



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



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

MONDAY, AUGUST 27, 2018 at 6:00 PM

Barron Casteel, Mayor

Matthew E. Hoyt, 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)

Harry Bowers, 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 Leah Garcia

PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG

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

PROCLAMATIONS:

- A) National Payroll Week
- B) Library Card Sign-Up Month
- C) National Preparedness Month

PRESENTATIONS:

- A) Prince Solms Historical Marker
New Braunfels Partnership Committee

1. MINUTES

- A) Discuss and consider approval of the minutes of the regular City Council meeting of August 13, 2018, and the special meetings of August 13, 14, 15, and 18, 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 purchase of traffic signal radar detection equipment from Twincrest Technologies in the amount of \$58,900.
Garry Ford, City Engineer
- B) Approval of a resolution authorizing the City Manager to enter into an Interlocal Agreement with Comal County to provide Household Hazardous Waste Collection events for the City of New Braunfels and Comal County.
Michael Mundell, Solid Waste Manager
- C) Approval of a modification to the number of authorized positions in the General Fund - Parks and Recreation Department to support the operation of a year round swim team at the Das Rec Community Recreation Center.
Jared Werner, Chief Financial Officer

Ordinances

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

- D) Approval of the first reading of an ordinance amending Chapter 106-Signs, to move the location of Subdivision Entry Signs from Sec. 106-10(b)(13) to Sec. 106-14(b)(8)- Permanent On-Premise Sign Regulations.
TJ Grossi, Building Official
- E) Approval of the second and final reading of an ordinance adopting the City of New Braunfels Comprehensive Plan: Envision New Braunfels.
Christopher J. Looney, Planning and Community Development Director

4. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider the approval of the first reading of an ordinance prohibiting the intentional feeding of wildlife within City Limits.
Mark Enders, Watershed Program Manager

- B) Public hearing and first reading of an ordinance regarding the proposed zone change from “C-3” Commercial District to “MU-B” High Intensity Mixed Use District for Lot 2, Block 1, Executive Park, Unit 2, containing 1.53 acres, and addressed at 556 Danken Lane.
Christopher J. Looney, Director of Planning & Community Development
- C) Public hearing and first reading of an ordinance rezoning 0.953 acres out of the JM Veramendi A-20 Survey, addressed at 1671 State Highway 46 South, from “APD” Agricultural/Pre-Development and “C-1” Local Business Districts to “MU-B” High Intensity Mixed Use District.
Christopher J. Looney, Planning and Community Development Director
- D) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a bed and breakfast in the “R-2” Single-Family and Two-Family District on approximately 0.32 acres, on property addressed at 612 E. Common Street.
Stacy Snell, Planning and Community Development Assistant Director
- E) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to 8.33 acres to allow self-storage warehouses including an onsite manager’s living quarters, outside boat and RV storage, and/or single story office buildings in the “APD” Agricultural/Pre-Development District and the proposed rezoning of one acre from “APD” Agricultural/Pre-Development District to “C-1B” General Business District, addressed at 1938 FM 1044.
Stacy Snell, Assistant Director of Planning & Community Development
- F) Public hearing and first reading of an ordinance designating 0.2475 acres out of City Block 4029, Lot 3, addressed as 941 Lee Street, as a Historic Landmark to be known as the Schulz-Johnson House.
Amy McWhorter, Historic Preservation Officer
- G) Public hearing and first reading of an ordinance designating 0.124 acres out of City Block 4062, Lot 3, addressed as 546 South Academy Avenue, as a Historic Landmark to be known as the Bartels-Kelly House.
Amy McWhorter, Historic Preservation Officer
- H) Discuss and consider approval to authorize the City Manager to enter into an agreement to amend the Waste Management of Texas Inc. Disposal Agreement for a term of five years with two three-year extensions upon mutual written agreement for the disposal of municipal solid waste.
Michael Mundell, Solid Waste Manager

- I) Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and Springfed Investments, LLC for encroachments in the public right-of-way at 290 South Castell Avenue.
Garry Ford, P.E., City Engineer
- J) Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and DM3 Ventures, LLC for encroachments in the public right-of-way at 748 West San Antonio Street.
Garry Ford, P.E., City Engineer
- K) Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas Limited Tax Notes, Series 2018; prescribing the form of the note; levying an ad valorem tax to pay the note; awarding the sale thereof; and enacting other provisions relating thereto.
Jared Werner, Chief Financial Officer
- L) Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas General Obligation Bonds, Series 2018; authorizing the levy of an ad valorem tax in support of the bonds; approving an official statement, a paying agent/registrar agreement, and other matters relating to the issuance of the bonds.
Jared Werner, Chief Financial Officer
- M) Discuss and consider approval of a resolution recommended by the New Braunfels Economic Development Corporation for a project expenditure of up to \$500,000 to US Real Estate Limited Partnership I-35 Logistics, LLC, for construction of required or suitable infrastructure necessary to promote or develop new or expanded enterprises.
Victor Garza, Economic Development Manager

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 issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
 - US Real Estate Limited Partnership I-35 Logistics, LLC (Stream Realty)
- B) Deliberate the purchase, exchange, lease or value of real estate in

accordance with Section 551.072 of the Texas Government Code

- Property for City Facilities

- C) Deliberate the appointment, evaluation, duties, discipline, or removal of the Municipal Court Judge in accordance with Section 551.074 of the Texas Government Code.

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 August 24, 2018, at 12:00 p.m.

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, the American Payroll Association and its more than 23,000 members have launched a nationwide public awareness campaign that pays tribute to the more than 156 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earnings and withholding federal employment taxes; and

WHEREAS, payroll professionals in New Braunfels, Texas play a key role in maintaining the economic health of New Braunfels, carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement, and carrying out tax withholding, reporting and depositing; and

WHEREAS, payroll departments collectively spend more than \$2.2 trillion annually complying with myriad federal and state wage and tax laws; and

WHEREAS, payroll professionals play an increasingly important role ensuring the economic security of American families by helping to identify noncustodial parents and making sure they comply with their child support mandates; and

WHEREAS, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding systems; and

WHEREAS, payroll professionals meet regularly with federal and state tax officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and businesses.

NOW, THEREFORE, I, BARRON CASTEEL, Mayor of the City of New Braunfels, do hereby proclaim the week of September 4th through September 8th, 2017, as

“NATIONAL PAYROLL WEEK”

and I hereby give additional support to efforts of the people who work in New Braunfels and of the payroll profession.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed this the 28th day of August, 2017.

CITY OF NEW BRAUNFELS

BY: _____
BARRON CASTEEL, Mayor

City of New Braunfels



Proclamation

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

WHEREAS, a library card is the most important school supply of all; and

WHEREAS, libraries play an important role in the education and development of children; and

WHEREAS, library programs serve students of all ages, from early literacy to homework help to GED classes; and

WHEREAS, libraries empower all people to pursue their interests, discover their passions and achieve their highest potential as learners and citizens; and

WHEREAS, librarians bring communities together, creating welcoming and inclusive spaces for students of all backgrounds to learn together; and

WHEREAS, libraries are constantly transforming and expanding their services to meet the needs of the communities they serve; and

WHEREAS, libraries promote equity, making digital technology and information equally accessible to all.

NOW, THEREFORE, I, BARRON CASTEEL, Mayor of the City of New Braunfels, Texas, do hereby proclaim the month of September 2018 to be

LIBRARY CARD SIGN-UP MONTH

and I urge everyone to visit the New Braunfels Public Library, sign up for their own library card today and discover the wealth of resources waiting for them in our unique and wonderful institution.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 27th day of August 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, emergencies come in all forms, can disrupt or devastate homes, businesses and families, are not bound by language, geography, municipal borders, jurisdictional demarcations, financial circumstances, religion, age, or gender; and

WHEREAS, emergency preparedness must include schools, businesses, all cultures, homes and families, pets, vulnerable adults, and individuals with special needs; and

WHEREAS, the City of New Braunfels, through print and electronic media, public meetings, special events, and television programs encourages all residents, visitors, and families to be prepared at all times for emergencies; and

WHEREAS, the Department of Homeland Security and the State of Texas have proclaimed September to be National Preparedness Month.

NOW, THEREFORE, be it resolved that I, Barron Casteel, Mayor of the City of New Braunfels, Texas, proclaim September 2018 as

NATIONAL PREPAREDNESS MONTH

in New Braunfels, Texas and urge every person, parent, student, business owner, employee, retiree, visitor, and tourist to be prepared at all times for any emergency situation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 27th day of August, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

**SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF MONDAY, AUGUST 13, 2018**

The City Council of the City of New Braunfels, Texas, met in a special session on August 13, 2018, at 4:30 p.m.

City Councilmembers present were:

Present 7 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Staff members present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, Assistant City Manager Bryan Woods, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, and Chief Financial Officer Jared Werner.

The meeting was called to order by Mayor Pro Tem Peters in City Hall Council Chambers at 4:32 p.m. Mayor Pro Tem Peters gave the invocation and led the Pledge of Allegiance and Salute to the Texas Flag.

1. WORKSHOP

- A) Presentation and discussion regarding the Proposed Fiscal Year 2018-19 operating and capital budgets and the 2018 effective and rollback tax rates.

Mayor Pro Tem Peters read the aforementioned caption.

Robert Camareno presented the item.

Wayne Rudolph and David Feltman spoke on the item.

No action was taken.

- B) Discuss and consider approval of the Proposed 2018 Tax Rate.

Mayor Casteel read the aforementioned caption.

Jared Werner presented the item.

Councilmember Bowers moved that the proposed tax rate be set at .48822 per \$100 of valuation, which is effectively a six percent increase in the tax rate. Mayor Pro Tem Peters seconded the motion which passed unanimously.

- C) Discuss and consider scheduling the public hearings on the 2018 tax rate and the FY 2018-19 Proposed Budget.

Mayor Casteel read the aforementioned caption.

Jared Werner presented the item.

Councilmember Hoyt moved to set the public hearings for the tax rate at a meeting beginning at 6:00 p.m. on Thursday, August 23, 2018, and Tuesday, September 4, 2018, and the public hearing on the FY2018-19 Proposed Budget and Plan of Municipal Services on Thursday, August 23, 2018, at a meeting beginning at 6:00 p.m. - all in the City Council Chambers at 550 Landa Street. Councilmember Hines seconded the motion which passed unanimously.

Mayor Casteel announced that the FY2018-19 Proposed Budget along with the 2018 tax rate will be adopted on September 10, 2018, at a meeting beginning at 6:00 p.m. in Council Chambers located at 550 Landa Street, New Braunfels, Texas.

The meeting adjourned at 5:36 p.m.

Date Approved: August 27, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary

**MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
REGULAR MEETING OF MONDAY, AUGUST 13, 2018**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on August 13, 2018, at 6:00 p.m.

City Councilmembers present were:

Present: 7 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:05 p.m. Councilmember Garcia gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

PRESENTATIONS:

A) CenterPoint Energy Community Partnership Grant for a wireless communication system

Mayor Casteel read the aforementioned caption.

Nelda Juarez presented the check to Patrick O'Connell.

B) City of Seguin's request for ETJ exchange with the City of New Braunfels

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

1. MINUTES

A) Discuss and consider approval of the minutes of the regular City Council meeting of July 23, 2018.

Mayor Casteel read the aforementioned caption.

**Councilmember Garcia 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.

Lonnie Garza presented the City with a sign for Purple Heart reserved parking.

3. CONSENT AGENDA

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

Resolutions & Action Items

- A) Approval of a contract in the amount of \$39,849 with Yates Company, LLC for the purchase of Innotech Control System of Direct Digital Controls for the HVAC system at the New Braunfels Civic/Convention Center.
- B) Approval of a 0.808 acre sanitary sewer easement agreement between the City of New Braunfels and New Braunfels Utilities over and across 55.139 acres out of the J. Thompson Survey number 21, Abstract 608, Comal County, Texas located at 1946 Monarch Way, identified as Fischer Park.
- C) Approval of a travel policy for the New Braunfels City Council.
- D) Approval of a contract with Azteca Systems, LLC for access to their permit software solution, Cityworks; and approval for the purchase of the software from SHI Government Solutions, Inc.
- E) Approval of a professional services contract with Geographic Information Services, Inc. for the implementation of the Cityworks Permits, Licensing and Land software solution for permit management.

Ordinances

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

- F) Approval of the second and final reading of an ordinance amending Chapter 130, Article VI, of the Code of Ordinances, relating to the amendment of land use assumptions and a capital improvements plan and the imposition of water and wastewater impact fees.
- G) Approval of the second and final reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a bed and breakfast facility in the “R-2” Single-Family and Two-Family District on 0.21 acres, on property addressed at 286 S. Market Avenue.
- H) Approval of the second and final reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family dwelling in the “C-1” Local Business District, for property addressed at 508 E. San Antonio Street.

Mayor Casteel read the aforementioned captions.

Mayor Pro Tem Peters moved to approve the Consent Agenda. Councilmember Bowers seconded the motion which passed unanimously via roll call vote.

4. INDIVIDUAL ITEMS FOR CONSIDERATION

Councilmember Bowers moved to take items 4D and 4E out of order. Councilmember Hines seconded the motion, which passed unanimously.

- D) Discuss and consider approval of a resolution recommended by the New Braunfels Economic Development Corporation to provide up to \$600,000 in financial incentives to Titan New Braunfels Industrial, LLC, for infrastructure improvements including water, wastewater, electric utilities and roadway infrastructure necessary to develop new or expanded business enterprises.

Mayor Casteel read the aforementioned caption.

Victor Garza presented the item.

Wayne Rudolph spoke on the item.

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

- E) Discuss and consider approval of a resolution recommended by the New Braunfels Economic Development Corporation to provide up to \$500,000 in financial incentives to Season Group USA LLC for the creation and retention of up to 200 new jobs.

Mayor Casteel read the aforementioned caption.

Victor Garza introduced the item.

Scott Hitt presented the item.

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

- A) Public hearing and consideration of the first reading of an ordinance adopting the City of New Braunfels Comprehensive Plan: Envision New Braunfels.

Mayor Casteel read the aforementioned caption.

Chris Looney, Emily Risinger, and Rebecca Leonard presented the item.

Ron Reaves and Michael Meek spoke during the public hearing.

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

- B) Discuss and consider approval of a resolution authorizing proceeding with the issuance of Certificates of Obligation; Directing Publication of Notice of Intention to Issue Certificates of Obligation; and Other Related Matters.

Mayor Casteel read the aforementioned caption.

Jared Werner presented the item.

Jim Poage and Wayne Rudolph spoke on the item.

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

<City Council took a break.>

- C) First public hearing regarding annexation of approximately 154 acres of land on the southeast corner of the intersection of FM 1044 and Klein Road, including the adjacent Klein Road right-of-way, adjacent to the existing city limits.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

No one spoke during the public hearing.

No action was taken.

- F) Discuss and consider approval of a resolution adopting the City of New Braunfels Policies and Procedures for Obtaining and Applying Offsets and Credits Against Roadway Impact Fees.

Mayor Casteel read the aforementioned caption.

Garry Ford presented the item.

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

- G) Discuss and consider possible direction to staff regarding legislative priority recommendations to the Texas Municipal League for the upcoming 2019 Legislative Session.

Mayor Casteel read the aforementioned caption.

Robert Camareno presented the item and stated that ideas from City Council and City Staff would be presented to City Council via resolution at a future City Council meeting.

No action was taken.

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:
 - New Braunfels Housing Authority and New Braunfels Community Resources, Inc.
- B) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
 - Properties for City Facilities

Mayor Casteel read the aforementioned captions.

City Council recessed into Executive Session from 7:43 p.m. - 8:35 p.m.

No vote or action was taken.

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

City Council reconvened into Open Session at 8:36 p.m.

Mayor Pro Tem Peters moved to authorize City staff and City legal counsel and its auditor consultant to review all available information and documents from the New Braunfels Housing Authority and its related non-profit known as New Braunfels Community Resources, Inc. to determine matters as discussed in executive session. Councilmember Garcia seconded the motion which passed unanimously.

7. ADJOURNMENT

The meeting adjourned at 8:37 p.m.

Date Approved: August 27, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary

**SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF TUESDAY, AUGUST 14, 2018**

The City Council of the City of New Braunfels, Texas, met in a special session on August 14, 2018, at 4:30 p.m.

City Councilmembers present were:

Present 7 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Staff members present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, Assistant City Manager Bryan Woods, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, Chief Financial Officer Jared Werner, and Planning and Community Development Director Chris Looney.

The meeting was called to order by Mayor Casteel in City Hall Council Chambers at 4:32 p.m. Mayor Casteel gave the invocation and led the Pledge of Allegiance and Salute to the Texas Flag.

1. WORKSHOP

- A) Second public hearing regarding annexation of approximately 154 acres of land on the southeast corner of the intersection of FM 1044 and Klein Road, including the adjacent Klein Road right-of-way, adjacent to the existing city limits.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

No one spoke during the public hearing.

No action was taken.

- B) Discuss and consider possible action regarding the Fiscal Year 2018-19 operating and capital budgets and the proposed 2018 tax rate, and announce public hearings.

Mayor Casteel read the aforementioned caption.

Robert Camareno presented the item.

No action was taken.

Mayor Casteel announced that the FY2018-19 Proposed Budget along with the 2018 tax rate will be adopted on September 10, 2018, at a meeting beginning at 6:00 p.m. in Council Chambers located at 550 Landa Street, New Braunfels, Texas.

The meeting adjourned at 5:21 p.m.

Date Approved: August 27, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary

**SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF WEDNESDAY, AUGUST 15, 2018**

The City Council of the City of New Braunfels, Texas, met in a special session on August 15, 2018, at 4:30 p.m.

City Councilmembers present were:

Present 7 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Staff members present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, Assistant City Manager Bryan Woods, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, and Chief Financial Officer Jared Werner.

The meeting was called to order by Mayor Casteel in City Hall Council Chambers at 4:33 p.m. Councilmember Hines gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

1. WORKSHOP

Discuss and consider possible action regarding the Fiscal Year 2018-19 operating and capital budgets and the proposed 2018 tax rate, and announce public hearings.

Mayor Casteel read the aforementioned caption.

Robert Camareno and Jared Werner presented the item.

No action was taken.

Mayor Casteel announced that the FY2018-19 Proposed Budget along with the 2018 tax rate will be adopted on September 10, 2018, at a meeting beginning at 6:00 p.m. in Council Chambers located at 550 Landa Street, New Braunfels, Texas.

The meeting adjourned at 5:02 p.m.

Date Approved: August 27, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary

**SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF SATURDAY, AUGUST 18, 2018**

The City Council of the City of New Braunfels, Texas, met in a special session on August 18, 2018, at 4:00 p.m.

City Councilmembers present were:

- Present** 5 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Harry Bowers, Mayor Pro Tem Wayne Peters, and Councilmember Leah García
- Absent** 2 - Councilmember Shane Hines, and Councilmember Matthew E. Hoyt

Staff members present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, City Secretary Patrick Aten, and Library Director Gretchen Pruett.

The meeting was called to order by Mayor Casteel in City Hall Council Chambers at 4:03 p.m. Councilmember Meadows gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

1. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider approval of the first reading of an ordinance amending Section 78-32, Article III of the City of New Braunfels Code of Ordinances to amend the definition of “city residency” for the purposes of obtaining library membership at no charge.

Mayor Casteel read the aforementioned caption.

Robert Camareno presented the item.

Mayor Pro Tem Peters moved to approve the item to include residents of New Braunfels, the New Braunfels extraterritorial jurisdiction, and the New Braunfels postal codes. Councilmember Garcia seconded the motion which passed unanimously (5-0).

The meeting adjourned at 4:20 p.m.

Date Approved: August 27, 2018

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. A)

Presenter/Contact

Garry Ford, City Engineer
(830) 2214645 - gford@nbtexas.org

SUBJECT:

Approval of the purchase of traffic signal radar detection equipment from Twincrest Technologies in the amount of \$58,900.

BACKGROUND / RATIONALE:

Per section 9.17 of the City Charter, City Council approval is required for purchases that exceed \$25,000.

Twincrest Technologies is the sole source provider for Wavetronix traffic signal system equipment. Wavetronix is the City's standard traffic signal radar equipment designed to be used at signalized intersections to detect vehicles and replace or supplement older video detection technology. The equipment includes Wavetronix SmartSensor Matrix radar detection, mounting brackets, sensors, junction boxes, cabinet panels and cable. The equipment will be used to provide maintenance on existing radar units and replace video detection.

The cost for the system is \$58,980. This purchase meets the procurement requirements acceptable for sole source purchases.

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

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Strategic Priorities: 7. Continue to develop proactive programs for transportation engineering.
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FISCAL IMPACT:

Funding to support the initiative and expenditures described above are incorporated into the FY 2017-18 Public Works Operating Budget. Therefore, sufficient funds are available.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval for the purchase of traffic signal radar detection equipment from Twincrest Technologies in the amount of \$58,900.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. B)

Presenter/Contact

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

SUBJECT:

Approval of a resolution authorizing the City Manager to enter into an Interlocal Agreement with Comal County to provide Household Hazardous Waste Collection events for the City of New Braunfels and Comal County.

BACKGROUND / RATIONALE:

In May of 2018 the City partnered with Comal County in providing a Household Hazardous Waste Collection (HHWC) event in the parking lot of the New City Hall at 550 N. Walnut Avenue. During that event there were 315 participants, there were 14 tons of Household Hazardous Waste (HHW) diverted from the landfill and safely disposed of or recycled. The City of New Braunfels and Comal County wish to renew the agreement through September 31, 2019. The next HHWC will be held October 13, 2018, at 550 N. Walnut Avenue from 8:00 am to 12:00 pm. This interlocal agreement will allow The City of New Braunfels and Comal County to share in the cost of providing these services to their residents.

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

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority	Strategic Priorities: Quality of Life-16. Protect the Integrity of Our Neighborhoods
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FISCAL IMPACT:

Funding has been incorporated into the FY 2018-19 Solid Waste Fund to support the costs of these events. Therefore, sufficient funds are available.

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, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH COMAL COUNTY TO PROVIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENTS FOR THE CITY OF NEW BRAUNFELS AND COMAL COUNTY.

WHEREAS, The City of New Braunfels and Comal County wish to provide an environmentally sound household hazardous waste collection and disposal method for their residents; and

WHEREAS, the City of New Braunfels, and Comal County, on January 3, 2018 entered into an agreement to participate in and fund household hazardous waste collection events; and

WHEREAS, the City of New Braunfels and Comal County wish to continue to encourage the environmentally sound collection and disposal of household hazardous waste;

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

THAT, the City of New Braunfels City Council authorizes its City Manager to enter into an Interlocal Agreement with Comal County for the purpose of providing and funding household hazardous waste collection events.

ADOPTED AND APPROVED on this the 24th day of September 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

8/27/2018

Agenda Item No. C)

Presenter/Contact

*Jared Werner, Chief Financial Officer
(830) 221-4395 - jwerner@nbtexas.org*

SUBJECT:

Approval of a modification to the number of authorized positions in the General Fund - Parks and Recreation Department to support the operation of a year round swim team at the Das Rec Community Recreation Center.

BACKGROUND / RATIONALE:

As discussed at the budget workshop on August 20, 2018, Das Rec management has received an influx in inquiries to establish a year round competitive swim team. City Council provided consensus at that workshop to add the necessary positions and continue to develop the concepts, policies, and procedures necessary to implement the year round, competitive program.

While fees and associated expenditures are still being finalized, staff is confident that the program will ultimately generate annual revenue that exceeds recurring direct program costs.

To expedite the recruitment of qualified coaches, staff recommends amending the number of authorized positions in the current fiscal year (FY 2017-18). Moreover, since these positions were not included in the FY 2018-19 Proposed Budget, the additional positions will be incorporated into the Budget Order that is adopted with the budget ordinance.

FY 2017-18 Authorized Positions

	FY 2017-18 Adopted	FY 2017-18 Amended
Head Coach	0	1
Assistant Head Coach	0	1
Assistant Coach	0	6

The suggested staffing levels above is the maximum number of needed positions to support the swim team. To ensure desired program financial performance, Das Rec Management will recruit and hire a coaching staff that aligns with the number of participants that ultimately sign up for the team.

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

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FISCAL IMPACT:

For FY 2017-18, any costs associated with the implementation of the swim team program can be

absorbed within the existing Das Rec budget. For FY 2018-19, City Council will be provided reports regularly on the financial performance of Das Rec. After the first quarter, the need to amend budgeted revenues and/or expenditures will be evaluated and brought forward for council consideration (if necessary).

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. D)

Presenter/Contact

TJ Grossi, Building Official
(830) 221-4060 - tgrossi@nbtexas.org

SUBJECT:

Approval of the first reading of an ordinance amending Chapter 106- Signs, to move the location of Subdivision Entry Signs from Sec. 106-10(b)(13) to Sec. 106-14(b)(8)- Permanent On-Premise Sign Regulations.

BACKGROUND / RATIONALE:

Council District: City-wide

Applicant: City of New Braunfels, Texas

Staff Contact: TJ Grossi, Building Official
(830) 221-4062
tgrossi@nbtexas.org

Chapter 106 (Sign Ordinance) Section 6 Permits and Registration states:

(a) Permits. A building permit shall be required to build, structurally alter, or provide more than normal maintenance of a sign, except signs listed in section 106-10.

Regulations for Subdivision Entry Signs are located in Section 106-10, which is titled "Signs exempt from regulation or permits". These signs are in the second part of this section which states, "*The signs listed below may be erected without a sign permit provided the standards of this section are met.*"

These are the standards for Subdivision Entry Signs that then follow:

(13) Subdivision entry signs. Subdivision entry signs are allowed at any entrance into a subdivision, subject to the following standards:

- a) Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;*
- b) Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material (s) compatible with surrounding development.*
- c) Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right-of-way.*
- d) Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five-gallon shrub for every ten square feet of landscaped area.*
 - 1. One of the following irrigation methods shall be used to ensure the survival of the required*

plant material in the landscaped areas.

- A. Conventional system. An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.*
 - B. Drip or leak-pipe system. An automatic or underground irrigation system in conjunction with a water-saving system such as a drip or a leaky-pipe system.*
 - C. Temporary and above-ground watering. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.*
 - D. No irrigation shall be required for undisturbed natural areas or undisturbed trees.*
- 2.The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.*

The regulation of these signs are in the exempt from sign permit section of the code. This was intended to mean that a *sign permit* as defined by this section of code is not required; however *building permits* would still be required since there is usually a masonry wall, electricity, and irrigation system that will be installed which require separate building permits and inspections to ensure adherence to building and safety codes. Additionally, if a city has adopted standards for certain types of signs, there must be a permit process to review and ensure, through inspections, that the standards adopted by City Council are upheld.

The proposed changes to Chapter 106 (Sign Ordinance) clarify the process while upholding the intent of New Braunfels' adopted Sign Ordinance. The changes would be as follows (see attachments):

- Deletes Sec. 106-10b(13), Subdivision Entry Signs, from Sec. 106-10, Signs Exempt from Regulation or Permits.
- Creates a new section for Subdivision Entry Signs under Sec. 106-14, Permanent On-Premise Sign Regulations, with the same adopted standards.

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

Yes	City Plan/Council Priority: Clarity of City Ordinance. <i>Pros and Cons Based on Policies Plan</i>	Pros: The proposed changes provide clarity for the requirements for permitting signs that have standards associated with them. Cons: None.
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

At their meeting on August 7, 2018, the Planning Commission recommended approval of the clarifying code amendments unanimously.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed code amendments to offer clarity of intent and process to the development and contractor community.

ATTACHMENT 1

Below are the potential changes in ~~RED~~ and BLUE, to the Ordinance

Sec. 106-10. - Signs exempt from regulations or permits.

(a) *Exempt signs.* The following signs shall be exempt from regulation under this Code:

- 1) Any public notice, or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- 2) Any sign that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;
- 3) Works of art that do not include a commercial message;
- 4) Holiday lights and decorations with no commercial message;
- 5) Decorative landscape lighting;
- 6) Traffic control signs on private property, such as "Stop," "Yield," and similar signs, the face of which meet state or city standards and which contain no commercial message of any sort;
- 7) Address and postbox numerals;
- 8) Government signs erected by the city, county, state, or federal government in furtherance of their governmental responsibility;
- 9) Legal notices;
- 10) Memorial signs or tablets and building markers displayed on public or private buildings and tablets or headstones in cemeteries;
- 11) Signs prepared by or for the local, state or federal government marking sites or buildings of historical significance;
- 12) Signs on windows;
- 13) Addresses no larger than ten square feet;
- 14) Signs on operable vehicles except as prohibited in section 106-11;
- 15) Permanent signs on fences that are made of wood, masonry or other material and not part of a building, at outdoor athletic and sports fields and tracks; outdoor entertainment establishments; and in and around areas of public gathering such as the Wurstfest grounds, the Fair grounds, schools, churches and parks.
- 16) Inflatable signs and tethered balloons.
- 17) Pennants; streamers; flags; fluttering, undulating, or moving signs not part of a permanent sign and not a banner.
- 18) Beacons.
- 19) On-premise signs that are not free standing, such as wall signs, except as expressly regulated by this chapter.

(b) *Signs not requiring a permit.* The signs listed below may be erected without a sign permit provided that standards of this section are met.

- (1) *A-frame signs.* A-frame signs no taller than four feet nor wider than three feet with a maximum area per side of 12 square feet not in a right-of-way or easement, not obstructing a public sidewalk, except as provided for in chapter 114, and abutting the advertised businesses.

(2) *Construction site.* In addition to other signs permitted by this chapter, construction site signs are allowed. These signs shall not exceed a total of 100 square feet. Such signs shall be removed within one week following completion of the construction.

(3) *Directional.* Any sign used only to direct vehicles or pedestrians to public facilities or hospitals/emergency care facilities.

(4) *Special sale signs.*

- a. "For Sale" signs placed on vehicles, provided that the area of the sign does not exceed two square feet.
- b. "Garage Sale" signs not larger than four square feet on the site of a garage sale.

(5) "No Trespassing" or "Posted". These signs shall be allowed subject to the following standards:

- a. They shall not exceed four square feet in area.
- b. They shall be located on private property.
- c. There shall be not more than one per 100 feet of property line.

(6) *Parking and traffic.* These signs shall conform to the Manual of Uniform Traffic Control Devices, as published by the U.S. Department of Transportation, Federal Highway Administration. These signs shall not exceed four square feet in area and may be placed on private property to direct and guide traffic and parking on the same private property. Such signs shall not include advertising visible from any location outside of the property on which the sign appears.

(7) *Political.* Temporary signs advertising political parties or candidates for election or signs that otherwise provide for freedom of expression unrelated to any commercial endeavor may be erected or displayed and maintained on private property provided that they conform to state law and:

- a. Are no larger than 36 square feet;
- b. Are no taller than eight feet;
- c. Are not illuminated;
- d. Have no moving elements;
- e. Are placed with the consent of the property owner;
- f. Are not placed on or within public rights-of-way, on public property or within visibility triangles; and
- g. Are displayed within 90 days prior and ten days following the election for which they are intended.

(8) *Real estate.* In addition to other signs allowed by this chapter, on-premises real estate signs are permitted in compliance with the following standards:

- a. On a lot or parcel used or zoned for one or two dwellings:
 1. No more than one sign per street and adjacent to a street.
 2. The sign may not be illuminated.
 3. The sign shall not exceed eight square feet in area.
 4. The sign(s) shall be removed within 30 days of the property sale, lease, or issuance of certificate of occupancy.
 5. One additional sign may be allowed to advertise an open house, and may be placed on the property no sooner than five days before the open house and removed no later than one day after the event.
- b. On a lot or parcel used or zoned for multifamily or non-residential purposes:
 1. One sign allowed per 200 feet of street frontage, but not less than one sign per lot or parcel.
 2. No sign may be larger than 50 square feet.
 3. The sign(s) shall be removed within 30 days of the property sale, lease, or issuance of certificate of occupancy.
- c. No sign may be placed in public or private street right-of-way or on public property.

(9) *Service entrance.* A sign for building identification provided the sign area does not exceed four square feet.

(10) *Signs along streets, public ways, or railroads.* Signs along streets, public ways, or railroads, as follows:

- a. Permanent signs, including: public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
- b. Bus stop signs erected by a public transit company. No advertising is permitted at bus stops except for a single sign no larger than two square feet that advertises the bus stop.
- c. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;
- d. Canopy, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of this Code.

- e. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
- f. Special event signs in state rights-of-way, subject to approval of a permit issued by the state department of transportation.
- g. Temporary signs no larger than 64 square feet and approved and erected as part of a community-wide special event that has been approved by the planning director.
- h. Special event or other signs approved by the city council in accordance with chapter 114.

(11) *Home occupation signs.* In one or two-family zoned areas, one non-illuminated identification sign that is physically attached to the exterior of the structure, with a sign area no larger than four square feet.

(12) *Light pole mounted banners.*

~~(13) *Subdivision entry signs.* Subdivision entry signs are allowed at any entrance into a subdivision, subject to the following standards:~~

- ~~a. Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;~~
- ~~b. Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material(s) compatible with surrounding development.~~
- ~~c. Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right of way.~~
- ~~d. Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five gallon shrub for every ten square feet of landscaped area.~~
 - ~~1. One of the following irrigation methods shall be used to ensure the survival of the required plant material in the landscaped areas:~~
 - ~~A.—Conventional system. An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.~~
 - ~~B.—Drip or leak pipe system. An automatic or underground irrigation system in conjunction with a water saving system such as a drip or a leaky pipe system.~~
 - ~~C.—Temporary and above ground watering. Landscape areas utilizing xeriscape plants and installation techniques, including~~

~~areas planted with native grasses, wildflowers and trees may use a temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.~~

~~D. — No irrigation shall be required for undisturbed natural areas or undisturbed trees.~~

~~2. The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.~~

~~(14)~~ (13) *Personal temporary signs no larger than eight square feet with no commercial message on a premise with a one or two family dwelling.* Examples: new baby, school athlete, cheerleader, honor student, and birthday party.

~~(15)~~ (14) *Garage or yard sale signs.* "Garage" or yard sale signs no larger than eight square feet in any zoning district.

(Ord. No. 2008-78, § 1(Exh. A), 12-15-08; Ord. No. 2011-05, § 1, 1-10-11)

Sec. 106-14. - Permanent on-premises sign regulations.

(a) *Sign dimensional standards.* **No Changes to Table**

(b) *Design requirements.*

(1) *Monument signs and low-profile pole signs.* Monument signs or low-profile pole signs are the only permanent on-premise freestanding sign allowed, except on properties with IH 35 where pole signs are also permitted.

a. *Monument signs.*

1. Monument signs shall have only two sign faces.
2. The structure of monument signs shall be constructed of materials and colors compatible with those utilized on the primary building's facade.
3. Monument signs located on the same property must be spaced a minimum of 100 feet apart from other freestanding signs for which a permit is required.
4. A shared monument sign is encouraged. Such a monument sign must be located on one of the properties included in the sign text.

b. *Low-profile pole signs.*

1. Low-profile pole signs are permitted on any property as an alternative to permitted pole or monument signs.

2. Low profile pole signs may have only two sign faces.
3. Low-profile pole signs located on the same property must be spaced a minimum of 100 feet apart from other freestanding signs for which a permit is required.
4. A shared low-profile sign is encouraged. Such a sign must be located on one of the properties included in the sign text.
5. In the C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, MU-A, MU-B, M-1, M-1A, M-2, M-2A districts (non-residential uses only): For properties in excess of 500 feet of frontage, additional sign square footage is allowed as determined in the above chart. The cumulative square footage of allowed signs may be distributed between the maximum number of allowed signs with no one sign exceeding 100 square feet in size.

(2) *Landmark signs.* To be recognized and designated as landmark signs, an individual sign must be approved by the procedures adopted by the historic landmark commission. To be considered for designation, these signs shall exhibit such a unique character, design, or historical significance to be recognized as such to the community.

(3) *Pole signs on properties with IH 35 frontage.* Pole signs are permitted on properties with IH 35 frontage, and which have commercial or industrial zoning provided they meet the following requirements:

- a. Height limit shall be 40 feet. For signs on properties with IH 35 frontage, additional height may be allowed.
 1. This additional allowance will be determined by measuring the difference between the elevation of the property at the proposed location of the sign and the elevation of IH 35 main travel lanes.
 2. Determination of the elevational difference shall be measured by projecting a perpendicular line from the center line of the proposed location of the sign to the IH 35 main travel lanes section nearest the sign.
 3. The allowance will only apply for properties and sign locations that are determined to be lower in elevation than the IH 35 main travel lanes, as measured by b. above.
- b. Maximum area shall be 400 square feet per face.
- c. Pole sign shall have only two sign faces.
- d. Properties with IH 35 frontage may have only one pole sign for each 400 feet of frontage. Poles signs shall be spaced a minimum of 300 feet apart.
- e. All signs shall maintain a minimum clearance from electric power lines of ten feet horizontally and 15 feet vertically or as otherwise may be required by the utility provider. Any relocation of power lines to provide this clearance will be at the expense of the sign owner. Such signs are allowed in addition to permitted signage on the tract.

(4) *Governmental flags.* Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction are permitted in all zoning districts provided that they meet the following requirements:

- a. United States flags shall be flown in accordance with the protocol established by the Congress of the United States for the Stars and Stripes, Title 4, Chapter 1—The Flag.
- b. Governmental flags shall not exceed the maximum height and size as provided for in table 106-13.1 of section 106-13. The overall measurement of the flag pole shall not exceed 25 feet in height as measured from the base of the pole to the top regardless of where the governmental flag pole is located.
- c. When a flagpole is located on the top of a roof, the placement and attachment of the pole shall meet the building code for wind and structural loading requirements. The plan design criteria shall provide the proposed location, attachment method to the structure and wind load resistance. A building permit shall be required for this type of installation.
- d. Within zoning districts C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, MU-A, MU-B, M-1, M-1A, M-2, M-2A districts (non-residential uses only) ground mounted flag poles can exceed the 25-foot height limit but shall not exceed the maximum building height as allowed in that district.

(5) *High profile monument signs on properties with Loop 337, SH 46, FM 306, FM 725 and Business 35 Frontage.* High profile monument signs are permitted on properties with Loop 337, SH 46, FM 306, FM 725 and Business 35 frontage, and which have commercial or industrial zoning provided they meet the following requirements:

- a. Height limit shall be 28 feet. For signs on properties with Loop 337, SH 46, FM 306, FM 725 and Business 35 frontage, additional height may be allowed.
 1. This additional allowance will be determined by measuring the difference between the elevation of the property at the proposed location of the sign and the elevation of the main lanes of Loop 337, SH 46, FM 306, FM 725 and Business 35.
 2. Determination of the elevation difference shall be measured by projecting a perpendicular line from the center line of the proposed location of the sign to the center line of the main lanes of Loop 337, SH 46, FM 306, FM 725 and Business 35 nearest the sign.
 3. The allowance will only apply for properties and sign locations that are determined to be lower in elevation than the main lanes of Loop 337, SH 46, FM 306, FM 725 and Business 35, as measured by b. above.
- b. Maximum area shall be 225 square feet per face.
- c. High profile monument signs shall have only two sign faces.
- d. Properties with Loop 337, SH 46, FM 306, FM 725 and Business 35 frontage may have only one high profile monument sign for each 300 feet of frontage. High profile

monument signs shall be spaced a minimum of 300 feet apart. If a property or commercial or industrial subdivision has less than 300 feet of frontage on Loop 337, SH 46, FM 306, FM 725 and Business 35 a high profile monument sign shall not be permitted.

e. All signs shall maintain a minimum clearance from electric power lines of ten feet horizontally and 15 feet vertically or as otherwise may be required by the utility provider. Any relocation of power lines to provide this clearance will be at the expense of the sign owner. Such signs are allowed in addition to permitted signage on the tract.

f. Alternative construction methods, may be considered by the planning director as long as the sign construction is compatible with the architectural design of the primary building or master architectural design of the commercial or industrial subdivision.

(6) *Municipal wayfinding signs.* Notwithstanding any conflicting provisions the city shall allow directional signs, including subdivision directional signs, consistent with the city's wayfinding sign program, as may be amended from time to time. The location, design, construction, installation and maintenance of these signs shall be the responsibility of the city.

(7) *Multi-tenant signs.* Developments containing two or more businesses, whether in a single building or multiple buildings, shall share a sign structure for advertisement of multiple businesses located within the development. This provision is applicable to businesses located on the same lot upon which the sign is located as well as to businesses located upon different lots within the development. Such signs shall comply with the following:

a. The lot or lots involved must be contiguous with one another, and constitute a single cohesive development;

b. The sign(s) must be located on a lot that one of the advertised businesses occupies;

c. The sign shall be designed in the overall architectural style of the buildings within the development;

d. The signs may be any sign type that is otherwise allowed by this chapter;

e. Private streets within the boundaries of the development are treated as public rights-of-way for purposes of determining allowable signage;

f. Individual pad or lease sites, defined in the approved site plan, are treated as separate lots for purposes of determining allowable signage;

1. Businesses shall not be allowed advertising on both the multiple tenant (shared) sign and another free standing business identification sign;

2. Monument signs, used as multi-tenant signs for developments with four or more tenants, may have an allowable sign area not to exceed 64 square feet.

g. In addition to signage that would otherwise be allowed on a lot for business identification purposes, one additional monument sign not exceeding five feet in height and 32 square feet in area may be located at each intersection of public roadways and/or

private roadways for purposes of directing traffic to various areas and businesses within the development;

h. All other provisions of this chapter shall be applicable to this sign category, including but not limited to, allowed number based on road frontage (multiple lot developments are treated as a single lot for this purpose), allowable size as a function of zoning district, spacing, illumination, materials, etc.

(8) Subdivision entry signs. Subdivision entry signs are allowed at any entrance into a subdivision, subject to the following standards:

a. Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;

b. Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material(s) compatible with surrounding development.

c. Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right-of-way.

d. Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five-gallon shrub for every ten square feet of landscaped area.

1. One of the following irrigation methods shall be used to ensure the survival of the required plant material in the landscaped areas.

A. Conventional system. An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.

B. Drip or leak-pipe system. An automatic or underground irrigation system in conjunction with a water-saving system such as a drip or a leaky-pipe system.

C. Temporary and above-ground watering. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.

D. No irrigation shall be required for undisturbed natural areas or undisturbed trees.

2. The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.

(c) *Electronic message sign.* **No Changes to This Section**

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES, CHAPTER 106, SIGNS, DELETING SECTION 10B, (13) SUBDIVISION ENTRY SIGNS FROM SIGNS EXEMPT FROM REGULATION OR PERMIT; AMENDING SECTION 14B, PERMANAENT ON- PREMISE SIGN REGULATIONS BY ADDING SUBSECTION (8) SUBDIVISION ENTRY SIGNS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels, Texas, finds it necessary to establish rules and regulations governing the use of land in the city limits; and

WHEREAS, the City Council has directed that regulations dealing with the use and development of land be reviewed by the Planning Commission to make recommendations concerning improving those regulations; and

WHEREAS, the Planning Commission held a public hearing on August 7, 2018 and recommended approval of amendments to the Subdivision Entry Signs section of the Sign Ordinance; and

WHEREAS, the City Council finds that relocating the regulations for subdivision entry to ensure the standards set forth within the Code are being upheld within the City of New Braunfels; **now therefore**,

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

SECTION 1

THAT Chapter 106, Signs, Section 10b Signs Exempt from Regulation or Permits, Subsection (13) Subdivision entry signs is hereby deleted for purposes of relocation as shown below:

~~(13) — *Subdivision entry signs.* Subdivision entry signs are allowed at any entrance into a subdivision, subject to the following standards:~~

~~a. — Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;~~

~~b. — Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material(s) compatible with surrounding development.~~

~~c. — Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right-of-way.~~

~~d. — Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five-gallon shrub for every ten square feet of landscaped area.~~

~~1. — One of the following irrigation methods shall be used to ensure the~~

~~survival of the required plant material in the landscaped areas.~~

~~A. Conventional system. An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.~~

~~B. Drip or leak pipe system. An automatic or underground irrigation system in conjunction with a water saving system such as a drip or a leaky pipe system.~~

~~C. Temporary and above-ground watering. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.~~

~~D. No irrigation shall be required for undisturbed natural areas or undisturbed trees.~~

~~2. The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.~~

SECTION 2

THAT Chapter 106, Signs, Section 14b, Permanent on-premises sign regulations, is hereby amended by adding the following Subsection:

(8) *Subdivision entry signs.* Subdivision entry signs are allowed at any entrance into a subdivision, subject to the following standards:

a. Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;

b. Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material(s) compatible with surrounding development.

c. Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right-of-way.

d. Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five-gallon shrub for every ten square feet of landscaped area.

1. One of the following irrigation methods shall be used to ensure the survival of the required plant material in the landscaped areas.

A. Conventional system. An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.

B. Drip or leak-pipe system. An automatic or underground irrigation system in conjunction with a water-saving system such as a drip or a leaky-pipe system.

C. Temporary and above-ground watering. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.

D. No irrigation shall be required for undisturbed natural areas or undisturbed trees.

2. The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.

SECTION 3

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 4

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

SECTION 5

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

SECTION 6

THAT in accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

SECTION 7

THAT 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.

SECTION 8

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 the 27th day of August 2018.

PASSED AND APPROVED: Second and Final Reading this the 10th day of September 2018 .

CITY OF NEW BRAUNFELS

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

8/27/2018

Agenda Item No. E)

Presenter/Contact

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

SUBJECT:

Approval of the second and final reading of an ordinance adopting the City of New Braunfels Comprehensive Plan: Envision New Braunfels.

BACKGROUND / RATIONALE:

Council District: Citywide

City Council held a public hearing on August 13, 2018 and unanimously approved the first reading of the ordinance to adopt Envision New Braunfels: the 2018 Comprehensive Plan (7-0-0).

A comprehensive plan is an over-arching, policy document that guides decision making to reach end-goals. Driven by citizen and stakeholder input, it informs all other plans communities engage in at different hierarchical levels. Time horizons for comprehensive plans range from 15 to 40 years depending on population growth rate. As New Braunfels is presently the 2nd fastest growing city in the nation, much will change (and has been changing) from year to year. Therefore, updates to our plan should be frequent to keep pace with growth.

Envision New Braunfels is an update to the 1999 Comprehensive Plan, which was last updated in 2006. It is a community-driven planning initiative that is not a regulatory document, but is a guide to steer strategic decision making around core issues such as housing, transportation, urban design, natural resource protection, land use, etc., all to sustain our quality of life in the face of tremendous growth over the next 15-plus years.

Envision New Braunfels has been developed over an almost 2-year process that included data collection; population/demographic analysis; technical expertise from stakeholders throughout the community; City staff, community leaders, and consultant team assistance; and continuous public input. The plan addresses projected growth through goals, strategies and actions that will drive policies, projects, programs, plan initiatives and partnerships to improve the built environment, guide development patterns, enhance mobility, increase housing options, and incent regional collaboration.

Process

In the Fall of 2016, Design Workshop was hired to assist the community with development of Envision New Braunfels.

City Council established nine Plan Element Advisory Groups:

- Growth & Future Land Use
- Urban Design & Cultural, Heritage and Historic Preservation
- Parks & Recreation
- Transportation
- Economic Competitiveness
- Tourism
- Natural Resources & Infrastructure
- Education & Youth
- Facilities, Services & Capital Improvements

Over 200 Citizens, residents, property owners, business owners and other stakeholders volunteered to serve on these advisory groups. The role of the advisory groups was to meet, write and review content of the plan itself.

City Council created a nine-member Steering Committee made up of representatives of the following entities:

- City Council
- NBU
- Comal County
- Guadalupe County
- New Braunfels Chamber of Commerce
- New Braunfels Planning Commission
- New Braunfels Economic Development Corporation (4B Board)
- New Braunfels Independent School District
- Comal Independent School District

The role of the Steering Committee was to guide the process, serve as liaisons to the Plan Element Advisory Groups, and review work of the groups, staff and consultants.

Four community-wide dialogues were held using various different input gathering techniques and engagement tools:

- November 2016 - Visioning
- March 2017 - Goals and Growth Scenarios
- October 2017 - Key Findings
- January 2018 - Actions

The Plan Element Advisory Groups met individually via 9 meetings over the summer of 2017. At these meetings, group members wrote strategies and actions intended to achieve the goals established at the March 2017 community-wide dialogue. The Advisory Groups also spent considerable time corresponding via email on drafts and edits over the Fall 2017 and Spring 2018.

Several online polls were set up to gather input, as well as feedback on work done. A Facebook page was established to provide information on events and activities, and to generate conversations about core long range planning issues and topics <https://www.facebook.com/NBCompPlan/>. Additionally, a project website, www.envisionnewbraunfels.org <http://www.envisionnewbraunfels.org>, was established for the general public to follow along with

the process.

