



**CITY OF NEW BRAUNFELS, TEXAS  
CITY COUNCIL MEETING**



**CITY HALL - COUNCIL CHAMBERS  
550 LANDA STREET**

**MONDAY, JULY 10, 2017 at 6:00 PM**

Barron Casteel, Mayor	Chris Monceballez, Councilmember (District 4)
George Green, Councilmember (District 1)	Wayne Peters, Mayor Pro Tem (District 5)
Justin Meadows, Councilmember (District 2)	Leah A. García, Councilmember (District 6)
Ron Reaves, Councilmember (District 3)	Robert Camareno, City Manager

***MISSION STATEMENT***

***The City of New Braunfels will add value to our community  
by planning for the future, providing quality services, encouraging  
community involvement and being responsive to those we serve.***

**AGENDA**

**CALL TO ORDER**

**CALL OF ROLL: City Secretary**

**INVOCATION: Councilmember George Green**

**PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG**

**REQUEST ALL PHONES AND OTHER DEVICES BE TURNED OFF, EXCEPT  
EMERGENCY ON-CALL PERSONNEL.**

**PRESENTATIONS:**

- A) Recognition of partners for the Loop 337 Project.  
*Mayor Barron Casteel*
- B) Presentation and discussion on the New Braunfels Police Department's 2016 racial profiling report.  
*Dr. Alex Del Carmen*
- C) Presentation and direction to staff concerning the formulation of a draft policy for the creation of Public Improvement Districts.  
*Jeff Jewell, Economic Development Manager*  
[PID Presentation New Braunfels 2017-06-29.pdf](#)  
[PID-Policies examples.pdf](#)

**1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of June 26, 2017.  
*Patrick Aten, City Secretary*

[Minutes - June 26, 2017 Regular Meeting](#)

**2. CITIZENS' COMMUNICATIONS**

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

**3. CONSENT AGENDA**

*All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.*

*Resolutions & Action Items*

- A) Approval of a contract with D&M Owens, Inc., for an amount not to exceed \$44,150, for the construction of back-up flow control gates between Landa Lake and the Old Channel of the Comal River.  
*Mark Enders, Watershed Program Manager*
- B) Approval of acquisition funds for purchasing Right of Way from Sarah W. Edison, Parcel 112 on the Solms/Morningside/Reuckle Road Improvements Project.  
*Matthew Eckmann, Real Estate Manager*
- C) Approval of a ratification for the purchase of a propane-fueled pneumatic tire forklift utilizing a grant from the Texas Commission on Environmental Quality through the Alamo Area Council of Governments from Briggs Equipment using a BuyBoard contract.  
*Michael Mundell, Solid Waste Manager*
- D) Approval for the purchase of a traffic signal bucket truck from Chastang Enterprises - Angleton, LLC utilizing a BuyBoard contract.  
*Jennifer Gates, Buyer*

*Ordinances*

*(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)*

- E) Approval of the second and final reading of an ordinance to revise the school speed zone on FM 1863 for the New Braunfels Christian Academy.  
*Garry Ford, City Engineer*  
[Ordinance Redlines - FM 1863 SZ ordinance](#)
- F) Approval of the second and final reading of an ordinance regarding the proposed designation of approximately 0.241 acres, Lots 14 and 16 of

City Block 1024, addressed as 564 Hill Avenue, as a local historic landmark to be known as the Kopplin-Leitch House.

*Christopher J. Looney, Planning and Community Development Director*

[Application](#)

[Maps](#)

[Notification list, map and responses](#)

[Photographs of Subject Property](#)

[Article III, Section 66-54](#)

[Article III, Section 66-56](#)

[Excerpt from the April 11, 2017 Historic Landmark Commission meeting minutes](#)

[Excerpt from the June 6, 2017 Planning Commission meeting minutes](#)

[Ordinance](#)

- G) Approval of the second and final reading of an ordinance regarding Youth Programs Standards of Care for the Parks and Recreation Department.

*Stacey Dicke, Parks and Recreation Director*

[ordinance](#)

#### **4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Discuss and consider a plan to implement the rules related to the disposable container ordinance.

*Robert Camareno, City Manager*

- B) Discuss and consider approval of the first reading of an ordinance granting rehabilitation tax relief to the property addressed as 195 Jahn Street, a Local Historic Landmark known as the Brietzke Haus.

*Christopher J. Looney, Director of Planning and Community Development*

[Map](#)

[Application](#)

[Before and After Photos](#)

[Article III, Section 66-57-1](#)

[Excerpt from the June 13, 2017 Historic Landmark Commission Minutes](#)

[Ordinance](#)

- C) Discuss and consider approval of the second and final reading of an ordinance regarding the proposed designation of approximately 0.158 acre, the northeast parts of Lots 1 and 2 of City Block 4066, addressed as 475 Butcher Street, as a local historic landmark to be known as the

Boenig-Hartmann House.

*Christopher Looney, Director of Planning and Community Development*

[Maps](#)

[Notification Map](#)

[Responses](#)

[Photographs of Subject Property](#)

[Article III, Section 66-54](#)

[Article III, Section 66-56](#)

[Excerpt from the April 11, 2017 Historic Landmark Commission](#)

[Minutes](#)

[Excerpt from the June 6, 2017 Planning Commission Meeting](#)

[Ordinance](#)

- D) Public hearing and consideration of the first reading of an ordinance regarding the proposed rezoning of approximately 74 acres comprising a 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from "APD" Agricultural/Pre-Development District and "R-1A-6.6" Single-Family District to Weltner Farms Planned Development District (WFPD).

*Christopher J. Looney, Planning and Community Development Director*

[Aerial & RTP](#)

[Application](#)

[Planned Development Narrative](#)

[Zoning, Land Use & Future Land Use Maps](#)

[Notification, Map & Responses](#)

[Photograph of Subject Property](#)

[Sec. 3.5 Planned Development Districts](#)

[Draft Minutes for Planning Commisison 6-6-17](#)

[Ordinance](#)

- E) Public hearing on the draft 2017 Community Development Block Grant One-Year Action Plan and Fair Housing Plan.

*Martie Simpson, Finance Director*

[CDBG Public Hearing Presentation](#)

[PY2017 CDBG Applications and CDAC FUNDING](#)

[Recommendations](#)

- F) Discuss and consider approval of an ordinance of the City Council of the City of New Braunfels, Texas authorizing the issuance of "City of New Braunfels, Texas General Obligation Refunding Bonds, Series 2017", levying an annual Ad Valorem Tax, within the limitations



prescribed by law, for the payment of the bonds, prescribing the form, terms, conditions and resolving other matters incident and related to the issuance, sale and delivery of the bonds; authorizing the execution of a paying agent/registrar agreement , a purchase and investment letter, and an escrow and trust agreement, complying with the letter of representation on file with the depository trust company, authorizing the execution of any necessary engagement agreements with the City's financial advisors and/or bond counsel; and providing an effective date.

*Martie Simpson, Finance Director*

[New Braunfels Ordinance 2017 refunding](#)

**5. EXECUTIVE SESSIONS**

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

- A) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
  - Alta Towers, LLC v. City of New Braunfels and City of New Braunfels Zoning Board of Adjustment
  - Carowest Land, Ltd. v. Yantis Company and the City of New Braunfels, (2010, 2015, and 2017 cases)
  - Yantis Company vs. City of New Braunfels, et. al. (2014 case)
  - Stop the Ordinances Please, et. al. v. City of New Braunfels.
- B) Deliberate and consider the purchase of, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code, including but not limited to:
  - acquisition of land for city facilities

*NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).*

**6. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on July 5, 2017, at 3:00 p.m.

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Patrick Aten, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

7/10/2017

Agenda Item No. A)

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Presenter/Contact

*Mayor Barron Casteel*

(830) 221-#### - \_\_\_\_@nbtexas.org

**SUBJECT:**

Recognition of partners for the Loop 337 Project.

**BACKGROUND / RATIONALE:**

[Enter Background/Rationale Here]

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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**FISCAL IMPACT:**

[Enter Fiscal Impact Here]

**COMMITTEE RECOMMENDATION:**

[Enter Committee Recommendation Here]

**STAFF RECOMMENDATION:**

[Enter Staff Recommendation Here]



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

7/10/2017

Agenda Item No. B)

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Presenter/Contact

*Dr. Alex Del Carmen*

*(830) 221-4280 - rcamareno@nbtexas.org*

**SUBJECT:**

Presentation and discussion on the New Braunfels Police Department's 2016 racial profiling report.

**BACKGROUND / RATIONALE:**

[Enter Background/Rationale Here]

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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**FISCAL IMPACT:**

[Enter Fiscal Impact Here]

**COMMITTEE RECOMMENDATION:**

[Enter Committee Recommendation Here]

**STAFF RECOMMENDATION:**

[Enter Staff Recommendation Here]

7/10/2017

Agenda Item No. C)

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Presenter/Contact

*Jeff Jewell, Economic Development Manager*  
*(830) 221-4621 - [jjewell@nbtexas.org](mailto:jjewell@nbtexas.org)*

**SUBJECT:**

Presentation and direction to staff concerning the formulation of a draft policy for the creation of Public Improvement Districts.

**BACKGROUND / RATIONALE:**

Public Improvement Districts (PIDs) are economic development tools authorized by the State of Texas to finance the construction of public improvements that will benefit the area with the PID boundaries. A PID uses bond revenue to immediately fund projects within the PID and assesses PID property owners to repay the bonds. These funds are delivered in advance of construction or on a reimbursement basis. Property assessments are of a fixed amount and terminate when the bonds are repaid. Proceeds from the issuances can be used for the following uses:

- Streets and sidewalks;
- Public safety and security services;
- Water, wastewater, health and sanitation and drainage facilities including both onsite and offsite improvements;
- Landscaping and other aesthetics such as fountains, distinctive lighting and signs;
- Off-street parking facilities;
- Park and recreation facilities;
- Acquisition of real property in connection with an authorized improvement;
- Expenses incurred in the establishment, administration and operation of the district; and
- Other public improvements

**PID Bond Issuances**

The sponsoring entity is the authorized issuer of PID bonds. However, PID bonds are non-recourse to the issuing entity. The PID bond offering statements would state that even though the bonds are special obligations of the city, they would payable solely from pledged revenues and other revenues assessed within the PID boundaries. The pledged revenues that underwriters will require is the creation of an additional assessment on each individual parcel or lot within the PID boundaries. Assessments are paid annually and the landowner is only responsible for the assessment on his/her property. The PID debt is secured by a special assessment lien on the PID land. The project appraised value (land "as is" plus value of improvements to be constructed with bond funds) is the primary factor in determining bond capacity, which is typically 1/3<sup>rd</sup> of the appraised value. This limitation is a strength because it does not rely upon future development to create value to support bond issues and debt payments like Water Improvement Districts or Municipal Utility Districts.

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Bond offering language also includes provisions stating that the bond owners can never look to the city to demand repayment out of any funds other than the pledged revenues (additional assessment) and that the city has no legal or moral obligation to pay the bonds out of any funds other than the pledged revenues. The issuances are typically of a smaller amount so they tend not to materially reduce the City's bonding capacity or affect its debt rating.

## **Discussion**

Developers are increasingly deploying PIDs because of changes to the lending environment seen after the 2008-2010 recession. Historically, banks could offer non-recourse financing, accept builder deposits and accept land as an equity contribution to achieve certain loan to value and other lending parameters. The current environment has shifted such that banks have tightened these lending restrictions and are not collateralizing their financing tools as they have in the past. As such, developers have had turn to private equity to close the gap, which often raises the overall cost of capital. In reality, the higher cost of capital requires developers to make tradeoffs to lower overall project costs in order to achieve desired rates of return within a specified time frame. Even though higher quality building construction, amenities and other features generally translate into greater value over the long term, these features are often the first elements jettisoned from a project in order to achieve a lower overall development cost.

PIDs allow for the developer/property owners in the PID to amortize the cost of public improvements over a longer term. This can lead to higher quality infrastructure and amenities than would normally be achievable under traditional lending conditions. It can also lead to a developer delivering a greater amount of infrastructure ahead of when development occurs. This creates some economies of scale in the project but also can translate to faster project build outs because some of the traditional constraints of infrastructure financing are removed (having to sell property that will benefit from the infrastructure and then subsequently constructing the necessary infrastructure, for example).

Cities have begun allowing for the creation of PIDs to facilitate the creation of higher quality developments and to address infrastructure challenges in a particular area. Cities have the ability to negotiate reasonable development standards that will create higher value development. A PID also allows for costs related to the infrastructure to be allocated to the citizens most directly benefitting. The City is also able to select the professionals engaged for the financing and assessment management. They are not without some risks and issues to consider. For example, there is always a perception that the City is subsidizing developers. PIDs also do require some additional staff time and administration. The sponsoring entity must also be sensitive to overlapping debt ratios and other financial considerations. There is also an extensive due diligence process undertaken by the City's financial underwriters and, if an issue ever arises, the City would need to work with interested parties to mitigate the impact.

PIDs are not separate political subdivisions and are governed by policies and issuance documents set forth by a city council. A city council can also appoint a board to provide oversight and governance of the PID.

## **Policy Guidelines**

The purpose of a policy would be to provide for a petition/creation process and identify those general principles that would attract support from City Council for the creation of a PID. The policy could outline creation and petition criteria, qualified costs, financing criteria, information disclosure standards to property owners and annual plans of services, budgets and assessments, for example.

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In adopting a PID policy, the City Council should, at a minimum, establish standards for:

- Petition requirements;
- Administration and management requirements;
- Bond size limitations, including maximum years of capitalized interest for each bond issuance, maximum maturity for each series of bonds, minimum appraised value to lien ratio at date of each bond issuance and maximum annual permitted increases in annual assessments;
- Financing criteria;
- Financial reporting requirements;
- Dispute resolution requirements and processes;
- Improvements eligible for PID funding; and
- Indemnification and non-recourse language.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<input type="checkbox"/>	Yes	<b>City Plan/Council Priority:</b>	Strategic Priorities: 21. Ensure sustainable quality development
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**FISCAL IMPACT:**

N/A

**STAFF RECOMMENDATION:**

No formal action needs to be taken; however, staff recommends the creation of a policy to govern PIDs and the formation of an ad hoc City Council committee to draft such a policy.

# **Public Improvement Districts (PIDs): An Introduction**



# About Us



- Financing public improvements
- Reducing public infrastructure costs
- Mitigating Risk
- Enhancing project profitability
- Quantifying fiscal and economic impact
- Related entities: Urban Design, Construction Management, Business Advisory, Capital Placement
- 25 Year Track Record
  - Established 2,200 special taxing districts
  - Facilitated \$15 billion in bond financing
  - Completed over 100 redevelopment projects
  - Performed over 600 project feasibility analysis
- National footprint:
  - 60 employees
  - 11 Offices
  - 8 States (AZ, CA, CO, FL, ID, NC, NV, TX)



# PID Basics

## Definition

- An economic development **tool** created by State of Texas to **finance** the construction of **public improvements**
- Not a separate political subdivision

## Purpose

- **Facilitates** attracting **private investment** to finance **public improvements**.
- **All costs responsibility of PID**
- **No cost or risk to the City, or residents living outside of the PID**

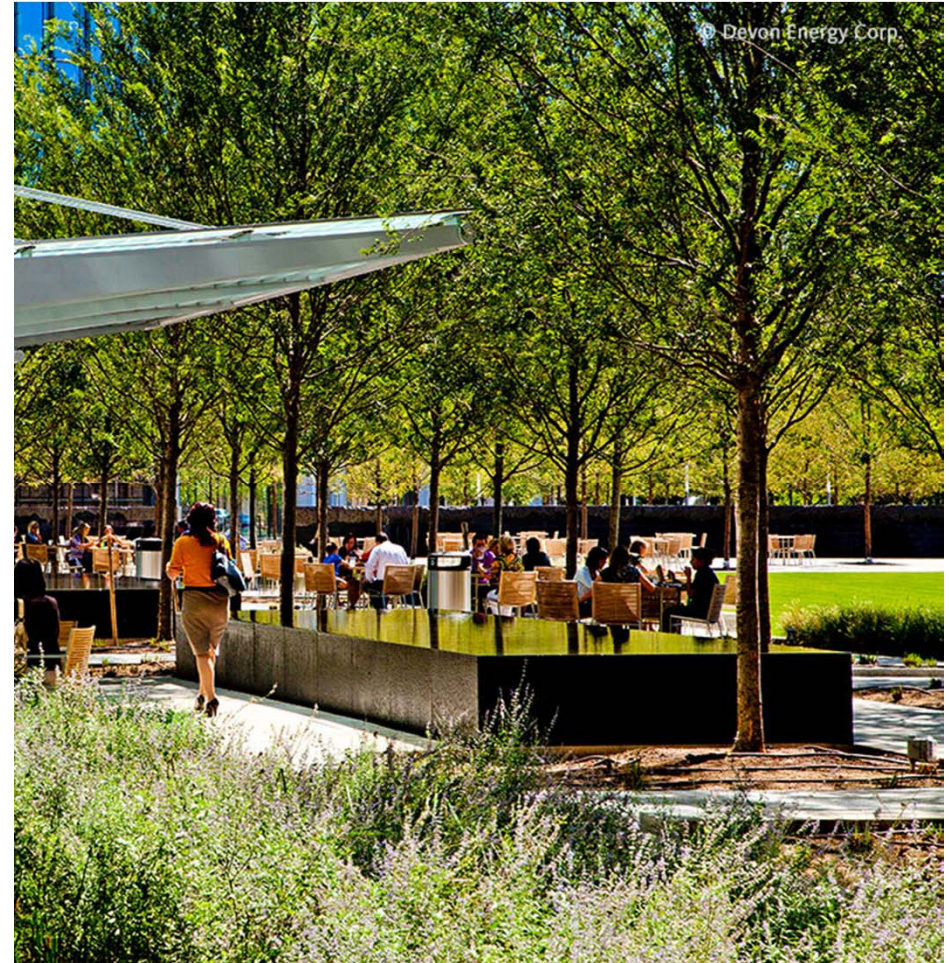
## Funding Method

- **PID bonds** – provide up front financing capability; secured by a lien on the benefitted land
- **Pay-As-You-Go** – provides an on-going revenue source for recurring reimbursement and/or operation and maintenance needs



# Authorized and Eligible Improvements

- Streets and sidewalks;
- Public safety and security services;
- Water, wastewater, health and sanitation, and drainage facilities
- Acquisition of rights of way;
- Art;
- Creation of pedestrian malls;
- Erection of fountains;
- Landscaping and other aesthetics;
- Library facilities;
- Mass transit;
- Park, recreation and cultural facilities;
- Parking facilities; and,
- Acquisition, renovation and/or construction of affordable housing.



# Bond Issuance

Example:

- **Land** as collateral (assessment lien)
- **Land appraised** value as vacant entitled plus cost of improvements to be constructed unless contracts in place
- **Value-to-Lien** at least 3:1 (market standard)
- **PID Debt Service**
  - ☐ PID debt paid only by property owners within the PID boundaries
  - ☐ PID debt is non-recourse to City

PID Bond Sizing Example	
Line Item	Amount
<b>Property Value at Bond Issuance:</b>	
Unfinished Land Value	\$ 12,000,000
Public Improvements	\$ 6,000,000
<b>Appraised Value before Bond Issuance</b>	<b>\$ 18,000,000</b>
<b>Required Value to Lien Ratio</b>	<b>3.00</b>
<b>Projected PID Gross Bond Amount/Assessment</b>	<b>\$ 6,000,000</b>

# Pay As You Go

- No bonds issued and no capitalized interest
- Cash stream for reimbursement of capital costs
- Cash flows may be monetized through private transactions
- Often used for operations & maintenance PIDs



# PID Creation Process – Key Steps

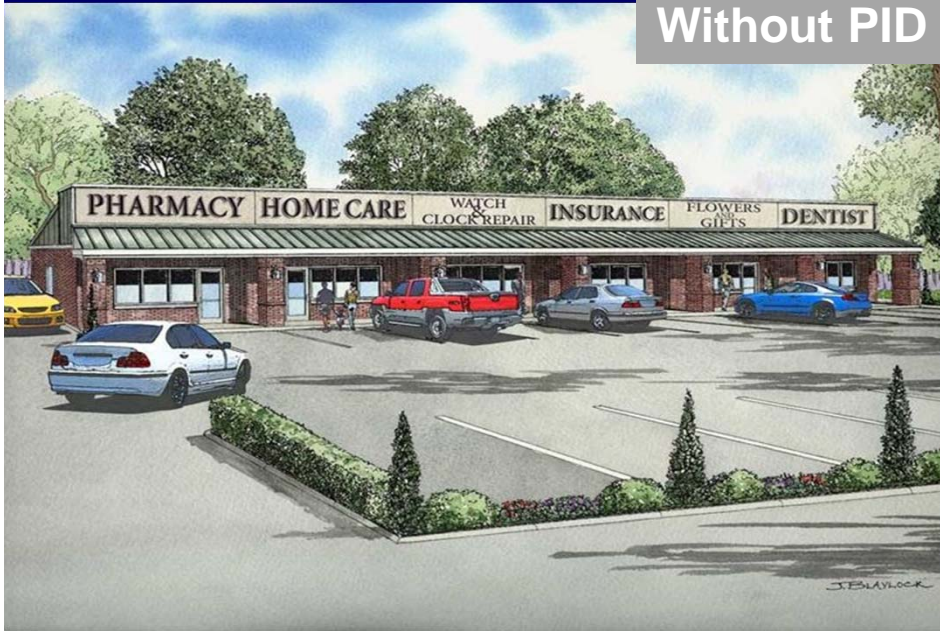
Key PID Creation Steps	Responsible Party
• Submit PID Petition to City	• Property Owner/Developer
• Resolution Accepting PID Petition and Calling a Public Hearing	• City
• Notice of Public Hearing to Establish PID	• City
• Public Hearing and Resolution Establishing the PID	• City
• Published Notice of PID Resolution	• City





# New Braunfels, TX Benefits

Without PID



With PID/TIRZ



## PID Benefits

- Development “pays for itself”
- Accelerates the timing of development
- PID debt is non-recourse to City
- Ability to reimburse cost of administration
- City controls ultimate authority over the bonds
- City retains 100% of sales tax revenue
- No City pledge needed to enhance the bonds/  
No impact on City’s bonding capacity
- No costs to the City

# Property Owner Benefits

- Cost certainty through fixed nature of assessments – even if property price increases
- Finite life of obligations due to fixed term of PID
- Ultimate flexibility as assessment can be prepaid at any time
- No impact on “my property” by actions of others
- Enhanced amenities for a higher quality project





# Developer Benefits

- Funding “up front” when needed
- Broader range of qualified costs than other financing structures
- Long-term fixed rate financing lowers total cost of capital
- No TCEQ regulatory oversight
- Non-recourse debt structure
- No public bidding required



# Select Counties/Cities Utilizing PID Financing

## More Than \$500 Million Texas PID Bonds Issued

(\* - DPFG served as Developer Consultant)

### Dallas / Fort Worth

- Celina\*
- Rowlett\*
- Waxahachie\*
- McClendon-Chisolm
- Aubrey
- Trophy Club
- Hackberry
- Lewisville
- Irving
- Lavon
- Westlake
- Oak Point
- Little Elm
- Fate
- The Colony

### Austin

- Hays County\*
- Austin\*
- Leander\*
- Lago Vista\*
- Liberty Hill\*

### Houston

- Galveston\*

# Select Counties/Cities Planning PID Financing

(\* - DPFG serving as Developer Consultant)

## Dallas / Fort Worth

- Denton\*
- Royse City\*
- Forney\*
- Fort Worth\*
- Argyle\*
- Haslet\*
- Princeton\*

## Austin/San Antonio

- Kyle\*
- Dripping Springs\*
- Hutto\*
- Travis County\*
- Jonestown\*
- San Marcos\*
- Bexar County\*
- Bastrop\*
- Uvalde County\*
- Manor\*
- Caldwell County\*
- Marble Falls\*
- Georgetown\*

## Houston

- Shenandoah\*



# Select Developers Utilizing PID Financing

(\* - DPFG serving as Developer Consultant)

## Dallas / Fort Worth

- Bayside\*
- Berkshire Hathaway
- Bright Realty
- Cambridge
- Centurion American\*
- Crescent\*
- DR Horton\*
- Hat Creek Development\*
- Hillwood\*
- Hines\*
- John Houston Homes\*
- Lennar
- RED Development\*
- Republic Property\*
- Sterling One
- Stratford Land\*
- Walton Development\*

## Austin/San Antonio

- Argent Management\*
- Century Communities\*
- Dwyer Realty\*
- Highpointe Communities\*
- Hines\*
- La Cima Partners\*
- McDonald Development\*
- Randolph Todd\*
- Sentinel\*
- Southstar Communities\*
- Stratford Land\*
- Taurus\*
- Titan Capital\*
- Walton Development\*

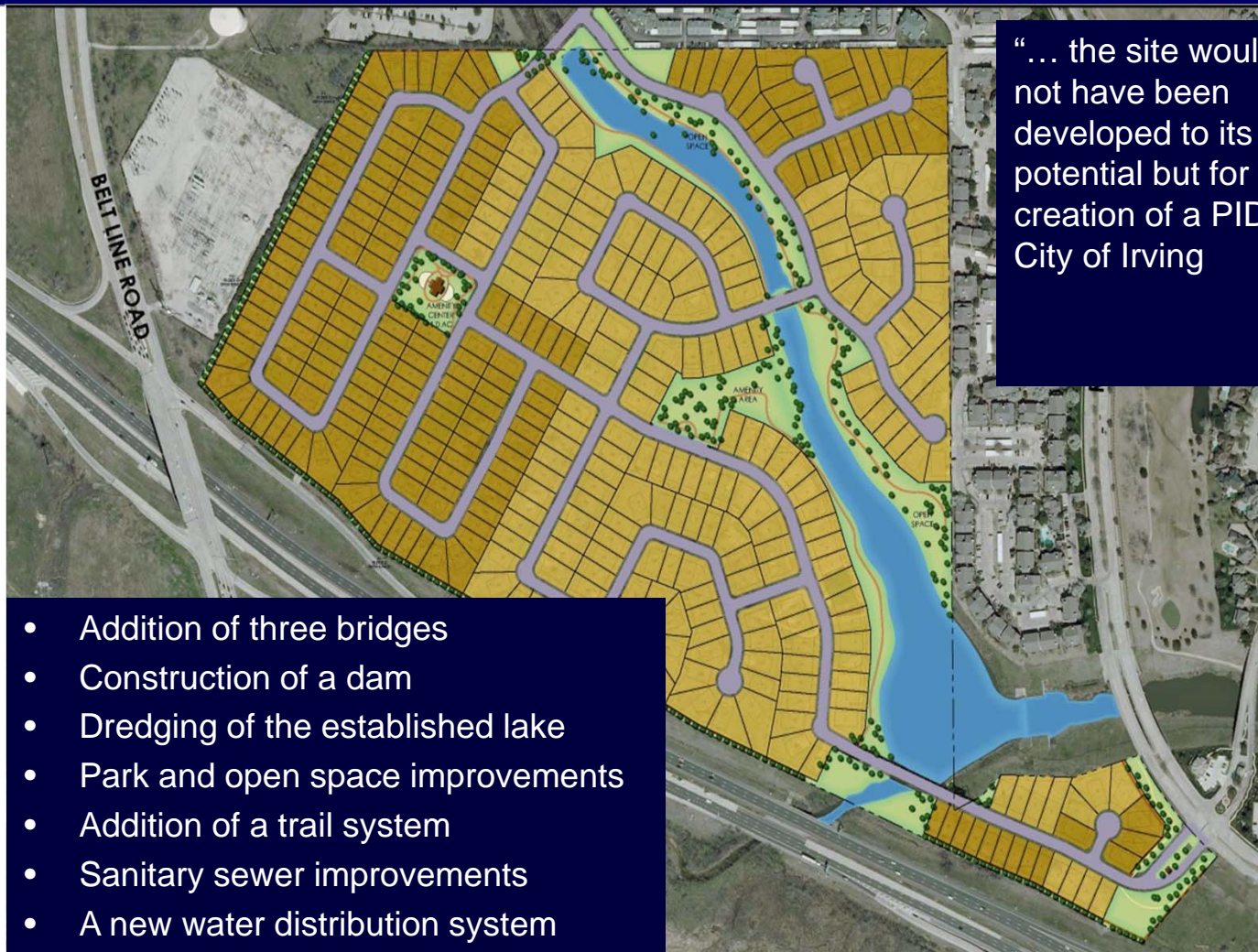
## Houston

- Sam Moon\*
- Stonehenge\*





# Select PID Financings



“... the site would not have been developed to its full potential but for the creation of a PID.” – City of Irving

- Addition of three bridges
- Construction of a dam
- Dredging of the established lake
- Park and open space improvements
- Addition of a trail system
- Sanitary sewer improvements
- A new water distribution system



# Select PID Financings



“Council’s approval of the PID financing is truly a defining moment for Westlake as these bonds will allow Westlake Entrada to come to life,” – Westlake Mayor

- Improving and adding streets
- Water and sewer lines
- Drainage system
- Water feature



# PFM Comparison

	Public Improvement District (PIDs)	Municipal Utility District (MUDs)	Tax Increment Reinvestment Zone (TIRZs)	Water Control and Improvement District (WCIDs)
<b>Cost Recovery Method</b>	Advance of Construction and/or Reimbursement	Reimbursement Only	Reimbursement Only	Reimbursement Only
<b>Jurisdiction</b>	City, ETJ, or County	City, ETJ, or County	City or County	City, ETJ, or County
<b>Cost Certainty to Property Owners</b>	Yes	No	No	No
<b>Prepayment Option</b>	Yes	No	No	No
<b>Impact of Higher Property Value</b>	None	Increased Payments	Increased Proceeds	Increased Payments
<b>Impact of Defaulting Owner</b>	None	Increased Payments	None	Increased Payments
<b>Source of repayment</b>	Assessments	Taxes	Property & Sales Tax Increment	Taxes
<b>Life of Entity</b>	Finite	Ongoing	Finite	Ongoing
<b>Eligible Improvements</b>	Water, Sewer, Drainage, Streets, Right of Ways, Parks, Landscaping, Sidewalks, Mass Transit, Libraries, Public Recreation Facilities, Street Lights, Off Street Parking, Pedestrian Malls, Affordable Housing, Formation Expenses	Water, Sewer, Drainage, Right of Ways, Arterial Roads (only if granted Road District powers), Recreational Facilities, Formation Expenses	Sewer, Street Lights, Streets, Utilities, Water, Flood and Drainage, Parking, Park,s Pedestrian Malls, Educational Facilities, Financing, Property Assembly, Professional Services, Administrative, Organizational, Operating Costs	Water, Sewer, Drainage, Right of Ways, Formation Expenses



# Question & Answer

## **Rick Rosenberg**

Managing Principal ◇ DPFG

8140 North Mopac Expressway  
Building 4, Suite 270  
Austin, TX78746

[rick.rosenberg@dpfg.com](mailto:rick.rosenberg@dpfg.com)

512.732.0296 (direct)

512.567.8598 (cell)

## **Patrick Bourne**

Senior Manager ◇ DPFG

8140 North Mopac Expressway  
Building 4, Suite 270  
Austin, TX78746

[patrick.bourne@dpfg.com](mailto:patrick.bourne@dpfg.com)

949.683.2243 (cell)

512.732.0296 (direct)





## **MEMORANDUM**

**FROM:** Dorothy Palumbo, Assistant City Attorney

**TO:** City Council of Dripping Springs

**CC:** City Manager Michelle Fischer

**DATE:** 1/8/16

**RE:** PID Policies

This information is being provided to you for discussion at Tuesday's (1/12/16) PID Workshop.

Public Improvement District (PID) policies include the guidelines that developers use to seek incentives from the city. These guidelines usually address the following provisions:

- Limitations on the size of development
- Limitations on the PID tax assessment
- Limitations on tax assessment terms
- Limitations and guidelines for the PID administration
- Limitations and guidelines on financing
- Limitations on bond size and developer interest
- Limitations and guidelines for bidding on project improvements
- Guidelines and criteria for projects
- Process for application and review
- Requirements of Chapter 372 of the Texas Local Government Code

Attached to this document are the following:

- Exhibit A: City of Sealy PID Policy
- Exhibit B: City of Kyle PID Policy
- Exhibit C: City of Fort Worth PID Policy
- Exhibit D: City of Grand Prairie PID Policy
- Exhibit E: City of Dallas PID Policy

## **CITY OF SEALY, TEXAS**

### **PUBLIC IMPROVEMENT DISTRICTS POLICY**

The City of Sealy has established this policy as a guideline to those developers seeking incentives from the City for development projects utilizing public improvement districts (PID). This policy is not intended to address all aspects of development costs. Those costs not specifically addressed in this policy will be considered on an individual project basis.

#### Limitation on Size of Development

1. To receive consideration by and approval from the City for PID financing to facilitate a residential development, the proposed boundaries of the development shall be no less than 50 acres. If the proposed boundaries of the development are less than 50 acres, the average value of homes built in the district shall be no less than \$225,000. This home value will be adjusted each year by the Consumer Price Index (CPI) to convert the \$225K benchmark value to current year prices.

#### Limitation on PID Assessment

The annual assessment to property owners within the district shall be no more than the equivalent of a \$0.60 per \$100 tax rate on the assessed value of their property.

#### Limitation on Assessment Term

The maximum term of a PID assessment is not to exceed 25 years. The date the first assessment installment becomes due is either 3 years from the date of the levy or the date that the real property is transferred to the home buyer; whichever occurs first.

#### District Administration

The City of Sealy will contract with an outside consultant to administer the PID and to bill, collect, and track district assessments. This cost will be considered a reimbursable project cost and should be included in the District Service and Assessment Plan.

#### Limitation on Developer Interest

Developer earned interest will be reimbursed at an amount not to exceed the net effective interest rate on bonds sold or 8% whichever is less. If district bonds are not sold, reimbursement will be calculated at 50 basis points over the average interest reported by the Bond Buyer in its "20 Bond Index" for general obligation bonds during the interest accrual period or 8% whichever is less.

#### Bidding of Project Improvements

Developers will be required to follow municipal bidding procedures on all project improvements as outlined in Chapter 252 of the Texas Local Government Code. Bid tabulations and a recommendation for award of contracts will be brought before Sealy Redevelopment Authority and City Council for approval.

# CITY OF KYLE, TEXAS

## Public Improvement District Policy

### OVERVIEW

Public Improvement Districts ("PIDs"), per the Texas Local Government Code Chapter 372 ("the Code"), provide the City of Kyle ("the City") an economic development tool that permits the financing of qualified public improvement costs that confers a special benefit on a definable part of the City, including both its corporate limits and its extra-territorial jurisdiction. A PID can finance capital costs and fund supplemental services to meet community needs which could not otherwise be constructed or provided. The costs of the capital improvements and/or supplemental services are paid entirely by property owners within the Public Improvement District ("PID") who receive special benefits from the capital improvements or services. **A PID may only be used to pay for public improvements, all other expenditures not related to public improvements may not be reimbursed.**

A PID is a defined area of properties, whose owners have petitioned the City to form a PID. The City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized per the Code and written notification of the hearing is mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive enhanced services and/or improvements within the District. The PID must demonstrate that it confers a benefit, not only to the properties within the District, but also to the "public" which includes the City.

The purpose of this PID policy is to outline the issues to be addressed before the City Council can support the establishment of a PID. The PID policy outlines such things as petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans of services, budgets and assessments.

### GENERAL

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a developer's actual and documented costs above and beyond the costs for standard infrastructure required to serve the development. Such incremental costs shall be associated with the construction of qualified public improvements.
2. PIDs must be self-sufficient and not require the City to incur any costs associated with the formation of the PID, bond issuance costs, PID administration or the construction of PID improvements.
3. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the PID by the majority of the property owners located within the proposed PID. Priority will be given to PIDs with the support of 100% of the landowners within a PID.

4. Priority will be given to PID improvements:
  - a. In support of development that will generate economic development benefits to the City beyond what normal development would;
  - b. In the public right of way (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage); and,
  - c. Which meet community needs (e.g., enhanced drainage improvements, parks and off-street public parking facilities, wastewater and/or water on or off-site improvements).
5. A PID's budget shall include sufficient funds to pay for all costs above and beyond the City's ordinary costs, including additional administrative and/or operational costs.
6. A Landowner's Agreement must be recorded in the Official Public Records of the County in which the PID is located which, among other things, will notify any prospective owner of the existence or proposal of special assessments on the property. All closing statements and sales contracts for lots must specify who is responsible for payment of any existing PID assessment or a *pro rata* share thereof.
7. The City Council reserves the right, on a case-by-case basis, to waive specific requirements listed in the Policy. Such waived requirements shall be noted in the approval of any petition together with a finding that the deviation from the Policy is in the best interest of the City. Additionally, the Council maintains discretion to approve or disapprove the PID application.
8. A PID zone must be identified as a PID with use of Signage along the main entry/exits located at the boundaries of the PID. All signage shall be a clearly visible to all motorist entering and exiting the PID.
9. Property owned by the City of Kyle that is located in the boundaries of the PID shall not be subject to any assessment by the PID.
10. No PIDs will be allowed to be created that overlap the boundaries of another PID.
11. The boundaries of existing PIDs can be modified during a renewal process (with updated map as part of the petition). However, a boundary change during the existing term of a PID may only be considered if a re-petition of the entire PID area (both current boundary and proposed modified areas) meets the minimum criteria for creation/renewal and application fee as described below is submitted.

## PETITION REQUIREMENTS

In accordance with Texas Local Government Code §372.005(a) the petition must state:

1. the general nature of the proposed improvements;
2. the estimated cost of the improvements;
3. the boundaries of the proposed assessment district;
4. the proposed method of assessment, which may specify included or excluded classes of assessable property;
5. the proposed apportionment of costs between the public improvement district and the municipality or county as a whole;
6. whether the district will be managed by the municipality or county, by the private sector, or by a partnership of the two;

7. that the persons signing the petition request or concur with the establishment of the district; and that an advisory board may be established to develop and recommend an improvement plan to the governing body of the municipality or the county; and
8. that an advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality or county.

