



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



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

**MONDAY, MAY 14, 2018 at 6:00 PM**

|  |   |
|--|---|
| Barron Casteel, Mayor                      | Chris Monceballez, Councilmember (District 4) |
| Shane Hines, 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 Ron Reaves**

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

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

**PROCLAMATIONS:**

- A) Small Business Week
- B) Flood Awareness Week
- C) Put on Purple Day
- D) Bike Month

**PRESENTATIONS:**

- A) Teen Court Mock Trial participants  
*Rose Zamora, Municipal Court Judge*

**1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of April 23, 2018.  
*Patrick Aten, City Secretary*

**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 the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2021.  
*Patrick Aten, City Secretary*
- B) Approval of the appointment of one individual to the Downtown Board for a term ending May 31, 2020.  
*Patrick Aten, City Secretary*
- C) Approval and authorization for the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the development, design, and construction of pedestrian improvements including sidewalks, ramps, crosswalks, and signage in various locations around the City of New Braunfels.  
*Jennifer Cain, Capital Programs Manager*
- D) Approval of a resolution approving the adoption of the Comal County Hazard Mitigation Action Plan 2017.  
*Andrew Cardiel, Emergency Management Coordinator*
- E) Approval of a 0.736 of an acre utility easement between The City of New Braunfels and Green Valley Special Utility District out of 125.99 acres out of the Sarah DeWitt Survey, Abstract No. 103, Guadalupe County, Texas.  
*Matthew Eckmann, Real Estate Manager*
- F) Approval of a resolution and the ratification of the submission of a grant application to the Department of Transportation through the Texas Traffic Program's Selective Traffic Enforcement Program (STEP) of up to \$80,242.65 to fund salaries and equipment and authorizing the City Manager to accept funds and execute all contract documents associated with the grant, if awarded.  
*Tom Wibert, Police Chief*

- G) Approval of a resolution authorizing a project expenditure by the New Braunfels Economic Development Corporation of up to \$450,000 to the City of New Braunfels for a project to construct transportation facilities to include the development, including design, environmental, and administrative services, of the Alamo Area Metropolitan Planning Organization New Braunfels Pedestrian Improvement Project.

*Jennifer Cain, Capital Programs Manager*

- H) Approval of a resolution nominating TaskUs Inc. for designation as an Enterprise Zone Project under the State of Texas Enterprise Zone Program.

*Victor Garza, Economic Development Manager*

#### *Ordinances*

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

- I) Approval of the first reading of an ordinance amending Ordinance 2017-68, which authorizes the number of positions in each classification in the New Braunfels Police Department pursuant to Local Government Code, Chapter 143.

*Jared Werner, Director of Human Resources*

- J) Approval of the second and final reading of an ordinance regarding the proposed amendment to Ordinance No. 2011-97, adding "Boutique Hotel" as a permitted use in the "Gruene Lake Village" Special District.

*Stacy Snell, Assistant Planning and Community Development Director*

- K) Approval of the second and final reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the short-term rental of a single family dwelling in the "C-2" Central Business District, on a portion of Lot 5, City Block 2017, addressed at 162 Meusebach Street.

*Stacy Snell, Planning and Community Development Assistant Director*

- L) Approval of the second and final reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the bulk storage of up to 80,000 gallons of fuel in belowground storage tanks on approximately 2.43 acres in the "C-3" Commercial District, on Lot 1R, Johnson Commercial Subdivision, addressed at 4340 South IH 35.

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

- M) Approval of the second and final reading of an ordinance regarding the proposed rezoning of 0.873 acres out of the J. M. Veramendi A-22

Survey, addressed at 2420 Katy Street, from "M-1" Light Industrial District to "ZH-A" Zero Lot Line Home District.

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

- N) 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*

- O) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to create Parking by Permit Area N.

*Garry Ford, City Engineer*

4. **INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Canvass returns of the regular election of May 5, 2018.

*Patrick Aten, City Secretary*

- B) Discuss and consider approval of an ordinance declaring the canvass and result of an election held on May 5, 2018, to elect one member of the New Braunfels City Council; containing a savings clause; declaring an effective date; and declaring an emergency.

*Patrick Aten, City Secretary*

- C) Discuss and consider approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2020.

*Patrick Aten, City Secretary*

- D) Discuss and consider approval of the second and final reading of an ordinance amending the Code of Ordinances Chapter 118, Article V, Parkland.

*Robert Camareno, City Manager & Stacey Dicke, Parks and Recreation Director*

- E) Discuss and consider approval of the second and final reading of an ordinance amending Chapter 114 of the City's Code of Ordinances to add regulations regarding the use of public right-of-way in a portion of Downtown New Braunfels for sidewalk cafes, and amending Appendix D to include associated fees.

*Amy McWhorter, Downtown Development Coordinator*

- F) Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards and Articulation Requirements for the proposed Comal County Jail addressed at 3000 IH 35.

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



- G) Discuss and consider a request for a conditional sign permit to add an electronic message sign to an existing pole sign at the Knights of Columbus Hall, addressed at 111 Landa Street.  
*Christopher Looney, Planning and Community Development Director*
- H) Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards, Articulation and Exterior Building Materials requirements for two proposed temporary modular buildings at Freiheit Elementary School, addressed at 2002 FM 1101.  
*Stacy A. M. Snell, Planning and Community Development Assistant Director*
- I) Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, granting recognition to the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, as the sole and exclusive bargaining agent for city firefighters, and determining that the City may meet and confer with the Association without an election by the voters in the City.  
*Robert Camareno, City Manager*
- J) Discuss and consider approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of the 500 block of Hill Avenue.  
*Garry Ford, City Engineer*
- K) Discuss and consider the first reading of an ordinance amending Section 126-136 (a) to amend the school speed zone for the New Braunfels Christian Academy Elementary.  
*Garry Ford, City Engineer*
- L) Discuss and consider approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on the south side of Yu Drive.  
*Garry Ford, City Engineer*
- M) Discuss and consider approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of Gruene Park Drive.  
*Garry Ford, City Engineer*

## 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:
- Personnel

*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.**
7. **ADJOURNMENT**

#### **CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on May 11, 2018, at 9:00 a.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 of New Braunfels



# Proclamation

THE STATE OF TEXAS           §  
COUNTY OF COMAL           §  
CITY OF NEW BRAUNFELS      §

**WHEREAS**, Small Businesses represent 99.7% of all employers in our Country; and

**WHEREAS**, Small Businesses account for the majority of new jobs; and

**WHEREAS**, Small Businesses are more flexible in responding to shifting markets and bring new products to market faster; and

**WHEREAS**, Small Businesses provide the first job for most entrants to the labor force; and

**WHEREAS**, the important role that Small Businesses play in building and maintaining a thriving economy is expected to remain constant throughout the Twenty-first century; and

**WHEREAS**, our Nation's economic health rests in the hands of Small Business men and women with bold ideas and the perseverance to keep the Small Business community growing, prospering, and looking toward the future.

**NOW, THEREFORE, I, BARRON CASTEEL**, by virtue of the authority vested in me as Mayor of the City of New Braunfels, Texas do hereby proclaim April 29 through May 5, 2018, in New Braunfels as

### **SMALL BUSINESS WEEK**

and recognize

**NATALIE ROUGEUX OF ROUGEUX & ASSOCIATES, PLLC**  
as "Small Business Person of the Year"

and urge all Citizens of New Braunfels to observe this week and recognize the Small Business men and women of New Braunfels for their achievement and contributions to the economy of New Braunfels as they lead America in the twenty-first century.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed this the 14<sup>th</sup> day of May 2018.

**CITY OF NEW BRAUNFELS**

**BARRON CASTEEL, MAYOR**



## City of New Braunfels



# Proclamation

**THE STATE OF TEXAS           §**

**COUNTY OF COMAL           §**

**CITY OF NEW BRAUNFELS   §**

**WHEREAS**, each Texas spring brings the potential for flooding and flash flooding; and

**WHEREAS**, flash flooding is the number one cause of weather related damage to public and private property and the loss of human life; and

**WHEREAS**, floods and flash floods are possible throughout the year, they have a higher frequency during spring and summer storms, some of which are slow moving, track over the same area, and can cause a rapid rise of water and a flash flood can develop in minutes; and

**WHEREAS**, the reduction of loss of life and damage to property can be achieved when appropriate flood preparedness and mitigation measures are taken before a flood; and

**WHEREAS**, the City of New Braunfels has joined together with the Texas Floodplain Managers Association and the State of Texas to urge the public to be prepared for floods and flash floods and to consider the purchase of flood insurance, to be aware of flood watches and warnings, to be mindful of signs and barriers warning them of flood dangers, and to always "Turn Around, Don't Drown".

**NOW, THEREFORE**, I Barron Casteel, on behalf of the City Council and the citizens of New Braunfels, Texas do proclaim the week of May 21-25, 2018, as

### **Flood Awareness Week**

in the City of New Braunfels, in honor of the men and women whose diligence and professionalism keep our City and citizens safe.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this the 14<sup>th</sup> day of May 2018.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, MAYOR**



## City of New Braunfels



# Proclamation

|                       |   |
|-----------------------|---|
| THE STATE OF TEXAS    | § |
| COUNTY OF COMAL       | § |
| CITY OF NEW BRAUNFELS | § |

**WHEREAS**, an estimated 1.5 million Americans suffer from Lupus, the chronic inflammatory, autoimmune disease that can affect various parts of the body, especially the skin, joints, blood and kidneys; and

**WHEREAS**, Lupus can be difficult to diagnose because its symptoms are similar to those of many other illnesses, and major gaps exist in understanding the causes and consequences; and

**WHEREAS**, the Lone Star Chapter of the Lupus Foundation of America is part of a national force devoted to solving the cruel mystery of lupus while providing caring support to those who suffer from its brutal impact; and

**WHEREAS**, the Chapter rallied the New Braunfels community to wear the color purple and to further unify the support for those living with the disease; and

**WHEREAS**, awareness is vital in raising funds for research for those affected by lupus; and it is our responsibility as a community to advocate on their behalf and to further encourage educational programs so everyone affected by lupus can have an improved quality of life.

**NOW THEREFORE, I, BARRON CASTEEL**, Mayor of the City of New Braunfels, Texas, do hereby proclaim May 18, 2018, as

### PUT ON PURPLE DAY

in New Braunfels, and I urge all citizens to support the cause of raising awareness of lupus, so that we can have a world with no lupus.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed this the 14<sup>th</sup> day of May 2018.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**





## City of New Braunfels



# Proclamation

THE STATE OF TEXAS       §  
 COUNTY OF COMAL       §  
 CITY OF NEW BRAUNFELS   §

**WHEREAS**, May is National Bike Month, established in 1956 by the League of American Bicyclists. It is celebrated in Texas and in hundreds of communities from coast to coast; and

**WHEREAS**, throughout the month of May communities will celebrate with a variety of experiences such as a bike to work week, bike to school day, cyclofemme or a bike walk and roll challenge; and

**WHEREAS**, the bicycle is an economical, healthy, convenient and environmentally sound form of transportation that brings recreation and enjoyment of a community's historic and scenic beauty; and

**WHEREAS**, New Braunfels offers a variety of attractions downtown, at our parks, trails and rivers for residents and visitors to enjoy on bike; and

**WHEREAS**, creating a bicycle-friendly community has been shown to improve citizens' health and well-being, grow the local economy, attract tourism dollars, improve traffic safety, support student learning outcomes, and reduce pollution, congestion and wear and tear on our streets and roads; and

**WHEREAS**, BikeTexas, the League of American Bicyclists, New Braunfels Cycling, schools, parks and recreation departments, police departments, public works departments, hospitals, companies, metropolitan planning organizations, and civic groups will be promoting bicycling during the month of May; and

**WHEREAS**, these groups also promote greater public awareness of bicycle operation and safety education in an effort to reduce collisions, injuries and fatalities, and improve health and safety for everyone on the road.

**NOW, THEREFORE, I, BARRON CASTEEL**, Mayor of the City of New Braunfels, Texas, do hereby proclaim the month of May 2018 as

### BIKE MONTH

for the City of New Braunfels, and I urge all citizens to celebrate Bike Month by getting out on your bike with family, friends and co-workers, and support a fun way to recreate and an active way to travel. Furthermore, I urge all citizens to find a reason to ride not only in May but all summer long.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 14<sup>th</sup> day of May 2018.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. A)

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Presenter/Contact

*Rose Zamora, Municipal Court Judge  
rzamora@nbtexas.org*

**SUBJECT:**

Teen Court Mock Trial participants





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

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 April 23, 2018.

**MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
REGULAR MEETING OF MONDAY, APRIL 23, 2018**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on April 23, 2018, 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 Shane Hines

**Absent:** 1 - Councilmember Leah García

City staff present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Bryan Woods, Assistant City Manager Kristi Aday, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, Library Director Gretchen Pruett, Planning and Community Development Director Chris Looney, Assistant Planning and Community Development Director Stacy Snell, Public Works Director Greg Malatek, and Parks and Recreation Director Stacey Dicke.

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:01 p.m. Councilmember Meadows gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

**PROCLAMATIONS:**

A) Historic Preservation Month

**Mayor Casteel proclaimed May 2018 as Historic Preservation Month.**

B) Councilmember Ron Reaves, EdD

**Mayor Casteel recognized Ron Reaves for his work with the Comprehensive Plan.**

C) Cory Elrod

**Mayor Casteel recognized Cory Elrod for his service on the Planning Commission.**

**PRESENTATIONS:**

A) Presentation regarding a request from the City of Seguin to release properties within the New Braunfels ETJ to allow them to be annexed into the City of Seguin.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**No action was taken.**

## **1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of April 9, 2018.

**Mayor Casteel read the aforementioned caption.**

**Mayor Pro Tem Peters moved to approve the minutes. Councilmember Meadows seconded the motion which passed unanimously.**

## **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.

**Mayor Casteel read the aforementioned caption.**

**Gretchen Pruett spoke about the benefits of the trap-neuter-release program.**

## **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 the appointment of four individuals to the Historic Landmark Commission for terms ending April 7, 2022.
- B) Approval of the Heritage Commission recommendations for allocating grant awards from hotel occupancy tax to various heritage organizations of the City and authorizing the City Manager to execute

contracts with the aforementioned organizations for the purpose of disbursement and use of funding.

- C) Approval of the Arts Commission recommendations for allocating grant awards from hotel occupancy tax to various arts organizations of the City and authorizing the City Manager to execute contracts with the aforementioned organizations for the purpose of disbursement and use of funding.
- D) Approval of a Buyboard contract for the purchase of Audio/Visual Equipment from Ford Audio-Video Systems, LLC for the Exhibit Hall of the Civic/Convention Center for \$146,568.52.
- E) Approval of a purchase for camera kits for Solid Waste and Recycling collection vehicles from Texan Waste Equipment, Inc. dba Heil of Texas through a Buyboard Cooperative contract for \$167,958.
- F) Approval of a Fire Department rescue truck to be declared as surplus to allow unit to be utilized as a trade-in vehicle for a new multi-purpose fire engine from Siddons-Martin Emergency Group, LLC.
- G) Approval of the purchase of a new multi-purpose frontline fire engine from Siddons-Martin Emergency Group, LLC., utilizing a BuyBoard cooperative purchasing contract, and approval of a resolution with Government Capital Corporation for short term financing.
- H) Approval of a temporary road closure for the third annual Dia de los Muertos Festival on October 27, 2018.
- I) Approval of an Aerial Electric Line Easement between the City of New Braunfels and LCRA Transmission Services Corporation for upgrades to an existing electric line easement on a property identified as a 1.02 acre tract out of Landa Park Highlands No. 2, Block 5, City of New Braunfels, Comal County, Texas.
- J) Approval of a resolution setting a public hearing to amend the water and wastewater impact fees.
- K) Approval of a contract with T.F. Harper & Associates for construction services on Airport Terminal Repairs and authorization for the City Manager to approve any change orders up to a ten percent contingency as well as all other necessary project expenditures.
- L) Approval of a contract with Curran Contracting Company for the New



Braunfels Regional Airport Taxilane Extension and Access Road Project and a contract with KSA Engineers, Inc. for Construction Administration Services and approval for the City Manager to authorize any project expenditures up to a 10 percent contingency.

- M) Approval of the renewal of annual contracts for the purchase of road construction materials, purchase of green waste collection bags, and services provided by an investment advisor.
- N) Approval of a contract with Lee Engineering, LLC to conduct a signal timing study on the SH 46 West corridor for the Engineering Division.

#### *Ordinances*

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

- O) Approval of the first reading of an ordinance amending Article V Section 86-7(d) of the Code of Ordinances to define revenue collected from paid parking at Prince Solms Park to go to the River Activities Fund.
- P) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area D.
- Q) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to create a new Parking by Permit Area M.

**Mayor Casteel read the aforementioned captions, except items 3I and 3J which were pulled from the agenda by NBU. There was no action for items 3I and 3J.**

**Councilmember Monceballez moved to approve the Consent Agenda except items 3I and 3J. Mayor Pro Tem Peters seconded the motion which passed unanimously via roll call vote.**

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

- A) Discuss and consider possible action for a proposed response to the Environmental Protection Agency on its proposed Ozone National Ambient Air Quality Standard designation.

**Mayor Casteel read the aforementioned caption.**

**Mayor Pro Tem Peters presented the item.**

**Councilmember Reaves moved to approve the item. Mayor Pro Tem Peters seconded the motion which passed unanimously.**

- B) Discuss and consider approval of a resolution approving a settlement agreement between the City and Centerpoint Energy Entex with regard to Centerpoint's statement of intent to increase rates which was filed on November 16, 2017.

**Mayor Casteel read the aforementioned caption.**

**Valeria Acevedo and Alfred Herrera presented the item.**

**Mayor Pro Tem Peters moved to approve the item. Councilmember Reaves seconded the motion which passed unanimously.**

- C) Discuss and consider approval of the first reading of an ordinance amending Chapter 114 of the City's Code of Ordinances to add regulations regarding the use of public right-of-way in a portion of Downtown New Braunfels for sidewalk cafes, and amending Appendix D to include associated fees.

**Mayor Casteel read the aforementioned caption.**

**Amy McWhorter presented the item.**

**Councilmember Hines moved to approve the item as proposed. Councilmember Reaves seconded the motion which passed 5-1, with Mayor Pro Tem Peters opposed.**

- D) Discuss and consider approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of the 500 block of Hill Avenue.

**Mayor Casteel read the aforementioned caption.**

**Greg Malatek presented the item.**

**Bonnie Leitch spoke in favor of the item.**

**Councilmember Meadows moved to approve the item. Councilmember Reaves seconded the item which passed 5-1, with Councilmember Monceballez opposed.**

- E) Public hearing and first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to create a new Parking by Permit Area N.

**Mayor Casteel read the aforementioned caption.**

**Greg Malatek presented the item.**

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

**Councilmember Meadows moved to approve the item. Councilmember Reaves seconded the motion which passed unanimously.**

- F) Public hearing and first reading of an ordinance regarding the proposed rezoning of 0.873 acres out of the J. M. Veramendi A-22 Survey, addressed at 2420 Katy Street, from "M-1" Light Industrial District to "ZH-A" Zero Lot Line Home District.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**Brenda Chapman, Santos Rodriguez, Jim Hawkins, Ralph Martinez, Paul Williams, and Robert Rosales spoke during the public hearing.**

**Councilmember Hines moved to table the item. Councilmember Meadows seconded the motion, which passed unanimously.**

**After item 4K, Councilmember Reaves moved to untable the item. Councilmember Meadows seconded the motion, which passed unanimously.**

**Councilmember Reaves moved to approve item 4F. Councilmember Meadows seconded the motion which passed unanimously.**

- G) Public hearing and first reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the

short-term rental of a single family dwelling in the "C-2" Central Business District, on a portion of Lot 5, City Block 2017, addressed at 162 Meusebach Street.

**Mayor Casteel read the aforementioned caption.**

**Stacy Snell presented the item.**

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

**Mayor Pro Tem Peters moved to approve the item with staff recommendations. Councilmember Hines seconded the motion, which passed unanimously.**

- H) Public hearing and first reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the bulk storage of up to 80,000 gallons of fuel in belowground storage tanks on approximately 2.43 acres in the "C-3" Commercial District, on Lot 1R, Johnson Commercial Subdivision, addressed at 4340 South IH 35.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**Nathan Dolle and Doug Payne spoke during the public hearing.**

**Councilmember Hines moved to approve the item with the additional requirement that drainage affecting adjacent properties be improved with the project. Councilmember Reaves seconded the motion, which passed unanimously.**

- I) Public hearing and consideration of the first reading of an ordinance regarding the proposed amendment to Ordinance No. 2011-97, adding "Boutique Hotel" as a permitted use in the "Gruene Lake Village" Special District.

**Mayor Casteel read the aforementioned caption.**

**Stacy Snell presented the item.**

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

**Councilmember Reaves moved to approve the item with staff recommendations. Councilmember Hines seconded the motion, which passed unanimously.**

- J) Discuss and consider a waiver from the requirement to construct sidewalks along Safari Drive for the proposed final plat of Lots 4R and 5, Engel Road Industrial Park.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**Councilmember Hines moved to approve the item. Councilmember Meadows seconded the motion, which passed 5-1, with Councilmember Reaves opposed.**

- K) Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, granting recognition to the New Braunfels Police Officers Association as the sole and exclusive bargaining agent for city police officers, and determining that the City may meet and confer with the Association without an election by the voters in the City.

**Mayor Casteel read the aforementioned caption.**

**Robert Camareno and Valeria Acevedo presented the item.**

**Councilmember Hines moved to approve the item. Councilmember Meadows seconded the motion, which passed unanimously.**

- L) Public hearing and first reading of an ordinance regarding Youth Programs Standards of Care for the Parks and Recreation Department.

**Mayor Casteel read the aforementioned caption.**

**Stacey Dicke presented the item.**

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

**Councilmember Monceballez moved to approve the item.**

**Councilmember Meadows seconded the motion, which passed unanimously.**

- M) Discuss and consider approval of a resolution authorizing the City Manager to enter into an agreement for the replacement of a concrete box culvert located west of Highway 46 (Texas Loop 337) between Church Hill Drive and Manhattan Street.

**Mayor Casteel read the aforementioned caption.**

**Bryan Woods presented the item.**

**Councilmember Meadows moved to approve the item. Mayor Pro Tem Peters seconded the motion, which passed unanimously.**

## **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.

The City Council did not have an Executive Session.

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

## **7. ADJOURNMENT**

**The meeting adjourned at 8:42 p.m.**

Date Approved: May 14, 2018

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Barron Casteel, Mayor

Attest:

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Patrick Aten, City Secretary



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

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:**

Approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2021.

**BACKGROUND / RATIONALE:**

The Airport Advisory Board has seven members serving three-year staggered terms. Notice of vacancy was advertised from February 16, 2018 to April 15, 2018.

One qualified application was submitted for the vacancy:

- Peter Wilkins

Peter Wilkins has no prior experience on City boards.

**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 appointment of one individual to the Airport Advisory Board for a term ending May 12, 2021







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. B)

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Presenter/Contact

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

**SUBJECT:**

Approval of the appointment of one individual to the Downtown Board for a term ending May 31, 2020.

**BACKGROUND / RATIONALE:**

The Downtown Board has eleven members serving three-year staggered terms. Notice of vacancy was advertised from March 15, 2018 to April 15, 2018.

One qualified application was submitted for the position-specific vacancy:

- Brandon Mund

**Applicant's current & prior service on Boards and Commissions**

Brandon Mund has served as an alternate on the Zoning Board of Adjustment since May 2017.

**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 appointment of one individual to the Downtown Board for a term ending May 31, 2020.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. C)

### Presenter/Contact

*Jennifer Cain, Capital Programs Manager  
(830) 221-4646 - jcain@nbtexas.org*

### **SUBJECT:**

Approval and authorization for the City Manager to enter into an Advance Funding Agreement with the Texas Department of Transportation for the development, design, and construction of pedestrian improvements including sidewalks, ramps, crosswalks, and signage in various locations around the City of New Braunfels.

### **BACKGROUND / RATIONALE:**

The City of New Braunfels prepared and submitted an application for the City Wide Pedestrian Improvements Project to the Alamo Area Metropolitan Planning Organization (MPO) for funding through the FY2018-2019 Transportation Alternatives Set-Aside (TASA) Program. The four project locations are:

- McQueeney Road - From Briarbend to Northpark Ridge; sidewalks on both sides of the road for connectivity to the local neighborhoods, Memorial Hike/Bike trail including Fischer Park.
- Seele Elementary - Improves pedestrian facilities not only for the elementary students but for safe travel to local amenities including Landa Park, Landa Street, and various businesses along N. Walnut Ave.
- W. San Antonio Street - From Walnut Ave towards downtown ending at Academy Ave; sidewalks and improvements on both sides of the road for improved pedestrian travel to and from the downtown area and businesses along San Antonio St.
- S. Walnut Ave - From IH35 Frontage Road south to Gardenia Drive; improvements on both sides of the road to help promote alternate means of travel in a congested commercial business area.

The City Wide Pedestrian Improvements project was selected for funding through the MPO TASA. TXDOT will administer the project, therefore the local project Advance Funding Agreement is required.

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

|   |     |                            |  |
|---|-----|----------------------------|--|
| x | Yes | City Plan/Council Priority | 2006 Comprehensive Plan: Provides a system of convenient and safe pedestrian transportation facilities through comprehensive, cooperative and continuing transportation system planning and development. |
|---|-----|----------------------------|--|

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**FISCAL IMPACT:**

The TASA Program is a reimbursement program that requires the Local Government to show that funds are available for the project in its entirety but will be allowed to submit for reimbursement of federal participation construction dollars only. The AFA breakdown is as follows:

Total Project Costs - \$1,709,166 (estimate)

Federal TASA participation - \$1,213,369 (reimbursable)

State Participation - \$87,058

Local Participation - \$405,468 (20% construction & state administration; non-reimbursable)  
- \$450,000 (ancillary costs: project design, ROW,  
environmental, project overages; non-reimbursable)

The reimbursement will be monthly submissions once a contractor has been selected and construction begins. Funding for the City portion is included in the FY2018-19 adopted budget across multiple capital funds. No expenditures have occurred to date therefore sufficient funds are available for approval of the City Wide Pedestrian Improvements AFA.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the item.

**ATTACHEMENTS:**

1. AFA
2. Project Map

|                        |  |  |  |
|------------------------|--|--|--|
| <b>TxDOT:</b>          |  | <b>Federal Highway Administration:</b>             |  |
| <b>CSJ #</b>           | <b>0915-17-066</b>                       | <b>CFDA No.</b>                                    | <b>20.205</b>                            |
| <b>District #</b>      | <b>San Antonio (15)</b>                  | <b>CFDA Title</b>                                  | <b>Highway Planning and Construction</b> |
| <b>Code Chart 64 #</b> | <b>29900</b>                             |  |  |
| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b>AFA Not Used For Research &amp; Development</b> |  |

**STATE OF TEXAS                    §**

**COUNTY OF TRAVIS               §**

**ADVANCE FUNDING AGREEMENT  
FOR A TRANSPORTATION ALTERNATIVES  
SET-ASIDE (TASA) PROGRAM PROJECT  
MPO-Selected Off-System**

This Advance Funding Agreement for a Transportation Alternatives Set-Aside (TASA) Program Project ("Agreement") is made between the State of Texas (State), acting through the Texas Department of Transportation, and the **City of New Braunfels** (Local Government), acting through its duly authorized officials.

**WITNESSETH**

**WHEREAS**, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

**WHEREAS**, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

**WHEREAS**, Federal law, 23 USC §134 and 49 USC §5303, requires that State and Metropolitan Planning Organizations (MPOs) develop transportation plans and programs for urbanized areas of Texas, and

**WHEREAS**, Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

**WHEREAS**, the rules and procedures for the Transportation Alternatives Set-Aside Program (TASA) are established in 23 USC §133(h), and 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418, and

**WHEREAS**, the Local Government prepared and submitted to the State or Metropolitan Planning Organization (MPO) a project nomination package for TASA funding consideration, which is briefly described as Pedestrian Improvements near Seele Elementary (Project), and

**WHEREAS**, the Texas Transportation Commission (Commission) passed Minute Order Number 114670 (MO) dated August 25, 2016 awarding funding for TASA projects in the 2017 TASA Program Call of the Alamo Area Metropolitan Planning Organization including Project, and

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|------------------------|--|--|--|
| <b>TxDOT:</b>          |  | <b>Federal Highway Administration:</b>             |  |
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| <b>District #</b>      | <b>San Antonio (15)</b>                  | <b>CFDA Title</b>                                  | <b>Highway Planning and Construction</b> |
| <b>Code Chart 64 #</b> | <b>29900</b>                             |  |  |
| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b>AFA Not Used For Research &amp; Development</b> |  |

**WHEREAS**, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated \_\_\_\_\_, which is attached to and made a part of this Agreement as Attachment A, Resolution or Ordinance. A map showing the Project location appears in Attachment B, Project Location Map, which is attached to and made a part of this Agreement, and

**NOW, THEREFORE**, the State and the Local Government agree as follows:

### **AGREEMENT**

#### **1. Period of Agreement and Performance**

- A. Period of Agreement. This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided below.
- B. Period of Performance.
  - 1. The Performance Period for each phase of work begins on the date specified in the Federal Project Authorization and Agreement (FPAA) for that phase of work. Local Government may not begin work until issued the State Letter of Authority (SLOA) for that phase of work.
  - 2. The Performance Period for each phase of work ends on the date specified in the FPAA for that phase of work.

#### **2. Scope of Work and Use of Project**

- A. The scope of work for Project consists of constructing sidewalks, ramps and other pedestrian related infrastructure on San Antonio St, Walnut and McQueeney near Seele Elementary.
- B. Any project changes proposed must be submitted in writing by Local Government to State and the Alamo Area Metropolitan Planning Organization. Changes may also require an amendment to this Agreement and the approval of the FHWA, State, MPO, or the Commission. Any changes undertaken without written approval and amendment of this Agreement may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

#### **3. Project Sources and Uses of Funds**

The total estimated development cost of the Project is \$1,709,166 as shown in Attachment C, Project Budget Estimate and Source of Funds (Attachment C).

- A. If Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, Local Government shall provide the certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of the Project.

| TxDOT:          |                                   | Federal Highway Administration:                           |                                   |
|-----------------|-----------------------------------|---|-----------------------------------|
| CSJ #           | 0915-17-066                       | CFDA No.  | 20.205                            |
| District #      | San Antonio (15)                  | CFDA Title  | Highway Planning and Construction |
| Code Chart 64 # | 29900                             |   |                                   |
| Project Name    | City Wide Pedestrian Improvements | <b><i>AFA Not Used For Research &amp; Development</i></b> |                                   |

State in its discretion may deny reimbursement if Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The total estimated project cost as shown in Attachment C includes the Local Government's estimated itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs.
- C. State and the Federal Government will not reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- D. The Project budget and source of funds estimate based on the budget provided in the nomination form is included in Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal TASA funds assigned by the Commission or MPO in consultation with State. This Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the TASA, FPAA, or other federal documents.
- E. State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission or MPO in consultation with State. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to issuance of the SLOA are not eligible for reimbursement.
- F. Local Government will be responsible for all non-federal participation costs associated with Project, including any overruns in excess of Project's estimated budget and any operating or maintenance expenses.
- G. Following execution of this Agreement, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment C for plan review and construction oversight.
- H. In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment C and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State's written notification.
- I. Whenever funds are paid by Local Government to State under this Agreement, Local Government will remit a warrant made payable to the "Texas Department of Transportation". The warrant will be deposited by State and managed by State. The Local Government may elect to utilize the State's Automated Clearing House (ACH) system for Electronic Transfer of funds to the Texas Comptroller of Public Accounts Federal Reserve Clearing Account, in lieu of a check or warrant. Funds may only be applied by State to Project.

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| <b>Code Chart 64 #</b> | <b>29900</b>                             |  |  |
| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b>AFA Not Used For Research &amp; Development</b> |  |

- J. Upon completion of Project, State will perform a final accounting of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party.
- K. In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State's notification.
- L. If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.
- M. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement or indirectly through a contract or subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- N. State will not pay interest on any funds provided by Local Government.
- O. State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this Agreement.
- P. Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- Q. If Local government is an Economically Disadvantaged County (EDC) and if State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.

#### **4. Termination of the Agreement**

- A. This Agreement may be terminated by any of the following conditions:
  1. By mutual written consent and agreement of all parties;
  2. By any party with 90 days written notice; or
  3. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.



| TxDOT:          |                                   | Federal Highway Administration:                    |                                   |
|-----------------|-----------------------------------|--|-----------------------------------|
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| Code Chart 64 # | 29900                             |  |                                   |
| Project Name    | City Wide Pedestrian Improvements | <i>AFA Not Used For Research &amp; Development</i> |                                   |

- B. If the potential termination of this Agreement is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- C. If Local Government withdraws from Project after this Agreement is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system and with 2 CFR Part 200 recapture requirements.
- D. A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:
  - 1. Local Government fails to satisfy any requirements of the program rules cited in 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418.
  - 2. The implementation of Project would involve significant deviation from the activities proposed in the nomination form and approved by the Texas Transportation Commission or MPO in consultation with State.
  - 3. Local Government withdraws from participation in Project.
  - 4. State determines that federal funding may be lost due to Project not being implemented and completed.
  - 5. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
  - 6. The associated FPAA is not issued by the end of the third federal fiscal year following the federal fiscal year for which the funds are authorized. Federal fiscal years run October 1 through September 30.
  - 7. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.
- E. State, at its sole discretion, may terminate this Agreement if State does not receive project invoice from Local Government within 270 days of FPAA.

## 5. Amendments

This Agreement may be amended due to changes in the work, the amount of funding required to complete Project, or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

## 6. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

## 7. Utilities

Local Government shall be responsible for the adjustment, removal, or relocation of utilities or utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of a delay resulting from Local Government's failure to ensure that utilities or utility facilities are adjusted, removed, or relocated before the scheduled

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| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b>AFA Not Used For Research &amp; Development</b> |  |

beginning of construction. Unless specified in (1) the nomination form approved by State or MPO in consultation with State and (2) this agreement, Local Government will not be reimbursed with federal or state funds for the cost of required utility work. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

#### **8. Environmental Assessment and Mitigation**

Development of Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A. Local Government is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- B. Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share.
- C. Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment.
- D. Before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

#### **9. Compliance with Accessibility Standards**

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

#### **10. Architectural and Engineering Services**

- A. Architectural and engineering services for preliminary engineering will be provided by Local Government. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these services; and with Texas Government Code Subchapter 2254.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. For State-selected projects, architectural and engineering services are not eligible for TASA reimbursement.
- B. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be

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developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.

- C. When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval. Local Government may also submit the plans to State for review any time prior to completion. The State may review and comment on the work as required to accomplish the public purposes of the Local Government. The State may require the Local Government, or their representatives, to attend meetings as necessary to accomplish this goal. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- D. When architectural and engineering services are provided by or through State, then the State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work as required to accomplish Project purposes. State will cooperate with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

## **11. Construction Responsibilities**

- A. Local Government shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- B. All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- C. All contract change order review and approval procedures must be approved by State prior to start of construction.
- D. Upon completion of Project, the party constructing Project will issue and sign a "Notification of Completion" acknowledging Project's construction completion.
- E. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Subpart 635.B.

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| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b>AFA Not Used For Research &amp; Development</b> |  |

- F. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to completion of Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

## 12. Project Maintenance

- A. Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this Agreement.
- C. Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

## 13. Right of Way and Real Property Acquisition

- A. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to

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| <b>TxDOT:</b>          |  | <b>Federal Highway Administration:</b>             |  |
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- State before funds may be expended for the improvement of the right of way or real property.
- B. If Local Government is the owner of any part of Project site under this Agreement, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
  - C. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC §4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR §24.2(g). Documentation to support such compliance must be maintained and made available to State and its representatives for review and inspection.
  - D. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use to the real property required for development of Project. Evidence of title or right of use shall be acquired in the name of (1) State, if the real property is to be made part of the State Highway System, and (2) Local Government, otherwise. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.
  - E. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
  - F. Local Government shall determine property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value.
  - G. For State-selected TASA projects, Local Government shall not use eminent domain or condemnation to acquire real property for this TASA Project.
  - H. Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary payments to appraisers for expenses incurred in order to assure good title.
  - I. Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.

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- J. If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this Agreement. The separate agreement between Local Government and the current property owner must establish that Project will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment as outlined in 43 Tex. Admin. Code §11.317. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.
- K. Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- L. Local governments receiving federal funds must comply with 23 CFR Part 710 and 49 CFR Part 24, and with the procedures provided in Chapter 6 of the State's Local Government Project Policy Manual. Local Government agrees to monitor Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.
- M. Before the advertisement for bids, Local Government shall provide a certification to State that all real property has been acquired.

#### **14. Insurance**

- A. Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- B. For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

#### **15. Notices**

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

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| <p align="center"><b>Local Government:</b></p> <p>City of New Braunfels<br/>ATTN: City Manager<br/>550 Landa St.<br/>New Braunfels, TX 78130</p> | <p align="center"><b>State:</b></p> <p><b>Legal Documents:</b> Texas Department of Transportation<br/>ATTN: Director of Contract Services<br/>125 E. 11<sup>th</sup> Street<br/>Austin, TX 78701</p> <p><b>Billing and Inquiries:</b><br/>Director of Transportation Planning &amp; Development<br/>Texas Department of Transportation<br/>4615 NW Loop 410<br/>San Antonio, TX 78229-5126</p> |
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All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

**16. Legal Construction**

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**17. Responsibilities of the Parties**

Neither party is an agent, servant, or employee of the other party and each party is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**18. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by State shall remain the property of State. All data prepared under this Agreement shall be made available to State without restriction or limitation on their further use. All documents produced or approved or otherwise created by Local Government shall be transmitted to State in the form of photocopy reproduction on a monthly basis as required by State. The originals shall remain the property of Local Government.

**19. Document and Information Exchange**

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local

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Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State. This requirement applies whether Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

**20. Compliance with Laws**

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, Local Government shall furnish State with satisfactory proof of this compliance.

**21. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**22. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR Part 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to Project.

**23. Procurement and Property Management Standards**

The parties to this Agreement shall adhere to the procurement standards established in Title 49 CFR §18.36, to the property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

**24. Inspection of Books and Records**

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for three (3) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**25. Civil Rights Compliance**

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S.



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Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
  2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

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## 26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

## 27. Disadvantaged Business Enterprise Program Requirements

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- A. The parties shall comply with the Disadvantaged Business Enterprise (“DBE”) Program requirements established in 49 CFR Part 26.
- B. Local Government shall adopt, in its totality, State’s federally approved DBE program.
- C. Local Government shall set an appropriate DBE goal consistent with State’s DBE guidelines and in consideration of Local market, project size, and nature of the goods or services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. Local Government shall follow all other parts of State’s DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation’s Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address:  
[http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- E. Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. State’s DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- F. Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: “The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.”

## 28. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, “Debarment and Suspension.” By executing this Agreement, Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

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If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

## 29. Lobbying Certification

In executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC §1352 for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## 30. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. Local Government agrees that it shall:
  1. Obtain and provide to State a System for Award Management (SAM) number (Federal Acquisition Regulation (FAR) Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is <https://www.sam.gov/portal/public/SAM/>.
  2. Obtain and provide to State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the

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Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>;  
and

3. Report the total compensation and names of its top five executives to State if:
  - a. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
  - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

### 31. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at [singleaudits@txdot.gov](mailto:singleaudits@txdot.gov).
- C. If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Compliance Division as follows: *We did not meet the \$\_\_\_\_\_ expenditure threshold and therefore, are not required to have a single audit performed for FY\_\_\_\_\_.*
- D. For each year Project remains open for federal funding expenditures, Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or Project has been formally closed out and no charges have been incurred within the current fiscal year.

### 32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

**THIS AGREEMENT IS EXECUTED** by the State and the Local Government.

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**THE STATE OF TEXAS**


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 Signature

Kenneth Stewart

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 Typed or Printed Name

Director of Contract Services

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 Typed or Printed Title

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 Date

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**THE LOCAL GOVERNMENT**


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 Signature

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 Typed or Printed Name

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 Typed or Printed Title

---

 Date

|                        |  |   |  |
|------------------------|--|---|--|
| <b>TxDOT:</b>          |  | <b>Federal Highway Administration:</b>                    |  |
| <b>CSJ #</b>           | <b>0915-17-066</b>                       | <b>CFDA No.</b>   | <b>20.205</b>                            |
| <b>District #</b>      | <b>San Antonio (15)</b>                  | <b>CFDA Title</b>   | <b>Highway Planning and Construction</b> |
| <b>Code Chart 64 #</b> | <b>29900</b>                             |   |  |
| <b>Project Name</b>    | <b>City Wide Pedestrian Improvements</b> | <b><i>AFA Not Used For Research &amp; Development</i></b> |  |

**ATTACHMENT A  
RESOLUTION OF LOCAL GOVERNMENT**



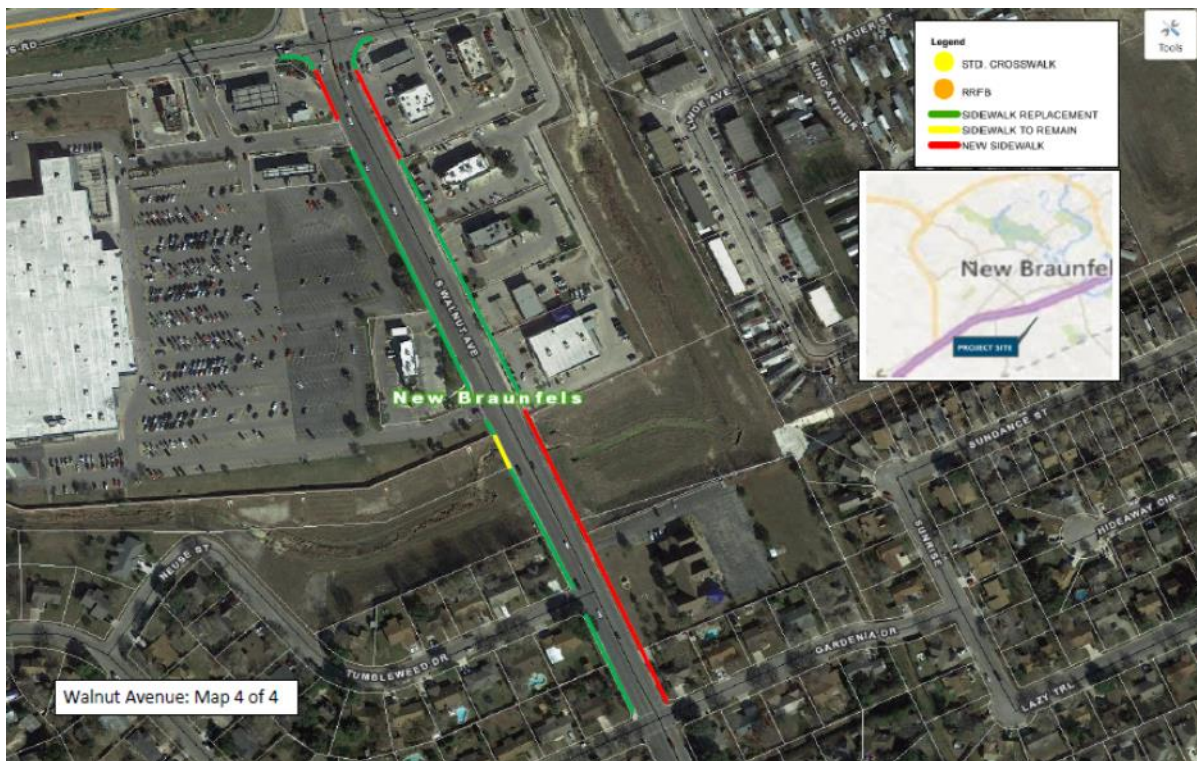
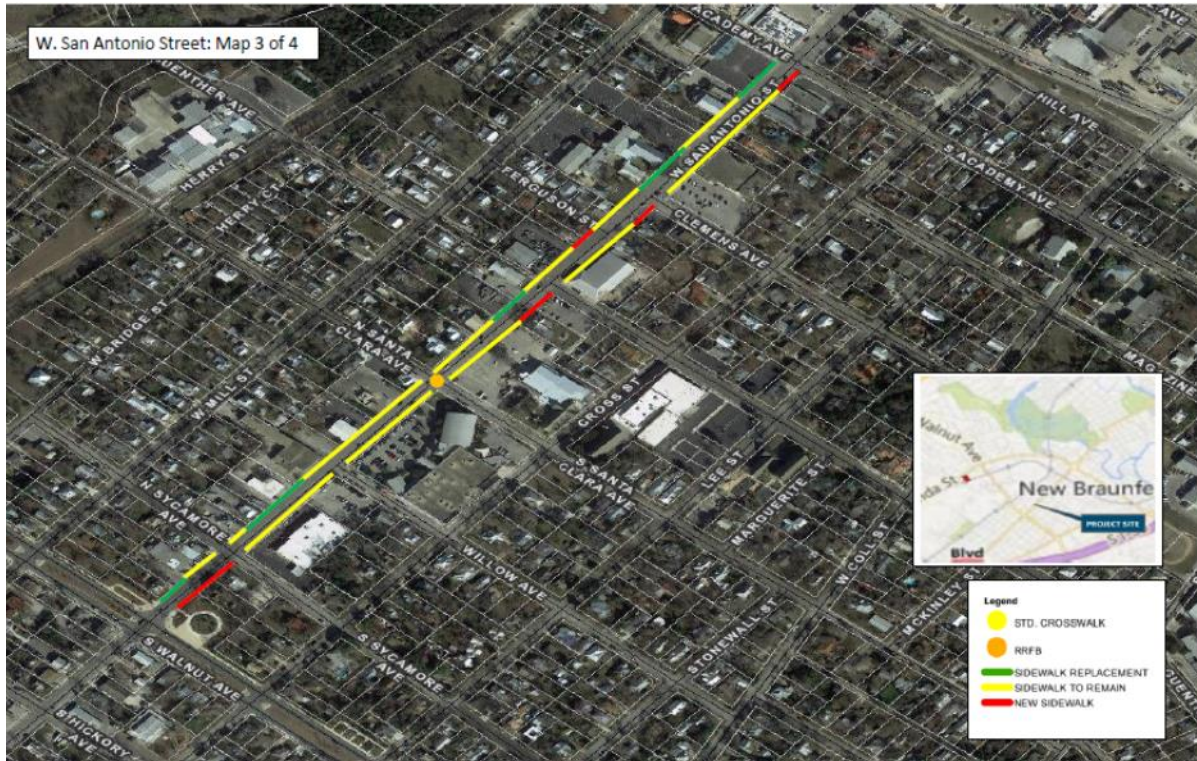
|                 |                                   |   |                                   |
|-----------------|-----------------------------------|---|-----------------------------------|
| TxDOT:          |                                   | Federal Highway Administration:         |                                   |
| CSJ #           | 0915-17-066                       | CFDA No.                                | 20.205                            |
| District #      | San Antonio (15)                  | CFDA Title                              | Highway Planning and Construction |
| Code Chart 64 # | 29900                             |   |                                   |
| Project Name    | City Wide Pedestrian Improvements | AFA Not Used For Research & Development |                                   |

## ATTACHMENT B PROJECT LOCATION MAP





|                 |                                   |   |                                   |
|-----------------|-----------------------------------|---|-----------------------------------|
| TxDOT:          |                                   | Federal Highway Administration:         |                                   |
| CSJ #           | 0915-17-066                       | CFDA No.                                | 20.205                            |
| District #      | San Antonio (15)                  | CFDA Title                              | Highway Planning and Construction |
| Code Chart 64 # | 29900                             |   |                                   |
| Project Name    | City Wide Pedestrian Improvements | AFA Not Used For Research & Development |                                   |



| TxDOT:          |                                   | Federal Highway Administration:         |                                   |
|-----------------|-----------------------------------|---|-----------------------------------|
| CSJ #           | 0915-17-066                       | CFDA No.                                | 20.205                            |
| District #      | San Antonio (15)                  | CFDA Title                              | Highway Planning and Construction |
| Code Chart 64 # | 29900                             |   |                                   |
| Project Name    | City Wide Pedestrian Improvements | AFA Not Used For Research & Development |                                   |

**ATTACHMENT C**  
**PROJECT ESTIMATE AND SOURCE OF FUNDS**  
 LG Performs PE Work or Hires Consultant /LG Lets Project for Construction

| Work Performed by Local Government (“LG”)                                      |                             |  |             |  |      |   |           |  |  |
|--|-----------------------------|--|-------------|--|------|---|-----------|--|--|
| Description of Project Costs to be Incurred                                    | Total Project Cost Estimate | Federal Participation<br>Includes percentage for TDC apportionment on MPO-selected projects where applicable |             | State Participation<br>Includes authorized EDC amounts |      | Local Government Participation<br>Includes authorized EDC reduction |           |  |  |
|  |                             | %  | Cost        | %  | Cost | %   | Cost      |  |  |
| Planning/Maps/Education/Non-CST  | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Preliminary Engineering  | \$55,739                    | 0%   | \$0         | 0%   | \$0  | 100%  | \$55,739  |  |  |
| Environmental Cost   | \$18,580                    | 0%   | \$0         | 0%   | \$0  | 100%  | \$18,580  |  |  |
| Right of Way   | \$7,204                     | 0%   | \$0         | 0%   | \$0  | 100%  | \$7,204   |  |  |
| Utilities  | \$7,204                     | 0%   | \$0         | 0%   | \$0  | 100%  | \$7,204   |  |  |
| Construction Cost  | \$1,516,711                 |  |             |  |      |   |           |  |  |
| Eligible In-Kind Contribution Value  | \$ N/A                      |  |             |  |      |   |           |  |  |
| Total Construction Value<br>(sum of construction cost and in-kind value)       | \$1,516,711                 | 80%  | \$1,213,369 | 0%   | \$0  | 20%   | \$303,342 |  |  |
| Work by LG Subtotal  | \$1,605,439                 |  | \$1,213,369 |  | \$0  |   | \$392,070 |  |  |
| Work Performed by the State (Local Participation paid up front by LG to TxDOT) |                             |  |             |  |      |   |           |  |  |
| Preliminary Engineering <sup>1</sup>   | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Environmental Cost <sup>1</sup>  | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Right of Way <sup>3</sup>  | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Utilities <sup>2</sup>   | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Construction <sup>2</sup>  | \$0                         | 0%   | \$0         | 0%   | \$0  | 0%  | \$0       |  |  |
| Work by State Subtotal   | \$0                         |  | \$0         |  | \$0  |   | \$0       |  |  |

| TxDOT:          |                                   |  | Federal Highway Administration:         |                                   |
|-----------------|-----------------------------------|--|---|-----------------------------------|
| CSJ #           | 0915-17-066                       |  | CFDA No.                                | 20.205                            |
| District #      | San Antonio (15)                  |  | CFDA Title                              | Highway Planning and Construction |
| Code Chart 64 # | 29900                             |  |   |                                   |
| Project Name    | City Wide Pedestrian Improvements |  | AFA Not Used For Research & Development |                                   |

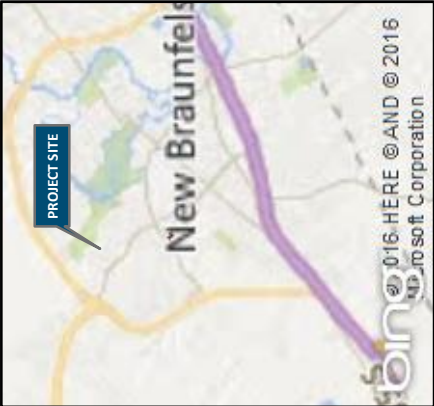
| Direct and Indirect State Costs Incurred for Review, Inspection, Administration & Oversight |                             |   |             |                                |          |                                     |                  |
|---|-----------------------------|---|-------------|--------------------------------|----------|-------------------------------------|------------------|
| Description of Project Costs to be Incurred   | Total Project Cost Estimate | Federal Participation   |             | State Participation            |          | Local Government (LG) Participation |                  |
|   |                             | Includes percentage for TDC apportionment on MPO-selected projects where applicable |             | Includes authorized EDC amount |          | Includes authorized EDC reduction   |                  |
|   |                             | %   | Cost        | %                              | Cost     | %                                   | Cost             |
| Preliminary Engineering <sup>1</sup>  | \$3,270                     | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$3,270          |
| Environmental Cost <sup>1</sup>   | \$1,635                     | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$1,635          |
| Right of Way <sup>1</sup>   | \$1,635                     | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$1,635          |
| Utilities <sup>1</sup>  | \$1,635                     | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$1,635          |
| Construction <sup>2</sup>   | \$8,494                     | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$8,494          |
| Direct State Costs Subtotal   | \$16,669                    | 0%  | \$0         | 0%                             | \$0      | 100%                                | \$16,669         |
| Indirect State Cost   | \$87,059                    |   | \$0         | 100%                           | \$87,058 |                                     | \$0              |
| TOTAL PARTICIPATION   | \$1,709,166                 |   | \$1,213,369 |                                | \$87,058 |                                     | \$405,468        |
| In-kind Contribution Credit Applied   |                             |   |             |                                |          | 0%                                  | \$0              |
| <b>TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION</b>                             |                             |   |             |                                |          |                                     | <b>\$405,468</b> |

- The estimated total participation by Local Government is \$405,468, plus 100% of overruns.
- Total estimated payment by Local Government to State is \$16,669.
- Local Government's payment of \$16,669 is due to State within 30 days from execution of this contract.
- The local match must be 20% or greater
- This is an estimate, the final amount of Local Government participation will be based on actual costs.
- Maximum federal TASA funds available for Project are \$1,213,369.





EXHIBIT C - SEELE ELEMENTARY PROJECT AREA  
NEW BRAUNFELS, TX



- Legend
- STD. CROSSWALK
  - RRFB
  - SIDEWALK REPLACEMENT
  - SIDEWALK TO REMAIN
  - NEW SIDEWALK



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Microsoft Corporation

Images courtesy of USGS, Image courtesy of Imagery.com, Earthstar, Geo



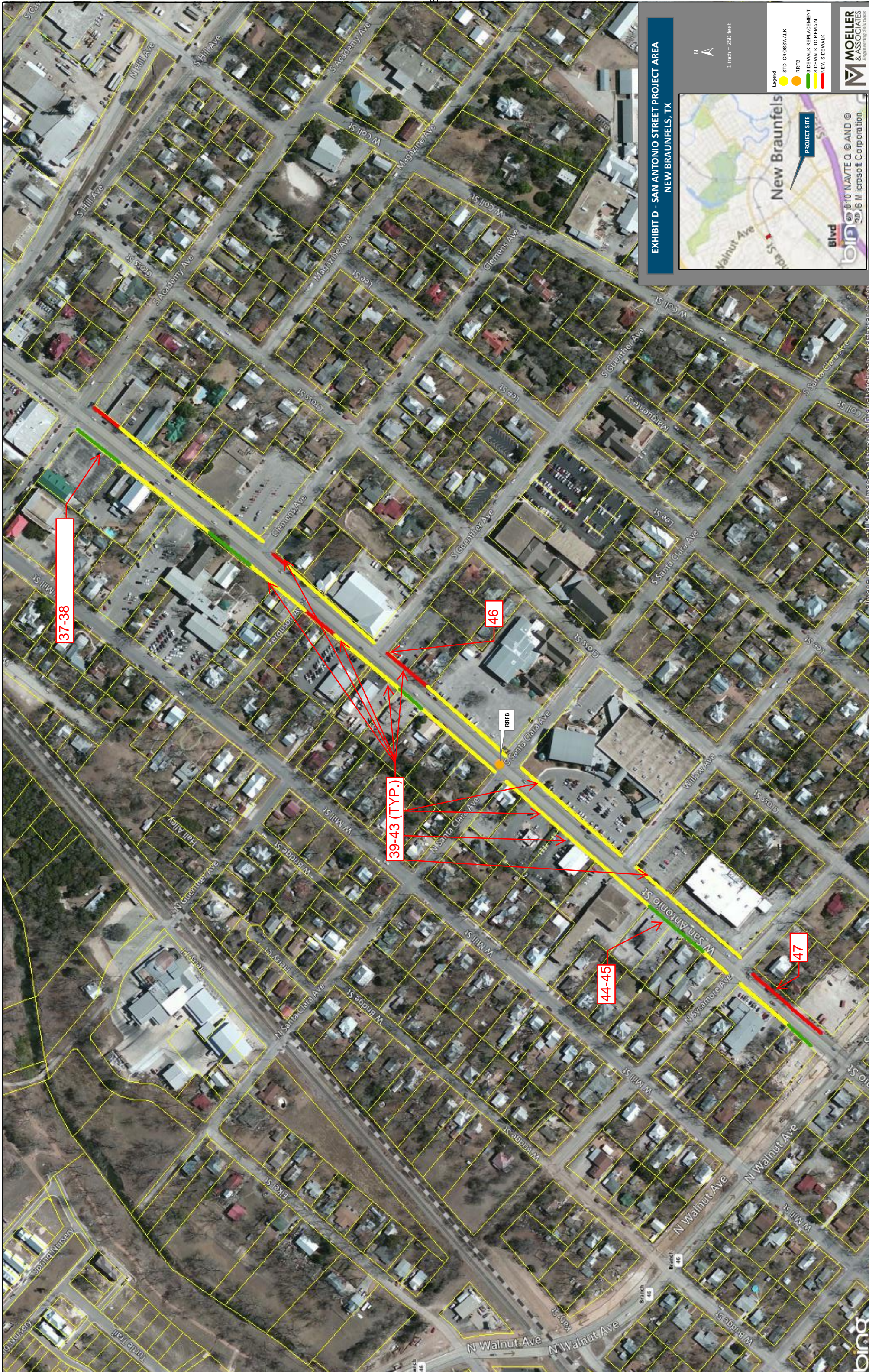
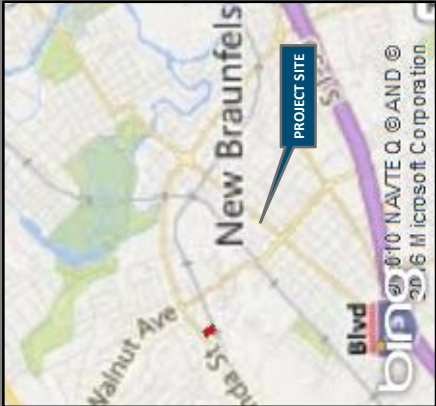


EXHIBIT D - SAN ANTONIO STREET PROJECT AREA  
NEW BRAUNFELS, TX



Legend

- STD. CROSSWALK
- RRFB
- SIDEWALK REPLACEMENT
- SIDEWALK TO REMAIN
- NEW SIDEWALK

MOELLER & ASSOCIATES  
Engineering Solutions

1 inch = 250 feet

Image courtesy of USGS (imagery) and Bing (satellite imagery)







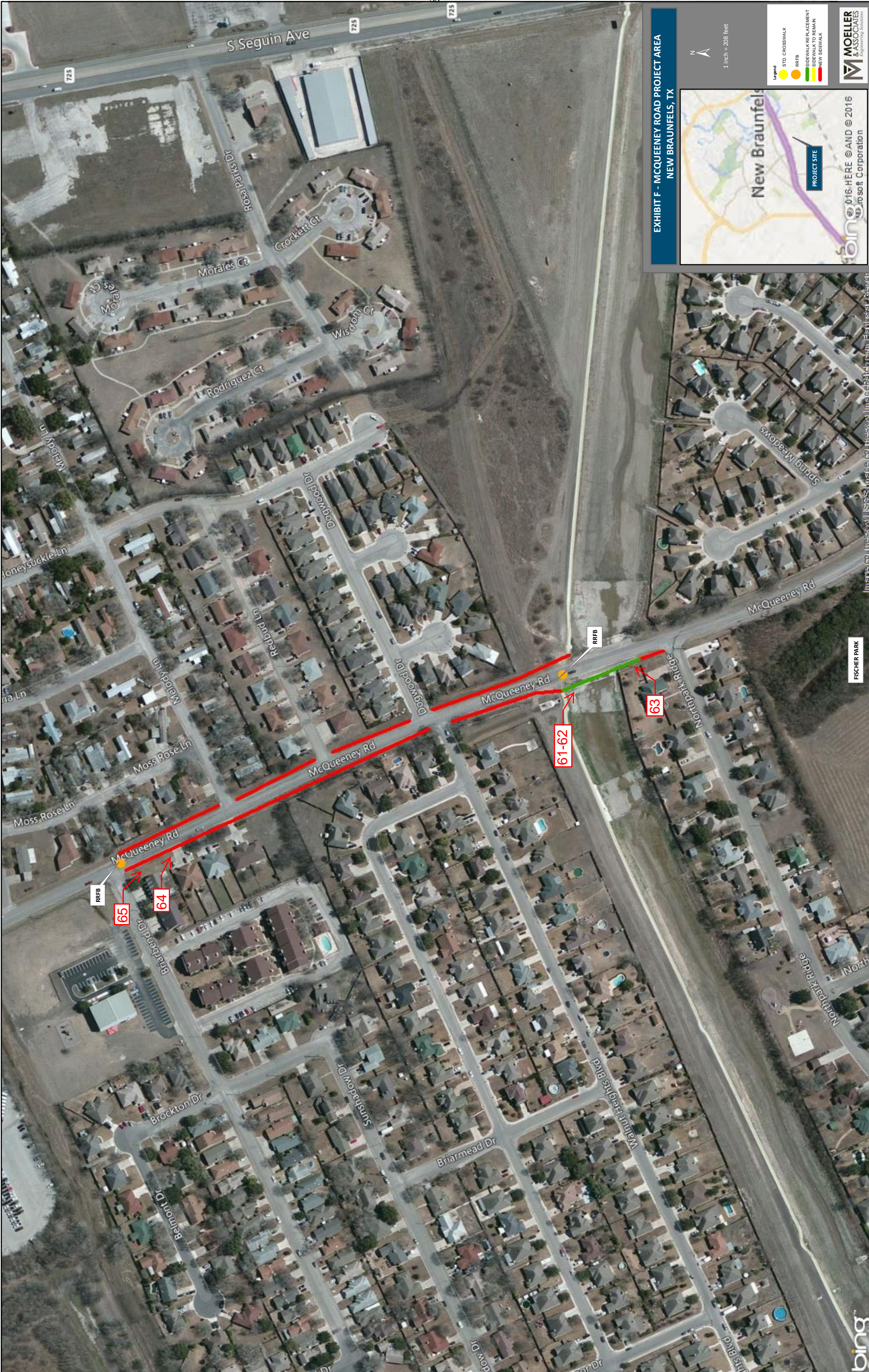


EXHIBIT F - MCQUEENEY ROAD PROJECT AREA  
NEW BRAUNFELS, TX

Legend

- STD CROSSWALK
- RFB
- SIDEWALK REPLACEMENT
- SIDEWALK TO REMAIN
- NEW SIDEWALK

1 inch = 200 feet

N

New Braunfels

PROJECT SITE

© 2016 HERE © AND © 2016  
Mapbox

Moeller & Associates  
Engineering Solutions

Image courtesy of USGS image courtesy of Bing Maps from Earthstar Geographics

FISCHER PARK

bing









## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. D)

### Presenter/Contact

Andrew Cardiel, Emergency Management Coordinator  
(830) 221-4270 - [acardiel@nbtexas.org](mailto:acardiel@nbtexas.org)

### **SUBJECT:**

Approval of a resolution approving the adoption of the Comal County Hazard Mitigation Action Plan 2017.

### **BACKGROUND / RATIONALE:**

Emergency management officials from Comal County, City of New Braunfels, City of Bulverde, and City of Garden Ridge collaboratively developed a Plan to identify activities, through a detailed risk assessment, which mitigate “high” and “moderate” risk. As defined in the Plan, “the goal is “to minimize or eliminate long-term risks to human life and property from known hazards by identifying and implementing cost-effective hazard mitigation actions.”

Texas Government Code Chapter 418.102 requires that “each county shall maintain an emergency management program or participate in a local or interjurisdictional emergency management program that has jurisdiction over and serves the entire county or interjurisdictional area.” Additionally, Texas Administrative Code, Title 37, Chapter 7, rule §7.1 requires “each incorporated city in Texas shall maintain an emergency management agency or participant in a local or interjurisdictional emergency management agency.”

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

|          |     |                                   |  |
|----------|-----|-----------------------------------|--|
| <b>X</b> | Yes | <b>City Plan/Council Priority</b> | <b>Infrastructure:</b> Use a variety of funding sources for operational and capital needs. <b>Public Safety:</b> Maintain and review benchmarks for public safety services delivery. |
|----------|-----|-----------------------------------|--|

### **FISCAL IMPACT:**

Approval of the Plan does not generate a Fiscal Impact. However, future action will be necessary to fund activities to execute the Plan. Alternative funding sources such as grants will be sought at the local, state and federal level to achieve portions of the Plan where a matching portion may be required of the City of New Braunfels. These matching funds will be considered in the fiscal budgeting process.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the resolution.

**RESOLUTION 2018-R\_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF NEW BRAUNFELS, TEXAS, APPROVING THE COMAL COUNTY HAZARD MITIGATION PLAN AND PROCLAIMING THE INTENT OF THE CITY OF NEW BRAUNFELS TO PURSUE FUNDING OPPORTUNITIES TO IMPLEMENT THE PLAN, REVIEW AND UPDATE THE PLAN ANNUALLY AND COMPLY WITH FEMA AND TDEM REPORTING REQUIREMENTS.

---

WHEREAS, natural hazards in the City of New Braunfels area historically have caused significant disasters with losses of life and property and natural resources damage; and

WHEREAS, the Federal Disaster Mitigation Act of 2000 and Federal Emergency Management Agency (FEMA) require communities to adopt a hazard mitigation action plan to be eligible for the full range of pre-disaster and post-disaster federal funding for mitigation purposes; and

WHEREAS, FEMA requires that communities update hazard mitigation action plans every five years in order to be eligible for the full range of pre-disaster and post-disaster federal funding for mitigation purposes; and

WHEREAS, the City of New Braunfels has assessed the community's potential risks and hazards and is committed to planning for a sustainable community and reducing the long-term consequences of natural and man-caused hazards; and

WHEREAS, the Comal County Hazard Mitigation Plan outlines a mitigation vision, goals and objectives; assesses risk from a range of hazards; and identifies risk reduction strategies and actions for hazards that threaten the community.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Comal County Hazard Mitigation Plan is approved in its entirety;
2. The City of New Braunfels will pursue available funding opportunities for implementation of the proposals designated therein, and will, upon receipt of such funding or other necessary resources, seek to implement the actions contained in the mitigation strategies;
3. The City of New Braunfels vests with the Mayor the responsibility, authority, and means to inform all parties of this action; assure that the Hazard Mitigation Plan will be reviewed at least annually; and that any needed adjustments will be presented to the City Council for consideration; and

4. The City of New Braunfels agrees to take such other action as may be reasonably necessary to carry out the objectives of the Plan and report on progress as required by FEMA and the Texas Division of Emergency Management (TDEM).

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_, 2018.

City of New Braunfels, Texas

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BARRON CASTEEL, Mayor

Attest:

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PATRICK D. ATEN, City Secretary





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. E)

### Presenter/Contact

*Matthew Eckmann, Real Estate Manager*  
(830) 221-4089 - [meckmann@nbtexas.org](mailto:meckmann@nbtexas.org)

### **SUBJECT:**

Approval of a 0.736 of an acre utility easement between The City of New Braunfels and Green Valley Special Utility District out of 125.99 acres out of the Sarah DeWitt Survey, Abstract No. 103, Guadalupe County, Texas.

### **BACKGROUND / RATIONALE:**

As part of the Klein Road Reconstruction Project, Green Valley Special Utility District (GVSUD) will be relocating and improving their current infrastructure along Klein Road by installing a 16-inch water line. In addition to the work along Klein Road, GVSUD plans to continue this new 16-inch waterline south along FM 1044 to loop into another existing line. In order to accomplish this, GVSUD has requested a utility easement along the frontage of FM 1044 through City owned property that was recently acquired from the Zipp Family for a future regional sports complex.

As compensation for this easement, GVSUD has agreed to waive \$10,000 of Impact and Water Acquisition Fees on this property which will be fees that would be assessed to the City when developing this property for its future use. This offset must be used within 10 years of the execution of the easement agreement.

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

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

### **FISCAL IMPACT:**

\$10,000 was determined to be fair market value for this easement based on the sales price the City recently paid for this property. The offset of the Impact and Water Acquisition Fees will provide a savings to the City when the property is being developed.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of this Utility Easement.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. F)

### Presenter/Contact

*Tom Wibert, Police Chief*  
(830) 221-4102 - [twibert@nbtexas.org](mailto:twibert@nbtexas.org)

### **SUBJECT:**

Approval of a resolution and the ratification of the submission of a grant application to the Department of Transportation through the Texas Traffic Program's Selective Traffic Enforcement Program (STEP) of up to \$80,242.65 to fund salaries and equipment and authorizing the City Manager to accept funds and execute all contract documents associated with the grant, if awarded.

### **BACKGROUND / RATIONALE:**

City staff has submitted a grant application for up to \$80,242.65 through the Texas Department of Transportation's Texas Traffic Program for the operation of a Selective Traffic Enforcement Program (STEP). The objectives of this program are to: 1) increase effective enforcement and adjudication of traffic safety-related laws to reduce crashes, fatalities and injuries; 2) reduce the number of alcohol impaired and driving under the influence of alcohol and other drug-related crashes, injuries and fatalities; 3) increase occupant restraint use in all passenger vehicles and trucks; 4) reduce the number of speed-related crashes, injuries and fatalities; and 5) reduce intersection-related motor vehicle crashes, injuries and fatalities.

All grant awarded funds must be used to fund salaries and equipment necessary to operate the program for one year. \$66,988.17 is reimbursable from the STEP program and the City is responsible for 20.24% which equals \$13,254.48. The City will receive notification in August 2018 of any grant award.

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

|          |     |                                   |   |
|----------|-----|-----------------------------------|---|
| <b>X</b> | Yes | <b>City Plan/Council Priority</b> | Strategic Priorities: Public Safety: Continue to ensure the protection of citizens' live and property and Infrastructure: Use a variety of funding sources for operational and capital needs. |
|----------|-----|-----------------------------------|---|

### **FISCAL IMPACT:**

If awarded, the \$13,254.48 match requirement will be met with existing positions, salary and benefit costs, contractual services and equipment included in the FY 2019 operating budget. And, additional revenue will be generated through the increased issuance of citations.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

---

Staff recommends approval of a resolution and the ratification of the submission of a grant application to the Texas Department of Transportation through the Texas Traffic Programs' Selective Traffic Enforcement Program (STEP) for up to \$80,242.65 and authorizing the City Manager to accept funds and to execute all contract documents associated with the grant, if awarded.



**RESOLUTION 2018-R\_\_\_\_\_**

A RESOLUTION OF THE SUBMISSION OF AN APPLICATION FOR FUNDING UNDER THE TEXAS DEPARTMENT OF TRANSPORTATION SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT IN THE AMOUNT OF \$80,242.65 AND AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTATION ASSOCIATED WITH ANY RESULTING AWARD.

---

**WHEREAS**, the City of New Braunfels has submitted an application for funding in the amount of \$80,242.65 from the Texas Department of Transportation through the Texas Traffic Safety Program's Selective Traffic Enforcement Program (STEP); and

**WHEREAS**, the City of New Braunfels herein verifies that it has an available cash reserve not less than 100% of the proposed grant amount of \$80,242.65 which the amount will be reserved until the end of the project; and

**WHEREAS**; the City of New Braunfels herein verifies that it has an available amount of \$13,254.48 which presents the 20.24% grant match requirement;

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS;

**THAT**, the City Council will accept a grant from the Texas Department of Transportation through the Texas Traffic Safety Program's Selective Traffic Enforcement Program (STEP) in the amount of \$80,242.65 and authorizes the City Manager to accept funds and execute all contract documents associated with the grant, if awarded.

**PASSED, ADOPTED, AND APPROVED** on this the 14th day of May 2018.

City of New Braunfels, Texas

---

BARRON CASTEEL, Mayor

Attest:

---

PATRICK D. ATEN, City Secretary





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. G)

### Presenter/Contact

*Jennifer Cain, Capital Programs Manager  
(830) 221-4646 - jcain@nbtexas.org*

### **SUBJECT:**

Approval of a resolution authorizing a project expenditure by the New Braunfels Economic Development Corporation of up to \$450,000 to the City of New Braunfels for a project to construct transportation facilities to include the development, including design, environmental, and administrative services, of the Alamo Area Metropolitan Planning Organization New Braunfels Pedestrian Improvement Project.

