



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



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

MONDAY, JANUARY 14, 2019 at 6:00 PM

Barron Casteel, Mayor

Shane Hines, Councilmember (District 1)

Justin Meadows, Councilmember (District 2)

Harry Bowers, Councilmember (District 3)

Matthew E. Hoyt, Councilmember (District 4)

Wayne Peters, Mayor Pro Tem (District 5)

Leah A. García, Councilmember (District 6)

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) Mentoring Month
- B) Martin Luther King, Jr. Day
- C) 2018 Wassail Meister Champions

PRESENTATIONS:

- A) Retiree Recognition - Guadalupe Vasquez
- B) Retiree Recognition - Darlene Michalski

1. MINUTES

- A) Discuss and consider approval of the minutes of the regular City Council meeting of December 10, 2018, and the special meeting of December 13, 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 Mayoral appointment of one individual as the Chair of the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority.
Patrick Aten, City Secretary
- B) Approval of the Mayoral appointment of two individuals to the New Braunfels Housing Authority Board of Commissioners for terms ending January 22, 2021.
Patrick Aten, City Secretary
- C) Approval of the appointment of three individuals to the Heritage Commission for terms ending March 11, 2022.
Patrick Aten, City Secretary
- D) Approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2021.
Patrick Aten, City Secretary
- E) Approval of the purchase of a 40 cubic yard compactor in the amount of \$27,675 from Wastequip Inc.
Michael Mundell, Solid Waste Manager
- F) Approval of a resolution in support of the Texas Recreation and Park Society Legislative Platform for the 86th Legislature.
Stacey Dicke, Parks and Recreation Director
- G) 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
- H) Approval of the reassignment of a contract with ReCommunity Holdings, II to Republic Services.
Michael Mundell, Solid Waste Manager

- I) Approval of a resolution endorsing certain legislative changes to Texas law proposed by the Texas Chapter of the Solid Waste Association of North America.
Michael Mundell, Solid Waste Manager
- J) Approval of contracts associated with the Edwards Aquifer Habitat Conservation Plan program. Authorize the City Manager to execute contracts for Old Channel Aquatic Vegetation Restoration, Comal River/ Landa Lake Aquatic Vegetation Restoration, Dissolved Oxygen Management, Gill Parasite Control and Riparian Restoration with BIO-WEST, Inc; Non-Native Animal Species Control with Atlas Environmental; Riparian Restoration with EBR Enterprises; and Riparian Restoration with Environmental Survey Consulting.
Mark Enders, Watershed Program Manager
- K) Approval of a resolution recommended by the New Braunfels Economic Development Corporation to provide up to \$140,000 to the Center for Entrepreneurship for operation of the Small Business Development Center in FY 2018-19.
Jared Werner, Chief Financial Officer
- L) Approval of a budget amendment in the FY 2017-18 Debt Service Fund.
Jared Werner, Chief Financial Officer
- M) Approval of the ratification of the submission of a grant application to the U.S. Department of Justice FY 2018 Bulletproof Vest Partnership program for \$30,780 and authorizing the City Manager to accept funds and to execute all contract documents associated with the grant.
Tom Scheuermann, Police Administrative Sergeant

Ordinances

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

- N) Approval of the second and final reading of an ordinance amending the Code of Ordinances, Chapter 144, Zoning, Sections 4 and 5, regarding above-ground fuel storage tanks.
Christopher J. Looney, Planning and Community Development Director
- O) Approval of the second and final reading of an ordinance amending Article V of Chapter 126 of the Code of Ordinances regarding bicycles.
Garry Ford, City Engineer
- P) Approval of the first reading of an ordinance amending Section 126-186 of the Code of Ordinances to prohibit through truck traffic on Oak Run

Parkway.

Garry Ford, City Engineer

- Q) Approval of the first reading of an ordinance amending Section 126-186 of the Code of Ordinances to prohibit through truck traffic on Saur Lane and Barbarosa Road.

Garry Ford, City Engineer

- R) Approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking along a portion of East Nacogdoches Street.

Garry Ford, City Engineer

4. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider approval of the appointment of three individuals to the Arts Commission for terms ending January 31, 2022.

Patrick Aten, City Secretary

- B) Public hearing and possible action on the creation of the Solms Landing/New Braunfels Co-Op Public Improvement District.

Robert Camareno, City Manager

- C) Discuss and consider possible action on a resolution creating the Solms Landing/New Braunfels Co-Op Public Improvement District.

Robert Camareno, City Manager

- D) Discuss and consider approval of the first reading of an ordinance amending the Code of Ordinances Chapter 14 Building Regulations, Chapter 54 Fire Prevention and Protection; Emergency Medical Services, and Appendix D Fee Schedule.