Additional requirements include:

1. PID petitions shall include this additional note: "With respect to community property, the City may accept the signature of a spouse as a representation of both spouses that they support the creation or renewal of the PID absent a separate property agreement. *However, if City staff is made aware of any disagreement among owners of community property, those petitions will not be counted.*"
2. Signatures for PID petitions must be gathered not more than six months preceding submittal of the PID Application.

For a district to be established, a petition shall include the following:

1. Evidence that the petition's signatures meet the state law requirements or the petition must be accompanied by a reasonable fee to cover the City's costs of signature verification. If the proposed district is an expansion of an existing district, a petition for the new portion of the district must identify each subdivision, or portion thereof, within the proposed boundaries of the new district, and each subdivision or portion thereof, that is not currently in an existing PID shall individually satisfy the requirements for a petition under Section 372.005 of the Texas Local Government Code. Subdivision has the meaning assigned by Section 232.021 of the Texas Local Government Code.
2. Map of the area, a legal description of the boundaries of the district for the legal notices and a "commonly known" description of the area to be included in the district.
3. Statement that the petitioners understand that the annual budget for the district is subject to review by City staff with final approval by the City Council.
4. Upon approval of the PID, the boundaries of the PID will be immediately annexed into the City of Kyle.

In addition, the following issues must be addressed before the City Council will take action on a petition:

1. A non-refundable application fee of \$15,000 will be required for all new or renewing PIDs. This fee is regulatory in character and approximates the costs of administering the PID through creation or renewal by City Staff.
2. A petition will be viewed more favorably if it has attached a current tax roll with the signatures of the owners registering support of the petition next to the account for the owner's property on the tax rolls.
3. A copy of the Market Feasibility study shall be submitted with the Petition.

## **PID ADMINISTRATION**

1. The City may contract with a qualified third party company to manage and administer the PID, subject to appropriate oversight by City staff.
2. Any management firm for a PID shall be required to submit quarterly reports of all activities and expenditures to the City; perform and submit an annual independent audit of all PID expenditures to the City; and shall hold an annual meeting open to all property owners and held in a public meeting space with written notice to all property owners in the PID at least two weeks prior to this meeting to provide an opportunity for property owner questions, comments and input to be considered during the PID Budget and Service Plan approval process.
3. If the City elects to hire a third party administrator, the administrator will coordinate the annual development of the Budget and Five Year Service Plan which will be submitted to the City Council for consideration following a public hearing conducted in accordance with the Code and any other applicable State of Texas law. The PID Service Plan shall contain procedures for the termination of the PID without imposing unintended costs on the City of Kyle. A PID cannot be dissolved without a petition from property owners and must be sufficient as for creation or renewal in accordance with Chapter 372, Section 372.005(b).

## **BOND SIZE LIMITATIONS**

The following limitations and performance standards shall apply to a PID debt issue approved by the City:

- |  |          |
|--|----------|
| 1. Minimum appraised value to lien ratio at date of each bond issue:     | 3:1      |
| 2. Maximum annual permitted increase in annual assessment installment:   | 2%       |
| 3. Maximum years of capitalized interest for each bond issue:            | 3        |
| 4. Maximum maturity for each series of bonds (to extent allowed by law): | 20 years |

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 3 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.

## **FINANCING CRITERIA**

1. The PID may seek bond issues in advance of construction of an individual Phase of a Project subject to compliance with these standards.
2. No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund or support the PID Bonds.
3. All proposed subsequent PID bond issues for a Project, if any, will be subject to approval by the City Council.

4. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as an agreed-upon maximum annual assessment rate is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan and the PID Act. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the public improvements to that improvement area. In no case will assessments be increased for any parcel unless the property owner of the parcel consents to the increased assessment.
5. The City shall not be obligated to provide funds for any improvement except from the proceeds of the PID Bonds and PID assessments.
6. 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.
7. A PID will be responsible for payment of all of the City's reasonable and customary costs and expenses including the cost of any appraisal.
8. Improvements funded with PID proceeds will 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 requirements if "paving drainage, street widening, and other public 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."
9. Any PID Bond issued will include a Reserve Fund in an amount equal to the lesser of: (i) the maximum annual debt service on the bonds, (ii) 10 percent of the Bond Par Amount, or (iii) 125 percent of the average annual debt service and that such Reserve Fund will be funded from bond proceeds at the time bonds are issued.
10. Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003(b):
  - a. Landscaping and irrigation in public rights of way;
  - b. Erection of fountains, distinctive lighting, backlit street signs and way finding signs;
  - c. Acquiring, constructing, improving, widening, narrowing, closing or rerouting sidewalks, streets or any other roadway or their rights-of-way;
  - d. Construction or improvement of pedestrian malls;
  - e. Acquisition and installation of pieces of public art;
  - f. Acquisition, construction or improvement of libraries;
  - g. Acquisition, construction or improvement of public off-street parking facilities;
  - h. Acquisition, construction, improvement or rerouting of mass transportation facilities;
  - i. Acquisition, construction or improvement of water, wastewater or drainage improvements;
  - j. The establishment or improvement of parks;
  - k. Acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
  - l. Acquisition, by purchase or otherwise, of real property that shall be designated as conservation habitat, protected with a conservation easement, or used in furtherance of the protection of endangered species, or aquifer recharge features;
  - m. Special supplemental services for improvement and promotion of the district, including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and culture

- enhancement;
  - n. Payment of expenses incurred in the establishment, administration, and operation of the district, including expenses related to the operation and maintenance of mass transportation facilities; and
  - o. The development, rehabilitation, or expansion of affordable housing.
11. Any trails, parks, streets or other public amenities that are located within a gated community or otherwise inaccessible location may not be funded or reimbursed by the PID.
  12. All public infrastructure within the PID that is to be reimbursed must be in compliance competitive bidding in accordance with Texas Local Government Code.
  13. 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.

## **PROJECT CRITERIA**

In agreeing to form a PID for which debt will be issued to fund the costs of constructing qualified public improvements, the City will require the following:

1. The property owner must demonstrate to the City that it has the expertise to complete the new development that the PID will support.
2. The property owner must provide the City with its sources of funding the Public Improvements not being funded by the PID.
3. The proposed development must be consistent with the entitlements on the property. All required zoning, other required land use approvals or other required permits must be in place for the development prior to the issuance of any PID bonds.
4. The property owner must provide evidence to the City that the utility service provider has sufficient capacity to provide all necessary utility services.
5. All reasonable estimated costs must be identified before a decision is reached on a request to issue bonds for a PID. Costs to be identified include costs related to establishing the district; costs for construction and/or the acquisition of improvements, the maintenance and operation of improvements (if any) and PID administrative costs.
6. If the City elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with PID funds. The PID administrator will be required to review and comment on the Budget and to attend the annual public hearing regarding the Service and Assessment Plan.
7. The PID Financing Agreement (or other applicable PID documentation) shall contain a section, which clearly identifies the benefit of the PID to the affected property owners and to the City as a whole (i.e., public purpose) and also evidence of insurance.
8. The Service and Assessment Plan shall describe, if applicable, all City-owned land within the district as well as its proposed share of project costs.
9. Specified assurances that the construction of improvements in the public right-of-way will be dedicated to and maintained by the City after the PID has dissolved. For the life of the PID, public infrastructure will be maintained by the PID, unless otherwise stated in a subsequent agreement.



### **Developer Reimbursement**

1. The Developer will submit expenses for reimbursements.
2. The appointed designee will verify expenses' validity towards the PID agreement.
3. Once expenses have been verified, payment will be processed within thirty (30) days. .

### **Miscellaneous**

1. Severability: If any section, subsection, sentence, clause, phrase, or word of this policy is declared unconstitutional or invalid for any purpose, the remainder of this policy shall not be affected.
2. Any waivers to this policy must be approved by the City Council of the City of Kyle.
3. The City shall, upon reasonable prior written notice to the Developer and during normal business hours, have the right to audit and inspect the Developer's records, books, and all other relevant records related to Reimbursable Amounts under this Agreement. The Parties agree to maintain the appropriate confidentiality of such records, unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, State Law, municipal ordinance, or at the direction of the Office of the Texas Attorney General.
4. Recapture. In the event of default by Developer under the negotiated Agreement related to Reimbursement Amount Requests, the City shall, after providing Developer notice and an opportunity to cure, have the right to recapture Reimbursement Amount Requests.
5. No Personal Liability of Public Officials. No public official or employee shall be personally responsible for any liability arising under or growing out of any approved PID. Any obligation or liability of the Developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the Developer pursuant to any other instrument transaction or undertaking as a result of the PID shall be satisfied out of the assets of the Developer only and the City shall have no liability.
6. All PID Agreements shall include Indemnification language as follows:

Indemnification. **DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY AND (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES), INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY ANY THIRD PARTY AND RELATING TO DEVELOPER'S ACTIONS ON THE PROJECT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER OR DEVELOPER'S TENANTS' NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S TENANTS, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S TENANTS, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES,**

**DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S TENANTS' ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.**

**IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY AND THE DEVELOPER SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND / OR THEIR OFFICERS, EMPLOYEES AND ELECTED OFFICIALS PERMITTED BY LAW**



# **Policy and Guidelines for Public Improvement Districts**

## **POLICY**

### **OVERVIEW**

Public Improvement Districts ("PIDs") provide a development tool that allocates costs according to the benefits received. A PID can provide a means to fund supplemental services and improvements to meet community needs which could not otherwise be constructed or provided and be paid by those who most benefit from them.

The purpose of the PID policy is to outline the issues to be addressed before the City Council can support the establishment and continuation of a public improvement district. The policy outlines such things as petition requirements, information to property owners, and determination of annual plan of services, budget and assessments. It addresses City administration issues, which are in addition to the requirements of state law.

### **I. GENERAL**

1. PIDs must be self-sufficient and not adversely impact the ordinary service delivery of the City, except where City Council elects to participate in the project's costs.
2. PIDs must be established carefully and only when related to a public purpose to avoid a proliferation of special districts.
3. PID petition signatures should reflect that a reasonable attempt was made to obtain full support of the PID by the majority of the property owners.
4. Priority will be given to PIDs for:
  - (a) Improvements in the public right-of-way (e.g., entryways, landscaping, fountains, specialty lighting, streets and sidewalks);
  - (b) Improvements which meet community needs (e.g., drainage improvements, parks and off-street parking facilities); and
  - (c) Improvements related to operations and maintenance expense (e.g., sidewalk and street cleaning).



5. Secondary consideration will be given for other "supplemental services". Very careful consideration must be given before City Council will support a PID for improvements, which require bond financing.

Use of assessments for partial recovery of a developer's capital costs will be allowed only in special cases where extraordinary public benefit is shown. Only those capital costs associated with continuing district services will be considered for partial recovery.

6. A PID's budget shall include sufficient funds to pay for all costs above and beyond the City's ordinary costs, including additional administrative and/or operational costs as well as additional maintenance costs resulting from the PID.
7. The petition should include the notation that it is the City's right to maintain the project, with input from the existing advisory body, and assess the property owners of their appropriate share of the costs if the management firm's work is unsatisfactory.
8. Anyone selling land in a public improvement district must include a "title encumbrance" which notifies any prospective property owner of the existence or proposal of special assessments on the property. All closing statements must specify who is responsible for payment of the PID assessment on a pro rata share thereof.

## II. PETITION REQUIREMENTS

For a district to be established, a petition shall include the following:

1. Assurance of long-term backing and support.
2. Sunset clause or procedures outlined for public review of the success of the PID and a determination of property owners whether to continue with the district or dissolve it.
3. Evidence that the petition's signatures meet the state law requirements or the petition will be accompanied by a reasonable fee to cover the city costs of signature verification. If the proposed district is an expansion of an existing district, a petition for the new portion of the district must identify each subdivision, or portion thereof, within the proposed boundaries of the new district, and each subdivision or portion thereof, that is not currently in an existing PID shall individually satisfy the requirements for a petition under Section 372.005 of the Texas Local Government Code. Subdivision has the meaning assigned by Section 232.021 of the Texas Local Government Code.
4. Contingency plan to address the maintenance or disposition of PID improvements and or property that has not been dedicated to the public if a PID is dissolved.
5. Map of the area, description of the boundaries of the district for the legal notices and a "commonly known" description of the area to be included in the district.



6. A section, which clearly identifies the benefit of the PID to the affected property owners (for use in benefit hearings) and to the city as a whole (i.e., public purpose).
7. Description of all city-owned land within the district as well as its proposed share of project costs.
8. Types of activities the District organization will undertake and who will determine those activities.
9. A Budget, including District's revenue in addition to the assessments, and how all funds will be managed.
10. Staffing needs.
11. Documentation of adequate liability insurance.
12. Specified procedure for eventual termination of the district.
13. Specified assurances to the City that the construction of improvements in the public right-of-way will be maintained by the PID and in no way obligates the City to future maintenance or operational costs, unless otherwise stated in a subsequent agreement.
14. Statement that the petitioners understand that the annual budget for the district is subject to review by city staff with final approval by the City Council.

In addition, the following issues must be addressed before the City Council will take action on a petition:

1. An "application fee" will be paid by the applicant to reimburse the city for the cost of evaluating the petition. Any unexpended portion of the fee shall be reimbursed to the PID or applicant when the evaluation is complete.
2. A petition will be viewed more favorably if it has attached a current tax roll with the signatures of the owners registering support of the petition next to the account for the owner's property on the tax rolls.
3. All estimated costs must be identified before a decision is reached on a request to establish a PID. Costs to be identified include costs related to establishing the district; costs for maintenance, operations and administration; and costs for later revision, repair or replacement of any improvements.
4. A professional management plan must be submitted for review and approval before the petition is submitted (e.g., who will address issues as they arise and how they will be addressed).
5. For a residential PID, the City Council will look more favorably on a petition where the developer of a new subdivision has put in place an active homeowners organization.



6. Any management firm for the PID shall be required to hold a public meeting for property owners in the PID to review and comment on the Budget and Plan of Services, and to attend the annual public hearing before the City Council takes action.

## **GUIDELINES**

### **OVERVIEW**

These guidelines are written to assist in the operations and management of a Public Improvement District ("PID"), and are not intended to be an all-inclusive list. Of primary consideration, are the statutes outlined in Chapter 372 of the Texas Local Government Code, (<http://tlo2.tlc.state.tx.us/statutes/lg.toc.htm>) and the City of Fort Worth Public Improvement District Policy, as amended on March 23, 1999.

### **I. ESTABLISHMENT**

A Public Improvement District (PID) is a defined area of properties, whose owners have petitioned the City to form a PID. City Council establishes a PID by adoption of a resolution after a public hearing. The public hearing is publicized and written notification of the hearing is mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive enhanced services and/or improvements within the District. The PID must demonstrate that it confers a benefit, not only to the properties within the District, but also to the "public" which includes the entire City.

The establishment of an Advisory Body should be addressed in the petition. Statutes allow the City Council to appoint the Advisory Body. However, City Staff can elect that an existing organization with direct ties to the PID serve as the advisory body. Such organizations may be Homeowners Associations, Business Associations, Historical Associations, etc. On an annual basis the criteria for the Advisory Body will be reviewed by the City Attorney and if necessary changes will be implemented.

### **II. GOVERNANCE**

City staff shall administer all PIDs in accordance with the City's PID Policy.

### **III. PID MANAGEMENT**

1. The City may contract with a management company to manage the PID, subject to administrative oversight by City staff.
2. The management company will coordinate development of the Budget and Five Year Service Plan with the advisory body selected by the City Council for such purpose (or any other group that is representative of the property owners), which will be submitted to the City Council for consideration following a public hearing conducted in accordance with State law.
  - a. The management company seeks input from the designated advisory body and/or the property owners regarding the needs of the District.



- b. The management company communicates to all property owners within the District, regarding events, activities, or other news in the District.
  - c. Minutes must be submitted to the City within forty five days following each Board meeting.
3. The management company either performs the work or subcontracts the work to be performed in the District.
  - a. Coordinates between the City and the Advisory Body to effectively accomplish the work in the District according to the adopted Service Plan and within State law.
  - b. Attends all PID Advisory Body meetings and other PID committee meetings, as necessary.
4. The City's PID Administrator should be notified of the time and place of all PID membership and advisory board meetings.
5. A member of a PID advisory board appointed by the City Council in accordance with Section 372.008 of the Texas Local Government Code cannot have a financial interest, either directly or indirectly, with the entity under contract to manage the PID or in any contract or other expenditure for improvements or services in the PID.

#### **IV. ASSESSMENTS**

1. By ordinance, the City annually levies the assessments on the properties in the District in accordance with the petition.
2. The City has contracted with Tarrant County Tax Office for billing and collecting the PID assessments.
3. The PID assessment is billed on the property owner's annual ad valorem tax statement.
4. The City provides the PID funding on a reimbursement basis, based on invoices submitted by the Management Company.

#### **V. SERVICE PLAN**

State law specifically outlines the improvements and special supplemental services that may be adopted in the Five Year Service Plan and provided for in the District's annual Budget.

1. The City of Fort Worth utilizes PIDs for operations and maintenance projects which may include:
  - Landscaping;
  - Erection of fountains, distinctive lighting, and signs;
  - Construction or improvement of pedestrian trails;



- Acquisition and installation of pieces of art;
  - Acquisition, construction, or improvement of off-street parking facilities;
  - The establishment or improvement of parks;
  - Acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
  - Special supplemental services for improvement and promotion of the District, including services relating to advertising, promotion, health and sanitation, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
  - Payment of expenses incurred in the establishment, administration, and operation of the District.
2. Budgets should be developed with the concept that the entire PID will benefit.
  3. Annual budgets should be supplemented by a detailed line item explanation of the various components and how the amount was derived.

#### **VI. EXPENDITURE REIMBURSEMENTS**

1. The Management Company will periodically, but not more frequently than monthly, present to the City an invoice with the following information:
  - a. Report of services rendered and documents evidencing payments made for District services for the reporting period;
  - b. The City shall reimburse the Management Company within fifteen (15) business days for District services within the limit of assessments actually collected.
  - c. Management payments for administration of a PID should not exceed 20% of current year assessment. Administrative costs consist of, but are not limited to, rent, office supplies, salaries, and other expenses necessary for the oversight of PID projects. Management payments under this provision are for the payment of oversight and expenses incurred in the establishment, administration, and operation of the District under Section 372.003(b)(14) of the Texas Local Government Code and are separate from payment for special supplemental services that may be authorized for the improvement and promotion of the District under Section 372.003(b)(13) of the Texas Local Government Code.
2. The Management Company must follow State Statutes regarding authorized expenditures within a PID.
3. Expenditures must fall in the general category as outlined in the Texas Local Government Code governing Public Improvement Districts, as stated in Section IV above.
4. Any purchases of goods or services or any purchase contract that is subject to annual renewal, that is more than 4% of the total budget in any given year, requires 3 bid requests by qualified vendors before the purchase may be made. Exceptions are





emergency situations, long-term contracts (negotiated for cost management before January 1, 2009), and professional services approved in the budget. This is subject to annual review by City staff.

5. The Management Company shall make a periodic work report, no less than quarterly, detailing the Management Company's significant work activities

## **II. FINANCIAL REPORTING**

1. Financial Statements (Balance Sheet, Income Statement, and General Ledger) should be provided to the City's PID Administrator on a monthly basis.
2. Care should be taken to classify expenditures. Routine repairs and maintenance should not be classified as Capital Improvements. Capital Improvements involve the construction, purchase, or renovation of buildings, parks, streets, or other physical structures that will either enhance the property's overall value or increase its useful life. A capital improvement must have a useful life of five or more years.
3. Reserves should be maintained to cover the first three months of the fiscal year, until tax receipts are received, however reserves should not exceed 75% of average yearly assessments.
4. The annual assessment rate should be supported by the required budget. An explanation in writing of the reason for delaying or cancelling a project or expenditures in a given year which results in the increase of fund balance should be provided by the management company to the PID Administrator prior to the submission of the next year's budget.
5. An Income Statement comparing the budget to the projected year end balances should also be prepared on a quarterly basis.
6. CPA firms must change every 5<sup>th</sup> year.
7. The financial records for the PID are subject to review by City of Fort Worth personnel at any time.

## **VIII. DISPUTE RESOLUTION**

1. Any disputes between the Management Company and the PID Advisory Board may be directed to the City of Fort Worth PID City Attorney or Administrator.
2. Either party may appeal the decision of the City's PID Attorney or Administrator to the Director of the Department in which the PID program is assigned.
3. Decisions made by the Director may be appealed to the City Manager.

**CITY OF GRAND PRAIRIE  
PUBLIC IMPROVEMENT DISTRICT POLICY  
AS ADOPTED BY THE CITY COUNCIL ON MARCH 1, 2011**

**I. PURPOSE:**

A Public Improvement District (PID) is a tax assessment area established to provide for the enhancement of public improvements and services in the area. Assessments are generally based on the appraised values of real property within the area. A PID can encompass and serve both residential and commercial property. Cities are authorized to create PIDs under Chapter 372 of the Texas Local Government Code.

The City of Grand Prairie recognizes that PIDs are valuable tools which developers and neighborhoods use to enhance the maintenance of public property beyond the level normally provided by the City. It is the intent of the city to allow direct management control of PID operations by advisory bodies consisting of PID property owners. However, PID bodies serve advisory functions, and all final decisions are made by the governing body of the PID, the City Council. Section 372.002 of the Texas Local Government Code, Exercise of Powers, states that "Powers granted under this subchapter may be exercised by a municipality or county in which the governing body of the municipality or county initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005."

**II. PID SERVICES AND IMPROVEMENTS:**

A. PID assessments may only be used to serve or improve public property and may not be used to benefit or enhance private property. Listed below are services and improvements which Grand Prairie PIDs may provide or maintain. Other improvements allowed by the statute will be reviewed and considered individually by the city.

- Landscaping and irrigation
- Right-of-way, median, and other open space maintenance, such as residential detention ponds
- Perimeter fencing
- Entry features <sup>1</sup>
- Fountains
- Distinctive lighting
- Distinctive signs
- Art or decorations
- Sidewalks

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<sup>1</sup> A PID proposing to install any sign or structure in a median must have the plans reviewed by the Transportation and Engineering departments, and the City Council must approve the plans **before** any costs are incurred. In addition to this, the PID President must sign the City's hold harmless agreement.

- Proposed district boundaries
  - Estimated costs associated with the improvements and maintenance
  - The general nature of the proposed improvements or maintenance program
  - Consideration of future replacement of capital improvements, i.e. fences
  - Classes of property which will be subject to or exempt from assessment and the proposed method of assessment (i.e., flat rate or % applied to appraised market value)
  - The proposed apportionment of costs between the PID and the municipality as a whole (the transfer)
  - How the PID will be managed
  - A core committee of interested individuals (names, addresses and phone numbers)
  - That the persons signing the petition request or concur with the establishment of the PID
2. A city task force consisting of representatives from the following departments will review the initial submittal: Planning, Legal Services, Finance, and Parks and Recreation. The Finance Department will take the lead in the review process.

After initial review, the city task force will determine whether sufficient support and documentation has been provided. If accepted, the PID committee will then prepare the final application packet in a format provided by the City.

The final application packet must include an assessment plan apportioning the cost of the improvement plan to be assessed:

a. An estimated assessment rate is applied to the expected appraised value of property to sufficiently fund a budget. The budget should provide adequate funds for the following:

- Annual routine maintenance of improvements
- Reserves to fund long term major maintenance and replacement of improvements
- Associated city out-of-pocket administrative costs

b. Description of procedures for the nomination of an Advisory Board. The Advisory Board will recommend specific improvements, oversee the annual budget and long-term plans, and manage related contracts and services.

c. A petition. The petition is sufficient if signed by:

- Owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and
- Record owners of real property liable for assessment under the proposal who:

- Classes of property which will be subject to or exempt from assessment and the proposed method of assessment
  - The proposed apportionment of costs between the PID and the municipality as a whole (the transfer)
  - How the PID will be managed
  - An advisory board to develop and recommend an improvement plan to the governing body of the municipality
  - That the persons signing the petition request or concur with the establishment of the PID
  - A plan for turning the PID over to the residents when the developer has finished the residential development. The plan should include an approximate date for giving control to the residents and the specific triggers for giving control to an advisory body, such as 50% of development. The developer will be responsible for: scheduling a meeting with residents; informing the residents of the purpose, date, time, and location of the meeting; attending this meeting with the residents; explaining how the PID works; helping residents to nominate an advisory body; and turning over to the new advisory body a detailed accounting of prior expenditures.
2. A city task force consisting of representatives from the following departments will review the initial submittal: Planning, Legal Services, Finance, and Parks and Recreation. The Planning Department will take the lead in the review process, and Finance will handle administrative tasks.

After initial review, the city task force will determine whether sufficient support and documentation has been provided. If accepted, the PID committee will then prepare the final application packet in a format provided by the city.

The final application packet must include an assessment plan apportioning the cost of the improvement plan to be assessed:

- a. If applicable, a description of the division of PID and HOA responsibilities and the relationship between PID fees and HOA dues.
- b. An estimated assessment rate is applied to the expected appraised value of property to sufficiently fund a budget. The budget should provide adequate funds for the following:
  - Annual routine maintenance of improvements
  - Reserves to fund long term major maintenance and replacement of improvements
  - Associated city out-of-pocket administrative costs
- c. Description of procedures for the nomination of an Advisory Body. The Advisory Body will recommend specific improvements, oversee the annual budget and long-term plans, and manage related contracts and services.

- Fully completed exhibit which contains the name of each parcel owner, the parcel legal description (subdivision name, lot, block, etc.) and the tax account number for each parcel.
  - Description of property including metes and bounds, name of subdivision or property, boundary map, and site plan.
  - Description and scaled site plan of proposed improvements including landscape plan, landscape irrigation plan, signage, etc.
2. If the expansion is a new development, the petition shall include:
- Letter of commitment that developer/property owner shall maintain improvements for a period of two years after annexation into improvement district.
  - Commitment that developer/property owner shall pay any costs associated with annexation.
3. Fees and Permits: New developments joining existing PIDs are required to pay fees and obtain permits such as:
- Meter fees
  - Tap fees (if the work is done by the City)
  - Security deposits
  - Impact fees
  - Inspection fees
  - Permits as required
  - Other City fees as required

See **Exhibit A** for details.

#### **E. Assessment Rate Increase:**

If a PID requests an assessment rate increase, the PID must hold at least one additional homeowner meeting within the month before the assessment hearing to announce the increase, provide budget information, and answer questions. The PID may hold additional homeowner meetings as needed.

### **IV. PID STAKEHOLDER GROUPS AND RESPONSIBILITIES:**

#### **A. PID stakeholder groups include:**

- City
- City Council
- City staff
- PID advisory boards
- PID contractors
- PID property owners

5. **Operations:** Improvements and maintenance authorized by PIDs are supplemental to the general operations of the city and shall be paid entirely from district assessments. Should the PID advisory board fail to meet its financial obligations, the city shall maintain the improvements at PID expense until such time as the improvements are paid for or a new advisory board is established.
6. **Contracts:** The PID advisory board shall pursue annual contracts for maintenance, repair, and construction services where possible.
  - Contracts will be negotiated by the PID advisory board.
  - Contracts will be approved by the City Manager, except contracts in excess of the dollar threshold at which the City Manager may award City contracts require City Council approval.<sup>2</sup>

The PID advisory board must ensure that its contractors provide appropriate liability and other insurance. All contracts will be reviewed and approved by the City Legal department. Day-to-day responsibilities may be provided by contract management paid for from PID assessments.

7. **Insurance:** The PID advisory boards will acquire general liability, automobile liability, and errors and omissions insurance, such coverage to be paid for from PID assessments. Property insurance for valuable assets is optional and to be paid for from PID assessments. The insurance policies must be occurrence-based, not claim-based, and the City of Grand Prairie must be named as additional insured on all policies.

The PID advisory board should consult its insurance advisor /agent on the appropriate levels of insurance. PIDs may obtain insurance through the Texas Municipal League (TML) at government rates or purchase it from a private carrier. PIDs will pay for insurance purchased from TML, and the cost of the insurance will be allocated based on PID area maintained or PID budget. PIDs will pay their own deductibles.

8. **Security:** If any PID hires additional security, the security service must provide proof of adequate insurance, or the PID may hire off-duty police officers. If any PID hires additional security, the Police Department will be notified prior to engaging the security service.

### **C. City and City Staff Responsibilities:**

1. **Collections:** The city will collect current and delinquent PID assessments. Current collection costs will be reimbursed from PID assessments. In the case of a PID dissolution, PID assessments will continue until any and all debt obligations of the PID are paid in full.

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<sup>2</sup> On October 16, 2007, the dollar threshold at which the City Manager may award contracts increased to \$50,000.

plan, assessment rate and roll, and contracts in excess of the dollar threshold at which the City Manager may award City contracts.<sup>3</sup>

#### V. CITY LIABILITY:

- A. The PIDs and PID advisory board, performing the tasks of the PID that are authorized or mandated by the City, are authorized by the City to perform those tasks, and to the extent possible, are afforded the appropriate rights and protections of other City volunteers if they act strictly in accordance with city policies and procedures. PID advisory board members must obtain the advice of experts and have projects approved by City staff before construction begins. City staff will determine whether additional approvals by the Development Committee and/or City Council are also required.
- B. A PID proposing to install any sign or structure in a median must have City Council approval **before any costs are incurred**, and the following agreement applies:

The PID will assume responsibility for third party liability for any and all claims or suits for damage to any persons or property, including that property purchased, installed, operated, and maintained by the PID, arising out of or in connection with, directly or indirectly, the construction, maintenance, occupancy, use, existence or location of said uses granted hereunder, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants employees, contractors, subcontractors, licensees, or invitees of the PID. The PID maintains rights, at the option of the PID, to repair, replace, or to remove, any property installed, operated, and maintained by the PID. The PID will assume responsibility for any and all claims or suits for personal injury, including death, to any and all persons, of whatsoever kind or character, arising out of or in connection with, directly or indirectly, the construction, maintenance, occupancy, use, existence or location of said uses granted hereunder, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants employees, contractors, subcontractors, licensees or invitees of the PID. The PID will assume responsibility for any and all injury or property damage arising out of or in connection with any and all acts or omissions of the PID, its officers, agents, servants, employees, contractors, subcontractors, licensees, invitees, or trespassers.

The PID agrees to obtain insurance satisfying insurance requirements specified herein by either a) providing to the City sufficient funds as required by the City through its PID Administrator to enable the City to arrange, purchase, and maintain insurance on behalf of the PIDs; or b) to furnish City with a Certificate of Insurance, naming City as certificate holder, as proof that it has secured and paid for any or all required insurance policies not obtained under provision "a)". The PID understands and agrees that the City's insurance amount requirements may be revised upward at City's option and that the PID shall so revise such amount requirements immediately following notice to the PID of such requirement. Such insurance policy shall be occurrence based and shall provide that it cannot be canceled or amended without at least ten (10) days prior written

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<sup>3</sup> On October 16, 2007, the dollar threshold at which the City Manager may award contracts increased to \$50,000.



## Exhibit A

### 22.2.1 Building Permit Fees:

\$25.00	Fence Permit in a Residential Area
1%	Subdivision Screening Fence: Based on the Value of the Fence/Retaining Wall
1%	Commercial Fence: Based on the Value of the Fence (Minimum of \$50.00)
\$700.00	New Single Family or Two-Family (Duplex) Dwelling + \$50.00 for Plan Review
\$200.00	Each Living Unit for Multi-Family Dwelling
\$20.00	Each Residential Accessory Building/Structure up to and Including 100 Sq. Ft.
\$100.00	Each Residential Accessory Building/Structure Larger than 100 Sq. Ft. up to and Including 400 Sq. Ft. (Storage Building, Gazebo, Garage, etc.)
\$0.25	Per Square Foot for each Garage/Accessory Building Greater than 400 Sq. Ft.
\$20.00	Residential Driveway Approach
\$100.00	Commercial Driveway Approach
\$100.00	Each Swimming Pool
\$50.00	House Moving Permit
\$50.00	Structural, Electrical, Plumbing and Mechanical Re-Inspection
\$100.00	Irrigation System
\$50.00	Demolition Permit
\$100.00	Commercial Parking Lot (New/Repair)
\$50.00	Temporary Building Permit
\$60.00	Change of Occupancy (Average)
\$30.00	Clean and Show
\$25.00	Tank Permit (Install or Remove)
\$20.00	Boiler Permits (See Plumbing Permit)
\$20.00	Fireplace Permit
\$50.00	Fire Suppression Permits
\$30.00	Foundation Repair Permit
\$50.00	Roof Repair (Decking Only) Permit
\$20.00	Spa and Hot Tub Permit
\$20.00	Miscellaneous Work not Covered by a Building Permit (Minimum)

### 22.2.2 Remodel, Additions, Rehabilitation:

Per Square Foot for Residential Dwelling, Not to Exceed the Fee for New Construction	\$0.25
Per Square Foot for Commercial, Non-Dwelling, Structures	\$0.14

### 22.2.3 Mobile Home Fees:

Per Lot for Mobile Home (Initial Fee)	\$425.00
Per Mobile Home (Replacement)	\$50.00
Electrical, or Plumbing, or Mechanical Inspection Fee	\$40.00

#### 22.2.8 Fees Related to Signs:

The following fees shall accompany and be required for Sign permits:

##### A. Initial Permit:

0 – 50 Sq. Ft.	\$50.00
> 50 Sq. Ft.	\$100.00+\$0.10/Sq. Ft.
Additional Fee if Lighted	\$40.00

##### B. Annual Renewal Fee

For Grandfathered Off-Premise Signs	\$105.00
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##### C. Balloon Signs

Balloon Signs	\$50.00
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##### D. Penalties

1. All signs excluding portable signs: Any person who violates any provision of this UDC shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$200.00 upon conviction.
2. Portable Signs: Any person who violates any provision of this UDC regarding portable signs, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$500.00 and not more than \$1,000.00 upon conviction and shall be prohibited from displaying a portable sign on the property for a period of one year from date of conviction. However, if a lessor is found to be in violation, not only will the fine apply, but the lessor shall be prohibited from operating within the City for one year from date of conviction.

## EXHIBIT A

### City of Dallas PID Policy

*Adopted December 14, 2005  
Amended June 25, 2008  
Amended October 28, 2009  
Amended October 23, 2013*



Office of Economic  
Development  
[www.dallas-ecodev.org](http://www.dallas-ecodev.org)

1

## PID Policy - Background

Exhibit A

- ♦ On December 14, 2005, the City Council, pursuant to Resolution Number 05-3539, adopted the City of Dallas Public Improvement District (PID) Policy for the creation, renewal, administration and management of Public Improvement Districts within the City of Dallas.
- ♦ The City Council subsequently amended the policy pursuant to Resolution No. 08-1782 on June 25, 2008 and Resolution No. 09-2620 on October 28, 2009.
- ♦ On October 7, 2013, the Economic Development Committee reviewed an amendment to the PID policy and recommended the amended policy for City Council approval.
- ♦ On October 23, 2013, the City Council considered the amended PID policy.



Office of Economic  
Development  
[www.dallas-ecodev.org](http://www.dallas-ecodev.org)

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EXHIBIT "E"

## PID Policy – Overall Recommendations

- The amended PID policy will prohibit future PIDs that overlap the boundaries of another Dallas PID and make such other minor clarifications consistent with state law including the process for boundary changes.
- The City of Dallas should continue to support and upgrade the use of Public Improvement Districts for Commercial and Mixed Use Areas.
- The Prestonwood PID shall continue to be renewed, supported and administered until such time the City Council deems it appropriate not to pursue renewal in accordance with Chapter 372 of the Texas Local Government Code. *Procedures for renewal will follow those outlined in this policy for single-family PIDs.*
- The City of Dallas Office of Economic Development will allow the use of Public Improvement Districts for single-family districts (defined as areas with a minimum of 30% of land area dedicated to detached single-family housing) in established areas (defined as at least 80% of all single-family lots being developed) for the purpose of funding screening wall improvements, park improvements and maintenance, landscaping, other public improvement and additional security if less than 50% of the total PID budget.
- The amended PID Policy will NOT support the creation of PID Districts in undeveloped subdivisions.



## PID Policy (continued)

- In new and renewing *commercial or mixed use district* PIDs, the City will require that Owners representing at least 60% of the value and 60% of all record Owners or 60% of land area support the creation of a new or renewing PID.
  - Petitions will not be required to be notarized.
  - Staff will verify that the person signing the petition is the owner and has the authority to sign.
  - PID petitions shall include this additional note: "With respect to community property, the City may accept the signature of a spouse as a representation of both spouses that they support the creation or renewal of the PID absent a separate property agreement. However, if staff is made aware of any disagreement among owners of community property, those petitions will not be counted."
- In new or renewing Single-Family PIDs, the City will require that Owners representing at least 66.7% of the value and 66.7% of all record Owners or 66.7% of land area support the creation of a new PID.
- PID petitions will be due on April 1<sup>st</sup> annually for approval by October 1<sup>st</sup>. Signatures for PID petitions must be gathered between October 1 and April 1 prior to the submission of the petition.
- PID assessments will be based on a set rate based on total property value. The maximum PID assessment in Dallas shall be \$0.15 per \$100 valuation.
- PIDs in Dallas will be allowed to fund any item provided by state law.



## PID Policy (continued)

- PIDs must be self-sufficient and not adversely impact ordinary service delivery of the City.
- Administrative expenses, including costs for day to day City Staff administration, for a PID shall not exceed 1.5% of the total budget in any year.
- A PID Service Plan shall contain procedures for the termination of the PID without imposing unintended costs on the City of Dallas. A PID cannot be dissolved without a petition from property owners and must be sufficient as for creation or renewal in accordance with Chapter 372, Section 372.005(b).
- Upon approval of a PID, City staff will file the resolution creating the PID including the assessment roll in the Dallas or other County deed records and provide contact information so that a title company may determine how much of an assessment is owed or paid for each property in the PID each year. This will ensure that a title company can pro-rate the assessments for the year between the buyer and seller in the same way the title company is responsible for calculating and collecting the taxes apportioned between the buyer and seller at the date of closing. This practice will not involve separately recording documents for each parcel within a PID.



