	5	101%	5.00	38%	<b>6.00</b>	45%	1.00	20%
Tent Rental Fee	5	101%	25.00	47%	<b>31.00</b>	58%	6.00	24%
Locker Rental Fee (All)	5	101%	36.00	36%	<b>45.00</b>	45%	9.00	25%
Racquet Rental Fee (All)	5	101%	1.00	30%	<b>2.00</b>	60%	1.00	100%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Annual Memberships</b>								
<b>Resident</b>								
Resident-Adult	5	101%	84.00	78%	<b>92.00</b>	85%	8.00	10%
Resident –Senior (60 & Older)	4	81%	52.00	19%	<b>60.00</b>	22%	8.00	15%
Resident –Youth (under 17)	3	51%	31.00	51%	<b>46.00</b>	76%	15.00	48%
Resident-Family (3 or more)	3	51%	157.00	78%	<b>157.00</b>	78%	-	0%
<b>Non-Resident</b>								
Non-Resident-Adult	5	101%	235.00	186%	<b>235.00</b>	186%	-	0%
Non-Resident –Senior (60 & Older)	4	81%	126.00	22%	<b>158.00</b>	28%	32.00	25%
Non-Resident- Youth (under 17)	4	81%	47.00	36%	<b>70.00</b>	53%	23.00	49%
Non-Resident-Family (3 or more)	3	51%	418.00	52%	<b>418.00</b>	52%	-	0%
<b>Day Pass-Resident</b>								
Adult	5	101%	3.00	27%	<b>6.00</b>	57%	1.00	100%
Senior (60 & Older)	4	51%	N/A	N/A	<b>3.00</b>	27%	3.00	0%
Youth (under 17)	3	51%	2.00	18%	<b>3.00</b>	27%	1.00	50%
<b>Day Pass-Non-Resident</b>								
Adult	5	101%	4.00	35%	<b>6.00</b>	53%	2.00	50%
Senior (60 & Older)	4	51%	N/A	N/A	<b>3.00</b>	27%	3.00	0%
Youth (under 17)	4	81%	2.00	18%	<b>3.00</b>	26%	1.00	50%
<b>Adult Programs Basketball Registration</b>	4	81%	250.00	39%	<b>300.00</b>	47%	50.00	20%
<b>Adult Programs Volleyball Registration</b>	4	81%	175.00	40%	<b>200.00</b>	45%	25.00	14%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Youth Activities - Basketball</b>								
Jr. NBA Boys - Resident	3	51%	40.00	35%	<b>46.00</b>	41%	6.00	15%
Jr. NBA Boys - Non-Resident	3	51%	50.00	44%	<b>53.00</b>	47%	3.00	6%
Jr. WNBA Girls - Resident	3	51%	40.00	35%	<b>46.00</b>	41%	6.00	15%
Jr. WNBA Girls - Non-Resident	3	51%	50.00	44%	<b>53.00</b>	47%	3.00	6%
<b>Youth Activities - Volleyball</b>								
Resident	3	51%	40.00	37%	<b>45.00</b>	41%	5.00	13%
Non-Resident	3	51%	50.00	46%	<b>52.00</b>	48%	2.00	4%
<b>Youth Activities - Snake League Soccer</b>								
Resident	3	51%	40.00	35%	<b>46.00</b>	40%	6.00	15%
Non-Resident	3	51%	50.00	43%	<b>53.00</b>	46%	3.00	6%
<b>Youth Activities - Velcro T-Ball</b>								
Resident	3	51%	40.00	36%	<b>46.00</b>	41%	6.00	15%
Non-Resident	3	51%	50.00	45%	<b>53.00</b>	48%	3.00	6%
<b>Natorium - Aquatics Fee</b>								
Private Lesson Fee-Resident	5	101%	52.00	41%	<b>71.00</b>	56%	19.00	37%
Private Lesson Fee-Non-Resident	5	101%	57.00	41%	<b>75.00</b>	54%	18.00	32%
<b>Aerobics Fee</b>								
Aerobics - Super Senior Daily	4	81%	5.00	39%	<b>6.00</b>	46%	1.00	20%
Aerobics - Adult Daily	5	101%	8.00	62%	<b>10.00</b>	77%	2.00	25%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>RIO VISTA AQUATICS</b>								
<b>Passes &amp; Party Rentals</b>								
Daily Youth Entry Fee	2	16%	3.00	16%	<b>3.00</b>	16%	-	0%
Youth Season Pass	3	51%	31.00	15%	<b>39.00</b>	19%	8.00	26%
Daily Adult Entry Fee	5	101%	3.00	19%	<b>4.00</b>	25%	1.00	33%
Adult Season Pass	5	101%	42.00	20%	<b>53.00</b>	25%	11.00	26%
Family Pass	3	51%	157.00	25%	<b>196.00</b>	31%	39.00	25%
Rental Fee Hays Swim Team	3	51%	550.00	37%	<b>618.00</b>	42%	68.00	12%
Resident- 1- 30 people (3-hour session)	3	51%	157.00	30%	<b>193.00</b>	37%	36.00	23%
Resident- 31-75 (3-hour session)	3	51%	188.00	22%	<b>235.00</b>	27%	47.00	25%
Resident-76-100 people (3-hour session)	3	51%	235.00	16%	<b>294.00</b>	20%	59.00	25%
Resident- 101 – 150 people (3-hour session)	3	51%	267.00	12%	<b>334.00</b>	15%	67.00	25%
Non-Resident-1-30 people (3-hour session)	4	81%	178.00	34%	<b>223.00</b>	43%	45.00	25%
Non-Resident- 31-75 people (3-hour session)	4	81%	209.00	24%	<b>261.00</b>	30%	52.00	25%
Non-Resident- 76- 100 people (3-hour session)	4	81%	256.00	17%	<b>320.00</b>	22%	64.00	25%
Non-Resident-101-150 people (3-hour session)	4	81%	288.00	13%	<b>360.00</b>	17%	72.00	25%
<b>Swimming Lessons</b>								
Adult Basic Swim Lessons - Resident	4	81%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Adult Basic Swim Lessons - Non-Resident	4	81%	35.00	10%	<b>44.00</b>	12%	9.00	26%
Swim Lessons Parent Child - Resident	3	51%	25.00	2%	<b>31.00</b>	3%	6.00	24%
Swim Lessons Parent Child - Non-Resident	3	51%	30.00	3%	<b>38.00</b>	4%	8.00	27%
Preschool Level 1 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 1 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Preschool Level 2 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 2 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Preschool Level 3 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 3 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Swimming Lessons Continued</b>								
Swim Lessons Level 1 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 1 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 2 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 2 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 3 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 3 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 4 - Resident	2	16%	30.00	8%	<b>30.00</b>	8%	-	0%
Swim Lessons Level 4 - Non-Resident	3	51%	35.00	10%	<b>44.00</b>	12%	9.00	26%
<b>Gary Softball Complex Fields 1-4 Rental</b>								
Resident /per fd/per day incl tournament play	3	51%	79.00	21%	<b>99.00</b>	26%	20.00	25%
Non-Resident/per fd/per day incl tournament play	4	81%	157.00	41%	<b>196.00</b>	52%	39.00	25%
Lights/per hr/per fd	5	101%	16.00	17%	<b>19.00</b>	20%	3.00	19%
Youth Practice/hr	3	51%	16.00	7%	<b>20.00</b>	8%	4.00	25%
Adult Practice/hr	4	81%	21.00	7%	<b>26.00</b>	9%	5.00	24%
Supervisor Fee/hr	5	101%	16.00	11%	<b>20.00</b>	14%	4.00	25%
<b>Adult Rec League per team per season</b>								
USA Fall Softball Developmental League	3	51%	125.00	26%	<b>156.00</b>	33%	31.00	25%
Corporate Challenge - Kickball & Softball	3	51%	150.00	32%	<b>181.00</b>	38%	31.00	21%
<b>CEPHAS HOUSE</b>								
Gentle Yoga	4	81%	12.00	38%	<b>15.00</b>	48%	3.00	25%
Yoga Flow	4	81%	12.00	38%	<b>15.00</b>	48%	3.00	25%
<b>DISCOVERY CENTER</b>								
Herb Workshop	5	81%	15.00	75%	<b>16.00</b>	80%	1.00	7%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>YOUTH PROGRAMS</b>								
<b>Summer Fun</b>								
Resident - Weekly	4	81%	32.00	42%	<b>40.00</b>	53%	8.00	25%
Non-Resident - Weekly	5	101%	50.00	44%	<b>63.00</b>	56%	13.00	26%
Resident - 8 Weeks	4	81%	250.00	66%	<b>269.00</b>	71%	19.00	8%
Non-Resident - 8 Weeks	5	101%	395.00	76%	<b>438.00</b>	84%	43.00	11%
<b>Daddy Daughter Dance</b>								
Early Registration	3	51%	5.00	27%	<b>6.00</b>	33%	1.00	20%
Week of - Registration	3	51%	10.00	27%	<b>12.00</b>	33%	2.00	20%
Day of - Registration	3	51%	15.00	27%	<b>18.00</b>	33%	3.00	20%
<b>Mother &amp; Son Bowling Night</b>								
Mother & Son Bowling Night Session 1 & 2	3	51%	8.00	56%	<b>8.00</b>	56%	-	0%
<b>Mother Daughter Tea</b>	3	51%	5.00	25%	<b>6.00</b>	30%	1.00	20%
<b>Camp Quest</b>	3	51%	130.00	85%	<b>130.00</b>	85%	-	0%
<b>Discovery Camp</b>								
Discovery Camp-Resident	3	51%	150.00	81%	<b>150.00</b>	81%	-	0%
Discovery Camp-Non-Resident	3	51%	175.00	94%	<b>175.00</b>	94%	-	0%
<b>Holiday Camp</b>		51%	20.00	34%	<b>25.00</b>	51%	5.00	25%
<b>Spring Break Camp 2019</b>	3	51%	150.00	70%	<b>150.00</b>	70%	-	0%
<b>Homeschool PE Program</b>	3	51%	5.00	35%	<b>6.00</b>	42%	1.00	20%
<b>Boys and Their Toys</b>	3	51%	10.00	29%	<b>13.00</b>	38%	3.00	30%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>SPECIAL EVENTS</b>								
Miss Beautiful SMTX Pageant - Adult Entries	3	51%	25.00	38%	<b>28.00</b>	51%	3.00	12%
Miss Beautiful SMTX Pageant - Youth Entries	2	16%	10.00	15%	<b>10.00</b>	16%	-	0%
20th Annual Golden Sweethearts Ball-Resident	2	16%	16.00	21%	<b>16.00</b>	16%	-	0%
20th Annual Golden Sweethearts Ball- Non-Resident	3	16%	20.00	18%	<b>20.00</b>	16%	-	0%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>DUNBAR RECREATION CENTER</b>								
Resident-Large Room	5	101%	*31.00	17%	<b>*39.00</b>	22%	8.00	26%
Resident-Small Room	5	101%	*16.00	9%	<b>*20.00</b>	13%	4.00	25%
Resident 2 rooms	5	101%	*47.00	27%	<b>*59.00</b>	27%	12.00	26%
Non-Resident-Large Room	5	101%	*84.00	47%	<b>133.00</b>	75%	26.00	31%
Non-Resident-Small Room	5	101%	*42.00	24%	<b>128.00</b>	75%	14.00	33%
Non-Resident 2 rooms	5	101%	*126.00	71%	<b>**151.00</b>	85%	25.00	20%
<b>OLD FISH HATCHERY</b>								
Resident	5	101%	*26.00	28%	<b>*33.00</b>	38%	7.00	27%
Non-Resident	5	101%	*52.00	57%	<b>**68.00</b>	75%	16.00	31%
<b>SAN MARCOS PLAZA PARK</b>								
Resident per day	4	81%	261.00	5%	<b>326.00</b>	6%	65.00	25%
Non-Resident per day	5	101%	523.00	11%	<b>**3500.00</b>	75%	56.00	11%
<b>RECREATION HALL</b>								
Resident	5	101%	*42.00	18%	<b>*53.00</b>	23%	11.00	26%
Non-Resident	5	101%	*84.00	26%	<b>**260.00</b>	75%	26.00	31%
<b>VERAMENDI GAZEBO</b>								
Resident per day	3	51%	76.00	13%	<b>95.00</b>	16%	19.00	25%
Non-Resident per day	4	81%	152.00	16%	<b>**710.00</b>	75%	48.00	32%
<b>RIO VISTA PAVILION A</b>								
Resident per day	3	51%	131.00	93%	<b>131.00</b>	93%	-	0%
Non-Resident per day	4	81%	261.00	117%	<b>**274.00</b>	123%	13.00	5%
<b>RAMON LUCIO PAVILION C</b>								
Resident per day	3	51%	105.00	23%	<b>131.00</b>	39%	26.00	25%
Non-Resident per day	4	81%	209.00	29%	<b>**550.00</b>	75%	65.00	31%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>CHILDRENS PARK - PAVILION D</b>								
Resident per day	3	51%	79.00	28%	<b>99.00</b>	35%	20.00	25%
Non-Resident per day	4	81%	157.00	35%	<b>**335.00</b>	75%	49.00	31%
<b>CHILDRENS PARK - #1 PICNIC AREA</b>								
Resident per day	3	51%	26.00	9%	<b>33.00</b>	12%	7.00	27%
Non-Resident per day	4	81%	52.00	12%	<b>**330.00</b>	75%	16.00	31%
<b>CHILDRENS PARK- #2 PICNIC AREA</b>								
Resident per day	3	51%	26.00	9%	<b>33.00</b>	12%	7.00	27%
Non-Resident per day	4	81%	52.00	12%	<b>**338.00</b>	75%	16.00	31%
<b>RIO VISTA PICNIC AREA #1</b>								
Resident per day	3	51%	26.00	11%	<b>33.00</b>	13%	7.00	27%
Non-Resident per day	4	81%	52.00	13%	<b>**290.00</b>	75%	13.00	31%
<b>ACTIVITY CENTER</b>								
<b>Meeting Rooms</b>								
Resident - 1Room only	5	101%	*42.00	23%	<b>*53.00</b>	30%	11.00	26%
Resident - Kitchen Access for 1 Room	5	101%	*26.00	53%	<b>*33.00</b>	67%	7.00	27%
Resident - 2 Rooms only	5	101%	*58.00	18%	<b>*73.00</b>	22%	15.00	26%
Resident - Kitchen Access for 2 Rooms	5	101%	*53.00	63%	<b>*64.00</b>	76%	11.00	21%
Resident - 3 Rooms only	5	101%	*73.00	17%	<b>*91.00</b>	21%	18.00	25%
Resident - Kitchen Access for 3 Rooms	5	101%	*79.00	71%	<b>*90.00</b>	81%	11.00	14%
Resident-Multi-Purpose Room Only	5	101%	*31.00	17%	<b>*39.00</b>	22%	8.00	26%
Resident- Kitchen Access for Multi-Purpose Room	5	101%	*26.00	51%	<b>*33.00</b>	65%	7.00	27%
Non-Resident- 1 Room only	5	101%	*84.00	47%	<b>**135.00</b>	75%	26.00	30%
Non-Resident - Kitchen Access for 1 Room	5	101%	*26.00	51%	<b>**39.00</b>	75%	9.00	35%
Non-Resident- 2 Rooms only	5	101%	*115.00	35%	<b>**245.00</b>	75%	36.00	31%
Non-Resident - Kitchen Access for 2 Rooms	5	101%	*52.00	62%	<b>**67.00</b>	80%	15.00	29%
Non-Resident- 3 Rooms only	5	101%	*147.00	34%	<b>**325.00</b>	75%	46.00	31%
Non-Resident - Kitchen Access for 3 Rooms	5	101%	*79.00	70%	<b>**95.00</b>	85%	16.00	20%
Non-Resident-Multi-Purpose room only	5	101%	*63.00	35%	<b>**134.00</b>	75%	20.00	32%
Non-Resident - Kitchen Access Multi-Purpose Room	5	101%	*26.00	51%	<b>**39.00</b>	75%	9.00	35%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Gymnasium Rental</b>								
Resident - 1 court rental	3	51%	*58.00	52%	<b>*58.00</b>	52%	-	0%
Resident – Rental of both courts	3	51%	*68.00	30%	<b>*83.00</b>	37%	15.00	22%
Non-Resident – 1 court rental	4	81%	*115.00	103%	<b>**127.00</b>	114%	12.00	11%
Non-Resident – Rental of both courts	4	81%	*136.00	61%	<b>**166.00</b>	75%	23.00	17%
Youth Practice - 1 court	3	51%	*21.00	19%	<b>*26.00</b>	23%	5.00	24%
Resident/Non-Resident Practice – 1 court	3	51%	*31.00	28%	<b>*39.00</b>	35%	8.00	26%
<b>Equipment Rental</b>								
			<i>One Time Fee</i>		<i>One Time Fee</i>			
Dance Floor Fee 24x24	5	101%	152.00	46%	<b>190.00</b>	57%	38.00	25%
Dance Floor Fee 27x24	5	101%	178.00	45%	<b>223.00</b>	56%	45.00	25%
Dance Floor Fee 18x21	5	101%	102.00	34%	<b>128.00</b>	43%	26.00	25%
Dance Floor Fee 18x24	5	101%	127.00	41%	<b>159.00</b>	52%	32.00	25%
Screen Rental 10x10	5	101%	26.00	39%	<b>33.00</b>	50%	7.00	27%
Screen Rental 6x6	5	101%	10.00	19%	<b>13.00</b>	24%	3.00	30%
Podium Rental	5	101%	3.00	23%	<b>4.00</b>	30%	1.00	33%
PA Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
TV Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
VCR Rental	5	101%	15.00	28%	<b>19.00</b>	36%	4.00	27%
Platform Fee	5	101%	5.00	38%	<b>6.00</b>	45%	1.00	20%
Tent Rental Fee	5	101%	25.00	47%	<b>31.00</b>	58%	6.00	24%
Locker Rental Fee (All)	5	101%	36.00	36%	<b>45.00</b>	45%	9.00	25%
Racquet Rental Fee (All)	5	101%	1.00	30%	<b>2.00</b>	60%	1.00	100%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Annual Memberships</b>								
<b>Resident</b>								
Resident-Adult	5	101%	84.00	78%	<b>92.00</b>	85%	8.00	10%
Resident –Senior (60 & Older)	4	81%	52.00	19%	<b>60.00</b>	22%	8.00	15%
Resident –Youth (under 17)	3	51%	31.00	51%	<b>46.00</b>	76%	15.00	48%
Resident-Family (3 or more)	3	51%	157.00	78%	<b>157.00</b>	78%	-	0%
<b>Non-Resident</b>								
Non-Resident-Adult	5	101%	235.00	186%	<b>235.00</b>	186%	-	0%
Non-Resident –Senior (60 & Older)	4	81%	126.00	22%	<b>158.00</b>	28%	32.00	25%
Non-Resident- Youth (under 17)	4	81%	47.00	36%	<b>70.00</b>	53%	23.00	49%
Non-Resident-Family (3 or more)	3	51%	418.00	52%	<b>418.00</b>	52%	-	0%
<b>Day Pass-Resident</b>								
Adult	5	101%	3.00	27%	<b>6.00</b>	57%	1.00	100%
Senior (60 & Older)	4	51%	N/A	N/A	<b>3.00</b>	27%	3.00	0%
Youth (under 17)	3	51%	2.00	18%	<b>3.00</b>	27%	1.00	50%
<b>Day Pass-Non-Resident</b>								
Adult	5	101%	4.00	35%	<b>6.00</b>	53%	2.00	50%
Senior (60 & Older)	4	51%	N/A	N/A	<b>3.00</b>	27%	3.00	0%
Youth (under 17)	4	81%	2.00	18%	<b>3.00</b>	26%	1.00	50%
<b>Adult Programs Basketball Registration</b>	4	81%	250.00	39%	<b>300.00</b>	47%	50.00	20%
<b>Adult Programs Volleyball Registration</b>	4	81%	175.00	40%	<b>200.00</b>	45%	25.00	14%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Youth Activities - Basketball</b>								
Jr. NBA Boys - Resident	3	51%	40.00	35%	<b>46.00</b>	41%	6.00	15%
Jr. NBA Boys - Non-Resident	3	51%	50.00	44%	<b>53.00</b>	47%	3.00	6%
Jr. WNBA Girls - Resident	3	51%	40.00	35%	<b>46.00</b>	41%	6.00	15%
Jr. WNBA Girls - Non-Resident	3	51%	50.00	44%	<b>53.00</b>	47%	3.00	6%
<b>Youth Activities - Volleyball</b>								
Resident	3	51%	40.00	37%	<b>45.00</b>	41%	5.00	13%
Non-Resident	3	51%	50.00	46%	<b>52.00</b>	48%	2.00	4%
<b>Youth Activities - Snake League Soccer</b>								
Resident	3	51%	40.00	35%	<b>46.00</b>	40%	6.00	15%
Non-Resident	3	51%	50.00	43%	<b>53.00</b>	46%	3.00	6%
<b>Youth Activities - Velcro T-Ball</b>								
Resident	3	51%	40.00	36%	<b>46.00</b>	41%	6.00	15%
Non-Resident	3	51%	50.00	45%	<b>53.00</b>	48%	3.00	6%
<b>Natorium - Aquatics Fee</b>								
Private Lesson Fee-Resident	5	101%	52.00	41%	<b>71.00</b>	56%	19.00	37%
Private Lesson Fee-Non-Resident	5	101%	57.00	41%	<b>75.00</b>	54%	18.00	32%
<b>Aerobics Fee</b>								
Aerobics - Super Senior Daily	4	81%	5.00	39%	<b>6.00</b>	46%	1.00	20%
Aerobics - Adult Daily	5	101%	8.00	62%	<b>10.00</b>	77%	2.00	25%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>RIO VISTA AQUATICS</b>								
<b>Passes &amp; Party Rentals</b>								
Daily Youth Entry Fee	2	16%	3.00	16%	<b>3.00</b>	16%	-	0%
Youth Season Pass	3	51%	31.00	15%	<b>39.00</b>	19%	8.00	26%
Daily Adult Entry Fee	5	101%	3.00	19%	<b>4.00</b>	25%	1.00	33%
Adult Season Pass	5	101%	42.00	20%	<b>53.00</b>	25%	11.00	26%
Family Pass	3	51%	157.00	25%	<b>196.00</b>	31%	39.00	25%
Rental Fee Hays Swim Team	3	51%	550.00	37%	<b>618.00</b>	42%	68.00	12%
Resident- 1- 30 people (3-hour session)	3	51%	157.00	30%	<b>193.00</b>	37%	36.00	23%
Resident- 31-75 (3-hour session)	3	51%	188.00	22%	<b>235.00</b>	27%	47.00	25%
Resident-76-100 people (3-hour session)	3	51%	235.00	16%	<b>294.00</b>	20%	59.00	25%
Resident- 101 – 150 people (3-hour session)	3	51%	267.00	12%	<b>334.00</b>	15%	67.00	25%
Non-Resident-1-30 people (3-hour session)	4	81%	178.00	34%	<b>223.00</b>	43%	45.00	25%
Non-Resident- 31-75 people (3-hour session)	4	81%	209.00	24%	<b>261.00</b>	30%	52.00	25%
Non-Resident- 76- 100 people (3-hour session)	4	81%	256.00	17%	<b>320.00</b>	22%	64.00	25%
Non-Resident-101-150 people (3-hour session)	4	81%	288.00	13%	<b>360.00</b>	17%	72.00	25%
<b>Swimming Lessons</b>								
Adult Basic Swim Lessons - Resident	4	81%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Adult Basic Swim Lessons - Non-Resident	4	81%	35.00	10%	<b>44.00</b>	12%	9.00	26%
Swim Lessons Parent Child - Resident	3	51%	25.00	2%	<b>31.00</b>	3%	6.00	24%
Swim Lessons Parent Child - Non-Resident	3	51%	30.00	3%	<b>38.00</b>	4%	8.00	27%
Preschool Level 1 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 1 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Preschool Level 2 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 2 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Preschool Level 3 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Preschool Level 3 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>Swimming Lessons Continued</b>								
Swim Lessons Level 1 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 1 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 2 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 2 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 3 - Resident	2	16%	25.00	7%	<b>25.00</b>	7%	-	0%
Swim Lessons Level 3 - Non-Resident	3	51%	30.00	8%	<b>38.00</b>	11%	8.00	27%
Swim Lessons Level 4 - Resident	2	16%	30.00	8%	<b>30.00</b>	8%	-	0%
Swim Lessons Level 4 - Non-Resident	3	51%	35.00	10%	<b>44.00</b>	12%	9.00	26%
<b>Gary Softball Complex Fields 1-4 Rental</b>								
Resident /per fd/per day incl tournament play	3	51%	79.00	21%	<b>99.00</b>	26%	20.00	25%
Non-Resident/per fd/per day incl tournament play	4	81%	157.00	41%	<b>196.00</b>	52%	39.00	25%
Lights/per hr/per fd	5	101%	16.00	17%	<b>19.00</b>	20%	3.00	19%
Youth Practice/hr	3	51%	16.00	7%	<b>20.00</b>	8%	4.00	25%
Adult Practice/hr	4	81%	21.00	7%	<b>26.00</b>	9%	5.00	24%
Supervisor Fee/hr	5	101%	16.00	11%	<b>20.00</b>	14%	4.00	25%
<b>Adult Rec League per team per season</b>								
USA Fall Softball Developmental League	3	51%	125.00	26%	<b>156.00</b>	33%	31.00	25%
Corporate Challenge - Kickball & Softball	3	51%	150.00	32%	<b>181.00</b>	38%	31.00	21%
<b>CEPHAS HOUSE</b>								
Gentle Yoga	4	81%	12.00	38%	<b>15.00</b>	48%	3.00	25%
Yoga Flow	4	81%	12.00	38%	<b>15.00</b>	48%	3.00	25%
<b>DISCOVERY CENTER</b>								
Herb Workshop	5	81%	15.00	75%	<b>16.00</b>	80%	1.00	7%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>YOUTH PROGRAMS</b>								
<b>Summer Fun</b>								
Resident - Weekly	4	81%	32.00	42%	<b>40.00</b>	53%	8.00	25%
Non-Resident - Weekly	5	101%	50.00	44%	<b>63.00</b>	56%	13.00	26%
Resident - 8 Weeks	4	81%	250.00	66%	<b>269.00</b>	71%	19.00	8%
Non-Resident - 8 Weeks	5	101%	395.00	76%	<b>438.00</b>	84%	43.00	11%
<b>Daddy Daughter Dance</b>								
Early Registration	3	51%	5.00	27%	<b>6.00</b>	33%	1.00	20%
Week of - Registration	3	51%	10.00	27%	<b>12.00</b>	33%	2.00	20%
Day of - Registration	3	51%	15.00	27%	<b>18.00</b>	33%	3.00	20%
<b>Mother &amp; Son Bowling Night</b>								
Mother & Son Bowling Night Session 1 & 2	3	51%	8.00	56%	<b>8.00</b>	56%	-	0%
<b>Mother Daughter Tea</b>	3	51%	5.00	25%	<b>6.00</b>	30%	1.00	20%
<b>Camp Quest</b>	3	51%	130.00	85%	<b>130.00</b>	85%	-	0%
<b>Discovery Camp</b>								
Discovery Camp-Resident	3	51%	150.00	81%	<b>150.00</b>	81%	-	0%
Discovery Camp-Non-Resident	3	51%	175.00	94%	<b>175.00</b>	94%	-	0%
<b>Holiday Camp</b>		51%	20.00	34%	<b>25.00</b>	51%	5.00	25%
<b>Spring Break Camp 2019</b>	3	51%	150.00	70%	<b>150.00</b>	70%	-	0%
<b>Homeschool PE Program</b>	3	51%	5.00	35%	<b>6.00</b>	42%	1.00	20%
<b>Boys and Their Toys</b>	3	51%	10.00	29%	<b>13.00</b>	38%	3.00	30%

\*rental rate per hour.      \*\*Shown with 5% Increase

**Exhibit A:  
PARKS AND RECREATION DEPARTMENT RATE SUMMARY**

	Cost Recovery Rating (1-5)	Target Cost Recovery	Current Fee	Current Cost Recovery	Proposed Fee FY20	Cost Recovery Proposed Fee	Dollar Increase	Percent Increase
<b>SPECIAL EVENTS</b>								
Miss Beautiful SMTX Pageant - Adult Entries	3	51%	25.00	38%	<b>28.00</b>	51%	3.00	12%
Miss Beautiful SMTX Pageant - Youth Entries	2	16%	10.00	15%	<b>10.00</b>	16%	-	0%
20th Annual Golden Sweethearts Ball-Resident	2	16%	16.00	21%	<b>16.00</b>	16%	-	0%
20th Annual Golden Sweethearts Ball- Non-Resident	3	16%	20.00	18%	<b>20.00</b>	16%	-	0%

\*rental rate per hour.      \*\*Shown with 5% Increase

## INCREMENTAL INCREASE IN NON-RESIDENT FEES

<b>RATE PROPOSAL SUMMARY</b>	<b>Current Fee</b>	<b>5%</b>	<b>10%</b>	<b>20%</b>	<b>25%</b>	<b>30%</b>	<b>Proposed Fee FY20</b>
<b>DUNBAR RECREATION CENTER (per hour rate)</b>							
Non Resident-Large Room	84.00	88.20	92.40	100.80	105.00	109.20	<b>105.00</b>
Non Resident-Small Room	42.00	44.10	46.20	50.40	52.50	54.60	<b>53.00</b>
Non-Resident - Both Rooms	126.00	132.30	138.60	151.20	157.50	163.80	<b>144.00</b>
<b>OLD FISH HATCHERY (per hour rate)</b>							
Non Resident	52.00	54.60	57.20	62.40	65.00	67.60	<b>65.00</b>
<b>SAN MARCOS PLAZA PARK</b>							
Non-Resident	523.00	549.15	575.30	627.60	653.75	679.90	<b>551.00</b>
<b>RECREATION HALL (per hour rate)</b>							
Non Resident	84.00	88.20	92.40	100.80	105.00	109.20	<b>105.00</b>
<b>VERAMENDI GAZEBO</b>							
Non-Resident	152.00	159.60	167.20	182.40	190.00	197.60	<b>190.00</b>
<b>RIO VISTA PAVILION A</b>							
Non Resident	261.00	274.05	287.10	313.20	326.25	339.30	<b>261.00</b>
<b>RAMON LUCIO PAVILION C</b>							
Non Resident	209.00	219.45	229.90	250.80	261.25	271.70	<b>261.00</b>
<b>CHILDRENS PARK - PAVILION D</b>							
Non Resident	157.00	164.85	172.70	188.40	196.25	204.10	<b>196.00</b>
<b>CHILDRENS PARK - #1 PICNIC AREA</b>							
Non Resident	52.00	54.60	57.20	62.40	65.00	67.60	<b>65.00</b>
<b>CHILDRENS PARK- #2 PICNIC AREA</b>							
Non Resident	52.00	54.60	57.20	62.40	65.00	67.60	<b>65.00</b>

<b>RATE PROPOSAL SUMMARY</b>	<b>Current Fee</b>	<b>5%</b>	<b>10%</b>	<b>20%</b>	<b>25%</b>	<b>30%</b>	<b>Proposed Fee FY20</b>
<b>RIO VISTA PICNIC AREA #1</b>							
Non Resident	52.00	54.60	57.20	62.40	65.00	67.60	<b>65.00</b>
<b>ACTIVITY CENTER (per hour rate)</b>							
<b>Meeting Rooms</b>							
Non-Resident- 1 Room Only	84.00	88.20	92.40	100.80	105.00	109.20	<b>105.00</b>
Non-Resident- 1 Room Kitchen Access	26.00	27.30	28.60	31.20	32.50	33.80	<b>33.00</b>
Non-Resident- 2 Rooms Only	115.00	120.75	126.50	138.00	143.75	149.50	<b>144.00</b>
Non-Resident- 2 Rooms Kitchen Access	52.00	54.60	57.20	62.40	65.00	67.60	<b>63.00</b>
Non-Resident- 3 Rooms Only	147.00	154.35	161.70	176.40	183.75	191.10	<b>184.00</b>
Non-Resident- 3 Rooms Kitchen Access	79.00	82.95	86.90	94.80	98.75	102.70	<b>90.00</b>
Non Resident-Multi-Purpose Room Only	63.00	66.15	69.30	75.60	78.75	81.90	<b>79.00</b>
Non- Resident- Multi-Purpose Room Kitchen Access	26.00	27.30	28.60	31.20	32.50	33.80	<b>33.00</b>



# MEMO

**TO:** Stephanie Reyes, Assistant City Manager  
**FROM:** Jamie Lee Case, Assistant Director of Parks and Recreation  
**DATE:** March 3, 2020  
**RE:** Non-Profit Facility Rental Rates

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## SUMMARY

The purpose of this memorandum is to provide further detail regarding the subject of non-profit facility rental rates.

## **Background**

The City of San Marcos currently offers non-profit rate categories for both residents and non-residents for most of our facilities available for rental. The Activity Center Multi-Purpose room is an exception. We do not currently charge a non-profit rate for the rental of the Multi-Purpose Room. Instead only the resident or non-resident rate is charged.

### December 19, 2020: Parks and Recreation Advisory Board Regular Meeting

- The Board created a committee to review the proposed fees and to bring back a recommendation to the Board.

### January 13, 2020: Parks and Recreation Advisory Board Regular Meeting

- The Board received the committee's recommendations and in an effort to simplify the number of fee categories the Parks and Recreation Advisory Board approved a recommendation to remove the non-profit fee.

### February 18, 2020: Cost Recovery Work Session Update

- City Council requested that staff evaluate the Non-Profit fee further and provide options.
- City Council provided consensus on the following:
  - Change the qualifying age for the senior discount to 60 years of age, instead of the proposed 65 years of age.
  - Increase the Non-Resident Rental Rates another 5% of the proposed rate.

## **Non-Profit Rate Evaluation**

Staff evaluated the rental fee structures of eight (8) peer cities to determine if a Non-Profit rate was part of their structure. Cities evaluated were: Austin, Bryan, Buda, Cedar Park, College Station, Hutto, Kyle and Leander. Of the cities evaluated the City of Hutto was the only city that offered a Non-Profit rate for facility rentals. The rentals are specific in location (park pavilions & The Saul House) and duration. The rate charged is half of the Resident Rate.

Staff still recommends that Non-Profits receiving Community Development Block Grant (CDBG) Funding or Human Services Grants for the provision of social and human services/programs have facility rental fees waived up to 9 times per month. It is recommended that facility rental fees be waived when the non-profit is utilizing the facility to provide social and human services or programs to the community, and not for fundraising or similar events. The reservation process would be unchanged and would remain subject to availability.

Staff has prepared incremental options for the Council to consider if the Non-Profit rate is desired to be kept. It is attached for your consideration and review.

END

<b>NON PROFIT RATE PROPOSAL SUMMARY</b>	<b>Current Fee</b>	<b>10%</b>	<b>20%</b>	<b>25%</b>	<b>30%</b>	<b>40%</b>	<b>45%</b>
<b>DUNBAR RECREATION CENTER (per hour rate)</b>							
Resident: Non Profit-Large Room	16.00	17.60	19.20	20.00	20.80	22.40	23.20
Resident: Non Profit-Small Room	8.00	8.80	9.60	10.00	10.40	11.20	11.60
Resident: Non-Profit - Both Rooms	23.00	25.30	27.60	28.75	29.90	32.20	33.35
Non Resident: Non Profit - Large Room	42.00	46.20	50.40	52.50	54.60	58.80	60.90
Non Resident: Non Profit - Small Room	21.00	23.10	25.20	26.25	27.30	29.40	30.45
Non Resident: Non Profit - Both Rooms	62.00	68.20	74.40	77.50	80.60	86.80	89.90
<b>OLD FISH HATCHERY (per hour rate)</b>							
Resident: Non Profit	13.00	14.30	15.60	16.25	16.90	18.20	18.85
Non Resident: Non Profit	26.00	28.60	31.20	32.50	33.80	36.40	37.70
<b>SAN MARCOS PLAZA PARK (per day)</b>							
<b>* must be rented with the Fish Hatchery</b>							
Non Profit	261.00	287.10	313.20	326.25	339.30	365.40	378.45
<b>RECREATION HALL (per hour rate)</b>						0.00	0.00
Resident: Non Profit	21.00	23.10	25.20	26.25	27.30	29.40	30.45
Non Resident: Non Profit	42.00	46.20	50.40	52.50	54.60	58.80	60.90
<b>VERAMENDI GAZEBO</b>							
Non-Profit	152.00	167.20	182.40	190.00	197.60	212.80	220.40
<b>RIO VISTA PAVILION A</b>							
Resident: Non Profit	65.00	71.50	78.00	81.25	84.50	91.00	94.25
Non Resident: Non Profit	131.00	144.10	157.20	163.75	170.30	183.40	189.95
<b>RAMON LUCIO PAVILION C</b>							
Resident: Non Profit	52.00	57.20	62.40	65.00	67.60	72.80	75.40
Non Resident: Non Profit	105.00	115.50	126.00	131.25	136.50	147.00	152.25

<b>NON PROFIT RATE PROPOSAL SUMMARY</b>	<b>Current Fee</b>	<b>10%</b>	<b>20%</b>	<b>25%</b>	<b>30%</b>	<b>40%</b>	<b>45%</b>
<b>CHILDRENS PARK - PAVILION D</b>							
Resident: Non Profit	39.00	42.90	46.80	48.75	50.70	54.60	56.55
Non Resident: Non Profit	79.00	86.90	94.80	98.75	102.70	110.60	114.55
<b>CHILDRENS PARK - #1 PICNIC AREA</b>							
Resident: Non Profit	13.00	14.30	15.60	16.25	16.90	18.20	18.85
Non Resident: Non Profit	26.00	28.60	31.20	32.50	33.80	36.40	37.70
<b>CHILDRENS PARK- #2 PICNIC AREA</b>							
Resident: Non Profit	13.00	14.30	15.60	16.25	16.90	18.20	18.85
Non Resident: Non Profit	26.00	28.60	31.20	32.50	33.80	36.40	37.70
<b>RIO VISTA PICNIC AREA #1</b>							
Resident: Non Profit	13.00	14.30	15.60	16.25	16.90	18.20	18.85
Non Resident: Non Profit	26.00	28.60	31.20	32.50	33.80	36.40	37.70
<b>ACTIVITY CENTER (11am - 1pm) includes set-up</b>							
<b>Meeting Rooms</b>							
Non-Profit- 1 Room Only	60.00	66.00	72.00	75.00	78.00	84.00	87.00
Non-Profit- 1 Room Kitchen Access	26.00	28.60	31.20	32.50	33.80	36.40	37.70
Non-Profit- 2 Rooms Only	120.00	132.00	144.00	150.00	156.00	168.00	174.00
Non-Profit- 2 Rooms Kitchen Access	52.00	57.20	62.40	65.00	67.60	72.80	75.40
Non-Profit- 3 Rooms Only	180.00	198.00	216.00	225.00	234.00	252.00	261.00
Non-Profit- 3 Rooms Kitchen Access	79.00	86.90	94.80	98.75	102.70	110.60	114.55
Non Profit-Multi-Purpose Room Only*	N/A						
Non- Profit- Multi-Purpose Room Kitchen Access*	N/A						



## Legislation Text

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**File #:** Ord. 2020-15(b), **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-15, on the second of two readings, amending Section 34.080 of the San Marcos City Code to establish an administrative fee and provide for the collection of costs related to the filing of a nuisance abatement lien; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** Neighborhood Enhancement

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Choose an item.

Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values

Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Staff informed City Council that the City Code does not currently include an administrative fee for the processing of nuisance abatement cases during a work session on February 18, 2020. Staff explained that while the City has a 96% rate of voluntary compliance with City Code provisions related to weedy lots, etc., there are occasions when it would be helpful to have an administrative fee in place to encourage property owners to comply with environment code provisions. State law allows the City to place a lien on property where the owner refuses to comply with regulations prompting the City to perform the clean-up services and seek recovery from the property owner. City Code Enforcement will only this process once all options for voluntary compliance are exhausted.