Throughout the process, City staff engaged the general public in a variety of venues and with innovative methods including interactive presentations, discussions, and activities. Groups engaged included:

- Ministerial Alliance
- Breakfast Lions Club
- Rotary Club
- Downtown Rotary Club
- Kiwanis Club
- National Active and Retired Federal Employees Association
- Chamber of Commerce Board
- Economic Development Foundation
- Hispanic Business Alliance
- Chamber's RAP Council
- Several realtor groups and associations

Creative outreach activities at various events included:

- Family Fun Day at Eikel Park
- City University
- Movies in Landa Park
- Memorial Early College High School Careers Class
- Comal ISD's Student Advisory Committee Meeting

The open process included information push and interactive exercises with the advisory groups and the general public along the way. In mid-June 2018, the "public hearing draft" of the plan was completed and sent to all groups, including the Planning Commission. Several press releases announced this to the general public. The draft is posted on the Envision New Braunfels website and has been up for public review throughout the entire public hearing adoption process.

Highlights

Envision New Braunfels has 3 main components:

- an introduction, process overview and goal outline;
- existing conditions chapters; and
- an implementation section (Implementation Roadmap).

The Implementation Roadmap includes a layered future land use map generated out of the scenario planning and goals development exercises conducted by the Plan Element Advisory Groups. It also includes the advisory group drafted strategies and actions that when implemented will achieve the goals.

The building blocks of the future land use plan include:

- Sub Areas - geographic areas with special characteristics based on existing conditions or future vision
- Existing Centers - current points of activity and vitality
- Corridors - linear connections that stitch the community together and that should, therefore,

-
- have special attention to design
 - Future Centers - strategic placement of future growth that supports the community's vision and goals

Various different types of Centers are identified:

- Employment
- Market
- Medical
- Civic
- Outdoor Recreation
- Education
- Tourist/Entertainment

With a Center/Corridor approach, New Braunfels can preserve and protect existing and future neighborhoods, historic resources, parks, open space, natural resources, and trails by guiding future growth and development in centers and create attractive multi-modal corridors. The plan identifies those centers and corridors where appropriate mixed use transitions currently and should occur which can include appropriate locations for infill housing, office or other transitional uses.

Eight overall Strategies follow the future land use plan. When implemented, these strategies will achieve the goals outlined in the introduction. Each Strategy is then followed by categorized Actions - steps toward ultimate implementation of the Comprehensive Plan.

Finally, a regional planning section outlines ways our community can collaborate with our regional partners, whether they are other cities, agencies, or the private sector, to achieve broader goals. Collaborative partnerships is a running theme throughout the plan as an approach to accommodating the projected growth of the community and the region while sustaining New Braunfels' exceptional quality of life.

Implementation

Plans should be followed by action towards implementation. 259 actions within the Implementation Roadmap are categorized as policies, programs, plan initiatives, projects or partnerships. Some are already underway, some can be short-term, and others are more mid-term or long-range. Examples of some short-term include:

- Amendments to the zoning, platting, sign and parking ordinances
- Extraterritorial Jurisdiction (ETJ) policy
- Regional Thoroughfare Plan update
- Historic Properties Survey
- Sub-Area and Corridor Plans

As with writing the Comprehensive Plan, implementation is also a public process. In following through with each action, public participation and input is paramount. Staff will work with stakeholders to ensure implementation success over the ensuing years. Staff will also track initiatives and provide updates in the Planning and Community Development Department's annual report.

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

Creates the overarching policy plan with a framework that informs all other city plans and priorities.

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Comprehensive Plan Steering Committee recommends approval of Envision New Braunfels: the 2018 Comprehensive Plan for New Braunfels, Texas.

At their meeting on July 9, 2018, the New Braunfels Planning Commission held a public hearing and unanimously recommended approval of Envision New Braunfels.

STAFF RECOMMENDATION:

Staff recommends approval. The draft Comprehensive Plan can be viewed here:

www.envisionnewbraunfels.org <<http://www.envisionnewbraunfels.org>>

ORDINANCE NO. 2018-**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADOPTING ENVISION NEW BRAUNFELS AS THE CITY'S COMPREHENSIVE PLAN AND DIRECTING CITY STAFF TO BEGIN IMPLEMENTATION OF THE ENVISION NEW BRAUNFELS PLAN; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of New Braunfels, Texas initiated a community-driven input process to update the existing comprehensive plan to help meet the changing goals and needs of New Braunfels residents; and

WHEREAS, Envision New Braunfels, the City of New Braunfels' Comprehensive Plan, is a long range plan to guide growth, development and beautification of the City of New Braunfels; and

WHEREAS, the process to create Envision New Braunfels included intensive public engagement through a variety of innovative and traditional outreach methods over an 18-month period including 37 unique city-wide community input events, over 7,500 online participants, and over 1,400 written comments from citizens; and

WHEREAS, a public engagement structure for Envision New Braunfels was created with approximately 275 New Braunfelsers participating as members of Plan Element Advisory Groups who composed the goals, strategies and actions of the plan through the course of interactive meetings, events and online engagement; and

WHEREAS, a nine-member Steering Committee, appointed by City Council, met 16 times and communicated continuously to oversee the work of the Plan Element Advisory Groups, City Staff and the consultant team; and

WHEREAS, the Envision New Braunfels internet website was established to make reports, events, and draft plan documents available to the public throughout the process; and

WHEREAS, the community provided additional input through social media, online surveys, comment cards, direct correspondence, and interactive presentations; and

WHEREAS, Envision New Braunfels includes existing conditions and technical data in nine topical area chapters, future land use plan layers, goals, strategies and actions constituting an Implementation Roadmap; and

WHEREAS, the draft Envision New Braunfels plan has been available for final public review since June 20, 2018; and

WHEREAS, the Planning Commission of the City of New Braunfels, Texas held a public hearing and recommended approval of Envision New Braunfels at their regular meeting on July 3, 2018; and,

WHEREAS, the City Council of the City of New Braunfels, Texas received weekly updates throughout the process, periodic updates during their regular meetings, was briefed on the draft plan on July 9, 2018, and has considered public comments and input; and,

WHEREAS, the City Manager has submitted, along with his recommendation of passage, the Envision New Braunfels Comprehensive Plan to the City Council of New Braunfels, Texas for public hearing and approval as required by the City Charter; and,

WHEREAS, the City Council of the City of New Braunfels held a public hearing to provide testimony and submit written evidence during the first reading of this ordinance to receive additional public input on Envision New Braunfels.

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

Section 1. Findings of Fact

City Council adopts the foregoing statements and further finds that:

- A. The Texas Local Government Code Chapter 213 authorizes municipalities to adopt a comprehensive plan for the long range development of the City.
- B. It is imperative to plan for growth, development, and beautification that is compatible with the community's vision of the future, providing benefits to all current and future residents.
- C. Envision New Braunfels was developed with extensive community involvement.
- D. Envision New Braunfels promotes public health, safety and welfare.

Section 2.

City Council hereby adopts Envision New Braunfels as the City's Comprehensive Plan pursuant to this Ordinance.

Section 3.

Envision New Braunfels is attached and made a part hereof and incorporated herein for all purposes.

Section 4.

City Council directs City staff to implement Envision New Braunfels to guide the long range development of the City that will promote the public health, safety and welfare for all current and future residents of the City of New Braunfels, Texas.

Section 5.

The 1999 Comprehensive Plan, and the 2006 Comprehensive Plan Goals and Objectives, are hereby superseded by Envision New Braunfels, the 2018 Comprehensive Plan for the City of New Braunfels, Texas. The 2006 Comprehensive Plan Future Land Use Plan map, and its ensuing amendments, are hereby retained to supplement and provide context and guidance to future land use as it works in conjunction with Envision New Braunfels.

Section 6. 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 7. Effective Date and Publication.

THIS ordinance shall become adopted and effective on _____. 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 13th day of August, 2018.

PASSED AND APPROVED: Second reading this 27th day of August, 2018.

BARON CASTEEL, Mayor

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. A)

Presenter/Contact

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

SUBJECT:

Discuss and consider the approval of the first reading of an ordinance prohibiting the intentional feeding of wildlife within City Limits.

BACKGROUND / RATIONALE:

City staff has noted concerns associated with the abundance of wildlife within the City limits. Specifically, these concerns include wildlife-related auto collisions, degraded water quality, wildlife health and negative impacts to City parks. Staff has been working with the Texas Parks and Wildlife Department (TPWD) for the past several years to determine how to best address these issues.

Public meetings have been held in collaboration with TPWD in order to inform the community of the negative impacts associated with overabundant urban wildlife as well as potential management options.

Staff has briefed City Council several times over the past several years. Most recently, staff presented recommendations to City Council at the regular Council meeting on June 11th, 2018. The staff recommendations include 1) development and implementation of a education campaign on the negative impacts of overabundant urban wildlife and wildlife feeding, 2) development and enactment of a wildlife feeding ordinance, 3) reduction in the population of non-native ducks and geese in Landa Park, and 4) installation of vulture deterrents. Council provided direction to staff to move forward with these recommendations.

A wildlife feeding ordinance prohibiting the feeding of wildlife has been drafted. The draft ordinance prohibits the feeding of all wildlife with the exception of feeding birds by use of common bird feeders. The draft ordinance provides for enforcement proceedings and penalties. The ordinance includes a six-month grace period prior to becoming effective.

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

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FISCAL IMPACT:

Education and outreach efforts associated with urban wildlife management and the feeding ordinance will be funded through a grant provided by the Texas Commission on Environmental Quality.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of an ordinance prohibiting the intentional feeding of wildlife within City Limits.

ORDINANCE NO. 2018-

AMENDING THE CITY OF NEW BRAUNFELS, TEXAS, CODE OF ORDINANCES CHAPTER 82- OFFENSES AND MISCELLANEOUS PROVISIONS, CREATING SECTIONS 82-24 TO 82-28, THAT WILL CONTIAN NEW PROVISIONS RELATED TO PROHIBITING THE FEEDING OF WILDLIFE; PROVIDING DEFINITIONS AND PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels finds that feeding of wildlife has resulted in overabundant and highly concentrated populations of wildlife throughout the City and within City parks; and

WHEREAS, the feeding of deer has been shown to increase the concentration of deer in urbanized areas, thereby increasing the likelihood of collisions between vehicles and deer, and increasing damage to residential and commercial vegetation and landscaping in the City; and

WHEREAS, the City finds that overabundant deer and avian wildlife populations have contributed to an increase of bacteria pollution in the Comal River and Dry Comal Creek; and

WHEREAS, the feeding of wildlife can cause concentrated areas of biological waste, containing bacteria, nitrogen and phosphorus, which can lead to water quality degradation, thereby impacting popular contact recreation waterways; and

WHEREAS, the City and the Texas Parks and Wildlife Department find that discouraging and prohibiting the artificial feeding of wildlife is in the best interest of the health, safety and welfare of the community and wildlife populations.

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

Section 1

The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2

That Chapter 82, "Offenses and Miscellaneous Provisions", as it currently exists is amended by creating sections 82-24 to 82-28, related to prohibiting the feeding of wildlife, to read as follows:

Sec. 82-24. Definitions.

- (a) “Food” means bread products, corn, fruit, oats, hay, nuts, wheat, alfalfa, salt blocks, feed, grain, vegetables, and commercially sold wildlife feed, or livestock feed, but excludes live naturally growing shrubs, live crops, plants, flowers, vegetation, gardens, trees, and fruit or nuts that have fallen on the ground or are within reach of wildlife.
- (b) “Wildlife” means undomesticated animals living in the wild.

Sec. 82-25. Feeding of wildlife prohibited.

- (A) Except as provided below in 82-26, (A) and (B), a person commits an offense if the person intentionally feeds wildlife by making food available for consumption on private or public property within the territorial limits of the city.
- (B) A person shall be deemed to have purposely fed or caused wildlife to be fed if the person places food, as defined in this section, in any form, (not including live vegetation such as ornamental landscaping or flowers) on the ground, or within reach of wildlife.
- (C) A person who violates any provision of this ordinance commits an offense.

Sec. 82-26. Exceptions; Affirmative Defenses

- (A) This ordinance does not apply to the placement of food into feeders kept at a minimum of 5 feet above the ground surface and intended for birds.
- (B) This ordinance does not apply to an animal control officer, veterinarian, peace officer, City employee, federal or state wildlife official, who is acting pursuant to a lawfully authorized program to treat, manage, capture, trap, hunt, or remove wildlife and who is acting within the scope of the person’s authority.
- (C) It is an affirmative defense to prosecution under this section if a person places food, in good faith, for the purpose of feeding domestic livestock or domestic pets located on their property.

Sec. 82-27. Enforcement.

- (A) Animal Control Officers, Park Rangers and Police Officers are hereby given full power and authority to enforce this ordinance.
- (B) It is a violation to hinder, molest or interfere with anyone authorized or empowered to perform any duty under this ordinance.

Sec. 82-28. Penalties.

- (A) A person who commits a violation of this ordinance will first be given a warning and will be provided information on the negative impacts of wildlife feeding. A second offense will result in prosecution in municipal court. Any violation of this ordinance is deemed a Class C misdemeanor punishable by a fine of not less than \$75.00 or more than \$500.00. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.
- (B) No culpable mental state required. The culpable mental state required by chapter 6.02 of the Texas Penal Code is hereby specifically negated. The offenses under this ordinance shall be strict liability offenses.
- (C) Nothing in this section shall be construed as to limit any civil action the city may take to enforce the terms of this ordinance.

Section 3

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 4

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

Section 5

All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

Section 6

In accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

Section 7

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, filing with the City Secretary's Office and then following a six-month grace period that allows for community education and outreach. 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 _____ day of _____, 2018.

PASSED AND APPROVED: Second reading this _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
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

8/27/2018

Agenda Item No. B)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed zone change from “C-3” Commercial District to “MU-B” High Intensity Mixed Use District for Lot 2, Block 1, Executive Park, Unit 2, containing 1.53 acres, and addressed at 556 Danken Lane.

BACKGROUND / RATIONALE:

Case No.: PZ-18-023

Council District: 6

Owner/Applicant: Kahlig Enterprises, Inc.
DBA: Bluebonnet Motors (Wes Studdard, General Manager)
351 IH 35 S
New Braunfels, TX 78130
(830) 606-8011

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

Background/rationale:

The subject property is 1.53 acres located at the northwest corner of the intersection of Danken Lane and Executive Drive, with approximately 265 feet of frontage on Executive Drive and 255 feet of frontage on Danken Lane, and is zoned “C-3” Commercial District. The property is currently fully paved and utilized as a parking lot for Bluebonnet Motors employees and vehicle inventory.

The applicant is proposing to construct a new diesel mechanic shop for Bluebonnet Motors on the property. The proposed building would be approximately 230 feet wide by 38 feet deep, with 10 mechanic bays. There are no front, side or corner side setback requirements in the C-3 District; the rear setback in C-3 is 20 feet.

The applicant is proposing to place the building 9.5 feet from the rear property line, which would be an encroachment of 11.5 feet into the 20-foot rear setback. Earlier this year the applicant submitted a variance request for the proposed 11.5-foot encroachment into the rear setback. A motion to approve the variance request failed with a 2-3 vote at the Zoning Board of Adjustment (ZBA) April 26, 2018 meeting where the Board expressed concerns the land lacked unique physical characteristics to warrant approval of a variance for the C-3 District. Therefore, an alternative was to seek a different

zoning district that might be more appropriate at this location.

Therefore, the applicant is now seeking to rezone the property to "MU-B" High Intensity Mixed Use District. To incentivize mixed use and increased density, MU-B requires no front, side or corner side setback requirements, and requires a rear setback of 5 feet with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet. The height of the proposed building is 20 feet, so the MU-B's development standards would accommodate the applicant's proposed project as presently planned.

General Information:

Size: 1.53 Acres

Surrounding Zoning and Land Use:

North - C-3 / Rush office building

South -

East - Across Executive Drive, M-2 and C-3 / Bluebonnet Motors and a parking lot

West - C-3 / Drainage and detention facility

Comprehensive Plan / Future Land Use Designation: Commercial

Floodplain:

Approximately 6.3% of the subject property is located within the 100-year floodplain.

Regional Transportation Plan:

Executive Drive and Danken Lane are both classified as Local Streets and have 60-foot right-of-way widths. No additional right-of-way dedication is required with this project.

Improvement(s):

Parking lot

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

✓	Yes	<p>City Plan/Council Priority: 2006 Comprehensive Plan</p> <p><i>Pros and Cons Based on Policies Plan</i></p>	<p>Pros: Goal 1 Objective A: <i>Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.</i> The proposed MU-B zoning is consistent with the Future Land Use Plan, compatible with development in the area and adjacent zoning, and would integrate a mix of land uses.</p> <p>Objective I: <i>Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods.</i> No access through residential neighborhoods would occur.</p> <p>Goal 2 Objective D: <i>Approve rezonings that provide for a mix of land uses.</i> The MU-B district is a mixed use district.</p> <p>Goal 35 Objective D: <i>Provide an adequate supply of appropriately zoned areas for future and existing business and industrial development expansion.</i> Bluebonnet Motors will be expanding its services onto this lot if the zoning change is approved.</p> <p>Cons: The MU-B district allows intense land uses with reduced setbacks intended to encourage mixed use projects rather than single use.</p>
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FISCAL IMPACT:

N/A

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 MU-B zoning district is compatible with surrounding M-2, C-3 and C-1A zoning districts. The subject property is not adjacent to any property zoned or used for residential purposes, and is situated on a short road that connects the IH-35 frontage road to Old McQueeney Road. This roadway has no access to residential neighborhoods. Given the small size of the property, it is highly unlikely the property would ever be used for the more intense MU-B uses such as an airport, driving range, fair ground, freight terminal with outside freight storage or heliport).*
- 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, street, 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 appropriate zoning for the location.*);
- 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.); and

- *Whether the request is consistent with the Comprehensive Plan (The request is consistent with the Comprehensive Plan Future Land Use designation as Commercial in a general area with opportunities for redevelopment. It is situated within an existing Employment Center and is identified as being within a future Market Center and near a Transitional Mixed Use Corridor on the proposed Future Land Use Plan in the new Comprehensive Plan.).*

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on August 7, 2018 and unanimously recommended approval (7-0-0).

STAFF RECOMMENDATION:

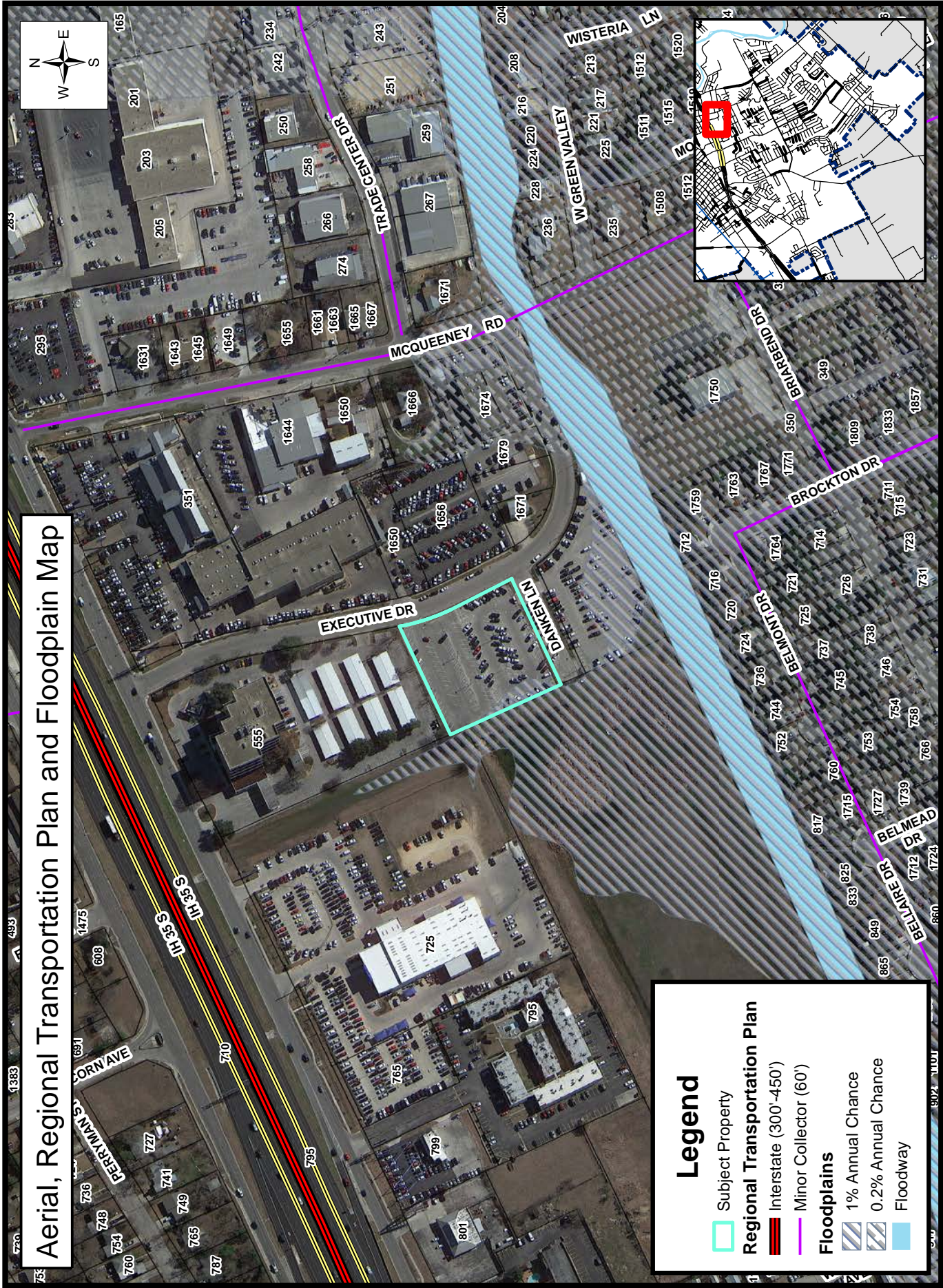
Staff recommends approval of the proposed rezoning as it is consistent with the Future Land Use Plan and surrounding development and meets several goals of the Comprehensive Plan.

Notification:

Public hearing notices were sent to owners of 5 properties within 200 feet of the request. The Planning Division has received no responses in favor or in objection.

Attachments:

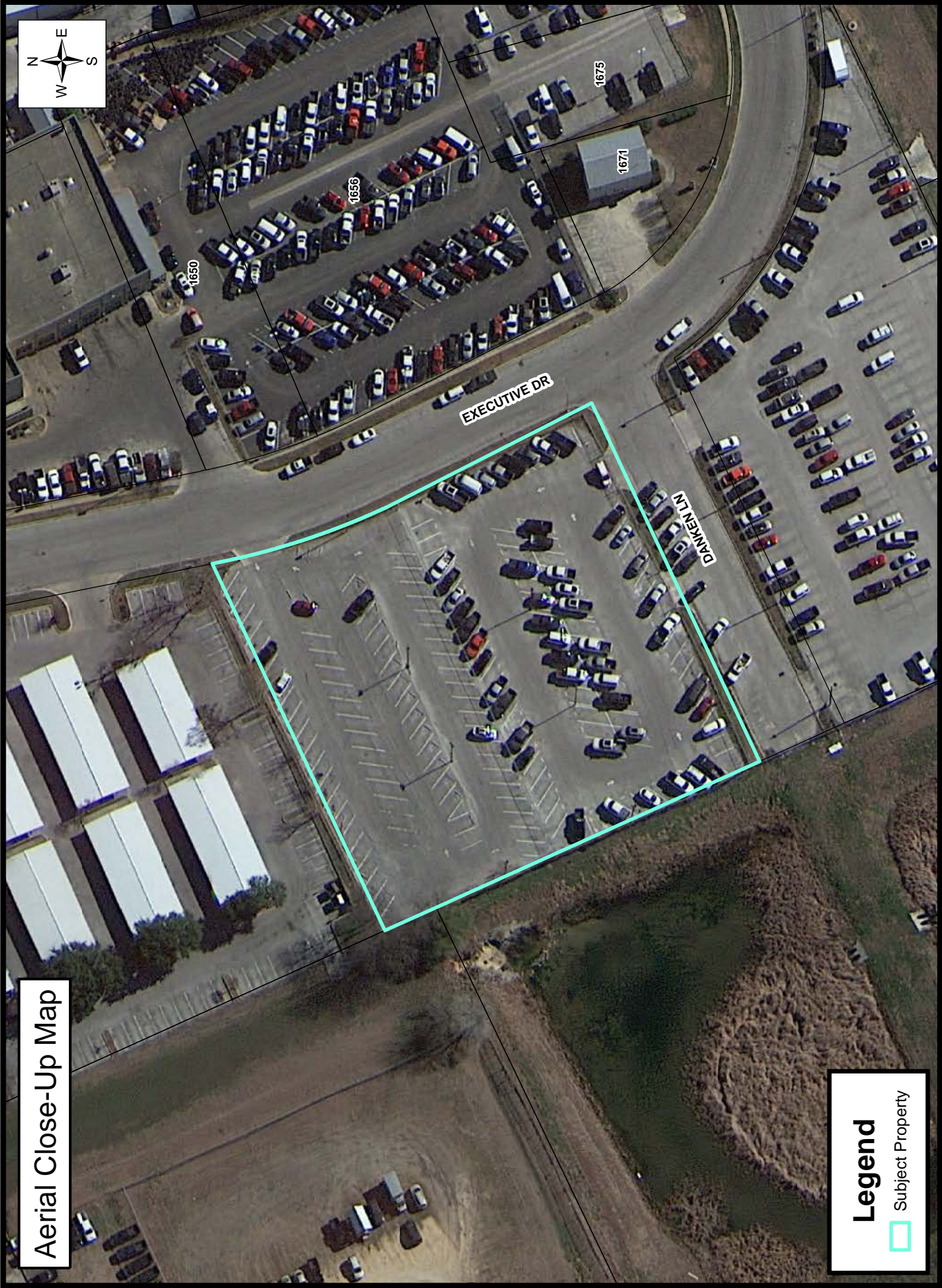
1. Aerial Maps
2. Application
3. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
4. Notification List and Map
5. Sec. 3.3-9 C-3
6. Sec. 3.4-11 MU-B
7. Photographs
8. Excerpt of Minutes from the August 7, 2018 Planning Commission Regular Meeting
9. Ordinance



Map Created 7/16/18

PZ-18-023
556 Danken Ln.
C-3 to MU-B





Aerial Close-Up Map

Legend

Subject Property



PZ-18-023
556 Danken Ln.
C-3 to MU-B

Map Created 7/16/18



RECEIVED APPLICATION FOR A ZONING CHANGE

JUN 27 2018

BY:

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

Case Number: PZ-18-023

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

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: Wes StuddardMailing Address: 351 IH 35 South, New Braunfels, Tx 78130Telephone: (830) 606-8011

Fax:

Mobile:

Email: wstuddard@bbmotors.com

2. Property Address/Location: Intersection of Executive Drive and Danken Lane

3. Legal Description: EXECUTIVE PARK 2, BLOCK 1, LOT 2, ACRES 1.53

Name of Subdivision: Executive Park 2Lot(s): 2 Block(s): 1 Acreage: 1.53

4. Existing Use of Property: Parking lot

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

Car care center

6. Zoning Change Request: Current Zoning: C-3 Proposed Zoning: MU-B

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):

To remove 25' setback line for proposed development

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

9. REQUIRED ATTACHMENTS:

☐ N/A 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.
☐ N/A 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
☐ Technology fee: 3% of total fee: \$

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

Wes Studdard
Signature of Owner(s)/Agent

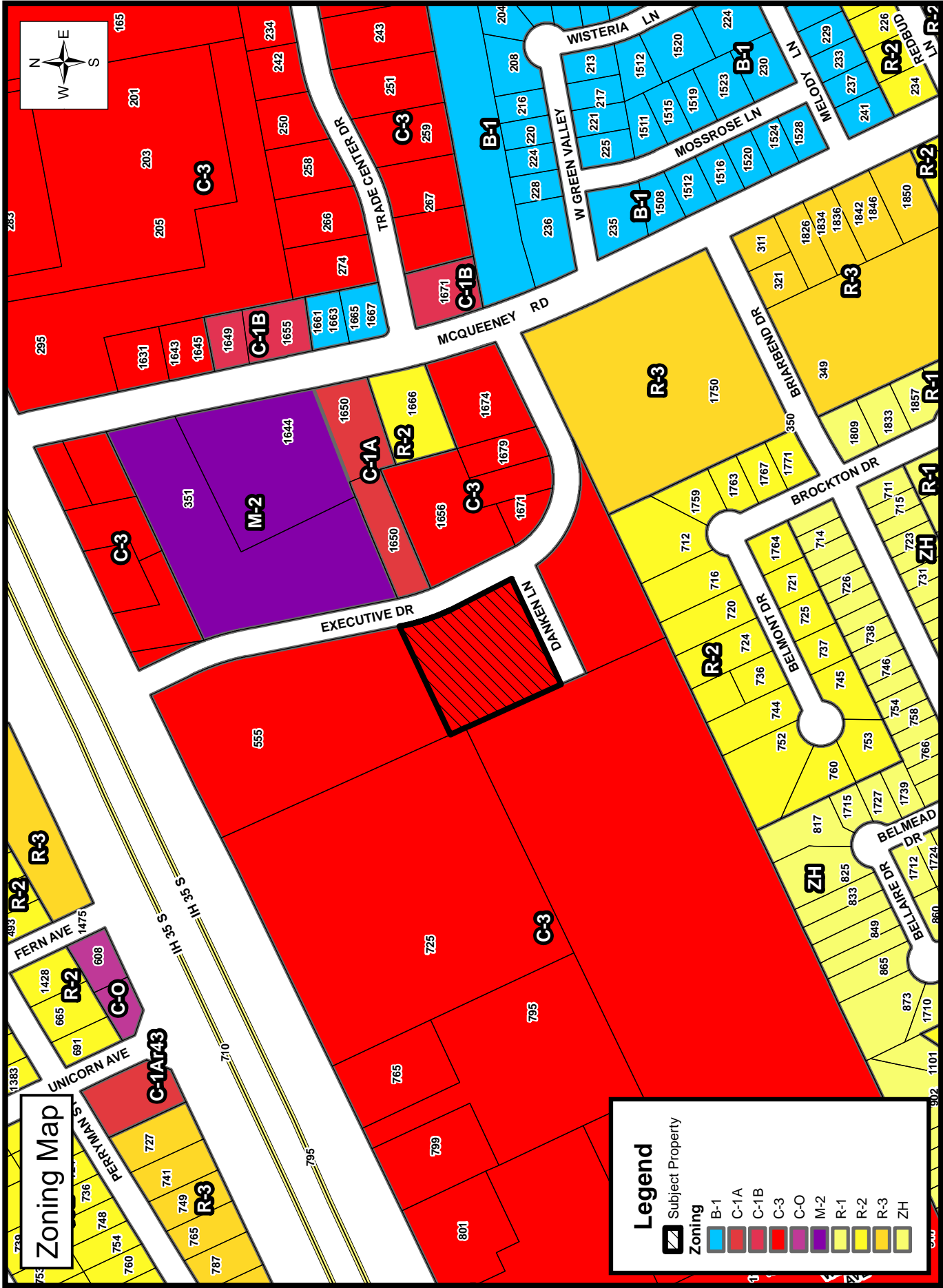
6/21/2018
Date
WES STUDDARD Vice-President
Print Name & Title

For Office Use Only

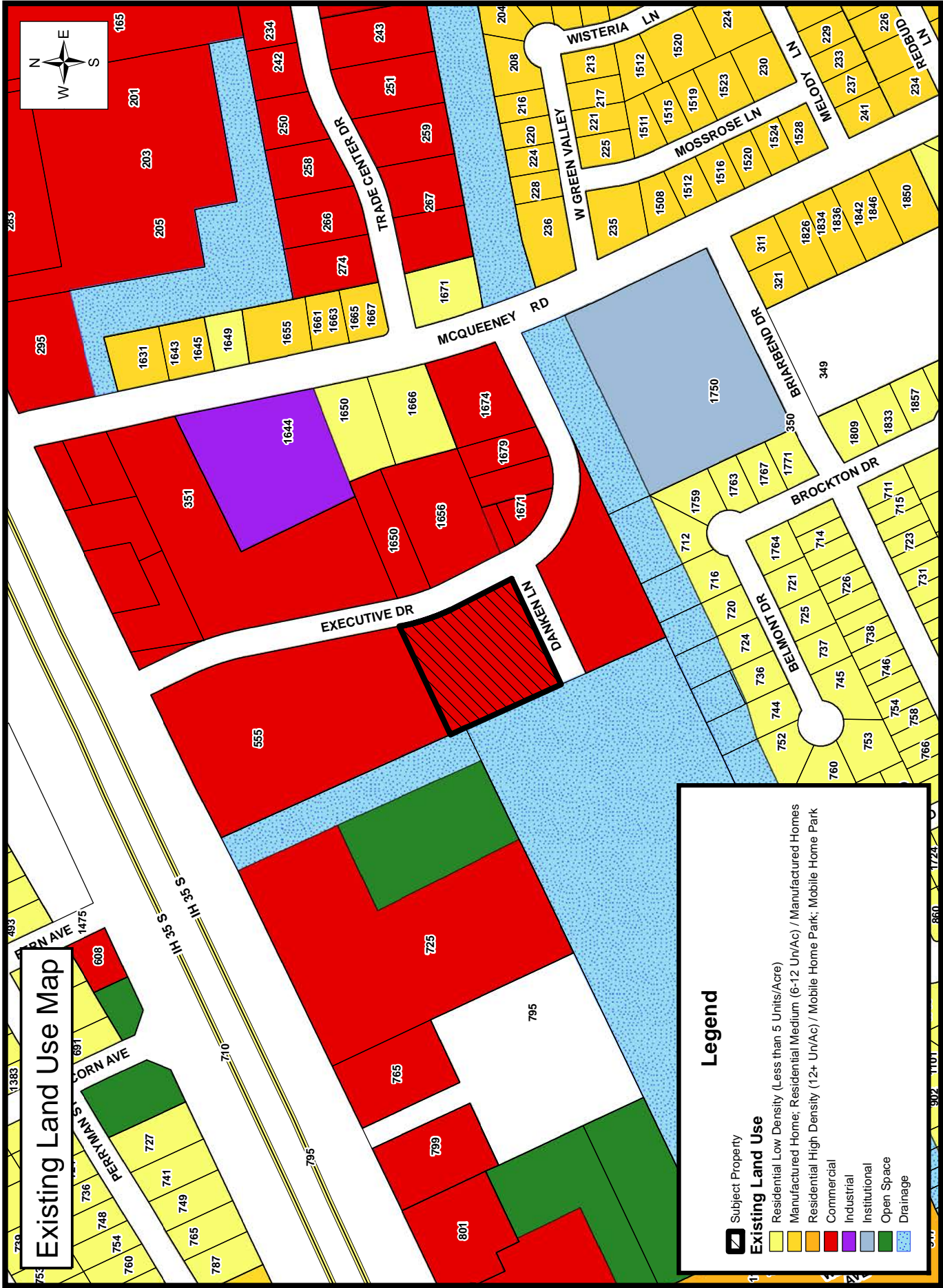
Fee Received By: K. Crowe Amount: \$1,000 Receipt No.: 213801

Date Received: 6/27/18 Zoning signs Issued: _____ Date: _____ No.: _____

Cash/Check Number: 412861 Case Number: PZ-18-023



PZ-18-023
556 Danken Ln.
C-3 to MU-B



PLANNING COMMISSION – August 7, 2018
City Hall Council Chambers, 550 Landa Street

Address/Location: 556 Danken Lane (Legal Description: Lot 2, Block 1, Executive Park 2)

Applicant: Wes Studdard, agent for Kahlig Enterprises, Inc.

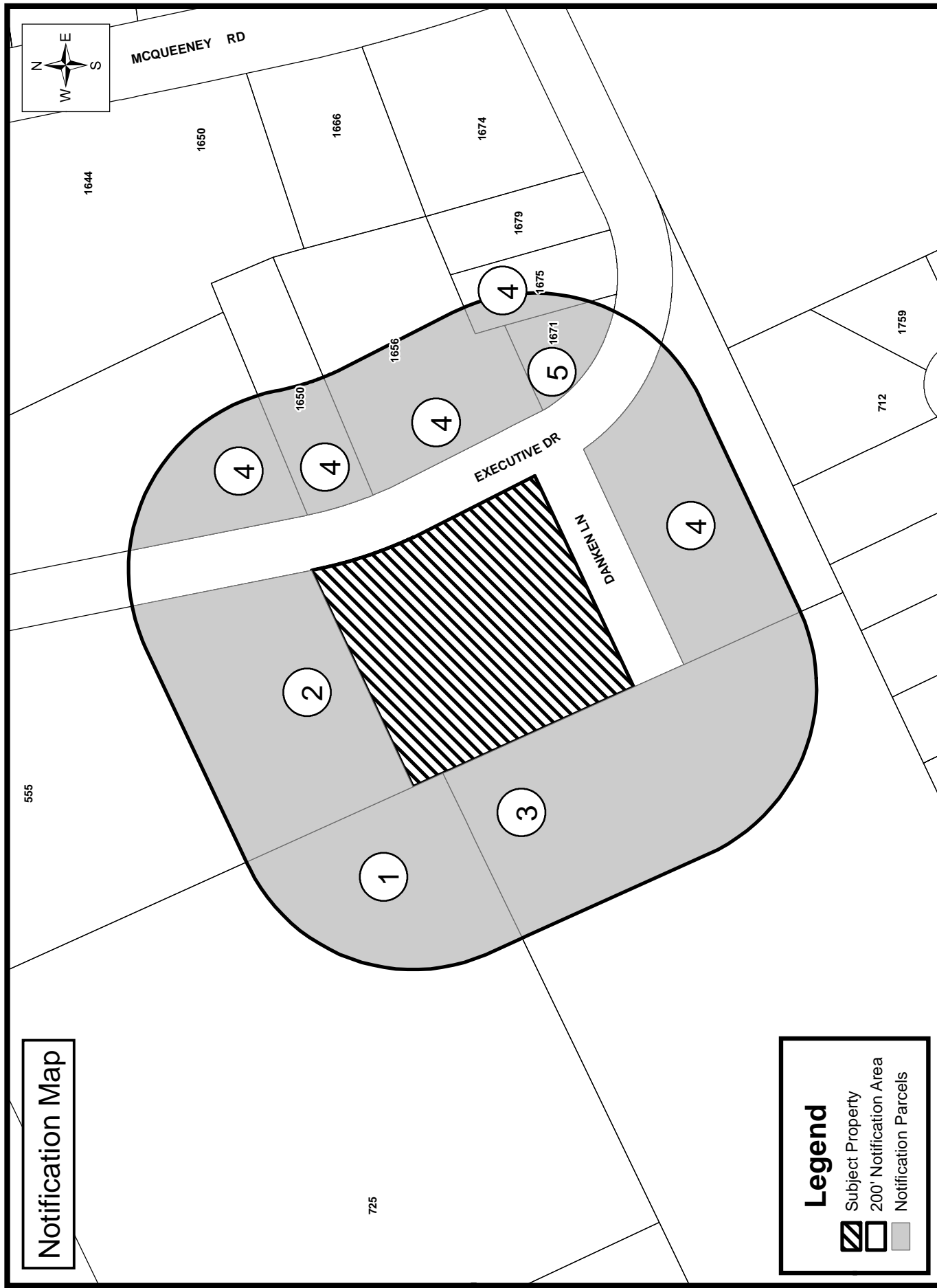
Request: To rezone Lot 2, Block 1, Executive Park 2 from “C-3” Commercial District to “MU-B” High Intensity Mixed Use District.

Case #: PZ-18-023

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. Maxwell, Donald
2. Rush Real Estate Holdings, Inc.
3. City of New Braunfels
4. Kahlig Enterprises, Inc.
5. Lehr, Larry & Donna

SEE NOTIFICATION MAP



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.)

3.4-11. "MU-B" high intensity mixed use district.

Purpose. The MU-B High Intensity Mixed Use District is intended to provide for a mixture of more intense retail, office, and industrial uses in close proximity to enable people to live, work and shop in a single location. Bed-and-breakfast establishments could also be located in this district. Pedestrian walkways and open areas are desired in order to promote a pedestrian-friendly environment.

- (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
Bed and breakfast inn (see Sec. 5.6)
Boardinghouse/lodging house
Community home (see definition)
Dormitory (in which individual rooms are for rental)
Hospice

Multifamily (apartments/condominiums – at least five units)
Rental or occupancy for less than one month (see Sec. 5.17)
Residential use in buildings with the following non-residential uses
Townhouse (at least five lots)

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
Airport
All terrain vehicle (ATV) dealer / sales
Ambulance service (private)
Amphitheater
Amusement devices/arcade (4 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
Archery range
Armed services recruiting center
Art dealer / gallery
Artist or artisan's studio
Assembly/exhibition hall or areas
Assisted living facility / retirement home
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 (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
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 union
Bar/Tavern
Barber/beauty college (cosmetology school)
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
Blacksmith or wagon shops
Book binding
Book store
Bottling or distribution plants (milk)
Bottling works
Bowling alley/center (see Sec. 5.13)
Broadcast station (with tower) (see Sec. 5.6)
Bus barns or lots
Bus passenger stations
Cafeteria / café / delicatessen
Campers' supplies
Car wash (self service; automated)
Car wash, full service (detail shop)
Carpenter, cabinet, or pattern shops

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
 Cold storage plant
 Commercial amusement concessions and facilities
 Communication equipment - installation or repair
 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
 Driving range
 Drug sales/pharmacy
 Electrical repair shop
 Electrical substation
 Electronic assembly/high tech manufacturing
 Electroplating works
 Engine repair, manufacturing/re-manufacturing
 Exterminator service
 Fair ground
 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 (tanks must be below the ground)
 Florist
 Food or grocery store with or without fuel sales

Food processing (no outside public consumption)
 Forge (hand)
 Forge (power)
 Fraternal organization/civic club (private club)
 Freight terminal, rail/truck (when any storage of freight is outside an enclosed building)
 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)
 Galvanizing works
 Garden shops and greenhouses
 Golf course (public or private)
 Golf course (miniature)
 Governmental building or use with no outside storage
 Greenhouse (commercial)
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 Heating and air-conditioning sales / services
 Heavy load (farm) vehicle sales/repair (Sec. 5.14)
 Heliport
 Home repair and yard equipment retail and rental outlets
 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)
 Ice plants
 Industrial laundries
 Kiosk (providing a retail service)
 Laboratory equipment manufacturing
 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
 Leather products manufacturing
 Light manufacturing
 Limousine / taxi service
 Locksmith
 Lumberyard (see Sec. 5.15)
 Lumberyard or building material sales (Sec. 5.15)
 Machine shop
 Maintenance/janitorial service
 Major appliance sales (indoor)
 Manufactured home sales
 Manufacturing and processes
 Market (public, flea)
 Martial arts school
 Medical supplies and equipment

<p> Metal fabrication shop Micro brewery (onsite manufacturing and sales) Mini-warehouse/self storage units (with or without outside boat and RV storage) 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/ 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 Outside storage (as primary use) 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 Photographic studio (no sale of cameras or supplies) Photographic supply Plant nursery Plant nursery (growing for commercial purposes with retail sales on site) Plastic products molding/reshaping 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 Rappelling facilities </p>	<p> Recreation buildings (public or private) 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 Rodeo grounds RV park RV/travel trailer sales School, K-12 (public or private) School, vocational (business/commercial trade) Security monitoring company Security systems installation company Sheet metal shop Shoe repair shops Shooting gallery - indoor (see Sec. 5.13) Shopping center Sign manufacturing/painting plant Specialty shops in support of project guests and tourists Storage - exterior storage for boats and recreational vehicles Storage in bulk Studio for radio or television (with tower) (see Sec. 5.7) Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.) Tailor shop Tattoo or body piercing studio Taxidermist Telemarketing agency Telephone exchange (office and other structures) Tennis court (commercial) Theater (non-motion picture; live drama) Tire sales (outdoors) Tool rental Transfer station (refuse/pick-up) Travel agency Truck or transit terminal (with outside storage) 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 </p>
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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 front building setback required.
- (iii) *Side building setback.* No side building setback is required.
- (iv) *Rear building setback.* Five feet minimum with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear building setback.
- (v) *Residential setback.* Where a non-residential building or a multifamily development of more than three units abuts a one or two family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Minimum lot area.* The minimum internal lot area shall be 6,000 square feet or 7,000 square feet for a corner lot.
- (viii) *Minimum lot frontage:* 60 feet.
- (ix) *Lot depth.* 100 feet.
- (x) *Parking.* See Section 5.1 for other permitted uses' parking.

(2) Multifamily dwellings.

- (i) *Height.* 120 feet.
- (ii) *Front building setbacks.* 25 feet.
- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* A side building setback of 20 feet shall be provided. 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.

- (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) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.
- (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.
- (viii) *Density.* No maximum.
- (ix) *Lot area* 20,000 square feet.
- (x) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (xi) *Distance between structures.* There shall be a minimum of 10 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; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20' between structures front to rear. (See Illustration 1)
- (xii) *Access to an arterial roadway or state highway required.* Developments in this district must have direct access to either an arterial roadway or state highway.
- (xiii) *Lot depth.* 100 feet.
- (xiv) *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.)

See Section 5.1 for other permitted uses' parking.

(3) Townhouses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 10 feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

- (iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.
- (iv) *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)
- (v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.
- (vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.
- (vii) *Lot depth.* 100 feet.
- (viii) *Lot area per family.* 2,500 square feet.
- (ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.
- (x) *Building group.* There shall be no less than five lots. There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.
- (xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."
- (xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See Section 5.1 for other permitted uses' parking.



Executive Dr.

**PZ-18-023
556 Danken Ln.
C-3 to MU-B**

Photograph taken 7/31/18





PZ-18-023
556 Danken Ln.
C-3 to MU-B

Photograph taken 7/31/18



Executive Dr.

Danken Lane

Subject

**PZ-18-023
556 Danken Ln.
C-3 to MU-B**

Photograph taken 7/31/18

Draft Minutes for the August 7, 2018 Planning Commission Regular Meeting

PZ-18-023 Public hearing and recommendation to City Council regarding a requested zone change from “C-3” Commercial District to “MU-B” High Intensity Mixed Use District for Lot 2, Block 1, Executive Park, Unit 2, containing 1.53 acres, and addressed at 556 Danken Lane.

(Applicant: HMT for Studdard; Case Manager M. Greene)

Acting Chair Sonier returned to the dais at 9:23 p.m.

Mr. Greene presented the Staff report and recommended approval.

Commissioner Meyer asked for confirmation that the request was mainly for an encroachment.

Acting Chair Sonier asked if anyone wished to speak in favor.

Chris Crim, representing the applicant, wished to speak in favor.

Acting Chair Sonier asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Tubb, to close the public hearing. The motion carried (7-0-0).

Motion by Commissioner Meyer, seconded by Commissioner Tubb, to recommend approval to City Council regarding a requested zone change from “C-3” Commercial District to “MU-B” High Intensity Mixed Use District for Lot 2, Block 1, Executive Park, Unit 2, containing 1.53 acres, and addressed at 556 Danken Lane. Motion carried (7-0-0).

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING LOT 2, BLOCK 1, EXECUTIVE PARK, UNIT 2, ADDRESSED AT 556 DANKEN LANE FROM "C-3" COMMERCIAL DISTRICT AND TO "MU-B" HIGH INTENSITY MIXED USE 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 "MU-B" High Intensity Mixed Use 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 Lot 2, Block 1, Executive Park, Unit 2, addressed as 556 Danken Lane, from "C-3" Commercial District to "MU-B" High Intensity Mixed Use 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 "C-3" Commercial District to "MU-B" High Intensity Mixed Use District:

"Lot 2, Block 1, Executive Park, Unit 2, addressed as 556 Danken Lane, as delineated on 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 27th day of August, 2018.

PASSED AND APPROVED: Second reading this 10th day of September, 2018.