## PID Policy (continued)

- Property owned by the City of Dallas shall not be subject to assessment by any PID, excluding the Downtown Improvement District.
- An application fee of \$15,000 will be required for all new or renewing PIDs. This fee may be reimbursed to the PID management entity out of PID assessments when collected. This fee is regulatory in character so it approximates the costs of administering the PID through creation or renewal by City staff. The fee will be used for direct expenditures and to compensate the City of Dallas for creation and renewal staff time expended. If the City of Dallas costs for this process are less than \$15,000, the remainder will be reimbursed to the PID applicant. The application fee will not be counted as part of the 1.5% maximum for administrative expenses in a PID budget.
- A PID application for creating or renewing a PID shall include a current list of properties and tax roll (City will assist in this process in coordination with the PID and DCAD).



## PID Policy (continued)

- PID applications shall include a map acceptable to the Office of Economic Development and a legal or clear description of the property included in the District. This practice will not require that the applicant provide property surveys.
- A PID application for creating or renewing a PID shall include a section that clearly identifies the benefit of the PID to the affected property owners and to the city as a whole and also evidence of insurance.
- Any management firm for a PID shall be required to submit quarterly reports of all activities and expenditures; an annual independent audit of all PID expenditures; and shall hold an annual meeting open to all property owners and held in a public meeting space with written notice to all property owners in the PID at least two weeks prior to this meeting to provide an opportunity for property owner questions, comments and input to be considered during the PID Budget and Service Plan approval process.



## PID Policy - Boundaries

- With the exception of Klyde Warren Park and the Tourism PID, and any future modifications to the boundaries of either PID, no future PIDs will be allowed to be created that overlap the boundaries of another Dallas PID.
- In general, the boundaries of existing PIDs can be modified during a renewal process (with updated map as part of the petition). However, a boundary change during the existing term of a PID may only be considered if a re-petition of the entire PID area (both current boundary and proposed modified areas) meets the minimum criteria for creation/renewal and the \$15,000 application fee as described earlier in this Policy.
- The boundaries of the Tourism PID include hotels over 100 rooms at the time of creation. Any hotels that drop below that level during the term will be removed from the assessment roll. New hotels may only be added during the next renewal or re-petition process.



## PID Policy (continued)

- Special Purpose PIDs may be requested by the City Manager's Office to address unique issues, subject to state law petition requirements.
- The maximum PID assessment in these districts may be above \$0.15 per \$100 valuation.
- These PIDs in Dallas will be allowed to fund any item provided by state law.
- These Districts may be used to address special facility maintenance and beautification issues.
- Administrative expenses in these districts shall not exceed **10%** of the total budget in any year.







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

7/10/2017

Agenda Item No. A)

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Presenter/Contact

*Patrick Aten, City Secretary*  
(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)

**SUBJECT:**

Discuss and consider approval of the minutes of the regular City Council meeting of June 26, 2017.

**BACKGROUND / RATIONALE:**

N/A

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the minutes of the regular City Council meeting of June 26, 2017.

**MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
REGULAR MEETING OF MONDAY, JUNE 26, 2017**

The City Council of the City of New Braunfels, Texas, convened in a Regular Session on June 26, 2017, at 6:00 p.m.

City Councilmembers present were:

**Present:** 6 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Ron Reaves, Councilmember Chris Monceballez, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

**Absent:** 1 - Councilmember George Green

City Staff present were:

City Manager Robert Camareno, Assistant City Manager Kristi Aday, City Attorney Valeria Acevedo, City Secretary Patrick Aten, Assistant City Secretary Andrea Cunningham, Public Works Director Greg Malatek, Planning and Community Development Director Christopher Looney, and Planning Manager Stacy Snell.

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:02 p.m. Mayor Casteel gave the invocation, and led the Pledge of Allegiance and the Salute to the Texas Flag.

**PROCLAMATIONS:**

A) Pat's Place

**Mayor Casteel recognized the 40th Anniversary of Pat's Place.**

**1. MINUTES**

A) Discuss and consider approval of the minutes of the special City Council meeting of June 1, 2017, and the regular City Council meeting of June 12, 2017.

**Mayor Casteel read the aforementioned caption.**

**A motion was made by Mayor Pro Tem Peters, seconded by Councilmember Monceballez, that this item be approved. The motion**

passed unanimously.

**2. CITIZENS' COMMUNICATIONS**

**Chandler Gray spoke regarding children and river safety.**

**3. CONSENT AGENDA**

- A) Approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2019.
- B) Approval of a budget transfer in the Enterprise Maintenance and Equipment Replacement Fund.
- C) Approval of a Memorandum of Understanding between the City of New Braunfels and the Comal County Integrated Response Committee regarding inter-agency cooperation and response to active threats.
- D) Approval of the ratification of a grant application to the FY2016 Fire Prevention and Safety Grant under the Federal Emergency Management Agency in the amount of \$132,560 for the purchase of a fire demonstration trailer with educational equipment, and authorizing the City Manager to accept funds and execute all contract documents associated with the grant if awarded.
- E) Approval of the submission of a grant application to the U.S. Department of Justice FY 2017 Bulletproof Vest Partnership program for \$52,507.50 and authorizing the City Manager to accept funds and to execute all contract documents associated with the grant, if awarded.
- F) Approval to apply for a sub-award of the Grants to States Program from the Texas State Library and Archives Commission's federal funder, Institute of Museum and Library Services to be applied to Interlibrary Loan Lends program costs incurred during State Fiscal Year 2017, and authorizing the City Manager to execute all contract documents associated with the grant and accept funds if awarded.
- G) Approval of a resolution supporting a request from Guadalupe-Blanco River Authority (GBRA) to the Public Utility Commission (PUC) to expand GBRA's Certificate of Convenience and Necessity (CCN) into areas of New Braunfels' city limits and extraterritorial jurisdiction (ETJ).
- H) Approval of a grant application to the National Park Service for

technical assistance with community trail planning and authorizing the City Manager to execute all contract documents associated with the grant if awarded.

- I) Approval to authorize City Staff and SAMCO Capital Markets, Inc to proceed with the potential issuance of General Obligation Refunding Bonds, Series 2017 for debt service savings.
- J) Approval of the issuance of an invitation for competitive sealed proposals for the Alves Lane Project since the City Council finds that this delivery method will provide the best value to the City.
- K) Approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to amend the no parking zone on East Faust Street near the intersection with Comal Avenue.
- L) Approval of the first reading of an ordinance amending Ordinance 75-10 of the City of New Braunfels Code of Ordinances to amend the locations of traffic control devices in the Quail Valley Subdivision.
- M) Approval of the second and final reading of an ordinance to create a regulatory construction speed zone on portions of Loop 337.

#### **Approval of the Consent Agenda**

**Mayor Casteel read the aforementioned captions. A motion was made by Mayor Pro Tem Peters, seconded by Councilmember García, to approve the Consent Agenda. The motion passed unanimously via roll call vote.**

#### **4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Presentation, discussion, and possible action on the 2018 Comal Appraisal District Budget.

**Mayor Casteel read the aforementioned caption.**

**Mayor Pro Tem Peters introduced the item, and Comal Appraisal District Chief Appraiser Hector Lozano presented the item.**

**No action was taken.**

- B) Discuss and consider the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2017.

**Mayor Casteel read the aforementioned caption.**

**Patrick Aten presented the item.**

**A motion was made by Councilmember Monceballez, seconded by Mayor Pro Tem Peters, to appoint John Goodwin to the Community Development Advisory Committee for a term ending December 13, 2017. The motion passed unanimously.**

- C) Discuss and consider possible direction to city staff on amending Section 126-354 of the City of New Braunfels Code of Ordinances to remove a portion of Parking by Permit Area I and create a loading zone on East Coll Street.

**Mayor Casteel read the aforementioned caption.**

**Greg Malatek presented the item.**

**No direction was given. No action was taken.**

- D) Discuss and consider approval of the second and final reading of an ordinance prohibiting parking along both sides of a portion of Saengerhalle Road.

**Mayor Casteel read the aforementioned caption.**

**Greg Malatek presented the item.**

**A motion was made by Councilmember Meadows, seconded by Councilmember Reaves, that this item be approved. The motion passed via the following roll call vote:**

**In Favor:**

Mayor Casteel, Councilmember Meadows, Councilmember Reaves, Councilmember Monceballez, and Mayor Pro Tem Peters

**Opposed:**

Councilmember García

- E) Discuss and consider possible action regarding an amendment to the authorized position listing for the the Parks and Recreation Department for the addition of a full time Recreation Center Manager.

**Mayor Casteel read the aforementioned caption and stated that this item was pulled from consideration. No discussion or action was taken.**

**<City Council took a break.>**

- F) Discuss and consider approval of a resolution authorizing an expenditure of up to \$250,000 to the New Braunfels Independent School District for a project to make qualified improvements to Oak Run Middle School and New Braunfels Middle School sports fields.

**Mayor Casteel read the aforementioned caption.**

**Robert Camareno presented the item.**

**A motion was made by Councilmember Reaves, seconded by Councilmember Meadows, that this item be approved. The motion passed unanimously.**

- G) Public hearing and consideration of the first reading of an ordinance regarding the proposed rezoning of approximately 74 acres comprising a 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from "APD" Agricultural/Pre-Development District and "R-1A-6.6" Single-Family District to Weltner Farms Planned Development District (WFPD).

**Mayor Casteel read the aforementioned caption.**

**Christopher Looney presented the item.**

**James Ingalls spoke during the public hearing.**

**A motion was made by Councilmember Reaves, seconded by Councilmember Meadows, that this item be postponed to the Regular City Council meeting of July 10, 2017. The motion passed unanimously.**

- H) Public hearing and consideration of the first reading of an ordinance regarding the proposed designation of approximately 0.158 acre, the northeast parts of Lots 1 and 2 of City Block 4066, addressed as 475

Butcher Street, as a local historic landmark to be known as the Boenig-Hartmann House.

**Mayor Casteel read the aforementioned caption.**

**Christopher Looney presented the item.**

**No one spoke during the public hearing.**

**A motion was made by Councilmember Monceballez, seconded by Mayor Pro Tem Peters, that this item be approved. The motion passed unanimously.**

- I) Public hearing and consideration of the first reading of an ordinance regarding the proposed designation of approximately 0.241 acres, Lots 14 and 16 of City Block 1024, addressed as 564 Hill Avenue, as a local historic landmark to be known as the Kopplin-Leitch House.

**Mayor Casteel read the aforementioned caption.**

**Christopher Looney presented the item.**

**No one spoke during the public hearing.**

**A motion was made by Councilmember Reaves, seconded by Councilmember Meadows, that this item be approved with staff recommendations. The motion passed unanimously.**

- J) Public hearing and consideration of a resolution amending the 2006 Future Land Use Plan, and consideration of the second and final reading of an ordinance regarding an amendment to Ordinance No. 2017-29, the "Highland Grove" Planned Development District Concept Plan, to remove 11.64 acres from "Highland Grove" Planned Development District (HGPD) and rezone the 11.64 acres and 38.1 acres out of the William H. Pate Survey, Abstract No. 259 and R. Ximenez Survey, Abstract No. 347, Guadalupe County, Texas, from "R-1A-6.6" Single Family District to "Highland Gardens" Planned Development District (HGARDPD), adopting a Concept Plan and associated Development Standards, located on FM 1044.

**Mayor Casteel read the aforementioned caption.**



**Christopher Looney presented the item.**

**Tony Wisdom and James Ingalls spoke during the public hearing.**

**A motion was made by Councilmember Monceballez, seconded by Councilmember García, that this item be approved with staff recommendations, and the condition that the Highland Gardens detention pond closest to FM 1044 will be designed to reduce the peak storm water discharge flow rate for the two year, five year, ten year, twenty five year, fifty year, and one hundred year storm events by greater than, or equal to, ten percent below the calculated existing peak storm water flow rate, based on the rainfall intensities in the current City of New Braunfels Drainage and Erosion Control Design Manual at the time of the approval of this Planned Development District. The motion passed unanimously.**

- K) Discuss and consider approval of a resolution authorizing the use of Eminent Domain Proceedings under Chapter 251 of the Texas Local Government Code and Section 2.03 and Section 11.08 of the City of New Braunfels Municipal Charter, on that Parcel owned by Joyce T. Weltner Living Trust, being a 3.564-acre tract situated in the A.M. Esnaurizar Eleven League Grant, Guadalupe County, Texas out of that certain 65 acre tract (tract two) described in Volume 1315, page 280 of the Official Real Property Records of Guadalupe County, Texas as part of New Braunfels Utilities electric system's substation and related appurtenances expansion.

**Mayor Casteel read the aforementioned caption.**

**Before considering this item, City Council recessed into Executive Session.**

## **5. EXECUTIVE SESSIONS**

- B) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
- Condemnation of an approximate 3.564 acres along Weltner Road related to the expansion of NBU's electric system.

**Mayor Casteel read the aforementioned caption.**

City Council recessed into Executive Session from 7:48 p.m. - 7:59 p.m.

No action or vote was taken.

6. **RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.**

City Council reconvened into Open Session at 7:59 p.m.

- K) Discuss and consider approval of a resolution authorizing the use of Eminent Domain Proceedings under Chapter 251 of the Texas Local Government Code and Section 2.03 and Section 11.08 of the City of New Braunfels Municipal Charter, on that Parcel owned by Joyce T. Weltner Living Trust, being a 3.564-acre tract situated in the A.M. Esnaurizar Eleven League Grant, Guadalupe County, Texas out of that certain 65 acre tract (tract two) described in Volume 1315, page 280 of the Official Real Property Records of Guadalupe County, Texas as part of New Braunfels Utilities electric system's substation and related appurtenances expansion.

Mayor Casteel read the aforementioned caption.

New Braunfels Utilities Chief Executive Officer Ian Taylor presented the item.

Andrew Turek spoke regarding the item.

A motion was made by Mayor Pro Tem Peters, seconded by Councilmember García, to approve the resolution authorizing the use of the power of eminent domain to acquire:

- 3.564 acre tract of land situated in the A.M. Esnaurizar Eleven League Grant, Guadalupe County, Texas, out of that certain 65 acre tract (tract two) conveyed to Joyce T. Weltner, sole trustee, of the Joyce T. Weltner Living Trust, Recorded in Volume 1315, Page 280, Official Public Records, Guadalupe County, Texas.

To be acquired to locate, construct, utilize, and maintain an electric substation to advance and achieve the public use of expanding the

**New Braunfels Utilities' electric system to serve additional load growth.**

**The motion passed unanimously.**

This regular meeting adjourned at 8:08 p.m.

Date Approved: July 10, 2017

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BARRON CASTEEL, MAYOR

Attest:

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PATRICK ATEN, CITY SECRETARY

7/10/2017

Agenda Item No. A)

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Presenter/Contact

*Mark Enders, Watershed Program Manager  
(830) 221-4639 - menders@nbtexas.org*

**SUBJECT:**

Approval of a contract with D&M Owens, Inc., for an amount not to exceed \$44,150, for the construction of back-up flow control gates between Landa Lake and the Old Channel of the Comal River.

**BACKGROUND / RATIONALE:**

The City is a partner in the Edwards Aquifer Habitat Conservation Plan (EAHCP) that is aimed at protecting endangered species in the Comal River system. The EAHCP includes requirements for the City to manage flow into the Old Channel of the Comal River from Landa Lake. In 2016, Freese and Nichols provided a complete design plans for back-up flow-control gates to be installed on existing culverts between Landa Lake and the Old Channel of the Comal River. The City's 2017 EAHCP Work Plan includes the installation of back-up flow-control gates and floating debris booms, per the completed design plans, to ensure uninterrupted flow into the Old Channel.

Funding to support projects identified in the City's 2017 EAHCP Work Plan has been approved by the EAHCP Implementing Committee and the Edwards Aquifer Authority (EAA) board. The funding levels for the individual 2017 EAHCP Work Plan projects was included as an agenda item at the December 12<sup>th</sup>, 2016 regular Council meeting. At the time of the December 12<sup>th</sup> meeting, a contractor had not yet been secured to conduct the work for the flow-control gate project.

The approved 2017 EAHCP Work Plan and 2017 Funding Application include \$44,150 for the installation of the flow-control gates, debris booms and construction engineering oversight (by Freese and Nichols). All project expenses up to this amount will be reimbursed by the EAA through the EAHCP program. D&M Owens, Inc has provided a quote in the amount of \$26,800 to construct the project. As the quote provided by D&M Owens, Inc. is significantly below the EAHCP allocation for the construction of the project, the City and the project engineer (Freese and Nichols) will seek opportunities to ensure and enhance the quality of the project at a net cost not to exceed \$44,150 (including construction and construction oversight).

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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**FISCAL IMPACT:**

All EAHCP-related work that is included in the City's approved 2017 EAHCP Work Plan and Funding Application is fully reimbursed by EAA through the EAHCP program at no net cost to the City. The City pays the initial expense and is reimbursed by the EAA within 30 days. An interlocal agreement is

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currently in place and includes EAA's commitment to pay all costs associated with projects identified in the annual Work Plans.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of a contract with D&M Owens, Inc., for an amount not to exceed \$44,150, for the construction of back-up flow control gates between Landa Lake and the Old Channel of the Comal River.

**7/10/2017**

Agenda Item No. B)

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**Presenter/Contact***Matthew Eckmann, Real Estate Manager  
(830) 221-4089 - meckmann@nbtexas.org***SUBJECT:**

Approval of acquisition funds for purchasing Right of Way from Sarah W. Edison, Parcel 112 on the Solms/Morningside/Reuckle Road Improvements Project.

**BACKGROUND / RATIONALE:**

The Solms/Morningside/Rueckle Road Reconstruction Project is one of the approved Proposition One projects included in the 2013 Bond Program, which will include Sidewalks, Roadway and Drainage Improvements along Morningside Drive, Solms Road and Rueckle Road.

On February 13, 2017 City Council approved acquisition funds in the amount of \$750,000.00 to acquire the necessary parcels for the Solms/Morningside/Reuckle Road Improvements Project.

An agreement has been reached with Sarah W. Edison in the amount of \$37,877.40 for the purchase of 32,731 square feet of Right of Way and 6,892 square feet of Temporary Construction Easement.

In addition to the amount of money due to Sarah W. Edison, necessary title closing fees of \$806.50 have been added for a total amount of \$38,683.90.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

X	Yes	<b>City Plan/Council Priority:</b>	Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.

**FISCAL IMPACT:**

Expenditures associated with right-of-way acquisition are a component of the Solms/Morningside/Reuckle Road Improvements Project. Therefore, sufficient funds are available to approve the acquisition funds as described above.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of acquisition funds for the Solms/Morningside/Reuckle Road Improvements Project.

7/10/2017

Agenda Item No. C)

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Presenter/Contact

*Michael Mundell, Solid Waste Manager  
(830) 221-4040 - mmundell@nbtexas.org*

**SUBJECT:**

Approval of a ratification for the purchase of a propane-fueled pneumatic tire forklift utilizing a grant from the Texas Commission on Environmental Quality through the Alamo Area Council of Governments from Briggs Equipment using a BuyBoard contract.

**BACKGROUND / RATIONALE:**

On June 12, 2017, City Council approved the purchase of a propane-fueled pneumatic tire forklift utilizing a \$30,000 grant from the Texas Commission on Environmental Quality (TCEQ) through the Alamo Area Council of Governments (AACOG) from Equipment Depot using an NJPA contract.

Unfortunately, due to circumstances beyond the vendor's control, the equipment cannot be delivered prior to the date required by grant guidelines. Therefore, Staff now requests ratification for the purchase of the forklift from Briggs Equipment utilizing a BuyBoard contract.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

X	Yes	<b>City Plan/Council Priority:</b>	Strategic Priorities: 1: Use a variety of funding sources for operational and capital needs. Explore creative funding alternatives and partnerships.
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**FISCAL IMPACT:**

The total cost of the forklift is \$30,002; there is adequate funding in the Solid Waste Fund to cover the additional funds required for this purchase.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends ratification for the purchase of a propane-fueled pneumatic tire forklift from Briggs Equipment utilizing a BuyBoard contract.

7/10/2017

Agenda Item No. D)

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Presenter/Contact

*Jennifer Gates, Buyer*

*(830) 221-4383 - JGates@nbtexas.org*

**SUBJECT:**

Approval for the purchase of a traffic signal bucket truck from Chastang Enterprises - Angleton, LLC utilizing a BuyBoard contract.

**BACKGROUND / RATIONALE:**

The Streets and Drainage division of the Public Works department is requesting the purchase of a Dodge RAM 5500 chassis, modified with a Versalift aerial lift bucket, to be utilized as a traffic signal bucket truck. The truck will be used to maintain and repair traffic signal lights in the City, thereby controlling the flow of traffic and ensuring the safety of citizens and visitors. This purchase was postponed in FY 2016-17 to generate savings. However, the process to build and equip the truck can take anywhere from 120-180 days; therefore staff requests to order the truck now and utilized funds allocated in FY 2017-18 to pay for the purchase - once the truck has been completed and delivered.

Pricing for an aerial lift bucket truck was requested from Chastang Enterprises - Angleton, LLC, utilizing an awarded BuyBoard contract; the cost for the chassis and mounted aerial lift bucket is \$94,839.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<b>Yes</b>	<b>Priority:</b> Continue an ongoing program of infrastructure construction and maintenance.
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**FISCAL IMPACT:**

As mentioned above, the purchase of this truck was included in the FY 2016-17 Adopted Budget but postponed to FY 2017-18 to generate savings in the current fiscal year. The build time for the vehicle allows for the vehicle to be ordered now and paid for in FY 2017-18 once completed and delivered. These funds will be incorporated into the FY 2017-18 Budget.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval for the purchase of a traffic signal bucket truck from Chastang Enterprises - Angleton, LLC utilizing a BuyBoard contract.



7/10/2017

Agenda Item No. E)

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Presenter/Contact

Garry Ford, City Engineer  
(830) 221-4020 - [gford@nbtexas.org](mailto:gford@nbtexas.org)

**SUBJECT:**

Approval of the second and final reading of an ordinance to revise the school speed zone on FM 1863 for the New Braunfels Christian Academy.

**BACKGROUND / RATIONALE:**

**Council District: 3**

City Council unanimously approved the first reading of the ordinance to revise the school speed zone on FM 1863 for the New Braunfels Christian Academy.

As a part of a review of the school speed zone ordinances and signage, it was determined that the existing signage for the New Braunfels Christian Academy on FM 1863 is not consistent with the ordinance. The current signs are warning signs, which are not enforceable unless an officer feels there is a safety issue. The proposed regulatory sign with a school zone speed limit of 35 mph can be enforced. The 35 mph speed limit is recommended to be maintained due to the location of the school, operations of FM 1863 and limited pedestrian activity.

Based on the ordinance review, an amendment to the school speed zone in Section 126-138 (a) to move the existing school zone to a newly created Section 126-145 of the City Code of Ordinances is recommended. The New Braunfels Christian Academy was contacted and is supportive of the amendment. Additionally, the Texas Department of Transportation San Antonio District Traffic Office is supportive of the amendment.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative, and continuing transportation system planning and development.

**FISCAL IMPACT:**

Traffic control signs cost approximately \$135 each. Sufficient funding is available in the FY16-17 approved street and drainage budget.

**COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board unanimously approved the recommendation to City Council to revise the school speed zone on FM 1863 for the New Braunfels Christian Academy on April 13, 2017.

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**STAFF RECOMMENDATION:**

Staff recommends amending the school speed zone on FM 1863 to a regulatory sign with a school zone speed limit of 35 mph.

Sec. 126-138. - Same—Same—Forty miles per hour at other times.

- (a) No person shall drive any vehicle on the following streets within the areas designated in this subsection during the posted hours or when the school zone flashing lights are operating from 7:00 a.m. to 5:00 p.m. on each scheduled school day during every authorized school term, in excess of 20 miles per hour; and 40 miles per hour at every other time:

*Morningside Drive* from two-tenths of a mile north of the main entrance to Morningside Elementary to two-tenths of a mile south of the main entrance of Morningside Elementary; ~~and~~

~~FM 1863 from a point of 850 feet west from the intersection of State Highway 46 West for a distance of 1,625 feet.~~

- (b) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed \$200.00.

Sec. 126-145. - Speed zones—Thirty-five miles per hour on school days—Forty miles per hour at other times.

- (a) No person shall drive any vehicle on the following streets within the areas designated in this subsection during the posted hours or when the school zone flashing lights are operating from 7:00 a.m. to 5:00 p.m. on each scheduled school day during every authorized school term, in excess of 35 miles per hour; and 45 miles per hour at every other time:

FM 1863 from a point of 850 feet west from the intersection of State Highway 46 West for a distance of 1,625 feet.

- (b) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed \$200.00.

ORDINANCE NO. 2017-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-138 (a) AND CREATING SECTION 126-145 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO AMEND THE SCHOOL SPEED ZONE ON FM 1863.**

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WHEREAS, after engineering and field investigation, the City Engineer has recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

**I.**

THAT the City of New Braunfels Code of Ordinances Section 126-138 (a) is hereby amended as follows:

- (a) No person shall drive any vehicle on the following streets within the areas designated in this subsection during the posted hours or when the school zone flashing lights are operating from 7:00 a.m. to 5:00 p.m. on each scheduled school day during every authorized school term, in excess of 20 miles per hour; and 40 miles per hour at every other time:

*Morningside Drive* from two-tenths of a mile north of the main entrance to Morningside Elementary to two-tenths of a mile south of the main entrance of Morningside Elementary.

THAT the City of New Braunfels Code of Ordinances Section 126-145 is hereby created as follows:

- (a) No person shall drive any vehicle on the following streets within the areas designated in this subsection during the posted hours or when the school zone flashing lights are operating from 7:00 a.m. to 5:00 p.m. on each scheduled school day during every authorized school term, in excess of 35 miles per hour; and 45 miles per hour at every other time:

*FM 1863* from a point of 850 feet west from the intersection of State Highway 46 West for a distance of 1,625 feet.

- (b) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed \$200.00.

## **II.**

THAT all provisions hereof declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which remain in full force and effect.

## **III.**

All other ordinances or parts of ordinances in conflict herewith are repealed to the extent that they are in conflict.

## **IV.**

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF NEW BRAUNFELS, TEXAS

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*BARRON CASTEEL, MAYOR*

ATTEST:

PATRICK D. ATEN CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY

7/10/2017

Agenda Item No. F)

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Presenter

*Christopher J. Looney, Planning and Community Development Director  
clooney@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed designation of approximately 0.241 acres, Lots 14 and 16 of City Block 1024, addressed as 564 Hill Avenue, as a local historic landmark to be known as the Kopplin-Leitch House.

**BACKGROUND / RATIONALE:**

**Case No.:** HLC-17-007

**Council District:** 6

**Owner/Applicant:** Bonnie Leitch  
548 Hill Avenue  
New Braunfels, TX 78130

**Staff Contact:** Amy McWhorter, Historic Preservation Officer  
(830) 221-4057  
amcwhorter@nbtexas.org

**City Council held a public hearing on June 26, 2017 to consider the first reading of this rezoning ordinance, and voted unanimously to approve (7-0-0).**

The subject property, consisting of approximately 0.24 of an acre, is located on South Hill Avenue between Jahn and Butcher Streets and is zoned "SND-1" (Special Neighborhood District 1). It includes a single-family dwelling dating to circa 1890, and an accessory structure.

In 1891, Albert Kopplin purchased Lots 13, 14, 15, and 16, of Block 2 of the Jahn Addition from Emma Jahn. The deed records specify Lot 13 and 15 fronted onto the "extension of Academy Street" and Lots 14 and 16 fronted onto Grand Avenue (now known as Hill Avenue.) The subject structure is located on Lots 14 and 16 and fronts onto Hill Avenue.

According to his obituary published in 1929, Albert Kopplin came to New Braunfels in 1892. Prior to that he resided in the Bulverde and Schoenthal areas where he was a successful rancher and stock farmer. According to the 1900 Census, Kopplin lived on "Union Hill" (also known as Hill Avenue) with his wife Marie, daughter Emma Pfeuffer and grand-daughter Etekla Pfeuffer. This document lists his occupation as capitalist, which referred to someone living off of income from stocks, land, or other similar investments. The year prior to his death, Kopplin sold the property to his daughter Emma, who deeded it to her children in 1929. It appears that the property was used as a rental property or part-

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time home following Kopplin's death as census records and anecdotal details provided by descendants show that it was not a homestead property between 1930-1945. In 1945 Pfeuffer's children sold the property to Tom C. Adare, whose heirs sold it to Ernesto and Christina Solis in 1971.

The dwelling is a t-plan with a cross-gabled roof clad in corrugated metal with a shed-roof entry porch. The exterior is clad in wooden siding and the original 4/4 wooden windows are intact. The front gable projection has a concave window canopy with saw-tooth millwork. The front porch is supported by chamfered wooden porch posts and has an intricately carved wooden gingerbread frieze and balustrade. The primary entry is located at the junction of the front gable and wing and consists of a single, hinged door with a fixed stained glass transom. Secondary entrances on the rear façade also have transom windows. There is one internal brick chimney. The accessory structure was constructed circa 1925.

The structure is an excellent local example of Folk Victorian architecture which was a popular residential building style in New Braunfels from circa 1885-1900. During this period, the advent of the railroad and advances in steam engine technology made the use of decorative wooden elements less expensive and more common. Character-defining features of the style include the gable front and wing form, exuberant wooden decorative elements.

***General Information:***

*Size:*

0.24 of an acre

*Surrounding Zoning and Land Use:*

North - SND-1 - Single-family residences

East - SND-1 - Single-family residences

South - SND-1 - Single-family residences

West - SND-1 - Single-family residences

*Comprehensive Plan / Future Land Use Designation:*

Residential - Low Density

*Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

*Improvement(s):*

ca. 1891 wood house

ca. 1925 garage

*Determination Factors:*

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*The proposed historic landmark designation is a zoning overlay which does not change the base zoning of the property*).
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed historic landmark designation is a zoning overlay which does not impact the existing conditions*).



- How other areas designated for similar development will be affected (*There should be no negative effect on other properties in the vicinity as historic preservation has been demonstrated to have a positive stabilizing impact on neighborhoods.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*The historic landmark designation of the property should contribute to retention of historically significant structures, which provides a community benefit.*); and
- Whether the request is consistent with the Comprehensive Plan (*Comprehensive Plan Goal 69 recommends that the City enhance the heritage image of the City by designating historic areas and structures that should be preserved, restored, and used for adaptive reuse.*)

#### **ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

	Yes	<b>City Plan/Council Priority:</b> 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	<b>Pros:</b> Goal 69: Enhance the heritage image of the City by <u>designating historic areas and structures that should be preserved, restored, and used for adaptive reuse.</u> The designation of this property will enhance the heritage image of the City and encourage the preservation and adaptive reuse of the property.
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#### **FISCAL IMPACT:**

N/A

#### **COMMITTEE RECOMMENDATION:**

The Historic Landmark Commission held a public hearing on April 11, 2017 and recommended approval of the designation (5-0-0). Commissioners Gonzalez, Davis, Kammerer were absent and Commissioner Leitch recused.

#### **PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission held a public hearing on June 6, 2017 and recommended approval (7-0-0).

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the Historic Landmark Designation as the subject structure meets three of the three of the six criteria for approval (criteria 1, 4, and 6) as stated in the City's Code of Ordinances, Article III, Section 66-56 which states: a historic landmark or district may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture. *The structure reflects early subdivision development patterns as one of the early structures built in the Jahn addition and advances in building technology in circa 1890 New Braunfels due to advances in transportation and manufacturing technology.*
- (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. *No such associations are known.*
- (3) Is associated with the lives of persons significant in our past. *No such associations are known.*
- (4) Embodies the distinctive characteristics of a type, period, or method of construction. *The subject structure retains characteristic features of its style including the retention of the overall*

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*form and decorative features.*

- (5) Represents the work of a master designer, builder, or craftsman. *No such representation is known.*
- (6) Represents an established and familiar visual feature of the neighborhood or city. *The structure has been located at this site since circa 1890.*

***Notification:***

Public hearing notices were sent to 20 owners of property representing 24 tracts of land within 200 feet of the subject property. Staff has received six responses in favor (#1, 5, 6, 7, 11 and 12) and none in objection.

***Attachments:***

- 1. Application
- 2. Maps
- 3. Notification & Responses
- 4. Photographs of Subject Property
- 5. Article III, Section 66-54
- 6. Article III, Section 66-56
- 7. Excerpt from the April 11, 2017 Historic Landmark Commission Meeting
- 8. Excerpt from the June 6, 2017 Planning Commission Meeting
- 9. Ordinance

# CERTIFICATE OF ALTERATION

HLC-17-007

Name of Applicant/Agent: BONNIE LEITCHApplicant/Agent Mailing Address: 548 Hill Ave., NB 78130Applicant Phone/Email: bkleitch@gmail.comProperty Address: 564 Hill Avenue

Owner Name and Address (if different than Applicant): \_\_\_\_\_

## Historic landmark designation:

Individual Landmark? ☒ District? ☐ (include district name) \_\_\_\_\_

Please check the appropriate construction activity that applies:

☐ Restoration
     
 ☐ New Construction/Additions
     
 ☒ Demolition
     
 ☐ Sign
     
 ☐ Other

Estimated cost of improvement? \_\_\_\_\_

 A. Current and intended use of the building or property? RENTAL RESIDENCE  
TO BECOME HOMESTEAD FOR POTENTIAL OWNER

B. Description the proposed external alteration. Attach detailed descriptions and scaled drawings, 8 1/2" x 11" in recognizable scale and photographs of current building. This includes fencing and color samples if applicable. \_\_\_\_\_

C. Intended start and finish dates: Start \_\_\_\_\_ Finish \_\_\_\_\_

 D. The presence of the applicant or his/her agent as designated herein is necessary at the Historic Landmark Commission meeting **Please initial to acknowledge receipt of this reminder.** BL

 Signature: Bonnie Leitch (if signed by agent, a letter of authorization must be furnished by the property owner).
Date and Received by: 3/15/17

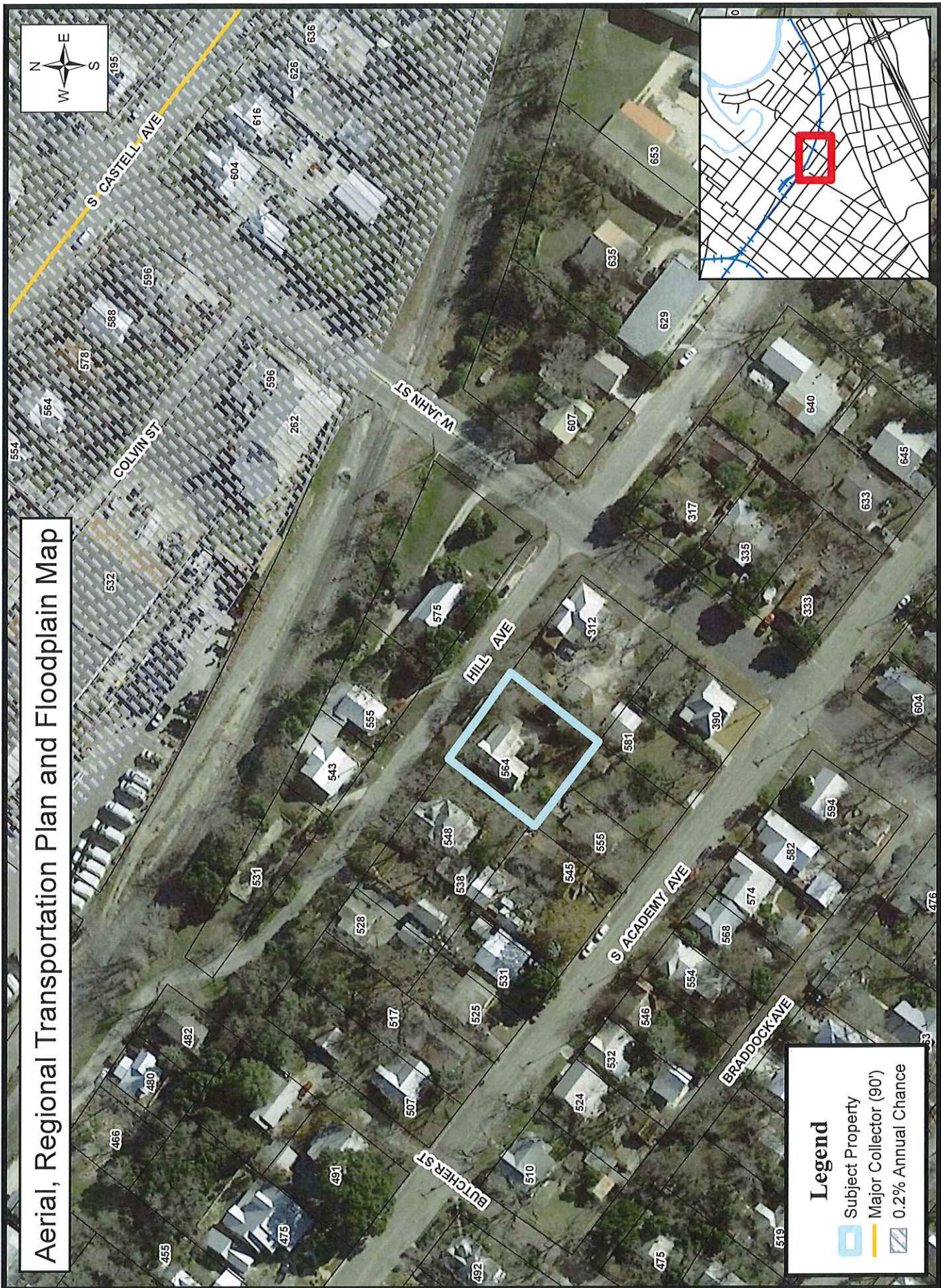
Before any work is done, to include but not limited to restoring, renovating, demolishing or erecting a building or sign in the district, neighborhood or on a historic landmark property, a Certificate of Alteration must be presented, approved, and signed by the Historic Landmark Commission and presented to the City Building Department to issue a building permit.