TJ Grossi, Building Official

- E) Discuss and consider approval of an amendment to the number of authorized Das Rec childcare positions in the FY 2018-19 Adopted Budget.

Stacey Dicke, Parks and Recreation Director

- F) Public hearing and first reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow the short term rental of a single-family residence in the "C-3" Commercial District addressed at 1464 Hillview Avenue.

Christopher J. Looney, Planning and Community Development Director

- G) Public hearing and first reading of an ordinance regarding the proposed rezoning of 7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 and 5979 IH-35 South, from "APD"

Agricultural/Pre-Development to "M-1A" Light Industrial District.

Christopher J. Looney, Planning and Community Development Director

- H) Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-1" Local Business District on approximately 0.55 acres, addressed at 118 S. Union Avenue.

Christopher J. Looney, Planning and Community Development Director

- I) Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 0.96 acres consisting of Lots 8A and 8B, Block 15, Rivercrest Heights 5E and Lots 9 and 10, Block 15, Rivercrest Heights 6, from "R-1" Single-Family Residential District and "R-2A" Single-Family and Two-Family District to "C-O" Commercial Office District, addressed at 1265, 1267, 1269, 1271 and 1273 E. Common Street.

Christopher J. Looney, Planning and Community Development Director

- J) Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 2.53 acres consisting of Lot 1A, Block 1, Oak Grove Estates Subdivision Unit 2, located on the northeast corner of the intersection of FM 306 and Oak Knot Drive from "R-1" Single-Family District to "C-1B" General Business District.

Christopher J. Looney, Planning and Community Development Director

- K) Discuss and consider a waiver from the requirement to construct sidewalks along East Zipp Road for the proposed Zipp Compound Subdivision.

Christopher J. Looney, Planning and Community Development Director

- L) Discuss and consider a waiver from the requirement to construct sidewalks along FM 1102 for the proposed Westridge Oaks Subdivision.

Christopher J. Looney, Planning and Community Development Director

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 the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
- Property for city facilities
- B) Deliberate pending/contemplated litigation, settlement offer(s), and

matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:

- National Flight Services, Inc. Agreement

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 January 9, 2019, at 2:00 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, in 2002, the Harvard School of Public Health and Mentor: The National Mentoring Partnership created National Mentoring Month; and

WHEREAS, the goals of National Mentoring Month are to raise awareness of mentoring, recruit individuals to mentor, and encourage organizations to integrate quality in mentoring into their efforts; and

WHEREAS, a mentor is a caring, consistent presence who devotes time to a young person, helping that young person discover personal strength and achieve their potential through a structured and trusting relationship; and

WHEREAS, quality mentoring encourages positive choices, promotes self-esteem, supports academic achievement and introduces young people to new ideas, and is shown to be effective in combating school violence, discipline problems, substance abuse, incarceration and truancy; and

WHEREAS, research shows that young people who were at risk for not completing high school but who had a mentor were 55 percent more likely to be enrolled in college, 81 percent more likely to report participating regularly in sports or extracurricular activities, more than twice as likely to say they held a leadership position in a club or sports team, and 78 percent more likely to volunteer regularly in their communities; and

WHEREAS, youth development experts agree that mentoring is critical to the social, emotional and cognitive development of youth, helping them navigate the path to adulthood more successfully and set career goals; and

WHEREAS, despite these benefits, one in three youth will reach age 19 without a mentor – constituting a “mentoring gap” that demonstrates a need for collaboration and resources, even though mentoring is a proven cost-effective investment: for every hour invested in mentoring, there is a \$24 return to society while also strengthening the fiber of our communities.

NOW, THEREFORE, I, BARRON CASTEEL, Mayor of the City of New Braunfels, do hereby proclaim the month of January 2019 as

MENTORING MONTH

and recognize Communities in Schools of South Central Texas for their continued support, and call upon public officials, business and community leaders, and educators to encourage the citizens to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed on this the 14th day of January 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

City of New Braunfels



Proclamation

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

WHEREAS, each year, America sets aside a day to remember a pioneer of the Civil Rights Movement; and

WHEREAS, during his lifelong struggle for justice and equality, the Reverend Dr. Martin Luther King, Jr. gave voice to the quiet hopes of millions, offered a redemptive path for the oppressed and oppressors alike, and led a nation to the mountaintop by reminding us that “injustice anywhere is a threat to justice everywhere;” and

WHEREAS, we have celebrated the great victories of the last half century, civil rights and voting rights laws; new opportunities in the classroom and the workforce; a more fair and free America, not only for African Americans, but for us all; and

WHEREAS, it is our task to build on the gains of the past generations, and we must advance another cause central to both Dr. King’s career and the civil rights movement; the dignity of good jobs, decent wages, and quality education; because America’s promise is not only the absence of oppression but also the presence of opportunity; and

WHEREAS, Dr. King taught us that “an individual has not started living until he can rise above the narrow confines of his individualistic concerns of all humanity;” and

WHEREAS, in honor of his spirit, Americans shall come together for a day of service by volunteering our time and energy to build stronger, healthier, and more resilient communities.