CITY OF NEW BRAUNFELS

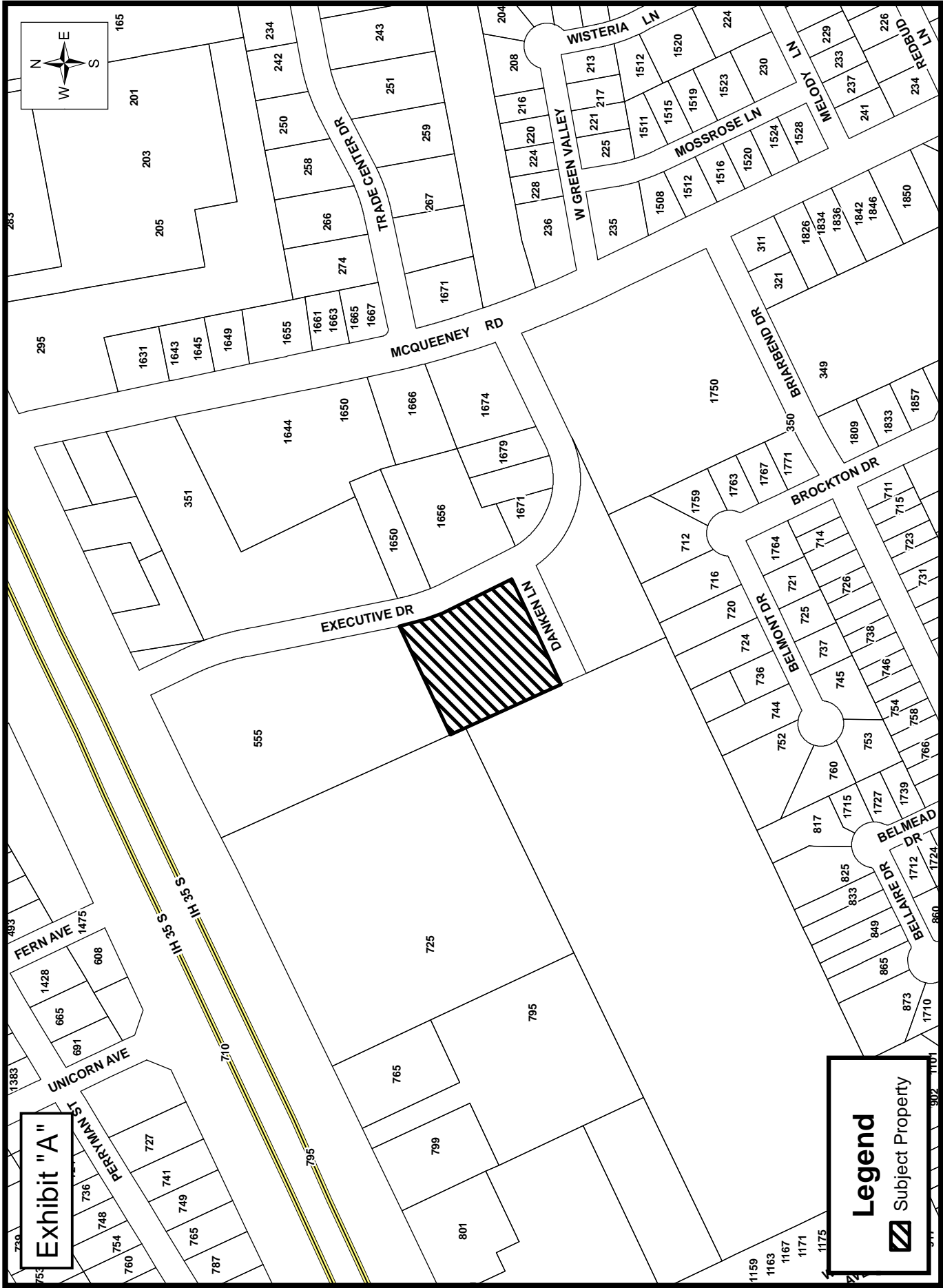
BARRON CASTEEL, Mayor

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

8/27/2018

Agenda Item No. C)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance rezoning 0.953 acres out of the JM Veramendi A-20 Survey, addressed at 1671 State Highway 46 South, from "APD" Agricultural/Pre-Development and "C-1" Local Business Districts to "MU-B" High Intensity Mixed Use District.

BACKGROUND / RATIONALE:

Case No.: PZ-18-020

Council District: 2

Owner/Applicant: Brenda Riddle
1036 Spanish Trail
New Braunfels, TX 78132
(361) 537-0880
Riddleb2@yahoo.com

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

Background/rationale:

The subject property is approximately one acre located on State Highway 46 South, north of the intersection of FM 758. It is zoned "C-1" Local Business District, with a sliver of "APD" Agricultural/Pre-Development at the rear because the land was annexed at two different times (1981 and 2003). The property currently contains a non-conforming manufactured home.

The applicant is requesting to rezone the subject property to "MU-B" High Intensity Mixed Use District to be consistent with zoning on the adjacent Mid-Tex property and to facilitate re-development. A conceptual site plan (Attachment 2) indicates the applicant is considering a mix of office space, commercial shop/warehouse and mini-warehouse storage on the property. However, this is not an SUP or a Planned Development request, therefore a site plan and conditions cannot be required of the zoning. If the requested rezoning is approved all of the uses allowed in MU-B would be permissible (see Attachment 5). While "MU-B" allows a mix of uses, mixed-use is not required.

The "MU-B" district is intended to provide a mixture of retail, office and industrial uses in close proximity to create opportunities for people to work and shop in a single location. The concept works best on larger tracts of land that can integrate the various uses in a cohesive, large-scale,

walkable development. There are currently 30 acres of MU-B zoning at the intersection of State Highway 46 and FM 758, and another 30 acres approximately 800 feet north the subject property along State Highway 46. Although not currently a mixed-use development, the total of 61 acres will have the potential to create a mixed-use node in the future.

General Information:

Size: 0.953 acres

Surrounding Zoning and Land Use:

North - C-1/ Single-family residence

South -

MU-B/ Convenience store with fuel sales

East -

APD/ Agricultural with residence

West -

Across Hwy 46, C-1/ Commercial, Institutional

Comprehensive Plan/ Future Land Use Designation: Commercial

Floodplain:

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

Regional Transportation Plan:

State Highway 46 South is identified as a 120-foot wide Major Arterial. The current right-of-way width at this location is approximately 100 feet and additional right-of-way dedication may be required when the property is platted prior to redevelopment.

Improvement(s):

Manufactured home and accessory buildings

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

Yes	City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan	Pros: Objective 1A: 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 request is compatible with the Future Land Use designation and existing zoning in the area and would provide opportunities for a mix of land uses. Objective 2D: Approve rezonings that provide for a mix of land uses. MU-B is a mixed-use zoning district.
		Cons: Some of the industrial uses allowed in the MU-B district are not compatible with existing surrounding land uses, which are primarily commercial and residential. However, given the size and location of the property, it is unlikely to be used for the more intense MU-B uses such as fairgrounds, truck terminal with outside freight storage, or heliport.

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 one mile from the New Braunfels Regional Airport, in an area suitable for mixed-use development.*);
- 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, street, 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 will continue a mixed-use zoning trend in the area.*);
- 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.*); and
- Whether the request is consistent with the Comprehensive Plan (*The Future Land Use Plan designation on the property is Commercial. A proposed Future Land Use Plan being considered with the Comprehensive Plan update indicates State Highway 46 South as a Transitional Mixed-Use Corridor, and the area around the subject property as a Market and a Civic Center, both mixed-use areas.*)

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

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

STAFF RECOMMENDATION:

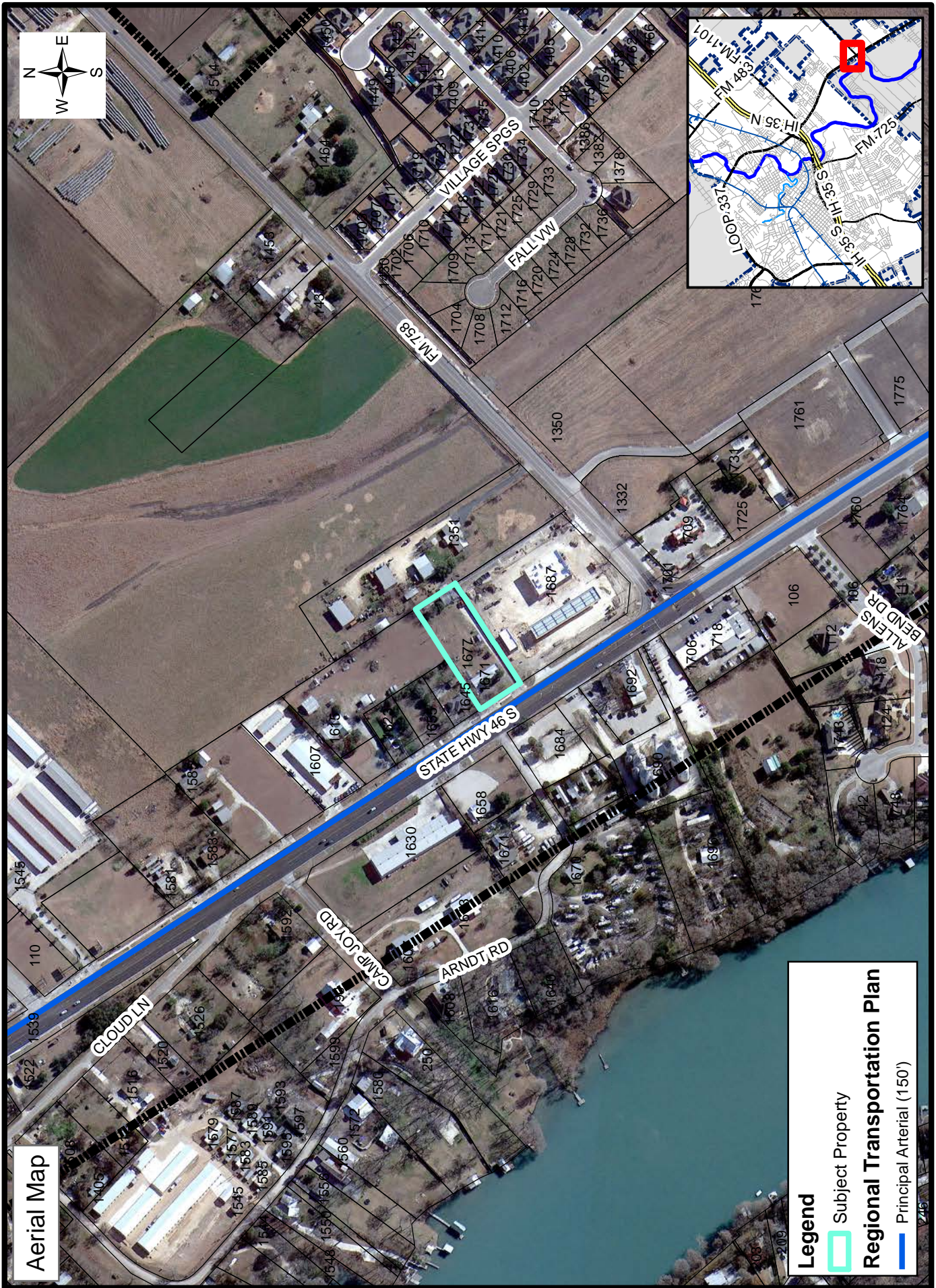
Staff recommends approval of the proposed rezoning as it is consistent with the Future Land Use Plan and surrounding zoning, and meets several goals of the Comprehensive Plan.

Notification:

Public hearing notices were sent to owners of 10 properties within 200 feet of the request. The Planning Division has received one response in favor, number 1, and none in objection.

Attachments:

1. Aerial Map
2. Application and Conceptual Site Plan
3. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
4. Notification Map and Responses
5. Sec. 3.4-11 MU-B
6. Photograph
7. Draft Minutes from Planning Commission
8. Ordinance





PLANNING

RECEIVED

MAY 24 2018

BY: MO**APPLICATION FOR A ZONING CHANGE**Planning and Community Development
550 Landa Street, New Braunfels, TX 78130

(830) 221-4050

www.nbtexas.org

Case Number PZ-18-020

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: Brenda RiddleMailing Address: 1036 Spanish Trail NB 78132Telephone: _____ Fax: 830- _____ Mobile: 361-537-0880Email: riddleb2@yahoo.com

2. Property Address/Location: 1671 State Hwy 46 New Braunfels Tx 78130

3. Legal Description: A 0.953 Acre tract of land out of the Antonio Maria Esparizur Survey

Name of Subdivision: NOT PLATTEDLot(s): _____ Block(s): _____ Acreage: .953

4. Existing Use of Property: C1 with 2 mobile homes

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

Mini Storage / Warehouse + Retail

6. Zoning Change Request: Current Zoning: C1 + APD Proposed Zoning: MU-B

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): _____

To apply for permitting and build out.

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

9. REQUIRED ATTACHMENTS:

N/A 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.)

N/A 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.

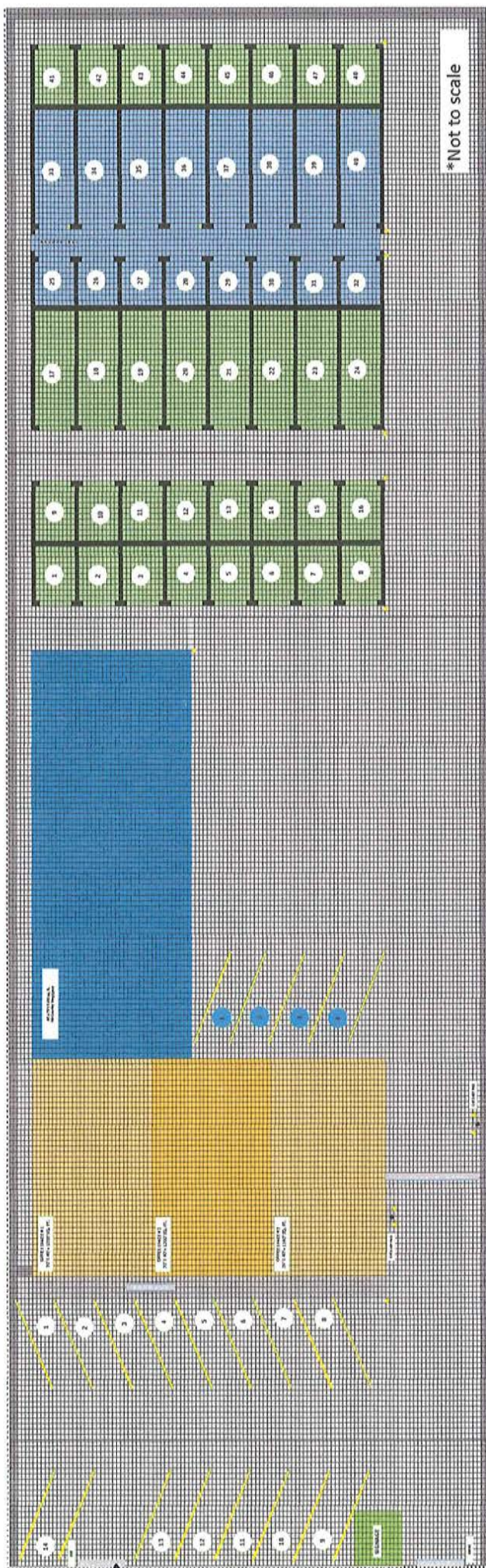
Brenda Riddle
Signature of Owner(s)/Agent

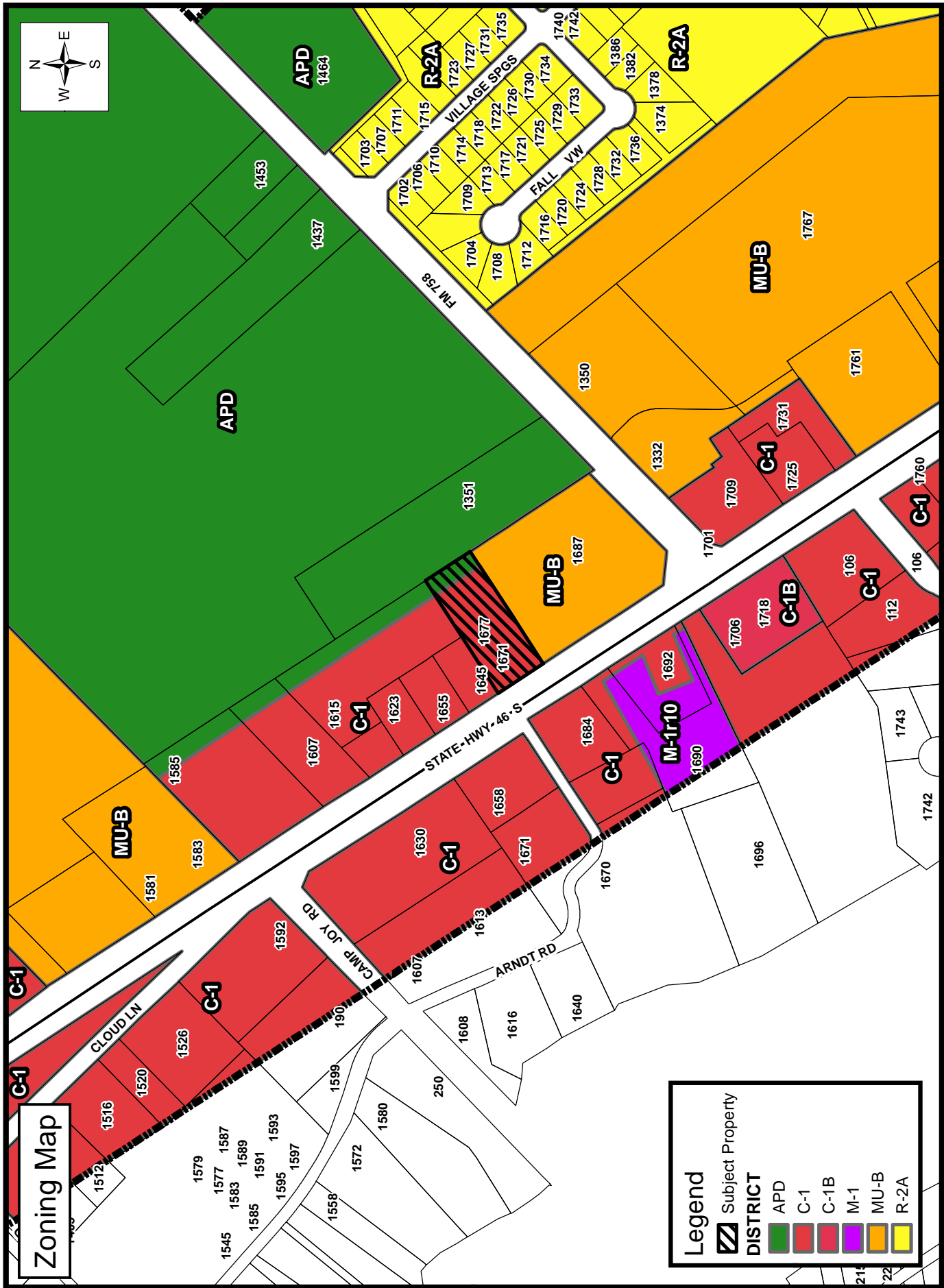
Date

5/24/2018

Brenda Riddle
Print Name & Title

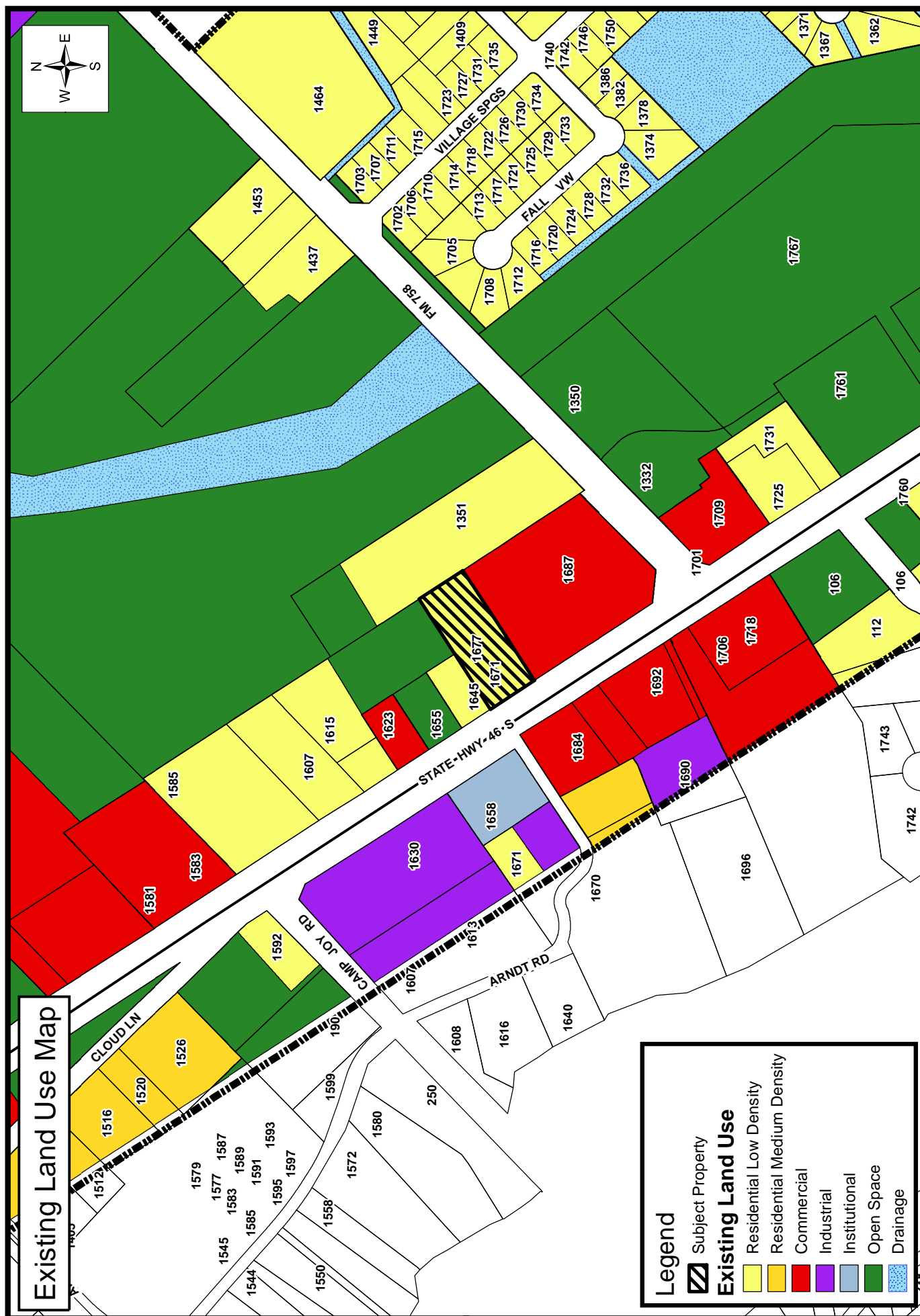
For Office Use OnlyFee Received By: MO Amount: \$1,127.00 Receipt No.: 21493Date Received: 05/28/18 Zoning signs issued: _____ Date: _____ No.: _____Cash/Check Number: CC AMEX Case Number: PZ-18020





PZ-18-020
1671 SH 46 South
APD and C-1 to MU-B







YOUR OPINION MATTERS¹⁰³ DETACH AND RETURN

Case: #PZ18-020 (Riddle) hm

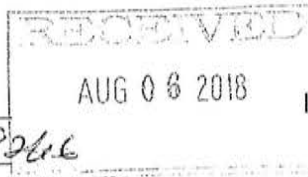
Name: William N. Wetz

Address: 20286 FM 2252 - SA 78266

Property number on map: 1

Comments: (Use additional sheets if necessary)

Signature: William N. Wetz



I favor: ☒

I object: ☐
(State reason for objection)

3.4-11. "MU-B" high intensity mixed use district.

Purpose. The MU-B High Intensity Mixed Use District is intended to provide for a mixture of more intense retail, office, and industrial uses in close proximity to enable people to live, work and shop in a single location. Bed-and-breakfast establishments could also be located in this district. Pedestrian walkways and open areas are desired in order to promote a pedestrian-friendly environment.

- (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
Bed and breakfast inn (see Sec. 5.6)
Boardinghouse/lodging house
Community home (see definition)
Dormitory (in which individual rooms are for rental)
Hospice

Multifamily (apartments/condominiums – at least five units)
Rental or occupancy for less than one month (see Sec. 5.17)
Residential use in buildings with the following non-residential uses
Townhouse (at least five lots)

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
Airport
All terrain vehicle (ATV) dealer / sales
Ambulance service (private)
Amphitheater
Amusement devices/arcade (4 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
Archery range
Armed services recruiting center
Art dealer / gallery
Artist or artisan's studio
Assembly/exhibition hall or areas
Assisted living facility / retirement home
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 (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
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 union
Bar/Tavern
Barber/beauty college (cosmetology school)
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
Blacksmith or wagon shops
Book binding
Book store
Bottling or distribution plants (milk)
Bottling works
Bowling alley/center (see Sec. 5.13)
Broadcast station (with tower) (see Sec. 5.6)
Bus barns or lots
Bus passenger stations
Cafeteria / café / delicatessen
Campers' supplies
Car wash (self service; automated)
Car wash, full service (detail shop)
Carpenter, cabinet, or pattern shops

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
 Cold storage plant
 Commercial amusement concessions and facilities
 Communication equipment - installation or repair
 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
 Driving range
 Drug sales/pharmacy
 Electrical repair shop
 Electrical substation
 Electronic assembly/high tech manufacturing
 Electroplating works
 Engine repair, manufacturing/re-manufacturing
 Exterminator service
 Fair ground
 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 (tanks must be below the ground)
 Florist
 Food or grocery store with or without fuel sales

Food processing (no outside public consumption)
 Forge (hand)
 Forge (power)
 Fraternal organization/civic club (private club)
 Freight terminal, rail/truck (when any storage of freight is outside an enclosed building)
 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)
 Galvanizing works
 Garden shops and greenhouses
 Golf course (public or private)
 Golf course (miniature)
 Governmental building or use with no outside storage
 Greenhouse (commercial)
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 Heating and air-conditioning sales / services
 Heavy load (farm) vehicle sales/repair (Sec. 5.14)
 Heliport
 Home repair and yard equipment retail and rental outlets
 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)
 Ice plants
 Industrial laundries
 Kiosk (providing a retail service)
 Laboratory equipment manufacturing
 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
 Leather products manufacturing
 Light manufacturing
 Limousine / taxi service
 Locksmith
 Lumberyard (see Sec. 5.15)
 Lumberyard or building material sales (Sec. 5.15)
 Machine shop
 Maintenance/janitorial service
 Major appliance sales (indoor)
 Manufactured home sales
 Manufacturing and processes
 Market (public, flea)
 Martial arts school
 Medical supplies and equipment

<p> Metal fabrication shop Micro brewery (onsite manufacturing and sales) Mini-warehouse/self storage units (with or without outside boat and RV storage) 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/ 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 Outside storage (as primary use) 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 Photographic studio (no sale of cameras or supplies) Photographic supply Plant nursery Plant nursery (growing for commercial purposes with retail sales on site) Plastic products molding/reshaping 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 Rappelling facilities </p>	<p> Recreation buildings (public or private) 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 Rodeo grounds RV park RV/travel trailer sales School, K-12 (public or private) School, vocational (business/commercial trade) Security monitoring company Security systems installation company Sheet metal shop Shoe repair shops Shooting gallery - indoor (see Sec. 5.13) Shopping center Sign manufacturing/painting plant Specialty shops in support of project guests and tourists Storage - exterior storage for boats and recreational vehicles Storage in bulk Studio for radio or television (with tower) (see Sec. 5.7) Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.) Tailor shop Tattoo or body piercing studio Taxidermist Telemarketing agency Telephone exchange (office and other structures) Tennis court (commercial) Theater (non-motion picture; live drama) Tire sales (outdoors) Tool rental Transfer station (refuse/pick-up) Travel agency Truck or transit terminal (with outside storage) 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 </p>
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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 front building setback required.
- (iii) *Side building setback.* No side building setback is required.
- (iv) *Rear building setback.* Five feet minimum with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear building setback.
- (v) *Residential setback.* Where a non-residential building or a multifamily development of more than three units abuts a one or two family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Minimum lot area.* The minimum internal lot area shall be 6,000 square feet or 7,000 square feet for a corner lot.
- (viii) *Minimum lot frontage:* 60 feet.
- (ix) *Lot depth.* 100 feet.
- (x) *Parking.* See Section 5.1 for other permitted uses' parking.

(2) Multifamily dwellings.

- (i) *Height.* 120 feet.
- (ii) *Front building setbacks.* 25 feet.
- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* A side building setback of 20 feet shall be provided. 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.

- (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) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.
- (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.
- (viii) *Density.* No maximum.
- (ix) *Lot area* 20,000 square feet.
- (x) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (xi) *Distance between structures.* There shall be a minimum of 10 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; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20' between structures front to rear. (See Illustration 1)
- (xii) *Access to an arterial roadway or state highway required.* Developments in this district must have direct access to either an arterial roadway or state highway.
- (xiii) *Lot depth.* 100 feet.
- (xiv) *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.)

See Section 5.1 for other permitted uses' parking.

(3) Townhouses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 10 feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

- (iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.
- (iv) *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)
- (v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.
- (vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.
- (vii) *Lot depth.* 100 feet.
- (viii) *Lot area per family.* 2,500 square feet.
- (ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.
- (x) *Building group.* There shall be no less than five lots. There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.
- (xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."
- (xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See Section 5.1 for other permitted uses' parking.



Subject Property from SH 36

Draft Minutes for the August 7, 2018 Planning Commission Regular Meeting

PZ-18-020 Public hearing and recommendation to City Council regarding the proposed rezoning of 0.944 acres out of the J M Veramendi A-20 Survey, addressed at 1671 State Highway 46 South, from “APD” Agricultural/Pre-Development and “C-1” Local Business Districts to “MU-B” High Intensity Mixed Use District.

(Applicant: Brenda Riddle; Case Manager: H. Mullins)

Mrs. Mullins presented the Staff report and recommended approval.

Commissioner Laskowski inquired if the proposed uses in the application were permitted in the current zoning.

Mrs. Mullins stated the office use is currently permitted and the MU-B Zone change will allow A/C repair and RV storage uses to be permitted.

Vice Chair Sonier asked if anyone wished to speak in favor.

William Santiago informed the Commission he is also purchasing the adjacent property and favors the rezoning.

Vice Chair Sonier asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Meyer to close the public hearing..

Motion by Commissioner Reaves, seconded by Commissioner Tubb, to recommend approval to City Council regarding the proposed rezoning of 0.944 acres out of the J M Veramendi A-20 Survey, addressed at 1671 State Highway 46 South, from “APD” Agricultural/Pre-Development and “C-1” Local Business Districts to “MU-B” High Intensity Mixed Use District. Motion carried (7-0-0).

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING 0.953 ACRES OUT OF THE J. M. VERAMENDI A-20 SURVEY, ADDRESSED AS 1671 SH 46 SOUTH, FROM "APD" AGRICULTURAL/PRE-DEVELOPMENT AND "C-1" LOCAL BUSINESS DISTRICTS TO "MU-B" HIGH INTENSITY MIXED USE 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 "MU-B" High Intensity Mixed Use 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 0.953 acres out of the J. M. Veramendi A-20 Survey, addressed as 1671 SH 46 South, from "APD" Agricultural/Pre-Development and "C-1" Local Business Districts to "MU-B" High Intensity Mixed Use 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 "APD" Agricultural/Pre-Development and "C-1A" Local Business Districts to "MU-B" High Intensity Mixed Use District:

"0.953 acres out of the J. M. Veramendi A-20 Survey, addressed as 1671 SH 46 South, 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 27th day of August, 2018.

PASSED AND APPROVED: Second reading this 10th day of September, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

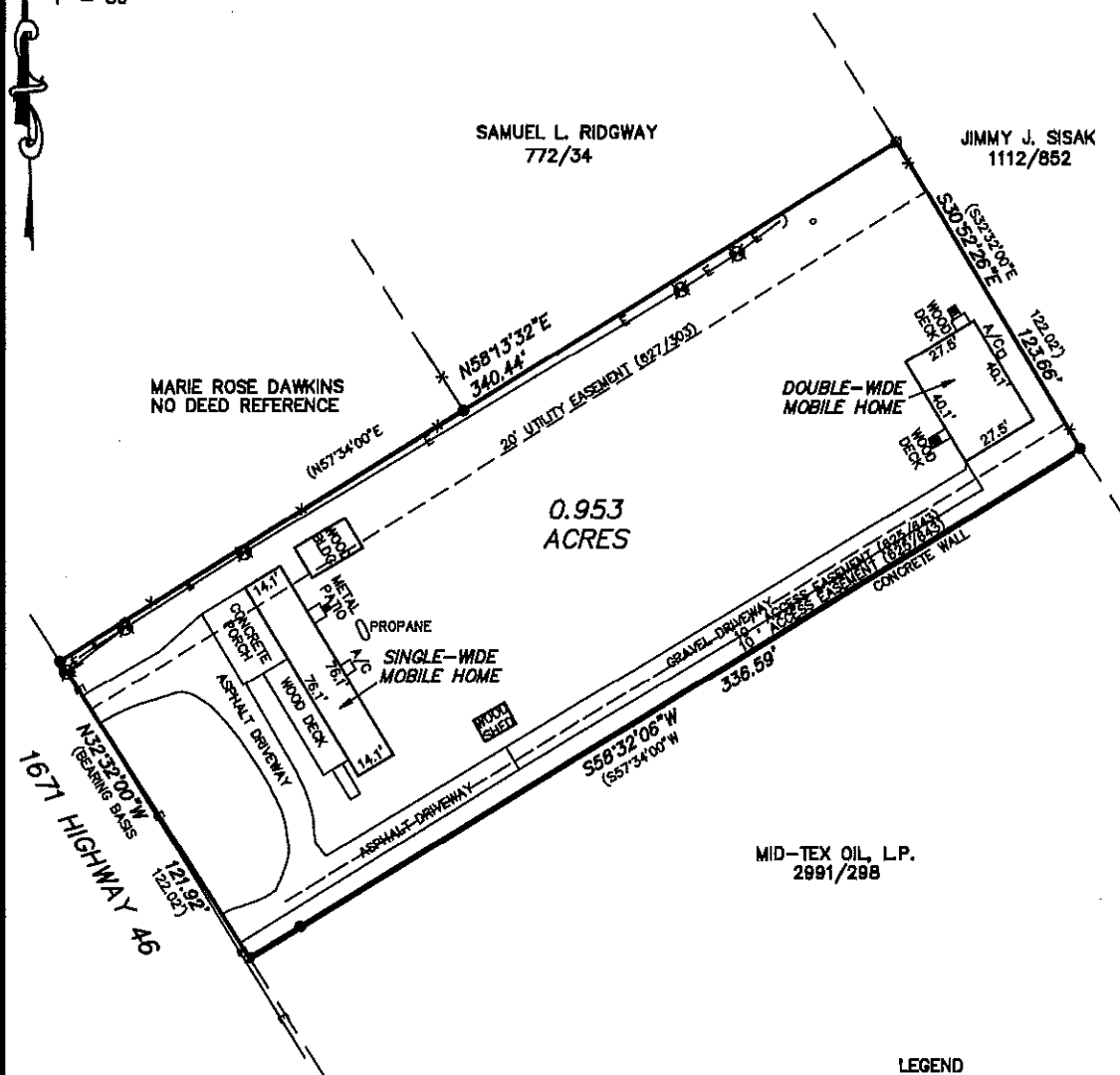
VALERIA M. ACEVEDO, City Attorney

CELCO SURVEYING
REG. # 10193975
TEL: 830-214-5109
FAX: 866-571-8323

SURVEY PLAT

2205 STONECREST PATH
NEW BRAUNFELS, TEXAS 78130
eddie@calcosurveying.com

SCALE
1" = 50'



RESTRICTIVE COVENANTS OF RECORD AS
ITEMIZED HEREIN: VOLUME 28, PAGE 370,
DEED RECORDS, GUADALUPE COUNTY, TEXAS.
(DOES AFFECT THIS TRACT)

EASEMENT TO MANVILLE WATER SUPPLY CORPORATION AS RECORDED IN VOLUME 487, PAGE 281, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS.

(BLANKET EASEMENT---DOES AFFECT THIS TRACT)
(DOES NOT AFFECT THIS TRACT)

(DOES NOT AFFECT THIS TRACT)
(UNABLE TO LOCATE)
(DOES NOT AFFECT THIS TRACT EXCEPT AS
TO BLANKET RIGHTS OF INGRESS/EGRESS)

LEGEND

- = IRON ROD FOUND
- ▲ = PK NAIL FOUND
- △ = CALC. PROP. COR.
- ⌈ = RECORD PER DEED
- = WOOD FENCE
- = WIRE FENCE
- = CHAIN LINK FENCE
- = PUBLIC UTILITY EASEMENT
- = DRAINAGE EASEMENT
- BL = BUILDING LINE
- W/M = WATER METER
- A/C = AIR CONDITIONER
- G/M = GAS METER
- E/M = ELECTRIC METER
- = POWER POLE
- = GUY WIRE ANCHOR

ADDRESS: 1671 HIGHWAY 46, NEW BRAUNFELS, TEXAS

LEGAL DESCRIPTION: A 0.953 ACRE TRACT OF LAND OUT OF THE ANTONIO MARIA ESNAURIZAR SURVEY, ABSTRACT NO. 20, GUADALUPE COUNTY, TEXAS, AND BEING A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO RONDA L. MCMAHAN, ET AL, RECORDED IN VOLUME 3133, PAGE 430, OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS.

CERTIFICATION

THE UNDERSIGNED DOES HEREBY CERTIFY TO THE PARTIES LISTED BELOW THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY MADE UPON THE GROUND OF THE PROPERTY SHOWN HEREON, AND THAT THERE ARE NO ENCROACHMENTS OF VISIBLE IMPROVEMENTS, EXCEPT AS SHOWN HEREON, AND THAT THIS PROPERTY HAS ACCESS TO A PUBLIC ROADWAY, EXCEPT AS SHOWN HEREON.

BUYER: BRENDA RIDDLE
TITLE CO: NEW BRAUNFELS TITLE COMPANY
G.F.#: 086939NBT EFF: MARCH 28, 2018

LENDER: N/A

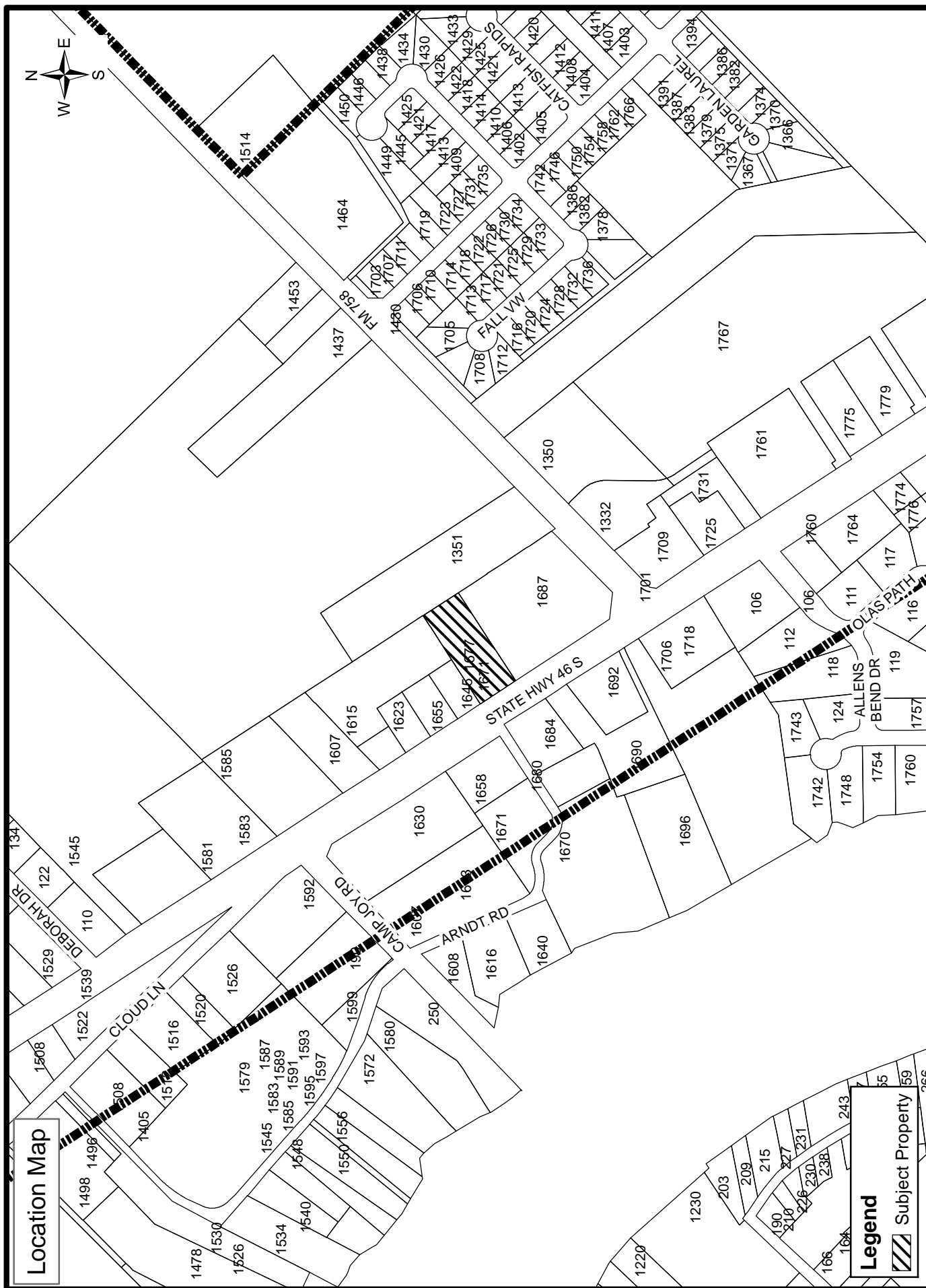
PLAN No.: 2018-2037

SURVEY DATE: APRIL 26, 2018



GEORGE E. LUCAS R.P.L.S. 4160

EXHIBIT "A"



PZ-18-020
1671 SH 46 South
APD and C-1 to MU-B





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. D)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow a bed and breakfast in the "R-2" Single-Family and Two-Family District on approximately 0.32 acres, on property addressed at 612 E. Common Street.

BACKGROUND / RATIONALE:

Case No.: PZ-18-021

Council District: 5

Owner/Applicant: Kathryn Welch
612 E. Common Street
New Braunfels TX, 78130

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

The subject property is located on the southeast corner of the intersection of E. Common Street and S. Grant Street. The property is approximately 14,000 square feet in area and is occupied by a 1,458 square foot single-family residence that was built in 1925, with a 400 square foot detached garage built in 1925.

This request is to allow the property owner to operate a bed & breakfast in an existing house in the R-2 district. An important distinction of a bed & breakfast in New Braunfels' zoning ordinance is the requirement that the facility be owner-occupied in residential zoning districts. The applicant intends to occupy the residence and to rent a portion of the residence to overnight guests.

The house contains two bedrooms and the proposed rental portion of the residence contains a living area and a loft sleeping area. The applicant has also indicated that guests will have access to a separate private restroom.

The ordinance requires one off-street parking space per guest room plus one for the owner, for a total of two spaces. Off-street parking currently includes a gravel area adjacent to the garage that accommodates two vehicles and is accessible through a gate. With the Special Use Permit (SUP), the applicant is requesting the parking be allowed to remain gravel, rather than paved with concrete or asphalt as required in New Braunfels' adopted codes.

The existing garage, currently used for storage, does not meet the current garage setback requirement of 20 feet and is considered legally non-conforming. The garage appears to have been constructed on the property line and there is no driveway in front of it outside the street right-of-way. It appears that residents of the property have historically utilized the area in front of the garage for parking as they believed it to be on-site parking when in fact it is within the street right-of-way. Legally non-conforming structures are allowed to remain and parking on the street is not prohibited in this area, but parking on the street or in the right-of-way cannot be counted to satisfy the off-street parking requirement in the adopted ordinance.

General Information:

Size: = 14,000 square feet (0.32 acres)

Surrounding Zoning and Land Use:

North - Across E. Common St., R-2 / Single-family residence
 South - R-2 / Single-family residence
 East - R-2 / Single-family residence
 West - Across S. Grant Ave., R-2 / Single-family residence

Comprehensive Plan / Future Land Use Designation

Low Density Residential

Floodplain:

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

Regional Transportation Plan:

E. Common St. is identified as a 150-foot wide Principal Arterial on the 2012 Regional Transportation Plan. The current right-of-way width of E. Common St. is approximately 80 feet. No right-of-way dedication or mitigation measures will be required with B&B use of the subject property.

The subject property also has frontage on S. Grant Ave., classified as a local street. The current right-of-way width of S. Grant Ave. is approximately 80 feet and no additional right-of-way dedication or mitigation measures will be required with the bed & breakfast use of the subject property.

Improvement(s):

Residential structure and detached garage

Determination Factors:

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

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The subject property is zoned R-2 in a neighborhood located between the Guadalupe River and the Comal River. The property is less than a block away from the Comal County Fairgrounds and the Library, and less than a mile away from many City parks (Prince Solms, Landa, River Acres and Cypress Bend), Schlitterbahn and the Tube Chute. There is one Short Term Rental and no B&B's operating in the general area (Attachment 5);*
- 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 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 use of this property as a bed & breakfast will be subject to the supplemental standards as required in Section 5.6 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and safety and to encourage appropriate use of the property);* and
- Whether the request is consistent with the Comprehensive Plan. *(Bed & breakfast use is consistent with the Future Land Use designation of the subject site as Low Density Residential.)*

Supplemental standards for bed and breakfast facilities are attached and include:

- a. the facility must be owner-occupied in residential zoning districts;
- b. one paved parking space per guest room plus one for the owner;
- c. annual health and safety inspections are required;
- d. only overnight guests may be served meals, limited to a continental-type breakfast of pre-packaged food unless the facility meets all requirements for commercial food service; and
- e. Weddings, parties and other functions are not permitted unless approved by the Planning and Community Development Department.

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

v	Yes	City Plan/Council Priority: 2006 Comprehensive Plan <i>Pros and Cons Based on Policies Plan</i>	Pros: Goal 1 Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities. Authorized overnight rentals contribute to economic expansion through the collection of occupancy tax and visitor dollars spent within the community. Impacts to neighbors are managed through the SUP and development standards for B&B's. Goal 63: Objective 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 the Fairgrounds, library, parks, downtown, and other visitor attractions. Cons: None
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FISCAL IMPACT:

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

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on August 7, 2018 and recommended approval with staff's recommendations (6-0-0) with Commissioner Sonier and Chair Edwards absent.

STAFF RECOMMENDATION:

Staff recommends approval of the applicant's requested SUP for a Bed & Breakfast at this location, including the existing unpaved off-street parking area. The proposed use of the property will complement the uses in the area while maintaining a residential appearance. The proposal also meets Objectives of the City's Comprehensive Plan. Staff's recommendation includes the following conditions:

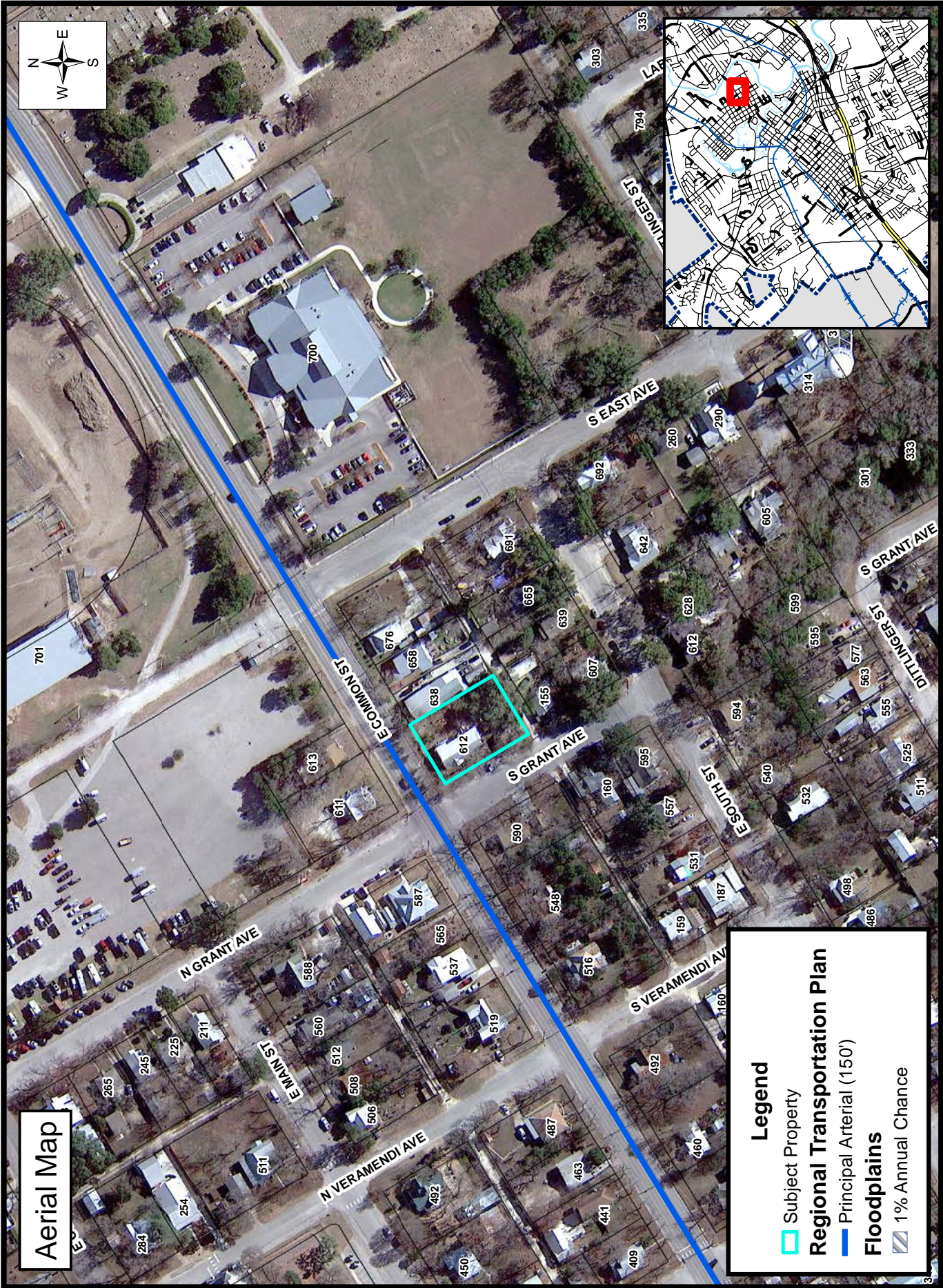
1. The existing residential character and appearance of the buildings must be maintained.
2. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

Notification:

Public hearing notices were sent to 18 owners of property within 200 feet of the request. The Planning Division has received two responses (#'s 3 & 15) in favor and none opposed to the proposed B&B.