Historic Landmark Commission date: \_\_\_\_\_

HPO Approval: \_\_\_\_\_



# Aerial, Regional Transportation Plan and Floodplain Map



Map Created 5/19/17

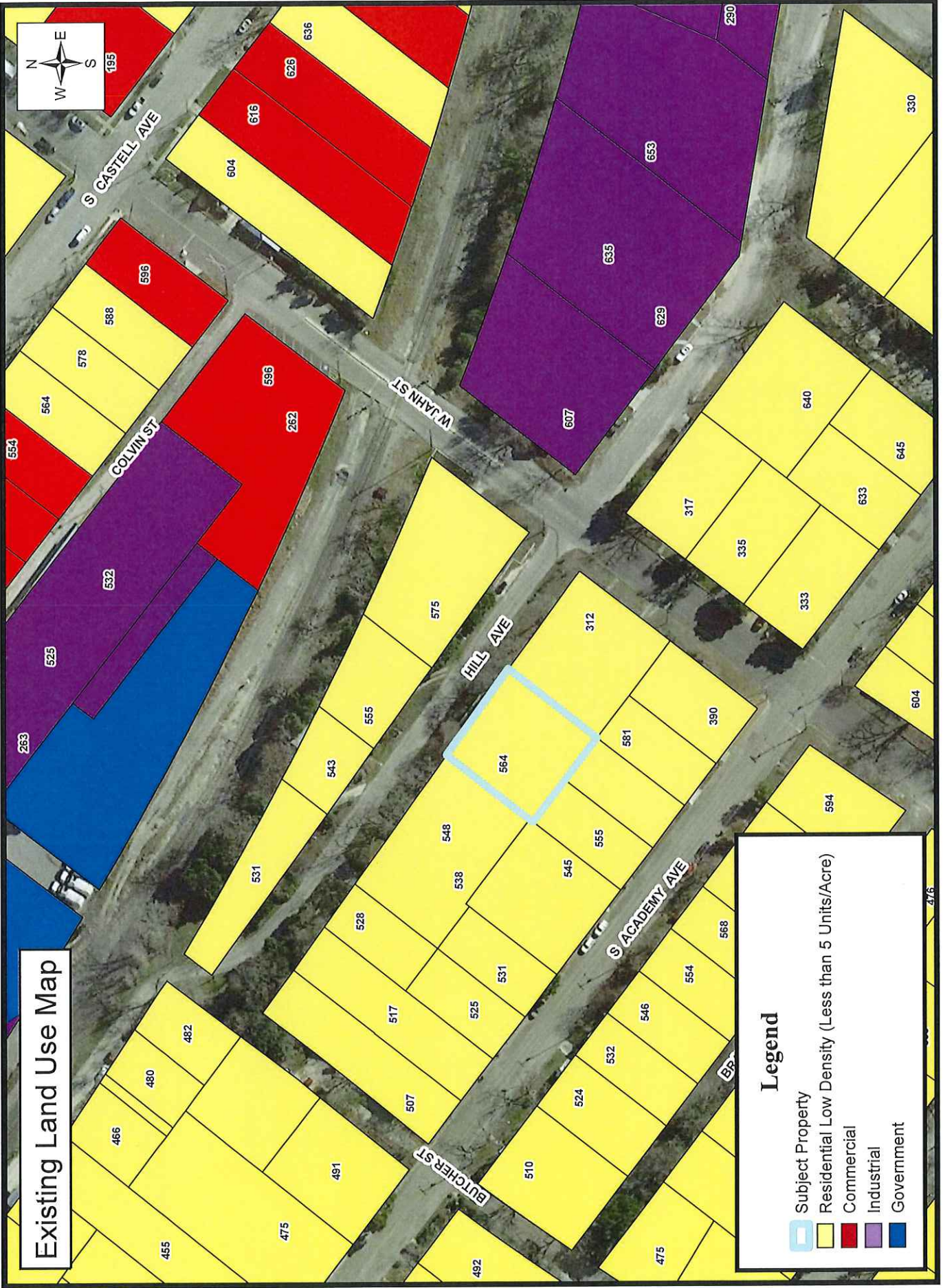
HLC-17-007  
Historic Landmark Designation  
564 Hill Avenue











**HLC-17-007**  
**Historic Landmark Designation**  
**564 Hill Avenue**

**PLANNING COMMISSION – June 6, 2017 – 6:00PM**

New Braunfels City Hall, Council Chambers

**Owner/Applicant:** Bonnie Leitch

**Property Location:** 564 Hill Avenue

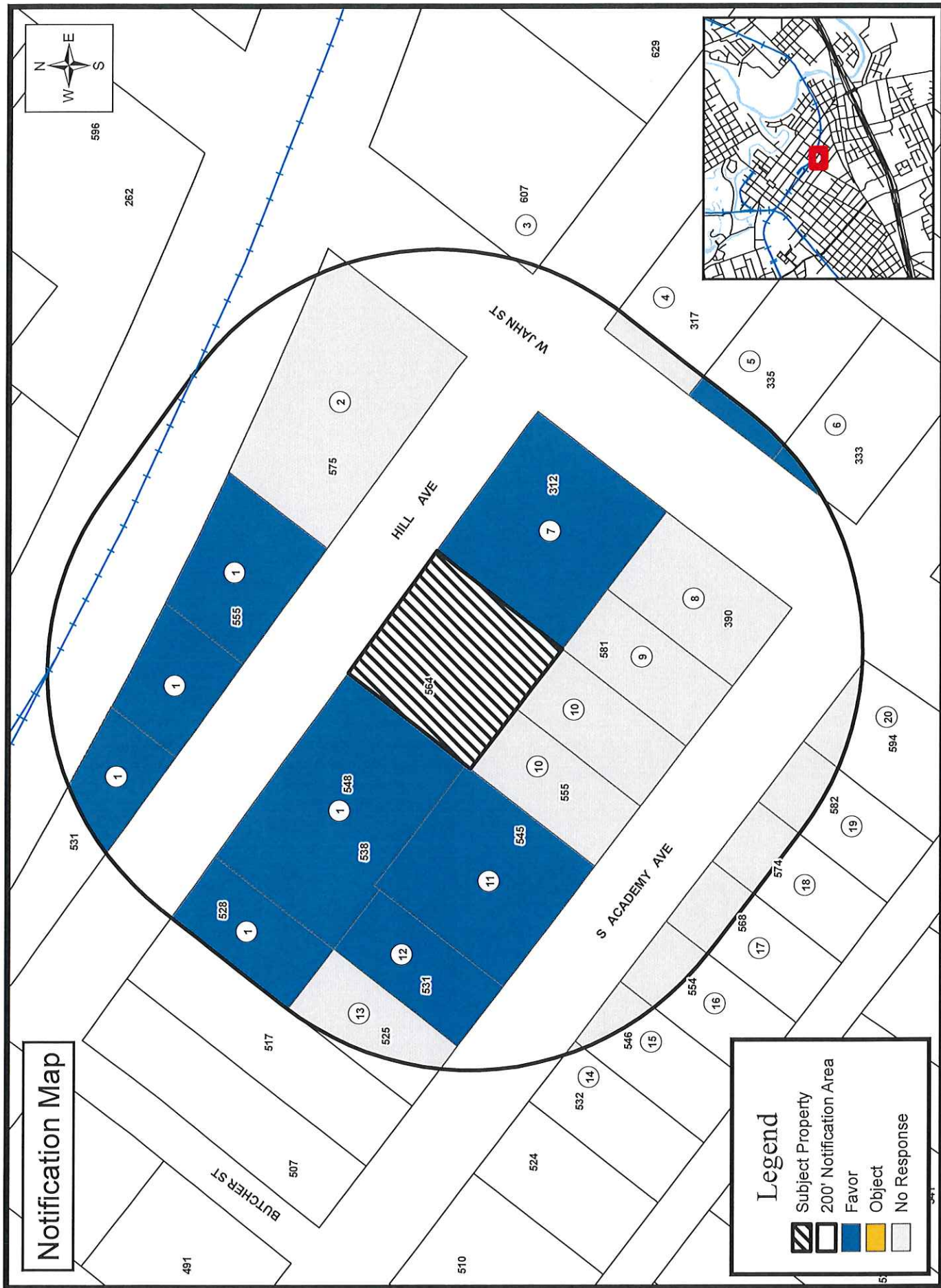
**Historic Landmark Designation - Case #HLC-17-007**

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as "Subject."

- |                                  |                                   |
|----------------------------------|-----------------------------------|
| 1. Leitch, William A & Bonnie    | 14. Tornquist, Pery L & Kandace K |
| 2. Leitch, William A & Bonnie    | 15. Williams, Drew E              |
| 3. Leitch, William A & Bonnie    | 16. Williams, Drew E              |
| 4. Leitch, William A & Bonnie    | 17. McMahon, James & Jeanette     |
| 5. Leitch, William A & Bonnie    | 18. Slater, Stanley W & Mary A    |
| 6. Santoni, Daniel Jr            | 19. Butler, Kristin & Keith       |
| 7. Woods, Clint W & Marcella     | 20. Schirmer, Kristi D            |
| 8. Gonzales, Ninfa G & George R  | 21. Schuck, Carol J               |
| 9. Norris, Tracey                | 22. Charles B & Jean Johnson Tr   |
| 10. Jurica, William S & Lezlee B | 23. Frazell, Richard              |
| 11. Venavides, Lupe              | 24. Brawner, Patrick Lee          |
| 12. Espinosa, Jose               | 25. Ketchmark, Patricia Kathleen  |
| 13. Hansen, John W               | 26. Adams, Velma L                |

**SEE MAP ON REVERSE**





Map Created 5/26/17

**HLC-17-007**  
**Historic Landmark Designation**  
**564 Hill Avenue**





Case: #HLC-17-007 (Leitch)

Date notice sent: 5/19/2017

Name: Stanley W. Slater  
Address: 531 S. Academy Ave.  
Circled number on map: 12

Comments: (Use additional sheets if necessary)

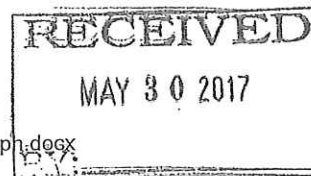
I favor: ☒

I object: ☐

(State reason for objection)

Signature: Stanley W. Slater

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-007\HLC-17-007 npn.docx



Name: JOSE P. ESPINOSA  
Address: 312 W. Tahn ST  
Circled number on map: Seven

Comments: (Use additional sheets if necessary)

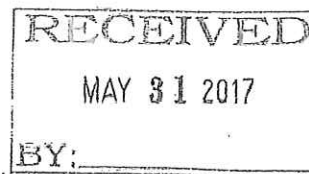
I favor: ☒

I object: ☐

(State reason for objection)

Signature: Jose P. Espinosa

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Case: #HLC-17-007 (Leitch)

Date notice sent: 5/19/2017

Name: Lupe Benavides  
Address: 140 Meadow Ave.  
Circled number on map: 564

Comments: (Use additional sheets if necessary)

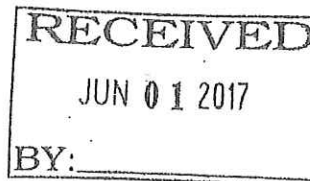
I favor: ☒

I object: ☐

(State reason for objection)

Signature: Lupe Benavides

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Case: #HLC-17-007 (Leitch)  
Date notice sent: 5/19/2017

Name: William Turel  
Address: 333 W. Jahn  
Circled number on map: #6  
Comments: (Use additional sheets if necessary)

I favor: ✓

I object: \_\_\_\_\_  
(State reason for objection)

Signature: W. Turel

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### YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-17-007 (Leitch)  
Date notice sent: 5/19/2017

Name: BONNIE LEITCH  
Address: 548 HILL  
Circled number on map: 1  
Comments: (Use additional sheets if necessary)

I favor: ✓

I object: \_\_\_\_\_  
(State reason for objection)

Signature: Bonnie Leitch

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### YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-17-007 (Leitch)  
Date notice sent: 5/19/2017

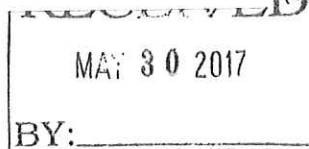
Name: Tracey Norris  
Address: 335 W. Jahn  
Circled number on map: 9  
Comments: (Use additional sheets if necessary)

335 W. Jahn  
ws #5 not  
#9

I favor: ✓

I object: \_\_\_\_\_  
(State reason for objection)

Signature: Tracey Norris



\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-007\HLC-17-007 npd.docx









Sec. 66-54. Designation of historic landmarks.

(a) These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the city. Each historic landmark shall bear the words "Historic Landmark" (HL) in its zoning designation. Such designation shall indicate that such property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other development land use regulations, such property shall be governed by its zoning district.

(b) A historic landmark shall be considered by the commission only with the written application of the property owner expressly requesting that the property be so designated. Property owners of proposed historic landmarks shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.

(c) Upon recommendation of the commission, the proposed historic landmark shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.

(d) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearing, and make its determination in the same manner as provided in the general zoning ordinance of the city.

(e) Upon designation of a building, object, site, or structure as a historic landmark or district, the city council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.

(Ord. No. 96-9, § 1, 2-26-96; Ord. No. 2005-53, § 2, 6-27-05)

**Sec. 66-56. Criteria for the designation of historic landmarks and districts.**

A historic landmark or district may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture.
  - (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
  - (3) Is associated with the lives of persons significant in our past.
  - (4) Embodies the distinctive characteristics of a type, period, or method of construction.
  - (5) Represents the work of a master designer, builder, or craftsman.
  - (6) Represents an established and familiar visual feature of the neighborhood or city.
- (Ord. No. 96-9, § I, 2-26-96)

Excerpt from the April 11, 2017 Historic Landmark Commission Draft Meeting Minutes

**A. HLC-17-007: Public hearing and recommendation to the Planning Commission and City Council on an application for Historic Landmark designation for the property addressed as 564 Hill Avenue, located in the Sophienburg Hill Historic District, to be known as the Kopplin-Leitch House.**

Mrs. McWhorter presented the staff report, described the history of the property, and listed the previous property owners. She concluded by stating her recommendation of approval based on the following criteria:

- The property is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. Mrs. McWhorter said the structure reflects early subdivision development patterns, as one of the early structures built in the Jahn Addition and advances in building technology in circa 1890 New Braunfels due to advances in transportation and manufacturing technology.
- The property embodies the distinctive characteristics of a type, period, or method of construction. Mrs. McWhorter said the subject structure retains characteristic features of its style including the retention of the overall form and decorative features.
- The property represents an established and familiar visual feature of the neighborhood or city. Mrs. McWhorter said the structure has been located at this site since circa 1890.

Discussion ensued in regards to roofs.

Motion by Commissioner Hoffmann, seconded by Commissioner Poss, to recommend approval to the Planning Commission and City Council on an application for Historic Landmark Designation for 564 Hill Avenue, to be known as the Kopplin-Leitch House. The motion carried. (5-0-0)

Commissioner Leitch returned at 8:44 a.m.

### **Draft Minutes for the June 6, 2017 Planning Commission Regular Meeting**

**HLC-17-007: Public Hearing and recommendation to City Council regarding the proposed Historic Landmark designation for the property addressed at 564 Hill Avenue, which is within the Sophienburg Hill Historic District.**

(Applicant: Bonnie Leitch; Case Manager: A. McWhorter)

Mrs. McWhorter presented the Staff report and recommended approval of the Historic Landmark Designation.

Chair Elrod asked if anyone wished to speak in favor.

No one spoke.

Chair Elrod Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Tubb, seconded by Commissioner Sonier, to close the public hearing. The motion carried (8-0-0).

Motion by Commissioner Sonier, seconded by Commissioner Hoyt, to recommend approval to City Council regarding the proposed Historic Landmark designation for the property addressed at 564 Hill Avenue, which is within the Sophienburg Hill Historic District. Motion carried (8-0-0).



**ORDINANCE NO. 2017-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DESIGNATING 0.241 ACRE, LOTS 14 AND 16 OF CITY BLOCK 1024, ADDRESSED AS 564 HILL AVENUE AS A HISTORIC LANDMARK TO BE KNOWN AS THE KOPPLIN-LEITCH HOUSE ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, this property has been recommended for historic designation by the Historic Landmark Commission; and

**WHEREAS**, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

**WHEREAS**, the City Council desires to amend the Zoning Map by designating the suffix "HL" in addition to the conventional zoning designation established by the zoning ordinance; **now, therefore**;

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

**SECTION 1**

**THAT** the following described property is hereby designated as a Historic Landmark to be known as the Kopplin-Leitch House in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"Approximately 0.241 acre, Lots 14 and 16 of City Block 1024, addressed as 564 Hill Avenue, as shown on the attached map, marked as Exhibit A".

## **SECTION 2**

**THAT** the above property is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

## **SECTION 3**

**THAT** the above described property is hereby entitled to all rights and privileges that are accorded to historically designated structures or sites, or which may be accorded those structures or sites in the future.

## **SECTION 4**

**THAT**, the zoning map is amended by designating the tract the subject structure is located upon, to add "HL".

## **SECTION 5**

**THAT** all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

## **SECTION 6**

**THAT** if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

## **SECTION 7**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 26<sup>th</sup> day of June, 2017.

**PASSED AND APPROVED:** Second Reading this the 10<sup>th</sup> day of July,  
2017.

## **CITY OF NEW BRAUNFELS**

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Barron Casteel, Mayor

### **ATTEST:**

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Patrick Aten, City Secretary

### **APPROVED AS TO FORM:**

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Valeria M. Acevedo, City Attorney



7/10/2017

Agenda Item No. G)

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Presenter/Contact

Stacey Dicke, Parks and Recreation Director  
(830) 221-4350 - [sdicke@nbtexas.org](mailto:sdicke@nbtexas.org)

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding Youth Programs Standards of Care for the Parks and Recreation Department.

**BACKGROUND / RATIONALE:**

The City of New Braunfels Parks and Recreation Department plans to offer elementary-age day camp programs for children ages 5-13, as we have for many years. The Texas Legislature requires municipal day camp youth programs for elementary age (5-13) children to meet day care licensing requirements or file for an exemption (Section 42.041(b)(14) of the Human Resources Code). In order to receive exempt status, a municipality must submit a copy of program standards, a notice of a public hearing for the program and a copy of the ordinance adopting the standards.

Youth Programs Standards of Care will provide basic child care regulations for day camp activities operated by the New Braunfels Parks and Recreation Department. This will allow the department to qualify as exempt from requirements of the Texas Human Resources Code.

The Standards of Care include:

- Staffing ratios
- Minimum staff qualifications
- Minimum facility, health, and safety standards
- Mechanisms for monitoring and enforcing the adopted local standards
- Provide notice to parents that the day camp program is not licensed by the state

City Council unanimously approved the first reading of the ordinance on June 12, 2017.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

X	Yes	<b>City Plan/Council Priority:</b>	Strategic Priorities: Effective Management: Maintain an ongoing program to provide exemplary customer service.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Parks and Recreation Advisory Board recommended approval of the ordinance for Day Camp Standards at their meeting on May 16, 2017.

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**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance for Day Camp Standards.

ORDINANCE NO. 2017 - \_\_\_\_

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, ADOPTING DAY CARE STANDARDS FOR 2017; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the State of Texas Human Resources Code, Chapter 42 requires elementary age (5-13 years) recreation programs operated by a municipality annually adopt standards of care by ordinance after a public hearing in order to be exempt from child care licensing;

WHEREAS, the City Council of the City of New Braunfels has determined that Youth Programs Standards of Care will be beneficial to the City of New Braunfels and should be modified as recommended by Staff; and

WHEREAS, the City Council of the City of New Braunfels, Texas has the authority under its Home Rule Charter and under the laws of the State of Texas to adopt regulations aimed to protect the health, safety, and general welfare of its citizens.

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

The following standards of care are adopted by ordinance

Youth Programs Standards of Care

I. GENERAL INFORMATION/ADMINISTRATION

- A. Purpose: To provide basic childcare regulations for recreation activities operated by the New Braunfels Parks and Recreation Department. This will allow the department to qualify as exempt from requirements of the Texas Human Resources Code.
- B. Implementation: Program will be the responsibility of the New Braunfels Parks and Recreation Department, with Programs Supervisors (Recreation, Nature Education Center, Athletic and Aquatic) supervising the overall program and Recreation Specialists, Camp Coordinator, Assistant Coordinator and Recreation Instructors administering the program on-site.
- C. Programs: Regulations apply to on-going recreational programs:
  - Holiday Adventure Camp
  - Spring Break Camp
  - Summer Day Camp
  - Day Off Day Camp
  - Nature Camps
  - Partial Sports, Nature and Hobby Camps
- D. Other: Each site will make available for the public and staff a current copy of the Standards of Care. Standards of Care will also be made available on the Parks and

Recreation Website at [www.nbtexas.org/154/Parks-Recreation](http://www.nbtexas.org/154/Parks-Recreation).

E. Program Sites:

Fischer Park Nature Education Center	1946 Monarch Way
Landa Aquatic Complex	350 Aquatic Circle
Landa Rec Center	164 Landa Park Drive
Landa Park	110 Golf Course Rd.

F. Day Camp Objectives

1. To offer a program wide in scope and varied in activities of different recreational activities: sports, games, arts and crafts, nature education and discovery, etc.
2. To provide a pleasant and memorable experience in an engaging atmosphere.
3. To provide a safe environment always promoting good health and welfare for all.
4. To teach children how to spend their leisure time wisely, in an effort to meet several needs: emotional, physical and social.

G. Exemption Status: Once an exempt status is established, the Licensing Division will not monitor the recreational program. The Licensing Division will be responsible for investigating complaints of unlicensed childcare and for referring other complaints to the municipal authorities or, in the case of abuse/neglect allegation, to the local police authorities.

H. Standards of Care Review: Standards will be reviewed annually and approved by the City Council after a public hearing is held to pass an ordinance regarding section 42.041(b)(14) of the Human Resources Code.

I. Child Care Licensing will not regulate these programs nor be involved in any complaint investigation related to the program.

J. Any parent, visitor or staff may register a complaint by calling New Braunfels Parks and Recreation Administration Offices at 830-221-4350, Monday through Friday, 8:00 a.m. to 5:00 p.m.

II. STAFFING

A. Day Camp Coordinator-Job Descriptions and Essential Job Functions

Essential Job Functions:

1. Directs and supervises a day camp program for elementary aged children under the Supervision of the Programs Supervisor.
2. Develops and implements a daily camp curriculum under Parks and Recreation guidelines.
3. Responsible for ensuring camp activities are conducted in a safe, cost-efficient, professional manner.
4. Responsible for procurement of camp supplies, equipment and food items.
5. Responsible for all camp related record keeping.



6. Schedules all day camp counselors at appropriate levels to maintain established camper to staff ratios.
7. Interacts with parents, children and program staff to resolve disciplinary issues; evaluates and determines the enforcement of discipline guidelines; documents counseling sessions and prepares related reports.
8. Communicates daily with Programs Supervisor and holds weekly meetings with camp staff to monitor program during summer.
9. Supervises a staff of 4 -11 day camp leaders.
10. Is assisted by Assistant Camp Coordinator in these same duties with the similar qualifications.

Qualifications:

1. Required knowledge of operational characteristics, services and activities of summer day camp management and program planning and coordination and principles and practices of customer service.
2. Must possess a high school diploma or GED equivalent; AND one (1) year experience working with children required, with supervisory experience in a school or camp environment; one year college preferred.
3. Must possess a valid Texas Driver's License.
4. Must be able to successfully complete within two (2) weeks of employment: First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) training.
5. Must possess skill in:
  - a. Interpreting customer and facility needs and solving customer service and public relations issues.
  - b. Demonstrating the ability to make sound decisions regarding the enforcement of disciplinary guidelines.
  - c. Analyzing problems, providing alternatives, and identifying solutions in support of established goals.
  - d. Responding to emergencies and determining corrective actions using available resources.

B. Day Camp Counselor-Job Descriptions and Essential Job Functions

Essential Job Functions:

1. Implements and monitors a day camp program for elementary aged children under the Supervisor of the Day Camp Coordinator and Assistant Coordinator.
2. Supervises and interacts with camp participants in a wide variety of recreational activities.
3. Responsible for ensuring daily camp activities are conducted in a safe, professional manner.
4. Responsible for communicating camp needs (equipment, supplies) to camp supervisor.

5. Responsible for interacting with camp participants, parents and supervisors to provide a high quality program.
6. Responsible for maintaining facility appearance during and after camp activities.
7. Responsible for reporting any camp incidents to camp supervisor.

Minimum Qualifications:

1. Must be mature, responsible and able to complete duties with minimal supervision.
2. Must be able to communicate well with the public, and skilled at interacting with children.
3. Must be sixteen (16) years of age AND one (1) year customer service/public interaction experience and experience working with children preferred.
4. Must have First Aid and CPR certification within two weeks of employment.
5. Must complete departmental day camp staff training.
6. Must pass city criminal background check prior to hiring.
7. Knowledge of recreational games, crafts and activities.
8. Prefer completion of at least 1 year of college.

C. Other Requirements

1. Staff must complete the mandatory training program of at least 12 hours, in addition to planning hours with site staff prior to the start of camp. This training includes a departmental orientation, customer service, behavioral issues and discipline, as well as practical skills on activities for children in games, songs and crafts.
2. Staff must exhibit competency, good judgment and self-control throughout the duration of the camp.
3. Staff should relate to the children and parents with courtesy, respect, acceptance and patience.
4. Staff will be evaluated at least once during the summer, and visited with before program is over, to discuss any areas that should be addressed to insure employment in a following camp.
5. Staff shall not abuse or neglect children.

D. Criminal Background Checks and Drug Testing: Criminal background checks will be conducted on prospective Day Camp employees. Applicants may be disqualified if they have a job related criminal conviction. A prospective employee will be subject to a drug test prior to hiring.

E. Before being hired, applicants must successfully complete a qualifying interview, clear a criminal history background check and pass a drug test.

F. Staffing Ratios: The number of children may not exceed staff by a minimum ratio of 1 staff per 15 children, ages 5-13.

III. FACILITY STANDARDS

A. Emergency evacuation and relocation plans will be posted at each facility.

- B. Program employees will inspect sites frequently for any sanitation or safety concerns. Those concerns should be passed on to the Programs Supervisor immediately.
- C. Each camp must have a fully stocked first aid kit. This shall be checked and stocked on a weekly basis by the Camp Coordinator.
- D. In a situation where evacuation is necessary, the first priority of staff is to make sure all participants are in a safe location.
- E. Program sites will be inspected annually by the Fire Marshall. Each Facility Coordinator is responsible for compliance with Fire Marshall's directives.
- F. The recommended number of fire extinguishers shall be inspected quarterly and available for use.
- G. Fire drills should be conducted once a month during the summer camp.
- H. Medication will only be administered with written parental consent. Prescription medications shall be left with staff in their original container, labeled with the child's name, date, directions and physician's name. Medication shall be dispensed only as stated on the bottle, and not past the expiration date.
- I. Non-prescription medicine with the child's name and date on the medication may be brought if in the original container. Non-prescription medication will only be administered with written parental consent.
- J. Each site shall have adequate toilets and sinks located such that children can use them independently and program staff can supervise as needed.
- K. All participants must wear tennis shoes daily. Sandals will not be allowed.

#### IV. SERVICE STANDARDS-Day Camp Staff

This information will be provided to each staff as a part of the day camp manual:

- A. Camp staff shirts, shorts and tennis shoes are to be worn at all times.
- B. City issued employee identification should be worn and clearly visible.
- C. Camp participants and parents will be treated with respect at all times.
- D. Camp staff will take it upon themselves to resolve complaints. Do not refer customer to another staff person. If you are unable to resolve the complaint on the spot, take the customer's name and phone number, investigate complaint resolution and then follow up with the customer. A Customer Comment Form should be filled out whenever a complaint or compliment is received.
- E. Camp staff will keep parents continuously informed of camp activities. A daily schedule of activities will be available and kept with the sign in log.
- F. Camp staff will note details of behavior of campers (accomplishments, discipline problems, general activities, etc.) and update parents as much as possible.
- G. Camp staff will monitor the sign in/out log at all times.
- H. Camp staffs will clean rooms and activity areas daily.
- I. Camp staff will spend 100% of their time actively involved with campers and/or parents.

## V. Operational Issues

- A. Emergency Phone numbers are kept at the front desk of the facilities. Those numbers include fire, police, and ambulance services as well as participant guardian contact numbers.
- B. All staff will stay in contact at all times with the front desk and other camp staff through wireless, 2-way radios and cell phones.
- C. A Day Camp Manual is given to every staff member, which outlines the following:
  - 1. Discipline Issues
  - 2. City Rules and Regulations
  - 3. Forms that must be filled out
  - 4. Service Standards
  - 5. Game/activity leadership
  - 6. Ways to interact with children
- D. Sign in-sign out sheets will be used every day. Only adults listed on sign-in/out release will be allowed to pick up children. An authorized person must enter the building and sign the sheet in order for staff to release the child.
- E. Emergency evacuation and relocation plans will be posted at each facility.
- F. Enrollment information will be kept and maintained on each child and shall include:
  - 1. Child's name, birth date, home address, home telephone number, physician's phone number and address and phone numbers where parents may be reached during the day.
  - 2. Names, driver's license number and telephone numbers of persons to whom the child can be released.
  - 3. Liability waiver and photo release.
  - 4. Parental consent to administer medication, medical information and release on participant.
- G. Staff shall immediately notify the parent or other person authorized by the parent when the child is injured or has been involved in any situation that placed the child at risk.
- H. Staff shall notify parents or authorized persons of children in the facility when there is an outbreak of a communicable disease in the facility that is required to be reported to the County Department of Health. Parents will also be notified of an occurrence of head lice.
- I. Discipline:
  - 1. Discipline and guidance of children must be consistent and based on an understanding of individual needs and development.
  - 2. There shall be no harsh, cruel, or unusual treatment.
    - a. Corporal punishment in any form will not be tolerated.
    - b. Children shall not be shaken, bit, hit, or have anything put in or on their mouth as punishment.
    - c. Children shall not be humiliated, yelled at or rejected.
    - d. Children shall not be subjected to abusive or profane language.
    - e. Punishment shall not be associated with food.
    - f. Staff may use brief, supervised separation from the group if necessary, but staff shall not place children in a locked room or in a dark room with the door closed.
  - 3. Incident reports will be filled out on any disciplinary cases, and information is to be shared with parents when picking up the child or sooner, when extreme cases occur.
  - 4. Children who show patterns of endangerment to themselves, other participants or staff will be asked to leave the program.

## J. Illness or Injury

1. Parents shall be notified in cases of illness or injury.
2. An ill child will not be allowed to participate if the child is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until medical evaluation indicates that the child can be included in the activities. In the event an injury cannot be administered through basic first aid, staff will call 911.
3. When an injury occurs, an incident report shall be filled out immediately. The form shall be filled out completely with the original sent to the Programs Supervisor and forwarded to the Recreation Manager and a copy kept in the Day Camp files.

## VI. CAMP RULES

The rules of camp are designed to help create a positive and safe environment for both campers and staff. The rules are presented to campers in a positive way and focus on what campers should do rather than what they should not do. Camp rules are used to help teach our campers to make good, positive choices.

1. Be Respectful
2. Be a Good Friend
3. Be Polite
4. Be a Good Listener
5. Be Kind
6. Be a Good Follower of Directions
7. Be Helpful
8. Be Responsible

Passive and active camp activities are planned according to the participants' ages, interests and abilities. The activities should be flexible and promote social and educational advancement.

## VII. MONITORING AND ENFORCEMENT

Standards of care established by the City of New Braunfels will be monitored and enforced by city departments responsible for their respective areas as identified:

- A. Health and safety standards will be monitored and enforced by the City's Police, Fire, Health and Code Enforcement Departments.
- B. Staff and program issues will be monitored and enforced by the New Braunfels Parks and Recreation Department. The Recreation Manager shall visit each site on a bi-monthly basis. Programs Supervisors are responsible for visually checking the camp activities on a daily basis. When this staff is not available, another full-time staff person is responsible for the daily check.



SECTION 2: SEVERABILITY.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. EFFECTIVE DATE:

This Ordinance shall become adopted and effective upon its second reading and compliance with the City Charter.

PASSED AND APPROVED: First reading this 12th day of June, 2017.

PASSED AND APPROVED: Second reading this \_\_\_\_ day of \_\_\_\_, 2017.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
Barron Casteel, Mayor

ATTEST:

\_\_\_\_\_  
Patrick Aten, City Secretary

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Valeria M. Acevedo, City Attorney

7/10/2017

Agenda Item No. A)

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Presenter/Contact

*Robert Camareno, City Manager*  
(830) 221-4280 - [rcamareno@nbtexas.org](mailto:rcamareno@nbtexas.org)

**SUBJECT:**

Discuss and consider a plan to implement the rules related to the disposable container ordinance.

**BACKGROUND / RATIONALE:**

On May 18, 2017, the Texas Third Court of Appeals issued a ruling on the Disposable Container Ordinance in the City's favor. It is anticipated that the Court will issue a mandate that will give the City more information on implementation parameters. The last known mandate date was August, 15, 2017; however, as of this memo, the mandate date is now unknown based on the 3<sup>rd</sup> Court of Appeals website calendar.

At the June 12, 2017 City Council meeting, the Council requested that City staff formulate a plan to implement the rules related to the disposable container ordinance and present it at the July 10, 2017 City Council meeting. Staff has collaborated with the Convention and Visitors Bureau and will present the plan to the City Council at the July 10, 2017 meeting. The presentation will be provided to the City Council in advance of the meeting.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

N/A

**FISCAL IMPACT:**

TBD

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends this plan to educate and communicate the rules to the public related to the disposable container ordinance.



7/10/2017

Agenda Item No. B)

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Presenter

*Christopher J. Looney, Director of Planning and Community Development  
clooney@nbtexas.org*

**SUBJECT:**

Discuss and consider approval of the first reading of an ordinance granting rehabilitation tax relief to the property addressed as 195 Jahn Street, a Local Historic Landmark known as the Brietzke Haus.

**BACKGROUND / RATIONALE:**

**Case No.:** HLC-17-014

**Council District:** 6

**Owner/Applicant:** David A. & Sandra K. Huddleston  
P.O. Box 310647  
New Braunfels, TX 78131  
(830) 625-7502

**Staff Contact:** Amy McWhorter, Historic Preservation Officer  
(830) 221-4057  
amcwhorter@nbtexas.org

The subject property comprises 0.24 of an acre and is situated at the corner of South Castell Avenue and Jahn Street. The subject property is currently zoned "C-2" (Central Business District) and is occupied by the original 1902 Brietzke family home.

This structure is a t-plan dwelling formed by a central hipped block with projecting wings with Queen Anne stylistic influences. The structure has a metal roof with narrow eave overhang with decorative milled brackets. The front-facing gable end has a cut-away bay window with decorative millwork in the cut away sections and fish scale shingles in the gable end. The secondary gable end (facing Castell Avenue) has a returned eave and shuttered window with a decorative wooden pediment above. Character-defining features of the structure include the overall form of the structure, the cut away bay window, the original wooden windows and the decorative mill work that is characteristic of the Queen Anne style.

In April of 2017, City Council designated the property a local historic landmark known as the Brietzke Haus. The applicant has completed substantial repairs to the property and is requesting rehabilitation tax relief pursuant to Section 66-57.1 of the City's Code of Ordinances. The qualified repairs completed by the applicant include the following:

- Limited demolition
- Electrical Wiring

- Plumbing
- Repair of walls and subfloors
- Exterior Paint
- Exterior Doors
- Mechanical Equipment (HVAC)
- Replacement Roof
- Foundation repair

#### **Determination Factors:**

In making a determination on rehabilitation tax relief, the following factors are to be considered:

- Whether the subject property has been designated as a local historic landmark (*City Council approved the designation of the subject property on April 10, 2017*).
- Whether the improvement(s), renovation(s) or restoration(s) to the structure total at least ten percent of the property value reflected on the appraisal district tax rolls (*The property is currently appraised at \$175,570, requiring a minimum expenditure of \$17,570. The applicant has provided receipts totaling more than this required expenditure on eligible expenses*).

#### **ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

	Yes	<b>City Plan/Council Priority:</b> <b>2006 Comprehensive Plan</b> <b>Pros and Cons Based on</b> <b>Policies Plan</b>	<b>Pros:</b> Goal 64D <i>Adopt historic preservation policies that encourage the responsible rehabilitation of substandard homes and the revitalization of existing neighborhoods.</i> The proposed tax relief is offered to encourage the rehabilitation of historic landmark properties. The applicant has completed substantial rehabilitation of the property and successfully applied to have the property designated as a local landmark. <b>Cons:</b> None
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#### **FISCAL IMPACT:**

The tax relief will freeze the appraised value of the structure for City ad valorem tax collection for a period of five years. Therefore, exact value of the fiscal impact is contingent upon future, undetermined appraised values.

#### **COMMITTEE RECOMMENDATION:**

The Historic Landmark Commission held a public hearing on June 13, 2017 and recommended approval of the designation (7-0-0, Commissioners Hoffmann and Gonzalez absent).