NOW, THEREFORE, I, BARRON CASTEEL, Mayor of the City of New Braunfels, Texas, proclaim January 21, 2019, as

MARTIN LUTHER KING, JR. DAY

and I encourage all Americans to observe this day with appropriate civic, community, and service projects in honor of Dr. King.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 14th day of January 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, MAYOR

City of New Braunfels



Proclamation

THE STATE OF TEXAS §

COUNTY OF COMAL §

CITY OF NEW BRAUNFELS §

WHEREAS, The City of New Braunfels celebrated the 26th Annual Wassailfest on December 6, 2018, to capture the holiday spirit of New Braunfels and, as a part of this celebration, hosted the annual Wassail Meister Competition; and

WHEREAS, 19 competitors entered their unique Wassail recipes in the Wassail Meister Competition.

NOW, THEREFORE, I, BARRON CASTEEL, Mayor of the City of New Braunfels, Texas, do hereby proclaim the following winners of the 2018 Wassail Meister Competition.

WASSAIL MEISTER COMPETITION

3rd Place – The Brauntex Theatre

2nd Place – New Braunfels Coffee & House Hunters NB Real Estate

1st Place – Community Fellowship Presbyterian Church

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 14th day of January, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BY: _____
BARRON CASTEEL, Mayor



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. A)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Discuss and consider approval of the minutes of the regular City Council meeting of December 10, 2018, and the special meeting of December 13, 2018.

**MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
REGULAR MEETING OF MONDAY, DECEMBER 10, 2018**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on December 10, 2018, at 6:00 p.m.

City Councilmembers present were:

Present: 6 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Absent: 1 - Councilmember Justin Meadows

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:04 p.m. Councilmember Bowers gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

PRESENTATIONS:

A) Retiree Recognition - Leslie Wyatt

Leslie Wyatt was recognized for his service to the City of New Braunfels.

B) Annual Economic Benchmarks

Michael Meek presented the item.

C) Update on urban wildlife management and wildlife feeding ordinance

Mark Enders presented the item.

D) Presentation and possible direction to staff regarding proposed amendments to Division 4 of Article VII of Chapter 126 of the Code of Ordinances regarding meters.

Greg Malatek presented the item.

E) Presentation and possible direction to staff on river fund revenue options for 2019.

Kristi Aday presented the item. The City Council's direction was no changes for the 2019 river season.

1. MINUTES

A) Discuss and consider approval of the minutes of the regular City

Council meeting of November 26, 2018, and the special meeting of December 3, 2018.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Hines moved to approve the item as amended. Councilmember Garcia 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.

No one spoke.

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 cancellation of the second regular City Council meeting of December.
- B) Approval of a contract expenditure with Harrells Inc. for \$32,000 for landscape fertilizers for FY 2018-19.
- C) Approval of a contract with FleetCor Technologies Operating Company for the provision of Citywide fleet fuel services.
- D) Approval of a contract increase with K Friese and Associates Inc. for professional engineering services to provide third party assistance for development plan review for the Engineering Division.
- E) Approval of a multi-award contract with K Friese & Associates, Masterplan, Sunland Group, and Utility Engineering Group, PLLC to

provide third party assistance for development plan reviews for the Planning and Community Development Department.