Attachments:

1. Aerial and Regional Transportation Plan Map
2. Application
3. Site Plan and Floor Plan
4. Land Use Maps
 - Zoning
 - Existing Land Use
 - Future Land Use
 - Short Term Rental Vicinity
5. Notification List, Notification Map and Notification Responses
6. Photographs
7. Zoning Ordinance Sections:
 - Sec. 3.3-2 "R-2" Single-Family and Two-Family District
 - Sec. 3.6 Special Use Permits
 - Sec. 5.6 Bed & Breakfast Facilities
8. Planning Commission Meeting Draft Minutes
9. Ordinance



Map Created 7/12/18

PZ-18-021
612 E. Common St
SUP to allow a bed and breakfast in the R-2 district





**Planning & Community Development Department
Planning Division**

550 Landa St. New Braunfels, Tx 78130
(830) 221-4050 www.nbtexas.org

CC/Cash/Check No.: 3920 Case No.: PZ-18-021
Amount Recd. \$ 1,577.00
Receipt No.: 213356
213355

RECEIVED

JUN 18 2018

BY: Submittal date - office use only

Special Use Permit Application

Any application that is missing information will be considered incomplete and will not be processed.

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: Kathryn Welch

Mailing Address: 612 E. Common St.

Telephone: N/A Fax: N/A Mobile: 830-2379220

Email: momme_kitty@hotmail.com

2. Property Address/Location: 612 E. Common

3. Legal Description:
Name of Subdivision: ~~N/A~~ East New Braunfels addition

Lot(s): 1 + 2 Block(s): 5050 Acreage: 0.3214

4. Existing Use of Property: private home

5. Current Zoning: Single Family Residential R-2

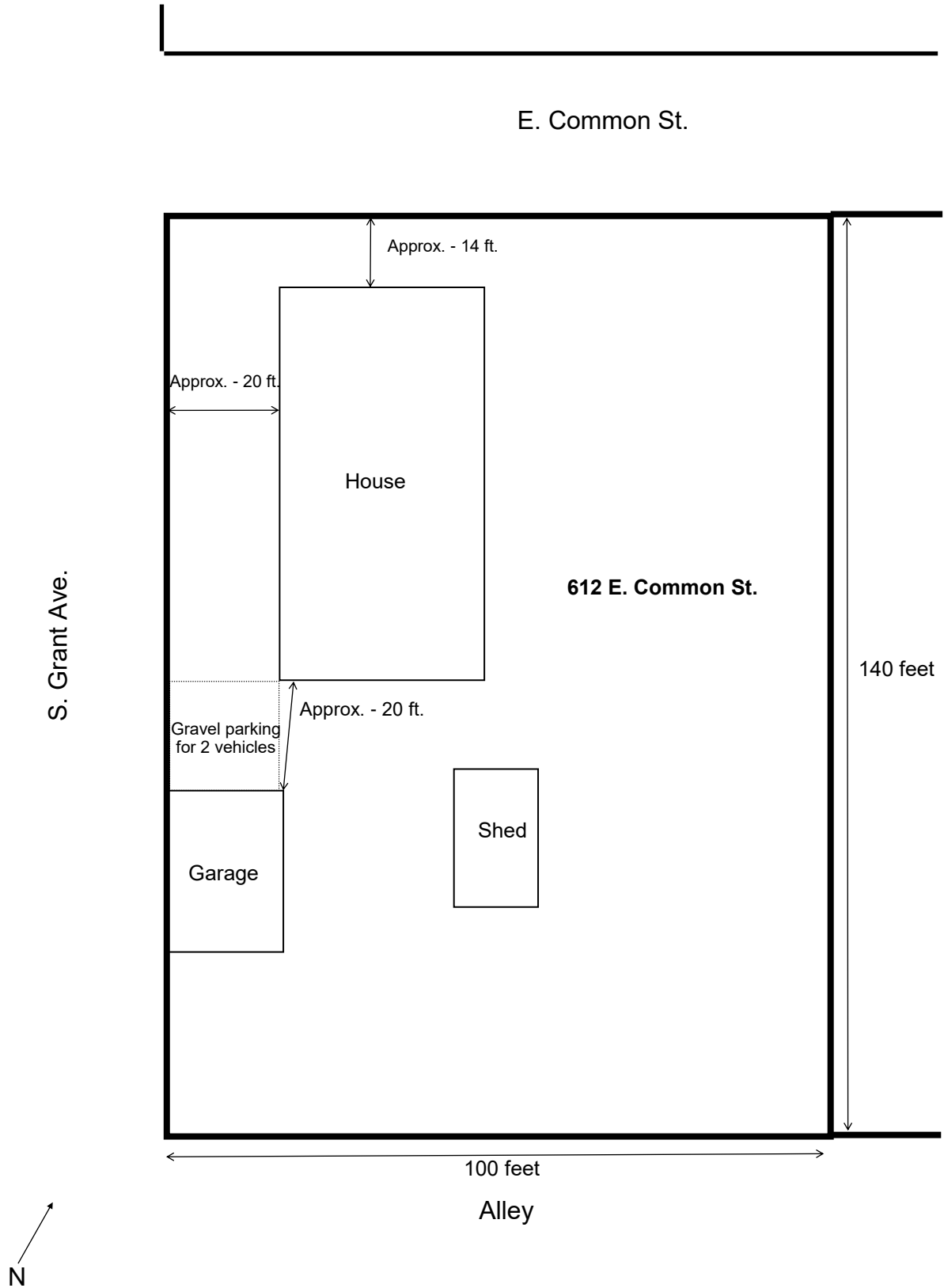
- * 6. Proposed Special Use Permit*: Type 1 _____ OR Type 2 ☒

*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Proposed Use of Property and/or Reason for Request (attach additional or supporting information if necessary):

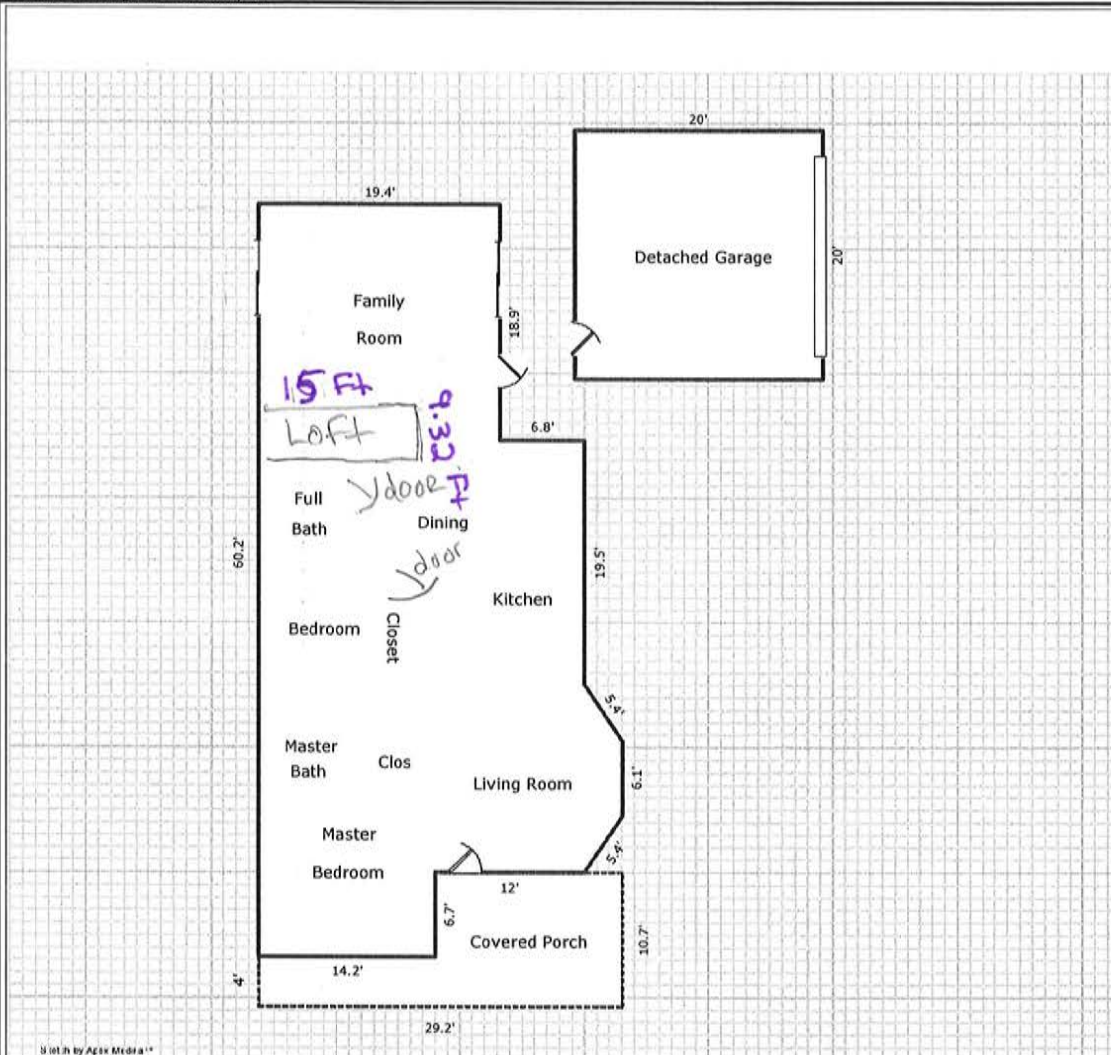
Within my SFR I have a large family room with a loft. It only has 1 queen size bed in the loft. The sofa also turns into a queen bed. This room is separated from the rest of my house only by a door. I wish to apply for permit to rent this section. There is no kitchen in this section that will be rented. I provide breakfast to the renters and they have a private bathroom. I live at this residence full time and do not allow loud music or wild parties.

Site Plan



FLOORPLAN SKETCH

Borrower: Kathryn Welch	File No.: 10092
Property Address: 612 Common St	Case No.:
City: New Braunfels	State: TX Zip: 78130
Lender: JPMorgan Chase Bank, NA	



Sketch by Apex Media LLC

Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1400.1	1400.1
GAR	Garage	400.0	400.0
P/P	Cov Porch	217.3	217.3
Net LIVABLE Area		(rounded)	1400

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
0.5 x	3.0 x	4.5	6.8
	6.7 x	14.2	95.1
	18.9 x	19.4	366.7
	24.0 x	26.2	628.8
	6.1 x	29.2	178.1
	26.2 x	4.5	117.9
0.5 x	4.5 x	3.0	6.8
7 Items			(rounded)
			1400

RECEIVED
JUN 18 2018





Map Created 7/12/18

PZ-18-021
612 E. Common St
 SUP to allow a bed and breakfast in the R-2 District



PLANNING COMMISSION – August 7, 2018 – 6:00PM

New Braunfels City Hall Council Chambers

Applicant/Owner: Kathryn Welch**Address/Location:** 286 S. Market Ave.**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-021**

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 AGUILAR JAIME G & DELIA | 10 CHAPMAN CAROL |
| 2 RODRIGUEZ CRUZ & IRIS | 11 VALADEZ MIGUEL & ANA |
| 3 LUNA ISABEL | 12 WILLIAMS SEAN |
| 4 PEREZ LINDA SUE | 13 PULIDO CARLOS A |
| 5 VANN ROGER D & PATRICIA O | 14 MORENO EUSEBIA R |
| 6 YBARRA EDDIE M | 15 JACOBS CHARLES E JR & CHERYL |
| 7 RODRIGUEZ JOSE O & ROSA | 16 COMAL COUNTY FAIR ASSC |
| 8 MESA RUBEN JR | 17 ACEVEDO GUADALUPE E |
| 9 TICE GENEVIEVE | 18 KLINGEMANN JAMES C & DONA |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-021 ms

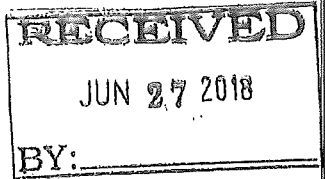
Name: Isabel V. LunaAddress: 676 E. Common St NBT 78130Property number on map: 3

Comments: (Use additional sheets if necessary)

I favor: ☒

I object: _____

(State reason for objection)

Signature: Isabel V. Luna

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-021 ms

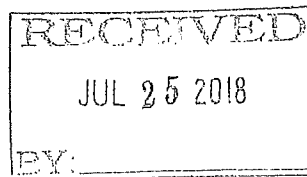
Name: Charles E. Jacobs JrAddress: 587 CommonProperty number on map: 15

Comments: (Use additional sheets if necessary)

I favor: ☒

I object: _____

(State reason for objection)

Signature: Charles E Jacobs Jr



Subject Property from E. Common St.



Subject Property from S. Grant Ave.



Detached garage and gated parking from S. Grant Ave.

3.3-2. "*R-2*" single-family and two family district. The following regulations shall apply in all "R-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 dwelling (one accessory dwelling per lot, no kitchen)
- Accessory building/structure
- Community home (see definition)
- Duplex/two-family/duplex condominium
- Family home adult care
- Family home child care
- Home Occupation (see Sec. 5.5)
- One family dwelling, detached
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Barns and farm equipment storage (related to agricultural uses)
- Cemetery and/or mausoleum
- Church/place of religious assembly
- Community building (associated with residential uses)
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
- Country club (private)
- 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 and private
- Governmental building or use with no outside storage
- Park and/or playground (private and public)
- Plant nursery (growing for commercial purposes but no retail sales on site)
- Public recreation/services building for public park/playground areas
- 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) One family dwellings.

(i) *Height.* 35 feet.

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

(iii) *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.

- (iv) *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)
 - (v) *Rear building setback.* 20 feet.
 - (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 per family.* 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 or 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 unit. See Section 5.1 for other permitted uses' parking.
- (2) Duplexes.
- (i) *Height.* 35 feet.
 - (ii) *Front building setback.* 25 feet.
 - (iii) *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.
 - (iv) *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)
 - (v) *Rear building setback.* 20 feet.
 - (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 per family.* 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 Section 5.1 for other permitted uses' parking.

(3) Non-Residential Uses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one or two family use, 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.
- (iv) *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.
- (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) *Rear building setback.* 20 feet.
- (vii) *Width of lot.* 60 feet.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for permitted uses' parking.

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.

Bed and Breakfast Inn or Facility(s). A dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in rooms or unattached units (e.g., cabins) for transient guests for compensation.

5.6. *Bed and breakfast facilities.*

5.6-1 Bed and breakfast facilities are subject to the following requirements:

5.6-2 *Parking.* One off-street parking space per guest room, and one off-street parking space for the owner/proprietor are required.

5.6-3 *Number of guest rooms.* The maximum number of guest rooms shall be eight.

5.6-4 *Length of stay.* The maximum length of stay for each guest shall be limited to 14 consecutive days within any thirty day time period.

5.6-5 *Management.* The facility shall be owner occupied in the residential zoning districts and may be manager occupied in other zoning districts.

5.6-6 *Signs.* Signs shall conform to Chapter 106.

5.6-7 *Health factors:*

- (a) Only overnight guests may be served meals. The meals shall be confined to a continental-type breakfast, consisting of pastries (prepared outside the establishment), milk, cereal, fruit, fruit juice, and coffee, unless the facility meets all State of Texas and City Health Department requirements for commercial food service. Cooking in a guest room is prohibited.
- (b) The owner of the facility shall provide clean linens and towels on a daily basis, provide adequate heating, air conditioning, ventilation and lighting; provide adequate hot and cold water; provide adequate sewage disposal; maintain the outside area in a clean and sanitary manner; maintain the structure(s) in suitable state of repair; and properly clean the premises and facilities during the guests stay and after each guest has departed.
- (c) Each owner of the facility must acquire a permit for the facility from the City Health Department prior to issuance of a Certificate of Occupancy.
- (d) Inspections by the City Health Department will be made on a regular basis and upon demand as required by a complaint. The inspections must be successfully passed.
- (e) Building and fire protection considerations:
 - (1) Owner of Bed and Breakfast facility must obtain a Certificate of Occupancy (C.O.) from the City Building Official after a Special Use Permit is issued, if a Special Use Permit (SUP) is required. The facility must successfully pass the C.O. inspection.
 - (2) The structure(s) must conform to all City and State Building Codes for existing or new construction as the situation dictates.
 - (3) The City Fire Marshal or his representative shall inspect all Bed and Breakfast facilities before a C.O. is issued. The facility must successfully pass the inspection. Regular inspections shall be made on an annual basis.
 - (4) Each Bed and Breakfast facility must comply with the appropriate section on "Lodging and Rooming Houses" contained in NFPA 101 Life Safety Code.
 - (5) Each facility must have at least one battery operated or regular hard wired smoke detector in all guest rooms, stairwells and/or corridors on each floor of the structure.
 - (6) An approved fire extinguisher shall be provided in close proximity to the guest units on each floor.
- (f) *Other activities.* Other activities such as weddings, parties, and other functions are not permitted unless approved by the Planning Director.

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A BED & BREAKFAST FACILITY IN THE "R-2" SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICT, ON LOTS 1 & 2, NEW CITY BLOCK 5050, ADDRESSED AT 612 EAST COMMON 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 bed & breakfast facilities; and

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for Lots 1 & 2, New City Block 5050, addressed at 612 East Common Street, to allow a bed & breakfast facility in the "R-2" Single Family and Two Family 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 Lots 1 & 2, New City Block 5050, addressed at 612 East Common Street, as described in the attached Exhibit 'A', and delineated on the attached Exhibit 'B', to allow a bed & breakfast facility in the "R-2" Single Family and Two Family District."

SECTION 2

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

1. The existing residential character and appearance of the buildings must be maintained.
2. The property will remain in compliance with the approved site plan attached as Exhibit 'C'. Any significant changes to the site plan will require a revision to the SUP.

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 27th day of August, 2018.

PASSED AND APPROVED: Second Reading this the 10th day of September, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

#1
 21
 DOC# 469242

#108307CD
 LTEX
 #11.
WARRANTY DEED

Date: June 30, 1995

Grantor: PATRICIA J. CANTRELL and CAROL A. GUEDRY

Grantor's Mailing Address (including county):

Grantee: RALPH WELCH and KATHRYN H. WELCH

Grantee's Mailing Address (including county):

8928 GLACIER
 TEXAS CITY, TX 77590

Consideration:

TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration.

Property (including any improvements):

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 Lots 1 and 2, Old City Block 28, New City Block 5050, EAST BRAUNFELS ADDITION, according to plat recorded in Volume I, Page 470, Comal County, Texas Deed Records.

Reservations from and Exceptions to Conveyance and Warranty:

Current ad valorem taxes on said property having been prorated, the payment of the same are hereby assumed by Grantee.

This conveyance is made and accepted subject to any and all restrictions, covenants, conditions, reservations, claims of interests, easements, rights of ways, and agreements, if any, relating to the property to the extent that the same may still be in force and effect shown of record in the Office of the County Clerk of Comal County, Texas; all zoning laws, regulations, ordinances of local, municipal, judicial, administrative, and/or other governmental authorities; any visible or apparent easements, roadways, or rights of ways on or across the property.

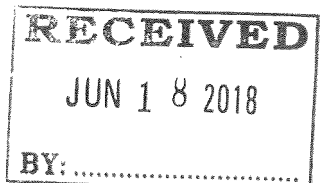



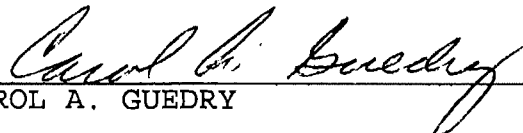
Exhibit 'A'

DOC# 469242

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, GRANTS, SELLS and CONVEYS to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

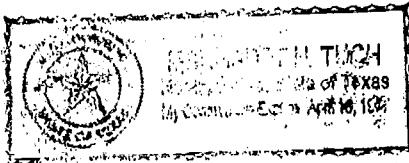

PATRICIA J. CANTRELL



CAROL A. GUEDRY

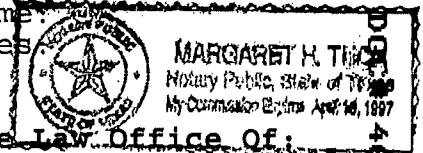
STATE OF TEXAS

COUNTY OF COMAL

This instrument was acknowledged before me on the 30 day of June, 1995, PATRICIA J. CANTRELL and CAROL A. GUEDRY.




Notary Public, State of Texas
Notary's Printed Name: Margaret H. Tuck
My Commission Expires April 16, 1997



After Recording Return To:

Prepared in the Law Office Of:

R. Bruce Boyer
376-A Landa St.
New Braunfels, Texas 78130

Doc# : 469242

Pages: 2

Date : 07-03-1995

Time : 10:37:40 A.M.

Filed & Recorded in

Official Records

of COMAL County, TX.

JOY STREATER

COUNTY CLERK

Rec. \$ 11.00

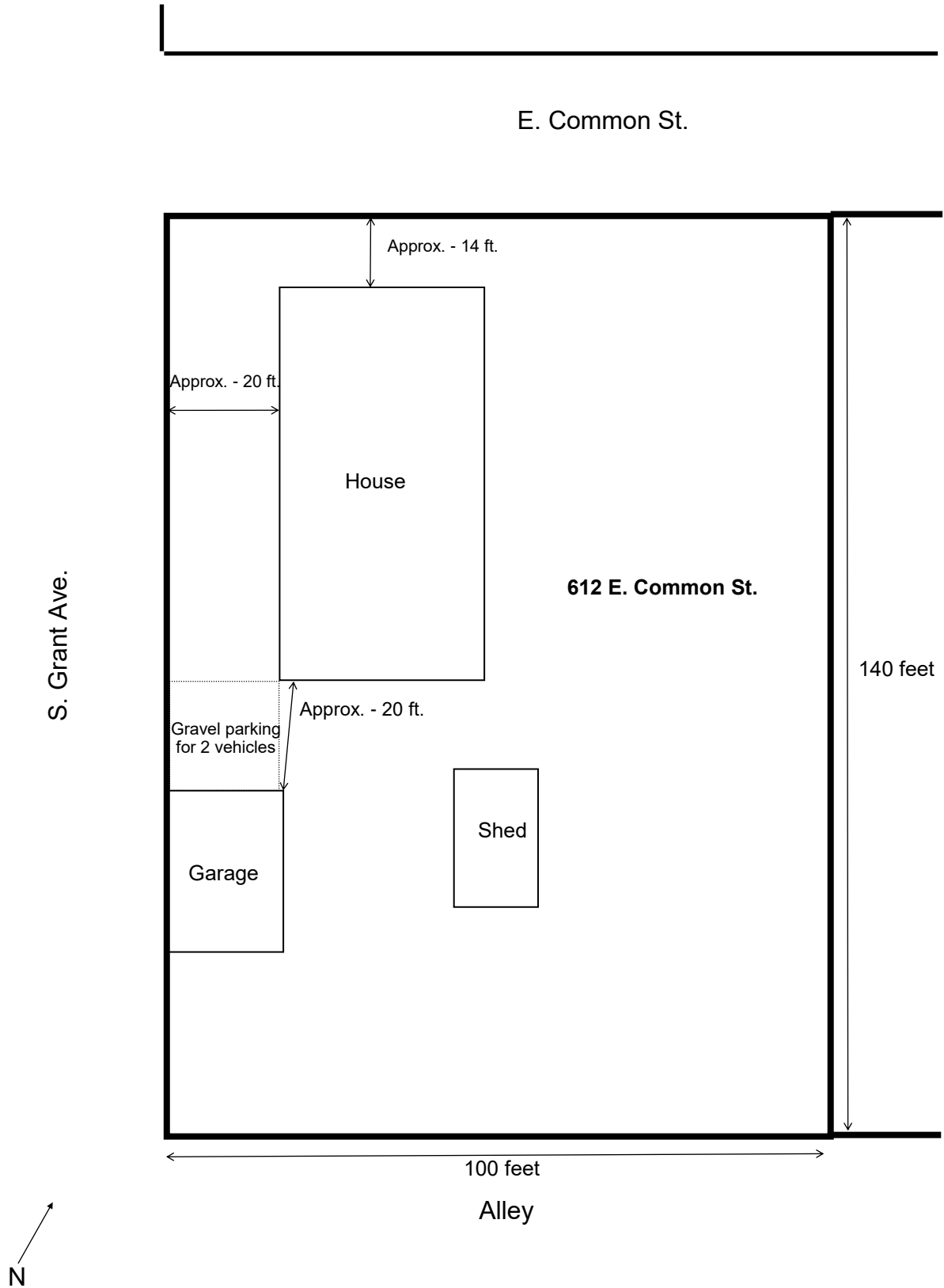
DOC# 469242



PZ-18-021
612 E. Common St.
SUP to allow a bed and breakfast in the R-2 district



Site Plan





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. E)

Presenter/Contact

Stacy Snell, Assistant Director of Planning & Community Development
ssnell@nbtexas.org

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to 8.33 acres to allow self-storage warehouses including an onsite manager's living quarters, outside boat and RV storage, and/or single story office buildings in the "APD" Agricultural/Pre-Development District and the proposed rezoning of one acre from "APD" Agricultural/Pre-Development District to "C-1B" General Business District, addressed at 1938 FM 1044.

BACKGROUND / RATIONALE:

Case No.: PZ-18-022

Council District: 1

Owner: Ronald Wolfhart
1938 FM 1044
New Braunfels, TX 78130
(830) 625-0685

Applicant: Paul Williams
1283 Old FM 306
New Braunfels, TX 78130
(830) 743-6138

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

Background/rationale:

The subject property is comprised of 9.33 acres located on the southwest side of FM 1044 approximately 700 feet south of County Line Road, east of the proposed Highland Grove Subdivision, and zoned "APD" Agricultural/Pre-Development District. An auto repair shop is currently occupying the subject site. The property was annexed into the city limits in 1998.

The applicant is requesting two zoning changes to the property. The first being a rezoning of 1 acre that will include the existing auto repair shop. The business owner intends to retain ownership of the 1 acre where he would continue to operate the business. He would then sell the remaining 8.33 acres

to the applicant.

The auto repair shop is considered an existing non-conforming use in the APD district. The applicant's request for C-1B is the least intensive zoning district that allows auto repair shops.

The applicant's second request is for approval of a Type 1 Special Use Permit (not subject to a site plan) to allow the remaining 8.33 acres of the property to be used as a self-service storage facility (a.k.a. mini-warehouse) with an on-site caretaker's residence, outside boat and rv storage, and/or single-story office buildings.

The applicant's original SUP request presented to the Planning Commission included the following modifications to the adopted zoning ordinance requirements:

1. Allow the facades of side and rear exterior buildings to be 100% metal rather than meet the City's minimum masonry façade requirements as stated in Section 5.22-4 of the Zoning Ordinance.
2. Allow buildings to be constructed with no setback requirement adjacent to all shared side and rear lot lines.
3. Not require a masonry buffer wall or landscape buffer (trees) between the subject property and adjacent properties utilized or zoned for single or two-family dwelling use.

The applicant mailed a summary of the project request to the neighbors prior to the Planning Commission meeting. At the Planning Commission meeting, the applicant stated he would **rescind** the code modification requests in light of a neighbor's and staff's objections to the deviations from adopted standards. A copy of both the original letter and the subsequent letter officially rescinding the requests to modify code requirements is attached to this report as Attachment 3.

General Information:

Size: Proposed SUP = 8.33 acres

Proposed C-1B = 1 acre

Surrounding Zoning and Land Use:

North - APD / Single family residences and undeveloped

South - APD and "Highland Gardens" PD / Single family homes and undeveloped

East - Across FM 1044, APD / Undeveloped

West - "Highland Gardens" PD / Undeveloped

Comprehensive Plan / Future Land Use Designation

The Future Land Use designation of the property is Commercial and Residential Low Density. If the rezoning requests are approved, Staff recommends a concurrent Future Land Use Plan amendment to change Residential Low Density Future Land Use designation to Commercial. The applicant has submitted the request for the Future Land Use Plan amendment. The proposed new Comprehensive Plan identifies the tract as being along a Transitional Mixed-Use Corridor.

Floodplain:

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

Regional Transportation Plan:

FM 1044 is designated as a 120-foot Minor Arterial on the Regional Transportation Plan. The road currently has an 80-foot right-of-way width. An additional 20 feet of right-of-way will be dedicated at the time of final plat.

Improvement(s):

The 8.33-acre tract is undeveloped; an auto repair garage occupies the one-acre tract.

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 along a minor arterial corridor with a mix of residential and commercial uses. With installation of the required masonry wall and landscape buffer between the subject property and the adjacent perimeter residential lots, the proposed uses could be appropriate for this site. The large number of smaller residential lots being developed in the area are typically not practical for storing rv's and boats. The outside storage with the required screening, would be beneficial to residents in the area as there are currently no such storage facilities in the vicinity of these neighborhoods.);*
- 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 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 addition of a residence for an on-site caretaker should improve the public health, safety, morals, and general welfare through the continuous presence of a responsible person(s) residing on the property. This also adds value to the use as those with on-site caretakers are more desirable locations for storage of valuables since customers look for the added security that accompanies the presence of on-site caretakers.);* and
- Whether the request is consistent with the Comprehensive Plan. *(The proposed uses of the property are consistent with the majority of the property which is designated as Commercial on the Future Lane Use Plan. The applicant has submitted a request to amend the Future Land Use Plan to Commercial for the rear portion of the property currently designated as Residential Low Density. It could be consistent with the proposed new Comprehensive Plan as well which designates the FM 1044 corridor as Transitional Mixed-Use.)*

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

✓	Yes	<p>City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan</p>	<p>Pros: Goal 1 Objective A: <i>Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.</i> The proposed C-1B district and SUP uses will be compatible with the existing land uses and provide for a mix of uses in an appropriate area of the City, but only with adherence to building materials, setback and residential buffer requirements. Objective I: <i>Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods.</i> The subject property has direct access to FM 1044 and would not require access through residential neighborhoods. Goal 3, Objective B: <i>Work with developers to make a more efficient use of land and resources and discourage sprawl.</i> The ability to provide an on-site caretaker's residence with this commercial use is a measure that can reduce demand on residential development and create an additional opportunity for workforce housing. Cons: If approved and developed without the code-required development standards, the proposed development would not be compatible.</p>
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on August 7, 2018 and recommended denial of the request (4-3), with Commissioner Nolte and Chairman Edwards absent.

On August 11th, post Planning Commission meeting, the applicant sent the City Council a letter describing the project as he felt he needed to clarify some points that were discussed at the Planning Commission meeting (see Attachment 3).

STAFF RECOMMENDATION:

Staff recommends approval of the proposed C-1B zoning and Type 1 Special Use Permit to allow self-storage warehouses including an onsite manager's living quarters, outside boat and rv storage, and/or single story office buildings. The proposed uses of the property are consistent with the intent of the Future Land Use Plan with the majority of the property being designated Commercial. The request also satisfies several goals of the Comprehensive Plan. Staff's recommendation of approval is only with the applicant's adherence to all of the adopted code-requirements, including but not limited to masonry facades, buffers, landscaping, and setbacks.

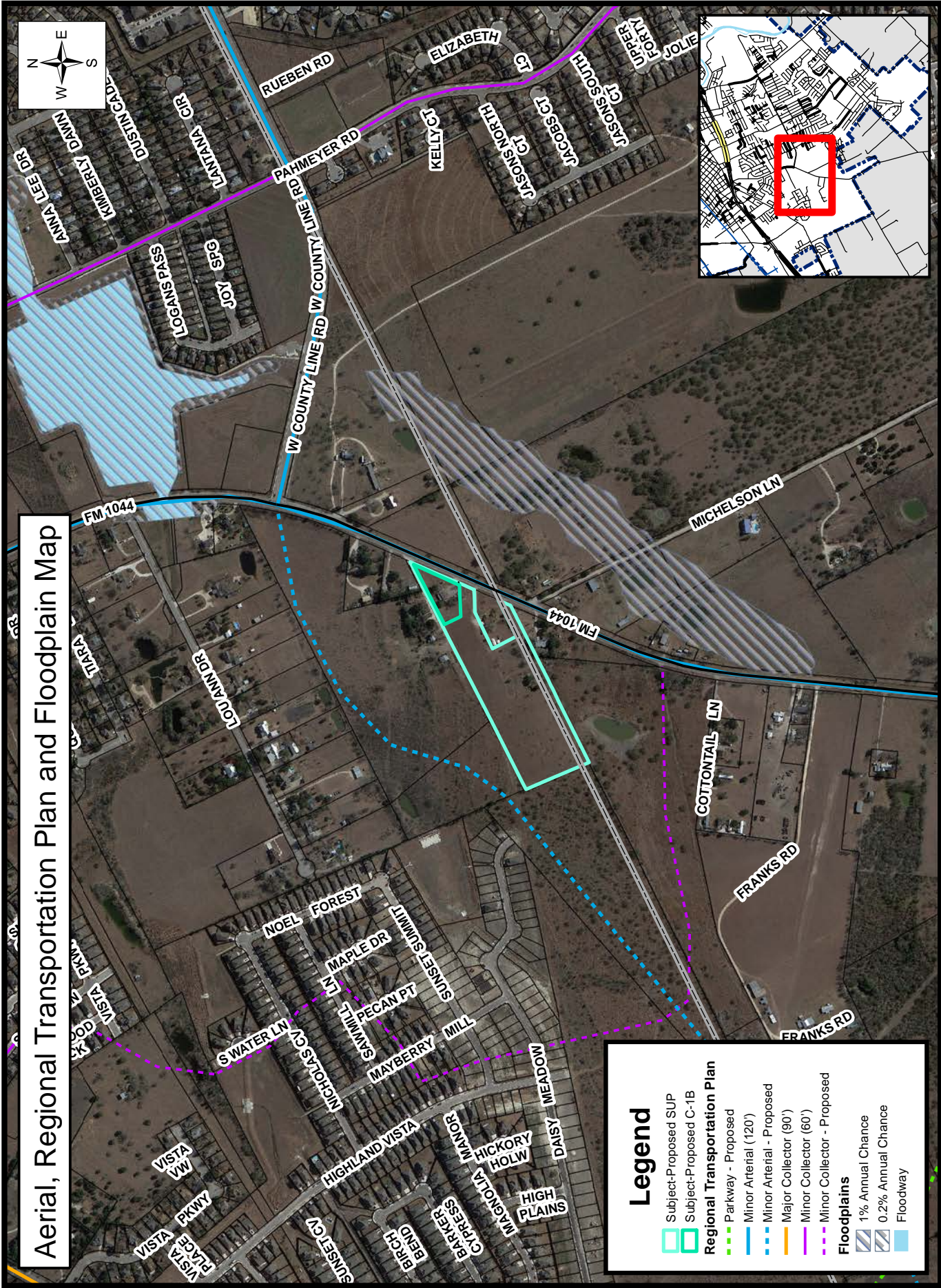
Staff's recommendation also includes approval of an amendment to the Future Land Use Plan designating the Residential Low Density portion of the subject property as Commercial. A request for approval of the Future Land Use Plan amendment will accompany the zoning change and SUP request at the time of the second reading of the ordinance if approved by City Council.

Notification:

Public hearing notices were sent to 8 owners of property within 200 feet of the request. The Planning Division has received one response in favor (#6) and one in objection (#3). Objection exceeds 20% of the notification area at 29.8% triggering the requirement for a super majority of City Council to approve the request.

ATTACHMENTS:

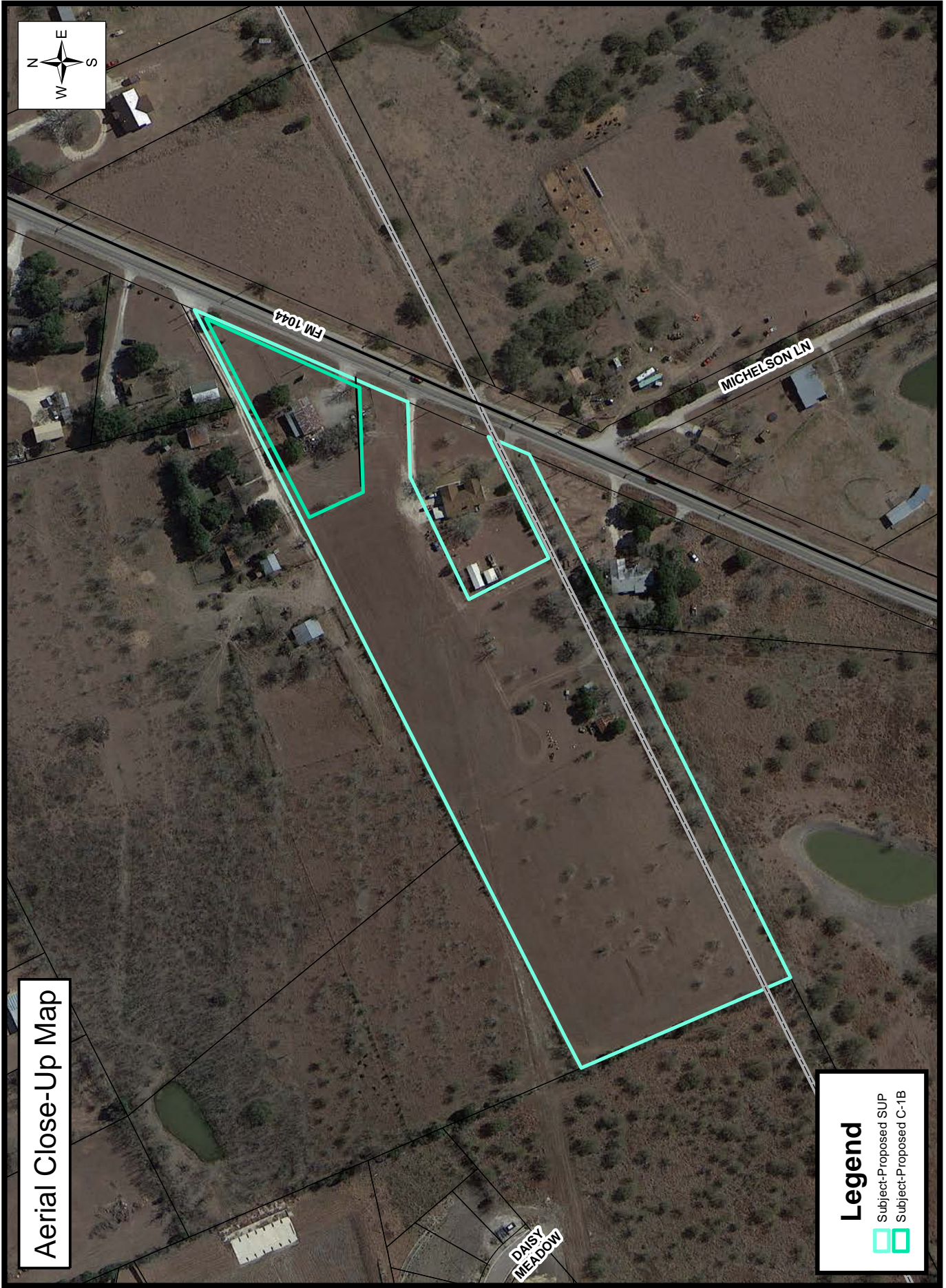
1. Aerial Maps
2. Application
3. Applicant Letters (to Neighbors and to City Council)
4. Land Use Maps (Zoning, Existing Land Use and Future Land Use Plan)
5. Notification List, Notification Map and Response
6. Photographs
7. Sec. 3.4-1 APD
8. Sec. 3.4-13 C-1B
9. Sec. 3.6 Special Use Permits
10. Excerpt from the August 7, 2018 Planning Commission Regular Meeting
11. Ordinance



Map Created 7/17/18

PZ-18-022
1938 FM 1044
Rezoning from APD to SUP and C-1B





Aerial Close-Up Map

Legend

- Subject-P Proposed SUP
- Subject-P Proposed C-1B

PZ-18-022
1938 FM 1044
Rezoning from APD to SUP and C-1B

Map Created 7/17/18



**Planning & Community Development Department
Planning Division**

550 Landa St. New Braunfels, Tx 78130
(830) 221-4050 www.nbtexas.org

CC/Cash/Check No.: 2161 Case No.: PZ-18-022
Amount Recd. \$ 2,742
Receipt No.: 213782



Special Use Permit Application

Any application that is missing information will be considered incomplete and will not be processed.

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: Paul M. Williams

Mailing Address: 1283 Old Fm 306, NB, TX, 78130

Telephone: 830-743-6138 Fax: — Mobile: Same

Email: Paul @ Walsh Company Texas. com

2. Property Address/Location: 1938 ~~Old~~ Fm ¹⁰⁴⁴, NB, TX, 78130

3. Legal Description:

Name of Subdivision: Not Subdivided

Lot(s): — Block(s): — Acreage: 8.294

4. Existing Use of Property: Agricultural, Commercial

5. Current Zoning: Agricultural

6. Proposed Special Use Permit*: Type 1 ☒ OR Type 2 ☐

*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Proposed Use of Property and/or Reason for Request (attach additional or supporting information if necessary): TO Construct And Operate A Self Storage Warehouse Project Which Also Allows RV/ Boat Storage

* Please See Attached Appendix

Addendum: 1938 FM 1044 SUP Application, Rev. II

- 1) Rezoning Request, General: The Owner of the referenced property, Ronald Wohlfahrt, and myself, Paul Williams, have created an unplatted survey which proposes subdivision of the Owner's existing 9.33 acres into 2 separate properties. The proposed 1 acre surrounding the existing Auto Repair shop will be retained by the Owner. I plan to purchase the remaining 8.33 acres if rezoning is approved. Because Planning and Zoning officials have recommended rezoning of the entire 9.33 acres prior to subdividing and recording, the entire property is shown. A survey showing both proposed properties is attached.
- 2) Rezoning Request 1 acre: In accordance with Planning Dept recommendations the owner is requesting that the proposed 1 acre surrounding the owner's auto repair shop is rezoned to C-1B to allow the existing use to continue. The owner has agreed to rescind his rezoning request if there is any opposition to the request.
- 3) Rezoning Request 8.33 acres: We are requesting rezoning of the referenced property for a Type 1 Special Use Permit to allow for construction of self storage warehouses including an onsite manager's living quarters, outside boat and RV storage, and/or single story Office buildings.
- 4) Authorized Agent Letter: I have attached a letter from the owner authorizing me, Paul Williams, to work as an Authorized Agent in all rezoning proceedings.
- 5) Construction Details: All metal warehouse buildings with both conditioned and non-conditioned interior storage areas are planned. An onsite manager's quarters and office is planned as well. Exterior walls facing FM 1044 are planned to have masonry exteriors in compliance with the City's Zoning Ordinance.
- 6) Landscaping: Landscaping will be installed per the City's Zoning Ordinance requirements.
- 7) Fencing: Fencing will be installed per the City's Zoning Ordinance requirements
- 8) Lighting: Installation of 40 Watt LED Full Cut Off Wall Pack is planned, mounted at approximately 7- 8' above pavement. Lighting will be in compliance with the City's Zoning Ordinance.
- 9) All City Code requirements will be met or exceeded.

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The
Walsh
Building
Company

PO Box 311141, New Braunfels, Texas, 78131-1141. Phone: 830-743-6138,. email: paul@walshcompanytexas.com

To: All Property Owners-

My name is Paul Williams. I'm the owner of The Walsh Building Company here in New Braunfels. By now you should have received information from the Planning and Zoning Dept about the project I'm planning on the Wohlfahrt property at 1938 FM 1044. Rodger and I have been friends for about 22 years, and he and his brother Ronnie are in favor of the design details described in this letter. I'm writing to give you details of the project that may not be in the information mailed by P&Z.

I've asked permission to rezone the property to build a self storage warehouse facility. The buildings would be located behind Rodger's house at 1968 FM 1044 and his auto repair shop. The plan is to create a wide drive, located between the 2 buildings, and approximately 80 – 100' from the road to the access gates. An office with an onsite manager's residence will be located near the entry gates, and the exterior walls facing the road will be 100% masonry with metal roof. The metal warehouse buildings will be difficult to see behind the gate, the office, the shop, and the Wohlfahrt home. Wall mounted exterior lighting located on 9' walls is planned for lighting of interior drives; we are not planning to install street lights. The Wohlfahrts are retaining 1 acre surrounding the existing auto repair shop. The City has recommended that they update the zoning on that property as well, and their request is part of this application. They plan to continue operating the repair shop.

The City of NB requires masonry fencing at property lines unless the neighbors on the adjacent properties don't require it. I've asked for an exception on the masonry fencing. Ronnie and Rodger said they would prefer to see the metal walls of the buildings instead of the fence, and I agree. If you're driving towards I-35 you'll see masonry fence near the bar ditch at the subdivision before Lowes. It sags, gets blown by the wind, settles in the soil, is expensive, and requires constant maintenance. I'd prefer to have a blank metal wall with no garage doors or customer access in place of the fence. I believe it will accomplish the same and will look much better.

It's important to tell you that I have made application for a Special Use Permit to build self storage warehouses. That means I cannot build anything but self storage warehouses. There won't be any surprises. Ronnie and Rodger are in favor of this project because they intend to keep the house and the shop and they understand that this will create less traffic and light than a residential neighborhood development.

Thank you for your time. Please contact me if you have any questions.

Paul

Paul M. Williams, President
The Walsh Building Company
P.O. Box 311141-1141
New Braunfels, Texas, 78130
Phone: 830.743.6138
paul@walshcompanytexas.com

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The
Walsh
Building
Company

PO Box 311141, New Braunfels, Texas, 78131. Phone: 830-743-6138, paul@walshcompanytexas.com

August 16, 2018

From: Paul M. Williams
The Walsh Building Company
1283 Old FM 306, New Braunfels, Texas, 78130

To: New Braunfels City Council Members

Subject: Planning Commission Case PZ-18-022

My name is Paul Williams. I have owned and operated The Walsh Building Company in New Braunfels for approximately 16 years. I'm a member of the Chamber of Commerce, and I recently completed my 3rd year on the Board of Directors of Habitat for Humanity. I also serve as Director of the Thorn Hill Property Owners Association, and have done so for the past 10 years. I currently have a rezoning case which is scheduled to be heard at the August 27 City Council meeting. The recent Planning Commission vote on my request was mixed, and I am writing to clarify some issues and ask for your consideration when reviewing my request.

My case was presented to Planning Commission members by Matt Greene at the August 7 meeting. My request is simple; I am seeking to rezone approximately 8.33 acres of land at 1938 FM 1044 in order to build a self storage warehouse facility under a Special Use Permit. Planning staff favors the project. Only 1 of the 8 property owners shown on the notification map, Michael Kramm, responded negatively. But at the meeting he stated "If he wants to build a 20 story office building, let him build it," so it appears he does not oppose the rezoning.

In my original application I asked for a variance on the side and rear setbacks, and the use of masonry fencing. The owners, now living in the existing residence and operating the repair shop surrounded by the subject property, agreed that they would prefer to see a blank metal wall on a full concrete foundation on their property lines as opposed to masonry fencing. I agree with that logic. I submitted my application accordingly, and wrote to the neighbors to explain that. Those variances were the only issues that Planning staff did not favor, and I stated, at the public Planning Commission hearing, that I would gladly rescind my variance requests. Those requests have now been deleted from my application.

At the hearing, Planning staff stated that they favored the plan because it satisfies several goals, including:

- 1) The rezoning is consistent with existing land uses and provides a mix of uses in an appropriate area.
- 2) The rezoning is consistent with the City's Future Land Use Plan.
- 3) Traffic has direct access to FM 1044; no traffic through residential neighborhoods is created.
- 4) The project makes efficient use of the land, discourages sprawl, and reduces usage demands created by residential development. (i.e: Far less household and irrigation water, power, gas and sewage use is created by this project. Far less traffic, sound, and light is generated as well).