The ordinance has been amended by including an additional \$50 fee if a lien has to actually be filed as directed by City Council on first reading.

**Council Committee, Board/Commission Action:**

At the February 18, 2020 Work Session, staff were directed to prepare an ordinance for council consideration establishing an administrative fee of \$150. Additionally, if the property owner does not remit payment to the City by the due date, the City will file a lien with the county for the total cost of the abatement including the filing cost.

**Alternatives:**

[Click or tap here to enter text.](#)

**Recommendation:**

Approve this ordinance establishing an administrative fee of \$150 for nuisance abatement, and charging the property owner for all costs related to the processing of the nuisance abatement action including the costs to file the lien.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION 34.080 OF THE CITY CODE TO ESTABLISH AN ADMINISTRATIVE FEE AND PROVIDE FOR THE COLLECTION OF COSTS RELATED TO THE FILING OF A NUISANCE ABATEMENT LIEN; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.** Section 34.080 of the City Code is hereby amended to read as follows (added text is indicated by underlining. Deleted text is indicated by strikethroughs):

Chapter 34

**ENVIRONMENT**

**Sec. 34.080. Correction of prohibited conditions by city; lien.**

(a) If the owner of a lot does not comply with a notice under section 34.079, the city may:

(1) Do the work and make the improvements required to correct the conditions of the lot; and

(2) Charge the expenses to the owner of the lot.

(b) The ~~finance~~ director will execute a statement of the costs of abatement, including an administrative fee of \$150.00 established by the city council, and file the statement as a lien with the county clerk of the county in which the lot is located. The statement will reflect all costs to process the abatement including the cost to file the lien. The statement must include the name of the owner, if known, and the legal description of the lot. If a lien is filed to collect the expenses incurred by the City an additional \$50 fee will be due.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed. To the extent the provisions of any ordinance provide for establishment of a fee or fees by resolution of the City Council, such provisions are superseded by this ordinance and the fees as adopted in this ordinance shall govern.

**SECTION 4.** After its passage, approval and adoption on second reading, this ordinance shall be effective immediately.

**PASSED AND APPROVED** on first reading on March 17, 2020.

**PASSED, APPROVED AND ADOPTED** on second reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney





Legislation Text

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**File #:** Res. 2020-75R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-75R, awarding a construction contract to Cash Construction Company, Inc. for the Main Lift Station Force Main Replacement Project in the total amount of \$9,286,059.00; authorizing the City Manager or his designee to execute the appropriate documents relating to this contract on behalf of the City; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** Engineering/CIP, Laurie Moyer, Director (by Lynda Williams, Purchasing Manager)

**Amount & Source of Funding**

**Funds Required:** \$9,286,059.00

**Account Number:** C111, C652 & DP20

**Funds Available:** [Click or tap here to enter text.](#)

**Account Name:** C111 - Main Lift Station Force Main Improv; C652 - WWTP Electric Backup Feed; DP20 - Woodlands Drainage

**Fiscal Note:**

**Prior Council Action:** None

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

City Facilities

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Public & Private Sector Partnership to Protect Water Quality & proper development in San Marcos and Blanco Rivers

Land Use - Choose an item.

Neighborhoods & Housing - Choose an item.

Parks, Public Spaces & Facilities - Choose an item.

- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Wastewater Master Plan

**Background Information:**

The scope of this project is the main lift station force main replacement. There are three main parts within the scope of work for the Force Main, Reclaimed Water Line and Bulk Filling Station project.

- 1. Force Main Replacement** - Replacement of the existing 20" parallel asphaltic concrete force mains which convey wastewater flows from the Main Lift Station to the wastewater treatment plant (WWTP) on River Road, with new parallel 24" PVC force mains. A bulk reclaimed water filling station is also proposed with this project as well as a 12-inch reclaimed waterline from the intersection of River Road and Cape Road to an existing line inside the WWTP.
- 2. Underground Electrical Duct Bank** - Electric duct bank consisting of (9) 6" PVC primary conduits with (1) 6" secondary line and (3) 4" telecommunication conduit is proposed from the lift station along the east side of River Road to the WWTP.
- 3. Storm Sewer** - From Cape Road to Conway Drive, there are six storm sewer crossings proposed along River Road as well as a 5'x5' concrete box.

On February 13, 2020, four bids were received for solicitation 220-099. Cash Construction Co., Inc., Pflugerville, Texas was the lowest responsible bidder with the base bid amount of \$9,286,059.00.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff recommends approval of award to the lowest responsible bidder, Cash Construction Co., Inc., Pflugerville, Texas, in the amount of \$9,286,059.00.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE AWARD OF A CONSTRUCTION CONTRACT TO CASH CONSTRUCTION COMPANY, INC. FOR THE MAIN LIFT STATION FORCE MAIN REPLACEMENT PROJECT IN THE TOTAL AMOUNT OF \$9,286,059.00; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE DOCUMENTS RELATING TO THIS CONTRACT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The construction contract with Cash Construction Company, Inc., in the amount of \$9,286,059.00 for the Main Lift Station Force Main Replacement Project is approved.

**PART 2.** The City Manager or his designee is authorized to execute appropriate documents related to the construction contract on behalf of the City.

**PART 3.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

February 26, 2020

Rey Garcia, P.E.  
Senior Engineer  
City of San Marcos  
630 E. Hopkins  
San Marcos, Texas 78666

Subject: Force Main, Reclaimed Water Line and Bulk Filling Station Bid Recommendation Letter

Dear Mr. Garcia,

Listed below is the summary of the bids for the Force Main, Reclaimed Water Line and Bulk Filling Station Project. Four bids were received on February 13<sup>th</sup>, 2020. The bids are summarized below:

<b>Bidder</b>	<b>Total Base Bid</b>	<b>Total Bid with Alternate</b>
Spiess Construction Co., Inc.	\$11,000,733.00	\$11,000,733.00
D. Guerra Construction, LLC	\$12,168,070.62	\$12,153,070.62
Cash Construction Co., Inc.	\$9,286,059.00	\$9,416,059.00
Smith Contracting Co., Inc.	\$9,832,809.52	\$9,682,809.52

Cash Construction Co., Inc. is the low bidder and submitted all required forms with their bid. Additionally, all references provided communicated that they have no major problems with past or current performance and that their overall opinion of this contractor is favorable.

As a result, Freese and Nichols recommends that the City of San Marcos award the construction contract for this project to Cash Construction Co., Inc. in the amount of \$9,286,059.00. This base bid amount does not include the alternate HDPE pipe material.

Please call me at (512) 617-3125 if you have any questions.

Sincerely,



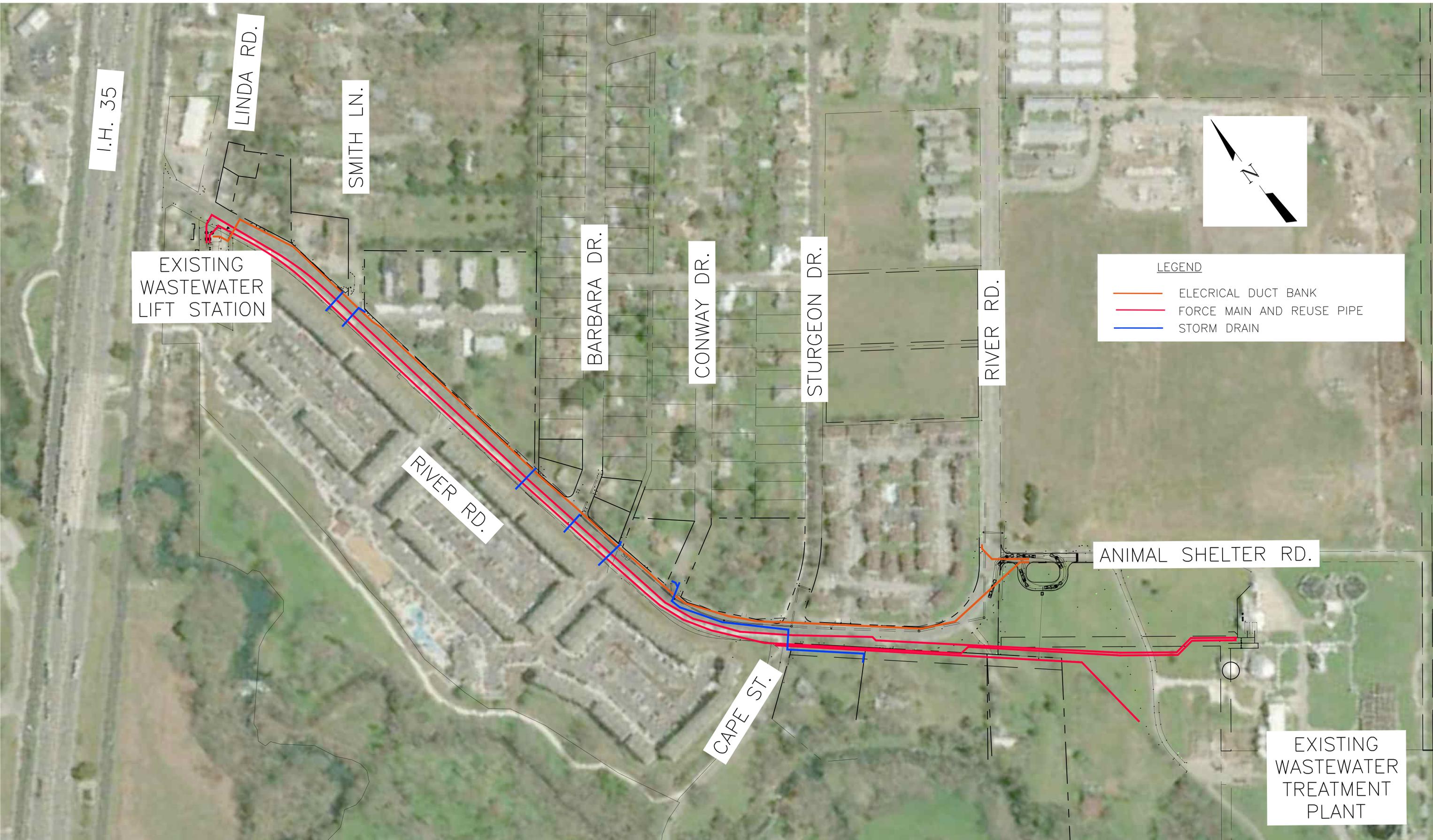
Anne Hoskins, P.E.  
Project Manager  
Freese and Nichols, Inc

# Main Lift Station Force Mains

Approximate Construction: May 2020 - February 2021

Bike lanes and parking closed on River Road for the duration of construction

Two-way traffic on River Road will be maintained whenever possible



I.H. 35

LINDA RD.

SMITH LN.

BARBARA DR.

CONWAY DR.

STURGEON DR.

RIVER RD.

RIVER RD.

CAPE ST.

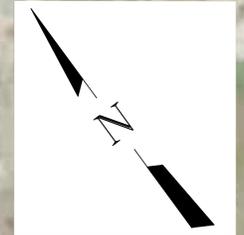
ANIMAL SHELTER RD.

EXISTING  
WASTEWATER  
LIFT STATION

EXISTING  
WASTEWATER  
TREATMENT  
PLANT

### LEGEND

- ELECTRICAL DUCT BANK
- FORCE MAIN AND REUSE PIPE
- STORM DRAIN





# BID TABULATION

Main Lift Station Force Main Replacement 220-099

February 13, 2020, at 2:00 p.m.

Bidder Name	Base Total	Base Total with Alternate
Spieess Construction Co. Inc. El Paso, Tx	11,000,733.00	11,000,733.00
D. Guerra Constructim, LLC Austin, Tx	12,168,070.62	12,153,070.62
Cash Construction Co., Inc Pflugerville, Tx	9,286,059.00	9,416,059.00
Smith Contracting Co., Inc Austin, Tx	9,832,809.52	9,682,809.52

**This is the official record of bidders and bid prices only. It is not an acknowledgement of responsiveness, responsibility, or of contract award.**

Recorded by:



Witnessed by:





Legislation Text

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**File #:** Res. 2020-76R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-76R, approving a Change in Service to the engineering services agreement with Alan Plummer Associates, Inc. (Contract No. 218-394) relating to the Sunset Acres Subdivision Drainage Improvements Project to add engineering design services for replacing wastewater lines along Lockwood and Candlelight in the estimated amount of \$59,020.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** Engineering & CIP, Laurie Moyer, Director (by Lynda Williams, Purchasing Manager)

**Amount & Source of Funding**

**Funds Required:** \$59,020.00

**Account Number:** C#644

**Funds Available:** \$385,500.77

**Account Name:** Sunset Acres Subdivision Study

**Fiscal Note:**

**Prior Council Action:** March 12, 2018: Award professional services agreement to Alan Plummer Associates, Inc.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

- Land Use - Choose an item.
- Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

A change in service is requested to provide additional services for the Sunset Acres Subdivision wastewater improvements including, field surveys, design phase, bid and construction phase services in the estimated amount of \$59,020.00.

Design service is required for a wastewater line constructed as part of the Investor Memory Care project. This line is in conflict with the planned expansion to the detention pond and must be relocated. Additional design services are required to replace wastewater lines at the back of the lots between Lockwood and Parkdale and at the back of the lots between Candlelight and Lockwood as these lines are beyond their useful life.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

**NA**

**Recommendation:**

Staff recommends approval of change in service #3 for additional services in an estimated amount of \$59,020.00.

**RESOLUTION NO. 2020-            R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A CHANGE IN SERVICE TO THE ENGINEERING SERVICES AGREEMENT WITH ALAN PLUMMER ASSOCIATES, INC. (CONTRACT NO. 218-394) RELATING TO THE SUNSET ACRES SUBDIVISION DRAINAGE IMPROVEMENT PROJECT TO ADD ENGINEERING DESIGN SERVICES FOR REPLACING WASTEWATER LINES ALONG LOCKWOOD AND CANDELIGHT IN THE ESTIMATED AMOUNT OF \$59,020.00; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE DOCUMENTS TO IMPLEMENT THE CHANGE IN SERVICE; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** A change in service to the engineering services agreement with Alan Plummer Associates, Inc. (Contract No. 218-394) relating to the Sunset Acres Subdivision Drainage Improvement Project to add engineering design services for replacing wastewater lines along Lockwood and Candlelight in the estimated amount of \$59,020.00 is approved.

**PART 2.** The City Manager or his designee is authorized to execute the appropriate documents to implement the change in service.

**PART 3.** This resolution will be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

ATTACHMENT D

AUTHORIZATION OF CHANGE IN SERVICES  
CITY OF SAN MARCOS, TEXAS

CONTRACT: Sunset Acres Drainage Improvements (Contract #218-394)  
CONSULTANT: Alan Plummer Associates, Inc.

AUTHORIZATION NO.: 3

ORIGINAL CONTRACT DATE: March 12, 2018

AUTHORIZATION DATE:

**WORK TO BE ADDED TO OR DELETED FROM SCOPE OF SERVICES**

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The City of San Marcos has requested that Plummer Associates, Inc. (Plummer) include additional design services as part of the Sunset Acres Drainage Improvements Project. Specifically, a new wastewater line was constructed as part of the Investor Memory Care project. This line was constructed after the completion of the Preliminary Engineering Report and is in conflict with the planned expansion to the detention pond in the area and must be relocated. In addition, the City determined that the wastewater lines at the back of the lots between Lockwood and Parkdale and at the back of the lots between Candlelight and Lockwood are beyond their useful life and in need of replacement. In addition, two easement documents need to be prepared for work on the School District property.

Previous Change in Services

#1; December 10, 2018; Additional storm drain analyses; \$46,398.00

#2; November 19, 2019; Design, bidding, and construction phase services; \$875,777.00

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Previous contract amount:	<u>\$1,110,075.00</u>
Net increase/decrease in contract amount:	<u>\$ 59,020.00</u>
Revised contract amount:	<u>\$1,169,095.00</u>

Requested by:

By: Stephen J. Coonan

Date: 3/3/2020

Stephen J. Coonan, P.E., Principal  
Printed name, title

Approved by:

City of San Marcos:

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

By: \_\_\_\_\_  
Bert Lumbreras, City Manager



# PLUMMER

February 19, 2020

Mr. Rohit Vij, P.E.  
Senior Engineer  
Engineering and Capital Improvements  
City of San Marcos  
630 East Hopkins Street  
San Marcos, TX 78666

Re: Sunset Acres Drainage Preliminary Engineering  
Change In Service No. 3

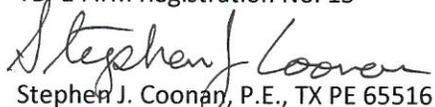
Dear Mr. Vij,

Per your request, Plummer Associates, Inc. (Plummer) is pleased to submit the attached Change-in-Service Request. The change is associated with the addition of the replacement of several wastewater lines that were not included in the original scope of the design phase. In addition, we are also adding the preparation of two easement documents for the School District property. We don't anticipate these items impacting the schedule for our design as long as a Notice-to-Proceed is provided in sufficient time.

If you have any questions concerning our proposal, please contact me at 512-452-5905. We appreciate this opportunity and look forward to continuing our relationship with the City.

Sincerely,

ALAN PLUMMER ASSOCIATES, INC.  
TBPE Firm Registration No. 13

  
Stephen J. Coonan, P.E., TX PE 65516  
Principal

Enclosures

# Sunset Acres Additional Final Design

## PROJECT DESCRIPTION SUMMARY

Plummer Associates, Inc. (Plummer) understands that the City of San Marcos (or City) desires to include the replacement of two wastewater lines in the Sunset Acres Subdivision as part of Sunset Acres Drainage Improvement Project. Specifically, the City desires that the wastewater lines along the back lot lines between Parkdale and Lockwood, and between Lockwood and Candlelight be replaced. In addition, a new wastewater line was constructed as part of the Investor Memory Care project since the completion of the Preliminary Engineering for the project. This new wastewater line traverses the site of the proposed detention pond to be constructed as part of the first phase of improvements and will be in conflict with the new pond. As such, it also must be relocated.

## BASIC SERVICES

### Task 1 – Obtain Additional Field Surveys

Plummer will obtain additional detailed field surveys for the additional improvements. The survey will establish topography, rights-of-ways, and physical improvements within the limits of the project. The survey will be provided in Texas State Plane, NAD 83, Grid Coordinate with surface to grid conversion factor noted. Vertical control will be based on NAVD 88.

### Task 2 – Preliminary Engineering for Wastewater Replacements

Plummer will evaluate alternative methods of replacing each of the wastewater lines. This evaluation will include relocation for the wastewater line in conflict with the pond and it will include both replacement and trenchless technologies for the two wastewater lines along the back lot lines. The results of these analyses will be presented in the form of a Technical Memorandum.

### Task 3 - 30% Submittal for Wastewater Line Replacements

The 30% design plans shall include, at a minimum, the following:

- Existing conditions, including roadway, structures, vegetation and utilities, as determined by field survey;
- Existing right-of-way lines, existing property lines, existing permanent easements. For each property, identify on the drawings the property identification number, the deed volume and page number, and street address as well as the names of all property owners.
- Preliminary layout (plan view) of all existing and proposed utilities showing all proposed underground and overhead utilities to be reconstructed and/or relocated in as part of the Project;
- Construction notes;
- Utility conflict matrix

## Task 4 - 60% Submittal for Wastewater Improvements

In addition to the information provided in the 30% plans submittal, the 60% submittal shall provide, at a minimum, the following:

- Proposed right-of-way lines, proposed property lines, proposed permanent and temporary easement lines. Right-of-way and/or easements shall be sufficient to encompass all improvements, including landscaping;
- Preliminary location (plan and profile) of all existing and proposed utilities showing all proposed underground and overhead utilities to be reconstructed and/or relocated as part of the Project;
- Preliminary location of construction work areas showing which existing features may be impacted by construction (fences, trees, sheds, etc.) and identifying the party responsible for removal and/or re-establishment;
- Tree protection notes;
- Recommendation of construction materials to be used;
- Construction phasing considerations;
- Updated utility conflict matrix;
- Preliminary Opinion of Probable Construction Costs.

## Task 5 - 90% Submittal for Wastewater Improvements

In addition to the information provided in the 60% plans submittal, the 90% submittal shall provide, at a minimum, the following:

- Details sufficient for the construction of all proposed facilities;
- Traffic control plans: Traffic control plans and specifications shall identify the proposed construction phasing for the Project, including any utility construction and/or relocation. The plans shall be prepared in accordance with the requirements of the City of San Marcos. All traffic control devices proposed to be used within a City right-of-way must comply with both the Texas Manual on Uniform Traffic Control Devices and the City of San Marcos Transportation Design Manual. Temporary control devices proposed to be used within a City right-of-way must be crashworthy and must be included in the Texas Department of Transportation (TXDOT) Compliant Work Zone Traffic Control Device List. The final traffic control plans and specifications shall include a phasing sequence identifying work to be done in each phase, the traffic controls of each phase, and any special considerations such as time limitations, hour of day limitations, or required completion times. They shall also show all temporary pavement markings. Final construction traffic control plans shall be sealed by a Texas registered professional engineer.
- Erosion control plans: Plummer shall design and specify erosion control measures that minimize erosion and off-site sedimentation during construction of the Project. The plan and specifications shall be prepared in accordance with the requirements of the City of San Marcos.

- Opinion of Probable Construction Cost: Plummer shall update and seal an opinion of probable construction cost for the authorized project and submit the Opinion of Probable Cost to the City's Project Manager. In accordance with the requirements of the supplemental terms and conditions of the professional services agreement, the Opinion of Probable Construction Cost shall be a Class A estimate.
- Plummer shall update the final utility conflict matrix.
- Plummer shall incorporate the final construction phasing plan into the contract documents.

#### DELIVERABLES

- 90% construction plans and specifications.
- Documentation of key design decisions (Project Decision Log).
- Detailed estimates of probable construction cost for the authorized construction project, including summaries of bid items and quantities using the City's standard bid items and format.

### Task 6 - Final Design Submittal for Wastewater Improvements

The wastewater improvements will be incorporated into the final bid documents with the wastewater line relocation to avoid the detention pond being bid with the detention pond and the other two wastewater lines being bid with the remainder of the project.

#### DELIVERABLES

- 100% construction plans and specifications.

### Task 7 – Easement Document Preparation

Plummer will have the necessary Field Notes and Exhibits prepared for two easements. Both easements will be on School District Property. The first easement will describe the drainage easement for the detention pond. The second easement will be a wastewater easement for the relocated wastewater line.

### Schedule

These improvements will be included on the same schedule as the remainder of the project.

### City Responsibilities / Assumptions in Scope Preparation

- City will give prompt notice of any development or other activities that would affect the scope or schedule of the scope of work.
- Archeological Surveys are not included in the scope of services.
- Karst investigations and surveys are not included in the scope of services.
- Work can be performed within the public right-of-way; no easements other than an agreement with the School District are anticipated.

City of San Marcos  
Sunset Acres Final Design  
CIS 3  
Additional WW Replacements

Level 2 (Phase) No. and Description <i>Level 3 (Task) No. and Description</i>	Principal (hrs)	Sr. Proj Mgr (hrs)	Proj Mgr (hrs)	Proj Engr (hrs)	EIT (hrs)	Technician (hrs)	Clerical (hrs)	QC (hrs)	Total Labor		Percent of Total Fee
									Hours	Fee (\$\$\$)	
<b>CIS 3</b>	<b>12</b>	<b>0</b>	<b>47</b>	<b>0</b>	<b>112</b>	<b>84</b>	<b>0</b>	<b>0</b>	<b>255</b>	<b>\$ 38,400</b>	<b>100.0%</b>
<b>1 Additional Field Surveys</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>\$ 990</b>	<b>2.6%</b>
1 Coordination			1		2	4			7	\$ 990	2.6%
<b>2 Preliminary Engineering for Add'l WW Replacements</b>	<b>4</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>30</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>62</b>	<b>\$ 9,530</b>	<b>24.8%</b>
1 PER	4		12		30	16			62	\$ 9,530	24.8%
<b>3 30% Submittal</b>	<b>2</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>30</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>64</b>	<b>\$ 9,460</b>	<b>24.6%</b>
1 30%	2		12		30	20			64	\$ 9,460	24.6%
<b>4 60% Submittal</b>	<b>2</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>24</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>\$ 7,910</b>	<b>20.6%</b>
1 60%	2		8		24	20			54	\$ 7,910	20.6%
<b>5 90% Submittal</b>	<b>2</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>12</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>34</b>	<b>\$ 5,330</b>	<b>13.9%</b>
1 39%	2		8		12	12			34	\$ 5,330	13.9%
<b>6 Final Design</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>10</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>26</b>	<b>\$ 4,010</b>	<b>10.4%</b>
1 Final Design	2		4		10	10			26	\$ 4,010	10.4%
<b>7 Easement Preparation</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>\$ 1,170</b>	<b>3.0%</b>
1 Coordination			2		4	2			8	\$ 1,170	3.0%
<b>TOTAL LABOR</b>											
Total Labor Hours	12	0	47	0	112	84	0	0	255		
Total Labor Amount										\$ 38,400	100.0%
Labor Rates per Hour	\$305	\$240	\$200	\$150	\$125	\$135	\$105	\$305			
Total Amounts by Labor Category	\$ 3,660	\$ -	\$ 9,400	\$ -	\$ 14,000	\$ 11,340	\$ -	\$ -		\$ 38,400	
Labor Category Percent of Total Labor	9.5%	0.0%	24.5%	0.0%	36.5%	29.5%	0.0%	0.0%			100.0%
<b>TOTAL EXPENSES (see breakdown below)</b>											
Total Subconsultants										\$ 20,620	
Total Reimbursables										\$ -	
Total Expenses										\$ 20,620	
<b>GRAND TOTAL - CIS 3</b>										<b>\$ 59,020</b>	

**SUBCONSULTANT EXPENSES**

Code	Description	Budget (\$\$)	Markup	Fee (\$\$\$)
CA	Architect Consultant	\$ -	1.10	\$ -
CC	Civil Engr Consultant	\$ -	1.10	\$ -
CE	Electrical Consultant	\$ -	1.10	\$ -
CG	Geotechnical Consultant	\$ -	1.10	\$ -
CM	Mechanical Consultant	\$ -	1.10	\$ -
CO	Other Consultant	\$ -	1.10	\$ -
CS	Structural Consultant	\$ -	1.10	\$ -
CY	Surveying Consultant	\$ 18,745	1.10	\$ 20,620
C1		\$ -	1.10	\$ -
C2		\$ -	1.10	\$ -
C3		\$ -	1.10	\$ -
C4		\$ -	1.10	\$ -
C5		\$ -	1.10	\$ -
C6		\$ -	1.10	\$ -
<b>TOTAL SUBCONSULTANT EXPENSES</b>		<b>\$ 18,745</b>		<b>\$ 20,620</b>

**REIMBURSABLE EXPENSES**

Code	Description	Budget (\$\$)	Markup	Fee (\$\$\$)
RA	Laboratory Analysis	\$ -	1.10	\$ -
RC	Computer	\$ -	1.10	\$ -
RH	Historical	\$ -	1.10	\$ -
RI	In-House Reproduction	\$ -	1.10	\$ -
RL	Long Distance Telephone	\$ -	1.10	\$ -
RM	Employee Mileage	\$ -	1.10	\$ -
RO	Other Expenses	\$ -	1.10	\$ -
RP	Purchased Services	\$ -	1.10	\$ -
RR	Reproduction	\$ -	1.10	\$ -
RS	Shipping, Delivery, Postage	\$ -	1.10	\$ -
RT	Travel, Meals, Lodging	\$ -	1.10	\$ -
RU	Telecommunications	\$ -	1.00	\$ -
R1		\$ -	1.10	\$ -
R2		\$ -	1.10	\$ -
<b>TOTAL REIMBURSABLE EXPENSES</b>		<b>\$ -</b>		<b>\$ -</b>



engineers | architects | surveyors

SOLUTIONS TODAY WITH  
**A VISION FOR TOMORROW**

February 28, 2020

Steve Coonan, P.E.  
Central Texas Area Leader  
Plummer  
14755 Preston Road, Suite 420  
Dallas, Texas 75254

Re: Proposal for Surveying Services  
San Marcos - Sunset Acres Subdivision  
Additional Surveying Services

Dear Mr. Coonan:

LNV, Inc. is pleased to submit this not to exceed lump sum proposal for additional surveying services to Plummer for the above referenced project.

**Understanding of Supplemental Services**

The scope includes the following:

- Survey of area between back of lots fronting on Parkdale and Lockwood and between Lockwood and Candlelight.
- Survey of new wastewater line in proposed detention pond area (5 manholes).
- Survey of detention pond area in school property (triangle shaped proposed detention pond area southeast of this area was previously surveyed).
- Two easement surveys in school property

**Project Tasks**

The following describes the project tasks and deliverables:

**Design Topographic Survey**

LNV will conduct the following tasks:

- Place a one-call and survey the horizontal location of the utilities as marked by one-call;
- The survey will be provided in Texas State Plane, NAD 83, Grid Coordinate location with surface to grid conversion factor noted. Vertical control will be based on NAVD 88;
- Establish horizontal and vertical control;
- Provide wastewater manhole rim/inlet elevation, flowline (if available/accessible within the existing ROW) within limits stated above;
- Provide 2D and 3D CADD files;
- Provide the ASCII text file.

**Easement Services**

- Services for field work, exhibits including metes and bounds for 2 easements.

**Project Duration and Proposed Fee**

<b>Task</b>	<b>Task Duration</b>
<b>Surveying Services</b>	
Additional Survey	14 Business days from NTP

The attached Fee Estimate is summarized below:

<b>Task</b>	<b>Task Fee</b>
<b>Surveying Services</b>	
Area fronting on Parkdale and Lockwood and between Lockwood and Candlelight	\$8,120.00
Wastewater line	\$1,458.00
Detention pond	\$4,167.00
Two Easement Services	\$5,000.00
<b>TOTAL</b>	<b>\$18,745.00</b>

**Project Scope Exclusions**

Please note that this fee proposal only includes the tasks and fees for the work described above. This fee proposal does not include tasks and fees for any of the following at this time:

- Development of project specifications and/or bid documents;
- Coordination with other utilities;
- Coordination with City of San Marcos;
- Development of Traffic Control Plan (TCP);
- Development of SW3P and submittal to TCEQ;
- Development of restrained length plan layout;
- Development of a valve test shutdown plan;
- Bid phase services;
- Construction Submittal review;
- Subsurface Utility Engineering (SUE) services;
- Environmental Engineering Services;
- Construction observation;
- Geotechnical services during construction or design, including geotechnical borings, materials testing, compaction testing, or sieve analysis of any kind;
- Preparing proposed easement and/or temporary construction easement documents;
- Design of relocation of existing utilities that may be in conflict with proposed water main replacements/relocations;
- Rehabilitation, replacement, or relocation of existing sewer mains.

Additional Surveying Services Fee Proposal  
San Marcos - Sunset Acres Subdivision  
February 28, 2020

LNV's team is however, capable of and can provide these, and other related services, if any are determined to be needed during the course of the project. A separate fee proposal can be developed if and when these services are needed per Plummer's request.

We look forward to working with you on this important project. If you have any questions or comments, please feel free to contact me at 512-381-8333 or via email at [mnaiser@lvinc.com](mailto:mnaiser@lvinc.com).

Sincerely,

LNV, Inc.

TBPE Firm No. F-366

A handwritten signature in blue ink that reads "Marcus Naiser, P.E." in a cursive style.

Marcus Naiser, P.E.

Vice President / Project Manager

Attachments: Attachment "A", Surveying Service Fee Breakdown

AREA BETWEEN BACK OF LOTS FRONTING ON PARKDALE AND LOCKWOOD AND BETWEEN LOCKWOOD AND CANDLELIGHT. BOTH LOCATIONS BETWEEN BROADWAY AND DEL SOL

FUNCTIONAL TASK	SIT	RPLS	FIELD CREW	TOTAL
Project Set-up, Plats, and Staking Files	4	2		6
Control Network	4	2	12	18
Topographic Survey	4	2	16	22
Post Processing	8	4		12
Total of Hours	20	10	28	58
Unit Rate	\$99.00	\$138.00	\$170.00	
Total Cost	\$1,980.00	\$1,380.00	\$4,760.00	\$8,120.00

NEW WASTEWATER LINE IN PROPOSED DETENTION POND AREA

FUNCTIONAL TASK	SIT	RPLS	FIELD CREW	TOTAL
Project Set-up, Plats, and Staking Files	1	1		2
Control Network	1	1	1	3
Topographic Survey	1	1	2	4
Post Processing	1	1		2
Total of Hours	4	4	3	11
Unit Rate	\$99.00	\$138.00	\$170.00	
Total Cost	\$396.00	\$552.00	\$510.00	\$1,458.00

CONTOUR SURVEY OF PROPOSED DETENTION POND AREA IN SCHOOL PROPERTY. TRIANGLE SHAPED PROPOSED DETENTION POND AREA SOUTHEAST OF THIS AREA HAS BEEN CONTOUR SURVEYED

FUNCTIONAL TASK	SIT	RPLS	FIELD CREW	TOTAL
Project Set-up, Plats, and Staking Files	1	1		2
Control Network				
Topographic Survey	2	1	18	21
Post Processing	4	1		5
Total of Hours	7	3	18	28
Unit Rate	\$99.00	\$138.00	\$170.00	
Total Cost	\$693.00	\$414.00	\$3,060.00	\$4,167.00

TWO EASEMENTS IN THE SCHOOL PROPERTY

2 Easements, field work and documentation				\$5,000.00
---	--	--	--	------------



Legislation Text

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**File #:** Res. 2020-77R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-77R, approving a commercial office lease amendment with Two Fold, LLC for the lease of the Women, Infants, and Children (WIC) Satellite Office at 641 North Walnut Avenue, New Braunfels, Texas for the purpose of extending the lease term for two additional years with an increase in rent from \$1,575 to \$1,600 per month the first year and \$1,625 per month the second year; and authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** Neighborhood Enhancement - WIC

**Amount & Source of Funding**

**Funds Required:** \$38,700

**Account Number:** 52360 - multiple accounts

**Funds Available:** \$38,700

**Account Name:** Building Rental

**Fiscal Note:**

**Prior Council Action:** Original lease approved August 7, 2018; first extension approved June 4, 2019.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.

- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The WIC Program has leased this space since 2018; the amendment presented for approval extends the lease until July 31, 2022. The City of San Marcos receives reimbursement for all WIC expenses through a contract with the Texas Health and Human Services Commission (HHSC).

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Recommend approval of this Commercial Lease Amendment.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A COMMERCIAL OFFICE LEASE AGREEMENT WITH TWO FOLD, LLC FOR THE LEASE OF THE WOMEN, INFANTS, AND CHILDREN (WIC) SATELLITE OFFICE AT 641 NORTH WALNUT, NEW BRAUNFELS, TEXAS FOR THE PURPOSE OF EXTENDING THE LEASE TERM FOR TWO ADDITIONAL YEARS WITH AN INCREASE IN RENT FROM \$1,575 TO \$1,600 PER MONTH THE FIRST YEAR AND \$1,625 PER MONTH THE SECOND YEAR; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The attached amended Commercial Office Lease with Two Fold, LLC for the lease of the WIC satellite office at 641 North Walnut, New Braunfels, Texas is hereby approved.

**PART 2.** The City Manager or his designee is hereby authorized to sign the Amendment on behalf of the City.

**PART 3.** This resolution shall become effective immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



TEXAS ASSOCIATION OF REALTORS®  
**COMMERCIAL LEASE AMENDMENT**

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AMENDMENT TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT 641 N. Walnut Ave., New Braunfels, Comal County, TX 78130

Effective on 3-14-2020, Landlord and Tenant amend the above-referenced lease as follows:

A. Leased Premises: The suite or unit number identified in Paragraph 2A(1) is:

(1) changed to \_\_\_\_\_.

(2) contains approximately \_\_\_\_\_ square feet.

B. Term:

(1) The length of the term stated in Paragraph 3A is changed to \_\_\_\_\_ months and \_\_\_\_\_ days.

(2) The Commencement Date stated in Paragraph 3A is changed to \_\_\_\_\_.

(3) The Expiration Date stated in Paragraph 3A is changed to July 31, 2022.

C. Rent: The amount of the base monthly rent specified in Paragraph 4A is changed to:

\$ 1,600.00 from Aug. 1, 2020 to July 31, 2021;  
 \$ 1,625.00 from Aug. 1, 2021 to July 31, 2022;  
 \$ \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_;  
 \$ \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_;  
 \$ \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_.

D. Security Deposit: The amount of the security deposit in Paragraph 5 is changed to \$ \_\_\_\_\_.

E. Maintenance and Repairs: The following item(s) specified in the identified subparagraph of Paragraph 15C will be maintained by the party designated below:

<u>Para. No.</u>	<u>Description</u>	<u>Responsible Party</u>	
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord <input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord <input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord <input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord <input type="checkbox"/> Tenant

F. Parking:

(1) Common Parking: The number of vehicles identified in Paragraph A(1) of the Commercial Lease Parking Addendum is changed \_\_\_\_\_ to vehicles.

(2) Restricted Common Parking for Tenants: The number of vehicles identified in Paragraph A(2) of the Commercial Lease Parking Addendum is changed to \_\_\_\_\_ vehicles.

Amendment to Commercial Lease concerning \_\_\_\_\_

(3) Assigned Parking: Tenant's assigned parking areas identified in Paragraph A(3) of the Commercial Lease Parking Addendum is changed to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(4) Parking Rental: The amount of rent identified in Paragraph B of the Commercial Lease Parking Addendum is changed to \$ \_\_\_\_\_

G. Other: Paragraph(s) \_\_\_\_\_ are changed to read *(cite specific paragraphs and copy the applicable paragraphs verbatim, making any necessary changes)*:

Landlord: TWO FOLD LLC

Tenant: \_\_\_\_\_

By: LARRY LEHR manager

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

By (signature): Larry B. Lehr

By (signature): \_\_\_\_\_

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

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

Title: manager Date: 3-14-2020

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

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

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

By (signature): \_\_\_\_\_

By (signature): \_\_\_\_\_

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

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

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

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



TEXAS ASSOCIATION OF REALTORS®  
**COMMERCIAL LEASE AMENDMENT**

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AMENDMENT TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING  
 THE LEASED PREMISES AT 6411 N. Walnut Ave., New Braunfels, Comal  
County, Texas

Effective on 5-10-19, Landlord and Tenant amend the above-referenced lease as follows:

- A. Leased Premises: The suite or unit number identified in Paragraph 2A(1) is:
  - (1) changed to \_\_\_\_\_.
  - (2) contains approximately \_\_\_\_\_ square feet.
- B. Term:
  - (1) The length of the term stated in Paragraph 3A is changed to \_\_\_\_\_ months and \_\_\_\_\_ days.
  - (2) The Commencement Date stated in Paragraph 3A is changed to \_\_\_\_\_.
  - (3) The Expiration Date stated in Paragraph 3A is changed to July 31, 2020.
- C. Rent: The amount of the base monthly rent specified in Paragraph 4A is changed to:
 

\$ <u>1,575.<sup>00</sup></u>	from	<u>Aug. 1 2019</u>	to	<u>July 31, 2020</u>
\$ _____	from	_____	to	_____
\$ _____	from	_____	to	_____
\$ _____	from	_____	to	_____
\$ _____	from	_____	to	_____

D. Security Deposit: The amount of the security deposit in Paragraph 5 is changed to \$ \_\_\_\_\_.

E. Maintenance and Repairs: The following item(s) specified in the identified subparagraph of Paragraph 15C will be maintained by the party designated below:

<u>Para. No.</u>	<u>Description</u>	<u>Responsible Party</u>		
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord	<input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord	<input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord	<input type="checkbox"/> Tenant
_____	_____	<input type="checkbox"/> N/A	<input type="checkbox"/> Landlord	<input type="checkbox"/> Tenant

- F. Parking:
  - (1) Common Parking: The number of vehicles identified in Paragraph A(1) of the Commercial Lease Parking Addendum is changed \_\_\_\_\_ to vehicles.
  - (2) Restricted Common Parking for Tenants: The number of vehicles identified in Paragraph A(2) of the Commercial Lease Parking Addendum is changed to \_\_\_\_\_ vehicles.