- F) Approval of a resolution authorizing the City Manager to enter into an Agreement with Richard J. Leidl, P.C. for federal legislative services on behalf of the City of New Braunfels.
- G) Approval of a budget transfer in the FY 2017-18 General Fund and a budget amendment in the FY 2017-18 Airport and Solid Waste Funds.
- H) Approval of an update to the City's internal financial policies.
- I) Approval to renew and amend the Interlocal Agreement with the Alamo Area Council of Governments for demand response transit services, authorizing the City Manager to execute all contract documents associated with this agreement, and approval of an expenditure in the amount of \$495,000.
- J) Approval of a contract with Interpool Inc. for Painting of the Landa Park Aquatic Swimming Pool at a cost of \$134,478 and a contract to Progressive Commercial Aquatics for the purchase and installation of the starting block anchors for a cost of \$17,840.
- K) Approval for the submission of the Community Development Block Grant Program's Consolidated Annual Performance and Evaluation Report for Program Year 2017 to the U.S. Department of Housing and Urban Development.
- L) Approval of an annual expenditure with Galls Inc. for the purchase of Fire and Police Department Uniforms for an annual expenditure of \$80,000 through a Buyboard contract.
- M) Approval of amendments to the agreement between the City of New Braunfels and the Humane Society of the New Braunfels Area, Inc. and the appropriate budget amendment
- N) Approval of a contract with Pristine Texas Rivers, Inc. for litter removal services in various City parks.
- O) Approval of a contract with Myers Concrete Construction, LP for the construction of bio-retention water quality basin and approval authority for the City Manager to approve any changes up the contingency amount for project expenditures as part of the North Houston Avenue Water Quality Project that is part of the City's Edwards Aquifer Habitat

Conservation Plan program initiatives.

- P) Approval of a resolution recommended by the New Braunfels Economic Development Corporation authorizing an amendment to the professional services agreement with Douglas Architects, Inc.

Ordinances

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

- Q) Approval of the second and final reading of an ordinance zoning approximately 151 acres out of the Sarah Dewitt Survey, Abstract 103, Guadalupe County, located on the southeast corner of FM 1044 and W. Klein Road, to "C-1B" General Business District.

Mayor Casteel read the aforementioned captions.

Councilmember Garcia moved to approve the Consent Agenda. Councilmember Hines seconded the motion which passed unanimously via roll call vote.

4. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider an update on the San Antonio Street Bridge over the Comal River Project and the proposed bridge rail and light poles as recommended by the City Council-appointed San Antonio Street Bridge Steering Committee.

Mayor Casteel read the aforementioned caption.

Greg Malatek presented the item.

City Council discussed the structure, rails, and lighting, and asked staff to bring the item back at another meeting for further discussion.

- B) Public hearing and consideration of an amendment to the Veramendi Master Framework Plan.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Chris O'Connor, Jim Waldman, and Charles Fulton spoke during the

public hearing.

Councilmember Hines moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously.

- C) Public hearing and first reading of an ordinance amending the Code of Ordinances, Chapter 144, Zoning, Sections 4 and 5, regarding above-ground fuel storage tanks.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

No one spoke during the public hearing.

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

- D) Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas Limited Tax Notes, Series 2018A; 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.

Mayor Casteel read the aforementioned caption.

Robert Camareno and Andrew Friedman presented the item.

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

- E) Discuss and consider approval of the purchase of vehicles from Bluebonnet Motors, Inc., Griffith Ford Seguin, LLC, and Caldwell County Chevrolet; approval of the purchase and installation of ancillary equipment from GT Distributors, Inc., Applied Concepts, Inc. d/b/a Stalker Radar, Enforcement Video, LLC (WatchGuard), and the Lower Colorado River Authority; and approval to declare replaced units as surplus.

Mayor Casteel read the aforementioned caption.

Barbara Coleman presented the item.

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

5. EXECUTIVE SESSIONS

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

- A) 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
- B) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
 - New Braunfels Housing Authority/New Braunfels Community Resources, Inc.

Mayor Casteel read the aforementioned captions.

City Council recessed into Executive Session from 8:09 p.m. - 8:56 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.

The City Council reconvened into Open Session at 8:57 p.m.

No vote or action was taken.

7. ADJOURNMENT

The meeting adjourned at 8:57 p.m.

Date Approved: January 14, 2019

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary

**SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF THURSDAY, DECEMBER 13, 2018**

The City Council of the City of New Braunfels, Texas, met in a special session on December 13, 2018, at 6:00 p.m.

City Councilmembers present were:

Present 6 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Absent 1 - Councilmember Shane Hines

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

1. WORKSHOP

A) Discuss and consider possible direction to staff regarding 2019 Bond Election projects.

Mayor Casteel read the aforementioned caption.

Robert Camareno presented the item and discussed scenarios with the City Council.

Ron Savage, Pam Kraft, Wayne Rudolph, and Paul Naizer spoke on the item.

No action was taken.

The meeting adjourned at 7:55 p.m.

Date Approved: January 14, 2019

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. A)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the Mayoral appointment of one individual as the Chair of the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority.

BACKGROUND / RATIONALE:

Reinvestment Zone No. 1 serves the Creekside Development by facilitating a program of public improvements within the Zone. The ordinance that created the Zone provides that the Mayor shall nominate and appoint a member to serve as Chair subject to City Council approval.