I chose to seek rezoning under the SUP because of the fencing variance request, but I also hoped that greatly limiting what could be built would give assurances to the neighbors, and result in less opposition. After rescinding the variance requests the project became 100% compliant with MU-B, M-1A, and M-2A zoning ordinances, which allows operation of more than 200 other types of businesses as well. But questions by Commission members at the hearing made me believe they did not understand that. And my request is far more restrictive because it is

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completely compliant while limiting usage to self storage and office use only. Commissioner Reaves began by asking Matt Greene if “just a straight commercial zoning could be approved,” making me believe he favored the zoning request. I would gladly accept that. Considering that there was only 1 person objecting, and that Planning staff was completely in favor after my variance requests were rescinded, I was shocked to hear a motion to deny. No questions were asked of me, and no reason was given for the denial. The final vote was 3 opposed, 4 in favor of the motion. I don't know if confusion played a part in the final vote, but video clearly shows that Commission members seemed unsure if they were voting in favor or in opposition to the motion. Some members stated several times that night that they “were new at this;” I was also told that at least 2 experienced Board members were not present. Even Michael Kramm, the only resident voicing opposition, believed the majority had voted in favor of it. As we left that night he told me that my “win had destroyed his chances of selling his land to an out of state developer”. While he has criticized our rezoning efforts, he apparently will be seeking to rezone and sell his property as well.

In his written response to Planning staff, Mr. Kramm stated that “no hardships exist that would justify the need for rezoning.” I've never claimed that hardships exist, but the presence of a 36” gas line running diagonally across the property, and the fact that it is located behind an auto repair shop makes it unsuitable for many residential and commercial uses. Mr. Kramm stated that if my project is permitted it “will destroy his property, and his home and land will be flooded.” Obviously this is not true; drainage engineering and compliance is required prior to approval of building permits. His only other claim was that “residential development is the highest and best use of the property,” which is also incorrect. Planning Commission staff favors the project and is encouraging commercial development in that area. Future Land Use Maps on that department's website clearly show that. I believe my request is very reasonable, and is consistent with the Future Land Use Plan. I believe the favorable response by Planning staff and lack of opposition from neighbors supports that belief.

The Wohlfahrts will retain ownership of the auto repair shop and proposed 1 acre surrounding it. Planning staff has encouraged them to upgrade the shop zoning from APD to a commercial zoning that allows the existing use; this is a part of the request as well. But the Wohlfahrts have agreed to rescind their request if there are any objections. In either case, the continued operation of the repair shop will not be affected.

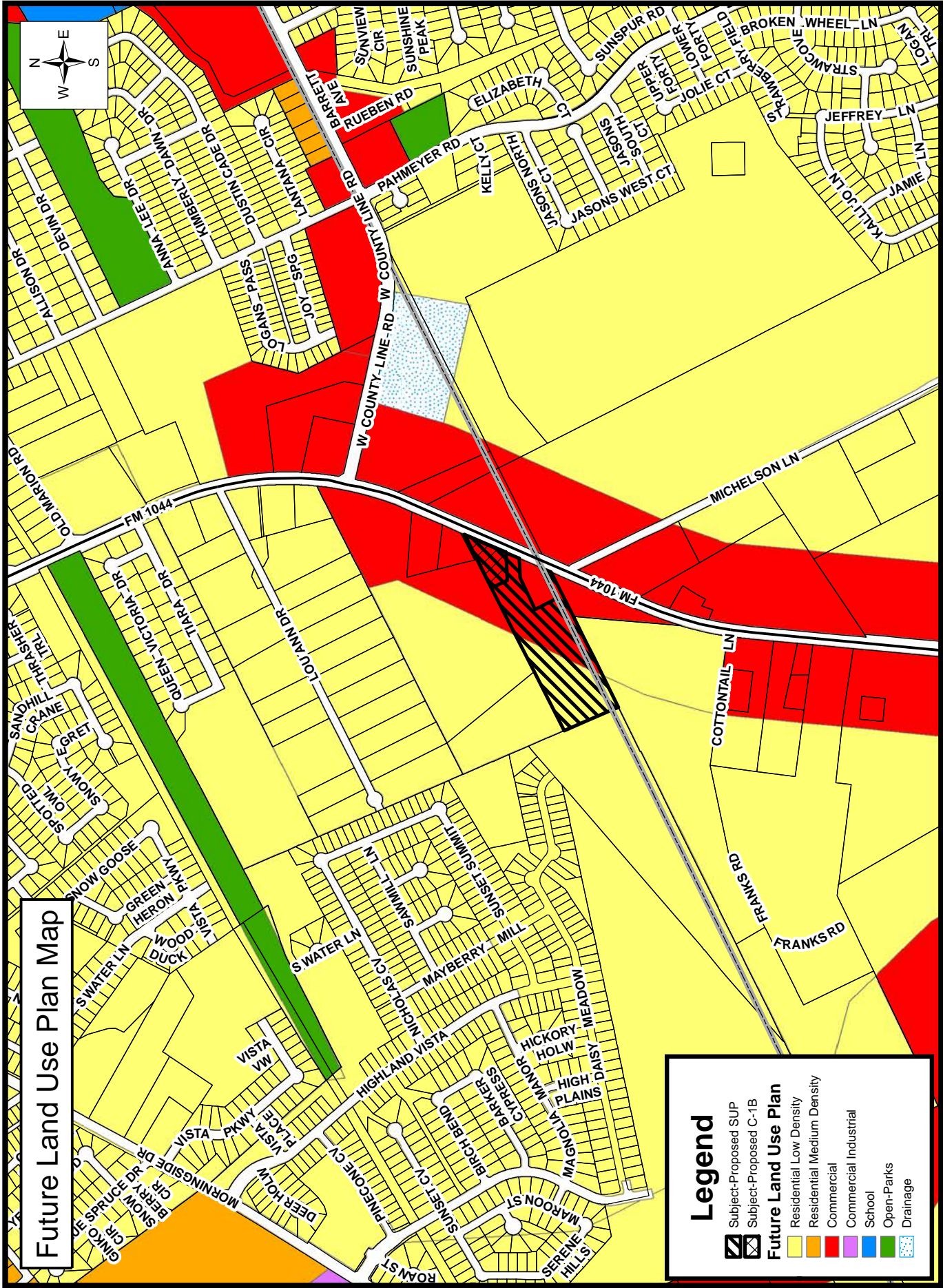
This project is especially important to me as it is planned to be my retirement project. I think it fits the area very well, and there is a need for this type of facility in that area. Because the warehouses will be located behind the existing residence and auto repair shop, located on the subject property, they will not be visible from the road, and masonry fencing with landscaping will conceal the buildings at the sides and rear of the property. My application shows that an onsite manager's residence will be included for increased maintenance and security. My amended application has been submitted to Matt Greene, and all requests for variances are now deleted.

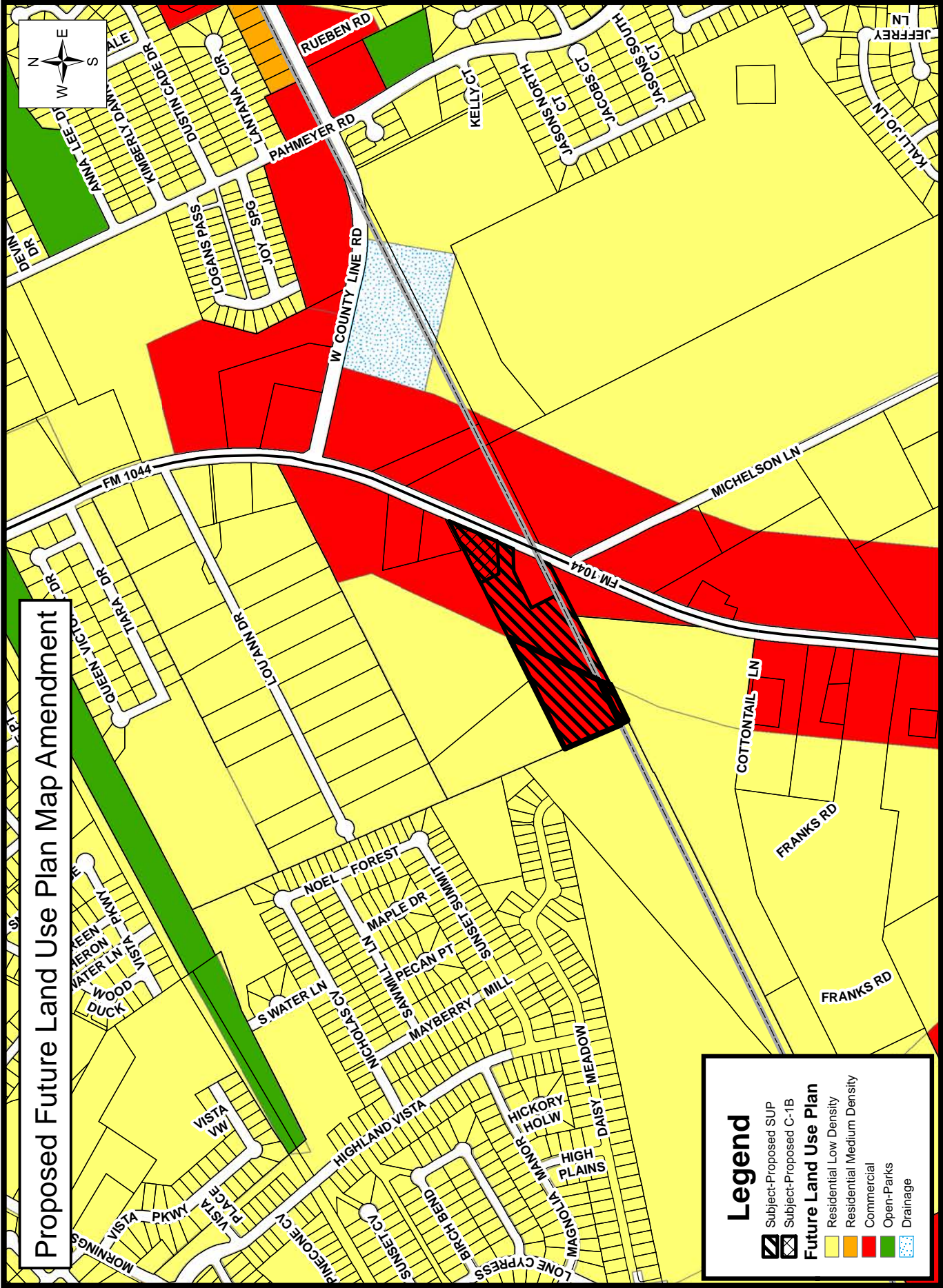
I've constructed numerous projects in New Braunfels, and I'm proud of every one. Our standards of quality are second to none. Unfortunately, because the shared property line with Mr. Kramm's land represents more than 20% of the notification area, I now need a super majority City Council vote in order to proceed, and the results of the Planning Commission vote has not helped my situation. I hope that the details I've provided are helpful in your evaluation of my project, and I am very hopeful that permitting will be approved. Please contact me if any additional information is needed. Thank you for your time.

Sincerely,

Paul M. Williams
The Walsh Building Company
PO Box 311141, New Braunfels, Texas, 78131-1141
Phone: 830-743-6138
Email: paul@walshcompanytexas.com







PLANNING COMMISSION – August 7, 2018
City Hall Council Chambers, 550 Landa Street

Address/Location: 1938 FM 1044 (Legal Description: 9.33 acres out of the J Thomson Survey No. 21, Abstract-608)

Applicant: Paul Williams, agent for Ronald Wolfahrt

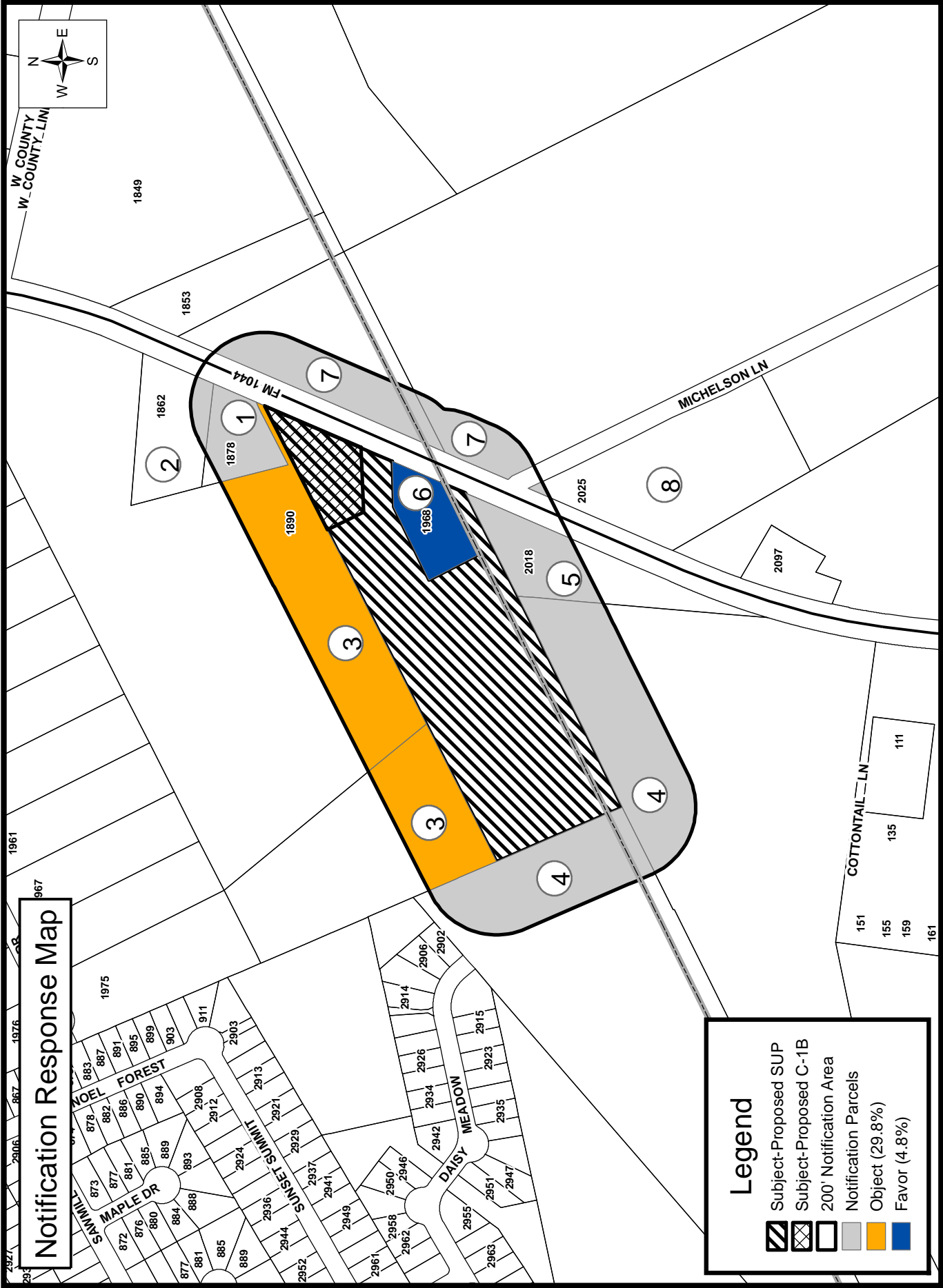
Request: Rezoning 8.33 acres from APD “Agricultural / Pre-Development District to a Special Use Permit and rezoning 1.0 acre from APD “Agricultural / Pre-Development District to “C-1B” General Business District

Case #: PZ-18-022

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. Monroe, Sharon
2. Doyal, Rodney & Virginia McGowen
3. Kramm, Henry
4. Dirt Dealers XII Ltd.
5. Aguilar, Jose & Laura
6. Wohlfahrt, Rodger
7. Wunderlich, Sandra
8. Langen, Margaret

SEE NOTIFICATION MAP



Matt Greene

From: drsupply <drsupply@aol.com>
Sent: Tuesday, August 07, 2018 11:55 AM
To: Matt Greene
Cc: paul@walshcompanytexas.com
Subject: Case#PZ18-022

Attn Matt Greene This email concerns property #6 Rodger Ronald Wohlfahrt 1068 FM1044 We are in favor of Walsh Company plan for mini warehouses I think Paul has done a good job of trying to please all affected parties and still appears to be flexible going forward. We realize this is a dynamic process and look forward to a positive response from P&Z Thanks for your attention Ronald Wohlfahrt

Sent from my Verizon Smartphone

Michael Kramm
P.O. Box 785
Marble Falls, Texas 78654

08-02-18A 10:07 RCVD

August 1, 2018

City of New Braunfels
Planning Commission
550 Landa Street
New Braunfels, TX 78130

Re: REPLY TO NOTICE OF PUBLIC HEARING
Case # PZ18-022

City of New Braunfels:

The City of New Braunfels will be holding a Public Hearing for rezoning of the following:

- 9.33 acres out of a current 9.33 acres of land in the J Thomson Survey No. 21, Abstract 608 in Comal County, Texas and being addressed as 1938 FM 1044, New Braunfels, TX 78130.

8.33 acres of this property is requested as part of a Special Use Permit. The remaining 1 acre of land is requested to be C-1B. This case is scheduled to be heard by the Planning Commission on Tuesday, August 7, 2018 and tentatively before City Council on Monday, August 27, 2018.

WE OBJECT TO THE CITY OF NEW BRAUNFELS CHANGING THE ZONING ON THIS PROPERTY AND IMPORE THE CITY OF NEW BRAUNFELS TO DENY THE ZONING CHANGE.

We are the Owners of 25 .64 acres of land out of the J Thomson Survey No. 21, Abstract 608 in Comal County and being addressed as 1890 FM 1044, New Braunfels, TX 78130 ("Kramm Property"). We are the beneficiaries of the estate of Henry O. Kramm, deceased and this is the property where we, children of Henry O. Kramm, were raised. The 9.33 acres of land shares a common boundary with the Kramm Property for approximately 1000 feet.

The request of Mr. Paul Williams, agent for Ronald Wolfahrt is not only for rezoning; it is for variances to existing zoning for a Special Use Permit and change of zoning to C-1B Zoning Classification. It is these variances cited in Request No. 1 and even No. 2 which we are so opposed. We all rely on the zoning requirements to mutually protect each of our properties against activities which would have adverse impact on the other. We understand that even our property may not always be agricultural uses. We feel the highest and best future use of our property is residential development and want to preserve our options in the future.

Mr. Williams desires to have the authorization to place mini-warehouse buildings directly on the property line with no setback. This is not appropriate for any development and places an undue burden on the adjoining property just because Mr. Williams wants more square feet of mini-warehouse than would ordinarily be allowed. This essentially means that we ultimately be limited to some industrial or intense commercial use of our property to accept mini warehouses lined up on the common boundary line. This is an unfair control to be placed on us.

Mr. Williams desires to not place the masonry buffer wall between our two properties. This type of masonry wall, which is required, provides a minimal transition between grossly unlike uses of residential development and arguably the most intense development use (mini-warehouse). Some board fence or chain-

link or pasture fence will not be adequate to achieve a minimal transition. Otherwise, we will be saddled with placement of our own buffer zone or other transition element for residential uses just because Mr. Williams wants mini-warehouses and wants a variance from the rules and requirements.

Mr. Williams desires no masonry facade on the sides and rear of the buildings or landscape buffering which will be visible from our property. Again, a sheet metal facade is objectionable from potential houses and other future residential uses that may be proposed in the future for our property. Again, an unfair control.

Mr. Williams desires a variance to even build these mini-warehouse and self-storage units under the existing "APD" zoning which is why he needs a Special Use Permit. It itself is not allowed. Obviously, we oppose this property being developed as self-storage units or anything else for that matter which would not be compatible with residential uses. This decision by the City is discretionary to begin with but the fact that the base zoning does not even allow that use is reason enough for denial.

Buffers, fences, setbacks, masonry facades on buildings do not represent a unique or special hardship to Mr. Williams and his development. His project has no special circumstances to justify the approval of these variances in the Special Use Permit. He is not being asked to do anything that a similarly situated property with similar circumstances would be asking to do also. His only possible justification for these variances is financial gain on his part at the expense of the City of New Braunfels and his neighbors.

The Planning Commission is not compelled to approve this zoning requests as the City Council is not compelled either regardless of any reason that Mr. Williams may have for these variances. Please, do not approve the Special Use Permit or zoning of C-1B under the current proposed plan. We certainly appreciate your time and effort on this matter.

Sincerely,

Michael Kramm



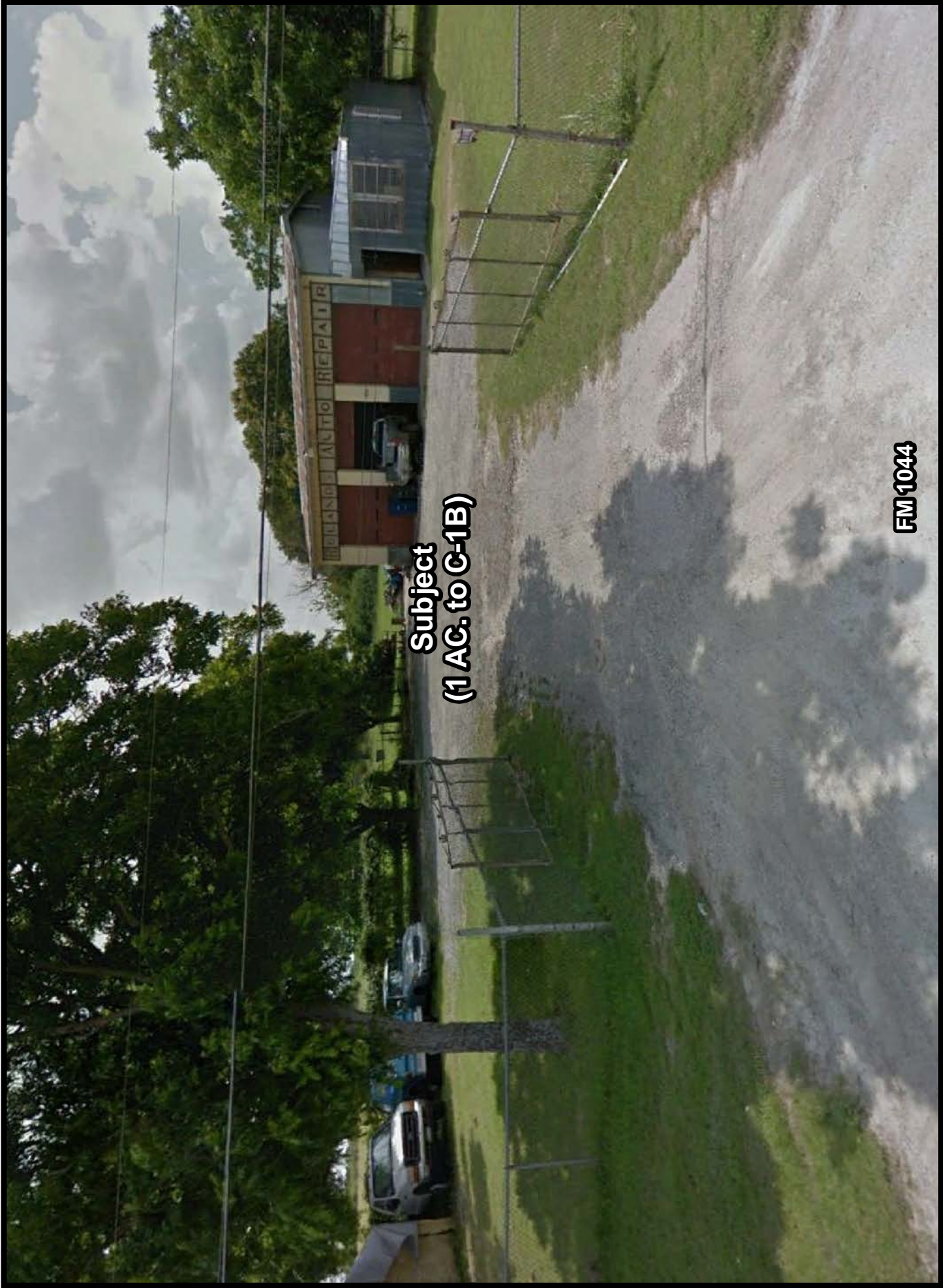
Kelvin Kramm



Corrie Fey (Kramm)



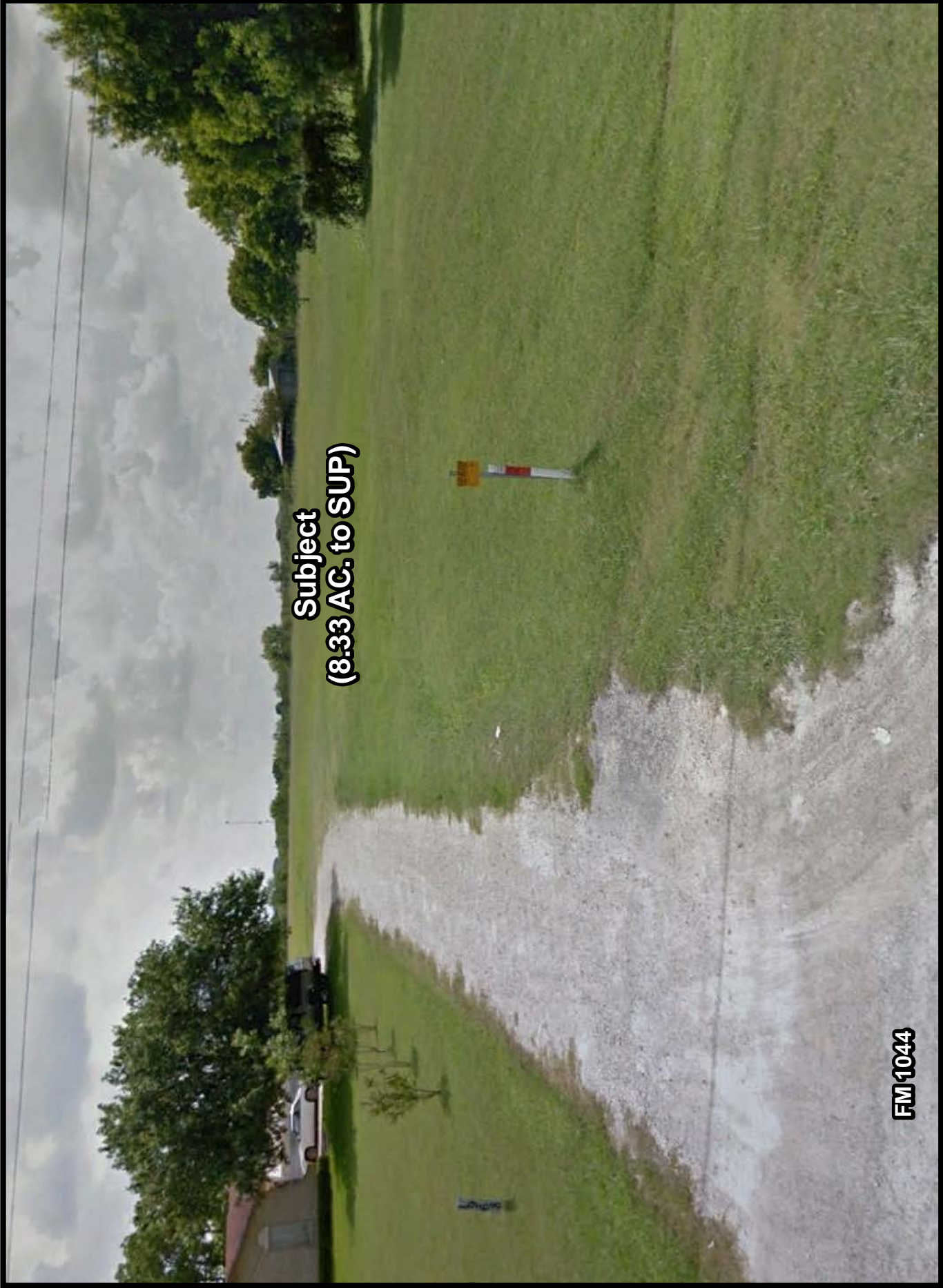
#3 on Notification Map



Map Created 7/17/18

PZ-18-022
 1938 FM 1044
 Rezoning from APD to SUP and C-1B





**Subject
(8.33 AC. to SUP)**

FM 1044

**PZ-18-022
1938 FM 1044
Rezoning from APD to SUP and C-1B**

Map Created 7/17/18



3.4. Zoning Districts and Regulations for Property Zoned Subsequent to June 22, 1987.

3.4-1. "APD" agricultural/pre-development district.

Purpose. This district is designed for newly annexed areas, agricultural uses, and for areas where development is premature because of a lack of utilities, capacity, or service, or where the ultimate use has not been determined. The following regulations shall apply in all "APD" 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 (See Sec. 5.5)
- One family, dwelling, detached
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Barns and farm equipment storage (related to agricultural uses)
- Cemetery and/or mausoleum
- Church/place of religious assembly
- Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
- Country club (private)
- Farmers market (produce market - wholesale)
- Farms, general (crops) (see Chapter 6, Municipal Code) (Sec. 5.9 is not applicable)
- Farms, general (livestock/ranch) (see Chapter 6, Municipal Code) (Sec. 5.9 is not applicable)
- Flour mills, feed mills, and grain processing
- Golf course, public or private
- Governmental building or use with no outside storage Grain elevator
- Hay, grain, and/or feed sales (wholesale)
- Livestock sales/auction
- Park and/or playground (public)
- Plant nursery (growing for commercial purposes but no retail sales on site)
- Recreation buildings (public)
- Rodeo grounds
- School, K-12 (public or private)
- Stables (as a business) (see Chapter 6, Municipal Code)
- Stables (private, accessory use) (see Chapter 6, Municipal Code)
- Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

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) *Height.* 35 feet.

(2) *Front yards.* 25 feet.

(3) *Side building setbacks.* There shall be a side building setback on each side of a building not less than ten 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 lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *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) *Rear building setbacks.* 30 feet.

(6) *Width of lot.* 100 feet.

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 15,000 square feet per dwelling, provided that where a lot has less area 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. Where 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.

(8) *Lot depth.* 100 feet.

(9) *Parking.* See Section 5.1 for other permitted uses' parking.

3.4-13. "C-1B" general business district.

Purpose. The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" 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
- Assisted living facility/retirement home
- Bed and breakfast inn (see Sec. 5.6)
- Community home (see definition)
- Hospice

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)
- 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. 5.11)
- Auto or truck sales rooms or yards - primarily New (see Sec. 5.12)
- Auto paint shop (see Sec. 5.11)
- 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
 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)
 Carpenter, cabinet, or pattern shops
 Carpet cleaning establishments
 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
 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
 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
 Driving range
 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 (public or private)
 Golf course (miniature)
 Greenhouse
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)
 Home repair and yard equipment retail and rental outlets
 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
 Maintenance/janitorial service
 Major appliance sales (indoor)
 Martial arts school
 Medical supplies and equipment
 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
 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 (public or private)
 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.)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Plant nursery
 Plant nursery (retail sales / outdoor storage)
 Plumbing shop
 Portable building sales
 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)
 Recreation buildings (public)
 Recycling kiosk
 Refreshment/beverage stand
 Research lab (non-hazardous)
 Restaurant
 Restaurant/prepared food sales
 Retail store and shopping center
 Retirement home/home for the aged
 RV park
 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
 Shooting gallery - indoor (see Sec. 5.13)
 Shopping center
 Sign manufacturing/painting plant
 Specialty shops in support of project guests and tourists
 Storage – exterior storage for boats and recreational vehicles
 Studio for radio or television (without tower)
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Tailor shop
 Tattoo or 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
 Travel agency
 University or college (public or private)
 Upholstery shop (non-auto)
 Used or second hand merchandise/furniture store
 Vacuum cleaner sales and repair

Vehicle storage facility
 Veterinary hospital (no outside animal runs or kennels)
 Video rental / sales
 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 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) *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.
- (5) *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)
- (6) *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.
- (7) *Rear building setback.* 20 feet.
- (8) *Width of lot.* 60 feet.
- (9) *Lot depth.* 100 feet.
- (10) *Parking.* See Section 5.1 for permitted uses' parking.

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.

Draft Minutes for the August 7, 2018 Planning Commission Regular Meeting

PZ-18-022 Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to 8.33 acres to allow self-storage warehouses including an onsite manager's living quarters, outside boat and rv storage, and/or single story office buildings in the "APD" Agricultural/Pre-Development District and the proposed rezoning of 1 acre from "APD" Agricultural/Pre-Development District to "C-1B" General Business District 1938 FM 1044. (Applicant: Paul Williams; Case Manager: M. Greene)

Acting Chair Sonier returned to the dais at 9:23 p.m.

Mr. Greene presented the Staff report and stated staff recommends approval of the proposed C-1B zoning and Type 1 Special Use Permit. He further said Staff does not recommend approval of the modifications to the exterior building requirements, waiving the external side yard and rear yard setbacks, nor waiving the masonry wall and landscape buffer requirement.

Commissioner Reaves inquired how common it is to request both an SUP and a zone change to accommodate building commercially in an APD zoned property.

Mr. Greene answered it was not uncommon.

Discussion followed.

Commissioner Tubb asked if the SUP was requested because of the adjacent residential properties.

Mr. Greene said no, the SUP request was chosen because of the waiver requests from the zoning ordinance requirements.

Discussion followed.

Commissioner Meyer inquired if a new use would require enforcement of a masonry wall buffer.

Mr. Greene clarified if a new property owner occupies the property for commercial use a masonry wall buffer will be required.

Acting Chair Sonier asked if anyone wished to speak in favor.

Paul Williams, 1283 FM 306, stated he was representing the applicant. He stated an SUP will allow the adjacent neighbors to know exactly what the property will be used for.

Acting Chair Sonier asked if anyone wished to speak in opposition.

Michael Kramm, represented as number 3 on the notification map, wished to speak in opposition. He expressed concern regarding the requested waiver to the side setback and masonry wall. He stated mini-storage is not pleasant to look at and could therefore affect his property value.

Carri F., represented as number 3 on the notification map, wished to speak in opposition. She stated she believes the requirement for a masonry wall buffer should not be waived under any circumstance.

Mr. Williams reiterated his client would not mind rescinding the request for the waivers. He also stated the Future Land Use map indicates the best use of the property is commercial.

Motion by Commissioner Laskowski, seconded by Commissioner Tubb, to close the public hearing. The motion carried (7-0-0).

Discussion followed regarding the locations where a masonry wall buffer is required.

Motion by Commissioner Reaves, seconded by Commissioner Meyer, to recommend denial to City Council regarding the proposed rezoning to apply a Special Use Permit to 8.33 acres to allow self-storage warehouses including an onsite manager's living quarters, outside boat and rv storage, and/or single story office buildings in the "APD" Agricultural/Pre-Development District and the proposed rezoning of 1 acre from "APD" Agricultural/Pre-Development District to "C-1B" General Business District 1938 FM 1044. Motion carried (4-3-0) with Laskowski, Gibson, and Tubb in opposition.

DRAFT

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, REZONING 1 ACRE OUT OF ABSTRACT 608, J. THOMPSON SURVEY-21, COMAL COUNTY, TEXAS, FROM “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT TO “C-1B” GENERAL BUSINESS DISTRICT; AND GRANTING A TYPE 1 SPECIAL USE PERMIT TO 8.3 ACRES ACRE OUT OF ABSTRACT 608, J. THOMPSON SURVEY-21, COMAL COUNTY, TEXAS, TO ALLOW SELF-STORAGE WAREHOUSES INCLUDING AN ONSITE MANAGER’S LIVING QUARTERS, OUTSIDE BOAT AND RV STORAGE, AND/OR SINGLE STORY OFFICE BUILDINGS IN THE “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT, ADDRESSED AT 1938 FM 1044; 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 “C-1B” General Business District, the City Council has given due consideration to all components of said district; and

WHEREAS, the rezoning is in compliance with the Future Land Use Plan; 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 1 acre out of the Abstract 608, J. Thompson Survey-21, Comal County, Texas, addressed at 1938 FM 1044, from “APD” Agricultural/Pre-Development District and “APD” to “C-1B” General Business District;

WHEREAS, the City Council recognizes that granting a Special Use 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 Council to ensure 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 the proposed uses; and

WHEREAS, the City Council desires to grant a Type 1 Special Use Permit to allow self-storage warehouses including an onsite manager's living quarters, outside boat and rv storage, and/or single story office buildings on 8.3 acres out of the Abstract 608, J. Thompson Survey-21; **now, therefore**,

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

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 "APD" Agricultural/Pre-Development District to "C-1B" General Business District:

"1.0 acre out of Abstract 608, J. Thompson Survey-21, addressed at 1938 FM 1044, as described in Exhibit 'A' and delineated on Exhibit 'B.'"

SECTION 2

THAT Sections 3.6-2 and 3.6-3, Chapter 144 of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are revised by adding the following described tract of land as a "Type 1 Special Use Permit" for the uses and conditions herein described:

"8.3 acres out of the Abstract 608, J. Thompson Survey-21, as described in Exhibit 'C' and delineated on Exhibit 'D,' to allow self-storage warehouses including an onsite manager's living quarters, outside boat and rv storage, and/or single story office buildings."

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 27th day of August, 2018.

PASSED AND APPROVED: Second and Final Reading this the 10th day of September, 2018.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

METES AND BOUNDS

Being 1.000 acre of land, more or less, situated in the John Thompson Survey No. 21, F.M. No. 1044 tract 608, Comal County, Texas, and being out of that 9.812 acres described in the Deed recorded in Volume 117, Page 598, Deed Records, Comal County, Texas, said 1.000 acre being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found for the East corner of Lot 1 of the Wohlfahrt Subdivision (Volume 5, Page 286), same being on the northwest Right-of-Way line of F.M. 1044 and the **POINT OF COMMENCEMENT**;

THENCE along the northwest Right-of-Way line of said F.M. 1044, North 23 degrees 30 minutes 27 seconds East, a distance of 145.10 feet to a point for the southeast corner of this 1.000 acre, same being the **POINT OF BEGINNING**;

THENCE departing the northeast line of and severing said 9.812 acres the following courses and distances:

South 87 degrees 43 minutes 27 seconds West, a distance of 177.60 feet to a point for the southwest corner of this 1.000 acre;

North 26 degrees 55 minutes 59 seconds West, a distance of 108.45 feet to a point for the West corner of this 1.000 acre, same being on the northwest line of said 9.812 acres and on the southeast line of the Henry O. Kramm 25.61 acres (Document No. 201006019006);

THENCE along the line common to this 1.000 acre and said Kramm 25.61 acres, North 63 degrees 08 minutes 24 seconds East, a distance of 381.79 feet to a point for the northeast corner of this 1.000 acre, same being the East corner of the Sharon B. Moore 0.942 acres (Document No. 201706034942) and on the northwest Right-of-Way line of said F.M. 1044;

THENCE along the northwest Right-of-Way line of said F.M. 1044, South 23 degrees 30 minutes 27 seconds West (called South 24 degrees 31 minutes West), a distance of 375.86 feet to the **POINT OF BEGINNING** and containing 1.000 acre of land, more or less.

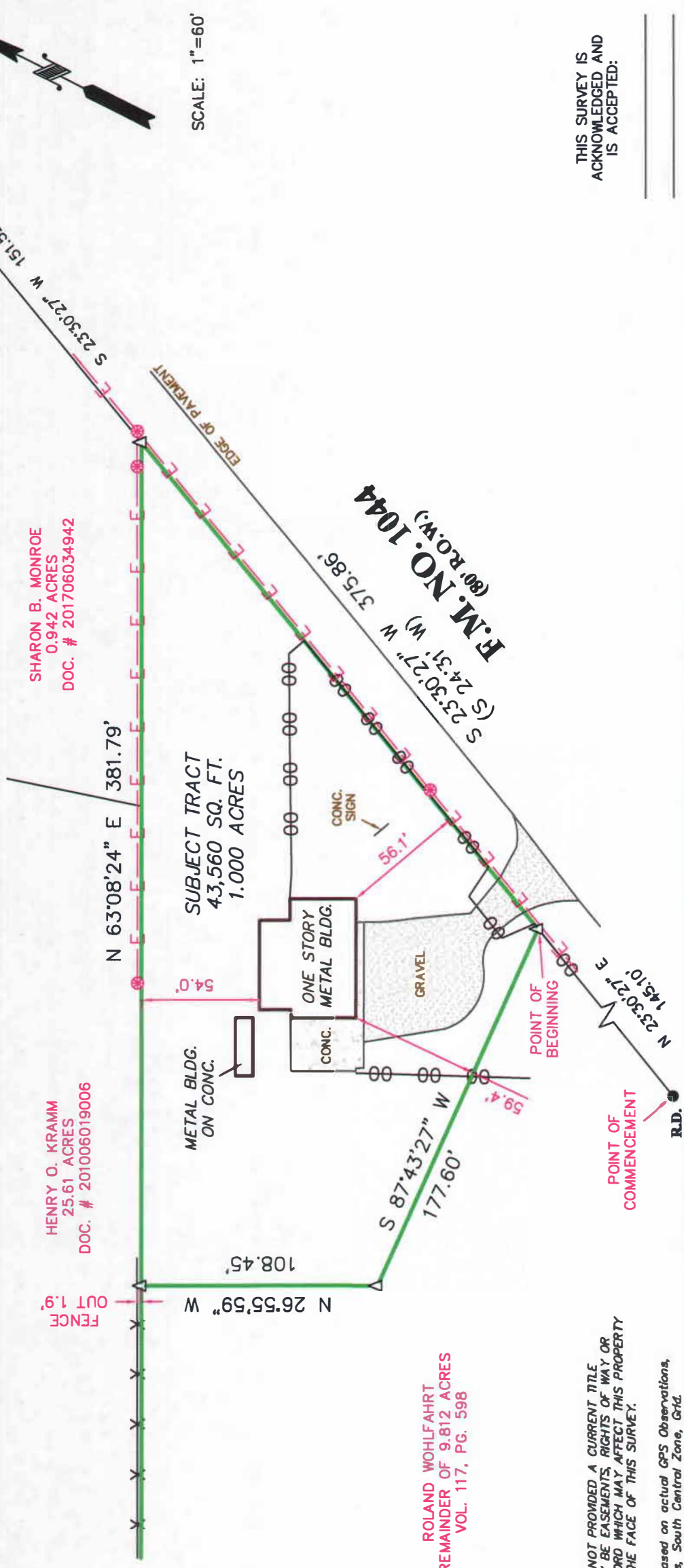
I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof. Bearings shown herein are based on actual GPS Observations, Texas State Plane Coordinates, South Central Zone, Grid.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
May 9, 2018



FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS. AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 481875, Panel No. 00095 E, which is Dated 11/02/2007. By receding from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) X. Because this is a boundary survey, the surveyor did not take any actions to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THIS SURVEYOR DOES NOT CERTIFY THE INTERPRETATION OF THE FLOOD ZONES, which may not agree with the interpretations of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <http://www.fema.gov/index.shtml>.



ROLAND WOHLFAHRT
REMAINDER OF 9.812 ACRES
VOL. 117, PG. 598

HENRY O. KRAMM
25.61 ACRES
DOC. # 201006019006

SHARON B. MONROE
0.942 ACRES
DOC. # 201706034942

SUBJECT TRACT
43,560 SQ. FT.
1.000 ACRES

F.M. NO. 1044
(80' R.O.W.)
S 23°30'27" W 375.86'
S 24°31' W 375.86'

NOTE:
THE SIGNING SURVEYOR WAS NOT PROVIDED A CURRENT TITLE COMMITMENT AND THERE MAY BE EASEMENTS, RIGHTS OF WAY OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PROPERTY WHICH ARE NOT SHOWN ON THE FACE OF THIS SURVEY.

NOTE:
Bearings shown hereon are based on actual GPS Observations, Texas State Plane Coordinates, South Central Zone, GHD.

- LEGEND**
- Δ - CALCULATED POINT
 - END 1/2" IRON ROD
 - RECORD INFORMATION
 - BUILDING SETBACK
 - B.S. - RECORD DIGNITY MONUMENT
 - R.D. - CHAIN LINK FENCE
 - WIRE FENCE
 - POWER POLE
 - OVERHEAD ELECTRIC

Westar Alamo
LAND SURVEYORS, LLC.
P.O. BOX 1645 BOERNE, TEXAS 78009
PHONE (210) 372-9500 FAX (210) 372-9999

FIRM REGISTRATION NO. 1011700

Property Address:
1938 F.M. 1044

Property Description:
Being 1.000 acre of land, more or less, situated in the John Thompson Survey No. 21, F.M. No. 1044 tract 608, Comal County, Texas, and being out of that 9.812 acres described in the Deed recorded in Volume 117, Page 598, Deed Records, Comal County, Texas, said 1.000 acre being more particularly described by metes and bounds attached hereto.

Owner:
T.B.D.



I, MARK J. EWALD, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

Mark J. Ewald

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5995

TITLE COMPANY: N/A

DRAWN BY: TS
JOB NO. 82286

G.F. NO. N/A

DATE: 05/09/2018

METES AND BOUNDS

Being 8.294 acre of land, more or less, situated in the John Thompson Survey No. 21, F.M. No. 1044 Abstract 608, Comal County, Texas, and being out of that 9.812 acres described in the Deed recorded in Volume 117, Page 598, Official Public Records, Comal County, Texas, and that 0.452 acres described in a Deed recorded in Volume 117, Page 597, Official Public Records, Comal County, Texas, said 8.294 acre being more particularly described by metes and bounds as follows:

BEGINNING at a Texas Department of Transportation monument found for the East corner of this 8.294 acres, same being on the northwest Right-of-Way line of F.M. 1044 and the North corner of the Jose A. Aguilar, et ux 1.905 acres (Volume 1724, Page 274), same also being the **POINT OF BEGINNING**;

THENCE along the line common to this 8.294 acres and said Aguilar 1.905 acres, South 63 degrees 08 minutes 24 seconds West (called South 64 degrees West), at a distance of 313.69 feet pass a 1/2 inch iron rod found for the West corner of said Aguilar 1.905 acres, same being the North corner of Dirt Dealers XII 38.095 acres (Volume 2773, Page 98), and continuing for a total distance of 959.60 feet to a 1/2 inch iron rod found for the southwest corner of this 8.294 acres, same being the southeast corner of the Dirt Dealers XII 17.389 acres (Document No. 201706026729);

THENCE along the line common to this 8.294 acres and said Dirt Dealers 17.389 acres, North 23 degrees 14 minutes 06 seconds West (called South 22 degrees 25 minutes West), a distance of 379.24 feet (called 381 feet) to a 1/2 inch iron rod found for the southwest corner of this 8.294 acres, same being the southeast corner of the Henry O. Kramm 25.61 acres (Doc. No. 20100601906);

THENCE along the line common to this 8.294 acres and said Kramm 25.61 acres, North 63 degrees 08 minutes 24 seconds East (called North 64 degrees East), a distance of 1010.81 feet to a point for the northeast corner of this 8.294 acres;

THENCE departing the northwest line of and severing said 9.812 acres the following courses and distances:

South 26 degrees 55 minutes 59 seconds East, a distance of 108.45 feet to a point for an angle corner;

North 87 degrees 43 minutes 27 seconds East, a distance of 177.60 feet to a point for an angle corner, same being on the southeast line of said 9.812 acres and on the northwest Right-of-Way line of said F.M. 1044;

THENCE along the northwest Right-of-Way line of said F.M. 1044, South 23 degrees 30 minutes 27 seconds West, a distance of 90.00 feet to a point for an angle corner, same being the northeast corner of Lot 1, Wohlfahrt Subdivision (Volume 5, Page 286);

THENCE along the lines common to this 8.294 acres and said Lot 1 the following courses and distances:

South 87 degrees 43 minutes 27 seconds West (called South 87 degrees 22 minutes 54 seconds West), a distance of 123.92 feet to a point for an angle corner;

South 63 degrees 49 minutes 27 seconds West (called South 64 degrees 18 minutes West), a distance of 221.88 feet to a point for the West corner of said Lot 1, same being an interior corner of this 8.294 acres;

South 27 degrees 40 minutes 35 seconds East (called South 27 degrees 12 minutes East), a distance of 147.03 feet (called 147.05 feet) to a point for the southwest corner of said Lot 1, same being an interior corner of this 8.294 acres;

North 63 degrees 04 minutes 27 seconds East (called North 63 degrees 33 minutes East), a distance of 220.71 feet (called 220.72 feet) to a 1/2 inch iron rod found

for the East corner of said Lot 1, same being on the northwest Right-of-Way line of said F.M. No. 1044;

THENCE along the northwest Right-of-Way line of said F.M. No. 1044, South 23 degrees 30 minutes 27 seconds West (called South 24 degrees 31 minutes 00 seconds West), a distance of 72.40 feet to the **POINT OF BEGINNING** and containing 8.294 acres of land, more or less.