(TAR-2114) 1-26-10      Initialed for Identification by Landlord: \_\_\_\_\_, \_\_\_\_\_, and Tenant: \_\_\_\_\_, \_\_\_\_\_      Page 1 of 2

Amendment to Commercial Lease concerning \_\_\_\_\_

(3) Assigned Parking: Tenant's assigned parking areas identified in Paragraph A(3) of the Commercial Lease Parking Addendum is changed to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(4) Parking Rental: The amount of rent identified in Paragraph B of the Commercial Lease Parking Addendum is changed to \$ \_\_\_\_\_

G. Other: Paragraph(s) \_\_\_\_\_ are changed to read (*cite specific paragraphs and copy the applicable paragraphs verbatim, making any necessary changes*):

Landlord: TWOFOLD LLC

By: LARRY CEHR manager

By (signature): \_\_\_\_\_  
Printed Name: LARRY CEHR  
Title: manager Date: 5-7-19

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

By (signature): \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant: City of San Marcos - WIC program

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

By (signature): \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

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

By (signature): \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_



**TEXAS ASSOCIATION OF REALTORS®  
COMMERCIAL LEASE**

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**ADDENDA & EXHIBITS (check all that apply)**

- Exhibit C - Addendum DK
- Exhibit \_\_\_\_\_
- Commercial Lease Addendum for Broker's Fee
- Commercial Lease Expense Reimbursement Addendum
- Commercial Lease Addendum for Extension Option
- Commercial Lease Addendum for Percentage Rent
- Commercial Lease Parking Addendum
- Commercial Landlord's Rules and Regulations
- Commercial Lease Guaranty
- Commercial Lease Right of First Refusal Addendum
- Commercial Lease Addendum for Optional Space
- Commercial Leasehold Construction Addendum
- \_\_\_\_\_
- \_\_\_\_\_

(TAR-2101) 5-26-06 Initialed for Identification by Tenant: [Signature], and Landlord: [Signature]



TEXAS ASSOCIATION OF REALTORS®

COMMERCIAL LEASE

1. PARTIES: The parties to this lease are:

Tenant: City of San Marcos - WEC Program ; and
Landlord: TUB FOLD LLC

2. LEASED PREMISES:

A. Landlord leases to Tenant the following described real property, known as the "leased premises," along with all its improvements (Check only one box):

(1) Multiple-Tenant Property: Suite or Unit Number containing approximately square feet of rentable area in (project name) at (address) in (city), (county), Texas, which is legally described on attached Exhibit or as follows:

(2) Single-Tenant Property: The real property at: 641 N. Walnut Ave. (address) in New Braunfels (city), Comal (county), Texas, which is legally described on attached Exhibit or as follows:

B. If Paragraph 2A(1) applies:

- (1) "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, and walks; and
(2) the parties agree that the rentable area of the leased premises may not equal the actual or useable area within the leased premises and may include an allocation of common areas in the Property.

3. TERM:

A. Term: The term of this lease is 11 months and 0 days, commencing on Sept. 1, 2018 (Commencement Date) and ending on July 31, 2019 (Expiration Date).

Commercial Lease concerning: 641 N. Walnut, NB TX 78130

B. Delay of Occupancy: If Tenant is unable to occupy the leased premises on the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Landlord will not be liable to Tenant for such delay and this lease will remain enforceable. In the event of such a delay, the Commencement Date will automatically be extended to the date Tenant is able to occupy the Property and the Expiration Date will also be extended by a like number of days, so that the length of this lease remains unchanged. If Tenant is unable to occupy the leased premises after the 90th day after the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Tenant may terminate this lease by giving written notice to Landlord before the leased premises become available to be occupied by Tenant and Landlord will refund to Tenant any amounts paid to Landlord by Tenant. This Paragraph 3B does not apply to any delay in occupancy caused by cleaning or repairs.

C. Unless the parties agree otherwise, Tenant is responsible for obtaining a certificate of occupancy for the leased premises if required by a governmental body.

4. RENT AND EXPENSES:

A. Base Monthly Rent: On or before the first day of each month during this lease, Tenant will pay Landlord base monthly rent as described on attached Exhibit \_\_\_\_\_ or as follows:

from	<u>Sept. 1, 2018</u>	to	<u>July 31, 2019</u>	:	\$	<u>4550</u>	:
from	_____	to	_____	:	\$	_____	:
from	_____	to	_____	:	\$	_____	:
from	_____	to	_____	:	\$	_____	:
from	_____	to	_____	:	\$	_____	:

\* If tenant takes possession of leased space before Sept. 1, 2018 Landlord will prorate rent for days in Aug. 2018.

B. First Full Month's Rent: The first full base monthly rent is due on or before Sept. 1, 2018.

C. Prorated Rent: If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord as prorated rent, an amount equal to the base monthly rent multiplied by the following fraction: the number of days from the Commencement Date to the first day of the following month divided by the number of days in the month in which this lease commences. The prorated rent is due on or before the Commencement Date.

D. Additional Rent: In addition to the base monthly rent and prorated rent, Tenant will pay Landlord all other amounts, as provided by the attached (Check all that apply.):

- (1) Commercial Expense Reimbursement Addendum
- (2) Commercial Percentage Rent Addendum
- (3) Commercial Parking Addendum
- (4) \_\_\_\_\_

All amounts payable under the applicable addenda are deemed to be "rent" for the purposes of this lease.

E. Place of Payment: Tenant will remit all amounts due Landlord under this lease to the following person at the place stated or to such other person or place as Landlord may later designate in writing:

Name: TWO FOLD LLC  
 Address: 39 Stonecrest Circle, New Braunfels TX 78130

F. Method of Payment: Tenant must pay all rent timely without demand, deduction, or offset, except as permitted by law or this lease. If Tenant fails to timely pay any amounts due under this lease or if any check of Tenant is returned to Landlord by the institution on which it was drawn, Landlord after

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providing written notice to Tenant may require Tenant to pay subsequent amounts that become due under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.

G. Late Charges: If Landlord does not actually receive a rent payment at the designated place of payment within 5 days after the date it is due, Tenant will pay Landlord a late charge equal to 5% of the amount due. In this paragraph, the mailbox is not the agent for receipt for Landlord. The late charge is a cost associated with the collection of rent and Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 20.

H. Returned Checks: Tenant will pay \$ 25.00 (not to exceed \$25) for each check Tenant tenders to Landlord which is returned by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment.

**5. SECURITY DEPOSIT:**

A. Upon execution of this lease, Tenant will pay \$ already paid \$1,500 to Landlord as a security deposit.

B. Landlord may apply the security deposit to any amounts owed by Tenant under this lease. If Landlord applies any part of the security deposit during any time this lease is in effect to amounts owed by Tenant, Tenant must, within 10 days after receipt of notice from Landlord, restore the security deposit to the amount stated.

C. Within 60 days after Tenant surrenders the leased premises and provides Landlord written notice of Tenant's forwarding address, Landlord will refund the security deposit less any amounts applied toward amounts owed by Tenant or other charges authorized by this lease.

6. **TAXES**: Unless otherwise agreed by the parties, Landlord will pay all real property ad valorem taxes assessed against the leased premises.

**7. UTILITIES:**

A. The party designated below will pay for the following utility charges to the leased premises and any connection charges for the utilities. (Check all that apply.)

	<u>N/A</u>	<u>Landlord</u>	<u>Tenant</u>
(1) Water	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Electric	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) Telephone	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) Trash	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(9) All other utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B. The party responsible for the charges under Paragraph 7A will pay the charges directly to the utility service provider. The responsible party may select the utility service provider except that if Tenant selects the provider, any access or alterations to the Property or leased premises necessary for the utilities may be made only with Landlord's prior consent, which Landlord will not unreasonably withhold. If Landlord incurs any liability for utility or connection charges for which Tenant is responsible to pay and Landlord pays such amount, Tenant will immediately upon written notice from Landlord reimburse Landlord such amount.

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C. **Notice:** Tenant should determine if all necessary utilities are available to the leased premises and are adequate for Tenant's intended use.

D. **After-Hours HVAC Charges:** "HVAC services" means heating, ventilating, and air conditioning of the leased premises. (Check one box only.)

(1) Landlord is obligated to provide the HVAC services to the leased premises only during the Property's operating hours specified under Paragraph 9C.

(2) Landlord will provide the HVAC services to the leased premises during the operating hours specified under Paragraph 9C for no additional charge and will, at Tenant's request, provide HVAC services to the leased premises during other hours for an additional charge of \$ \_\_\_\_\_ per hour. Tenant will pay Landlord the charges under this paragraph immediately upon receipt of Landlord's invoice. Hourly charges are charged on a half-hour basis. Any partial hour will be rounded up to the next half hour. Tenant will comply with Landlord's procedures to make a request to provide the additional HVAC services under this paragraph.

(3) Tenant will pay for the HVAC services under this lease, *except as provided otherwise in paragraph 15(C) and the addendum attached hereto.*

8. **INSURANCE:**

A. During all times this lease is in effect, Tenant must, at Tenant's expense, maintain in full force and effect from an insurer authorized to operate in Texas:

(1) public liability insurance in an amount not less than \$1,000,000.00 on an occurrence basis naming ~~Landlord as an additional insured, and~~ \_\_\_\_\_

(2) personal property damage insurance for Tenant's business operations and contents on the leased premises in an amount sufficient to replace such contents after a casualty loss.

B. Before the Commencement Date, Tenant must provide Landlord with a copy of insurance certificates evidencing the required coverage. If the insurance coverage is renewed or changes in any manner or degree at any time this lease is in effect, Tenant must, not later than 10 days after the renewal or change, provide Landlord a copy of an insurance certificate evidencing the renewal or change.

C. If Tenant fails to maintain the required insurance in full force and effect at all times this lease is in effect, Landlord may:

(1) purchase insurance that will provide Landlord the same coverage as the required insurance and Tenant must immediately reimburse Landlord for such expense; or

(2) exercise Landlord's remedies under Paragraph 20.

D. Unless the parties agree otherwise, Landlord will maintain in full force and effect insurance for: (1) fire and extended coverage in an amount to cover the reasonable replacement cost of the improvements of the Property; and (2) any public liability insurance in an amount that Landlord determines reasonable and appropriate.

E. If there is an increase in Landlord's insurance premiums for the leased premises or Property or its contents that is caused by Tenant, Tenant's use of the leased premises, or any improvements made by or for Tenant, Tenant will, for each year this lease is in effect, pay Landlord the increase immediately after Landlord notifies Tenant of the increase. Any charge to Tenant under this Paragraph 8E will be equal to the actual amount of the increase in Landlord's insurance premium.

9. **USE AND HOURS:**

A. Tenant may use the leased premises for the following purpose and no other: WIC Consultations

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B. Unless otherwise specified in this lease, Tenant will operate and conduct its business in the leased premises during business hours that are typical of the industry in which Tenant represents it operates.

C. The Property maintains operating hours of (specify hours, days of week, and if inclusive or exclusive of weekends and holidays): 7 AM until 7 PM

**10. LEGAL COMPLIANCE:**

- A. Tenant may not use or permit any part of the leased premises or the Property to be used for:
  - (1) any activity which is a nuisance or is offensive, noisy, or dangerous;
  - (2) any activity that interferes with any other tenant's normal business operations or Landlord's management of the Property;
  - (3) any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations, or this lease;
  - (4) any hazardous activity that would require any insurance premium on the Property or leased premises to increase or that would void any such insurance;
  - (5) any activity that violates any applicable federal, state, or local law, including but not limited to those laws related to air quality, water quality, hazardous materials, wastewater, waste disposal, air emissions, or other environmental matters;
  - (6) the permanent or temporary storage of any hazardous material; or
  - (7) \_\_\_\_\_

B. "Hazardous material" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent, or oil as defined by any federal, state, or local environmental law, regulation, ordinance, or rule existing as of the date of this lease or later enacted.

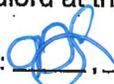
C. Landlord does not represent or warrant that the leased premises or Property conform to applicable restrictions, zoning ordinances, setback lines, parking requirements, impervious ground cover ratio requirements, and other matters that may relate to Tenant's intended use. Tenant must satisfy itself that the leased premises may be used as Tenant intends by independently investigating all matters related to the use of the leased premises or Property. Tenant agrees that it is not relying on any warranty or representation made by Landlord, Landlord's agent, or any broker concerning the use of the leased premises or Property.

**11. SIGNS:**

A. Tenant may not post or paint any signs at, on, or about the leased premises or Property without Landlord's written consent. Landlord may remove any unauthorized sign, and Tenant will promptly reimburse Landlord for its cost to remove any unauthorized sign.

B. Any authorized sign must comply with all laws, restrictions, zoning ordinances, and any governmental order relating to signs on the leased premises or Property. Landlord may temporarily remove any authorized sign to complete repairs or alterations to the leased premises or the Property.

C. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all signs that were placed on the Property or leased premises by or at the request of Tenant. Any signs that Landlord does not require Tenant to remove and that are fixtures, become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

(TAR-2101) 5-26-06 Initialed for Identification by Tenant:  , and Landlord:  ,

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**12. ACCESS BY LANDLORD:**

- A. During Tenant's normal business hours Landlord may enter the leased premises for any reasonable purpose, including but not limited to purposes for repairs, maintenance, alterations, and showing the leased premises to prospective tenants or purchasers. Landlord may access the leased premises after Tenant's normal business hours if: (1) entry is made with Tenant's permission; or (2) entry is necessary to complete emergency repairs. Landlord will not unreasonably interfere with Tenant's business operations when accessing the leased premises.
- B. During the last 60 days of this lease, Landlord may place a "For Lease" or similarly worded sign in the leased premises.

**13. MOVE-IN CONDITION:** Tenant has inspected the leased premises and accepts it in its present (as-is) condition unless expressly noted otherwise in this lease. Landlord and any agent have made no express or implied warranties as to the condition or permitted use of the leased premises or Property.

**14. MOVE-OUT CONDITION AND FORFEITURE OF TENANT'S PERSONAL PROPERTY:**

- A. At the time this lease ends, Tenant will surrender the leased premises in the same condition as when received, except for normal wear and tear. Tenant will leave the leased premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants.
- B. If Tenant leaves any personal property in the leased premises after Tenant surrenders possession of the leased premises, Landlord may: (1) require Tenant, at Tenant's expense, to remove the personal property by providing written notice to Tenant; or (2) retain such personal property as forfeited property to Landlord.
- C. "Surrender" means vacating the leased premises and returning all keys and access devices to Landlord. "Normal wear and tear" means deterioration that occurs without negligence, carelessness, accident, or abuse.
- D. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all fixtures that were placed on the Property or leased premises by or at the request of Tenant. Any fixtures that Landlord does not require Tenant to remove become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

**15. MAINTENANCE AND REPAIRS:**

- A. Cleaning: Tenant must keep the leased premises clean and sanitary and promptly dispose of all garbage in appropriate receptacles.  Landlord  Tenant will provide, at its expense, janitorial services to the leased premises that are customary and ordinary for the property type. Tenant will maintain any grease trap on the Property which Tenant uses, including but not limited to periodic emptying and cleaning, as well as making any modification to the grease trap that may be necessary to comply with any applicable law.
- B. Repairs of Conditions Caused by a Party: Each party must promptly repair a condition in need of repair that is caused, either intentionally or negligently, by that party or that party's guests, patrons, invitees, contractors or permitted subtenants.
- C. Repair and Maintenance Responsibility: Except as otherwise provided by this Paragraph 15, the party designated below, at its expense, is responsible to maintain and repair the following specified items in the leased premises (if any). The specified items must be maintained in clean and good operable condition. If a governmental regulation or order requires a modification to any of the specified items, the party designated to maintain the item must complete and pay the expense of the modification. The

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specified items include and relate only to real property in the leased premises. Tenant is responsible for the repair and maintenance of its personal property. (Check all that apply.)

	N/A	Landlord	Tenant
(1) Foundation, exterior walls, roof, and other structural components	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Glass and windows	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> up to \$750 DK
(3) Fire protection equipment and fire sprinkler systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> above \$750 DK
(4) Exterior & overhead doors, including closure devices, molding locks, and hardware	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> up to \$750 DK
(5) Grounds maintenance, including landscaping and irrigation systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Interior doors, including closure devices, frames, molding, locks, and hardware	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) Parking areas and walks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(8) Plumbing systems, drainage systems, electrical systems, and mechanical systems, except systems or items specifically designated otherwise	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> above \$150 DK & below \$150 DK
(9) Ballast and lamp replacement	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(10) Heating, Ventilation and Air Conditioning (HVAC) systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> up to \$750 DK
(11) Signs and lighting:			
(a) Pylon	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Facia	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Monument	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Door/Suite	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(12) Extermination and pest control, excluding wood-destroying insects	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(13) Fences and Gates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(14) Storage yards and storage buildings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(15) Wood-destroying insect treatment and repairs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(16) Cranes and related systems	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(17) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(18) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(19) All other items and systems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D. Repair Persons: Repairs must be completed by trained, qualified, and insured repair persons.

E. HVAC Service Contract: If Tenant maintains the HVAC system under Paragraph 15C(10), Tenant  is  is not required to maintain, at its expense, a regularly scheduled maintenance and service contract for the HVAC system. The maintenance and service contract must be purchased from a HVAC maintenance company that regularly provides such contracts to similar properties. If Tenant fails to maintain a required HVAC maintenance and service contract in effect at all times during this lease, Landlord may do so and charge Tenant the expense of such a maintenance and service contract or exercise Landlord's remedies under Paragraph 20.

F. Common Areas: Landlord will maintain any common areas in the Property in a manner as Landlord determines to be in the best interest of the Property. Landlord will maintain any elevator and signs in the common area. Landlord may change the size, dimension, and location of any common areas, provided that such change does not materially impair Tenant's use and access to the leased premises. Tenant has the non-exclusive license to use the common areas in compliance with Landlord's rules and restrictions. Tenant may not solicit any business in the common areas or interfere with any other person's right to use the common areas. This paragraph does not apply if Paragraph 2A(2) applies.

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G. **Notice of Repairs:** Tenant must promptly notify Landlord of any item that is in need of repair and that is Landlord's responsibility to repair. All requests for repairs to Landlord must be in writing.

H. **Failure to Repair:** Landlord must make a repair for which Landlord is responsible within a reasonable period of time after Tenant provides Landlord written notice of the needed repair. If Tenant fails to repair or maintain an item for which Tenant is responsible within 10 days after Landlord provides Tenant written notice of the needed repair or maintenance, Landlord may: (1) repair or maintain the item, without liability for any damage or loss to Tenant, and Tenant must immediately reimburse Landlord for the cost to repair or maintain; or (2) exercise Landlord's remedies under Paragraph 20.

**16. ALTERATIONS:**

A. Tenant may not alter, improve, or add to the Property or the leased premises without Landlord's written consent. Landlord will not unreasonably withhold consent for the Tenant to make reasonable non-structural alterations, modifications, or improvements to the leased premises.

B. Tenant may not alter any locks or any security devices on the Property or the leased premises without Landlord's consent. If Landlord authorizes the changing, addition, or rekeying of any locks or other security devices, Tenant must immediately deliver the new keys and access devices to Landlord.

C. If a governmental order requires alteration or modification to the leased premises, the party obligated to maintain and repair the item to be modified or altered as designated in Paragraph 15 will, at its expense, modify or alter the item in compliance with the order and in compliance with Paragraphs 16A and 17.

D. Any alterations, improvements, fixtures or additions to the Property or leased premises installed by either party during the term of this lease will become Landlord's property and must be surrendered to Landlord at the time this lease ends, except for those fixtures Landlord requires Tenant to remove under Paragraph 11 or 14 or if the parties agree otherwise in writing.

17. **LIENS:** Tenant may not do anything that will cause the title of the Property or leased premises to be encumbered in any way. If Tenant causes a lien to be filed against the Property or leased premises, Tenant will within 20 days after receipt of Landlord's demand: (1) pay the lien and have the lien released of record; or (2) take action to discharge the lien. Tenant will provide Landlord a copy of any release Tenant obtains pursuant to this paragraph.

18. **LIABILITY:** To the extent permitted by law, Landlord is NOT responsible to Tenant or Tenant's employees, patrons, guests, or invitees for any damages, injuries, or losses to person or property caused by:

A. an act, omission, or neglect of: Tenant; Tenant's agent; Tenant's guest; Tenant's employees; Tenant's patrons; Tenant's invitees; or any other tenant on the Property;

B. fire, flood, water leaks, ice, snow, hail, winds, explosion, smoke, riot, strike, interruption of utilities, theft, burglary, robbery, assault, vandalism, other persons, environmental contaminants, or other occurrences or casualty losses.

19. **INDEMNITY:** Each party will indemnify and hold the other party harmless from any property damage, personal injury, suits, actions, liabilities, damages, cost of repairs or service to the leased premises or Property, or any other loss caused, negligently or otherwise, by that party or that party's employees, patrons, guests, or invitees.

**20. DEFAULT:**

A. If Landlord fails to comply with this lease within 30 days after Tenant notifies Landlord of Landlord's failure to comply, Landlord will be in default and Tenant may seek any remedy provided by law. If, however, Landlord's non-compliance reasonably requires more than 30 days to cure, Landlord will not be in default if the cure is commenced within the 30-day period and is diligently pursued.

(TAR-2101) 5-26-06 Initialed for Identification by Tenant: [Signature], \_\_\_\_\_, and Landlord: [Signature], \_\_\_\_\_

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B. If Landlord does not actually receive at the place designated for payment any rent due under this lease within 5 days after it is due, Tenant will be in default. If Tenant fails to comply with this lease for any other reason within 10 days after Landlord notifies Tenant of its failure to comply, Tenant will be in default.

C. If Tenant is in default, Landlord may: (i) terminate Tenant's right to occupy the leased premises by providing Tenant with at least 3 days written notice; and (ii) accelerate all rents which are payable during the remainder of this lease or any renewal period without notice or demand. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by using commercially reasonable means. If Tenant is in default, Tenant will be liable for:

- (1) any lost rent;
- (2) Landlord's cost of reletting the leased premises, including brokerage fees, advertising fees, and other fees necessary to relet the leased premises;
- (3) repairs to the leased premises for use beyond normal wear and tear;
- (4) all Landlord's costs associated with eviction of Tenant, such as attorney's fees, court costs, and prejudgment interest;
- (5) all Landlord's costs associated with collection of rent such as collection fees, late charges, and returned check charges;
- (6) cost of removing any of Tenant's equipment or fixtures left on the leased premises or Property;
- (7) cost to remove any trash, debris, personal property, hazardous materials, or environmental contaminants left by Tenant or Tenant's employees, patrons, guests, or invitees in the leased premises or Property;
- (8) cost to replace any unreturned keys or access devices to the leased premises, parking areas, or Property;
- (9) any other recovery to which Landlord may be entitled under this lease or under law.

21. **ABANDONMENT, INTERRUPTION OF UTILITIES, REMOVAL OF PROPERTY, AND LOCKOUT:** Chapter 93 of the Texas Property Code governs the rights and obligations of the parties with regard to: (a) abandonment of the leased premises; (b) interruption of utilities; (c) removal of Tenant's property; and (d) "lock-out" of Tenant.

22. **HOLDOVER:** If Tenant fails to vacate the leased premises at the time this lease ends, Tenant will become a tenant-at-will and must vacate the leased premises immediately upon receipt of demand from Landlord. No holding over by Tenant, with or without the consent of Landlord, will extend this lease. Tenant will indemnify Landlord and any prospective tenants for any and all damages caused by the holdover. Rent for any holdover period will be 2 times the base monthly rent plus any additional rent calculated on a daily basis and will be immediately due and payable daily without notice or demand.

23. **LANDLORD'S LIEN AND SECURITY INTEREST:** To secure Tenant's performance under this lease, Tenant grants to Landlord a lien and security interest against all of Tenant's nonexempt personal property that is in the leased premises or Property. This lease is a security agreement for the purposes of the Uniform Commercial Code. Landlord may file a copy of this lease as a financing statement.

24. **ASSIGNMENT AND SUBLETTING:** Landlord may assign this lease to any subsequent owner of the Property. ~~Tenant may not assign this lease or sublet any part of the leased premises without Landlord's written consent. An assignment of this lease or subletting of the leased premises without Landlord's written consent is voidable by Landlord. If Tenant assigns this lease or sublets any part of the leased premises, Tenant will remain liable for all of Tenant's obligations under this lease regardless if the assignment or sublease is made with or without the consent of Landlord.~~





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**25. RELOCATION:**

- A. By providing Tenant with not less than 90 days advanced written notice, Landlord may require Tenant to relocate to another location in the Property, provided that the other location is equal in size or larger than the leased premises then occupied by Tenant and contains similar leasehold improvements. Landlord will pay Tenant's reasonable out-of-pocket moving expenses for moving to the other location. "Moving expenses" means reasonable expenses payable to professional movers, utility companies for connection and disconnection fees, wiring companies for connecting and disconnecting Tenant's office equipment required by the relocation, and printing companies for reprinting Tenant's stationary and business cards. A relocation of Tenant will not change or affect any other provision of this lease that is then in effect, including rent and reimbursement amounts, except that the description of the suite or unit number will automatically be amended.
- B. Landlord may not require Tenant to relocate to another location in the Property without Tenant's prior consent.

**26. SUBORDINATION:**

- A. This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to:
- (1) any lien, encumbrance, or ground lease now or hereafter placed on the leased premises or the Property that Landlord authorizes;
  - (2) all advances made under any such lien, encumbrance, or ground lease;
  - (3) the interest payable on any such lien or encumbrance;
  - (4) any and all renewals and extensions of any such lien, encumbrance, or ground lease;
  - (5) any restrictive covenant affecting the leased premises or the Property; and
  - (6) the rights of any owners' association affecting the leased premises or Property.
- B. Tenant must, on demand, execute a subordination, attornment, and non-disturbance agreement that Landlord may request that Tenant execute, provided that such agreement is made on the condition that this lease and Tenant's rights under this lease are recognized by the lien-holder.

**27. ESTOPPEL CERTIFICATES:** Within 10 days after receipt of a written request from Landlord, Tenant will execute and deliver to Landlord an estoppel certificate that identifies the terms and conditions of this lease.

**28. CASUALTY LOSS:**

- A. Tenant must immediately notify Landlord of any casualty loss in the leased premises. Within 20 days after receipt of Tenant's notice of a casualty loss, Landlord will notify Tenant if the leased premises are less than or more than 50% unusable, on a per square foot basis, and if Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss.
- B. If the leased premises are less than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord will restore the leased premises to substantially the same condition as before the casualty. If Landlord fails to substantially restore within the time required, Tenant may terminate this lease.
- C. If the leased premises are more than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord may: (1) terminate this lease; or (2) restore the leased premises to substantially the same condition as before the casualty. If Landlord chooses to restore and does not substantially restore the leased premises within the time required, Tenant may terminate this lease.
- D. If Landlord notifies Tenant that Landlord cannot substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss, Landlord may: (1) choose not to restore and terminate this lease; or (2) choose to restore, notify Tenant of the estimated time to restore, and give Tenant the option to terminate this lease by notifying Landlord within 10 days.

(TAR-2101) 5-26-06 Initialed for Identification by Tenant: [Signature], and Landlord: [Signature]

Page 11 of 14

Commercial Lease concerning: 641 N. Walnut NB TX 78130

E. If this lease does not terminate because of a casualty loss, rent will be reduced from the date Tenant notifies Landlord of the casualty loss to the date the leased premises are substantially restored by an amount proportionate to the extent the leased premises are unusable.

29. **CONDEMNATION:** If after a condemnation or purchase in lieu of condemnation the leased premises are totally unusable for the purposes stated in this lease, this lease will terminate. If after a condemnation or purchase in lieu of condemnation the leased premises or Property are partially unusable for the purposes of this lease, this lease will continue and rent will be reduced in an amount proportionate to the extent the leased premises are unusable. Any condemnation award or proceeds in lieu of condemnation are the property of Landlord and Tenant has no claim to such proceeds or award. Tenant may seek compensation from the condemning authority for its moving expenses and damages to Tenant's personal property.

30. **ATTORNEY'S FEES:** Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, reasonable attorney's fees, and all other costs of litigation from the nonprevailing party.

31. **REPRESENTATIONS:**

A. Tenant's statements in this lease and any application for rental are material representations relied upon by Landlord. Each party signing this lease represents that he or she is of legal age to enter into a binding contract and is authorized to sign the lease. If Tenant makes any misrepresentation in this lease or in any application for rental, Tenant is in default.

B. Landlord is not aware of any material defect on the Property that would affect the health and safety of an ordinary person or any environmental hazard on or affecting the Property that would affect the health or safety of an ordinary person, except: \_\_\_\_\_

C. Each party and each signatory to this lease represents that: (1) it is not a person named as a Specially Designated National and Blocked Person as defined in Presidential Executive Order 13224; (2) it is not acting, directly or indirectly, for or on behalf of a Specially Designated and Blocked Person; and (3) is not arranging or facilitating this lease or any transaction related to this lease for a Specially Designated and Blocked Person. Any party or any signatory to this lease who is a Specially Designated and Blocked person will indemnify and hold harmless any other person who relies on this representation and who suffers any claim, damage, loss, liability or expense as a result of this representation.

32. **BROKERS:**

A. The brokers to this lease are:

Cooperating Broker	License No.	Principal Broker	License No.
Address		Address	
Phone	Fax	Phone	Fax
E-mail		E-mail	

Cooperating Broker represents Tenant.

Principal Broker: (Check only one box)

- represents Landlord only.
- represents Tenant only.
- is an intermediary between Landlord and Tenant.

(TAR-2101) 5-26-06 Initialed for Identification by Tenant: [Signature], and Landlord: [Signature]

Commercial Lease concerning: 641 N. Walnut NB TX 78130

**B. Fees:**

- (1) Principal Broker's fee will be paid according to: (Check only one box).
  - (a) a separate written commission agreement between Principal Broker and:
    - Landlord  Tenant.
  - (b) the attached Addendum for Broker's Fee.
- (2) Cooperating Broker's fee will be paid according to: (Check only one box).
  - (a) a separate written commission agreement between Cooperating Broker and:
    - Principal Broker  Landlord  Tenant.
  - (b) the attached Addendum for Broker's Fee.

**33. ADDENDA:** Incorporated into this lease are the addenda, exhibits and other information marked in the Addenda and Exhibit section of the Table of Contents. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at its discretion, amend from time to time.

**34. NOTICES:** All notices under this lease must be in writing and are effective when hand-delivered, sent by mail, or sent by facsimile transmission to:

Tenant at the leased premises,  
 and a copy to: City of San Marcos WIC Program  
630 E. Hopkins Address: 700 W. 28th San Marcos TX 78666  
 Phone: 512-393-8043 Fax: 855-271-7630  
 Tenant also consents to receive notices by e-mail at: wicinfo@sanmarcostx.gov

Landlord at: TWO FOLD LLC  
 Address: 39 Stonecrest Circle, New Braunfels TX 78132  
 Phone: 830-708-4446 Fax: \_\_\_\_\_

and a copy to: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Landlord also consents to receive notices by e-mail at: \_\_\_\_\_

**35. SPECIAL PROVISIONS:**

See Exhibit C - Addendum

Commercial Lease concerning: 641 N. Walnut NB TX 78130

**36. AGREEMENT OF PARTIES:**

- A. Entire Agreement: This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.
- B. Binding Effect: This lease is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, successors, and permitted assigns.
- C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, or refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its renewal, or its termination is binding on all Tenants.
- D. Controlling Law: The laws of the State of Texas govern the interpretation, performance, and enforcement of this lease.
- E. Severable Clauses: If any clause in this lease is found invalid or unenforceable by a court of law, the remainder of this lease will not be affected and all other provisions of this lease will remain valid and enforceable.
- F. Waiver: Landlord's delay, waiver, or non-enforcement of acceleration, contractual or statutory lien, rental due date, or any other right will not be deemed a waiver of any other or subsequent breach by Tenant or any other term in this lease.
- G. Quiet Enjoyment: Provided that Tenant is not in default of this lease, Landlord covenants that Tenant will enjoy possession and use of the leased premises free from material interference.
- H. Force Majeure: If Landlord's performance of a term in this lease is delayed by strike, lock-out, shortage of material, governmental restriction, riot, flood, or any cause outside Landlord's control, the time for Landlord's performance will be abated until after the delay.
- I. Time: Time is of the essence. The parties require strict compliance with the times for performance.

Brokers are not qualified to render legal advice, property inspections, surveys, engineering studies, environmental assessments, tax advice, or compliance inspections. The parties should seek experts to render such services. **READ THIS LEASE CAREFULLY.** If you do not understand the effect of this Lease, consult your attorney BEFORE signing.

City of San Marcos - WIC Program  
 Tenant By [Signature] Date \_\_\_\_\_  
 Printed Name Bert Lumbraeras  
 Title City Manager

TWO FOLD LLC  
 Landlord By [Signature] Date 7-24-18  
 Printed Name LARRY LEAR  
 Title managing partner

Tenant By \_\_\_\_\_ Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_  
 Title \_\_\_\_\_

Landlord By \_\_\_\_\_ Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_  
 Title \_\_\_\_\_

**EXHIBIT "C" - ADDENDUM TO COMMERCIAL LEASE  
641 N. Walnut Ave.**

This addendum ("Addendum") hereby amends, modifies and supplements that certain Commercial Lease (the "Lease") effective September 1, 2018 herewith by and between the City of San Marcos, Texas – WIC Program (the "Tenant") and TwoFold, LLC (the "Landlord"). This Addendum is executed contemporaneously with the Lease and in consideration of the parties agreeing to the terms of the Lease as amended hereby.

The Lease is amended as follows:

1. All obligations of the Tenant, including, but not limited to, any duty to indemnify under paragraph 19 or other paragraph, shall be enforceable against Tenant only to the extent permitted by law and with the limitation that Tenant, in no manner waives any limitations on liability or any immunity granted by applicable laws or the Texas Constitution.
2. The limitation on liability of Landlord under paragraph 18 shall not extend to any losses or damages caused in whole or in part by the negligent acts or omissions of Landlord applying applicable principles of comparative negligence.
3. Notwithstanding anything to the contrary in Paragraph 23, Landlord shall not assert or enforce a lien or security interest against any property of Tenant that is not permitted by applicable law to be asserted or enforced against a Texas municipality. Moreover any such lien or security interest shall be subordinate to any interest in property of the State of Texas or the United States of America arising by virtue of any funding agreements such entities may have with the Tenant.
4. The obligations under this Lease are contingent upon the annual appropriation of funds by the San Marcos City Council based on funding from the Texas Department of State Health Services for the purposes of this Lease. If such funding is not received in any fiscal year during the term of this Lease, the Lease term will be adjusted to terminate concurrently with the end of the period for which funding has been appropriated. Notwithstanding any other provision in this Lease to the contrary, termination of the Lease under this paragraph does not constitute a default by Lessee under any provisions of this Lease and the penalties and remedies for default outlined in this Lease are not applicable.
5. Tenant's existing pylon sign at the corner of Walnut and Bavarian will remain in place until such time as the Landlord approves a redesign reducing Tenant's sign space by half to allow other tenants of Landlord in adjacent spaces to add signage to the other half of such pylon. The other tenant is responsible for the full cost of any and all sign modifications as well as getting any necessary permits from the City of New Braunfels. The Texas WIC logo will be provided and cannot be changed in any way.
6. Landlord shall install a second toilet in the lease space by September 30, 2018. Tenant agrees to pay \$500.00 toward the cost of the toilet upon completion. In addition, Landlord may apply \$1,500.00 from Tenant's deposit refund for its former leased space at 645 North Walnut toward the cost of the new toilet.

7. Prior to move-in by Tenant, Landlord shall ensure that the HVAC system for the Leased Premises is in good working condition and recently serviced by a certified HVAC technician. In addition, prior to move-in by Tenant, Landlord shall repair the flooring damaged by such leaking HVAC system.

8. Landlord shall maintain a maintenance and service contract for the HVAC system. Tenant shall each month, pay Landlord the lesser of the actual monthly cost to Landlord or \$50.00 for maintenance of the HVAC Systems.

9. Landlord will dedicate 8 parking spaces (6 in the front and 2 in the back) for Tenant's sole use during Tenant's regular business hours as indicated by signage or other means approved by both parties.

Executed and Agreed to effective as of the date of the approval by the city council of the City of San Marcos of the Lease as amended hereby

CITY OF SAN MARCOS, TENANT

TWO FOLD, LLC, LANDLORD

By:

Name:

Title:

Date:

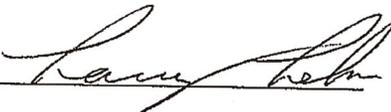
  
Bert Humbreacas  
City Manager  
08/15/18

By:

Name:

Title:

Date:

  
CARRY LEAR  
manager  
7-24-18



Legislation Text

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**File #:** Res. 2020-78R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-78R, approving a fifth amendment to the Interlocal Agreement for Commercial Office Lease with Hays County for the Women, Infants, and Children (WIC) satellite office at 150 Lockhart Street, Kyle, Texas for the purpose of extending the lease term for five additional years; authorizing the City Manager or his designee to execute the amended interlocal agreement; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** WIC

**Amount & Source of Funding**

**Funds Required:** \$19,200 per year

**Account Number:** 52360 - multiple accounts

**Funds Available:** \$19,200 per year

**Account Name:** Building Rental

**Fiscal Note:**

**Prior Council Action:** Fourth amendment approved via 2019-99R; original agreement approved in 2012.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

- Core Services  
 Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Hays County originally leased this Kyle space to our City of San Marcos sponsored WIC Program in 2012. A variety of amendments/extensions have been executed since then; this fifth amendment is for an additional five years. The City of San Marcos is a contractor of the Texas Health and Humans Services Commission (HHSC) to provide WIC services in Hays, Caldwell, Guadalupe, and Comal counties. All WIC program expenses, plus indirect costs, are reimbursed to the City.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff recommends approval of the amendment to the Interlocal Agreement to extend the lease for an additional five years.

**FIFTH AMENDMENT TO  
INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE**

This 5<sup>TH</sup> Amendment to Interlocal Agreement for the Commercial Office Lease at 150 Lockhart Street, Kyle, Texas (“Amendment”) is made this 3<sup>rd</sup> day of March 2020, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as “County”), and the City of San Marcos, Texas, administering the *Woman, Infants, and children (“WIC”) Program of San Marcos* (hereinafter referred to as “City”). The above-cited parties are collectively referred to as “the parties to this Agreement” or “the parties.”

**Section 4.1 Term, Possession, and Anniversary** of the Interlocal Agreement for the Commercial Office Lease (“Agreement”) is hereby amended to reflect that the last day of the lease term will be August 31, 2025 or at the end of the month following delivery of 30 days’ written notice of termination by Lessee.

EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

**This 5<sup>TH</sup> Amendment to Interlocal Agreement for the Commercial Office Lease is hereby executed this the 3<sup>rd</sup> day of March, 2020, as is evidenced by the authorized signatures of the Parties, below.**

**LESSOR**

CITY OF SAN MARCOS  
A MUNICIPAL CORPORATION  
Printed name of company or firm (if applicable)

\_\_\_\_\_  
Printed name of person signing

\_\_\_\_\_  
Signature

City Manager  
Title of person signing (if applicable)

630 East Hopkins, San Marcos, Texas 78666  
Lessor Address

\_\_\_\_\_  
Date signed

**LESSEE**

HAYS COUNTY  
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS  
Printed name of company or firm (if applicable)

RUBEN BECERRA  
Printed name of person signing

\_\_\_\_\_  
Signature

Hays County Judge  
Title of person signing (if applicable)

111 E. San Antonio, San Marcos, Texas 78666  
Lessee Address

\_\_\_\_\_  
Date signed

Attest: \_\_\_\_\_  
County Clerk

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A FIFTH AMENDMENT TO THE INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE WITH HAYS COUNTY FOR THE WOMEN, INFANTS, AND CHILDREN (WIC) SATELLITE OFFICE AT 150 LOCKHART STREET, KYLE, TEXAS FOR THE PURPOSE OF EXTENDING THE LEASE TERM FOR FIVE ADDITIONAL YEARS; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The attached Fifth Amendment to the Interlocal Agreement for Commercial Office Lease with Hays County (the “Amendment”) for office space for the WIC satellite office at 150 Lockhart Street in the City of Kyle is hereby approved.