### **BACKGROUND / RATIONALE:**

The City of New Braunfels prepared and submitted an application for the City Wide Pedestrian Improvements Project to the Alamo Area Metropolitan Planning Organization (MPO) for funding through the FY2018-2019 Transportation Alternatives Set-Aside (TASA) Program. The four project locations are:

- McQueeney Road - From Briarbend to Northpark Ridge; sidewalks on both sides of the road for connectivity to the local neighborhoods, Memorial Hike/Bike trail including Fischer Park.
- Seele Elementary - Improves pedestrian facilities not only for the elementary students but for safe travel to local amenities including Landa Park, Landa Street, and various businesses along N. Walnut Ave.
- W. San Antonio Street - From Walnut Ave towards downtown ending at Academy Ave; sidewalks and improvements on both sides of the road for improved pedestrian travel to and from the downtown area and businesses along San Antonio St.
- S. Walnut Ave - From IH35 Frontage Road south to Gardenia Drive; improvements on both sides of the road to help promote alternate means of travel in a congested commercial business area.

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

|   |     |                             |  |
|---|-----|-----------------------------|--|
| X | Yes | City Plan/Council Priority: | Strategic Priorities: (Infrastructure) - Continue an ongoing program of infrastructure construction and maintenance. |
|---|-----|-----------------------------|--|

### **FISCAL IMPACT:**

Funding up to \$450,000 is available from the NBEDC for the \$450,000 in non-reimbursable costs: design, environmental, etc. The NBEDC has adequate funds for the project expenditure.

---

The TASA Program is a reimbursement program that requires the Local Government to show that funds are available for the project in its entirety but will be allowed to submit for reimbursement of federal participation construction dollars only.

The AFA breakdown is as follows:

Total Project Costs - \$1,709,166 (estimate)  
Federal TASA participation - \$1,213,369 (reimbursable)  
State Participation - \$87,058  
Local Participation - \$405,468 (20% construction & state administration; non-reimbursable)  
- \$450,000 (ancillary costs: project design, ROW,  
environmental, project overages; non-reimbursable)

**COMMITTEE RECOMMENDATION:**

The NBEDC met on April 19, 2018, and voted to approve this project expenditure.

**STAFF RECOMMENDATION:**

Staff recommends the approval of this resolution.

**RESOLUTION NO. 2018-R \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS ECONOMIC DEVELOPMENT CORPORATION TO APPROVE AN EXPENDITURE OF UP TO \$450,000 TO THE CITY OF NEW BRAUNFELS FOR A PROJECT TO CONSTRUCT TRANSPORTATION FACILITIES TO INCLUDE THE DEVELOPMENT, INCLUDING DESIGN, ENVIRONMENTAL, AND ADMINISTRATIVE SERVICES OF THE ALAMO AREA METROPOLITAN PLANNING ORGANIZATION NEW BRAUNFELS CITYWIDE PEDESTRIAN IMPROVEMENT PROJECT; AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, the City of New Braunfels Economic Development Corporation (“EDC”) Board of Directors met on April 19, 2018, to consider a request from the City of New Braunfels a project to construct transportation facilities to include the development, including design, environmental and administrative services of the Alamo Area Metropolitan Planning Organization New Braunfels Citywide Pedestrian Improvement Project.

WHEREAS, the EDC is an economic development corporation formed by the City of New Braunfels pursuant to the Local Government Code, Chapters 501-505 that is authorized by Chapter 505.152 to undertake related improvements that enhance entertainment, tourist and convention purposes and facilities; and

WHEREAS, the estimated total cost of the financial contribution is \$450,000; and

WHEREAS, the EDC Board of Directors held a public hearing on April 19, 2018, to solicit public comment with regard to the City’s funding request; and

WHEREAS, the EDC Board of Directors, after discussing the request, voted to approve a grant in an amount of up to \$450,000 to the City of New Braunfels a project to construct transportation facilities to include the development, including design, environmental and administrative services of the Alamo Area Metropolitan Planning Organization New Braunfels Citywide Pedestrian Improvement Project;

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

SECTION 1: That the recommendation of the New Braunfels Economic Development Corporation a project to construct transportation facilities to include the development, including design, environmental and administrative services of the Alamo Area Metropolitan Planning Organization New Braunfels Citywide Pedestrian Improvement Project.

SECTION 2: That a contract between the EDC and the City of New Braunfels will be executed to fulfill the terms and conditions of the grant.

SECTION 3: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this 14<sup>th</sup> day of May, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: \_\_\_\_\_  
Barron Casteel, Mayor

ATTEST:

\_\_\_\_\_  
Patrick D. Aten, City Secretary



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. H)

### Presenter/Contact

Victor Garza, *Economic Development Manager*  
(830) 221-4621 - vgarza@nbtexas.org

### **SUBJECT:**

Approval of a resolution nominating TaskUs Inc. for designation as an Enterprise Zone Project under the State of Texas Enterprise Zone Program.

### **BACKGROUND / RATIONALE:**

TaskUs Inc. is business process and customer support service provider. Under contract, they handle customer care for many startups and leading companies in the tech industry. TaskUs is in the process of rehabilitating space in the Heritage Business Center to bring at least 450 employees to the New Braunfels community.

They are expected to spend over \$10 million dollars in improvements and equipment for their facility.

TaskUs wishes to submit an application to the State of Texas for designation as an enterprise project. The City has previously nominated Cemex for this designation in 2017.

Officials from Cemex and their consulting firm spearheading this nomination will be in attendance at the City Council meeting on Monday to answer questions.

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

|   |  |  |   |
|---|--|--|---|
| X |  | <b>Economic Development Strategic Plan</b> | a "welcome-mat" strategy for assisting targets with rapid expansion and likely domestic or international recruitment. |
|---|--|--|---|

### **FISCAL IMPACT:**

N/A

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the resolution nominating TaskUs Inc. for designation as an Enterprise Zone Project under the State of Texas Enterprise Zone Program.



# TEXAS ENTERPRISE ZONE

The Texas Enterprise Zone Program (EZIP) is an economic development tool for local communities to partner with the State of Texas to promote job creation and significant private investment that will assist economically distressed areas of the state. As of July 2015, the Enterprise Zone Program has accounted for 979 projects with 405,473 jobs (new and retained) and \$74.1 billion in capital investment.

Approved projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created at the qualified business site. A program overview is included below. For more details visit [TexasWideOpenForBusiness.com/services/incentives-financing](http://TexasWideOpenForBusiness.com/services/incentives-financing).

## Benefit

| Level of Capital Investment                                 | Maximum Number of Jobs Allocated | Maximum Potential Refund | Maximum Refund Per Job Allocation |
|---|----------------------------------|--------------------------|-----------------------------------|
| <b>Half Designation</b>                                     |                                  |                          |                                   |
| 1) \$40,000 – \$399,999                                     | 10                               | \$25,000                 | \$2,500                           |
| 2) \$400,000 – \$999,999                                    | 25                               | \$62,000                 | \$2,500                           |
| 3) \$1,000,000 – \$4,999,999                                | 125                              | \$312,500                | \$2,500                           |
| 4) \$5,000,000 – more                                       | 250                              | \$625,000                | \$2,500                           |
| <b>Enterprise Project</b><br>\$5,000,000 - more             | 500                              | \$1,250,000              | \$2,500                           |
| <b>Double Jumbo Project*</b><br>\$150,000,000 – 249,999,999 | 500                              | \$2,500,000              | \$5,000                           |
| <b>Triple Jumbo Project+</b><br>\$250,000,000 or more       | 500                              | \$3,750,000              | \$7,500                           |

+Must employ 500 or more to be eligible.

\*\*Double and Triple Jumbo eligible for only new job projects.

## Eligibility

- ★ A local community must nominate a company as an Enterprise Project to be eligible for EZIP.
- ★ Communities must have local incentives to offer the project for EZIP qualification. Typical local incentives include tax abatement, tax increment financing, and one-stop permitting.
- ★ Communities may nominate projects for a designation period up to five years. Employment and capital investment commitments must be made and implemented within this timeframe.
- ★ Projects may be physically located in or outside of an Enterprise Zone.
  - ★ If located within a zone, the company commits that at least 25 percent of their new employees will meet economically disadvantaged, enterprise zone residence requirements, or veterans.
  - ★ If located outside of a zone, the company commits that at least 35 percent of their new employees will meet economically disadvantaged, enterprise zone residency requirements, or veterans.
- ★ Projects must meet or exceed county weekly wage averages to be eligible.



**RESOLUTION NO 2018-R \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, NOMINATING TASKUS, INC. TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM THROUGH THE ECONOMIC DEVELOPMENT BANK FOR DESIGNATION AS AN ENTERPRISE PROJECT ("PROJECT") UNDER THE TEXAS ENTERPRISE ZONE PROGRAM UNDER THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE ("ACT"); AND DECLARING AN EFFECTIVE DATE**

WHEREAS, on May 8, 2006, the City of New Braunfels, Texas (the "City") passed Ordinance No. 2006-35 electing to participate in the Texas Enterprise Zone Program, and the local incentives available under this resolution are the same on this date as were outlined in Ordinance No. 2006-35; and

WHEREAS, the Office of the Governor Economic Development and Tourism ("OOGEDT") through the Economic Development Bank ("Bank") will consider TaskUs, Inc. (the "Company") as an enterprise project pursuant to a nomination and an application made by the City; and

WHEREAS, the City Council of the City of New Braunfels, Texas, desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the City and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals; and

WHEREAS, pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code (the "Act"), TaskUs, Inc. has applied to the City for designation as an enterprise project; and

WHEREAS, the City finds that TaskUs, Inc. meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

1. TaskUs, Inc. is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site within the governing body's jurisdiction located outside of an enterprise zone and at least thirty-five percent (35.0%) of the business' new permanent jobs for benefit under the enterprise project designation will be residents of an enterprise zone, economically disadvantaged individuals, or veterans; and
2. There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and
3. The designation of TaskUs, Inc. as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

WHEREAS, the City finds that TaskUs, Inc. meets the criteria for tax relief and other incentives adopted by the City and nominates TaskUs, Inc. for enterprise project status on the

grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability;

WHEREAS, the City finds that it is in the best interest of the City to nominate TAskUs, Inc. as an enterprise project pursuant to the Act.

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

SECTION 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. The City finds that TaskUs, Inc. is a "qualified business", as defined in Section 2303.402 of the Act, and meets the criteria for designation as an enterprise project, as set forth in Section 2303, Subchapter F of the Act.

SECTION 3. The City nominates TaskUs, Inc. to the State of Texas for Enterprise Project status.

SECTION 4. The enterprise project shall take effect on the date of designation of the enterprise project by OOGEDT and terminate 5 years after the date of designation.

SECTION 5. That this Resolution shall become effective from and after the date of its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS on this the 14<sup>th</sup> day of May, 2018.

APPROVED:

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

ATTEST:

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



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. I)

### Presenter/Contact

*Jared Werner, Director of Human Resources  
(830) 221-4295 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)*

### **SUBJECT:**

Approval of the first reading of an ordinance amending Ordinance 2017-68, which authorizes the number of positions in each classification in the New Braunfels Police Department pursuant to Local Government Code, Chapter 143.

### **BACKGROUND / RATIONALE:**

In FY 2016-17, Finance Dept., Human Resources Dept., and City Manager's Office staff completed a comprehensive salary study. The data was reviewed collaboratively with a Police Department staffed compensation committee and resulted in a revised step plan that not only supports the new market data but address several recruitment and career progression limitations that existed within our previous step plans. One of the changes that Police Department leadership and the members of the compensation committees felt strongly about was to reclassify the rank of Corporal to Detective. Currently, corporals are either assigned to the Criminal Investigations Division (CID) or serve as a supervisor in the Patrol Division. Most of the corporals in the department are assigned to CID (16 out of 22) as a detective. The supervision and leadership that the current six corporals provide to the Patrol Division is still a need moving forward. However, if the rank of corporal is replaced with detective, then the detective title/role will not apply in the Patrol Division. Therefore, the compensation committee (along with HR, Finance and CMO) recommend replacing the six corporals assigned to the Patrol Division with six sergeants as well as replacing the rank/title of corporal with detective.

Until recently (April 2018), there was an active promotional list for the rank of corporal. Staff was not able to implement the previously discussed changes until that list expired as the officers on that list would have had legal right to that promotional opportunity. Now that the list is expired, there are several actions required by both the City Council and Civil Service Commission to implement the change in rank/title as well the number of classified positions within each rank. Please reference the timeline below for a more in-depth explanation.

### **Timeline**

- **May 14<sup>th</sup> & 29<sup>th</sup>** - City Council amends position classification ordinance to add six Sergeants (ordinance attached)
- **Week of May 29<sup>th</sup>** - Civil Service Commission approves posting for Sergeant promotional exam
- **Early June** - Promotional exam held for Sergeant
- **Mid to Late June** - Six Sergeants promoted
- **July 9<sup>th</sup> & 23<sup>rd</sup>** - City Council amends position classification ordinance to reduce six Corporals

- 
- **July 9<sup>th</sup> & 23<sup>rd</sup>** - City Council amends position classification ordinance to change the rank of Corporal to Detective

The total number of sworn positions in the Police Department will not be affected by these changes. However, as the timeline indicates, the total number of positions in the police department will need to be temporarily increased - *from May 29<sup>th</sup> to July 23<sup>rd</sup>*.

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

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

**FISCAL IMPACT:**

The transition of six Corporals to Sergeants in the patrol division will have a direct fiscal impact. In FY 2017-18, the impact is projected to be approximately \$10,000 and can be absorbed by the Police Department's attrition savings that have been generated throughout the fiscal year. In FY 2018-19, the full year costs will be absorbed by the elimination of assignment pay for those assigned to CID. Removal of assignment pay was an additional strategy that emanated from the update to the Police Department step plan. Therefore, sufficient funds are available.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the amendment to the ordinance.

## **ORDINANCE 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE CLASSIFICATION OF EMPLOYEES WITHIN THE NEW BRAUNFELS POLICE AND FIRE DEPARTMENTS AND AUTHORIZING THE NUMBER OF EMPLOYEES IN EACH CLASSIFICATION; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES AND PROVISIONS IN CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Braunfels has adopted Civil Service, Chapter 143 of the Texas Local Government Code for its Police and Fire Department employees; and

**WHEREAS**, pursuant to Chapter 143, the City Council shall establish the classifications of employees and prescribe the number of positions in each classification pursuant to Section 143.021(a) of the Texas Local Government Code; and

**WHEREAS**, the City Council has approved the number of employees listed below in the appropriate classifications in the Police and Fire Department as a part of the annual budget process;

**WHEREAS**, this ordinance adds two additional Police Corporal positions in the Police Department, and one Fire Lieutenant position in the Fire Department, effective on the dates specified below.

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

I.

The Civil Service classifications and number of positions in each classification in the Fire Department shall be approved and effective as indicated below:

| <b><u>Classification</u></b> | <b><u>Effective Oct 1, 2017</u></b> | <b><u>Effective Jan 1, 2018</u></b> |
|------------------------------|-------------------------------------|-------------------------------------|
| 1. Assistant Fire Chief      | <b>1</b>                            |                                     |
| 2. Battalion Chief           | <b>5</b>                            |                                     |
| 3. Captain                   | <b>5</b>                            |                                     |
| 4. Lieutenant                | <b>21</b>                           | <b>1</b>                            |
| 5. Engineer                  | <b>41</b>                           |                                     |
| 6. Firefighter               | <b>57</b>                           |                                     |

Total positions as of 10/1/17 is 130.

Total positions as of 1/1/18 is 131.

The classification of Assistant Fire Chief is the rank/classification immediately below the Department Head. As such, that position is both established by the City Council and will remain a position to which the Department Head may appoint the occupant, in accordance with §143.014 of the Texas Local Government Code.

II.

The Civil Service classifications and number of positions in each classification in the Police Department shall be approved as follows:

| <b><u>Classification</u></b> | <b><u>Effective Oct 1,</u></b><br><b><u>2017</u></b> | <b><u>Effective Jan 1,</u></b><br><b><u>2018</u></b> | <b><u>Effective June 1,</u></b><br><b><u>2018</u></b> |
|------------------------------|--|--|---|
| 1. Assistant Police Chief    | 1  |  |   |
| 2. Captain                   | 3  |  |   |
| 3. Lieutenant                | 5  |  |   |
| 4. Sergeant                  | 11   |  | 6   |
| 5. Corporal                  | 20   | 2  |   |
| 6. Police Officer            | 80   |  |   |

Total positions as of 10/1/17 is 120

Total positions as of 1/1/18 is 122

Total positions as of 6/1/18 is 128

The classification of Assistant Police Chief is the rank/classification immediately below the Department Head. As such, that position is both established by the City Council and will remain a position to which the Department Head may appoint the occupant, in accordance with §143.014 of the Texas Local Government Code.

III.

**Severability:** If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or unenforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor or Mayor Pro Tem in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity of any other portion, provision, or regulation.

IV.

**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.

V.

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

## VI.

This amended Ordinance shall take effect on June 1<sup>st</sup>, 2018, unless otherwise noted.

PASSED AND APPROVED: First reading this \_\_\_\_ day of May, 2018.

PASSED AND APPROVED: Second reading this \_\_\_\_ day of May, 2018.

CITY OF NEW BRAUNFELS, TEXAS

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Barron Casteel, Mayor

ATTEST:

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Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

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Valeria M. Acevedo, City Attorney







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. J)

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Presenter

*Stacy Snell, Assistant Planning and Community Development Director  
ssnell@nbtexas.org*

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed amendment to Ordinance No. 2011-97, adding "Boutique Hotel" as a permitted use in the "Gruene Lake Village" Special District.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-003

**Council District:** 4

**Owner/Applicant:** Josh Cunningham (High Cotton Inn, LLC)  
2324 Gruene Lake Dr.  
New Braunfels, TX 78130  
(786) 385-4557

**Staff Contact:** Matt Greene, Planner  
(830) 221-4053  
mgreene@nbtexas.org

**City Council held a public hearing for the first reading of this requested ordinance on April 23, 2018, and unanimously approved the request (6-0-0).**

The subject property is located at the intersection of Gruene Lake Drive and Gruene Road and is known as Gruene Lake Village. The property was originally part of the Cotton Crossing Planned Development District and was master planned for single-family residential development. In 2005, a change of property ownership occurred, and the subject property was removed from the Cotton Crossing PD and rezoned to "C-1Br50" General Business District. Certain permitted uses in the C-1B district were prohibited pursuant to developer request via the "r50" restriction (a practice no longer allowed).

The property was developed with a private street, two commercial lots consisting of ten free-standing buildings with approximately 28 lease spaces, mostly occupied by retail and restaurant tenants and a bed and breakfast (High Cotton Inn). According to the developer, the project was designed to implement a village main street, new urbanist appearance, which includes a curbed, winding private street, no front building setbacks and antique street lights.

In 2011 the developer re-evaluated the mix of uses allowed in Gruene Lake Village. To accommodate a special group of uses, such as studios (dancing, music, drama, exercise, etc.) in this unique development, the developer requested the creation of a Special District. Per the Zoning Ordinance, special zoning districts implement policies or objectives in the comprehensive plan and can address specific issues for a geographic area, which may benefit from additional land management practices. The permitted use list for the Gruene Village Special District was approved by City Council on November 14, 2011.

One of the current tenants of the Gruene Lake Village development is the High Cotton Inn, a bed and breakfast. Per the City's zoning ordinance, a bed and breakfast must be owner or manager occupied. The applicant is the new owner of the High Cotton Inn which has 4 rooms and two office tenant lease spaces. He would like to operate the inn as a hotel and not require the owner or manager to reside at the inn. Therefore, the applicant is requesting "boutique hotel" be added to the list of permitted uses in the Gruene Lake Village Special District.

**General Information:**

Size: = 4.97 acres

*Surrounding Zoning and Land Use:*

North - Across Waterway Ln., ZH-A / Single-family residences

South - Cotton Crossing PD / Single-family residences and drainage channel

East - Across Gruene Lake Dr., R-3/ Single-family residence

West - Across Gruene Rd., "Kamp Kendrick" PD / Single-family residences

*Comprehensive Plan / Future Land Use Designation:*

Commercial

*Floodplain:*

No portion of the property is located within the 100-year floodplain.

*Regional Transportation Plan:*

Gruene Road is identified as a 60-foot wide Major Collector on the 2012 Regional Transportation Plan. The current right-of-way width of Gruene Road meets or exceeds 60 feet and no additional right-of-way dedication will be required with platting.

Waterway Lane is identified as a 60-foot wide Major Collector on the 2012 Regional Transportation Plan. The current right-of-way width of Waterway Lane is 60 feet and no additional right-of-way dedication will be required with platting.

*Improvement(s):*

A new urbanist mixture of commercial buildings, uses and parking.

*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 subject property is located within an area of mixed uses and close proximity to tourist attractions where a hotel would be an appropriate use.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water

supply, sanitary sewers, and other utilities to the area *(There do not appear to be any conflicts with these elements.)*;

- How other areas designated for similar development will be affected *(There should be minimal impacts on other properties within the general vicinity. Overnight stay is already allowed with the permitted bed and breakfast use. Staff's recommendation includes impact mitigating conditions.)*;
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. *(The addition of hotel use to the district should not negatively affect the public health, safety, morals, or general welfare. The Gruene Lake Village Special District is an established mixed-use district.)*; and
- Whether the request is consistent with the Comprehensive Plan. *(The addition of hotel use is consistent with the Future Land Use designation of the subject site as Commercial.)*

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

|   |     |  |  |
|---|-----|--|--|
| ✓ | Yes | <b>City Plan/Council Priority:</b><br>2006 Comprehensive Plan<br>Pros and Cons Based on<br>Policies Plan | <b>Pros: Goal 1A:</b> 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. The proposed zoning district amendment will be compatible with the existing land uses within and around the Gruene Lake Village Special District. <b>Goal 2A:</b> Allow differing uses in close proximity to help streets, public spaces and pedestrian-oriented retail become places where people meet, attracting pedestrians back onto the street and helping to revitalize community life. Gruene Lake Village has been developed in the manner described in Goal 2A and the additional "boutique hotel" use complements the goal as well. |
|---|-----|--|--|

#### **FISCAL IMPACT:**

The subject use will be required to remit hotel occupancy taxes (HOT).

#### **COMMITTEE RECOMMENDATION:**

The Planning Commission recommended approval of the request with Staff's recommended conditions (8-0-0).

#### **STAFF RECOMMENDATION:**

Staff recommends approval, with a condition that the additional use be referred to as a "boutique hotel" defined as a small hotel with a maximum of 6 rooms. Six rooms is the maximum capacity of the existing inn building should the office tenant spaces be renovated into rooms in the future. It would also prevent a large capacity hotel from being constructed within the development.

This amendment to the existing Special District will complement the existing mixed uses within Gruene Lake Village and surrounding area. It would also meet Objectives of the Comprehensive Plan.

The applicant has indicated he is content with Staff's recommendation.

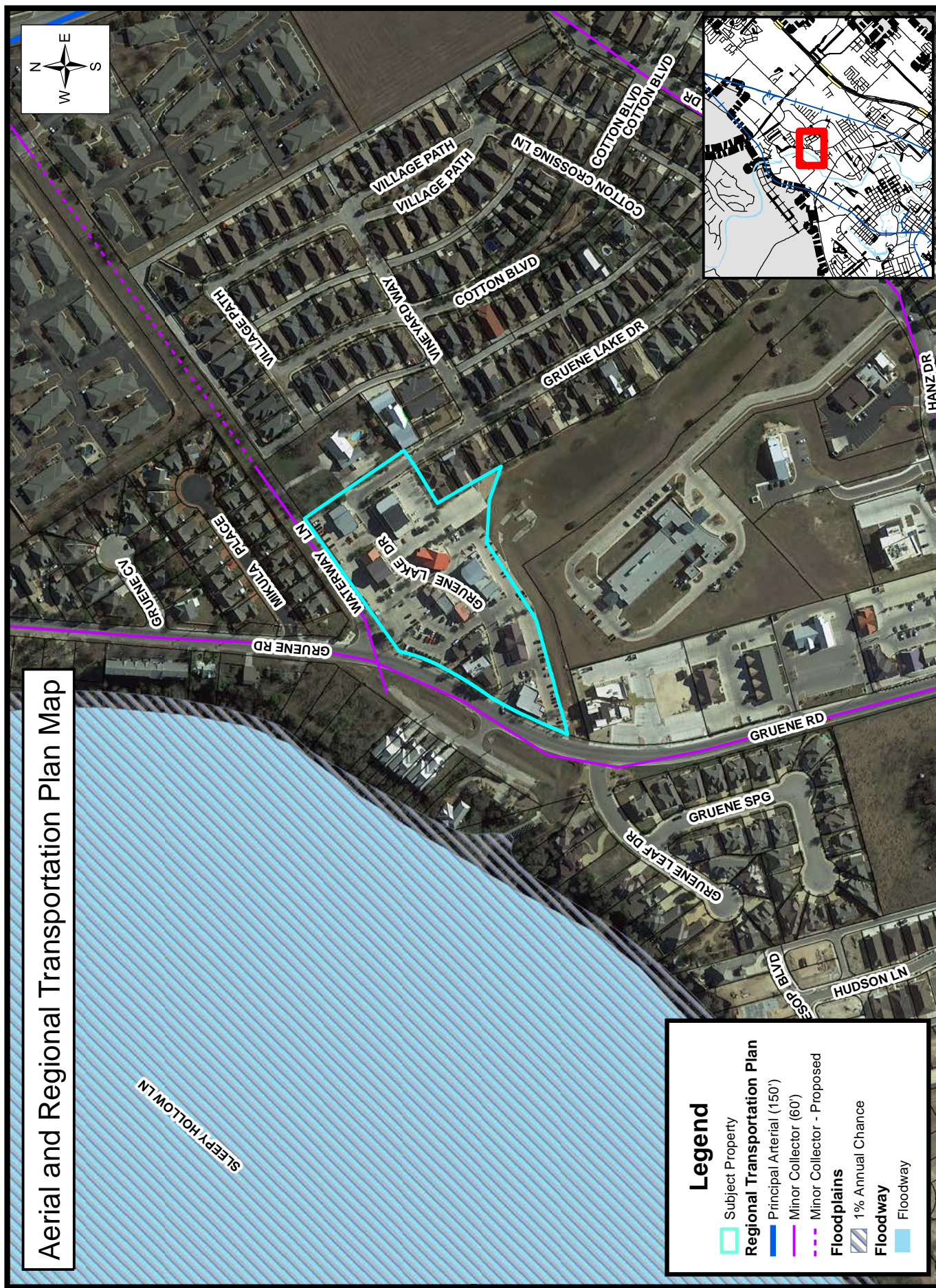
*Notification:*

Public hearing notices were sent to 42 owners of property within 200 feet of the subject site. The Planning Division has received 7 responses in favor from numbers 5, 16, 18, 26, 36, 37 and 41 and one opposed from number 13.

**ATTACHMENTS:**

1. Aerial, Regional Transportation Plan Map
2. Application
3. Zoning and Land Use Maps
4. Notification List, Map and Responses
5. Site Plan
6. Photographs
7. Sec. 3.8-5 "Gruene Lake Village" Special District
8. Ordinance No. 2011-97
9. Ordinance









## APPLICATION FOR A ZONING CHANGE

Planning and Community Development  
550 Landa Street, New Braunfels, TX 78130  
(830) 221-4050  
www.nbtexas.org

Case Number: **P2-18-003**

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: Josh Cunningham of High Cotton Inn LLCMailing Address: 118 Chaco DrTelephone: 786-385-4557 Fax: \_\_\_\_\_ Mobile: sameEmail: highcottoninn@gmail.com

2. Property Address/Location: 2324 Gruene Lake Dr. Ste B, D, E

3. Legal Description: "Bed and Breakfast" to be changed to "Inn/hotel"

Name of Subdivision: Gruene Lake VillageLot(s): 1-10 (Cotton Crossing) 15.00 + Cotton Crossing Unit 10 Block(s): \_\_\_\_\_ Acreage: 1.853

4. Existing Use of Property: Bed and Breakfast

5. Proposed Use of Property (attach additional or supporting information if necessary): Inn/hotel

6. Zoning Change Request: Current Zoning: Bed and Breakfast Proposed Zoning: Inn/hotel

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): This is not

a bed and breakfast as there is no breakfast served and a manager/owner does not need to live on site.

8. COUNTY: ☒ COMAL ☐ GUADALUPE - SCHOOL DIST: ☐ CISD ☐ NBISD ☐ OTHER \_\_\_\_\_

## 9. REQUIRED ATTACHMENTS:

- ☒ Metes and bounds description and survey if property is not platted.
- ☐ 3 TIA worksheets and 2 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 17 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 17 copies of the standards and Concept plan (1":200') for distribution; 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.
- ☐ Mailed notification \_\_\_\_\_ x 2.15 each = \_\_\_\_\_
- ☐ Newspaper Notice 115.00 each
- ☒ Future Land Use Plan Update \$500.00

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

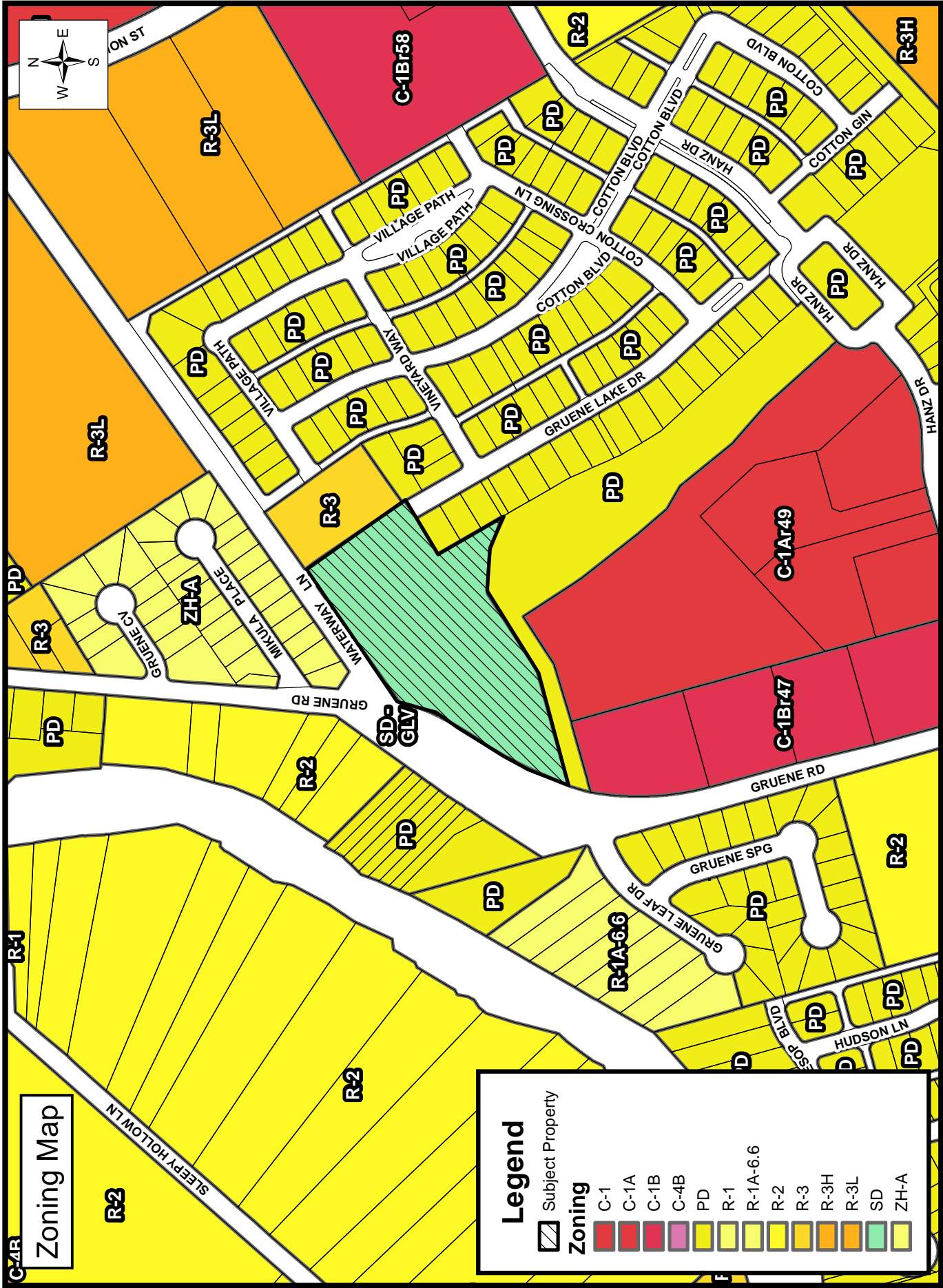
Signature of Owner(s)/Agent

Date

2/2/18  
Josh Cunningham Owner High Cotton Inn LLC Agent of Property Owner  
Print Name & Title

## For Office Use Only

Fee Received By: KC Amount: 680.00 Receipt No.: 237958Date Received: 2-2-18 Zoning signs issued: \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_Cash/Check Number: CC Case Number: P2-18-003



Map Created: 3/27/2018

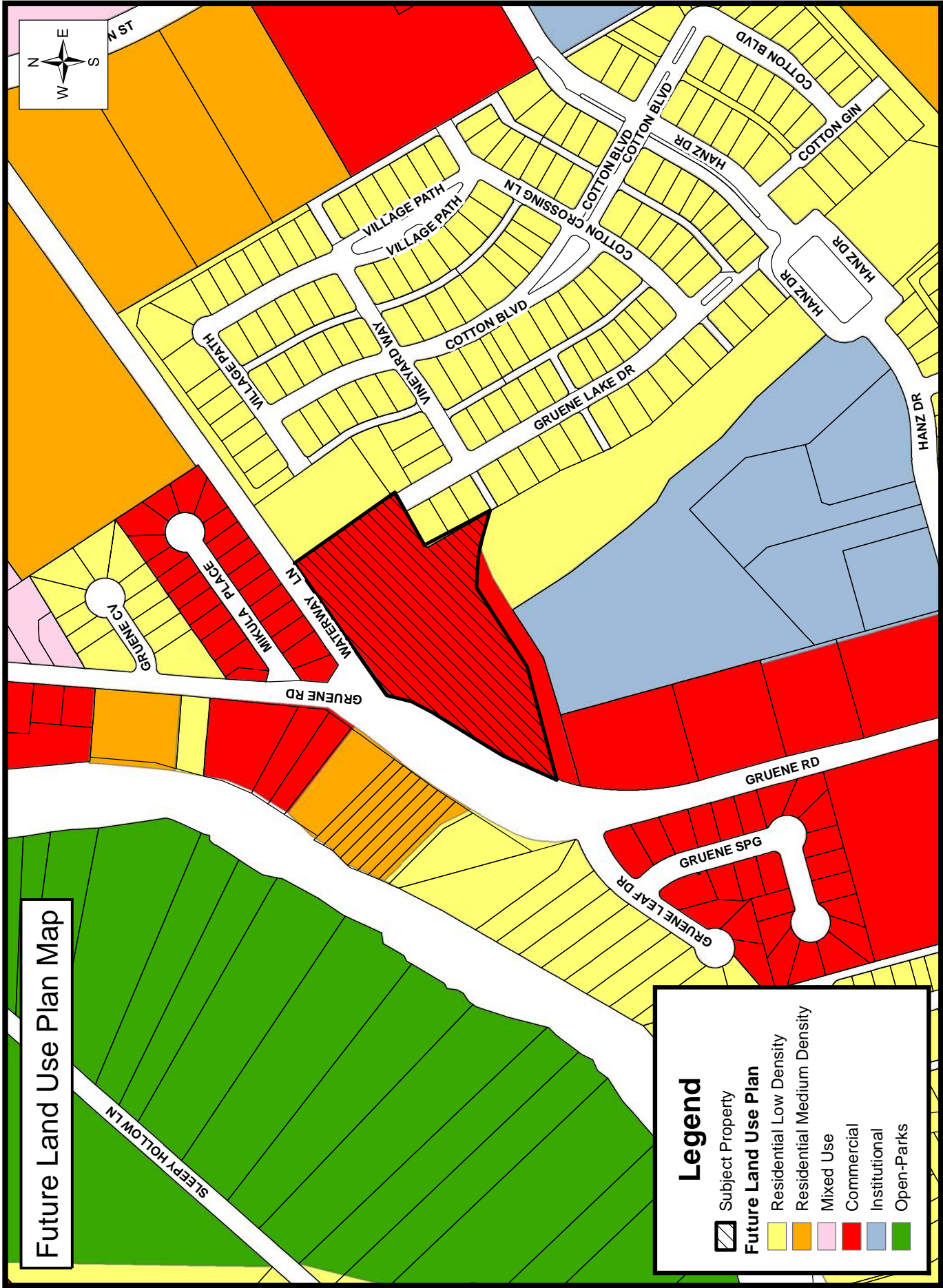
**PZ-18-003**  
**2324 Gruene Lake Drive**  
**Amendment to the Gruene Lake Village Special District**











**PLANNING COMMISSION MEETING – APRIL 3, 2018**  
**City Hall Council Chambers, 550 Landa Street**

**Address/Location:** 2324 Gruene Lake Drive

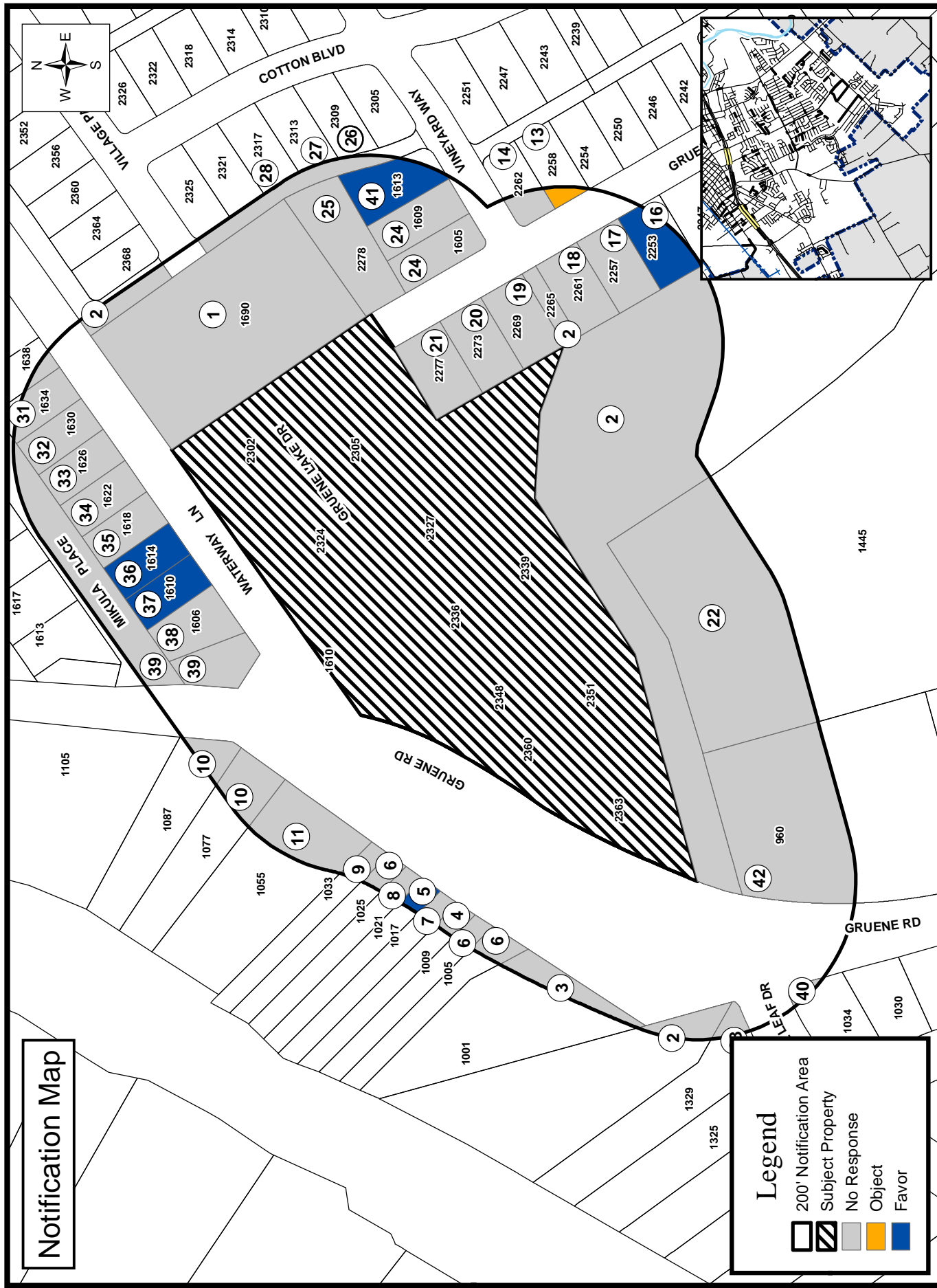
**Applicant:** Josh Cunningham (High Cotton Inn, LLC)

**Case #:** PZ-18-003

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 "Subject."

- |  |   |
|--|---|
| 1. Burnett Sam J & Helen J             | 22. Hc-1445 Hanz Drive LLC                |
| 2. Cotton Crossing Owners Assn         | 23. Gruene Reverie LLC                    |
| 3. Rogers David Y & Nancy A            | 24. Cover Heath & Patricia                |
| 4. Ziemak Carl & Merri                 | 25. Buchanan Lauren & Tonya               |
| 5. Sapp Joseph M & Pamela K            | 26. Behling James H & Pamela S            |
| 6. McCarty Robert A & Mary Beth        | 27. Drain Margaret N Rvcbl Trst 8-07-2008 |
| 7. Johnson Jerard O & Karen A          | 28. Heisey John J & Jennifer L            |
| 8. Perego Lauren B & Claire B Tapscott | 29. Bigley Mollie B                       |
| 9. Barrett Elmer F & Susan G           | 30. Fenwick Dee                           |
| 10. Retzloff Scott B                   | 31. Zachary Muriel Jean                   |
| 11. Kamp Li Kendrick Development LLC   | 32. Schnelle Bryan N                      |
| 12. Baker Jessica                      | 33. McBeth Lorie                          |
| 13. Sloan Family Living Trust          | 34. Brock H Kent & Beth A                 |
| 14. Cameron Jamie Michael              | 35. Briner Jack V Jr                      |
| 15. Landers Lester J                   | 36. Briner Susan J                        |
| 16. Hill Ann-Terese M & Darren J       | 37. Spindt Judith                         |
| 17. Harrison Betty                     | 38. Helm Jill                             |
| 18. Marbach Lillian E                  | 39. Gruene Garden HOA                     |
| 19. Holtman Harold A Jr & Karen L      | 40. Merryman Ronald & Helen               |
| 20. Jares Wendy & Louis                | 41. Noyes Marcia                          |
| 21. Murrill Joseph K Iii & Patricia B  | 42. Property Owner                        |
- 

SEE NOTIFICATION MAP



Map Created: 4/3/2018

**PZ-18-003**  
**2324 Gruene Lake Drive**  
**Amendment to the Gruene Lake Village Special District**

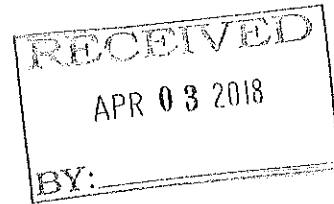
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-003 (Cunningham) (MG)

Date Sent: 2/15/18

Name: COTTON CLOSING OWNER'S 1800 IncI favor: ✓Address: 1500 HANE DRProperty number on map: 2I object: \_\_\_\_\_  
(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: *Robert D. Phil*  
THEBULEX

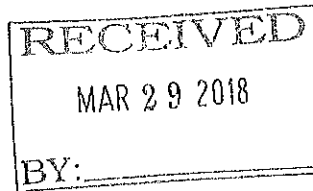
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-003 (Cunningham) (MG)

Date Sent: 2/15/18

Name: Joe & Pam SAPPI favor: ✓Address: 1021 Gruene RdProperty number on map: 5 I hope ??I object: \_\_\_\_\_  
(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: *Pam Sapp*

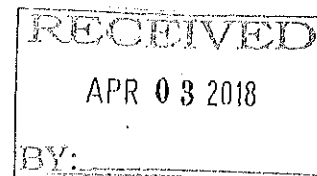
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-003 (Cunningham) (MG)

Date Sent: 2/15/18

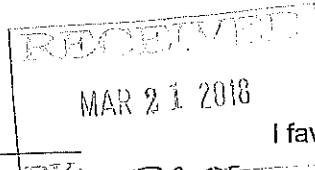
Name: DARREN HILLI favor: XAddress: 2253 GRUENE LAKE DR.Property number on map: 16I object: \_\_\_\_\_  
(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: *Darrell*

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-003 (Cunningham) (MG)  
Date Sent: 2/15/18



Name: Jim + Pam Behling  
Address: P.O. Box 200 Medina, TX 78055  
Property number on map: #26 2309 Cotton Blvd.

I favor: X

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

Comments: (Use additional sheets if necessary)

Greene Lake Village is quaint and part of why we built in this subdivision. If Hotel designation is desired by Michael Flume it will be done with taste & consideration.

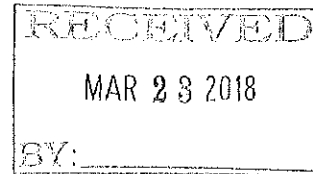
Todd Behling Mgmt.

Signature: Jim Behling (Jim + Pam Behling)

Michael + Debbie have always had our best interests in mind.

**Matt Greene**

From: Sue Briner <sbriner@swtsynod.org>  
Sent: Friday, March 23, 2018 1:55 PM  
To: Matt Greene  
Subject: I speak in favor of zoning case #PZ18-003



Greetings:

My name is Susan Briner. I live at 1614 Mikula Place, New Braunfels, which is property #36 on the map I was sent. I am in favor of this amendment for case #PZ18-003.

Thanks,  
Susan Briner

YOUR OPINION MATTERS - DETACH AND RETURN

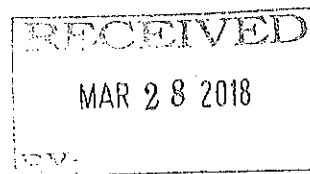
Case: #PZ18-003 (Cunningham) (MG)  
Date Sent: 2/15/18

Name: T. L. Th Spindt  
Address: 1614 Mikula Place  
Property number on map: 37

I favor: X

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

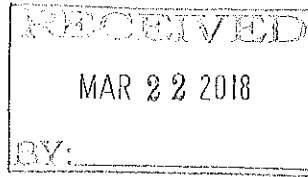
Comments: (Use additional sheets if necessary)



Signature: T. L. Th Spindt

**Matt Greene**

From: Marcia Noyes <mhn125@gmail.com>  
 Sent: Thursday, March 22, 2018 2:05 PM  
 To: Matt Greene  
 Subject: High Cotton Inn



See attached

**YOUR OPINION MATTERS - DETACH AND RETURN**

Case: #PZ18-003 (Cunningham) (MG)  
 Date Sent: 2/15/18

Name: MARCIA NOYES + DON BULLARD  
 Address: 1613 Vineyard Way  
 Property number on map: 41

I favor: ☒

I object: ☐  
 (State reason for objection)

Comments: (Use additional sheets if necessary)

*Perfectly fine with us. Love having the High Cotton Inn there as a B&B OR a hotel.*

Signature: Marcia Noyes

**YOUR OPINION MATTERS - DETACH AND RETURN**

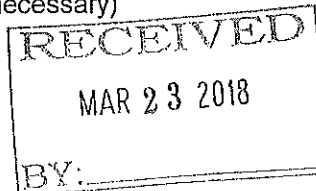
Case: #PZ18-003 (Cunningham) (MG)  
 Date Sent: 2/15/18

Name: Larry Sloan Sloan Family trust  
 Address: 2258 Green LAKE Drive  
 Property number on map: 13

I favor: ☐

I object: ☒  
 (State reason for objection)

Comments: (Use additional sheets if necessary)



Signature: [Signature]

*Do Not Believe In Changing Existing Conditions Under which I bought & improved this Lot.*

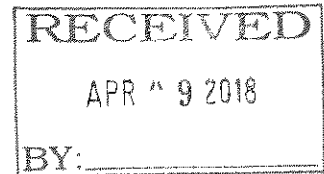
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-003 (Cunningham) (MG)

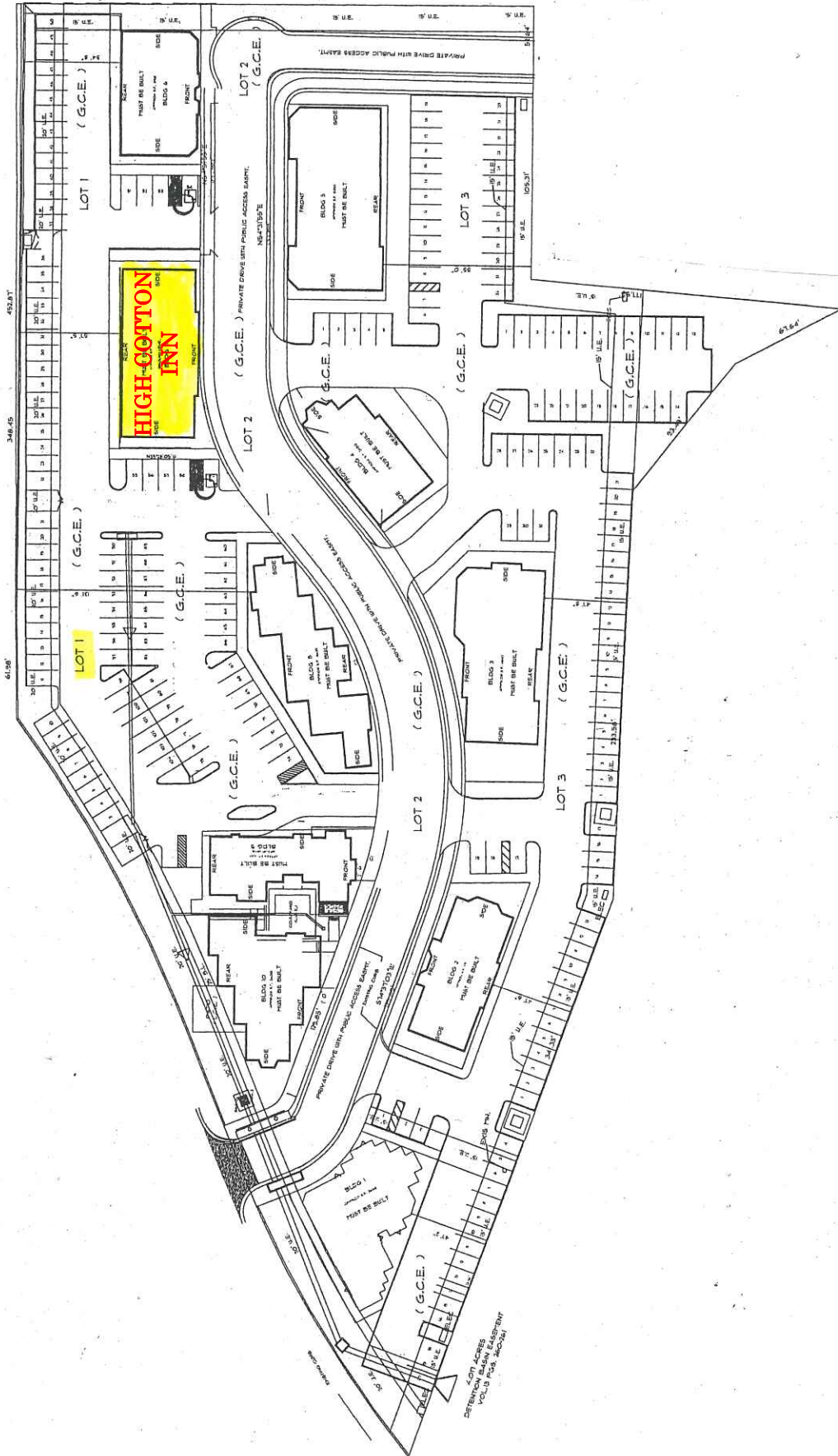
Date Sent: 2/15/18

Name: William E. MacbechAddress: 2261 Gruene Lake Dr.Property number on map: 18

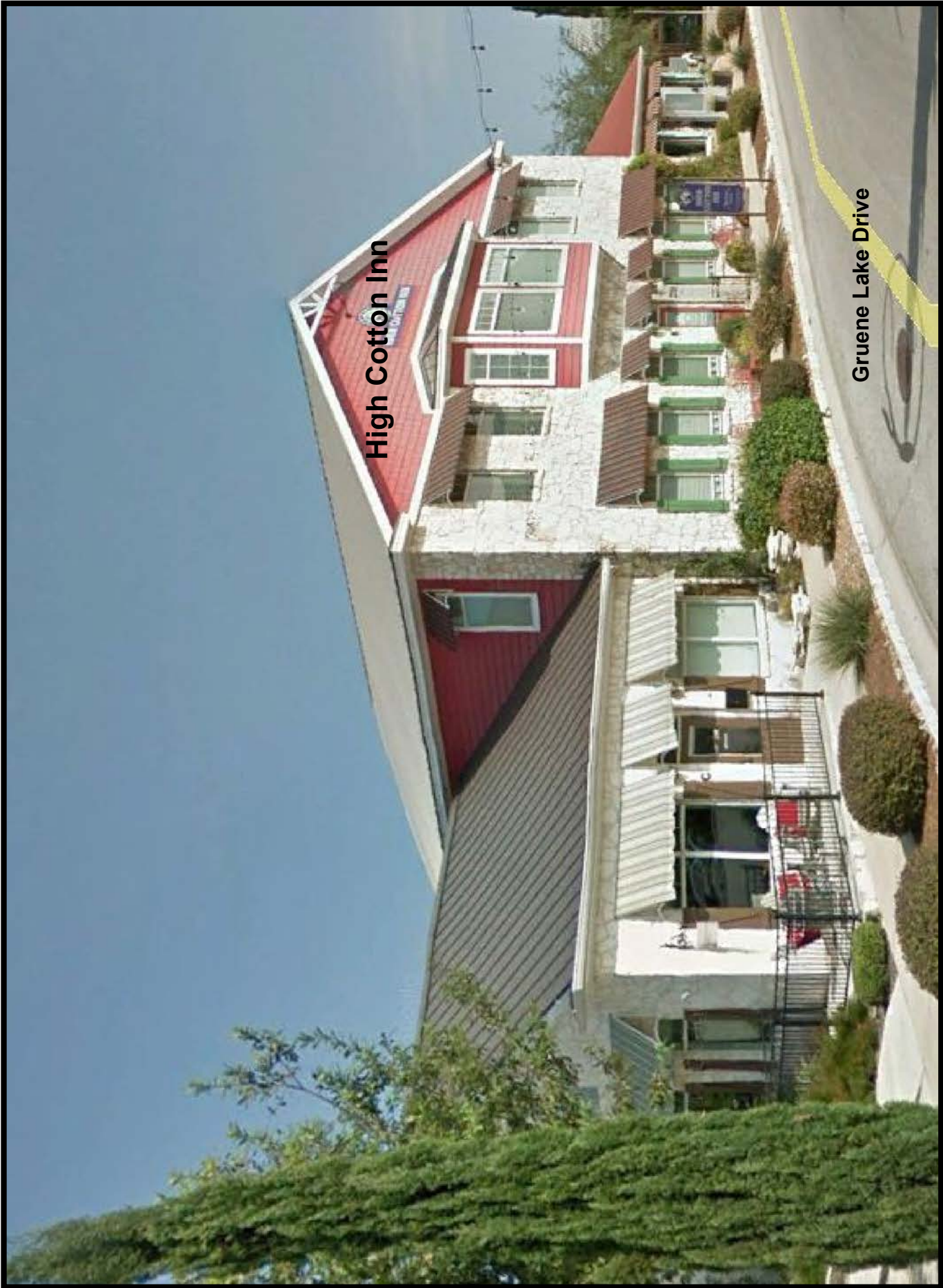
Comments: (Use additional sheets if necessary)

I favor: ✓I object: \_\_\_\_\_  
(State reason for objection)Signature: Lillian Mc Caw



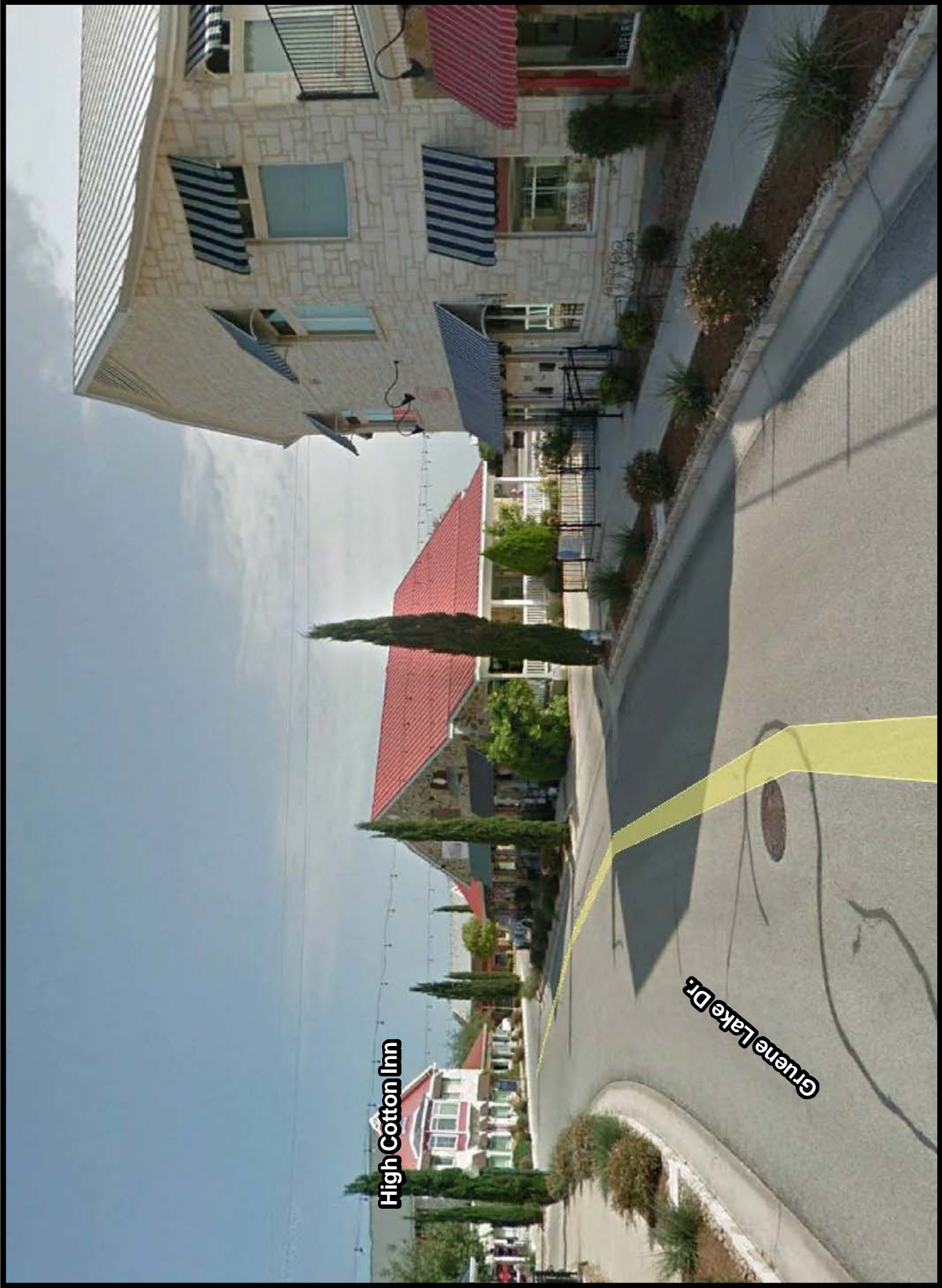




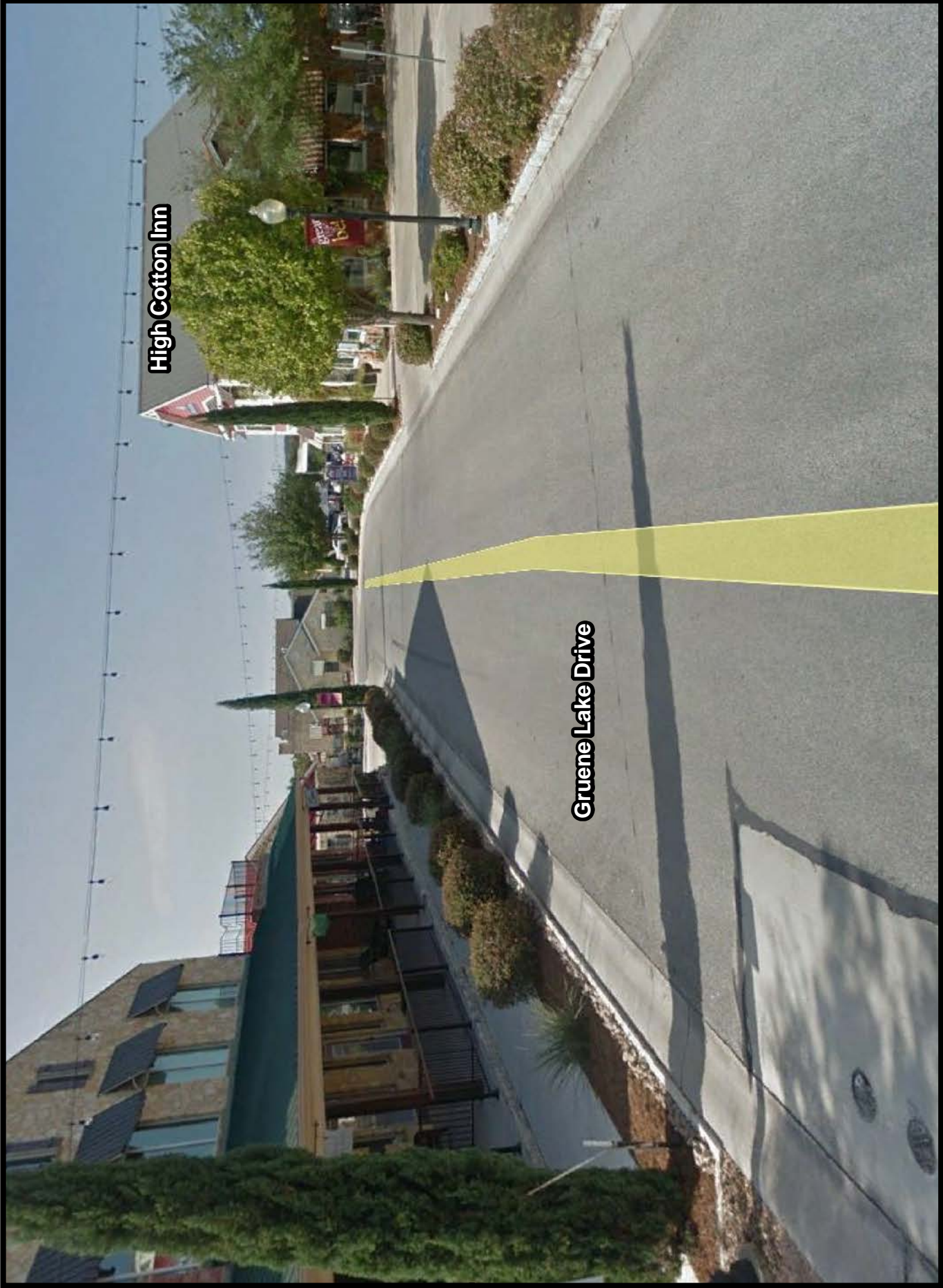


**PZ-18-003**  
**2324 Gruene Lake Drive**  
**Amendment to the Gruene Lake Village Special District**









PZ-18-003  
 2324 Gruene Lake Drive  
 Amendment to the Gruene Lake Village Special District

### 3.8-5 Purpose. Gruene Lake Village

The "Gruene Lake Village" Special District is intended for a broad range of office and retail uses for development of Lots 1, 2 and 3, Block 1, Cotton Crossing Subdivision, Unit 10. The following regulations shall apply to the "Gruene Lake Village" Special District:

#### (a) *Authorized uses.*

##### (1) *Uses permitted by right:*

###### Residential uses:

Residential use in buildings with the following non-residential uses:

###### Non-residential uses:

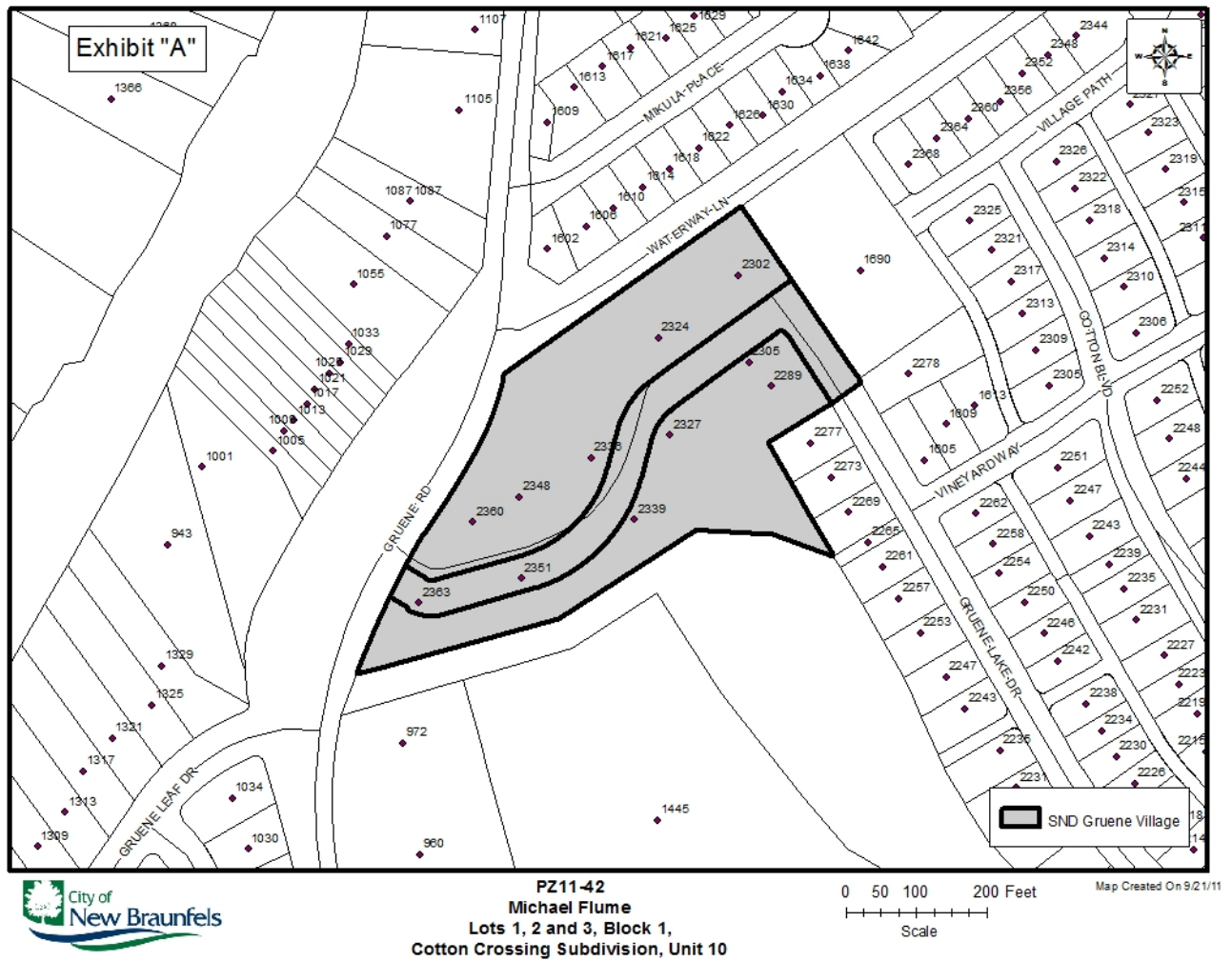
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- Amusement devices/arcade (four or more devices)
- Antique shop
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Bakery (retail)
- Bank, savings and loan, or credit
- Barber/beauty shop, haircutting (non-college)
- Bed and Breakfast Establishments
- Book store
- Caterer
- Check cashing service
- Church/place of religious Assembly
- Cleaning, pressing, and dyeing pickup stations
- Clinic (dental)
- Clinic (emergency care)
- Clinic (medical)
- Coffee shop
- Confectionery store (retail)
- Consignment shop
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.9)
- Convenience store without gas sales
- Credit agency
- Curio shops
- Custom work shops
- Drapery shop / blind shop
- Drug sales/pharmacy
- Electrical substation
- Florist
- Garden shops and greenhouses
- Golf course (public or private)
- Governmental building or use (state/federally owned and operated)
- Greenhouse
- Handicraft shop
- Kiosk (providing a retail service)
- Laundromat and laundry pickup stations
- Locksmith
- Martial arts school
- Municipal use owned or operated by the City of New Braunfels, including libraries
- Museum

Needlework shop  
 Nursing/convalescent home/sanitarium  
 Offices, business or professional including banks  
 Park and/or playground (public or private)  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply and printing  
 Refreshment/beverage stand  
 Restaurant  
 Restaurant/prepared food sales  
 Shoe repair shops  
 Small equipment repair (i.e. computer, bicycle, appliance)  
 Specialty shops in support of project guests and tourists  
 Stores, shops and markets for neighborhood retail trade  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Travel agency  
 Video rental / sales  
 Water storage (surface, underground or overhead), water wells and pumping stations  
 that are part of a public or municipal system

(b) *Maximum height, minimum area and setback requirements:*

- (1) *Height.* 75 feet.
- (2) *Front building setback.* 25 feet.
- (3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.
- (4) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.  
  
*Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in Sec. 5.1-1)
- (5) *Residential setback.* Effective November 8, 2006, where any building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (6) *Rear building setback.* 20 feet.
- (7) *Width of lot.* 60 feet.
- (8) *Lot depth.* 100 feet.
- (9) *Parking.* See Section 5.1 for permitted uses parking.

(c) Area included in "Gruene Lake Village" Special District: See Exhibit "A"



**ORDINANCE NO. 2011- 97**

**AN ORDINANCE REZONING LOTS 1, 2 AND 3, BLOCK 1, COTTON CROSSING, UNIT 10, FROM "C-1BR50" GENERAL BUSINESS DISTRICT TO "GRUENE LAKE VILLAGE" SPECIAL DISTRICT; 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 Special 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 rezoning is in compliance with the Future Land Use Plan; and

**WHEREAS**, the City Council desires to amend the Zoning Map by changing Lots 1, 2 and 3, Block 1, Cotton Crossing, Unit 10, from "C-1Br50" General Business District to "Gruene Lake Village" Special District; now, therefore;

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

**SECTION 1**

**THAT** Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from "C-1Br50" General Business District to "Gruene Lake Village" Special District:

"Lots 1, 2 and 3, Block 1, Cotton Crossing, Unit 10, as delineated on Exhibit 'A' attached hereto."

**SECTION 2**

**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 3**

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

**SECTION 4**

**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 5**

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


**PASSED AND APPROVED:** First Reading this the 24th day of October, 2011.

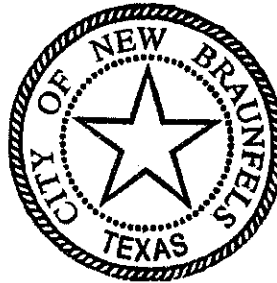
**PASSED AND APPROVED:** Second and Final Reading this the 14<sup>th</sup> of November, 2011.

**CITY OF NEW BRAUNFELS**

  
GALE POSPISIL, Mayor

**ATTEST**

  
PATRICK D. ATEN, City Secretary



**APPROVED AS TO FORM:**

  
VALERIA M. ACEVEDO, City Attorney





**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING ORDINANCE NO. 2011-97, ADDING “BOUTIQUE HOTEL” AS A PERMITTED USE IN THE “GRUENE LAKE VILLAGE” SPECIAL DISTRICT; 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 “Gruene Lake Village” Special 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 City Council desires to amend Ordinance No. 2011-97 by adding “boutique hotel” as a permitted use in the “Gruene Lake Village” Special District; **now, therefore;**

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

**SECTION 1**

**THAT** the City of New Braunfels, Texas, Code of Ordinances, Chapter 144, Section 3.8-5(a)(1) is hereby amended by adding “Boutique Hotel (a small hotel with a maximum of 6 rooms)” as a permitted use in the “Gruene Lake Village” Special District, as described in Exhibit ‘A’ attached.