#### **STAFF RECOMMENDATION:**

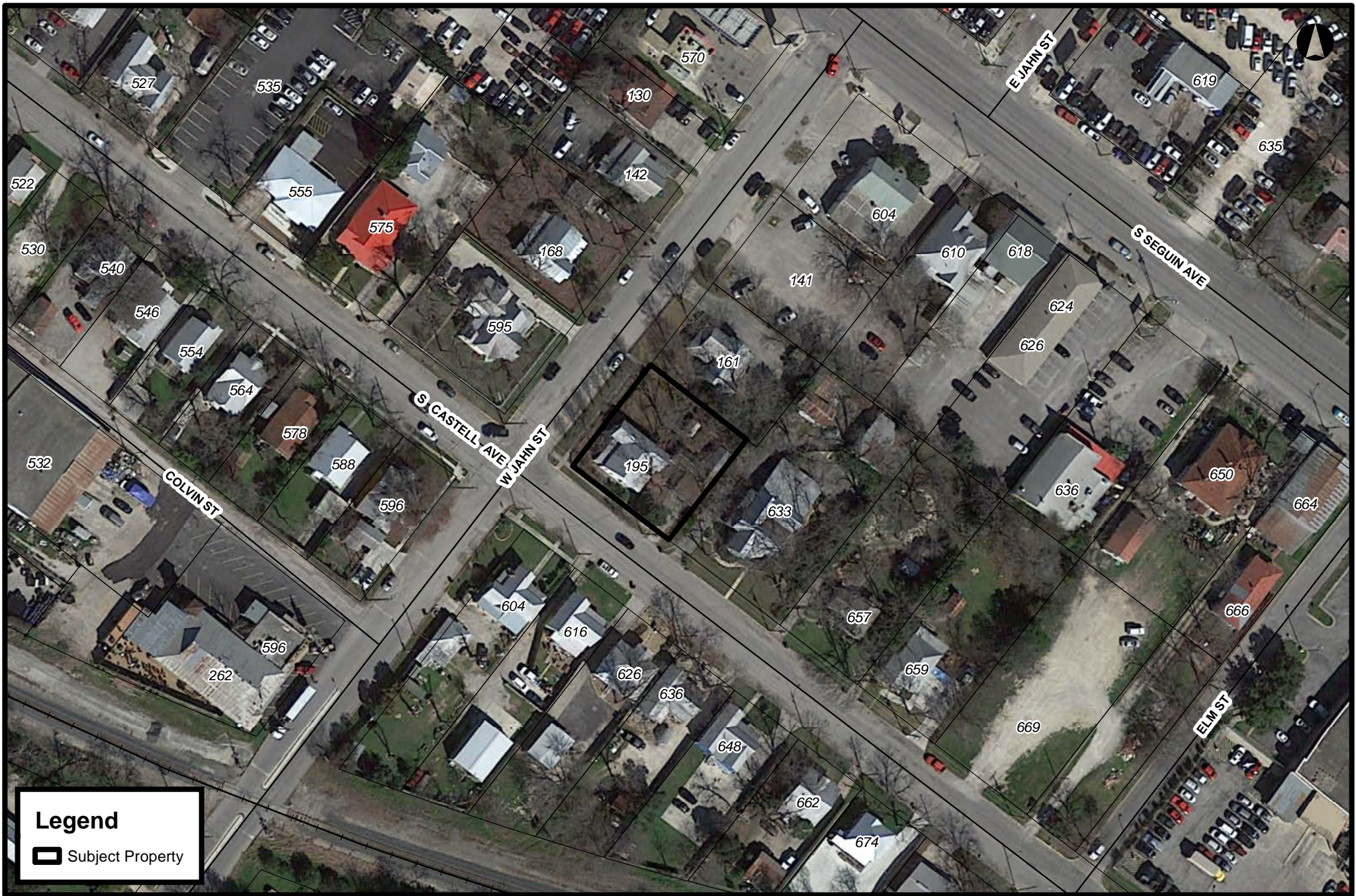
Staff recommends approval of rehabilitation tax relief for the property located at 195 W. Jahn Street as the property meets all requirements for such relief as specified in the City's Code of Ordinances, Article III, Section 66-57.1. This tax relief tool continues to provide an incentive for property owners to rehabilitate, designate and protect historic structures which maintains the heritage of our community.

Attachments:

1. Map

- 
2. Application
  3. Before and after Photos
  4. Article III, Sec. 66-57-1
  5. Excerpt from the June 13, 2017 Historic Landmark Commission minutes
  6. Ordinance









HLC 17-014?

## Tax Incentive Application - Certification

City of New Braunfels Planning and Community Development Department  
424 S. Castell Avenue, New Braunfels, TX 78130 (830) 221-4057

1. Property Address: 195 West Jahn St, New Braunfels, Tx 78130
2. Legal Description: City Block 1034, LOT 1#2 - N 105
3. Historic Designation: Brietzke Haus
4. Owner's Name & Signature: David A. Huddleston,
5. Owner's Address: 838 Oak Lane, New Braunfels, Tx 78130
6. Contact Information: 830 237 9195 or 830 237 9214
7. Applicant's Name: David A. Huddleston
8. Applicant's Contact Information: 830 237 9195 or 830 237 9214
9. Current County Appraised Value: 2016 - \$175,570, 2017 Proposed - \$286,960
10. Cost of Improvement: ~\$180,000.00 (Gen contract + foundation rep)
11. The following items are considered Eligible Costs. Total See attached

Cost	Eligible Item	Cost	Eligible Item
	Structural walls		Roof and gutter
	Structural subfloors		Façade items
	Structural ceilings		Elevators
	Exterior doors		Foundation
	Exterior paint		Termite damage treatment
	Mechanical equipment		Security/fire systems
	Windows		Architectural/engineer services
	Exterior brick treatment		Plumbing & electric fixtures (historic)
	Plumbing		Limited demolition
	Electrical wiring		

**Note: Ineligible cost:** Overhead, Taxes, Supervisor payroll, repairs of construction equipment, tools, and any other items not directly related to the exterior appearance or structural integrity or viability of the structure.

I hereby request consideration for Historic Tax Incentive on the above described structure/Site According to the provisions of the Tax Incentive Ordinance. I have read this ordinance and fully understand and its effect on my property. I understand that I or my representative must attend the Historic Landmark Commission meeting.

Owner's Signature

Date:

Applicant's Signature

Date:

HLC Meeting Date:

June 13, 2017



Photograph of subject structure before/during rehabilitation, camera facing northeast



Photograph of subject structure after rehabilitation, camera facing northeast





Photograph of subject structure after rehabilitation, camera facing southeast

(b) Rehabilitation Tax relief. From the date of passage of this section, the owner of property (structure and land) having historic, architectural, and cultural significance, and so designated by the City's Historic Landmark Commission, Planning Commission, and City Council, as a historical landmark or located within a local historic district shall be eligible to apply for relief in property taxes for a period of five years. Said property, whether owned by the same individual or not, shall be eligible for such relief an additional five years. The total period of time that any one property shall be eligible to receive such tax relief shall be ten years, whether such relief is granted for two consecutive five-year periods or separate terms. For a property to be considered for a consecutive five-year period, an application shall be made during the fourth year of the original request. Whether the application is for consecutive or future periods each request shall be considered separately and must qualify as outlined below. Upon the expiration of a relief period, the property shall be placed on the tax rolls at the new appraised value and taxed accordingly. Provided, however, that should an application be received and approved during the fourth year of the first request no new appraised value will be assessed or taxed.

An application for tax relief pursuant to this section shall be made prior to the first of July of the tax year in which the relief would be granted. Application shall be made to the City's Historic Landmark Commission with a recommendation to the New Braunfels City Council for final action. If requested, the historic preservation officer may assist the owner in filing for such relief. A structure must be designated as a historic landmark as provided for in section 66-54 or located within a local historic district as provided for in section 66-55 in the New Braunfels Code of Ordinances.

1. Qualification for tax relief. The owner of a property, applying for tax relief, shall be entitled to such, provided that the improvement(s), renovation(s), or restoration(s) to the structure is at least ten percent of the value of the property value reflected on the tax rolls of the Comal or Guadalupe Appraisal District office. The tax relief shall commence after the first of January in the tax year immediately following the year in which the work is completed.

The tax relief shall be determined in the following manner. The Comal or Guadalupe Appraisal District shall cause said improvement(s), renovation(s), or restoration(s) to the structure to be appraised on or before December 31 the year the work was completed. This new appraised value less the present property value shall be shown on the tax rolls of the Comal or Guadalupe Appraisal District as the new property value. However, said improvement(s), renovation(s), or restoration(s) shall not cause the value of the property to be less than the present value prior to completion of the work.

2. Eligible costs. Eligible costs shall include exterior and interior improvements to the frame, walls, floor, ceiling, plumbing, electrical wiring and mechanical items, such as heating and air conditioning systems. Fixtures, decorative items, and/or fencing shall not be eligible for consideration unless such items were original fixtures and/or decorative items of the structure. Materials and labor for repairing, replacing or adding any of the following shall be eligible:

(1) Structural walls;

(2) Structural subfloors;

- (3) Structural ceilings;
- (4) Exterior doors;
- (5) Exterior paint (consistent with those colors available during the time period the structure was built);
- (6) Mechanical equipment;
- (7) Windows;
- (8) Exterior brick veneers or treatments;
- (9) Plumbing;
- (10) Electrical wiring;
- (11) Roof and gutter where necessary for structural integrity;
- (12) Facade items;
- (13) Elevators;
- (14) Foundations;
- (15) Termite damage and treatment;
- (16) Security and/or fire protection systems;
- (17) Architectural and engineering services if directly related to the eligible costs described above;
- (18) Plumbing and electrical fixtures documented as historic fixtures; and
- (19) Limited demolition, not more than 15 percent of the original structure, and cleanup related to the eligible costs described above.

3. Ineligible costs. Ineligible costs include the following:

- (1) Overhead;
- (2) Taxes;
- (3) Supervisor payroll;
- (4) Repairs of construction equipment;
- (5) Tools; and
- (6) Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure.

(c) Tax exemption for historic districts. For properties located within a city designated historic district, property owners in the historic district will qualify for an ad valorem tax exemption of 20 percent of the assessed city ad valorem property tax. This tax exemption shall begin on the first day of the first tax year after designation of the historic district.

(d) Building Permit Fees waived. Upon approval of a Certificate of Alteration, the property owner will present said certificate to the Building Department and all building permit fees will be waived.

(Ord. No. 98-25, § 1, 9-14-98; Ord. No. 2007-24, § 1, 3-26-07, Ord. No. 2010-64)

Excerpt from the June 13, 2017 Historic Landmark Commission Draft Minutes

**HLC-17-014: Public hearing and recommendation to City Council regarding an application for Historic Rehabilitation Tax Relief for the property addressed as 195 W. Jahn Street, a local historic landmark known as the Brietzke Haus.**

Mrs. McWhorter presented the staff report, displaying the before and after pictures of the subject property. Mrs. McWhorter said Staff recommends approval of the Rehabilitation Tax Relief as it meets all the criteria for approval.

Board Member Leitch commented that she had gone through a similar process with the Tax Relief. She also thanked the applicant for the tour he provided of the subject property.

Discussion followed regarding the improvements to the subject property.

Motion by Commissioner Davis, seconded by Chair Nichols, to recommend approval to the Planning Commission and City Council on an application for Historic Rehabilitation Tax Relief for the property addressed as 195 W. Jahn Street, a local historic landmark known as the Brietzke Haus. The motion carried. (7-0-0)

**ORDINANCE NO. 2017-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DESIGNATING THE PROPERTY ADDRESSED AS 195 JAHN STREET, APPROXIMATELY 0.24 ACRE, CITY BLOCK 1034, LOTS 1&2, AS A HISTORIC LANDMARK TO BE KNOWN AS THE BRIETZKE HAUS ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, this property has been recommended for historic designation by the Historic Landmark Commission; and

**WHEREAS**, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

**WHEREAS**, the City Council desires to amend the Zoning Map by designating the suffix "HL" in addition to the conventional zoning designation established by the zoning ordinance; **now, therefore;**

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

**SECTION 1**

**THAT** the following described property is hereby designated as a Historic Landmark to be known as the Brietzke Haus in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"The property, approximately 0.24 acre, Lots 1& 2, City Block 1034, addressed as 195 Jahn Street, as shown on the attached map, marked as Exhibit A".

## **SECTION 2**

**THAT** the above property is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

## **SECTION 3**

**THAT** the above described property is hereby entitled to all rights and privileges that are accorded to historically designated property, or which may be accorded such property in the future.

## **SECTION 4**

**THAT**, the zoning map is amended to add "HL" by designating the subject property as a Historic Landmark in addition to the existing zoning.

## **SECTION 5**

**THAT** all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

## **SECTION 6**

**THAT** if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

## **SECTION 7**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 27<sup>th</sup> day of March, 2017.

**PASSED AND APPROVED:** Second Reading this the 10<sup>th</sup> day of April,  
2017.

## **CITY OF NEW BRAUNFELS**

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Barron Casteel, Mayor

**ATTEST:**

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Patrick Aten, City Secretary

**APPROVED AS TO FORM:**

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Valeria M. Acevedo, City Attorney





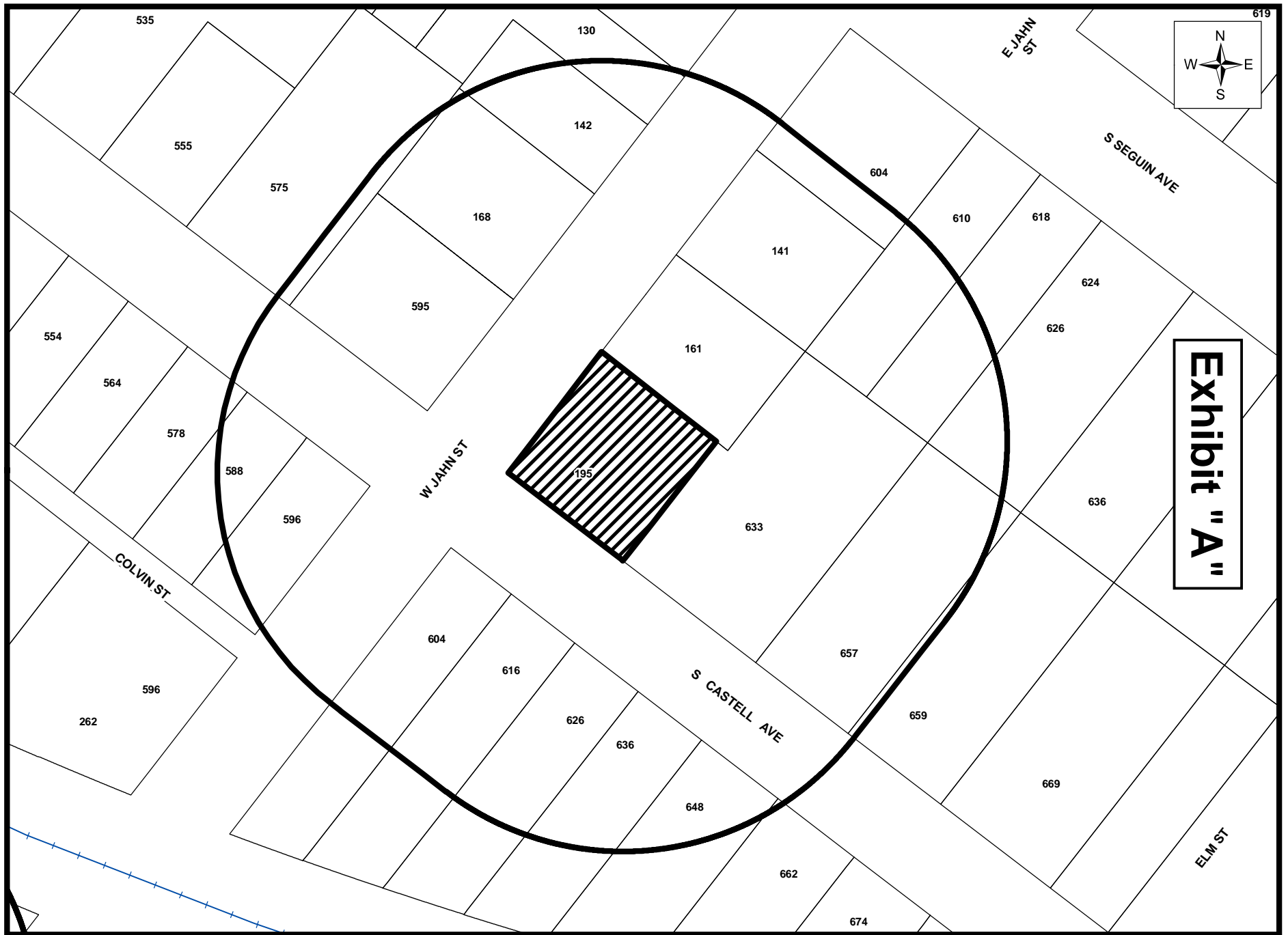


Exhibit "A"

7/10/2017

Agenda Item No. C)

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Presenter

*Christopher Looney, Director of Planning and Community Development*  
*clooney@nbtexas.org*

**SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance regarding the proposed designation of approximately 0.158 acre, the northeast parts of Lots 1 and 2 of City Block 4066, addressed as 475 Butcher Street, as a local historic landmark to be known as the Boenig-Hartmann House.

**BACKGROUND / RATIONALE:**

**Case No.:** HLC-17-008

**Council District:** 6

**Owner/Applicant:** Mark McLean  
503 Magazine Avenue  
New Braunfels, TX 78130  
(830) 221-4057

**Staff Contact:** Amy McWhorter, Historic Preservation Officer  
(830) 221-4057  
amcwhorter@nbtexas.org

**City Council held a public hearing on June 26, 2017 to consider the first reading of this requested ordinance and voted to approve (7-0-0). After the first reading, the applicant requested the proposed name of the house be changed to Boenig-Maurer, prompting the second reading to appear on the Individual agenda rather than Consent.**

The subject property, consisting of approximately 0.158 of an acre, is located at the corner of Braddock Avenue (formerly known as Boenig Street) and Butcher Street. The property is zoned "SND-1" (Special Neighborhood District 1) and includes a circa 1870 farm house and accessory structure. The farm house, which is constructed of 12-inch baked brick walls and has a continuous stone foundation, was once a part of a dairy farm. Although the exact date of construction is unknown, the style and materials used in the dwelling highly suggest it to be from circa 1870 or earlier, since in the 1870s lumber milling technology began to displace the need for adobe and fachwerk construction in the region.

Prior to 1870, Wilhelm Boenig owned the property. Census records indicate that Boenig, who emigrated from Brunswick, Germany in 1857, was a farmer and tailor. In 1871, Boenig sold the property to Wilhelm Hartmann. Although Hartmann is listed as a worker at a saw mill on the 1870

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census, the relatively high value of his real estate holdings noted on the Census indicate that he likely was also engaged in farming in 1870. Hartmann retained the property until 1879, when he sold it to Eva Grimm Maurer a widow from Schumansville in Guadalupe County. Census records indicate the Maurer family did not reside at the house and in 1887 the property was deeded to Eva's daughter Emma Maurer, who married Edward Schneider.

Edward and Emma Schneider resided at the property, which included adjacent acreage and operated a dairy farm. In 1910, the Schneiders sold the subject property (a portion of their large land holdings in the vicinity) to Walter and Meta Elbel, who lived in the subject property until 1926, when they built a new dwelling adjacent to the subject property at 503 Magazine Avenue. The Elbels retained the property as storage or rental property from 1926 until 1972, when they sold it to Crystal Ragsdale who restored the dwelling. In 2016, the applicant purchased the property.

The dwelling on the subject property is a small single-family dwelling dating to circa 1870. The structure has a side-gabled roof clad in seamed metal and with a single internal masonry chimney. The structure is constructed of adobe brick with a cut stone foundation and two historic-age additions (one on the rear façade and one on the lateral façade, both indicated on the 1930 Sanborn Map). The original fenestration pattern is intact and the primary façade has a symmetrical arrangement with a central hinges door flanked by two 6/6 wooden framed windows. The structure is an excellent local example of the German Vernacular building style as applied to a modest farm house.

***General Information:***

*Size:*

0.158 of an acre

*Surrounding Zoning and Land Use:*

North - SND-1 - Single-family residences

East - SND-1 - Single-family residences

South - SND-1 - Single-family residences

West - SND-1 - Single-family residences

*Comprehensive Plan / Future Land Use Designation:*

Residential - Low Density

*Floodplain:*

No portion of the property is within the 1% annual chance flood zone.

*Improvement(s):*

ca. 1870 dwelling

ca. 1900 accessory structure

*Determination Factors:*

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*The proposed historic landmark designation is a zoning overlay which does not change the base zoning of the property*).
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed historic landmark*

*designation is a zoning overlay and therefore does not impact the existing conditions).*

- How other areas designated for similar development will be affected (*There should be no negative effect on other properties in the vicinity as historic preservation has been demonstrated to have a positive, stabilizing impact on neighborhoods.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*The historic landmark designation of the property should contribute to retention of historically significant structures, which provides a community benefit.*); and
- Whether the request is consistent with the Comprehensive Plan (*Comprehensive Plan Goal 69 recommends that the City enhance the heritage image of the City by designating historic areas and structures that should be preserved, restored, and used for adaptive reuse.*)

]

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

	Yes	<b>City Plan/Council Priority:</b> <b>2006 Comprehensive Plan</b> <b>Pros and Cons Based on</b> <b>Policies Plan</b>	<b>Pros:</b> Goal 69: Enhance the heritage image of the City by <u>designating historic areas and structures that should be preserved, restored, and used for adaptive reuse.</u> The designation of this property will enhance the heritage image of the City and encourage the preservation and adaptive reuse of the property. <b>Cons:</b> None
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**FISCAL IMPACT:**

N/A

**HISTORIC LANDMARK COMMISSION RECOMMENDATION:**

The Historic Landmark Commission held a public hearing on April 11, 2017 and recommended approval of the designation (6-0-0). Commissioners Gonzalez, Davis and Kammerer were absent.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission held a public hearing on June 6, 2017 and unanimously recommended approval of the designation (7-0-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the Historic Landmark Designation as the subject structure meets four of the six criteria for approval (criteria 1, 2, 4, and 6) as stated in the City's Code of Ordinances, Article III, Section 66-56 which states: a historic landmark or district may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture. *The structure is an excellent local example of the traditional German Vernacular Style, reflecting the craftsmanship, materials, and technology of early German farmers in the area.*
- (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. *This dwelling, one of the oldest extant structures in the Sophienburg Hill Historic District, is evocative of early community development trends as it represents the historic agricultural use that formerly dominated the area.*
- (3) Is associated with the lives of persons significant in our past. *No such associations are known.*
- (4) Embodies the distinctive characteristics of a type, period, or method of construction. *The subject structure's characteristic features and style include the retention of the overall form and original materials.*

- 
- (5) Represents the work of a master designer, builder, or craftsman. *No such representation is known.*
  - (6) Represents an established and familiar visual feature of the neighborhood or city. *The structure has been located at this site since circa 1870.*

After the first reading, the applicant requested the proposed name of the home be changed to the Boenig-Maurer house. Staff is agreeable to the applicant's request.

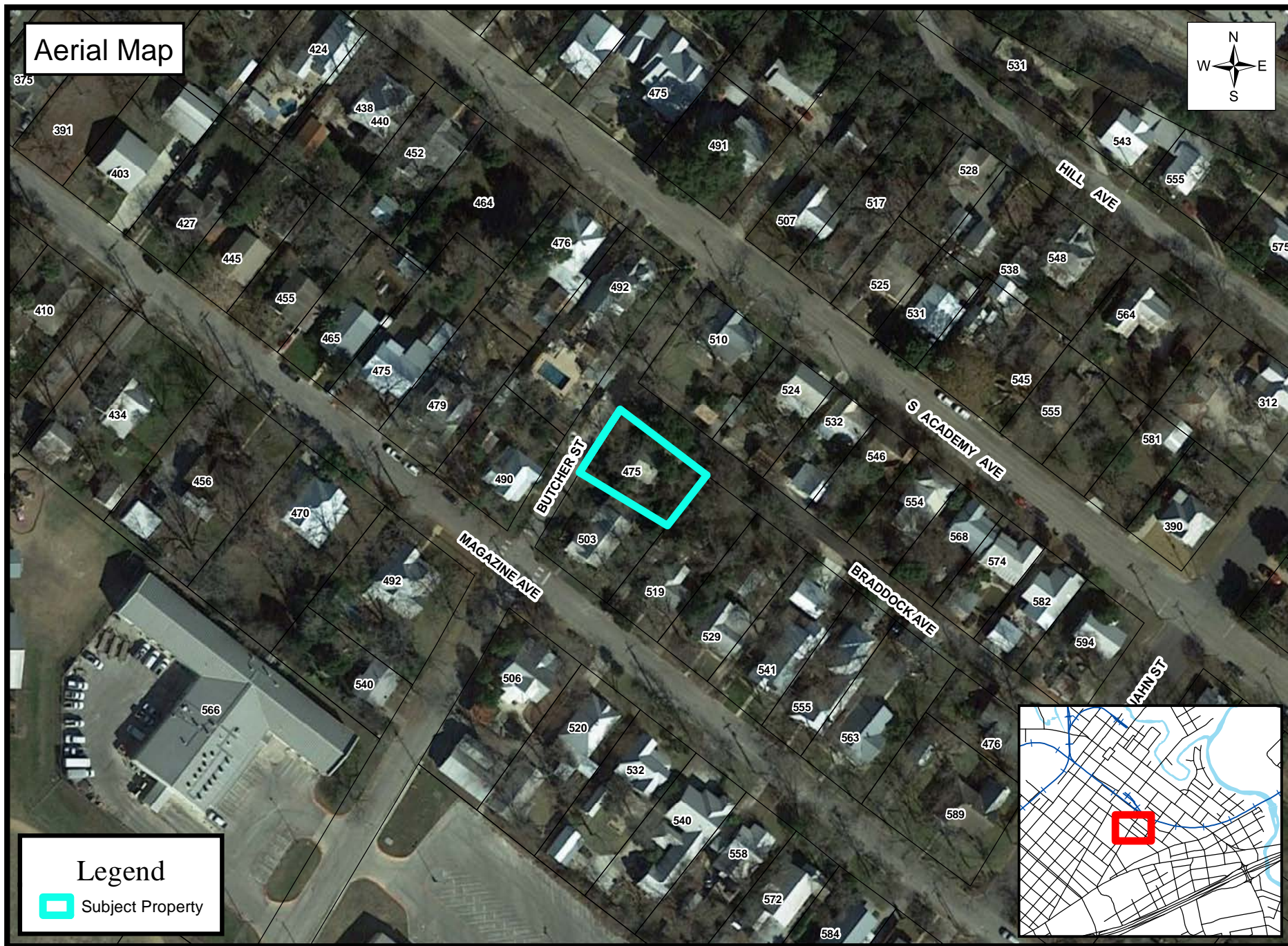
*Notification:*

Public hearing notices were sent to 25 owners of property representing 24 tracts of land within 200 feet of the subject site. Staff has received four responses in favor (#2, 5, 18, & 23) and one in objection (#15).

*Attachments:*

1. Maps
2. Notification & Responses
3. Photographs of Subject Property
4. Article III, Section 66-54
5. Article III, Section 66-56
6. Excerpt from the April 11, 2017 Historic Landmark Commission Minutes
7. Excerpt from the June 6, 2017 Planning Commission Minutes
8. Ordinance









Map Created 5/19/17





**PLANNING COMMISSION – June 6, 2017 – 6:00PM**

New Braunfels City Hall, Council Chambers

**Owner/Applicant:** Mark McLean

**Property Location:** 475 Butcher Street

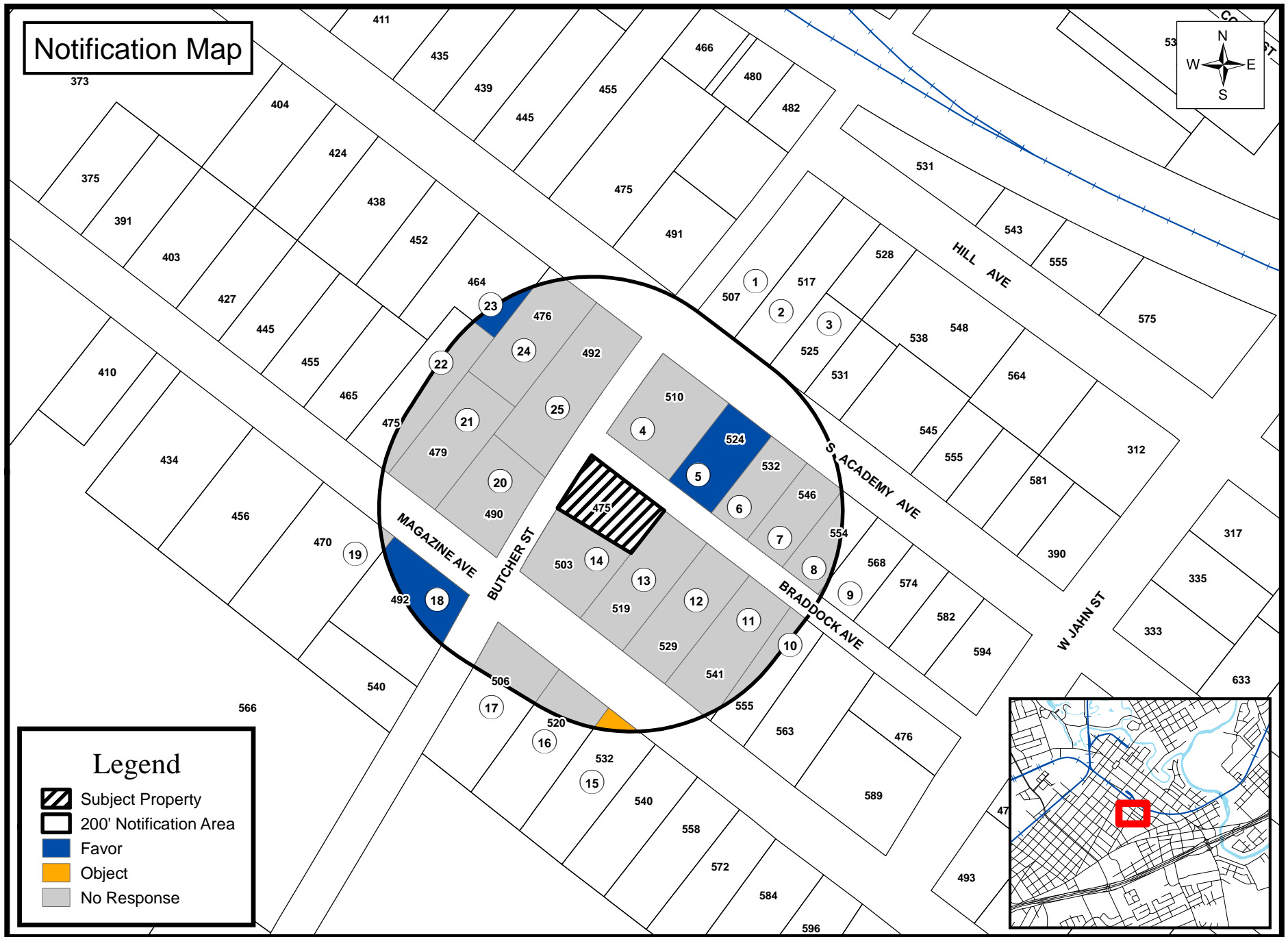
**Historic Landmark Designation - Case #HLC-17-008**

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as "Subject."

- |                                |   |
|--------------------------------|---|
| 1. Stock, Irene                | 14. McLean, Mark                              |
| 2. Brown, Newton A & Betty M   | 15. Hillyer, Consulting Svs Inc               |
| 3. Butler, Kristin & Keith     | 16. Mary Owens Tr                             |
| 4. Barnes, Polly A             | 17. Owens, James A & Elizabeth A              |
| 5. Weldy, Billy V & Gail S     | 18. Newman, Donald G & Cheri                  |
| 6. Schirmer, Kristi D          | 19. Triesch, Bernice Marie                    |
| 7. Schuck, Carol J             | 20. Toomey, Darren & Misty                    |
| 8. Charles B & Jean Johnson Tr | 21. Collins, Jeffrey D & Deborah H            |
| 9. Frazell, Richard            | 22. Garcia, Ricardo C & Lisa L                |
| 10. Moses, Clifford A & Mary C | 23. Cooper, Jonathan M & Debra B              |
| 11. Krause, Sherman & Melissa  | 24. Leonhardt, Curtis Gene & Denise<br>Phelan |
| 12. Rayborn, John K            | 25. Cobb, Kenneth C & Kimberly A              |
| 13. Owner                      |   |

---

**SEE MAP ON REVERSE**



RECEIVED

JUN 08 2017

BY:

Dear Sirs,

2 hiteen years ago when I was looking for a house in new Braunfels the neighborhood (the hill) looked pretty bleak, but on magazine it there were several well kept houses. One in particular, a craftsman style home with a lovely yard on magazine which belonged to Mark McLean gave hope for the whole neighborhood.

I have found that Mark goes out of his way to keep the neighborhood pushed up and looking neat.

I am a senior citizen who lives in this area and he often offers to water or mow my grass when I am unable to. He always does his part and then some.

I am comfortable with his judgement for rezoning in our area and support his decisions.

Respectfully yours,

Gail Weldy

524 S. Academy  
N. 1. N. X

# YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-17-008 (McLean)

Date notice sent: 5/19/2017

Name: Gail Weldy

Address: 524 S. Academy

Circled number on map: 5

Comments: (Use additional sheets if necessary)

RECEIVED

JUN 08 2017

BY:

I favor: ☒I object: ☐

(State reason for objection)

Signature: Gail Weldy

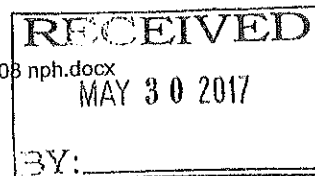
Case: #HLC-17-008 (McLean)  
Date notice sent: 5/19/2017

Name: Beth M. Bascun  
Address: 519 S. Academy  
Circled number on map: 2  
Comments: (Use additional sheets if necessary)

I favor: ☒  
I object: \_\_\_\_\_  
(State reason for objection)

Signature: Beth M. Bascun

\\CHFS-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-008\HLC-17-008 nph.docx



Name: Jon & Debra Cooper  
Address: 87 Mission Dr.  
Circled number on map: 23  
Comments: (Use additional sheets if necessary)

I favor: ☒  
I object: \_\_\_\_\_  
(State reason for objection)

2 thumbs up!!

Signature: Jon & Debra Cooper

\\CHFS-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-008\HLC-17-008 nph.docx

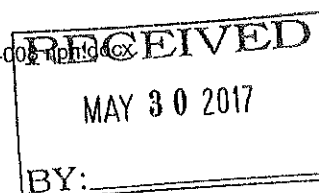
Date notice sent: 5/19/2017

Name: Don & Cheri Newman  
Address: 492 Magazine  
Circled number on map: 18  
Comments: (Use additional sheets if necessary)

I favor: ☒  
I object: \_\_\_\_\_  
(State reason for objection)

Signature: Cheri Newman

\\CHFS-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-008\HLC-17-008 nph.docx



Case: #HLC-17-008 (McLean)  
Date notice sent: 5/19/2017

Name: Richard Hillier (Hillier Consulting)  
Address: 532 Magazine  
Circled number on map: 15

I favor: \_\_\_\_\_

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

I and some of the neighbors suspect that he is using the house for overnight rental, which would be against the code restriction. Until this is resolved, I cannot be in favor of something that would enhance the property for overnight rental purpose.

Signature: Richard Hillier

\\CHFS-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\HLC-17-008\BC17-008-nph-dec









Sec. 66-54. Designation of historic landmarks.

(a) These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the city. Each historic landmark shall bear the words "Historic Landmark" (HL) in its zoning designation. Such designation shall indicate that such property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other development land use regulations, such property shall be governed by its zoning district.

(b) A historic landmark shall be considered by the commission only with the written application of the property owner expressly requesting that the property be so designated. Property owners of proposed historic landmarks shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.

(c) Upon recommendation of the commission, the proposed historic landmark shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.

(d) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearing, and make its determination in the same manner as provided in the general zoning ordinance of the city.

(e) Upon designation of a building, object, site, or structure as a historic landmark or district, the city council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.

(Ord. No. 96-9, § 1, 2-26-96; Ord. No. 2005-53, § 2, 6-27-05)

**Sec. 66-56. Criteria for the designation of historic landmarks and districts.**

A historic landmark or district may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture.
  - (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
  - (3) Is associated with the lives of persons significant in our past.
  - (4) Embodies the distinctive characteristics of a type, period, or method of construction.
  - (5) Represents the work of a master designer, builder, or craftsman.
  - (6) Represents an established and familiar visual feature of the neighborhood or city.
- (Ord. No. 96-9, § I, 2-26-96)

Excerpt from the April 11, 2017 Historic Landmark Commission Draft Meeting Minutes

**B. HLC-17-008 Public hearing and recommendation to the Planning Commission and City Council on an application for Historic Landmark designation for the property addressed as 475 Butcher Street, located in the Sophienburg Hill Historic District, to be known as the Boenig-Maurer House.**

Mrs. McWhorter presented the staff report, described the history of the property, and listed the previous property owners. She concluded by stating her recommendation of approval based on the following criteria:

- The property possesses significance in history, architecture, archeology, or culture. Mrs. McWhorter said the structure is an excellent local example of the traditional German Vernacular Style, reflecting the craftsmanship, materials, and technology of early German farmers in the area.
- The property is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. Mrs. McWhorter said the dwelling, possibly the oldest structure in the Sophienburg Hill Historic District, is evocative of early community development trends as it represents the historic agricultural use that formerly dominated the area.
- The property embodies the distinctive characteristics of a type, period, or method of construction. Mrs. McWhorter said the subject structure characteristic features of its style including the retention of the overall form and original materials.
- The property represents an established and familiar visual feature of the neighborhood or city. Mrs. McWhorter said the structure has been located at this site since circa 1870.

Discussion ensued in regards to the age of the house.

Motion by Commissioner Hoffmann, seconded by Commissioner Leitch, to recommend approval to the Planning Commission and City Council on an application for Historic Landmark Designation for 475 Butcher Street, to be known as the Boenig-Maurer House. The motion carried. (6-0-0)

**Draft Minutes for the June 6, 2017 Planning Commission Regular Meeting**

**HLC-17-008: Public Hearing and recommendation to City Council regarding the proposed Historic Landmark designation for the property addressed at 475 Butcher Street, which is located in the Sophienburg Hill Historic District.**

(Applicant: Mark & Linda Mclean; Case Manager: A. McWhorter)

Mrs. McWhorter presented the Staff report and recommended approval of the Historic Landmark Designation.