I hereby certify that these field notes were prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. A survey plat of the above described tract prepared this day is hereby attached to and made a part hereof. Bearings shown herein are based on actual GPS Observations, Texas State Plane Coordinates, South Central Zone, Grid.



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
May 9, 2018



FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS. AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 48187C, 48091C, Panel No. 0095 E, 0445 E, which is Dated 11/02/2007, 09/02/2009. By reciting from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) X. Because this is a boundary survey, the survey did not take any actions to determine the Flood Zone status of the surveyed property other than to interpret the information of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <http://www.fema.gov/index.shtm>.

DIRT DEALERS XII, LTD.
17,389 ACRES
DOC. # 201706026729

DIRT DEALERS XII
38.095 ACRES
VOL. 2773, PG. 98

FIRM REGISTRATION NO.
10111700

Westar
Alamo

LAND SURVEYORS, LLC.
P.O. BOX 1645 BOERNE, TEXAS 78006
PHONE (210) 372-9500 FAX (210) 372-9989

G.F. NO. N/A
JOB NO. 82286

DRAWN BY: TS

- LEGEND**
- △ CALCULATED POINT
 - FND TxDOT MONUMENT
 - FND 1/2" IRON ROD
 - RECORD INFORMATION
 - B.S. — BUILDING SETBACK
 - RECORD DENSITY MONUMENT
 - PIPELINE MARKER
 - WIRE FENCE
 - CHAIN LINK FENCE
 - POWER POLE
 - OVERHEAD ELECTRIC
 - TELEPHONE PEDESTAL

Property Address:
1938 F.M. 1044
Property Description:

Being 8.294 acre of land, more or less, situated in the John Thompson Survey No. 21, F.M. No. 1044 Abstract 608, Comal County, Texas, and being out of that 9.812 acres described in the Deed recorded in Volume 117, Page 598, Official Public Records, Comal County, Texas, and that 0.452 acres described in a Deed recorded in Volume 117, Page 597, Official Public Records, Comal County, Texas, said 8.294 acre being more particularly described by metes and bounds attached hereto.

Owner:
ADELINE L. WOHLFAHRT

TITLE COMPANY: N/A

DATE: 05/09/2018

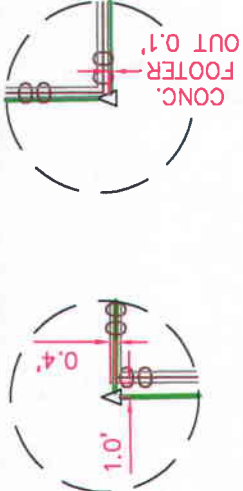


I, MARK J. EWALD, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

LINE	BEARING	DISTANCE
L1	S 87°43'27" W	123.92'
	(S 87°22'54" W)	
L2	S 63°49'27" W	221.88'
	(S 64°18' W)	
L3	S 23°30'27" W	72.40'
	(S 24°31'00" W)	

HENRY O. KRAMM
25.61 ACRES
DOC. # 201006019006



DETAIL A
(NOT TO SCALE)

DETAIL B
(NOT TO SCALE)

SUBJECT TRACT
361,265 SQ. FT.
8.294 ACRES

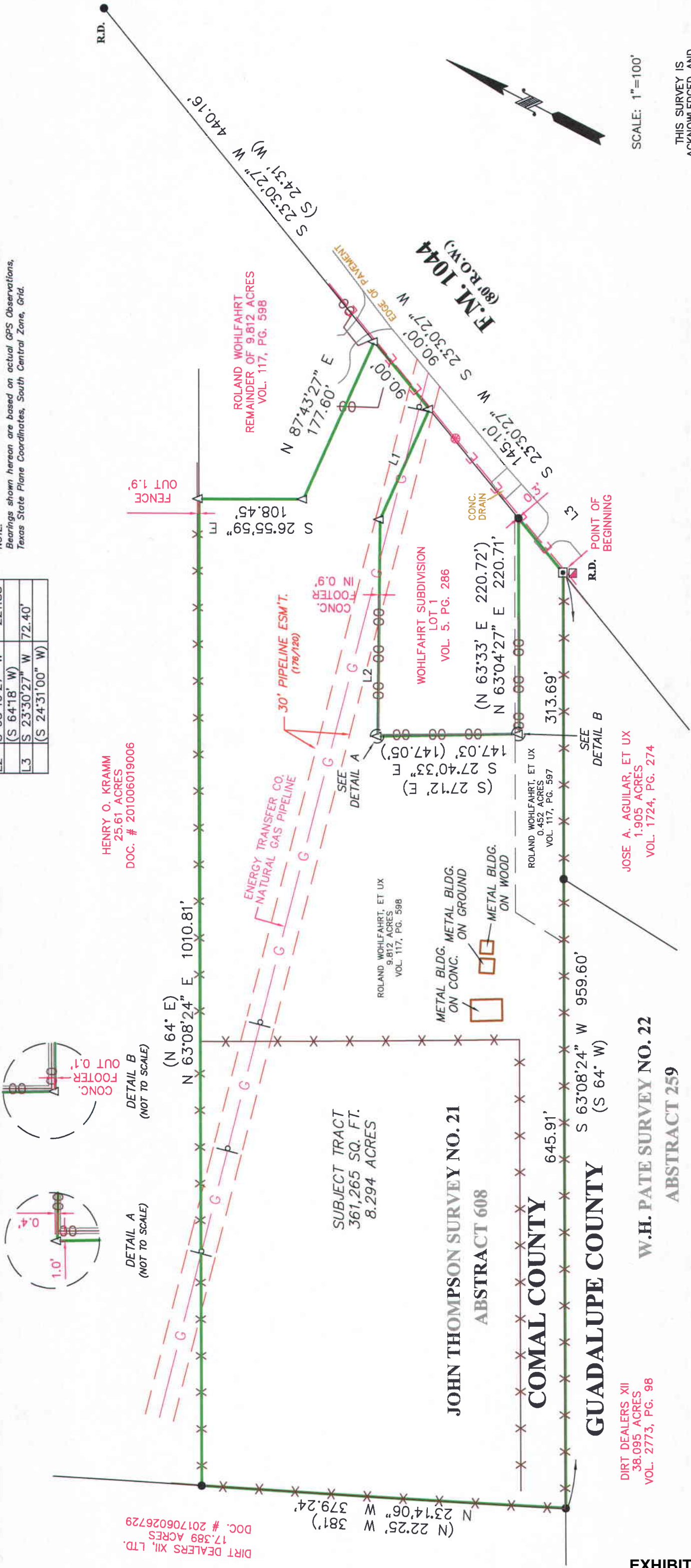
JOHN THOMPSON SURVEY NO. 21
ABSTRACT 608

COMAL COUNTY

GUADALUPE COUNTY

W.H. PATE SURVEY NO. 22

ABSTRACT 259



SCALE: 1"=100'

THIS SURVEY IS
ACKNOWLEDGED AND
IS ACCEPTED:

NOTE:
THE SIGNING SURVEYOR WAS NOT PROVIDED A CURRENT TITLE COMMITMENT AND THERE MAY BE EASEMENTS, RIGHTS OF WAY OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PROPERTY WHICH ARE NOT SHOWN ON THE FACE OF THIS SURVEY.

NOTE:
Bearings shown hereon are based on actual GPS Observations,
Texas State Plane Coordinates, South Central Zone, Grid.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. F)

Presenter/Contact

*Amy McWhorter, Historic Preservation Officer
amcwhorter@nbtexas.org*

SUBJECT:

Public hearing and first reading of an ordinance designating 0.2475 acres out of City Block 4029, Lot 3, addressed as 941 Lee Street, as a Historic Landmark to be known as the Schulz-Johnson House.

BACKGROUND / RATIONALE:

Case No.: HLC-18-012

Council District: 6

Owner/Applicant: Pamela and Robert Johnson
941 Lee Street
New Braunfels, TX 78130

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

The subject property includes a circa 1922 single-family dwelling and one non-historic age accessory structure. The applicant is requesting individual Historic Landmark designation for the property based on the significance of the dwelling and the accessory structure is not considered contributing structures to this application.

The subject property is located on what was once referred to as Lot 3, Block 6 of the Schumann Addition, which was platted in 1913. In 1922, R.J. Goode sold the subject property to Henry Salge for \$590.00. Given the low value of the property at the time of this transaction, even accounting for inflation, it is unlikely that the dwelling existed. Later that year, Salge sold the property to Otto and Alma Schulz for \$3,700.00, suggesting that the structure was constructed by Salge in 1922. The Schulz family resided at the property through at least 1940, according to Census Bureau records, and retained ownership of the property until 1974. Otto and Alma Schulz were well-known restaurateurs in the community, operating Schulz's Café at numerous locations in Downtown New Braunfels. They were well-known for their pies and strudels, which Alma Schulz baked in the kitchen of their home. Following their deaths, their children sold the property.

The subject structure is front-gabled Craftsman style bungalow with a partial-width, front-gabled entry porch. The porch is supported by box columns on tapered piers and has a stained-glass window and vertical stick work in the gable ends. The primary entry is through a single-hinged door offset within the entry porch and the windows are one-over-one wooden sash units. The building is an excellent

local example of a Craftsman bungalow and retains several character-defining features of the style including the low-pitched roof with deeply overhanging eaves (which suggests additional influences of the Prairie style), front-gabled roof and entry porch, porch supports, shingle siding, exposed rafter tails, decorative brackets, geometric trim details in the gable ends, and one-over-one windows.

General Information:

Size: 0.2475 acres

Surrounding Zoning and Land Use:

North - R-2/Single-family residences
 South - R-2/Single-family residences
 East - R-2/Single-family residences
 West - Across Lee Street, R-2/Single-family residences

Comprehensive Plan/ Future Land Use Designation: Low 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. Lee Street is a local residential street with 60 feet of right-of-way width.

Improvement(s):

1922 single-family dwelling, one accessory structure

Determination Factors:

A Historic Landmark may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture. This property possesses significance as it is indicative of development patterns and architectural trends of early twentieth century New Braunfels.
- (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. N/A
- (3) Is associated with the lives of persons significant in our past. N/A
- (4) Embodies the distinctive characteristics of a type, period, or method of construction. This property is an excellent example of Craftsman architecture.
- (5) Represents the work of a master designer, builder, or craftsman. No such associations are known.
- (6) Represents an established and familiar visual feature of the neighborhood or city. N/A

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

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

FISCAL IMPACT:

N/A

HISTORIC LANDMARK COMMISSION RECOMMENDATION:

The Historic Landmark Commission held a public hearing on June 12, 2018 and voted to recommend approval of the designation unanimously (8-0-0).

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on August 7, 2018 and unanimously recommended approval of the designation (7-0-0).

STAFF RECOMMENDATION:

Staff recommends approval of the proposed rezoning to designate the subject property as historic as it is consistent with the Future Land Use Plan and surrounding development, meets the criteria specified for designation in the City's Code of Ordinances, and is consistent with Comprehensive Plan goals. The Historic Landmark will be known as the Schulz-Johnson House.

Notification:

Public hearing notices were sent to 21 owners of property within 200 feet of the request. The Planning Division has received one response in favor (number 3) and none in objection.

Attachments:

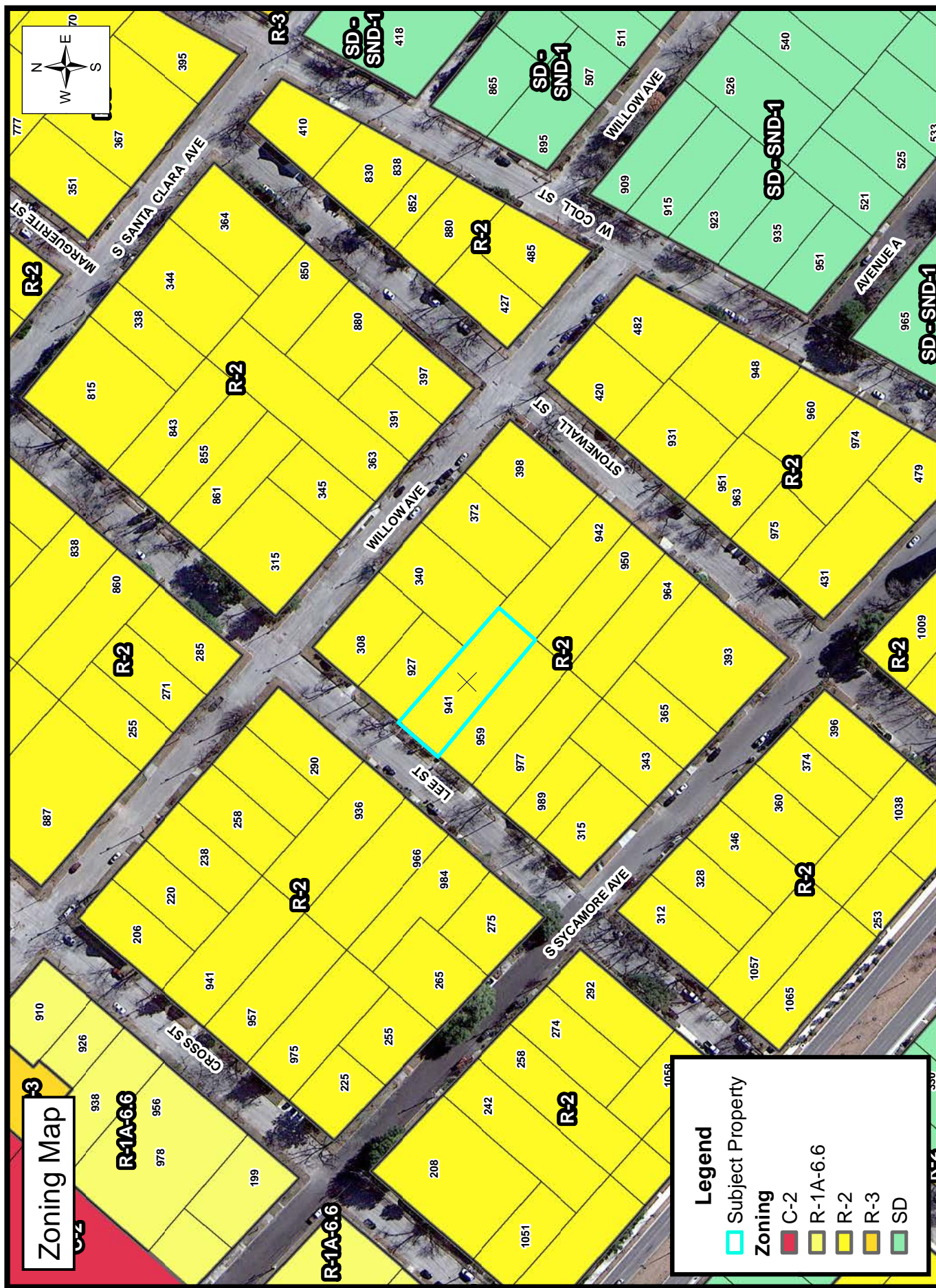
1. Maps
2. Notification & Responses
3. Photographs of Subject Property
4. Article III, Section 66-54
5. Article III, Section 66-56
6. Excerpt from the June 12, 2018 Historic Landmark Commission Minutes
7. Excerpt from the August 7, 2018 Planning Commission Minutes
8. Ordinance

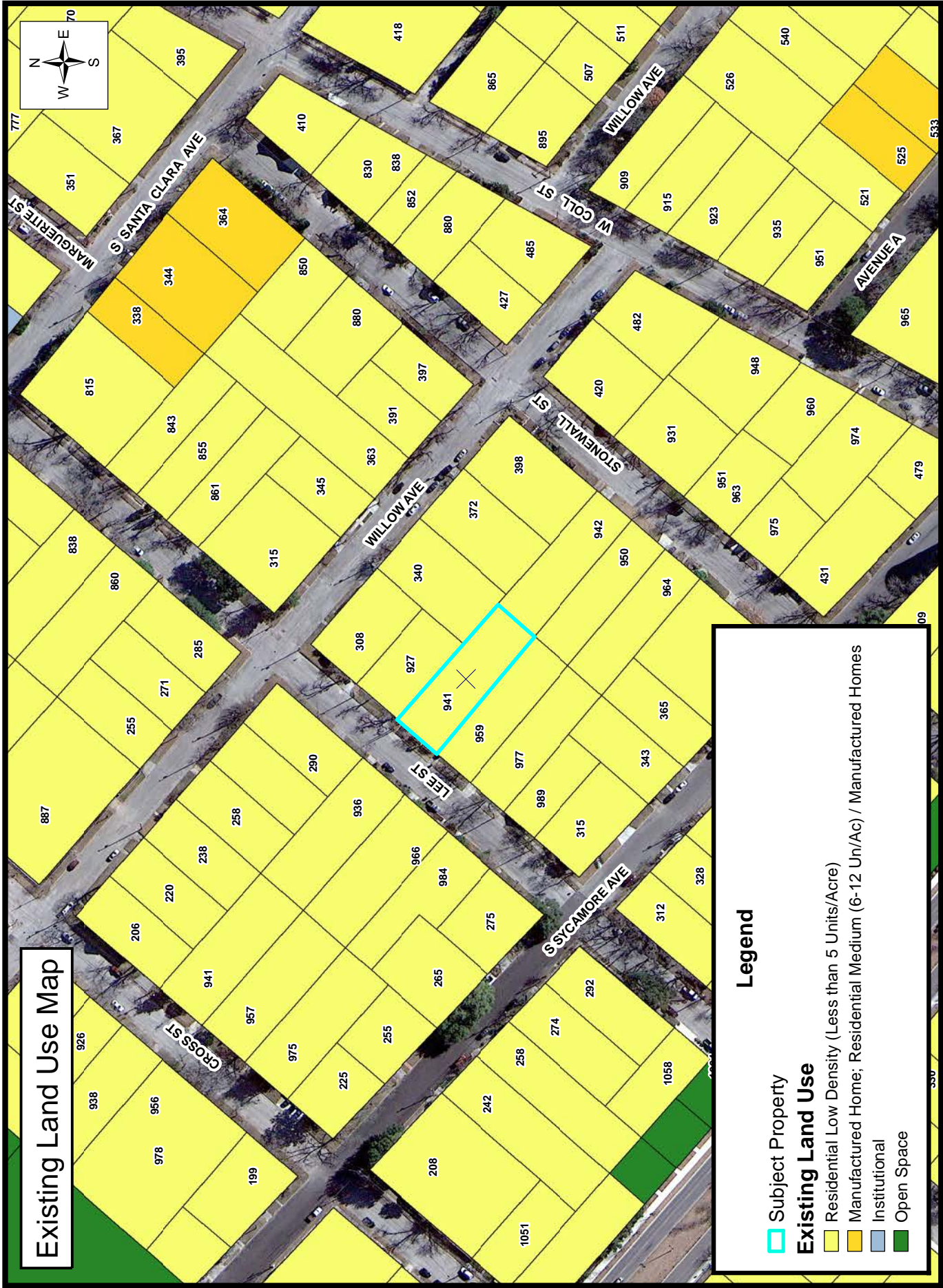


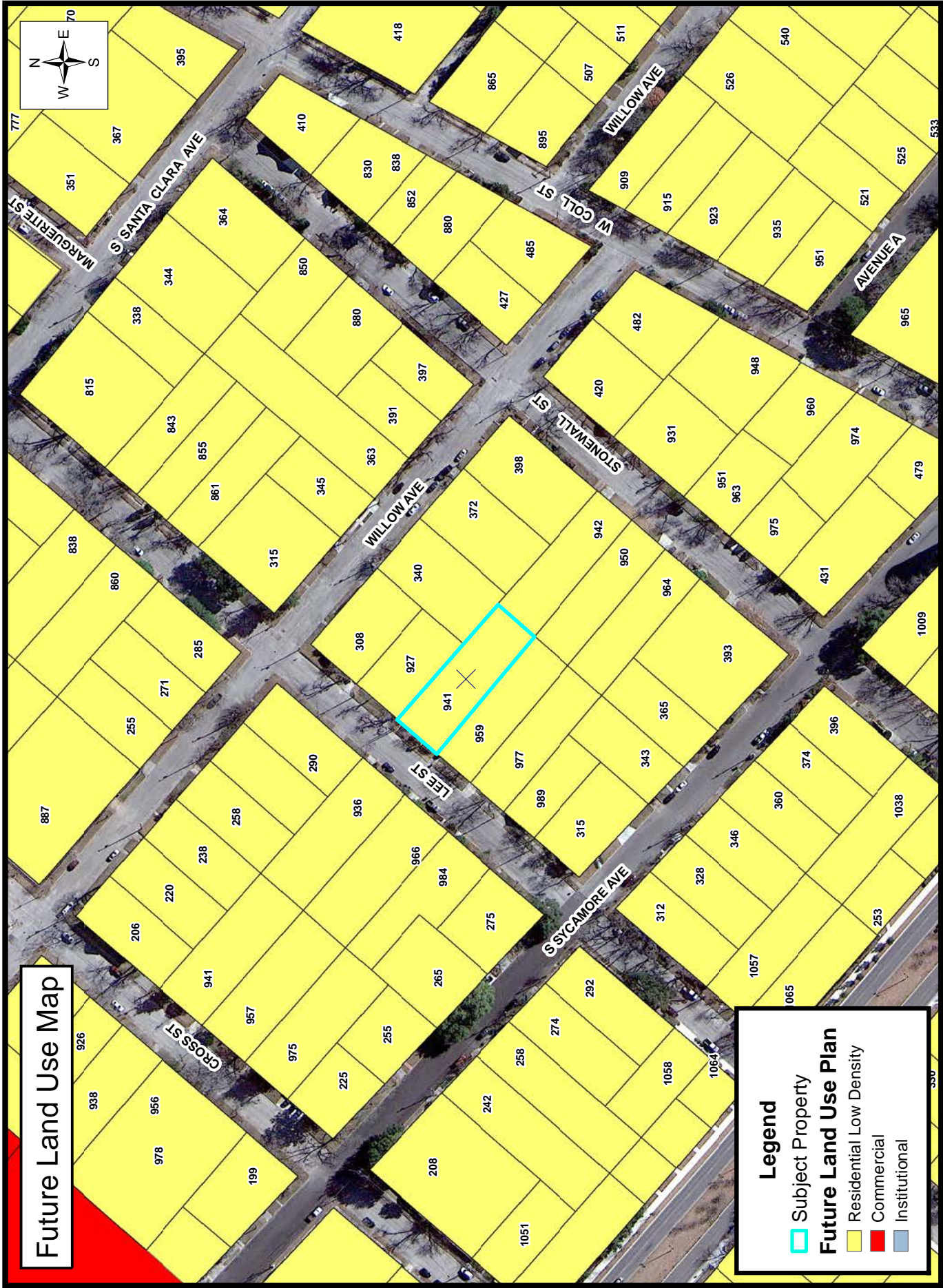
Map Created 7/19/18

HLC-18-012
941 Lee Street
Historic Landmark Designation









PLANNING COMMISSION – AUGUST 7, 2018
New Braunfels City Hall, Council Chambers, 550 Landa Street

Address/Location: 941 Lee Street

Applicant: Pamela Johnson

Case #: HLC-18-012

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 Property."

- | | |
|-------------------------------|-----------------------------------|
| 1 HUTNYAK DANA L | 12 WITTENBORN GARY WAYNE |
| 2 COPELAND SHEILA D | 13 HICKMAN CHARLES M |
| 3 JETER JAY L | 14 KERLICK CONAN WAYNE |
| 4 STEVEN LINK ET AL | 15 PFOST THOMAS L & HORTENSE P B |
| 5 WALKER KAY L | 16 MOELLER H B & JOHNSON SHEILA |
| 6 RODRIGUEZ ARTHUR C | 17 GILPIN LENDON E & CHERYL A |
| 7 MICHIE ADAM & SHELLEY | 18 ZENGLER CHERYL ANN |
| 8 BOURGEOIS DANIEL J | 19 GARCIA CELIA |
| LUHRS MICHELLE R & ADAM L | 20 SAUCEDO LORENZO JR & BELINDA I |
| 9 MICHIE | 21 RASMUSSEN ROSALIE P |
| 10 HANZ SHANNON KROCK | |
| 11 HASBROOK WILLIAM GEORGE JR | |

SEE NOTIFICATION MAP

199
YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-18-012 (Pamela Johnson)

Date Sent: 7/19/18

Name: Jay JETER

I favor: ✓

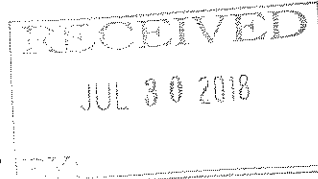
Address: 936 LEE

Property number on map: 3

I object: _____
(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: [Signature]







View of side façade



Primary façade, facing east



Primary façade, facing east



Rear façade, facing west



Porch detail, facing west

Sec. 66-54. Designation of historic landmarks.

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

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

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

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

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

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

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

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

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

Excerpt from the June 12, 2018 Historic Landmark Commission Meeting

E. Discuss and consider case HLC-18-012, a recommendation to City Council regarding an application for Historic Landmark Designation for the property currently addressed as 941 Lee Street, to be known as the Schulz-Johnson House.

Mrs. McWhorter presented the staff report and stated Staff recommends approval.

Discussion followed regarding the influenced style of the home.

Pamela Johnson, 941 Lee St, provided the known history and restoration of the home.

Discussion followed regarding the Schulz family history with the home.

Motion by Commissioner Hoffmann, seconded by Commissioner Poss, to recommend approval to City Council regarding an application for Historic Landmark Designation for the property currently addressed as 941 Lee Street, to be known as the Schulz-Johnson House. Motion carried (8-0-0).

Draft Minutes for the August 7, 2018 Planning Commission Regular Meeting

HLC-18-012 Public hearing and recommendation to City Council regarding the proposed Historic Landmark designation of 0.2475 acres out of City Block 4029, lot 3, addressed as 941 Lee Street.
(Applicant: Pamela and Robert Johnson; Case Manager: A. McWhorter)

Mrs. McWhorter presented the Staff report and recommended approval.

Acting Chair Sonier asked if anyone wished to speak in favor.

No one spoke.

Acting Chair Sonier asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Reaves, to close the public hearing. The motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Meyer, to recommend approval to City Council regarding an application for Historic Landmark designation for the property currently addressed at 546 S. Academy Avenue, which is located in the Sophienburg Hill Historic District. Motion carried (7-0-0).

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DESIGNATING THE PROPERTY CURRENTLY ADDRESSED AS 941 LEE STREET, CITY BLOCK 4029, LOT 3, AS A HISTORIC LANDMARK TO BE KNOWN AS THE SCHULZ-JOHNSON HOUSE ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

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

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

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

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

SECTION 1

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

"The property currently addressed a 941 Lee Street, as shown on the attached map, marked as Exhibit A".

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

SECTION 6

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

SECTION 7

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

PASSED AND APPROVED: First Reading this the 27th day of August, 2018.

PASSED AND APPROVED: Second Reading this the 10th day of October, 2018.

CITY OF NEW BRAUNFELS

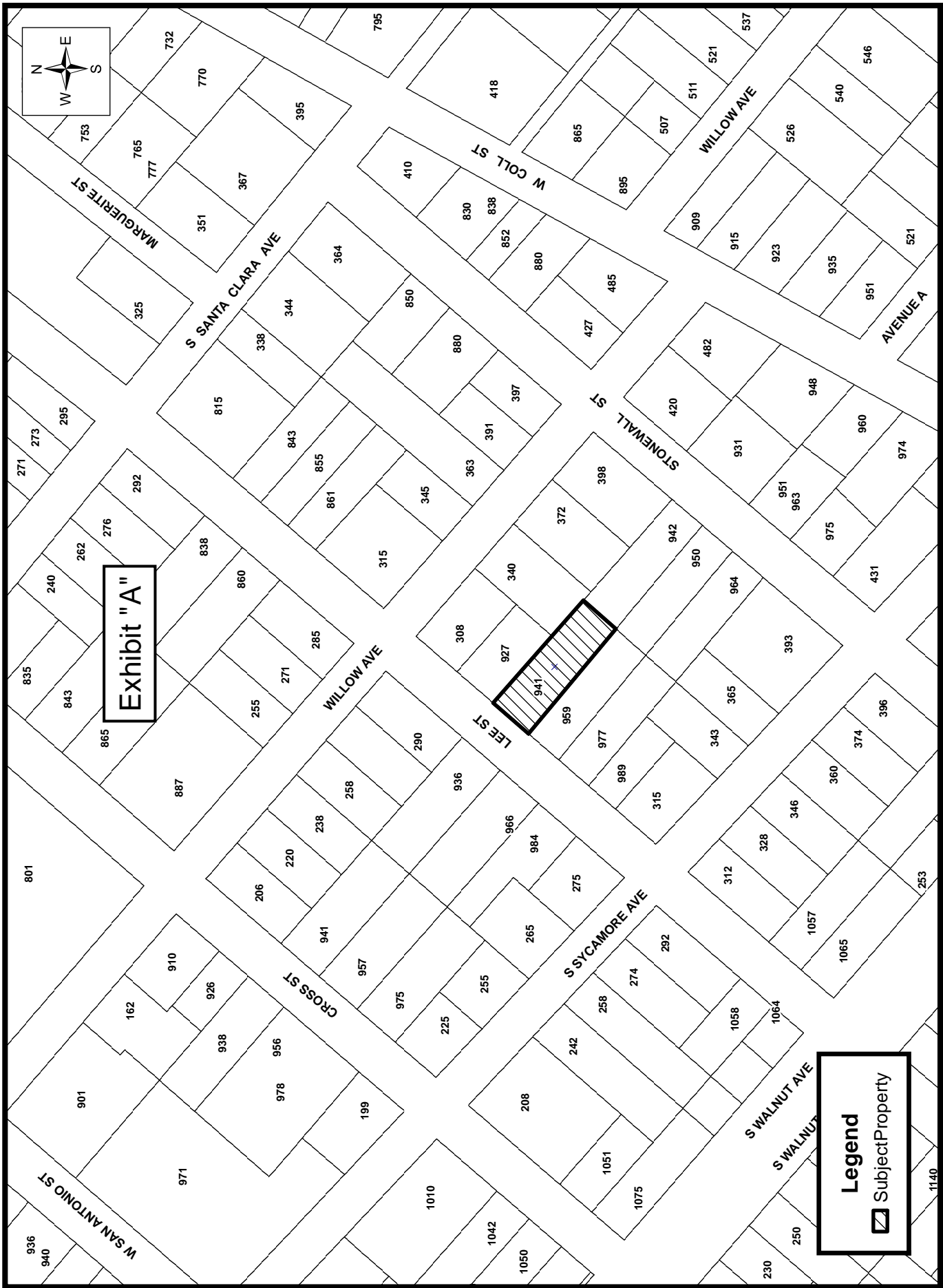
Barron Casteel, Mayor

ATTEST:

Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. G)

Presenter/Contact

*Amy McWhorter, Historic Preservation Officer
amcwhorter@nbtexas.org*

SUBJECT:

Public hearing and first reading of an ordinance designating 0.124 acres out of City Block 4062, Lot 3, addressed as 546 South Academy Avenue, as a Historic Landmark to be known as the Bartels-Kelly House.

BACKGROUND / RATIONALE:

Case No.: HLC-18-012

Council District: 6

Owner/Applicant: Reece Kelly
546 S. Academy Avenue
New Braunfels, TX 78130

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

The subject property is part of what was once acre lot # 47 which later became part of the Jahn Addition to the City. Wilhelm Bartels of Guadalupe County purchased the subject property and adjacent lot from the Jahns in 1893 for \$200.00. Given the relatively low value of the property, even accounting for inflation, it is unlikely that the property was improved at the time of the 1893 sale. Following the deaths of Wilhelm Bartels and his wife Ida, his heirs sold the subject property to Mrs. Meta Meyer of Guadalupe County for \$1,226.66. The rise in value between 1893 and 1924 suggests that the property was improved between these years. Meyer retained the property until her death in 1948 when the administrators of her estate sold it to Lydia M. Stempel for \$4,250.00. Stempel retained the property until 1984. It appears that this property served primarily as a rental property throughout most of its existence. According to U.S. Census records, neither the Bartels, their heirs, nor Meta Meyer resided in New Braunfels. Census records for the address depict it being occupied by renters in 1930 and 1940.

The subject structure is a modified I-plan dwelling with diamond-pattern decorative shingles in the front-facing gable and remnant decorative woodwork. The original primary entry was located in the ell, which formerly housed a partial width porch. Sanborn records indicate that the porch was enclosed post 1949. Many of the dwelling's original features are still intact including the decorative shingles, wooden siding, double-hung wooden windows and entry doors. Although the dwelling has been vacant for several years, it still typifies the Folk Victorian architecture common to the City and

the Sophienburg Hill area in the late 1800s due to the advent of stream powered milling and increased railroad transport for building materials.

General Information:

Size: 0.124 acres

Surrounding Zoning and Land Use:

North - Across, Academy Avenue, SND-1/ Single-family residences

South - Across Braddock Avenue, SND-1/ Single-family residences

East - SND-1/ Single-family residences

West - SND-1/ Single-family residences

Comprehensive Plan/ Future Land Use Designation: Low 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. South Academy Avenue is a local residential street with 60 feet of right-of-way width.

Improvement(s):

Circa 1893 single-family dwelling

Determination Factors:

In making a decision on Historic Landmark Designation, the following criteria are to be considered. A Historic Landmark may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture. *This property possesses significance as it is indicative of development patterns of late eighteenth century New Braunfels and advances in building material manufacturing and transport of the time.*
- (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history. *N/A*
- (3) Is associated with the lives of persons significant in our past. *N/A*
- (4) Embodies the distinctive characteristics of a type, period, or method of construction. *This property is a good local example of Folk Victorian architecture.*
- (5) Represents the work of a master designer, builder, or craftsman. *No such associations are known.*
- (6) Represents an established and familiar visual feature of the neighborhood or city. *N/A*

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

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

N/A

HISTORIC LANDMARK COMMISSION RECOMMENDATION:

The Historic Landmark Commission held a public hearing on June 12, 2018 and voted to recommend approval of the designation unanimously (8-0-0).

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on August 7, 2018 and unanimously recommended approval of the designation (7-0-0, Commissioners Nolte and Edwards absent).

STAFF RECOMMENDATION:

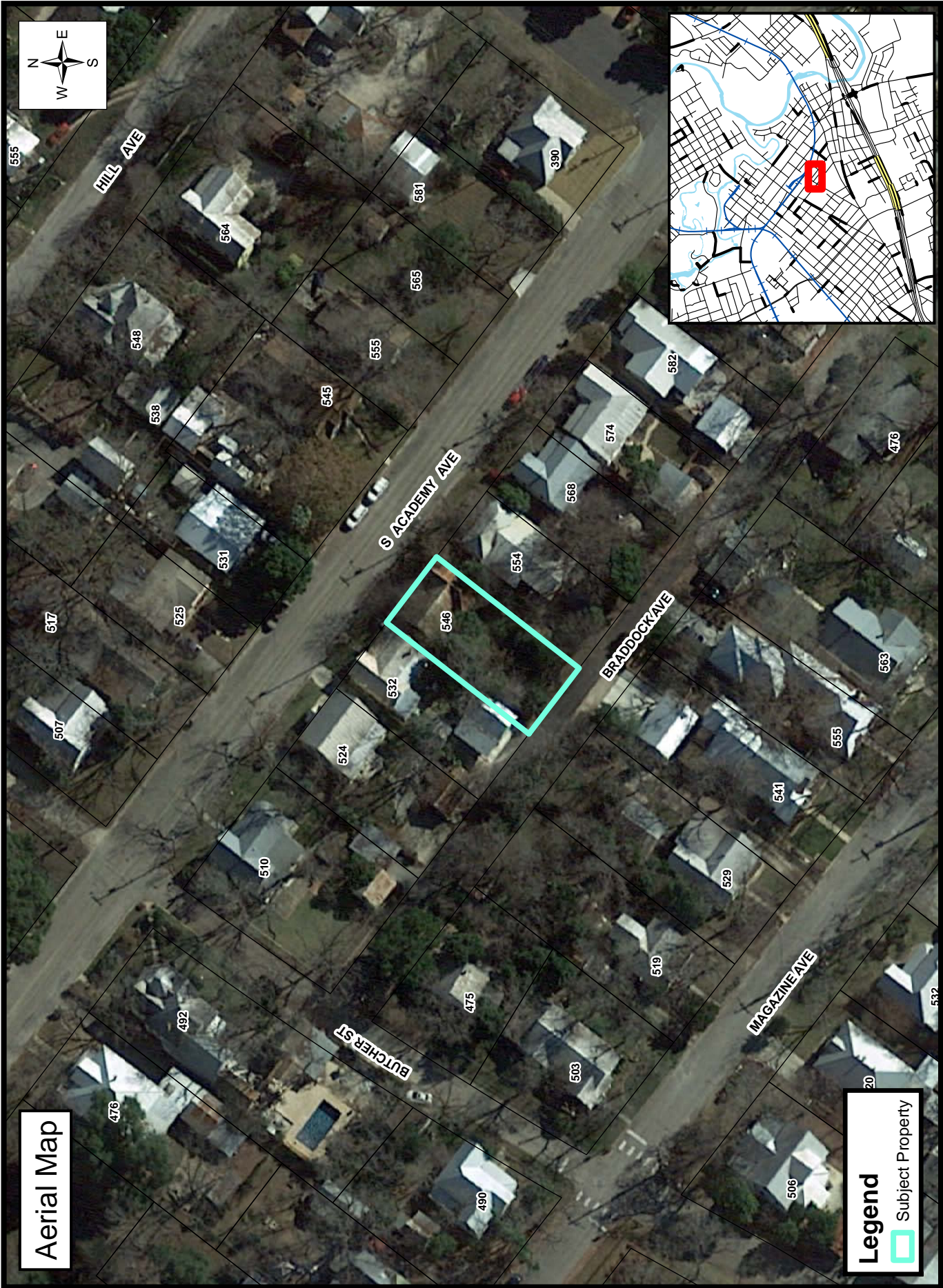
Staff recommends approval of the proposed rezoning to designate the subject property as historic as it is consistent with the Future Land Use Plan and surrounding development, meets the criteria specified for designation in the City's Code of Ordinances, and is consistent with Comprehensive Plan goals. The Historic Landmark will be known as the Bartels-Kelly House.

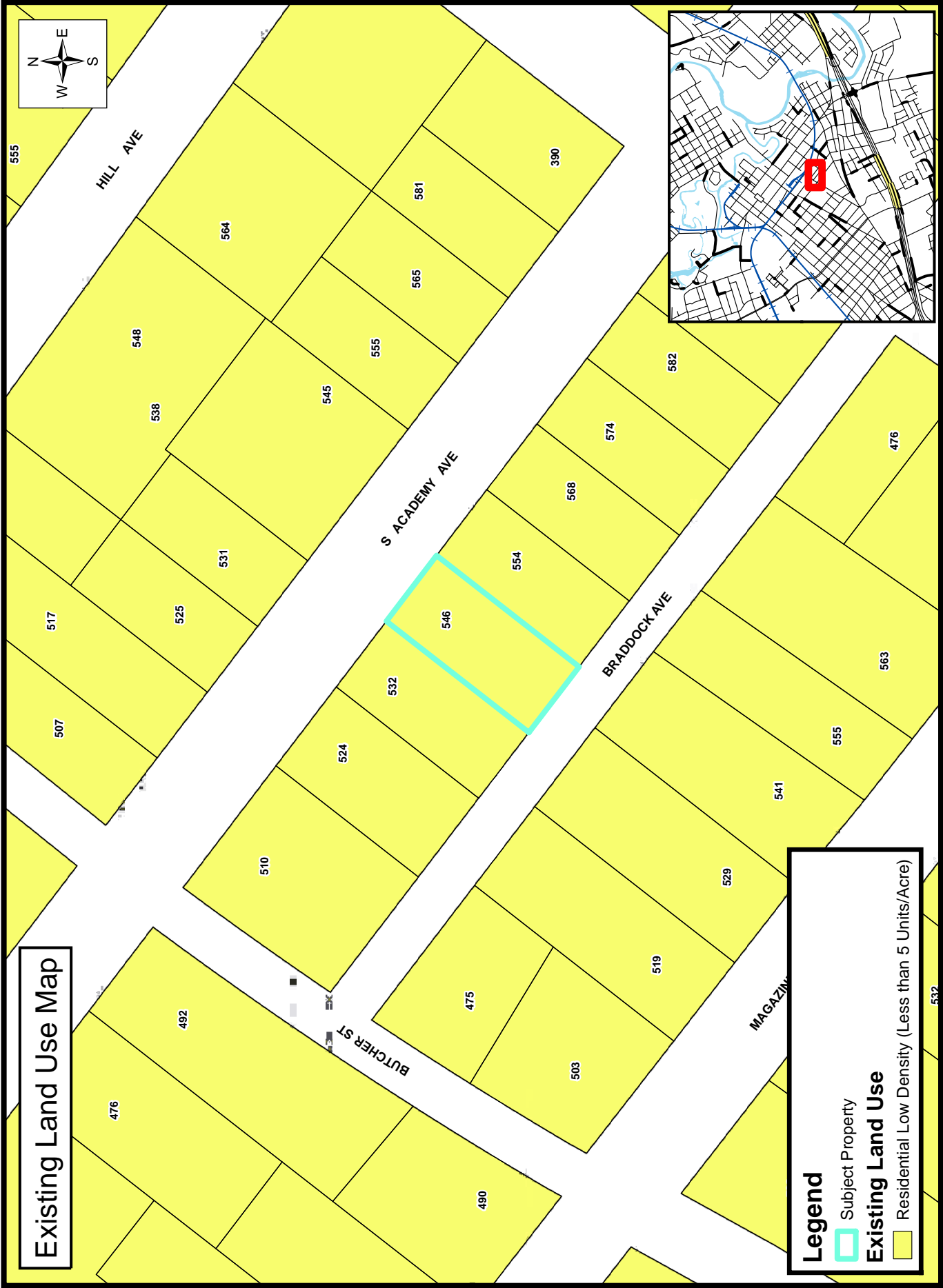
Notification:

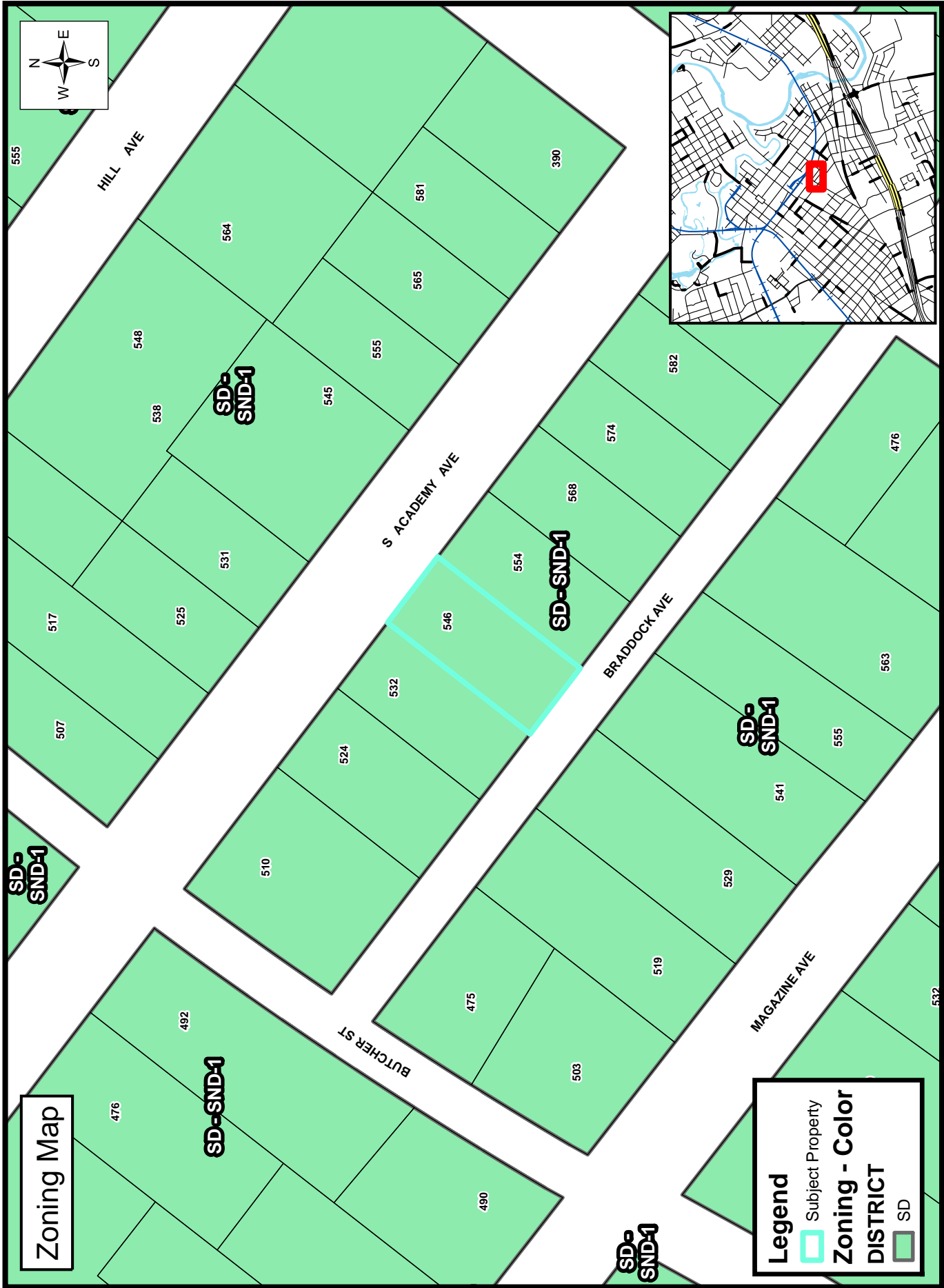
Public hearing notices were sent to owners of 23 properties within 200 feet of the request. The Planning Division has received four responses in favor (numbers 4, 5, 6, and 8) and none in objection.

Attachments:

1. Maps
2. Notification & Responses
3. Photographs of Subject Property
4. Article III, Section 66-54
5. Article III, Section 66-56
6. Excerpt from the June 12, 2018 Historic Landmark Commission Minutes
7. Excerpt from the August 7, 2018 Planning Commission Minutes
8. Ordinance







PLANNING COMMISSION – AUGUST 7, 2018
New Braunfels City Hall, Council Chambers, 550 Landa Street

Address/Location: 546 S. Academy Ave.