**SECTION 2**

**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 3

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

### SECTION 4

**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 5

**THIS** ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this 23rd day of April, 2018.

**PASSED AND APPROVED:** Second reading this 14th day of May, 2018.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

### 3.8-5 Purpose. Gruene Lake Village

The "Gruene Lake Village" Special District is intended for a broad range of office and retail uses for development of Lots 1, 2 and 3, Block 1, Cotton Crossing Subdivision, Unit 10. The following regulations shall apply to the "Gruene Lake Village" Special District:

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- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
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- Antique shop
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Bakery (retail)
- Bank, savings and loan, or credit
- Barber/beauty shop, haircutting (non-college)
- Bed and Breakfast Establishments
- Book store
- Boutique Hotel (a small hotel with a maximum of 6 rooms)
- Caterer
- Check cashing service
- Church/place of religious Assembly
- Cleaning, pressing, and dyeing pickup stations
- Clinic (dental)
- Clinic (emergency care)
- Clinic (medical)
- Coffee shop
- Confectionery store (retail)
- Consignment shop
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.9)
- Convenience store without gas sales
- Credit agency
- Curio shops
- Custom work shops
- Drapery shop / blind shop
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- Florist
- Garden shops and greenhouses
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- Greenhouse
- Handicraft shop
- Kiosk (providing a retail service)
- Laundromat and laundry pickup stations
- Locksmith
- Martial arts school
- Municipal use owned or operated by the City of New Braunfels, including libraries

Museum  
 Needlework shop  
 Nursing/convalescent home/sanitarium  
 Offices, business or professional including banks  
 Park and/or playground (public or private)  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply and printing  
 Refreshment/beverage stand  
 Restaurant  
 Restaurant/prepared food sales  
 Shoe repair shops  
 Small equipment repair (i.e. computer, bicycle, appliance)  
 Specialty shops in support of project guests and tourists  
 Stores, shops and markets for neighborhood retail trade  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Travel agency  
 Video rental / sales  
 Water storage (surface, underground or overhead), water wells and pumping stations  
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(b) *Maximum height, minimum area and setback requirements:*

- (1) *Height.* 75 feet.
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- (6) *Rear building setback.* 20 feet.
- (7) *Width of lot.* 60 feet.
- (8) *Lot depth.* 100 feet.
- (9) *Parking.* See Section 5.1 for permitted uses parking.

(c) Area included in "Gruene Lake Village" Special District: See Exhibit "A"



Exhibit "A"  
Gruene Lake Village Special District



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. K)

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### Presenter

*Stacy Snell, Planning and Community Development Assistant Director*  
*ssnell@nbtexas.org*

### **SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed rezoning request to apply a Special Use Permit to allow the short-term rental of a single family dwelling in the "C-2" Central Business District, on a portion of Lot 5, City Block 2017, addressed at 162 Meusebach Street.

### **BACKGROUND / RATIONALE:**

Case No.: PZ-18-004

Council District: 5

Owner/Applicant: Hayes & Reno Inc. (Sondra Reno)  
421 Forest Trail  
New Braunfels, TX 76132  
(830) 629-1353

Staff Contact: Matthew Simmont, Planner  
(830) 221-4058  
msimmont@nbtexas.org

**City Council held a public hearing to consider the first reading of this requested rezoning on March 23, 2018 and unanimously approved the request.**

The subject property is situated on the east side of Meusebach Street, between Seguin and Market Avenues, and is zoned "C-2" Central Business District. Meusebach Street is a low traffic volume local neighborhood street and railroad tracks occupy a portion of the right-of-way.

The subject property is approximately 17,000 square feet in area (0.4 acre) and contains a 1,472 square foot single-family residence constructed in 1910. A majority of the property is currently utilized as a non-conforming gravel parking area for tube rental shuttle vehicles associated with Texas Tubes.

The C-2 District allows rental or occupancy for less than one month. However, the structure on the subject property is a single-family dwelling requiring approval of a Special Use Permit (SUP) before it can be used as a short-term rental. If the SUP is approved, an administrative Short-Term Rental (STR) Permit will also be required along with annual fire inspections.

The applicant has indicated the one-story dwelling has two sleeping areas (2 bedrooms) allowing for a maximum of 8 adults to occupy the residence pursuant to the Zoning Ordinance standards for

## STRs.

Minimum required off-street parking for a short-term rental is one space per sleeping area, and the maximum is the number of sleeping areas plus one. This property would require a minimum of two with a maximum of three paved parking spaces. The applicant is proposing to utilize the three existing gravel parking spaces located in front of the house along Meusebach Street for the required parking. Occupants of the short-term rental will not be allowed to park on the portion of the property that is utilized for shuttle vehicle parking as that would then exceed the maximum allowed number of spaces for the proposed short-term rental.

### **General Information:**

Size: = 0.4 of an acre

### *Surrounding Zoning and Land Use:*

North - C-2 / Chuck's Tubes and General Store, single-family residence

South - C-2 / Single-family residence, St. Josephs Anglican Church

East - C-2 / Single-family residence

West - Across Meusebach Street, C-4 / Duplex

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

Residential, Low-Density

### *Floodplain:*

No portion of the subject property is located within the 100-year floodplain.

### *Regional Transportation Plan:*

The subject property has frontage on Meusebach Street, which is classified as a local street. The current right-of-way width of Meusebach Street meets or exceeds 65 feet and no additional right-of-way dedication or mitigation measures will be required with short-term rental of the subject property.

### *Improvement(s):*

Single-family residence

### *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 subject property is located in the C-2 District in an area of mixed commercial and residential use with short-term rental use nearby (454, 476 & 486 N. Market Ave.). The subject property is within easy walking distance to Downtown and the Comal River*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*There do not appear to be any conflicts with these elements.*);
- How other areas designated for similar development will be affected (*It does not appear there would be any negative impact on other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*The use of this property as a short-term rental will be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to*



ensure that proper measures are in place to protect public health and to encourage appropriate use of the property.); and

- Whether the request is consistent with the Comprehensive Plan. *(The existing single-family structure will remain consistent with the Future Land Use designation of the subject site as Residential Low Density.)*

Supplemental standards for short-term rentals are outlined in the Zoning Ordinance and include:

- a Short-Term Rental Permit and annual inspections are required, in addition to the SUP;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(two (2) sleeping areas plus four (4) additional adults allows for a maximum total of 8 adults)** ;
- display of a short-term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) **(minimum of two (2) spaces and a maximum of three (3) spaces)** ;
- adherence to the City's adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement.

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

|   |     |  |  |
|---|-----|--|--|
| ✓ | Yes | <b>City Plan/Council Priority:</b><br>2006 Comprehensive Plan<br><i>Pros and Cons Based on Policies Plan</i> | <b>Pros:</b> Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities. Authorized short-term rentals contribute to economic expansion through visitor dollars spent within the community. Impacts to neighbors are managed through the SUP and permitting process. <b>Goal 10: Objective D.</b> Respond to changing market trends, consumer preferences, economic realities, and design technology relating to housing types and densities. The approval of this SUP would be in keeping with the existence of other short-term rentals in the downtown and river recreation area. <b>Goal 63: Objective B.</b> Special zoning regulations and incentives should be created to promote retail, eating and drinking establishments, bed and breakfast, lodging and entertainment. Approval of the SUP would provide lodging in close proximity to dining, drinking, entertainment and tourist businesses. <b>Cons:</b> None. |
|---|-----|--|--|

#### **FISCAL IMPACT:**

If approved, the property will be subject to hotel occupancy tax (HOT).

---

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on April 3, 2018, and recommended approval of the request with staff recommendations (8-0-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the request. The proposed use of the property will complement the mixed uses in the area while maintaining a residential appearance in this uniquely situated neighborhood. The proposal would also meet Objectives of the City's Comprehensive Plan. Staff's recommendation includes the following conditions:

1. *Parking.* The tenant information will state that occupants may park only in the designated area between the residence and Meusebach Street. Signage on the subject property will clearly indicate where occupant parking is prohibited.
2. The existing residential character and appearance of the building must be maintained.

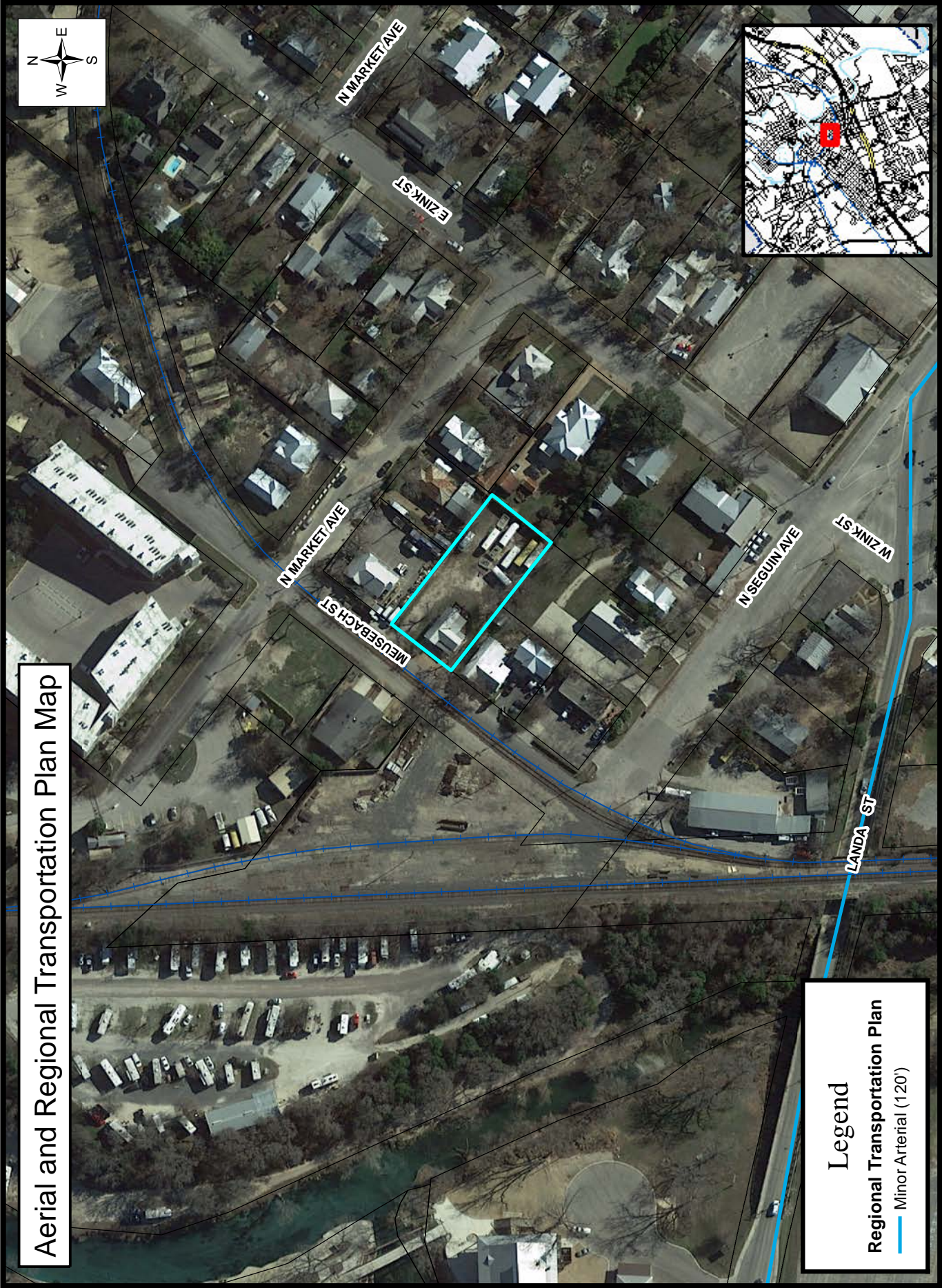
***Notification:***

Public hearing notices were sent to 17 owners of property within 200 feet of the subject property. The Planning Division has received three responses in favor from numbers 1, 2 and 12; and none opposed.

***Attachments:***

1. Aerial, Regional Transportation Plan Map
2. Application
3. Site Plan and Floor Plan
4. Zoning and Land Use Maps
5. Notification List, Map and Responses
6. Photographs
7. Zoning Ordinance Sections 3.3-8, 3.6 & 5.17
8. Excerpt from the Planning Commission Meeting Minutes of April 3, 2018
9. Ordinance





Aerial and Regional Transportation Plan Map

**Legend**  
Regional Transportation Plan  
— Minor Arterial (120')



**PZ-18-004**  
**162 Meusebach**  
**SUP for Short Term Rental in the C-2 District**





# APPLICATION FOR SPECIAL USE PERMIT

550 LANDA STREET  
NEW BRAUNFELS TX 78130  
E-MAIL: [planning@nbtexas.org](mailto:planning@nbtexas.org)  
PHONE: (830) 221-4050

## PLANNING

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: Hayes & Reno, Inc  
Mailing Address: 421 Forest Tr NB 78132  
Telephone: 830-629-1353 Fax: \_\_\_\_\_ Mobile: 830-221-5862  
Email: Sreno@texas tubes.com

2. Property Address/Location: 162 Mensebach

3. Legal Description:  
Name of Subdivision: \_\_\_\_\_  
Lot(s): Lot W89 of Lot 5 Block(s): City Block 2017 Acreage: .39

4. Existing Use of Property: Parking / SFR

5. Current Zoning: C-2

6. Check if Proposed Special Use Permit is: Type 1 \_\_\_\_\_ OR Type 2 X

7. Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary): Short-Term-Rental

## 8. ATTACHMENTS:

- ☒ Metes and bounds description and survey if property is not platted.  
☒ Map of property in relation to City limits/major roadways or surrounding area.  
☒ If requesting a Type 2 Special Use Permit, applicant must attach a development/site plan as described on pages 2 and 3 of this application.  
☒ Copy of deed showing current ownership.  
☒ Mailed notification 17 x 2.15 each = 36.55 Notification signs 1 x \$15 each = \$15  
☒ Newspaper Notice 115.00 each -paid

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

Sandra Reno  
Signature of Owner(s)/Agent

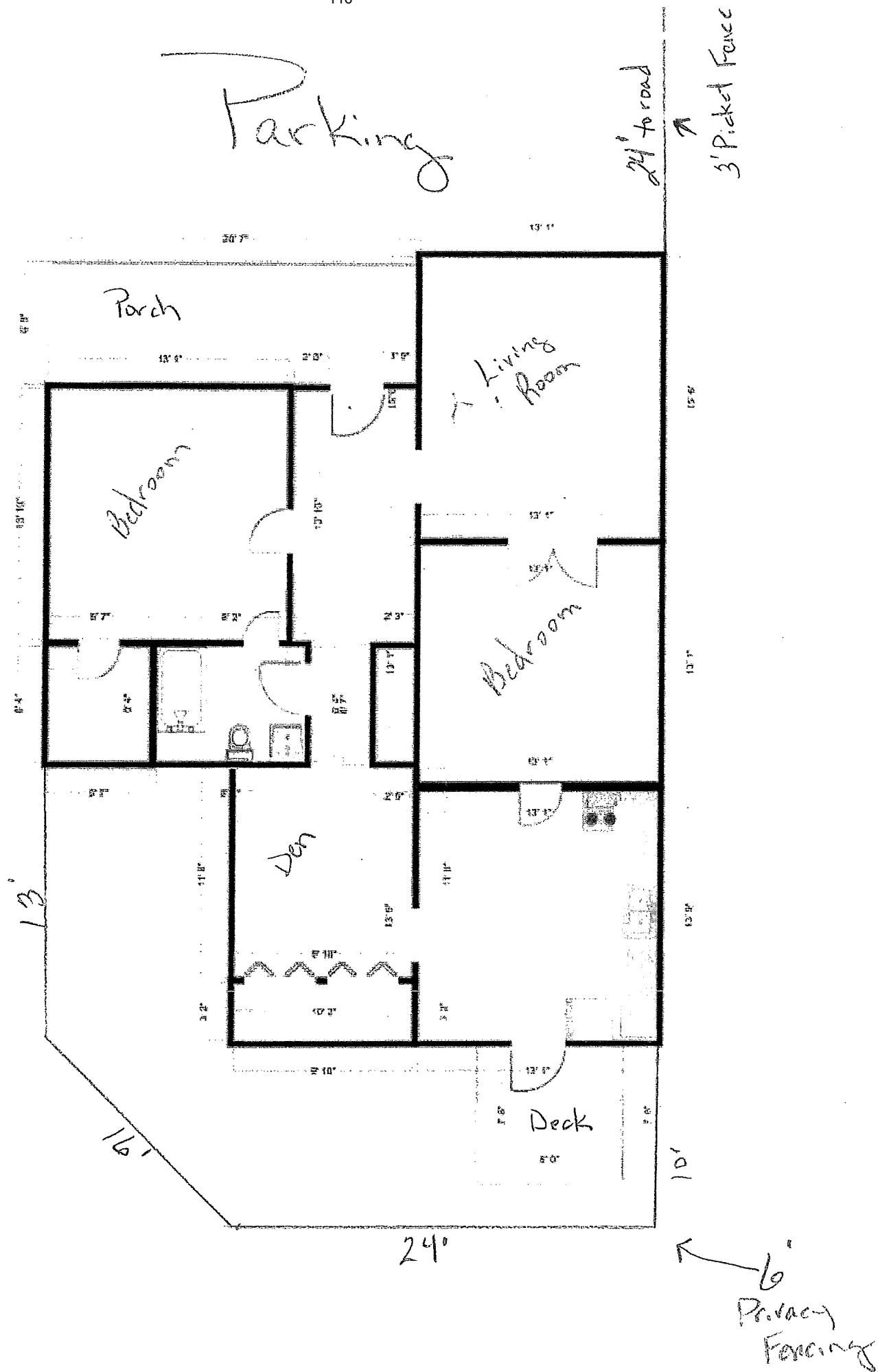
2-8-18  
Date  
Sandra Reno, Owner  
Print Name & Title

### For Office Use Only

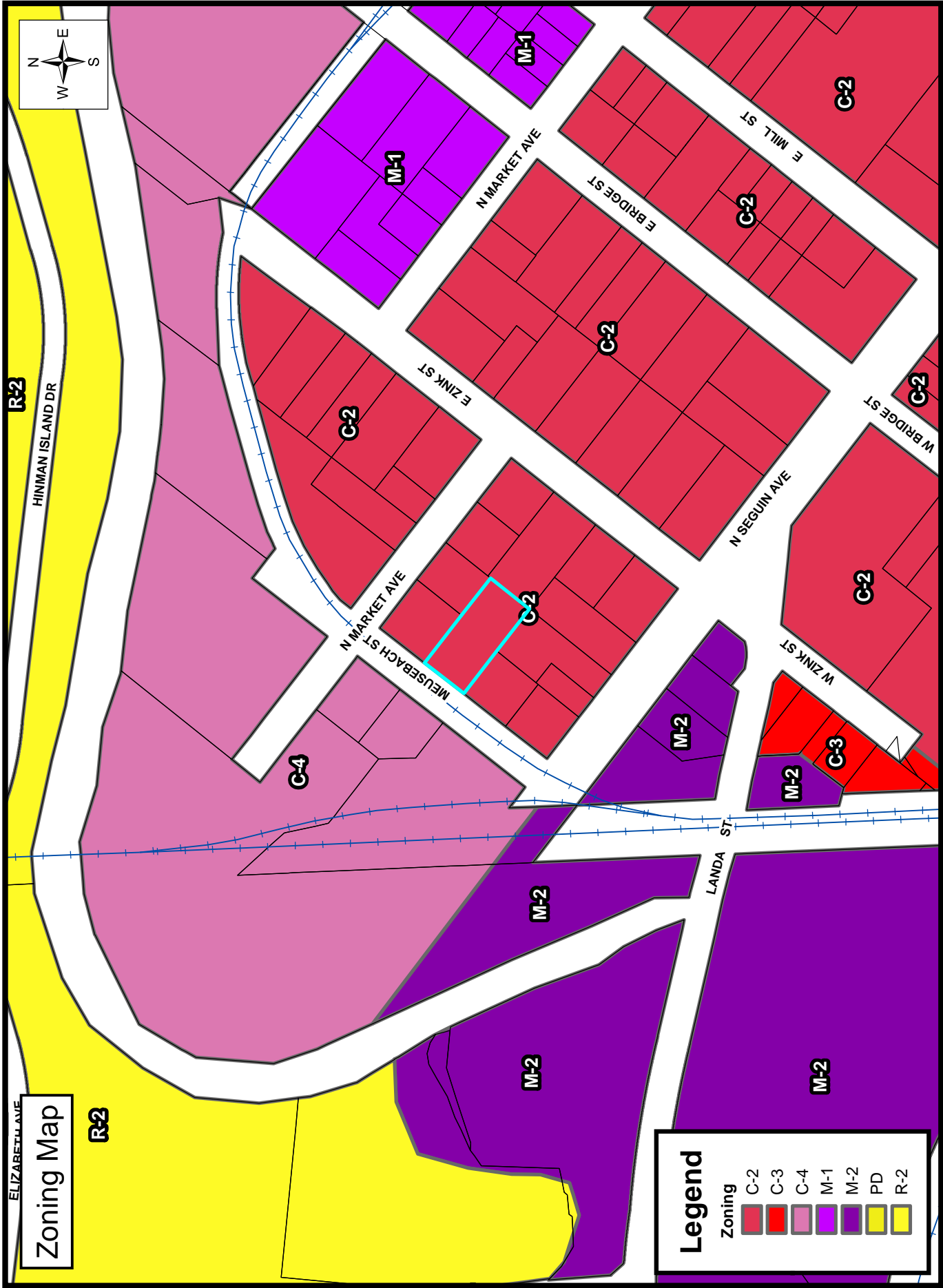
Fee Received By: K. Crowe Amount: \$615 Receipt No.: 237965  
Date Received: 2/8/18 Zoning signs issued: \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_



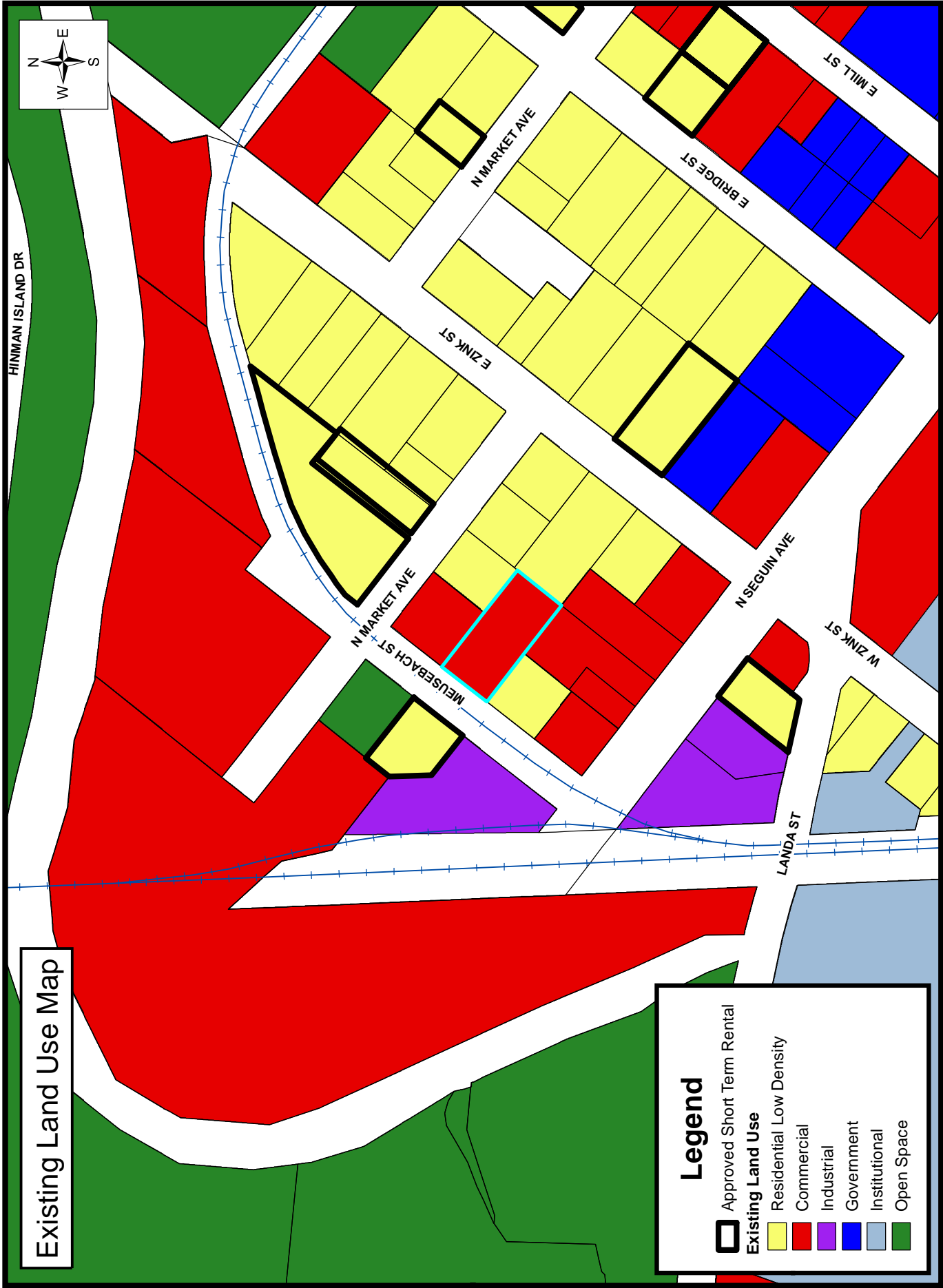
**ATTACHMENT 7**



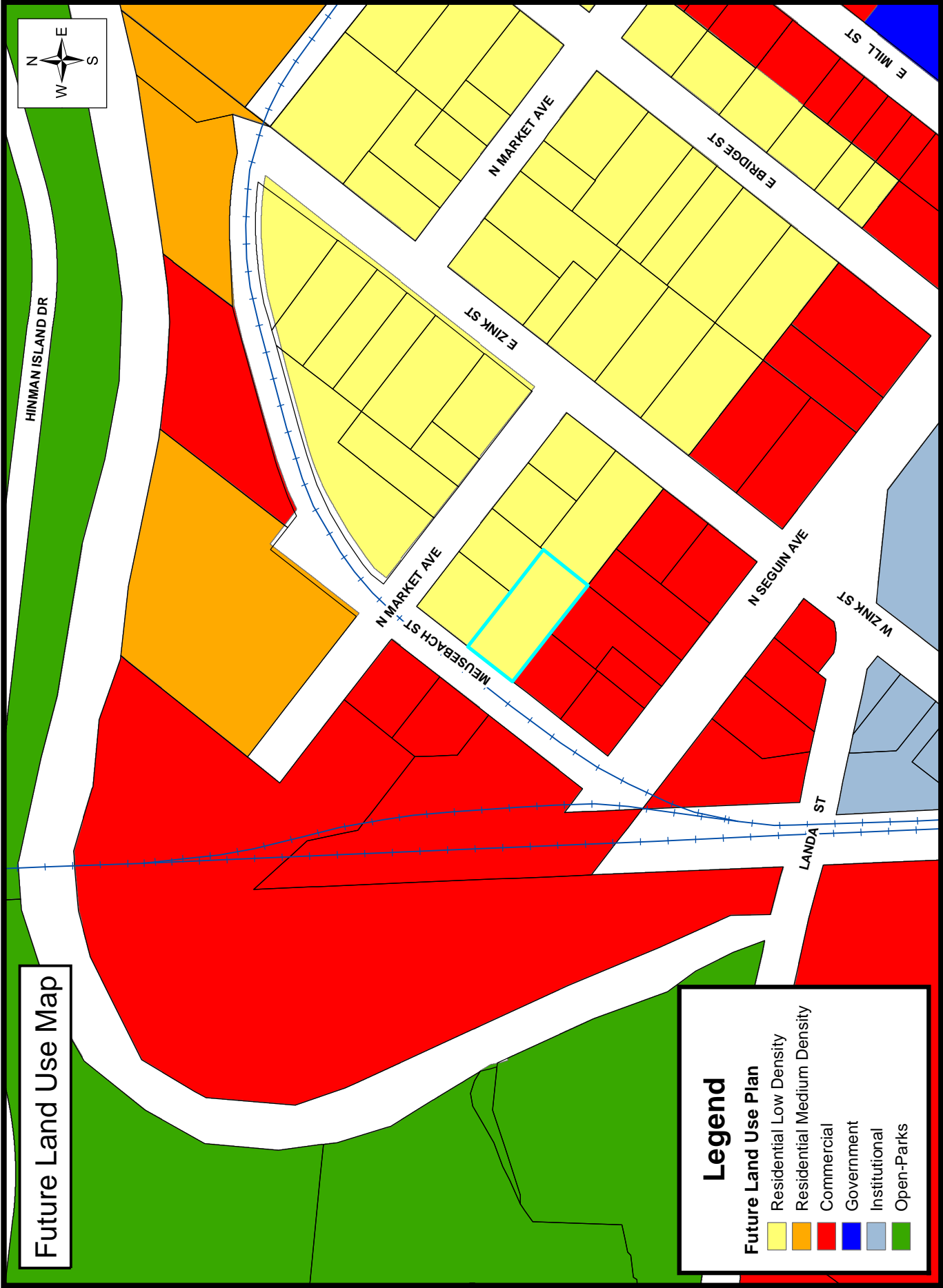


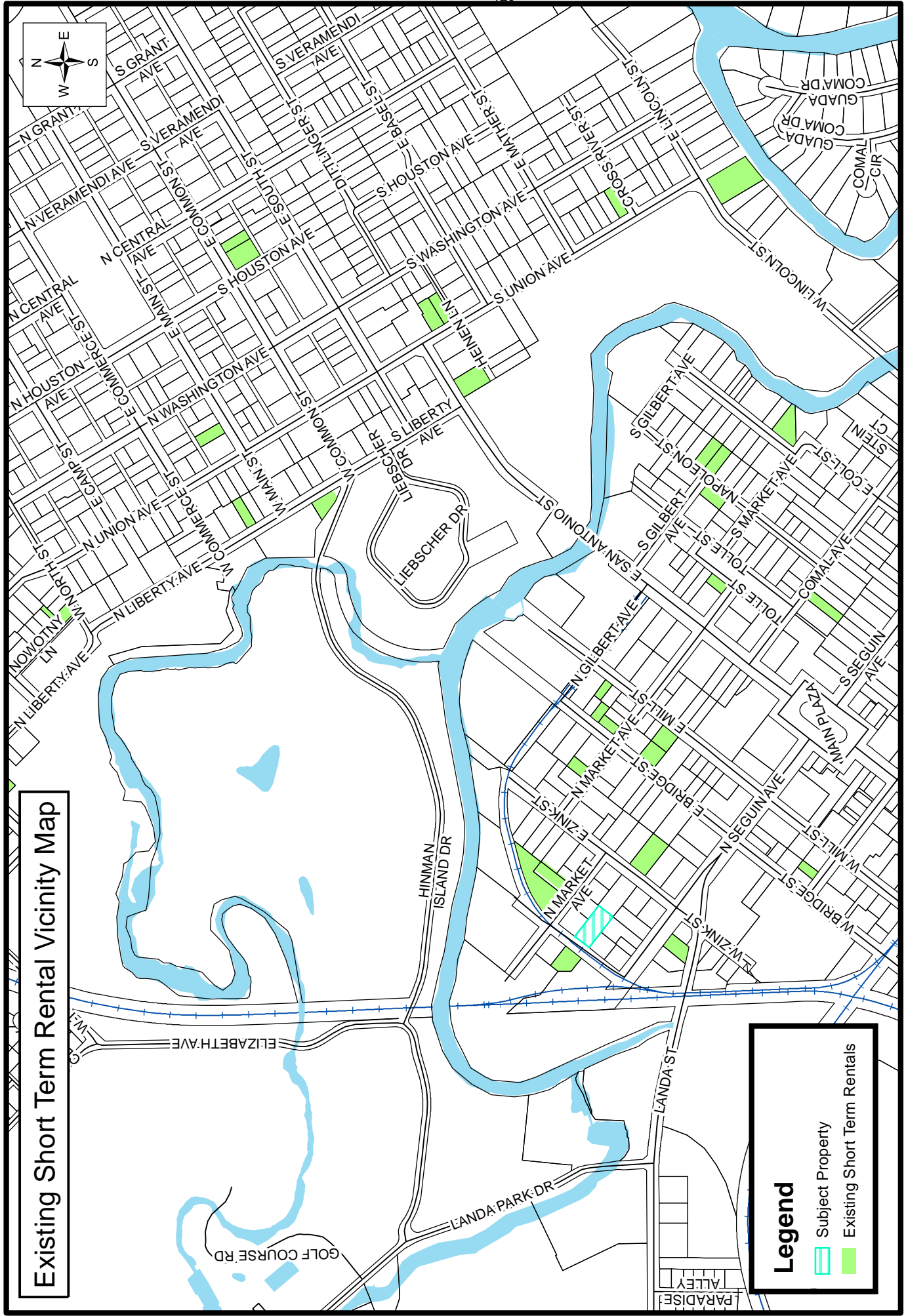


**PZ-18-004**  
**162 Meusebach**  
**SUP for Short Term Rental in the C-2 District**









Existing Short Term Rental Vicinity Map

**Legend**

- Subject Property
- Existing Short Term Rentals

**PZ-18-004**  
**162 Meusebach**  
**SUP for Short Term Rental in the C-2 District**



**PLANNING COMMISSION – April 3, 2018 – 6:00PM**

New Braunfels City Hall Council Chambers

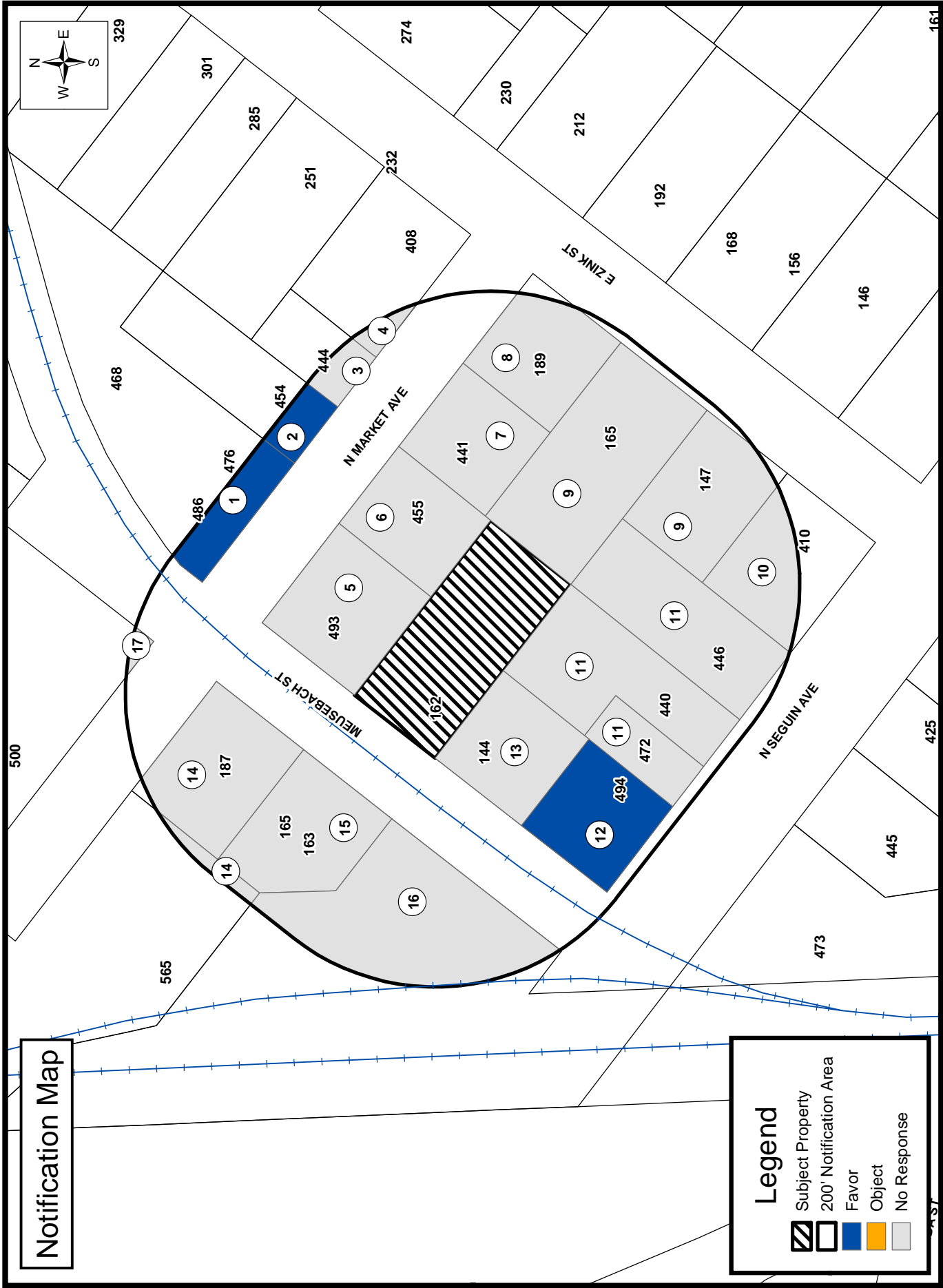
**Applicant/Owner:** Hayes & Reno Inc.**Address/Location:** 162 Meusebach Street**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-004**

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

- |                                |                                       |
|--------------------------------|---------------------------------------|
| 1 Batey, Travis & Veronica     | 10 Hollmig Family Ptnrshp Ltd.        |
| 2 Celtic Enterprises LP        | 11 St Josephs Anglican Church         |
| 3 Kriewaldt Properties LLC     | 12 Vitakey LLC                        |
| 4 Seibert, Richard L & Jaylene | 13 Reger, Charles W & Catherine Reger |
| 5 Guidos Place LLC             | 14 Bell, Russell A & Elizabeth K      |
| 6 Schabacker, Victor & Elisa F | 15 Hayes & Reno LLC                   |
| 7 Ruiz, James & Maria          | 16 Railroad ROW                       |
| 8 Leaverton, Julianne          | 17 Property Owner                     |
| 9 Wilson, Mark B & Lisa W      |                                       |

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**SEE MAP**



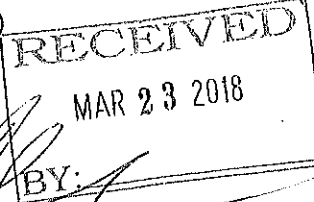
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-004 ms

Name: TRAVIS VULCANICA BateyAddress: 476 & 486 N. MarketProperty number on map: 1I favor: ☒I object: ☐

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: [Signature]

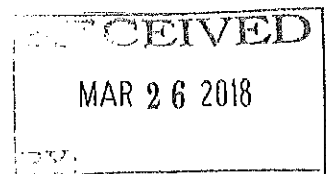
## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-004 ms

Name: Terri CocanoughAddress: 494 27950 Countryside Dr. NB 78132Property number on map: 494 N. Seguin (12)I favor: ☒I object: ☐

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Terri Cocanough



**From:** Sharon O'Toole  
**To:** [Matthew W. Simmont](#)  
**Subject:** 162 Meusebach St - SUP  
**Date:** Monday, April 16, 2018 3:24:39 PM  
**Attachments:** [Reno SUP -162 Meusebach 4-2018.pdf](#)

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Hi Matthew. Sorry, I just found this stuck in my outbox. I'm ok with this SUP. Paperwork attached.

Thanks,  
Sharon

--

Sharon O'Toole, Owner

Celtic Enterprises, L.P.

Market Street House, HomeAway Property #240655

Cool Condo ON the Comal River, HomeAway Property #294633

830-609-7454

Property #2



Subject property from Meusebach Street.



Tube shuttle drive and parking area.



3.3-8 “C-2” central business district. The following regulations shall apply in all “C-2” districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors) (see Sec. 5.13)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Art dealer / gallery
- Artist or artisan’s studio
- Armed services recruiting center
- Assembly/exhibition hall or areas
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto leasing
- Auto glass repair/tinting
- Auto interior shop / upholstery
- Auto muffler shop
- Auto or trailer sales rooms or yards
- Auto or truck sales rooms or yards - primarily new
- Auto paint shop
- Auto repair garage (general)
- Auto repair as an accessory use to retail sales
- Auto supply store for new and factory rebuilt parts
- Auto tire repair /sales (indoor)

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Automobile driving school (including defensive driving)  
Bakery (retail)  
Bank, savings and loan, or credit union  
Bar/Tavern  
Barber/beauty college (barber or cosmetology school or college)  
Barber/beauty shop, haircutting (non-college)  
Barns and farm equipment storage (related to agricultural uses)  
Battery charging station  
Bicycle sales and/or repair  
Billiard / pool facility  
Bingo facility  
Bio-medical facilities  
Book binding  
Book store  
Bowling alley/center (see Sec. 5.13)  
Broadcast station (with tower) (see Sec. 5.7)  
Bus passenger stations  
Cafeteria / café / delicatessen  
Campers' supplies  
Car wash, full service (detail shop)  
Car wash (self service; automated)  
Caterer  
Cemetery and/or mausoleum  
Check cashing service  
Child day care/children's nursery (business)  
Church/place of religious assembly  
Civic/conference center and facilities  
Cleaning, pressing and dyeing (non-explosive fluids used)  
Clinic (dental)  
Clinic (emergency care)  
Clinic (medical)  
Club (private)  
Coffee shop  
Commercial amusement concessions and facilities  
Communication equipment (installation and/or repair)  
Community building (associated with residential uses)  
Computer and electronic sales  
Computer repair  
Confectionery store (retail)  
Consignment shop  
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
Convenience store with or without fuel sales  
Convenience store with fuel sales  
Country club (private)  
Credit agency  
Curio shops  
Custom work shops  
Dance hall / dancing facility (see Sec. 5.13)  
Day camp  
Department store  
Drapery shop / blind shop  
Drug sales/pharmacy  
Electrical repair shop  
Electrical substation  
Exterminator service  
Farmers market (produce market - wholesale)



Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
Feed and grain store  
Filling station (fuel tanks must be below the ground)  
Florist  
Food or grocery store with or without fuel sales  
Fraternal organization/civic club (private club)  
Frozen food storage for individual or family use  
Funeral home/mortuary  
Furniture sales (indoor)  
Garden shops and greenhouses  
Golf course (miniature)  
Golf course, public or private  
Governmental building or use  
Greenhouse (commercial)  
Handicraft shop  
Hardware store  
Health club (physical fitness; indoors only)  
Heating and air-conditioning sales / services  
Hospice  
Hospital, general (acute care/chronic care)  
Hospital, rehabilitation  
Hotel/motel  
Hotels/motels - extended stay (residence hotels)  
Ice delivery stations (for storage and sale of ice at retail only)  
Kiosk (providing a retail service)  
Laundromat and laundry pickup stations  
Laundry, commercial (w/o self serve)  
Laundry/dry cleaning (drop off/pick up)  
Laundry/washateria (self serve)  
Lawnmower sales and/or repair  
Limousine / taxi service  
Locksmith  
Martial arts school  
Medical supplies and equipment  
Micro brewery (onsite manufacturing and/or sales)  
Mini-warehouse/self storage units (no boat/RV storage permitted)  
Motion picture studio, commercial film  
Motion picture theater (indoors)  
Motorcycle dealer (primarily new / repair)  
Museum  
Needlework shop  
Nursing/convalescent home/sanitarium  
Offices, brokerage services  
Offices, business or professional  
Offices, computer programming and data processing  
Offices, consulting  
Offices, engineering, architecture, surveying or similar  
Offices, health services  
Offices, insurance agency  
Offices, legal services - including court reporting  
Offices, medical offices  
Offices, real estate  
Offices, security/commodity brokers, dealers, exchanges and financial services  
Park and/or playground (private or public)  
Parking lots (for passenger car only) (not as incidental to the main use)

Parking structure/public garage  
 Pawn shop  
 Personal watercraft sales (primarily new / repair)  
 Pet shop / supplies (than 10,000 sq. ft. or less)  
 Photographic printing/duplicating/copy shop or printing shop  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply  
 Plant nursery  
 Plant nursery, with retail sales  
 Plumbing shop (no outside storage)  
 Public recreation/services building for public park/playground areas  
 Publishing/printing company (e.g., newspaper)  
 Quick lube/oil change/minor inspection  
 Radio/television shop, electronics, computer repair  
 Recreation buildings (private or public)  
 Recreation buildings (public)  
 Recycling kiosk  
 Refreshment/beverage stand  
 Restaurant/prepared food sales  
 Restaurant with drive-through  
 Retail store and shopping center (misc.)  
 Retirement home/home for the aged (public)  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company (with outside storage)  
 Shoe repair shops  
 Storage in bulk  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Studio for radio or television (without tower)  
 Tailor shop  
 Telecommunications towers/antennas (see Sec. 5.7)  
 Telemarketing agency  
 Telephone exchange buildings (office only)  
 Tennis court (commercial)  
 Theater (non-motion picture; live drama)  
 Tire sales (outdoors)  
 Tool rental  
 Travel agency  
 University or college (public or private)  
 Upholstery shop (non-auto)  
 Used or second hand merchandise/furniture store  
 Vacuum cleaner sales and repair  
 Video rental / sales  
 Warehouse / office and storage / distribution center  
 Waterfront amusement facilities - berthing facilities sales and rentals  
 Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers / launching ramps  
 Waterfront amusement facilities – swimming / wading pools / bathhouses  
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

Any comparable use not included in or excluded from any other district described herein.

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* No building setback required.
- (iii) *Width of lot.* 60 feet. Where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.
- (iv) *Corner lots.* No setback from a street is required.
- (v) *Side building setback.* No side building setback is required except that where a side lot line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.
- (vi) *Rear building setback.* No building setback is required.
- (vii) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for other permitted uses' parking.

(2) One family dwellings.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet for interior lots, and 7,000 square feet for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less one half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.

(3) Duplexes.

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.

(4) Multifamily dwellings.

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (vii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.
- (viii) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.*  
For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  1. One-bedroom apartment or unit . . . 1 1/2 spaces
  2. Two-bedroom apartment or unit . . . 2 spaces
  3. Each Additional bedroom . . . 1/2 space
  4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)



### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
  - (b) Progress toward completion is not being made. Progress toward completion includes the following:
    - (1) An application for a final plat is submitted;
    - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
    - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
    - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

### 5.17. Short term rental or occupancy.

5.17-1 Purpose This section is intended to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

#### 5.17-2 Definitions:

**“Adult”** means an individual 17 years of age or older.

**“Bedroom”** means a room designated and used primarily for sleeping and rest on a bed.

**“Floodway”** means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**“Non-Residential District”** means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved Special Districts identified as Non-Residential unless otherwise specified within the Special District.

**“Occupant”** means the person or persons who have rented the Short Term Rental and their guest(s).

**“Operator”** means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a Short Term Rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

**“Owner”** means the person or entity that holds legal and/or equitable title to the private property.

**“Residential District”** means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B-1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1. This includes all Special and Planned Development Districts identified as Residential unless otherwise specified within the Special District.

**“Resort Condominiums”** means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

**“Resort Property”** means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24 hour security and 24 hour front desk personnel. These units comply with all commercial building code standards.

**“Short Term Rental”** means the rental for compensation of one- or two -family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this ordinance or resort condominiums.

**“Short Term Rental Decal”** means the decal issued by the City as part of a Short Term Rental permit that identifies the subject property as a Short Term Rental, the Short Term Rental permit number, the owner or rental agent’s name and 24-hour emergency contact phone number of either the owner or the rental agent.

**“Sleeping Area”** means a room or other space within a Dwelling designed or used for sleeping, including a Bedroom. Tents and Recreational Vehicles shall not be considered a Sleeping Area.

**5.17-3 Applicability.**

- (a) Short Term Rental within Residential Districts is prohibited.
- (b) Short Term Rental is prohibited in any floodway located within the city limits, regardless of zoning district.
- (c) A Short Term Rental Permit is required prior to the use of a one family or two family dwelling as a Short Term Rental located within a Non-Residential District. Subject to Subsection (d), Standards, of this Section, an Owner shall obtain and maintain a current permit whenever a dwelling is used as a Short Term Rental. Annual inspection is required as specified in Subsection (f), Inspections, of this Chapter. A Special Use Permit is required in all zoning districts except C-4, C-4A and C-4B.
- (d) Within one hundred and eighty (180) days of the effective date of this Ordinance, the Owner or Operator of each existing legally established short term rental shall apply for and pay the permit fee for a Short Term Rental Permit. Within forty-five (45) days of receipt of a completed application, the permit fee and compliance with Subsection (e), Short Term Rental Permit, of this Section, a permit shall be issued to the Owner or Operator that will be good for one (1) year from the date issued and subject to the annual renewal inspection by the Fire Marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with Section 2.3(b, c, d), Nonconforming Use.

**5.17-4 Standards.** All Short Term Rentals permitted pursuant to this Chapter are subject to the following standard requirements:

- (a) **Occupancy.** The maximum number of persons allowed to reside in a Short Term Rental is two (2) adults per Sleeping Area plus an additional four (4) adults per residence.
- (b) **Short Term Rental Decal Display.** As part of a Short Term Rental Permit, the City issued Short Term Rental Decal shall be posted on the front of each Short Term Rental in a location that is accessible and legible to an individual at the entry of the Short Term Rental.
- (c) **Parking.** A minimum of one (1) off-street parking space, not including the garage, per Sleeping Area shall be provided with a minimum of two (2) and a maximum not to exceed the number of Sleeping Areas plus one (1). No required parking shall be permitted within public right-of-way or access easements as defined by City and State regulations regarding parking.
- (d) **Life Safety.**
  - (1) All building and fire related construction shall conform to the City’s adopted IRC (International Residential Code) building code.
  - (2) A 2A:10B:C type fire extinguisher (a standard 5 lb. extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.
  - (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.
  - (4) An evacuation plan posted conspicuously in each Sleeping Area.
  - (5) Every bedroom / sleeping area in a Short Term Rental that does not comply with Subsection (d)(4), Life Safety, of this Section shall not be used as a Sleeping Area and where equipped with a door, shall remain locked at all times when the Dwelling is being



used as a Short Term Rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the Short Term Rental. The owner / operator shall notify every Occupant, in writing, that the non-compliant Sleeping Area may not be used for sleeping.

(e) *Conduct on premises.*

- (1) Each occupant and visitor to a Short Term Rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct restrictions from Chapter 82, Offenses and Miscellaneous Provisions; litter prohibition from Chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a Short Term Rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the Short Term Rental as specified in Subsection (7), Tenant Indoor Notification, below.
- (2) All Occupants shall be informed in writing of relevant City ordinance including, but not limited to, the City's nuisance and water conservation ordinances by the Owner/Operator of the Short Term Rental.
- (3) Excessive noise or other disturbance outside the Short Term Rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
- (4) No sleeping outdoors.

(f) *Signage.* Signage shall be in compliance with the City's current Sign Code.

(g) *Tenant Indoor Notification.* The Operator shall post in a conspicuous location of the Dwelling the following minimum information:

- (1) Maximum number of occupants.
- (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
- (3) Quiet hours and noise restrictions.
- (4) Restrictions of outdoor facilities.
- (5) 24 hour contact person and phone number.
- (6) Property cleanliness requirements.
- (7) Trash pick-up requirements, including location of trash cans.
- (8) Flooding hazards and evacuation routes. Including information on the emergency siren system.
- (9) Emergency numbers.
- (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City's Municipal Code and occupant or visitor can be cited.
- (11) Other useful information about the community.

(h) *Rental Agreement Notification.* The rental agreement between the owner/operator of the Short Term Rental and the occupant shall include by attachment, all of the information provided on the Tenant Indoor Notification signage.

**5.17-5 Short Term Rental Permit.**

(a) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning Director's office, shall be accompanied by a one-time payment of the fee of \$50 and shall include the following information, at a minimum:

- (1) A list of all Owners of the short term rental including names, address and telephone numbers.
- (2) A sketch or narrative describing the location of the available parking spaces as required by Subsection d(3), Parking, of this Section.
- (3) A sketch of the floor plan.
- (4) The name, address and 24 hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the Short Term Rental.
- (5) Proof of Hotel Occupancy Tax compliance with Chapter 351 of the Tax Code, before permit is granted.

- (6) A statement that the Owner of the Short Term Rental has met and will continue to comply with the standards and other requirements of this Ordinance.
- (7) Provide current email address of Owner/Operator, if applicable.
- (8) If Owner/Operator has a property management or agent, Owner/Operator shall provide property management or agent phone number, mailing address and email address.
- (b) *Completeness of Application.* If the application is incomplete or the full fee has not been paid, the Planning Director shall notify the applicant in writing, within 10 business days of the date of the application, that the application is incomplete and will not be considered by the City until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.
- (c) *Annual Renewal.* A Short Term Rental Permit will be renewed annually through an inspection conducted by the Fire Marshal to verify continued compliance with Subsection 17-4, Standards, of this Section.
- (d) *Transferability.* A Short Term Rental Permit is transferable to a new property owner, if the new property owner submits a Short Term Rental Permit application and agrees in writing to comply with the requirements of this Ordinance. A new Owner must apply for a Short Term Rental Permit within ninety (90) days from the closing date of the purchase. The new Owner must provide a copy of the closing statement with the Short Term Rental Permit application form. Failure of the new property owner to apply for permit within ninety (90) days from the closing date will revoke the Short Term Rental Permit. Short Term Rentals existing prior to the effective date of this ordinance that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with Subsection 17-3(d), Applicability, shall become null and void if the new Owner fails to apply for the Short Term Rental Permit within ninety (90) days from the date of the deed of the new Owner's purchase.
- (e) *Appeal.* If an application for a Short Term Rental Permit or renewal is denied, the Owner or Operator may appeal to the Planning and Zoning Commission by written notice delivered within thirty (30) days of denial or revocation.

**5.17-6 Inspections.** To ensure continued compliance with the requirements of this Section a Short Term Rental shall be inspected in the following methods:

- (a) *Transfer Inspection.* As part of the transfer of a Short Term Rental Permit to a new Owner, in accordance with Subsection (e)(4), Transferability, and the issuance of a new Short Term Rental Permit the City's Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.
- (b) *Fire Extinguishers.* The Owner/Operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.
- (c) *Immediate Inspection.* The City will perform inspections immediately when a violation is suspected.
- (d) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance.

**5.17-7 Enforcement/Penalty.**

- (a) *Emergency Contact.* The Owner/Operator of the Short Term Rental shall provide the City with a twenty-four (24) hour contact number. Should a law enforcement officer respond to the Short Term Rental and issue a citation for any violation of City Ordinances, the Owner/Operator shall be called by the officer. The Owner/Operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the Owner/Operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three (3) separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six (6) month period, the Short Term Rental Permit may be revoked in accordance with the revocation process specified in Subsection (h), Revocation.
- (b) Violations of any Subsection of this Section may revoke the Short Term Rental Permit in accordance with Subsection (h), Revocation.

- (c) Failure to pay Hotel Occupancy Tax timely is considered a violation of this Section and may result in revocation of the Short Term Rental Permit in accordance with Subsection (h), Revocation. Owner shall have 30 days from the date the City or State issue a notice of delinquency to submit delinquent Hotel Occupancy Tax to City and State before revocation of the Short Term Rental Permit begins.
- (d) Failure to successfully complete the renewal process of a Short Term Rental Permit is considered a violation of this Section. Owner shall have 45 days from the date City issues notice of denial to gain compliance of noncompliant items before the revocation of the Short Term Rental Permit begins.
- (e) The provisions of this Subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or County or State Law.
- (f) *Proof.* Prima facie proof of occupancy of a Dwelling is established in any prosecution for violation of this Section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked overnight at the Dwelling. Establishment of a prima facie level of proof in this Subsection does not preclude a showing of illegal "occupancy" of a Dwelling by a person in any other manner.
- (g) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this Ordinance 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of \$500.00 to a maximum fine of \$2,000.00 per violation.
- (h) Each day of violation of said Standards and provisions of this Section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

**5.17-8 *Revocation.*** If any violations stated in Subsection (g), Enforcement/Penalty, of this Section have been committed and not corrected within the time specified the Planning Director shall begin the procedures to revoke the Short Term Rental Permit in accordance with the following:

- (a) The City shall give thirty (30) day written notice to the Owner/Operator regarding the public hearing date and recommendation by the Planning Commission, and public hearing and decision by the City Council.
- (b) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.
- (c) If a Short Term Rental Permit is revoked, the Owner/Operator may not reapply for the same property for a period of twelve (12) months.

**5.17-9 *Abrogation and Greater Restrictions.*** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**PZ-18-004: Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the “C-2” Central Business District addressed at 162 Meusebach Street.**

(Applicant: HAYES & RENO; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval, with the following requirements:

1. Parking. The tenant information requires that occupants park only in the designated area located between the residence and Meusebach Street. Signage on the subject property will clearly indicate where occupant parking is prohibited.
2. The residential character and appearance of the building must be maintained.

Commissioner Bearden asked whether crushed granite being used for a driveway would be an issue.

Mr. Simmont answered that would be up to the Planning Commission to decide. He stated that allowing the driveway to be composed of crushed granite is a continuation of the driveway's nonconformity.

Discussion followed regarding past recommendations to replace crushed granite driveway.

Commissioner Laskowski inquired whether staff had given any thought to consider the number of baths required for short-term rental occupancy.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Commissioner Hoyt, seconded by Commissioner Tubb, motioned to close the public hearing. Motion carried (8-0-0).

Commissioner Hoyt said he agreed with Commissioner Laskowski regarding placing a minimum requirement for the number of bathrooms in short-term rentals in relation the number of occupants.

Motion by Commissioner Hoyt, seconded by Commissioner Laskowski, to recommend approval to City Council regarding the proposed rezoning request to apply a Special Use Permit to allow the short-term rental of a single-family residence in the “C-2” Central Business District, addressed at 162 Meusebach St. Motion carried (8-0-0).

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT TERM RENTAL OF A SINGLE FAMILY DWELLING IN THE "C-2" CENTRAL BUSINESS DISTRICT, ON A PORTION OF LOT 5, CITY BLOCK 2017, ADDRESSED AT 162 MEUSEBACH STREET; 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 a Special Use Permit, the City Council has given due consideration to all components of said permit; and

**WHEREAS**, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

**WHEREAS**, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

**WHEREAS**, the property is located in an area suitable for short term rentals; and

**WHEREAS**, the City Council desires to grant a Type 2 Special Use Permit for a portion of Lot 5, City Block 2017, addressed at 162 Meusebach Street, to allow the short term rental of a single family dwelling in the "C-2" Central Business District; **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 adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being a Portion of Lot 5, City Block 2017, addressed at 162 Meusebach Street, as delineated in the attached Exhibit 'A', to allow the short term rental of a single family dwelling in the "C-2" Central Business District."



## SECTION 2

**THAT** the Special Use Permit be subject to the following additional restrictions:

1. *Parking.* The tenant information will state that occupants may park only in the designated area located between the residence and Meusebach Street. Signage on the subject property will clearly indicate where occupant parking is prohibited.
2. The existing residential character and appearance of the building must be maintained.
3. Exhibit 'B' shall be considered the adopted site plan. Parking on the property shall be restricted in accordance with the site plan.

## SECTION 3

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

## SECTION 4

**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 5

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

**PASSED AND APPROVED:** First Reading this the 23<sup>rd</sup> day of April, 2018.

**PASSED AND APPROVED:** Second Reading this the 14<sup>th</sup> day of May, 2018.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

## EXHIBIT "A"

All that certain tract or parcel of land lying and being situated within the corporate limits of the City of New Braunfels, Comal County, Texas, being known and designated as part of Town Lot No. 5 of New City Block 164A, fronting on Meusebach Street and described more particularly by metes and bounds as follows:

BEGINNING at an iron pin in the Northwest line of Lot No. 5, the Southeast line of Meusebach Street, set N.  $38^{\circ} 34'$  E. 281.1 feet from the point of intersection of the Southeast line of Meusebach Street with the Northeast line of North Seguin Avenue, also set S.  $38^{\circ} 34'$  W. 6.0 feet from the North corner of Lot No. 5, and set for the North corner of this Southwest part of Lot No. 5 herein described;

THENCE with the Southeast line of Meusebach Street, S.  $38^{\circ} 34'$  W. 89.7 feet to an iron pin set for the West corner of Lot No. 5;

THENCE with the Southwest line of Lot No. 5, S.  $52^{\circ} 00'$  E. 191.4 feet to a Cedar corner post set for the South corner of Lot No. 5;

THENCE with the Southeast line of Lot No. 5, N.  $38^{\circ} 34'$  E. 89.7 feet to an iron pin set S.  $38^{\circ} 34'$  W. 6.0 feet from the East corner of Lot No. 5 and for the East corner of this Southwest part of Lot No. 5;

THENCE parallel with and at a distance of 6.0 feet from the Northeast line of Lot No. 5, N.  $52^{\circ} 00'$  W. 191.4 feet to the place of beginning and being the same property described in a Deed dated April 25, 1989, from Leonardo Urdiales, Jr., et al, to Kenneth J. Fiedler, et al, recorded in Volume 674, Pages 691-693 of the Official Public Records of Real Property of Comal County, Texas, reference to which is here made for all purposes.

Filed and Recorded  
Official Public Records  
Joy Streater, County Clerk  
Comal County, Texas  
03/02/2009 12:18:23 PM  
CASHTHREE  
200906007159



*Joy Streater*

EXHIBIT 'A'

BEING A 0.394 ACRE TRACT OF LAND SITUATED WITHIN THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, AND BEING PART OF LOT 5, NEW CITY BLOCK 2017, AND ALSO BEING THE SAME TRACT RECORDED IN DOC# 200906007159, OFFICIAL PUBLIC RECORDS, COMAL COUNTY, TEXAS

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT

THIS SURVEYOR HAS NOT CONDUCTED A TITLE SEARCH TO DEPICT OTHER MATTERS OF RECORD, SUCH AS EASEMENTS, SETBACKS, RESTRICTIONS OR OTHER ENCUMBRANCES THAT MAY AFFECT THIS PROPERTY

# LEGEND:

- = SET 1/2" IRON PIN W/ A PLASTIC CAP STAMPED "HMT PROP. COR." UNLESS OTHERWISE NOTED
- = FND 1/2" IRON PIN UNLESS OTHERWISE NOTED
- = FENCE
- R.O.W. = RIGHT-OF-WAY
- ⊕ = POWER POLE
- ( ) = PLAT CALLS (DOC# 200906007159) UNLESS OTHERWISE NOTED
- E — = OVERHEAD ELECTRIC
- NCB = NEW CITY BLOCK



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162 MEUSEBACH STREET  
NEW BRAUNFELS, TEXAS

THIS SURVEY IS CERTIFIED TO:  
JOE HAYES

STATE OF TEXAS  
COUNTY OF COMAL

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS SURVEY IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION

THIS 14 DAY OF OCTOBER 2010

*Thor Thornhill*  
THOR THORNHILL  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6177

ASB292

EXHIBIT 'B'



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. L)

### 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 rezoning request to apply a Special Use Permit to allow the bulk storage of up to 80,000 gallons of fuel in belowground storage tanks on approximately 2.43 acres in the "C-3" Commercial District, on Lot 1R, Johnson Commercial Subdivision, addressed at 4340 South IH 35.

### **BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-005

**Council District:** 1

**Owner/Applicant:** Circle K Stores Inc. (Doug Ford)  
19500 Bulverde Road  
San Antonio, TX 78259  
(210) 692-2717

**Staff Contact:** Matthew Simmont, Planner  
(830) 221-4058  
msimmont@nbtexas.org

City Council held a public hearing to consider the first reading of this requested rezoning ordinance on April 23, 2018, and unanimously approved the applicant's request with a condition that drainage affecting adjacent properties is improved with the project.

The subject property is located on the northeast corner of the intersection of IH 35 South Access Road and North Solms Road and is zoned "C-3" Commercial District. The property is about 2.5 acres in area and contains a convenience store and fueling station with gasoline pumps in the front along IH-35, and diesel pumps in the rear.

The applicant has indicated that the fueling station is currently supplied by underground tanks located on the adjacent tract (4320 IH 35) which are to be removed and will no longer be able to supply the subject property. Therefore, the applicant is requesting the ability to install new belowground tanks to continue fueling services on the site.

The applicant is requesting a Type 2 Special Use Permit (subject to a site plan) to allow for the installation of two 30,000-gallon belowground fuel tanks and one 20,000-gallon belowground fuel

tank with the use of a retail convenience store and fueling station. A Special Use Permit (SUP) is required to allow the installation of tanks exceeding 50,000 gallons. The applicant intends to install the tanks under an unimproved portion of the property, behind the rear fueling station and paved parking area.

The installation of fuel storage tanks is regulated by the Texas Commission on Environmental Quality (TCEQ). The City also reviews for adherence to Building and Fire codes. The tanks must comply with all environmental, electrical and construction regulations.

**General Information:**

Size: 2.534 acres

*Surrounding Zoning and Land Use:*

North - C-3 / Solms Bowling Club

South - IH 35

East - C-3 / Johnson Oil Company and undeveloped

West - Across N. Solms Road, APD and outside of City limits / Undeveloped and single-family residential

*Comprehensive Plan / Future Land Use Designation*

Commercial Industrial

*Floodplain:*

No portion of the property is located within the 100-year floodplain.

*Regional Transportation Plan:*

The property has frontage on IH 35 South indicated on the Regional Transportation Plan as an Interstate, up to 450 feet in width. The current right-of-way width along the subject property is approximately 390 feet. No additional right-of-way dedication was required with the replatting of the property in February 2015.

Solms Road is designated as a Major Collector with 90 feet of right-of-way width. The current right-of-way width along the subject property varies between 43 and 57 feet. Right-of-way dedication and reservation were reviewed with the replatting of the property in February of 2015. No additional right-of-way dedication or mitigation measures will be required with the proposed improvements on the property.

*Improvement(s):*

Retail convenience store and fueling station

*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 use of the property is suitable for the location at the intersection of an interstate and major collector. Commercial use is consistent with existing adjacent uses.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*It does not appear that the proposed*



- zoning change would negatively impact public schools, streets, or utilities.);*
- *How other areas designated for similar development will be affected (There should be no negative impact on other areas designated for similar development.);*
  - *Any other factors that will substantially affect the public health, safety, morals, or general welfare (The proposed fuel storage is strictly regulated by the State. The applicant will be required to comply with all regulations regarding fuel storage. The subject property is not within close proximity to the recharge zone or contributing zone of the Edwards Aquifer or other body of water.); and*
  - *Whether the request is consistent with the Comprehensive Plan (The request is consistent with the Future Land Use Plan designation of Commercial Industrial.)*

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

|       |   |  |
|-------|---|--|
| ✓ Yes | <p><b>City Plan/Council Priority:</b><br/> 2006 Comprehensive Plan<br/> <i>Pros and Cons Based on Policies Plan</i></p> | <p><b>Pros:</b> Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities. The continued commercial use of this property as a fueling station is appropriate as it is conveniently located to along the IH 35 corridor. <b>Objective 1A:</b> 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. The proposed zoning and use is consistent with the Future Land Use Plan. <b>Goal 12:</b> Protect and enhance the visual environment of the City. The proposed belowground fuel tanks will have little to no impact to the public view. <b>Cons:</b> Goal 52: Safeguard natural resources through acquisition, preservation, and eco-friendly planning. Bulk fuel storage could pose a risk to groundwater or adjacent properties if a leak occurs, hence the strict regulations already in place.</p> |
|-------|---|--|

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on April 3, 2018, and recommended approval of the request (7-1-0).

**STAFF RECOMMENDATION:**

Staff recommends approval of the request as it is consistent with the Future Land Use Plan designation of the site as Commercial Industrial and several goals and objectives of the Comprehensive Plan.

**Notification:**

Public hearing notices were sent to 4 owners of property within 200 feet of the request. The Planning

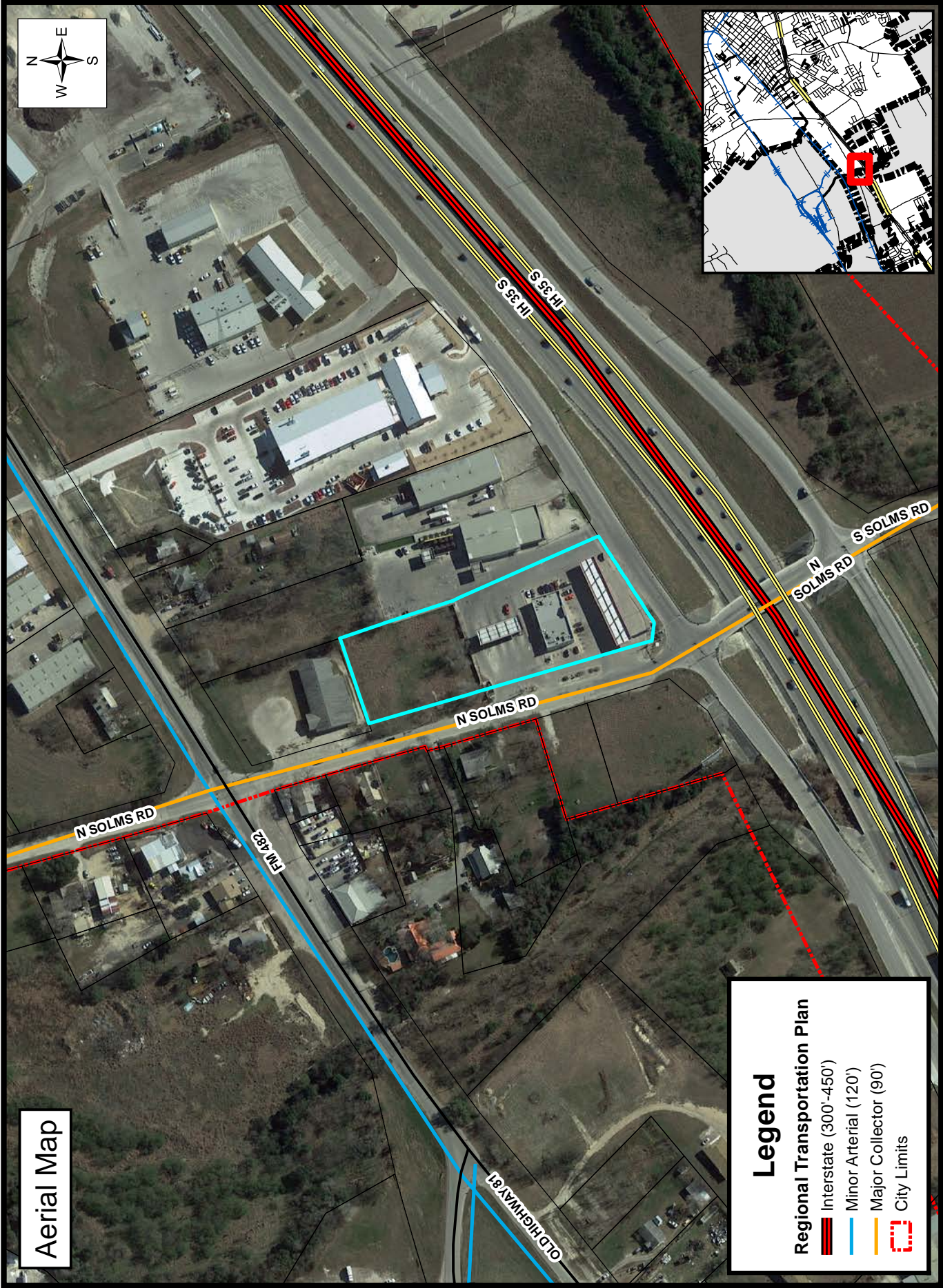
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Division has received no responses.

Attachments:

1. Aerial, Regional Transportation Plan Map
2. Application
3. Site Plan
4. Zoning and Land Use Maps
5. Notification List and Map
6. Photographs
7. Zoning Ordinance Sections 3.3-9 and 3.6
8. Excerpt from the Planning Commission Meeting Minutes of April 3, 2018
9. Ordinance



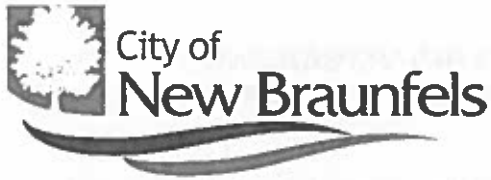


Map Created: 4/2/2018

PZ-18-005  
4340 IH 35

SUP for Underground Fuel Storage in Excess of 50,000 gallons in the C-3 District





# APPLICATION FOR SPECIAL USE PERMIT

550 LANDA STREET  
NEW BRAUNFELS TX 78130

E-MAIL: [planning@nbtexas.org](mailto:planning@nbtexas.org)

PHONE: (830) 221-4050

## PLANNING

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: CIRCLE K STORES INC., Doug Ford  
Mailing Address: 19500 Bulverde Rd, San Antonio, TX 78259  
Telephone: (210) 692-2717 Fax: \_\_\_\_\_ Mobile: (210) 326-4607  
Email: Doug.Ford@CSTBRANDS.COM

2. Property Address/Location: 4340 S IH 35 NEW BRAUNFELS, TX 78132

3. Legal Description:  
Name of Subdivision: Johnson Commercial Lot 1R I-35 NB South  
Lot(s): 1R Block(s): \_\_\_\_\_ Acreage: 2.534

4. Existing Use of Property: COMMERCIAL Retail Convenience STORE

5. Current Zoning: C3

6. Check if Proposed Special Use Permit is: Type 1 \_\_\_\_\_ OR Type 2 ☒

7. Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary): TO INSTALL THREE NEW FUEL TANKS (1) 30K gallon Diesel UNBRANDED, (1) 30K gallon 20K Regular 10K Exxon BRANDED Split Tank, (1) 20K SUPER 12K 8K DEF. FOR A TOTAL OF 72K REGULAR FUEL CAPACITY.