**PART 2.** The City Manager or his designee is hereby authorized to sign the Amendment on behalf of the City.

**PART 3.** This resolution shall become effective immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

**FIFTH AMENDMENT TO  
INTERLOCAL AGREEMENT FOR COMMERCIAL OFFICE LEASE**

This 5<sup>TH</sup> Amendment to Interlocal Agreement for the Commercial Office Lease at 150 Lockhart Street, Kyle, Texas ("Amendment") is made this 3<sup>rd</sup> day of March 2020, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as "County"), and the City of San Marcos, Texas, administering the *Woman, Infants, and children ("WIC") Program of San Marcos* (hereinafter referred to as "City"). The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

**Section 4.1 Term, Possession, and Anniversary** of the Interlocal Agreement for the Commercial Office Lease ("Agreement") is hereby amended to reflect that the last day of the lease term will be August 31, 2025 or at the end of the month following delivery of 30 days' written notice of termination by Lessee.

EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

**This 5<sup>TH</sup> Amendment to Interlocal Agreement for the Commercial Office Lease is hereby executed this the 3<sup>rd</sup> day of March, 2020, as is evidenced by the authorized signatures of the Parties, below.**

**LESSOR**

CITY OF SAN MARCOS  
A MUNICIPAL CORPORATION  
Printed name of company or firm (if applicable)

\_\_\_\_\_  
Printed name of person signing

\_\_\_\_\_  
Signature

City Manager  
Title of person signing (if applicable)

630 East Hopkins, San Marcos, Texas 78666  
Lessor Address

\_\_\_\_\_  
Date signed

**LESSEE**

HAYS COUNTY  
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS  
Printed name of company or firm (if applicable)

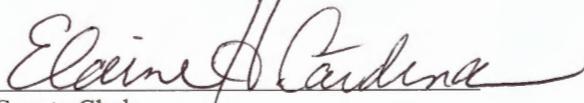
DEBBIE INGALSBE  
Printed name of person signing

  
Signature

Hays County Commissioner Pct 1  
Title of person signing (if applicable)

111 E. San Antonio, San Marcos, Texas 78666  
Lessee Address

3-3-2020  
Date signed

Attest:   
County Clerk



## Legislation Text

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**File #:** Res. 2020-79R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-79R, authorizing a participation in the U.S. Fixed Income Trust Investment Pools; designating authorized representatives; and declaring an effective date.

**Meeting date:** Click or tap to enter a date.

**Department:** Click or tap here to enter text.

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The City of San Marcos currently uses several investment pool providers to maximize earnings on the City’s cash investments. Investment pools provide investment options for local governments that are liquid and safe. City staff recommends adding an additional pool, Texas FIT which is managed by Water Walker Investments, to the investment pool portfolio. The addition of other pool allows the City the opportunity to maximize returns as return rates fluctuate between investment pools. This pool option was presented and approved by the Finance and Audit Committee on March 16, 2020. This pool meets the standards of Section 2256.016 of the Public Funds Investment Act, requires no minimum balance and funds will be invested when rates are comparable to other pools to maintain security and diversity.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AUTHORIZING PARTICIPATION IN THE U.S. FIXED INCOME TRUST INVESTMENT POOLS; DESIGNATING AUTHORIZED REPRESENTATIVES; AND DECLARING AN EFFECTIVE DATE.**

**RECITALS:**

1. The Public Funds Investment Act (the “Act”) provides for the creation of public funds investment pools to which any local government or state agency of the State of Texas may delegate, by contract, the authority to hold legal title as custodian and to make investments purchased with local funds;

2. The U.S. Fixed Income Trust (“US FIT”) and its Texas public funds investment pools (“Texas FIT” or “TX-FIT”) were created under the Act to meet the investment objectives of preservation and safety of principal, liquidity, and yield consistent with the Act (the “investment objective”);

3. Participant is a local government or state agency of the State of Texas, is permitted to invest local funds under the Act, and has determined that investing in Texas FIT is in the Participant’s best interest; and

4. Participant has delegated its authority to certain authorized representatives to enter into an agreement with public funds investments pools created under the Act for the investment of local funds;

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** Participant shall enter into a Participation Agreement to establish an account in its name in US FIT or one of its pools, for transmitting local funds for investment in US FIT.

**PART 2.** The individuals, whose signatures appear in this resolution, are authorized representatives of Participant and are each authorized to transmit funds for investment in US FIT and further authorized to withdraw funds from time to time, issue letters of instruction to the pools and their service providers, and complete any documentation related and to take all other actions deemed necessary or appropriate for the investment of local funds.

**PART 3.** The authorized representatives provided below will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

**Authorized representative:**

By: \_\_\_\_\_  
Name: Ismael Garcia  
Title: Accounting Manager  
Phone: 512-393-8170  
Fax: 855-697-4658  
Email: igarcia@sanmarcostx.gov

**Authorized Representative:**

By: \_\_\_\_\_  
Name: Jesse Garcia  
Title: Accountant II  
Phone: 512-393-8179  
Fax: 855-697-4658  
Email: jgarcia@sanmarcostx.gov

**PART 4.** This resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant and US FIT receives a copy of any such amendment or revocation.

**PART 5.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



Legislation Text

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**File #:** Res. 2020-80R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-80R, approving a fourth amendment to the term sheet attached to Resolution 2014-143R regarding the advisability of the improvements in the Whisper Public Improvement District and declaring an effective date.

**Meeting date:** February 18, 2020

**Department:** Finance-Heather Hurlbert, Finance Director/CFO

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Detailed in the background information.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Fiscally Responsible Incentives for Economic Development
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Not Applicable

**Master Plan:** [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

**Background Information:**

In October, 2014 the San Marcos City Council approved resolution 2014-143R making finds as to the advisability of the improvements proposed in the Whisper Public Improvement District. The Whisper PID Term sheet consisted of the following highlights:

- 281 acre business park
- 296 acres of commercial land including a Master Retail and Commercial Center
- \$14,360,000 Maximum Debt with \$10,398,361 of actual construction costs to reimburse developer
- Building and Site Design Standards for a 50,000 square foot commercial spec building
- Timing triggers for infrastructure improvements as well as vertical construction
- Reimbursement PID which will fund improvements to reimburse developer after certain timing triggers are met.

Term sheet Amendments

Dec 2015: Extend date for submission of design plans to June 2016

Sep 2017: Extend date for construction completion to Sept 2018 and increase maximum annual assessment

Jan 2019: Extend date for construction completion to May 2019 and create Traffic Impact Analysis criteria

Mar 2020: Add language to the term sheet that allows the PID Financing Agreement to supersede the term sheet upon City Council approval of the Amended and Restated PID Financing Agreement.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Staff recommends approval.

**RESOLUTION NO. 2020 -**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A FOURTH AMENDMENT TO THE TERM SHEET ATTACHED TO RESOLUTION NO. 2014-143R REGARDING THE ADVISABILITY OF THE IMPROVEMENTS IN THE WHISPER PUBLIC IMPROVEMENT DISTRICT AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The Term Sheet for the Whisper Texas Public Improvement District approved by Resolution No. 2014-143R and previously amended by Resolutions 2015-178R, 2017-140R, and 2019-23R is hereby amended as shown in Exhibit "A," attached hereto and made a part hereof.

**PART 2.** All other terms and conditions of said Term Sheet shall remain the same.

**PART 3.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

**EXHIBIT A**

**TERM SHEET**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**09/5/2017 01/29/2019**

The following limitations and performance standards shall apply to the Whisper Texas Public Improvement District as agreed by the City of San Marcos (“the City”) and McDonald Development Group (“McDonald”):

**FINANCING CRITERIA**

1. Maximum total indebtedness: \$14,630,000
2. Maximum annual assessment rate as equivalent tax rate: \$0.17 for residential and a max rate of \$0.22 for non-residential (multi-family, commercial, etc.)
3. Maximum construction costs to be funded: \$10,398,361
4. Minimum appraised value to lien ratio at date of each bond issue: 3:1
5. Maximum annual permitted increase in annual assessment: 2%
6. Maximum years of capitalized interest for each bond issue : 2
7. Maturity for each series of bonds (to extent allowed by law): 30 years
8. The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 2 years from the date of the initial delivery of the bonds and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future Bond issuances.

### PROJECTED LAND USES

<b>Parcels</b>	<b>Approximate Acreage</b>	<b>Proposed Land Use</b>
1 -2	281	Business Park
3	10	Commercial
4 - 5	22	Commercial
6	153	Commercial
7	106	SF Residential - Detached/Townhomes
8	111	Master Retail and Commercial Center
Rights of Way	23	Rights of Way
<b>Totals</b>	<b>706</b>	

### DEFINITIONS

1. "City" shall mean the City of San Marcos, Texas
2. "Developer" shall mean McDonald Development Group and/or its successors and assigns
3. "Project" shall consist of the approximately 706 acres as described in Exhibit A and illustrated in Exhibit B
4. "Improvements" shall refer to the construction projects to be funded by the Public Improvement District ("PID")

Definitions shall be effective in every instance regardless of capitalization.

### PROPOSED PROJECT TIMETABLE

1. Engineering and Design of the Improvements shall commence within 90 days from February 1, 2016.
2. Engineering and Design of the Improvements shall be submitted to the City for review by June 15, 2016.
3. The Improvements shall be constructed ~~by September 1, 2018~~ **by May 31, 2019**, subject to *force majeure*.
4. Construction of a 50,000 square foot speculative commercial building, in accordance with the minimum specifications below, shall commence within 100 days of City acceptance of the Improvements.

## TERMS AND CONDITIONS

1. No PID bonds will be issued without the approval by the City Council of a Service and Assessment Plan for the District.
2. No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund the PID.
3. The Appraiser preparing the appraisal required in connection with the PID Bonds shall be selected by the City in consultation with the Developer and all reasonable fees shall be paid by the Developer.
4. The Developer agrees to obtain site development and building permits and, commence construction of a 50,000 square foot speculative commercial building (i) within 100 days of City acceptance of the Improvements, and (ii) before any PID Bonds are issued to reimburse the Developer for the costs of such Improvements.
5. The City and the Developer agree that the following will constitute the minimum building standards for the 50,000 square foot speculative building.
  - a. The building shall have a minimum of 35% glazing on all primary street facing facades and 20% on all secondary street facing facades.
  - b. A maximum of one row of parking (defined to include two sides of parking) shall be permitted between the street and the front of the building
  - c. Decorative awnings shall be provided over pedestrian entrances.
  - d. All street facing facades shall be a minimum of 50% decorative masonry.
  - e. A landscape area of 15% shall be required and shall follow Section 6.1.1.4 of the City's Land Development Code.
  - f. No freestanding pole signs shall be permitted.
  - g. All utilities shall be underground (there shall be no overhead utilities).
6. It is the intent of the Developer to request the issuance of one PID bond to provide the agreed upon reimbursements. However, the Developer retains the right to request the agreed upon reimbursements through more than one PID Bond issue with the condition that the maximum construction costs to be reimbursed will not exceed the amount described in Financing Criteria #3 and the total amount of all Bond issues shall not exceed the amount described in Financing Criteria #1.
7. The Developer and the City agree that each PID bond issue will be subject to approval by the City Council but that the terms outlined in this term sheet will apply.
8. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as the maximum annual assessment rate as described in Financing Criteria #2 is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan. Special assessments on any portion of

the property will bear a direct proportionate relationship to the special benefit of the Improvements to that improvement area.

9. The City shall not be obligated to provide funds for any improvement except from the proceeds of the bonds and/or per the terms of an Oversize Participation Agreement.
10. The City and the Developer may enter into an Oversize Participation Agreement under which the City will agree to fund the costs of additional lanes for public roadways as illustrated in the attached exhibits.
11. No PID bond funds are permitted to be used to construct water line improvements within that portion of the Project not located with the City of San Marcos Water CCN.
12. Should the portions of the Project that are not currently located within the City's Water CCN hereafter be relocated into the City's Water CCN, the Developer will have the right to request reimbursement through PID bond issues for the water line improvements as long as the amounts requested do not result in total maximum construction costs exceeding the amount described in Financing Criteria #3 and the total amount of all Bond issues does not exceed the amount described in Financing Criteria #1.
13. Each PID Bond Indenture will contain language precluding the City from making any debt service payments for the PID Bonds other than from available special assessment revenues.
14. The PID will be responsible for payment of all of the City's reasonable and customary costs and expenses including, but not limited to, administration, collection services and legal representation as necessary.
15. The Developer consents to annexation of the portion of the Project currently located within the extraterritorial jurisdiction of the City. The Developer will submit a zoning change request to the City for the annexed portion of the Property consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B, in compliance with Term #16 below. The Annexation of and approval of zoning for such portion shall be completed prior to the issuance of any PID bonds.
16. The Developer will submit a zoning request to the City for all or portions of the Project, as desired by Developer; provided that, such zoning request shall be consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B. The City acknowledges that the location and configuration of the Parcels shown on the Concept Plan are preliminary and approximate and changes, subject to approval of the city may be made by the Developer.
17. The PID may be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a) (9) which states that a project is exempt from such policies if "paving, drainage, street widening, and other improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements."

18. The Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003 as agreed upon by the City and as referenced in the attached exhibits.
19. No additional security or surety, beyond the land and any Improvements on the land, will be provided by the Developer, or its assignees, for the PID Bonds.
20. The PID will automatically dissolve if no PID Bonds are issued within a period of five (5) years from the date of the formation of the PID by the San Marcos City Council.
21. All landowners will provide any required continuing disclosure obligations associated with the issuance of PID Bonds as required under the Indenture or any other regulatory agreement or regulatory agency.
22. PID bonds shall be issued by the City upon request by the Developer and approval by the City Council following (i) City acceptance of the Improvements, (ii) annexation of the portion of the Project currently located in the City's extra-territorial jurisdiction, and (iii) commencement of the construction of a commercial building described under Terms and Conditions #3. Proceeds from the issuance of the PID bonds will be used to reimburse the Developer for the costs to construct the Improvements.
23. A Traffic Impact Analysis (TIA) will be required once the total trip generation associated with the Whisper development reaches 25,000 Vehicles Per Day (VPD) then a TIA is required which reflects the 70,000 VPD trips anticipated in the current concept plan. Subsequent changes in the concept plan which changes the 70,000 VPD would require an amendment to the TIA. The developer would be responsible for any traffic improvements identified by the update to the Traffic Impact Analysis study.



**RESOLUTION NO. 2020-\_\_R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A FOURTH AMENDMENT TO THE TERM SHEET ATTACHED TO RESOLUTION NO. 2014-143R REGARDING THE ADVISABILITY OF THE IMPROVEMENTS IN THE WHISPER PUBLIC IMPROVEMENT DISTRICT FOR THE PURPOSE OF CONFORMING THE DISSOLUTION PROVISIONS OF THE TERM SHEET TO THE PREVIOUSLY ADOPTED FINANCING AGREEMENT, CONFIRMING THAT THE EXECUTED FINANCING AGREEMENT WILL SUPERSEDE ANY PROVISION IN THIS TERM SHEET, AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The Term Sheet for the Whisper Texas Public Improvement District approved by Resolution No. 2014-143R and previously amended by Resolution 2015-178R, 2017-140R, and Resolution No. 2019-23R is hereby amended by this Resolution No 2020-\_\_R as shown in Exhibit "A," attached hereto and made a part hereof.

**PART 2.** All other terms and conditions of said Term Sheet shall remain the same.

**PART 3.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy Cook  
City Clerk

**EXHIBIT A**  
**TERM SHEET**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**04-07-2020**

The following limitations and performance standards shall apply to the Whisper Texas Public Improvement District as agreed by the City of San Marcos (“the City”) and McDonald Development Group (“McDonald”):

**FINANCING CRITERIA**

1. Maximum total indebtedness: \$14,630,000
2. Maximum annual assessment rate as equivalent tax rate: \$0.17 for residential and a max rate of \$0.22 for non-residential (multi-family, commercial, etc.)
3. Maximum construction costs to be funded: \$10,398,361
4. Minimum appraised value to lien ratio at date of each bond issue: 3:1
5. Maximum annual permitted increase in annual assessment: 2%
6. Maximum years of capitalized interest for each bond issue : 2
7. Maturity for each series of bonds (to extent allowed by law): 30 years
8. The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 2 years from the date of the initial delivery of the bonds and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future Bond issuances.

## PROJECTED LAND USES

<b>Parcels</b>	<b>Approximate Acreage</b>	<b>Proposed Land Use</b>
1 -2	281	Business Park
3	10	Commercial
4 - 5	22	Commercial
6	153	Commercial
7	106	SF Residential - Detached/Townhomes
8	111	Master Retail and Commercial Center
Rights of Way	23	Rights of Way
<b>Totals</b>	<b>706</b>	

## DEFINITIONS

1. “City” shall mean the City of San Marcos, Texas
2. “Developer” shall mean McDonald Development Group and/or its successors and assigns
3. “Project” shall consist of the approximately 706 acres as described in Exhibit A and illustrated in Exhibit B
4. “Improvements” shall refer to the construction projects to be funded by the Public Improvement District (“PID”)

Definitions shall be effective in every instance regardless of capitalization.

## PROPOSED PROJECT TIMETABLE

1. Engineering and Design of the Improvements shall commence within 90 days from February 1, 2016.
2. Engineering and Design of the Improvements shall be submitted to the City for review by June 15, 2016.
3. The Improvements shall be constructed by May 31, 2019, subject to *force majeure*.
4. Construction of a 50,000 square foot speculative commercial building, in accordance with the minimum specifications below, shall commence within 100 days of City acceptance of the Improvements.

## TERMS AND CONDITIONS

1. No PID bonds will be issued without the approval by the City Council of a Service and Assessment Plan for the District.
2. No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund the PID.
3. The Appraiser preparing the appraisal required in connection with the PID Bonds shall be selected by the City in consultation with the Developer and all reasonable fees shall be paid by the Developer.
4. The Developer agrees to obtain site development and building permits and, commence construction of a 50,000 square foot speculative commercial building (i) within 100 days of City acceptance of the Improvements, and (ii) before any PID Bonds are issued to reimburse the Developer for the costs of such Improvements.
5. The City and the Developer agree that the following will constitute the minimum building standards for the 50,000 square foot speculative building.
  - a. The building shall have a minimum of 35% glazing on all primary street facing facades and 20% on all secondary street facing facades.
  - b. A maximum of one row of parking (defined to include two sides of parking) shall be permitted between the street and the front of the building
  - c. Decorative awnings shall be provided over pedestrian entrances.
  - d. All street facing facades shall be a minimum of 50% decorative masonry.
  - e. A landscape area of 15% shall be required and shall follow Section 6.1.1.4 of the City's Land Development Code.
  - f. No freestanding pole signs shall be permitted.
  - g. All utilities shall be underground (there shall be no overhead utilities).
6. It is the intent of the Developer to request the issuance of one PID bond to provide the agreed upon reimbursements. However, the Developer retains the right to request the agreed upon reimbursements through more than one PID Bond issue with the condition that the maximum construction costs to be reimbursed will not exceed the amount described in Financing Criteria #3 and the total amount of all Bond issues shall not exceed the amount described in Financing Criteria #1.
7. The Developer and the City agree that each PID bond issue will be subject to approval by the City Council but that the terms outlined in this term sheet will apply, until an Amended and Restated Whisper PID Financing Agreement (the "PID Financing Agreement") is approved by the City Council. Upon approval of the PID Financing Agreement, the terms and conditions thereof, shall replace and supersede this term sheet, and this term sheet shall be of no further force or effect.

8. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as the maximum annual assessment rate as described in Financing Criteria #2 is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the Improvements to that improvement area.
9. The City shall not be obligated to provide funds for any improvement except from the proceeds of the bonds and/or per the terms of an Oversize Participation Agreement.
10. The City and the Developer may enter into an Oversize Participation Agreement under which the City will agree to fund the costs of additional lanes for public roadways as illustrated in the attached exhibits.
11. No PID bond funds are permitted to be used to construct water line improvements within that portion of the Project not located with the City of San Marcos Water CCN.
12. Should the portions of the Project that are not currently located within the City's Water CCN hereafter be relocated into the City's Water CCN, the Developer will have the right to request reimbursement through PID bond issues for the water line improvements as long as the amounts requested do not result in total maximum construction costs exceeding the amount described in Financing Criteria #3 and the total amount of all Bond issues does not exceed the amount described in Financing Criteria #1.
13. Each PID Bond Indenture will contain language precluding the City from making any debt service payments for the PID Bonds other than from available special assessment revenues.
14. The PID will be responsible for payment of all of the City's reasonable and customary costs and expenses including, but not limited to, administration, collection services and legal representation as necessary.
15. The Developer consents to annexation of the portion of the Project currently located within the extraterritorial jurisdiction of the City. The Developer will submit a zoning change request to the City for the annexed portion of the Property consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B, in compliance with Term #16 below. The Annexation of and approval of zoning for such portion shall be completed prior to the issuance of any PID bonds.
16. The Developer will submit a zoning request to the City for all or portions of the Project, as desired by Developer; provided that, such zoning request shall be consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B. The City acknowledges that the location and configuration of the Parcels shown on the Concept Plan are preliminary and approximate and changes, subject to approval of the city may be made by the Developer.

17. The PID may be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a) (9) which states that a project is exempt from such policies if “paving, drainage, street widening, and other improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.”
18. The Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003 as agreed upon by the City and as referenced in the attached exhibits.
19. No additional security or surety, beyond the land and any Improvements on the land, will be provided by the Developer, or its assignees, for the PID Bonds.
20. Developer or its Designated Successor and Assign shall petition the City to dissolve the District if the Authorized Improvements have not been completed within five (5) years from the date that the City approves the initial Assessment Ordinance.
21. All landowners will provide any required continuing disclosure obligations associated with the issuance of PID Bonds as required under the Indenture or any other regulatory agreement or regulatory agency.
22. PID bonds shall be issued by the City upon request by the Developer and approval by the City Council following (i) City acceptance of the Improvements, (ii) annexation of the portion of the Project currently located in the City’s extra-territorial jurisdiction, and (iii) commencement of the construction of a commercial building described under Terms and Conditions #3. Proceeds from the issuance of the PID bonds will be used to reimburse the Developer for the costs to construct the Improvements.
23. A Traffic Impact Analysis (TIA) will be required once the total trip generation associated with the Whisper development reaches 25,000 Vehicles Per Day (VPD) then a TIA is required which reflects the 70,000 VPD trips anticipated in the current concept plan. Subsequent changes in the concept plan which changes the 70,000 VPD would require an amendment to the TIA. The developer would be responsible for any traffic improvements identified by the update to the Traffic Impact Analysis study.

**RESOLUTION 2014-143R**

**A RESOLUTION OF THE CITY OF SAN MARCOS, TEXAS, MAKING FINDINGS AS TO THE ADVISABILITY OF THE IMPROVEMENTS PROPOSED IN THE WHISPER PUBLIC IMPROVEMENT DISTRICT IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE.**

**WHEREAS**, the City of San Marcos, Texas (the “City”), is authorized under Chapter 372 of the Texas Local Government Code, as amended (the “Act”), to create a public improvement district;

**WHEREAS**, on September 25, 2014, Yarrington Partners, Ltd. (“Yarrington”), and the State of Texas, acting through the General Land Office (“GLO”) (collectively, the “Owner”), submitted and filed with the City Clerk of the City a petition (“Petition”) requesting the establishment of a public improvement district to be known as the Whisper Public Improvement District (“District”);

**WHEREAS**, the Petition indicated that (i) the owners of more than 50% of the appraised value of the taxable real property liable for assessment and (ii) the owners of more than 50% of the area of all taxable real property liable for assessment within the District executed the Petition requesting that the governing body of the City (the “City Council”) create the District;

**WHEREAS**, the City Council has investigated and determined that the facts contained in the Petition are true and correct;

**WHEREAS**, the District will include the approximately 705.853 acres owned by the Owner and located within the City and the City’s extraterritorial jurisdiction (the “Property”), which Property is more particularly described and depicted on “Exhibit A” attached hereto and made a part hereof;

**WHEREAS**, after providing all notices required by Section 372.009 of the Act, the City Council on October 6, 2014 conducted a public hearing on the advisability of the proposed improvements; and

**WHEREAS**, the City Council adjourned and closed such public hearing.

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

**Section 1.** The findings set forth in the recitals of this Resolution are hereby found to be true and correct.

**Section 2.** The Petition submitted to the City by the Owner was filed with the City Clerk of the City and complies with Subchapter A of the Act.

**Section 3.** Pursuant to the requirements of the Act, including, without limitation, Sections 372.006, 372.009(a), and 372.009(b), the City Council, after considering the Petition and the evidence and testimony presented at the public hearing on October 6, 2014, hereby finds and declares:

(a) Advisability of the Proposed Improvements. It is advisable to provide the Authorized Improvements described in the Petition and this Resolution. The Authorized Improvements will promote the interests of the City and will confer a special benefit on the Property.

(b) General Nature of the Authorized Improvements. The purposes of the District include the design, acquisition, and construction of public improvement projects authorized by Section 372.003(b) of the Act that are necessary for development of the Property, which public improvements will include, but not be limited to, streets, roadway construction and improvements, right-of-way acquisition, water, wastewater, and drainage facilities and improvements, and other improvement projects (collectively, the "Authorized Improvements"), as well as payment of costs associated with developing and financing the Authorized Improvements. These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property, and are described in further detail on the Term Sheet attached hereto as Exhibit "B" and incorporated herein.

(c) Estimated Cost of the Authorized Improvements. The Owner estimates the cost to design, acquire, and construct the Authorized Improvements is \$10,398,361.00.

(d) Boundaries of the Proposed District. The boundaries of the proposed District shall contain the Property.

(e) Proposed Method of Assessment. The City shall levy an assessment on each tract within the District to pay the cost of the Authorized Improvements in a manner that results in imposing equal shares of the cost on property similarly benefitted. Each assessment may be paid in full at any time (including accrued and unpaid interest) or may be paid in annual installments (including interest and debt). The installments must be paid in amounts necessary to meet annual costs for the Authorized Improvements and must continue for a period necessary to retire the indebtedness on the Authorized Improvements.

(f) Apportionment of the Cost Between District and the City. The City shall not be obligated to provide any funds to finance the Authorized Improvements. The cost of the Authorized improvements will be paid from the assessments and from other sources of funds, if any, available to the Owner.

(g) Management of the District. The District shall be managed by the City, with the assistance of a consultant, who shall, from time to time, advise the City regarding certain operations of the District.

(h) Advisory Board. The District shall be managed without the creation of an advisory board.

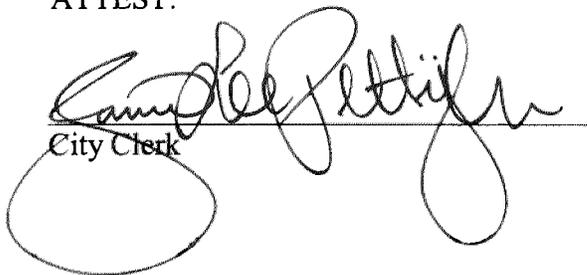
**Section 4.** City Council hereby makes the above findings as to the advisability of the Authorized Improvements contained in this Resolution, and the conclusion that the District is needed to fund such Authorized Improvements.

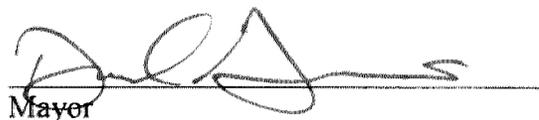
**Section 5.** This Resolution shall take effect immediately from and after its passage and publication as required by law.

**PASSED AND APPROVED** on this 6<sup>th</sup> day of October, 2014.

ATTEST:

**THE CITY OF SAN MARCOS, TEXAS**

  
City Clerk

  
Mayor

**EXHIBIT "A"**

## EXHIBIT "A"

FIELD NOTES  
FOR  
A 201.496 ACRB TRACT

Being a 201.496 acre tract of land, being approximately 94.639 acres out of the William Ward Survey No. 3 and approximately 106.837 acres out of the Joel Miner Survey, Hays County, Texas, and being out of a tract called 214.40 acres conveyed to Yarrington Properties by Warranty Deed recorded in Volume 773, Page 816 of the Official Public Records of Hays County, Texas, and all bearings referred to in this description are rotated to and referenced to a bearing of N 45° 32' W between iron pins found along the Southwest line of the above referenced 214.40 acre tract, and all bearings and distances referred to in this description as record calls are taken from Volume 773, Page 816 of the Official Public Records of Hays County, Texas, said 201.496 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

**BEGINNING:** At a concrete highway monument found at the intersection of the Southwest line of a road, called County Road No. 159, called Yarrington Road, with the Southeast line of Interstate Highway No. 35, for the most Northerly corner of the above referenced 214.40 acre tract, for the most Northerly corner and Point of Beginning of this tract;

**THENCE:** Leaving Interstate Highway No. 35, with a Southwest line of Yarrington Road, S 46° 02' 04" E 1812.44 feet (record call: S 46° 01' 00" E - 1813.06 feet) to a 1/2" iron pin found for a corner of the above referenced 214.40 acre tract, for a corner of this tract;

**THENCE:** Continuing along the Southwest line of said Yarrington Road and a turn to the right in said Yarrington Road, S 36° 43' 40" E 14.10 feet, a 1/2" iron pin set, S 02° 13' 26" E 44.83 feet, a 1/2" iron pin set, and S 40° 10' 14" W 32.45 feet to a 1/2" iron pin found in the Northwest line of said Yarrington Road, for a corner of the above referenced 214.40 acre tract, for a corner of this tract;

**THENCE:** Along said Northwest line, S 43° 58' 45" W 1263.87 feet (record call: S 43° 59' 00" W - 1263.40 feet) to a 1/2" iron pin found at a turn in said Yarrington Road, for an interior corner of the above referenced 214.40 acre tract, for an interior corner of this tract;

**THENCE:** Along a Southwest line of said Yarrington Road, a Northeast line of the above referenced 214.40 acre tract, S 45° 58' 21" E 3700.49 feet (record call: S 45° 58'

00" E - 3700.64 feet) to a 1/4" iron pin found in situ, for the Lower East corner of the above referenced 214.40 acre tract, for the East corner of this tract;

THENCE: Along the Southeast line of the above referenced 214.40 acre tract, the Northwest line of a tract called 100 acres recorded in Volume 52, Page 68 of the Deed Records of Hays County, Texas, S 44° 02' 31" W 1256.51 feet to a 1/4" iron pin found at fence corner, for the South corner of the above referenced 214.40 acre tract, an East corner of a tract called 328.824 acres described in Volume 720, Page 155 of the Official Public Records of Hays County, Texas, for the South corner of this tract;

THENCE: Along the Southwest line of the above referenced 214.40 acre tract, the Northeast line of said 328.824 acre tract, the general direction of an existing fence, N 45° 52' 00" W 2136.80 feet to a 1/4" iron pin found at fence corner, for a North corner of said 328.824 acre tract, a corner of the above referenced 214.40 acre tract, the East corner of Lot 4 of San Marcos Technology Park, a subdivision of record in Volume 5, Page 147 of the Map and Plat Records of Hays County, Texas, for a corner of this tract;

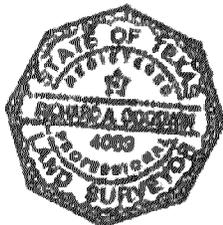
THENCE: Along the Northeast line of Lots 4 and 5 of said San Marcos Technology Park, and continuing along the Southwest line of the above referenced 214.40 acre tract, the general direction of an existing fence, N 45° 47' 19" W 692.77 feet, a 1/4" iron pin found, N 45° 52' 57" W 696.50 feet to a 1/4" iron pin set and N 46° 02' 37" W 201.81 feet to a 1/2" pipe found at fence corner, for an interior corner of the above referenced 214.40 acre tract, the North corner of Lot 5, the East corner of Lot 6, for an interior corner of this tract;

THENCE: Along the North line of Lot 6, S 82° 00' 53" W 1041.40 feet to a 1/4" iron pin found at the Northwest corner of Lot 6, lying in the Southeast line of Interstate Highway No. 35, for the east Westerly corner of this tract;

THENCE: Along the Southeast line of Interstate Highway No. 35, as now found upon the ground, N 21° 19' 20" E (record call: N 21° 17' E) 416.11 feet, a 1/4" iron pin found, N 24° 08' 41" E 2699.76 feet (record call: N 24° 09' E - 2700.00 feet) to a 1/4" iron pin found, N 24° 55' 22" E 367.45 feet to a concrete monument found, N 24° 56' 43" E 65.45 feet (record call for last two calls: N 24° 55' E - 452.99 feet) to a concrete monument found and N 79° 32' 49" E 57.95 feet (record call: 57.80 feet) to the Point of Beginning and containing 201.496 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, August 1, 2003. Reference plat prepared this same date of this 201.496 acre tract.

Job #03-643



*Richard A. Goodwin*  
Richard A. Goodwin, RPLS 44069

201-05-1013



Professional Land Surveying, Inc.  
Surveying and Mapping

Office: 512-443-1724  
Fax: 512-441-8887

2807 Manchaca Road  
Building One  
Austin, Texas 78704

**318.105 ACRES  
JOEL MINER SURVEY**

A DESCRIPTION OF 318.105 ACRES IN THE JOEL MINER SURVEY, HAYS COUNTY, TEXAS, BEING A PORTION OF A 328.824 ACRE TRACT OF LAND DESCRIBED IN TRUSTEE'S DEED TO JIM McCROCKLIN, TRUSTEE, DATED MARCH 1, 1988, OF RECORD IN VOLUME 720, PAGE 152 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS; SAID 318.105 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/4" rebar found in the east right-of-way line of Interstate Highway 35 (right-of-way width varies) for the west corner of said 328.824 acre tract and the north corner of a 97.84 acre tract of land described in Volume 714, Page 603 of the Real Property Records of Hays County, Texas,

**THENCE** North 22°56'27" East, with the east right-of-way line of said IH-35 and the northwest line of the 328.824 acre tract, a distance of 1366.86 feet to a 1/4" rebar with cap set for the southwest corner of Lot 1, San Marcos Technology Park, a subdivision of record in Volume 5, Page 147 of the Plat Records of Hays County, Texas, from which a concrete highway monument found bears North 22°55'27" East, a distance of 2010.30 feet;

**THENCE** South 67°05'52" East, over and across the 328.824 acre tract with the southwest line of said San Marcos Technology Park, a distance of 1606.37 feet to a 1/2" rebar with cap set for an angle point in the north line of the 328.824 acre tract and the south corner of Lot 3, San Marcos Technology Park;

**THENCE** with the north line of the 328.824 acre tract and the southeast line of Lots 3 and 4, San Marcos Technology Park, the following three (3) courses:

1. North 43°06'54" East, a distance of 1113.31 feet to a 1/4" rebar found;
2. North 41°52'41" East, a distance of 231.82 feet to a 1/4" rebar found;
3. North 43°00'24" East, a distance of 894.28 feet to a 1/4" rebar found in the southwest line of a 214.40 acre tract of land described in Volume 773, Page 816 of the Real Property Records of Hays County, Texas, for the east corner of Lot 4, San Marcos Technology Park and the north corner of the 328.824 acre tract;

**THENCE** South 47°05'53" East, with the northeast line of the 328.824 acre tract

**318.105 ACRES**

**Page 2**

and the southwest line of said 214.40 acre tract, a distance of 2136.85 feet to a ½" rebar found for the south corner of the 214.40 acre tract and the northeast corner of the 328.824 acre tract and in the northwest line of a 100 acre tract of land described in Volume 52, Page 68 of the Deed Records of Hays County, Texas;

**THENCE** with the common line of the 328.824 acre tract and the said 100 acres, the following two (2) courses:

1. South 42°49'26" West, a distance of 819.02 feet to a ½" iron pipe found for the west corner of the 100.00 acre tract;
2. South 46°53'58" East, a distance of 2092.27 feet to a ½" rebar with cap set in the northwest right-of-way line of County Road 160 (Harris Hill Road, right-of-way width varies) for the easternmost corner of the 328.824 acre tract;

**THENCE** with the northwest right-of-way line of said C.R. 160 and the southeast line of the 328.824 acre tract, the following six (6) courses:

1. South 43°41'13" West, a distance of 675.23 feet to a ½" rebar with cap set;
2. South 45°13'02" West, a distance of 369.18 feet to a ½" rebar with cap set;
3. South 45°38'13" West, a distance of 508.86 feet to a ½" rebar with cap set;
4. South 57°29'20" West, a distance of 74.15 feet to a ½" rebar with cap set;
5. South 33°18'43" West, a distance of 64.34 feet to a ½" rebar with cap set;
6. South 45°42'28" West, a distance of 395.47 feet to a ½" rebar found for the south corner of the 328.824 acre tract and the east corner of a 36.40 acre tract of land described in Volume 1435, Page 407 of the Official Public Records of Hays County, Texas;

**THENCE** North 47°04'03" West, with a southwest line of the 328.824 acre tract and the northeast line of said 36.40 acre tract, a distance of 3052.04 feet to a ½" rebar found for the north corner of the 36.40 acre tract;

318.105 ACRES  
Page 3

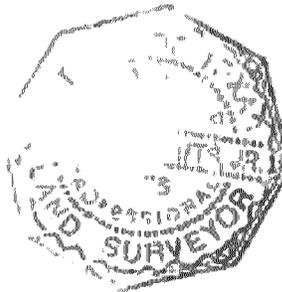
**THENCE** South 42°56'45" West, with a southwest line of the 328.824 acre tract and the northwest line of the 36.40 acre tract, passing at a distance of 521.59 feet a ½" rebar found for the west corner of the 36.40 acre tract and the north corner of a 36.40 acre tract described in Document No. 9924088 of the Official Public Records of Hays County, Texas, for a total distance of 1163.93 feet to a ½" rebar found for the east corner of a 6.6 acre tract described in Volume 946, Page 575 of the Official Public Records of Hays County, Texas, being in the northwest line of a 72.85 acre tract described in Volume 895, Page 450 of the Official Public Records of Hays County, Texas;

**THENCE** North 47°09'41" West, with a southwest line of the 328.824 acre tract and the northeast lines of said 6.6 acre tract and said 97.84 acre tract, a distance of 2145.66 feet to the **POINT OF BEGINNING**, containing 318.105 acres of land, more or less.

Surveyed on the ground September 12, 2003. Attachments: survey drawing 111-005-T1. Bearing Basis: Grid Azimuth for Texas Central Zone, 1983/93 HARN Values from LCRA Control Network.