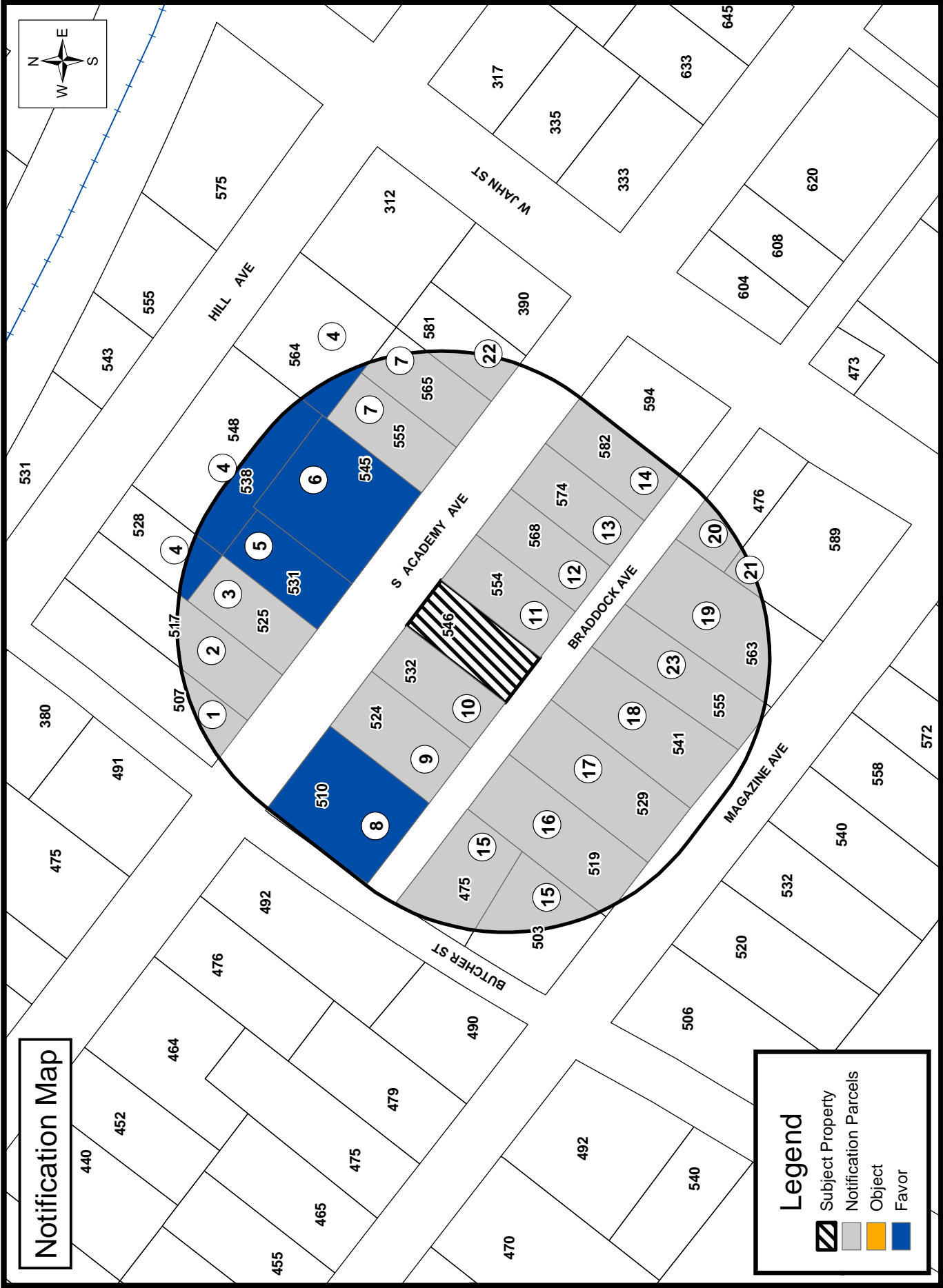
Applicant: Reece Kelly

Case #: HLC-18-008

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

- | | |
|---------------------------------|---------------------------------|
| 1 Stock Irene | 13 Brawner Patrick Lee |
| 2 Brown Newton A & Betty M | 14 Ketchmark Patricia Kathleen |
| 3 Butler Kristin & Keith | 15 Mclean Mark & Lynda |
| 4 Leitch William & Bonnie | 16 Property Owner |
| 5 Slater Stanley W & Mary A | 17 Rayborn John K |
| 6 McMahon James & Jeanette | 18 Krause Sherman & Melissa |
| 7 Williams Drew E | 19 Paine Betty Jo |
| 8 Barnes Polly A | 20 Heinrich Cale A & Megan A |
| 9 Weldy Billy V & Gail S | 21 Tingleff Andrea |
| 10 Schirmer Kristi D | 22 Tornquist Pery L & Kandace K |
| 11 Johnson, Family Living Trust | 23 Moses Clifford A & Mary C |
| 12 Frazell Richard | |

SEE NOTIFICATION MAP



HLC-18-008
546 S. Academy Ave.
Historic Landmark Designation

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-18-008 (Reece Kelly)

Date Sent: 7/20/18

Name: Stanley W. Slater

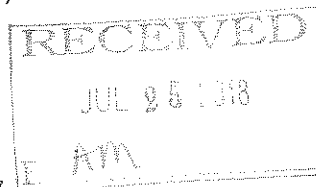
Address: 531 S. Academy Ave

Property number on map: 5

Comments: (Use additional sheets if necessary)

I favor: ☒

I object: _____
(State reason for objection)



Signature: Stanley W. Slater

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-18-008 (Reece Kelly)

Date Sent: 7/20/18

Name: BONNIE LEITCH

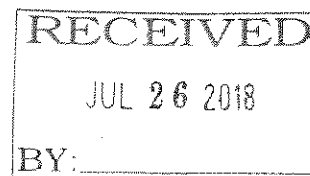
Address: 548 HILL AVE.

Property number on map: 4

Comments: (Use additional sheets if necessary)

I favor: ☒

I object: _____
(State reason for objection)



Signature: Bonnie Leitch

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-18-008 (Reece Kelly)

Date Sent: 7/20/18

Name: Paley Barnes

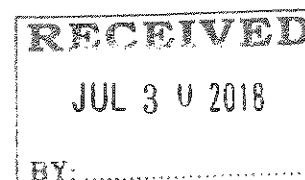
Address: 510 S. Academy Ave

Property number on map: 8

Comments: (Use additional sheets if necessary)

I favor: ☒

I object: _____
(State reason for objection)



Signature: Paley Barnes

225
YOUR OPINION MATTERS - DETACH AND RETURN

Case: #HLC-18-008 (Reece Kelly)

Date Sent: 7/20/18

Name: JD & JEANETTE M. MAHON

Address: 545 S. Academy Ave

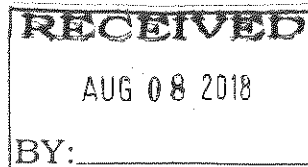
Property number on map: 6

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____
(State reason for objection)

Signature: Jeanette McMahon
JD Mahon





Subject property, camera facing southwest



Subject Property, camera facing south

Sec. 66-54. Designation of historic landmarks.

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

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

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

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

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

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

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

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

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

Excerpt from the June 12, 2018 Historic Landmark Commission Meeting

B. Discuss and consider case HLC-18-008, a recommendation to City Council regarding an application for Historic Landmark Designation for the property currently addressed as 546 S. Academy Avenue, to be known as the Bartels-Kelly House.

Mrs. McWhorter presented the staff report and stated Staff recommends approval.

Vice Chair Leitch informed the Commission the applicant was also requesting a variance from the Zoning Board of Adjustments for the same property. She inquired how the variance request could affect the Historic Landmark Designation.

Discussion followed regarding the variance request.

Reece Kelly, 546 S. Academy Avenue, described his intent to preserve the historic value of the home. He explained his plans to restore the front porch of the home.

Discussion followed.

Motion by Vice Chair Leitch, seconded by Commissioner Hoffmann, to recommend approval to City Council regarding an application for Historic Landmark Designation for the property currently addressed as 546 S. Academy Avenue, to be known as the Bartels-Kelly House. The motion carried (8-0-0).

Draft Minutes for the August 7, 2018 Planning Commission Regular Meeting

HLC-18-008 Public hearing and recommendation to City Council regarding the proposed Historic Landmark designation of 0.124 acres out of City Block 4062, lot 5, addressed as 546 S. Academy Avenue, which is located in the Sophienburg Hill Historic District.

(Applicant: Reece Kelly; Case Manager: A. McWhorter)

Mrs. McWhorter presented the Staff report and recommended approval.

Acting Chair Sonier asked if anyone wished to speak in favor.

No one spoke.

Acting Chair Sonier asked if anyone wished to speak in opposition.

No one spoke.

Motion by Commissioner Laskowski, seconded by Commissioner Reaves, to close the public hearing. The motion carried (7-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Meyer, to recommend approval to City Council regarding an application for Historic Landmark designation for the property currently addressed at 546 S. Academy Avenue, which is located in the Sophienburg Hill Historic District. Motion carried (7-0-0).

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DESIGNATING THE PROPERTY CURRENTLY ADDRESSED AS 546 S. ACADEMY AVENUE, .124 ACRES OF CITY BLOCK 2013, LOT W 47 OF N 129 LT 243, AS A HISTORIC LANDMARK TO BE KNOWN AS THE BARTELS-KELLY HOUSE ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

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

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

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

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

SECTION 1

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

"The property currently addressed as 546 S. Academy Avenue, as shown on the attached map, marked as Exhibit A".

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

SECTION 6

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

SECTION 7

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

PASSED AND APPROVED: First Reading this the 27th day of August, 2018.

PASSED AND APPROVED: Second Reading this the 10th day of September, 2018.

CITY OF NEW BRAUNFELS

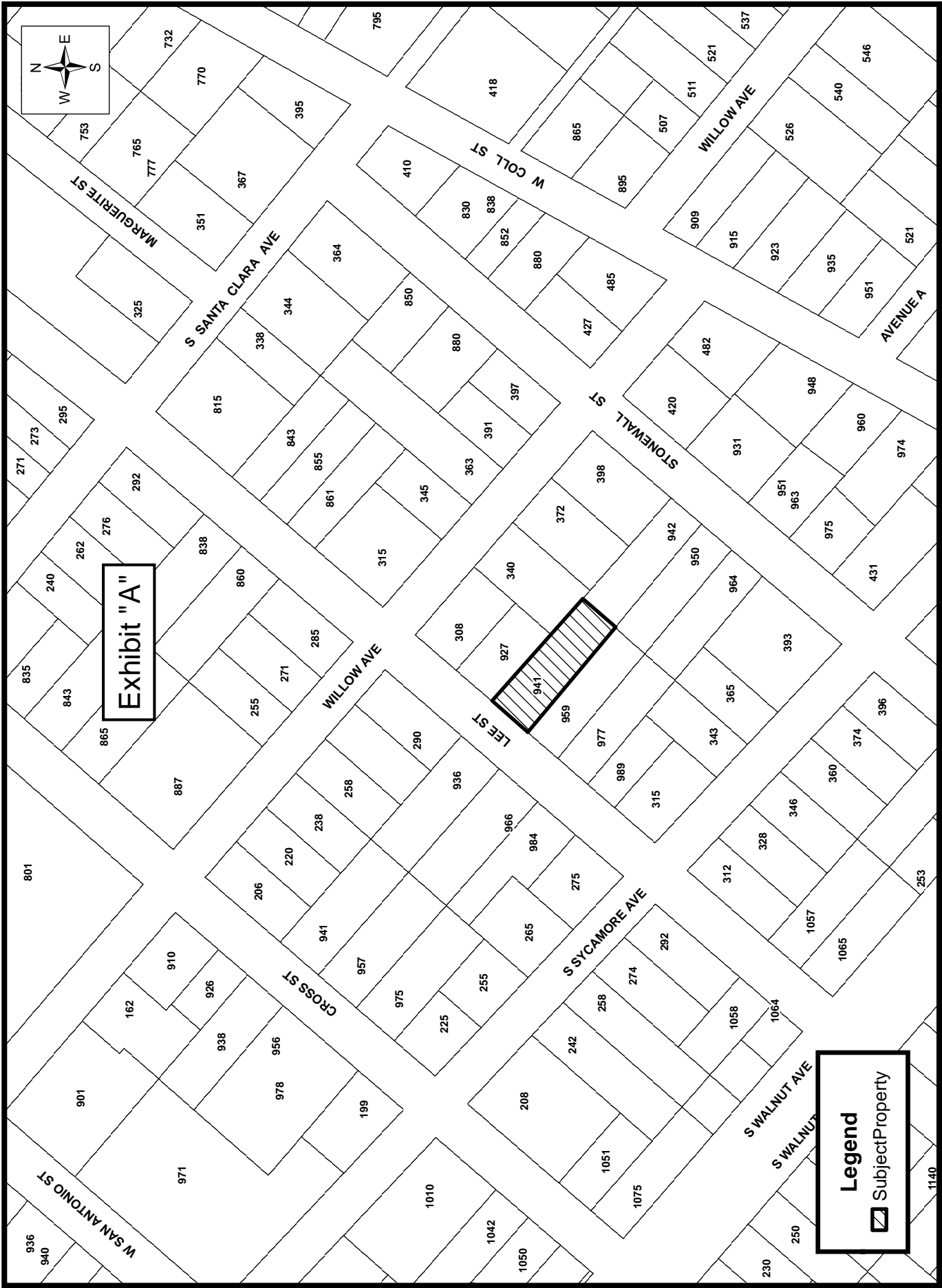
Barron Casteel, Mayor

ATTEST:

Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. H)

Presenter/Contact

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

SUBJECT:

Discuss and consider approval to authorize the City Manager to enter into an agreement to amend the Waste Management of Texas Inc. Disposal Agreement for a term of five years with two three-year extensions upon mutual written agreement for the disposal of municipal solid waste.

BACKGROUND / RATIONALE:

In October of 2013 City Council authorized the City Manager to enter into the second amendment of the original October 2009 Disposal Agreement with Waste Management of Texas Inc. The amendment is set to expire September 30, 2018. In May of 2018 negotiations began to amend the agreement for another five-year term, this being the third amendment to the original agreement of October 2009.

The term of the disposal agreement will be extended for five years with two three-year extensions upon mutual written agreement of both parties.

Base rates per ton for City Waste Material:

Current through 9/30/18: \$27.54
Year 1 through 9/30/19: \$27.60
Year 2 (10/1/19 to 9/30/20): \$28.60
Year 3 (10/1/20 to 9/30/21): \$29.60
Year 4 (10/1/21 to 9/30/22): \$30.60
Year 5 (10/1/23 to 9/30/23): \$31.60

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

<input checked="" type="checkbox"/>	Yes	Strategic Priorities:	Maintain fiscal stability of City operations
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FISCAL IMPACT:

Funding for refuse disposal has been incorporated into the Fiscal year 2018-19 Solid Waste Proposed Budget.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the renewing of the municipal solid waste disposal agreement for a

term of five years with Waste Management of Texas, Inc. with two additional three-year renewals upon mutual written agreement.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. I)

Presenter/Contact

Garry Ford, P.E., City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:

Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and Springfed Investments, LLC for encroachments in the public right-of-way at 290 South Castell Avenue.

BACKGROUND / RATIONALE:

City of New Braunfels Code of Ordinances Section 114-7 establishes the regulations for improvements on public property, public easements and within the public right-of-way. The city may grant a license and permission to occupy public property and shall be evidenced by a license agreement executed by the city and the licensee.

Stephen Hanz, HMT Engineering & Surveying (HMT), made an application with the city engineer for encroachments in the public right-of-way at 290 South Castell Avenue. The encroachments include Americans with Disabilities Act (ADA) ramps, concrete steps and planters to service a building, and street trees and planter boxes adjacent West Coll Street.

Section 114-7(e) specifies that the licensee shall pay an annual fee of ten percent of the value of the area to be licensed for surface licensing and that the minimum annual fee for such licenses shall be \$100. Based on the value and size of the area for access to the building, the proposed annual fee for the agreement is \$350.

The applicant requested consideration to appeal to City Ordinance Sec.114-7(k) stating, "Unusual cases may arise which will call for exceptional handling by the city council within the general framework of this section, such as encroachments which may be deemed by the city to be an added benefit to the city properties rather than a burden." The applicant states that the encroachment "will not create more revenue or area of sale for the owner but will beautify the look of the Right of Way and benefit the City regarding future plans."

The proposed encroachments in the public right-of-way are primarily to provide ADA access to the building. There are alternate methods to provide ADA access to the building on the property and the encroachment limits the sidewalk width on South Castell Avenue to less than five feet as shown on the plans prepared by HMT. The standard width for commercial properties and clear path of travel requirement for sidewalk cafes in the downtown is six feet; however, the width of the sidewalk may be reduced to a minimum of four feet. Additionally, sidewalk improvements adjacent to the property are limited to driveway removal and curb ramps at the South Castell Avenue and West Coll Street intersection. The sidewalks adjacent to the site exceed the maximum cross slope and not ADA compliant as shown on plans prepared by HMT. The proposed encroachments are not an added

benefit to the city public right-of-way, do not address needed ADA improvements adjacent to the property, and limit the sidewalk width along South Castell Avenue. Staff recommends an annual fee of \$350.

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

X	Yes	City Plan/Council Priority:	Growth and Development - Ensure sustainable quality development
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FISCAL IMPACT:

The recommended license fees to be collected on an annual basis are \$350.00 from Springfed Investments, LLC.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the authorizing the City Manager to enter into a license agreement between the City of New Braunfels and Springfed Investments, LLC for encroachments in the public right-of-way at 290 South Castell Avenue with an annual fee of \$350 and all proposed improvements in the public right-of-way meet ADA requirements.



PLANNING

APPLICATION FOR LICENSE AGREEMENT

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

Case No.: CS-18-020Applicant/Agent*: Stephen HanzProperty Address: 290 S. Castell AvenueMailing Address: 410 N. Seguin Avenue, New Braunfels, Texas 78130Telephone: Office: 830.625.8555 Mobile: 830.237.5294 Email: stephenh@hmtnb.com**Submittal Requirements**

1. \$257 fee (\$250 application fee + \$7 technology fee (3%))
2. Letter outlining and requesting the license agreement including:
 - a. Requested Improvements
 - b. Proposed Location
 - c. Subdivision Name
3. Survey of property to be subject of the License Agreement

Signed:

Stephen W. Hanz
 Applicant/Agent*

Date:

05/31/2018

* If signed by an agent, a letter of authorization must be furnished by the owner attesting to their knowledge for the purpose of the request; that they are in favor; and that said request is not contrary to any and all deed restrictions associated with the property under consideration.

FOR OFFICE USE ONLYDate completed application received: 6/14/18Received by: K. Cramre

Date of Approval: _____

By: _____

Date of Denial: _____

By: _____

Comments: _____



410 N. Seguin Ave.
 New Braunfels, TX 78130
 HMTNB.COM
 830.625.8555 • FAX: 830.625.8556
 TBPE FIRM F-10961

June 14, 2018

City of New Braunfels
 ATTN: **Planning Department**
 550 Landa Street
 New Braunfels, Texas 78130

Re: **290 S. Castell Avenue – License Agreement**

To Whom It May Concern,

We are proposing improvements with the above referenced project (Legal Description of Property: CITY BLOCK 1003, LOT 141 SE PART LOT 203, NE PART LOT 196 & 196, ACRES 0.809) that will be located within the City of New Braunfels Public ROW of S Castell Avenue. This site is located at 290 South Castell Avenue at the intersection of Castell Ave and W Coll St in the New Braunfels City Limits.

Per City Ordinance Sec. 114-7. – Licensing of encroachments on public property and public easements, and public right-of-way, we are applying for a license agreement. The improvements we are proposing will include ADA Ramps, concrete steps, and planters to service the building as shown on the attached exhibit. In addition, we intend on planting trees along W. Coll Street to help improve the streetscape of the area.

Per letter (k) of Section 114 “Unusual cases may arise which will call for exceptional handling by the city council within the general framework of this section, such as encroachments which may be deemed by the city to be an added benefit to the city properties rather than a burden.” We are requesting that this encroachment as shown on the attached exhibit be considered by City Council to not require a license agreement. These improvements will not create more revenue or area of sale for the owner but will beautify the look of the ROW and benefit the City regarding future plans.

In my professional opinion, these improvements will not adversely affect the health, welfare and safety of our New Braunfels residents and visitors. We feel this request to be considered by City Council is in harmony with the intent of the City of New Braunfels Platting Ordinance.

Please let me know if you have any questions or comments.

Thank you,

A handwritten signature in blue ink that reads "Chris Van Heerde, PE". The signature is fluid and cursive.

Chris Van Heerde, PE
 Managing Partner





410 N SEGUIN AVE.
NEW BRAUNFELS, TX 78130
-HMTNB.COM
P(830) 625-8555
TBPE FIRM F-10961
TBPLS FIRM 10153600



HMT
ENGINEERING & SURVEYING



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JUN 14 2018

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BY:



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BY:





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. J)

Presenter/Contact

Garry Ford, P.E., City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:

Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and DM3 Ventures, LLC for encroachments in the public right-of-way at 748 West San Antonio Street.

BACKGROUND / RATIONALE:

City of New Braunfels Code of Ordinances Section 114-7 establishes the regulations for improvements on public property, public easements and within the public right-of-way. The city may grant a license and permission to occupy public property and shall be evidenced by a license agreement executed by the city and the licensee.

Nathan Fiengold, New Braunfels Remodeling, LLC, made an application with the city engineer for encroachments in the public right-of-way at 748 West San Antonio Street. The encroachments include Americans with Disabilities Act (ADA) ramps and concrete steps to service a building.

Section 114-7(e) specifies that the licensee shall pay an annual fee of ten percent of the value of the area to be licensed for surface licensing and that the minimum annual fee for such licenses shall be \$100. Based on the value and size of the area for access to the building, the proposed annual fee for the agreement is \$210.

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

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority:	Growth and Development - Ensure sustainable quality development
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FISCAL IMPACT:

The recommended license fees to be collected on an annual basis are \$210 from DM3 Ventures, LLC.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the authorizing the City Manager to enter into a license agreement between the City of New Braunfels and DM3 Ventures, LLC for encroachments in the public right-of-way at 748 West San Antonio Street with an annual fee of \$210 and all proposed improvements in the public right-of-way meet ADA requirements.



APPLICATION FOR LICENSE AGREEMENT

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

PLANNING

Case No.:

CS-18-003

Applicant/Agent*: Nathan Feingold, New Braunfels Remodeling LLC

Property Address: 748 W San Antonio, New Braunfels, TX 78130

Mailing Address: 118 Briarwood Dr, New Braunfels, TX 78130

Telephone: Office: _____ **Mobile:** 830-237-1449 **Email:** nathan@newbraunfelsremodeling.com

Submittal Requirements

1. A \$250.00 fee is imposed upon applicants when applying for a license agreement. (Effective: 4/1/17).
2. Letter outlining and requesting the license agreement including:
 - a. Requested Improvements
 - b. Proposed Location
 - c. Subdivision Name
3. Survey of property to be subject of the License Agreement

Signed:

Nathan Feingold
Applicant/Agent*

Date:

2-9-18

* If signed by an agent, a letter of authorization must be furnished by the owner attesting to their knowledge for the purpose of the request; that they are in favor; and that said request is not contrary to any and all deed restrictions associated with the property under consideration.

FOR OFFICE USE ONLY

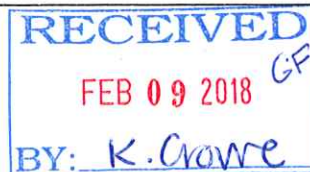
Date completed application received: 2/9/18

Received by: K. Crowe

Date of Approval: _____ By: _____

Date of Denial: _____ By: _____

Comments: _____



To whom it may concern.

2/8/2018

I am applying for a license agreement for the commercial remodel project at 748 W San Antonio St. Permit #CP2017-1172. The building has been completely remodeled and was raised up 12 inches to level and repair the foundation. In doing so, the existing concrete steps at the front of the building would no longer suffice for entry or exit to and from the front of the building. We have constructed two new landings and sets of stairs that protrude into the right of way.

We have met with both City Inspector Matt Garcia and Adam Michie of Capital Improvements to discuss the current layout. They both agree the landings and sets of stairs are needed and have also commented on the existing three feet of sidewalk that remains saying it meets requirements. The current sidewalk consists of pavers. There is a step down and an additional 12" of grass to the curb.

The new landings and sets of stairs will not hinder the future sidewalk improvements scheduled for later in the year and can be easily added to if so needed.

I have included both the survey and building plan with the landings and sets of stairs redlined.

Thank you,

A handwritten signature in black ink, appearing to read 'Nathan Feingold', written in a cursive style.

Nathan Feingold

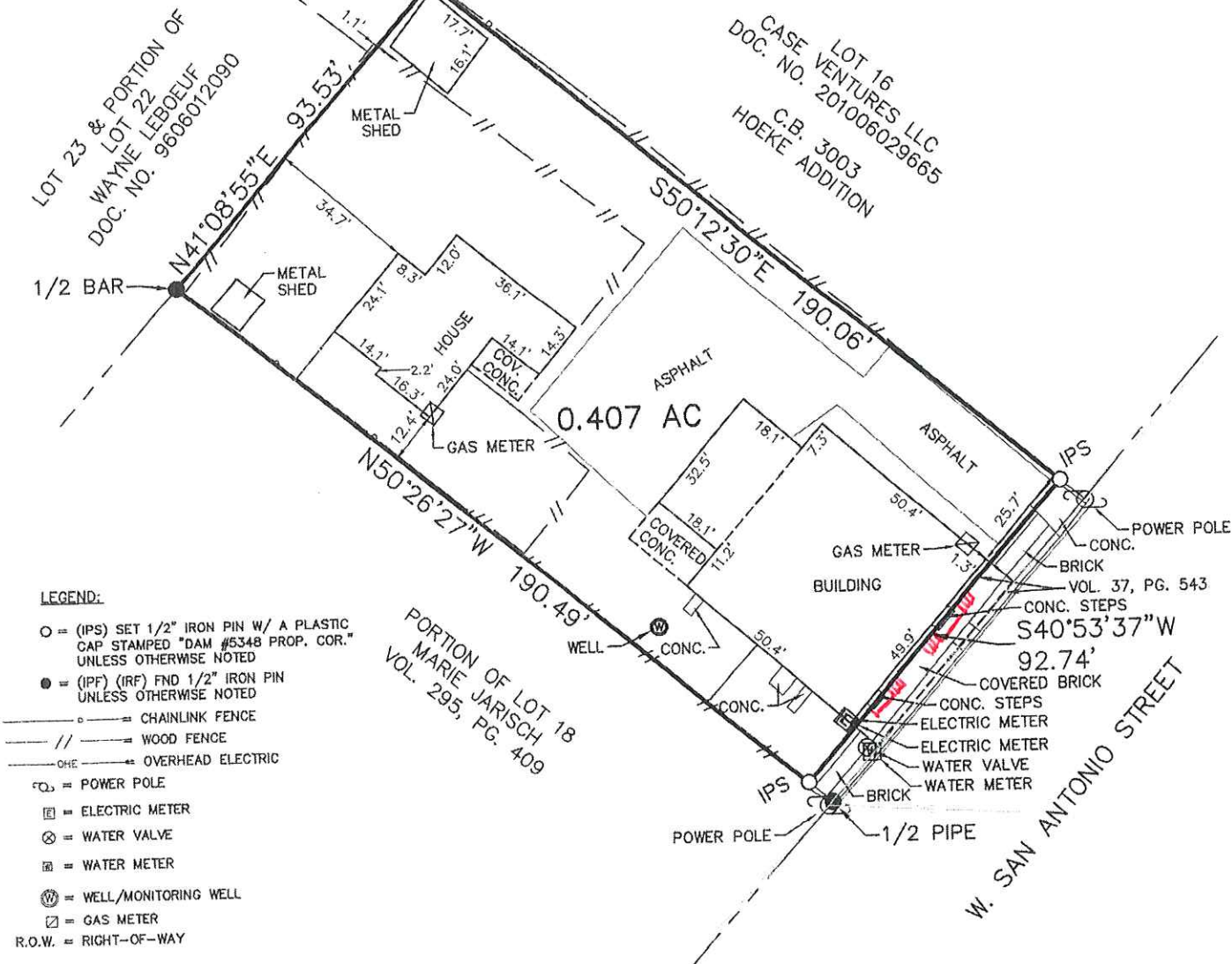
New Braunfels Remodeling, LLC

nathan@newbraunfelsremodeling.com

830-237-1449

BEING 0.407 OF AN ACRE TRACT OF LAND BEING A PORTION OF LOT 17, BLOCK 3033, HOEKE ADDITION, AN ADDITION IN COMAL COUNTY, TEXAS ACCORDING TO MAP OR PLAT THEREOF RECORDED IN VOLUME Z, PAGE 298 OF THE DEED RECORDS OF COMAL COUNTY, TEXAS.

SCALE: 1"=40'



TITLE COMMITMENT:
WFG NATIONAL TITLE INSURANCE COMPANY
PROPOSED BORROWER/INSURED:
GF# 128000593
EFFECTIVE DATE: FEBRUARY 14, 2017

REFERENCES:

1. ANY CLAIM OF ALLEGATION THAT THE LAND, DESCRIBED IN SCHEDULE "A" OF THIS POLICY, WAS CONVEYED IN VIOLATION OF V.A.T.C. LOCAL GOVERNMENT CODE, SECTION 212.004, ET SEQ, OF 232.001 ET SEQ, OR IN VIOLATION OF ANY COUNTY OR MUNICIPAL ORDINANCE AFFECTING SUBDIVISIONS, OR LOSS OF USE OF THE LAND BY REASON.

NOTES:

1. BEARING BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983.

ADDRESS:
748 W. SAN ANTONIO ST.
NEW BRAUNFELS, TX 78130

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 9 DAY OF MARCH 2017

DREW A. MAWYER
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5348

D. MAWYER
LAND SURVEYING

132 CADDELL LANE
NEW BRAUNFELS, TX 78130
PH: (830)632-5092
drawm@dam-tx.com
FIRM #10101500

DATE: MARCH 2017 JOB MIS275



REV-SUED



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. K)

Presenter/Contact

Jared Werner, Chief Financial Officer
(830) 221-4395 - jwerner@nbtexas.org

SUBJECT:

Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas Limited Tax Notes, Series 2018; prescribing the form of the note; levying an ad valorem tax to pay the note; awarding the sale thereof; and enacting other provisions relating thereto.

BACKGROUND / RATIONALE:

At the July 2nd City Council retreat and in conjunction with the preparation for the 2019 bond program, staff presented a strategy to City Council to issue \$3.3 million dollars to support the preliminary engineering and cost estimating services for all potential 2019 bond projects. After the preliminary engineering work is completed, any remaining funds could be allocated to continue design on projects included and/or approved through the 2019 bond program.

The Tax Notes are scheduled to be wired to the City's depository bank on September 25th. On the date of the sale (August 27, 2018) the final details of the transaction including the actual interest rate will be presented by the City's financial advisor - Samco Capital Markets

When the 2018 certified values were provided to the City, the City Finance team calculated the annual debt service that could be supported by the I&S tax rate of \$20.985 cents. SAMCO will structure the first year debt service payment for the tax notes as well as the GO bonds so that it can be supported (along with all other property tax supported payments) by the I&S levy in FY 2018-19 (Tax Year 2018).

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

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FISCAL IMPACT:

The proceeds from the tax notes will be utilized to support professional services for all potential 2019 bond projects. As described above, the annual debt service payment has been structured to align with the I&S tax rate for FY 2018-19.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the ordinance.

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF NEW BRAUNFELS,
TEXAS LIMITED TAX NOTES, SERIES 2018; PRESCRIBING THE FORM OF THE
NOTE; LEVYING AN AD VALOREM TAX TO PAY THE NOTE; AWARDING THE
SALE THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO**

Adopted August 27, 2018

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ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF NEW BRAUNFELS, TEXAS LIMITED TAX NOTES, SERIES 2018; PRESCRIBING THE FORM OF THE NOTE; LEVYING AN AD VALOREM TAX TO PAY THE NOTE; AWARDING THE SALE THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO

THE STATE OF TEXAS
COUNTIES OF COMAL AND GUADALUPE
CITY OF NEW BRAUNFELS

WHEREAS, the Notes hereinafter authorized and designated are to be issued and delivered pursuant Chapters 1371 and 1431, Texas Government Code, as amended; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; and

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Notes be issued.

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

Section 1. RECITALS, AMOUNT, PURPOSE OF THE NOTES AND DEFINITIONS.

(a) Recitals and Purpose. The recitals set forth in the preamble hereof are incorporated by reference herein and shall have the same force and effect as if set forth in this Section. The Notes of the City of New Braunfels, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount not to exceed \$3,000,000 (the "Notes") for the purpose of (1) design, engineering, architectural and other similar capitalizable costs and expenses incurred for improvement projects to City streets, drainage, parks, public safety facilities, solid waste facilities and libraries; (ii) constructing, improving, renovating, extending, expanding, upgrading and/or developing City streets including right-of-way acquisition, utility relocation, traffic safety and

operational improvements related drainage and other transportation related improvements; and (iii) paying the costs associated with the issuance of the Notes.

(b) Definitions. For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in Exhibit A to this Ordinance have the meanings assigned to them in Exhibit A.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITY OF NOTES. The Note shall have the Date of Delivery of September 25, 2018, shall be in fully registered form, without coupons, and initially there shall be issued, sold, and delivered hereunder one fully registered Note, in the denomination of \$3,000,000, numbered from R-1 with notes issued in replacement thereof being in a like denomination and numbered consecutively from R-2 upward, payable to the registered owner thereof, or to the registered assignee or assignees of the Note or any portion or portions thereof (in each case, the "Registered Owner"), and the Note shall mature and be payable in annual installments as set forth in the FORM OF NOTE set forth in this Ordinance. The term "Note" as used in this Ordinance shall mean and include collectively the note initially issued and delivered pursuant to this Ordinance and all substitute notes exchanged therefor, as well as all other substitute notes and replacement notes issued pursuant hereto.

Section 3. INTEREST. The Note shall bear interest on the unpaid balance of the principal amount thereof from the date of initial delivery to the date of maturity or redemption prior to maturity at the respective rates for each outstanding principal installment as set forth in the FORM OF NOTE contained in this Ordinance. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF NOTE set forth in this Ordinance.

Section 4. CHARACTERISTICS OF THE NOTE. (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at _____, (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Note (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Note to which payments with respect to the Note shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Note or Note. Registration of assignments, transfers, conversions and exchanges of Notes shall be made in the manner provided and with the effect stated in the FORM OF NOTE set forth in this Ordinance. Each substitute Note shall bear a letter and/or number to distinguish it from each other Note.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Note, date and manually sign said Note, and no such Note shall be deemed to be issued or outstanding unless such Note is so executed. The Paying Agent/Registrar promptly shall cancel all paid Note and Note surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Note or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Note in the manner prescribed herein, and said Note shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Note as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Note, the converted and exchanged Note shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Note which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller of Public Accounts.

(b) Payment of Note and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Note, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Note, and of all conversions and exchanges of the Note, and all replacements of the Note, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Note (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Note to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date), (iii) may be converted and exchanged for other Note, (iv) may be transferred and assigned, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Note shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Note, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF NOTE set forth in this Ordinance. The Note initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Note issued in conversion of and exchange for any Note issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF NOTE.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Note that at all times while the Note is outstanding the City will provide a competent and legally

qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Note under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Note, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Note, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

Section 5. FORM OF NOTE. The form of the Note, including the form of Paying Agent/Registrar's Authentication Note, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Note issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

FORM OF NOTE

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF NEW BRAUNFELS, TEXAS TAX NOTE SERIES 2018	PRINCIPAL AMOUNT \$_____
---------------	----------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------

DATE OF DELIVERY: SEPTEMBER 25, 2018

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS

INTEREST RATE: ____%

MATURITY DATE: _____, 20__

NEW BRAUNFELS, TEXAS (the "City"), being a political subdivision of the State of Texas, for value received, promises to pay, from the sources described herein, to the registered owner specified above, or registered assigns, the principal amount specified above, and to pay interest thereon, from the Date of Delivery set forth above (calculated on the basis of a 360-day year of twelve 30-day months), on the balance of said principal amount from time to time remaining unpaid, at the applicable rates per annum for each outstanding principal installment as set forth below on each February 1 and August 1 of each year commencing February 1, 2018. The principal of this Note shall be paid in installments on each February 1 in the years and in the amounts and bearing interest at the respective per annum rates, all as set forth in the table below:

<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rates</u>
-------------	----------------------------------	---------------------------

THE PRINCIPAL OF AND INTEREST ON the Notes are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Note shall be paid to the Registered Owner hereof upon presentation and surrender of this Note at maturity, at _____, which is the "Paying Agent/Registrar" for this Note at its designated office in _____, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Note shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the Ordinance authorizing the issuance of this Note (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the fifteenth day of the preceding month each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Note appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

Notwithstanding the foregoing, during any period in which ownership of the Notes is determined only by a book entry at a securities depository for the Notes, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Note for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Note that on or before each principal payment date, interest payment date, and accrued interest payment date for this Note it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Notes, when due.

IF THE DATE for the payment of the principal of or interest on this Note shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the City where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS NOTE is dated _____, 2018, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____, for the purpose of: (1) design, engineering, architectural and other similar capitalizable costs and expenses incurred for improvement projects to City streets, drainage, parks, public safety facilities, solid waste facilities and libraries; (ii) constructing, improving, renovating, extending, expanding, upgrading and/or developing City streets including right-of-way acquisition, utility relocation, traffic safety and operational improvements related drainage and other transportation related improvements; and (iii) paying the costs associated with the issuance of the Notes.

ON _____, 20__*, or on any date thereafter, the Notes may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Notes, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Note may be redeemed only in an integral multiple of \$5,000).

WITH RESPECT TO any optional redemption of the Notes, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Notes to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed

for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Notes and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Notes have not been redeemed.

AT LEAST 30 calendar days prior to the date fixed for any redemption of Notes or portions thereof prior to maturity a written notice of such redemption shall be sent by the Registrar by United States mail, first-class postage prepaid, to the Registered Owner of each Note to be redeemed at its address as it appeared on the Register on the 45th calendar day prior to such redemption date at least 30 days prior to the date fixed for redemption and to major securities depositories and bond information services. By the date fixed for any such redemption due provision shall be made with the Registrar for the payment of the required redemption price for the Notes or portions for which such payment is made, all as provided above. The Notes or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Registrar out of the funds provided for such payment. If a portion of any Note shall be redeemed, a substitute Note or Notes having the same maturity date, bearing interest at the same rate, in any authorized denomination or denominations, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance.

WHENEVER the beneficial ownership of this Note is determined by a book entry at a securities depository for the Notes, the foregoing requirements of holding, delivering or transferring this Note shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Notes is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Notes.

IT IS HEREBY certified, recited and covenanted that this Note has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Note have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Note, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Note, as such interest comes due and such principal matures, have been levied and

ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law.

BY BECOMING the Registered Owner of this Note, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Note and the Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Note to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Note.

City Secretary, City of New Braunfels, Texas
Texas

Mayor, City of New Braunfels,

(CITY SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Note is not accompanied by
an executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Note has been issued under the provisions of the Ordinance described in the text of this Note; and that this Note has been issued in conversion or replacement of, or in exchange for, a Note, Notes, or a portion of a Note or Notes of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

Paying Agent/Registrar

By _____
Authorized Representative

FORM OF PAYMENT RECORD

PAYMENT RECORD

<u>Date of Payment</u>	<u>Principal Payment (amount and installment(s) to which payment is applied)</u>	<u>Remaining Principal Balance</u>	<u>Name and Title of Authorized Officer making Entry</u>	<u>Signature of Authorized Officer</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Note in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

Section 5. INTEREST AND SINKING FUND. A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of said City. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said City, and shall be used only for paying the interest on and principal of said Note. All ad valorem taxes levied and collected for and on account of said Notes shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Notes are outstanding and unpaid, the governing body of said City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on said Notes as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Notes as such principal matures (but never less than 2% of the original principal amount of said Notes as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said City, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby

ordered to be levied, against all taxable property in said City, for each year while any of said Notes are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Notes, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Notes shall be deposited in the Interest and Sinking Fund and used to pay interest on the Notes.

Section 6. ESTABLISHMENT OF PROJECT FUND. (a) Project Fund. The City's Limited Tax Notes Series 2018 Project Fund is hereby created and shall be established and maintained by the City at an official depository bank of the City. Proceeds from the sale of the Notes, including any premium but, excluding accrued interest, shall be deposited into the Project Fund.

(b) Investment of Funds. The City hereby covenants that the proceeds of the sale of the Notes will be used as soon as practicable for the purposes for which the Notes are issued. Obligations purchased as an investment of money in any fund shall be deemed to be a part of such fund. Any money in any fund created by this Ordinance may be invested as permitted by the Public Funds Investment Act, as amended.

(c) Security for Funds. All funds created by this Ordinance shall be secured in the manner and to the fullest extent required by law for the security of funds of the City.

(d) Maintenance of Funds. Any funds created pursuant to this Ordinance may be created as separate funds or accounts or as subaccounts of the City's General Fund held by the City's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute a commingling of the monies in such funds or of such funds and the City shall keep full and complete records indicating the monies and investments credited to each such fund.

(e) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Notes shall be used along with the Note proceeds for the purpose for which the Notes are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Notes; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Notes from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

(f) Perfection. Chapter 1208, Texas Government Code, applies to the issuance of the Notes and the pledge of the ad valorem taxes granted by the City under this Section, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Notes are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Owners of the Notes the perfection of the security interest in said pledge, the City

agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 7. DEFEASANCE OF NOTES. (a) The Notes and the interest thereon shall be deemed to be paid, retired and no longer outstanding ("Defeased Notes") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Notes, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or a commercial bank or trust company for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or a commercial bank or trust company for the payment of its services until all Defeased Notes shall have become due and payable or (3) any combination of (1) and (2). At such time as Notes shall be deemed to be a Defeased Notes hereunder, as aforesaid, such Notes and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of Notes as aforesaid when proper notice of redemption of such Notes shall have been given, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or a commercial bank or trust company as provided in this Section may at the discretion of the City Council also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section which is not required for the payment of such Notes and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Notes and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Notes and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Notes shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Notes the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or a commercial bank or trust company pursuant to this Section for the payment of the Notes and the Notes shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of the Notes affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Notes to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Notes for redemption in accordance with the provisions of the Ordinance authorizing its issuance, the City may call such Defeased Notes for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Notes as though it was being defeased at the time of the exercise of the option to redeem the Defeased Notes and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Notes.

Section 8. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED NOTES.

(a) Replacement Note. In the event any outstanding Note is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Note of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Note, in replacement for such Note in the manner hereinafter provided.

(b) Application for Replacement Note. Application for replacement of a damaged, mutilated, lost, stolen or destroyed Note shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Note, the Registered Owner applying for a replacement Note shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Note, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Note, as the case may be. In every case of damage or mutilation of a Note, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Note so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Note shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Note, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Note) instead of issuing a replacement Note, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Note. Prior to the issuance of any replacement Note, the Paying Agent/Registrar shall charge the Registered Owner of such Note with all legal, printing, and other expenses in connection therewith. Every replacement Note issued pursuant to the provisions of this Section by virtue of the fact that any Note is lost, stolen or destroyed shall constitute a

contractual obligation of the City whether or not the lost, stolen or destroyed Note shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Notes duly issued under this Ordinance.

(e) Authority for Issuing Replacement Note. In accordance with Subchapter B of Texas Government Code, Chapter 1206, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Note without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Note is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Note in the form and manner and with the effect, as provided in Section 9(a) of this Ordinance for Note issued in conversion and exchange for other Note.

Section 9. CUSTODY, APPROVAL, AND REGISTRATION OF NOTE; BOND COUNSEL'S OPINION; AND CONTINGENT INSURANCE PROVISION, IF OBTAINED.

The Mayor of the City is hereby authorized to have control of the Notes issued and delivered hereunder and all necessary records and proceedings pertaining to the Notes pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Notes said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Notes attached to the Note, and the seal of said Comptroller shall be impressed, or placed in facsimile, on the Note. The approving legal opinion of the City's Bond Counsel may, at the option of the City, be printed on the Note issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Note. In addition, if bond insurance is obtained, the Note may bear an appropriate legend as provided by the insurer.

Section 10. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE NOTES. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Notes as an obligation described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Notes or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Notes, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Notes or the

projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Notes (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Notes being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Notes being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Notes, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Notes, other than investment property acquired with --

(A) proceeds of the Notes invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the Notes is issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Notes;

(7) to otherwise restrict the use of the proceeds of the Notes or amounts treated as proceeds of the Notes, as may be necessary, so that the Notes does not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Note) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Note has been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the Noteholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Notes. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Notes, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Notes under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Notes, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Notes under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Director of Finance to execute any documents, Notes or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Notes. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Notes, or (2) the date the Notes is retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Notes. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Notes. For purposes of this subsection, the portion of the property comprising personal property and disposed of in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this subsection, the City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Reimbursement. This Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

Section 11. SALE OF NOTES. The Notes are hereby sold and shall be delivered to _____, (the "Purchaser") pursuant to a Letter of Investment in substantially the form attached hereto as Exhibit B which the Mayor and Mayor Pro-Tem of the City are hereby authorized to execute and deliver and which the City Secretary of the City is hereby authorized to attest. The City will initially deliver to the Purchaser the Notes authorized under this Ordinance. The Notes shall initially be registered in the name of _____.

Section 12. NO CONTINUING DISCLOSURE UNDERTAKING. The City will not enter into a continuing disclosure undertaking with respect to the Obligations.

Section 13. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing

herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each registered owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 14. DEFAULT AND REMEDIES. (a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

Section 15. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT. Attached hereto as Exhibit C is a substantially final form of Paying Agent/Registrar Agreement. Each of the Mayor, the City Manager and the Director of Finance are hereby authorized to amend, complete or modify such agreement as necessary and are further authorized to execute such agreement.

Section 16. NO PERSONAL LIABILITY. No covenant or agreement contained in the Notes, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Notes shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Notes.

Section 17. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Note, the initial sale and delivery of the Note, the Paying Agent/Registrar Agreement, any insurance commitment letter or insurance policy and the Official Statement. In addition, prior to the initial delivery of the Note, the City Manager or Assistant City Manager are each hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement or (ii) obtain the approval of the Note by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 18. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance

have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Note and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Note.

Section 19. INCONSISTENT PROVISIONS. All ordinances, orders or 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 contained herein.

Section 20. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Note, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Note.

Section 21. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

Section 22. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 23. REPEALER. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 24. EFFECTIVE DATE. This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

Section 25. PERFECTION. Chapter 1208, Government Code, applies to the issuance of the Note and the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Note is outstanding and unpaid such that the pledge of ad valorem taxes and surplus net revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Note the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 26. REIMBURSEMENT. The City expects to pay expenditures in connection with the purposes set forth in the Section 1 of this Ordinance prior to the issuance of the Notes. The City finds, considers and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues Notes to accomplish the purposes set forth in Section 1 of this Ordinance. All costs to be reimbursed pursuant hereto will be capital expenditures. No Notes will be issued by the City in furtherance of this Ordinance after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service. The foregoing notwithstanding, no Notes will be issued pursuant to this Ordinance more than three years after the date any expenditure which is to be reimbursed is paid.

Section 27. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Notes or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Notes.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective on this 10th day of May, 2018.

THE CITY OF NEW BRAUNFELS, TEXAS

Mayor
City of New Braunfels, Texas

ATTEST:

City Secretary
City of New Braunfels, Texas

EXHIBIT A

DEFINITIONS

As used in this Ordinance, the following terms and expressions shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Authorized Denominations" means the denomination of \$5,000 or any integral multiple thereof with respect to the Notes and in the denomination of \$5,000 in maturity amount or any integral multiple thereof with respect to the Notes.

"Bond Insurer" or *"Insurer"* means the provider of a municipal bond insurance policy for the Notes or any other entity that insures or guarantees the payment of principal and interest on any Notes.

"Book-Entry-Only System" means the book-entry system of note registration provided in Section 3, or any successor system of book-entry registration.

"Business Day" means any day which is not a Saturday, Sunday or a day on which the Paying Agent/Registrar is authorized by law or executive order to remain closed.

"Cede & Co." means the designated nominee and its successors and assigns of The Depository Trust Company, New York.

"City" and *"Issuer"* mean the City of New Braunfels, Texas, and where appropriate, the City Council.

"City Council" means the governing body of the City.

"Closing Date" means the date of initial delivery of and payment for the Notes.

"Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding notes or otherwise provide for the funding of an escrow to effect the defeasance of the Notes are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council adopts or approves proceedings authorizing the issuance of refunding notes or otherwise provide for the funding of an escrow to effect the defeasance of the Notes, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Notes.

"*Depository*" means one or more official depository banks of the City.

"*DTC*" means The Depository Trust Company, New York, New York and its successors and assigns.

"*DTC Participant*" means securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"*Federal Securities*" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

"*Fiscal Year*" means the twelve-month accounting period used by the City in connection with the operation of the System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the City, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

"*Holder*," "*Holders*," "*Owners*" or "*Registered Owners*" means any person or entity in whose name a Note is registered in the Security Register.

"*Initial Note*" means the Note authorized, issued, and initially delivered as provided in Section 3 of this Ordinance.

"*Insurance Policy*" means an insurance policy issued by any Insurer guaranteeing the scheduled principal of and interest on the Notes when due.

"*Interest and Sinking Fund*" means the special fund maintained by the provisions of Section 5 of this Ordinance.

"*Interest Payment Date*" means a date on which interest on the Notes is due and payable.

"*Issuance Date*" means the date of delivery of the Notes.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Notes*" means the "City of New Braunfels, Texas Limited Tax Notes, Series 2018."

"*Ordinance*" means this ordinance finally adopted by the City Council on May 10, 2018.

"*Outstanding*", when used with respect to Notes, means, as of the date of determination, all Notes theretofore delivered under this Ordinance, except:

(1) Notes theretofore cancelled and delivered to the City or delivered to the Paying Agent/Registrar for cancellation;

(2) Notes deemed paid pursuant to the provisions of Section 9 of this Ordinance;

(3) Notes upon transfer of or in exchange for and in lieu of which other Notes have been authenticated and delivered pursuant to this Ordinance

(4) Notes under which the obligations of the City have been released, discharged or extinguished in accordance with the terms thereof.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the City, a rating to the Notes.

"*Record Date*" means Record Date as defined in Section 4 the Form of Notes.

"*Redemption Date*" means a date fixed for redemption of any Note pursuant to the terms of this Ordinance.

"*Register*" or "*Registration Books*" means the registry system maintained on behalf of the City by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Notes registered in the name of each Registered Owner.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

EXHIBIT B

FORM OF LETTER OF INVESTMENT

EXHIBIT C

PAYING AGENT\REGISTRAR AGREEMENT



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. L)

Presenter/Contact

Jared Werner, Chief Financial Officer
(830) 221-4395 - jwerner@nbtexas.org

SUBJECT:

Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas General Obligation Bonds, Series 2018; authorizing the levy of an ad valorem tax in support of the bonds; approving an official statement, a paying agent/registrar agreement, and other matters relating to the issuance of the bonds.