8. ATTACHMENTS:

☐ Metes and bounds description and survey if property is not platted.  
☒ Map of property in relation to City limits/major roadways or surrounding area.  
☒ If requesting a Type 2 Special Use Permit, applicant must attach a development/site plan as described on pages 2 and 3 of this application.  
☒ Copy of deed showing current ownership.  
☐ Mailed notification \_\_\_\_\_ x 2.15 each = \_\_\_\_\_ Notification signs \_\_\_\_\_ x \$15 each = \_\_\_\_\_  
☐ Newspaper Notice 115.00 each

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

Doug Ford  
Signature of Owner(s)/Agent

Date

2/20/2018  
DOUG FORD TSM Project Mgr for  
Print Name & Title

CIRCLE K TX BUSINESS UNIT

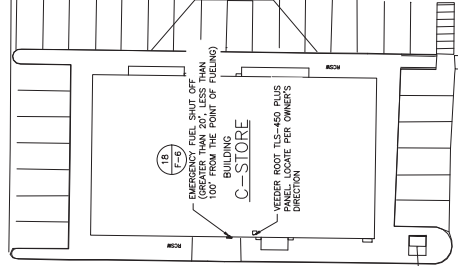
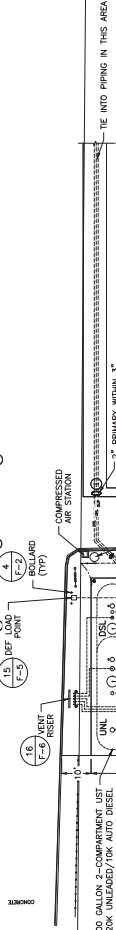
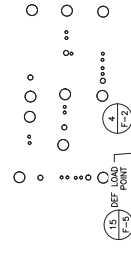
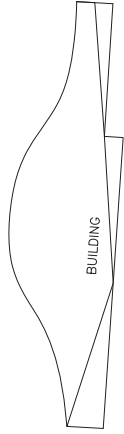
### For Office Use Only

Fee Received By: \_\_\_\_\_ Amount: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

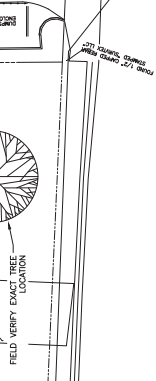
Date Received: \_\_\_\_\_ Zoning signs issued: \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_



| UNDERGROUND STORAGE TANKS |   |
|---------------------------|---|
| UST-1                     | 30,000 GALLON,<br>2 COMPARTMENTS<br>20,000 GALLON UNLEADED<br>10,000 GALLON AUTO DIESEL |
| UST-2                     | 20,000 GALLON,<br>2 COMPARTMENTS<br>20,000 GALLON SUPER UNLEADED<br>8,000 GALLON DEF    |
| UST-3                     | 30,000 GALLON<br>SINGLE COMPARTMENT<br>30,000 GALLON TRUCK DIESEL                       |



- NOTES:
- REFER TO CIRCLE K STANDARDS FOR FUEL SYSTEMS AND DISPENSERS.
  - WITHIN 3" SECONDARY AD SMITH PIPING.
  - SEE SHEET F-7 FOR FUEL SYSTEM DETAILS.
  - CONTRACTOR TO INSTALL CIRCLE K SUPPLIED DEF KITS TO EXISTING COMBO DISPENSERS.



NORTH SOLMS ROAD  
(VARIABLE WIDTH FRONT OF WAY)  
JOHNSON COMMERCIAL  
INTERSECTION: 16000011986  
MAP 8-2-2-1

INTERSTATE 35 FRONTAGE ROAD  
(VARIABLE WIDTH FRONT OF WAY)  
1000' NORTH OF HWY 35  
CONTROL 16 SECTION 2 JOB 30



NOT FOR CONSTRUCTION  
REVIEW ONLY  
R. BERRY, P.E.  
2-14-18

PROPOSED SITE LAYOUT

SCALE: 1"=20'

COPYRIGHT 2018 RICHARD N. BERRY, P.E., INC. - ALL RIGHTS RESERVED - THESE DRAWINGS ARE INSTRUMENTS OF PROFESSIONAL SERVICE AND PROPERTY OF RICHARD N. BERRY, P.E., INC. FOR USE ONLY IN CONNECTION WITH THE PROJECT AND SHALL NOT BE REPRODUCED FOR OTHER PURPOSES.

DESIGNER: RNB  
CHECKER: RNB  
DATE: 12/18/18  
SHEET: 1 OF 1

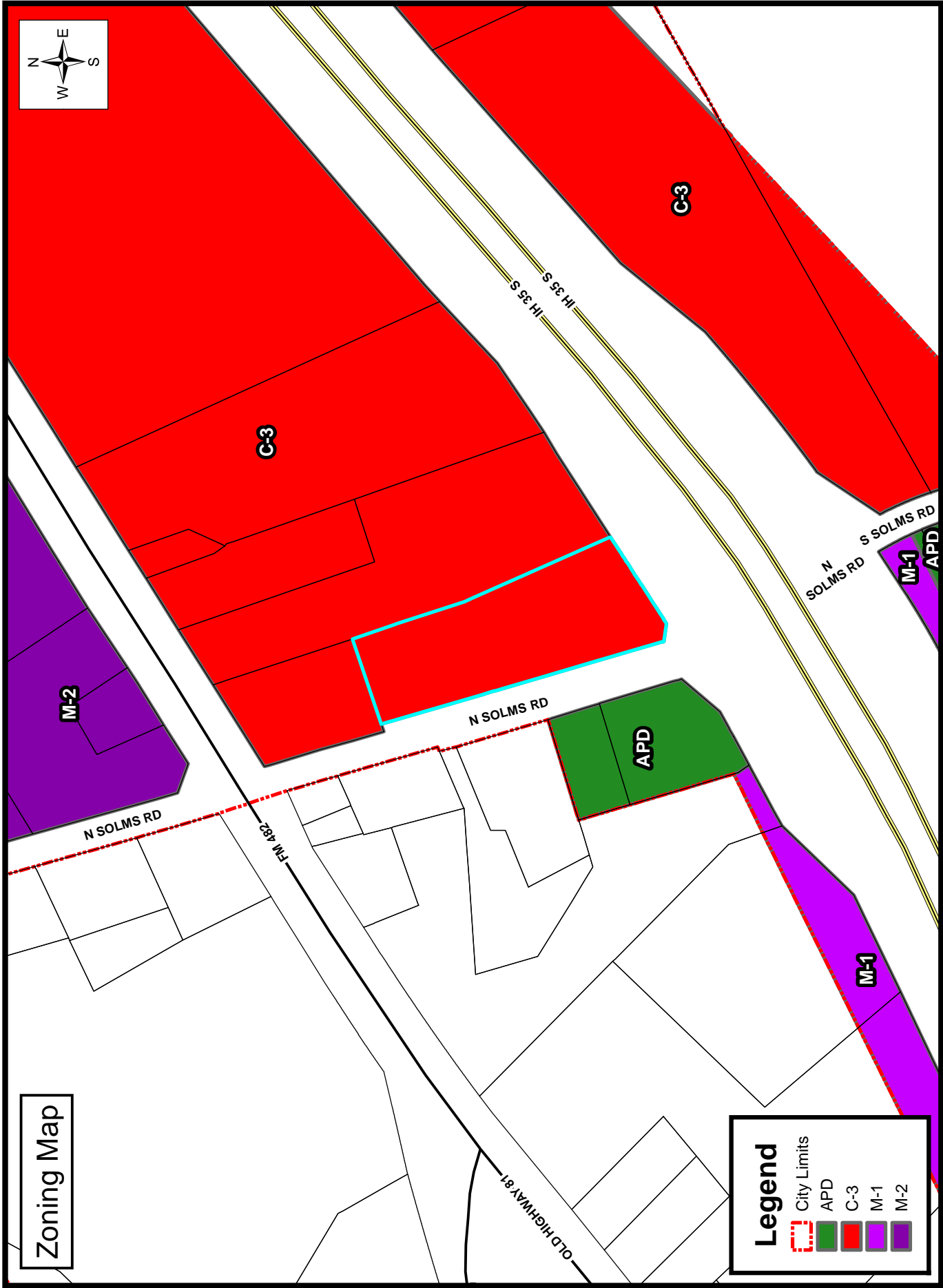
F-1

SITE PLAN  
CS1

CIRCLE K  
4340 S INTERSTATE HWY 35  
NEW BRAUNFELS, TX 78132

Richard N. Berry, P.E., Inc.  
17028 MIDLAND ROAD, SUITE 115  
DALLAS, TEXAS 75244  
214-423-2940  
FAX: 214-423-1842



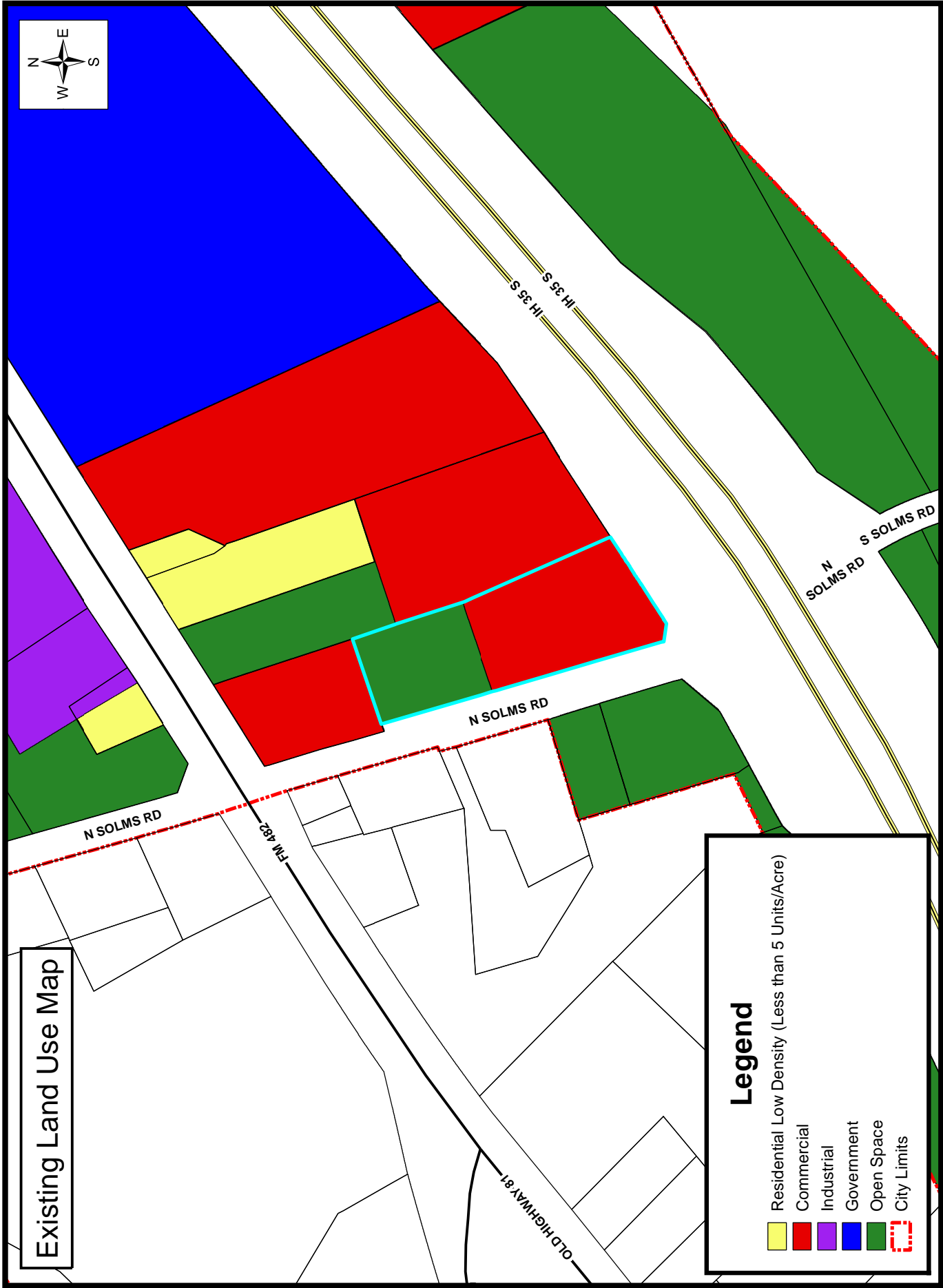


Map Created: 3/29/2018

PZ-18-005  
4340 IH 35

SUP for Underground Fuel Storage in Excess of 50,000 gallons in the C-3 District



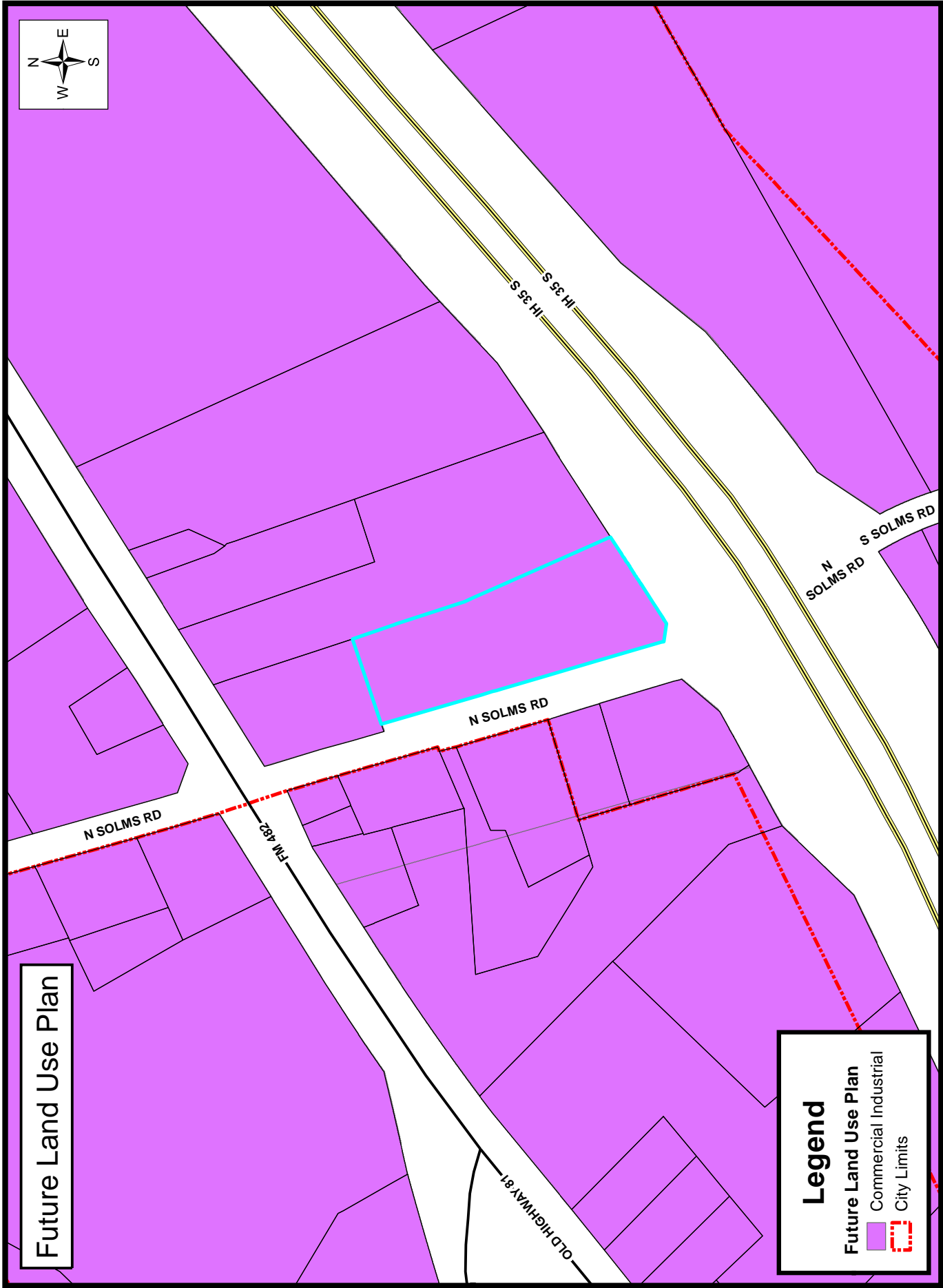


Map Created: 3/29/2018

PZ-18-005  
4340 IH 35

SUP for Underground Fuel Storage in Excess of 50,000 gallons in the C-3 District





Map Created: 3/29/2018

PZ-18-005  
4340 IH 35

SUP for Underground Fuel Storage in Excess of 50,000 gallons in the C-3 District



**PLANNING COMMISSION – April 3, 2018 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Circle K Stores Inc.**Address/Location:** Johnson Commercial, Lot 1R, addressed at 4340 South IH 35**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-005**

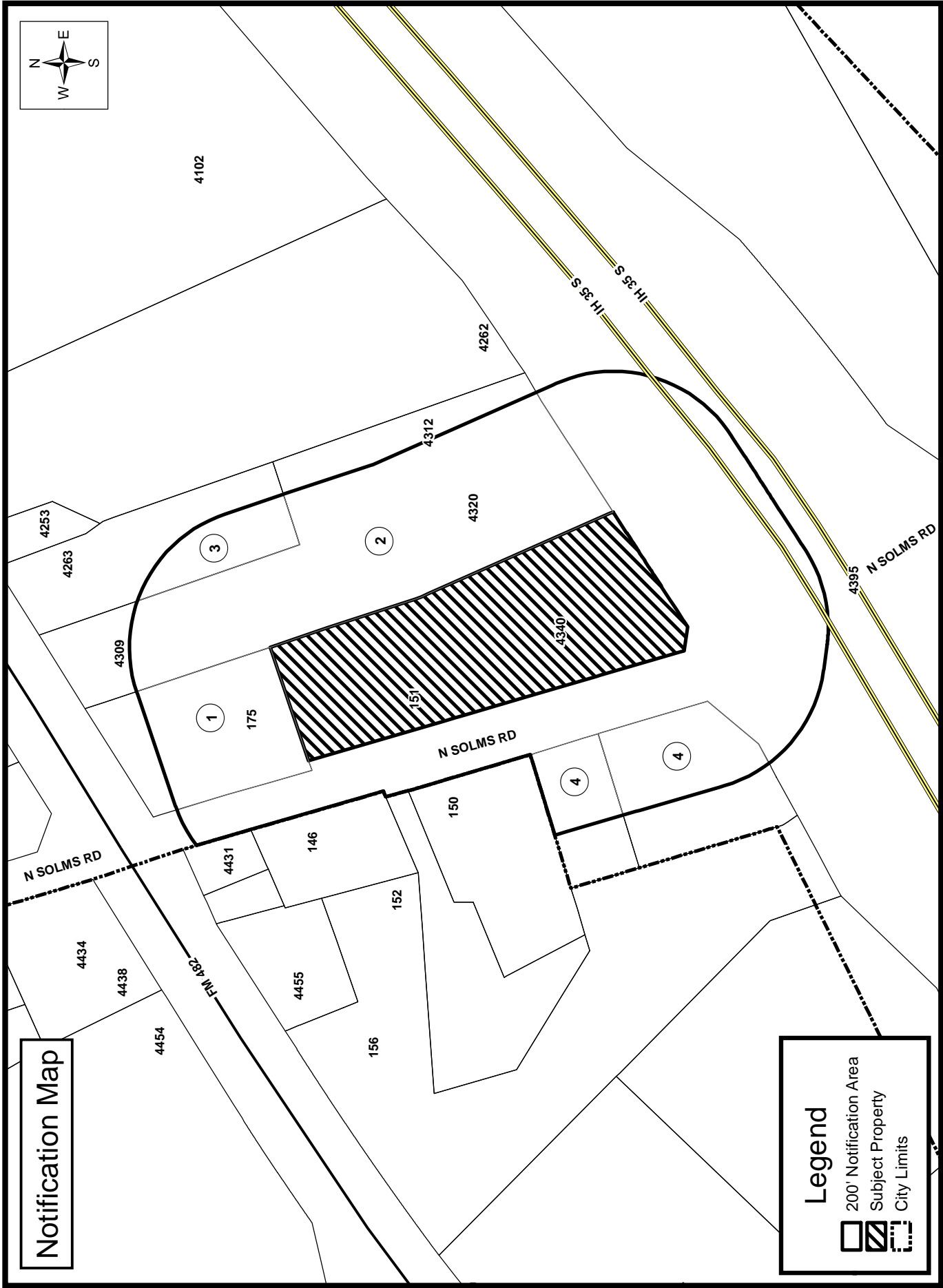
The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as "Subject Property".

- 1 Solms Bowling Club
- 2 Tres Sierras Ltd

- 3 Cunningham, Carolyn L
- 4 Sac N Pac Stores Inc

---

**SEE MAP**







Subject property from the corner of IH 35 and S Solms Road.



Rear portion of subject property - location of proposed belowground tanks

3.3-9. "C-3" commercial district. The following regulations shall apply in all "C-3" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Appendix. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- Aircraft support and related services
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors) (see Sec. 5.13)
- Amusement services or venues (outdoors)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Assembly/exhibition hall or areas
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto glass repair/tinting (see Sec. 5.11)
- Auto interior shop / upholstery (see Sec. 5.11)
- Auto leasing
- Auto muffler shop (see Sec. 5.11)
- Auto or trailer sales rooms or yards (see Sec. 5.12)
- Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)
- Auto paint shop
- Auto repair as an accessory use to retail sales (see Sec. 5.11)
- Auto repair garage (general) (see Sec. 5.11)
- Auto supply store for new and factory rebuilt parts

Auto tire repair /sales (indoor)  
 Automobile driving school (including defensive driving)  
 Bakery (retail)  
 Bank, savings and loan, or credit  
 Bar/Tavern  
 Barber/beauty college (barber or cosmetology school or college)  
 Barber/beauty shop, haircutting (non-college)  
 Barns and farm equipment storage (related to agricultural uses)  
 Battery Charging station  
 Bicycle sales and/or repair  
 Billiard / pool facility  
 Bingo facility  
 Bio-medical facilities  
 Book binding  
 Book store  
 Bottling or distribution plants (milk)  
 Bottling works  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 Cafeteria / café / delicatessen  
 Campers' supplies  
 Car wash (self service; automated)  
 Car wash, full service (detail shop)  
 Carpet cleaning establishments  
 Caterer  
 Cemetery and/or mausoleum  
 Check cashing service  
 Chemical laboratories (not producing noxious fumes or odors)  
 Child day care/children's nursery (business)  
 Church/place of religious assembly  
 Civic/conference center and facilities  
 Cleaning, pressing and dyeing (non-explosive fluids used)  
 Clinic (dental)  
 Clinic (emergency care)  
 Clinic (medical)  
 Club (private)  
 Coffee shop  
 Commercial amusement concessions and facilities  
 Communication equipment installation and/or repair  
 Community building (associated with residential uses)  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's office/sales, with outside storage including vehicles  
 Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
 Convenience store with or without fuel sales  
 Country club (private)  
 Credit agency  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)  
 Day camp

Department store  
 Drapery shop / blind shop  
 Drug sales/pharmacy  
 Electrical repair shop  
 Electrical substation  
 Exterminator service  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Feed and grain store  
 Filling station (fuel tanks must be below the ground)  
 Florist  
 Food or grocery store with or without fuel sales  
 Fraternal organization/civic club (private club)  
 Freight terminal, truck (all storage of freight in an enclosed building)  
 Frozen food storage for individual or family use  
 Funeral home/mortuary  
 Furniture manufacture  
 Furniture sales (indoor)  
 Garden shops and greenhouses  
 Golf course (miniature)  
 Golf course, public or private  
 Governmental building or use  
 Greenhouse (commercial)  
 Handicraft shop  
 Hardware store  
 Health club (physical fitness; indoors only)  
 Heating and air-conditioning sales / services  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Home repair and yard equipment retail and rental outlets (no outside storage)  
 Hospice  
 Hospital, general (acute care/chronic care)  
 Hospital, rehabilitation  
 Hotel/motel  
 Hotels/motels - extended stay (residence hotels)  
 Ice delivery stations (for storage and sale of ice at retail only)  
 Kiosk (providing a retail service)  
 Laundromat and laundry pickup stations  
 Laundry, commercial (w/o self serve)  
 Laundry/dry cleaning (drop off/pick up)  
 Laundry/washateria (self serve)  
 Lawnmower sales and/or repair  
 Limousine / taxi service  
 Locksmith  
 Lumberyard (see Sec. 5.15)  
 Lumberyard or building material sales (see Sec. 5.15)  
 Maintenance/janitorial service  
 Major appliance sales (indoor)  
 Market (public, flea)  
 Martial arts school  
 Medical supplies and equipment  
 Metal fabrication shop  
 Micro brewery (onsite manufacturing and/or sales)  
 Mini-warehouse/self storage units with outside boat and RV storage  
 Mini-warehouse/self storage units (no outside boat and /RV storage permitted)  
 Motion picture studio, commercial film



Motion picture theater (indoors)  
 Motion picture theater (outdoors, drive-in)  
 Motorcycle dealer (primarily new / repair)  
 Moving storage company  
 Moving, transfer, or storage plant  
 Museum  
 Needlework shop  
 Non-bulk storage of fuel, petroleum products and liquefied petroleum  
 Nursing/convalescent home/sanitarium  
 Offices, brokerage services  
 Offices, business or professional  
 Offices, computer programming and data processing  
 Offices, consulting  
 Offices, engineering, architecture, surveying or similar  
 Offices, health services  
 Offices, insurance agency  
 Offices, legal services - including court reporting  
 Offices, medical offices  
 Offices, real estate  
 Offices, security/commodity brokers, dealers, exchanges and financial services  
 Park and/or playground (private or public)  
 Parking lots (for passenger car only) (not as incidental to the main use)  
 Parking structure/public garage  
 Pawn shop  
 Personal watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 Photo engraving plant  
 Photographic printing/duplicating/copy shop or printing shop  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply  
 Plant nursery  
 Plant nursery, with retail sales  
 Plumbing shop  
 Portable building sales  
 Propane sales (retail)  
 Public recreation/services building for public park/playground areas  
 Publishing/printing company (e.g., newspaper)  
 Quick lube/oil change/minor inspection  
 Radio/television shop, electronics, computer repair  
 Recreation Buildings (private or public)  
 Recycling kiosk  
 Refreshment/beverage stand  
 Research lab (non-hazardous)  
 Restaurant with drive-through  
 Restaurant/prepared food sales  
 Retail store and shopping center  
 Retirement home/home for the aged (public)  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company  
 Shoe repair shops  
 Sign manufacturing/painting plant

Storage - exterior storage for boats and recreational vehicles  
 Storage in bulk  
 Studio for radio or television (without tower)  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Tattoo and body piercing studio  
 Taxidermist  
 Telemarketing agency  
 Telephone exchange buildings (office only)  
 Tennis court (commercial)  
 Theater (non-motion picture; live drama)  
 Tire sales (outdoors)  
 Tool rental  
 Transfer station (refuse/pick-up)  
 Travel agency  
 Truck Stop  
 University or college (public or private)  
 Upholstery shop (non-auto)  
 Used or second hand merchandise/furniture store  
 Vacuum cleaner sales and repair  
 Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential  
 Video rental / sales  
 Warehouse / office and storage / distribution center  
 Waterfront amusement facilities - berthing facilities sales and rentals  
 Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers / launching ramps  
 Waterfront amusement facilities – swimming / wading pools / bathhouses  
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system  
 Welding shop  
 Wholesale sales offices and sample rooms  
 Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein.

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 120 feet.
- (ii) *Front building setback.* No building setback required.
- (iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.
- (iv) *Rear building setback.* 20 feet.

- (v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirements will not prohibit the construction of a use enumerated in this district.
  - (vii) *Lot depth.* 100 feet.
  - (viii) *Parking.* See Section 5.1 for permitted uses' parking.
- (2) One family dwellings.
- (i) *Height.* 45 feet.
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 20 feet.
  - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
  - (vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.
  - (viii) *Lot depth.* 100 feet.
  - (ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.
- (3) Duplexes.
- (i) *Height.* 45 feet.
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 20 feet.

- (i) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet
  - (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
  - (viii) *Lot depth.* 100 feet.
  - (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.
- (4) Multifamily dwellings.
- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Rear building setback.* 25 feet.
  - (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

- (viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  1. One-bedroom apartment or unit . . . 1 1/2 spaces
  2. Two-bedroom apartment or unit . . . 2 spaces
  3. Each Additional bedroom . . . 1/2 space
  4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)



### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.
- 3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).
- 3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:
- (a) Construction is not begun within five years of the date of approval of the permit.
  - (b) Progress toward completion is not being made. Progress toward completion includes the following:
    - (1) An application for a final plat is submitted;
    - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
    - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
    - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.

**PZ-18-005: Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow the bulk storage of up to 80,000 gallons of fuel in belowground storage tanks in the “C-3” Commercial District addressed at 4340 South IH 35.**

(Applicant: CIRCLE K; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval.

Discussion followed regarding below ground fuel storage.

Chair Edwards made the point that this property is subject to a high volume of heavy industrial traffic.

Vice Chair Sonier asked when the 50,000 belowground fuel storage was passed in the ordinance.

Mr. Simmont said he did not know when the limit was introduced to the zoning code.

Chair Edwards asked if anyone wished to speak in favor.

Doug Patty, 109 Shooting Club, stated that he will be installing the fuel tanks for the property. He reasoned the ordinance's 50,000 gallon belowground storage limit is adequate for fueling stations that only serve cars and autos, however, the high volume of truck traffic at this location necessitates more belowground storage.

Chair Edwards asked if anyone wished to speak in opposition.

Motion by Commissioner Bearden, seconded by Commissioner Bowers to close the public hearing.  
Motion carried (8-0-0).

Motion by Commissioner Tubb, seconded by Vice Chair Sonier, to recommend approval to City Council regarding the proposed rezoning to apply a Special Use Permit to allow the bulk storage of up to 80,00 gallons of fuel in belowground storage tanks in the “C-3” Commercial District addressed at 4340 South IH 35. Motion carried, with Commissioner Laskowski in opposition (7-1-0).

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, GRANTING A SPECIAL USE PERMIT TO APPROXIMATELY 2.43 ACRES CONSISTING OF LOT 1R, JOHNSON COMMERCIAL SUBDIVISION, COMAL COUNTY, TEXAS, TO ALLOW THE BULK STORAGE OF UP TO 80,000 GALLONS OF FUEL IN BELOWGROUND TANKS IN THE "C-3" COMMERCIAL DISTRICT, ADDRESSED AT 4340 SOUTH IH 35; 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**, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

**WHEREAS**, the City also recognizes that granting such a permit is possible while promoting the health, safety, and general welfare of the public, by providing harmony between existing zoning districts and land uses; and

**WHEREAS**, it is the intent of the City to ensure for the health, safety and general welfare of the public by providing compatibility and orderly development, which may be suitable only in certain locations in a zoning district through the implementation of a Special Use Permit meeting those requirements cited in Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels Code of Ordinances; and

**WHEREAS**, the City Council desires to grant a Special Use Permit to approximately 2.43 acres consisting of Lot 1R, Johnson Commercial Subdivision, Comal County, Texas, to allow the bulk storage of up to 80,000 gallons of fuel in belowground tanks in the "C-3" Commercial District, addressed at 4340 South IH 35; **now, therefore;**

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

**SECTION 1**

**THAT** pursuant to Sections 3.6-2 and 3.6-3, Chapter 144, of the New Braunfels



Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a “Special Use Permit” for the uses and conditions herein described:

“Approximately 2.43 acres consisting of Lot 1R, Johnson Commercial Subdivision, Comal County, Texas, addressed at 4340 South IH 35, as delineated on Exhibit ‘A’ attached.”

## **SECTION 2**

**THAT** the Special Use Permit be subject to the following additional restrictions:

1. Exhibit ‘B’ shall be the adopted Special Use Permit site plan. The property will be developed in accordance with the approved site plan regarding the location of the belowground fuel storage tanks and will meet all applicable zoning requirements prior to the issuance of a certificate of occupancy.
2. Drainage affecting adjacent properties is improved with the project that may include, but is not limited to, on-site detention.

## **SECTION 3**

**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 4**

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

## **SECTION 5**

**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 6**

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

**PASSED AND APPROVED:** First Reading this the 23<sup>rd</sup> day of April, 2018.

**PASSED AND APPROVED:** Second and Final Reading this the 14<sup>th</sup> day of May,  
2018.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL**, Mayor

**ATTEST:**

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**PATRICK D. ATEN**, City Secretary

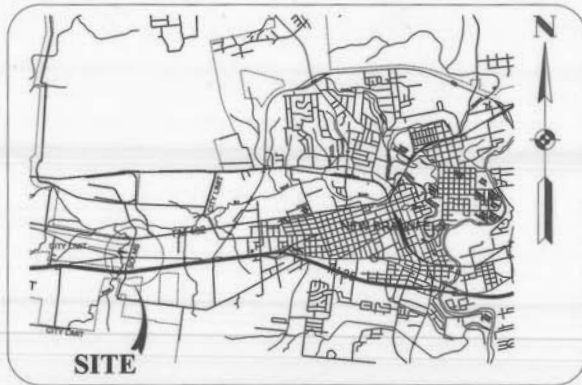
**APPROVED AS TO FORM:**

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**VALERIA M. ACEVEDO**, City Attorney

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2018 cases\PZ-18-005 Circle K SUP\Ordinance.docx

LOT 1, JOHNSON COMMERCIAL SUBDIVISION  
ESTABLISHING LOTS 1R AND 2R, BEING 5.906 ACRES AS RECORDED IN DOCUMENT NO. 201406019988, OF THE PLAT RECORDS OF  
COMAL COUNTY, TEXAS



NEW BRAUNFELS, TEXAS  
VICINITY MAP  
NOT TO SCALE



STATE OF TEXAS  
COUNTY OF COMAL

I, Bobbie Kepp, do hereby certify that the foregoing instrument was filed for record in the map and plat records, Document No. 201506019237, of Comal County, Texas, on the 19 day of May, A.D. 2015 at 9:00 AM. Witness my hand and official seal of office this 19 day of May, A.D. 2015.

By: Bobbie Kepp  
County Clerk, Comal County, Texas

Jimmy Kowalski  
Deputy

CERTIFICATE OF APPROVAL  
Approved this the 17 day of April, 2015, by the Planning Commission of the City of New Braunfels, Texas.

Cory Elrod  
Chairman

APPROVED FOR ACCEPTANCE

5/19/2015  
Date

5/19/2015  
Date

5/19/15  
Date

5/19/15  
Date

Clin Ina  
Director of Planning &

Deanna  
City Engineer

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GENERAL NOTES:

- SUBDIVISION CORNERS ARE MONUMENTED AS SHOWN HEREON.
- THE BEARINGS SHOWN HEREON ARE BASED ON (NAD 83(NA2011) EPOCH 2010.00), TEXAS STATE COORDINATE SYSTEM, SOUTH CENTRAL ZONE.
- REFERENCE PROPERTY IS NOT WITHIN THE 1% ANNUAL CHANCE FLOOD ZONE AND IS LOCATED IN ZONE, X OF THE F.I.R.M. (FLOOD INSURANCE RATE MAP) CITY OF NEW BRAUNFELS, TEXAS, COMAL COUNTY AS DEFINED BY MAP NO. 48091C0445F, DATED SEPTEMBER 2, 2009.
- THIS PROPERTY LIES IN THE NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT.
- THIS PROPERTY WILL BE SERVED BY THE FOLLOWING:  
ELECTRIC - NEW BRAUNFELS UTILITIES  
TELEPHONE - AT&T  
WATER - NEW BRAUNFELS UTILITIES  
SEWER - NEW BRAUNFELS UTILITIES
- REFERENCE PROPERTY HAS EXISTING IMPROVEMENTS.
- THIS PROPERTY DOES NOT LIE OVER THE RECHARGE ZONE OF THE EDWARDS AQUIFER.
- A 6 FOOT WIDE SIDEWALK SHALL BE CONSTRUCTED ADJACENT TO SOLMS ROAD, F.M. 482, AND IH 35 BY THE OWNER / DEVELOPER AT THE TIME OF CONSTRUCTION.
- DRAINAGE EASEMENTS SHALL BE FREE FROM ALL OBSTRUCTIONS AND MAINTENANCE SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
- PROPERTY OWNERS ARE ADVISED THAT THEY ARE RESPONSIBLE FOR MAINTENANCE OF DEDICATED EASEMENTS ON THEIR PROPERTY AND THE UNDERSIGNED OWNER RESERVES UNTO ITSELF, AND ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO UTILIZE THE EASEMENT AREAS DEDICATED BY IT HEREON FOR PURPOSES WHICH DO NOT CONFLICT WITH THE APPLICABLE EASEMENT DEDICATED HEREON; PROVIDED, AND SUCH USE OF SUCH EASEMENT AREA BY THE UNDERSIGNED OWNER SHALL BE SUBJECT TO THE APPLICABLE PERMITTING REQUIREMENTS OF THE CITY OF NEW BRAUNFELS AND WITH WRITTEN AGREEMENT FROM APPLICABLE UTILITIES.
- FUTURE DEVELOPMENT IS SUBJECT TO CHAPTER 114 (STREETS, SIDEWALKS AND OTHER PUBLIC SPACES) OF THE NEW BRAUNFELS CODE OF ORDINANCES.
- NO STRUCTURES, WALLS OR OTHER OBSTRUCTIONS OF ANY KIND SHALL BE PLACED WITHIN THE LIMITS OF DRAINAGE EASEMENTS SHOWN ON THIS PLAT. NO LANDSCAPING, FENCES, OR OTHER TYPE OF MODIFICATIONS WHICH ALTER THE CROSS SECTIONS OF THE DRAINAGE EASEMENTS OR DECREASES THE HYDRAULIC CAPACITY OF THE EASEMENT, AS APPROVED, SHALL BE ALLOWED WITHOUT THE APPROVAL OF THE CITY ENGINEER. THE CITY OF NEW BRAUNFELS SHALL HAVE THE RIGHT OF INGRESS AND EGRESS OVER GRANTORS ADJACENT PROPERTY TO REMOVE ANY OBSTRUCTION PLACED WITHIN THE LIMITS OF SAID DRAINAGE EASEMENTS AND TO MAKE ANY MODIFICATIONS OR IMPROVEMENTS WITHIN SAID DRAINAGE EASEMENTS.
- PARKLAND AND DEVELOPMENT: IN THE EVENT THIS PLAT IS INCLUDED OR BECOMES A SUBDIVISION WITH A RESIDENTIAL USE, THE OWNER(S) SHALL IMMEDIATELY CONTACT THE CITY OF NEW BRAUNFELS PER THE PARKLAND ORDINANCE AND BEFORE BUILDING PERMITS ARE ISSUED FOR NEW DWELLING UNIT(S).
- THIS SUBDIVISION IS SUBJECT TO THE CITY OF NEW BRAUNFELS PARK LAND DEDICATION AND DEVELOPMENT ORDINANCE. AT SUCH TIME THAT RESIDENTIAL DWELLING UNITS ARE CONSTRUCTED WITHIN THIS SUBDIVISION, THE OWNER(S) SHALL SUBMIT THE THEN CURRENT DEDICATION AND DEVELOPMENT FEE TO THE CITY OF NEW BRAUNFELS WITH THE BUILDING PERMIT(S) FOR EACH NEW DWELLING UNIT.
- NUJ NOTES:  
a. MAINTENANCE OF DEDICATED UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE PROPERTY OWNER. ANY USE, OF AN EASEMENT, OR ANY PORTION OF IT, INCLUDING LANDSCAPING OR DRAINAGE FEATURES, IS SUBJECT TO AND SHALL NOT CONFLICT WITH THE TERMS AND CONDITIONS IN THE EASEMENT, MUST NOT ENDANGER OR INTERFERE WITH THE RIGHTS GRANTED BY THE EASEMENT TO NEW BRAUNFELS UTILITIES, ITS SUCCESSORS AND ASSIGNS, AND SHALL BE SUBJECT TO APPLICABLE PERMIT REQUIREMENTS OF THE CITY OF NEW BRAUNFELS OR ANY OTHER GOVERNING BODY. THE PROPERTY OWNER MUST OBTAIN, IN ADVANCE, WRITTEN AGREEMENT WITH THE UTILITIES TO UTILIZE THE EASEMENT, OR ANY PART OF IT.  
b. UTILITIES WILL POSSESS A 5-FOOT WIDE SERVICE EASEMENT TO THE BUILDING STRUCTURE ALONG THE SERVICE LINE TO THE SERVICE ENTRANCE. THIS EASEMENT WILL VARY DEPENDING UPON LOCATION OF BUILDING STRUCTURE AND SERVICE.  
c. UTILITIES SHALL HAVE ACCESS TO THE METER LOCATIONS FROM THE FRONT YARD AND METER LOCATIONS SHALL NOT BE LOCATED WITHIN A FENCED AREA.  
d. EACH TRACT IS SUBJECT TO FLOATING GUY WIRE EASEMENT(S) AND ITS DIMENSIONS SHALL BE DETERMINED BY THE NEED OF THE UTILITIES.  
e. DO NOT COMBINE ANY NEW UTILITY EASEMENTS (UE) WITH DRAINAGE EASEMENTS (DE) OR MAKE CHANGES IN GRADE WITHIN THE UTILITY EASEMENTS (UE) WITHOUT WRITTEN APPROVAL FROM NEW BRAUNFELS UTILITIES.
- TXDOT NOTES:  
a. FOR RESIDENTIAL DEVELOPMENT DIRECTLY ADJACENT TO STATE RIGHT-OF-WAY, THE DEVELOPER SHALL BE RESPONSIBLE FOR ADEQUATE SETBACK AND/OR SOUND ABATEMENT MEASURES FOR FUTURE NOISE MITIGATION.  
b. OWNER/DEVELOPER IS RESPONSIBLE FOR PREVENTING ANY ADVERSE IMPACT TO THE EXISTING DRAINAGE SYSTEM WITHIN THE HIGHWAY RIGHT-OF-WAY.  
c. MAXIMUM ACCESS POINTS TO THE STATE HIGHWAY FROM THIS PROPERTY WILL BE REGULATED AS DIRECTED BY TXDOT'S "ACCESS MANAGEMENT MANUAL". THE PROPERTY IS ELIGIBLE FOR A MAXIMUM COMBINED TOTAL OF 1 (ONE) ACCESS POINT TO IH 35 BASED ON AN APPROXIMATE OVERALL FRONTAGE OF 480 FEET. THE PROPERTY IS ELIGIBLE FOR A MAXIMUM COMBINED TOTAL OF 1 (ONE) ACCESS POINT TO FM 482 BASED ON AN APPROXIMATE OVERALL FRONTAGE OF 122.45 FEET.  
d. IF SIDEWALKS ARE REQUIRED BY APPROPRIATE CITY ORDINANCE, A SIDEWALK PERMIT MUST BE APPROVED BY TXDOT, PRIOR TO CONSTRUCTION WITHIN THE STATE RIGHT-OF-WAY. LOCATIONS OF SIDEWALKS WITHIN STATE RIGHT-OF-WAY SHALL BE AS DIRECTED BY TXDOT.  
e. ANY TRAFFIC CONTROL MEASURES (LEFT-TURN LANE, SIGNAL, ETC.) FOR ANY ACCESS FRONTING A STATE MAINTAINED ROADWAY SHALL BE THE RESPONSIBILITY OF THE DEVELOPER/OWNER.



STATE OF TEXAS  
COUNTY OF COMAL

I (We) the undersigned owner(s) of the land shown on this plat, and designated herein as the REPLAT OF LOT 1, JOHNSON COMMERCIAL SUBDIVISION, a subdivision in the City of New Braunfels, County of Comal, Texas and whose name is subscribed hereto, do hereby subdivide such property and dedicate to the use of the Public all streets, alleys, parks, drains, easements and public places thereon shown for the purposes and consideration therein expressed.



Susan Barnick  
SUSAN BARNICK  
TIGER TOTE FOOD STORE, INC.  
P.O. BOX 1959  
GONZALES, TEXAS 78629-1459

This instrument was acknowledged before me this 11 day of April, 2015, by:

John W. McCown  
Notary Public, State of Texas

KNOW ALL MEN BY THESE PRESENTS:

I, the undersigned, John W. McCown, a Registered Professional Surveyor in the State of Texas, hereby certify that this plat is true and correctly made under my supervision and in compliance with City and State survey regulations and laws and made on the ground and that the corner monuments were properly placed under my supervision.

John W. McCown  
JOHN W. MCCOWN  
REGISTERED PROFESSIONAL SURVEYOR NO. 5135  
STATE OF TEXAS  
SURVTEX, LLC  
600 W. Whitestone Blvd.  
Cedar Park, Texas 78613



NEW BRAUNFELS, COMAL COUNTY, TEXAS

DATE: 2-19-15  
DRAWN BY: JEP  
CHECKED BY: JWM  
PROJ. NO. 2013-0018

SHEET: 1 OF 2

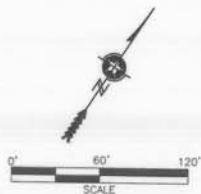
**SURVTEX** LLC  
PROFESSIONAL SURVEYING AND MAPPING SERVICES  
600 W. Whitestone Blvd.  
Cedar Park, Texas 78613  
(512) 249-8875  
Fax (512) 249-5040

Exhibit 'A'

OF

LOT 1, JOHNSON COMMERCIAL SUBDIVISION

ESTABLISHING LOTS 1R AND 2R, BEING 5.906 ACRES AS RECORDED IN DOCUMENT NO. 201406019988, OF THE PLAT RECORDS OF COMAL COUNTY, TEXAS



BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983 (EPOCH 2010.0000)

DISTANCES HAVE BEEN SCALED USING A PROJECT SPECIFIC SURFACE ADJUSTMENT FACTOR OF 1.00015

LEGEND

UNLESS NOTED OTHERWISE

- TxDOT TYPE II CONCRETE MONUMENT FOUND
- TxDOT TYPE I CONCRETE MONUMENT FOUND
- 1/2" IRON ROD FOUND
- 1/2" IRON ROD WITH SURVITEK PLASTIC CAP SET IN 2013
- ⊙ 1/2" IRON ROD WITH SURVITEK PLASTIC CAP SET IN 2015
- △ CALCULATED POINT
- R.O.W. RIGHT OF WAY
- U.E. UTILITY EASEMENT
- D.R.C.C.T. DEED RECORDS OF COMAL COUNTY, TEXAS
- M.R.C.C.T. MAP RECORDS OF COMAL COUNTY, TEXAS
- O.R.C.C.T. OFFICIAL RECORDS OF COMAL COUNTY, TEXAS
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS

- NOTES:
1. MONUMENTS WERE FOUND OR SET AT ALL CORNERS OF THIS TRACT. ALL BOUNDARY CORNERS SHOWN AS SET WERE SET PRIOR TO RECORDED OF THIS PLAT AND ARE MONUMENTED AS SHOWN HEREON.
  2. IRON RODS SET IN 2013 WERE DONE SO IN CONJUNCTION WITH THE PLAT OF JOHNSON COMMERCIAL AND WERE VERIFIED, IN THE FIELD, PRIOR TO RECORDED OF THIS PLAT.
  3. THE LOCATION OF THE DRAINAGE EASEMENT AND ACCESS EASEMENT DEDICATED HEREON WAS PROVIDED BY THE CLIENT.



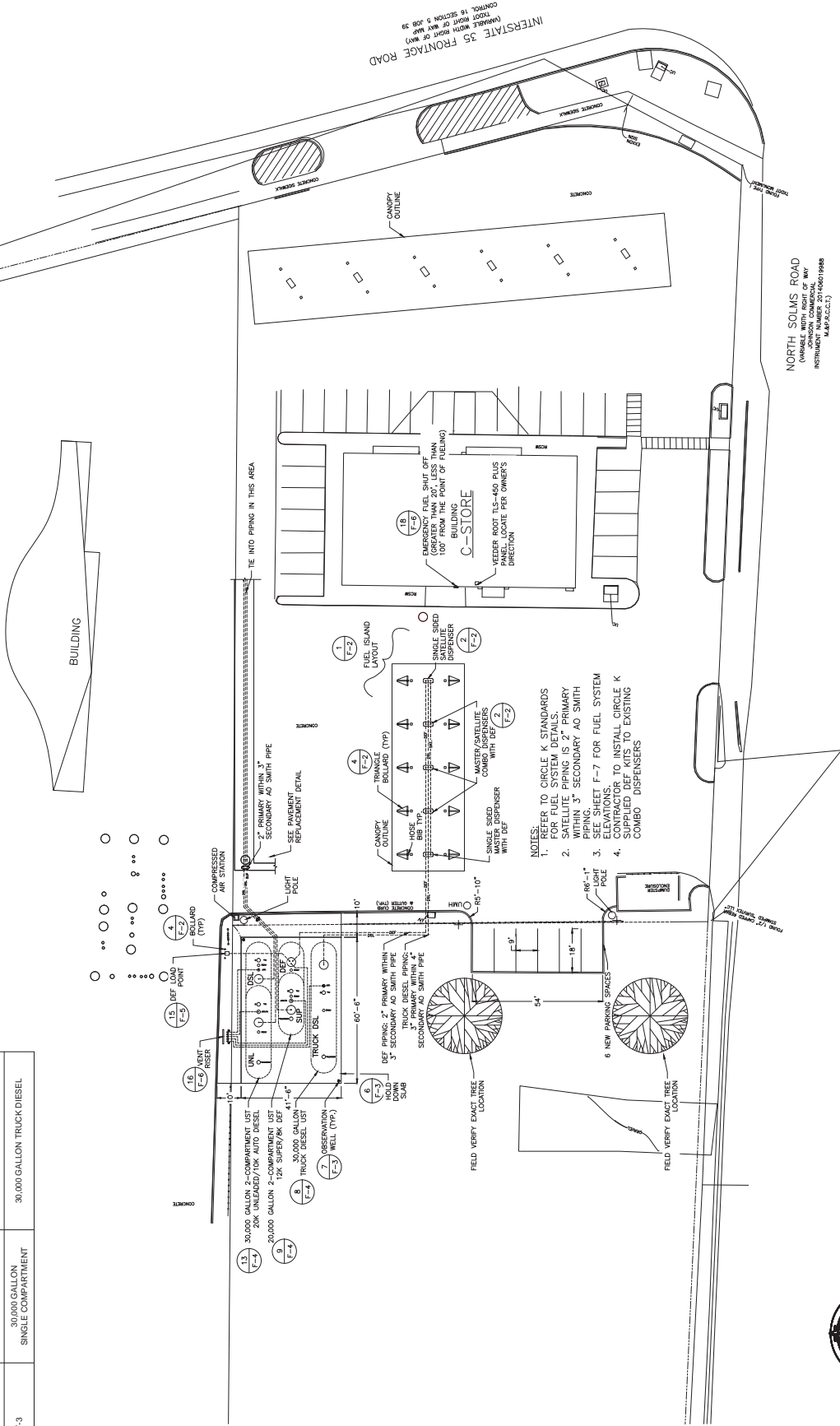
NEW BRAUNFELS, COMAL COUNTY, TEXAS

DATE: 2-19-15  
DRAWN BY: JEP  
CHECKED BY: JWM  
PROJ. NO. 2013-0016

SHEET: 2 OF 2

**SURVOTEX** LLC  
PROFESSIONAL SURVEYING AND MAPPING SERVICES  
600 W. Whitestone Blvd.  
Cedar Park, Texas 78613  
(512) 249-8875  
Fax (512) 249-5040

| UNDERGROUND STORAGE TANKS |   |
|---------------------------|---|
| UST-1                     | 30,000 GALLON,<br>2 COMPARTMENTS<br>20,000 GALLON UNLEADED<br>10,000 GALLON AUTO DIESEL |
| UST-2                     | 20,000 GALLON,<br>2 COMPARTMENTS<br>20,000 GALLON SUPER UNLEADED<br>8,000 GALLON DEF    |
| UST-3                     | 30,000 GALLON<br>SINGLE COMPARTMENT<br>30,000 GALLON TRUCK DIESEL                       |



- NOTES:
- REFER TO CIRCLE K STANDARDS FOR FUEL SYSTEM DESIGN.
  - WITHIN 3" SECONDARY AD SMITH PIPING.
  - SEE SHEET F-7 FOR FUEL SYSTEM DESIGN.
  - CONTRACTOR TO INSTALL CIRCLE K SUPPLIED DEF KITS TO EXISTING COMBO DISPENSERS.



NOT FOR CONSTRUCTION  
REVIEW ONLY  
R. BERRY, P.E.  
2-14-18

# PROPOSED SITE LAYOUT

SCALE: 1"=20'

REVISIONS  
DATE  
BY  
APP. JOB NO.  
SHEET NO.

F-1

CIRCLE K  
4340 S INTERSTATE HWY 35  
NEW BRAUNFELS, TX 78132

SITE PLAN  
871

Richard N. Berry, P.E., Inc.  
17028 MIDLAND ROAD, SUITE 115  
DALLAS, TEXAS 75244  
214-423-3940  
FAX 214-423-3942

Exhibit 'B'





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. M)

### 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 rezoning of 0.873 acres out of the J. M. Veramendi A-22 Survey, addressed at 2420 Katy Street, from "M-1" Light Industrial District to "ZH-A" Zero Lot Line Home District.

### **BACKGROUND / RATIONALE:**

**Case No.:** PZ-18-006

**Council District:** 1

**Applicant:** Comal County Habitat for Humanity, Inc.  
Crystal Moore, Executive Director  
1269 Industrial Drive  
New Braunfels, TX 78130  
(830) 387-6768  
crystal@comalhabitat.org

**Property Owner:** Wynn Wallace  
266 Grandview Avenue  
New Braunfels, TX 78130

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

**City Council held a public hearing for the first reading of this requested rezoning ordinance on April 23, 2018, and unanimously approved the request (6-0-0).**

The subject property is a vacant, unplatted tract with frontage on both Katy and Michigan Streets, adjacent to the Union Pacific Railroad tracks. Although this is primarily a single-family residential neighborhood, the entire area is zoned M-1 Light Industrial District. M-1 is a pre-1987 zoning district that allows residential, commercial, and industrial uses, so the property could be developed residentially, commercially or with industrial uses without rezoning.

Habitat for Humanity is proposing to purchase the 0.87-acre property and divide it into residential lots that are more consistent in size with those in the established neighborhood. The average lot on this block is 50 feet wide and 100 feet deep. Most lots in the area do not meet the minimum dimensions or 6,600 square foot area required for single-family residential use in M-1; an indication that the lots may have been designed before the M-1 zoning was applied. ZH-A zoning allows minimum lot dimensions of 40 feet by 100 feet, and a minimum area of 4,000 square feet.

The proposed infill development will require the applicant to dedicate and construct a cul-de-sac at the end of Michigan Street, reducing buildable area. By rezoning the property to ZH-A, Habitat hopes to plat four to six single-family lots and offer new opportunities for affordable home ownership in the neighborhood.

**General Information:**

Size: 0.873 acres

**Surrounding Zoning and Land Use:**

North - Across railroad, M-1/ Manufactured home park  
 South - Across Katy Street, M-1/ Single-family residences  
 East - M-1/ Single-family residences  
 West - M-1/ Single-family residences

**Comprehensive Plan/ Future Land Use Designation:** Medium Density Residential

**Floodplain:**

No portion of the property is within the 1% annual chance flood zone (100-year floodplain).

**Regional Transportation Plan:**

The property is in compliance with the Regional Transportation Plan. Katy and Michigan Streets are local residential streets with 60 feet of right-of-way width.

**Improvement(s):**

None

**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 residential uses permitted in ZH-A are appropriate and compatible for this area.*);
- 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 zoning should not conflict with existing and proposed schools, streets, or utilities in the area.*);
- How other areas designated for similar development will be affected (*The proposed zoning should not impact other areas designated for similar development, and is a more appropriate zoning for a residential area than the current M-1 designation.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will substantially affect the public health, safety, morals, or general welfare. A cul-de-sac at the end of Michigan Street will improve the safety and efficiency of solid waste collection and emergency services. Any required drainage or utility issues will be addressed through the platting and building permit processes.*); and
- Whether the request is consistent with the Comprehensive Plan (*Four to six residential units on the subject property is consistent with the Future Land Use Plan designation of Medium Density Residential.*)

**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: Objective 1A:</b> 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. The proposed ZH-A zoning allows lots that are compatible in size and use with the surrounding area and will provide an opportunity for appropriate infill housing. |
|     |  | <b>Objective 17I:</b> Encourage a range of housing opportunities, including varied lot sizes and housing choices. The smaller lot sizes permitted by ZH-A zoning will provide additional housing opportunities while maintaining compatibility with the neighborhood.   |
|     |  | <b>Cons: None</b>   |

---

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on April 3, 2018 and unanimously recommended approval of the proposed rezoning. (8-0-0)

**STAFF RECOMMENDATION:**

Staff recommends approval of the requested rezoning as it is consistent with the Future Land Use Plan and surrounding development, meets several goals of the Comprehensive Plan, and provides an opportunity for appropriate infill housing.

**Notification:**

Public hearing notices were sent to owners of 25 properties within 200 feet of the subject property. The Planning Division received no responses in favor and two in objection (3, 18) representing 3% of the notification area.

**Attachments:**

1. Aerial Map
2. Application
3. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
4. Notification Map and Responses
5. Sec. 3.4-9 ZH-A
6. Photographs
7. Ordinance

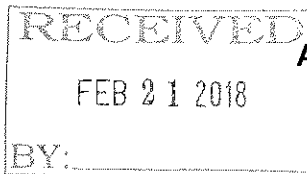








PLANNING



P2-18-006  
APPLICATION FOR A ZONING CHANGE

Planning and Community Development  
550 Landa Street, New Braunfels, TX 78130  
(830) 221-4050  
www.nbtexas.org

Case Number: \_\_\_\_\_

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: Comal County Habitat for Humanity, Inc.Mailing Address: 1269 Industrial Dr, NB TX 78130Telephone: 830-387-6768 Fax: \_\_\_\_\_ Mobile: \_\_\_\_\_Email: Crystal@comalhabitat.org

2. Property Address/Location: 2420 Katy

3. Legal Description: A-2 Sur I JM Veramendi

Name of Subdivision: \_\_\_\_\_

Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_ Acreage: .873

4. Existing Use of Property: Vacant land

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

residential lots for Habitat for Humanity homes

6. Zoning Change Request: Current Zoning: M-1 Proposed Zoning: ZHA

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): ZHA most

closely matches existing uses and lot sizes

8. COUNTY: ☒ COMAL ☐ GUADALUPE - SCHOOL DIST: ☐ CISD ☒ NBISD ☐ OTHER \_\_\_\_\_

9. REQUIRED ATTACHMENTS:

- ☒ Metes and bounds description and survey if property is not platted.  
☐ 3 TIA worksheets and 2 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 17 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 17 copies of the standards and Concept plan (1":200') for distribution; 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.  
☐ Mailed notification \_\_\_\_\_ x 2.15 each = \_\_\_\_\_  
☐ Newspaper Notice 115.00 each  
☐ Future Land Use Plan Update \$500.00

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

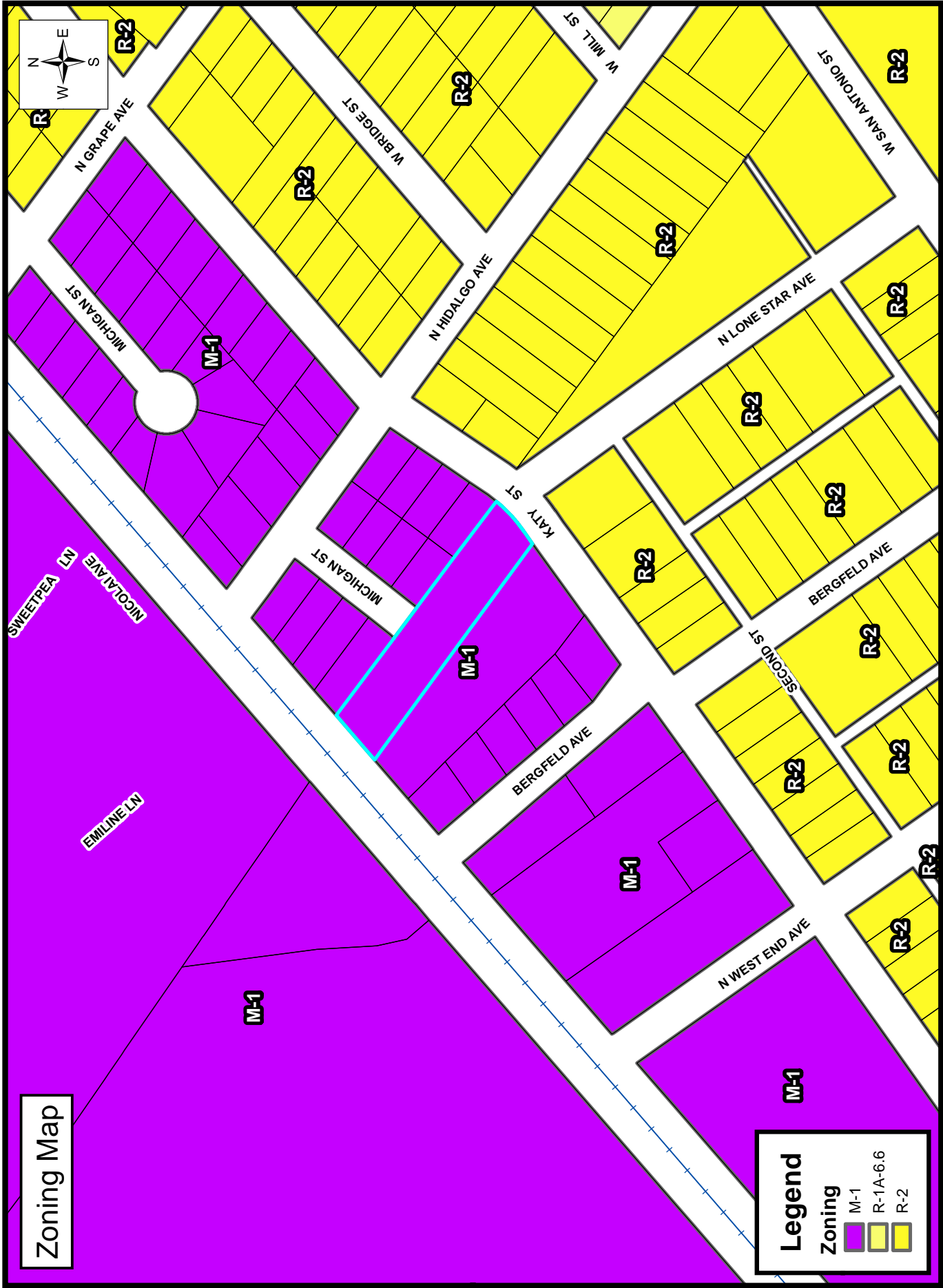
Crystal Moore  
Signature of Owner(s)/Agent

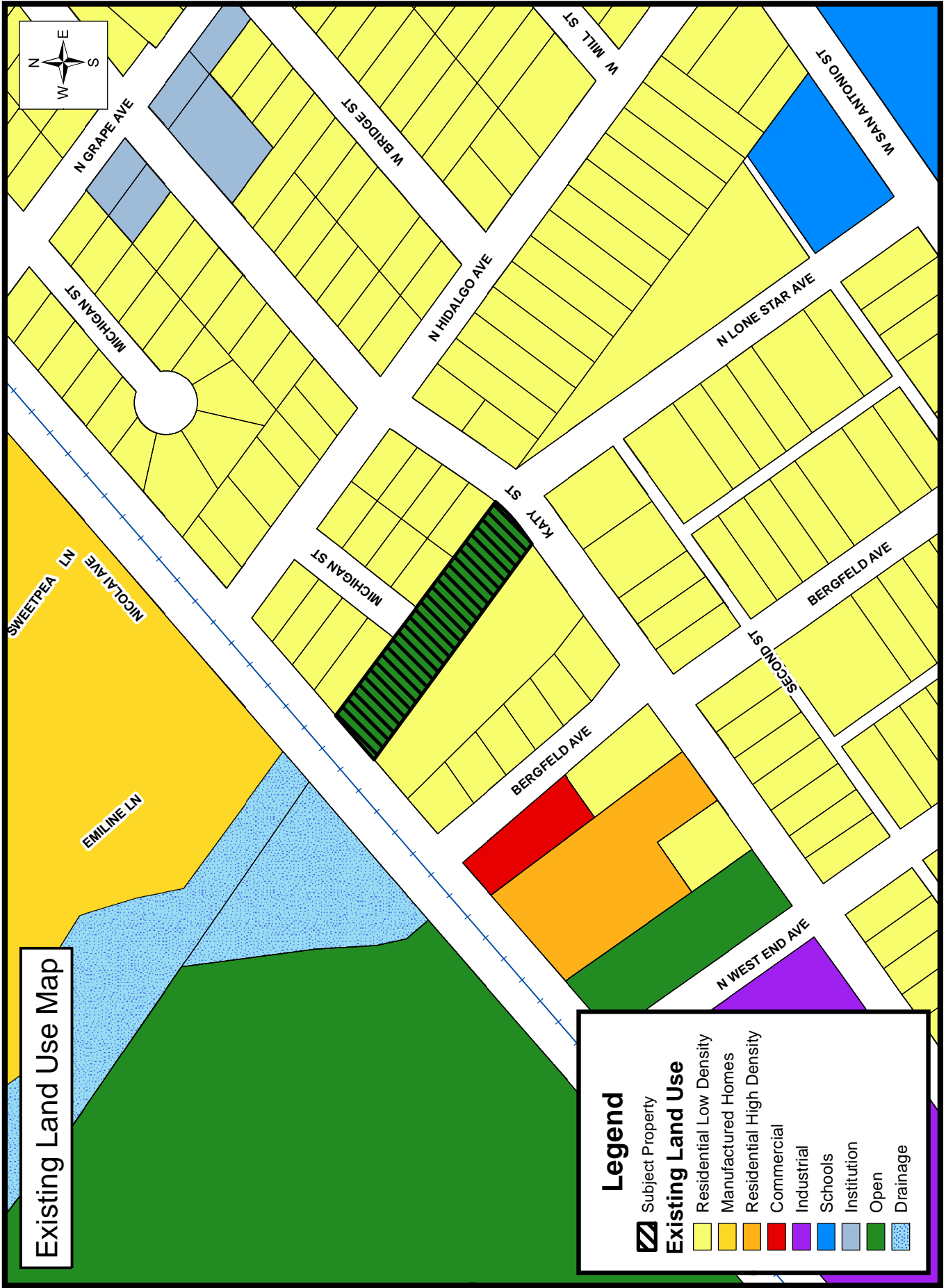
2/21/18  
Date  
Crystal Moore Executive Director  
Print Name & Title

## For Office Use Only

Fee Received By: H. Mullins Amount: \$675 Receipt No.: 237980Date Received: 2/21 Zoning signs issued: \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_Cash/Check Number: C#5803 Case Number: \_\_\_\_\_



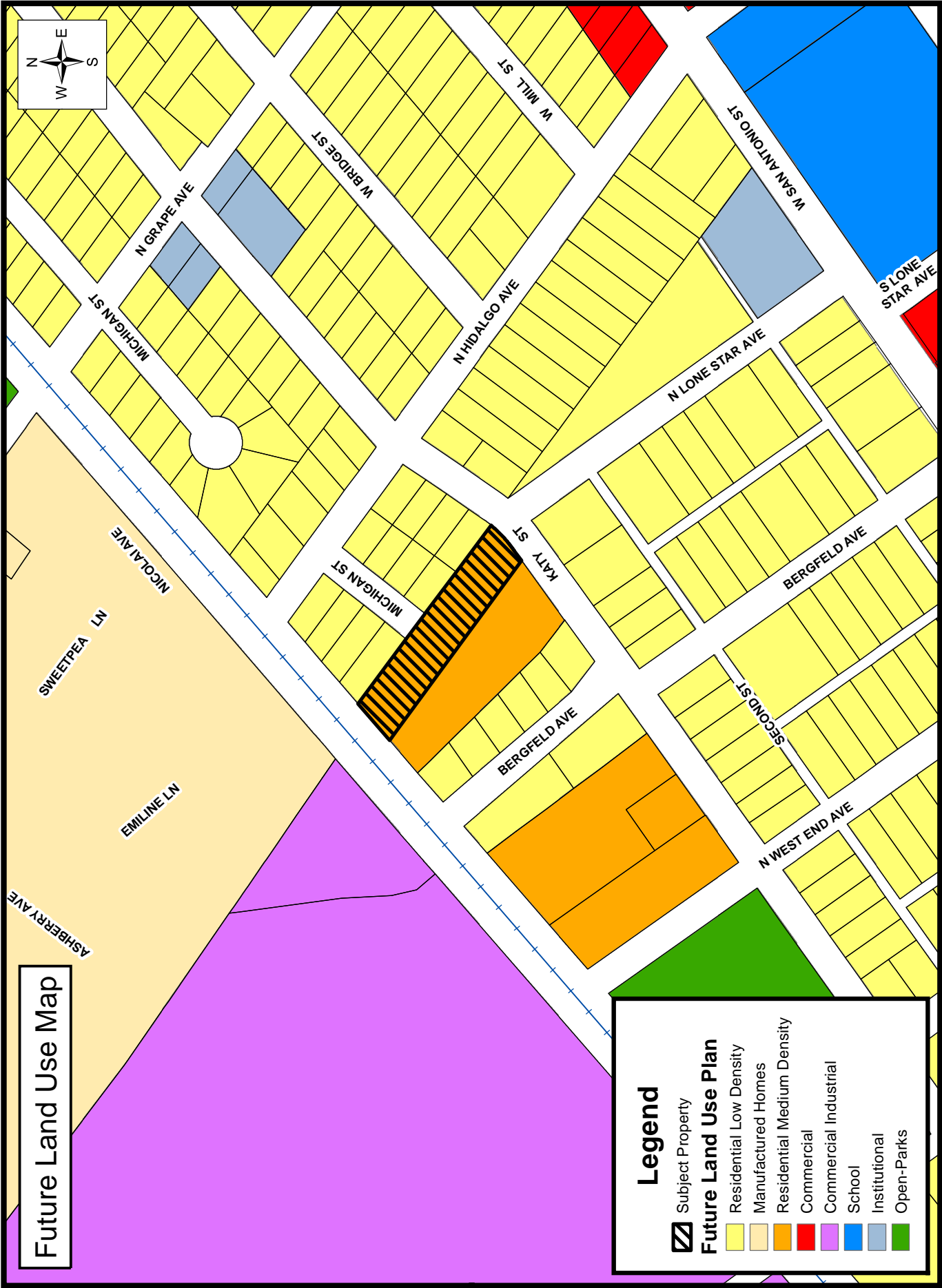




Map Created: 3/22/2018

PZ-18-006  
2420 Katy Street  
M-1 to ZH-A









**PLANNING COMMISSION – April 3, 2018 - 6:00PM**

New Braunfels City Hall, Council Chambers

**Applicant:** Comal County Habitat for Humanity

**Address/Location:** 2420 Katy Street

**Proposed Rezoning – Case #PZ-18-006**

The circled numbers on the map correspond to the property owners listed below.  
All information is from the Comal Appraisal District Records.