The following applicant was selected by the Mayor for appointment as the Chair:

- Tobin Hoffmann

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the Mayoral appointment of one individual to the Chair of the Reinvestment Zone No. 1 (TIRZ) Board of Directors and the New Braunfels Development Authority.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. B)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the Mayoral appointment of two individuals to the New Braunfels Housing Authority Board of Commissioners for terms ending January 22, 2021.

BACKGROUND / RATIONALE:

The New Braunfels Housing Authority Board of Commissioners is comprised of five members serving two-year staggered terms, with at least one member being a Housing Authority tenant and the remainder serving at-large.

Two applicants were nominated by the Mayor for the two Housing Authority Board vacancies:

- David Pfeuffer (incumbent)
- Sharon Samples (incumbent & tenant)

Applicants' current & prior service on Boards and Commissions

Sharon Samples has served on the Housing Authority Board as the Housing Authority Tenant since January 2015.

David Pfeuffer is currently a member of the Housing Authority.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the appointment of two individuals to the New Braunfels Housing Authority Board of Commissioners for terms ending January 22, 2021.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. C)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the appointment of three individuals to the Heritage Commission for terms ending March 11, 2022.

BACKGROUND / RATIONALE:

The Heritage Commission has seven members serving three-year staggered terms. Three members serve at the recommendation of the Historic Museum Association (HMA), and four members serve at-large. Notice of Vacancies were posted November 16 through December 16.

Three qualified applications were submitted for the three at-large vacancies:

- Glenn Griffin (incumbent)
- Martha McLaurin
- Collette Nies (incumbent)

Applicants' current & prior service on Boards and Commissions

Glenn Griffin has served on the Heritage Commission since January 2016.

Martha McLaurin has no previous experience on City boards or commissions.

Collette Nies has served on the Heritage Commission since January 2016. She is a graduate of City University.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the appointment of three individuals to the Heritage Commission for terms ending March 11, 2022.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. D)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2021.

BACKGROUND / RATIONALE:

The Community Development Advisory Board has nine members serving three-year staggered terms. Notice of vacancy was advertised from September 13, 2018 to December 16, 2018.

One qualified application was submitted for the low-moderate income position:

- Sarah Valdez

Applicant's current & prior service on Boards and Commissions

Sarah Valdez has served on the Community Development Advisory Committee since January 2013.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2021.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. E)

Presenter/Contact

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

SUBJECT:

Approval of the purchase of a 40 cubic yard compactor in the amount of \$27,675 from Wastequip Inc.

BACKGROUND / RATIONALE:

The Solid Waste and Recycling Division is committed to providing environmentally friendly services and expanding opportunities for waste diversion.

In FY 2017-18 the Solid Waste Department was awarded two grants from the Texas Commission on Environmental Quality (TCEQ) through the Alamo Area Council of Governments (AACOG) to purchase a vertical baler and a 40-cubic yard compactor. The compactor will be utilized in the City Recycle Center for the collection of single stream recycling. Currently the single stream material is being collected utilizing a 20-cubic yard rear load collection vehicle. The compactor will replace that vehicle allowing it to be returned to a collection route as well as double the collection volume capacity in the Center.

The compactor is also mobile and will also be utilized in the future when the Recycling Center is moved to a new location. The City received multiple quotes for the requested equipment and Wastequip Inc. was the lowest vendor. The City has a successful history with Wastequip for other similar equipment and therefor recommends award to Wastequip Inc. The total amount for this equipment purchase is \$27,675.

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

| | | | |
|----------|-----|------------------------------------|---|
| X | Yes | City Plan/Council Priority: | Strategic Priorities: 1 Use a variety of funding sources for operational alternatives and partnerships. |
|----------|-----|------------------------------------|---|

FISCAL IMPACT:

The Solid Waste Division anticipated this expenditure in the FY 2018-19 Adopted Budget. After the \$27,675 purchase, the City will be reimbursed \$15,000 from the TCEQ through AACOG. The remaining costs will be covered by the Solid Waste fund, representing our matching portion of the grant. Therefore, sufficient funds are available to support the purchase of the compactor.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the purchase of a 40-cubic yard compactor in the amount of \$27,675 from Wastequip Inc.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. F)

Presenter/Contact

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

SUBJECT:

Approval of a resolution in support of the Texas Recreation and Park Society Legislative Platform for the 86th Legislature.

BACKGROUND / RATIONALE:

The Texas Recreation and Park Society (TRAPS) has adopted the following platform for support during the 86th Legislative Session regarding Parks and Open Space issues. Staff is asking City Council to approve a resolution supporting these initiatives. The platform was approved by the TML Policy Committee on August 27, 2018.