Chair Elrod asked if anyone wished to speak in favor.

No one spoke.

Chair Elrod Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Conkright, to close the public hearing. The motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed Historic Landmark designation for the property addressed at 475 Butcher Street, which is located in the Sophienburg Hill Historic District. Motion carried (8-0-0).



**ORDINANCE NO. 2017-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DESIGNATING APPROXIMATELY 0.158 ACRE, THE NORTHEAST PARTS OF LOTS 1 AND 2 OF CITY BLOCK 4066, ADDRESSED AS 475 BUTCHER AS A HISTORIC LANDMARK TO BE KNOWN AS THE BOENIG-MAURER HOUSE ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, this property has been recommended for historic designation by the Historic Landmark Commission; and

**WHEREAS**, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

**WHEREAS**, the City Council desires to amend the Zoning Map by designating the suffix "HL" in addition to the conventional zoning designation established by the zoning ordinance; **now, therefore;**

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

**SECTION 1**

**THAT** the following described property is hereby designated as a Historic Landmark to be known as the Baoenig-Maurer House in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"Approximately 0.158 acre, the northeast parts of Lots 1 and 2 of City Block 4066, addressed as 475 Butcher Street, as shown on the attached map, marked as Exhibit A".

## **SECTION 2**

**THAT** the above property is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

## **SECTION 3**

**THAT** the above described property is hereby entitled to all rights and privileges that are accorded to historically designated structures or sites, or which may be accorded those structures or sites in the future.

## **SECTION 4**

**THAT**, the zoning map is amended by designating the tract the subject structure is located upon, to add "HL".

## **SECTION 5**

**THAT** all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

## **SECTION 6**

**THAT** if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

## **SECTION 7**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 26<sup>th</sup> day of June, 2017.

**PASSED AND APPROVED:** Second Reading this the 10<sup>th</sup> day of July,  
2017.

## **CITY OF NEW BRAUNFELS**

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Barron Casteel, Mayor

**ATTEST:**

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Patrick Aten, City Secretary

**APPROVED AS TO FORM:**

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Valeria M. Acevedo, City Attorney



7/10/2017

Agenda Item No. D)

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Presenter

*Christopher J. Looney, Planning and Community Development Director  
clooney@nbtexas.org*

**SUBJECT:**

Public hearing and consideration of the first reading of an ordinance regarding the proposed rezoning of approximately 74 acres comprising a 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from "APD" Agricultural/Pre-Development District and "R-1A-6.6" Single-Family District to Weltner Farms Planned Development District (WFPD).

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-17-024

**Council District:** 2

**Applicant:** Scanio Development, John Scanio  
660 Lakefront Avenue  
New Braunfels, TX 78130  
(210) 496-7775

**Owners:** Weltner Land Ventures, LLC, John Scanio  
18618 Tuscany Stone Drive, Suite 210  
San Antonio, TX 78258  
(210) 723-1693

Nolte Land & Dev. Co.  
Melvin Nolte, Jr.  
175 N. Market Avenue  
New Braunfels, TX 78130  
(830) 625-7306

**Agent:** Moeller & Associates  
James Ingalls  
2021 State Highway 46 West  
New Braunfels, TX 78130  
(830) 358-7127

**Staff Contact:** Benjamin Campbell, Planner  
(830) 221-4056  
bcampbell@nbtexas.org

**On June 26, 2017, City Council voted to postpone consideration of the first reading of this requested rezoning to July 10, 2017.**

The subject property is located on Weltner Road less than half-a-mile east of State Highway 46 South. It is on the edge of the city limits between Clear Springs and Seguin in an area popular for new home development. The property is occupied by two homes and several outbuildings; it has been used agriculturally. The current zoning is "R-1A-6.6" Single-Family District and "APD" Agricultural/Pre-Development District.

The applicant is requesting to rezone the property to Weltner Farms Planned Development District (WFPD) with a base district of "R-1A-6.6" Single-Family District. The primary difference between the base district and the proposed planned development district is the inclusion of 145, 45-foot wide lots with a minimum size of 5,400 square feet (Area 1 on the Concept Plan Map - Attachment 2). The remainder of the 140 lots will be a minimum of 60 feet wide with a minimum size of 6,600 square feet (Area 2 on the Concept Plan Map - Attachment 2). All setbacks will be the same as R-1A-6.6.

<i>Land Use:</i>	Area 1 (Single Fam.) - 45' Lot	Area 2 (Single Fam.) - 60' Lot	Existing R-1A-6.6	Existing APD
<i>Base Zoning:</i>	R-1A-6.6	R-1A-6.6	-	-
<i>Total Number of Acres:</i>	35.27	38.98	61.041	13.368
<i>Open Spaces/Drainage/Un-encumbered Greenspace Acreage:</i>	8.35 acres		-	-
<i>Easement Acreage:</i>	6.94 acres		-	-
<i>Maximum Number of Buildable Lots:</i>	145 (updated from 180 on previous report)	140 (updated from 107 on previous report)	219 (approximate number of units)	21 (approximate number of units)
<i>Minimum Lot Width:</i>	45 Feet Wide (55 Feet Corner)	60 Feet Wide (70 Feet Corner)	60 Feet	100 Feet
<i>Minimum Lot Depth:</i>	100 Feet	100 Feet	100 Feet	100 Feet
<i>Typical Lot Depth:</i>	120 Feet	120 Feet	N/A	N/A
<i>Minimum Lot Area:</i>	5,400 Square Feet	6,600 Square Feet	6,600 Square Feet	15,000 Square Feet
<i>Minimum Front Setback:</i>	25 Feet	25 Feet	25 Feet	25 Feet
<i>Minimum Side Setback:</i>	5 Feet	5 Feet	5 Feet	10 Feet
<i>Minimum Side Setback (Corner):</i>	15 Feet	15 Feet	15 Feet	15 Feet



<i>Minimum Side Setback (Rear Lot Line Abuts Side Lot Line Adjacent to Street):</i>	25 Feet	25 Feet	25 Feet	25 Feet
<i>Minimum Rear Setback:</i>	20 Feet	20 Feet	20 Feet	30 Feet
<i>Minimum Living Area:</i>	1,400 Square Feet	1,700 Square Feet	N/A	N/A
<i>Maximum Building Area:</i>	12,000 Square Feet	12,000 Square Feet	N/A	N/A
<i>Minimum Garage:</i>	2 Car Garage	2 Car Garage	Space for 2 cars on property	Space for 2 cars on property
<i>Minimum Landscaping:</i>	Full Sod (front & back) or Xeriscaping & 2 (2" trees)	Full Sod (front & back) or Xeriscaping & 2 (2" trees)	N/A	N/A
<i>Maximum Building Height:</i>	35 Feet	35 Feet	35 Feet	35 Feet
<i>Access Road:</i>	Internal Streets	Internal Streets	N/A	N/A

The majority of this property lies within the Airport Hazard Zoning Overlay District. Approximately 32.7 acres of Weltner Farms falls within the Approach 2 Zone where residential densities are prohibited from exceeding 3 dwelling units per acre. Approximately 35.5 acres falls within the Approach 3 Zone where residential densities are prohibited from exceeding 6 dwelling units per acre. The remainder of the development, approximately 6.1 acres, falls outside of the Airport Hazard Overlay for land use (Attachment 4 - Zoning Map). If this rezoning request is approved, it will not replace or remove the Airport Hazard Overlay Zoning District. Densities will be verified at the time of platting.

Additional development standards include the following requirements per lot: a two-car garage, sod or xeriscaping, and two trees. The applicant has indicated they will also construct an amenity center.

#### ***General Information:***

Size: 74.25 acres

#### ***Surrounding Zoning and Land Use:***

Northwest (across Weltner Road) - Outside of City Limits - Agricultural  
 Northeast - Outside of City Limits - Agricultural  
 Southeast - Outside of City Limits - Agricultural &  
 PD (Avery Park) / Residential - Single-Family Residential  
 Southwest - APD / Agricultural - Agricultural

#### ***Comprehensive Plan / Future Land Use Designation:***

Residential - Low Density Residential

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*School District:* Comal ISD

*Floodplain:* No portion of the property is within the 1% annual chance flood zone.

*Improvement(s):* Two single-family houses & several agricultural outbuildings

*Regional Transportation Plan:*

Weltner Road is dedicated as a 60-foot wide Minor Collector. The current right-of-way is 50 feet wide and 5 feet will be dedicated at the time of platting.

*Hike & Bike Trails Plan:*

There are no designated paths within the boundaries of this development.

*Parkland Dedication:*

This development is subject to the Parkland Dedication and Development Ordinance. The development will be required to pay dedication and development fees of \$600 for the each residential lot prior to recording the final plat.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

	Yes	<b>City Plan/Council Priority:</b> Pros: 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	<b>Objective 1A:</b> <i>Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.</i> The subject property is located in an area that is adjacent to single-family residences or designated as low density residential on the Future Land Use Plan. The proposed zoning limits the density beneath the Airport Hazard Overlay to less than 3 units/acre in Approach 2 Zone and to less than 6 units/acre in Approach 3 Zone. <b>Goal 1C:</b> <i>Consider rezoning, as necessary, to ensure existing and future land use compatibility.</i> The proposed Weltner Farms Concept Plan is compatible with the Future Land Use Plan category of Low Density Residential. <b>Cons:</b> None.
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**FISCAL IMPACT:**

N/A

*Determination Factors:*

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In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*The property is bordered on three sides by agricultural property. On the fourth side there is more agricultural property and the Avery Park neighborhood. The property is designated as residential on the Future Land Use Plan.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The residential use of the property should not conflict with existing and proposed streets, water supply, sanitary sewer and other utilities in the area. Pursuant to state statute, Comal ISD was notified of this rezoning request.*);
- How other areas designated for similar development will be affected (*Weltner Farms will connect to Avery Park at Bitters Lane. Other street projections to surrounding, unplatted property will be addressed at the time of the master plan. Five-feet of right-of-way will be dedicated along Weltner Road per the Regional Transportation Plan which designates Weltner Road as a Minor Collector with a minimum R-O-W of 60 feet (the R-O-W is currently 50 feet wide.)*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*The use of this property as single-family residential should not have a detrimental impact on the public health, safety, morals or general welfare of the nearby property or of the City as a whole.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The request is consistent with the Future Land Use Plan designation of the property as Residential Low Density.*)

#### **COMMITTEE RECOMMENDATION:**

On June 6, 2017, the Planning Commission recommended approval of the applicant's requested zoning change (7-0-0) Commissioner Nolte recused; Commissioner Bearden was absent.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the requested zoning change to Weltner Farms Planned Development District. The property and the surrounding area are designated as low density residential on the Future Land Use Plan and the planned development will still need to comply with the density limitations mandated by the Airport Hazard Zoning Overlay which will remain in place.

#### **Notification:**

Public hearing notices were sent to 43 owners of property within 200 feet of the subject site. A notice was also sent to the Comal Independent School District. Staff has received no responses in favor and two responses in objection (#31 & 35) representing 1.4% of the territory within 200 feet. The response for #3 was initially in objection, but has since been rescinded.

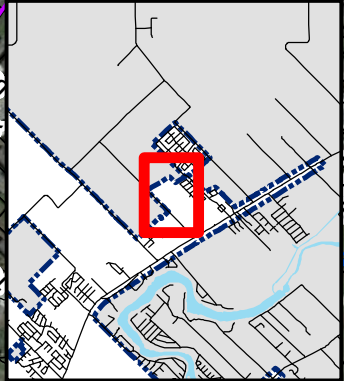
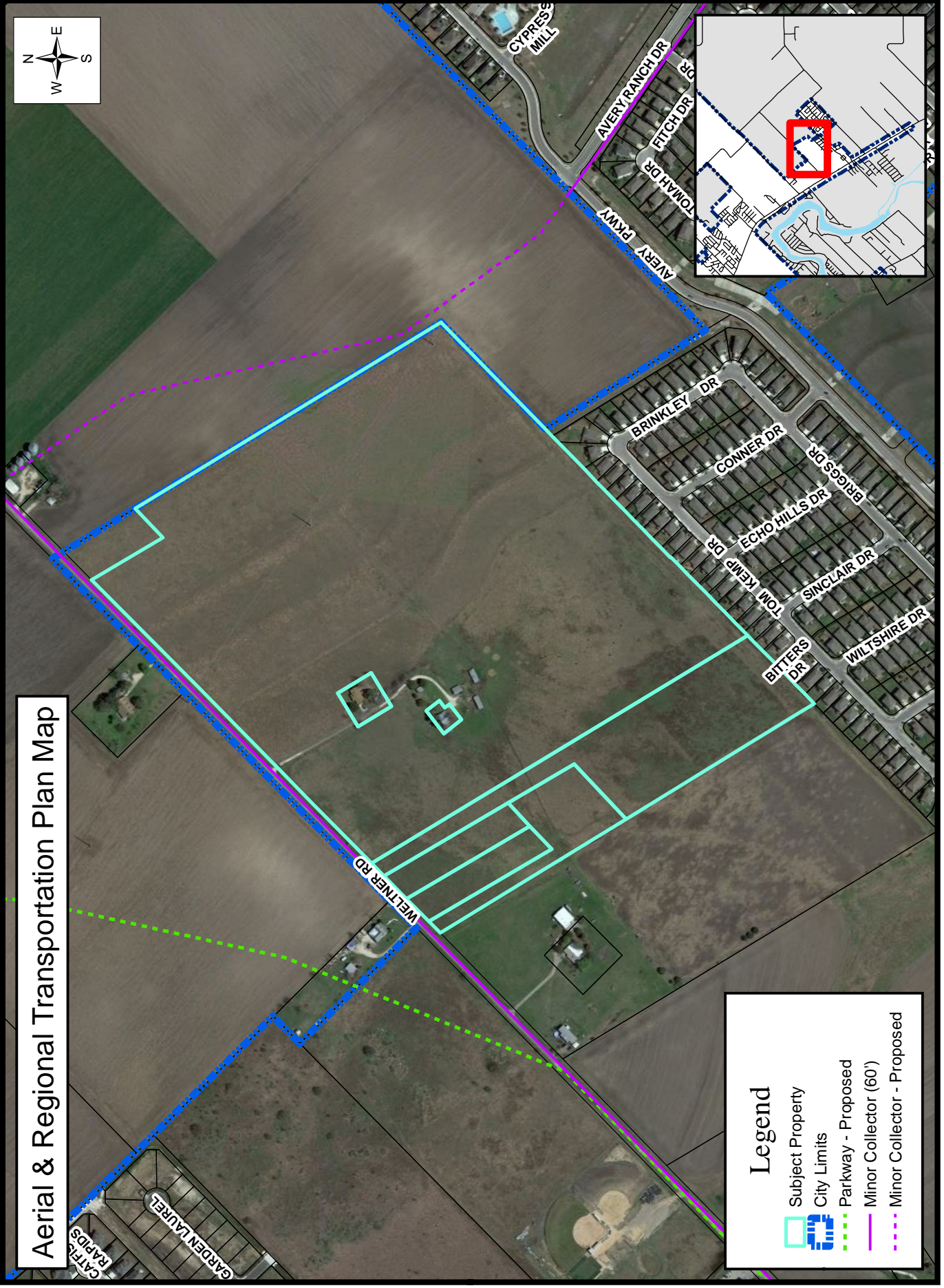
#### **Attachments:**

1. Aerial & Regional Transportation Plan Map
2. Application
3. Planned Development Narrative
4. Zoning Map, Existing Land Use Map & Future Land Use Plan Map
5. Notification, Map & Responses
6. Photograph of Subject Property
7. Sec. 3.5 Planned Development Districts
8. Draft Minutes from the June 6, 2017 Planning Commission Meeting

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9. Ordinance

# Aerial & Regional Transportation Plan Map



Map Created 5/19/17

**PZ-17-024**  
**APD & R-1A-6.6 to Weltner Farms Planned Development District**  
**1568 & 1584 Weltner Road**







PLANNING

APPLICATION FOR  
ZONE CHANGE550 LANDA STREET  
NEW BRAUNFELS TX 78130E-MAIL: [planning@nbtexas.org](mailto:planning@nbtexas.org)

PHONE: (830) 221-4050

Case Number: P2-17-024

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Scanio Development/ C/O John ScanioMailing Address: 660 Lakefront Avenue, New Braunfels, TX 78130Telephone: (210) 496-7775 Fax: (210) 496-3256 Mobile: (210) 723-1693Email: jscanio@dirdealers.com

2. Property Address/Location: 1584 Weltner Rd.

3. Legal Description:

Name of Subdivision: ABS 20, Survey A. M. Esnaurizar 60.0790 ac, lots 1-4 Countryville SubdivisionLot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_ Acreage: 74.25

4. Existing Use of Property: Undeveloped

5. Proposed Use of Property (attach additional or supporting information if necessary): \_\_\_\_\_

Single Family Residential

6. Zoning Change Request: Current Zoning: R-1A-6.6 Proposed Zoning: PDD

For "PDD Planned Development District", check if: Concept Plan ☒ OR Detail Plan \_\_\_\_\_

7. Reason for request (please explain in detail and attach additional pages if needed): \_\_\_\_\_

Single Family Residential Subdivision Development

8. ATTACHMENTS:



Metes and bounds description and survey if property is not platted.



TIA worksheet and Traffic Impact Analysis if required.



Location in 100-year floodplain: Please provide a map of the floodplain overlaying the property proposed for zoning or, at a minimum, a copy of the proper FEMA flood map, with panel number. (Current floodplain maps are those most recently adopted by the City Council.)



Map of property in relation to City limits/major roadways or surrounding area.

If requesting a Planned Development (PD), applicant must provide development standards on the detail plan and/or provide the standards in a separate document as described in the Zoning Ordinance, Section 3.5. Provide 14 copies of the standards and Concept plan (1":200') for distribution with 4 copies of the survey (1":200') (if preparing revisions to existing Planned Development (PD) please provide one legible 11x17).



Copy of deed showing current ownership.

The undersigned hereby requests rezoning of the above described property as indicated.

4-26-17

Date

James Ingalls, P.E.

Print Name &amp; Title

Signature of Owner(s)/Agent

## For Office Use Only

Fee Received By: MS Amount: 1200.- Receipt No.: 242110Date Received: 4-26-17 Zoning signs issued: \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_Cash/Check Number: 3583 Case Number: P2-17-024

ge 1



# **Weltner Farms Subdivision Planned Development District Narrative**

## **REQUEST**

The applicant is requesting a Planned Development District (PDD) with a Base Zoning R-1A-6.6 of the proposed 74.25ac tract to allow for the development of a single family residential community known as the Weltner Farms Subdivision. The current R-1A-6.6 zoning district requires a minimum 60' lot width with a 6,600 square foot lot area. The proposed community will consist of lots consistent with the R-1A-6.6 zoning, only with a 45ft lot width minimum only for the area shown on the Concept Plan to be 45' widths. The proposed typical 45'x120' lot in the Weltner Farms Subdivision is 5,400 square feet in area. We are proposing to revise the current R-1A-6.6 district requirements to a minimum 45' lot width, 5,400 sf minimum lot area allowing one family detached dwellings along with the implementation of several other PDD standards with this PDD.

We believe the revised lot size, in conjunction with the implementation of several other PDD standards, increased open space, and an amenity center will provide the area with a more complementary community that offers a higher quality of life than the current standards permitted. The PDD will establish standards focused on the community's long term preservation and vitality. Such standards are not currently addressed in the Zoning Ordinance, but we believe that they are extremely important to the future homeowners. These standards are included in the development standards. This property is within the Airport Hazard Overlay Zones 2 and 3, and the restrictions for those overlay zones still apply. The proposed density does comply with the density constraints of the Airport Hazard Overlay zones.

We respectfully request consideration of the proposed Planned Development District for the 74.25 acres of land located along Weltner Road.

## **BASE ZONING DISTRICT**

The Weltner Farms Subdivision will have the base zoning requirements of the R-1A-6.6 zoning district as described in the current zoning ordinance of the City of New Braunfels. The PDD will revise the minimum lot widths set forth in the current zoning standards for an R-1A-6.6 zoning district. Due to increased open space, an amenity center, revised lot sizes, and the implementation of several other PDD standards; the Weltner Farms subdivision will accommodate a more vibrant, sustainable community that provides generous park space, a sense of place, lot diversity, and pedestrian-friendly circulation internal and external to the community.

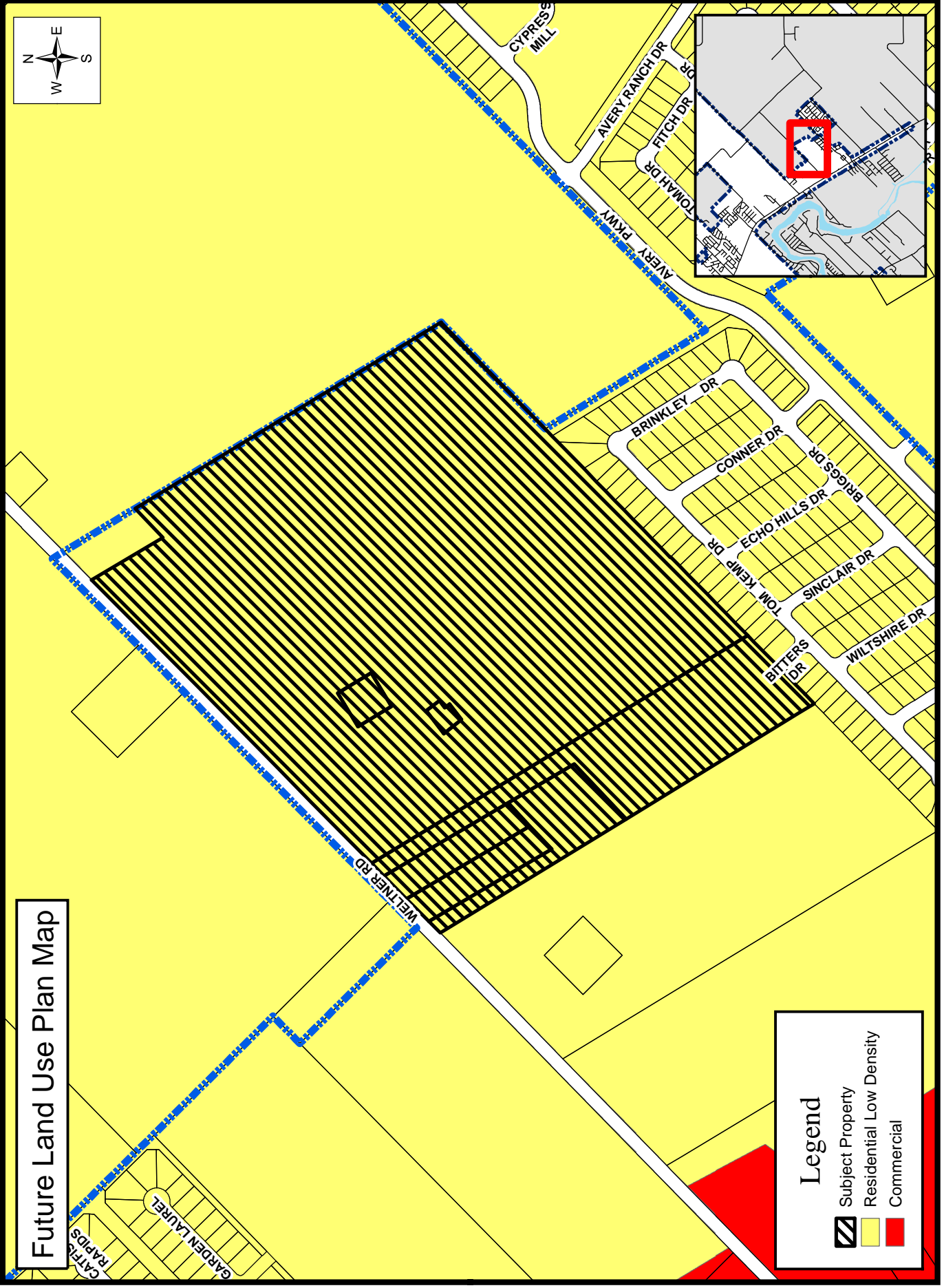




Map Created 5/19/17

**PZ-17-024**  
**APD & R-1A-6.6 to Weltner Farms Planned Development District**  
**1568 & 1584 Weltner Road**





Map Created 5/19/17

**PZ-17-024**  
**APD & R-1A-6.6 to Weltner Farms Planned Development District**  
**1568 & 1584 Weltner Road**



**PLANNING COMMISSION – June 6, 2017 – 6:00PM**

New Braunfels City Hall, Council Chambers

**Owners:** Nolte Land & Dev. Co. and Weltner Land Ventures, LLC

**Applicant:** Scanio Development c/o John Scanio

**Property Location:** 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road & the 13.421 acre Countryville Subdivision

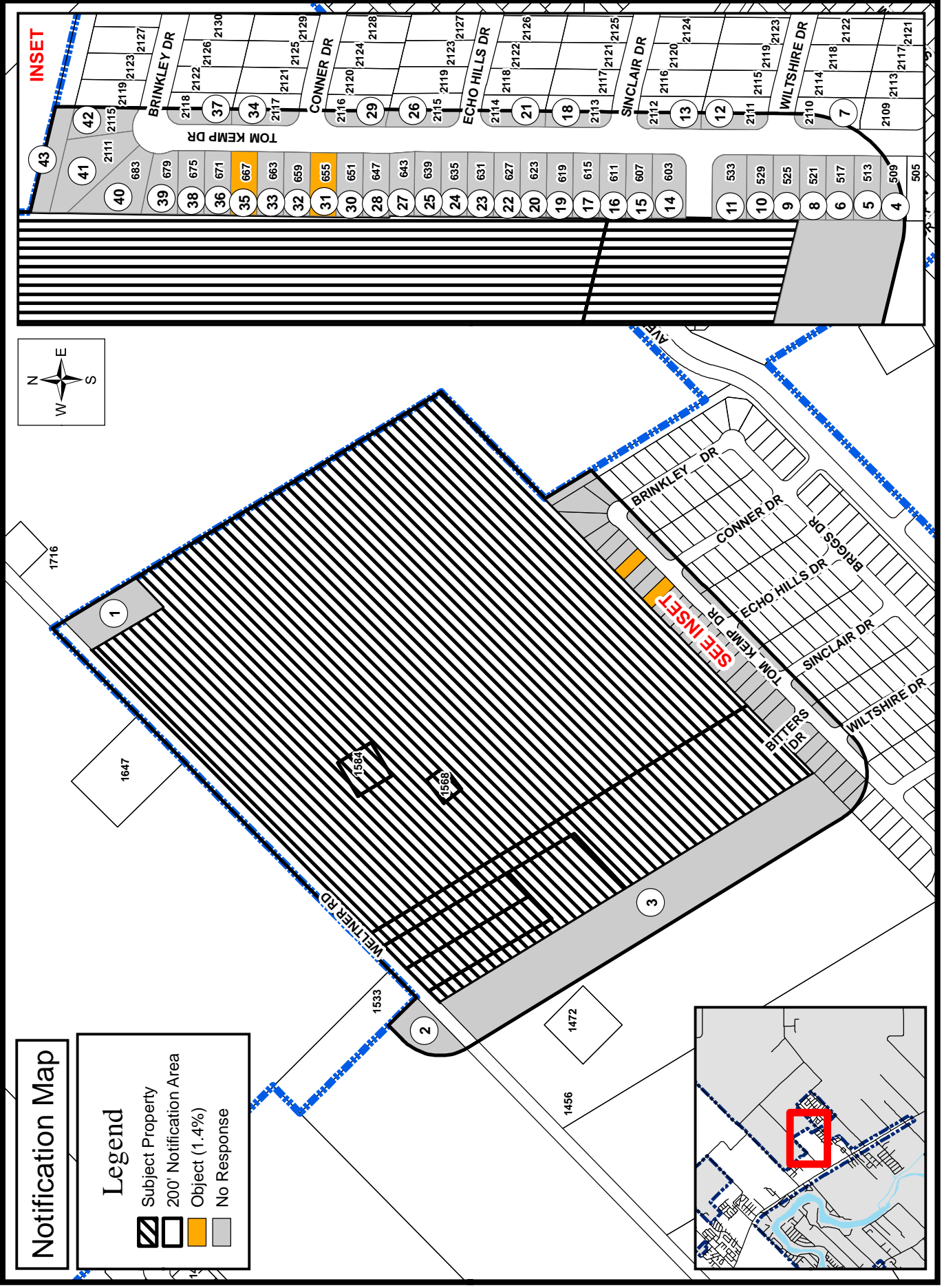
**Proposed Zone Change – Case #PZ-17-024**

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as "Subject."

- |  |  |
|--|--|
| 1. Hemsell, Catherine Jean Nolte & Miki Louise Nolte G   | 23. American Homes 4 Rent Properties Eight LLC   |
| 2. Garland, Ted H & Jacquilin                            | 24. Allen, Melissa E & William Brett             |
| 3. Altwein, Raymond A & Bertha L                         | 25. Montemayor, Mario E & Annette                |
| 4. Barrow, Thomas J & Tricia A                           | 26. Silver Date Palm Properties LLC              |
| 5. Mercer, Michael D                                     | 27. Daigle, Kathy L                              |
| 6. Owner   | 28. Wheeler, Kara & Clifford                     |
| 7. Ybarra, Roy & Sandra Valenzuela                       | 29. Forbus, Noemi Del Bosque                     |
| 8. Jetton, Shannon                                       | 30. Lewis, Randall H & Destiny H                 |
| 9. New Braunfels Muffler & Hitch Center LLC              | 31. Wolter, Jesica L & Morgan B                  |
| 10. Varga, Joseph, III & Karissa                         | 32. Stuart, Michael L                            |
| 11. Schlameus, Susan                                     | 33. Granzin, Derek & Alexis Ellis                |
| 12. Atzenhoffer, Susan & Jason                           | 34. Stanton, Vanessa & Mitchell Lee              |
| 13. Ramirez, Steven, Jr.                                 | 35. Langland, Anton L & Catherine P              |
| 14. Friend Michael H                                     | 36. Shearrow, Chris James & Georgina Marie       |
| 15. Martin Sedley H Jr & Julia C                         | 37. Hinojosa, Anthony                            |
| 16. Jaroszewski, Nicholas A                              | 38. Owner  |
| 17. Pawelek, Brandon                                     | 39. Boultinghouse, Stoney L & Sandra Michelle    |
| 18. Diaz, William Vance, Jr. & Whitney Paige Douglas-Dia | 40. David, Elva Herrmann                         |
| 19. Guerin, Holly S                                      | 41. Owner  |
| 20. McCleese, Sam  | 42. Wallace, Jeremy E                            |
| 21. Sabedra, Joe D Sr & Veronica                         | 43. N B Avery Park Home Owners Association, Inc. |
| 22. Navarro, Jesus, III                                  |  |

---

**SEE MAP ON REVERSE**



Notification Map

Legend

- Subject Property
- 200' Notification Area
- Object (1.4%)
- No Response



If this subdivision is approved, then my whole farm will flood, in a heavy rain. My whole farm then, will become worthless.

I do not want to give up my land, because of another subdivision, which will drain 70 or 80% more runoff than before, because of all the concrete and pavement needed for housing.

P.S. Map enclosed.

Owner: Raymond Altwein

RAYMOND ALTWEIN



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-17-024 (Weltner) - BWC

Date notice sent: 5/19/2017

Name: RAYMOND ALTWEIN

I favor: \_\_\_\_\_

Address: 1472 WELTNER RD, NB Tex. 78130

Circled number on map: 3

I object: ✓

Comments: (Use additional sheets if necessary)

(State reason for objection)

Signature: Raymond Altwein



July 3, 2017  
City of New Braunfels  
Attn: Benjamin Campbell  
Planning Division  
550 Landa Street  
New Braunfels, TX 78130

**RE:** Weltner Farms PDD – Rescinding of Objection

This letter is to inform the City of New Braunfels that I own the property immediately south southwest of the proposed Weltner Farms PDD. I would like to rescind my objection to the proposed re-zoning of the property.

Sincerely,

A handwritten signature in blue ink, appearing to read "Raymond Altwein", with a long horizontal flourish extending to the right.

Raymond Altwein  
1472 Weltner Rd  
New Braunfels, TX 78130

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-17-024 (Weltner) - BWC

Date notice sent: 5/19/2017

Name: Jessica L. Zunker (Wolter)

Address: 655 Tom Kemp

Circled number on map: 31

Comments: (Use additional sheets if necessary)

Signature: [Signature]

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\PZ-17-024 Weltner Farms PD Concept Plan\PZ-17-024  
nph.docx

I favor: \_\_\_\_\_

I object: X

(State reason for objection)

RECEIVED

JUN 01 2017

BY: \_\_\_\_\_

Was not supposed to be  
developed for 10+ years.  
Purchased home in 2011 under  
this premise!

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-17-024 (Weltner) - BWC

Date notice sent: 5/19/2017

Name: Catherine Langland

Address: 667 Tom Kemp

Circled number on map: 35

Comments: (Use additional sheets if necessary)

We like having the field behind the  
house. That was the main reason for buying it. To  
have no one behind us.

Signature: Cathy Langland

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2017 cases\PZ-17-024 Weltner Farms PD Concept Plan\PZ-17-024  
nph.docx

RECEIVED

JUN 05 2017

BY: \_\_\_\_\_

I favor: \_\_\_\_\_

I object: ✓

(State reason for objection)

## **Benjamin W. Campbell**

---

**From:** Betty Pittman [bettypittman81309@gmail.com]  
**Sent:** Monday, June 05, 2017 2:57 PM  
**To:** Benjamin W. Campbell  
**Subject:** PZ-17-024 Weltner Rd

My daughter and son-in law bought the home at 667 Tom Kemp for me.  
This home was my choice because there were no homes behind it.  
I'm a country girl at heart and having the cattle and farm land was and is ideal. I am  
hoping that this land will remain agricultural not another housing development.  
There is enough housing and apartments in NB.  
Perhaps a moritorium should be placed on apartments and housing.

I retired here from the sidewalk city  
For the small town that is becoming  
Another sidewalk city

Please save the cows ☺  
Regards  
Betty Pittman

Sent from my iPhone

## **Benjamin W. Campbell**

---

**From:** Cathy Langland [clangland@beacon-gas.com]  
**Sent:** Monday, June 05, 2017 1:24 PM  
**To:** Benjamin W. Campbell  
**Cc:** Anton Langland; pittman\_cathy@yahoo.com  
**Subject:** Case #PZ-17-024(Weltner)-BWC  
**Attachments:** New Braunfels.pdf

Mr. Campbell,  
Please find attached the Notice of Public Hearing for Case #PZ-17-024(Weltner)-BWC.

There is already so many new homes being built along this stretch of 46 and 46 is not equipped to handle the traffic that  
is being forced on it now. We bought this house because it didn't have any homes behind it. A little bit of country in  
the city. New Bruanfels is growing so fast and I don't want to see it lose the small town feel that most of have grown to  
love.  
I do not want to see a neighborhood be built behind our house.

Thank you so much,

Cathy Langland





## Subject Property

### 3.5. *Planned Development Districts.*

3.5-1. *Purpose:* The planned development district is a free-standing district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.

3.5-2. *Application:* An application for a planned development district shall be processed in accordance with this Chapter. A pre-planning conference is required between the applicant and the Planning Director prior to the actual filing of the application.

3.5-3. *Base District.* A base zoning district shall be specified. The regulations in the base zoning district shall control unless specifically stated otherwise in the PD.

3.5-4. *District plans and requirements:* There are two types of plans that may be used in the planned development process. The general purpose and use of each plan is described as follows:

- (a) *Concept plan.* This plan is intended to be used as the first step in the planned development process. It establishes the most general guidelines for the district by identifying the land use types, development standards, approximate road locations and project boundaries and illustrates the integration of these elements into a master plan for the whole district.
- (b) *Detail plan.* The detail plan is the final step of the planned development process. It contains the details of development for the property. For smaller tracts or where final development plans are otherwise known, the detail plan may be used to establish the district and be the only required step in the planned development process.

3.5-5. *Concept plan requirements:* Said concept plan shall include the following:

- (a) *Relation to the comprehensive plan.* A general statement setting forth how the proposed district will relate to the city's comprehensive plan and the degree to which it is or is not consistent with that plan and the proposed base zoning district.
- (b) *Acreage.* The total acreage within the proposed district.
- (c) *Survey.* An accurate survey of the boundaries of the district.
- (d) *Land uses.* Proposed general land uses and the acreage for each use, including open space. For residential development, the total number of units and the number of units per acre.
- (e) *General thoroughfare layout.* Proposed streets, as a minimum to arterial street level. (Showing collector and local streets is optional.)
- (f) *Development standards.* Development standards, if different from the base zoning district, for each proposed land use, as follows:
  - (1) Minimum lot area.
  - (2) Minimum lot width and depth.
  - (3) Minimum front, side, and rear building setback areas.
  - (4) Maximum height of buildings.
  - (5) Maximum building coverage.
  - (6) Maximum floor to area ratios for nonresidential uses.
  - (7) Minimum parking standards for each general land use.
  - (8) Other standards as deemed appropriate.
- (g) *Existing conditions.* On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed district.
  - (1) Topographic contours of ten feet or less.



- (2) Existing streets.
- (3) Existing 100-year floodplain, floodway and major drainage ways.
- (4) City limits and E.T.J. boundaries.
- (5) Zoning districts within and adjacent to the proposed district.
- (6) Land use.
- (7) Utilities, including water, wastewater and electric lines.