1. New Braunfels City of
2. Bavarian Village Inc
3. Millett Dolores Estate of
4. Kasberg Randy
5. Gonzalez Baltazar T
6. Yanez Jesse & Marta
7. Gomez Jose L
8. Comal County Habitat for Humanity
9. Medina Gabriel Rolando
10. Rodriguez Santos III & Griselda
11. Martinez Yolanda L
12. Garza Arturo & Belia
13. Sandoval Pilar
14. DelaCerde Carlos & Esmeralda
15. DeLeon Lorenza
16. Flores Raquel
17. Martinez Rafael L et al
18. Millett Carole Faye
19. Barrientos Agapita B
20. Valencia Maria H
21. Lagunas Lydia
22. Robinson Laura Nehring
23. Rodriguez George & Nora
24. Santellan Sandy & Santiago
25. Rosales Family Trust

---

**SEE MAP ATTACHED**



## YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ18-006 (Habitat) hm

Date Sent: 3/16/18

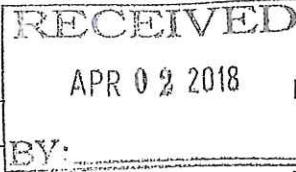
Name:

*Timothy E. Millett*

Address:

*567 Beverly Lane*

Property number on map:

*#3 & #18*

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

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

*The area already has drainage and erosion problems with considerable rainfalls and the elimination of this large green space will be increased. The peaceful and quietness of the neighborhood will be in jeopardy (with the exception of train) with more traffic and congestion due to the number of homes wanting to be built.*

Signature:

*Timothy E. Millett*

### 3.4-9. "ZH-A" zero lot line home district.

*Purpose.* The ZH-A zero lot line home district is intended for development of detached single-family residences on compact lots having one side building setback reduced to zero feet, also commonly referred to as "zero lot line", and having a minimum lot size of four thousand (4,000) square feet. The following regulations shall apply in all "ZH-A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

**Residential uses:**

Accessory building/structure  
 Accessory dwelling (one accessory dwelling per lot, no kitchen)  
 Community home (see definition)  
 Family home adult care  
 Family home child care  
 Home Occupation (Sec. 5.5)  
 Single family industrialized housing (Sec. 5.8)  
 Zero lot line / patio homes

**Non-residential uses:**

Barns and farm equipment storage (related to agricultural uses)  
 Church/place of religious assembly  
 Community building (associated with residential uses)  
 Contractor's temporary on-site construction office (with permit from Building Official; Sec. 5.10)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Golf course, public or private  
 Governmental building or use with no outside storage  
 Park and/or playground (public or private)  
 Recreation buildings (public)  
 School, K-12 (public or private)  
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) *Height.* 35 feet.

(2) *Front building setback.* A minimum front yard of 10 feet shall be provided to the front of the house. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of 10 feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum depth of 10 feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot. However, a provision can be made for 5 foot setbacks on both sides if it meets all applicable building codes.

(4) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side a minimum yard of 20 feet shall be provided to the garage/carport.

(5) *Rear building setbacks.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries

are from the front, the rear building setback shall have a minimum depth of 10 feet. If the rear of the lots abuts any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

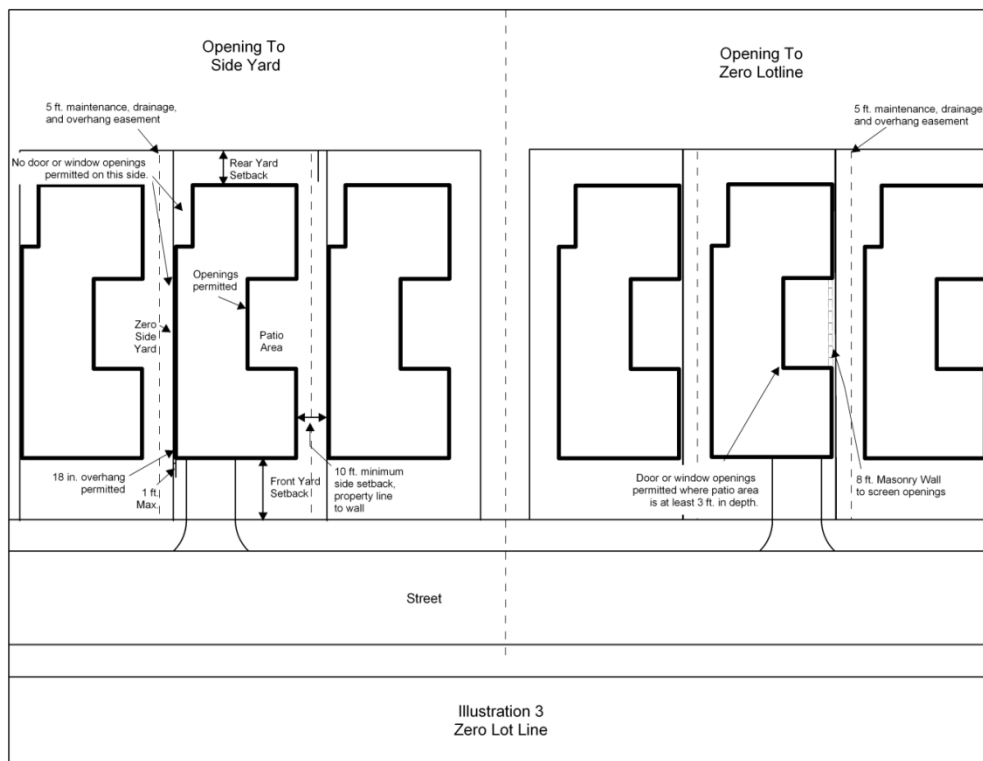
(6) *Width of lot.* 40 feet.

(7) *Lot area.* 4,000 square feet.

(8) *Lot depth.* 100 feet.

(c) *Other requirements:*

- (1) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.
- (2) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district)
- (3) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.
- (4) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.
- (5) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See Section 5.1 for other permitted uses' parking.





Subject property from Katy Street



Subject property from Michigan Street

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING 0.873 ACRES OUT OF THE J. M. VERAMENDI A-22 SURVEY, ADDRESSED AS 2420 KATY STREET, FROM "M-1" LIGHT INDUSTRIAL DISTRICT TO "ZH-A" ZERO LOT LINE HOME DISTRICT; 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 "ZH-A" Zero Lot Line Home 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 City Council desires to amend the Zoning Map by changing the zoning of 0.873 acres out of the J. M. Veramendi A-22 Survey, addressed as 2420 Katy Street, from "M-1" Light Industrial District to "ZH-A" Zero Lot Line Home District; **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 "M-1" Light Industrial District to "ZH-A" Zero Lot Line Home District:

"0.873 acres out of the J. M. Veramendi A-22 Survey, addressed as 2420 Katy Street, as described in Exhibit 'A' and delineated on Exhibit 'B' attached."

**SECTION 2**

**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 3**

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

### **SECTION 4**

**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 5**

**THIS** ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this 23rd day of April, 2018.

**PASSED AND APPROVED:** Second reading this 14th day of May, 2018.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO, City Attorney**

**River City Engineering**  
 1011 W. County Line Road \* NEW BRAUNFELS, TX. 78130  
 PHONE (830) 625-0337 FAX (830) 625-0858  
 dlamberts@rcetx.com  
 Firm Registration #10193949

All that certain tract or parcel of land containing 0.873 of an acre of land out of the J.M. Veramendi Two League Survey No. 1, Abstract No. 2, City of New Braunfels, Comal County, Texas and being out of that certain called one acre parcel described in Volume 69, Page 409, Deed Records of Comal County, Texas; Said 0.873 of an acre parcel being more particularly described by metes and bounds as follows:

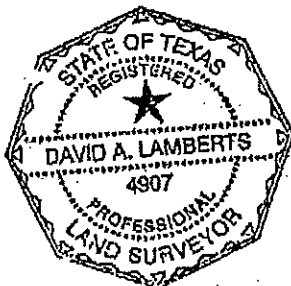
BEGINNING at a ½ inch rebar found on the northwesterly right-of-way line of Katy Street for the most easterly corner and POINT OF BEGINNING of this parcel, same being the most southerly corner of Lot 12A, Block 1, LONE STAR ADDITION NO. 2, as recorded in Volume 103, Page 265 of said Deed Records;

THENCE with said right-of-way line, South 54 deg 14' 02" West, a distance of 94.45 feet to a fence post found for the most southerly corner of this parcel, same being the most easterly corner of that certain called 1.07 acre parcel recorded in Document No. 200106021840 of the Official Public Records of Comal County, Texas (described in Volume 134, Page 285 of said Deed Records);

THENCE departing said right-of-way line and with the common line of this parcel with said 1.07 acre parcel, North 53 deg 15' 51" West, a distance of 420.11 feet (called North 53 deg 15' West, 422.54 feet in said Volume 134, Page 285) to a fence post found on the southeasterly right-of-way line of the M.K. & T. Railroad for the most westerly corner of this parcel, same being the most northerly corner of said 1.07 acre parcel;

THENCE with said railroad right-of-way line, North 48 deg 58' 45" East, a distance of 91.18 feet (called North 49 deg 44' East, 91.18 feet in said Volume 69, Page 409) to a ½ inch rebar set (capped "RPLS 4907") for the most northerly corner of this parcel, same being the most westerly corner of Lot 4A of said LONE STAR ADDITION NO. 2;

THENCE with the common line of this parcel with said LONE STAR ADDITION NO. 2, South 53 deg 23' 37" East, a distance of 429.17 feet (called South 53 deg 15' East, 431.5 feet in said Volume 103, Page 265) to the POINT OF BEGINNING and containing 0.873 of an acre of land with all bearing called for herein rotated to a bearing of South 32 deg 27' 00" West between ½ inch rebars found for the most easterly and southerly corners of said Lot 12A, Block 1.



*David A. Lamberts*  
 David A. Lamberts R.P.L.S. No. 4907  
 J.O. No. 15-0387 (DRAWING PREPARED)

Exhibit "A"



Map Created: 4/13/2018

PZ-18-006  
2420 Katy Street  
M-1 to ZH-A





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. N)

### 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 Council held a public hearing and unanimously passed the first reading on April 23, 2018.**

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 these ages 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 will include:

- Staff ratios (15:1)
- 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

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

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

### **FISCAL IMPACT:**

N/A

### **COMMITTEE RECOMMENDATION:**

---

The Parks and Recreation Advisory Board recommended approval of the ordinance for Youth Program Standards of Care at their meeting on April 16, 2018.

**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance for Youth Program Standards.



## ORDINANCE NO. 2018 - \_\_\_\_

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, ADOPTING DAY CARE STANDARDS FOR 2018; 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.  |
| Das Rec                              | 345 Landa Street     |

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 23th day of April, 2018.

PASSED AND APPROVED: Second reading this 14th day of May, 2018.

CITY OF NEW BRAUNFELS, TEXAS

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

ATTEST:

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

APPROVED AS TO LEGAL FORM:

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







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. O)

### 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 amending Section 126-354 of the City of New Braunfels Code of Ordinances to create Parking by Permit Area N.

### **BACKGROUND / RATIONALE:**

**Council District: 6**

City Council unanimously approved the first reading of an ordinance to amend Section 126-354 of the City of New Braunfels Code of Ordinances to create a new Parking by Permit Area N on April 23, 2018.

Staff has received a request from multiple property owners along West Jahn Street to create a new parking by permit area. The requested time for parking by permit is year-round, from 6:00 p.m. to 6:00 a.m. The requested area consists of single-family homes.

A signed petition has been received from the property owners and residents requesting the creation of a new parking by permit area on both sides of West Jahn Street from South Academy Avenue to the railroad tracks daily between 6:00 p.m. to 6:00 a.m., year-round.

The proposed designated parking by permit area is a contiguous residential area and matches the schedule of existing parking by permit areas. Over two-thirds of the affected residents have submitted a signed statement of the following:

*We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or residential property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of issuing the annual parking permits will be paid by the residents and/or property owners.*

A parking study was completed during a concert at a local venue that the requestors say that most of the parking comes from in January 2018. The results of the study show that the occupancy requirements listed in Section 126-354 (d)(2) of the Code of Ordinances were met for West Jahn

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Street during this study period.

A public hearing on the application shall be conducted by City Council. Notices of the public hearing were mailed to all property owners (as shown on the latest tax roll) and residents within the designated permit area.

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

Strategic Priority: Public Safety; Objective 5: Develop comprehensive program for river related issues which includes addressing river related issues in a timely manner and reviewing options to address river related activities and quality of life issues.

**FISCAL IMPACT:**

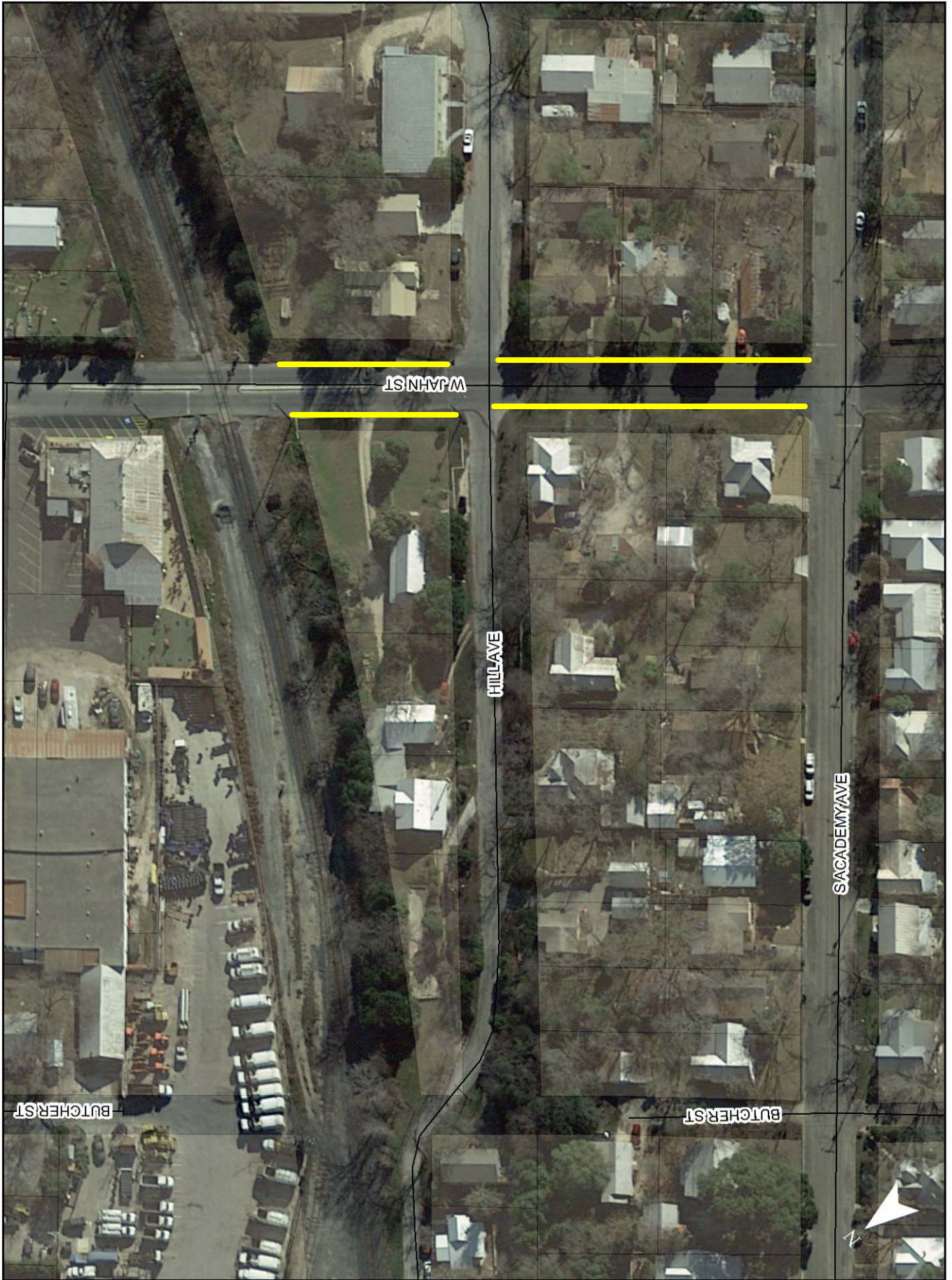
Traffic control signs cost approximately \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

**COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board unanimously approved the recommendation to City Council to amend Section 126-354 of the City of New Braunfels Code of Ordinances to create a new Parking by Permit Area N by a vote of five in favor at their meeting on March 8, 2018.

**STAFF RECOMMENDATION:**

Staff recommends approval of the creation of a new parking by permit area on both sides of West Jahn Street from South Academy Avenue to the railroad tracks.



Requested Parking by Permit Area on W. Jahn Street

**ORDINANCE NO. 2018-\_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-354 (c) TO CREATE PARKING BY PERMIT AREA N ON WEST JAHN STREET.**

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WHEREAS, the City Council has determined that Section 126-354 (c) Parking by Permit Only, Designated Permit Areas be amended 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 Section 126-354 (c) is hereby amended to add:

- (15) Area N, daily between the hours of 6:00 p.m. and 6:00 a.m., year-round.
  - a. On both sides of West Jahn Street from South Academy Avenue northeast to the railroad crossing.

**II.**

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

**III.**

THAT all provisions hereof are hereby 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 will be and remain in full force and effect.

**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 \_\_\_\_\_, 2018.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
BARRON CASTEEL, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
VALERIA M. ACEVEDO, CITY ATTORNEY

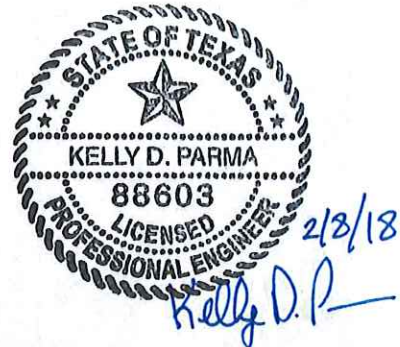




ARIZONA  
TEXAS  
NEW MEXICO  
OKLAHOMA

## TECHNICAL MEMORANDUM

DATE: February 8, 2018  
 TO: Mary K. Hamann, P.E., Engineer  
 City of New Braunfels, Texas  
 FROM: Kelly D. Parma, P.E., PTOE  
 Lee Engineering, LLC (TBPE Firm F-450)  
 SUBJECT: Parking Occupancy Study – 500 Block of Hill Avenue (west of Jahn Street) and Jahn Street  
 between Academy Avenue and Railroad  
 (Technical Memorandum 128.09)



### PURPOSE

The purpose of this study was to determine the amount of on-street curb parking that was being utilized by residents and non-residents on the 500 block of Hill Avenue and on Jahn Street between Academy Avenue and the Railroad. Non-residents use the area streets for parking to access the local bar, Conway's, especially during special events.

### METHODOLOGY

The area, illustrated in **Figure 1**, was surveyed on Saturday, January 20, 2018 from 8:00 p.m. until 12:00 a.m. This time period was selected to better capture traffic created by the local bar, Conway's, during special events held on the weekend. Conway's hosted popular rapper, Juvenile, on this particular night who began his performance promptly at 10:30 p.m.

The data collection process consisted of measuring street segments of available curb space for on-street parking and the number of on-street parked vehicles differentiated by resident or non-resident vehicles, based on assumed observations in the field. During the time period data was collected, observations of the number of parked vehicles by side of the street were made every ½-hour and recorded, as shown in **Table 1**. The number of different vehicles was not recorded, only the fact that vehicles were parked on the street.



Figure 1: Study Area



Table 1: On-Street Parking Observations

| Number of Vehicles Parked per Segment  |                   |          |                  |   |                   |          |                  |
|--|-------------------|----------|------------------|---|-------------------|----------|------------------|
| Available Curb Space: Eastside - 318' Westside - 386'<br>Jahn St. - Railroad to Academy Ave. |                   |          |                  | Available Curb Space: Northside - 396' Southside - 456'<br>Hill Ave. (500 block) west of Jahn St. |                   |          |                  |
| 1/20/2018<br>TIME  | Side of<br>Street | Resident | Non-<br>Resident | 1/20/2017<br>TIME   | Side of<br>Street | Resident | Non-<br>Resident |
| 8:00 PM  | E                 | 0        | 0                | 8:00 PM   | N                 | 1        | 0                |
|  | W                 | 0        | 0                |   | S                 | 0        | 0                |
| 8:30 PM  | E                 | 0        | 0                | 8:30 PM   | N                 | 1        | 0                |
|  | W                 | 0        | 0                |   | S                 | 0        | 0                |
| 9:00 PM  | E                 | 0        | 5                | 9:00 PM   | N                 | 1        | 0                |
|  | W                 | 0        | 0                |   | S                 | 0        | 3                |
| 9:30 PM  | E                 | 0        | 6                | 9:30 PM   | N                 | 1        | 0                |
|  | W                 | 0        | 0                |   | S                 | 0        | 5                |
| 10:00 PM   | E                 | 0        | 9                | 10:00 PM  | N                 | 1        | 1                |
|  | W                 | 0        | 0                |   | S                 | 0        | 6                |
| 10:30 PM   | E                 | 0        | 10               | 10:30 PM  | N                 | 1        | 1                |
|  | W                 | 0        | 8                |   | S                 | 0        | 6                |
| 11:00 PM   | E                 | 0        | 10               | 11:00 PM  | N                 | 1        | 1                |
|  | W                 | 0        | 5                |   | S                 | 0        | 6                |
| 11:30 PM   | E                 | 0        | 10               | 11:30 PM  | N                 | 1        | 1                |
|  | W                 | 0        | 6                |   | S                 | 0        | 6                |
| 12:00 AM   | E                 | 0        | 6                | 12:00 AM  | N                 | 1        | 1                |
|  | W                 | 0        | 5                |   | S                 | 0        | 4                |

Table 2 presents a tabulation of the percentage of available curb space used by parked vehicles (residents and non-residents combined) based on the measured curb lengths, excluding driveway lengths, for each side of the street shown in the header of the table and an effective parked vehicle length of 30 feet. These results quantify the summary of observations presented in Table 1.

Table 2: Percentage of Curb Space Utilized

| <b>Percent of Available Curb Space Utilized (Resident + Non-Resident Vehicles)*</b>                  |                                |     |   |                                |     |
|--|--------------------------------|-----|---|--------------------------------|-----|
| <b>Available Curb Space: Eastside - 318' Westside - 386'<br/>Jahn St. - Railroad to Academy Ave.</b> |                                |     | <b>Available Curb Space: Northside - 396' Southside - 456'<br/>Hill Ave. (500 block) west of Jahn St.</b> |                                |     |
| <b>1/20/2018<br/>TIME</b>  | <b>Resident + Non-Resident</b> |     | <b>1/20/2018<br/>TIME</b>   | <b>Resident + Non-Resident</b> |     |
| <b>8:00 PM</b>   | E                              | 0%  | <b>8:00 PM</b>  | N                              | 8%  |
|  | W                              | 0%  |   | S                              | 0%  |
| <b>8:30 PM</b>   | E                              | 0%  | <b>8:30 PM</b>  | N                              | 8%  |
|  | W                              | 0%  |   | S                              | 0%  |
| <b>9:00 PM</b>   | E                              | 47% | <b>9:00 PM</b>  | N                              | 8%  |
|  | W                              | 0%  |   | S                              | 20% |
| <b>9:30 PM</b>   | E                              | 57% | <b>9:30 PM</b>  | N                              | 8%  |
|  | W                              | 0%  |   | S                              | 33% |
| <b>10:00 PM</b>  | E                              | 85% | <b>10:00 PM</b>   | N                              | 15% |
|  | W                              | 0%  |   | S                              | 39% |
| <b>10:30 PM</b>  | E                              | 94% | <b>10:30 PM</b>   | N                              | 15% |
|  | W                              | 62% |   | S                              | 39% |
| <b>11:00 PM</b>  | E                              | 94% | <b>11:00 PM</b>   | N                              | 15% |
|  | W                              | 39% |   | S                              | 39% |
| <b>11:30 PM</b>  | E                              | 94% | <b>11:30 PM</b>   | N                              | 15% |
|  | W                              | 47% |   | S                              | 39% |
| <b>12:00 AM</b>  | E                              | 57% | <b>12:00 AM</b>   | N                              | 15% |
|  | W                              | 39% |   | S                              | 26% |

\* At 30 feet/vehicle

The measurements on Jahn Street did not include the right-of-way of the railroad. **Figures 2 and 3** show the locations where measurements began for on-street parking for the west and east side of Jahn Street, respectively.



Figure 2: Jahn Street – West Side Measurements



Figure 3: Jahn Street – East Side Measurements



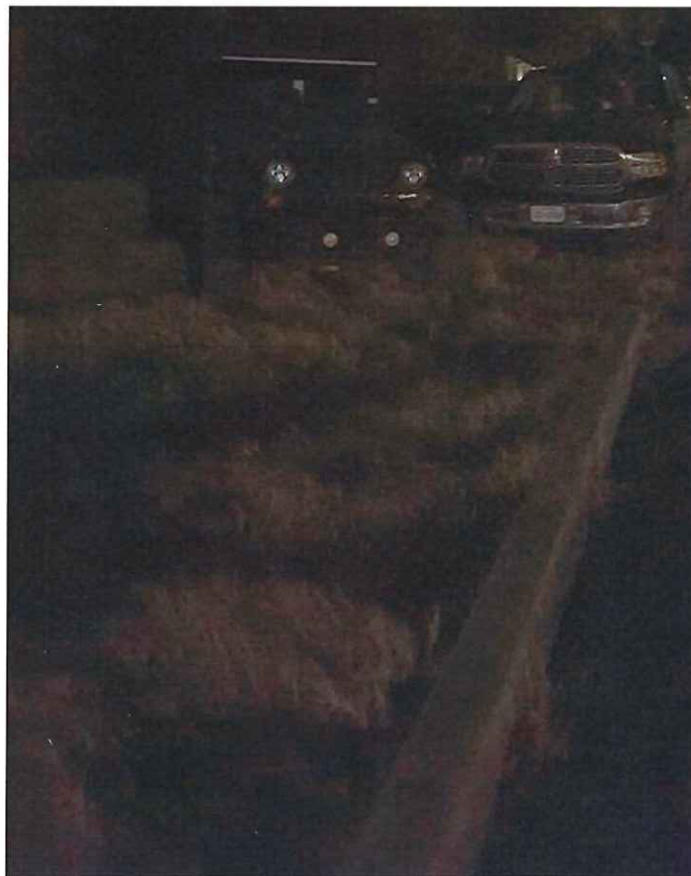
Although the segments between the railroad and measurement starting points for on-street parking (see Figures 2 and 3) were not included in the data collection, vehicles utilized those areas for off-street parking. Figures 4 and 5 show vehicles parked on the west side and east side of Jahn Street, respectively. These off-street parked vehicles were not included in the on-street parking data collected.



Figure 4: Jahn Street - West Side Off-Street Parking



Figure 5: Jahn Street - East Side Off-Street Parking



Upon arrival at the study site, the area was surveyed for existing control devices. There are no existing parking restrictions on either Jahn Street between the Railroad and Academy Avenue or the 500 block of Hill Avenue. However, the resident at 575 S. Hill Avenue, which has driveway access to Jahn Street, had posted generic "No Parking" signs on Jahn Street, adjacent to their property. Three "No Parking" signs were posted along a length of 67 feet, beginning at a wooden powerline pole and ending south of their driveway. Once the resident realized the purpose of this study, he removed these signs between 10:00 p.m. and 10:30 p.m. to provide a more accurate depiction of the on-street parking adjacent to his property. **Figure 6** shows the "No Parking" signs posted by the resident.

**Figure 6: 575 S. Hill Ave - "No Parking" signs**



Analysis of the data collected showed that:

- Resident on-street parking was consistent during the study period while non-resident on-street parking fluctuated.
- On-street parking, particularly by non-residents, peaked at 94% of on-street occupancy on the east side of Jahn Street around 10:30 p.m.
- On Hill Avenue, west of Jahn Street, on-street parking peaked at 39% on the north side of Hill Avenue around 10:00 p.m.
- The east side of Jahn Street was the most affected by on-street parking.

## CONCLUSIONS

On-street parking began accumulating by 9:00 p.m. and peaked at 94% on the east side of Jahn Street. Although the west side of Jahn Street initially had "No Parking" signs posted by the resident of the adjacent house, that parking area filled up after the signs were removed. On-street parking was heaviest in areas closest to the bar, especially Jahn Street north of Hill Avenue and Hill Avenue immediately west of Jahn Street. On-street parking did not extend down to the intersection of Jahn Street and Academy.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

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:**

Canvass returns of the regular election of May 5, 2018.

**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 acceptance of the results by City Council.







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. B)

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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 an ordinance declaring the canvass and result of an election held on May 5, 2018, to elect one member of the New Braunfels City Council; containing a savings clause; declaring an effective date; and declaring an emergency.

**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 ordinance.

**ORDINANCE NO. 2018-\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DECLARING THE CANVASS AND RESULT OF AN ELECTION HELD ON MAY 5, 2018, TO ELECT ONE MEMBER OF THE NEW BRAUNFELS CITY COUNCIL; CONTAINING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.**

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

**I**

Came on this the 14<sup>th</sup> day of May, 2018, the 9<sup>th</sup> day after the called election to elect one member of the City Council of New Braunfels, Texas, to be canvassed in accordance with State law, the returns of the municipal election held on the 5<sup>th</sup> day of May, 2018, at which election there were submitted to the qualified voters of the City of New Braunfels, the names of candidates to be considered for the election of one member of the City Council, all as fully set out in the resolution ordering said election and approved on the 22<sup>nd</sup> day of January, 2018, as set out in the Election Notice published in the New Braunfels Herald-Zeitung, a newspaper of general circulation in said city, as required by law, reference to said resolution being here made for all purposes, and the City Council of the City of New Braunfels has met to canvass the returns and to declare the result of said election in the manner provided by law, and after considering, determining and canvassing all matters of facts, including votes, appertaining, we, the Mayor and the City Council of the City of New Braunfels, after opening the returns of the election received from the election judges and delivered to the City Secretary, do hereby find and declare the result of said election to be as tabulated below:

**FOR MEMBERS OF CITY COUNCIL**

**DISTRICT FOUR**

|              |           |
|--------------|-----------|
| MATTHEW HOYT | 496 VOTES |
| BRAD BECHTOL | 229 VOTES |

**II**

And it appearing to the City Council of the City of New Braunfels that the names of the candidates for a Councilmember for the City of New Braunfels from District Four

for a term which shall begin at the first regular meeting following this canvass (May 29, 2018) and shall expire when his/her successor is elected and qualified; were submitted at said election and that the election was held and conducted, and that the returns thereof were made, all as required by the Charter of the City of New Braunfels, Texas, and the laws of the State of Texas, the order of the City Council and the law for such cases made and provided, and that at said election, there were cast respectively for each of the said candidates for the office of Councilmember from District Four for a term beginning on May 29, 2018, and which shall expire in May 2021, the aggregate number of votes as shown on the above.

### III

And the Mayor and City Council of the City of New Braunfels, having first canvassed said returns and having found the same in all things correct, the same was thereupon adopted by majority vote of the City Council; and it is further declared that as a result of said election; the Councilmember of the City of New Braunfels from District Four for the term beginning on May 29, 2018, is

DISTRICT FOUR:           Matthew Hoyt

and each was elected by receiving the majority of all votes cast for the office which he/she was a candidate, cast by the qualified voters of the City of New Braunfels voting at said election, and each is hereby declared to be the lawful and duly elected Councilmember for the City of New Braunfels for the district specified.

### IV

If any part of this ordinance shall be held to be unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the constitutionality or validity of the remaining parts of this Ordinance. The City Council hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts thereof would have been declared unconstitutional or invalid, and further declares that such remaining parts shall remain in full force and effect; and that the provisions hereof are severable.

### V

It is further ordained that, in view of the fact that it is for the best interest of the citizens of the City of New Braunfels, and one which requires the immediate declaration and the canvass and result of said election thereby creating an imperative public necessity that the rule requiring ordinances to be read at two separate meetings of the City Council be suspended, the same is hereby suspended, and this ordinance shall take effect and be in full force from and after its passage as an emergency ordinance as made and provided by the Charter of the City of New Braunfels, Texas.

PASSED AND APPROVED: this the 14<sup>th</sup> day of May, 2018.

**CITY OF NEW BRAUNFELS, TEXAS**

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BARRON CASTEEL, Mayor

**ATTEST:**

---

PATRICK D. ATEN, City Secretary

**APPROVED AS TO FORM:**

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VALERIA M. ACEVEDO, City Attorney





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. C)

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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 appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2020.

**BACKGROUND / RATIONALE:**

The Community Development Advisory Board has nine members serving three-year staggered terms. Notice of vacancy was advertised from March 15, 2018 to April 15, 2018.

One qualified application was submitted for the vacancy:

- Jeffrey Ayers
- Lawrence Spradley

Jeffrey Ayers has no prior experience on City boards.

Lawrence Spradley has no prior experience on City boards.

**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 appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2020.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. D)

### Presenter/Contact

*Robert Camareno, City Manager & Stacey Dicke, Parks and Recreation Director  
(830) 221-4350 - [sdicke@nbtexas.org](mailto:sdicke@nbtexas.org)*

### **SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance amending the Code of Ordinances Chapter 118, Article V, Parkland.

### **BACKGROUND / RATIONALE:**

The first reading of this ordinance was approved on April 9, 2018. A subcommittee was appointed to meet and discuss private park standards as detailed in the Park Land Development Manual. This subcommittee met on April 20, 27, and May 4, 2018, and made the following recommendations for the second reading:

The table below summarizes the proposed recommendations from the first reading:

|   | Current  | First Reading  | Second Reading  |
|---|--|--|---|
| Use of park funds                           | Previously 10 years  | Funds must be spent within 7 years   | Same  |
| Review and update Park Development Fee      | No review  | Every 3 years  | Same  |
| Fee in-lieu-of Neighborhood/Community       | \$100  | \$208  | Same  |
| Park Development Fee Neighborhood/Community | \$500  | \$2,038  | Same  |
| Fee in-lieu-of Regional Park                | No regional park fee   | Formula adopted, fees set at \$0   | Same  |
| Park Development Fee Regional Park          | No regional park fee   | Formula adopted, fees set at \$0   | Same  |
| Private Park Credit                         | Fee in-lieu-of and park development fee 100% eligible for credit for private parks; No manual or standards; 2-acre minimum | Private park credit = 75% of park development fee; New guidance manual provides park standards for private park credit process, 2-acre minimum | Revisions made to park standards within Ordinance and Park Land Development Manual for clarification and efficiency |

Fee implementation was approved as follows for Neighborhood/Community Parks:

|                                    | YEAR 1   | YEAR 2   | YEAR 3   |
|------------------------------------|----------|----------|----------|
| Phase In %                         | 65%      | 85%      | 100%     |
| <b>Neighborhood/community park</b> |          |          |          |
| Fee in-lieu-of                     | \$ 208   | \$ 208   | \$ 208   |
| Fee for park development           | \$ 1,325 | \$ 1,732 | \$ 2,038 |
| Combined fee per dwelling unit     | \$ 1,533 | \$ 1,940 | \$ 2,246 |

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

|                                     |     |                                   |  |
|-------------------------------------|-----|-----------------------------------|--|
| <input checked="" type="checkbox"/> | Yes | <b>City Plan/Council Priority</b> | Maintain fiscal stability of City operations, update user fees |
|-------------------------------------|-----|-----------------------------------|--|

**FISCAL IMPACT:**

In recent history, 1,000 dwelling units per year have been assessed the park land dedication fee. Therefore, if this trend were to continue with half being of the dwelling units being from new master plans and the proposed fee *fully implemented*, total fee collection would increase from approximately \$600,000 to \$2,246,000. There are currently 9,315 lots that will not be impacted by the new ordinance and fees.

**COMMITTEE RECOMMENDATION:**

The subcommittee recommends approval of the second reading of the ordinance.

**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.

### Neighborhood/Community Parks

| Population | Neigh/Comm<br>Park LOS | Residents<br>per Acre |
|------------|------------------------|-----------------------|
| 91,611     | 190.95                 | 480                   |

#### Land Requirement

| Acre per<br>Residents | Residents Per<br>Household | DU per Acre |
|-----------------------|----------------------------|-------------|
| 480                   | 2.85                       | 168         |

2016 estimates US Census ESRI, 2017 Parks  
Strategic Master Plan

#### Fee in Lieu of Land

| Cost of Acre | DU per Acre | Fee per DU |
|--------------|-------------|------------|
| \$ 35,000    | 168         | \$ 208     |

\$ per acre from 2015 Appraisal Study

#### Park Development Fee

| Development<br>Cost per Acre | DU per Acre | Fee      |
|------------------------------|-------------|----------|
| \$ 342,500                   | 168         | \$ 2,038 |

15 acre neighborhood park rate  
Development Costs per 2016 actual project costs

#### Total Fee

| Fee in Lieu | Park<br>Development | Total    |
|-------------|---------------------|----------|
| \$ 208      | \$ 2,038            | \$ 2,246 |

### Regional Parks

| Population | Regional LOS | Residents<br>per Acre |
|------------|--------------|-----------------------|
| 91,611     | 130          | 705                   |

#### Land Requirement

| Acre per<br>Residents | Residents Per<br>Household | DU per Acre |
|-----------------------|----------------------------|-------------|
| 705                   | 2.85                       | 247         |

#### Fee in Lieu of Land

| Cost of Acre | DU per Acre | Fee per DU |
|--------------|-------------|------------|
| \$ 35,000    | 247         | \$ 142     |

#### Park Development Fee

| Development<br>Cost per Acre | DU per Acre | Fee      |
|------------------------------|-------------|----------|
| \$ 342,500                   | 247         | \$ 1,387 |

#### Total Fee

| Fee in Lieu | Park<br>Development | Total    |
|-------------|---------------------|----------|
| \$ 142      | \$ 1,387            | \$ 1,528 |

|              |          |
|--------------|----------|
| Combined Fee | \$ 3,774 |
|--------------|----------|



| Neighborhood Park (3-5ac)       |            |     |               |                 |
|---------------------------------|------------|-----|---------------|-----------------|
| Item                            | Unit       | Qty | Unit Cost     | Total Amount    |
| Professional Service            |            |     |               |                 |
| Arch/Eng/Survey Design Services | Percentage |     | 14%           | \$ 172,621.93   |
| Project Management              | Percentage |     | 5%            | \$ 61,650.69    |
| Geotech/Construction Testing    | Percentage |     | 2%            | \$ 18,495.21    |
|                                 |            |     |               | \$ 252,767.83   |
| Mobilization                    |            |     |               |                 |
| Mobilization                    | Percentage |     | 5%            | \$ 44,796.08    |
| Bond and Insurance              | Percentage |     | 3%            | \$ 26,877.65    |
| General Conditions              | Percentage |     | 2%            | \$ 17,918.43    |
|                                 |            |     |               | \$ 89,592.16    |
| Sitework                        |            |     |               |                 |
|                                 |            |     |               | \$ 145,600.00   |
| Parking/Roadway                 |            |     |               |                 |
|                                 |            |     |               | \$ 100,975.00   |
| Utilities                       |            |     |               |                 |
|                                 |            |     |               | \$ 120,821.64   |
| Typical Park Amenities          |            |     |               |                 |
|                                 |            |     |               | \$ 515,225.00   |
| Miscellaneous                   |            |     |               |                 |
|                                 |            |     |               | \$ 13,300.00    |
| Landscape/Irrigation            |            |     |               |                 |
|                                 |            |     |               | \$ 247,500.00   |
| Construction Cost               |            |     |               |                 |
|                                 |            |     |               | \$ 1,233,013.80 |
| Contingency (10%)               |            |     |               |                 |
|                                 |            |     |               | \$ 123,301.38   |
| Total Project Cost              |            |     |               |                 |
|                                 |            |     |               | \$ 1,609,083.01 |
|                                 |            |     | cost per acre | \$ 321,816.60   |

| Community Park (10-15ac) |      |     |               |                 |
|--------------------------|------|-----|---------------|-----------------|
| Item                     | Unit | Qty | Unit Cost     | Total Amount    |
| Professional Service     |      |     |               |                 |
|                          |      |     |               | \$ 756,846.48   |
| Mobilization             |      |     |               |                 |
|                          |      |     |               | \$ 296,502.50   |
| Sitework                 |      |     |               |                 |
|                          |      |     |               | \$ 504,375.00   |
| Parking/Roadway          |      |     |               |                 |
|                          |      |     |               | \$ 364,200.00   |
| Utilities                |      |     |               |                 |
|                          |      |     |               | \$ 418,500.00   |
| Typical Park Amenities   |      |     |               |                 |
|                          |      |     |               | \$ 1,656,350.00 |
| Miscellaneous            |      |     |               |                 |
|                          |      |     |               | \$ 21,600.00    |
| Landscape/Irrigation     |      |     |               |                 |
|                          |      |     |               | \$ 721,875.00   |
| Construction Cost        |      |     |               |                 |
|                          |      |     |               | \$ 3,983,402.50 |
| Contingency (10%)        |      |     |               |                 |
|                          |      |     |               | \$ 398,340.25   |
| Total Project Cost       |      |     |               |                 |
|                          |      |     |               | \$ 5,138,589.23 |
|                          |      |     | cost per acre | \$ 342,572.62   |

|                                 |
|---------------------------------|
| <b>Park Acreage Comparisons</b> |
|---------------------------------|

| City                 | 2015 Population Estimates | Total Park Acres | Acres Per 1,000 |
|----------------------|---------------------------|------------------|-----------------|
| San Marcos           | 58,892                    | 2,233.00         | <b>37.92</b>    |
| Grapevine            | 51,404                    | 1,600.00         | <b>31.13</b>    |
| Buda                 | 13,705                    | 355.00           | <b>25.90</b>    |
| Missouri City        | 47,139                    | 1,086.00         | <b>23.04</b>    |
| Austin               | 931,830                   | 18,950.00        | <b>20.34</b>    |
| Round Rock           | 115,997                   | 2,035.00         | <b>17.54</b>    |
| Kyle                 | 35,733                    | 611.00           | <b>17.10</b>    |
| Baytown              | 76,335                    | 1,286.00         | <b>16.85</b>    |
| Rowlett              | 60,236                    | 994.00           | <b>16.50</b>    |
| Mansfield            | 64,274                    | 950.00           | <b>14.78</b>    |
| College Station      | 107,889                   | 1,448.35         | <b>13.42</b>    |
| Leander              | 37,899                    | 505.00           | <b>13.32</b>    |
| Cedar Park           | 65,945                    | 860.00           | <b>13.04</b>    |
| Allen                | 98,143                    | 1,185.00         | <b>12.07</b>    |
| North Richland Hills | 69,204                    | 835.00           | <b>12.07</b>    |
| Schertz              | 37,938                    | 395.00           | <b>10.41</b>    |
| San Antonio          | 1,469,845                 | 14,423.40        | <b>9.81</b>     |
| Flower Mound         | 71,253                    | 693.73           | <b>9.74</b>     |
| Seguin               | 27,864                    | 267.00           | <b>9.58</b>     |
| Frisco               | 154,407                   | 1,449.00         | <b>9.38</b>     |
| Denton               | 131,044                   | 1,210.00         | <b>9.23</b>     |
| Richardson           | 110,815                   | 1,000.00         | <b>9.02</b>     |
| Pflugerville         | 57,122                    | 504.20           | <b>8.83</b>     |
| Bryan                | 82,118                    | 690.07           | <b>8.40</b>     |
| Hutto                | 22,722                    | 185.00           | <b>8.14</b>     |
| Waco                 | 132,356                   | 1,050.50         | <b>7.94</b>     |
| Georgetown           | 63,716                    | 478.00           | <b>7.50</b>     |
| League City          | 98,312                    | 608.66           | <b>6.19</b>     |
| New Braunfels        | 70,534                    | 429.25           | <b>6.09</b>     |
| Conroe               | 68,602                    | 392.00           | <b>5.71</b>     |
| Cibolo               | 26,637                    | 85.00            | <b>3.19</b>     |
| Universal City       | 19,986                    | 63.40            | <b>3.17</b>     |

does not include golf courses (1074.5998)

does not include golf course (170 acres)

includes cemeteries, does not include golf course

NPRA reports a typical PARD has 9.5 acres of park land per 1,000 residents  
The average from Texas peer cities is 13.7 acres per 1,000  
NB is below both averages and falling behind

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS; PROVIDING FOR DEVELOPER FUNDED RECREATIONAL AREAS IN THE FORM OF NEIGHBORHOOD/COMMUNITY AND REGIONAL PARKS; PROVIDING FOR APPLICABILITY; PROVIDING FOR REQUIREMENTS AND GUIDELINES FOR PARK LAND DEDICATION AND FEES; PROVIDING FOR PARK DEDICATION FEES; PROVIDING FOR PRIVATE PARK CREDIT; PROVIDING FOR REGULAR REVIEW; PROVIDING FOR PENALTY FOR THE VIOLATION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

- WHEREAS, the City of New Braunfels is a home rule municipality given broad discretionary powers under the Texas Constitution to regulate for the public health, safety and general welfare of its citizens;
- WHEREAS, the City Council of the City of New Braunfels finds that parks and recreational areas are a vital and integral part of a municipality's health and general welfare;
- WHEREAS, the City Council of the City of New Braunfels finds that providing its citizens parks and recreational areas serves a legitimate public goal;
- WHEREAS, urban development imposes increased demands based upon a City's parks and recreational system;
- WHEREAS, the City of New Braunfels is experiencing a high rate of urban growth and based on predictions through 2031 the population is projected to approximately increase by 41%;
- WHEREAS, the City Council of the City of New Braunfels finds this ordinance necessary to maintain current level of service for parks for its rapidly growing population;
- WHEREAS, the City Council of the City of New Braunfels has a Parks and Recreation Strategic Master Plan which provides for acquisition and development of parks to serve the recreational needs of the City and provide for its citizens health and general welfare;
- WHEREAS, the following park land requirements are based the accurate values including population, level of service for neighborhood/community and regional parks, and the cost of land and construction;
- WHEREAS, the City Council hereby finds and determined that the average cost of park development is Three Hundred Forty-Two Thousand Five Hundred Dollars (\$342,500) per acre and the average cost of park land acquisition is Thirty-Five Thousand (\$35,000);
- WHEREAS, in accordance with this formula, the park land dedication requirements for neighborhood/community parks is set at One Hundred Sixty-Eight (168) dwelling units per one (1) acre of park land and regional parks is set at Two Hundred Forty-Seven (247) dwelling units per one (1) acre of park land.
- WHEREAS, in accordance with this formula, the fees in lieu of neighborhood/community parks is set at Two Hundred Eight Dollars (\$208) and for regional parks is set at One Hundred Forty-Two Dollars (\$142);
- WHEREAS, in accordance with this formula, the park development fees for neighborhood/community parks is set at Two Thousand and Thirty-Eight Dollars (\$2,038) and for regional parks is set at One Thousand Three Hundred Eighty-Seven Dollars (\$1,387); and
- WHEREAS, the City of New Braunfels Parks Advisory Board and the Planning Commission has reviewed and recommended this proposed ordinance;
- WHEREAS, the City Council of the City of New Braunfels finds that this ordinance is not arbitrary and imposes reasonable regulations on development.

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

Chapter 118 of the City Code of Ordinances for the City of New Braunfels, Texas, hereby is amended to provide for a neighborhood park dedication ordinance, to read as follows:

## **ARTICLE V: PARK LAND**

### **Section 118-57 Purpose.**

This Article is adopted to provide public recreational areas in the form of neighborhood/community and regional park facilities as a function of subdivision and site development in the City of New Braunfels and its Extra-Territorial Jurisdiction (ETJ). This Article is enacted in accordance with the home rule powers of the City of New Braunfels granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Chapter 212 as may be amended from time to time.

It is hereby declared by the City Council that public recreational areas in the form of neighborhood/community and regional parks are necessary and in the public welfare, and that the only adequate procedure to provide neighborhood/community and regional parks is to integrate such requirements into the procedure for planning and developing property or subdivisions in the City and its ETJ.

Neighborhood/community parks are those parks providing for a variety of outdoor recreational opportunities. Neighborhood parks are generally between five (5) to 10 acres, are located within half-mile to one-mile from a majority of the residences to be served and can be linear in nature. Community parks are generally 10 to 75 acres, are located within one-mile to three-mile of the majority of the residences to be served and can be linear in nature.

Regional parks are those parks that provide outdoor recreational opportunities for all city residents, rather than only those residents who reside proximate to them. The acquisition and development of the "basic" infrastructure and facilities for the usage of these parks should be based upon the demand from the area residents they are intended to serve. The primary cost of regional parks should be borne by all city residents.

The City has adopted by council action the Comprehensive Plan and the Parks and Recreation Strategic Master Plan, as well as other master plans which serve as planning policy and guidance for the development of a municipal park and recreation system for the city. The plans assess the needs for park land and park improvements.

The park districts established by the New Braunfels City Council are shown in Appendix A to this ordinance and shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood/community parks should be borne by the landowners of residential property who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

### **Section 118-58 Applicability.**

- (a) This Article applies to a landowner who develops land for residential use located within the City or within its ETJ. Typically, the landowner of a proposed residential development is the developer.

- (b) Non-residential use is exempt.
- (c) This Article does not apply to activities involving the remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure.
- (d) If a dedication requirement arose prior to enactment or amendment of this Article, subsequent development for the subject tract to which the dedication requirement applies may be subject to vesting as set forth in Chapter 245 Texas Local Government Code. Additional dedication may be required if there is an increase in the number of dwelling units from what was originally proposed.

#### **Section 118-60 General Requirements.**

- (a) The City Manager or his/her designee shall administer this Article, with certain review, recommendation and approval authorities being assigned to the Planning Commission, the Parks and Recreation Advisory Board and various city departments as specified herein.
- (b) As a condition of subdivision development, a developer of residential property shall be required to dedicate land for neighborhood/community and regional parks, pay of a fee in lieu thereof or a sanctioned alternative or a combination of both. In addition to the land dedication a developer of residential property shall park development fees for neighborhood/community and regional parks.
- (c) Requirements herein are based on actual dwelling units for an entire development. Increases or decreases in final unit count may require an adjustment in fees paid or land dedicated.
- (d) The required land dedications and schedules of fees are attached hereto as Appendix B and incorporated and made a part of this Article for all purposes.
- (e) Implementation process, minimum design and construction standards are set forth by the Parks and Recreation Department in the Park Land Dedication Manual and the minimum drainage standards set forth by the City's Drainage Manual, as may be amended from time to time, referenced herein and incorporated by reference.
- (f) The total amount of land dedicated for the development, public or private, shall be dedicated:
  1. In fee simple by filed deed, if dedicated to the city; and
  2. Prior to the issuance of any site development building permits for multi-family development,
  3. Prior to recordation of the final plat for a single family, duplex, or townhouse development, or
  4. For a phased development the entire park shall be platted concurrently with the plat of the first phase of the development.

#### **Section 118-61 Park Land Dedication Procedures**

Any land dedicated under this Article must be suitable for park and recreation uses and meet requirements in this Article. The following guidelines and requirements shall be used in the dedication and design of park land in conjunction with the Park Land Dedication Manual.

When considering park land dedication, the developer should meet with the Parks and Recreation Department (PARC) before a development application is submitted to evaluate the suitability of the land.



Additionally, PARD may request a site visit as a part of its determination. The following information may be required as a part of the process for prior to accepting public park dedication:

1. Lot dimensions or metes and bounds acreage of park land to be dedicated;
2. Total acreage of floodplain, as well as land located outside floodplain;
3. A tree survey;
4. A slope analysis; and
5. An environmental survey identifying critical environmental features, such as but not limited to species, habitat, and water features.

### **Section 118-62 Park Land Acceptance Criteria**

#### **General Guidelines.**

Any park land dedicated to the City pursuant to the terms, conditions and requirements under this Article must be suitable for park and recreation uses and shall be:

- (a) **Encumbrances.** Free and clear of any and all liens and encumbrances that interfere with its use for park purposes and permit the City's representatives to make onsite inspections of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use.
- (b) **Environmental Assessment.** If the property owner or developer has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the City. The City may initiate and/or require the developer to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The Director of Parks and Recreation may require the employment of consultants necessary to evaluate any environmental issues relating to the site providing that the City makes such determination in good faith. If an environmental hazard is identified on the site, the developer must remove the hazard prior to its acceptance into the park and recreation system of the City. The City will not accept park land dedication sites encumbered by hazardous and or waste materials or dump sites.
- (c) **Utilities.** Require the developer to be responsible for certain minimum utilities as listed below. The Director of Parks and Recreation or designee will be required to approve such location prior to final approval and release of fiscal requirements of said subdivision.
  - i. A metered water supply located 12 feet behind the curb in accordance with the size of the park; and
  - ii. A six-inch sewer stub, or in accordance with the size of the park, ten feet behind the curb
- (d) **Soils.** If disturbed, be restored, and the soil stabilized by vegetative cover by the developer prior to dedication to the city.
- (e) **Parks** should be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety and minimize conflict with adjacent land use.

- (f) Park land may provide a connection to existing or future City park land; the land available for dedication provides an opportunity to expand an existing or future city park or trail; and
- (g) Park land should support the goals of the Parks Strategic Master Plan and the City's Comprehensive Plan.
- (h) A current title report must be provided with the land dedication.
- (i) The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Comal County Tax Assessor shall be submitted with the dedication or plat.

#### Land Requirements.

- (a) Park land requirements will be no less than two (2) acres of contiguous land or the total park land required by Appendix B.
- (b) Land parcels that are unsuitable for development are typically unsuitable for a neighborhood park, and therefore should be selected prior to a subdivision being platted and acquired as a part of the development process.
- (c) Park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.
- (d) Must be located within one-mile from all residences and the distance should be uninterrupted by roads or free from physical barriers that would prohibit walkable access to the park.
- (e) Where feasible, park sites should be located adjacent to schools to encourage shared facilities and joint development of new sites, access ways may be required to facilitate access to the park.
- (f) Sites should not be severely sloping or have unusual topography which would render the land unusable for recreational activities.
- (g) Must not exceed a 20% grade on more than 50% of the land.
- (h) Park must be centrally located with connectivity to looped trails and if feasible citywide hike and bike trail.
- (i) At least twenty-five percent (25%), or proportionate to the size of the park, of the perimeter of a park abut a public street.
- (j) Park must be adjacent to a street for ease of pedestrian, bike or parking accommodations.
- (k) No more than two (2) sides of the park may abut the rear of homes.
- (l) Park must include at least visible, attractive and suitable means of ingress and egress proportionate to the size and amenities in the park.

- (m) The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.
- (n) Where appropriate, sites with existing trees or other scenic elements are preferred and may be reviewed by the City's Urban Forester to make recommendations.
- (o) Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication. Park should have well-drained and suitable soils and level topography.
- (p) Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain if, due to its elevation, it is suitable for park improvements. At the discretion of the City, land in floodplains may be considered as part of a dedication requirement on a three for one (3:1) basis. That is, three (3) acres of floodplain will be equal to one (1) acre of park land or not more than 50% shall be allowed in a floodplain.
- (q) Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specific specifications in the City's Drainage Manual.

#### **Section 118-63 Fee in Lieu of Park Land.**

The City may, from time to time, require that a fee be submitted in lieu of land dedication in amounts as set forth in Appendix B for, either, both, some or all of neighborhood/community and regional park land dedications. Likewise, the City may, from time to time, require that land be dedicated in amounts as set forth in Appendix B that no fee in lieu of land will be accepted. Such fees shall be due at the same time as park development fees are due for final platting.

#### **Section 118-64 Park Development Fee.**

In addition to the park land dedication requirements, park development fees are established herein, sufficient to develop neighborhood/community and regional public parks in ways that meet the City of New Braunfels' standards.

The amount of development fees assessed to a development and the basis for the calculation is as shown in Appendix B. The process for the approval and collection of development fees shall be the same as for the park land dedication requirements as specified in Section 118-60.1 and 118-60.3. The park development fees shall be processed simultaneously with the park land dedication requirements.

#### **Section 118-65 Public Park Improvement In Lieu of Park Development Fees**

With approval of the City, a developer may elect to construct required park improvements in lieu of paying the associated development fee as set forth herein.

In such event:

- (a) Facilities and improvements provided by a developer shall be constructed on lands dedicated as public park land and shall be designed and installed to meet the terms, conditions and requirements under this Article, or as otherwise approved by the Director of Parks and

Recreation, in accordance with related federal, national, state or local codes including but not limited to the following:

1. International Play Equipment Manufacturer's Association (IPEMA);
2. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
3. American Society for Testing and Materials (ASTM and ASTM F08);
4. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
5. Illuminating Engineering Society of North American (IESNA RP-6-01); and
6. Sports Turf Management Association (STMA).

#### General Requirements for Public Park Improvements

- (a) A park site plan, developed in cooperation with the Parks and Recreation Department staff, is submitted and approved by the Director of the Parks and Recreation Department or his/her designee prior to submission of final plat or upon application for a site building permit, whichever is applicable.
- (b) Any public park improvements must be shown on the site plan or construction plan, unless the Director of Parks and Recreation authorizes another method of approval, and requires review and approval of the City Engineer.
- (c) Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to public improvements for final plats and for building permit issuance, whichever is applicable.
- (d) All plans and specifications shall meet or exceed the City's standards in effect at the time of the submission.
- (e) If the improvements are constructed on land that has already been dedicated to and/or is owned by the City, then the developer must post payment and performance bonds equal to park development fees or value of the park agreed upon, whichever is greater to guarantee the payment to subcontractors and suppliers and to guarantee the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws. This includes guaranteeing performance in lieu of completing the park improvements prior to final plat recordation.
- (f) Park improvements may be constructed on park land dedicated to the city that satisfies requirements of Section 118-62; or, if approved by the Director of Parks and Recreation, improvements may be made in an existing or proposed City park that is located in the appropriated park district, within a half-mile to one-mile walking or biking distance to the residents it will serve.
- (g) For a public park, the developer shall be required to provide a two-year maintenance bond that is equal in amount to the twenty percent (20%) of the construction cost of said park improvements and a manufacturer's letter stating any play structure, equipment, and safety surfaces were installed in accordance with the manufacturers' installation requirement.
- (h) For a public park, the developer shall provide a copy of the application and subsequent inspection report prepared by the State Department of Licensing and Regulation of their contracted reviewer for compliance with the Architectural Barriers Act, codified as Vernon's Ann. Civ. St. art 9102.

- (i) For a public park, all manufacturers' warranties shall be provided for any equipment installed in the park as part of these improvements.
- (j) For a public park, upon issuance of a Certificate of Completion and Acceptance, the developer shall warrant the improvements for a period of two (2) years.
- (k) For a public park, the developer shall be liable for any costs required to complete park development if:
  - 1. Developer fails to complete the improvements in accordance with the approved plans; or
  - 2. Developer fails to complete any warranty work.
- (l) All public park improvements shall be inspected by the City while construction is in progress and when complete to verify park requirements have been satisfied.
- (m) Once the public park improvements are constructed, and after the Director of Parks and Recreation has accepted such improvements, the developer shall convey such improvements to the city free and clear of any lien or other encumbrances.
- (n) The public park improvements will be considered complete with a Letter of Completion and Acceptance from the City and will be issued after the following requirements are met:
  - 1. Improvements have been constructed in accordance with the approved plans;
  - 2. Improvements have been inspected and reviewed by PARD staff for satisfying park ordinance pursuant to the terms, conditions and requirements under this Article.

#### **Section 118-67 Credit for Private Parks**

- (a) The fee in-lieu-of land dedication is not eligible for reimbursement and shall be paid at the amount calculated in Appendix B and Section 118-63.
- (b) Up to seventy-five percent (75%) of the park development fees paid by a developer may be eligible for reimbursement toward the construction of private park facilities pursuant to the terms, conditions and requirements under this Article and in the Park Land Dedication Manual. The amount retained for deposit in the city's park land dedication fund are for purposes of defraying the financial burden private subdivisions impose on the existing public park system in New Braunfels.

#### **Private Park Improvements Requirements & Standards.**

- (a) Yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in the computation privately-owned and maintained by the future residents of the subdivision or by the owner of the rental facility.
- (b) Private ownership and maintenance of the private park and open space is adequately provided for by recorded agreement, covenants or restrictions.

- (c) Use of the private park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors.
- (d) Facilities must be similar or comparable to what would be required to meet public park standards and recreational needs as set forth in Section 118-62 and 118-65 and the Park Land Dedication Manual, City Drainage Manual, and other national, federal, state and local laws.
- (e) Eligible private park improvements include various active and passive outdoor amenities.
- (f) Private park design must be reviewed and approved by the Director of Parks and Recreation prior to the platting of the first unit, if a multi-phased development.
- (g) Private park must include at least three (3) signature elements, two (2) complementary park elements and include the standard park improvements requirements set forth in the Park Dedication Manual.
- (h) The cost of construction for private parks must meet or exceed the full park development fee per dwelling unit from Appendix B.
- (i) Before a reimbursement is approved, the City shall make written findings that the certain conditions are met, pursuant to this Article and the Park Land Dedication Manual, including the following, but not limited to:
  - i. Developer is required to submit all invoices and checks paid toward the construction of the private park.
  - ii. Developer must allow PARD staff to conduct a site visit to verify private park improvements.
  - iii. Developer must provide an affidavit stating the cost of private park improvements meet or exceed the required full park development fee per dwelling unit from Appendix B
- (j) All private parks should be constructed no later than prior to the application of the final unit. Fees for in-lieu-of land and park development are due at the time of recordation.
- (k) Required documentation. In order to receive the reimbursement for private parks, the developer shall submit the required documentation in Section 118-60 to the city at the time of final plat filing sufficient to establish that the requirements of above have been satisfactorily met. The Parks and Recreation Director shall evaluate and approve the documentation submitted prior to any credit being given.

#### **Section 118-68 Reimbursement for City Acquired Park Land.**

The City may from time to time acquire land for parks in advance of actual or potential development. If the City does acquire park land in a park quadrant for a neighborhood/community or regional park, the City may require subsequent dedications to be in fee in lieu of land only. This will be to reimburse the City for the cost(s) of acquisition.

#### **Section 118-69 Application Review Process.**



With each subdivision application, planned development application, mixed-use and multifamily site development permit, the developer shall submit to Planning and the Parks Departments a completed park land dedication worksheet, identified in Appendix D and a letter indicating the developer's intent to meet the park land dedication requirements pursuant to this Article.

#### **Section 118-70 Appeal Process.**

Any decision under this Article made by the Director of Parks and Recreation may only be appealed to the City Parks and Recreation Advisory Board and must be appealed within ten working days of the City's decision.

The Director of Parks and Recreation may refer approval of park land dedication or park development fees to the City Parks and Recreation Advisory Board for any reason.

Within ten working days, any decision made by the City Parks and Recreation Advisory Board may only be appealed in writing through the City Manager to the City Council.

#### **Section 118-71 Submitting Park Fees.**

Any fees required to be paid in cash pursuant to this article shall be remitted:

- a. Prior to the issuance of any site development building permits for multi-family development, or mixed-development; or
- b. At the time of plat recordation for single family, duplex or townhouse development; however
- c. *All development in the ETJ must pay fees at the time of plat recordation.*

#### **Section 118-72 Use of Park Fees.**

All park land dedication and park development fees for neighborhood/community parks will be deposited in a fund referenced to the park district to which they relate. Regional park land dedication fees will be deposited in a fund referenced to regional parks. Funds shall be used solely for the acquisition or leasing of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the city. Funds shall not be used for the operation and maintenance of parks.

#### **Section 118-73 Ordinance Review & Reporting**

The City shall review the fees established and the amount of park land dedication required in this Article at least once every three (3) years. Failure to review by the City Council shall not invalidate this ordinance.

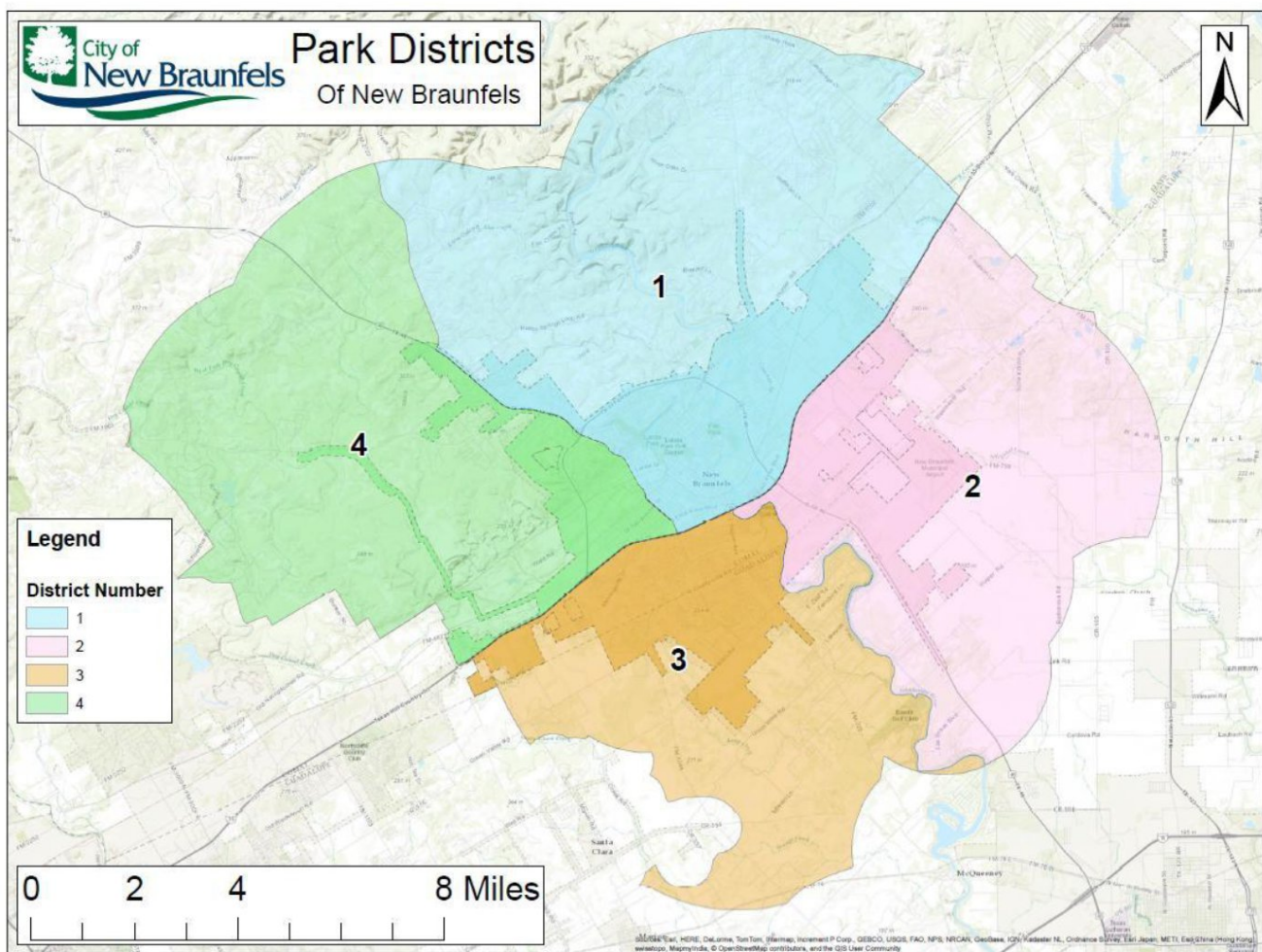
#### **Section 118-74 Right to Refund.**

The City shall account for all fees in lieu of land and all development fees paid under this Article with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within seven (7) years from the date received by the City for acquisition and/or development of a park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the payor shall be entitled to a prorated refund of such sum, computed on a square footage of area basis. The payor must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

**Section 118-75 Effective Date and Publication.** This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing by the City Secretary.

## Appendix A

### Map of New Braunfels Park Districts



## Appendix B

### Park Land Dedication Requirements & Calculations

#### Starting Values:

**City/ETJ Population:** 91,611 per U.S. Census and ESRI data from 2017 Parks Strategic Master Plan

**City/ETJ Residents per Household (HH):** 2.85 per U.S. Census and ESRI data from 2017 Parks Strategic Master Plan

#### **Current Level of Service (LOS):**

- Community/Neighborhood Parks: 190.95 acres
- Regional Parks: 130 acres

**Cost of Land per Acre in New Braunfels:** \$35,000

**Cost of Construction per Acre:** \$342,500 (based on construction costs of most recent city parks)

#### Neighborhood/Community Park Land Requirements:

##### Part 1 – LAND REQUIREMENT

##### 1a. Land Requirement

To determine park land requirements, first take the population and divide by the current level of service for neighborhood/community parks to establish the number of residents per acre. Then take the number of residents per acre and divide by the residents per household for the maximum number of dwelling units per 1 acre of neighborhood/community park land.

$$91,611 \div 190.95 = 480 \text{ residents per park acre}$$

$$480 \div 2.85 = \mathbf{168 \text{ dwelling units per park acre}}$$

##### 1b. Fee In-Lieu-of Land Requirement

To determine the fee in lieu of land, use the \$35,000 per acre of land and divided by the number of dwelling units.

$$\$35,000 \div 168 = \mathbf{\$208 \text{ fee per dwelling units}}$$

##### Part 2 – PARK DEVELOPMENT COST (to determine fee for development)

To determine the maximum fee the cost of construction is divided by the dwelling units per acre.

$$\$342,500 \div 168 = \mathbf{\$2,038 \text{ fee per dwelling unit}}$$

**Combined Maximum Fee for Neighborhood/Community Parks: \$2,246 per dwelling unit**

**Fees are set by City Council implemented based on the following schedule:**

|                                | YEAR 1 |       | YEAR 2 |       | YEAR 3 |       |
|--------------------------------|--------|-------|--------|-------|--------|-------|
| Phase In %                     | 65%    |       | 85%    |       | 100%   |       |
| Neighborhood/community park    |        |       |        |       |        |       |
| Fee in-lieu-of                 | \$     | 208   | \$     | 208   | \$     | 208   |
| Fee for park development       | \$     | 1,325 | \$     | 1,732 | \$     | 2,038 |
| Combined fee per dwelling unit | \$     | 1,533 | \$     | 1,940 | \$     | 2,246 |

## Regional Park Land Requirements:

### Part 1 – LAND REQUIREMENT

#### 1a. Land Requirement

To determine park land requirements, first take the population and divide by the current level of service for regional parks to establish the number of residents per acre. Then take the number of residents per acre and divide by the residents per household for the maximum number of dwelling units per 1 acre of regional park land. To set the residents per acre, divide 1,000 by the number of residents per acre.

$$91,611 \div 130 = 705 \text{ residents per acre}$$

$$705 \text{ residents} \div 2.85 \text{ HH} = 247 \text{ dwelling units per 1 acre}$$

#### 1b. Fee In-Lieu-Of

To determine the fee in lieu of land, use the \$35,000 per acre of land and divided by the number of dwelling units.

$$\$35,000 \div 247 \text{ DU}$$

$$\$35,000 \div 247 = \textbf{\$142 fee per dwelling unit}$$

### Part 2 – PARK DEVELOPMENT COST (to determine fee for development)

To determine the maximum fee the cost of construction is divided by the dwelling units per acre.

$$\$342,500 \div 247 \text{ DU} = \textbf{\$1,387 fee per dwelling unit}$$

|   |
|---|
| <b>Combined Maximum Fee for Regional Parks: \$1,528 per dwelling unit</b> |
|---|

**Fees are set by City Council; the Regional fee is set at \$0.00.**

### Appendix C

#### Development Costs for City of New Braunfels Neighborhood/Community Parks (3-15 acres)

Average Cost per one acre of land: \$35,000

Development cost per acre \$342,500

| <b>Neighborhood Park (3-5 ac)</b> |                       |
|-----------------------------------|-----------------------|
| <u>Item</u>                       |                       |
| Professional Service              | \$252,767.83          |
| Mobilization                      | \$89,592.16           |
| Sitework                          | \$145,600.00          |
| Parking/Roadway                   | \$100,975.00          |
| Utilities                         | \$120,821.64          |
| Typical Park Amenities            | \$515,225.00          |
| Miscellaneous                     | \$13,300.00           |
| Landscape/Irrigation              | \$247,500.00          |
| Construction Costs                | \$1,233,013.80        |
| Contingency (10%)                 | \$123,301.38          |
| <b>Total Project Cost*</b>        | <b>\$1,609,083.01</b> |

| <b>Community Park (10-15 ac)</b> |                       |
|----------------------------------|-----------------------|
| <u>Item</u>                      |                       |
| Professional Service             | \$756,846.48          |
| Mobilization                     | \$296,502.50          |
| Sitework                         | \$504,375.00          |
| Parking/Roadway                  | \$364,200.00          |
| Utilities                        | \$418,500.00          |
| Typical Park Amenities           | \$1,656,350.00        |
| Miscellaneous                    | \$21,600.00           |
| Landscape/Irrigation             | \$721,875.00          |
| Construction Costs               | \$3,983,402.50        |
| Contingency (10%)                | \$398,340.25          |
| <b>Total Project Cost*</b>       | <b>\$5,138,589.23</b> |

\*Does not include the cost of land.