Protect and enhance our investments in all public parks, and open space (Stewardship)

- Sporting Good Sales Tax
- Support constitutional dedication of full amount
- Oppose Tax Free weekend on sporting goods
- Oppose appropriation riders to the TPWD - local park grant programs.
- Support conservation of open space and making public lands accessible for public use.
- Support tree preservation.
- Federal Funding
- Support the Land Water Conservation Fund
- Support the Sport Fish Restoration Boat Access program
- Support the United States Department of Transportation Recreation Trails
- Water and Natural Resources
- Support conservation
- Support rights and access to recreational amenities.
- Unfunded Mandates
- Oppose exemptions that substantially erode the tax base.
- Oppose tax limit on Municipalities.

Increase physical activity and improve health and wellness by utilizing parks and recreation amenities & services (Health & Well-Being)

- Support funding for services and programs that ensure access for people with disabilities.
- Such as, reducing the Medicaid Waiver waitlist.
- Support legislation in reducing the obesity and diabetes epidemics.
- Support funding for the connection of communities to nature and the outdoors.

Create livable, safe, and responsible communities. (Connectivity & Safety)

- Support safe pathways, trails ... create safety zones

Transportation

- Support the United States Department of Transportation Recreation Trails
- Support accessibility, so long as it does not impose an unfunded mandate.
- Support the progress of connecting our communities to nature and the outdoors
- Support the findings of the positive economic impact from the Parks & Recreation Industry.

Easement & Acquisition

- Oppose eminent domain limits
- Support the inclusion of commercial development in Parkland Dedication requirements.

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

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

FISCAL IMPACT:

None.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the resolution.

RESOLUTION NO. 2019-R

A RESOLUTION OF THE CITY OF NEW BRAUNFELS CITY COUNCIL REQUESTING THE MEMBERS OF THE 86th LEGISLATIVE SESSION OF THE STATE OF TEXAS TO SUPPORT LEGISLATION THAT PROVIDES STEWARDSHIP, HEALTH AND WELL-BEING, AND CONNECTIVITY FOR LOCAL AND STATE PARKS.

WHEREAS, the Texas communities, counties, and State protect and enhance the investments in all parks and open spaces providing stewardship; and

WHEREAS, supporting conservation of open space and making public lands accessible for public use by supporting the sporting goods sales tax and the land and water conservation fund; and

WHEREAS, supporting water and natural resources through conservation, presentation and the rights to access nature, the outdoors and recreational amenities; and

WHEREAS, increasing physical activity and improving health and wellness by utilizing parks and recreation amenities and services; and

WHEREAS, political subdivisions throughout the State of Texas depend on funding for services and programs that ensure access for all people to connect to nature and the outdoors; and

WHEREAS, creating a livable, safe, and responsible community by supporting safe recreational amenities, pathways and trails; and

WHEREAS, supporting the positive economic impacts of connecting our communities to nature and the outdoors from the Parks and Recreation Industry; and

WHEREAS, it is the desire of this City Council that a copy of this resolution with appropriate names affixed be presented to the Governor of Texas and the leadership of the 86th Texas Legislature.

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

1. That members of the 86th Legislature of Texas seek support of legislation that provides stewardship, health and well-being, and connectivity for local and state parks.

PASSED, ADOPTED, AND APPROVED this 14TH DAY OF JANUARY 2019

CITY OF NEW BRAUNFELS, TEXAS

BY: _____
BARRON CASTEEL, Mayor

ATTEST:

Patrick Aten, City Secretary

Amended
8/2/2018



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. G)

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 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. 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 |
|-------------------------------------|-----|-----------------------------------|--|

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 THE CITY 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 ____ day of _____ 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

1/14/2019

Agenda Item No. H)

Presenter/Contact

*Michael Mundell, Solid Waste Manager
(830) 221-4044 - mmundell@nbtexas.org*

SUBJECT:

Approval of the reassignment of a contract with ReCommunity Holdings, II to Republic Services.

BACKGROUND / RATIONALE:

ReCommunity Holdings, II was awarded a contract with the City on July 22, 2016 to be the City's processor for single-stream recyclables collected by the City. The contract terms and conditions require City approval for a change of name (novation). ReCommunity made formal notice of acquisition by Republic Services on August 24, 2017, a process that was recently completed. City services have not been affected or disrupted by the acquisition. Republic Services is a nationwide recycling and waste services provider, serving millions of customers throughout the country.