3.5-6. *Detail plan requirements:* The application for a planned development district shall include a detail plan consistent with the concept plan. Said detail plan shall include the following:

- (a) *Acreage.* The acreage in the plan as shown by a survey, certified by a registered surveyor.
- (b) *Land uses.* Permitted uses, specified in detail, and the acreage for each use.
- (c) *Off-site information.* Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, as specified by the department, sufficient to demonstrate the relationship and compatibility of the district to the surrounding properties, uses, and facilities.
- (d) *Traffic and transportation.* The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the district; and the traffic generated by the proposed uses.
- (e) *Buildings.* The locations, maximum height, maximum floor area and minimum setbacks for all nonresidential buildings.
- (f) *Residential development.* The numbers, location, and dimensions of the lots, the minimum setbacks, the number of dwelling units, and number of units per acre (density).
- (g) *Water and drainage.* The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements.
- (h) *Utilities.* The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the district.
- (i) *Open space.* The approximate location and size of greenbelt, open, common, or recreation areas, the proposed use of such areas, and whether they are to be for public or private use.
- (j) *Sidewalks and bike paths.* Sidewalks or other improved ways for pedestrian or bicycle use.
- (k) If multifamily or non-residential development, a landscape plan.

A detailed plan, with all of the information required of a concept plan, may be submitted in lieu of a concept plan.

3.5-7. *Phasing schedule:* PD districts larger than 350 acres shall provide a phasing schedule depicting the different construction phases.

3.5-8. *Approval of district:* The City Council may, after receiving a recommendation from the Planning Commission, approve by Ordinance the creation of a district based upon a concept plan or a detail plan. The approved plan shall be made part of the ordinance establishing the district. Upon approval said change shall be indicated on the zoning maps of the city.

The development standards and requirements including, but not limited to, maximum height, lot width, lot depth, floor area, lot area, setbacks and maximum off-street parking and loading requirements for uses proposed shall be established for each planned development district based upon the particular merits of the development design and layout. Such standards and requirements

shall comply with or be more restrictive than the standards established in the base zoning district for the specific type uses allowed in the district, except that modifications in these regulations may be granted if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this Chapter and will not adversely affect nearby properties.

3.5-9. *Planning Commission approval of detail plan:* The Planning Commission is authorized to approve a detail plan or the amendment of a detail plan for property for which a concept plan has been approved by the City Council. If the City Council initially approved a detail plan in establishing the district, the detail plan may only be amended by the City Council. The approved detail plan shall be permanently filed in the Planning Department. The Planning Commission shall approve the detail plan if it finds that:

- (a) *Compliance.* The plan complies with the concept plan approved for that property and the standards and conditions of the PD district;
- (b) *Compatibility.* The plan provides for a compatible arrangement of buildings and land uses and would not adversely affect adjoining neighborhood or properties outside the plan; and
- (c) *Circulation of vehicular traffic.* The plan provides for the adequate and safe circulation of vehicular traffic.

If no detail plan has been approved for the property within ten years of the date of approval of a concept plan, the detail plan must be approved by the City Council, after receiving a recommendation from the Planning Commission, after notice and hearing.

3.5-10. *Expiration of detail plan:* A detail plan shall be valid for five years from the date of its approval. If a building permit has not been issued or construction begun on the detail plan within the five years, the detail plan shall automatically expire and no longer be valid. The Planning Commission may, prior to expiration of the detail plan, for good cause shown, extend for up to 24 months the time for which the detail plan is valid.

3.5-11. *Appeals from Planning Commission action:* If the Planning Commission disapproves a detail plan over which it has final approval authority, or imposes conditions, or refuses to grant an extension of time for which a detail plan is valid, the applicant may appeal the decision to the City Council by filing a written request with the Planning Director within ten days of the decision.

3.5-12. *Changes in detail plan:* Changes in the detail plan shall be considered the same as changes in the zoning ordinance and shall be processed as required in Section 2.3. Those changes which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off-street parking ratio or reduce the yards provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the Planning Director. Any applicant may appeal the decision of the Planning Director to the Planning Commission for review and decision as to whether an amendment to the Planned Development District ordinance shall be required.

3.5-13. *Minimum development size:* The total initial development of any Planned Development District shall not be less than two acres for nonresidential developments and five acres for residential developments.

3.5-14. *Deviation from code standards:* The City Council may approve a PD concept plan with deviations from any provision in the Code of Ordinances. Such deviations shall be listed or shown as part of the Ordinance that approves the concept plan.

## **Draft Minutes for the June 6, 2017 Planning Commission Regular Meeting**

**PZ-17-024: Public Hearing and recommendation to City Council regarding the proposed rezoning of approximately 74 acres comprising a 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from “APD” Agricultural/Pre-Development District and “R-1A-6.6” Single-Family District to Weltner Farms Planned Development District (WFPD).**

(Applicant: Moeller; Case Manager: B. Campbell)

Mr. Campbell distributed additional notification responses that had been submitted earlier that day.

Mr. Campbell presented the Staff report and recommended approval, noting that a super majority vote was required due to over 20% of the notification responses being in objection.

Chair Elrod asked if anyone wished to speak in favor.

James Ingalls, 2021 SH 46 W., spoke on behalf of the property owner. Mr. Ingalls presented an overview map of the property to indicate the boundary lines where it is the intention of the developer to create drainage channels.

Mr. Ingalls also indicated that the developer wishes to alter the proposed development standards. The first proposed alteration is regarding the minimum building square footage. The developer is proposing to lower the 45' Lots' to 1400sf and increase the 60' Lots' to 1700sf, rather than the previously proposed 1600sf minimum. The second proposal is the addition of a maximum building square footage of 12,000sf to both lot types.

Chair Elrod Edwards asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Sonier, seconded by Commissioner Laskowski, to close the public hearing. The motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Hoyt, to recommend approval to City Council regarding the proposed rezoning of approximately 74 acres comprising a 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from “APD” Agricultural/Pre-Development District and “R-1A-6.6” Single-Family District to Weltner Farms Planned Development District (WFPD), with staff recommendations and proposed alterations to the Development Standards regarding maximum and minimum living area and lot coverage. Motion carried (7-0-0).

**ORDINANCE NO. 2017-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROXIMATELY 74 ACRES COMPRISING A 60.579 ACRE TRACT OUT OF THE A-20, A M ESNAURIZAR SURVEY, ADDRESSED AT 1584 AND 1568 WELTNER ROAD, AND THE 13.421 ACRE COUNTRYVILLE SUBDIVISION, FROM “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT AND “R-1A-6.6” SINGLE-FAMILY DISTRICT TO WELTNER FARMS PLANNED DEVELOPMENT DISTRICT (WFPD); REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

---

**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, in keeping with the spirit and objectives of the “PDD” Planned Development District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the planned development is in compliance with the Future Land Use Plan; and

**WHEREAS**, the City Council desires to amend the Zoning Map by changing 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, from “APD” Agricultural/Pre-Development District and “R-1A-6.6” Single-Family District to Weltner Farms Planned Development District (WFPD); **now, therefore,**

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

**SECTION 1**

**THAT** pursuant to Section 1.2-3, Chapter 144, of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels, is revised by changing the following described tract of land from “APD” Agricultural/Pre-Development District and “R-1A-6.6” Single-Family District to Weltner Farms Planned Development District

(WFPD):

“Being 60.579 acre tract out of the A-20, A M Esnaurizar Survey, addressed at 1584 and 1568 Weltner Road, and the 13.421 acre Countryville Subdivision, as described in Exhibit ‘A’ and delineated on Exhibit ‘B’.”

## **SECTION 2**

**THAT** Exhibit ‘C’ be adopted as the Weltner Farms Planned Development Concept Plan.

## **SECTION 3**

**THAT** Exhibit ‘D’ be adopted as the Weltner Farms Planned Development – Development Standards.

## **SECTION 4**

**THAT** all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

## **SECTION 5**

**THAT** all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

## **SECTION 6**

**THAT** if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

## **SECTION 7**

**THIS** ordinance will take effect upon the second and final reading of same.

**PASSED AND APPROVED:** First Reading this the 10<sup>th</sup> day of July, 2017.

**PASSED AND APPROVED:** Second and Final Reading this the 24<sup>th</sup> day of July, 2017.

**CITY OF NEW BRAUNFELS**

**BARRON CASTEEL, Mayor**

**ATTEST:**

**PATRICK ATEN, City Secretary**

**APPROVED AS TO FORM:**

**VALERIA M. ACEVEDO, City Attorney**





## GUADALUPE COUNTY PLAT VOLUME 6 PAGE 107

## NOTES:

1. Plat prepared February 25, 1999. REVISED 3/10/99 RETISED 3/25/99
2. Reference Bearing - S 30° 30' E
3. As related off of the STEEL Flood Insurance Rate Map, Community-Panel #400006 0500 B, dated March 1, 1976, this property does not lie in Zone A.
4. Certain lines shown herein were located and interpolated off of a USGS Map and not from an on-the-ground survey.
5. 1/4" iron pins set at all lot corners, unless otherwise noted
6. This property lies in the Extra Territorial Jurisdiction (ETJ) of the City of New Braunfels.
7. This property lies in the Central Independent School District.
8. This property lies in Guadalupe County Commissioners Precinct #2.
9. This property will be served by the following:  
Electric - New Braunfels Utilities  
Gas - New Braunfels Utilities  
Water - New Braunfels Utilities  
Sewer - Individual on-site sewage facility
10. P.O.B. = Point of Beginning  
B.L. = Building, School Line  
U.E. = Utility Easement

Approved this 16 day of April, 1999,  
by the Planning and Zoning Commission of the City of New Braunfels, Texas.

APPROVED FOR ACCEPTANCE  
4/16/99  
Date  
Director of Planning

4/16/99  
Date  
City Engineer

4-8-99  
Date  
Notary Public, State of Texas

## STATE OF TEXAS

## COUNTY OF GUADALUPE

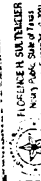
I, the undersigned, Clerk of the County of Guadalupe, do hereby certify that the foregoing instrument of writing, with its exhibits of authentication, was filed for record in my office on the 16 day of April, A.D., 1999, at 11:18 A.M., and duly recorded on the 16 day of April, A.D., 1999, at 11:18 A.M. in the Map and Plat Records of Guadalupe County, in Book Volume 6, on Page 107, in testimony whereof I have hereunto set my hand and office seal, this 16 day of April, 1999.

## NOTES: LAND AND DEVELOPMENT CORPORATION

BT: MERTIN HOLTE, JR., PRESIDENT  
170 N. Main  
New Braunfels, Texas 78130

This instrument was acknowledged before me on this 16 day of April, 1999, by MERTIN HOLTE, JR.

Notary Public, State of Texas



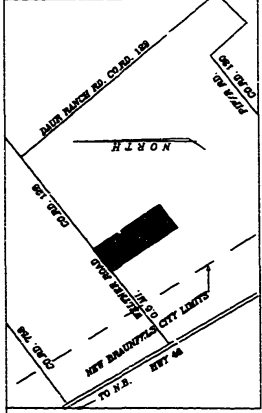
This plat of COUNTRYVILLE has been submitted to and considered by the Guadalupe County Commissioners Court and is hereby approved by said Court.

Dated this 21 day of April, A.D., 1999

Commissioner Precinct #1  
Commissioner Precinct #2  
Commissioner Precinct #3  
Commissioner Precinct #4  
Guadalupe County Clerk

Commissioner Precinct #1  
Commissioner Precinct #2  
Commissioner Precinct #3  
Commissioner Precinct #4  
Guadalupe County Clerk

Commissioner Precinct #1  
Commissioner Precinct #2  
Commissioner Precinct #3  
Commissioner Precinct #4  
Guadalupe County Clerk

LOCATION MAP  
NOT TO SCALE

NORTH

SCALE 1" = 200'

S. CRAIG HOLLMIC, INC.  
NEW BRAUNFELS, TEXAS  
410 NORTH SECUR  
830-825-8555  
ENGINEERS ~ SURVEYORS

STATE OF TEXAS  
COUNTY OF COMAL

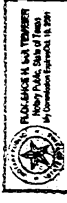
I, the undersigned, Richard J. Goodwin, a Registered Professional Land Surveyor in the State of Texas, hereby certify that to the best of my knowledge and belief this plat is true and correct, and is prepared from an actual survey on the property made under my supervision.



Richard J. Goodwin  
Registered Professional Land Surveyor #4089  
410 N. Stephen  
New Braunfels, Texas 78130

Survey is and published before me this 16 day of April, 1999.

Notary Public, State of Texas

STATE OF TEXAS  
COUNTY OF GUADALUPE

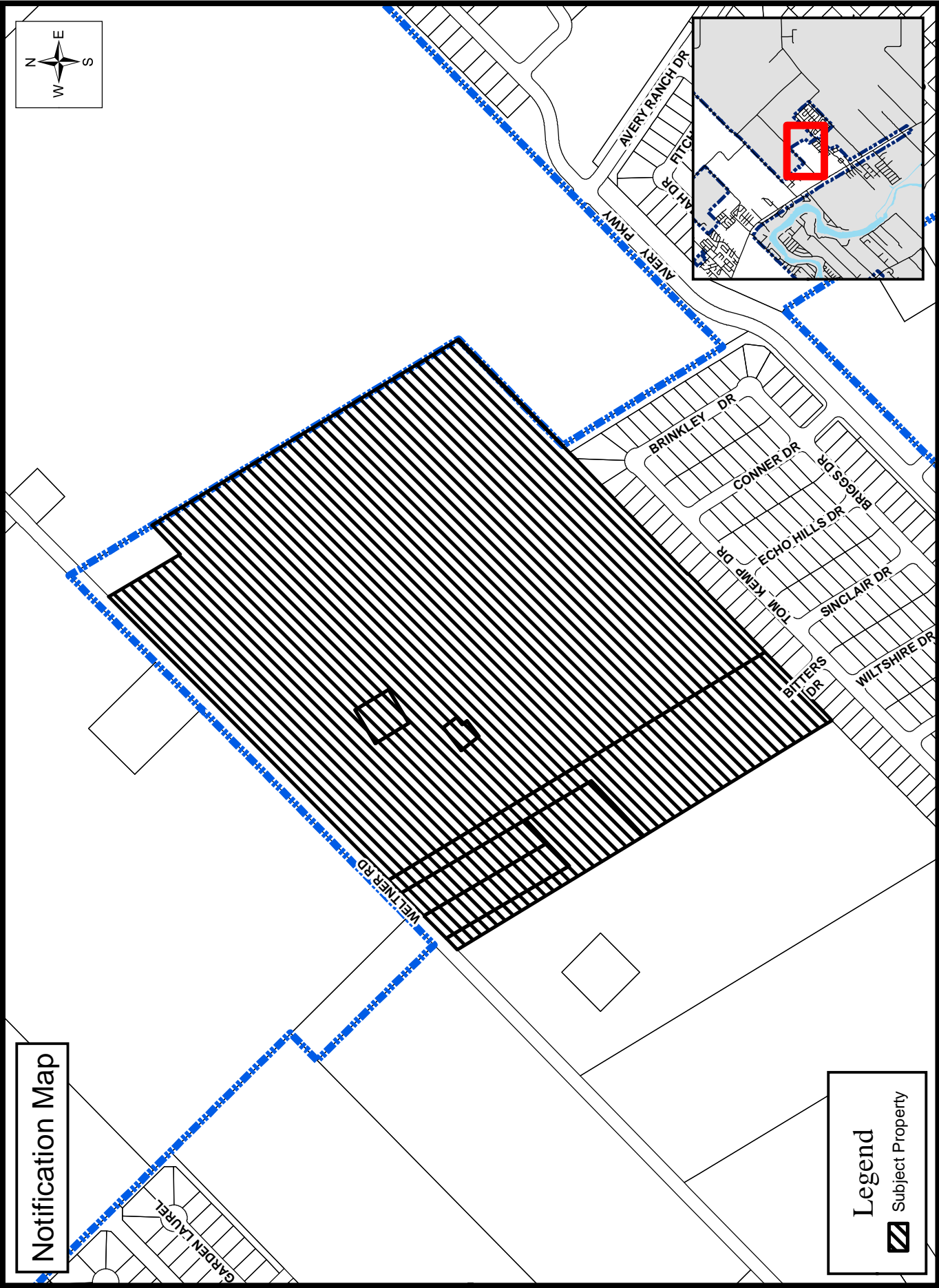
I, LEBIE LORENE, County Clerk of Guadalupe County, do hereby certify that the foregoing instrument of writing, with its exhibits of authentication, was filed for record in my office on the 16 day of April, A.D., 1999, at 11:18 A.M., and duly recorded on the 16 day of April, A.D., 1999, at 11:18 A.M. in the Map and Plat Records of Guadalupe County, in Book Volume 6, on Page 107, in testimony whereof I have hereunto set my hand and office seal, this 16 day of April, 1999.



COUNTY CLERK, GUADALUPE COUNTY, TEXAS

Deputy

99094



Notification Map

Legend

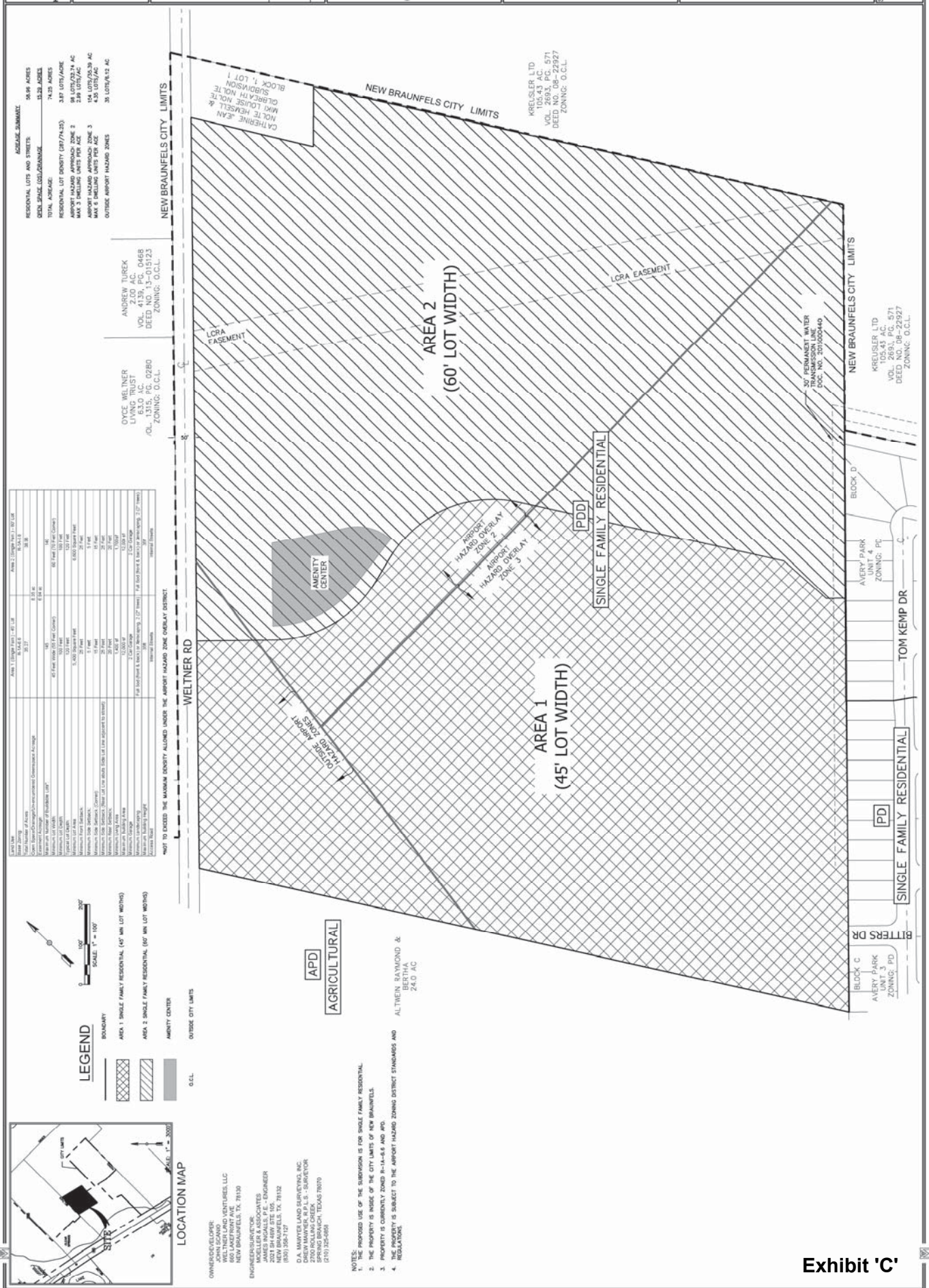
 Subject Property



**PZ-17-024**  
**APD & R-1A-6.6 to Weltner Farms Planned Development District**  
**1568 & 1584 Weltner Road**

Map Created 5/19/17





# Weltner Farms Subdivision Planned Development District Development Standards

The general development standards are per land use areas as follows:

Land Use:	Area 1 (Single Fam.) - 45' Lot	Area 2 (Single Fam.) - 60' Lot
Base Zoning:	R-1A-6.6	R-1A-6.6
Total Number of Acres:	35.27 acres	38.98 acres
Open Space/Drainage/Un-encumbered Greenspace Acreage:	8.35 acres	
Easement Acreage:	6.94 acres	
Maximum Number of Buildable Lots*:	145	140
Minimum Lot Width:	45 Feet Wide (55 Feet Corner)	60 Feet (70 Feet Corner)
Minimum Lot Depth:	100 Feet	100 Feet
Typical Lot Depth:	120 Feet	120 Feet
Minimum Lot Area:	5,400 Square Feet	6,600 Square Feet
Minimum Front Setback:	25 Feet	25 Feet
Minimum Side Setback:	5 Feet	5 Feet
Minimum Side Setback (Corner):	15 Feet	15 Feet
Minimum Side Setback (Rear Lot Line abuts Side Lot Line adjacent to street):	25 Feet	25 Feet
Minimum Rear Setback:	20 Feet	20 Feet
Minimum Living Area:	1,400 Square Feet	1,700 Square Feet
Maximum Building Area:	12,000 Square Feet	12,000 Square Feet
Minimum Garage:	2 Car Garage	2 Car Garage
Minimum Landscaping:	Full Sod (front & back) or Xeriscaping, two 2-inch trees	Full Sod (front & back) or Xeriscaping, two 2-inch trees
Maximum Building Height:	35 Feet	35 Feet
Access Road:	Internal Streets	Internal Streets

\* Not to exceed the maximum density allowed under the Airport Hazard Zoning District Overlay.

**7/10/2017**

Agenda Item No. E)

---

**Presenter/Contact***Martie Simpson, Finance Director*  
(830) 221-4388 - [msimpson@nbtexas.org](mailto:msimpson@nbtexas.org)**SUBJECT:**

Public hearing on the draft 2017 Community Development Block Grant One-Year Action Plan and Fair Housing Plan.

**BACKGROUND / RATIONALE:**

This is a public hearing on the draft Community Development Block Grant (CDBG) Program Year (PY) 2017 One Year Action Plan to allow citizens to make comments on the recommendations as required by U.S. Department of Housing and Urban Development (HUD). The PY2017 allocations were released on June 14, 2017. The City of New Braunfels has been awarded \$379,073.

The Community Development Advisory Committee (CDAC) is a City Council appointed committee that provides community input on the CDBG program, reviews requests for funding, and recommends funding allocations to City Council.

<b>PY 2017 CDBG</b>	
Total Grant:	<b>\$ 379,073</b>
- 20% Administration	\$ 75,815
- 15% Public Services	\$ 56,861
- Housing/Public Facilities	\$ 246,397
<b>Program Administration at 20% of Total Grant</b>	
Total Funding:	<b>\$ 75,815</b>
- Admin/Consultant Services	\$ 75,815
<b>Public Services at 15% of Total Grant</b>	
Total Funding:	<b>\$ 56,861</b>
- CASA	\$16,500
- Family Life Center	\$10,000
- SA Food Bank	\$5,000
- Senior Center	\$15,361
- STEPS	\$10,000
<b>Housing and Public Facilities</b>	
Total Funding:	<b>\$ 246,397</b>
- Habitat for Humanity	\$ 8,500



- Senior Center	\$ 100,000
- Comal County Crisis Center	\$ 85,000
- Solms Park	\$ 35,000
- Westside Community Center	\$ 17,897

The public hearing will also allow citizens to make comments on the revisions and updates to the Fair Housing Plan as required by U.S. Department of Housing and Urban Development. This represents the first of two hearings. City Council will approve the final allocations after a second public hearing which will occur later in the fiscal year.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<input checked="" type="checkbox"/>	Yes	<b>City Plan/Council Priority:</b>	<b>Strategic Priorities:</b> Growth and development. <b>Comprehensive Plan:</b> Affordable housing, historic preservation, education, and youth.
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**FISCAL IMPACT:**

These funds constitute a grant to the City from HUD, and there is no matching requirement.

**COMMITTEE RECOMMENDATION:**

The Community Development Advisory Committee (CDAC) has approved these recommendations for City Council consideration.

**STAFF RECOMMENDATION:**

This is a public hearing to allow citizens to make comments on the recommendations as required by HUD. No action is required.



# CDBG Program Annual Action Plan Fair Housing Plan

June 26, 2017  
City of New Braunfels City Hall  
550 Landa Street  
6:00 PM



# What is CDBG?



- Community Development Block Grant - 1974
- Federal program funded through non-competitive grants to cities, counties & states
- Purpose is to reduce poverty and its effects and develop viable communities by:
  - Providing decent housing
  - Creating a suitable living environment
  - Expanding economic opportunities

# Consolidated Plan



5-Year Plan designed to:

- Assess affordable housing and community development needs
- Market conditions, and
- Allow for data-driven, place-based funding decisions.
- Serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding for the CDBG resources.

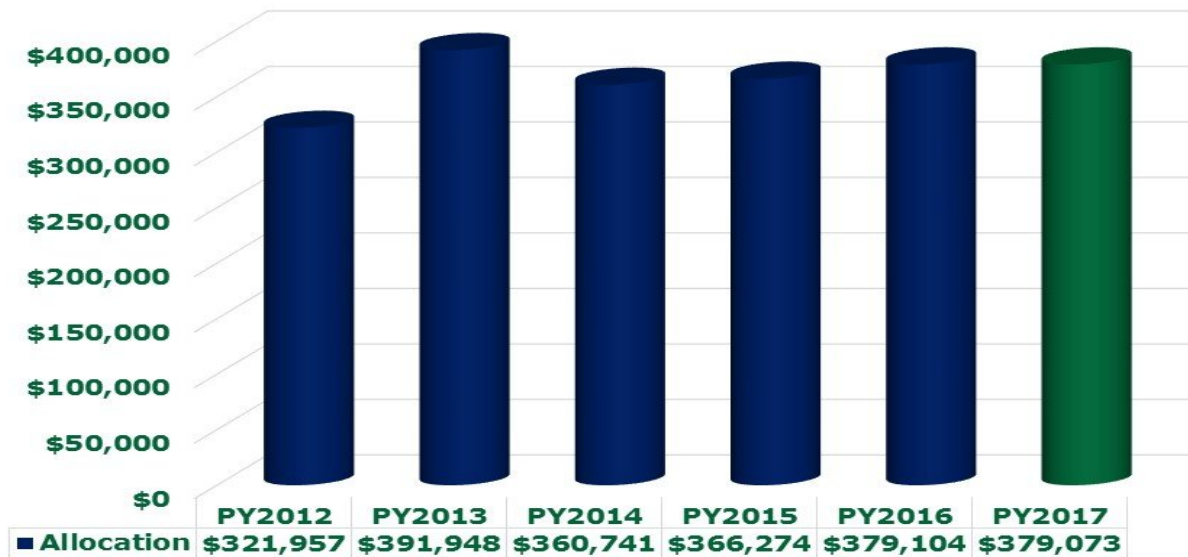


# Annual Action Plan



- Summary of the actions, activities, and resources that will be used to address the priority needs and specific goals identified by the Consolidated Plan
- Process includes input from stakeholders and residents through surveys, public hearings, stakeholder forums and a funding application process for the distribution of CDBG funds
- The Community Development Advisory Committee (CDAC) is responsible for reviewing applications and making funding recommendations

# New Braunfels Allocations





# National Objectives



All programs must meet a HUD National Objective

- Benefit Low- Moderate-Income persons/households
- Aid in the prevention/elimination of slum and blight
- Meet an Urgent Need – Disaster Relief

## CDBG Eligibility

- Residents whose household income is equal to or less than 80% of the area's household median income for that household size
- Census Block Groups where 49.63% or more households are low- to moderate-income
- Presumed benefit/limited clientele

# 2017 HUD Income Limits



## Household Size

## 80% AMI

1-Person Household	\$35,600
2-Person Household	\$40,650
3-Person Household	\$45,750
4-Person Household	\$50,800
5-Person Household	\$54,900
6-Person Household	\$58,950
7-Person Household	\$63,000
>= 8-Person Household	\$67,100



# Funding Recommendations



The CDAC has reviewed applications, conducted agency presentations and makes the following funding recommendations:

## Public Services

- CASA - \$16,500
- Family Life Center - \$10,000
- San Antonio Food Bank - \$5,000
- Senior Center Meals on Wheels - \$15,361
- STEPS - \$10,000

## Housing

- Habitat for Humanity - \$8,500
- Senior Center Minor Home Repair - \$100,000

## Public Facilities

- Comal Co. Crisis Center - \$85,000
- Solms Park - \$35,000
- Westside Community Ctr. - \$17,897

CDBG Program Admin - \$75,815

CDBG PY2017 allocations  
for CONB are \$379,073





# Fair Housing Plan



# Purpose & Intent



- All grantees receiving federal funds must further the purposes of the Fair Housing Act and related federal Acts.
- To further affirmative actions, grantees must:
  - Analyze the fair housing landscape in their communities
  - Set fair housing priorities and goals
  - Act to address priorities and achieve goals
  - Monitor progress toward meeting the goals

# Protected Classes



Discriminated in housing cannot occur because of:

- Race
- Color
- Religion
- Sex
- National Origin
- Disability
- Familial Status
- HUD's housing program are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status (September 2016)



# Impediments & Planned Actions



1. Lack of awareness of fair housing rights
  - Continue to maintain a Fair Housing Officer to assist with complaints
  - Include a fair housing component in CDBG public hearings and meetings
  - Conduct at least one fair housing activity during Fair Housing Month
2. Shortage of affordable housing
  - Coordinate with NB Housing Authority to enhance accessibility to affordable housing
  - Review all Low Income Housing Tax Credit applications
  - Continue home repair program for elderly low-income homeowners
3. Enhance living conditions through public improvements
  - Focus CDBG on facility/parks improvements in low-mod areas

# Impediments & Planned Actions



4. Shortage of affordable housing
  - Coordinate with NB Housing Authority to enhance accessibility to affordable housing
  - Review all Low Income Housing Tax Credit applications
  - Continue home repair program for elderly low-income homeowners
5. Code violations in low-mod and minority neighborhoods
  - Continue code enforcement activities
6. Lack of financial independence & job opportunities
  - Support rent/utility assistance programs
  - Investigate possibility of a Section 108 Loan for economic development

PY2017 CDBG APPLICATIONS AND FUNDING RECOMMENDATIONS

PY 2017 CDBG	
Total Grant:	\$ 379,073
- 20% Program Administration	\$ 75,815
- 15% Public Services	\$ 56,861
- Housing & Public Facilities	\$ 246,397

Program Administration – 20% CAP						
Applicant	New Applicant or Previously Funded	Project	Activity Description	Application Score	Request	CDAC Recommendation
City of New Braunfels	N/A	Program Administration	Administration & oversight of CDBG Program, technical assistance, environmental reviews, monitoring	N/A	\$75,815	\$75,815
Total:						\$75,815

Public Services – 15% CAP						
Applicant	New Applicant or Previously Funded	Project	Activity Description	Application Score	Request	CDAC Recommendation
San Antonio Food Bank	Previously Funded	Food Distribution	Purchase of Food for an estimated 100 households	638	\$20,000	\$5,000
Comal County Senior Citizens' Foundation	Previously Funded	Meals on Wheels	Home Delivered Meals for up to 218 Seniors	635	\$60,000	\$15,361
CASA of Central Texas	Previously Funded	Court Advocacy for Abused / Neglected Children	Partial Salary Support for 3 Case Supervisors	576	\$30,000	\$16,500
Family Life Center of New Braunfels	Previously Funded	Benevolent Program	Rental and Utility Assistance for up to 75 households	566	\$20,000	\$10,000
STEPS	New	Life Coaching & Mentoring Program	Partial Salary Support for Case Manager/ Executive Director	553	\$10,000	\$10,000
Total:						\$56,861

Housing & Public Facilities						
Applicant	New Applicant or Previously Funded	Project	Activity Description	Application Score	Request	CDAC Recommendation
Comal County Habitat for Humanity	Previously Funded	Closing Costs Program	Offset mortgage closing cost on 4 lots and 4 Habitat homes	586	\$8,500	\$8,500
Comal County Senior Citizens' Foundation	Previously Funded	Minor Home Repair	Minor repairs for up to 15 income eligible elderly and/or disabled homeowners & program delivery costs	556	\$100,000	\$100,000
Crisis Center of Comal County	Previously Funded	Emergency Shelter for Victims of Domestic Violence	Shelter Kitchen Remodel	591	\$85,000	\$85,000
Westside Community Center	Previously Funded	City Community Center	Padding for Gym Walls	590	\$20,000	\$17,897
Solms Park	Previously Funded	City Park	Playground Shade	558	\$67,500	\$35,000
Total:						\$246,397

Not Recommended OR Withdrawn						
Applicant	New Applicant or Previously Funded	Project	Activity Description	Application Score	Request	CDAC Recommendation
Connections	New	Emergency Shelter for Youth	Shelter Renovation	540	\$50,000	Not Recommended
Comal County Senior Citizens' Foundation	Previously Funded	Facility Renovation	Restroom and plumbing renovation	Withdrawn by Applicant	\$75,000	Not Reviewed
Total:						\$0



7/10/2017

Agenda Item No. F)

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Presenter/Contact*Martie Simpson, Finance Director*  
(830) 221-4385 - [msimpson@nbtexas.org](mailto:msimpson@nbtexas.org)**SUBJECT:**

Discuss and consider approval of an ordinance of the City Council of the City of New Braunfels, Texas authorizing the issuance of "City of New Braunfels, Texas General Obligation Refunding Bonds, Series 2017", levying an annual Ad Valorem Tax, within the limitations prescribed by law, for the payment of the bonds, prescribing the form, terms, conditions and resolving other matters incident and related to the issuance, sale and delivery of the bonds; authorizing the execution of a paying agent/registrars agreement, a purchase and investment letter, and an escrow and trust agreement, complying with the letter of representation on file with the depository trust company, authorizing the execution of any necessary engagement agreements with the City's financial advisors and/or bond counsel; and providing an effective date.

**BACKGROUND / RATIONALE:**

The City's Financial Advisors, SAMCO Capital Markets Inc., identified potential debt service savings as a result of refunding or refinancing the Certificates of Obligation, Series 2009. On June 26, 2017, City Council authorized city staff and SAMCO to proceed with the issuance of General Obligation Refunding Bonds, Series 2017 and to solicit interest rate bids. Savings were sufficient to proceed. Therefore staff is bringing forward the attached ordinance for City Council's approval. Current Savings were estimated at \$35,000/year or a total of \$395,000. Final savings will be determined by the final interest rates on the date of sale.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

X	Yes	City Plan/ Council Priority	Strategic Priorities: 1 - Use a variety of funding sources for operational and capital needs; 8 - Maintain fiscal stability of City Operations
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**FISCAL IMPACT:**

The annual debt service from this issuance will be supported by ad valorem taxes. Any potential tax rate impact will be driven by various factors such as fully amortizing debt (capacity), growth in assessed valuation and savings from the bond refundings. The Refunding Bonds are estimated to save approximately \$35,000/year so the net effect is a very minor reduction in the City's I&S Tax Rate.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

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Staff recommends approval of the attached ordinance authorizing the issuance of "City of New Braunfels, Texas General Obligation Refunding Bonds, Series 2017".

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

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS AUTHORIZING THE ISSUANCE OF “CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2017”, LEVYING AN ANNUAL AD VALOREM TAX, WITHIN THE LIMITATIONS PRESCRIBED BY LAW, FOR THE PAYMENT OF THE BONDS; PRESCRIBING THE FORM, TERMS, CONDITIONS, AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, AND DELIVERY OF THE BONDS; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE AND INVESTMENT LETTER, AND AN ESCROW AND TRUST AGREEMENT; COMPLYING WITH THE LETTER OF REPRESENTATIONS ON FILE WITH THE DEPOSITORY TRUST COMPANY; AUTHORIZING THE EXECUTION OF ANY NECESSARY ENGAGEMENT AGREEMENTS WITH THE CITY’S FINANCIAL ADVISORS AND/OR BOND COUNSEL; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Council (the *City Council*) of the City of New Braunfels, Texas (the *City*) has heretofore issued, sold, and delivered, and there are currently outstanding obligations in the aggregate original principal amount of \$4,955,000 being the obligations set forth on Schedule I hereto which is incorporated by reference for all purposes to this ordinance (the *Refunded Obligations*); and

WHEREAS, the City Council intends to issue an aggregate principal amount of \$5,250,000 in general obligation refunding bonds the proceeds of which will be utilized to provide for the (i) refunding of the Refunded Obligations and (ii) payment of the costs of issuance of the general obligation refunding bonds; and

WHEREAS, pursuant to the provisions of Chapter 1207, as amended, Texas Government Code (the *Act*), the City Council is authorized to issue refunding bonds and deposit the proceeds of sale under an escrow agreement to provide for the payment of the Refunded Obligations, and such deposit, when made in accordance with the Act, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the Act permits that the deposit of the proceeds from the sale of the refunding bonds be deposited directly with any designated escrow agent which is not the depository bank of the City; and

WHEREAS, when firm banking arrangements have been made for the payment of principal of and interest to the stated maturity or redemption dates of the Refunded Obligations, then the Refunded Obligations shall no longer be regarded as outstanding except for the purpose

of receiving payment from the funds provided for such purpose and may not be included in or considered to be an indebtedness of the City for the purpose of a limitation on outstanding indebtedness or taxation or for any other purpose; and

WHEREAS, Wells Fargo Bank, National Association, Minneapolis, Minnesota (as successor in interest to Wells Fargo Bank, National Association, Austin, Texas) currently serves as the paying agent for the Refunded Obligations; and

WHEREAS, BOKF, NA, Austin, Texas is hereby appointed as the Escrow Agent (hereinafter defined) for the general obligation refunding bonds; and

WHEREAS, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ is hereby appointed as the Paying Agent/Registrar (hereinafter defined) for the general obligation refunding bonds; and

WHEREAS, the City Council also hereby finds and determines that the Refunded Obligations are scheduled to mature or are subject to being redeemed, not more than twenty (20) years from the date of the general obligation refunding bonds herein authorized and being issued to restructure the City's debt service and associated tax rates in the coming years, and such refunding will result in net present value benefit of \$\_\_\_\_\_ and a gross savings of \$\_\_\_\_\_, including the City's contribution of \$\_\_\_\_\_; and

WHEREAS, the City Council hereby finds and determines that the issuance of the general obligation refunding bonds for the purpose of refunding the Refunded Obligations is in the best interests of the residents of the City, now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS THAT:

SECTION 1. Authorization - Designation - Principal Amount - Purpose. General obligation refunding bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of FIVE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$5,250,000), to be designated and bear the title of "CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2017" (the *Bonds*), for the purpose of providing funds for the (i) discharge and final payment of the Refunded Obligations and (ii) payment of the costs of issuance of the Bonds, all in conformity with the laws of the State of Texas, particularly Chapter 1207, as amended, Texas Government Code, an ordinance adopted by the City Council on July 10, 2017, and the City's Home Rule Charter.