Robert C. Watts, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 4995



3-11-05



S. CRAIG HOLLMIG, INC.  
CONSULTING ENGINEERS - SURVEYORS  
411 N. GRAM STREET  
NEWPORT NEWS, TEXAS 79123-8073

TEXAS SOCIETY OF PROFESSIONAL ENGINEERS  
AMERICAN SOCIETY OF CIVIL ENGINEERS

TEXAS SURVEYORS ASSOCIATION  
TELEPHONE 936-822-8225 • FAX 936-822-8226

WATER SYSTEMS • GROUND SYSTEMS • SUBDIVISIONS • LAND PLANNING • STREETS • SURVEYING

FIELD NOTES  
FOR  
AN 86.948 ACRE TRACT

Being an 86.948 acre tract of land situated in the Joel Miner Survey, Abstract No. 321, Hays County, Texas, being a portion of that certain tract of land called 97.84 acres conveyed to Albert M. Walker, Trustee, by instrument recorded in Volume 714, Page 603 of the Official Public Records of Hays County, Texas, and all bearings referred to in this description are referenced to a bearing of N 24° 08' 30" E between monumentation found along the Easterly right-of-way line of Interstate Highway 35 (basis is taken from Texas State Highway Department Right-of-Way Map), said 86.948 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

**BEGINNING:** At a 1/2" iron pin set on the Northeasterly line of the above referenced 97.84 acre tract, same being a Southwesterly line of that certain tract now being a remainder of a 328.824 acre tract described in Volume 720, Page 152 of the Official Public Records of Hays County, Texas, said 1/2" iron pin set S 45° 57' 20" E 232.0 feet from a 3/4" iron pipe found on the Easterly right-of-way line of Interstate Highway 35, for the North corner of the above referenced 97.84 acre tract, for a Northerly corner of this tract;

**THENCE:** Generally along an old meandering cedar post and wire fence (falling down), with a Southwesterly line of said 328.824 acre tract, the Northeasterly line of the above referenced 97.84 acre tract, S 45° 57' 20" E 1,913.50 feet to a 1/2" iron pin found for a Southwesterly corner of said 328.824 acre tract, situated on the Northwesterly line of a tract called 72.85 acres (Popham Tract), recorded in Volume 895, Page 450 of the Official Public Records of Hays County, Texas, for the East corner of the above referenced 97.84 acre tract, for the East corner of this tract;

**THENCE:** Generally with fence, along a Southeast line of the above referenced 97.84 acre tract, the Northwest line of said 72.85 acre tract, S 44° 19' 36" W 390.40 feet to a 1/2" iron pin found and S 44° 37' 31" W 551.28 feet to a 3/4" iron pin found for the West corner of said 72.85 acre tract, same being the North corner of Saddle Brook Subdivision, a plat recorded in Volume 9, Pages 107-109 of the Map and Plat Records of Hays County, Texas, for a corner of this tract;

**THENCE:** Continuing along the Southeast line of the above referenced 97.84 acre tract, a Northwest line of said Saddle Brook Subdivision, generally along a wood fence, S 44°

16° 53' W 1,278.72 feet to a 1/2" iron pin set for an interior corner of Saddle Brook Subdivision, for the South corner of this tract;

THENCE: Entering the above referenced 97.84 acre tract, with a Northeasterly line of Saddle Brook Subdivision, N 46° 04' 27" W 1,232.19 feet to a 1/2" iron pin set on said Northeast line, for a Southwesterly corner of this tract;

THENCE: Leaving the Northeasterly line of Saddle Brook Subdivision, N 24° 08' 30" E 52.37 feet to a 1/2" iron pin set and N 59° 31' 04" W 90.55 feet to a 1/2" iron pin set on the Easterly right-of-way line of Interstate Highway 35, for a Southwest corner of this tract, being located N 24° 08' 30" E 30.0 feet from a 1/2" iron pin found for a corner of Saddle Brook Subdivision;

THENCE: Continuing with the Easterly right-of-way line of Interstate Highway 35, N 24° 08' 30" E 959.44 feet to a 1/2" iron pin set in the curving Southeast line of that certain 10.67 acre tract described in Deed from Kitty Page Yarrington to State of Texas, dated February 7, 1935, recorded in Volume 110, Page 219 of the Deed Records of Hays County, Texas, for a corner of this tract;

THENCE: Entering the above referenced 97.84 acre tract (which is in conflict with the 10.67 acre tract), with the Southeast line of said 10.67 acre tract, in a curve to the right, having a radius of 2,925.00 feet, an arc length of 415.32 feet, a central angle of 08° 08' 07", and a chord bearing and distance of N 55° 56' 05" E 414.97 feet to a 1/2" iron pin set for an interior corner of this tract;

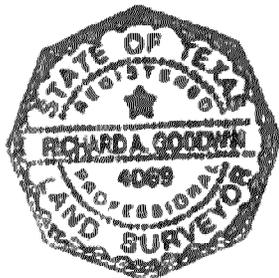
THENCE: Continuing with the remainder of said 10.67 acre tract, N 47° 55' 30" W 229.79 feet to a 1/2" iron pin found on the Easterly right-of-way line of Interstate Highway 35, for a corner of this tract;

THENCE: Continuing with said Easterly right-of-way line, N 24° 08' 30" E 851.42 feet to a 1/2" iron pin set in same, for the most Northwesterly corner of this tract;

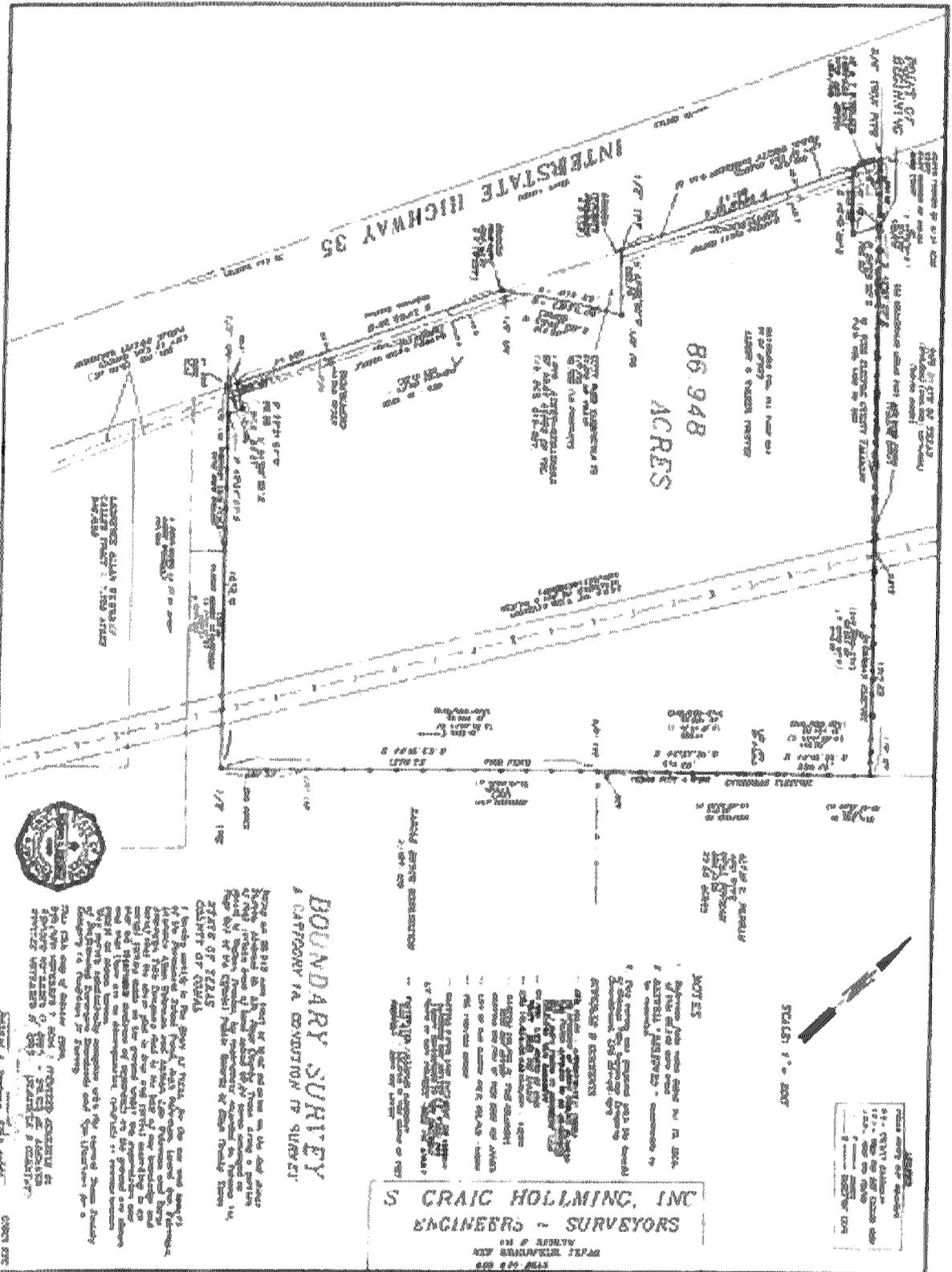
THENCE: Entering the above referenced 97.84 acre tract, S 45° 57' 20" E 232.00 feet to a 1/2" iron pin set for an interior corner of this tract and N 24° 08' 30" E 100.00 feet to the Point of Beginning and containing 86.948 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, October 13, 2005. Reference plat prepared this same date of this 86.948 acre tract.

Job #05-901



  
Richard A. Goodwin, RPLS #4069



**VICKREY & ASSOCIATES, Inc.**  
CONSULTING ENGINEERS

**METES AND BOUNDS DESCRIPTION  
FOR A 99.80 ACRE TRACT OF LAND  
OUT OF THE JOEL MINER SURVEY,  
ABSTRACT 321,  
HAYS COUNTY, TEXAS**

Being a 99.80 acre tract of land situated in the Joel Miner Survey, Abstract No. 321 in Hays County, Texas, being the same property called two 60 acre tracts of land conveyed to Jane Richmond Benasutti, Trustee of Thomas R. Richmond Testamentary Family Trust by Deed recorded in Volume 52, Page 68 of the Deed Records of Hays County, Texas, and individually one-half interest to Victoria Elizabeth Richmond aka Elizabeth L. Richmond by Deed recorded in Volume 850, Page 595 of the Deed Records of Hays County, Texas, said 99.80 acre tract being more particularly described by metes and bounds with all bearings being referenced to the North American Datum 1983, Texas Coordinate System, South Central Zone, Ground distances may be converted to grid by dividing by 1.0001700:

**BEGINNING** at a 1/4-inch iron rod found at the intersection of the Southwest line of County Road No. 169, known as Yarrington Road and the Northwest line of County Road No. 160, known as Harris Hill Road for the East corner of the herein described tract, said Beginning point having Texas South Central Grid Coordinates of (N=13,886,570.38, E= 2,327,816.81);

**Thence:** S 43°21'39" W, along the Northwest line of said County Road No. 160, a distance of 2086.12 feet to a found 1/4 inch iron rod with yellow cap, for a Northeast corner of a 318.105 acre tract of land recorded in Volume 2715, Page 533 of the Official Public Records of Hays County, Texas, being the South corner of the herein described tract;

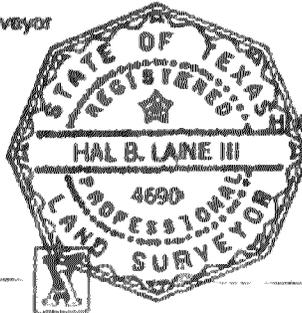
**Thence:** N 48°11'01" W, along the common line of said 318.105 acre tract and the herein described tract, a distance of 2082.35 feet to a found 1/4 inch iron pipe in concrete being a re-entrant corner of said 318.105 acre tract and the West corner of the herein described tract,

**Thence:** N 43°31'53" E, along a Southeastery line of said 318.105 acre tract, passing the common corner of said 318.105 acre tract and a 201.498 acre tract recorded in Volume 2484, Page 403 of the Official Public Records of Hays County, Texas, at a distance of 818.94 feet, and continuing along the Southeast line of said 201.498 acre tract, for a total distance of 2075.38 feet, to a found 1/4" iron rod on the Southwest line of said County Road No. 159 and being the North corner of the herein described tract;

**Thence:** S 46°28'35" E, along said Southwest line of County Road No. 159, a distance of 2086.11 feet to the POINT OF BEGINNING and containing 99.80 acres of land, more or less.

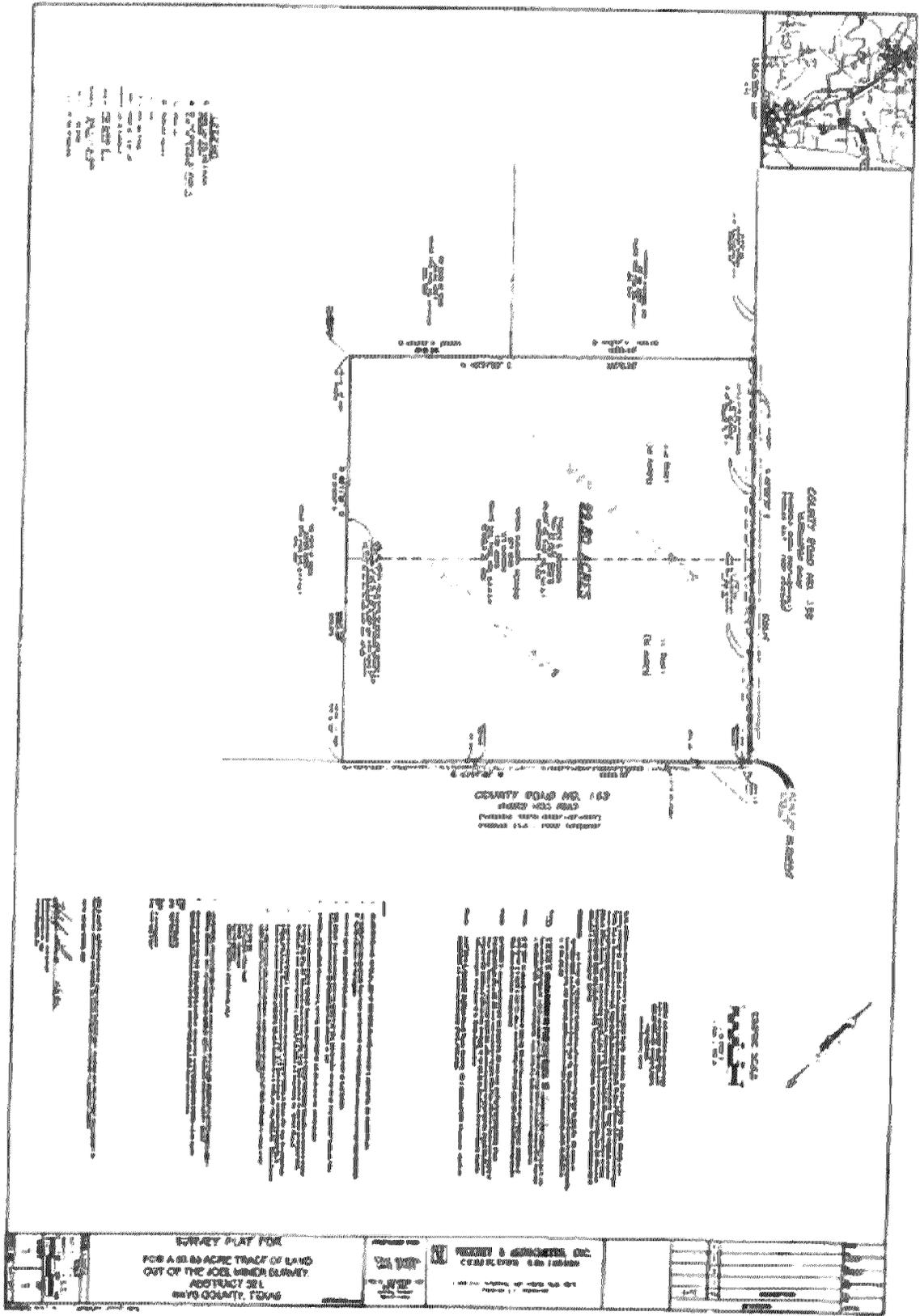
Note: Survey Plat of even data accompanies this legal description.

*Hal B Lane III*  
Hal B Lane III  
Registered Professional Land Surveyor  
Texas Registration Number 4690  
Vickrey & Associates, Inc



Job No 2042-002-104  
Hays 99.80 Acres 041105  
April 8, 2008  
April 11, 2008

N 25°42'00" W 800.00000000 Acres (PT) (HAL) 0411105.05



1. ALL RIGHTS RESERVED  
 2. THIS SURVEY IS MADE  
 3. BY THE FOLLOWING:  
 4. WILKINSON & ASSOCIATES, INC.  
 5. CHATTANOOGA, TENN.  
 6. THE SURVEY IS MADE  
 7. IN ACCORDANCE WITH  
 8. THE FOLLOWING:  
 9. THE FOLLOWING:  
 10. THE FOLLOWING:

1. 1/4 SECTION 10, T12N, R10E, S1E  
 2. 1/4 SECTION 11, T12N, R10E, S1E  
 3. 1/4 SECTION 12, T12N, R10E, S1E  
 4. 1/4 SECTION 13, T12N, R10E, S1E

COUNTY ROAD NO. 159  
 1/4 SECTION 10, T12N, R10E, S1E  
 1/4 SECTION 11, T12N, R10E, S1E  
 1/4 SECTION 12, T12N, R10E, S1E  
 1/4 SECTION 13, T12N, R10E, S1E

COUNTY ROAD NO. 163  
 1/4 SECTION 10, T12N, R10E, S1E  
 1/4 SECTION 11, T12N, R10E, S1E  
 1/4 SECTION 12, T12N, R10E, S1E  
 1/4 SECTION 13, T12N, R10E, S1E

1. ALL RIGHTS RESERVED  
 2. THIS SURVEY IS MADE  
 3. BY THE FOLLOWING:  
 4. WILKINSON & ASSOCIATES, INC.  
 5. CHATTANOOGA, TENN.  
 6. THE SURVEY IS MADE  
 7. IN ACCORDANCE WITH  
 8. THE FOLLOWING:  
 9. THE FOLLOWING:  
 10. THE FOLLOWING:

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 5. CHATTANOOGA, TENN.  
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 5. CHATTANOOGA, TENN.  
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 7. IN ACCORDANCE WITH  
 8. THE FOLLOWING:  
 9. THE FOLLOWING:  
 10. THE FOLLOWING:

COUNTY ROAD NO. 163  
 1/4 SECTION 10, T12N, R10E, S1E  
 1/4 SECTION 11, T12N, R10E, S1E  
 1/4 SECTION 12, T12N, R10E, S1E  
 1/4 SECTION 13, T12N, R10E, S1E

**SOWNEY PLAT FOR**  
**FOR A 60 ACRE TRACT OF LAND**  
**OUT OF THE JOEL WILKINSON SOWNEY,**  
**ABSTRACT 52 L,**  
**8870 COUNTY, TENN.**

**WILKINSON & ASSOCIATES, INC.**  
**CHATTANOOGA, TENN.**  
 ALL RIGHTS RESERVED

**EXHIBIT "B"**

**TERM SHEET**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**9/16/14**

The following limitations and performance standards shall apply to the Whisper Texas Public Improvement District as agreed by the City of San Marcos (“the City”) and McDonald Development Group (“McDonald”):

**FINANCING CRITERIA**

- |  |              |
|--|--------------|
| 1. Maximum total indebtedness:   | \$14,630,000 |
| 2. Maximum annual assessment rate as equivalent tax rate:  | \$0.150      |
| 3. Maximum construction costs to be funded:  | \$10,398,361 |
| 4. Minimum appraised value to lien ratio at date of each bond issue:   | 3:1          |
| 5. Maximum annual permitted increase in annual assessment:   | 2%           |
| 6. Maximum years of capitalized interest for each bond issue :   | 2            |
| 7. Maturity for each series of bonds (to extent allowed by law):   | 30 years     |
| 8. The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 2 years from the date of the initial delivery of the bonds and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future Bond issuances. |              |

### **PROJECTED LAND USES**

<b>Parcels</b>	<b>Approximate Acreage</b>	<b>Proposed Land Use</b>
1 -2	281	Business Park
3	10	Commercial
4 - 5	22	Commercial
6	153	Commercial
7	106	SF Residential - Detached/Townhomes
8	111	Master Retail and Commercial Center
Rights of Way	23	Rights of Way
<b>Totals</b>	<b>706</b>	

### **DEFINITIONS**

1. "City" shall mean the City of San Marcos, Texas
2. "Developer" shall mean McDonald Development Group and/or its successors and assigns
3. "Project" shall consist of the approximately 706 acres as described in Exhibit A and illustrated in Exhibit B
4. "Improvements" shall refer to the construction projects to be funded by the Public Improvement District ("PID")

Definitions shall be effective in every instance regardless of capitalization.

### **PROPOSED PROJECT TIMETABLE**

1. Engineering and Design of the Improvements shall commence within 90 days after City Council approves the formation of the PID.
2. Engineering and Design of the Improvements shall be submitted to the City for review within 180 days after City Council approves formation of the PID.
3. The Improvements shall be constructed within 210 days of City approval of Engineering and Design plans subject to *force majeure*.
4. Construction of a 50,000 square foot speculative commercial building, in accordance with the minimum specifications below, shall commence within 100 days of City acceptance of the Improvements.

## TERMS AND CONDITIONS

1. No PID bonds will be issued without the approval by the City Council of a Service and Assessment Plan for the District.
2. No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund the PID.
3. The Appraiser preparing the appraisal required in connection with the PID Bonds shall be selected by the City in consultation with the Developer and all reasonable fees shall be paid by the Developer.
4. The Developer agrees to obtain site development and building permits and, commence construction of a 50,000 square foot speculative commercial building (i) within 100 days of City acceptance of the Improvements, and (ii) before any PID Bonds are issued to reimburse the Developer for the costs of such Improvements.
5. The City and the Developer agree that the following will constitute the minimum building standards for the 50,000 square foot speculative building.
  - a. The building shall have a minimum of 35% glazing on all primary street facing facades and 20% on all secondary street facing facades.
  - b. A maximum of one row of parking (defined to include two sides of parking) shall be permitted between the street and the front of the building
  - c. Decorative awnings shall be provided over pedestrian entrances.
  - d. All street facing facades shall be a minimum of 50% decorative masonry.
  - e. A landscape area of 15% shall be required and shall follow Section 6.1.1.4 of the City's Land Development Code.
  - f. No freestanding pole signs shall be permitted.
  - g. All utilities shall be underground (there shall be no overhead utilities).
6. It is the intent of the Developer to request the issuance of one PID bond to provide the agreed upon reimbursements. However, the Developer retains the right to request the agreed upon reimbursements through more than one PID Bond issue with the condition that the maximum construction costs to be reimbursed will not exceed the amount described in Financing Criteria #3 and the total amount of all Bond issues shall not exceed the amount described in Financing Criteria #1.
7. The Developer and the City agree that each PID bond issue will be subject to approval by the City Council but that the terms outlined in this term sheet will apply.
8. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as the maximum annual assessment rate as described in Financing Criteria #2 is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the Improvements to that improvement area.
9. The City shall not be obligated to provide funds for any improvement except from the proceeds of the bonds and/or per the terms of an Oversize Participation Agreement.

10. The City and the Developer may enter into an Oversize Participation Agreement under which the City will agree to fund the costs of additional lanes for public roadways as illustrated in the attached exhibits.
11. No PID bond funds are permitted to be used to construct water line improvements within that portion of the Project not located with the City of San Marcos Water CCN.
12. Should the portions of the Project that are not currently located within the City's Water CCN hereafter be relocated into the City's Water CCN, the Developer will have the right to request reimbursement through PID bond issues for the water line improvements as long as the amounts requested do not result in total maximum construction costs exceeding the amount described in Financing Criteria #3 and the total amount of all Bond issues does not exceed the amount described in Financing Criteria #1.
13. Each PID Bond Indenture will contain language precluding the City from making any debt service payments for the PID Bonds other than from available special assessment revenues.
14. The PID will be responsible for payment of all of the City's reasonable and customary costs and expenses including, but not limited to, administration, collection services and legal representation as necessary.
15. The Developer consents to annexation of the portion of the Project currently located within the extraterritorial jurisdiction of the City. The Developer will submit a zoning change request to the City for the annexed portion of the Property consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B, in compliance with Term #16 below. The Annexation of and approval of zoning for such portion shall be completed prior to the issuance of any PID bonds.
16. The Developer will submit a zoning request to the City for all or portions of the Project, as desired by Developer; provided that, such zoning request shall be consistent with the zoning classifications shown on the Concept Plan attached as Exhibit B. The City acknowledges that the location and configuration of the Parcels shown on the Concept Plan are preliminary and approximate and changes, subject to approval of the city may be made by the Developer.
17. The PID may be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a) (9) which states that a project is exempt from such policies if "paving, drainage, street widening, and other improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements."
18. The Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003 as agreed upon by the City and as referenced in the attached exhibits.
19. No additional security or surety, beyond the land and any Improvements on the land, will be provided by the Developer, or its assignees, for the PID Bonds.
20. The PID will automatically dissolve if no PID Bonds are issued within a period of five (5) years from the date of the formation of the PID by the San Marcos City Council.

21. All landowners will provide any required continuing disclosure obligations associated with the issuance of PID Bonds as required under the Indenture or any other regulatory agreement or regulatory agency.
22. PID bonds shall be issued by the City upon request by the Developer and approval by the City Council following (i) City acceptance of the Improvements, (ii) annexation of the portion of the Project currently located in the City's extra-territorial jurisdiction, and (iii) commencement of the construction of a commercial building described under Terms and Conditions #3. Proceeds from the issuance of the PID bonds will be used to reimburse the Developer for the costs to construct the Improvements.

## **EXHIBITS**

- A. Metes and Bounds
- B. Concept Plan
- C. Roadway Cross Sections & Opinions of Probable Cost
- D. Qualified PID Costs
- E. Value to Lien Bond Capacity Analysis
- F. Estimated Asset Value at Build Out
- G. Bond Sizing Analysis
- H. Assessment Allocation Analysis at Build Out
- I. Feasibility Analysis – Assumptions
- J. Rendering of Proposed 50,000 square foot speculative building

**Exhibit A**  
**Metes and Bounds**

# EXHIBIT "A"

## FIELD NOTES FOR A 201.496 ACRE TRACT

Being a 201.496 acre tract of land, being approximately 94.659 acres out of the William Ward Survey No. 3 and approximately 106.837 acres out of the Joel Miner Survey, Hays County, Texas, and being out of a tract called 214.40 acres conveyed to Yarrington Properties by Warranty Deed recorded in Volume 773, Page 816 of the Official Public Records of Hays County, Texas, and all bearings referred to in this description are rotated to and referenced to a bearing of N 45° 52' W between iron pins found along the Southwest line of the above referenced 214.40 acre tract, and all bearings and distances referred to in this description as record calls are taken from Volume 773, Page 816 of the Official Public Records of Hays County, Texas, said 201.496 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

**BEGINNING:** At a concrete highway monument found at the intersection of the Southwest line of a road, called County Road No. 159, called Yarrington Road, with the Southeast line of Interstate Highway No. 35, for the most Northerly corner of the above referenced 214.40 acre tract, for the most Northerly corner and Point of Beginning of this tract;

**THENCE:** Leaving Interstate Highway No. 35, with a Southwest line of Yarrington Road, S 46° 02' 04" E 1812.44 feet (record call: S 46° 01' 00" E - 1813.06 feet) to a ½" iron pin found for a corner of the above referenced 214.40 acre tract, for a corner of this tract;

**THENCE:** Continuing along the Southwest line of said Yarrington Road and a turn to the right in said Yarrington Road, S 36° 43' 40" E 14.10 feet, a ½" iron pin set, S 02° 13' 26" E 44.83 feet, a ½" iron pin set, and S 40° 10' 14" W 32.45 feet to a ½" iron pin found in the Northwest line of said Yarrington Road, for a corner of the above referenced 214.40 acre tract, for a corner of this tract;

**THENCE:** Along said Northwest line, S 43° 58' 45" W 1263.87 feet (record call: S 43° 59' 00" W - 1263.40 feet) to a ½" iron pin found at a turn in said Yarrington Road, for an interior corner of the above referenced 214.40 acre tract, for an interior corner of this tract;

**THENCE:** Along a Southwest line of said Yarrington Road, a Northeast line of the above referenced 214.40 acre tract, S 45° 58' 21" E 3700.49 feet (record call: S 45° 58'

00" E - 3700.64 feet) to a 1/2" iron pin found in same, for the Lower East corner of the above referenced 214.40 acre tract, for the East corner of this tract;

THENCE: Along the Southeast line of the above referenced 214.40 acre tract, the Northwest line of a tract called 100 acres recorded in Volume 52, Page 68 of the Deed Records of Hays County, Texas, S 44° 02' 31" W 1256.51 feet to a 1/2" iron pin found at fence corner, for the South corner of the above referenced 214.40 acre tract, an East corner of a tract called 328.824 acres described in Volume 720, Page 155 of the Official Public Records of Hays County, Texas, for the South corner of this tract;

THENCE: Along the Southwest line of the above referenced 214.40 acre tract, the Northeast line of said 328.824 acre tract, the general direction of an existing fence, N 45° 52' 00" W 2136.80 feet to a 1/2" iron pin found at fence corner, for a North corner of said 328.824 acre tract, a corner of the above referenced 214.40 acre tract, the East corner of Lot 4 of San Marcos Technology Park, a subdivision of record in Volume 5, Page 147 of the Map and Plat Records of Hays County, Texas, for a corner of this tract;

THENCE: Along the Northeast line of Lots 4 and 5 of said San Marcos Technology Park, and continuing along the Southwest line of the above referenced 214.40 acre tract, the general direction of an existing fence, N 45° 47' 19" W 692.77 feet, a 1/2" iron pin found, N 45° 52' 57" W 696.50 feet to a 1/2" iron pin set and N 46° 02' 37" W 201.81 feet to a 3/4" pipe found at fence corner, for an interior corner of the above referenced 214.40 acre tract, the North corner of Lot 5, the East corner of Lot 6, for an interior corner of this tract;

THENCE: Along the North line of Lot 6, S 82° 00' 53" W 1041.40 feet to a 1/2" iron pin found at the Northwest corner of Lot 6, lying in the Southeast line of Interstate Highway No. 35, for the most Westerly corner of this tract;

THENCE: Along the Southeast line of Interstate Highway No. 35, as now found upon the ground, N 21° 19' 20" E (record call: N 21° 17' E) 416.11 feet, a 1/2" iron pin found, N 24° 08' 41" E 2699.76 feet (record call: N 24° 09' E - 2700.00 feet) to a 1/2" iron pin found, N 24° 55' 22" E 367.45 feet to a concrete monument found, N 24° 56' 43" E 85.45 feet (record call for last two calls: N 24° 55' E - 452.99 feet) to a concrete monument found and N 79° 32' 49" E 57.95 feet (record call: 57.80 feet) to the Point of Beginning and containing 201.496 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, August 1, 2003. Reference plat prepared this same date of this 201.496 acre tract.

Job #03-643



*Richard A. Goodwin*  
Richard A. Goodwin, RPLS #4069

EXHIBIT "B"  
PERMITTED EXCEPTIONS

A 100 FOOT EASEMENT DATED DECEMBER 20, 1950, GRANTED TO LOWER COLORADO RIVER AUTHORITY BY JOHN T. YARRINGTON AND WIFE, VIRGINIA YARRINGTON, RECORDED IN VOLUME 148, PAGE 570, DEED RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR ELECTRIC TRANSMISSION AND/OR DISTRIBUTION LINE, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

50 FOOT PIPELINE EASEMENT TO UNITED GAS PIPELINE COMPANY, LOCATED ACROSS THE SOUTHEASTERLY PORTION OF THE TRACT, RECORDED IN VOLUME 230, PAGE 120, DEED RECORDS, HAYS COUNTY, TEXAS.

AN EASEMENT DATED AUGUST 14, 1973, GRANTED TO SOUTHWESTERN BELL TELEPHONE COMPANY BY MRS. JOHN YARRINGTON, RECORDED IN VOLUME 261, PAGE 472, DEED RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR UNDERGROUND TELECOMMUNICATION SYSTEMS AND LINES, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

AN EASEMENT DATED MAY 4, 1989, GRANTED TO PEDERNALES ELECTRIC COOPERATIVE, INC. BY YARRINGTON PROPERTY, JOHN T. YARRINGTON, RECORDED IN VOLUME 789, PAGE 319, REAL PROPERTY RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR ELECTRIC TRANSMISSION AND/OR DISTRIBUTION LINE, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

AN EASEMENT DATED OCTOBER 13, 1989, GRANTED TO ENTEX, A DIVISION OF ARKLA, INC. BY YARRINGTON PROPERTIES, RECORDED IN VOLUME 801, PAGE 847, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS. (EASEMENT FOR PIPELINE, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

AN EASEMENT DATED DECEMBER 22, 1994, GRANTED TO THE CITY OF SAN MARCOS, TEXAS BY JOHN T. YARRINGTON, JR., RICHARD J. YARRINGTON, RONALD M. YARRINGTON AND DIANNE Y. PRUETT, AS PARTNERS OF YARRINGTON PROPERTIES, A TEXAS GENERAL PARTNERSHIP, RECORDED IN VOLUME 1207, PAGE 627, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR UTILITY, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

AN EASEMENT DATED OCTOBER 25, 2000, GRANTED TO CITY OF SAN MARCOS, TEXAS BY JOHN YARRINGTON, RECORDED IN VOLUME 1736, PAGE 28, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR WATER/WASTEWATER AND TEMPORARY CONSTRUCTION, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

AN EASEMENT DATED DECEMBER 10, 2001, GRANTED TO MAXWELL WATER SUPPLY CORPORATION BY YARRINGTON PROPERTIES, A TEXAS GENERAL PARTNERSHIP, RECORDED IN VOLUME 1934, PAGE 282, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS. (EASEMENT FOR WATER LINE, TOGETHER WITH ALL RIGHTS RECITED THEREIN)

A SAND, LIMESTONE AND GRAVEL LEASE DATED JUNE 26, 1974, EXECUTED BY MRS. VIRGINIA E. YARRINGTON, A WIDOW, ET AL, AS LESSOR, AND CENTEX MATERIALS, INC., A TEXAS CORPORATION, AS LESSEE, RECORDED IN VOLUME 269, PAGE 416, DEED RECORDS, HAYS COUNTY, TEXAS; AND AS AFFECTED BY VOLUME 384, PAGE 304, DEED RECORDS HAYS COUNTY, TEXAS.

AFFIDAVIT TO THE PUBLIC IN REGARDS TO A SOLID WASTE DISPOSAL SITE AS RECORDED IN VOLUME 725, PAGE 250, DEED RECORDS, HAYS COUNTY, TEXAS.

GAS PIPELINE SIGNS LOCATED ALONG THE SOUTHEASTERLY MOST SOUTHWEST PROPERTY LINE AND THE MOST NORTHWESTERLY PROPERTY LINE AS SHOWN ON THE SURVEY PREPARED BY RICHARD A. GOODWIN, R.P.L.S. NO. 4069, DATED AUGUST 1, 2003.

OVERHEAD UTILITY LINES WITH POWER POLES AND GUY WIRES LOCATED ALONG THE SOUTHEASTERLY MOST SOUTHWEST PROPERTY LINE, THE WESTERLY MOST SOUTH PROPERTY LINE, THE MOST NORTHWESTERLY PROPERTY LINE, NORTHERLY MOST NORTHEAST PROPERTY LINE, THE SOUTHERLY MOST NORTHEAST PROPERTY LINE AND TRAVERSING THE NORTHEASTERLY PORTION OF THE SUBJECT PROPERTY AS SHOWN ON THE SURVEY PREPARED BY RICHARD A. GOODWIN, R.P.L.S. NO. 4069, DATED AUGUST 1, 2003.

FIBEROPTIC SIGNS, TELEPHONE SIGNS, TELEPHONE PEDASTALS AND UNDERGROUND TELEPHONE SIGNS LOCATED ALONG THE MOST NORTHWESTERLY AND MOST NORTHEASTERLY AND SOUTHERN MOST NORTHEASTERLY PROPERTY LINES AS SHOWN ON THE SURVEY PREPARED BY RICHARD A. GOODWIN, R.P.L.S. NO. 4069, DATED AUGUST 1, 2003.

FIRE HYDRANTS LOCATED ALONG THE MOST NORTHWESTERLY, NORTHERLY MOST NORTHEASTERLY, AND THE SOUTHEASTERLY MOST NORTHEASTERLY PROPERTY LINES AS SHOWN ON THE SURVEY PREPARED BY RICHARD A. GOODWIN, R.P.L.S. NO 4069, DATED AUGUST 1, 2003.

BURIED CABLE AND UNDERGROUND CABLE SIGNS LOCATED ALONG THE NORTHERLY MOST SOUTHEAST AND SOUTHERLY MOST NORTHEAST PROPERTY LINES AS SHOWN ON THE SURVEY PREPARED BY RICHARD A. GOODWIN, R.P.L.S. NO. 4069, DATED AUGUST 1, 2003.

After Recording Return To:  
LandAmerica Service Center  
9200 Waterford Centre  
Suite 100  
Austin, Texas 78758



**S. CRAIG HOLLMIG, INC.**  
CONSULTING ENGINEERS - SURVEYORS  
419 N. SEGUIN STREET  
NEW BRAUNFELS, TEXAS 78130-6085

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WATER SYSTEMS • SEWER SYSTEMS • SUBDIVISIONS • LAND PLANNING • STREETS • SURVEYING

**FIELD NOTES  
FOR  
AN 86.948 ACRE TRACT**

Being an 86.948 acre tract of land situated in the Joel Miner Survey, Abstract No. 321, Hays County, Texas, being a portion of that certain tract of land called 97.84 acres conveyed to Albert M. Walker, Trustee, by instrument recorded in Volume 714, Page 603 of the Official Public Records of Hays County, Texas, and all bearings referred to in this description are referenced to a bearing of N 24° 08' 30" E between monumentation found along the Easterly right-of-way line of Interstate Highway 35 (basis is taken from Texas State Highway Department Right-of-Way Map), said 86.948 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

**BEGINNING:** At a ½" iron pin set on the Northeasterly line of the above referenced 97.84 acre tract, same being a Southwesterly line of that certain tract now being a remainder of a 328.824 acre tract described in Volume 720, Page 152 of the Official Public Records of Hays County, Texas, said ½" iron pin set S 45° 57' 20" E 232.0 feet from a ¾" iron pipe found on the Easterly right-of-way line of Interstate Highway 35, for the North corner of the above referenced 97.84 acre tract, for a Northerly corner of this tract;

**THENCE:** Generally along an old meandering cedar post and wire fence (falling down), with a Southwesterly line of said 328.824 acre tract, the Northeasterly line of the above referenced 97.84 acre tract, S 45° 57' 20" E 1,913.50 feet to a ½" iron pin found for a Southwesterly corner of said 328.824 acre tract, situated on the Northwesterly line of a tract called 72.85 acres (Popham Tract), recorded in Volume 895, Page 450 of the Official Public Records of Hays County, Texas, for the East corner of the above referenced 97.84 acre tract, for the East corner of this tract;

**THENCE:** Generally with fence, along a Southeast line of the above referenced 97.84 acre tract, the Northwest line of said 72.85 acre tract, S 44° 19' 36" W 390.40 feet to a ½" iron pin found and S 44° 37' 31" W 551.28 feet to a ¾" iron pin found for the West corner of said 72.85 acre tract, same being the North corner of Saddle Brook Subdivision, a plat recorded in Volume 9, Pages 107-109 of the Map and Plat Records of Hays County, Texas, for a corner of this tract;

**THENCE:** Continuing along the Southeast line of the above referenced 97.84 acre tract, a Northwest line of said Saddle Brook Subdivision, generally along a wood fence, S 44°

16' 53" W 1,278.72 feet to a ½" iron pin set for an interior corner of Saddle Brook Subdivision, for the South corner of this tract;

THENCE: Entering the above referenced 97.84 acre tract, with a Northeasterly line of Saddle Brook Subdivision, N 46° 04' 27" W 1,232.19 feet to a ½" iron pin set on said Northeast line, for a Southwesterly corner of this tract;

THENCE: Leaving the Northeasterly line of Saddle Brook Subdivision, N 24° 08' 30" E 52.37 feet to a ½" iron pin set and N 59° 31' 04" W 90.55 feet to a ½" iron pin set on the Easterly right-of-way line of Interstate Highway 35, for a Southwest corner of this tract, being located N 24° 08' 30" E 30.0 feet from a ½" iron pin found for a corner of Saddle Brook Subdivision;

THENCE: Continuing with the Easterly right-of-way line of Interstate Highway 35, N 24° 08' 30" E 959.44 feet to a ½" iron pin set in the curving Southeast line of that certain 10.67 acre tract described in Deed from Kitty Page Yarrington to State of Texas, dated February 7, 1935, recorded in Volume 110, Page 219 of the Deed Records of Hays County, Texas, for a corner of this tract;

THENCE: Entering the above referenced 97.84 acre tract (which is in conflict with the 10.67 acre tract), with the Southeast line of said 10.67 acre tract, in a curve to the right, having a radius of 2,925.00 feet, an arc length of 415.32 feet, a central angle of 08° 08' 07", and a chord bearing and distance of N 55° 56' 05" E 414.97 feet to a ½" iron pin set for an interior corner of this tract;

THENCE: Continuing with the remainder of said 10.67 acre tract, N 47° 55' 30" W 229.79 feet to a ½" iron pin found on the Easterly right-of-way line of Interstate Highway 35, for a corner of this tract;

THENCE: Continuing with said Easterly right-of-way line, N 24° 08' 30" E 851.42 feet to a ½" iron pin set in same, for the most Northwesterly corner of this tract;

THENCE: Entering the above referenced 97.84 acre tract, S 45° 57' 20" E 232.00 feet to a ½" iron pin set for an interior corner of this tract and N 24° 08' 30" E 100.00 feet to the Point of Beginning and containing 86.948 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, October 13, 2005. Reference plat prepared this same date of this 86.948 acre tract.