With this re-assignment, Republic Services will formerly assume and agree to perform the obligations under the City's existing contract. Republic Services has committed to assuming the existing terms and conditions of the current contract.

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

| | | | |
|-------------------------------------|-----|------------------------------|--|
| <input checked="" type="checkbox"/> | Yes | Strategic Priorities: | Maintain fiscal stability of City operations |
|-------------------------------------|-----|------------------------------|--|

FISCAL IMPACT:

The contract reassignment will not have a budget impact.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the reassignment of a contract with ReCommunity Holdings, II to Republic Services.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. I)

Presenter/Contact

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

SUBJECT:

Approval of a resolution endorsing certain legislative changes to Texas law proposed by the Texas Chapter of the Solid Waste Association of North America.

BACKGROUND / RATIONALE:

The Slow Down To Get Around (SDTGA) program is a national campaign that reminds motorists to drive more carefully when near waste and recycling collection vehicles to protect waste and recycling workers. The program was created following two accidents resulting in the death of one employee of a waste collection company in the Midwest and severe injuries to a second. Both accidents were due to careless driving by motorists.

Being struck by a motorist is the leading cause of death for waste and recycling collection employees, and with proper awareness, is completely preventable. Thirty-one collection-related fatalities occurred in the US in 2016 (a ten-year high), as well as numerous severe injuries. Due to the passing of this type of legislation the number of fatalities decreased to twenty-three in 2017. This bill will save Texas lives and help to continue the downward trend nationwide.

Since the start of the campaign, at least twenty states have enacted some type of SDTGA law to help protect solid waste workers out on the job.

Passage of this legislation can be accomplished by modifying an existing Texas law requiring motorists to slow down if approaching flashing lights on certain stationary vehicles, i.e. emergency or construction vehicles, to include waste and recycling vehicles.

Specifically, the proposed bill would amend Chapter 545.157 of the Texas Transportation Code to require motorists to slow down, safely change lanes if possible and operate with due caution around waste and recycling trucks when safety lights are flashing, similar to cautions motorists must now exercise when passing a stopped emergency vehicle, tow truck, or certain TXDOT vehicles.

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

| | | | |
|-------------------------------------|-----|------------------------------------|------------------------------|
| <input checked="" type="checkbox"/> | Yes | City Plan/Council Priority: | Strategic Priorities: Safety |
|-------------------------------------|-----|------------------------------------|------------------------------|

FISCAL IMPACT:

None

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends supporting the resolution endorsing certain legislative changes to Texas law proposed by the Texas Chapter of the Solid Waste Association of North America.

RESOLUTION 2019-R_____

A RESOLUTION OF THE CITY COUNCIL OF NEW BRAUNFELS, TEXAS, ENDORSING CERTAIN LEGISLATIVE CHANGES TO TEXAS LAW PROPOSED BY THE TEXAS CHAPTER OF THE SOLID WASTE ASSOCIATION OF NORTH AMERICA.

WHEREAS, The City of New Braunfels has been active in the process of regulation of solid waste collection and recycling; and

WHEREAS, the City of New Braunfels, is a member of the Texas Chapter of the Solid Waste Association of North America ("TXSWANA") along with many other cities across the State of Texas; and

WHEREAS, TXSWANA's experience with other member states with the Solid Waste Association of North America ("SWANA") indicated that current Texas law does not adequately protect the health and safety of those individuals employed by municipalities for the collection of solid waste and recycling materials; and

WHEREAS, in recent years SWANA enacted a campaign known as the "Slow Down to Get Around Campaign" to raise awareness of safety issues for collectors of solid waste and recyclables, and have endorsed legislation in its member states to address this safety issue; and

WHEREAS, "Slow Down to Get Around" ("SDTGA") is also the name commonly applied to legislation that requires motorists to slow down or move over when passing waste and recycling vehicles that are in the process of collection. Since the start of the campaign, at least twenty states have enacted some type of SDTGA law to help protect solid waste workers out on the job; and

WHEREAS, the City of New Braunfels endorses efforts proposed by TXSWANA to modify Texas law to increase safety for solid waste workers and its own employees.

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

THAT, the City of New Braunfels supports the following legislative reforms endorsed by TXSWANA to increase safety for collectors of solid waste and recyclables:

- Amend existing Texas law requiring motorists to slow down if approaching

flashing lights on certain stationary vehicles, for example emergency or construction vehicles, to include waste and recycling vehicles.

- Specifically, amend Chapter 545 of the Texas Transportation Code to require motorists to slow down, safely change lanes if possible and operate with due caution around waste and recycling trucks when safety lights are flashing, similar to cautions motorists must now exercise when passing a stopped emergency vehicle, tow truck, or certain TXDOT vehicles.