SECTION 2. Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Dated Date. The Bonds shall be issued as fully registered obligations, without coupons, shall be dated July 1, 2017 (the *Dated Date*), and shall generally be in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof, and the Bonds shall be lettered "R" and numbered consecutively from One (1) upward, and principal shall become due and payable on March 1 in each of the years and in principal amounts (the *Stated Maturities*) and bear interest at the per annum rates, while Outstanding, in accordance with the following schedule:

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
2018	15,000	
2019	25,000	
2020	430,000	
2021	440,000	
2022	455,000	
2023	475,000	
2024	490,000	
2025	500,000	
2026	520,000	
2027	535,000	
2028	555,000	
2029	570,000	

The Bonds shall bear interest on the unpaid principal amounts from the Closing Date (anticipated to occur on or about August 2, 2017), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, while Outstanding, at the rates per annum shown in the above schedule (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on March 1 and September 1 in each year (each, an *Interest Payment Date*), commencing March 1, 2018, while the Bonds are Outstanding.

### SECTION 3. Payment of Bonds - Paying Agent/Registrar.

The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of Stated Maturity, redemption or otherwise, shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and such payment of principal of, premium, if any, and interest on the Bonds shall be without exchange or collection charges to the Holder (as hereinafter defined) of the Bonds.

The selection and appointment of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the *Paying Agent/Registrar*) to serve as the initial Paying Agent/Registrar for the Bonds is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the corporate trust office of the Paying Agent/Registrar books and records (the *Security Register*) for the registration, payment, and transfer of the Bonds, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement, attached, in substantially final form, as Exhibit A hereto, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Bonds are Outstanding, and any successor Paying Agent/Registrar shall be (i) a national or state banking institution or (ii) an

association or a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers. Such Paying Agent/Registrar shall be subject to supervision or examination by federal or state authority and authorized by law to serve as a Paying Agent/Registrar.

The City reserves the right to appoint a successor Paying Agent/Registrar upon providing the previous Paying Agent/Registrar with a certified copy of a resolution or ordinance terminating such agency. Additionally, the City agrees to promptly cause a written notice of this substitution to be sent to each Holder of the Bonds by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of, premium, if any, and interest on the Bonds, due and payable by reason of Stated Maturity, redemption, or otherwise, shall be payable only to the registered owner of the Bonds appearing on the Security Register (the *Holder* or *Holders*) maintained on behalf of the City by the Paying Agent/Registrar as hereinafter provided (i) on the Record Date (hereinafter defined) for purposes of payment of interest on the Bonds, (ii) on the date of surrender of the Bonds for purposes of receiving payment of principal thereof upon redemption or at the Bonds' Stated Maturity, and (iii) on any other date for any other purpose. The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder as the owner of a Bond for purposes of receiving payment and all other purposes whatsoever, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

Principal of and premium, if any, on the Bonds shall be payable only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its corporate trust office (provided, however, with respect to principal payments prior to the final Stated Maturity, the Bonds need not be surrendered to the Paying Agent/Registrar, who will merely document this payment on an internal ledger maintained by the Paying Agent/Registrar). Interest on the Bonds shall be paid to the Holder whose name appears in the Security Register at the close of business on the fifteenth day of the month next preceding an Interest Payment Date for the Bonds (the *Record Date*) and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar, to the address of the Holder appearing in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by the Holder at the Holder's risk and expense.

If the date for the payment of the principal of, premium, if any, or interest on the Bonds shall be a Saturday, a Sunday, a legal holiday, or a day on which banking institutions in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a day. The payment on such date shall have the same force and effect as if made on the original date any such payment on the Bonds was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a *Special Record Date*) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the



Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

#### SECTION 4. Redemption.

A. Mandatory Redemption of Term Bond. The Bonds stated to mature on March 1, 20\_\_ are referred to herein as the "Term Bond". The Term Bond is subject to mandatory sinking fund redemption prior to its stated maturity from money required to be deposited in the Bond Fund for such purpose and shall be redeemed in part, by lot or other customary method, at the principal amount thereof plus accrued interest to the date of redemption in the following principal amounts on March 1 in each of the years as set forth below:

Term Bond Stated to Mature on March 1, 20__			
<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Year</u>	<u>Principal Amount (\$)</u>

\*Payable at Stated Maturity.

The principal amount of a Term Bond required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Term Bond of such Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date (1) shall have been defeased or acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with money in the Bond Fund, or (3) shall have been redeemed pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

B. Optional Redemption. The Bonds having Stated Maturities on and after March 1, 2028 shall be subject to redemption prior to Stated Maturity, at the option of the City, on March 1, 2027, or on any date thereafter, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

C. Exercise of Redemption Option. At least forty-five (45) days prior to a date set for the redemption of Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed,

and the date set for the redemption thereof. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the City.

D. Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall select at random and by lot the Bonds to be redeemed, provided that if less than the entire principal amount of a Bond is to be redeemed, the Paying Agent/Registrar shall treat such Bond then subject to redemption as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bond by \$5,000.

E. Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States mail, first-class postage prepaid, in the name of the City and at the City's expense, by the Paying Agent/Registrar to each Holder of a Bond to be redeemed, in whole or in part, at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the corporate trust office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. This notice may also be published once in a financial publication, journal, or reporter of general circulation among securities dealers in the City of New York, New York (including, but not limited to, *The Bond Buyer* and *The Wall Street Journal*), or in the State of Texas (including, but not limited to, *The Texas Bond Reporter*).

If a Bond is subject by its terms to redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) so called for redemption shall become due and payable, and if money sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at the then applicable redemption price is held for the purpose of such payment by the Paying Agent/Registrar, then on the redemption date designated in such notice, interest on the Bonds (or the principal amount thereof to be redeemed) called for redemption shall cease to accrue and such Bonds shall not be deemed to be Outstanding in accordance with the provisions of this Ordinance.

F. Transfer/Exchange of Bonds. Neither the City nor the Paying Agent/Registrar shall be required (1) to transfer or exchange any Bond during a period beginning forty-five (45) days prior to the date fixed for redemption of the Bonds or (2) to transfer or exchange any Bond selected for redemption; provided, however, such limitation of transfer shall not be applicable to

an exchange by the Holder of the unredeemed balance of a Bond which is subject to redemption in part.

SECTION 5. Execution - Registration. The Bonds shall be executed on behalf of the City by its Mayor or Mayor Pro Tem under the seal of the City reproduced or impressed thereon and attested by its City Secretary. The signature of any of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who were, at the time of the Dated Date, the proper officers of the City shall bind the City, notwithstanding that such individuals or either of them shall cease to hold such offices prior to the delivery of the Bonds to the Purchasers (hereinafter defined), all as authorized and provided in Chapter 1201, as amended, Texas Government Code.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 8C, executed by the Comptroller of Public Accounts of the State of Texas or her duly authorized agent by manual signature, or a certificate of registration substantially in the form provided in Section 8D, executed by the Paying Agent/Registrar by manual signature, and either such certificate upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified or registered and delivered.

SECTION 6. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of every owner of the Bonds, or, if appropriate, the nominee thereof. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the corporate trust office of the Paying Agent/Registrar, the City shall execute and the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denomination and having the same Stated Maturity and of a like interest rate and aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange upon surrender of the Bonds to be exchanged at the corporate trust office of the Paying Agent/Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute, and the Paying Agent/Registrar shall register and deliver, the Bonds to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the corporate trust office of the Paying Agent/Registrar, or be sent by registered mail to the Holder at his request, risk, and expense, and upon the delivery thereof, the same shall be the valid and

binding obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be Predecessor Bonds, evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term Predecessor Bonds shall include any Bond registered and delivered pursuant to Section 17 in lieu of a mutilated, lost, destroyed, or stolen Bond which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

SECTION 7. Initial Bonds. The Bonds herein authorized shall be initially issued as a single fully registered Bond in the aggregate principal amount of \$5,250,000 with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1 (the *Initial Bonds*), and the Initial Bonds shall be registered in the name of the Purchasers or the designee thereof. The Initial Bonds shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchasers. Any time after the delivery of the Initial Bonds, the Paying Agent/Registrar, pursuant to written instructions from the Purchasers, or the designee thereof, shall cancel the Initial Bonds delivered hereunder and exchange therefor definitive Bonds of like kind and of authorized denominations, Stated Maturities, principal amounts bearing applicable interest rates, and shall be lettered "R" and numbered consecutively from one (1) upward for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

#### SECTION 8. Forms.

A. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including insurance legends in the event the Bonds, or any Stated Maturities thereof, are insured and identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends and any reproduction of an opinion of Bond Counsel (hereinafter referenced)) thereon as may, consistent herewith, be established by the City or determined by the officers executing the Bonds as evidenced by their execution thereof. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be printed, lithographed, or engraved, produced by any combination of these methods, or produced in any other similar manner, all as determined by the officers executing the Bonds as evidenced by their execution thereof, but the Initial Bond(s) submitted to the Attorney General of Texas may be typewritten or photocopied or otherwise reproduced.

B. Form of Definitive Bond.

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
PRINCIPAL AMOUNT  
\$ \_\_\_\_\_

United States of America  
State of Texas  
Counties of Comal and Guadalupe  
CITY OF NEW BRAUNFELS, TEXAS  
GENERAL OBLIGATION REFUNDING BONDS,  
SERIES 2017

Dated Date:                      Interest Rate:                      Stated Maturity:                      CUSIP NO:  
July 1, 2017

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

The City of New Braunfels, Texas (the *City*), a body corporate and a municipal corporation in the Counties of Comal and Guadalupe, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Closing Date (anticipated to occur on or about August 2, 2017) or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, until such Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity, while Outstanding, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on March 1 and September 1 of each year (each, an *Interest Payment Date*), commencing March 1, 2018.

Principal and premium, if any, on this Bond shall be payable to the Registered Owner hereof (the *Holder*), upon presentation and surrender (provided, however, with respect to principal payments prior to the final Stated Maturity, the Bonds need not be surrendered to the Paying Agent/Registrar, who will merely document this payment on an internal ledger maintained by the Paying Agent/Registrar) at the corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate



date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder hereof at the Holder's risk and expense.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$5,250,000 (the *Bonds*) pursuant to an ordinance adopted by the governing body of the City (the *Ordinance*), for the purpose of providing funds for the (i) discharge and final payment of the Refunded Obligations and (ii) payment of the costs of issuance of the general obligation refunding bonds, under and in strict conformity with the laws of the State of Texas, including Chapter 1207, as amended, Texas Government Code, and the City's Home Rule Charter.

The Bonds stated to mature on March 1, 20\_\_ are referred to herein as the "Term Bond". The Term Bond is subject to mandatory sinking fund redemption prior to its stated maturity from money required to be deposited in the Bond Fund for such purpose and shall be redeemed in part, by lot or other customary method, at the principal amount thereof plus accrued interest to the date of redemption in the following principal amounts on March 1 in each of the years as set forth below:

Term Bond Stated to Mature on March 1, 20__			
<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Year</u>	<u>Principal Amount (\$)</u>

\*Payable at Stated Maturity.

The principal amount of a Term Bond required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Term Bond of such Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date (1) shall have been defeased or acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with money in the Bond Fund, or (3) shall have been redeemed pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

The Bonds stated to mature on and after March 1, 2028 may be redeemed prior to their Stated Maturities, at the option of the City, on March 1, 2027, or on any date thereafter, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of

par plus accrued interest to the date of redemption; provided, however, that at least thirty (30) days prior written notice shall be sent to the Holder of the Bonds to be redeemed by United States mail, first-class postage prepaid, and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond is subject to redemption prior to Stated Maturity and is in a denomination in excess of \$5,000, portions of the principal sum hereof in installments of \$5,000, or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Ordinance for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption has been duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if the money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are payable from the proceeds of an annual ad valorem tax levied upon all taxable property within the City within the limitations prescribed by law.

Reference is hereby made to the Ordinance, a copy of which is on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Ordinance. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof

for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the City nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a *Special Record Date*) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding obligation of the City have been performed, exist, and have been done, in regular and due time, form, and manner, as required by the laws of the State of Texas and the Ordinance, and that the issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of, premium if any, and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the City has caused this Bond to be duly executed under its official seal.

CITY OF NEW BRAUNFELS, TEXAS

---

Mayor

ATTEST:

---

City Secretary

(CITY SEAL)

*[The remainder of this page intentionally left blank.]*

C. \*Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bonds Only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER OF      §  
PUBLIC ACCOUNTS                      §  
  §   REGISTER NO. \_\_\_\_\_  
THE STATE OF TEXAS                 §

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

\* Note to Printer: Not to appear on printed Bonds

D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds Only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued under the provisions of the within-mentioned Ordinance; the Bond or Bonds of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: \_\_\_\_\_,  
\_\_\_\_\_, as Paying Agent/Registrar

\_\_\_\_\_  
By: \_\_\_\_\_  
Authorized Signature

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto  
(Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number): \_\_\_\_\_  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration  
thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature on this assignment must  
correspond with the name of the registered owner as it  
appears on the face of the within Bond in every particular.

Signature guaranteed:

\_\_\_\_\_  
F. The Initial Bonds shall be in the respective forms set forth in paragraph B of this  
Section, except that the form of a single fully registered Initial Bond shall be modified as  
follows:

- (i) immediately under the name of the Bond(s) the headings "Interest Rate"  
and "Stated Maturity" shall both be completed "as shown below";
- (ii) the first two paragraphs shall read as follows:

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_

The City of New Braunfels, Texas (the *City*), a body corporate and municipal corporation  
in the Counties of Comal and Guadalupe, State of Texas, for value received, acknowledges itself  
indebted to and hereby promises to pay to the order of the Registered Owner named above, or the  
registered assigns thereof, the Principal Amount specified above stated to mature on the first day  
of March in each of the years and in principal amounts and bearing interest at per annum rates in  
accordance with the following schedule:



Years of  
Stated Maturity

Principal  
Amounts (\$)

Interest  
Rates (%)

(Information to be inserted from  
schedule in Section 2 hereof).

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Closing Date (anticipated to occur on or about August 2, 2017), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until the Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on March 1 and September 1 of each year (each an *Interest Payment Date*), commencing March 1, 2018.

Principal of this Bond shall be payable to the Registered Owner hereof (the *Holder*), upon its presentation and surrender to Stated Maturity or prior redemption, while Outstanding, at the corporate trust office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the *Paying Agent/Registrar*). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

*[The remainder of this page intentionally left blank.]*

G. Insurance Legend. If bond insurance is obtained by the City or the Purchasers for the Bonds, the Definitive Bonds and the Initial Bonds shall bear an appropriate legend as provided by the insurer.

SECTION 9. Definitions. For all purposes of this Ordinance (as defined below), except as otherwise expressly provided or unless the context otherwise requires: (i) the terms defined in this Section have the meanings assigned to them in this Section, and certain terms used in Sections 21 and 38 of this Ordinance have the meanings assigned to them in such Sections, and all such terms include the plural as well as the singular; (ii) all references in this Ordinance to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Ordinance as originally adopted; and (iii) the words “herein”, “hereof”, and “hereunder” and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision.

A. The term *Authorized Officials* shall mean the Mayor, Mayor Pro Tem, the City Manager, the Director of Finance, and/or the City Secretary.

B. The term *Bond Fund* shall mean the special fund created and established by the provisions of Section 10 of this Ordinance.

C. The term *Bonds* shall mean the \$5,250,000 “CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2017” authorized by this Ordinance.

D. The term *City* shall mean City of New Braunfels, located in the Counties of Comal and Guadalupe, Texas and, where appropriate, the City Council of the City.

E. The term *Closing Date* shall mean the date of physical delivery of the Initial Bonds in exchange for the payment in full by the Purchasers.

F. The term *Debt Service Requirements* shall mean, as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest at the maximum rate permitted by the terms thereof and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

G. The term *Depository* shall mean an official depository bank of the City.

H. The term *Government Securities*, as used herein, shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a

nationally recognized investment rating firm not less than AAA or its equivalent; (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Bonds.

I. The term *Holder* or *Holders* shall mean the registered owner, whose name appears in the Security Register, for any Bond.

J. The term *Interest Payment Date* shall mean the date interest is payable on the Bonds, being March 1 and September 1 of each year, commencing March 1, 2018, while any of the Bonds remain Outstanding.

K. The term *Ordinance* shall mean this ordinance adopted by the City Council of the City on July 10, 2017.

L. The term *Outstanding* when used in this Ordinance with respect to Bonds shall mean, as of the date of determination, all Bonds issued and delivered under this Ordinance, except:

(1) those Bonds canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds for which payment has been duly provided by the City in accordance with the provisions of Section 23 of this Ordinance; and

(3) those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 17 of this Ordinance.

M. The term *Purchasers* shall mean the initial purchasers of the Bonds named in Section 18 of this Ordinance.

N. The term *Stated Maturity* shall mean the annual principal payments of the Bonds payable on March 1 of each year, as set forth in Section 2 of this Ordinance.

SECTION 10. Bond Fund; Investments. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption, and retirement of the Bonds, there shall be and is hereby created a special fund to be designated "CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2017 INTEREST AND SINKING FUND" (the *Bond Fund*), which fund shall be kept and maintained at the Depository, and money deposited in such fund shall be used for no other purpose and shall be maintained as provided in Section 21. Authorized Officials of the City are hereby authorized and directed to make withdrawals from the Bond Fund sufficient to pay the purchase price or amount of principal of, premium, if any, and interest on the Bonds as the same become due and payable and shall cause

to be transferred to the Paying Agent/Registrar from money on deposit in the Bond Fund an amount sufficient to pay the amount of principal and/or interest stated to mature on the Bonds, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the business day next preceding each interest and principal payment date for the Bonds.

Pending the transfer of funds to the Paying Agent/Registrar, money deposited in any fund created and established pursuant to the provisions of this Ordinance, at the option of the City, may be placed in time deposits, certificates of deposit, guaranteed investment contracts, or similar contractual agreements as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, as authorized by any law, including investments held in book-entry form, in securities including, but not limited to, direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Farmers Home Administration, Federal Home Loan Mortgage Association, Small Business Administration, or Federal Housing Association; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from such fund will be available at the proper time or times. All interest and income derived from deposits and investments in such fund shall be credited to, and any losses debited to, such fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

SECTION 11. Tax Levy. To provide for the payment of the Debt Service Requirements on the Bonds being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at Stated Maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while the Bonds or any interest thereon shall remain Outstanding, a sufficient tax, within the limitations prescribed by law, on each one hundred dollars' valuation of taxable property in the City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Bond Fund and are thereafter pledged to the payment of the Bonds. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay such Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness and other obligations of the City.

SECTION 12. Deposits to Bond Fund; Surplus Bond Proceeds. The City hereby covenants and agrees to cause to be deposited in the Bond Fund prior to a principal and interest payment date for the Bonds, from the annual levy of an ad valorem tax or from other lawfully

available funds, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of Stated Maturity.

Accrued interest, if any, received from the Purchasers of the Bonds, along with any taxes collected pertaining to the Refunded Obligations, after the Closing Date, shall be deposited to the Bond Fund. In addition, any surplus proceeds from the sale of the Bonds, including investment income thereon, not expended for authorized purposes shall be deposited in the Bond Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said fund from ad valorem taxes.

SECTION 13. Security of Funds. All money on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested as provided herein) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds, and money on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

SECTION 14. Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Bond Fund or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the Holders of any of the Bonds shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 15. Notices to Holders; Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Holders. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 16. Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 17. Mutilated, Destroyed, Lost, and Stolen Bonds. If (1) any mutilated Bond is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same Stated Maturity and interest rate and of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond.

Upon the issuance of any new Bond or payment in lieu thereof, under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses and charges (including attorney's fees and the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds.

SECTION 18. Sale of Bonds – Authorization of Purchase Contract. The Bonds authorized by this Ordinance are hereby sold by the City to \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, as the initial purchasers of the Bonds pursuant to a private placement (the *Purchasers*, and having all the rights, benefits, and obligations of a Holder) in accordance with the provisions of a Purchase and Investment Letter dated July 10, 2017 (the *Purchase Contract*) attached hereto as Exhibit B and incorporated herein by reference as a part of this Ordinance for all purposes. The Initial Bond shall be registered in the name of \_\_\_\_\_. The pricing



and terms of the sale of the Bonds are hereby found and determined to be the most advantageous reasonably obtainable by the City. Each Authorized Official is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City and as the act and deed of the City Council, and in regard to the approval and execution of the Purchase Contract, the City Council hereby finds, determines and declares that the representations, warranties, and agreements of the City contained in the Purchase Contract are true and correct in all material respects and shall be honored and performed by the City. Delivery of the Bonds to the Purchasers shall occur as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of the Purchase Contract.

SECTION 19. Escrow and Trust Agreement Approval and Execution; Proceeds of Sale; Contribution by City. The Escrow and Trust Agreement dated as of July 10, 2017 to be effective upon the initial delivery of the Bonds to the Purchasers (the *Agreement*) between the City and BOKF, NA, Austin, Texas (the *Escrow Agent*), attached hereto as Exhibit C and incorporated herein by reference as a part of this Ordinance for all purposes, is hereby approved as to form and content, and such Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to accomplish the refunding or benefit the City, is hereby authorized to be executed by the Mayor, Mayor Pro Tem, and City Secretary and on behalf of the City and as the act and deed of this City Council; and such Agreement as executed by said officials shall be deemed approved by the City Council and constitute the Agreement herein approved.

Furthermore, any Authorized Official, or any one or more of said officials, and Bond Counsel in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the Federal Securities referenced in the Agreement and the initial delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchasers for deposit to the credit of the "CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION REFUNDING BOND SERIES 2017 ESCROW FUND" (the *Escrow Fund*), including the execution of the subscription forms for the purchase and issuance of the "United States Treasury Securities - State and Local Government Series", if any, for deposit to the Escrow Fund; all as contemplated and provided by the provisions of the Act, this Ordinance, and the Agreement.

Immediately following the delivery of the Bonds, the proceeds of sale along with a cash contribution, if any, from the City (less certain costs of issuance, and accrued interest, if any, received from the Purchasers of the Bonds) shall be deposited with the Escrow Agent for application and disbursement in accordance with the provisions of the Agreement. The proceeds of sale of the Bonds not so deposited with the Escrow Agent for the refunding of the Refunded Obligations shall be disbursed for payment of costs of issuance and deposited with the place of payment (of the Refunded Obligations) in an account in the name of the City and applied for the purposes of providing for the payment of the costs and expenses incurred in connection therewith or deposited in the Bond Fund for the Bonds, all in accordance with written instructions from the Authorized Officials.

SECTION 20. Redemption of Refunded Obligations. The Refunded Obligations referenced in the preamble hereof become subject to redemption prior to their stated maturities at the price of par, premium, if any, and accrued interest to the date of redemption. The Mayor or

City Secretary shall give written notice to the paying agent/registrars for the Refunded Obligations and the Escrow Agent that the Refunded Obligations have been called for redemption, and the City Council orders that such obligations are called for redemption on the date set forth on Schedule I attached to this Ordinance, and such order to redeem the Refunded Obligations on such date shall be irrevocable upon the delivery of the Bonds. A copy of the notice of redemption pertaining to the Refunded Obligations is attached to this Ordinance as Exhibit D and is incorporated herein by reference for all purposes. The paying agent for the Refunded Obligations is authorized and instructed to provide notice of this redemption to the holders of the Refunded Obligations in the form and manner described in the ordinance authorizing the issuance of the Refunded Obligations.

## SECTION 21. Covenants to Maintain Tax-Exempt Status.

A. Definitions. When used in this Section, the following terms have the following meanings:

*Closing Date* means the date of physical delivery of the Initial Bonds in exchange for the payment in full by the Purchasers.

*Code* means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

*Computation Date* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*Gross Proceeds* means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

*Investment* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*Nonpurpose Investment* means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

*Rebate Amount* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*Regulations* means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

*Yield of*

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Bonds means the yield on the Bonds as calculated pursuant to Section 1.148-4 of the Regulations.

B. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

C. No Private Use or Private Payments. Except to the extent that it will not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

D. No Private Loan. Except to the extent that it will not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved

with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

E. Not to Invest at Higher Yield. Except to the extent that it will not cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Bonds.

F. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

G. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

H. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Bond Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent

(90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

I. Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection H of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

J. Bonds Not Hedge Bonds.

(1) At the time the original bonds refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such bonds within three years after such bonds were issued.

(2) Not more than 50% of the proceeds of the original bonds refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

K. Qualified Advance Refunding. The Bonds are issued to refund the Refunded Obligations, and certain proceeds thereof will be used more than 90 days before the redemption of such Refunded Obligations. The City represents as follows:

(1) The Bonds are the "first advance refunding" of any original bonds issued after 1985 and are the "first or second advance refunding" of any original bonds issued before 1986, both within the meaning of section 149(d)(3) of the Code.

(2) The Refunded Obligations are being called for redemption, and will be redeemed: (i) in the case of Refunded Obligations issued after 1985, not later than the earliest date on which such bonds may be redeemed and on which the City will realize present value debt service savings (determined without regard to administrative expenses) in connection with the issuance of the Bonds; and (ii) in the case of Refunded Obligations issued before 1986, not later than the earliest date on which such issue may be redeemed at par or at a premium of 3 percent or less and on which the City will realize present value debt service savings (determined without regard to administrative expenses) in connection with the issuance of the Bonds.

(3) The initial temporary period under section 148(c) of the Code will end: (i) with respect to the proceeds of the Bonds used to refund the Refunded Obligations not later than 30 days after the date of issue of such Bonds; and (ii) with respect to proceeds of the Refunded Obligations on the Closing Date if not ended prior thereto.

(4) On and after the date of issue of the Bonds, no proceeds of the Refunded Obligations will be invested in Nonpurpose Investments having a Yield in excess of the Yield on such Refunded Obligations.

(5) The Bonds are being issued for the purposes stated in the preamble of this Ordinance. There is a present value savings associated with the refunding. In the issuance of the Bonds the City has: (i) neither issued more bonds, nor issued bonds earlier, and will not allow bonds to remain outstanding longer, than reasonably necessary to accomplish the governmental purposes for which the Bonds were issued; (ii) not employed an “abusive arbitrage device” within the meaning of Section 1.148-10(a) of the Regulations; and (iii) not employed a “device” to obtain a material financial advantage based on arbitrage, within the meaning of section 149(d)(4) of the Code, apart from savings attributable to lower interest rates.

L. Elections. The City hereby directs and authorizes any Authorized Official, either or any combination of the foregoing, to make such elections in the Certificate as to Tax Exemption or similar or other appropriate certificate, form, or document permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds. Such elections shall be deemed to be made on the Closing Date.

M. Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as *qualified tax-exempt obligations* for purposes of section 265(b) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (a) during the calendar year in which the Bonds are issued, the City (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Bonds, will result in more than \$10,000,000 of “qualified tax-exempt obligations” being issued; (b) the City reasonably anticipates that the amount of tax-exempt obligations issued during the calendar year 2017 by the City (including any subordinate entities) will not exceed \$10,000,000; and (c) the City will take such action or refrain from such action as is necessary in order that the Bonds will not be considered “private activity bonds” within the meaning of section 141 of the Code.

SECTION 22. Control and Custody of Bonds. The Mayor shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas and shall take and have charge and control of the Bonds pending their approval by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery of the Bonds to the Purchasers.

Furthermore, any Authorized Official, either or all, are hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General and their registration by the Comptroller of Public Accounts and, together with the City’s financial advisors, Bond Counsel, and the Paying Agent/Registrar, make the necessary arrangements for



the delivery of the Initial Bonds to the Purchasers and the initial exchange thereof for definitive Bonds.

SECTION 23. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof on or prior to Stated Maturity, or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and/or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have, in the case of a net defeasance, been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, at the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof for the Bonds. In the event of a gross defeasance of the Bonds, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, or another qualified third party concerning the deposit of cash and/or Government Securities to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Bonds. The City covenants that no deposit of money or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of section 148 of the Code (as defined in Section 21 hereof).

Any money so deposited with the Paying Agent/Registrar, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such money has been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity or applicable redemption date of the Bonds, such money was deposited and is held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor, subject to the unclaimed property laws of the State of Texas.

Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (i) or (ii) above shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the City expressly reserves the right to call the defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the defeased Bonds immediately following the defeasance; (3) directs that

notice of the reservation be included in any redemption notices that it authorizes; and (4) at the time of the redemption, satisfies the conditions of (i) or (ii) above with respect to such defeased debt as though it was being defeased at the time of the exercise of the option to redeem the defeased Bonds, after taking the redemption into account in determining the sufficiency of the provisions made for the payment of the defeased Bonds.

SECTION 24. Printed Opinion. The Purchasers' obligation to accept delivery of the Bonds is subject to its being furnished a final opinion of Norton Rose Fulbright US LLP, San Antonio, Texas, as Bond Counsel, approving certain legal matters as to the Bonds, said opinion to be dated and delivered as of the date of initial delivery and payment for such Bonds. Printing of a true and correct copy of said opinion on the reverse side of each of the Bonds, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City is hereby approved and authorized.

SECTION 25. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 26. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 27. Ordinance a Contract; Amendments - Outstanding Bonds. The City acknowledges that the covenants and obligations of the City herein contained are a material inducement to the purchase of the Bonds. This Ordinance shall constitute a contract with the Holders from time to time, shall be binding on the City and its successors and assigns, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders holding a majority in aggregate principal amount of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided; however, that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, and interest on the Bonds, reduce the principal amount thereof, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, the redemption price therefor, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required for consent to any such amendment, addition, or rescission.

SECTION 28. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, Bond Counsel, Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, Bond Counsel, the Paying Agent/Registrar, and the Holders.

SECTION 29. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 30. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 31. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 32. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 33. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 34. Authorization of Paying Agent/Registrar Agreement. The City Council of the City hereby finds and determines that it is in the best interest of the City to authorize the execution of a Paying Agent/Registrar Agreement concerning the payment, exchange, registration, and transferability of the Bonds. A copy of the Paying Agent/Registrar Agreement is attached hereto, in substantially final form, as Exhibit A and is incorporated by reference to the provisions of this Ordinance.

SECTION 35. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 36. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

SECTION 37. No Recourse Against City Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Bond or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bond.

## SECTION 38. Continuing Disclosure Undertaking.

### A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

*Rule* means SEC Rule 15c2-12, as amended from time to time.

*SEC* means the United States Securities and Exchange Commission.

The Bonds are being sold pursuant to a private placement with the Purchasers, in denominations of generally \$100,000 or any integral multiple of \$5,000 in excess thereof, to less than thirty-five sophisticated investors, and therefore the Rule is not applicable to the offering of the Bonds. Accordingly, no contract to provide continuing disclosure information after the issuance of the Bonds has been made by the City with investors.

## SECTION 39. Book-Entry Only System.

The Bonds may initially be registered so as to participate in a securities depository system (the *DTC System*) with the Depository Trust Company, New York, New York, or any successor entity thereto (*DTC*), as set forth herein. Each Stated Maturity of the Bonds shall be issued (following cancellation of the Initial Bonds described in Section 7) in the form of a separate single definitive Bond. Upon issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as the nominee of DTC, and all of the Outstanding Bonds shall be registered in the name of Cede & Co., as the nominee of DTC. The City and the Paying Agent/Registrar are authorized to execute, deliver, and take the actions set forth in such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including the Letter of Representations attached hereto as Exhibit E (the *Representation Letter*).

With respect to the Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds the Bonds from time to time as securities depository (a *Depository Participant*) or to any person on behalf of whom such a Depository Participant holds an interest in the Bonds (an *Indirect Participant*). Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any Depository Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository Participant or any other person, other than a registered owner of the Bonds, as shown on the Security Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a Holder of a Bond, of any amount with respect to principal of, premium, if any, or interest on the Bonds. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a bond certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or

drafts being mailed to the Holder, the word “Cede & Co.” in this Ordinance shall refer to such new nominee of DTC.

In the event that (a) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason, or (c) DTC or the City determines that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall notify the Paying Agent/Registrar, DTC, and the Depository Participants of the availability within a reasonable period of time through DTC of bond certificates, and the Bonds shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the City may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the City, or such depository’s agent or designee, and if the City and the Paying Agent/Registrar do not select such alternate securities depository system then the Bonds may be registered in whatever name or names the Holders of Bonds transferring or exchanging the Bonds shall designate, in accordance with the provisions hereof.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Representation Letter.

**SECTION 40. Further Procedures.** The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, the Purchase Contract, the Agreement. In addition, prior to the initial delivery of the Bonds, any Authorized Official and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies, or (iii) obtain the approval of the Bonds by the Texas Attorney General’s office. In case any officer of the City whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

**SECTION 41. Accounting Reports.** The City shall provide annually to the Purchasers, for so long as they are the holders of the Bonds, within 210 days after the end of each fiscal year ending in or after 2017, financial information and operating data with respect to the City; provided that such financial statements so to be provided shall be (1) prepared in accordance with the generally accepted accounting principles, or such other accounting principles as the City may be required to employ from time to time pursuant to Texas law or regulations, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not

complete within such period, then the City shall provide (1) unaudited financial statements for the applicable fiscal year within 210 days after the end of such year, and (2) audited financial statements for the applicable fiscal year to the Purchasers when and if the audit report on such statements become available.

SECTION 42. City's Consent to Provide Information and Documentation to the Texas MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Authorized Official, Bond Counsel to the City, and/or Financial Advisor to the City to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Bonds; provided, however, that no such information and documentation shall be provided prior to the Closing Date. This consent and authorization relates only to information and documentation that is a part of the public record concerning the issuance of the Bonds.

SECTION 43. Contracts with Financial Advisor and/or Bond Counsel. The City Council authorizes any Authorized Official, or the designee thereof, to take all actions necessary to execute any necessary financial advisory contracts with SAMCO Capital Markets, Inc., as the financial advisor to the City (the *Financial Advisor*). The City understands that under applicable federal securities laws and regulations that the City must have a contractual arrangement with its Financial Advisor relating to the sale, issuance, and delivery of the Bonds. In addition, the City Council also authorizes any Authorized Official, or the designee thereof, to take all actions necessary to execute any necessary engagement agreement with Norton Rose Fulbright US LLP, as Bond Counsel to the City.

SECTION 44. Effective Date. Pursuant to the provisions of Section 1201.028, as amended, Texas Government Code, this Ordinance shall be effective immediately upon adoption, notwithstanding any provision in the City's Home Rule Charter to the contrary concerning a multiple reading requirement for the adoption of ordinances.

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PASSED, APPROVED AND ADOPTED on the 10th day of July, 2017.

CITY OF NEW BRAUNFELS, TEXAS

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Mayor

ATTEST:

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City Secretary

APPROVED AS TO LEGALITY:

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City Attorney

(CITY SEAL)

## **INDEX TO SCHEDULE AND EXHIBITS**

Schedule I.....	Table of Refunded Obligations
Exhibit A.....	Paying Agent/Registrar Agreement
Exhibit B .....	Purchase and Investment Letter
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Exhibit D.....	Notice of Redemption
Exhibit E .....	DTC Letter of Representations

## **Schedule I**

### **Refunded Obligations**

City of New Braunfels, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2009, dated July 1, 2009, in the original principal amount of \$9,500,000 stated to mature on March 1 in each of the years 2020 through 2029, in the aggregate principal amount of \$4,955,000, to be redeemed on March 1, 2019.

**EXHIBIT A**

**Paying Agent/Registrar Agreement**

See Tab No. \_\_

## **EXHIBIT B**

### **Purchase and Investment Letter**

See Tab No. \_\_

**EXHIBIT C**

**Escrow and Trust Agreement**

See Tab No. \_\_



## **EXHIBIT D**

### **Notice of Redemption**

See Tab No. \_\_

**EXHIBIT E**

**DTC Letter of Representations**

See Tab No. \_\_



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/10/2017**

Agenda Item No. A)

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Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:

- Alta Towers, LLC v. City of New Braunfels and City of New Braunfels Zoning Board of Adjustment
- Carowest Land, Ltd. v. Yantis Company and the City of New Braunfels, (2010, 2015, and 2017 cases)
- Yantis Company vs. City of New Braunfels, et. al. (2014 case)
- Stop the Ordinances Please, et. al. v. City of New Braunfels.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**7/10/2017**

Agenda Item No. B)

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Deliberate and consider the purchase of, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code, including but not limited to:

- acquisition of land for city facilities