## Appendix D

### Park Land Dedication Worksheet

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

**Location:** \_\_\_\_\_

**Applicant:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**What type of development is this? Select all that apply.**

- ☐ Residential (detached single family)
- ☐ Residential (2-family)
- ☐ Residential (commercial)
- ☐ Residential (multi-family)
- ☐ Other, please describe: \_\_\_\_\_

Does this subdivision have 5 or more acres for public park land dedication? If yes, please describe the terrain and the location of the public park land.

Does this subdivision have 2 or more acres for a private park? If yes, please describe the terrain and the location of the private park and potential amenities and who will maintain the private park.

Please list number of dwelling units.

Master Plan: \_\_\_\_\_

Unit 1: \_\_\_\_\_

Unit 2: \_\_\_\_\_

Unit 3: \_\_\_\_\_

TOTAL: \_\_\_\_\_



# Park Land Dedication Manual



City of New Braunfels Parks & Recreation  
Department  
4/4/2018

## EXECUTIVE SUMMARY

Just as utilities, trash collection and public safety are all public services essential to a thriving community, parks are critical to establishing and maintaining the quality of life in New Braunfels, encouraging healthy lifestyles, and contributing to the economic and environmental well-being of our community. Every two years, the City of New Braunfels conducts a community-wide citizen survey to gauge our residents' opinions about public service and their local government. In 2017, we learned that:

- ✓ 90% of respondents visited a local park in 2016.
- ✓ 62% of all respondents felt outdoor recreation opportunities were very important to their quality of life.
- ✓ 93% of all respondents rank our City parks as good to excellent.
- ✓ 88% of all respondents rank the New Braunfels natural environment as very good to excellent.
- ✓ 80% of all respondents rank recreational opportunities as very good to excellent.

Clearly, we know that parks and outdoor recreational opportunities are important to our community. But as the city grows, so does the pressure on the city's parks. If we do not continually improve or expand our existing parks, and find opportunities to create new ones, then the same number of parks must serve more and more people.

But why do parks and outdoor recreation matter? Why should residents, businesses and the development community care?

- Parks improve the local tax base and increase property values. Research has proven that private property values increase the closer such land is located to a public park. This increase in private property value due to the proximity to parks increases property tax revenues and improves local economies.
- Parks and protected public lands are proven to improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, produce habitat for wildlife, and provide a place for children and families to connect with nature and recreate outdoors together.
- Parks are a tangible reflection of the quality of life in a community. They provide identity for citizens and are a major factor in the perception of quality of life in a given community. Parks and recreation services are often cited as one of the most important factors in surveys of how livable communities are.
- Parks provide gathering places for families and social groups, as well as for individuals of all ages and economic status, regardless of their ability to pay for access.

## BACKGROUND

Park land dedication ordinances have a long legal history in the U.S. and in Texas. They were created by municipalities as a means to acquire land and funding for parks in newly developed areas of a community. The intent of a park land ordinance is to ensure that as land is subdivided for residential development, the impact new residents will have on the operations and maintenance of the City's existing park system is fiscally recognized. The ordinance requirements are a condition of residential development and are assessed through the platting process.

Park land dedication ordinances require a formula for the park land requirement and park development fee calculations. These formulas consider current population, current levels of service, and the current cost of land and construction. These values help to establish the three elements of a park land dedication ordinance: 1.) the land requirement, 2.) the fee-in-lieu of land dedication, and 3.) the park development fee.

The City of New Braunfels first Park Land Dedication and Development Ordinance was passed in 2006. Since that time, population, land values, and other costs associated with park development have increased; therefore, it is incumbent on the City to periodically review the ordinance for currency.

## ORDINANCE OVERVIEW

First, the new Ordinance amends the way the City accounts for new growth and its impact on the park system. The Ordinance calculations are based off the current population estimates, market value of land and construction costs of the most recently built parks in the City. This type of formula allows the requirements and fees to reflect the current rates with the status of the market at the time of development.

The new Ordinance follows a methodology widely accepted by park and recreation and planning professionals. It is defensible in a court of law. But more importantly it accurately reflects New Braunfels' current level of service, cost of land, and costs of construction and incorporates that into the basis for park land requirements and applicable fees. Just like the 2006 Ordinance, it includes a park land dedication requirement, or a fee in-lieu-of land dedication option; and the park development fee.

Residential subdivisions are required to dedicate land (1) acre of park land for every 168 dwelling units. If the park land requirement cannot be satisfied the developer shall pay a fee in-lieu-of land (\$208 per dwelling unit). Combined with this requirement is a park development fee (\$2,038 per dwelling unit) used to construct parks with the land dedicated or with land acquired through in-lieu-of land fees. These are fees based on what it costs the City to build a park per acre. Fees in-lieu-of land dedication and park development fees are one tool the City uses to acquire and develop new park land in order to maintain the existing level of service based on the new population as a result of new development.

All revenues from the ordinance will be placed in the park development fund based on four established park districts. The revenues will be used for land acquisition, park development and construction in the applicable district it was collected. These funds cannot be used for the

operation and maintenance of city parks. The Parks & Recreation Strategic Master Plan will guide the identification of service levels needed for park land acquisition and construction.

The new Ordinance does not reimburse for the in-lieu-of land fee but recognizes the value and contribution of a development that chooses to invest in its own private park and provides a reimbursement for a portion of the park development fees, if certain park amenity standards are met (detailed later in this manual.) Previously known as "credit for private park land" the new Ordinance allows for reimbursement of 75% of the park development fees paid to the City. The intent to retain 25% of the park development fees acknowledges that new residents will generate an impact to the existing park system.

This manual was created to aid in the implementation of the new Ordinance. It explains the ordinance requirements, the process required for each stage, and explains the park standards and requirements for park land dedication and development to satisfy the new Ordinance. The Manual clarifies the City Council's policy direction that private parks seeking reimbursement of park development fees must meet the City's public park standards and requirements.

Finally, the new Ordinance includes a review of the ordinance every three (3) years. Previously there was no review. It changes the time frame from ten (10) to seven (7) years in which the City must expend the park funds.

## CONCLUSION

The City's parks, rivers and open space are central to the high quality of life and environment for those who live, work, and play in New Braunfels. Furthermore, the City's park system adds to the overall economy and attraction for new development. Thus, the park system should grow through planned investments that ensures that as the city grows the park system meets the needs for new residents. Park land requirements and fees are one mechanism to provide fiscal sustainability for the new growth. The new park land dedication and development ordinance achieves this and ensures that the regular review is provided to continue to successfully plan for future parks as the community grows.

Finally, the City is interested in collaborating with the development community to identify parcels of land that are suitable for park development. Pre-development meetings are a good place to discuss with City staff the location for public park through land dedication. Please do not hesitate to contact the Park Development Manager to discuss opportunities.

## DEFINITIONS

Neighborhood/Community Parks. Parks providing for a variety of outdoor recreational opportunities serving neighborhoods in New Braunfels.

Community Parks. Generally, between 10 to 75 acres are located within one-mile to three-mile of the majority of the residences to be served, may be linear in nature, Dwelling Unit. A building structure used as a home, residence or sleeping place by one or more persons.

Extraterritorial Jurisdiction (ETJ). A 3.5-mile radius around the city limits where services can be provided.

Neighborhood Parks. Generally, between three (3) to 10 acres, are located within a one-mile radius from a majority of the residences to be served, may be linear in nature, Park Land Level of Service Standard (LOS). A tally of current park acres and facilities serving residents.

Population. Include the estimated population of the city within the city limits and the extraterritorial jurisdiction.

Private Park. Owned, managed, and maintained by a property or home owner's association.

Public Park. Owned, managed, and maintained by the City of New Braunfels.

# ORDINANCE OVERVIEW

## APPLICABILITY

The 2018 Park Land Dedication Ordinance applies to all new residential subdivision applications within the city limits and the ETJ. Non-residential use is exempt. The following new subdivision development must comply with ordinance requirements:

- Single-family dwelling units (2-family, townhomes);
- Multi-family dwelling units (apartment, condominiums); and
- Mixed-use residential.

Master plans and plats approved prior to the passage of the new ordinance must comply with the 2006 Ordinance.

Subdivision developments under a planned development agreement or other development agreements must meet or exceed the requirements of the ordinance.

Non-residential use developments are exempt from the ordinance.

## PARK LAND DEDICATION & FEE METHODOLOGY

The Ordinance requires residential land development to dedicate land for public neighborhood/community parks. In order to accurately determine the park land dedication requirements and the appropriate fees, three basic values are used:

1. Population
2. Park land level of service (LOS)
3. Cost of park development/construction

The 2016 population estimates from the U.S. Census and ESRI as determined in the approved 2017 Parks Strategic Master Plan is 91,611 or 2.85 residents per household (HH). The population is based on residents within the city limits and the ETJ. The population of the ETJ is included because the City's platting ordinance applies to the ETJ.

Total park land in the City is 429.25 acres (including cemeteries). There are 4.69 acres of park land per 1,000 residents. The goal of the park land dedication ordinance is to maintain the existing level of service. Total acreage for neighborhood/community parks is 190.95 acres (current LOS). Total acreage for regional parks is 130 acres (current LOS).

The Ordinance focuses on the level of service for neighborhood/community and regional parks and only uses those specific levels of service to calculate the land requirement. The ordinance includes a formula for both neighborhood/community and regional parks.



Park land dedication and fees cannot be more than the current level of service; therefore, park land goals, such as the one set for the in the approved 2017 Parks Strategic Master Plan (11 acres per 1,000) cannot be used to establish the dedication requirements or fees. The pre-determined values provide an accurate requirement for park land dedication and fee in-lieu-of land using the following calculations.

The fee in-lieu of park land is based on a cost per acre. The previous ordinance set the cost per acre at \$15,000. A 2015 appraisal review was conducted to determine the average cost of land sales in the City of New Braunfels. The cost of land ranged from \$30,000-\$40,000 per acre, this was evaluated in each park district. Staff uses the median cost of \$35,000 per acre of land, which is less than \$1/sq. ft.

## Park Land Requirements & Fee In-Lieu-Of

### 1. Land Requirement

To determine park land requirements, first take the population and divide by the current level of service for neighborhood/community parks to establish the number of residents per acre. Then take the number of residents per acre and divide by the residents per household (HH) for the maximum number of dwelling units per 1 acre of neighborhood/community park land.

$$91,611 \div 190.95 = 480 \text{ residents per acre}$$

$$480 \div 2.85 \text{ (HH)} = 168 \text{ dwelling units per acre}$$

### 2. Fee In-Lieu-of Land Requirement

To determine the fee in lieu of land, use the \$35,000 per acre of land and divided by the number of dwelling units.

$$\$35,000 \div 168 = \$208 \text{ fee per dwelling unit}$$

## Park Development Fee

The ordinance is intended to establish a sustainable fiscal mechanism to support public park improvements in new neighborhood/community and regional parks as well as additional amenities to existing neighborhood/community and regional parks. The park development fees are based on the construction costs per acre and the number of dwelling units per acre.

Any park developed publicly or privately will vary in costs depending on size, amenities and the land type. For the purposes of this Ordinance, staff evaluated existing parks and recent park construction costs to determine typical costs for park project to determine the cost per acre. The cost to construct a neighborhood (2-5 acres) or community park (10-15 acres) five (5) acre park was \$1,609,083 and \$5,138,589, respectively. The development cost per acre was used for both neighborhood/community and regional parks. The cost per acre is a moderate estimate using the higher construction cost of \$5,138,589 and the higher park acreage of 15 acres. These estimates do not include the cost of land.

### Park Development Cost (to determine fee for development)

To determine the maximum fee the cost of construction is divided by the dwelling units per acre.

$$\$342,500 \div 168 = \$2,038 \text{ fee per dwelling unit}$$

|   |
|---|
| Combined Maximum Fee: \$2,246 per dwelling unit |
|---|

The following is the fee and implementation schedule approved by the City Council on May 14, 2018:

|                                | YEAR 1 |       | YEAR 2 |       | YEAR 3 |       |
|--------------------------------|--------|-------|--------|-------|--------|-------|
| Phase In %                     | 65%    |       | 85%    |       | 100%   |       |
| Neighborhood/community park    |        |       |        |       |        |       |
| Fee in-lieu-of                 | \$     | 208   | \$     | 208   | \$     | 208   |
| Fee for park development       | \$     | 1,325 | \$     | 1,732 | \$     | 2,038 |
| Combined fee per dwelling unit | \$     | 1,533 | \$     | 1,940 | \$     | 2,246 |

Notate Ordinance number and Date here

#### GENERAL GUIDELINES

##### Pre-Development Meetings

The developer or its representative, should utilize a pre-development meeting to discuss with PARD staff their ideas and options for satisfying the requirements of the Ordinance. At this meeting the developer should provide PARD staff with a proposed park exhibit including location, park land and floodplain or drainage acreage; and any additional information that may be available such as:

- Any environmental survey information;
- Tree survey; and/or
- Slope analysis

This information provides staff with a better idea if the land is suitable for park land dedication.

##### Applications for Master Plans, Preliminary or Final Plats

The developer or its representative, must submit the following:

- Park Land Dedication Worksheet;
- Plats must include the park location, park acreage and park type (public/private and neighborhood/community and/or regional) and the appropriate plat note. Standard plat notes are provided; and
- A Letter of Intent that details how the development will comply with the ordinance: pay fees (no park); public park construction and dedication; or private park. If a private or public park is to be constructed, the park location should be indicated with a general idea of the park design and when the park will be constructed.

- Prior to recordation of the unit in which the park will be constructed, park design documents must be submitted and approved showing park details including park location and size, park elements; and when the park will be constructed. Per the Park Land Ordinance, all private parks should be constructed no later than prior to the application of the final unit.

If these items are not provided in the application the application cannot be accepted and is considered administratively incomplete.

The in-lieu-of land and park development fees are due at the time of recordation and may be submitted in the form of a cash deposit of the full fee required.

Residential developers have a few options to satisfy ordinance requirements:

1. Pay all the fees – fee in-lieu-of and park development;
2. If acceptable to the City, dedicate land to the City and build a public park; or
3. Pay fee in-lieu-of park land dedication, build a private park and request for 75% refund for park development fees.

#### LAND REQUIREMENTS

The land requirements listed in the ordinance are the same requirements the City would consider when evaluating a new parcel of land for public park development.

- (a) Park land requirements will be no less than two (2) acres of contiguous land or the total park land required by Appendix B, or whichever is greater.
- (b) Land parcels that are unsuitable for development are typically unsuitable for a neighborhood park, and therefore should be selected prior to a subdivision being platted and acquired as a part of the development process.
- (c) Park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.
- (d) Must be located within one-mile from all residences and the distance should be uninterrupted by roads or free from physical barriers that would prohibit walkable access to the park.
- (e) Where feasible, park sites should be located adjacent to schools to encourage shared facilities and joint development of new sites, access ways may be required to facilitate access to the park.
- (f) Sites should not be severely sloping or have unusual topography which would render the land unusable for recreational activities.
- (g) Must not exceed a 20% grade on more than 50% of the land.
- (h) Park must be centrally located with connectivity to looped trails and if feasible citywide hike and bike trail.

- (i) At least twenty-five percent (25%), or proportionate to the size of the park, of the perimeter of a park abut a public street.
- (j) Park must be adjacent to a street for ease of pedestrian, bike or parking accommodations.
- (k) No more than two (2) sides of the park may abut the rear of homes.
- (l) Park must include at least visible, attractive and suitable means of ingress and egress proportionate to the size and amenities in the park.
- (m) The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.
- (n) Where appropriate, sites with existing trees or other scenic elements are preferred and may be reviewed by the City's Urban Forester to make recommendations.
- (o) Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication. Park should have well-drained and suitable soils and level topography.
- (p) Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain if, due to its elevation, it is suitable for park improvements. At the discretion of the City, land in floodplains may be considered as part of a dedication requirement on a three for one (3:1) basis. That is, three (3) acres of floodplain will be equal to one (1) acre of park land or not more than 50% shall be allowed in a floodplain.
- (q) Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specific specifications in the City's Drainage Manual.

#### PRIVATE PARK IMPROVEMENT REQUIREMENTS & STANDARDS

All park facilities and improvements, whether a public park or a private park shall be designed and installed to meet the minimum standards of public parks. All parks, private or public, should be constructed concurrently with the first unit, or a specified unit, or prior to the application of the final unit. All parks, public or private, must submit a park site or construction plan.

#### Private Park Credit

The developer may be eligible for a rebate of up to 75% of park development fees, if the construction of a private park meets the requirements herein.

#### Applying for Private Park Credit

1. Contact the City's Planning and Community Development Department and PARD for a pre-development meeting.
2. If the park land idea or concept is agreeable to PARD staff, the developer should submit a letter of intent and worksheet with master plan and/or plat application.
3. Staff suggests the developer meet with PARD staff prior to any resubmittal to review park land exhibits for park elements, construction, and location.

4. PARD staff will provide a letter indicating private park may be eligible for rebate.
5. Park design must be reviewed by the Park Development Manager prior to the platting of the first unit if a multi-phased development.
6. Site plans or construction plans must be submitted to PARD prior to the final plat application.

#### Park Improvement Requirements & Standards

In conjunction with the land requirements, the ordinance requires that private parks meet the following requirements:

1. Yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in the computation privately-owned and maintained by the future residents of the subdivision or by the owner of the rental facility.
2. Private ownership and maintenance of the private park and open space is adequately provided for by recorded agreement, covenants or restrictions.
3. Use of the private park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors.
4. Facilities must be similar or comparable to what would be required to meet public park standards and recreational needs as set forth in Section 118-62 and 118-65 and the Park Land Dedication Manual, City Drainage Manual, and other national, federal, state and local laws.
5. Eligible private park improvements include various active and passive outdoor amenities.
6. Private park design must be reviewed and approved by the Director of Parks and Recreation prior to the platting of the first unit, if a multi-phased development.
7. Private park must include at least three (3) signature elements(s), two (2) complementary park elements and include the standard park improvements.
8. The cost of construction for private parks must meet or exceed the full park development fee per dwelling unit.

#### Park Amenity Guidelines

The following is a list of potential amenity options and combinations for a neighborhood/community park. This is not an exhaustive list, but rather a menu of options that are typical for a neighborhood/community park. This is provided to help identify options and create a successful HOA park. Each year new trends in parks and recreation equipment or amenities become available and may be considered as an amenity option. In general, a neighborhood/community park should have a range of active and passive options that can serve multiple users. Private parks should consider amenities that are appropriate for the end users and factors such as ongoing and long-term maintenance.

#### Signature Amenity Examples (Minimum of 3 required)



- Children's play area with single play structures for ages 2-5 and/or 5-12 ages with shade structure, and seating.
- Inclusive play equipment
- Covered family picnic pavilion (2- 4 tables; 1 ADA)
- Regulation sport court (basketball, pickle ball, volleyball, or tennis with lights for safety)
- Fishing pond (stocked, signage, seating, pier)
- 1-mile 10' concrete trail that connects to citywide trails with benches, signage, and pet and waste receptacles), where appropriate
- Amphitheater or event lawn space
- Water recreation (pool, splash pad, or other similar amenity)
- Restrooms
- Sculpture garden (commissioned artist(s) required)
- Outdoor classroom (nature or species-related)
- Outdoor exercise stations or climbing wall structure
- Skate or bike park
- Permeable walkways or parking

#### Complementary Amenity Examples (Minimum of 2 required)

- A 10' wide concrete trail perimeter trail generally ¼ mile
- Gazebo on concrete pad
- BBQ grills (4 or more depending on the size of the park)
- Swing sets
- Table top game
- Gathering spaces such as landscaped lawn/turf for multi-use (may not exceed ¼ of the total park area); plazas, or picnic areas
- 9-hole disc golf
- Dog park (with separate areas for large and small dogs)

#### Standard Improvement Examples (all; amounts may vary per acre depending on the size of the park)

- Water fountain on concrete pad (1 per acre, ADA)
- Trash receptacles on a concrete pad (2 per acre or more if near a body of water)
- Pet waste stations on concrete pad (2 per acre or more if near a body of water)
- Benches on a concrete pad (under shade, near water fountain, vistas, art or play area)
- Trees, landscaping and shrubs as buffers or transitions between park improvements

#### Private Park Rebate

1. Before a rebate may be approved, the following must occur:
  - a. All invoices and copies of checks paid toward the construction of the private park must be submitted to PARD staff.
  - b. A site visit by PARD staff, which allows staff to document the private park improvements.
  - c. The Developer must provide an affidavit stating the cost of private park improvements meet or exceed the required full park development per dwelling unit fees required from Appendix B.
2. If these items have been properly submitted in accordance with the requirements , within 30 days PARD staff will submit a letter to developer notifying them of approval.

### PARK IMPROVEMENT STANDARDS

All improvements and equipment shall be in accordance with Park Land Dedication Manual – Park & Facility Equipment Standards.

| Required Improvement       | Minimum Standard   |
|----------------------------|--|
| Grading & Drainage         | Site improvements necessary to ensure that the park drains appropriately and is free from standing water. Minimum of. 5% grade on any open spaces. No slope of any turf or landscape area shall exceed 3:1.  |
| Playground                 | Commercial grade, IPEMA certified, and conforms to ASTM F187.<br>Fall surface IPEMA certified and conform to ASTM F1292.<br>Equipment must meet the following park and facility standards: <ol style="list-style-type: none"> <li>1- A minimum Limited Warranty of 15 years for metal members and plastics.</li> <li>2- All metal members must be powder-coated steel with five (5) inch diameter posts.</li> <li>3- Playground border must be permanent material consisting concrete or natural stone.</li> <li>4- Fall surface must be engineered wood fiber, synthetic turf, pour-in-place rubber or a combination of these.</li> </ol> |
| Playground Shade Structure | Soft or hard shades must cover at least 75% of the playground fall surface area. Limited 20-year non-prorated warranty on call commercial shade fabric and Teflon stitching against cracks, tears, material breakdown or significant fading as direct result of UV exposure. Limited 1-year warrant on all moving parts, surface coat finish, or any other product or part not covered by one of the above warranties.   |
| Site Amenities             | Minimum of six (6) benches, four (4) picnic tables, two (2) pet waste stations using the Mutt-Mitt style bags and one (1) drinking fountain. Amenities must be steel, powder coated, and have one (1) ADA table.   |

|                                 |   |
|---------------------------------|---|
| Shade Structure                 | Gazebo or pavilion with concrete slab and picnic tables. Shade must be minimum of 20'X20' square or 400 sq ft in any other shape. Minimum of four (4) square, four-seat or two (2) rectangle two-seat picnic tables.  |
| Walking/Multi-purpose Trail     | Minimum 10 feet in width Trails near homes should be at least 10' from residential property lines. Trails can connect to existing City trail system and required sidewalks. All material types must be placed on a compacted sub-grade with at least 95% density. No slopes greater than 5% and no cross slope greater than 2%. Trails requires a concrete surface, five (5) feet of right-of-way on either side of the trail, and meet other requirements set-forth in Greenway Trail Standards. Must be ADA compliant.  |
| Practice Field                  | Minimum one (1) acre set aside for practice space in the form of one (1) large open space or a combination of smaller spaces with no single space being smaller than 10,000 sq ft. Space(s) must be leveled and have a maximum slope of 2% in any direction. Total area(s) must be irrigated with an automatic underground irrigation system laid out with head-to-head spacing. The space(s) must be solid sod with a Hybrid Bermuda of an appropriate variety for sports such as Tif 419 or TifSport. Must also include at least two (2) chain-link fenced backstops placed as to allow the most flexibility for the space(s).                        |
| "Street Trees" and Shade Trees  | "Street Trees" shall be planted within the first twenty feet (20') of the park site behind the right-of-way and spacing shall be one (1) tree per forty linear feet (40'). The remainder of the park shall be planted at a ratio of one (1) tree per 5,000 square feet of remaining gross park area. All trees must be irrigated. All tree irrigation zones shall be independent of any turf or planting bed zones. All trees must be shade trees selected from the City's approved list and be a minimum of two inches (2") in caliper size at time of planting. Parks must attempt to any retained, healthy, existing hardwood tree that is surveyed. |
| Park Signage                    | Owners choice, but if park will ultimately be transferred to the City of New Braunfels, the monument must follow the wayfinding standards established by the City. City will provide text for Park Rules Signs.   |
| Basketball Court                | Minimum 1/2 size of UIL standard with at least two (2) goals. Concrete court with alkyd surfacing and lines for baselines, free throw line(s) and the "lane".   |
| Tennis Court                    | Minimum one (1) regulation court including six (6) foot perimeter fence, net windcreens, and court surfacing/stripping. Fenced concrete with alkyd surfacing and all lines necessary for a regulation court.  |
| Sand Volleyball                 | Minimum one (1) regulation court including net and sand that meets specifications. Net(s) must be adjustable with metal poles that are either galvanized or powder-coated for durability. Sand must be minimum 12" deep and free from rocks and other debris.   |
| Additional Walking/Nature Trail | Additional walking trail constructed of concrete other materials must be approved by Parks Director. Minimum six (6) feet in width. All material types shall be placed on a compacted subgrade with at least 95% density and pass ADA inspection.   |
| Disc Golf Course                | Nine (9) Hole Disc Golf Course including baskets and appropriate tee markers and rules signage. Permanently installed Commercial quality baskets.   |
| Dog Park                        | Minimum 1/2 acre fenced area. Dog Park must be leveled and have a maximum slope of 5% in any direction. Total area(s) must be irrigated with an automatic underground irrigation system laid out with head-to-head spacing. The space(s)  |

|                   |   |
|-------------------|---|
|                   | must be solid sodded with a Hybrid Bermuda of an appropriate variety for heavy use such as Tif 419. Shall also include four feet (4') high chain-link perimeter fence.  |
| Fitness Equipment | Outdoor Fitness Equipment installed in a grouping at start or end along the walking trail. All equipment must be institutional or commercial grade and compliant with ASTM F2277 Standard Test Methods for Evaluating Design and Performance Characteristics of Selectorized Strength Equipment, ASTM F1749 Standard Specification for Fitness Equipment and Fitness Facility Safety Signage and Labels, ASTM F2216 Standard Specification for Selectorized Strength Equipment and ASTM F2276 Standard Specification for Fitness Equipment. |

DRAFT

# EXAMPLE: 300 DWELLING UNITS (SINGLE-FAMILY DETACHED)\*

## NEIGHBORHOOD/COMMUNITY PARK (168 DU per 1 acre of park land)

Park Land Requirements: 1.52 acres of park land is required to sustain the current LOS for neighborhood/community Park, but this is less than the required two (2) acres for land dedication. The developer has several choices:

Fee In-lieu-of land = \$208

Park development fee (Y1) = \$1,325

OPTION 1. Dedicate the 2 acres (or what is required whichever is greater) build public park improvements.

|                         |                        |
|-------------------------|------------------------|
| Fees in-lieu-of land:   | \$ 62,400              |
| <u>Development Fee:</u> | <u>\$397,500</u>       |
| <u>Total fees</u>       | <u>\$459,900</u>       |
| Net to Park Fund        | \$ 0 + new public park |

OPTION 2. Build a private park of at least 2 acres (or what is required whichever is greater) and request credit up to of the park development fees.

|                         |                              |
|-------------------------|------------------------------|
| Fees in-lieu-of land:   | \$ 62,400                    |
| <u>Development Fee:</u> | <u>\$397,500</u>             |
| <u>Total fees</u>       | <u>\$459,900</u>             |
| <u>75% Rebate</u>       | <u>\$298,125</u>             |
| Net to Park Fund        | \$161,775 + new private park |

OPTION 3. Pay the fees in-lieu-of land and pay the park development fees. Cash required upfront at recordation of plat.

|                         |                  |
|-------------------------|------------------|
| Fees in-lieu-of land:   | \$ 62,400        |
| <u>Development Fee:</u> | <u>\$397,500</u> |
| Net to Park Fund        | \$459,900        |

\*In a multi-phased development fees would only be required per unit or phase. If the park is in Unit 1 and has 75 homes, the following fees would be required at plat recordation of Unit 1:

|                         |                                      |
|-------------------------|--------------------------------------|
| Fees in-lieu-of land:   | \$ 15,600                            |
| <u>Development Fee:</u> | <u>\$ 99,375 (credit may apply)</u>  |
|                         | \$114,975 due at time of recordation |

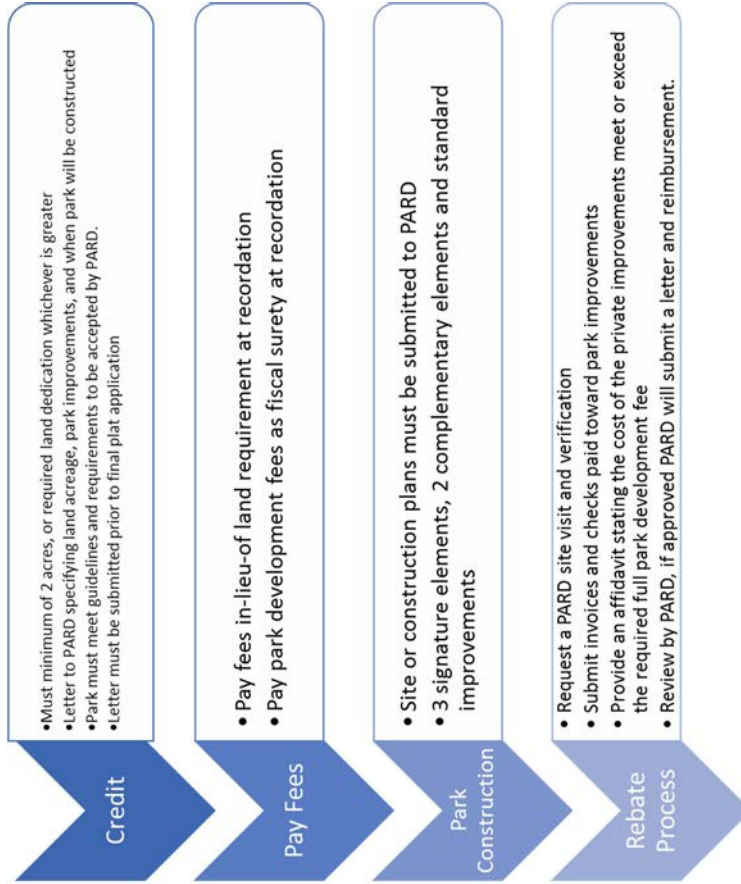
If park is completed and approved prior to the application for Unit 2 then 75% of the park development fees would be eligible for rebate. Fees in-lieu-of land would still be required for future units.

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# Park Land Dedication & Development Process

## Private Park Process



## Public Park Process



### Park Land Dedication Worksheet

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

**Location:** \_\_\_\_\_

**Applicant:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**What type of development is this? Select all that apply.**

- ☐ Residential (detached single family)
- ☐ Residential (2-family)
- ☐ Residential (commercial)
- ☐ Residential (multi-family)
- ☐ Other, please describe: \_\_\_\_\_

Does this subdivision have 2 or more acres for public park land dedication? If yes, please describe the terrain and the location of the public park land.

Does this subdivision have 2 or more acres for a private park? If yes, please describe the terrain and the location of the private park and potential amenities and who will maintain the private park.

Please list number of dwelling units.

Master Plan: \_\_\_\_\_  
 Unit 1: \_\_\_\_\_  
 Unit 2: \_\_\_\_\_  
 Unit 3: \_\_\_\_\_  
 TOTAL: \_\_\_\_\_

## Plat Requirements & Notes for Park Land Dedication & Park Development Ordinance

With the submission of the master plan or preliminary/final plat the developer, or its representative, must submit the Park Land Dedication and Park Development Worksheet, a letter of intent to comply with the ordinance, and identify the park location, type, and acreage on the plat with the appropriate plat note.

### Plat Notes

- **Commercial Development Plat Note**  
Non-residential use subdivisions are not subject to Park Land Dedication and Development requirements. However, at such time that any dwelling units are constructed, the owner of the lot shall contact the city and comply with the ordinance for each dwelling unit.
- **Master Plan and Preliminary Plats approved prior to [Insert Date] (non-recorded instruments)**  
This subdivision is subject to the 2006 City of New Braunfels Park Land Dedication and Development Ordinance. This plat is approved for \_\_\_\_ dwelling unit per buildable lot where fees are due at the time of platting. At such time that additional dwelling units are constructed; the owner of the lot shall contact the city and comply with the ordinance for each dwelling unit.
- **Final Plats approved prior to [Insert Date]**  
This subdivision is subject to the 2006 City of New Braunfels Park Land Dedication and Development Ordinance. This plat is approved for \_\_\_\_ dwelling unit per buildable lot with a maximum of \_\_\_\_ buildable lots. At such time that additional dwelling units are constructed; the owner of the lot shall contact the city and comply with the ordinance for each dwelling unit.
- **Master Plan and Preliminary Plats approved after to [Insert Date] (non-recorded instruments).**  
This subdivision is subject to the 2018 City of New Braunfels Park Land Dedication and Development Ordinance. This plan/plat is approved for \_\_\_\_ dwelling unit per buildable lot where fees are due at the time of final plat recordation. At such time that additional dwelling units are constructed; the owner of the lot shall contact the city and comply with the ordinance for each dwelling unit.
- **Final Plats after to [Insert Date]**  
This subdivision is subject to the 2018 City of New Braunfels Park Land Dedication and Development Ordinance. This plat is approved for \_\_\_\_ dwelling unit per buildable lot with a maximum of \_\_\_\_ buildable lots. At such time that additional dwelling units are constructed; the owner of the lot shall contact the city and comply with the ordinance for each dwelling unit.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. E)

Presenter/Contact

*Amy McWhorter, Downtown Development Coordinator  
amcwhorter@nbtexas.org*

**SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance amending Chapter 114 of the City's Code of Ordinances to add regulations regarding the use of public right-of-way in a portion of Downtown New Braunfels for sidewalk cafes, and amending Appendix D to include associated fees.

**BACKGROUND / RATIONALE:**

**Council District:** 5 and 6

**Owner/Applicant:** City of New Braunfels

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

**City Council held a public hearing for the first reading of this item on April 23, 2018, and recommended to approve the ordinance (5-1-0, Mayor Pro Tem Peters opposed, Councilmember Garcia absent).**

The City of New Braunfels is nearing completion of the Downtown Pedestrian Improvement project which will provide a continuous Americans with Disabilities Act (ADA) compliant path through the subject area. Additionally, recent Texas Alcoholic Beverage Commission (TABC) legal interpretations now require any mixed-beverage license holder serving alcohol on the public right-of-way, including the sidewalk, to erect a barrier around their outdoor service area.

To ensure that these businesses can continue to operate sidewalk cafes in a manner consistent with pedestrian access requirements, Federal Law and State Statutes, the City has drafted amendments to Chapter 114 of the City's Code of Ordinances that would add standards and a permitting process for sidewalk cafes in the Downtown area that are enclosed by a barrier.

Proposed changes to the ordinance would include a new section regarding sidewalk cafes in portions of the Downtown area. The ordinance would address the following:

- Location
- Operations, elements and rules
- Minimum clear path of travel and clear visual zone

- Design and materials of barriers, furniture, landscaping, lighting, signage, etc.
- Maintenance
- Inspections, permits, licenses, fees and penalties

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

|  |  |  |   |
|--|--|--|---|
|  |  | <b>2006 Comprehensive Plan<br/>Implementation Measure<br/>12</b> | Encourage sidewalk cafes and sidewalk vendors selling street food and drinks. |
|--|--|--|---|

**FISCAL IMPACT:**

It is anticipated that the proposal will result in a minimal amount of revenue totaling less than \$2,000.00 per year based on current demand.

**COMMITTEE RECOMMENDATION:**

The New Braunfels Downtown Board met on September 19, 2017 and voted to recommend approval of the proposed ordinance amendments (6-0-0, Board members Kneuper and Perez absent). The New Braunfels Downtown Board met on February 20, 2018, to discuss the potential annual license fees and recommended approval. The board also recommends that the license fees be deposited into a special revenue fund to offset costs of Downtown sidewalk maintenance and beautification.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed ordinance amendment.

**ATTACHMENTS:**

Downtown Board Minutes  
Amendments  
Draft Ordinance



## MEETING MINUTES

### NEW BRAUNFELS DOWNTOWN BOARD

Tuesday, September 19, 2017, 8:30 A.M.

| NBDB VOTING MEMBERS                 | PRESENT<br>TODAY | NO. OF MEETINGS<br>HELD SINCE<br>APPOINTMENT | NO. OF MEETINGS<br>ATTENDED SINCE<br>APPOINTMENT |
|-------------------------------------|------------------|--|--|
| Shane Hines (5/2017) – Chair        | Yes              | 35   | 25   |
| David Kneuper (5/2017) – Vice Chair | Yes              | 12   | 12   |
| Cathy Talcott (5/2019)              | Yes              | 84   | 70   |
| Ian Perez (5/2018)                  | No               | 37   | 34   |
| Kendra Miller (5/2019)              | Yes              | 10   | 8  |
| Kelly Broussard (5/2019)            | Yes              | 10   | 10   |
| Curt Leonhart (5/2018)              | Yes              | 8  | 7  |
| Patrick Winn (5/2018)               | Yes              | 8  | 6  |
| Pat Butler                          | Yes              | 4  | 4  |
| Vacant                              | -                | -  | -  |
| Vacant                              | -                | -  | -  |

#### **Others in Attendance**

Staff: Amy McWhorter and Katherine Crowe.

#### **Call to Order**

The meeting was called to order by Chair Hines at 8:30 a.m.

#### **Roll Call**

Roll was called and a quorum declared.

#### **Approval of Minutes**

Motion by Member Butler, seconded by Member Miller, to approve the August 15, 2017 regular minutes.  
Motion carried (6-0-0)

#### **Citizens Communication**

None.

#### **Individual Items for Discussion**

##### **Downtown Restrooms Ribbon Cutting**

Chair Hines stated there was no update.

Discussion followed.

Member Leonhart arrived at 8:32 a.m.

##### **DTA Update**

Member Butler announced the DTA's 50<sup>th</sup> anniversary social.

Member Butler stated the lamppost banners were finished being designed and would be purchased.

Member Talcott arrived at 8:33 a.m.

Member Butler announced the DTA would be sponsoring the Dia de los Muertos festival.

Vice Chair Kneuper inquired as to who installs the lamppost banners.

Mrs. McWhorter stated either the Parks Department or NBU would install the lamppost banners.

Discussion followed regarding the progress of the lampposts being painted.

Discussion followed regarding the details of the DTA's social.

### **DTA/NBDB Joint Meeting Discussion**

Chair Hines stated the meeting would be Wednesday, September 20 at 8:30 a.m.

Mrs. McWhorter stated the meeting would be an opportunity to coordinate with the DTA. She stated the main items of discussion were the combination of the maps of the downtown area, joint efforts with the organization of events, Wassailfest, and analyzing the four points of the Main Street program.

Mrs. McWhorter asked if the Board had any other items they wished to address at the special meeting.

Vice Chair Kneuper stated the division of marketing and implementation, as well as the combination of efforts, could be advantageous.

Mrs. McWhorter agreed. She stated the development of the Downtown App has required data contributions from the DTA to maintain accuracy and quality information.

Mrs. McWhorter announced that the Downtown App was available on iTunes, she encouraged the Board to download the application and communicate any changes that needed to be made. She stated the developers were updating the design to display the new logo.

Discussion followed.

### **Downtown Parking Update**

Mrs. McWhorter announced the upcoming 4B meeting. She stated the Hill Avenue re-striping and curb and gutter installation had been costed just under \$40,000, and would create an additional 40 parking spaces.

Discussion followed regarding the location of the additional parking.

Member Broussard inquired how the public would know of the additional parking once it was created.

Mrs. McWhorter stated a press release would be done and the wayfinding would be updated. She stated the parking study suggested a separate webpage be created regarding the downtown parking. She explained the webpage would need to be created through the city website, she stated it may be advantageous to have DTA create a separate webpage for parking.

Mrs. McWhorter explained the areas in the downtown that have demonstrated parking deficiencies. She stated a few potential options to alleviate the parking demand. She stated the city real estate office would reach out the Methodist church for a parking agreement.

Chair Hines asked if parking could be included on the Downtown App.

Mrs. McWhorter stated she would ask if it could be included.

Mrs. McWhorter stated the 4B Board would also be reviewing improvements to the county courthouse lot.

Mrs. McWhorter stated the construction on the Chase Bank lot should be completed by the end of 2017, but funding had not been made available to install proper lighting.

#### **Discussion and possible action on Wassailfest**

Mrs. McWhorter inquired what the Board's opinion was on allowing the DTA to sell wassail at Wassailfest.

Discussion followed regarding alcoholic wassail.

Member Winn stated the voting needed to be simplified.

Mrs. McWhorter stated she was in favor of the text voting used the previous year.

Discussion followed.

Member Butler stated the biggest expense with the alcoholic wassail was obtaining the liability insurance.

Member Broussard stated his affiliated downtown business would not be participating this year due to various reasons.

Discussion followed regarding the results of previous surveys sent out to the downtown businesses regarding Wassailfest.

Mrs. McWhorter stated allowing non-profits to participate without being affiliated with a downtown business may alleviate the pressure of the crowds on the downtown businesses.

Discussion followed regarding sidewalk construction.

Mrs. McWhorter stated Wassailfest would be December 7, Caroling on the Plaza would be December 8, and the Christmas Parade would be December 9.

Member Miller stated her affiliated downtown business would not be participating due to relocation outside of the downtown area. She offered their large wooden wassail sign to the DTA.

Member Butler accepted.

Discussion followed regarding methods of redirecting the flow of the crowd.

Member Winn requested clarification regarding the original intent of Wassailfest.

Mrs. McWhorter responded the original intent was to invite the community to the downtown area to show appreciation and encourage holiday shopping at the downtown businesses.

Member Miller expressed concern at the potential chaotic nature of the proposed bounce house.

Discussion followed.

Member Winn stated his support for allowing non-profits to sell wassail independently. He also stated his support to redirect the crowds.

Vice Chair Kneupper asked if the streets would be closed down Castell Ave., in front of the farmer's market location.

Mrs. McWhorter responded that section of road was not typically closed, but it may be due to Krause's Café being open for business this year.

Discussion followed regarding the farmer's market.

Discussion followed regarding the projected location of the sidewalk construction project during the event.

Chair Hines suggested Castell Ave. be closed down for the event.

Mrs. McWhorter expressed concerns regarding the loss of the Chase Bank lot for public parking.

Discussion followed regarding parking.

Vice Chair Kneuper expressed concerns that allowing non-profits to participate independently could potentially diminish the original intent of the event.

Discussion followed.

Member Talcott stated the item could be discussed at the special meeting with the DTA.

Member Butler stated the businesses could have the opportunity to have their store fronts open rather than having to close down to sell wassail.

Discussion followed.

Vice Chair Kneuper left at 9:02 a.m.

Member Winn suggested the stages and for sale wassail be moved more towards E. San Antonio St. to move crowds away from congestion prone areas. He suggested this re-organization could allow the Plaza to be better utilized.

Mrs. McWhorter agreed.

Discussion followed regarding the congestion prone areas in the previous years.

Discussion followed regarding the completed areas of the sidewalk project.

Member Broussard suggested Santa could be moved further out to alleviate the congestion.

Discussion followed regarding layout suggestions and advertising.

**Discuss and consider a recommendation to City Council regarding sidewalk cafes.**

Mrs. McWhorter presented the draft of the sidewalk café regulations. She explained an annual permitting process would be established for sidewalk cafes. She stated the café must be associated with a restaurant type business and be located in front of the associated restaurant. She explained a 6-foot clear path of travel would be required. She defined what a clear path of travel could be.

Member Winn provided supporting information regarding the required 6-foot path of travel.

Mrs. McWhorter stated the minimum 6 feet of clear path would require 3 feet of clear concrete area.

Member Winn inquired to the top width of pavers.

Mrs. McWhorter stated it varied.

Discussion followed.

Member Winn inquired about the symmetry of fence lines.

Mrs. McWhorter stated the symmetry was not required, she explained this was to allow the best use of the space available on the sidewalk.

Discussion followed.

Member Winn stated his support of the requirements. He suggested a provision that the permit reviewer would review the application on site, to give the city the final say regarding any special circumstances.

Mrs. McWhorter stated she included that the City Engineer would have the final say for any special circumstances.

Mrs. McWhorter explained the burden was on the businesses to maintain and repair the pavers located outside of their buildings. She explained it was currently required by ordinance, but was not enforced. She stated following the sidewalk project she intended to enforce the ordinance.

Discussion followed on the Board's agreement with the enforcement.

Chair Hines inquired if any additional feedback was needed to give a recommendation to City Council.

Mrs. McWhorter stated they could seek further feedback, but she explained it could delay the process further. She stated she was working to have the regulations in place for when the sidewalk project is completed.

Member Broussard inquired to the qualifying materials for the café barriers.

Member Winn stated his belief that rope barriers should not be considered barriers under the new regulations. He stated the barriers should create a legitimate enclosure.

Discussion followed regarding undesirable barrier materials.

Member Broussard stated similar materials for all cafes would be preferred to create a cohesive look.

Member Butler inquired if a barrier is required.

Chair Hines responded yes.

Member Winn explained the barrier requirements.

Member Miller inquired if the furniture would be reviewed.

Discussion followed.

Chair Hines inquired if a review committee should be formed to review the cafes.

Mrs. McWhorter stated the application could be reviewed by the Board and made to include details about the furniture. She explained she would define the sidewalk café as any outdoor seating area with a barrier enclosing the area.

Chair Hines suggested rope be changed to steel cable or rod under the material requirements.

Mrs. McWhorter stated the requirements could be changed to railing or other horizontal element and

leave the discretion for individual review.

Discussion followed regarding the inclusion of planters as potential barriers.

Discussion followed regarding the included regulations about gambling and outdoor noise.

Member Miller inquired about maintenance.

Mrs. McWhorter stated she could add a regulation stating the furniture should be maintained and kept in good condition.

Member Winn stated the maximum height above the ground should be changed to 8 inches. He stated he wanted to volunteer to be on the review board.

Member Winn left at 9:35 a.m.

Mrs. McWhorter asked if there were any other changes the Board wished to make.

No one responded.

Motion by Member Talcott, seconded by Member Miller to recommend approval to City Council regarding the proposed regulations for sidewalk cafes, with the discussed revisions. Motion carried (6-0-0)

### **Items for Future Discussion**

#### **Trash Cans**

Chair Hines stated the proposed changes to the bylaws had been moved to the October agenda per the request of Member Perez.

Mrs. McWhorter announced the City Engineer, Garry Ford, would be at the October meeting to discuss wayfinding.

Member Talcott stated the sidewalks in front of the courthouse were in disrepair and dangerous for pedestrians. She also stated an observation that at the corner of Landa and Mill St. lights were needed for pedestrians at that intersection.

Discussion followed.

Member Talcott inquired to an update regarding the potential for repairs to Landa St. under the bridge.

Mrs. McWhorter stated Landa St. under the bridge was an identified project, but had no funding or timeline at that time.

### **Adjournment**

There being no further business, the meeting adjourned at 9:40 a.m.

\_\_\_\_\_  
**Chair**

\_\_\_\_\_  
**Date**



**MEETING MINUTES**  
**NEW BRAUNFELS DOWNTOWN BOARD**

Tuesday February 20, 2018, 8:30 A.M.

| NBDB VOTING MEMBERS                | PRESENT<br>TODAY | NO. OF MEETINGS<br>HELD SINCE<br>APPOINTMENT | NO. OF MEETINGS<br>ATTENDED SINCE<br>APPOINTMENT |
|------------------------------------|------------------|--|--|
| Shane Hines (5/2017) – Chair       | Yes              | 40   | 30   |
| David Kneuper (5/2017) –Vice Chair | Yes              | 17   | 17   |
| Cathy Talcott (5/2019)             | Yes              | 89   | 75   |
| Ian Perez (5/2018)                 | Yes              | 42   | 38   |
| Kendra Miller (5/2019)             | Yes              | 15   | 11   |
| Kelly Broussard (5/2019)           | Yes              | 15   | 15   |
| Curt Leonhart (5/2018)             | Yes              | 13   | 12   |
| Patrick Winn (5/2018)              | Yes              | 13   | 9  |
| Pat Butler                         | Yes              | 9  | 9  |
| Vacant                             | -                | -  | -  |
| Vacant                             | -                | -  | -  |

**Others in Attendance**

Staff: Chris Looney, Amy McWhorter, Stacy Snell, Ylda Capriccioso, Victor Garza, Katherine Crowe and Maddison O'Kelley.

**Call to Order**

The meeting was called to order by Vice Chair Kneuper at 8:30 a.m.

**Roll Call**

Roll was called and a quorum declared.

**Approval of Minutes**

Motion by Member Perez, seconded by Member Leonhart, to approve the December 19, 2017 regular meeting minutes. Motion carried (8-0-0).

**Citizens Communication**

None.

**Individual Items for Discussion**

**Discuss Downtown Pedestrian and Bike route and surveys**

Mrs. Capriccioso presented an opportunity to evaluate downtown pedestrian and bike route and surveys through the Walkable Community Program with MPO.

Chair Hines arrived at 8:35 a.m.

Discussion followed regarding the Walkable Community Program.

Vice Chair Kneuper supported requesting workshop for MPO from City Council.

Mrs. McWhorter indicated that she and Mrs. Capriccioso would contact City Council.

**South Castell Avenue Visioning Plan Update – Victor Garza, Economic Development Coordinator**

Mr. Garza introduced himself and the Board welcomed him.

Discussion followed regarding the sixth meeting regarding the South Castell Avenue Visioning Plan.

Mr. Garza provided an update on the visioning plan.

Discussion followed regarding the options provided and Civic Center.

Mrs. McWhorter described the City's history of downtown parking and past consideration for funding a parking garage.

Discussion followed regarding downtown parking, growth and architecture.

Member Winn asked Mr. Garza if it helped that the San Marcos civic center has a hotel component.

Mr. Garza stated that due to the hotel function of the civic center, the City of San Marcos was able to pay its debt down 5 years ahead of schedule.

Discussion followed regarding the civic center.

Chair Hines left at 8:59 a.m.

#### **Discuss and consider Downtown Sidewalk Café Ordinance**

Mrs. McWhorter provided an update on drafting the ordinance. She stated they needed to recommend an annual license fees for sidewalk cafés. She provided a draft ordinance and provided information regarding what other cities were charging for sidewalk café license fees for the Board's reference.

Discussion followed regarding the draft ordinance.

Vice Chair Kneuper stated he thinks the fee should go back to downtown. Mrs. McWhorter suggested making a recommendation for the fees to stay downtown.

Discussion followed regarding fees that have to do with downtown businesses being reinvested in the downtown area and potential fee schedules.

Member Winn suggested to make design standards accessible. He requested to discuss design standards at the next meeting and offered to show proposed designs for downtown businesses for the Board to review.

Discussion followed regarding downtown businesses.

#### **Downtown Parking Update**

Mrs. McWhorter provided an update on downtown parking inventory.

Member Winn asked when 2-hour parking will be monitored again.

Mrs. McWhorter stated it will likely be when the sidewalk project is done.

Discussion followed regarding parking.

Member Winn asked if there were any rules regarding overnight parking.

Mrs. McWhorter described a prohibition on overnight parking in commercial zoned areas.

Discussion followed regarding public parking in the downtown.

Vice Chair Kneuper left at 9:17 a.m.

Member Perez nominated Member Broussard to act as Chair in the absence of Chair Hines and Vice Chair Kneuper.

Member Broussard declined.

Member Broussard nominated Member Winn to act as Chair in the absence of Chair Hines and Vice Chair Kneuper.

Member Winn accepted.

#### **Downtown Sidewalk Update**

Mrs. McWhorter provided an update on the downtown sidewalk project.

Discussion followed regarding the progress of the project and positive interactions had between the project manager and some downtown business owners.

#### **Wein and Saengerfest Committee Update**

Mrs. McWhorter provided an update regarding Wein and Saengerfest.

Member Winn requested a confirmed date of the event.

Mrs. McWhorter stated it would be May 5<sup>th</sup>.

#### **Wassailfest Recap**

Mrs. McWhorter provided a recap of Wassailfest.

Discussion followed regarding the event.

#### **Bylaws Revision Update**

Mrs. McWhorter provided an update regarding the Bylaws revisions.

#### **Discuss extended business hours campaign**

Mrs. McWhorter presented the draft of the survey that will be sent out to the downtown business owners.

Discussion followed regarding the Downtown Association survey that was conducted previously.

Mrs. McWhorter survey – business owners and community

Member Winn suggested a First Sunday event, to coincide with the Farmer's Market.

Discussion followed regarding the Farmer's Market hours and days of operation.

Mrs. McWhorter requested suggestions for any additional questions to be included in the survey.

Member Winn suggested asking for ideas to encourage people to come and business to stay open on Sundays.

Discussion followed.

Member Talcott suggested asking about holiday hours.

Discussion followed regarding persuasive methods to encourage the businesses.

Member Miller inquired about the status of the Downtown App.

Mrs. McWhorter provided an update.

Member Miller suggested push notifications.

#### **Items for Future Discussion**

Mrs. McWhorter summarized the items for future discussion as the Election of Chair, design standards for patio cafes, overnight parking ordinance, and Downtown App update.

Member Winn requested to discuss the Downtown Board of Directors 2018 goals

Member Perez requested to discuss a banner update.

Member Butler requested to discuss light pole planters.

#### **Adjournment**

There being no further business, the meeting adjourned at 9:36 a.m.

\_\_\_\_\_  
**Chair**

\_\_\_\_\_  
**Date**

Sec 114-10. – Sidewalk Cafes in the Downtown Area.

- (a) **Prohibited obstructions.** It shall be unlawful for any person to erect any fencing, barrier, or other object(s) on the sidewalk for the purpose of creating an outdoor eating and/or drinking area in or upon any street, street right-of-way, avenue, alley or sidewalk or the city's right-of-way between the curb line and the property line of any business, commercial or residential property within the city without first securing a permit approved by the City's Planning and Community Development Department:
- (b) **Sidewalk cafes in the Downtown area**
- (1) **Downtown area defined.** The downtown area subject to this section includes both sides of San Antonio Street from the Comal River to Walnut Avenue, Sequin Avenue from Zink Street to Business 35/Elliott Knox Boulevard, Castell Avenue from Business 35/Elliott Knox Boulevard to Mill Street and the entirety of Main Plaza. (See exhibit A following this section).
- (2) **Sidewalk Café Permits.**
- a. Any building occupant or property owner located in the downtown area may apply to the Downtown Development Coordinator to obtain a permit to install and operate a sidewalk café, for a period of one year, on the sidewalk right-of-way in front of the property they own or occupy. At the end of the one-year period, the applicant may apply for an additional one-year period. The Downtown Development Coordinator may approve the permit for an additional year or deny the permit. If the Downtown Development Coordinator determines that the permit should not be approved, the applicant may appeal that decision consistent with subsections 114-5(c)(4)d. and 114-5(c)(4)e. The permit issued under this section shall be personal to the applicant and is not transferrable.
  - b. Fees. Application and license fees are as outlined in Appendix D of the Code of Ordinances.
  - c. All sidewalk cafes must be located directly in front of, and adjacent to, the business's primary façade. The café area is to begin flush with the building face and cannot extend beyond the business storefront area on either side.
  - d. All operations, furniture, and other related obstructions of a sidewalk café must be contained within the approved boundaries of the café at all times. Umbrellas may extend into the clear path of travel only when all parts are above a height of seven feet.
  - e. **Clear Path of Travel and Clear Visual Zone.** The minimum clear path of travel is 6 feet and includes a minimum of 3 feet of concrete sidewalk. The clear path of travel may meander from side to side to avoid obstructions, but must always contain a continuous, passage with a minimum width of 3 feet. This three-foot continuous path is known as the **Clear Visual Zone** and provides pedestrians with a clear indication of the walkway.
    1. A minimum of 6 feet clear path of travel is required on all public sidewalks with sidewalk cafes or other obstructions.
    2. In areas with paver sections, a 3-foot clear area is required behind the pavers (towards the building face).
    3. Under certain conditions, the City Engineer may require a clear path of travel greater than 6 feet or permit a clear path of travel less than six feet.
    4. If the sidewalk cafe use causes change in pedestrian travel, appropriate repairs in the immediate area may be required to accommodate the change to assure compliance with ADA.
    5. Cords, strings and lights may not be strung over or placed in the pedestrian path of travel but may be allowed over the café.

6. Landscaping: Planters must be contained within the footprint of the approved café or obstruction area.
7. At least one accessible route shall connect accessible buildings, facilities, elements and spaces that are on the same site.
8. No café or obstruction may be placed within 5 feet of intersection ramps.

f. Design and Materials

1. Barriers. If fences, planter boxes, or other barriers are proposed and are designed to be affixed to the sidewalk, the City Engineer or their designee must review the proposed installation method to ensure the installation will not damage the sidewalk. Core drilling or setting is prohibited. Additionally, barriers shall be constructed of durable materials.
  - a. Fencing must not exceed 42 inches in height and shall be a minimum of 36 inches in height
  - b. Bottom of barriers shall be no more than 27 inches above the sidewalk surface.
  - c. Fencing must be at least 50% open (see-through); solid sheet fencing and canvas inserts are not permitted.
  - d. Fencing must be constructed of metal (aluminum, iron, steel, wrought-iron or similar) with a railing, rope, or other horizontal elements. Posts with pointed tops are not permissible.
  - e. Belt stanchions, buckets and ropes, or any other temporary barriers are not permitted. All posts must be secured to the sidewalk and have a flat base.
2. Planters. Landscape planters may be used as a fencing device in place of or in addition to other barrier designs.
  - a. Planters shall not exceed 42 inches in height (not including planted material), and plants may not exceed a height of 8 feet.
  - b. All planters must contain live planted material. Should planted materials die, new plants must be planted or the planter removed.
  - c. No artificial plants, empty planters, or bare dirt, mulch, straw or similar materials are permitted.
3. Furniture and Fixtures. Tables, chairs, and other appurtenances shall be durable, waterproof, and able to withstand weather elements. All such appurtenances must be maintained to the standards of the original permit for the duration of the life of the sidewalk café.
  - a. All furniture other than tables, chairs, and umbrellas is prohibited. This includes, but is not limited to serving stations, bar counters, shelves, racks, sofas, televisions, and trash receptacles.
  - b. Heaters may be allowed on a case by case basis and subject to the approval of the Fire Marshal and the Downtown Development Coordinator.
  - c. All furniture must be free standing and not secured to the sidewalk, trees, lamp posts, or any other street infrastructure, whether during operating hours of the establishment or when the establishment is closed.
  - d. Furniture must be finished grade wood, metal, or sturdy recycled materials. No breakable plastics, unfinished lumber, or artificial turf is permissible.
  - e. Umbrellas must be contained within the sidewalk café area and when extended shall measure at least 7 feet above the surface of the sidewalk café.
  - f. No advertising, signage, or wording is permitted on umbrellas.
  - g. Any part of an umbrella may not exceed a height of 10 feet above the sidewalk.



- h. Lights and lighting, other than tabletop lighting fixtures are not permitted.
- i. Extension cords running to or from the sidewalk area are prohibited.

f. Maintenance

1. The applicant shall, at all times, maintain the sidewalk adjacent to the area of sidewalk café or other permitted use free from obstructions and maintain a minimum clearance of 6 feet (3 feet of concrete) on the sidewalk adjacent to the permitted use or cafe. The applicant shall keep the area adjacent to the permitted use free and clear of any tables or other property. The licensee shall be responsible for the prompt removal of trash within the sidewalk café. Trash is not to be disposed of in the permanent trash can in the right of way. All tables are to immediately be bussed upon patrons leaving the area.
2. The applicant shall, at all times, maintain the sidewalk adjacent to the permitted sidewalk café area in good repair and in compliance with the Americans with Disabilities Act (ADA). The applicant shall promptly repair any damages to the sidewalk and replace any broken improvements within a reasonable time. All such repairs and replacements shall be subject to the approval of the City and all other necessary boards and commissions. If the applicant does not promptly make such repairs, the City may, but is not required to, make such repairs and replacements and the costs paid or incurred by the City for such repairs and replacements shall be payable in full to the City within three calendar days.
3. The applicant shall, at termination of the permit, return the sidewalk premises to the City in as good condition as at the commencement of the term hereof, excepting only usual wear and tear, acts of God, or unavoidable accidents.
4. Applicant agrees to hold the City harmless for any theft, damages, or destruction of signs, goods, and/or other property of the applicant both during the term of this permit and as left on the permitted sidewalk cafe area after the permit expiration date or applicant vacates the subject premises. Any obstructions not removed within seven calendar days of the expiration of the permit may be removed by the City without any further notice or liability.
5. In the event of removal of the café or any fixtures of the café, the licensee shall be responsible for repairing the sidewalk to a flush condition (subject to approval by the City Engineer and Downtown Development Coordinator).

g. General Rules and Regulations for Sidewalk Café Operation

1. All permit holders shall comply with all applicable local, state, and federal rules and regulations.
2. The applicant shall only be allowed to place items in the permitted obstruction area that are listed on the permit application.
3. The sidewalk café shall not obstruct any entrance or exit to the business establishment.
4. As extensions of the business, sidewalk cafés may only operate during the establishment's business hours.
5. Merchandise, signs, and other moveable items may only be displayed or placed on the sidewalk during the businesses operating hours only.
6. No advertisements, signs, decorations, or displays shall be placed in, on or about the sidewalk café premises without prior written approval of the City.
7. Gambling of any nature is not allowed in the sidewalk obstruction area.
8. The City may conduct an initial inspection to verify that the applicant is in compliance with the permit conditions.
9. The applicant shall not place televisions, speakers, or amplified music on or in the sidewalk café area. Failure to comply with this section may, at the City's opinion, constitute default of the permit.

10. The applicant shall not engage in, or allow its employees, agents, invitees, guests or any other person to engage in vending on the sidewalk other than the customary and ordinary restaurant service or display of merchandise regularly and ordinarily associated with the business directly adjacent to the sidewalk encroachment area.
- h. *Fines/Penalties.* The City may issue a fine if any violation and non-compliance of City Code or sidewalk use requirements are found. Fine for the first notice is \$100, second notice is \$150, and the third notice may require the revocation of the permit.
- i. *Insurance.*
  1. The applicant agrees to hold the City of New Braunfels harmless for any theft, damage, or destruction of property of the applicant both during the term of the permit and as so left on the sidewalk café premises after applicant vacates the premises or the permit expires or is revoked.
  2. Prior to the commencement of sidewalk use, the applicant will furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Downtown Development Coordinator, which shall be clearly labeled with applicant business name and address in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original Certificate(s) or form must have the agent's original signature, including signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to perform under this agreement until such Certificate(s) and endorsements have been received and approved by the City's Downtown Development Coordinator. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.
  3. The City reserves the right to review the insurance requirements of this Article during the effective period of the permit and any extension or renewal thereof and to modify insurance coverage and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. In no instance will the City allow modification where upon the City may incur an increased risk.

Exhibit A.

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## Section A. Schedule of Development Fees.

|   |  |
|---|--|
| <a href="#">Downtown Sidewalk Café application fee</a>    | <a href="#">\$100</a>  |
| <a href="#">Downtown Sidewalk Café Annual License fee</a> | <a href="#">Less than 250 square feet: \$250</a><br><a href="#">250 to 500 square feet: \$500</a><br><a href="#">Greater than 500 square feet: \$750</a> |

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING CHAPTER 114 AND APPENDIX D OF THE CITY'S CODE OF ORDINANCES BY ADOPTING REGULATIONS FOR SIDEWALK CAFES IN PARTS OF DOWNTOWN AND ADOPTING NEW FEES ASSOCIATED WITH THE REGULATION AND USE OF PUBLIC SIDEWALKS FOR SIDEWALK CAFÉ PURPOSES; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.**

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**WHEREAS**, the City of New Braunfels, Texas, allows the use of portions of the public sidewalks in parts of the Downtown area for sidewalk cafes; and

**WHEREAS**, the City Council of the City of New Braunfels, Texas seeks to ensure safe and accessible pedestrian pathways through Downtown; and

**WHEREAS**, the City Council of the City of New Braunfels, Texas seeks to ensure public investments add and maintain value for the citizenry without undue damage by private interests or lack of maintenance associated with private use; and

**WHEREAS**, the City Council of the City of New Braunfels, Texas seeks to provide for reasonable administrative fees in order to recoup the cost of reviewing and administering the use of sidewalk cafes, conducting such processes and services on the public's behalf without unduly relying on taxes; and

**WHEREAS**, the City Council of the City of New Braunfels, Texas seeks to assign a reasonable annual license fee to those using portions of the sidewalk for sidewalk café purposes; and

**WHEREAS**, the New Braunfels Downtown board recommended approval of the proposed regulations and fees at their regular meetings in September 2017 and February 2018; and

**WHEREAS**, New Braunfels' City Council finds that the attached code amendments regulating the use of public sidewalks for sidewalk cafes by private entities is reasonable and prudent in light of the desire to ensure adequate pedestrian access throughout the Downtown area and that the schedule of fees is reasonable and prudent in light of the municipal effort and resources that must be expended to operate a regulatory program and provide certain municipal authorizations, permits, and approvals;

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

**Section 1. Findings of Fact**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes. The City Council hereby finds and determines that the rules, regulations, terms, conditions, provisions, and requirements are reasonable and necessary to protect the public health, safety, and quality of life.

**Section 2. Amendment to Chapter 114.**

Chapter 114 of the City of New Braunfels Code of Ordinances is hereby amended by adding Section 114-10, and editing the Reserved sections, as set forth below:

Sec 114-10. – Sidewalk Cafes in the Downtown Area.

(a) **Prohibited obstructions.** It shall be unlawful for any person to erect any fencing, barrier, or other object(s) on the sidewalk for the purpose of creating an outdoor eating and/or drinking area in or upon any street, street right-of-way, avenue, alley or sidewalk or the city's right-of-way between the curb line and the property line of any business, commercial or residential property within the city without first securing a permit approved by the City's Planning and Community Development Department:

(b) **Sidewalk cafes in the Downtown area**

(1) **Downtown area defined.** The downtown area subject to this section includes both sides of San Antonio Street from the Comal River to Walnut Avenue, Seguin Avenue from Zink Street to Business 35/Elliott Knox Boulevard, Castell Avenue from Business 35/Elliott Knox Boulevard to Mill Street and the entirety of Main Plaza. (See exhibit A following this section).

(2) **Sidewalk Café Permits.**

- a. Any building occupant or property owner located in the downtown area may apply to the Downtown Development Coordinator to obtain a permit to install and operate a sidewalk café, for a period of one year, on the sidewalk right-of-way in front of the property they own or occupy. At the end of the one-year period, the applicant may apply for an additional one-year period. The Downtown Development Coordinator may approve the permit for an additional year or deny the permit. If the Downtown Development Coordinator determines that the permit should not be approved, the applicant may appeal that decision consistent with subsections 114-5(c)(4)d. and 114-5(c)(4)e. The permit issued under this section shall be personal to the applicant and is not transferrable.
- b. Fees. Application and license fees are as outlined in Appendix D of the Code of Ordinances.

- c. All sidewalk cafes must be located directly in front of, and adjacent to, the business's primary façade. The café area is to begin flush with the building face and cannot extend beyond the business storefront area on either side.
- d. All operations, furniture, and other related obstructions of a sidewalk café must be contained within the approved boundaries of the café at all times. Umbrellas may extend into the clear path of travel only when all parts are above a height of seven feet.
- e. *Clear Path of Travel and Clear Visual Zone.* The minimum clear path of travel is 6 feet and includes a minimum of 3 feet of concrete sidewalk. The clear path of travel may meander from side to side to avoid obstructions, but must always contain a continuous, passage with a minimum width of 3 feet. This three-foot continuous path is known as the **Clear Visual Zone** and provides pedestrians with a clear indication of the walkway.
  - 1. A minimum of 6 feet clear path of travel is required on all public sidewalks with sidewalk cafes or other obstructions.
  - 2. In areas with paver sections, a 3-foot clear area is required behind the pavers (towards the building face).
  - 3. Under certain conditions, the City Engineer may require a clear path of travel greater than 6 feet or permit a clear path of travel less than six feet.
  - 4. If the sidewalk cafe use causes change in pedestrian travel, appropriate repairs in the immediate area may be required to accommodate the change to assure compliance with ADA.
  - 5. Cords, strings and lights may not be strung over or placed in the pedestrian path of travel but may be allowed over the café.
  - 6. Landscaping: Planters must be contained within the footprint of the approved café or obstruction area.
  - 7. At least one accessible route shall connect accessible buildings, facilities, elements and spaces that are on the same site.
  - 8. No café or obstruction may be placed within 5 feet of intersection ramps.
- f. *Design and Materials*
  - 1. *Barriers.* If fences, planter boxes, or other barriers are proposed and are designed to be affixed to the sidewalk, the City Engineer or their designee must review the proposed installation method to ensure the installation will not damage the sidewalk. Core drilling or setting is prohibited. Additionally, barriers shall be constructed of durable materials.
    - a. Fencing must not exceed 42 inches in height and shall be a minimum of 36 inches in height
    - b. Bottom of barriers shall be no more than 27 inches above the sidewalk surface.
    - c. Fencing must be at least 50% open (see-through); solid sheet fencing and canvas inserts are not permitted.
    - d. Fencing must be constructed of metal (aluminum, iron, steel, wrought-iron or similar) with a railing, rope, or other horizontal elements. Posts with pointed tops are not permissible.
    - e. Belt stanchions, buckets and ropes, or any other temporary barriers are not permitted. All posts must be secured to the sidewalk and have a flat base.
  - 2. *Planters.* Landscape planters may be used as a fencing device in place of or in addition to other barrier designs.



- a. Planters shall not exceed 42 inches in height (not including planted material), and plants may not exceed a height of 8 feet.
  - b. All planters must contain live planted material. Should planted materials die, new plants must be planted or the planter removed.
  - c. No artificial plants, empty planters, or bare dirt, mulch, straw or similar materials are permitted.
- 3. Furniture and Fixtures. Tables, chairs, and other appurtenances shall be durable, waterproof, and able to withstand weather elements. All such appurtenances must be maintained to the standards of the original permit for the duration of the life of the sidewalk café.
  - a. All furniture other than tables, chairs, and umbrellas is prohibited. This includes, but is not limited to serving stations, bar counters, shelves, racks, sofas, televisions, and trash receptacles.
  - b. Heaters may be allowed on a case by case basis and subject to the approval of the Fire Marshal and the Downtown Development Coordinator.
  - c. All furniture must be free standing and not secured to the sidewalk, trees, lamp posts, or any other street infrastructure, whether during operating hours of the establishment or when the establishment is closed.
  - d. Furniture must be finished grade wood, metal, or sturdy recycled materials. No breakable plastics, unfinished lumber, or artificial turf is permissible.
  - e. Umbrellas must be contained within the sidewalk café area and when extended shall measure at least 7 feet above the surface of the sidewalk café.
  - f. No advertising, signage, or wording is permitted on umbrellas.
  - g. Any part of an umbrella may not exceed a height of 10 feet above the sidewalk.
  - h. Lights and lighting, other than tabletop lighting fixtures are not permitted.
  - i. Extension cords running to or from the sidewalk area are prohibited.
- f. Maintenance
  - a. The applicant shall, at all times, maintain the sidewalk adjacent to the area of sidewalk café or other permitted use free from obstructions and maintain a minimum clearance of 6 feet (3 feet of concrete) on the sidewalk adjacent to the permitted use or cafe. The applicant shall keep the area adjacent to the permitted use free and clear of any tables or other property. The licensee shall be responsible for the prompt removal of trash within the sidewalk café. Trash is not to be disposed of in the permanent trash can in the right of way. All tables are to immediately be bussed upon patrons leaving the area.
  - b. The applicant shall, at all times, maintain the sidewalk adjacent to the permitted sidewalk café area in good repair and in compliance with the Americans with Disabilities Act (ADA). The applicant shall promptly repair any damages to the sidewalk and replace any broken improvements within a reasonable time. All such repairs and replacements shall be subject to the approval of the City and all other necessary boards and commissions. If the applicant does not promptly make such repairs, the City may, but is not required to, make such repairs and replacements and the costs paid or incurred by the City for such repairs and replacements shall be payable in full to the City within three calendar days.
  - c. The applicant shall, at termination of the permit, return the sidewalk premises to the City in as good condition as at the commencement of the term hereof, excepting only usual wear and tear, acts of God, or unavoidable accidents.
  - d. Applicant agrees to hold the City harmless for any theft, damages, or destruction of signs, goods, and/or other property of the applicant both during the term of this permit

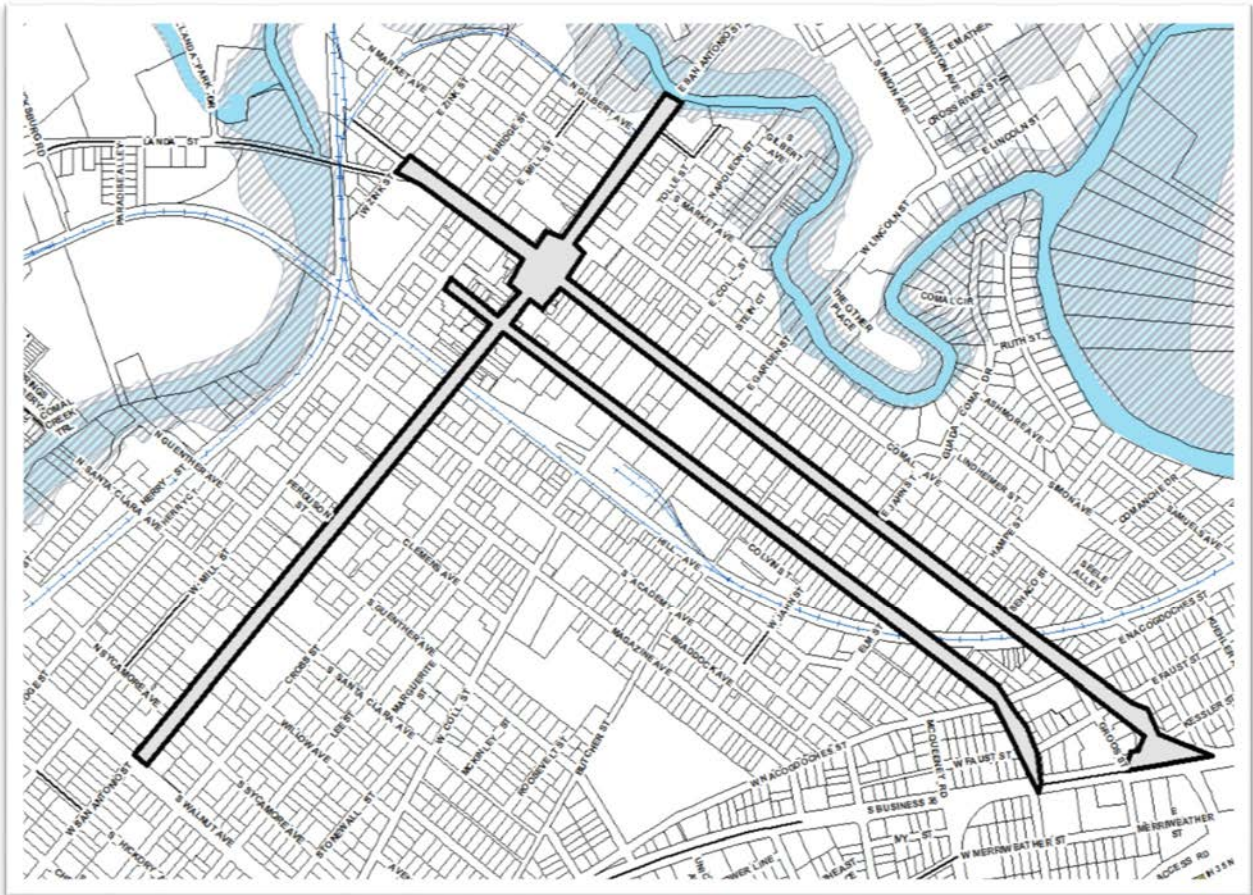
and as left on the permitted sidewalk cafe area after the permit expiration date or applicant vacates the subject premises. Any obstructions not removed within seven calendar days of the expiration of the permit may be removed by the City without any further notice or liability.