Job #05-901

  
Richard A. Goodwin, RPLS #4069





**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-443-1724  
Fax: 512-441-6987

2807 Manchaca Road  
Building One  
Austin, Texas 78704

**318.105 ACRES  
JOEL MINER SURVEY**

A DESCRIPTION OF 318.105 ACRES IN THE JOEL MINER SURVEY, HAYS COUNTY, TEXAS, BEING A PORTION OF A 328.824 ACRE TRACT OF LAND DESCRIBED IN TRUSTEE'S DEED TO JIM McCROCKLIN, TRUSTEE, DATED MARCH 1, 1988, OF RECORD IN VOLUME 720, PAGE 152 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS; SAID 318.105 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½" rebar found in the east right-of-way line of Interstate Highway 35 (right-of-way width varies) for the west corner of said 328.824 acre tract and the north corner of a 97.84 acre tract of land described in Volume 714, Page 603 of the Real Property Records of Hays County, Texas;

**THENCE** North 22°55'27" East, with the east right-of-way line of said IH-35 and the northwest line of the 328.824 acre tract, a distance of 1366.86 feet to a ½" rebar with cap set for the southwest corner of Lot 1, San Marcos Technology Park, a subdivision of record in Volume 5, Page 147 of the Plat Records of Hays County, Texas, from which a concrete highway monument found bears North 22°55'27" East, a distance of 2010.30 feet;

**THENCE** South 67°05'52" East, over and across the 328.824 acre tract with the southwest line of said San Marcos Technology Park, a distance of 1606.37 feet to a ½" rebar with cap set for an angle point in the north line of the 328.824 acre tract and the south corner of Lot 3, San Marcos Technology Park;

**THENCE** with the north line of the 328.824 acre tract and the southeast line of Lots 3 and 4, San Marcos Technology Park, the following three (3) courses:

1. North 43°06'54" East, a distance of 1113.31 feet to a ½" rebar found;
2. North 41°52'41" East, a distance of 231.92 feet to a ½" rebar found;
3. North 43°00'24" East, a distance of 894.28 feet to a ½" rebar found in the southwest line of a 214.40 acre tract of land described in Volume 773, Page 816 of the Real Property Records of Hays County, Texas, for the east corner of Lot 4, San Marcos Technology Park and the north corner of the 328.824 acre tract;

**THENCE** South 47°05'53" East, with the northeast line of the 328.824 acre tract

318.105 ACRES

Page 2

and the southwest line of said 214.40 acre tract, a distance of 2136.85 feet to a ½" rebar found for the south corner of the 214.40 acre tract and the northeast corner of the 328.824 acre tract and in the northwest line of a 100 acre tract of land described in Volume 52, Page 68 of the Deed Records of Hays County, Texas;

**THENCE** with the common line of the 328.824 acre tract and the said 100 acres, the following two (2) courses:

1. South 42°49'26" West, a distance of 819.02 feet to a ½" iron pipe found for the west corner of the 100.00 acre tract;
2. South 46°53'58" East, a distance of 2092.27 feet to a ½" rebar with cap set in the northwest right-of-way line of County Road 160 (Harris Hill Road, right-of-way width varies) for the easternmost corner of the 328.824 acre tract;

**THENCE** with the northwest right-of-way line of said C.R. 160 and the southeast line of the 328.824 acre tract, the following six (6) courses:

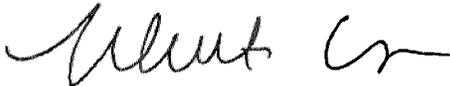
1. South 43°41'13" West, a distance of 675.23 feet to a ½" rebar with cap set;
2. South 45°13'02" West, a distance of 369.18 feet to a ½" rebar with cap set;
3. South 45°38'13" West, a distance of 508.86 feet to a ½" rebar with cap set;
4. South 57°29'20" West, a distance of 74.15 feet to a ½" rebar with cap set;
5. South 33°18'43" West, a distance of 64.34 feet to a ½" rebar with cap set;
6. South 45°42'28" West, a distance of 395.47 feet to a ½" rebar found for the south corner of the 328.824 acre tract and the east corner of a 36.40 acre tract of land described in Volume 1435, Page 407 of the Official Public Records of Hays County, Texas;

**THENCE** North 47°04'03" West, with a southwest line of the 328.824 acre tract and the northeast line of said 36.40 acre tract, a distance of 3052.04 feet to a ½" rebar found for the north corner of the 36.40 acre tract;

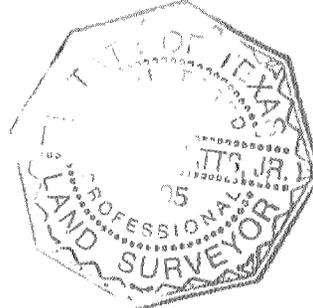
**THENCE** South 42°56'45" West, with a southwest line of the 328.824 acre tract and the northwest line of the 36.40 acre tract, passing at a distance of 521.59 feet a ½" rebar found for the west corner of the 36.40 acre tract and the north corner of a 36.40 acre tract described in Document No. 9924088 of the Official Public Records of Hays County, Texas, for a total distance of 1163.93 feet to a ½" rebar found for the east corner of a 6.6 acre tract described in Volume 946, Page 575 of the Official Public Records of Hays County, Texas, being in the northwest line of a 72.85 acre tract described in Volume 895, Page 450 of the Official Public Records of Hays County, Texas;

**THENCE** North 47°09'41" West, with a southwest line of the 328.824 acre tract and the northeast lines of said 6.6 acre tract and said 97.84 acre tract, a distance of 2145.66 feet to the **POINT OF BEGINNING**, containing 318.105 acres of land, more or less.

Surveyed on the ground September 12, 2003. Attachments: survey drawing 111-005-T1. Bearing Basis: Grid Azimuth for Texas Central Zone, 1983/93 HARN Values from LCRA Control Network.



Robert C. Watts, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 4995



3-11-05



METES AND BOUNDS DESCRIPTION  
FOR A 99.80 ACRE TRACT OF LAND  
OUT OF THE JOEL MINER SURVEY,  
ABSTRACT 321,  
HAYS COUNTY, TEXAS

Being a 99.80 acre tract of land situated in the Joel Miner Survey, Abstract No. 321 in Hays County, Texas, being the same property called two 50 acre tracts of land conveyed to Jane Richmond Benasutti, Trustee of Thomas R. Richmond Testamentary Family Trust by Deed recorded in Volume 52, Page 68 of the Deed Records of Hays County, Texas, and individually one-half interest to Victoria Elizabeth Richmond a/k/a Elizabeth L. Richmond by Deed recorded in Volume 850, Page 595 of the Deed Records of Hays County, Texas, said 99.80 acre tract being more particularly described by metes and bounds with all bearings being referenced to the North American Datum 1983, Texas Coordinate System, South Central Zone; Ground distances may be converted to grid by dividing by 1.0001700:

**BEGINNING** at a ½-inch iron rod found at the intersection of the Southwest line of County Road No. 159, known as Yarrington Road and the Northwest line of County Road No. 160, known as Harris Hill Road for the East corner of the herein described tract, said Beginning point having Texas South Central Grid Coordinates of (N=13,886,570.38, E= 2,327,818.81);

Thence: S 43°21'39" W, along the Northwest line of said County Road No. 160, a distance of 2086.12 feet to a found ½ inch iron rod with yellow cap, for a Northeast corner of a 318.105 acre tract of land recorded in Volume 2715, Page 533 of the Official Public Records of Hays County, Texas, being the South corner of the herein described tract;

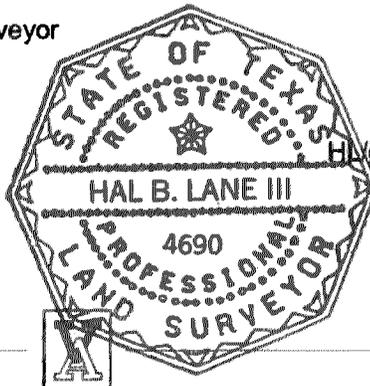
Thence: N 46°11'01" W, along the common line of said 318.105 acre tract and the herein described tract, a distance of 2092.35 feet to a found ½ inch iron pipe in concrete being a re-entrant corner of said 318.105 acre tract and the West corner of the herein described tract;

Thence: N 43°31'53" E, along a Southeasterly line of said 318.105 acre tract, passing the common corner of said 318.105 acre tract and a 201.496 acre tract recorded in Volume 2494, Page 403 of the Official Public Records of Hays County, Texas, at a distance of 818.94 feet, and continuing along the Southeast line of said 201.496 acre tract, for a total distance of 2075.38 feet, to a found ½" iron rod on the Southwest line of said County Road No. 159 and being the North corner of the herein described tract;

Thence: S 46°28'39" E, along said Southwest line of County Road No. 159, a distance of 2086.11 feet to the POINT OF BEGINNING and containing 99.80 acres of land, more or less.

Note: Survey Plat of even date accompanies this legal description.

  
Hal B. Lane III  
Registered Professional Land Surveyor  
Texas Registration Number 4690  
Vickrey & Associates, Inc.



Job No. 2042-002-104  
Hays Co 99.80 Acres 041106  
April 6, 2006  
April 11, 2006

**Exhibit B**  
**Concept Plan**

YARRINGTON RD.

SAN MARCOS CITY LIMIT

**NOTES:**

- 1. LOCATION OF ROAD 'C' IS CONTINGENT TO FUTURE LOCATION OF TxDOT RAMPS.
- 2. ROAD 'C' IS TENTATIVE, AND SUBJECT TO RELOCATION OR DELETION SUBJECT TO OTHER PROPOSED USE OF FUNDS.

8  
MASTER RETAIL AND COMMERCIAL CENTER

PROPOSED 12" WATER LINE "C"

PROPOSED P.I.D. ROAD 'C' (3 LANE)  
(SEE NOTES)

SAN MARCOS CITY LIMIT

PROPOSED P.I.D. ROAD 'B' (3 LANE)

3  
COMMERCIAL

PROPOSED 12" WATER LINE "B"

PROPOSED 8" WASTEWATER LINE "A"

2  
BUSINESS PARK

PROPOSED 12" WATER LINE "A"

PROPOSED 8" WASTEWATER LINE "B"

PROPOSED 12" WATER LINE "B"

PROPOSED P.I.D. ROAD 'A-2' (3 LANE)

4  
COMMERCIAL

PROPOSED 8" WASTEWATER LINE "A"

1  
BUSINESS PARK

5  
COMMERCIAL

7  
RESIDENTIAL

PROPOSED 12" WASTEWATER LINE "A"

PROPOSED 4" WASTEWATER LINE "D" (FORCE MAIN)

35

PROPOSED 12" WATER LINE "A"

SAN MARCOS CITY LIMIT

PROPOSED P.I.D. ROAD 'A-1' (DIVIDED 4 LANE)

PROPOSED P.I.D. LIFT STATION

HARRIS HILL RD.

6  
COMMERCIAL  
(CORPORATE CAMPUS AND GENERAL COMMERCIAL)

PROPOSED 12" WASTEWATER LINE "A"

SAN MARCOS CITY LIMIT

P.I.D. LIMITS

CITY LIMITS

PARKWAYS

4 LANE DIVIDED ROAD (WITHIN P.I.D.)

MAJOR ARTERIALS

MINOR ARTERIALS

3 LANE ROAD (WITHIN P.I.D.)

COLLECTORS

PARCEL LINES

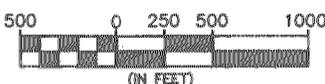
PROPOSED WATER LINE

PROPOSED WASTE WATER LINE

PARCEL NUMBER

PROPOSED ZONING

1  
C

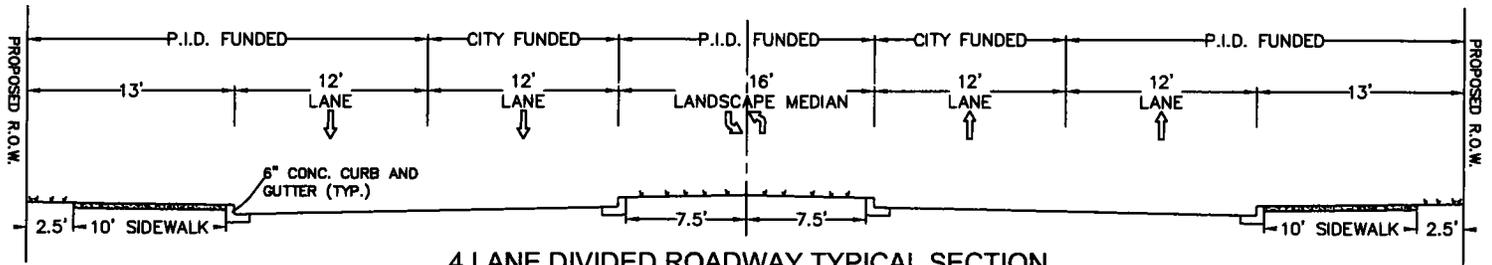


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I:\2014-2015\working\_drawings\exhibits\revised PID set (2014-07-19)\MURKIN EXH 2014-09-09.dwg  
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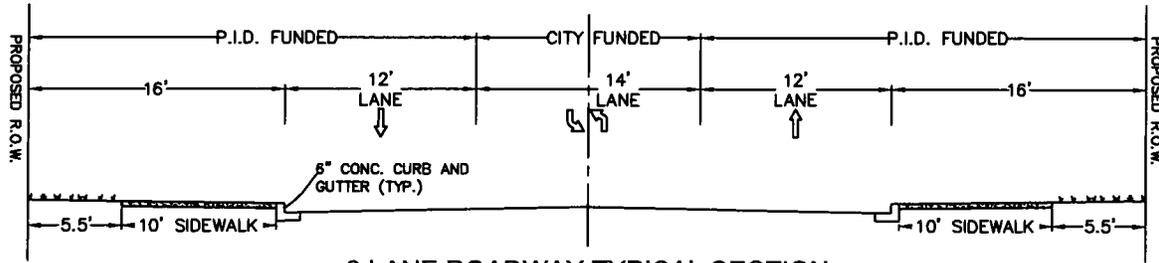
**Exhibit C**  
**Roadway Cross Sections & Opinions of Probable Cost**



**4 LANE DIVIDED ROADWAY TYPICAL SECTION**

NOT TO SCALE

2 LANES FUNDED BY P.I.D.  
2 LANES FUNDED BY CITY OF SAN MARCOS



**3 LANE ROADWAY TYPICAL SECTION**

NOT TO SCALE

2 LANES FUNDED BY P.I.D.  
1 LANE FUNDED BY CITY OF SAN MARCOS

**PID Construction Estimates - Opinion of Probable Costs  
(San Marcos, Texas)**

Item	Description	Subtotal	Cost
<b>General</b>			
1	Road A and Associated Utilities	3,937,443	5,118,663
2	Road B and Associated Utilities	1,645,891	2,139,661
3	Road C and Associated Utilities	1,725,353	2,242,973
4	Lit Station and Waste Water Line D (Forcemain)	181,900	236,470
5	Wastewater Line B	201,000	261,300
<b>Total</b>		<b>7,691,587</b>	<b>9,999,067</b>

\* - ESTIMATED PROBABLE COST OF WATER LINE WITHIN THE CITY OF SAN MARCOS CCN IS \$285,000 (31%)

NOTE: THIS OPINION OF PROBABLE COST DOES NOT INCLUDE ANY OVERSIZING OF THE WATER LINE AND WASTE WATER LINES. PER DIRECTION FROM CITY OF SAN MARCOS STAFF, OVERSIZING WILL BE HANDLED OUTSIDE OF THE PID. IN ADDITION, THE PID IS TO BE RESPONSIBLE FOR 2 LANES OF THE ROADWAY CROSS SECTION AND OUR CLIENT IS REQUESTING THE CITY OF SAN MARCOS BE RESPONSIBLE FOR THE ADDITIONAL 2 LANES ON THE 4 LANE CROSS SECTION (ROAD A-1) AND THE ADDITIONAL LANE ON THE 3 LANE CROSS SECTION (ROAD A-2, B AND C) AND FUND AT THE TIME OF CONSTRUCTION TO ALLOW FOR THE FULL SECTION TO BE CONSTRUCTED AT ONE TIME. IN THIS OPC, ONLY THE PID COST IS SHOWN.

**Oversize Participation - Opinion of Probable Costs  
(San Marcos, Texas)**

Item	Description	Subtotal	Cost
<b>General</b>			
1	Road A	881,200	1,145,560
2	Road B	236,800	307,840
3	Road C	247,900	322,270
<b>Total</b>		<b>1,365,900</b>	<b>1,775,670</b>

NOTE: THIS OPINION OF PROBABLE COST DOES NOT INCLUDE ANY OVERSIZING OF THE WATER LINE AND WASTE WATER LINES. PER DIRECTION FROM CITY OF SAN MARCOS STAFF, OVERSIZING WILL BE HANDLED OUTSIDE OF THE PID. IN ADDITION, THE PID IS TO BE RESPONSIBLE FOR 2 LANES OF THE ROADWAY CROSS SECTION AND OUR CLIENT IS REQUESTING THE CITY OF SAN MARCOS BE RESPONSIBLE FOR THE ADDITIONAL 2 LANES ON THE 4 LANE CROSS SECTION (ROAD A-1) AND THE ADDITIONAL LANE ON THE 3 LANE CROSS SECTION (ROAD A-2, B & C) AND FUND AT THE TIME OF CONSTRUCTION TO ALLOW FOR THE FULL SECTION TO BE CONSTRUCTED AT ONE TIME. IN THIS OPC, ONLY THE CITY COST IS SHOWN.

LAND USE TABLE		
LAND USE	TOTAL	PERCENT
BUSINESS PARK (BP)	281 Ac	40%
COMMERCIAL (C)	185 Ac	26%
RESIDENTIAL	106 Ac	15%
MASTER RETAIL AND COMMERCIAL CENTER	111 Ac	16%
RIGHT-OF-WAY (ROW)	23 Ac	3%
<b>TOTAL</b>	<b>706 Ac</b>	<b>100%</b>

ROADWAY TABLE	
ROADWAY	LENGTH
4 LANE DIVIDED W/ LANDSCAPE MEDIAN	3,500 LF
3 LANE W/ CENTER TURN LANE	9,800 LF

PID WATER UTILITY TABLE	
UTILITY	LENGTH
12" WATER LINE	13,400 LF*

\* - PORTION OF WATER LINE WITHIN CITY OF SAN MARCOS CCN IS 30%

PID WASTEWATER UTILITY TABLE	
UTILITY	LENGTH
12" WASTEWATER LINE	3,600 LF
8" WASTEWATER LINE	8,500 LF
4" WASTEWATER FORCE MAIN	2,200 LF

PARCEL TABLE		
PARCEL NO.	Land Use	Area (ac)
1	BUSINESS PARK	132 Ac
2	BUSINESS PARK	149 Ac
3	COMMERCIAL	10 Ac
4	COMMERCIAL	19 Ac
5	COMMERCIAL	3 Ac
6	COMMERCIAL	153 Ac
7	RESIDENTIAL	106 Ac
8	MASTER RETAIL AND COMMERCIAL CENTER	111 Ac
ROW	RIGHT-OF-WAY	23 Ac
<b>TOTAL</b>		<b>706 Ac</b>

NOTE: THE OWNER RETAINS THE RIGHT TO ADD CROSS-OVER LANES THROUGH THE LANDSCAPE MEDIAN ON ROADWAY 'A' AS FUTURE PARCELS ARE DEVELOPED.

D:\04-001\0401\working\drawings\exhibits\revised\pid set (2014-07-14)\WORKING\EXHIBIT\0401-001-001.dwg

**Exhibit D**  
**Qualified PID Costs**

**EXHIBIT D**  
**MCDONALD DEVELOPMENT**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**QUALIFIED PID COSTS**  
**9/16/2014**

ITEM	PHASE/YEAR	DESCRIPTION	Acres/Lots	TOTAL CONSTRUCTION COSTS	NET HARD COSTS	PROJECT MANAGEMENT 4%	TOTAL
<b>Major Improvement Area Bond</b>							
1	Master	Road A & Associated Utilities		\$ 5,118,663	\$ 5,118,663	\$ 204,747	\$ 5,323,410
2	Master	Road B & Associated Utilities		\$ 2,139,661	\$ 2,139,661	\$ 85,586	\$ 2,225,247
3	Master	Lift Station & Waste Water Line D		\$ 236,470	\$ 236,470	\$ 9,459	\$ 245,929
4	Master	Road C & Associated Utilities		\$ 2,242,973	\$ 2,242,973	\$ 89,719	\$ 2,332,692
5	Master	Offsite Waste Water Line B		\$ 261,300	\$ 261,300	\$ 10,452	\$ 271,752
		<b>TOTALS</b>		<b>\$ 9,999,067</b>	<b>\$ 9,999,067</b>	<b>\$ 399,963</b>	<b>\$ 10,399,030</b>
		<b>PROJECT TOTALS</b>	<b>683</b>	<b>\$ 9,999,067</b>	<b>\$ 9,999,067</b>	<b>\$ 399,963</b>	<b>\$ 10,399,030</b>

Source: McDonald Development, Doucet, DPFG

**Exhibit E**  
**Value to Lien Bond Capacity Analysis**

**EXHIBIT E**  
**McDONALD DEVELOPMENT**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**Value to Lien Bond Capacity Analysis @ Minimum 3.0:1 Value**  
**to Lien Ratio**  
**September 16, 2014**

	PID Bond
Bond Issuance Year	2015
Bond Issuance Month	1
# of Bond Issues	1
Estimated Land Value	\$ 35,189,050
Net Construction Proceeds Funded	\$ 10,398,161
Estimated Post Bond Sale Valuation	\$ 45,587,211
Projected PID Gross Bond Amount	\$ 14,630,000
Reserve Fund (10% of Bond Amount)	\$ 1,463,000
Capitalized Interest (24 months)	\$ 2,029,939
Underwriter Discount/Financial Advisor Fee (3%)	\$ 438,900
Cost of Issuance	\$ 300,000
Infrastructure Bond Net Construction Proceeds	\$ 10,398,161
Equivalent Tax Rate	\$ 0.150
Projected Value to Lien Ratio	3.12
Net Construction Proceeds	\$ 10,398,161
Total Qualified Construction Costs	\$ 10,399,030
(Shortage)/Surplus (a)	\$ (869)

(a) Developer may be required to escrow all or a portion of the additional funding requirement at the time bonds are issued.

**Exhibit F**  
**Estimated Asset Value at Build Out**

**EXHIBIT F**  
**MCDONALD DEVELOPMENT**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**ESTIMATED ASSESSED VALUE AT BUILD OUT**  
**9/16/2014**

Parcel Number	Acreage	FAR/Units per Acre	Land Use	Estimated Raw Land Value	Units	Square Feet	AV per Unit	AV per SF	Projected AV
8A	55.5	0.15	Retail/Commercial	\$ 3,626,370		362,637		\$ 120.00	\$ 43,516,440
8B	55.5	0.20	Light Industrial	\$ 2,417,580		483,516		\$ 75.00	\$ 36,263,700
1 - 2	281	0.25	Business Park	\$ 14,100,100	-	3,060,090	\$ -	\$ 120.00	\$ 367,210,800
3	10	0.25	Commercial	\$ 600,000		108,900		\$ 100.00	\$ 10,890,000
4 - 5	22	0.25	Commercial	\$ 1,320,000	-	239,580	\$ -	\$ 100.00	\$ 23,958,000
6	153	0.25	Commercial	\$ 11,025,000	-	1,666,170	\$ -	\$ 100.00	\$ 166,617,000
7	106	4.72	SF Residential - Detached/Townhomes	\$ 2,100,000	500	-	\$ 200,000	\$ -	\$ 100,000,000
<b>Project Totals</b>	<b>683</b>			<b>\$ 35,189,050</b>	<b>500</b>	<b>\$5,920,893</b>			<b>\$ 748,455,940</b>

**Exhibit G**  
**Bond Sizing Capacity Analysis**



**Exhibit H**  
**Assessment Allocation Analysis at Build Out**

**EXHIBIT H**  
**McDONALD DEVELOPMENT**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**Assessment Allocation Analysis @ Build Out**  
**9/16/2014**

Parcel Number	# of Units	Square Feet	Acreage	Land Use Assumptions		Allocation Based on Estimated Raw Land Value							
				Land Use	Estimated Raw Land Value	Projected Assessed Value	Total Assessment	Annual Payment (1st Year)	Assessment Per Unit	Annual Payment Per Unit	Assessment Per Sq. Ft.	Annual Payment Per Sq. Ft.	Equivalent Tax Rate (per \$100/AV)
8A		362,637	56	Retail/Commercial	\$ 3,626,370	\$ 43,516,440	\$ 1,492,602	\$ 114,579	\$ -	\$ -	\$ 4.12	\$ 0.32	\$ 0.263
8B		483,516	56	Light Industrial	\$ 2,417,580	\$ 36,263,700	\$ 995,068	\$ 76,386	\$ -	\$ -	\$ 2.06	\$ 0.16	\$ 0.211
1-2		3,060,090	281	Business Park	\$ 14,100,100	\$ 367,210,800	\$ 5,803,556	\$ 445,509	\$ -	\$ -	\$ 1.90	\$ 0.15	\$ 0.121
3		108,900	10	Commercial	\$ 600,000	\$ 10,890,000	\$ 246,958	\$ 18,958	\$ -	\$ -	\$ -	\$ 0.17	\$ 0.174
4-5		239,580	22	Commercial	\$ 1,320,000	\$ 23,958,000	\$ 543,308	\$ 41,707	\$ -	\$ -	\$ 2.27	\$ 0.17	\$ 0.174
6		1,666,170	153	SF Residential - Detached/Townhomes	\$ 11,025,000	\$ 166,617,000	\$ 4,537,855	\$ 348,348	\$ -	\$ -	\$ 2.72	\$ 0.21	\$ 0.209
7	500	-	106	Detached/Townhomes	\$ 2,100,000	\$ 100,000,000	\$ 864,353	\$ 66,352	\$ 1,729	\$ 133	\$ -	\$ -	\$ 0.066
<b>Subtotal</b>							\$ 14,483,700	\$ 1,111,840					
<b>Property Owners Association</b>							\$ 146,300	\$ 11,231					
<b>Project Total</b>		<b>5,920,893</b>	<b>683</b>		<b>\$ 35,189,050</b>	<b>\$ 748,455,940</b>	<b>\$ 14,630,000</b>	<b>\$ 1,123,071</b>					<b>\$ 0.150</b>

Note: Assessment payments are due starting in the third year given two years of capitalized interest.

Exhibit I  
Feasibility Analysis – Assumptions

**EXHIBIT I**  
**McDONALD DEVELOPMENT**  
**WHISPER TEXAS PUBLIC IMPROVEMENT DISTRICT**  
**FEASIBILITY ANALYSES - ASSUMPTIONS**

Item	Assumption	Source
Date of Analysis	9/16/2014	
Net Acres	683	McDonald
Land Value per Parcel - Raw as Entitled	Per AV tab	McDonald
Project Management Fees	4.0%	DPFG
Minimum Required Value to Lien Ratio	3.00	DPFG
PID Estimated Equivalent Ad Valorem Assessment Rate per \$100 AV	\$ 0.150	DPFG
Estimated PID Bond Net Infrastructure Proceeds	\$ 10,398,161	DPFG
Estimated Total Construction Costs	\$ 10,399,030	Doucet
Estimated Equity Requirement	\$ (869)	Calculated
Estimated Allocation to POA	1.0%	DPFG
Estimated Value - Single Family Home	\$ 200,000	McDonald
Finished Lot as % of Completed AV	20.0%	McDonald
Interest Rate	7.0%	DPFG
Underwriter Discount/Financial Advisor Fee	3.0%	DPFG
Cost of Issuance	\$ 300,000	DPFG
Debt Service Escalator	2.0%	DPFG
Reserve Fund Earnings	0.10%	DPFG
Capitalized Interest Period - Years	2.00	DPFG
District Operations	35,000	DPFG
District Operations Escalator	2.0%	DPFG
Denomination	\$ 5,000	DPFG
Prepayment Reserve Cap as % of DS	10.0%	DPFG
Delinquency Reserve %	0.3%	DPFG
Delinquency Reserve Cap as % of DS	25.0%	DPFG

**Exhibit J**  
**Rendering of Proposed 50,000 sq. ft. Speculative Building**

# Rendering of proposed 50,000 sq. ft. spec building





## Legislation Text

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**File #:** Res. 2020-81R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-81R, approving the award of a contract to River City Power Washing for the cleaning of sidewalks in the downtown area of the City in the estimated annual amount of \$18,000 and authorizing three one-year extensions for a total contract price of \$72,000; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** Convention Visitor Bureau - Rebecca Ybarra-Ramirez, Director (by Lynda Williams, Purchasing Manager)

**Amount & Source of Funding**

**Funds Required:** Estimated Annual \$18,000, Full 4 Year Term \$72,000

**Account Number:** 12024225-52230, 12024000-22015

**Funds Available:** FY20 Budget

**Account Name:** Professional Services, EOY Accounts Payable

**Fiscal Note:**

**Prior Council Action:** None

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.

- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

On March 5, 2020, four (4) bids were received for IFB 220-123, Downtown Sidewalk Cleaning.

Staff recommends award of an annual contract to the lowest responsible responsive bidder, River City Power Washing located in Austin, TX in the amount of \$18,000. The initial term of the contract will be for one (1) year for the annual amount of \$18,000 with options to renew for three (3) additional one (1) year terms; the total for 4 years is \$72,000 with an option for a 2% increase on the 2<sup>nd</sup> year renewal option. Contract renewals may be awarded administratively in the form of an Authorization of Change in Service.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Approval of award to the lowest responsible responsive bidder for Downtown Sidewalk Cleaning 220-123 with River City Power Washing, LLC in the estimated annual amount of \$18,000.00.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE AWARD OF A CONTRACT TO RIVER CITY POWER WASHING FOR THE CLEANING OF SIDEWALKS IN THE DOWNTOWN AREA OF THE CITY IN THE ESTIMATED TOTAL AMOUNT OF \$18,000.00 AND AUTHORIZING THREE ONE-YEAR EXTENSIONS FOR A TOTAL CONTRACT PRICE OF \$72,000.00; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE DOCUMENTS RELATING TO THIS CONTRACT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The contract with River City Power Washing for the cleaning of sidewalks in the downtown area of the City in the estimated annual amount of \$18,000.00 and three one-year extensions for a total contract price of \$72,000.00 is approved.

**PART 2.** The City Manager or his designee is authorized to execute appropriate documents related to the construction contract on behalf of the City.

**PART 3.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



# BID TABULATION

Downtown Sidewalk Cleaning 220-123

March 5, 2020 2:00 P.M.

Bidder Name	Total Bid Item #1
The Shine Machine, LLC San Antonio, TX	26,930.40
River City Power Washing Austin, TX	18,000.00
International Building Services Austin, TX	44,500.00
De Angelo Brothers, LLC Houston, TX	23,765.00

**This is the official record of bidders and bid prices only. It is not an acknowledgement of responsiveness, responsibility, or of contract award.**

Recorded by:

Witnessed by:



Legislation Text

---

**File #:** Res. 2020-82R, **Version:** 1

---

**AGENDA CAPTION:**

Consider approval of Resolution 2020-82R, approving a license agreement with E&T Real Estate LLC to allow the partial paving of a gravel section of Hillyer Street near Allen Street to a driveway standard to improve access to the lot at 1105 Hillyer Street; authorizing the City Manager, or his designee, to execute the license agreement on behalf of the City; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** Planning and Development Services

**Amount & Source of Funding**

**Funds Required:** NA

**Account Number:** NA

**Funds Available:** NA

**Account Name:** NA

**Fiscal Note:**

**Prior Council Action:** NA

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Choose an item.

Neighborhoods & Housing - Choose an item.

Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

A portion of Hilyer Road is currently not paved to City street standards, but is currently gravel. The applicant wishes to improve the street to a paved driveway standard, in order to provide adequate access to his undeveloped residential lot. All property owners adjacent to the unimproved right-of-way have given their permission for the request to move forward.

The Public Services and Fire departments have requested that the improvements be a minimum of 14 feet wide. The applicant has agreed to this request.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

The Planning Department has reviewed the request and recommends approval as submitted.

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A LICENSE AGREEMENT WITH E&T REAL ESTATE LLC TO ALLOW THE PARTIAL PAVING OF A GRAVEL SECTION OF HILLYER STREET NEAR ALLEN STREET TO A DRIVEWAY STANDARD TO IMPROVE ACCESS TO THE LOT AT 1105 HILLYER STREET; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LICENSE AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** The attached License Agreement is approved.

**PART 2.** The City Manager, or his designee, is authorized to execute the License Agreement on behalf of the City.

**PART 3.** This resolution shall be in full force and effect immediately from and after its passage.

**ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk

## LICENSE AGREEMENT

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

**City:** City of San Marcos, 630 E. Hopkins Street, San Marcos, Hays County, Texas 78666

**Licensee:** E&T Real Estate LLC, 142 Cimarron Park Loop, Suite A, Buda, Hays County, Texas 78610.

**License Area:** The area of the unimproved right-of-way of Hillyer Street, as more fully depicted in Exhibit A, attached hereto and made a part hereof.

**Licensee Property:** Lot 557, Block 42, Westover Addition, City of San Marcos, Hays County, Texas

**Consideration:** Ten and no/100 Dollars and other good and valuable consideration, including the Licensee's performance of its obligations under this Agreement.

### RECITALS

**A.** The Licensee desires to pave all or portions of the License Area to the City's driveway standards (the "Improvements") in order to improved vehicular access to the Licensee Property located at 1105 Hillyer Street, San Marcos, Texas.

**B.** The City is willing to grant to the Licensee a license for the Improvements in the License Area, subject to the terms hereof.

### GRANT OF LICENSE; TERMS AND CONDITIONS

For the Consideration, the City grants and demises to the Licensee a non-exclusive license to install, operate, and maintain the Improvements in the License Area, subject to the following:

**1. City Permits and Approvals.** The Licensee agrees to apply for and obtain all applicable permits from the City, including a right-of-way construction permit, as may be required for the construction or reconstruction activities in the License Area. The Improvements shall be at least 14 feet wide, and all final plans and specifications for the Improvements shall be subject to approval by the city manager of the City, acting through the City departments designated by the city manager.

**2. Compliance with Laws and Regulations.** The Licensee agrees to comply with all federal, state and local laws, construction and safety codes, and other regulations in the construction and maintenance of the Improvements in the License Area. The Licensee agrees to comply with all City of San Marcos standards and regulations related to the construction and maintenance of the Improvements in the License Area. The Licensee agrees to maintain safe and proper clearances from all above-ground and underground utility facilities within or upon the License Area at all times. The Licensee will maintain the Improvements in good condition, fit for their intended purposes, and with due regard for public safety and convenience. The Licensee will promptly remove or correct any hazards upon the License Area created by storms, accidents, vandalism or other causes.

**3. Right of Use of License Area by City and Public Utilities.** The City reserves the right at all times, for itself and all public utilities authorized to use the License Area for right-of-way and public utility purposes, to perform street and utility construction and maintenance activities in the License Area,

including those that involve excavation, trenching, pole and wire placement, or other activities that may affect the Improvements. The City and the authorized utilities will endeavor to notify the Licensee in advance of any construction or maintenance activities, but they make no commitment to do so. The surface of the License Area will be restored to a level condition upon completion of the construction or maintenance activities. The City may, but is not obligated to repave any areas of the pavement damaged by such activities. If the City does not repave any such damaged parts of the pavement, the Licensee will be responsible for replacing any paving materials, or other affected portions of the Improvements. The Licensee will perform the replacement only in a manner and to the extent that the replacement does not interfere with or impede the use of the License Area for right-of-way and public utility purposes.

**4. Payment of Extra Costs to the City.** Licensee shall pay all reasonable, actual and documented costs of relocation of any public utilities or facilities that may be incurred as a result of the construction of the Improvements. In the event that any installation, reinstallation, relocation or repair of any existing or future utility or improvements owned by, constructed by or on behalf of the public or at public expense is made costlier by virtue of the construction, maintenance or existence of the Improvements, Licensee shall pay to City an additional amount equal to such additional cost as reasonably determined by the City Manager or designee.

**5. Indemnification and Hold Harmless.**

**a. The Licensee agrees to indemnify, hold harmless and defend the City, its officers and employees from and against any claims or liability which may be incurred by reason of any act or omission of the Licensee, its agents or contractors in connection with the Licensee's use of the License Area. Such indemnification shall include the payment of reasonable attorney's fees and costs of court and litigation.**

**b. The Licensee agrees to hold harmless the City and all public utilities authorized to use the License Area, and their officers, agents and employees, from any damages to the Improvements that are caused in any way in connection with the use of the License Area for right-of-way and public utility purposes by the City or any such utility or their officers, agents or employees.**

**6. Termination by City.**

**a. The city manager of the City may terminate and revoke this License Agreement if the Licensee violates this Agreement and fails to cure the violation within 10 days after the City gives the Licensee written notice of the violation. Alternatively, the City may act to cure any violation of this Agreement by the Licensee, and collect the costs of curing the violation from the Licensee. If any invoice for such costs is not fully paid within thirty days of its issuance by the City, the Licensee expressly grants the City the right to record a lien against the Licensee Property for the unpaid amount of the invoice.**

**b. The city manager of the City may, otherwise, revoke or terminate this License Agreement by written notice thereof to Licensee upon the occurrence of any of the following conditions or events:**

**i. The Improvements or any portion of them unreasonably and materially interfere with the rights of the City or the public in or to City's License Area, as determined by the city manager in the city manager's sole discretion;**

ii. The use of the licensed area becomes necessary for a public purpose, as determined by the city manager in the city manager's sole discretion; or

iii. The Improvements or a portion of them constitute a danger to the public which is not remediable by maintenance or alteration of the Improvements, as determined by the city manager in the city manager's sole discretion;

iv. The Improvements or a portion of them have expanded beyond the scope of the approved encroachment; or

v. Maintenance or alteration necessary to alleviate a danger to the public has not been made within a reasonable time after the dangerous condition has arisen.

c. The city manager of the City may terminate this Agreement for any other reason by giving Licensee 60 days' written notice of termination.

d. The paving of the License Area to a full applicable City street standard by or on behalf of the City will operate as an automatic termination of this Agreement.

e. In the event of any such a termination, however, the Licensee will continue to have the same right of access across the street as the public.

**7. Integration; Amendments.** This Agreement constitutes the entire Agreement between City and Licensee on this subject, and it may be amended only by written instrument executed by both parties.

**8. No Warranty. THE CITY MAKES NO WARRANTY OF TITLE IN CONNECTION WITH THIS LICENSE AGREEMENT. THE LICENSEE ACKNOWLEDGES AND UNDERSTANDS THAT THIS LICENSE DOES NOT CONSTITUTE AN INTEREST IN REAL LICENSE AREA, AND THE LICENSEE FULLY ACCEPTS THE RISKS ASSOCIATED WITH MAKING ANY IMPROVEMENTS TO THE LICENSE AREA WHILE HAVING ONLY A REVOCABLE RIGHT TO USE THE LICENSE AREA. THE CITY MAKES NO REPRESENTATIONS REGARDING THE CONDITION OF THE LICENSE AREA AND THE LICENSEE ACCEPTS THE LICENSE AREA "AS-IS" WITH ALL FAULTS.**

**9. Binding on successors-in-interest.** This License Agreement, until its expiration or revocation, shall run with the title to the Licensee Property, and the terms and conditions hereof shall be binding upon subsequent owners or holders thereof. Licensee shall cause any immediate successors-in-interest to have factual notice of this License Agreement.