BACKGROUND / RATIONALE:

In May 2013, the voters approved \$86 million in general obligation bonds to fund the costs associated with projects in four propositions: streets, drainage, parks improvements and the expansion of the Central Texas Technology Center. The FY 2018-19 Adopted Budget included a planned \$28 million issuance to support the 2013 bond projects. However, as discussed during the July 2nd retreat, staff recommended reducing the issuance for this year to \$23 million. Staff updated the project cash flow analysis and determined that the final \$5.06 million could be deferred (for issuance) until FY 2018-19.

The table illustrates the previously completed bond issuances and planned issuances stemming from the 2013 bond program.

Timeline - 2013 Bond	Issuance Amount
June - 2014	\$14,500,000
April - 2015	15,290,000
June - 2016	28,150,000
August - 2018	23,000,000
Spring/Summer (projected) - 2019	5,060,000
Total	\$86,000,000

The general obligation bonds are scheduled to be wired to the City's depository bank on September 25th. On the date of the sale (August 27, 2018) the final details of the transaction including the actual interest rate will be presented by the City's financial advisor - SAMCO capital markets.

When the 2018 certified values were provided to the City, the Finance team calculated the annual debt service that could be supported by the I&S rate of \$20.985 cents. SAMCO will structure the first year debt service payment for the GO bonds as well as the tax notes so that it can be supported (along with all other property tax supported payments) by the I&S levy in FY 2018-19 (Tax Year

2018).

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

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FISCAL IMPACT:

The proceeds for the GO bonds will go directly to support the 2013 bond program projects. As described above, the annual debt service payment has been structured to align with the I&S rate for FY 2018-19.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the ordinance.

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF
CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION BONDS, SERIES
2018; AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF THE
BONDS; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR
AGREEMENT, AND OTHER MATTERS RELATING TO THE ISSUANCE OF THE
BONDS**

Adopted August 27, 2018

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WHEREAS, the City Council deems it to be in the best interest of the City to issue an aggregate principal amount not of \$_____ of the remaining \$7,991,000 in aggregate principal amount of bonds authorized by Proposition Number 3 for the purpose of designing, acquiring, constructing, renovating, improving and equipping City parks, and other recreational facilities, and the purchase of land easements, rights-of-way, and other real property interests necessary therefor or incidental thereto, and other costs and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

WHEREAS, following issuance of the Bonds, there will be voted authorization remaining from the above referenced Proposition Number 3, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

WHEREAS, the Bonds (hereinafter defined) authorized by this Ordinance are being issued and delivered pursuant to the City Charter and to Chapters 1251, 1331 and 1371, Texas Government Code, as amended, including 1371.001(4)(A), of the Texas Government Code and other applicable laws; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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

Section 1. RECITALS, AMOUNT AND PURPOSE OF THE BONDS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this section. The Bonds of the City are hereby authorized to be issued and delivered in an aggregate principal amount not to exceed \$_____,000, to provide funds for the following projects: (i) city street, curb, gutter sidewalk, and related drainage (ii) drainage and flood control improvements and facilities at various locations within the City (iii) City parks and other recreational activities and (iv) paying costs associated with the issuance of the Bonds.

Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. The Bonds issued pursuant to this Ordinance shall be designated: "**CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION BONDS, SERIES 2018**" and initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, dated September 1, 2018, in the maturity amounts stated in the table below and in denominations of \$5,000 or any multiple thereof, numbered consecutively from R-1 upward (except the initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the registered owner thereof, or to the registered assignee or assignees of the Bonds or any portion or portions thereof (in each case, the "Registered Owner"), and the Bonds shall mature and be payable as set forth in the table below. The term "Bond" as used in this Ordinance shall mean and include collectively the bonds initially issued and delivered pursuant to this Ordinance and all substitute bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto.

February 1	Maturity	February 1	Maturity
<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029			

Section 3. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Order to their respective dates of maturity at the following rates per annum:

September 15	Interest	September 15	Interest
<u>Year</u>	<u>Rates</u>	<u>Year</u>	<u>Rates</u>
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029			

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Order.

Section 4. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer; Authentication. The Issuer shall keep or cause to be kept at the principal corporate trust or other office of UMB Bank, Dallas, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the Issuer and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of the Bonds to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of the Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be

mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bonds. Registration of assignments, transfers and exchanges of the Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel the paid Bond or any Bond surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the Issuer or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bond in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, as amended, the duty of transfer and exchange of the Bond as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bond which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bond and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds and shall properly and accurately record all payments on the Bond on the Registration Books, and shall keep proper records of all transfers of the Bonds, and all replacements of the Bond, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of the Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bond to be payable only to the Registered Owner thereof, (ii) may be redeemed in whole or in part prior to its scheduled maturity, (iii) may be transferred and assigned, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be

administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Bonds initially issued and delivered pursuant to this Ordinance (to which Bonds are attached the Registration Bond of the Comptroller of Public Accounts) is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in exchange for any Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND.

(d) Substitute Paying Agent/Registrar. The Issuer covenants with the Registered Owner of the Bond that at all times while the Bonds are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 20 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bond, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to the Registered Owner of the Bond, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Bonds issued in exchange for the Bonds initially issued as provided in Section 4(h) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to

the Bonds, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal of and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bond, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bond, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Bond shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

(i) Cancellation of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the order of the Purchaser of the Bonds or its designee set forth in Section 13 of this Ordinance, executed by manual or facsimile signature of the Mayor or Mayor Pro-tem and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such Purchaser set forth in Section 13 of this Ordinance or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of such Purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all the Bonds for such maturity.

Section 5. FORM OF BOND. The form of the Bond, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment, the form of initial Bond and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance including any reproduction of an opinion of counsel and information regarding the issuance of any bond insurance policy.

FORM OF BOND

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS COMAL AND GUADALUPE COUNTIES	PRINCIPAL AMOUNT \$_____
---------------	-------------------------------------------------------------------------------------------------	-----------------------------------------------------

CITY OF NEW BRAUNFELS, TEXAS
GENERAL OBLIGATION BOND,
SERIES 2018

INTEREST RATE	<u>DATE OF BOND</u>	<u>MATURITY DATE</u>	<u>CUSIP NO.</u>
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September 1, 2018

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS*

ON THE MATURITY DATE specified above, **NEW BRAUNFELS, TEXAS** (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from date of delivery, on February 1, 2019 and semiannually thereafter on each August 1 and February 1 to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above calculated on the basis of a 360-day year of twelve 30-day months; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next

preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged or converted from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, at UMB Bank, (the "Paying Agent/Registrar") at their office for payment in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the close of business on the 15th day of the month next preceding each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

DURING ANY PERIOD in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

ANY ACCRUED INTEREST due at maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the

amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the City where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated September 1, 2018, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____, to provide funds for the following projects: (i) city street, curb, gutter sidewalk, and related drainage (ii) drainage and flood control improvements and facilities at various locations within the City (iii) City parks and other recreational activities and (iv) paying costs associated with the issuance of the Bonds as further set forth in the preamble to this Ordinance.

ON FEBRUARY 1, 2028, or on any date thereafter, the Bonds of this Series maturing on and after February 1, 2029 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or from time to time in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Bonds, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000).

[THE BONDS MATURING ON _____, 20__ are subject to mandatory sinking fund redemption by lot prior to maturity in the following amounts on the following dates and at a price of par plus accrued interest to the redemption date ("Term Bonds").

Term Bonds Maturing on _____, 20__

<u>Redemption Date</u>		<u>Principal Amount</u>
*		*

*Final Maturity

THE PRINCIPAL AMOUNT of the Term Bonds required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Bonds of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Bonds plus accrued

interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.]

NO LESS THAN 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date and to major securities depositories, national bond rating agencies and bond information services; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bonds shall be redeemed a substitute Bonds or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond, or any unredeemed portion hereof, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental

charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange during the period commencing on the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date.

WHENEVER the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

IT IS HEREBY certified, recited, and covenanted that this Bond has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Bond have been performed, existed, and been done in accordance with law; and that ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due, and as such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged for such payment, within the limit prescribed by law.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

City Secretary

Mayor

[CITY SEAL]

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

UMB Bank, Dallas, Texas
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer
Identification Number of Transferee

(Please print or typewrite name and address,
including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

 NOTICE: Signature(s) must be
 guaranteed by a member firm of
 the New York Stock Exchange or
 a commercial bank or trust company.

 NOTICE: The signature above
 must correspond with the name
 of the Registered Owner as it
 appears upon the front of this
 Bond in every particular, with-
 out alteration or enlargement
 or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF
 THE COMPTROLLER OF PUBLIC ACCOUNTS FOR THE INITIAL BOND ONLY:**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____.

 Comptroller of Public Accounts
 of the State of Texas

[COMPTROLLER'S SEAL]

INSERTIONS FOR THE INITIAL BOND

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED BELOW, the City of New Braunfels, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on February 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rates</u>

(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from Date of Delivery at the respective Interest Rate per annum specified above. Interest is payable on February 1, 2019 and semiannually on each August 1 and February 1 thereafter to the date of payment of the principal installment specified above; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The initial Bond shall be numbered "T-1."

Section 6. TAX LEVY. A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Bonds shall be deposited in the Interest and Sinking Fund.

Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under this Section, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the

applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 7. ESTABLISHMENT OF PROJECT FUND. (a) Project Fund. The Series 2018 Project Fund is hereby created and shall be established and maintained by the City at an official depository bank of the City. Proceeds from the sale of the Bonds and accrued interest, shall be deposited in the Project Fund.

(b) Investment of Funds. The City hereby covenants that the proceeds of the sale of the Bonds will be used as soon as practicable for the purposes for which the Bonds are issued. Obligations purchased as an investment of money in any fund shall be deemed to be a part of such fund. Any money in any fund created by this Ordinance may be invested as permitted by the Public Funds Investment Act, as amended and the City's Investment Policy.

(c) Security for Funds. All funds created by this Ordinance shall be secured in the manner and to the fullest extent required by law for the security of funds of the City.

(d) Maintenance of Funds. Any funds created pursuant to this Ordinance may be created as separate funds or accounts or as subaccounts of the City's General Fund held by the City's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute a commingling of the monies in such funds or of such funds and the City shall keep full and complete records indicating the monies and investments credited to each such fund.

(e) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with the Bond proceeds for the purpose for which the Bonds are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Bonds; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 8. DEFEASANCE OF BONDS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when

proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

As used herein, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations

that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, and (iv) any obligations hereafter authorized by law to be eligible to effect the defeasance of the Bonds.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new Bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the Registered Owner applying for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of

this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter B of Texas Government Code, Chapter 1206, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED. The Mayor of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds the Comptroller of Public Accounts (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of the Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance or other credit enhancement is obtained, the Bonds may bear an appropriate legend.

Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS. (a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Order or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the

amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full,

100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Order (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The Issuer recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Issuer recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The Issuer agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Disposition of Project. The Issuer covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Issuer may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(g) Reimbursement. This Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

Section 12. CONTROL AND DELIVERY OF BONDS. All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the Purchase Contract.

(a) The Mayor of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts of the State of Texas, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor of the City, against receipt by the City of all amounts due to the City under the terms of sale.

Section 13. SALE OF BOND. The Bonds are hereby sold to the bidder whose bid produced the lowest net effective interest rate, pursuant to the taking of public bids therefor, on this date, and shall be delivered to a syndicate of the purchaser represented by _____ (the "Purchaser") at a price of \$_____, representing the par amount of the Bonds, plus a net reoffering premium of \$_____, less an underwriter's discount of \$_____. The Bonds shall initially be registered in the name of CEDE & Co.

Section 14. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT. Attached hereto as Exhibit "A" is a substantially final form of Paying Agent/Registrar Agreement. The Mayor or Mayor Pro-tem is hereby authorized to amend, complete or modify such agreement as necessary and are further authorized to execute such agreement and the City Secretary is hereby authorized to attest such agreement.

Section 15. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports.
(i) The City shall provide annually to the MSRB, (i) within six months after the end of each fiscal year of the City ending in or after 2018, financial information and operating data with respect to the

City of the general type included in this Official Statement being the information of the type included in Table 1 of the Official Statement and Tables 1 through 10 of Appendix A to the Official Statement and the financial statements included in Appendix D to the Official Statement if audited financial statements are then available, and (ii) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Appendix D to the Official Statement and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statement is not complete within 12 months after any such fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Such information shall be transmitted electronically to the MSRB, in such format and accompanied by such identifying information as prescribed by the MSRB.

(ii) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(b) Material Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701BTEB) or other material notices or determinations with respect to the tax status of the Bonds or other events affecting the tax status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;

- H. Bond calls, if material within the meaning of the federal securities laws;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and
- N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection.

(c) Limitations, Disclaimers, and Amendments. (i) The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Subsection (b) hereof of any Bond calls and defeasance that cause the City to no longer be such an "obligated person".

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART

FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(v) The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

(d) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

Section 16. AMENDMENT OF ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure

any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each registered owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall

specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

Section 17. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

Section 18. CREDIT AGREEMENT. To the extent permitted by law, the City reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the City's Director of Finance that such Credit Agreements are in the best interest of the City given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in Chapter 1371 of the Texas Government Code.

Section 19. NO RECOURSE AGAINST CITY OFFICIALS. No recourse shall be had for the payment of principal of or interest on the Bonds or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bonds.

Section 20. FURTHER ACTIONS. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, and the Official Statement. In addition, prior to the initial delivery of the Bonds, the Mayor, Director of Finance and Bond Counsel are hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i)

correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement or (ii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 21. INTERPRETATIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge to secure the payment of the Bonds.

Section 22. INCONSISTENT PROVISIONS. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions 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 contained herein.

Section 23. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Bonds.

Section 24. SEVERABILITY. The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 25. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

Section 26. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council of the City or any officer, agent, employee or representative of the City Council of the City in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council of the City nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, passed and approved on the first and final reading on the 10th day of May, 2018.

THE CITY OF NEW BRAUNFELS:

Mayor, City of New Braunfels, Texas

ATTEST:

City Secretary, City of New Braunfels, Texas

[Signature Page]

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. M)

Presenter/Contact

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

SUBJECT:

Discuss and consider approval of a resolution recommended by the New Braunfels Economic Development Corporation for a project expenditure of up to \$500,000 to US Real Estate Limited Partnership I-35 Logistics, LLC, for construction of required or suitable infrastructure necessary to promote or develop new or expanded enterprises.

BACKGROUND / RATIONALE:

In February of 2016, the NBEDC approved \$500,000 in incentives for US Real Estate Limited Partnership I-35 Logistics, LLC, (USRLP I-35 Logistics LLC), the operating entity of Stream Realty. City Council also approved this project expenditure in February of 2016. The incentives were to be used to attract tenants to the speculative project and were based on jobs. A contract was prepared but USRLP I-35 Logistics LLC did not execute because the company was uneasy guaranteeing the job performance numbers of a third party tenant.

On August 16, 2018, the NBEDC directed staff to rework the contract to tie the incentive to infrastructure rather than jobs as allowed by state law. The Development Corporation Act authorizes this type of economic incentive for the construction of required or suitable infrastructure that is found by the NBEDC board to be necessary to promote or develop new or expanded business enterprises. The NBEDC board found this project to be consistent with the 2017 Economic Development Strategic Plan to increase the inventory or such facilities in New Braunfels.

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

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FISCAL IMPACT:

Funding for this incentive is already incorporated into the FY 2017-18 and FY 2018-19 NBEDC budget. Therefore, the funds have already been allocated to support this project expenditure.

COMMITTEE RECOMMENDATION:

TBD

STAFF RECOMMENDATION:

Staff recommends the restructured agreement to honor previous commitments and to ensure a secured return on investment for EDC funds.

RESOLUTION NO. 2016-R 15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION APPROVING A PROJECT EXPENDITURE OF UP TO \$500,000 TO USRLP I-35 LOGISTICS, LLC, A TEXAS LIMITED LIABILITY COMPANY FOR THE CREATION OF AT LEAST FIFTY PRIMARY JOBS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Industrial Development Corporation ("IDC") Board of Directors met on February 11, 2016 to consider a request to provide financial incentives to Stream Realty ("Company") for a project to provide financial incentives for the development of an industrial building in the City of New Braunfels; and

WHEREAS, the IDC Board of Directors, after holding a public hearing and discussing the request at the special called meeting February 11, 2016, voted to approve a project expenditure of up to \$500,000 to USRLP I-35 LOGISTICS, LLC. for project expenses related to developing, constructing, leasing and/or selling its facility to tenants that will create jobs considered to be "primary" as defined by Texas Local Government Code Section 501.002; and

WHEREAS, the Company will receive the funds according to the terms more fully described in the attached terms sheet adopted by the parties; and

WHEREAS, the IDC Board of Directors will enter into an economic development agreement as authorized by the Texas Local Government Code Section 501.103 with USRLP I-35 Logistics to provide infrastructure necessary to develop new or expanded business enterprise.

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 Industrial Development Corporation to provide financial incentives to USRLP I-35 Logistics, LLC. is hereby approved.

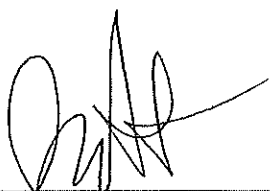
SECTION 2: That this Resolution shall become effective from and after the date of its passage.

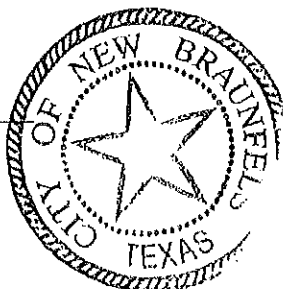
PASSED, ADOPTED AND APPROVED this 22nd day of February 2016.

CITY OF NEW BRAUNFELS, TEXAS

By: 
Barron Casteel, Mayor

ATTEST:

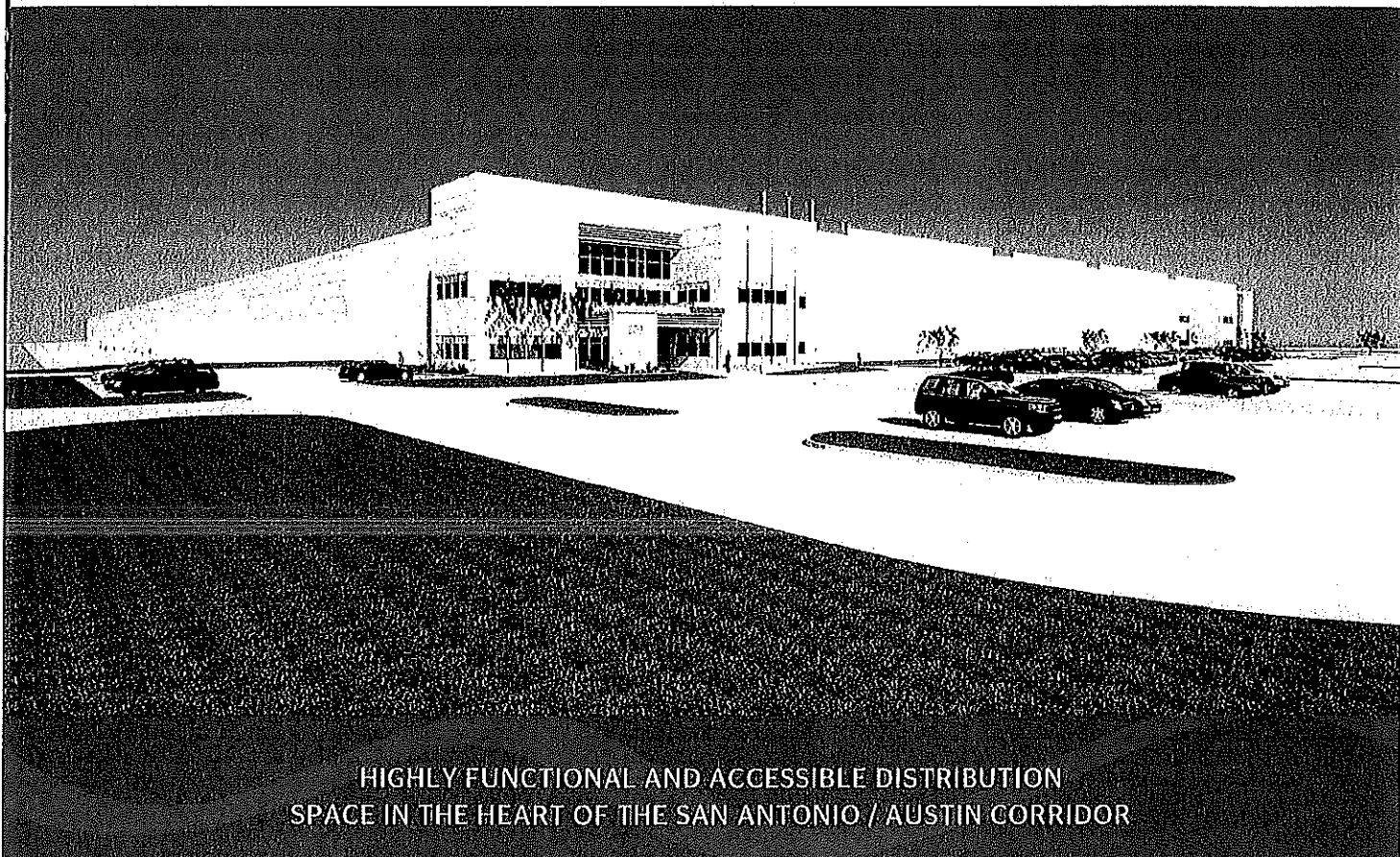

Patrick D. Aten, City Secretary



I-35

LOGISTICS CENTER

NEW BRAUNFELS, TEXAS



HIGHLY FUNCTIONAL AND ACCESSIBLE DISTRIBUTION
SPACE IN THE HEART OF THE SAN ANTONIO / AUSTIN CORRIDOR

397,600 SQ. FT. WAREHOUSE

DELIVERING JULY 8, 2016

DEVELOPED, LEASED
AND MANAGED BY:

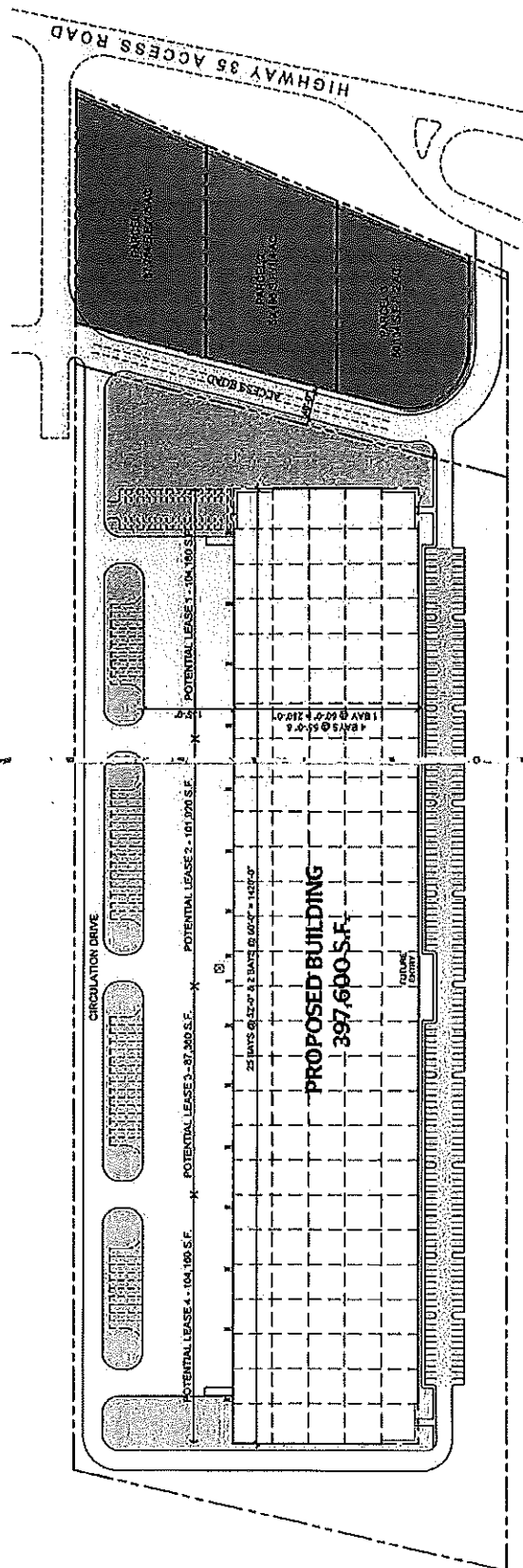
STREAM

I-35

NEW BRAUNFELS, TEXAS

PROPERTY OVERVIEW

Size:	397,600 square feet	Employee Parking:	247 spaces (expandable)
Configuration:	Rear load	Trailer Storage:	52 stalls
Overhead Doors & Ramps:	(2) 12'x14' with ramps	Truck Court Depth:	135'
Clear Height:	32'	Lighting:	75'
Building Dimensions:	280' X 1,420'	Fire Suppression:	ESFR
Loading Doors:	80	Office Finish Levels:	2-5th
Column Spacing:	52' X 55' (typical)	Tenant Size Range:	87,040 to 397,600 square feet



INVESTMENT ABSTRACT

I-35

LOGISTICS CENTER

7755 SOUTH WESTERN AVE.
NEW BRAUNFELS, TEXAS

BUILDING STATS

Asset Name:

I-35 Logistics Center

Address:

3365 Interstate 35

City/State/Zip:

New Braunfels, Texas 78132

Submarket:

Far Northeast San Antonio

Product Type:

New bulk distribution warehouse

Building Size:

397,600 SF

% Pre-Leased:

0%

Maximum Contiguous:

397,600 SF

Minimum Size:

87,360 SF

Number of Tenants:

One (1) to four (4)

Acres:

30.00

Parking Spaces:

200 employee parking spaces

Trailer Storage/Staging:

52 trailer stalls

Clear Height:

32'

Bay Depth:

280'

Column Spacing:

52' x 55' (typical)

of Dock Doors:

80

of Drive-in Doors:

Two (2) 12x14' drive-in doors with ramps

Loading:

Rear load

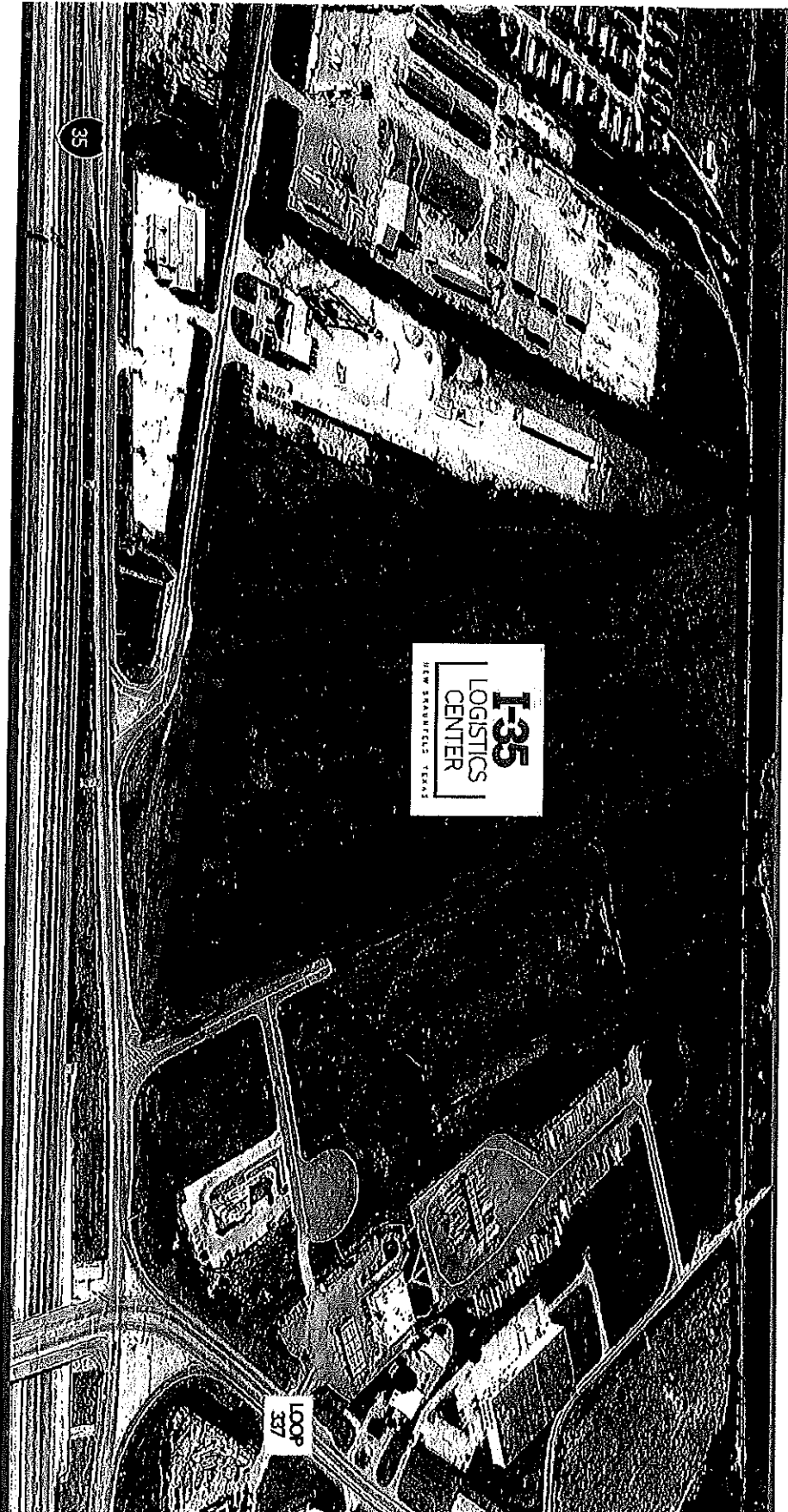
I-35 LOGISTICS CENTER: SPECULATIVE WAREHOUSE DEVELOPMENT | 6

STREAM

INVESTMENT ABSTRACT

AERIAL 2

I-35
LOGISTICS
CENTER
15300 WESTLAKES
NEW BRAUNFELS, TEXAS



I-35 LOGISTICS CENTER: SPECULATIVE WAREHOUSE DEVELOPMENT | 10

STREAM



Proposed Term Sheet Stream Realty

This term sheet sets forth the principal terms proposed for the construction of a +/- 397,000 ft² industrial building ("the Project") by US Real Estate Limited Partnership (USRELP) I-35 Logistics, LLC. ("the Company"). No legally binding obligations will be created by this Term Sheet until definitive agreements are executed and delivered by all parties. This Term Sheet is not a commitment to invest any public funds and is conditioned on the final approvals of New Braunfels Industrial Development Corporation ("NBIDC") and the City Council of the City of New Braunfels ("City").

Project:

The Company proposes to construct a +/- 397,000 ft² industrial building and related utility and road infrastructure with a total development budget of approximately \$22 million. The Project will be leased or sold to tenants in the manufacturing, distribution or warehousing sectors. The proposed uses will be light industrial and add to the primary job base of New Braunfels.

Recommended Incentive:

The NBIDC is proposing to reimburse the Company or tenant with up to \$500,000 in costs associated with the Project. These costs would be distributed on a performance basis to either a) the eventual tenant pending verification of their status as a primary employer or b) the Company if they provided evidence of a lease agreement with a primary employer. Specifically, the NBIDC will reimburse the Company for costs incurred during the project under the following categories:

- Construction costs of water, wastewater, electric utilities to the site and for the Project; and
- Those costs related to "Tenant Improvements"
- Road construction to access the site and Project; and
- Impact fees, permit charges and other regulatory fees associated with constructing the infrastructure.

The amount delivered would be calculated relative to the tenant's industry classification and the amount of square footage leased according to the following factors:

Wholesale trade, transportation or warehousing industries (Primary NAICS codes of 42, 48-49): **\$1.25 multiplied by ft² area leased by the tenant**

Manufacturing (NAICS 311-339), information (NAICS 51 excluding 512131 and 512132), architectural, engineering



and related services, computer system design and related services; management, scientific and technical consulting services; scientific research and development services; other professional, scientific, and technical services (5413, 54115, 5416, 5417 and 5419): **\$2.00 multiplied by ft² area leased by the tenant.**

Performance Requirements:

There is a performance requirement that the recipient must demonstrate an increase in payroll or jobs. The scope and extent of either of these conditions can be negotiated between the parties. In the event of a default, an entity must guarantee the performance of these requirements. If there is a failure to perform, the NBIDC will clawback all or a portion of the proceeds. The performance requirements will be in place for a minimum of five years for an award of \$500,000 (1 year per \$100,000 delivered). In consideration of the grant, the recipient must:

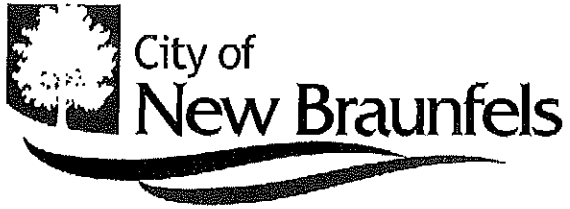
- Maintain, or provide a guarantee of the creation and maintenance of 10 jobs annually up to 50 jobs.
- Provide documentation that substantiates the Company's expenditure and payment for the infrastructure improvements; and
- Incentive amounts available for use until five years from the date the first tenant occupies; and
- Provide documentation that shows IDC funds will be passed through to reduce either the lease rate or the project cost to an end user.

Delivery of funds:

The funds are to be delivered on an annual basis, one year from the date the Certificate of Occupancy is issued for the use. The maximum to be paid in any given year is \$100,000 cumulatively.

Administration:

The NBIDC is approving up to \$500,000 to be delivered to the company providing the jobs or payroll guarantee. If the recipient provides the appropriate documentation demonstrating fulfillment of the performance conditions above, it shall be eligible for a payment of up to \$100,000 annually. This shall be the maximum amount delivered to any entity or entities eligible for funds and shall be divided on a pro-rata share (based upon square footage leased) amongst those entities eligible to receive funds. Any proposed expenditure under this Agreement shall be presented to the NBIDC for final approval.



Reporting:

The Company will need to provide documentation substantiating the cost of improvements to include all invoices and receipts of payment.

Authorizing Statute:

The NBIDC is permitted to undertake this project under Texas Local Government Code Chapter 501.101.

**CONTRACT BETWEEN THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT
CORPORATION AND US REAL ESTATE LIMITED PARTNERSHIP I-35 LOGISTICS,
LLC.**

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

THIS CONTRACTUAL AGREEMENT, is made and entered into by and between the New Braunfels Industrial Development Corporation, a Non-Profit Corporation of the State of Texas, hereinafter called "IDC", acting by and through its duly authorized officers, and US Real Estate Limited Partnership I-35 Logistics, LLC, a Limited Liability Company, of the State of Texas, hereinafter called the "COMPANY", acting by and through its officers:

W I T N E S S E T H:

I.

WHEREAS, Texas Local Government Code §501.054 provides the IDC with the powers of non-profit corporations incorporated under the Texas Non-Profit Corporation Act, as amended, and Section Seven of the Bylaws of the IDC allows for the President and Secretary of the IDC to execute any contract which the Board has approved and authorized to be executed; and

WHEREAS, pursuant to the authority in Local Government Code, Chapter 501.101 and upon the recommendation of the IDC at a special called meeting on February 11, 2016, the City Council of New Braunfels, Texas on February 22, 2016 approved the IDC's determination that an amount not to exceed \$500,000 be allocated to COMPANY or their qualified tenant(s) for reimbursement for qualified improvements later defined, that are associated with the construction of a +/- 396,000 square foot industrial building and related utility and road infrastructure, the "PROJECT," and as illustrated in Exhibit A.

AGREEMENT

II.

Grant funds shall be provided by IDC to the COMPANY or its qualified tenant(s) for reimbursement for costs associated with the qualified improvements to the PROJECT site under the following conditions:

- (1) A grant in an amount not to exceed \$500,000.00 to be distributed on a performance basis to:
 - (a) The qualified TENANT, pending verification of its status as a primary employer as defined below; or
 - (b) The COMPANY, if COMPANY first provides evidence of a current lease agreement with a primary employer who is occupying the premises at the PROJECT site at the time of the grant and for the prior twelve month period.
- (2) The qualified improvement costs that the IDC will reimburse the COMPANY or a qualified TENANT for are those improvements or expenditures that fall within one of the following categories:
 - (a) Construction costs of water, wastewater, electric utilities to the PROJECT site; and
 - (b) Road construction to access the Project site; or
 - (c) Costs related to leasehold improvements undertaken for a qualified tenant. Qualified leasehold improvements are those alterations or improvements to the interior of the building as they relate to ceilings, floors, inner walls and mechanical, electrical and plumbing systems; or
 - (d) Impact fees, permit charges and other regulatory fees associated with constructing the infrastructure.
- (3) The amount of reimbursement delivered annually will be calculated relative to the tenant's industry classification and the amount of square footage leased according to the following factors:
 - (a) Wholesale trade, transportation, or warehousing industries (NAICS codes of 42,

48-49): \$1.25 multiplied by square footage of area leased by tenant

- (b) Manufacturing (NAICS codes of 311-339), information (NAICS codes of 51 excluding 512131 and 512132), architectural, engineering and related services, computer system design and related services; management, scientific and technical consulting services; scientific research and development services; other professional, scientific, and technical services (5413, 5415, 5416, 5417, 5419): \$2.00 multiplied by square footage area leased by tenant.

(4) In consideration of the grant, the recipient must:

- (a) Maintain, or provide a guarantee of the creation and maintenance of a minimum of 10 jobs annually and up to 50 jobs total over a 5 year period. If the project's total job count falls below the scheduled increases or does not add 10 jobs on an annual basis, COMPANY or the other entities will not be eligible for the payment that year.
 - (b) Provide documentation in a form acceptable to the City of New Braunfels, Finance Director that substantiates the COMPANY'S expenditure and payment for the infrastructure improvements, including all invoices and receipts of payment; and
 - (c) Incentive amounts available for use until five (5) years from the date the first tenant occupies; and
 - (d) Provide documentation in a form acceptable to the City of New Braunfels, Finance Director that demonstrates how the IDC funds are being utilized to reduce the tenant's lease rate or tenant improvement costs.
- (5) The funds are to be delivered on an annual basis, one year from the date the Certificate of Occupancy is issued for the use. The maximum to be paid to any entity or entities eligible for funds in any given year is \$100,000 cumulatively and shall be divided on a pro-rata share (based upon square footage leased) amongst those entities eligible to receive funds.
- (6) Any proposed expenditure under this Agreement shall be presented to the IDC for final approval.

(7) COMPANY shall at all times comply with the ordinances of City of New Braunfels and the laws of the State of Texas.

(8) All funds received by COMPANY from IDC as herein provided shall be expended solely for the purposes stated herein.

III.

Any breach of the terms and conditions of this grant by COMPANY will result in the termination of the distribution of funds as well as require the immediate re-payment of any funds used for an un-authorized purpose, unless IDC and COMPANY agree, in writing, to modify the terms of the grant.

IV.

The IDC, acting through the City of New Braunfels, reserves the right to audit applicable COMPANY employment and financial records related to the performance of this Contract with at least ten (10) days prior written Notice to COMPANY.

V.

If IDC determines that any of the preceding provisions and requirements detailed above are not fulfilled, the IDC shall send Notice to COMPANY regarding default hereunder. Should COMPANY fail to correct any deficiency in its performance of the requirements of this Contract within thirty (30) days, IDC, as its sole and exclusive remedies, reserves the right to declare the COMPANY in breach, to terminate this Contract, and demand repayment of any portion of the funds paid hereunder.

VI.

In the performance of this contract, COMPANY shall not discriminate against any employee because of his/her race, color, religion, national origin, sex, disability or ancestry. Proven breach of this covenant may be regarded as a material breach of the contract causing its termination.

VII.

Employment of Undocumented Workers. During the term of this Agreement, COMPANY

agrees not to knowingly employ an undocumented worker and if convicted of a violation of 8 U.S.C. Sec. 1324a(f). COMPANY shall repay the amount of the Grant and any other funds received by COMPANY from the IDC as of the date of such violation within sixty (60) days after the date COMPANY is notified by the IDC of such violation, plus interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the IDC) as its prime or base commercial lending rate, from the date of such notice until paid.

VIII.

It is expressed and understood and agreed by both parties hereto that each acts independently of each other, and neither has the authority to bind the other or to hold out to a third party that it is the authority for the other. The parties hereto understand and agree that the City shall not be liable for any claims, which may be asserted by any third party occurring in connection with the performance of the IDC.

Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of employer-employee, principal agent, joint ventures or any other similar such relationships, between the parties hereto.

IX.

All communications between IDC and COMPANY shall be addressed to the President of the New Braunfels Industrial Development Corporation, c/o City of New Braunfels, 550 Landa Street, New Braunfels, Texas 78130 with a copy being sent to the President of the IDC at his/her residential or business address.

Any communication to COMPANY shall be addressed to the _____ at _____.

Any notice required to be given a party pursuant to this Agreement shall be in writing and duly served when deposited with the United States Postal Service, enclosed in a wrapper with proper postage affixed thereto, duly registered or certified, return receipt requested, and addressed

as indicated above.

X.

If any provision of this Agreement, or the application thereof to any person or circumstance, shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and, if such action does not destroy the basis of the bargain between the parties, then the remainder of this Agreement, and the application of such provisions to other persons or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

XI.

The foregoing instrument in writing between the parties herein, constitutes the entire agreement between the parties, relative to the funds made the basis hereof, and any other written or oral agreement with the IDC being expressly waived by COMPANY.

XII.

This Agreement and the performance thereof shall be governed by and construed and enforced in accordance with the laws of the State of Texas.

Venue for any cause of action arising under or with respect to this Agreement, or the performance thereof, shall reside exclusively in Comal County, Texas, without regard to diversity of citizenship or any statutory provision to the contrary.

IN WITNESS WHEREOF, the parties hereto execute this agreement in duplicate originals on this ____ day of _____, 2017.

CITY OF NEW BRAUNFELS

INDUSTRIAL DEVELOPMENT CORPORATION

By: _____

STUART HANSMANN, *President*

550 Landa Street

New Braunfels, Texas 78130

ATTEST:

NEAL LINNARTZ, *Corporate Secretary*

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, *City Attorney*

US REAL ESTATE LIMITED PARTNERSHIP I-35 LOGISTICS, LLC

By: _____

_____, _____

ATTEST:

_____, *Secretary*

STATE OF TEXAS §

COUNTY OF COMAL §

Before me, _____, on this day personally appeared Stuart Hansmann, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that Stuart Hansmann executed the same as the act of the New Braunfels

Industrial Development Corporation as its President, for the purposes and consideration therein expressed.

Subscribed and sworn to before me this _____ day of _____, 2017.

Notary Public, State of Texas

My commission expires:

STATE OF TEXAS §

COUNTY OF COMAL §

Before me, _____, on this day personally appeared Jan Kennady, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that Neal Linnartz executed the same as the act of the New Braunfels Industrial Development Corporation as its Secretary, for the purposes and consideration therein expressed.

Subscribed and sworn to before me this _____ day of _____, 2017.

Notary Public, State of Texas

My commission expires:

US REAL ESTATE LIMITED PARTNERSHIP I-35 LOGISTICS, LLC

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

COUNTY OF _____ §

Before me, _____, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that _____ executed the same on behalf of US Real Estate Limited Partnership I-35 Logistics, LLC as its _____, for the purposes and consideration therein expressed.

Subscribed and sworn to before me this _____ day of _____, 2017.

Notary Public, _____

My commission expires:

Minutes
New Braunfels Industrial Development Corporation
Special-Called Board Meeting
5:00 p.m., Thursday, February 11, 2016
Honors Hall – 390 S. Seguin Ave.

The meeting was called to order by President Hansmann at 5:00 p.m.

Present: President Stuart Hansmann, Vice President Ashley Davison, Secretary Jan Kennady, Director Bob Gray, Director Neal Linnartz, and Director Wes Stamps. Treasurer Jim Poage arrived at 5:05 p.m.

Chamber staff present: Michael Meek and Rusty Brockman.

City officials and staff present: Robert Camareno, Kristi Aday, Greg Malatek, Jeff Jewell, Martie Simpson, Mayor Barron Casteel, Chris Monceballez, Val Acevedo, and Travis Cochrane.

Media: Jared Meisinger representing New Braunfels Herald-Zeitung

Citizens: Allan Young representing Stream Realty

Hansmann introduced Item No. 2, Citizens' Communications. There were none.

Item No. 3 was approval of minutes from the regular January 21, 2016 meeting and the special called February 4, 2016 meeting. Gray made the motion and Linnartz seconded to approve both sets of minutes. The motion was approved 6-0.

Item No. 4 was public hearing, discussion and possible action approving a project expenditure of up to \$500,000 to USRLP I-35 Logistics, LLC, a Texas limited liability company for the creation of at least 50 primary jobs. Jewell introduced this item and gave a review of the project and introduced Allan Young who had presented to the NBIDC at the February 4, 2016 meeting. Hansmann opened for public comment. There was none. He closed public comment and opened up for Board questions. There was discussion and questions about the project and about how the contract would be prepared going forward if the Board were to approve the \$500,000 incentive. Kennady moved and Linnartz seconded a motion to recommend approval of an incentive for USRLP I-35 Logistics, LLC via a payout of \$100,000 per year based upon ten jobs per year for an amount not to exceed \$500,000 in total. There being no other discussion, the motion was approved 7-0.

Item No. 5 was public hearing, discussion and possible action approving an expenditure of up to \$62,200 to Magellan Advisors for a project to provide broadband internet services in New Braunfels. Assistant City Manager Aday presented this item. She reviewed the project from its inception indicating this was the next step in the broadband study process with Magellan Advisors. She discussed the estimated costs for the project initially was approximately \$3 million. The current range after more investigation and more study is between \$3 and \$5 million. She explained the moving parts of this project being the underground placement of the fiber or if it went above ground, using poles owned by NBU. She indicated this request is to utilize Magellan for Phase 1 and Phase 2. Phase 1 would be to have Magellan create an RFI to solicit interest from internet providers, and Phase 2 would be to create a P3 partnership. Aday also indicated the stakeholder group made up of Chamber of Commerce representatives, City, NBU and 4B members have been meeting; and if approved, this group would meet in a workshop that would be scheduled soon after the approval of the contract with Magellan Advisors. Hansmann opened for public hearing. There was none. He closed the public hearing and opened up for discussion by Board. After discussion, a motion was made by Davison and seconded by Gray to approve Agenda Item No. 5. The motion was 7-0 approved.

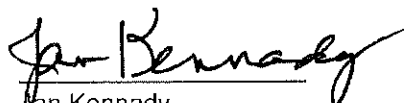
Item No. 6 was Executive Session. Hansmann read the item and indicated Project Goose and Project Veramendi were both to be discussed in Executive Session. He closed open session at 5:35 p.m. At 7:29 p.m. the Executive Session was closed and the Board returned into open session. Hansmann announced there was no action to be taken. The meeting was adjourned at 7:29 p.m.

Approved by:



Stuart Hansmann
President

Attest:



Jan Kennady
Secretary

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 APPROVING A PROJECT EXPENDITURE OF UP TO \$500,000 TO US REAL ESTATE LIMITED PARTNERSHIP I-35 LOGISTICS, LLC, FOR CONSTRUCTION OF REQUIRED OR SUITABLE INFRASTRUCTURE NECESSARY TO PROMOTE OR DEVELOP NEW OR EXPANDED ENTERPRISES; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Economic Development Corporation (“EDC”) Board of Directors met on August 21, 2018, to consider a project expenditure of up to \$500,000 to US Real Estate Limited Partnership I-35 Logistics, LLC, a Texas limited liability company, (“USRLP I-35 Logistics LLC”, the operating entity of Stream Realty) as authorized by Texas Local Government Code Section 501.103 for the construction of required or suitable infrastructure necessary to promote or develop new or expanded enterprises; and

WHEREAS, the EDC Board of Directors, after holding a public hearing and discussing the request at a special called meeting on August 21, 2018, found the expenditure of up to \$500,000 to be required or suitable for infrastructure necessary to promote or develop new or expanded enterprises; and

WHEREAS, the EDC Board of Directors approved the project expenditure and found it consistent with the 2017 Economic Development Strategic Plan; and

WHEREAS, the EDC Board of Directors will enter into an economic development agreement as authorized by the Texas Local Government Code Section 501.103 with USRLP I-35 Logistics LLC for certain infrastructure improvements.

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 to provide financial incentives to USRLP I-35 Logistics LLC is hereby approved.

SECTION 2: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this 23rd day of August 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

8/27/2018

Agenda Item No. A)

Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:

- US Real Estate Limited Partnership I-35 Logistics, LLC (Stream Realty)



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. B)

Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code

- Property for City Facilities



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

8/27/2018

Agenda Item No. C)

Deliberate the appointment, evaluation, duties, discipline, or removal of the Municipal Court Judge in accordance with Section 551.074 of the Texas Government Code.