- e. In the event of removal of the café or any fixtures of the café, the licensee shall be responsible for repairing the sidewalk to a flush condition (subject to approval by the City Engineer and Downtown Development Coordinator).
- g. *General Rules and Regulations for Sidewalk Café Operation*
  - a. All permit holders shall comply with all applicable local, state, and federal rules and regulations.
  - b. The applicant shall only be allowed to place items in the permitted obstruction area that are listed on the permit application.
  - c. The sidewalk café shall not obstruct any entrance or exit to the business establishment.
  - d. As extensions of the business, sidewalk cafés may only operate during the establishment's business hours.
  - e. Merchandise, signs, and other moveable items may only be displayed or placed on the sidewalk during the businesses operating hours only.
  - f. No advertisements, signs, decorations, or displays shall be placed in, on or about the sidewalk café premises without prior written approval of the City.
  - g. Gambling of any nature is not allowed in the sidewalk obstruction area.
  - h. The City may conduct an initial inspection to verify that the applicant is in compliance with the permit conditions.
  - i. The applicant shall not place televisions, speakers, or amplified music on or in the sidewalk café area. Failure to comply with this section may, at the City's opinion, constitute default of the permit.
  - j. The applicant shall not engage in, or allow its employees, agents, invitees, guests or any other person to engage in vending on the sidewalk other than the customary and ordinary restaurant service or display of merchandise regularly and ordinarily associated with the business directly adjacent to the sidewalk encroachment area.
- h. *Fines/Penalties.* The City may issue a fine if any violation and non-compliance of City Code or sidewalk use requirements are found. Fine for the first notice is \$100, second notice is \$150, and the third notice may require the revocation of the permit.
- i. *Insurance.*
  - a. The applicant agrees to hold the City of New Braunfels harmless for any theft, damage, or destruction of property of the applicant both during the term of the permit and as so left on the sidewalk café premises after applicant vacates the premises or the permit expires or is revoked.
  - b. Prior to the commencement of sidewalk use, the applicant will furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Downtown Development Coordinator, which shall be clearly labeled with applicant business name and address in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original Certificate(s) or form must have the agent's original signature, including signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to perform under this agreement until such Certificate(s) and endorsements have

been received and approved by the City's Downtown Development Coordinator. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

- c. The City reserves the right to review the insurance requirements of this Article during the effective period of the permit and any extension or renewal thereof and to modify insurance coverage and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. In no instance will the City allow modification where upon the City may incur an increased risk.

#### **Exhibit A.**



Secs. 114-~~40~~<sup>11</sup> – 114-30. - Reserved.

#### **Section 3. Amendment to Appendix D**

**Appendix D of the City of New Braunfels Code of Ordinances is hereby amended by adding fees associated with sidewalk café permit applications and licenses as set forth below:**

#### **Section A. Schedule of Development Fees.**

\*\*\*\*\*

**MISC.**

|   |  |
|---|--|
| <a href="#">Downtown Sidewalk Café application fee</a>    | <a href="#">\$100</a>  |
| <a href="#">Downtown Sidewalk Café Annual License fee</a> | <a href="#">Less than 250 square feet: \$250</a><br><a href="#">250 to 500 square feet: \$500</a><br><a href="#">Greater than 500 square feet: \$750</a> |

**Section 4. Severability**

**THAT** 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 5. Repealer**

**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 and all Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**Section 6. Effective Date and Publication.**

**THIS** ordinance shall become adopted and effective on May 14, 2018. 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 23<sup>rd</sup> day of April 2018.

**PASSED AND APPROVED:** Second reading this 14<sup>th</sup> day of May, 2018.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. F)

### Presenter

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

### **SUBJECT:**

Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards and Articulation Requirements for the proposed Comal County Jail addressed at 3000 IH 35.

### **BACKGROUND / RATIONALE:**

**Case No.:** CS-18-009

**Council District:** 1

**Owner/Applicant:** Comal County / Tom Hornseth, County Engineer  
100 Main Plaza  
New Braunfels, TX 78130

**Staff Contact:** Matt Greene, Planner  
(830) 221-4053  
mgreene@nbtexas.org

The subject property comprises 11.65 acres on the northwest corner of the intersection of the IH 35 access road and Water Lane, at a visual gateway to the city from the south. The property is zoned M-1 Light Industrial District and is the site of the new Comal County jail facility, which is permitted and currently under construction.

New Braunfels Code of Ordinances includes minimum design standards for the exterior of non-residential and multifamily buildings to ensure said buildings positively contribute to the overall appearance of the community. Included as part of the design standards is the requirement to incorporate minimum vertical and horizontal articulation elements on buildings of specified length and height so that structures facing the public have a variety of offsets, relief, and insets (see Attachments).

### *Vertical Articulation (Attachment 4, Chapter 144, Section 5.22-3(c)(2)):*

The vertical articulation requirements for the proposed building only apply to the building facades facing the IH 35 access road and Water Lane. Related to the roofline, the minimum vertical elevation change required is a minimum of 15% of the average building height with the elevation change extending laterally for a minimum distance of at least 10% of the entire façade and no wall shall extend horizontally for a distance greater than 3 times its average height without a change in elevation. The building elevation plans submitted and approved (attached) comply with the vertical articulation requirements, however, the vertical articulation requirements do not require the design be

as proposed.

**Proposal:**

The construction plans submitted for this project comply with the adopted design standards, including vertical articulation. The applicant's architect designed the side facing Water Lane with differing wall elevations; and designed vertical articulation on the side facing IH-35 with slanted metal features extending outward from the building. The plans were approved and a permit to construct was issued.

The applicant has since identified safety and security concerns associated with the vertical articulation they are proposing on the approved plans for the IH-35 facing façade. The applicant indicated the designed supports attaching the vertical articulations could be used to descend or access the roof, hide paraphernalia or people, and diminish clear viewable sight lines for security cameras. The applicant also states the construction of the approved features, or any vertical building articulation features, poses a security concern for the secure operation of the jail and is requesting City Council approve the new facility to be constructed without any vertical articulation requirements on this facade. The applicant indicated they have not yet explored other options or alternatives with their architect to meet the adopted ordinance requirements, but plan to do so.

**Lot Size:**

11.65 acres

**Surrounding Zoning & Land Use:**

North - M-1 / Current Comal County Jail and Sheriff's office

South - Across IH 35, C-3 / Office building buildings and undeveloped

East - Across Water Lane, M-1 / City of New Braunfels Solid Waste

West - M-2/ Office, warehouse

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

|          |    |  |   |
|----------|----|--|---|
| <b>X</b> | No | <b>City Plan/Council Priority Comprehensive Plan</b> | <b>Pros:</b> None <b>Cons:</b> <i>Objective 9A: Consider establishing architectural standards and building material standards for nonresidential structures. Goal 12: Protect and enhance the visual environment of the City.</i> |
|----------|----|--|---|

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

The design standards were adopted by City Council to improve the visual appeal and structural integrity of commercial buildings within New Braunfels. The applicant submitted plans meeting the requirements, but is seeking relief from the design standards due to security concerns. Options City Council could consider include:

- 
- Approval as requested;
  - Denial;
  - Partial approval;
  - Approval of an alternative; or
  - As avenues for alternatives have not yet been thoroughly explored by the applicant, a continuance (postponement) of the request could provide the applicant time to research and review alternatives with their architect in the hopes of arriving at a design that meets the adopted ordinance criteria while satisfying the unique use's needs regarding safety and security.

*Attachments:*

- Aerial Map
- Application
- Site Plans
- Approved Building Elevation Plan
- Section 5.22-3(c)(2) Vertical (or Height) Articulation



Aerial Map

**Legend**  
□ Subject Property



**CS-18-009**  
**3000 IH 35 S**  
**Appeal of Building Design Standards**







## PLANNING

**APPEAL OF BUILDING DESIGN STANDARDS**

Planning and Community Development  
550 Landa Street, New Braunfels TX 78130  
Phone: (830) 221-4050

CP2017-1566-MG

## 1. Property Owner(s):

Name: Comal County, Texas (Thomas H. Hornseth, Owner's Designated Representative)

Mailing Address: 100 Main Plaza, New Braunfels, TX, 78130

Email: rabthh@co.comal.tx.us

Telephone: 830-608-2090

Mobile: 210-749-3355

## 2. Agent: (If the applicant is not the owner, a letter of authorization must be furnished from the owner(s) at the time the application is submitted.)

Name: (same)

Mailing Address:

Email:

Telephone:

Mobile:

## 3. Property Address/Location: 3000 IH35 S, New Braunfels, TX 78130

## 4. Detailed description of design standard(s) not in compliance with Sec. 5.22 Non-Residential and Multifamily Design Standards (use additional sheet if necessary):

Appeal of the standard: 5.22-3 Building Mass, Articulation and Building Elements. (c) Building Articulation.

Comal County desires to construct its County Jail without the building articulation as required by the referenced standard.

## 5. Reason for request (use additional sheet if necessary): Please see the attached sheet.

## 6. Attachments: The following items must be submitted with the application:



Completed application.



\$300 application fee.



Façade elevation drawing.



Site plan.



Details of construction materials.

The undersigned hereby requests City Council to consider an appeal to the Building Design Standards for the location(s) stated above.

Thomas H. Hornseth Owner's Designated Representative

Print Name of Owner/Agent

Signature of Owner/Agent

3-23-2018

Date

## FOR OFFICE USE ONLY:

Received by: MS Date Received: 3-23-18 Receipt No.: 238032

Council Meeting Date: 5-14-18 Case No.: CS-18-009

Reason for Request

March 23, 2018

Comal County Jail

The City of New Braunfels requires structural articulation/architectural decoration on the proposed Comal County Jail. The requirement requires large structural decorations, in this case slanted metal material supported from the walls on the East portion of the building. The supports for this due to their size are similar to lattice type design. The concerns we have are safety and security of the building itself. The designed supports attaching these articulations could be used to descend or access the roof, hide paraphernalia or persons and diminish clear viewable sight lines for security cameras.

The construction of these or any building articulation feature poses a security concern for the secure operation of the Comal County Jail and we would respectfully request that the City of New Braunfels allow the Comal County Jail be constructed without this requirement.

Thank you,

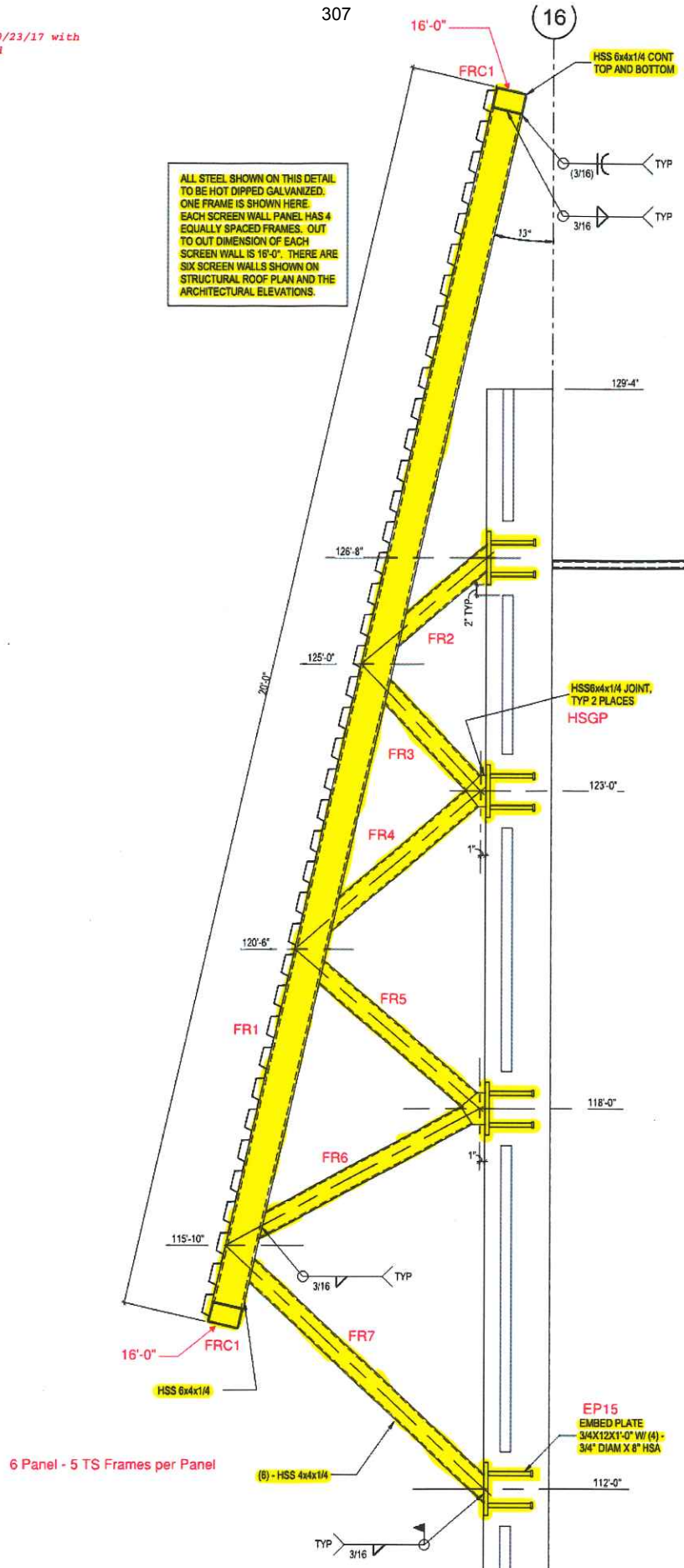
*Mark W. Reynolds, Sheriff*  
*Comal County*







ALL STEEL SHOWN ON THIS DETAIL  
TO BE HOT DIPPED GALVANIZED.  
ONE FRAME IS SHOWN HERE.  
EACH SCREEN WALL PANEL HAS 4  
EQUALLY SPACED FRAMES. OUT  
TO OUT DIMENSION OF EACH  
SCREEN WALL IS 16'-0". THERE ARE  
SIX SCREEN WALLS SHOWN ON  
STRUCTURAL ROOF PLAN AND THE  
ARCHITECTURAL ELEVATIONS.





(2) *Vertical (or Height) Articulation.*

- (i) Maximum Distance between Elevation Changes: No wall shall extend horizontally for a distance greater than three times its average height without a change in elevation.
- (ii) Minimum Height of Elevation Changes: An elevation change height shall be a minimum 15 percent of the average building height.
- (iii) Minimum Length of Elevation Changes: An elevation change shall continue to extend laterally for a distance equal to at least 10 percent of the entire façade.
- (iv) Elevation Change Variation: Elevation changes can be of varying heights as long as the minimal standard is satisfied.
- (v) Façade Calculation: For calculation purposes, the façade shall be considered the total distance of the building façade.

**Image 3 - Vertical (or Height) Articulation Examples**

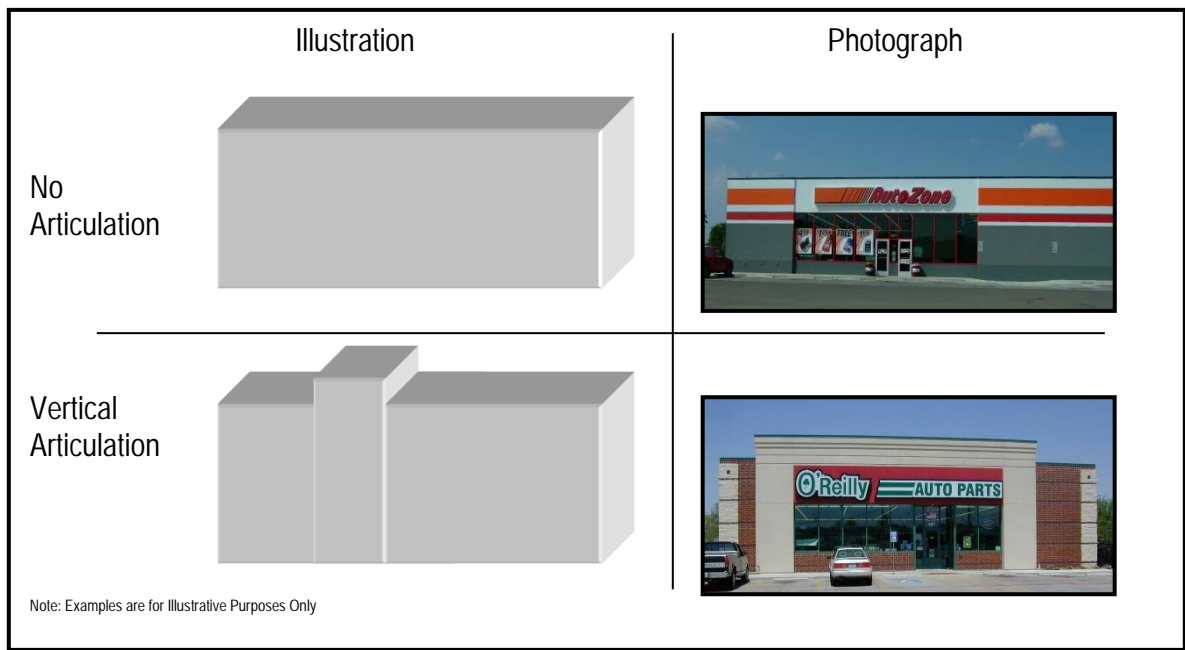
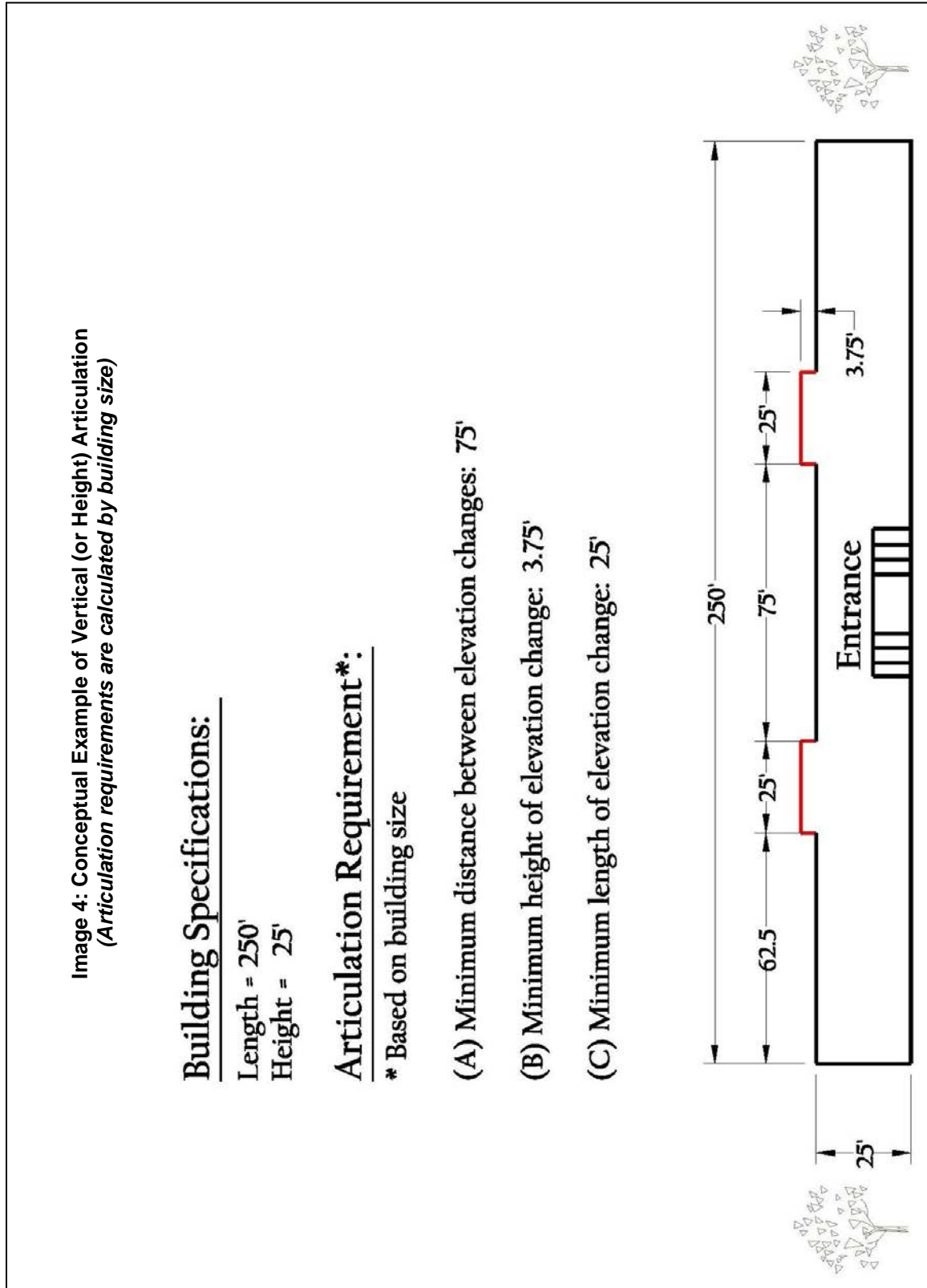


Image 4 - Horizontal (or Depth) Articulation Examples









## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. G)

### Presenter

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

### **SUBJECT:**

Discuss and consider a request for a conditional sign permit to add an electronic message sign to an existing pole sign at the Knights of Columbus Hall, addressed at 111 Landa Street.

### **BACKGROUND / RATIONALE:**

Case No.: CS-18-011

Council District: 1

Applicant/Owner: Lydell Towe (U.S. Signs)  
258 Trade Center Drive  
New Braunfels, TX 78130  
(830) 629-4411  
ussigns@sbcglobal.net

Staff Contact: Matt Greene, Planner  
(830) 221-4053  
mgreene@nbtexas.org

### **Location and Current Code Requirements**

The subject property is comprised of 9.4 acres on Landa Street approximately 175 feet east of its intersection with Landa Park Drive and is zoned M-2 Heavy Industrial District. The property has approximately 606 linear feet of frontage on Landa Street with a 12,000 square-foot building and 1,500 square-foot storage building occupied by the New Braunfels Knights of Columbus.

Sign types and sizes are allowed based on zoning and specific street frontage:

- The M-2 zoning district allows one free standing monument sign or one low-profile pole sign per 300 feet of street frontage. The subject property is eligible for two signs (monument and/or low-profile pole). Monument signs are limited to 10 feet in height and 48 square feet. Low profile pole signs are limited to 10 feet in height and 20 square feet. Both types of signs require a minimum 10-foot setback from the property line in M-2.
- In lieu of any other free-standing sign, one electronic message sign could be permitted. The electronic message sign is limited to 10 feet in height with a maximum 50 square-foot sign face and a minimum setback of 15 feet. The subject property is located within 500 feet of the Downtown Business Corridor which requires electronic message signs be incorporated into a monument sign.

The subject property currently has a nonconforming pole sign that is 15 feet tall and 10 feet wide with a masonry base and three individual sign faces totaling approximately 150 square feet in total sign area. The existing sign is also set back only 6 feet from the front property line.

**Proposal:**

The conditional sign permit process is intended to allow an applicant flexibility to create alternative signage designs to complement a development's unique characteristics, and for City Council to consider such designs in the context of a specific location.

The applicant is proposing to modify the existing nonconforming sign by replacing the center sign face with an electronic message sign face. The existing sign face is a backlit changeable copy sign face that measures 4 feet, 1 inch tall by 7 feet, 9 inches wide (31.65 square feet). The proposed electronic message sign face would match the dimensions of the backlit sign face to be removed.

If approved, the proposed sign would exceed the maximum allowable sign height of 10 feet by 5 feet and the maximum allowable sign area of 100 square feet by 50 square feet and encroach 9 feet into the 15-foot setback. The location is within the 100-year floodplain and would have to meet all floodplain permitting requirements as well.

***Existing Signs in the Vicinity:***

| <b>Sign Location</b>      | <b>Sign Type</b> | <b>Approximate Height</b> |
|---------------------------|------------------|---------------------------|
| River City Advocacy       | Pole             | 4.5 feet                  |
| Landmark Lofts            | Monument         | 4 feet                    |
| Craft Beer Station        | Pole             | 5.5 feet                  |
| Schumann & Buck Financial | Pole             | 5.5 feet                  |
| Wurstfest (2)             | Pole             | 13 feet                   |
| Landa Park                | Monument         | 7 feet                    |

***Lot Size:***

9.4 acres

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

North - Across Landa Street, M-2 / Wurstfest grounds

South - Across railroad tracks, Town Creek PD / Mixed use development

East - Across Dry Comal Creek, M-2 and C-3 / Undeveloped land and single-family dwellings

West - M-2 / Parking

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

|    |   |  |
|----|---|--|
| No | <b>City Plan/ Council Priority:</b><br>2006 Comprehensive Plan<br><i>Pros and Cons Based on Policies Plan</i> | <b>Pros:</b> None <b>Cons:</b> Goal 12: Protect and enhance the visual environment of the City. <b>Objective A:</b> <i>Maintain fair and reasonable regulations for signs so that signs harmonize with the special qualities and appearance of New Braunfels (specifying size, height, locations).</i> |
|----|---|--|

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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

The applicant's proposal is essentially to upgrade the existing marquee message board with an electronic message board. Staff cannot support the conditional sign permit request as modifications to existing nonconforming signs should include bringing the entire sign closer to compliance with current regulations. Therefore, staff recommends denial of the applicant's request. Staff found no apparent physical hardships of the land or unique circumstances or features of the property warranting the proposal, nor any modifications to the existing sign that would bring it closer to conformance.

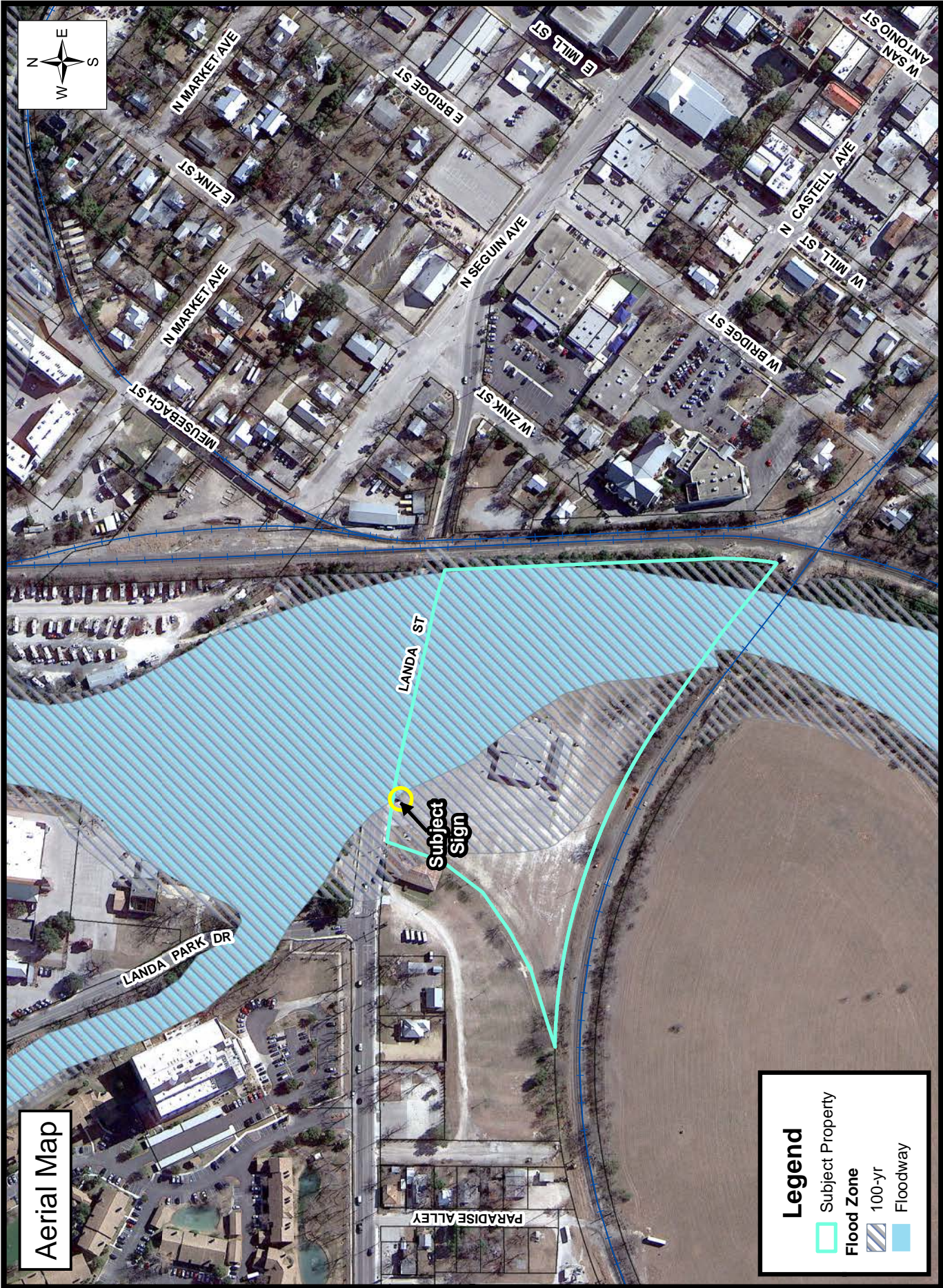
However, should City Council be inclined to approve the applicant's request, Staff recommends the following conditions:

1. Any modifications to the sign must be in compliance with the requirements of the City's Code of Ordinances Chapter 58 *Floods*.
2. The electronic message sign must comply with the illumination and additional restriction requirements as stated in Sections 106-14.3g and 106-14j.
3. Removal of one of the three existing sign faces, to bring the total sign area closer to compliance with the maximum allowable sign area.

***Attachments:***

1. Aerial Map
2. Zoning Map
3. Downtown Business Corridor Map
4. Application
5. Existing and Proposed Sign Elevation Plans
6. Comparison Table Showing Allowable Signs Vs. Requested Signs
7. Map of Existing Signs in the Vicinity
8. Excerpt from the Sign Ordinance



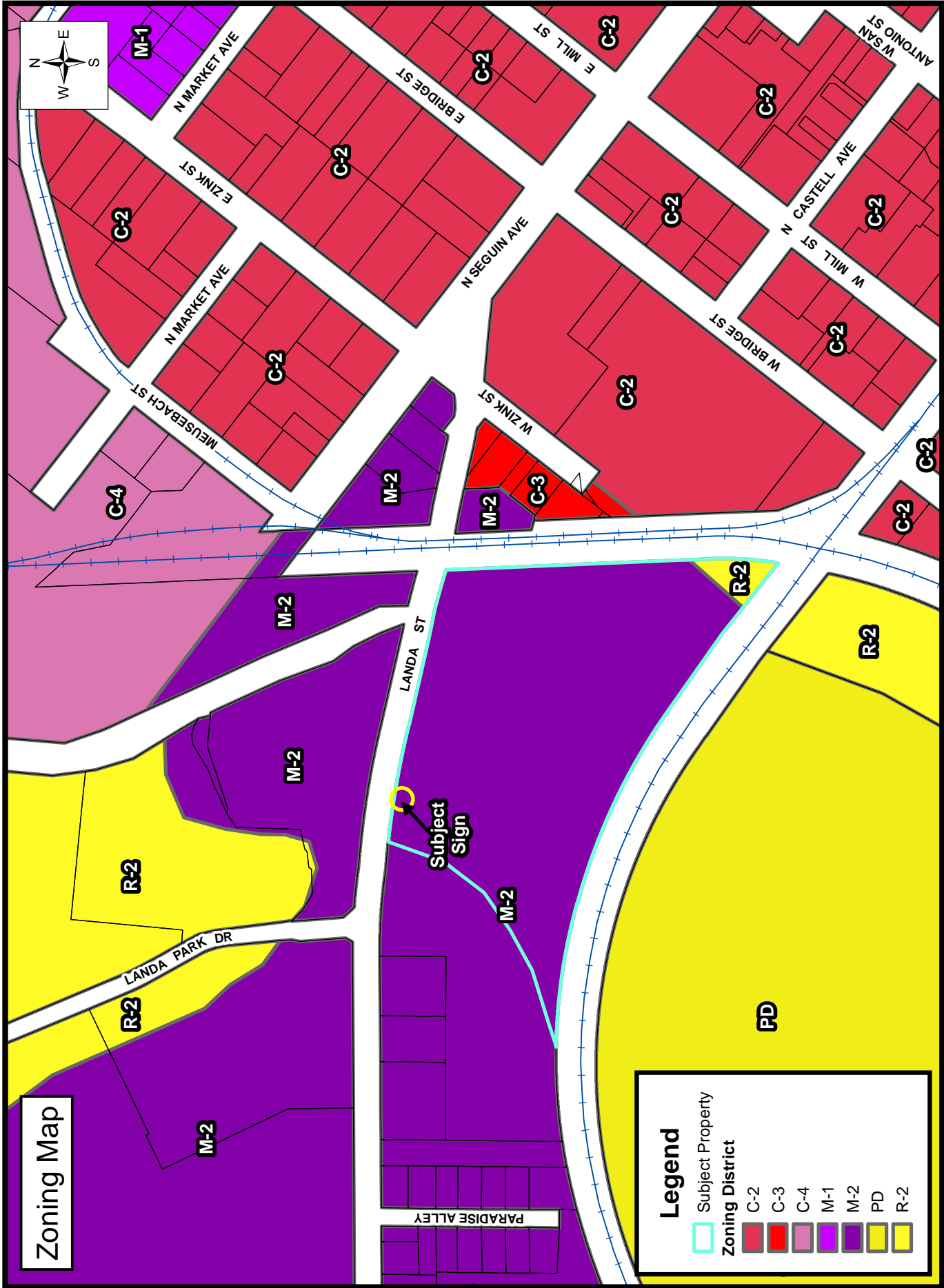


Map Created 5/2/18

**CS-18-011**  
**111 Landa Street**  
**Conditional Sign Permit**



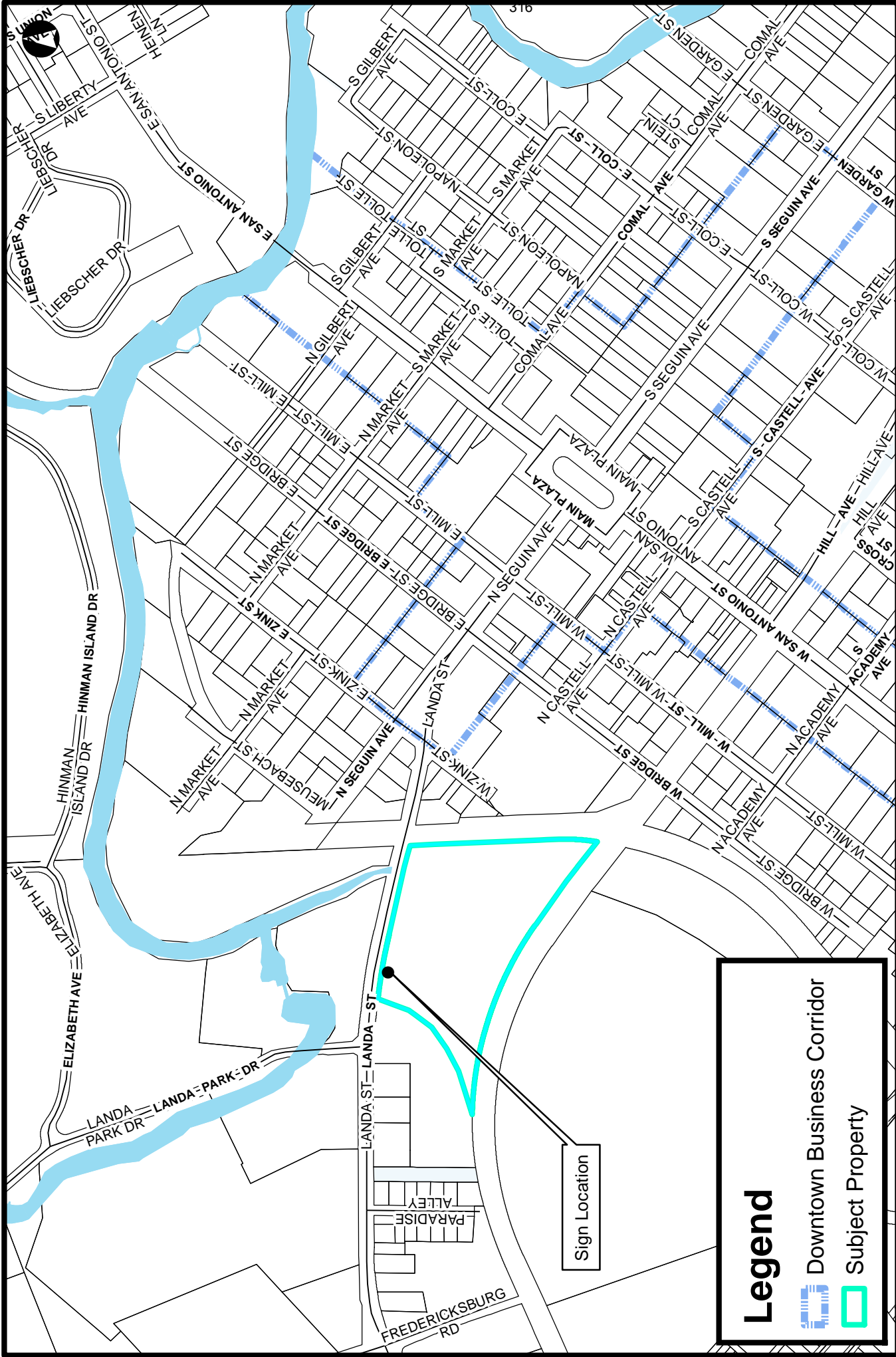




Map Created 5/2/18

CS-18-011  
111 Landa Street  
Conditional Sign Permit





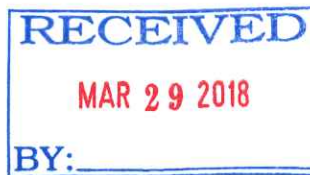
CS-18-011  
111 Landa Street  
Conditional Sign Permit







PLANNING

**APPLICATION FOR CONDITIONAL SIGN PERMIT**

Planning and Community Development  
 550 Landa Street, New Braunfels, TX 78130  
 Phone: (830) 221-4050  
 Case No. \_\_\_\_\_

1. Applicant - If business owner or coordinator of special event, so state. If agent or other relationship, a letter of authorization must be furnished from owner when application is submitted.

Name: Lydell Toye U.S. Signs

Mailing Address: 258 Trade Center Dr. New Braunfels

Email Address: ussigns@sbcglobal.net

Telephone: 830-629-4411 Mobile: 830-743-1599

2. Property Address/Location: 111 Landa St.

3. Existing signs on property: 1

4. Number of requested signs: 1

5. Dimension & height of sign(s): Entire structure 15' x 10'

6. Business or event to be advertised: Columbus Hall events

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

Would like to remove existing changable copy marquee sign with full color EMC unit  
to do multiple event advertising and city events

8. ATTACHMENTS: (The following items must be submitted with the application)

- ☒ A \$300.00 application fee.  
☒ A scaled site plan showing the proposed location of the sign(s) on the property.  
☒ A map showing the distance from sign(s) to business or event if signs are off-premise.  
☒ A sketch showing the contents, dimensions and construction materials of the sign(s).  
☒ Photographs of the property where the sign(s) will be located.  
☐ Agent letter (if applicable).

*The undersigned hereby requests a conditional sign permit for the location(s) described above.*

Robert Luma  
 Signature of Owner(s)/Agent

3-22-18  
 Date

**For Office Use Only**

Fee Received By: MO Amount: \$300.00 Receipt No.: 238044

Date Received: 03/29/18 Cash/Check Number: 10986

Council Meeting Date: 5/14/18

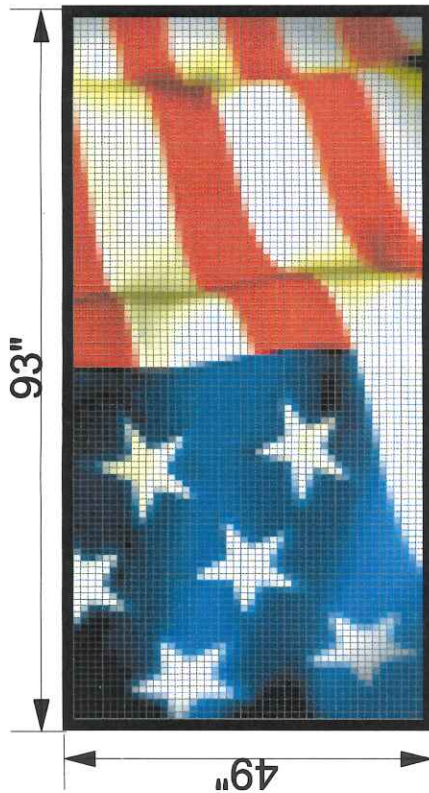
\\chfs-1\departments\planning\applications\conditional sign permit.docx



Proposed



Existing



SUPPLY 1 - 4'X8' DOUBLE SIDED FULL COLOR RGB 20MM LED MESSAGE CENTER WITH A 5 YEAR MANUFACTURES WARRANTY INSTALLED ON EXISTING SIGN STRUCTURE WILL BE \$21530.00. PRICE INCLUDES CONDITIONAL SIGN PERMIT APPLICATION AND MEETING WITH COUNCIL. SIGN WILL BE WIRELESS COMMUNICATION AND WILL SUPPLY LAPTOP WITH SIGN PROGRAM INSTALLED. CONTENT TRAINING INCLUDED.



State License TSOL 18159

258 TRADE CENTER DRIVE  
NEW BRAUNFELS, TEXAS 78130  
830.629.4411 FAX 830.629.8099  
ussigns@sbcglobal.net • www.ussignsnb.com



Client 111 Landa St.

Approval

Date

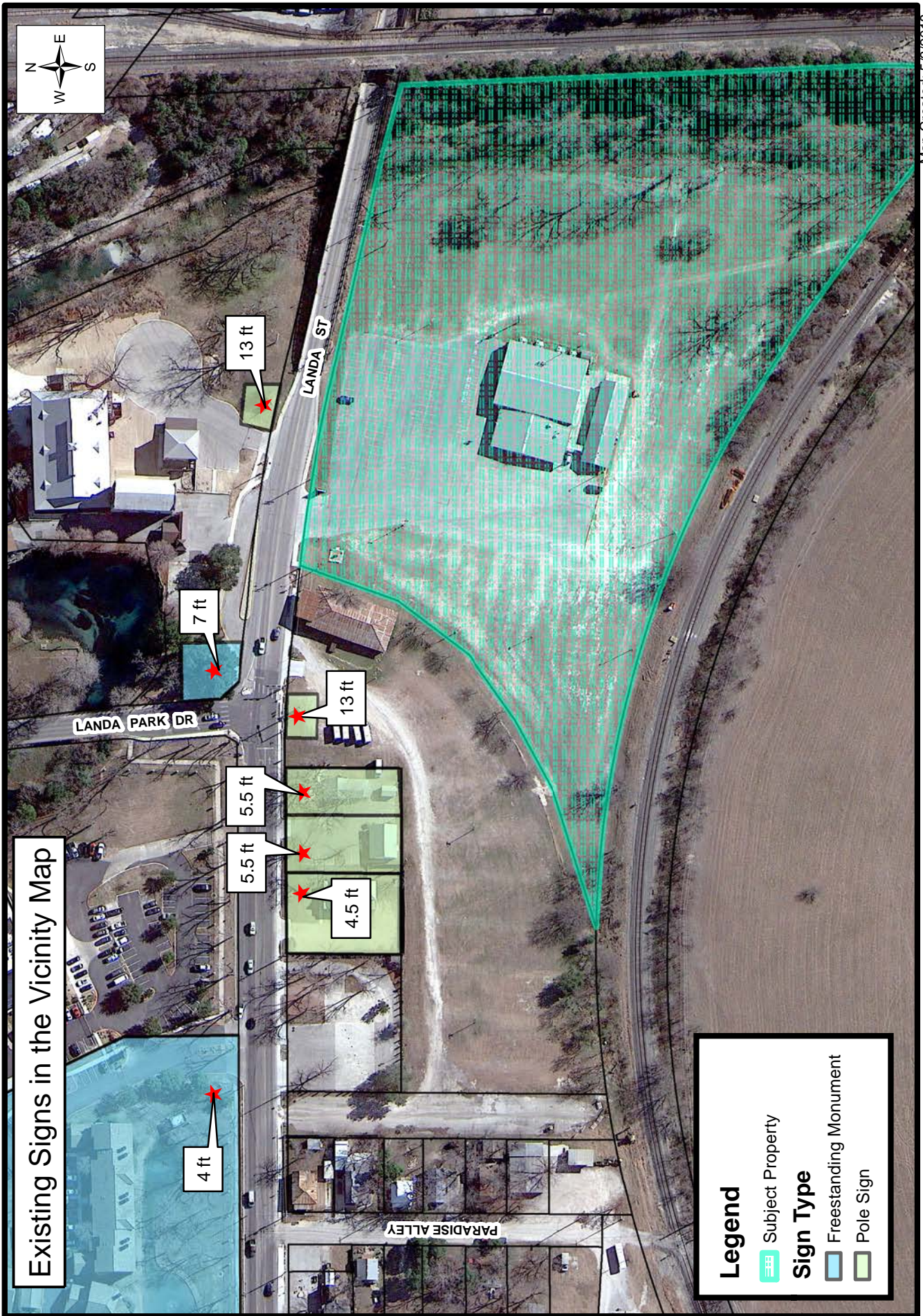
All drawings submitted are property of U.S. Signs until purchased by The Client. No alterations or distributions can be made without written consent from U.S. Signs

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

**COMPARISON CHART OF ALLOWED AND PROPOSED SIGNAGE**

| Allowed per Sign Ordinance<br>(Up to 2) |  |                               |                  | Conditional Sign Permit                             |
|---|--|-------------------------------|------------------|---|
| SIGN TYPE                               | Electronic Message                               | Monument                      | Low Profile Pole | Electronic Message                                  |
| DISTRICT                                | <b>M-2</b>                                       |                               |                  |   |
| AREA                                    | 50 sf (electronic sign face)<br>100 sf (overall) | 48 sf                         | 20 sf            | 31.65 sf (electronic sign face)<br>150 sf (overall) |
| HEIGHT                                  | 10 ft  | 10 ft                         | 10 ft            | 15 ft   |
| SETBACK                                 | 15 ft  | 10 ft                         | 10 ft            | 6 ft  |
| NUMBER                                  | 1 (with no other freestanding signs)             | 1 per 300' of frontage<br>(2) |                  | 1   |





**CS-18-011**  
**Knights of Columbus**  
**111 Landa Street**

Please note: The height measurements are approximate.





### **106-14.3. Electronic Message Sign.**

- a. *General.* Electronic signage shall be permitted in lieu of any permitted freestanding or monument signs on a property. In the event that an electronic sign is permitted for a property, no other additional freestanding or monument sign shall be permitted.
- b. *Maximum Height.* The maximum height of an electronic sign shall not exceed 40 feet as determined in Section 106-14.1.
- c. *Maximum Area.* The maximum area of an electronic sign shall not exceed 200 square feet with a maximum area per sign face of 100 square feet as determined in Section 106-14.1.
- d. *Number of Signs.* The maximum number of electronic signs shall be limited to one (1) per platted lot. No other on-premise freestanding signs shall be permitted.
- e. *Minimum Setback.* The minimum setback of all electronic signs from any property line shall be determined in Section 106-14.1.
- f. *Material Requirements.* All monument sign bases shall be constructed of masonry material consisting of brick, stone or split face concrete block. The monument sign structure must be constructed or covered with the same masonry material as the principal building or shall be constructed of brick, stone or split face concrete block. All sign text and graphic elements shall be limited to a minimum of six inches (6") from the outer limits of the sign structure.
- g. *Illumination.* Electronic signage shall not exceed a maximum of one (1) foot-candle illumination at the property line.
- h. *Location Restrictions.* No electronic signs shall be permitted within 150 feet of a residentially zoned property or property used for residential purposes. No electronic sign shall be constructed such that they face, shine, or reflect light into a residentially classified neighborhood whether single-family, multi-family, townhouse, or mixed use where residential housing is permitted. No electronic signs shall be allowed on Collectors or Sub-Collector streets or Local or Residential Streets.
- i. *Downtown Business Corridor.* Electronic message signs will be allowed but must be incorporated into a monument sign and must meet all applicable requirements set forth in Section 106-14.1. All other requirements in this section apply.
- j. *Additional Restrictions.*
  - a) Any change of pictures or information on the electronic sign shall not produce the illusion of scrolling, moving objects, expanding or contracting shapes, rotation or any similar effect of animation. There must be a static display with no special effect changes between messages.
  - b) Images must remain static for at least 3 seconds. The transition from each static image may not last more than two seconds.
  - c) Any sign picture or information shall not have a solid white background between the time period of 30 minutes after sunset and 30 minutes before sunrise.
  - d) Provide for auto dimming/brightening based on natural ambient light conditions.
  - e) Provide and maintain a photo cell and dimmer control to assure the luminance standard is met and not exceeded.







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. H)

### Presenter

*Stacy A. M. Snell, Planning and Community Development Assistant Director  
ssnell@nbtexas.org*

### **SUBJECT:**

Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards, Articulation and Exterior Building Materials requirements for two proposed temporary modular buildings at Freiheit Elementary School, addressed at 2002 FM 1101.

### **BACKGROUND / RATIONALE:**

**Case No.:** CS-18-010

**Council District:** 5

**Applicant/Owner:** Comal ISD  
1404 IH 35  
New Braunfels, TX 78130  
(830) 221-2050  
dennis.vrana@comalisd.org

**Staff Contact:** Holly Mullins, Sr. Planner  
(830) 221-4054  
hmullins@nbtexas.org

In 2015, City Council approved the Comal Independent School District's request for two temporary, modular classroom buildings at Canyon Middle School, 2014 FM 1101. The buildings did not meet the articulation requirements but were clad in fiber cement siding to meet the building material standards in place at the time. City Council approved the request for a period of three years, to expire in August, 2018.

The exterior building material standards were revised in 2017 to require the lower four feet of all walls to be clad in a "primary" masonry material including brick, stone, cast stone, rock, marble, granite, split-face concrete block, pour-in-place concrete or tilt-wall concrete (Chapter 144, Section 5.22). The classroom buildings currently do not meet this wainscoting requirement.

Comal ISD is proposing to relocate these classrooms from Canyon Middle School street to Freiheit Elementary School, one-half mile away at 2002 FM 1101. This request is to allow the temporary placement of buildings that do not meet the standards for articulation or four feet of masonry wainscoting. The applicant expects new, permanent school buildings to be operational by August, 2021 and indicates another three year approval period should be sufficient.

The buildings are 23.5 feet by 64 feet (1,504 square feet) and eight feet in height. They are proposed to be situated on the northeast side of Freiheit Elementary School and set back approximately 300 feet from FM 1101.

**Lot Size:** 22.037 acres

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

**North:** Across FM 1101, M-1A, C-1A, PD/ Multifamily, Single-family residences

**South:** PD/ Single-family residences

**East:** PD/ Single-family residences

**West:** R-2, R-2A/ Undeveloped

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

|    |   |   |
|----|---|---|
| No | <b>City Plan/ Council Priority:</b><br>2006 Comprehensive Plan<br><i>Pros and Cons Based on Policies Plan</i> | <b>Pros:</b> None <b>Cons:</b> <b>Objective 9A.</b> Consider establishing architectural standards and building material standards for nonresidential structures. The proposed building is not in compliance with the articulation and masonry requirements established per Section 5.22, Chapter 144, New Braunfels Code of Ordinances. |
|----|---|---|

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

N/A

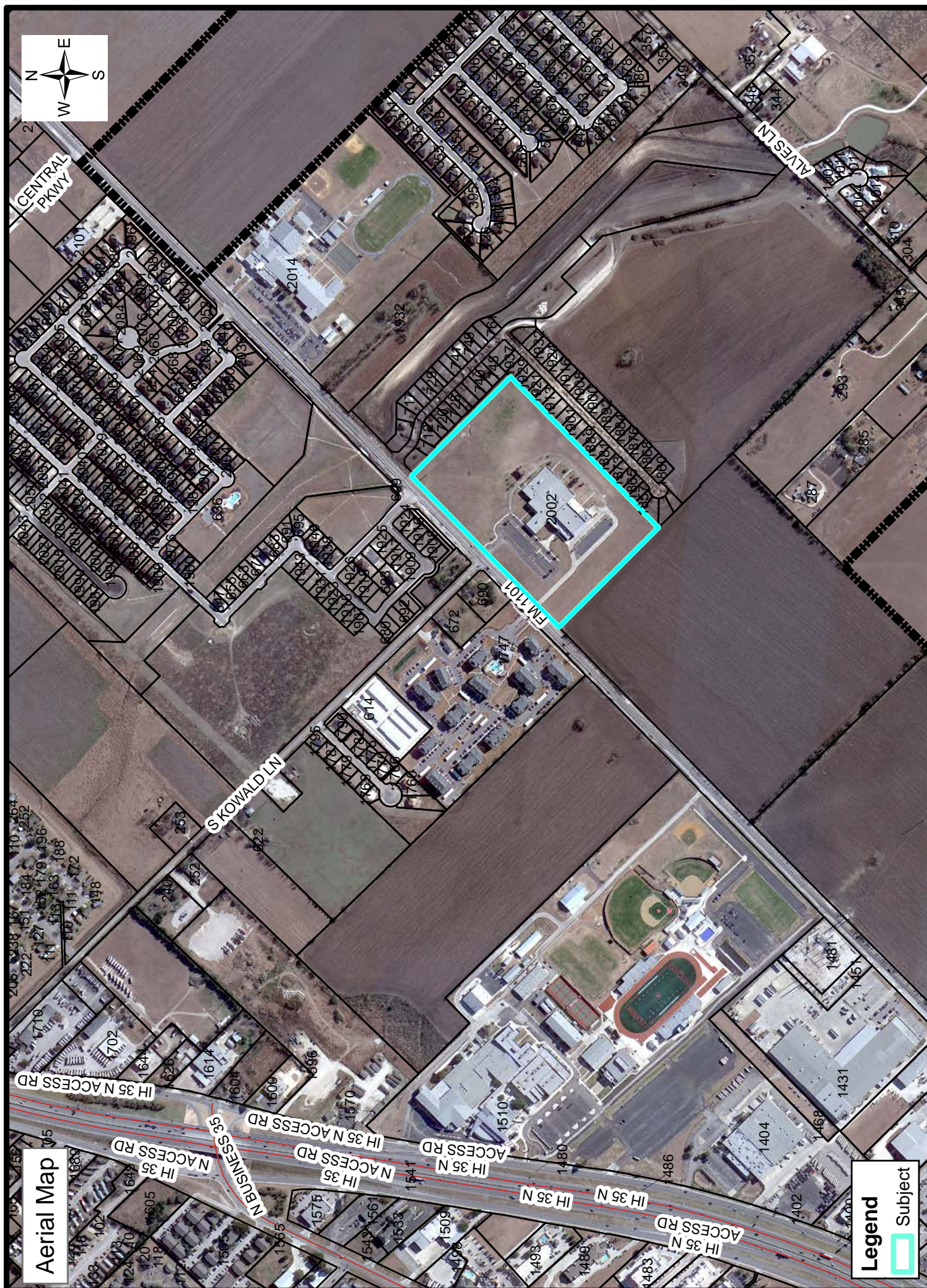
**STAFF RECOMMENDATION:**

The design standards were adopted by City Council to improve the visual appeal and structural integrity of commercial buildings within New Braunfels. Staff is not opposed to this request because the structures are intended to be temporary and **recommends approval** with a 3-year time limit, to expire in August, 2021.

**Attachments:**

1. Aerial Map
2. Application and Site Plan
3. Building Elevations
4. Photograph
5. Section 5.22









# **APPEAL OF BUILDING DESIGN STANDARDS**

Planning and Community Development  
550 Landa Street, New Braunfels TX 78130  
Phone: (830) 221-4050

CS-18-010

## **PLANNING**

### **1. Property Owner(s):**

Name: Comal ISD

Mailing Address: 1404 IH 35 New Braunfels, TX 78130

Email: VRana@comalisd.org

Telephone: (830) 221-2050 Mobile: (830) 660-3248

### **2. Agent: (If the applicant is not the owner, a letter of authorization must be furnished from the owner(s) at the time the application is submitted.)**

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

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

### **3. Property Address/Location: 2002 FM 1101 New Braunfels, TX 78130**

### **4. Detailed description of design standard(s) not in compliance with Sec. 5.22 Non-Residential and Multifamily Design Standards (use additional sheet if necessary):**

It is for portable classrooms that the district owns that are ready in New Braunfels City Limits that were remolded to in 2015 per city code with Hardy Plank, these two portable currently reside at Canyon Middle and we are moving them to Freiheit Elementary School a one half of a mile away from where they are at now.

### **5. Reason for request (use additional sheet if necessary): THE NEED OF MORE CLASS ROOMS**

### **6. Attachments: The following items must be submitted with the application:**



Completed application.



\$300 application fee.



Façade elevation drawing.



Site plan.



Details of construction materials.

The undersigned hereby requests City Council to consider an appeal to the Building Design Standards for the location(s) stated above.

DEVANE VRANA  
Print Name of Owner/Agent

[Signature]  
Signature of Owner/Agent

3/21/2018  
Date

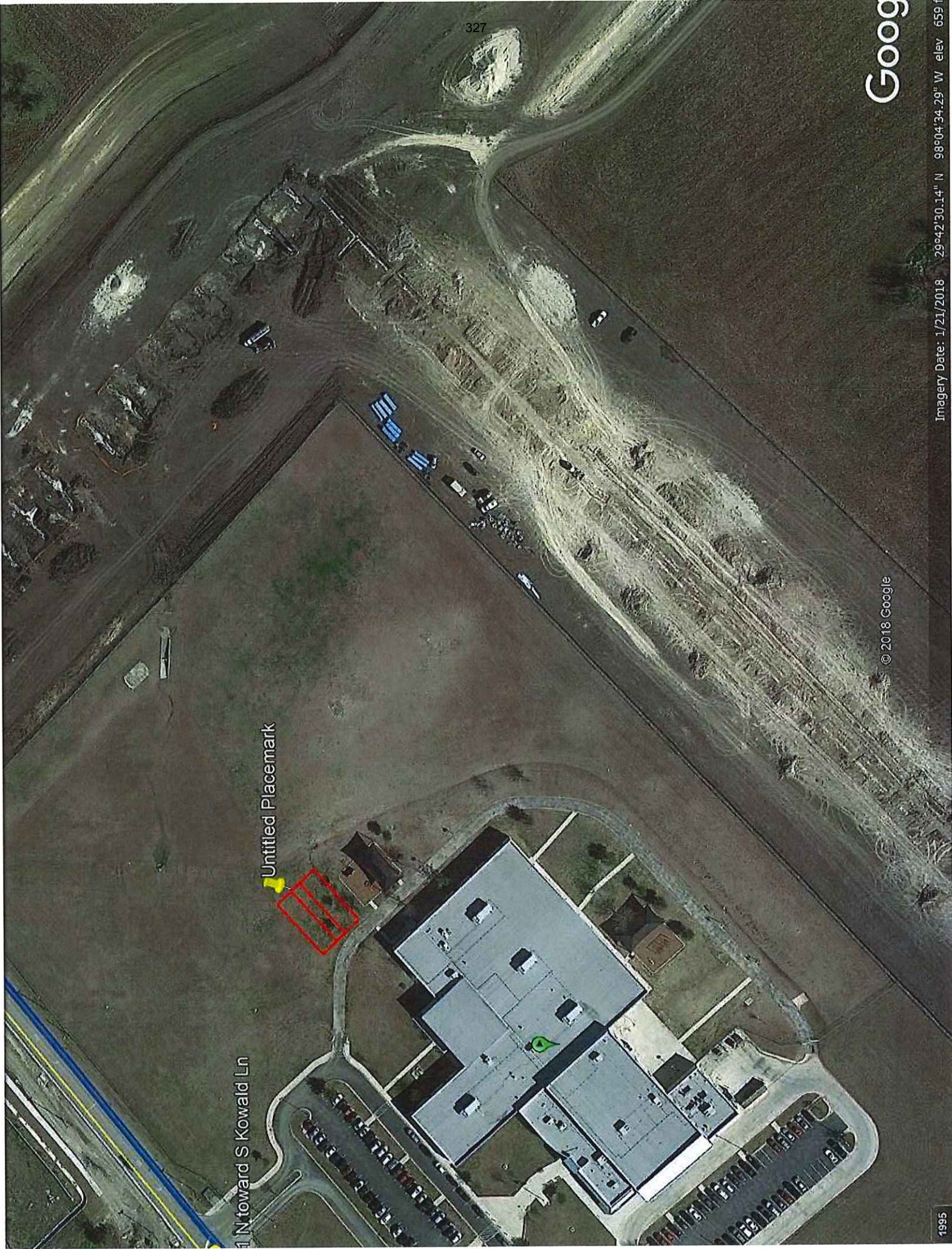
CP2018-0279 KC

### **FOR OFFICE USE ONLY:**

Received by: MO Date Received: 03/28/18 Receipt No.: 238039

Council Meeting Date: \_\_\_\_\_ Case No.: CS-18-010





327

Google

© 2018 Google

Imagery Date: 1/21/2018 29°42'30.14" N 98°04'34.29" W elev 659

1995









The subject modular buildings currently located at Canyon Middle School

## **5.22. Non-Residential and Multifamily Design Standards.**

5.22-1 Applicability of Non-Residential Design Standards. All non-residential and multifamily buildings, with the exception of those described in Section 5.22-2, below, that are adjacent to or front a public roadway, public park or Residential District must comply with the standards of this Section.

### **5.22-2. Structures Exempt from Design Standards.**

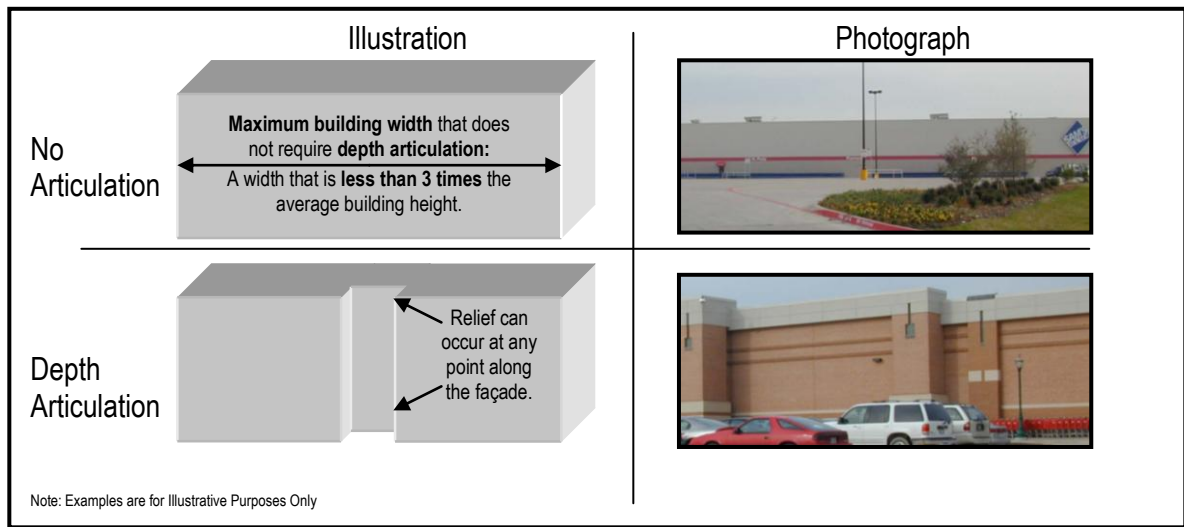
- (a) Industrial uses. Industrial Use buildings shall be exempt from the Design Standards when located in a zoning district that allows industrial use and where adjacent to other properties zoned and/or used for industrial purposes;
- (b) Expansions of existing buildings containing 10,000 sq. ft. or less gross floor area, if the expansion is no more than 40 percent of the existing building area;
- (c) Expansions of existing buildings containing more than 10,000 sq. ft gross floor area, if the expansion is no more than 20 percent of the existing building area;
- (d) Metal buildings used for industrial uses are not exempt from additional landscape standards as required in Section 5.22-3(e).
- (e) *Additional Landscaping for Metal Buildings for Industrial Uses.* All metal industrial buildings shall incorporate the following elements in addition to Section 5.3 of the Zoning Ordinance:
  - (1) A minimum of one tree and four shrubs for every 40 feet (or portion thereof) of building façade that is adjacent to or fronting a public roadway, public park or Residential District shall be installed using trees from the approved plant list (Zoning Ordinance: Chapter 144). The above requirements shall be planted within 40 feet of the building façade.
  - (2) Trees shall be planted no closer than 20 feet apart.
  - (3) In no event may trees other than ornamental trees listed in Appendix A of the Zoning Ordinance be planted under overhead power lines.
  - (4) All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line.
  - (5) All planting areas shall be a minimum of five feet in width.

### **5.22-3 Building Mass, Articulation and Building Elements.**

- (a) *Purpose.* In order to provide building articulation and interest in design and human scale to the façade of a building, a variety of building techniques are required. The purpose of this section is to ensure that the front of non-residential and multifamily structures have a variety of offsets, relief, and insets to provide a more interesting façade appearance.
- (b) *Applicability.* The following articulation standards shall apply to building facades facing a public street.
- (c) *Building Articulation.*
  - (1) *Horizontal (or Depth) Articulation.*
    - (i) Maximum Distance between Offsets: No building façade shall extend for a distance greater than three times its average height without a perpendicular offset.
    - (ii) Minimum Depth of Offsets: Offset depth shall be a minimum 15 percent of the average building height.

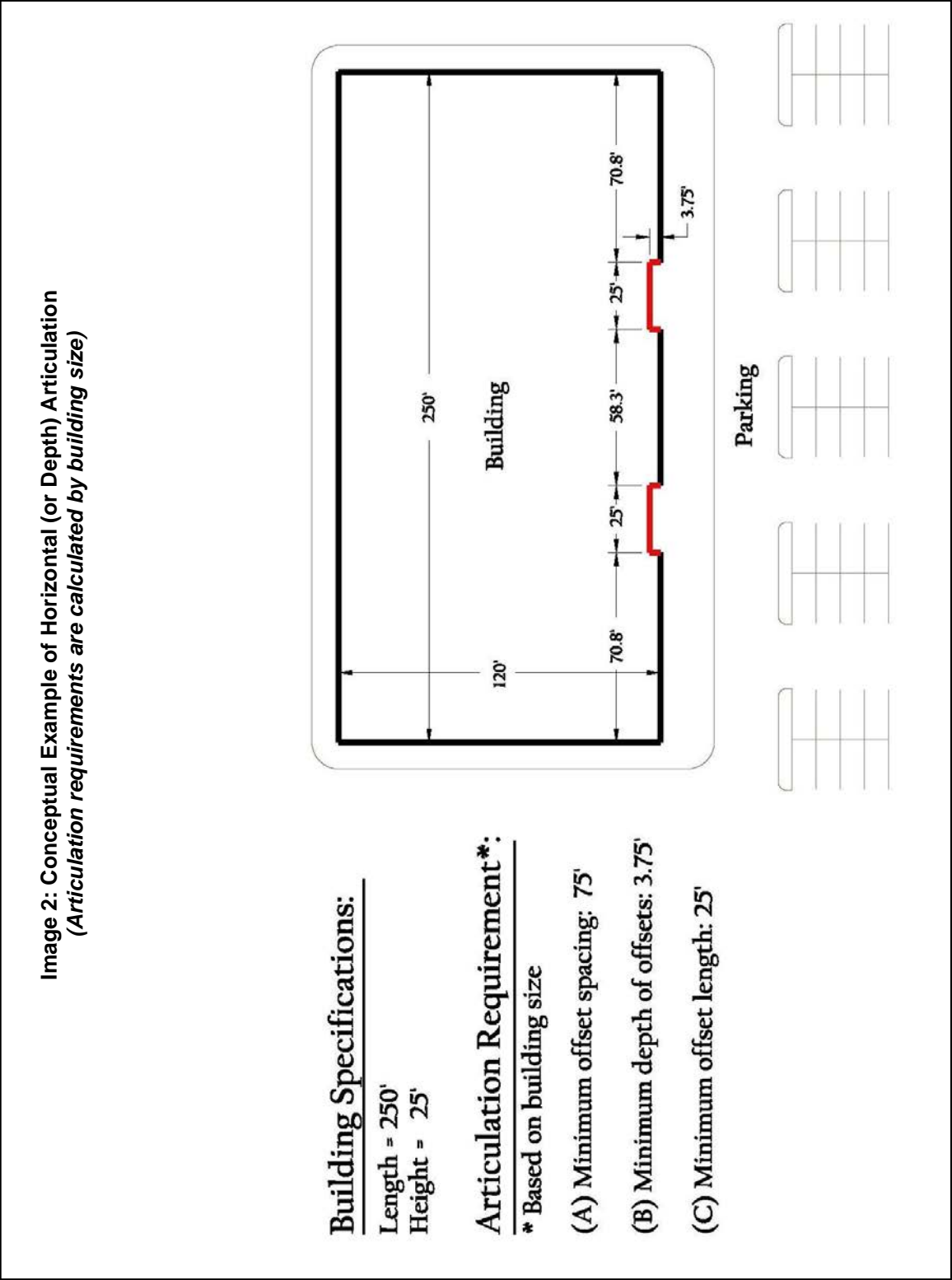
- (iii) Minimum Length of Offsets: Offset shall extend laterally for a distance equal to at least 10 percent of the entire façade.
- (iv) Offset Depth Variation: Offsets can be of varying depth as long as the minimal standard is satisfied.
- (v) Façade Calculation: For calculation purposes, the façade shall be considered the total distance of the building line.