**10. Venue.** Exclusive venue for any legal dispute under this Agreement is in the state court in Hays County, Texas having jurisdiction over the dispute.

[SIGNATURES ON NEXT PAGE]

**CITY:**

**LICENSEE:**

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

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

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

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

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

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

**ACKNOWLEDGMENTS**

STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on \_\_\_\_\_, 2020 by \_\_\_\_\_, \_\_\_\_\_ of the City of San Marcos, in such capacity, on behalf of said municipality.

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

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2020 by \_\_\_\_\_, \_\_\_\_\_ of E&T Real Estate LLC, in such capacity, on behalf of said entity.

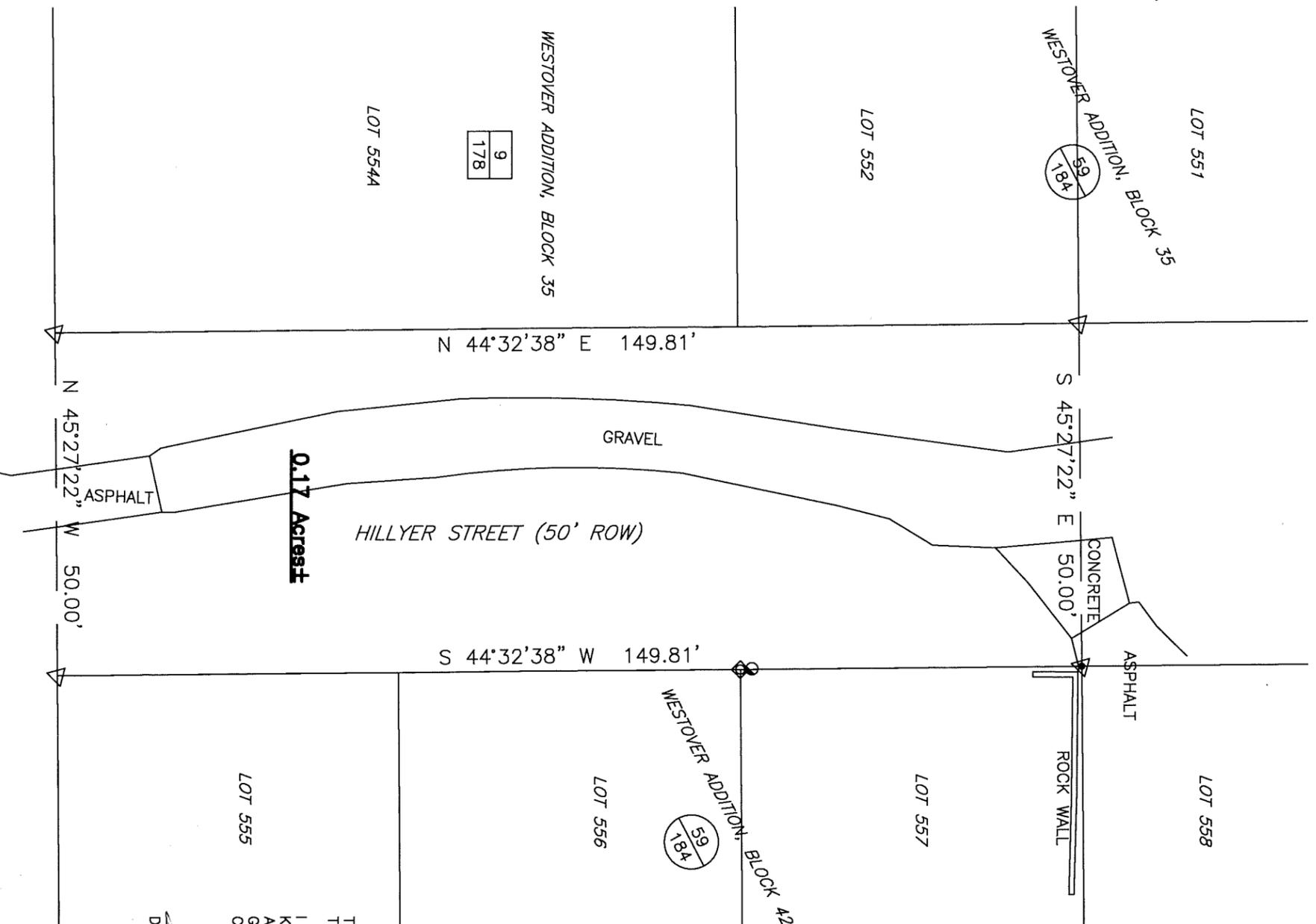
\_\_\_\_\_  
Notary Public, State of Texas

**EXHIBIT A**

**SURVEYORS NOTES**

1. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
2. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0389F, DATED SEPTEMBER 2, 2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
3. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
4. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.
5. TREE SYMBOLS ARE NOT TO SCALE AND DO NOT REPRESENT THE ACTUAL CANOPY SIZE OR LOCATION.

ORIGINAL SCALE  
1" = 20'



- LEGEND**
- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
  - HAYS COUNTY PLAT RECORDS
  - 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
  - CONCRETE NAIL SET WITH ALUMINUM WASHER STAMPED "BYRN SURVEY"
  - WATER METER

TO ERIC ROSS, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON AUGUST 8, 2019. THAT THE CORNERS ARE MONUMENTED AS SHOWN HEREON.

DAVID C. WILLIAMSON, R.P.L.S. NO. 4190



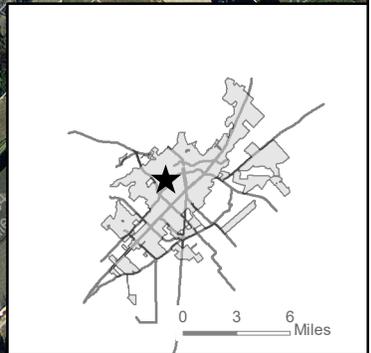
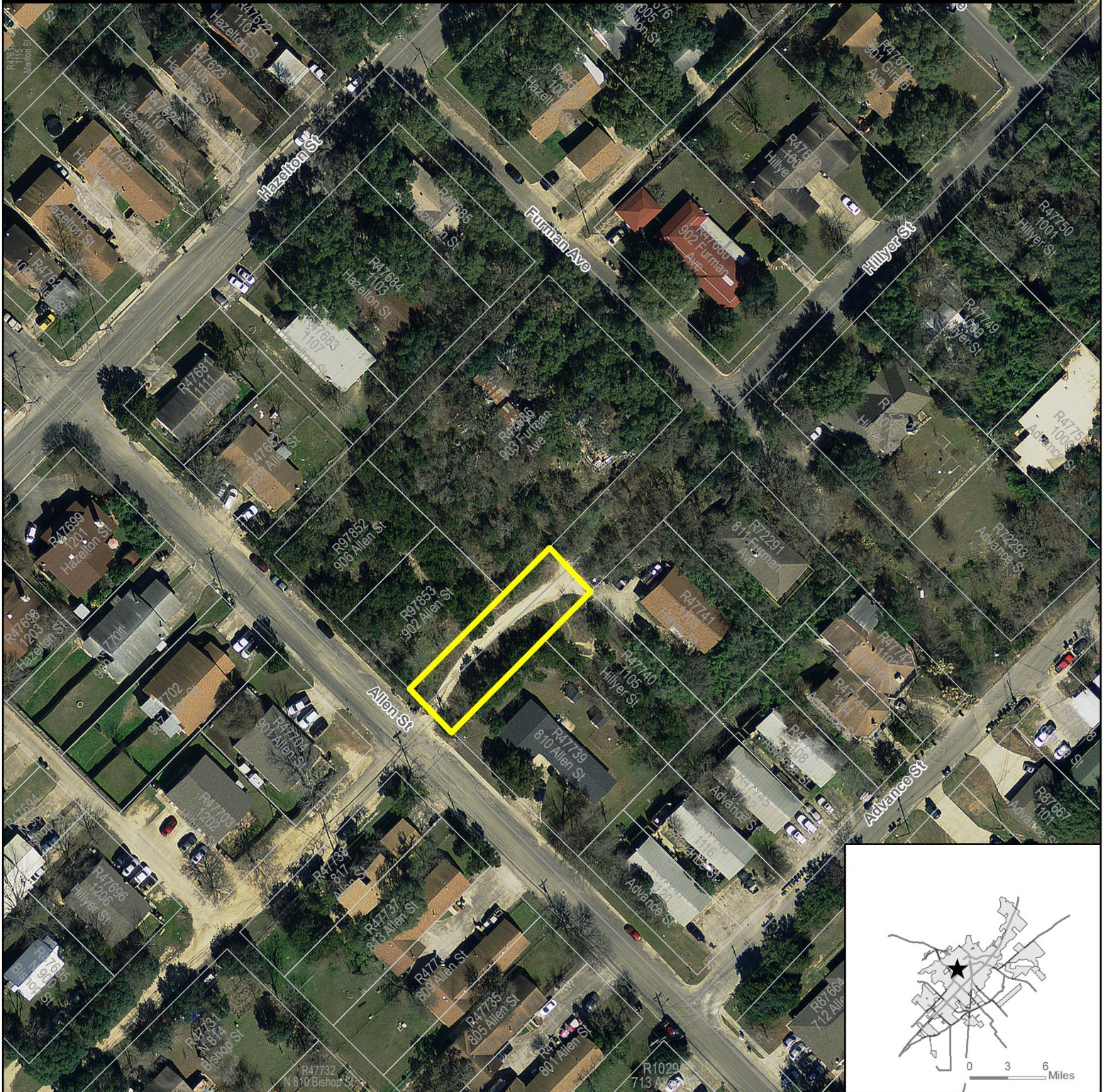
**BYRN & ASSOCIATES, INC.**  
SURVEYING

P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
PHONE 512-396-2270 FAX 512-392-2945  
FIRM NO. 10070500

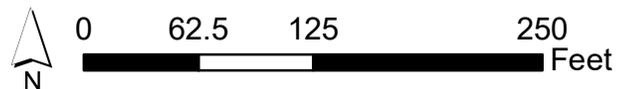
CLIENT: ROSS, ERIC  
DATE: AUGUST 8, 2019  
OFFICE: HADEN  
CREW: C. SMITH, K. SMITH  
FB/Pg: 758/75  
PLAT NO. 27884-19-2-b

PLAT OF 0.17 ACRES, MORE OR LESS,  
BEING A PORTION OF HILLIER STREET, WESTOVER ADDITION,  
CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

# LA-19-01 Location Map License Agreement



- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



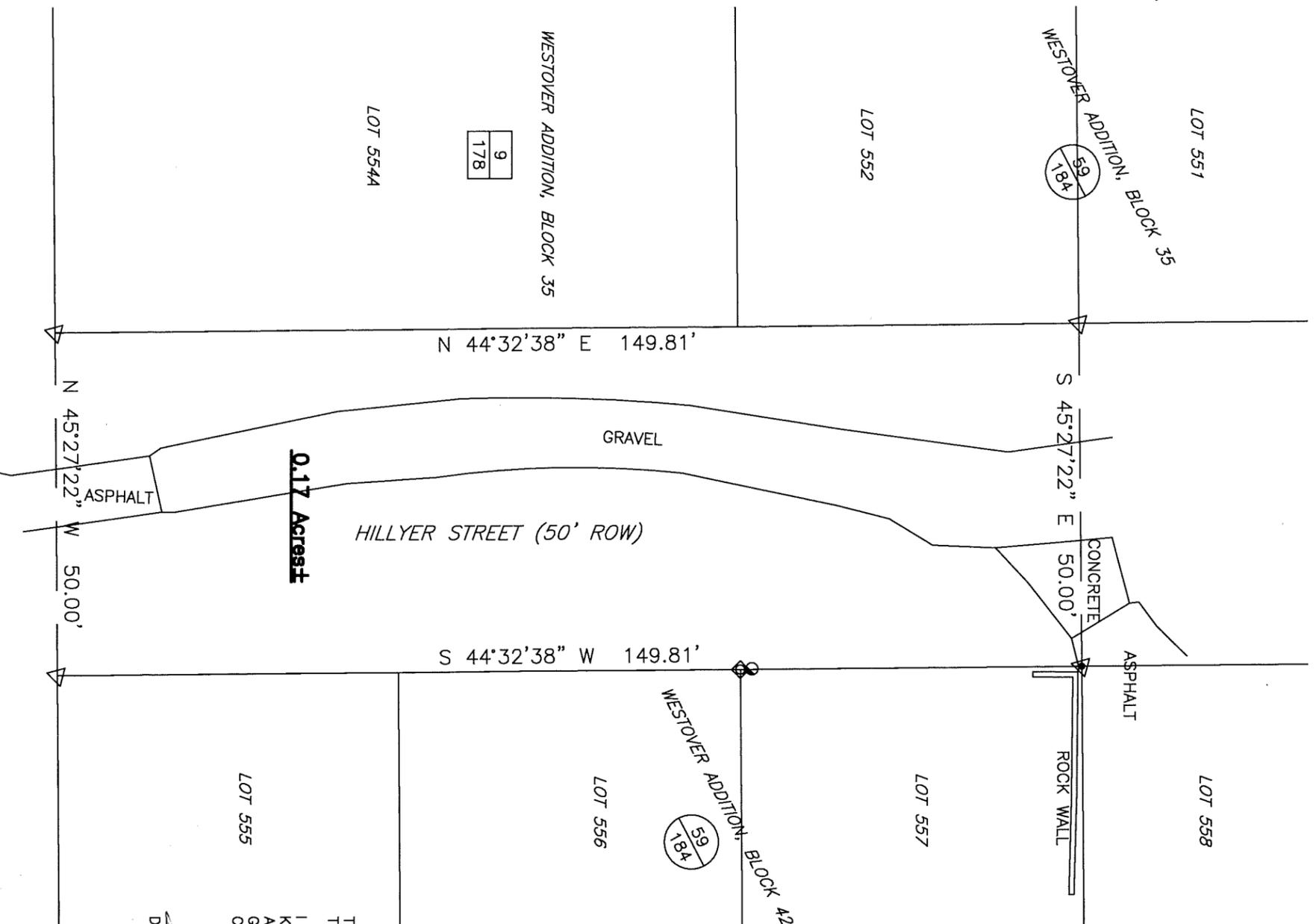
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/11/2020

**SURVEYORS NOTES**

1. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
2. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0389F, DATED SEPTEMBER 2, 2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
3. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
4. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.
5. TREE SYMBOLS ARE NOT TO SCALE AND DO NOT REPRESENT THE ACTUAL CANOPY SIZE OR LOCATION.

ORIGINAL SCALE  
1" = 20'



**LEGEND**

- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- HAYS COUNTY PLAT RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- CONCRETE NAIL SET WITH ALUMINUM WASHER STAMPED "BYRN SURVEY"
- WATER METER

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DAVID C. WILLIAMSON, R.P.L.S. NO. 4190



**BYRN & ASSOCIATES, INC.**

**SURVEYING**

P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
PHONE 512-396-2270 FAX 512-392-2945  
FIRM NO. 10070500

CLIENT: ROSS, ERIC  
DATE: AUGUST 8, 2019  
OFFICE: HADEN  
CREW: C. SMITH, K. SMITH  
FB/Pg: 758/75  
PLAT NO. 27884-19-2-b

PLAT OF 0.17 ACRES, MORE OR LESS,  
BEING A PORTION OF HILLYER STREET, WESTOVER ADDITION,  
CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

**Subject:** [EXTERNAL] 1105 Hillyer St., San Marcos, Texas  
**Date:** Tuesday, December 10, 2019 11:12:37 AM

---

To follow-up on our phone conversation. I received a request from Eric Scott Ross of 142 Cimarron Park Loop, Suite A, Buda, Texas 78610 regarding property at 1105 Hillyer St., San Marcos, Texas. He asked me to sign a letter giving my consent for a License to Encroach Application. My understanding is that he wants to construct a residential driveway on an existing dirt road called Hillyer Street.

I have no objection to his paving the dirt road to create access to the lot he owns on Hillyer to enable him to construct a single family residence. I want to make sure that no encroachment will be made or granted onto the property that belongs to me.

If you need further information or clarification please contact me at 512-396-8135.

Sherryl Boyd

**CAUTION:** This email is from an EXTERNAL source. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious

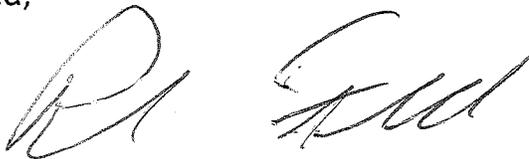
To: City of San Marcos, Planning and Development Office

Re: License to Encroach Application from Eric Scott Ross at 1105 Hillyer.

My name is Richard Frazell. I am the property owner at 903 Furman Ave, San Marcos, TX 78666. My mailing address is PO Box 1504 San Marcos TX 78667.

I hereby provide my consent, in accordance with Mr. Ross's application, for license to encroach on the dirt road owned by the city of San Marcos, for purposes of constructing a residential driveway to his lot at 1105 Hillyer St.

Signed,

A handwritten signature in cursive script, appearing to read 'Richard Frazell', written in black ink.

Richard Frazell

To: City of San Marcos, Planning and Development Office

Re: License to Encroach Application from Eric Scott Ross at 1105 Hillyer.

My name is Terri Cravey. I am the property owner at 1103 A/B Hillyer St.  
San Marcos TX 78666. My mailing address is 3610 Silver Hill Circle, Austin TX  
78746

I hereby provide my consent, in accordance with Mr. Ross's application, for  
license to encroach on the dirt road owned by the city of San Marcos, for  
purposes of constructing a residential driveway to his lot at 1105 Hillyer St.

Signed,

A handwritten signature in black ink that reads "Terri Cravey". The signature is written in a cursive style with a large initial "T" and a long, sweeping tail on the "y".

Terri Cravey

To: City of San Marcos, Planning and Development Office

Re: License to Encroach Application from Eric Scott at 1105 Hillyer, San Marcos, TX 78666

My name is Michael R. Shade, I am the property owner at 902 Allen St., San Marcos, TX 78666.  
My Mailing Address is P.O. Box 7121, Granbury, TX 76049.

I hereby provide my consent, in accordance with Eric Scott Ross's application, for a license to encroach on the dirt road, See Attached Exhibit "A", owned by the City of San Marcos, TX, for the purposes of constructing a residential driveway to his Lot, located at 1105 Hillyer St., TX 78666.



Michael R. Shade

**Date:** February 19, 2020

# Hays CAD Web Map

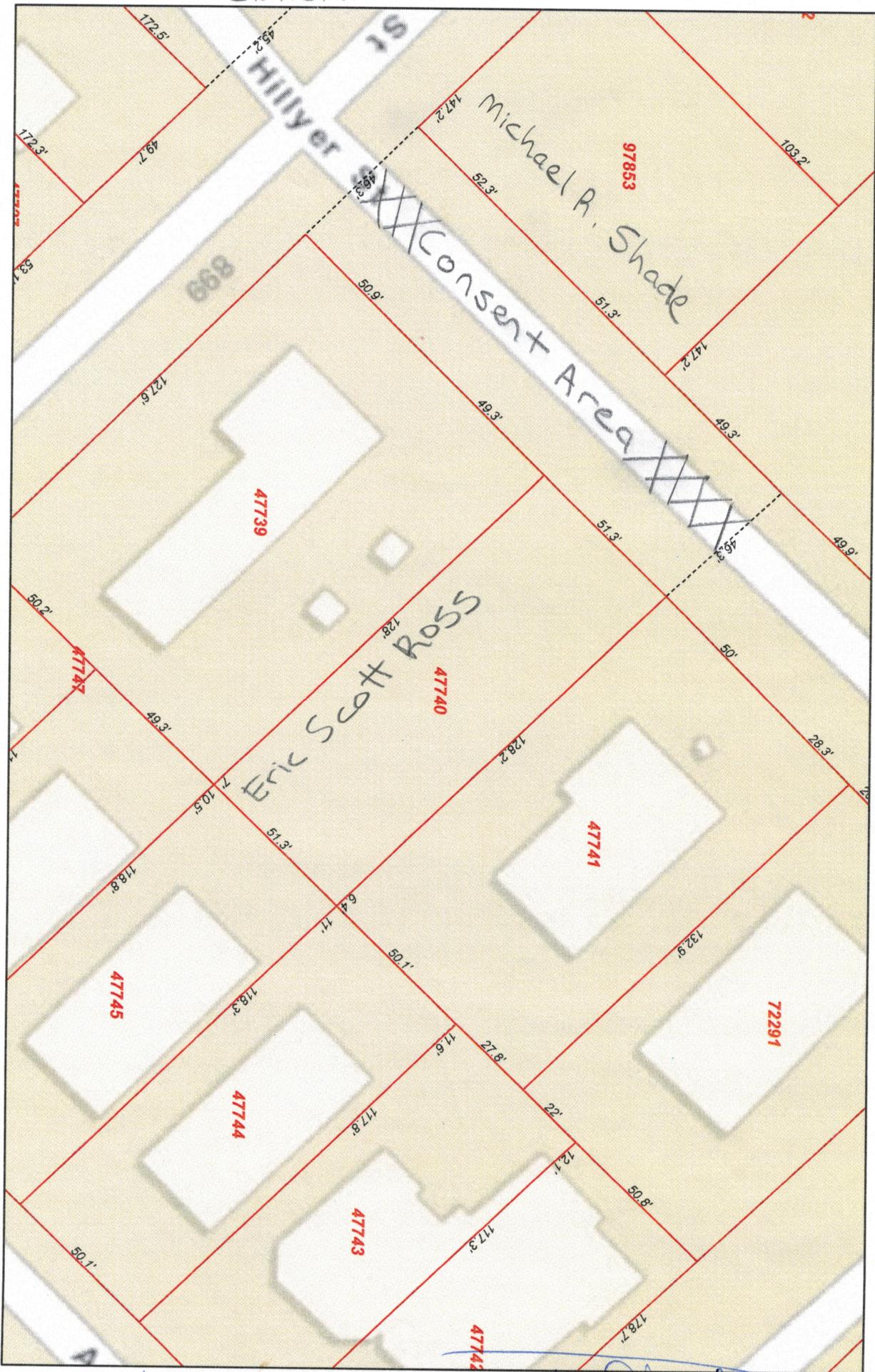


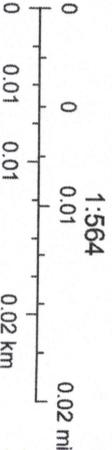
Exhibit "A"

2-19-2020

*Michael R. Shade*

2/10/2020, 5:12:46 PM

- Abstracts
- Parcels
- Lot Lines



Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

Hays County Appraisal District, BIS Consulting - www.bisconsulting.com

# LICENSE TO ENCROACH APPLICATION

Updated: October, 2018

Case # LA-\_\_\_\_-\_\_\_\_



## CONTACT INFORMATION

<b>Applicant's Name</b>	Eric Scott Ross	<b>Property Owner</b>	E & T Real Estate LLC
<b>Applicant's Mailing Address</b>	142 Cimarron Park Loop Suite A Buda TX 78610	<b>Owner's Mailing Address</b>	142 Cimarron Park Loop Suite A Buda TX 78610
<b>Applicant's Phone #</b>	512-757-4444	<b>Owner's Phone #</b>	512-757-4444
<b>Applicant's Email</b>	EScottRoss@gmail.com	<b>Owner's Email</b>	EScottRoss@gmail.com

## PROPERTY INFORMATION

**Location of Proposed Encroachment:** 1105 Hillyer St. San Marcos TX 78666

**Type of Encroachment**       Right-of-Way       Easement

**Subdivision** WESTOVER, BLOCK 42, LOT 557

**Proposed Use:** Residential driveway for single family home

**Justification for Encroachment (why should this request be granted):** See attached letter

## AUTHORIZATION

DocuSigned by:

E. Scott Ross 

9/11/2019

8EDA7E5F9FEB4AC...

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request. I will hold the City of San Marcos harmless, and indemnify it against all suits, costs, expenses and damages that may arise or grow out of approval of this application and release the City from any and all claims arising out of or in connection with damage to encroaching structures.*

**Filing Fee \$1,030      Technology Fee \$12      TOTAL COST \$1,042**

**Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.**

**APPLY ONLINE – [WWW.MYGOVERNMENTONLINE.ORG/](http://WWW.MYGOVERNMENTONLINE.ORG/)**



## CHECKLIST FOR LICENSE TO ENCROACH APPLICATION

The following items are requested for consideration of this application. These and additional items may be required at the request of the Department	Comments
<input checked="" type="checkbox"/> <i>Pre-development meeting with staff is recommended</i> <ul style="list-style-type: none"> <li>• Please visit <a href="http://sanmarcostx.gov/1123/Pre-Development-Meetings">http://sanmarcostx.gov/1123/Pre-Development-Meetings</a> to schedule</li> </ul>	Completed 3/24/2019 and subsequent emails with Alison Brake.
<input checked="" type="checkbox"/> Completed Application for License to Encroach	
<input type="checkbox"/> Site Plan illustrating the encroachment, may include photos	
<input checked="" type="checkbox"/> Building Plans for all encroaching structures, which must be approved by the Building Official prior to approval of this application.	
<input checked="" type="checkbox"/> Metes & Bounds description of the area to be encroached upon	Survey of subject property attached
<input checked="" type="checkbox"/> CAD file in grid for GIS integration. Projection: NAD 1983 StatePlane Texas South Central FIPS 4204 Feet	Survey of subject property attached
<input checked="" type="checkbox"/> Detailed sketch of the area sought to be encroached upon & the surrounding area to the nearest streets in all directions, showing the abutting lots and blocks	Attached
<input type="checkbox"/> Letters of Consent from all property owners abutting the area to be encroached upon, including names & addresses	
<input checked="" type="checkbox"/> Application Filing Fee    \$1,030 Technology Fee            \$12	Check # 2571 attached
<b>**San Marcos Development Code Section 2.3.1.1(C): "Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete..."</b>	

DocuSigned by:  
  9/11/2019  
 8EDA7E5F9FEB4AC...



ADDENDUM - LICENSE TO ENCROACH APPLICATION - 1105 Hillyer St.

A gravel roadway has been in constant use in this location for many years, as a driveway to the adjacent property at 1103 Hillyer St. We want to utilize the same access and improve the existing gravel path into a concrete driveway. We will construct the driveway per city standards.

We need to utilize this access to our lot so that we can improve it and construct a single-family residential house on our lot. Without driveway access, our lot has no economic value. Many years ago, we requested a CIP budget for street construction (continuation of) Hillyer St in this location, but no money was ever budgeted for this project. It is apparent to me that construction of a full city street would be cost prohibitive to the viability of the project. In fact, a full city street connection to Furman is not needed because it would be redundant. All surrounding properties already have access. Also, the junction on Hillyer at Furman is situated on a very steep grade, further adding to the cost and complications of a street connection that really does not need to exist.

We just need to be able to use the existing access point of the gravel driveway off Allen St. to our lot at 1105 Hillyer and make it better by constructing a concrete driveway, per city standards. To be clear, we are not asking to increase the length of the current driveway; we are only asking to utilize and improve what is already in use, so that we can build a house on our lot.

Thank you for your consideration. Sincerely,

DocuSigned by:  
  
8EDA7E5F9FEB4AC...



9/11/2019

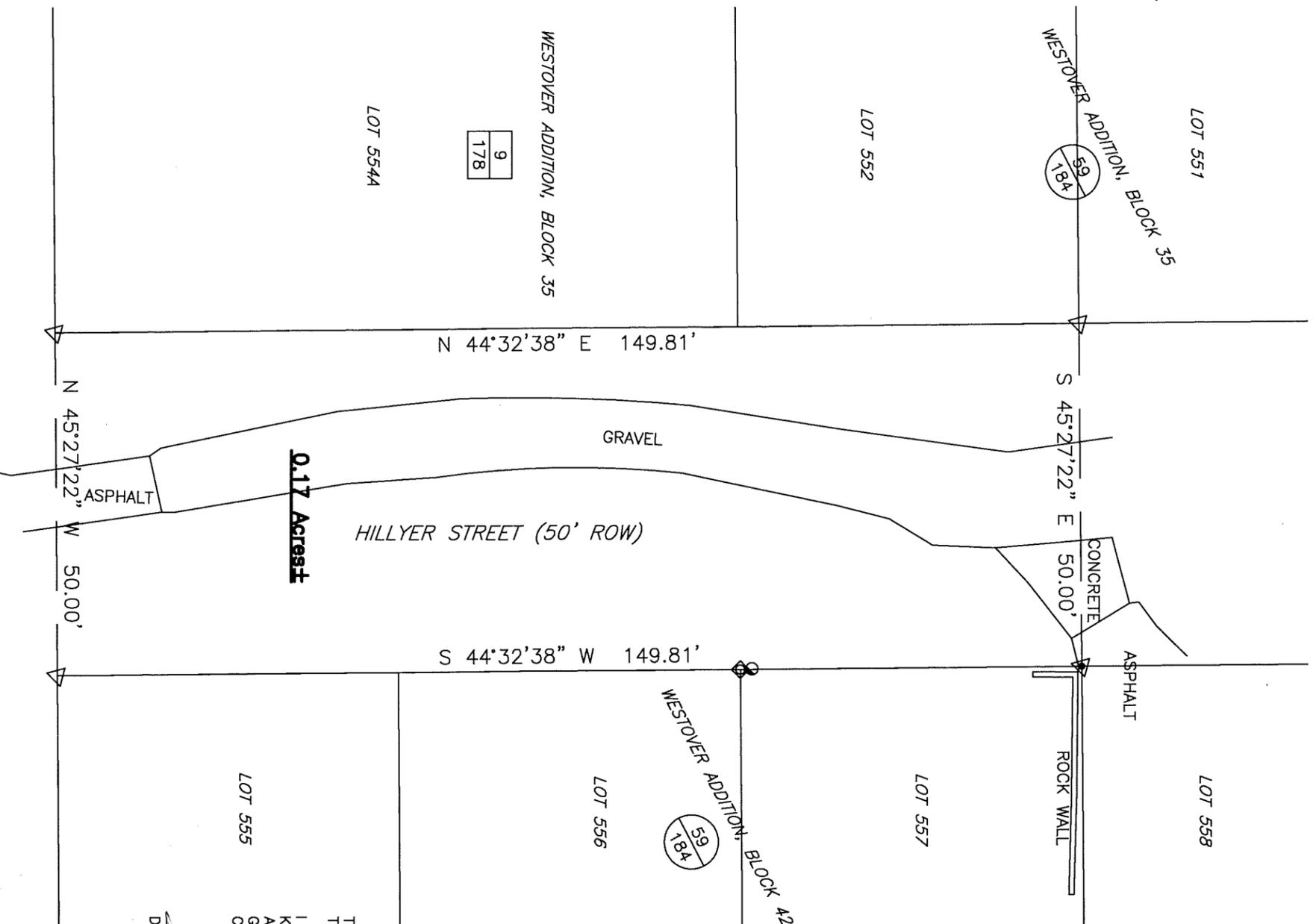
- E. Scott Ross

E&T Real Estate LLC

**SURVEYORS NOTES**

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ORIGINAL SCALE  
1" = 20'



- LEGEND**
- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
  - HAYS COUNTY PLAT RECORDS
  - 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
  - CONCRETE NAIL SET WITH ALUMINUM WASHER STAMPED "BYRN SURVEY"
  - WATER METER

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DAVID C. WILLIAMSON, R.P.L.S.

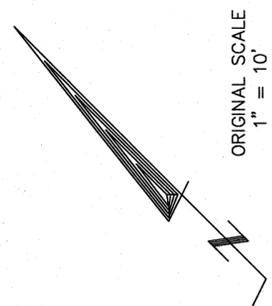


**BYRN & ASSOCIATES, INC.**  
SURVEYING

P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
PHONE 512-396-2270 FAX 512-392-2945  
FIRM NO. 10070500

CLIENT: ROSS, ERIC  
DATE: AUGUST 8, 2019  
OFFICE: HADEN  
CREW: C. SMITH, K. SMITH  
FB/Pg: 758/75  
PLAT NO. 27884-19-2-b

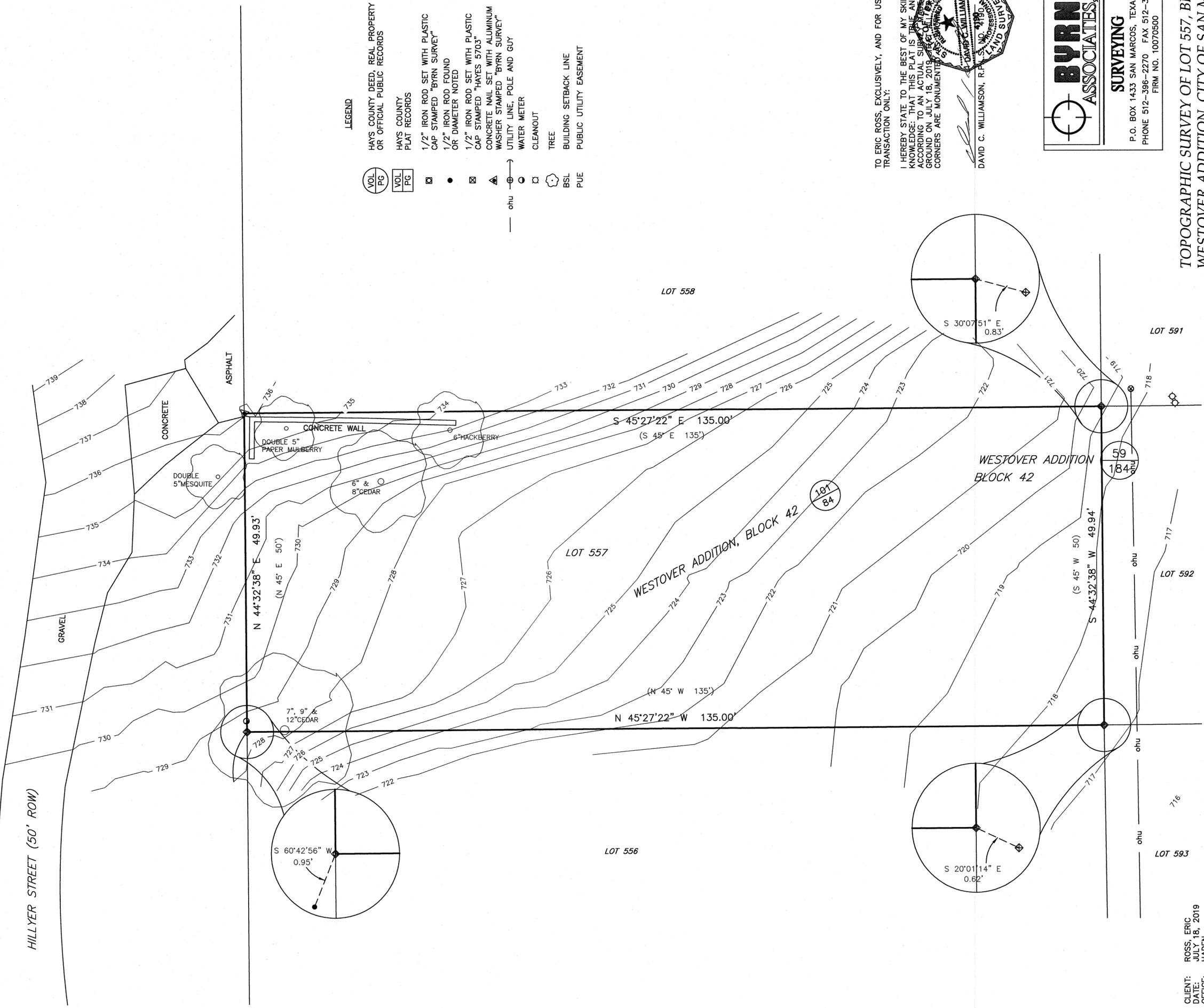
PLAT OF 0.17 ACRES, MORE OR LESS,  
BEING A PORTION OF HILLYER STREET, WESTOVER ADDITION,  
CITY OF SAN MARCOS, HAYS COUNTY, TEXAS



ORIGINAL SCALE  
1" = 10'

- SURVEYOR'S NOTES**
1. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
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HILLIER STREET (50' ROW)



**LEGEND**

- |  |  |
|--|--|
|  | HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS   |
|  | HAYS COUNTY PLAT RECORDS                                     |
|  | 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"     |
|  | 1/2" IRON ROD FOUND OR DIAMETER NOTED                        |
|  | 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "HAYES 5703"      |
|  | CONCRETE NAIL SET WITH ALUMINUM WASHER STAMPED "BYRN SURVEY" |
|  | UTILITY LINE, POLE AND GUY                                   |
|  | WATER METER  |
|  | CLEANOUT   |
|  | TREE   |
|  | BUILDING SETBACK LINE  |
|  | PUE  |

TO ERIC ROSS, EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY OF THE GROUND ON JULY 18, 2019. SET OFF ALL PROPERTY CORNERS ARE MONUMENTED AS SHOWN HEREON.



DAVID C. WILLIAMSON, R.P.S.

**BYRN & ASSOCIATES, INC.**  
**SURVEYING**  
 P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
 PHONE 512-396-2270 FAX 512-392-2945  
 FIRM NO. 10070500

TOPOGRAPHIC SURVEY OF LOT 557, BLOCK 42,  
 WESTOVER ADDITION, CITY OF SAN MARCOS,  
 HAYS COUNTY, TEXAS

CLIENT: ROSS, ERIC  
 DATE: JULY 18, 2019  
 OFFICE: HAYES  
 CREW: C. SMITH, K. SMITH  
 BY/PG: 758/75  
 PLAT NO. 27864-19-C



**Proposed area for construction of driveway on encroachment, shaded orange, left.**

**Approx length: 125 ft  
Approx width: 10 ft.**

**Existing gravel driveway**



## LA-19-01 (1105 Hilyer)

Consider a request by Eric Scott Ross on behalf of E&T Real Estate LLC for a License Agreement to improve approximately 149 feet, more or less, of City right-of-way that is currently gravel to a paved driveway standard. (W. Parrish)

- A portion of Hilyer Road is currently not paved to City street standards, but is currently gravel
- The applicant wishes to improve the street to a paved driveway standard, in order to provide adequate access to his undeveloped residential lot.
- All property owners adjacent to the unimproved right-of-way have given their permission for the request to move forward.
- The Public Services and Fire departments have requested that the improvements be a minimum of 14 feet wide. The applicant has agreed to this request.

**LA-19-01  
Location Map  
License Agreement**



<ul style="list-style-type: none"> <li>★ Site Location</li> <li>▭ Subject Property</li> <li>▭ Parcel</li> <li>▭ City Limit</li> </ul>	<p>0 62.5 125 250 Feet</p> <p>This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</p> <p>Map Date: 3/11/2020</p>
---	--

## **Recommendation:**

The Planning Department has reviewed the request and recommends approval as submitted.



## Legislation Text

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**File #:** Ord. 2020-18, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-18, on the first of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** City Manager

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** March 3, 2020 - Council held discussion and consensus was to bring this back in the form of an Ordinance.

October 15, 2019 - Council discussed this item during its regular meeting but did not provide direction to staff. Rather, the Council referred the item back to the Criminal Justice Reform Committee for further work.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Choose an item.

- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The San Marcos City Council empaneled a Criminal Justice Reform subcommittee to study local criminal justice reform efforts in parallel with the work being done at the county level. The committee originally consisted of Council Member Mark Rockey Moore (chair), Council Member Lisa Prewitt, and Council Member Dr. Ed Mihalkanin. The committee began meeting monthly in July, 2019. The committee has been working on a draft ordinance that pertains to the use of Cite and Release by sworn law enforcement officers employed by the City. In their regular meeting held on October 3, 2019, the committee developed language for this draft ordinance and presented that language to the Council on October 15, 2019. During that meeting, discussion by the members of Council in conjunction with questions and answers to and from members of staff and the community prompted the Council to send the item back to the committee for further development.

On November 7, 2019, the Criminal Justice Reform (CJR) committee met again and discussed a third version of the ordinance developed by committee members and constituents associated with Mano Amiga. There were substantive changes in this draft that had previously been removed, and there was a lack of consensus on a few of the points. Additionally, a red-lined copy of the ordinance in relation to the prior version was not available. A representative from Mano Amiga volunteered to create the red-lined draft and send that to the committee members and staff representatives. Approximately one week later, staff received a red-lined document for review. That document contained additional wording not previously discussed in any of the meetings, so it became clear that another meeting would need to be held to further discuss what a final draft might look like. The committee did not meet over the Christmas and New Year's holiday time period and reconvened on January 28, 2020. One committee member was new since the November 7, 2019 meeting. Council Member Dr. Marquez replaced outgoing Council Member Lisa Prewitt.

A discussion item about the draft ordinance language was presented to Council during their regular meeting on March 3, 2020. There was consensus among the Council after discussion to bring the item back after Spring Break as an ordinance for consideration. The ordinance language attached to this item is ready for

Council consideration. All of the attachments available during the March 3 discussion remain available for Council's review.

**Council Committee, Board/Commission Action:**

The Criminal Justice Reform committee met multiple times with staff representatives and prepared the attached ordinance language.

**Alternatives:**

After consideration, the Council may elect to adopt the ordinance language as-is, amend the ordinance, or reject the ordinance entirely.

**Recommendation:**

When this item was discussed on March 3, 2020 the staff recommendation was to adopt a resolution in support of many of the tenants found in the ordinance language. Staff still believes this to be the best approach but stands ready to implement Council's direction regardless of whether that be in the form of an ordinance or resolution.



# MEMO

**TO:** Mayor Hughson and Council  
**FROM:** Chase Stapp, Director of Public Safety  
**DATE:** February 20, 2020  
**RE:** Article 14.06 – Texas Code of Criminal Procedure (Cite and Release)

---

At the core of the discussion about local criminal justice reform is the topic of the use of cite and release in lieu of custody arrest for certain Class A, Class B, and Class C misdemeanor offenses. For reference, copied below is the section of the Texas Code of Criminal Procedure that allows for the use of citation in lieu of custody arrest in certain instances.

Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE. (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article [15.17](#) of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article [15.17](#) of this Code.

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section [49.02](#), Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains:

- (1) written notice of the time and place the person must appear before a magistrate;
- (2) the name and address of the person charged;
- (3) the offense charged;
- (4) information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount; and

(5) the following admonishment, in boldfaced or underlined type or in capital letters:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section [46.04](#)(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(c) If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section [481.121](#), Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section [481.1161](#), Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section [28.03](#), Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section [28.08](#), Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4) Section [31.03](#), Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section [31.04](#), Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section [38.114](#), Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7) Section [521.457](#), Transportation Code.

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE SUPPORTING THE SAN MARCOS POLICE DEPARTMENT'S INCREASED USE OF THE CITE AND RELEASE PROCESS, WHEN APPROPRIATE, INSTEAD OF ARRESTING INDIVIDUALS SUSPECTED OF HAVING COMMITTED CERTAIN MISDEMEANOR OFFENSES; REQUIRING RECORD KEEPING AND REPORTING OF USE OF THE CITE AND RELEASE PROCESS AND INSTANCES IN WHICH INDIVIDUALS HAVE BEEN ARRESTED FOR CITE AND RELEASE ELIGIBLE OFFENSES; AND PROVIDING AN EFFECTIVE DATE**

**RECITALS:**

1. State law allows use of citation in lieu of arrest for certain misdemeanor offenses.
2. In 2018, the San Marcos Police Department (SMPD) made arrests for citation-eligible offenses, which translates to lost hours of officer time.
3. Data provided by SMPD shows that in 2018, misdemeanor possession of marijuana under 2 oz and driving while license invalid accounted for more than half of arrests for citation-eligible offenses.
4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.08 of the Texas Code of Criminal Procedure.
5. The City Council supports SMPD's commitment to increase the use of the cite and release process as part of a combined strategy, in cooperation with the Hays County Criminal District Attorney's Office, to divert eligible individuals from being incarcerated, prosecuted, and convicted in the criminal justice system.
6. The City Council deems it necessary to have SMPD gather, report, and publish statistical information to demonstrate trends in the department's use of the cite and release process, including the frequency of use, offense type, justification for arrest (when an arrest is made), and the age, race, and ethnicity of individuals who were arrested and jailed instead of receiving citations and being released for the same offense.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN**

## **MARCOS:**

**SECTION 1.** The City Council supports the SMPD's increased use of the cite and release process, rather than arrest, in appropriate circumstances, for individuals suspected of committing the following offenses, in accordance with article 14.06 of the Texas Code of Criminal Procedure:

1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor
5. Graffiti, Class A or Class B misdemeanor
6. Theft of Property, Class B misdemeanor
7. Theft of Services, Class B misdemeanor

**SECTION 2.** The City Council recognizes that use of the cite and release process may not be appropriate in all circumstances and that SMPD officers may exercise their discretion to issue a written or verbal warning in lieu of issuing a citation or making an arrest for a person suspected of committing any offense listed in Section 1.

The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present:

1. The subject does not provide satisfactory evidence of personal identification to allow for citation.
2. The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed to be a resident of Hays County . In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government-issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, utility or rent bill, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification.
3. **There is reason to believe The arresting officer believes** that the safety of persons (including the subject) would be imminently endangered by

the release of the subject. In making this assessment, ~~it shall be considered~~ **the arresting officer shall consider** whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy.

4. The subject demands to be taken before a magistrate.
5. The subject has an outstanding arrest warrant from a criminal law enforcement agency.
6. The subject is also suspected of having committed an offense for which the cite and release process is not allowed by state law.

**SECTION 3.** In any case where an arrest is made for the above-listed offenses, the specific reasons for making the arrest instead of issuing a citation shall be included in the incident report. No arresting officer described in this section shall be charged with any criminal offense for non-compliance with this ordinance.

**SECTION 4.** The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications for the arrests. The memorandum shall also include the following data for each instance:

1. The reason for the stop;
2. The particular offense alleged;
3. The age, race, and ethnicity of the person arrested;
4. The location where the incident occurred.
5. The reason for the arrest.

Information regarding specific arrests shall be organized according to race and ethnicity in order to allow racial disparities to be easily analyzed. This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

**SECTION 5.** The City Council directs the City Manager to work with the San Marcos Police Chief and other relevant stakeholders mentioned below to update all relevant City policies and internal operating procedures in accordance with this Ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual, updating the training bulletin and training officers on the new guidelines for citation versus arrest, and updating the internal databases and systems to remove any guidelines under the manual that are no longer in effect due to this Ordinance.

The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation.

**SECTION 6.** A progress update shall be provided to City Council within three months after adoption of this ordinance. A written update shall be provided to the City Council within six months after the adoption of this ordinance which includes information regarding all updates to policies, procedures, and practices identified and implemented, as a result of this ordinance.

**SECTION 7.** This ordinance shall become effective upon approval on second reading.

**PASSED AND APPROVED ON FIRST READING** on April 7, 2020.

**PASSED, APPROVED AND ADOPTED** on April 21, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney



# MEMO

**TO:** Mayor Hughson and Council  
**FROM:** Chase Stapp, Director of Public Safety  
**DATE:** February 10, 2020  
**RE:** Draft Cite and Release Agenda Item for March 3

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The Criminal Justice Reform (CJR) Council Committee met on January 28, 2020 to revisit draft legislation language surrounding the use of Cite and Release processes by members of the San Marcos Police Department. Previously on October 15, 2019, Council discussed a prior draft version of ordinance language but directed that it be discussed and developed further by CJR committee. After discussion by the committee on January 28, the members of the committee provided direction that a discussion item be brought before Council on March 3, 2020. The purpose of this memo is to summarize three main decision points that the CJR committee respectfully requests Council direction on.

## **Resolution or Ordinance?**

The first of these decision points is whether Council as a whole intends to move this legislation forward as a resolution or as an ordinance. Staff believes that there are certain advantages to advancing this item forward as a resolution. Members of Mano Amiga, a local civil rights advocacy group that has been active in these discussions, feel strongly that an ordinance is the most appropriate method for Council to act on this topic. The members of the CJR committee were not in complete agreement in their thinking about this decision point. The optics of the message sent by Council to the members of the Police Department and the community is the key difference between the two options. A resolution is generally viewed as a message sent by Council in support of a particular program or process. A resolution in this instance could serve to communicate to staff the Council's support of an expanded Cite and Release program to include increased data analysis and community involvement. On the other hand, an ordinance will be interpreted by staff, as it should be, as a Council mandate directing staff to take certain action relative to Cite and Release. One risk associated with this approach is that the crafting of an ordinance could unintentionally send the message that Council does not acknowledge or appreciate the extensive work already done by leadership and line level staff at the Police Department to improve the department's use of Cite and Release and the level of data transparency related to the program. The draft language being reviewed and discussed by Council at this meeting could ultimately be written in the form of either a resolution or an ordinance.

## **Violations to Include in Statement of Support:**

The second decision point that the CJR committee asks for direction on relates to the wording contained within Section 1 of the draft legislation. The purpose of this section is for Council to make a statement in support of the use of Cite and Release for certain types of offenses. State law limits the use of Cite and Release to eight enumerated class A and B misdemeanors in addition to almost all Class C misdemeanors. The CJR committee agreed that two of those offenses should not be listed in Section 1 as offenses about which Council expressed support for the use of Cite and Release. Those

two offenses are Possession of a Controlled Substance in Penalty Group 2A (commonly referred to as synthetic marijuana compounds) and Possession of Contraband in a Correctional Facility. The remaining list of offenses that appear in Section 1 were not unanimously supported by members of the CJR committee, but the members were unanimous in that this area should be discussed by the full Council. These offense types are highlighted in yellow in section 1 of the attached draft language. The question at hand involves whether or not Council desires to express support for the use of Cite and Release for the crimes that involve the deprivation of a victim's personal property by either theft or destruction. It was discussed that victims of property crime often have a guttural reaction to being victimized in this way, and Council may or may not want to include these offenses in the list of offenses for which they support the use of Cite and Release. The other point of view is that all of these offenses should be listed so that the wording in the legislation most closely mirrors what is allowed by state law. Regardless of the direction the Council chooses to take, members of the Police Department will be allowed by policy and state law to exercise their discretion and consider using Cite and Release for all of the eligible offenses.

**Wording to Limit Discretion:**

The third and final decision point is found in Section 2 of the draft language and surrounds whether or not to include the word "only" in a sentence that introduces a list of possible exceptions to the use of Cite and Release. The CJR committee again were not unanimously in agreement about the inclusion of this word. Staff believes that the wording severely restricts an officer's use of discretion about when it is or is not appropriate to use Cite and Release. Specifically, staff feels that the list of possible exceptions, though fairly exhaustive, should not be viewed as the only things that may preclude the use of Cite and Release. Our police officers deal with an extremely wide array of circumstances in their daily work, and staff believes that limiting their discretion with this wording does not allow for the flexibility needed to make sound arrest decision that best serve our goal of enhancing public safety in San Marcos. On the other hand, proponents of the language highlighted in yellow argue that it serves to provide needed direction on the limited use of discretion by officers. As with the other two decision points, the members of the CJR committee respectfully request that Council discuss and provide direction.

After Council discussion and direction, staff is prepared to bring back an action item in line with Council recommendations at the next meeting.



# MEMO

**TO:** Mayor Hughson and Council  
**FROM:** Chase Stapp, Director of Public Safety  
**DATE:** February 10, 2020  
**RE:** 2018 and 2019 SMPD Cite and Release Data - Summary

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Attached to the agenda item for the March 3 regular Council meeting pertaining to Cite and Release are four spreadsheets that provided detailed information about the use of Cite and Release by sworn members of the San Marcos Police Department in 2018 and 2019. This data was compiled and prepared by Assistant Chief Brandon Winkenwerder for your information and involved an exhaustive and labor-intensive process. The purpose of this memo is to provide some explanation of the data to make it easier to process.

You will see two spreadsheets related to the 2018 data and two related to the 2019 data. The first spreadsheet for each year is the breakdown of data by offense type, race, gender, and citation eligibility. The second spreadsheet for each year is a summary breakdown of the most common reasons a person was deemed to be ineligible for Cite and Release in accordance with state law. In this memo I will provide background explanation about these documents in that respective order.

## **Cite and Release Data Spreadsheets:**

When reviewing the first spreadsheet for each year, please first take your attention to column O (Total) and then to columns B (Not Eligible), F (Eligible) and J (Cite.) Also of note is Column A which lists the various types of offenses eligible for the use of Cite and Release according to state law. Aggregate data with all offense types is found near the top of the spreadsheet. Column O shows the total number of instances whether that be aggregate or by offense type. Column B shows the number of people by various categories who were deemed ineligible for the use of Cite and Release for various reasons. Column F reflects the number of people who were found to be eligible but were arrested rather than being release with a citation. Column J reflects the number of people who were released using a field release citation. Near the top right corner of the spreadsheet you will see summary data of the number of people who were released using a field citation sorted by race/ethnicity and gender. The total number of eligible individuals and circumstances is reached by adding the number of people who were eligible but did not receive a citation (column F) and the number of people who were released with the use of a citation (column J.)

## **Cite and Release Ineligibility Summary Spreadsheets:**

In his analysis of the reasons why people were not eligible for Cite and Release, Chief Winkenwerder noted five primary reasons that contributed to a person being ineligible. Those were residency (not a resident of Hays County), additional charges (the arrested person faced additional charges not eligible for cite and release), a combination of residency and additional charges, the existence of an arrest warrant for the offender, and the offender was referred to mental health services. This spreadsheet provides aggregate data near the top and below that details each of these criteria for the various cite

and release eligible offenses. The data can be found in columns C (residency), E (charges), G (combination of residence and charges), I (outstanding arrest warrant), and K (mental health referral.)

The following abbreviations are used in both spreadsheets:

POM = Possession of Marihuana

MA/MB = Misdemeanors of either class A or B

POCS = Possession of controlled substance

2A = Penalty group 2A

CM = Criminal Mischief

DWLI = Driving while license invalid







	A	B	C	D	E	F	G	H	I	J	K	L
1												
2	<b><u>2018 Cite Arrest Ineligibility</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>
3	Not Eligible	375	107	28.5	150	40	109	29.1	8	2.1	1	0.2
4	Eligible/Cite	168										
5												
6	<b><u>POM 2 -4 oz MA</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>
7	Not Eligible	11	1	9	6	54	4	36	0	0	0	0
8	Eligible/Cite	2										
9												
10	<b><u>POCS 2A MB</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>
11	Not Eligible	1	1	100	0	0	0	0	0	0	0	0
12	Eligible/Cite	0										
13												
14	<b><u>POCS 2A MA</u></b>											
15	Total	0										
16												
17	<b><u>Theft of Service MB 100-750</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>
18	Not Eligible	1	0	0	1	100	0	0	0	0	0	0
19	Eligible/Cite	0										
20												
21	<b><u>CM MA 750-2500</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>
22	Not Eligible	15	2	13.3	7	46.6	5	33.3	0		1	6.6
23	Eligible/Cite	1										
24												
25	<b><u>CM MB 100-750</u></b>		<b><u>Residence</u></b>	<b><u>%</u></b>	<b><u>Charge</u></b>	<b><u>%</u></b>	<b><u>RC</u></b>	<b><u>%</u></b>	<b><u>Warrant</u></b>	<b><u>%</u></b>	<b><u>MH</u></b>	<b><u>%</u></b>

















## **An Ordinance Regarding Arrests and Citations**

### **RECITALS:**

1. State law allows use of citation in lieu of arrest for certain misdemeanor offenses.
2. In 2018, the San Marcos Police Department (SMPD) made arrests for citation-eligible offenses, which translates to lost hours of officer time.
3. Data provided by SMPD shows that in 2018, misdemeanor possession of marijuana under 2 oz and driving while license invalid accounted for more than half of arrests for citation-eligible offenses.
4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.08 of the Texas Code of Criminal Procedure.
5. The City Council supports SMPD's commitment to increase the use of the cite and release process as part of a combined strategy, in cooperation with the Hays County Criminal District Attorney's Office, to divert eligible individuals from being incarcerated, prosecuted, and convicted in the criminal justice system.
6. The City Council deems it necessary to have SMPD gather, report, and publish statistical information to demonstrate trends in the department's use of the cite and release process, including the frequency of use, offense type, justification for arrest (when an arrest is made), and the age, race, and ethnicity of individuals who were arrested and jailed instead of receiving citations and being released for the same offense.

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS:**

#### **Section 1.**

The City Council supports the SMPD's increased use of the cite and release process, rather than arrest, in appropriate circumstances, for individuals suspected of committing the following offenses, in accordance with article 14.06 of the Texas Code of Criminal Procedure:

1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor
5. Graffiti, Class A or Class B misdemeanor
6. Theft of Property, Class B misdemeanor
7. Theft of Services, Class B misdemeanor

#### **Section 2.**

The City Council recognizes that use of the cite and release process may not be appropriate in all circumstances and that SMPD officers may exercise their discretion to issue a written or verbal warning in lieu of issuing a citation or making an arrest for a person suspected of committing any offense listed in Section 1.

The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present:

1. The subject does not provide satisfactory evidence of personal identification to allow for citation.
2. The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed to be a resident of Hays County . In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government-issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, utility or rent bill, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification.
3. There is reason to believe that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, it shall be considered whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy .
4. The subject demands to be taken before a magistrate.
5. The subject has an outstanding arrest warrant from a criminal law enforcement agency.
6. The subject is also suspected of having committed an offense for which the cite and release process is not allowed by state law.

### **Section 3.**

In any case where an arrest is made for the above-listed offenses, the specific reasons for making the arrest instead of issuing a citation shall be included in the incident report. No arresting officer described in this section shall be charged with any criminal offense for non-compliance with this ordinance.

### **Section 4.**

The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications for the arrests. The memorandum shall also include the following data for each instance:

1. The reason for the stop;
2. The particular offense alleged;

3. The age, race, and ethnicity of the person arrested;
4. The location where the incident occurred.
5. The reason for the arrest.

Information regarding specific arrests shall be organized according to race and ethnicity in order to allow racial disparities to be easily analyzed. This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

## **Section 5**

The City Council directs the City Manager to work with the San Marcos Police Chief and other relevant stakeholders mentioned below to update all relevant City policies and internal operating procedures in accordance with this Ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual, updating the training bulletin and training officers on the new guidelines for citation versus arrest, and updating the internal databases and systems to remove any guidelines under the manual that are no longer in effect due to this Ordinance.

The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation.

## **Section 6.**

A progress update shall be provided to City Council within three months after adoption of this ordinance. A written update shall be provided to the City Council within six months after the adoption of this ordinance which includes information regarding all updates to policies, procedures, and practices identified and implemented, as a result of this ordinance.



## Legislation Text

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**File #:** Ord. 2020-19, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-19, requiring a landlord to provide notice of a proposed eviction action prior to issuing an actual notice to vacate and provide tenants a ninety day period to cure any delinquency as a result of the COVID-19 pandemic; creating an offense and penalty, providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** City Attorney/City Manager

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

The COVID-19 pandemic has caused economic hardship that includes difficulty on displaced workers to meet current rent obligations. All Hays County residents are currently under an order from County Judge Ruben Bercerra to stay in their homes with certain exceptions for essential activities. Evictions for non-payment of rent will force individuals to leave their residences and contribute to the community spread of the virus that causes the disease. The Texas Supreme Court has issued an order prohibiting any residential eviction actions in the state through April 19, 2020.

The attached ordinance requires a landlord to provide a written notice informing a residential tenant of a right to cure a rent delinquency within 90 days before having to vacate the premises. The ordinance is drafted to continue in effect for the duration of the Local Disaster Declaration in San Marcos due to the COVID-19 pandemic.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS REQUIRING A LANDLORD TO PROVIDE A NOTICE OF PROPOSED EVICTION PRIOR TO ISSUING AN ACTUAL NOTICE TO VACATE AND PROVIDE TENANTS A NINETY DAY PERIOD TO CURE ANY DELINQUENCY AS A RESULT OF THE COVID-19 PANDEMIC; CREATING AN OFFENSE AND PENALTY; AND DECLARING AN EMERGENCY.**

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

**RECITALS:**

- 1.** On March 15, 2020, the City of San Marcos issued a Declaration of Local Disaster that allows the City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of San Marcos residents.
- 2.** On March 25, 2020, Hays County Judge Ruben Becerra issued an Order mandating that all individuals currently living in Hays County remain at home unless performing essential functions in order to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Hays County citizens.
- 3.** On March 19, 2020, the Texas Supreme Court issued the Fourth Emergency Order Regarding the COVID-19 State of Disaster requiring that certain legal procedures relating to actions for eviction to recover possession of residential properties be suspended in light of the COVID-19 pandemic.
- 4.** The COVID-19 virus is extremely contagious and spreads through person-to-person contact, especially in group settings.
- 5.** In order to comply with the Hays County Stay at Home Order, the Texas Supreme Court Order, and federal guidance from the Centers for Disease Control and other agencies and to avoid person-to-person contact, individuals may be unable to work, which will impact a tenant's ability to pay rent, fees, or other charges associated with the tenant's lease.
- 6.** If a tenant is unable to timely pay rent, fees, or other charges because of COVID-19 and loses housing because of untimely payments, such a result is likely to increase the person-to-person contact that spreads COVID-19 in a community.
- 7.** If a landlord provides a proposed notice of eviction, a tenant will have an opportunity to cure overdue rent, fees, or other charges associated with the tenant's lease

before the tenant loses housing, which will reduce person-to-person contact with individuals outside of the tenant's household.

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

**SECTION 1.** The City Council finds that the recitals above are true and they are hereby adopted as a matter of public record. The recitals shall become a part of the legislative history pertaining to the adoption of this ordinance and shall serve to document the extraordinary circumstances existing at the time of its approval.

**SECTION 2.** Any individual or company that leases residential property in the City of San Marcos must comply with any Emergency Order issued by the Texas Supreme Court including the Fourth Emergency Order Regarding the COVID-19 State of Disaster Order issued on March 19, 2020 and any subsequent Orders governing any action for eviction to recover possession of residential property contained in Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure.

**SECTION 3.** Before any action for eviction to recover possession of residential property may occur a landlord shall give a tenant a notice of proposed eviction prior to giving a tenant an actual notice to vacate. A notice of proposed eviction must be in writing and shall include a statement informing the tenant of their right to respond and cure any delinquent rental payments due for a period of at least 90 days.

**SECTION 4.** A person commits an offense if the person fails to provide a notice of proposed eviction or if the person fails to comply with any other requirement imposed in this ordinance. A person who violates this ordinance commits a separate offense for each day the violation continues. A culpable mental state is not required for the commission of an offense under this ordinance and need not be proved. Each offense is punishable by a fine not to exceed \$500.

**SECTION 5.** It is declared to be the intention of the City Council that the phrases, sentences, paragraphs and sections of this ordinance are severable. If any part of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, sentences, paragraphs and sections.

**SECTION 6.** The COVID-19 pandemic and related emergency declarations and orders restricting the operation of various businesses jeopardize San Marcos residents' ability to maintain housing and constitutes an emergency. The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the San Marcos City Charter requiring that ordinances be presented at two separate meetings are hereby waived and this ordinance will take effect immediately upon adoption.

**SECTION 7.** This ordinance shall remain in effect until such time as there is no longer a Declaration of Local Disaster in effect in San Marcos due to the COVID-19 pandemic.

**CONSIDERED, APPROVED AND ADOPTED** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael Cosentino  
City Attorney

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 20-9045

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## FOURTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

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**ORDERED** that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. This Order supplements and does not replace or amend the First, Second, or Third Emergency Orders Regarding the COVID-19 State of Disaster.

3. In any action for eviction to recover possession of residential property under Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure:

a. No trial, hearing, or other proceeding may be conducted, and all deadlines are tolled, until after April 19, 2020;

b. A writ of possession may issue, but the posting of the written warning required by § 24.0061(d)(1) of the Property Code and the execution of the writ of possession may not occur until after April 26, 2020, and the deadlines in Rules 510.8(d)(1)-(d)(2) are tolled while this Order remains in effect; and

c. New filings may be accepted, but the time period in Rule 510.4(a)(10) is suspended, and issuance and service of citation may not occur until after April 19, 2020.

4. A case covered by Paragraph 3 may nevertheless proceed if, but only if:

a. The plaintiff files a “Sworn Complaint for Forcible Detainer for Threat to Person or For Cause”;

b. The court determines that the facts and grounds for eviction stated in the Complaint, under oath with personal knowledge, taken as true, show that the actions of the tenant, or the tenant's household members or guests, pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity; and

c. The court signs an order stating procedures for the case to proceed.

5. This Order is effective immediately and expires April 19, 2020, unless extended by the Chief Justice of the Supreme Court.

6. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on [www.txcourts.gov](http://www.txcourts.gov);

b. file a copy of this Order with the Secretary of State; and

c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

7. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

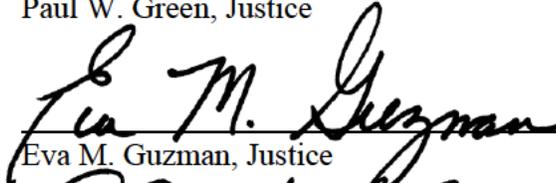
Dated: March 19, 2020



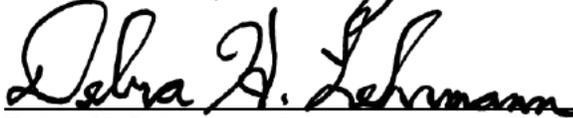
Nathan L. Hecht, Chief Justice



Paul W. Green, Justice



Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



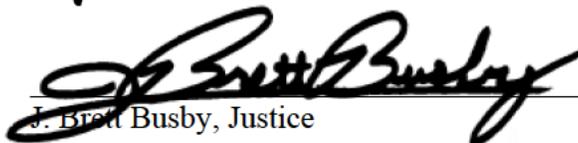
Jeffrey S. Boyd, Justice



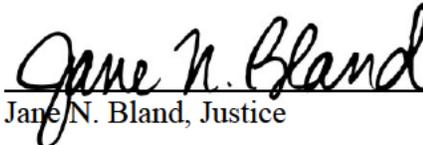
John F. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice



## Legislation Text

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**File #:** Ord. 2020-20, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-20, temporarily waiving the 15 percent late charge and the 1 percent per month interest charge for delinquent payment of Hotel Occupancy Taxes under Section 78.103 of the San Marcos City Code due to the COVID-19 pandemic; providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.

**Meeting date:** April 7, 2020

**Department:** City Manager's Office

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

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**File #:** Ord. 2020-20, **Version:** 1

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- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

On March 24, 2020, the San Marcos City Council gave direction to staff to bring forward a waiver of late charges and interest on delinquent payments of hotel occupancy taxes for a 90 day period. The attach ordinance provides for a waiver of the 15% late charge and the 1% per month interest charge assessed under Section 78.103 of the San Marcos City Code, but only for hotel occupancy tax payments that first become due on April 20, 2020, May 20, 2020, and June 20, 2020.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS TEMPORARILY WAIVING THE 15 PERCENT LATE CHARGE AND THE 1 PERCENT PER MONTH INTEREST CHARGE FOR DELINQUENT PAYMENT OF HOTEL OCCUPANCY TAXES UNDER SECTION 78.103 OF THE SAN MARCOS CITY CODE DUE TO THE COVID-19 PANDEMIC; PROVIDING FOR ADOPTION OF THIS ORDINANCE AS AN EMERGENCY MEASURE ON ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS:**

1. Due to the current COVID-19 pandemic, travel restrictions, and cancellation of conferences and room reservations, hotels within San Marcos are experiencing decreased revenue and difficulty in meeting their financial obligations.

2. Under Section 78.103, Subsection (b) of the San Marcos City Code, the operators of hotels are required to file monthly reports and to remit hotel occupancy taxes in full to the city's finance department. The reports and payments are due by the 20<sup>th</sup> of each month following the previous month of collection from hotel guests.

3. Section 78.103, Subsection (e) assesses a late charge of 15 percent of the total amount of hotel taxes that are not received by the due date.

4. Section 78.103, Subsection (f) assesses an interest charge of one percent per month of the total amount due, including late charges and accrued interest, that is not received within 60 days of the due date.

5. In order to relieve the financial burden on hotels in San Marcos, the San Marcos City Council deems it necessary to waive the 15 percent late charge and 1 percent interest charge for a period of 90 days during the COVID-19 pandemic.

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

**SECTION 1.** Late charges and interest charges that would otherwise accrue and be assessed under Section 78.103 of the San Marcos City Code, due to the failure to timely remit payment of city hotel occupancy taxes, are hereby waived and shall not be applied to monthly payments that become due on April 20, 2020, May 20, 2020, and June 20, 2020.

**SECTION 2.** The temporary waivers provided in Section 1 of this ordinance may be extended by subsequent ordinance of the City Council during the continuation of the current declaration of a local state of disaster within San Marcos, Texas due to the COVID-19 pandemic.

**SECTION 3.** Nothing in this ordinance shall be construed as a waiver of the obligation of any person operating a hotel in San Marcos to collect, report, and remit hotel occupancy taxes.

**SECTION 4.** The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the San Marcos City Charter requiring that ordinances be presented at two separate meetings are hereby waived and, this ordinance will take effect immediately upon adoption.

**PASSED AND APPROVED ON ONE READING** on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney



## Legislation Text

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**File #:** Ord. 2020-21, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Ordinance 2020-21, amending section 2.566 of the San Marcos City Code to authorize the City Manager to approve certain contracts on behalf of the City for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 in amounts up to \$500,000.00 without further City Council approval; including procedural provisions; providing for the adoption of this Ordinance on only one reading as an emergency measure; and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** City Manager Office

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Choose an item.

Land Use - Choose an item.

Neighborhoods & Housing - Choose an item.

- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

In order to provide the necessary goods and services to respond to the COVID-19 pandemic, the attached ordinance temporarily increases the city manager's authority to enter contracts for budgeted items from \$50,000 to \$500,000 during the continuation of the current declaration of a local state of disaster. The authorization does not include procurements that do not meet exemptions from competitive bidding or proposals under Chapter 252 of the Texas Local Government Code.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

**ORDINANCE NO. 2020 -**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING SECTION 2.566 OF THE SAN MARCOS CITY CODE TO AUTHORIZE THE CITY MANAGER TO APPROVE CERTAIN CONTRACTS ON BEHALF OF THE CITY FOR THE PURCHASE OF GOODS AND SERVICES NECESSARY FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE IN RELATION TO COVID-19 IN AMOUNTS UP TO \$500,000.00 WITHOUT FURTHER CITY COUNCIL APPROVAL; INCLUDING PROCEDURAL PROVISIONS; PROVIDING FOR THE ADOPTION OF THIS ORDINANCE ON ONLY ONE READING AS AN EMERGENCY MEASURE; AND DECLARING AN EFFECTIVE DATE.**

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

**SECTION 1.** Section 2.566(a) of the San Marcos City Code is amended as set forth below. Underlining indicates added text, and strikethroughs indicate deleted text.

**Sec. 2.566. Authority of city manager—Contracts for expenditures; limitation.**

(a) Except as, otherwise, provided in this subsection, ~~the~~ city manager, or the city manager's designee, is authorized to contract on behalf of the city for the purchase of goods and services without further city council approval for all budgeted items not exceeding \$50,000.00. City manager Bert Lumbreras and his designee(s) are hereby authorized to approve change orders to city contracts involving increases or decreases of \$50,000.00 or less.

(1) For the duration of the declaration of a local state of disaster related to COVID-19, the city manager is authorized to contract on behalf of the city for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 for all budgeted items not exceeding \$500,000.00 without further city council approval, provided such purchases are exempt from the competitive bidding or proposal requirements of Chapter 252 of the Local Government Code or other applicable laws.

(b) The city manager is authorized to promulgate purchasing policies and procedures for all purchases made by the city. Through such purchasing policies, the city manager may delegate his general contracting authority for purchases previously approved by the city council. The city manager may amend these policies from time to time. All these policies shall conform to applicable

requirements of the Charter, city ordinances and state laws and are subject to review and approval by the city attorney.

(c) The city manager or designee is authorized to determine the purchase method for goods and services that provides the best value to the city in accordance with state law.

(d) The city manager is authorized to approve change orders in amounts not to exceed \$100,000.00 each without the approval of the city council when the city manager deems it necessary to amend contracts previously approved by the city council in order to address a public calamity, to preserve or protect the public health or safety of the city's residents, or because of unforeseen damage to public machinery, equipment or other property. The city manager shall submit a quarterly report to the city council of all change orders in excess of \$25,000.00 each that were administratively approved pursuant to the authority granted in this subsection. The general authority granted by this subsection may be suspended or revoked by adoption of a resolution applicable to a particular individual who holds the position or performs the duties of city manager.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 4.** The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings are waived, and this ordinance will take effect upon adoption with only one reading.

**PASSED, APPROVED AND ADOPTED** as an emergency measure on only one reading on April 7, 2020.

Jane Hughson  
Mayor

Attest:

Approved:

Tammy K. Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney



## Legislation Text

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**File #:** Res. 2020-83R, **Version:** 1

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**AGENDA CAPTION:**

Consider approval of Resolution 2020-83R, filling a vacancy on the Board of Directors of the Alliance Regional Water Authority (ARWA), and declaring an effective date.

**Meeting date:** April 7, 2020

**Department:** City Clerk's Office

**Amount & Source of Funding**

**Funds Required:** N/A

**Account Number:** N/A

**Funds Available:** N/A

**Account Name:** N/A

**Fiscal Note:**

**Prior Council Action:** In October of 2006, the City Council appointed five people to the Agency Board as it existed at that time. The Council has continued to make appointments as terms have expired or vacancies were created.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Community Partners

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Vision San Marcos - A River Runs Through Us

**Background Information:**

Alliance Water (formerly the Hays Caldwell Public Utility Agency) is a Regional Water Authority that was formed in January 2007 for the purpose of resolving the long-term water needs for its Participants. Alliance Water is comprised of the cities of Kyle, San Marcos and Buda, along with the Canyon Regional Water Authority which represents County Line Special Utility District (SUD), Crystal Clear SUD, Martindale WSC, and Green Valley SUD.

Directors serve staggered three year terms.

Meetings are held on the 4<sup>th</sup> Wednesday of each month at 3:00pm. The location alternates between San Marcos, Kyle and Buda.

**Currently representing San Marcos are:**

<b>Board Position</b>	<b>Person Appointed and Term Expiration Date</b>
5	Mark Rockeymoore March 1, 2022
6	Jane Hughson, Mayor April 30, 2020 (New term would expire April 30,2023)
7	Jon Clack, Assistant Director of Public Services , W/WW Division April 30, 2022
8	Vacant April 30, 2022 (previously held by Steve Parker) Will be brought back at a future meeting
9	Tom Taggart, Executive Director of Public Services April 30, 2021

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

**RESOLUTION NO. 2020- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, FILLING A VACANCY ON THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY (ARWA); AND DECLARING AN EFFECTIVE DATE.**

**RECITALS:**

1. The governing bodies of the City of San Marcos, the City of Buda, the City of Kyle and the Canyon Regional Water Authority have adopted resolutions (the “Concurrent Resolutions”) approving the creation of the Alliance Regional Water Authority (the “Authority”) (formally known as the Hays Caldwell Public Utility Agency) in 2007 under the Texas Local Government Code Chapter 422, as amended (the “PUA Act”). During the 2017 Legislative Session, Senate Bill 1198 and House Bill 2540 were passed authorizing the name change from Hays Caldwell Public Utility Agency to Alliance Regional Water Authority.

2. The Concurrent Resolutions provide for the Authority to be governed by a Board of Directors (the “Authority Board”) to which the City is entitled to appoint five members.

3. The term for board position 8 is currently vacant. The officials and employees named below in Part 1 of this resolution are the City’s appointments to the Authority Board. All positions below are shown with updated term expirations.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**Part 1.** The City Council hereby appoints and confirms the appointment of the following persons to serve as the City’s representatives on the Board of Directors of the Alliance Regional Water Authority:

<b>Board Position</b>	<b>Person Appointed &amp; Term Expiration Date</b>
5	Mark Rockeymoore - April 30, 2022
6	Currently Held by Mayor Jane Hughson April 30, 2020 (new term will expire 2023)
7	Jon Clack – April 30, 2022
8	Vacant – April 30, 2022
9	Tom Taggart – April 30, 2021

**Part 2.** This resolution shall be in full force and effect from and after its passage.

**ADOPTED** on this 7th day of April 2020.

Jane Hughson  
Mayor

Attest:

Tammy K. Cook  
Interim City Clerk



March 2, 2020

Mayor Jane Hughson  
City of San Marcos  
630 E. Hopkins  
San Marcos, TX 78666

**Delivered via e-mail only to:** [jhughson@sanmarcostx.gov](mailto:jhughson@sanmarcostx.gov)

Re: Appointments to the Alliance Water Board of Directors

Dear Mayor Hughson,

I am writing to request that the City of San Marcos make appointment(s) to serve on the Board of Directors (Board) of the Alliance Regional Water Authority (Alliance Water). Under the enabling act and rules of Alliance Water, San Marcos appoints five directors to the Board. Appointments must be made not earlier than April 1<sup>st</sup> and not later than April 30<sup>th</sup>. The new or re-appointed directors will take office on May 1, 2020 and will serve a three-year term.

To be eligible to serve as a director, a person must be: 1) at least 18 years of age; and 2) either a resident of the Alliance Water territory, or an employee of a Sponsor. A person who serves on the governing body of a Sponsor may serve on both the governing body and the Board.

Your term expires this year in April 2020 and the position formerly held by Steve Parker remains unfilled after Ms. Hurlbert's departure from the City. You are eligible for re-appointment if San Marcos so desires. San Marcos has the following additional appointments and expiration dates:

- Tom Taggart – April 2021
- Councilmember Mark Rockeymoore – April 2022
- Jon Clack – April 2022
- Vacant Seat (previously held by Steve Parker) – April 2022

Action by a Sponsor to appoint directors must be in the form of a minute entry, ordinance or resolution approved by the Sponsor's governing body. I have enclosed a suggested resolution for making your appointment/s. **Please provide written confirmation to me of your appointment/s before May 1<sup>st</sup>, 2020.**

Let me know if you have any questions. Thank you for your assistance.

Sincerely,

Graham Moore  
Executive Director

Enclosure

cc: Mr. Bert Lumbreras, San Marcos City Manager ([blumbreras@sanmarcostx.gov](mailto:blumbreras@sanmarcostx.gov))  
Ms. Tammy Cook, San Marcos City Clerk ([tcook@sanmarcostx.gov](mailto:tcook@sanmarcostx.gov))



## Legislation Text

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**File #:** ID#20-184, **Version:** 1

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**AGENDA CAPTION:**

Receive a presentation and hold discussion regarding a possible budget amendment to provide funding for personal protective equipment and testing for COVID-19, and provide direction to the City Manager.

**Meeting date:** April 7, 2020

**Department:** City Manager's Office

**Amount & Source of Funding**

**Funds Required:** [Click or tap here to enter text.](#)

**Account Number:** [Click or tap here to enter text.](#)

**Funds Available:** No current funding source is available

**Account Name:** [Click or tap here to enter text.](#)

**Fiscal Note:**

**Prior Council Action:** [Click or tap here to enter text.](#)

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

This item was placed on the agenda by the request of Council Member Mihalkanin and Council Member Gonzales

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.



## Legislation Text

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**File #:** ID#20-156, **Version:** 1

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**AGENDA CAPTION:**

Executive Session in accordance with the following Government Code Section(s):

- A. Section §551.074 - Personnel Matters: to discuss the Appointee Review Process
- B. Section §551.071 - Consultation with Attorney: to seek legal advice concerning a request for consideration by council of an anti-discrimination ordinance

**Meeting date:** 4/7/2020

**Department:** City Clerk's Office on behalf of the City Council

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.



Legislation Text

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**File #:** ID#20-158, **Version:** 1

---

**AGENDA CAPTION:**

Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:

- A. Section §551.074 - Personnel Matters: Appointee Review Process
- B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

**Meeting date:** 4/7/2020

**Department:** City Clerk's Office on behalf of the City Council

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.