**Image 1 - Horizontal (or Depth) Articulation Examples**



(continued on next page)

Image 2 – Conceptual Example of Horizontal (or Depth) Articulation



(2) *Vertical (or Height) Articulation.*

- (i) Maximum Distance between Elevation Changes: No wall shall extend horizontally for a distance greater than three times its average height without a change in elevation.
- (ii) Minimum Height of Elevation Changes: An elevation change height shall be a minimum 15 percent of the average building height.
- (iii) Minimum Length of Elevation Changes: An elevation change shall continue to extend laterally for a distance equal to at least 10 percent of the entire façade.
- (iv) Elevation Change Variation: Elevation changes can be of varying heights as long as the minimal standard is satisfied.
- (v) Façade Calculation: For calculation purposes, the façade shall be considered the total distance of the building façade.

**Image 3 - Vertical (or Height) Articulation Examples**

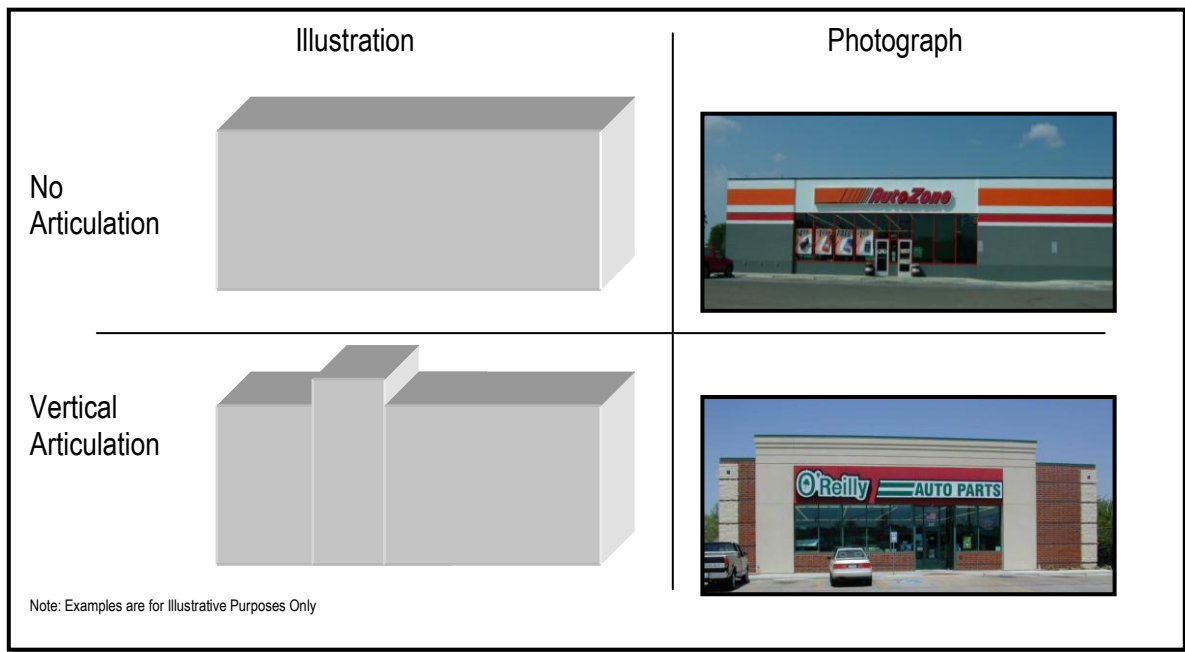
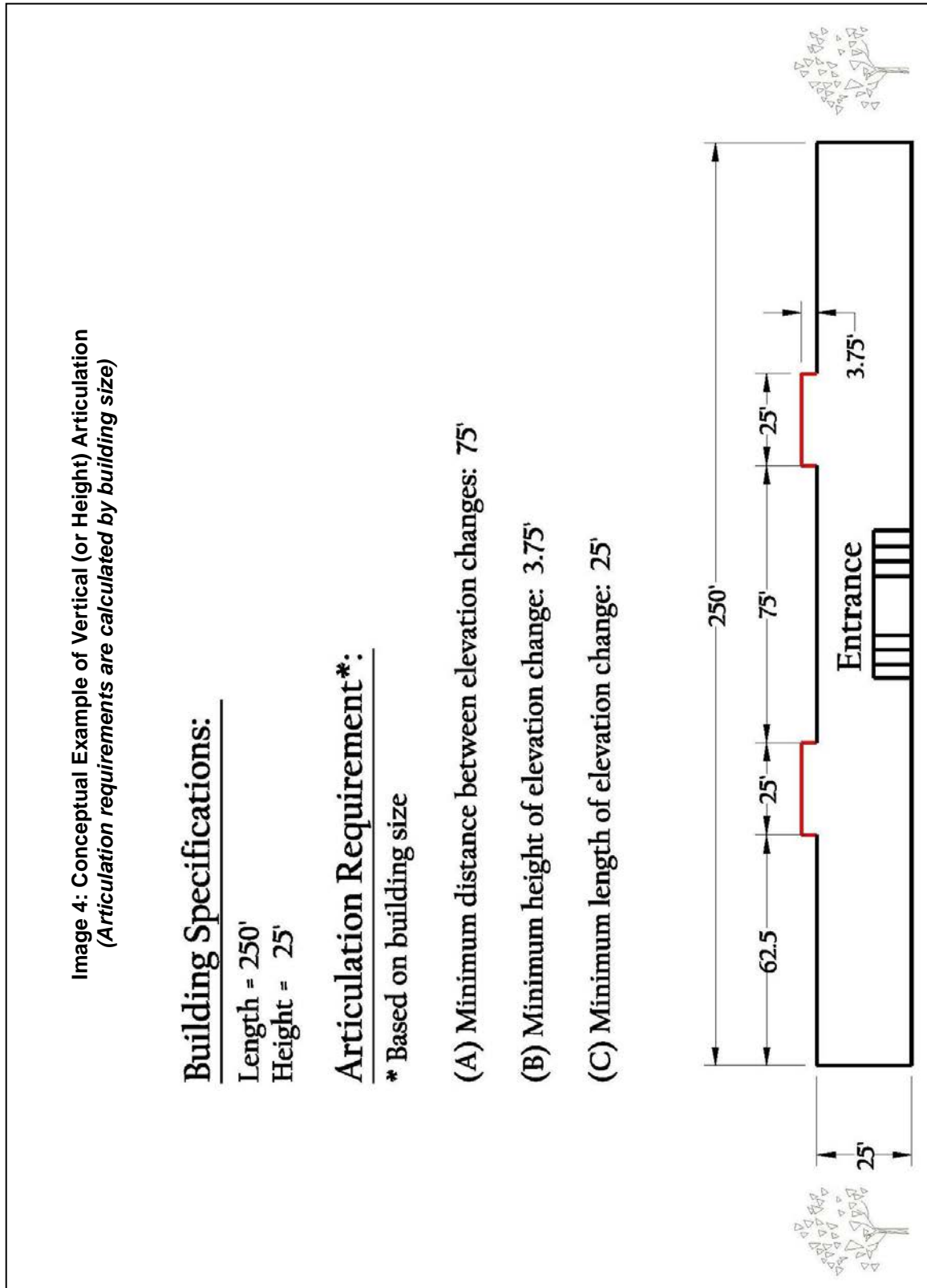


Image 4 - Horizontal (or Depth) Articulation Examples





(d) *Building Elements.*

All buildings shall incorporate at least four of the following building elements:

- (1) lighting features,
- (2) awnings,
- (3) canopies,
- (4) alcoves,
- (5) windows,
- (6) recessed entries,
- (7) ornamental cornices,
- (8) pillar posts,
- (9) other building elements that contribute to the human scale of a building.

(e) *Additional Landscaping for Metal Buildings for Industrial Uses.* All metal industrial buildings shall incorporate the following elements in addition to Section 5.3 of the Zoning Ordinance:

- (1) A minimum of one tree and four shrubs for every 40 feet (or portion thereof) of building façade shall be installed using trees from the approved plant list (Zoning Ordinance: Chapter 144). The above requirements shall be planted within 40 feet of the building façade.
- (2) Trees shall be planted no closer than 20 feet apart.
- (3) In no event may trees other than ornamental trees listed in Appendix A of the Zoning Ordinance be planted under overhead power lines.
- (4) All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line.
- (5) All planting areas shall be a minimum of five feet in width.

5.22-4 Exterior Building Materials.

*Exterior Finish Requirement.* At least 80 percent of the vertical walls of all buildings (excluding doors and windows) to which these standards apply, shall be finished in one or more primary materials. In every instance, the lower four feet of the vertical walls of all buildings must be finished in one or more of the primary materials.

(a) Primary Materials:

- (1) Brick, stone, cast stone, rock, marble, granite;
- (2) Glass block, tile;
- (3) Stucco or plaster;
- (4) Glass with less than 20 percent reflectance (however, only a maximum of 50 percent of a building may be constructed in glass);

(5) Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics to enhance the façade on at least ten percent of each façade.

(6) Fiber cement, such as James Hardie brand products or equivalent.

(b) Masonry. In every instance, the lower four feet of the vertical walls of all buildings must be finished in one or more of the primary materials noted in subsection (a)(1) or (a)(5) above.

(c) Secondary Materials. The remaining 20 percent of the exterior finish is discretionary and may include, but is not limited to, Exterior Insulation and Finish System (EIFS), wood, metal (including stamped, embossed, or coated panels) or other non-reflective materials.

(d) Additions to existing structures with vertical walls made of wood, including shingles and siding, may utilize wood in an amount consistent with the percentage of wood on the original structure.

#### 5.22-5. Consistent Façade Standard.

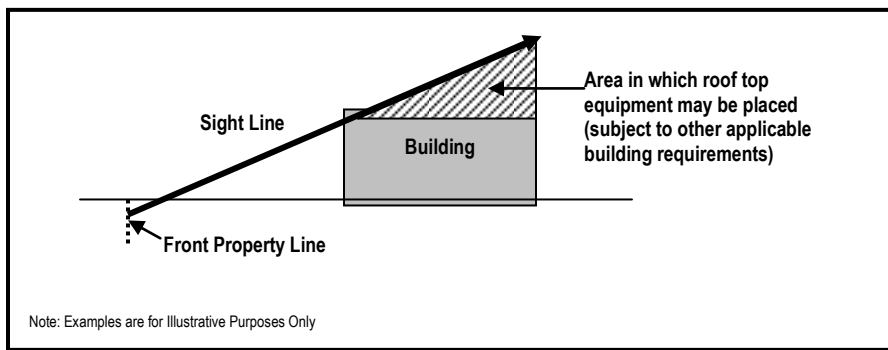
(a) All façades or sides of a building shall be designed with architectural style and building materials consistent with the front facade.

(b) Side or rear facing facades, not on a public roadway, are not required to meet the articulation standards in Section 5.22-3.

#### 5.22-6 Roof Treatments.

(a) Parapets shall be used to conceal roof top equipment on flat roofs. If a sight line drawing is provided with the site plan showing that all roof top equipment will not be visible from the public right of way or adjacent property., then a parapet wall shall not be required.

**Image 5 - Sight Line Example**



(b) Where overhanging eaves are used, overhangs may be no less than two feet beyond the supporting walls.

(c) Any roof using shingles shall use dimensional shingles (shingles that have a shadow at the top exposure to give added depth and definition).

(d) Red Tile Roofs: Red tile roofs are not considered shingles for the purpose of the section.

#### 5.22-7 Roof Types.

The following types of roofs are prohibited:

- (a) Mansard roofs and canopies without a minimum vertical distance of eight feet and at an angle not less than 25 degrees, and not greater than 70 degrees;
- (b) Back-lit awnings used as a mansard or canopy roof.

#### 5.22-8 Entryways/Customer Entrance Treatments and Pedestrian Routes.

- (a) Any front entry shall be set back from the drive a minimum distance of 15 feet.
- (b) Single-use or multi-tenant buildings over 60,000 square feet in size must provide clearly defined, highly visible customer entrances that include an outdoor patio area, at least 200 square feet in area, that incorporates the following:
  - (1) Benches or other seating components;
  - (2) Decorative landscape planters or wing walls that incorporate landscaped areas;
  - (3) Structural or vegetative shading; and
  - (4) Pedestrian routes between parking areas and buildings.

#### 5.22-9 Applications Procedures.

The above standards shall be required to be shown on a site plan that is part of a building permit application. Façade elevation drawings shall also be required.

#### 5.22-10 Appeal Procedures.

- (a) Enforcement of this ordinance may be appealed to the City Council.
- (b) Appeal Procedures:
  - (1) All appeal actions for a site plan application denied by the Planning Director or his/her designee shall be submitted to and reviewed by the City Council, if requested by the applicant.
  - (2) An appeal must be made in writing on an application form available in the Planning Department, shall be accompanied by an application fee of \$300 and shall include a site plan, building elevation plan and landscape plan.
  - (3) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the Council within 30 days after the appeal application is received, or, in the case of an incomplete application, 30 days after the submission is deemed complete.
  - (4) The Council shall review the site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or building site plan.
  - (5) The City Council shall determine final approval or disapproval of all site plan appeals.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. I)

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### Presenter/Contact

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

### **SUBJECT:**

Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, granting recognition to the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, as the sole and exclusive bargaining agent for city firefighters, and determining that the City may meet and confer with the Association without an election by the voters in the City.

### **BACKGROUND / RATIONALE:**

The *Texas Local Government Code*, (Chapter 142, Subchapter C - *Local Control of Firefighter Employment Matters in Certain Municipalities*), allows certain cities to meet and confer and make an agreement with the firefighters association representing municipal firefighters regarding the issues of wages, salaries, rates of pay, hours of work, and other terms and conditions of employment. The laws regarding meet and confer do not require a municipality to give up local control regarding wages, salaries, rates of pay, hours of work, and other terms and conditions of employment. It merely gives an association a mechanism to negotiate such matters for the benefit of the firefighters. Meet and confer is available to municipalities with a population greater than 50,000 or cities that have adopted a municipal civil service system for its firefighters. The process of becoming a meet and confer city begins with a petition that must be submitted to the City that seeks formal recognition of the New Braunfels Professional Fire Fighters Association (the "Association") as the 'sole and exclusive bargaining agent' for all New Braunfels firefighters. It must be signed by a majority of active firefighters, excluding the Fire Chief and the Assistant Fire Chief. The Association must then receive formal recognition from the City that it will be the sole and exclusive bargaining agent for all its qualified firefighters, excluding the Fire Chief, Assistant Fire Chief, and exempt employees. "Exempt employees" are defined as those appointed by the Chief or those that are exempt by mutual agreement of the City and the Association. Once the Association has been officially recognized, then it may seek to meet and confer with the City and enter into a written agreement. The law does not require either the public employer or the Association to meet and confer on any issue, or to reach an agreement.

In 2017, Association representatives approached the City Manager and communicated that they were collecting signatures for a petition to be recognized as the bargaining agent for all City of New Braunfels firefighters. Similar to the Police Department, the motivation of the Association is to utilize meet and confer to establish hiring and promotional standards and processes that are currently not allowed under the civil service statutes, chapter 143 for the Texas Local Government Code. As an example, under chapter 143, promotions are determined almost entirely by test scores. With meet and confer, the Fire Chief can be granted the authority to utilize assessment centers in determining

---

promotions. Assessment centers provide a comprehensive interview and evaluation of candidates. The Association does not want to incorporate issues such as salary and benefits into the meet and confer process and agreement.

On April 25, 2018, the Association submitted its petition to the City of New Braunfels to be recognized as the sole and exclusive bargaining agent for all City of New Braunfels firefighters. The petition appears to be signed by 72% of the qualified New Braunfels firefighters. Per Section 142.103 of Texas Local Government Code, the City has thirty (30) days after receipt of the petition to take action, which places the Council's deadline on May 25, 2018. The City has three options:

1. Grant recognition to the Association as requested in the petition; or
2. Defer granting recognition of the Association and order an election by the voters; or
3. Order a certification election to determine if the association represents a majority of the affected firefighters. If this option is selected and the Association is certified to represent a majority of the affected firefighters, the City has 30 days to either grant or deny recognition or order an election by the voters.

If the Association receives recognition either from City Council action or an election, it shall be recognized until it is withdrawn by a petition signed by a majority of covered firefighters. If approved by City Council, the Council may withdraw recognition by providing 90 days written notice to the Association that it intends to do so and that any agreement existing between the parties will not be renewed. If meet and confer was adopted by an election, then Council may order an election to determine whether the public employer may continue to meet and confer, but it may not be ordered until the second anniversary of the date of the election that adopted meet and confer. If the City Council grants recognition and while a meet and confer agreement is in effect, the City is barred from accepting a petition from the officers requesting the City to adopt collective bargaining under Chapter 174 of the Texas Local Government Code.

If meet and confer is adopted, the statute does not repeal existing benefits. Meet and confer law prohibits strikes and works stoppages and if such were to occur, the firefighters forfeit meet and confer rights, civil service status, reemployment rights, and other rights, benefits and privileges the police officer may have as a result of the officer's employment or prior employment with the City. A meet-and-confer agreement may establish a procedure by which the parties agree to resolve disputes. A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under a ratified meet-and-confer agreement.

If parties seek to negotiate, then the City Manager selects the municipality's team to serve as the sole and exclusive bargaining agent to meet-and-confer. Typically, City team members include employees who are familiar with the fire department, finance, and personnel issues). The Association may also designate one or more individuals to negotiate on the Association's behalf. The law does not require the City to negotiate nor does it require that the parties execute a Meet and Confer Agreement. Once an agreement is reached by the negotiating teams, the agreement must be ratified by the majority of the City Council and the majority of covered firefighters by secret ballot election. A fully ratified Meet and Confer Agreement may supersede contrary state statutes, local ordinances, civil service law, and rules adopted by the Chief or New Braunfels Firefighters and Police Officers Civil Service Commission. If dissatisfied with a ratified agreement, registered voters can



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order an election to repeal a Meet and Confer Agreement ratified by the City and Association.

Some cities that have already adopted meet and confer include the City of San Marcos, City of Kyle, City of Cedar Park, and the City of Bryan.

Documents attached to this item include:

- Proposed resolution recognizing the Association
- NBPFFA's Petition dated April 25, 2018
- Texas Local Government Code, Chapter 142, Subchapter C (Local Control of Firefighter Employment Matters in Certain Municipalities)

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

N/A

**FISCAL IMPACT:**

As mentioned above, the Association does not wish to include issues such as salary and benefits in the meet and confer agreement; therefore, there is no direct fiscal impact. However, changes to promotional and testing procedures will likely affect the Human Resources and Fire Department operating budgets. Those costs will be factored into future Proposed Budgets as they have been evaluated and determined.

**COMMITTEE RECOMMENDATION:**

n/a

**STAFF RECOMMENDATION:**

Based on research and discussions with the Association, City staff recommends recognizing the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, as the sole and exclusive bargaining agent for all City of New Braunfels firefighters per Chapter 142 of the Texas Local Government Code.

**RESOLUTION NO. 2018 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING RECOGNITION OF THE NEW BRAUNFELS PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL 3845 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AS THE SOLE AND EXCLUSIVE BARGAINING AGENT FOR ALL FIREFIGHTERS EMPLOYED BY THE CITY OF NEW BRAUNFELS, TEXAS, EXCLUDING THE FIRE CHIEF AND ASSISTANT FIRE CHIEF, AND EXCLUDING EMPLOYEES OF THE NEW BRAUNFELS FIRE DEPARTMENT EXEMPT UNDER SECTION 142.108 OF THE TEXAS LOCAL GOVERNMENT CODE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on April 25, 2018, pursuant to Section 142.103 of the Texas Local Government Code, the City of New Braunfels, Texas (“City”), received a petition requesting recognition of the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, (hereinafter referred to as the “New Braunfels Professional Fire Fighters Association” or “Association”), as the sole and exclusive bargaining agent for all municipal firefighters, excluding the Fire Chief and the Assistant Chief who are excluded under Section 142.103 and Section 142.108(b) of the Texas Local Government Code (hereinafter collectively referred to as the Covered Firefighters); and

**WHEREAS**, the New Braunfels Professional Fire Fighters Association, claims to represent the majority of the City of New Braunfels covered firefighters, who expressed support of the petition to the City as aforementioned in the petition dated April 25, 2018; and

**WHEREAS**, the New Braunfels Professional Fire Fighters Association has pledged to support the service and mission of the City of New Braunfels Fire Department and to abide by the statutorily imposed restrictions as enumerated in Chapter 142 of the Texas Local Government Code, including a no strike provision in Section 142.107; and

**WHEREAS**, Texas Local Government Code, Chapter 142, Subchapter C (Local Control of Firefighter Employment Matters in Certain Municipalities) provides certain local governments, including the City of New Braunfels, the ability to exclusively recognize a firefighters association as the sole and exclusive bargaining agent for the City’s covered firefighters; and to meet-and-confer with the Association on employment issues; and

**WHEREAS**, by adopting this resolution the City in no manner relinquishes local control of management practices and decisions, or City Council authority.

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

**SECTION 1.**

That the City Council hereby recognizes the New Braunfels Professional Fire Fighters Association as the sole and exclusive bargaining agent for the City’s covered firefighters in accordance with and pursuant to Chapter 142, Subchapter C of the Local Government Code.

## SECTION 2.

This recognition is not intended to deny local control by the City nor restrict or diminish management rights of the City.

## SECTION 3.

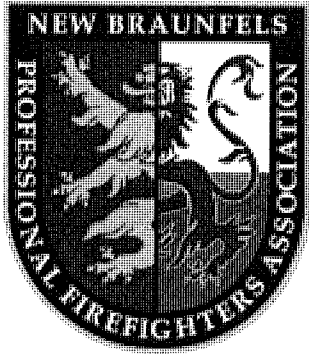
This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

Passed and approved this the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

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

ATTEST:

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



***New Braunfels Professional Firefighters Association  
Local 3845***

May 9, 2018

Patrick Aten, City Secretary  
City of New Braunfels  
550 Landa Street  
New Braunfels, TX 78130

Secretary Aten,

In reference to the recent petition submitted by the New Braunfels Professional Firefighters Association (NBPFFA) it has come to my attention that some clarification is needed.

Our petition was first drafted in July of 2017. Since the original draft and signing several members have left the NBPFFA and have resigned employment with the City of New Braunfels Fire Department. The names of those former members have been struck from the petition that was turned into your office. By the close of business today I will have initialed next to those struck names for further clarity and authentication.

Sincerely,

Jeremy VanAusdall, President  
New Braunfels Professional Firefighters Association  
Local 3845  
(210) 273-9455  
[Jeremy.vanausdall@gmail.com](mailto:Jeremy.vanausdall@gmail.com)


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## Petition Requesting Recognition

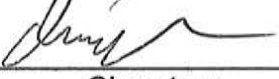
04-18-18P 03:19 RCVD


Pursuant to TEXAS LOCAL GOVERNMENT CODE §142.103, the undersigned non-exempt fire fighters employed by the City of New Braunfels Fire Department do hereby designate the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters as the sole and exclusive bargaining agent for all the firefighters employed by the City of New Braunfels, excluding the head of the fire department and exempt employees of the New Braunfels Fire Department, and request recognition as provided by the statute.

JASON WALLACE #334  4-18-18  
 Printed Name and Employee Number Signature Date

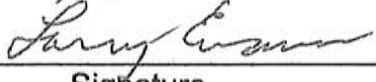
Anthony Pitzer #395  4/18/18  
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Scott Dinger  4/18/18  
 Printed Name and Employee Number Signature Date

David Herzig #431  4-18-18  
 Printed Name and Employee Number Signature Date

Kenneth Robinson 406  4/18/18  
 Printed Name and Employee Number Signature Date




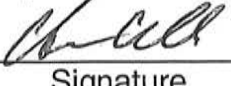

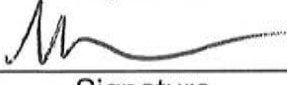

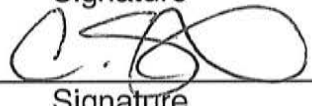


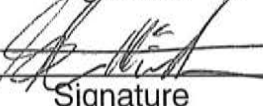

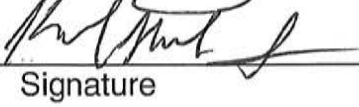


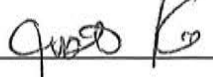
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 Printed Name and Employee Number Signature Date

Larry Evans 390  4-18-18  
 Printed Name and Employee Number Signature Date

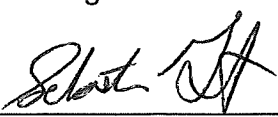
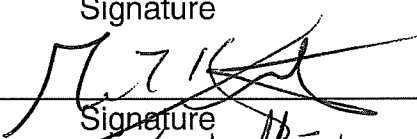
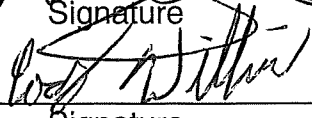
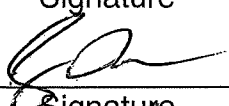
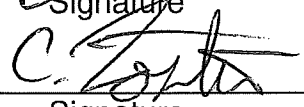
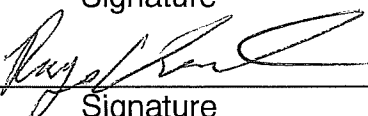


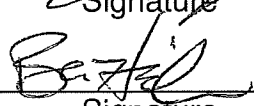
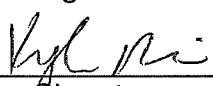

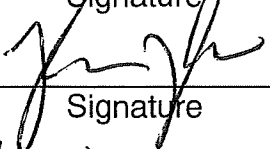
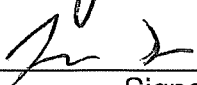
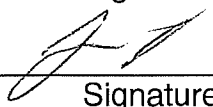

JASON FLOURNOY 413  4-18-18  
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Arlon W. Hansen 398  4-24-18  
 Printed Name and Employee Number Signature Date

Michael Hayes 412  4-29-18  
 Printed Name and Employee Number Signature Date

|                                  |  |         |
|----------------------------------|--|---------|
| John Kinkaid 318                 |     | 7/11/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Matt Wille 373                   |    | 7/11/17 |
| Printed Name and Employee Number | Signature  | Date    |
| JEFFREY SATCHEL 461              |    | 7/11/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Chase Celli 443                  |    | 7/11/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Preston Colbeway 325             |     | 7/11/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Matthew Bushnell 366             |    | 7/13/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Jack Dwyer                       |     | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Chris Stevens 351                |   | 7/20/17 |
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| Jerry VanOverborg 304            |  | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Hank Shear                       |  | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Glenn McWilliams                 |  | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Brandon Pirojes 300              |  | 7-20-17 |
| Printed Name and Employee Number | Signature  | Date    |
| Karl Brietke Jr. 410             |  | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |
| Vance Doege 441                  |  | 7/20/17 |
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| JUSTIN BEMBE 429                 |   | 7-20-17 |
| Printed Name and Employee Number | Signature  | Date    |
| Justin Kinnaman 330              |  | 7/20/17 |
| Printed Name and Employee Number | Signature  | Date    |



| Printed Name and Employee Number | Signature  | Date    |
|----------------------------------|--|---------|
| Sebastian Garcia 437             |    | 7-20-17 |
| Garrick Herbert 383              |    | 7/20/17 |
| Cody Williams 401                |    | 7-20-17 |
| Andrew Miller 331                |    | 7-20-17 |
| Chris Foster 432                 |    | 7-20-17 |
| Rexes Villarreal 440             |    | 7/20/17 |
| Kai Walderman 403                |   | 7-20-17 |
| Trey Hughes 434                  |  | 7/20/17 |
| Bent Hickman 463                 |  | 7-20-17 |
| Kyle Mireles 447                 |  | 7-21-17 |
| Adam Mueller 367                 |  | 7/21/17 |
| Jordan Johnson                   |  | 7/21/17 |
| Fernando Silva 411               |   | 7/21/17 |
| Joshua Capps 450                 |   | 7/21/17 |
| MICHAEL K. WEHMAN 387            |  | 7/21/17 |

Printed Name and Employee Number

Signature

Date

JOAN M. TISDELL 319

Signature

7/21/17

Printed Name and Employee Number

Michael Skelton 341

Signature

7-21-17

Printed Name and Employee Number

Signature

Date

Andrew Almanzar 442

Signature

7-21-17

Printed Name and Employee Number

Nicholas Bauhcz 343

Signature

7-21-17

Printed Name and Employee Number

Patricia Swearingin 449

Signature

7/21/17

Printed Name and Employee Number

L. H. 391

Signature

7/21/17

Printed Name and Employee Number

Aaron Bacon 372

Signature

7/21/17

Printed Name and Employee Number

Wes Short 345

Signature

7/21/17

Printed Name and Employee Number

Laura Garlock 417

Signature

7/21/17

Printed Name and Employee Number

Steve Joseph 441

Signature

7/21/17

Printed Name and Employee Number

Clint Cooley 306

Signature

7-21-17

Printed Name and Employee Number

Clayton Postert 446

Signature

7-23-17

Printed Name and Employee Number

Jacob Neffendorf 465

Signature

07.24.17

Printed Name and Employee Number

John Weber 377

Signature

7/24/17

Printed Name and Employee Number

Clayton Postert 348

Signature

07/24/17

Printed Name and Employee Number

Signature

Date

MARK P. ELIOT 364 7/24/17  
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Jesse G. Martinez 314 7/25/17  
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Danah O'Brien 369 7/26/17  
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MICHAEL CARABASCO 430 7/26/17  
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Lee Barker 338 7/26/17  
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John Clifton 419 7/26/17  
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Randy Diaz 320 7/26/17  
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Clinton Tyler Hindman 374 7/26/17  
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David Thomas 378 7/26/17  
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James Sellers 392 7/24/17  
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Patrick O'Connell 370 7/26/17  
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Gregory C. Gwenthner 7/26/17  
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BRENT BAYLESS 317 7/28/17  
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CHRIS NORED 402 7/28/17  
 Printed Name and Employee Number Signature Date

William Montague 423 7/28/17  
 Printed Name and Employee Number Signature Date

Printed Name and Employee Number

Signature

Date

Justin Dargatz 342  
 Printed Name and Employee Number

*Justin Dargatz*  
 Signature

7/28/17  
 Date

Bredley Marschall 407  
 Printed Name and Employee Number

*Bredley Marschall*  
 Signature

8/1/17  
 Date

~~Jon Burchill 433~~  
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~~*Jon Burchill*~~  
 Signature

~~8-1-17~~  
 Date

Randal Wolff Jr 455  
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*Randal Wolff Jr*  
 Signature

08/01/17  
 Date

Nam Sadler 445  
 Printed Name and Employee Number

*Nam Sadler*  
 Signature

8/1/17  
 Date

Brandon Appleby 313  
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*Brandon Appleby*  
 Signature

8/1/17  
 Date

~~Cottin Montgomery 452~~  
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~~*Cottin Montgomery*~~  
 Signature

~~8/1/17~~  
 Date

Jason Bertie 462  
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*Jason Bertie*  
 Signature

10-17-17  
 Date

~~Kasey Stevens 425~~  
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~~*Kasey Stevens*~~  
 Signature

~~10-17-17~~  
 Date

Tim McKay 302  
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*Tim McKay*  
 Signature

10-17-17  
 Date

Brent Garrett 363  
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*Brent Garrett*  
 Signature

10-17-17  
 Date

Tate Parker 466  
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*Tate Parker*  
 Signature

10/19/17  
 Date

Frank Griesenbeck 408  
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*Frank Griesenbeck*  
 Signature

10.23.17  
 Date

George Amen 346  
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*George Amen*  
 Signature

10/26/17  
 Date

Moises Sandoval 464  
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*Moises Sandoval*  
 Signature

10/26/17  
 Date

Printed Name and Employee Number

Signature

Date

JACK TWARD <sup>III</sup> 356

10/31/17

Printed Name and Employee Number

Signature

Date

Jeffrey Zelenak 459



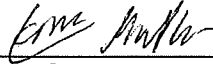
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Date

Lane Muller 467



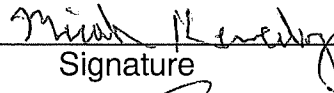
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Signature

Date

Micah Kennedy 448



4/10/18

Printed Name and Employee Number

Signature

Date

Michael Tribodanno 420



4/10/18

Printed Name and Employee Number

Signature

Date

Craig Van Ryn 355



4-10-18

Printed Name and Employee Number

Signature

Date

Robert Johnson 327



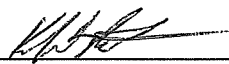
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Signature

Date

Klint Painter 362



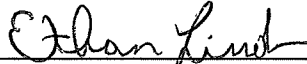
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Signature

Date

Ethan Lindner 354



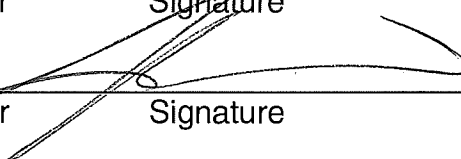
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Printed Name and Employee Number

Signature

Date

Jeremy VanAusdall 365



4-15-18

Printed Name and Employee Number

Signature

Date

Printed Name and Employee Number

Signature

Date

Printed Name and Employee Number

Signature

Date

Printed Name and Employee Number

Signature

Date

Printed Name and Employee Number

Signature

Date

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Vernon's Texas Statutes and Codes Annotated

Local Government Code (Refs & Annos)

Title 5. Matters Affecting Public Officers and Employees

Subtitle A. Municipal Officers and Employees

Chapter 142. Assistance, Benefits, and Working Conditions of Municipal Officers and Employees

Subchapter C. Local Control of Firefighter Employment Matters in Certain Municipalities

V.T.C.A., Local Government Code § 142.101

§ 142.101. Applicability

Effective: September 1, 2005

**Currentness**

(a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

(1) with a population of 50,000 or more; or

(2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

(1) has adopted Chapter 174;

(2) is covered by Subchapter H, I, or J, Chapter 143; or

(3) has a population of one million or more and has not adopted Chapter 143.

**Credits**

Added by **Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005.**

V. T. C. A., Local Government Code § 142.101, TX LOCAL GOVT § 142.101

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature

End of Document

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**Vernon's Texas Statutes and Codes Annotated****Local Government Code (Refs & Annos)****Title 5. Matters Affecting Public Officers and Employees****Subtitle A. Municipal Officers and Employees****Chapter 142. Assistance, Benefits, and Working Conditions of Municipal Officers and Employees****Subchapter C. Local Control of Firefighter Employment Matters in Certain Municipalities**

V.T.C.A., Local Government Code § 142.102

## § 142.102. Definitions

Effective: September 1, 2005

**Currentness**

In this subchapter:

- (1) "Firefighter" means a person who is defined as fire protection personnel under [Section 419.021, Government Code](#), and who is employed by a municipality.
- (2) "Firefighters association" means an employee organization in which firefighters employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting firefighters.
- (3) "Public employer" means a municipality or the fire department of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of firefighters employed by the municipality.

**Credits**Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.102, TX LOCAL GOVT § 142.102

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature

## Vernon's Texas Statutes and Codes Annotated

## Local Government Code (Refs &amp; Annos)

## Title 5. Matters Affecting Public Officers and Employees

## Subtitle A. Municipal Officers and Employees

## Chapter 142. Assistance, Benefits, and Working Conditions of Municipal Officers and Employees

## Subchapter C. Local Control of Firefighter Employment Matters in Certain Municipalities

## V.T.C.A., Local Government Code § 142.103

## § 142.103. Petition for Recognition: Election or Action by Governing Body

Effective: September 1, 2005

Currentness

(a) Not later than the 30th day after the date the governing body of a municipality receives from a firefighters association a petition signed by the majority of all firefighters, excluding the head of the fire department for the municipality and excluding the employees exempt under [Section 142.108\(b\)](#), that requests recognition of the association as the sole and exclusive bargaining agent for all the firefighters employed by the municipality, excluding the head of the fire department for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote regarding whether a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under [Section 142.105](#);

(2) defer granting recognition of the association and order an election by the voters in the municipality under [Section 142.105](#) regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under [Section 142.104](#) to determine whether the association represents a majority of the affected firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected firefighters of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under [Section 142.105](#); or

(2) defer granting recognition of the association and order an election by the voters in the municipality under [Section 142.105](#) regarding whether a public employer may meet and confer under this subchapter.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

**§ 142.103. Petition for Recognition: Election or Action by..., TX LOCAL GOVT §...**

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V. T. C. A., Local Government Code § 142.103, TX LOCAL GOVT § 142.103

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## Chapter 142. Assistance, Benefits, and Working Conditions of Municipal Officers and Employees

## Subchapter C. Local Control of Firefighter Employment Matters in Certain Municipalities

V.T.C.A., Local Government Code § 142.104

## § 142.104. Certification Election

Effective: September 1, 2005

[Currentness](#)

(a) Except as provided by Subsection (b), a certification election ordered under [Section 142.103\(a\)\(3\)](#) to determine whether a firefighters association represents a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the firefighters eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.104, TX LOCAL GOVT § 142.104

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## Subchapter C. Local Control of Firefighter Employment Matters in Certain Municipalities

V.T.C.A., Local Government Code § 142.105

§ 142.105. Election to Authorize Operating Under This Subchapter

Effective: September 1, 2005

Currentness

(a) The governing body of a municipality that receives a petition for recognition under [Section 142.103](#) may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under [Section 142.103](#) before the second anniversary of the date of the election.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.105, TX LOCAL GOVT § 142.105

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**§ 142.106. Change or Modification of Recognition, TX LOCAL GOVT § 142.106**

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V.T.C.A., Local Government Code § 142.106

§ 142.106. Change or Modification of Recognition

Effective: September 1, 2005

**Currentness**

(a) The firefighters may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with [Section 142.104](#) regarding whether to do so.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.106, TX LOCAL GOVT § 142.106

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V.T.C.A., Local Government Code § 142.107

## § 142.107. Strikes Prohibited

Effective: September 1, 2005

**Currentness**

(a) A firefighter employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A firefighter who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the firefighter may have as a result of the person's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

**Credits**Added by **Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005.**

V. T. C. A., Local Government Code § 142.107, TX LOCAL GOVT § 142.107

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V.T.C.A., Local Government Code § 142.108

## § 142.108. Recognition of Firefighters Association

Effective: September 1, 2005

**Currentness**

(a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under [Section 142.103](#) or [142.104](#) as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the fire department of the municipality under [Section 143.014](#) or that are exempt by the mutual agreement of the recognized firefighters association and the public employer.

(c) The public employer shall recognize the firefighters association until recognition of the association is withdrawn, in accordance with [Section 142.106](#), by a majority of the firefighters eligible to sign a petition for recognition.

**Credits**Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.108, TX LOCAL GOVT § 142.108

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V.T.C.A., Local Government Code § 142.109

## § 142.109. General Provisions Relating to Agreements

Effective: September 1, 2005

Currentness

(a) A municipality acting under this subchapter may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the firefighters association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized firefighters association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized firefighters association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized firefighters association is in effect, the public employer may not accept a petition, with regard to the firefighters of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143;<sup>1</sup> or

(2) collective bargaining under Chapter 174.<sup>2</sup>

**Credits**

Added by Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005.

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§ 142.109. General Provisions Relating to Agreements, TX LOCAL GOVT § 142.109

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Footnotes

1 [V.T.C.A., Local Government Code § 143.001 et seq.](#)

2 [V.T.C.A., Local Government Code § 174.001 et seq.](#)

V. T. C. A., Local Government Code § 142.109, TX LOCAL GOVT § 142.109

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V.T.C.A., Local Government Code § 142.110

§ 142.110. Selection of Bargaining Agent; Bargaining Unit

Effective: September 1, 2005

[Currentness](#)

(a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of firefighters by the municipality.

(b) A firefighters association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the firefighters of the municipality who are not the head of the fire department or exempt under [Section 142.108\(b\)](#).

#### Credits

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.110, TX LOCAL GOVT § 142.110

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V.T.C.A., Local Government Code § 142.111

§ 142.111. Protected Rights of Firefighter

Effective: September 1, 2005

[Currentness](#)

(a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the firefighters association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

**Credits**Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.111, TX LOCAL GOVT § 142.111

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V.T.C.A., Local Government Code § 142.112

§ 142.112. Open Records

Effective: September 1, 2005

[Currentness](#)

(a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552,<sup>1</sup> Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

**Footnotes**

<sup>1</sup> [V.T.C.A., Government Code § 552.001 et seq.](#)

V. T. C. A., Local Government Code § 142.112, TX LOCAL GOVT § 142.112

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V.T.C.A., Local Government Code § 142.113

§ 142.113. Open Deliberations

Effective: September 1, 2005

**Currentness**

(a) A deliberation relating to meeting and conferring between a public employer and a firefighters association, a deliberation relating to an agreement or proposed agreement under this subchapter by a quorum of a firefighters association authorized to meet and confer, or a deliberation by a quorum of the sole and exclusive bargaining agent of the public employer authorized to meet and confer must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representative of the public employer or the representatives of the firefighters association from conducting private caucuses that are not open to the public during meet and confer negotiations.

**Credits**Added by **Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005.**

V. T. C. A., Local Government Code § 142.113, TX LOCAL GOVT § 142.113

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V.T.C.A., Local Government Code § 142.114

## § 142.114. Ratification and Enforceability of Agreement

Effective: September 1, 2005

**Currentness**

(a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized firefighters association, and the firefighters covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized firefighters association ratified the agreement by conducting a secret ballot election at which only the firefighters of the municipality in the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.114, TX LOCAL GOVT § 142.114

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V.T.C.A., Local Government Code § 142.115

§ 142.115. Action or Election to Repeal Authorization to Operate Under This Subchapter

Effective: September 1, 2005

Currentness

(a) The governing body of a municipality that granted recognition of a firefighters association under [Section 142.103](#) without conducting an election under [Section 142.105](#) may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a firefighters association after conducting an election under [Section 142.105](#) may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under [Section 142.105](#).

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under [Section 142.103](#) before the second anniversary of the date of the election.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.115, TX LOCAL GOVT § 142.115

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V.T.C.A., Local Government Code § 142.116

§ 142.116. Election to Repeal Agreement

Effective: September 1, 2005

[Currentness](#)

(a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized firefighters association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under [Section 3.004, Election Code](#).

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the \_\_\_\_\_ (name of the governing body of the municipality) and the firefighters employed by the City of \_\_\_\_\_ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.116, TX LOCAL GOVT § 142.116

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V.T.C.A., Local Government Code § 142.117

## § 142.117. Agreement Supersedes Conflicting Provisions

Effective: September 1, 2005

**Currentness**

A written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the fire department or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

**Credits**Added by **Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005.**

V. T. C. A., Local Government Code § 142.117, TX LOCAL GOVT § 142.117

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V.T.C.A., Local Government Code § 142.118

§ 142.118. Preemption of Other Law

Effective: September 1, 2005

[Currentness](#)

(a) This subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by a municipality.

(b) [Section 617.002, Government Code](#), does not apply to an agreement made or an action taken under this subchapter.

**Credits**

Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.118, TX LOCAL GOVT § 142.118

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V.T.C.A., Local Government Code § 142.119

§ 142.119. Effect on Existing Benefits

Effective: September 1, 2005

**Currentness**

This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

**Credits**Added by [Acts 2005, 79th Leg., ch. 262, § 2, eff. Sept. 1, 2005](#).

V. T. C. A., Local Government Code § 142.119, TX LOCAL GOVT § 142.119

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## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. J)

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Presenter/Contact

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

**SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of the 500 block of Hill Avenue.

**BACKGROUND / RATIONALE:**

**Council District: 6**

City Council approved the first reading (5-1) of an ordinance to amend Section 126-346 of the Code of Ordinances to restrict parking on both sides of the 500 block of Hill Avenue on April 23, 2018.

Engineering staff received a request from multiple property owners in the 500 block of Hill Avenue to create a new parking by permit area. A parking study was completed as a requirement of this parking by permit request and found that the occupancy requirements listed in Section 126-354 (d)(2) of the Code of Ordinances were not met for this area. The Transportation and Traffic Advisory Board recommended a parking restriction in this block in lieu of a new parking by permit area at their meeting on March 12, 2018. Residents in attendance at this meeting were in support of this recommendation.

The 500 block of Hill Avenue varies in width from 17-19 feet and has a speed limit of 30 mph. This request is to restrict parking along both sides of the road, which would allow for the free flow of traffic in both directions.

**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 \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

**COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board recommended a parking restriction in this block in lieu of a new parking by permit area at their meeting on March 12, 2018.

**STAFF RECOMMENDATION:**

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Staff recommends approval of restricting parking on both sides of the 500 block of Hill Avenue.





Requested Parking by Permit Area on Hill Avenue and W. Jahn Street

**ORDINANCE NO. 2018-\_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING ON BOTH SIDES OF THE 500 BLOCK OF HILL AVENUE.**

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WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have 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 126-346 (f) is hereby amended as follows:

- (113) On both sides of the 500 block of Hill Avenue. Such no parking zone shall be designated as a tow away zone.

**II.**

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

**III.**

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.

**IV.**

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

**V.**

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 \_\_\_\_\_, 2018.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
*BARRON CASTEEL, MAYOR*

ATTEST:

\_\_\_\_\_  
*PATRICK D. ATEN, CITY SECRETARY*

APPROVED AS TO FORM:

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*VALERIA M. ACEVEDO, CITY ATTORNEY*





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

Agenda Item No. K)

### Presenter/Contact

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

### **SUBJECT:**

Discuss and consider the first reading of an ordinance amending Section 126-136 (a) to amend the school speed zone for the New Braunfels Christian Academy Elementary.

### **BACKGROUND / RATIONALE:**

**Council District: 3**

A citizen contacted the City of New Braunfels requesting that staff review the school speed zone signs for the New Braunfels Christian Academy (NCBA) Elementary along Kerlick Lane and Mission Hills Drive. Kerlick Lane and Mission Hills Drive are both listed as Minor Collectors in the 2012 approved thoroughfare plan and provide direct access to residential properties.

A school zone is a section of roadway adjacent to a school or a school crosswalk where signs designating a school are present. A school speed zone is a special reduced speed zone for schools allowed by ordinance and defined by school speed signs. Ideally, school speed zones should be kept short to enhance driver compliance. School speed zones are intended for pedestrian safety and not to facilitate vehicle movements. The Texas Manual on Uniform Traffic Control Devices (TMUTCD) provides guidance that the point of a school speed zone should be at least 200 feet in advance of a school crossing if the school speed limit is less than 30 mph.

The posted school speed limit is 20 mph between 7:00-9:00 a.m. and 2:00-4:00 p.m. on school days. The posted speed limit outside of those times is 30 mph. The school hours for the NCBA Elementary are 8:05 a.m. through 3:10 p.m. The school zone starts on Kerlick Lane near the intersection with Ridge Drive and on Mission Hills Drive approximately half-way between Mission View Court and Valley View Lane. The attached map shows the limits of the existing school speed zone.

An engineering evaluation was conducted during school operations during both morning and afternoon times. Pedestrian activity was observed on both Kerlick Lane and Mission Hills Drive near the school property. Additionally, speed data was collected in four locations during normal school operations for seven consecutive days:

- Kerlick Lane near Ridge Drive, at the beginning of the school speed zone;
- Kerlick Lane near Twin Oaks Drive, closer to the NCBA Elementary campus;
- Mission Hills Drive near Evergreen Lane, at the beginning of the school speed zone; and
- Mission Hills Drive near Ridge Hill Drive, closer to the NCBA Elementary campus.

Tables 1 through 4 in the attached file show the results of this data collection.



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The results of the speed studies showed that there is considerable non-compliance with the school zone speed limit on the outer edges of the existing school speed zone. Additionally, the existing school speed zone is much larger than what is recommended in the TMUTCD.

Based on this information, staff recommends shortening the school speed zone for the NCBA Elementary to better protect pedestrians near the school grounds and improve compliance with the posted school zone speed limit. The revised school speed zone would also include portions of Ridge Hill Drive and Timber Drive to cover where higher pedestrian activity occurs.

If the school speed zone is approved, times of 7:00 a.m. - 8:15 a.m. and 3:00 p.m. - 4:00 p.m. will be posted. The request is supported by the Police Department, who will enforce the school speed zone, as well as the NCBA Elementary principal.

**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 \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

**COMMITTEE RECOMMENDATION:**

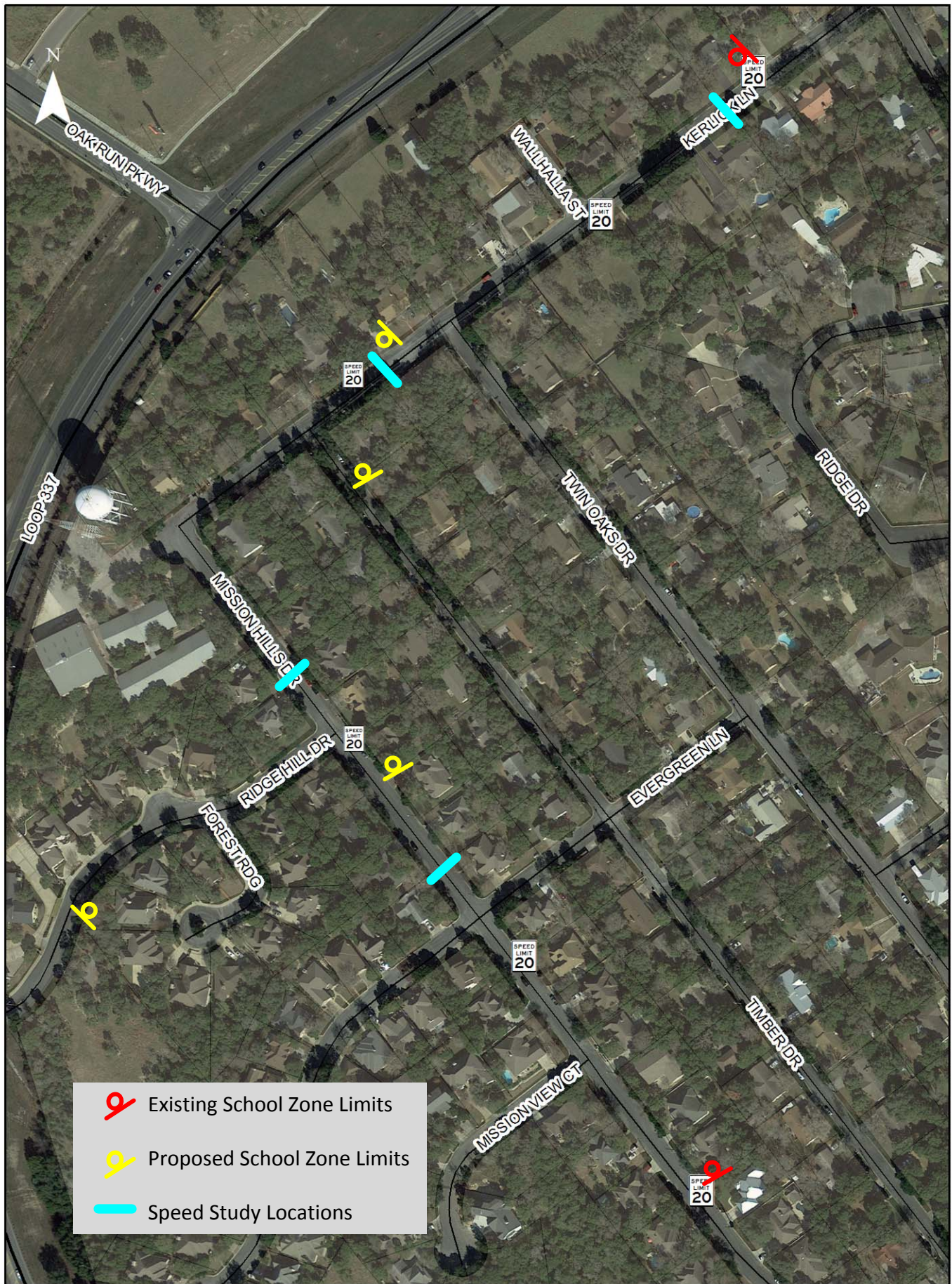
The Transportation and Traffic Advisory Board unanimously approved the recommendation to City Council to amend the school speed zone for the New Braunfels Christian Academy with an amendment to relocate the beginning of the school speed zone on Mission Hills Drive to half-way between Evergreen Lane and Ridge Hill Drive on April 12, 2018.

**STAFF RECOMMENDATION:**

Staff recommends revising the school speed zone for the New Braunfels Christian Academy Elementary to:

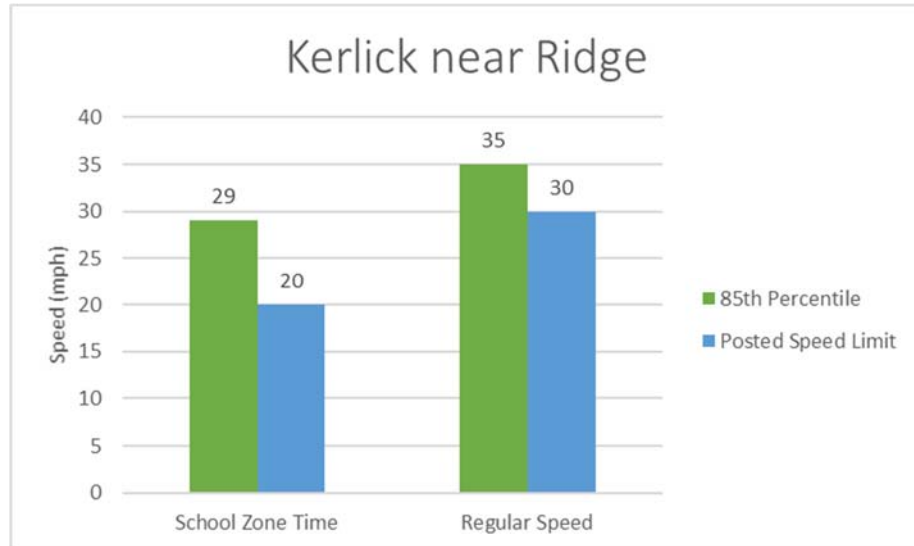
- Mission Hills Drive from the intersection with Kerlick Lane to 585 feet to the southeast;
- Ridge Hill Drive from the intersection with Mission Hills Drive to 545 feet to the southwest;
- Timber Drive from the intersection with Kerlick Lane to 100 feet to the southeast; and
- Kerlick Lane from the intersection with Mission Hills Drive to 515 feet to the northeast.



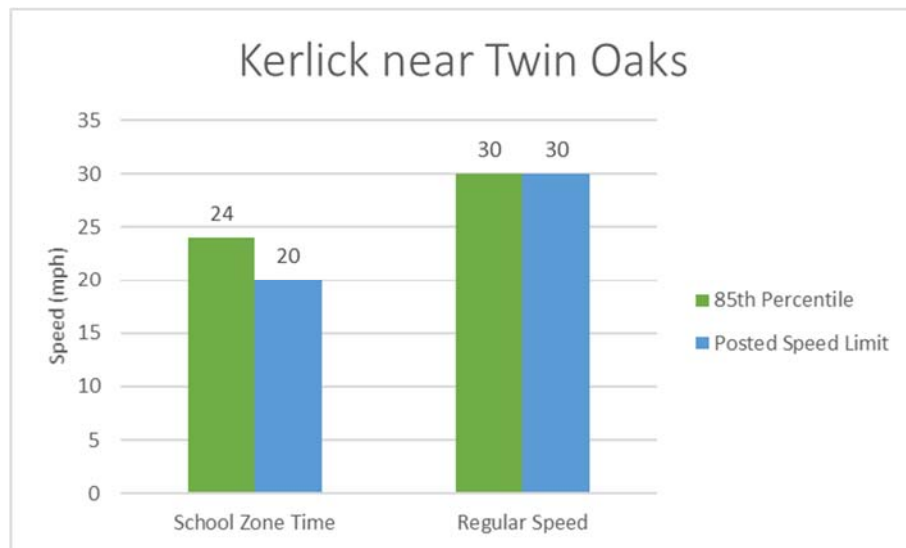


New Braunfels Christian Academy Elementary Existing and Proposed School Zone Locations

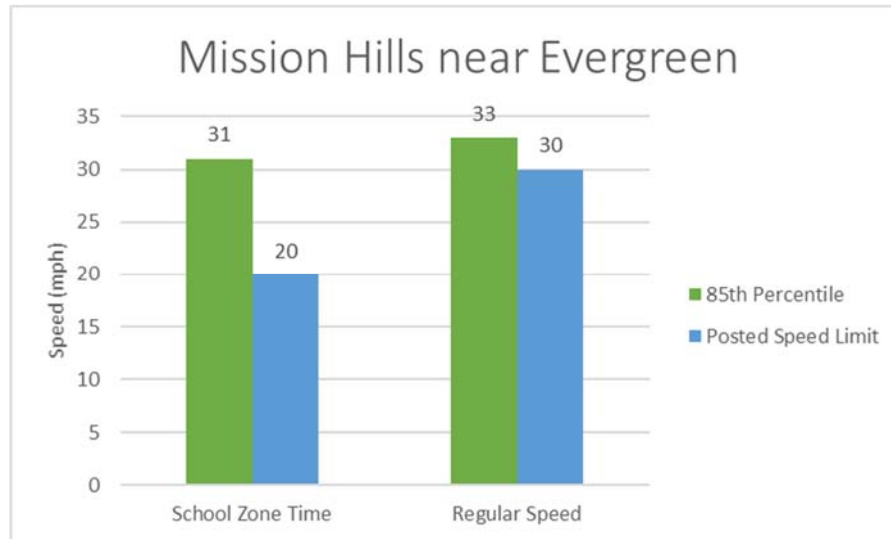




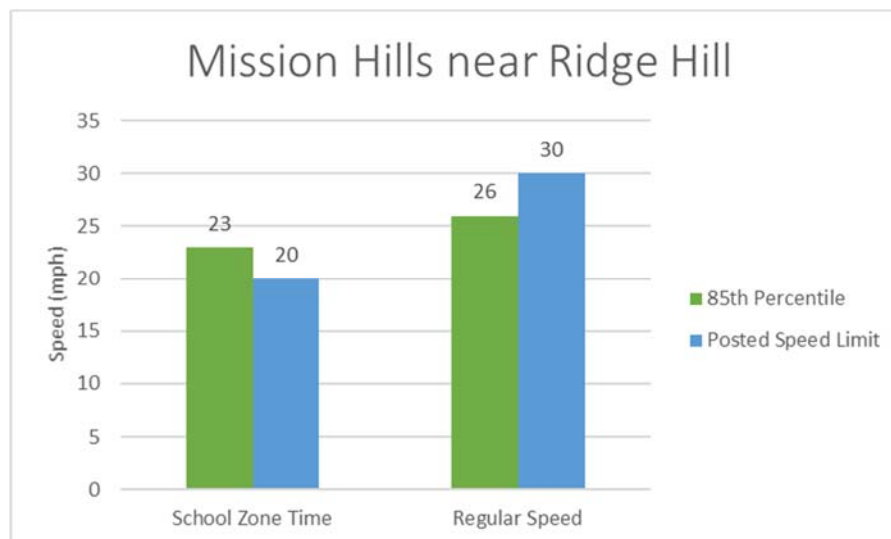
**Table 1. Speed data for Kerlick Lane near Ridge Drive.**



**Table 2. Speed data for Kerlick Lane near Twin Oaks Drive.**



**Table 3. Speed data for Mission Hills Drive near Evergreen Lane.**



**Table 4. Speed data for Mission Hills Drive near Ridge Hill Drive.**

Sec. 126-136. - Speed zones—Twenty miles per hour on school days—Thirty 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 30 miles per hour at every other time:

*Kerlick Lane* from the intersection ~~of with~~ Mission Hills Drive ~~easterly for a distance of 1,500 feet to~~  
515 feet to the northeast;

*Mission Hills Drive* from the intersection ~~of with~~ Kerlick Lane to 585 feet to the southeast  
~~southwesterly for a distance of 1,500 feet;~~

*Ridge Hill Drive* from the intersection with Mission Hills Drive to 545 feet to the southwest;

*Timber Drive* from the intersection with Kerlick Lane to 100 feet to the southeast;

**ORDINANCE NO. 2018-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-136 (a) OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO AMEND THE SCHOOL SPEED ZONE FOR THE NEW BRAUNFELS CHRISTIAN ACADEMY ELEMENTARY.**

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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 126-136 (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 30 miles per hour at every other time:

*Kerlick Lane* from the intersection of Mission Hills Drive to 515 feet to the northeast;

*Mission Hills Drive* from the intersection of Kerlick Lane to 585 feet to the southeast;

*Ridge Hill Drive* from the intersection with Mission Hills Drive to 545 feet to the southwest;

*Timber Drive* from the intersection with Kerlick Lane to 100 feet to the southeast.

**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 \_\_\_\_\_, 2018.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
BARRON CASTEEL, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICK D. ATEN CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
VALERIA M. ACEVEDO, CITY ATTORNEY





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. L)

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Presenter/Contact

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

**SUBJECT:**

Discuss and consider approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on the south side of Yu Drive.

**BACKGROUND / RATIONALE:**

**Council District: 4**

Engineering staff received a request from a citizen to review parking along Yu Drive. This request is due to concerns about lack of space for safe passage of vehicles, including concerns about the accessibility for emergency vehicles. Yu Drive is approximately 28 feet wide and has a speed limit of 30 mph. At the time of the request, there was no traffic control at the intersection of Yu Drive and E. Common Street. There is now stop control on Yu Drive at this intersection.

A sight distance investigation was conducted in accordance with A Policy on Geometric Design of Highways and Streets. Additionally, field observations were conducted and the intersection crash history was reviewed. Based on the result of these investigations, staff recommends restricting parking along the south side of Yu Drive to the cul-de-sac at the end of Yu Drive.

Notices were mailed to property owners that are adjacent to the proposed parking restriction prior to the first reading at a City Council meeting.

**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 \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

**COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board unanimously approved a parking restriction on the south side of Yu Drive at their meeting on April 12, 2018.

**STAFF RECOMMENDATION:**

Staff recommends establishing a no parking zone on the south side of Yu Drive

**ORDINANCE NO. 2018-\_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING ON THE SOUTH SIDE OF YU DRIVE.**

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WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have 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 126-346 (f) is hereby amended as follows:

- (114) On the south side of Yu Drive. Such no parking zone shall be designated as a tow away zone.

**II.**

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

**III.**

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.

**IV.**

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

**V.**

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 \_\_\_\_\_, 2018.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF NEW BRAUNFELS, TEXAS

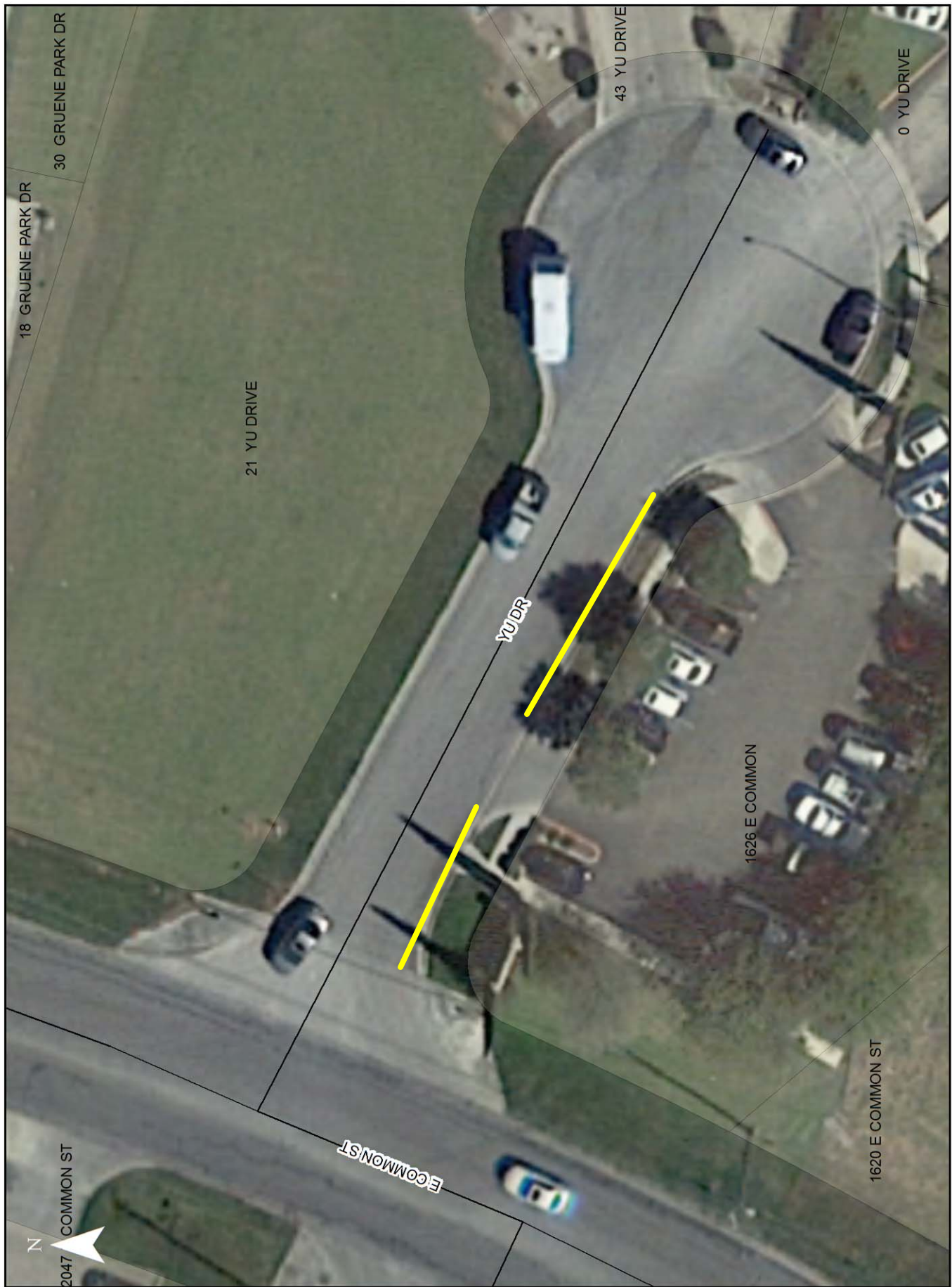
\_\_\_\_\_  
BARRON CASTEEL, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
VALERIA M. ACEVEDO, CITY ATTORNEY



Proposed No Parking Zone on Yu Drive



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

5/14/2018

Agenda Item No. M)

### Presenter/Contact

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

### **SUBJECT:**

Discuss and consider approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of Gruene Park Drive.

### **BACKGROUND / RATIONALE:**

**Council District: 4**

Engineering staff received a request from a citizen to review parking along Gruene Park Drive. This request is due to concerns about lack of space for safe passage of vehicles, including concerns about the accessibility for emergency vehicles. Gruene Park Drive is approximately 28 feet wide and has a speed limit of 30 mph. At the time of the request, there was no traffic control at the intersection of Gruene Park Drive and E. Common Street. There is now stop control on Gruene Park Drive at this intersection.

A sight distance investigation was conducted in accordance with *A Policy on Geometric Design of Highways and Streets*. Additionally, field observations were conducted and the intersection crash history was reviewed. Based on the result of these investigations, staff recommends restricting parking along the south side of Gruene Park Drive to the cul-de-sac at the end of Gruene Park Drive. However, at the April 12, 2018 Transportation and Traffic Advisory Board meeting, the Board recommended that parking be restricted on both sides of Gruene Park Drive.

Notices were mailed to property owners that are adjacent to the proposed parking restriction prior to the first reading at a City Council meeting.

### **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 \$150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

### **COMMITTEE RECOMMENDATION:**

The Transportation and Traffic Advisory Board approved a parking restriction on both sides of Gruene Park Drive at their meeting on April 12, 2018 by a vote of four in favor and one opposed.

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**STAFF RECOMMENDATION:**

Staff recommends establishing a no parking zone on the south side of Gruene Park Drive



**ORDINANCE NO. 2018-\_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING ON BOTH SIDES OF GRUENE PARK DRIVE.**

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WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have 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 126-346 (f) is hereby amended as follows:

- (115) On both sides of Gruene Park Drive. Such no parking zone shall be designated as a tow away zone.

**II.**

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

**III.**

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.

**IV.**

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

**V.**

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 \_\_\_\_\_, 2018.

PASSED AND APPROVED: Second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF NEW BRAUNFELS, TEXAS

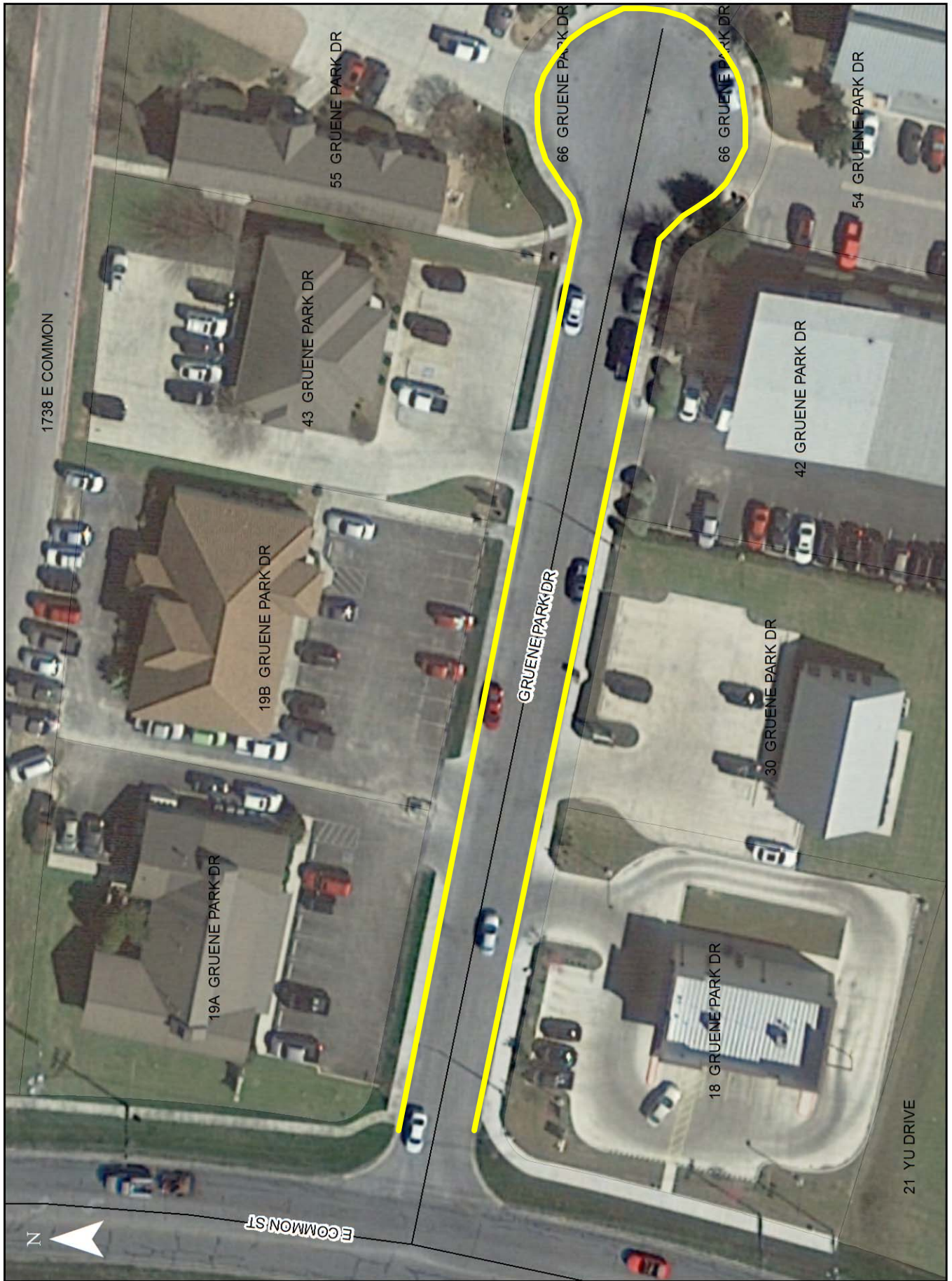
\_\_\_\_\_  
*BARRON CASTEEL, MAYOR*

ATTEST:

\_\_\_\_\_  
*PATRICK D. ATEN, CITY SECRETARY*

APPROVED AS TO FORM:

\_\_\_\_\_  
*VALERIA M. ACEVEDO, CITY ATTORNEY*



Proposed No Parking Zone on Gruene Park Drive





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**5/14/2018**

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:

- Personnel