A copy of the resolution shall be sent to the elected lawmakers representing the City of New Braunfels interests in the Texas House and Senate and to the legal counsel of TXSWANA.

ADOPTED AND APPROVED on this the 14th day of January 2019.

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

1/14/2019

Agenda Item No. J)

Presenter/Contact

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

SUBJECT:

Approval of contracts associated with the Edwards Aquifer Habitat Conservation Plan program. Authorize the City Manager to execute contracts for Old Channel Aquatic Vegetation Restoration, Comal River/ Landa Lake Aquatic Vegetation Restoration, Dissolved Oxygen Management, Gill Parasite Control and Riparian Restoration with BIO-WEST, Inc; Non-Native Animal Species Control with Atlas Environmental; Riparian Restoration with EBR Enterprises; and Riparian Restoration with Environmental Survey Consulting.

BACKGROUND / RATIONALE:

The City of New Braunfels continues to be engaged as a partner in the Edwards Aquifer Habitat Conservation Plan (EAHCP) program that was developed and is being implemented to protect federally-listed endangered aquatic species that live in the Comal and San Marcos spring and river systems. The EAHCP program partners include the City of New Braunfels, City of San Marcos, Texas State University, San Antonio Water System and Edwards Aquifer Authority (EAA).

The EAHCP is the basis of an Endangered Species Act permit issued to the EAHCP partners by the U.S. Fish and Wildlife Service. The permit was issued for a 15-year term (2013-2027) and protects the City from any negative impacts caused to endangered species that may occur due to the City's facilitation of water recreation activities in the Comal River, water withdrawals from the Comal River as well as other activities. The EAHCP includes both springflow and habitat protection measures that are implemented by the EAHCP partners. The EAHCP springflow protection measures benefit the City in that they ensure adequate springflow from the Comal springs during periods of extreme drought.

The City is responsible for implementing various EAHCP habitat protection measures within the Comal River system utilizing funds available through the EAHCP program. Habitat restoration projects and efforts to be implemented in 2019 have been identified in the City of New Braunfels' 2019 EAHCP Workplan. The workplan and associated 2019 EAHCP Funding Application have been approved by the EAHCP Implementing Committee, the governing authority for the EAHCP. The City's 2019 EAHCP Workplan and Funding Application include a total of \$665,000 for the implementation of habitat restoration and protection measures within the Comal River system. EAHCP program efforts, including local habitat restoration and protection measures, are expected to continue annually through 2027.

The City issued Request for Proposal (RFP) 19-007 "Environmental Project Support Services" on November 27, 2018 to solicit qualified contractors to perform EAHCP program work activities in 2019 and in subsequent years. The RFP included eight individual EAHCP projects for which four

responses were received. City staff evaluated and selected contractors best qualified to perform the scope of work for each individual project.

The following table provides information regarding individual EAHCP project costs and selected contractors for proposed Year Seven (2019) EAHCP work activities.

| Project | Description | Contractor | Year Seven (2019) Approved Budget |
|--|--|---------------------------------|--|
| Old Channel Aquatic Vegetation Restoration | Restore habitat for Fountain Darters by removing non-native aquatic vegetation and planting native aquatic vegetation. | BIO-WEST | \$50,000 |
| Comal River/ Landa Lake Aquatic Vegetation Restoration | Restore habitat by removing non-native aquatic vegetation and planting native aquatic vegetation within Landa Lake. | BIO-WEST | \$100,000 |
| Dissolved Oxygen Management | Implement monitoring and management measures, as-needed, to provide adequate dissolved oxygen levels in Landa Lake. | BIO-WEST | \$15,000 |
| Non-Native Animal Species Control | Continue removal of non-native animal species from the Comal River system. | Atlas Environmental | \$55,000 |
| Gill Parasite Control | Continue monitoring of gill parasites the Comal River on an as-needed basis. | BIO-WEST | \$10,000 |
| Riparian Restoration-Riffle Beetle Habitat | Conduct riparian restoration along Spring Run 3 | BIO-WEST | \$25,000 |
| Riparian Restoration- (Part 1) | Conduct riparian restoration along the Old Channel of Comal River and Landa Lake. | EBR Enterprises | \$75,000 |
| Riparian Restoration- (Part 2) | Conduct riparian restoration in Landa Park. | Environmental Survey Consulting | \$25,000 |

| | | | |
|--|--|--|------------------|
| Low Impact Development (LID)/ Water Quality Protection Program | Contractor to construct water quality control measure at N. Houston Ave | Myers Concrete Construction (contract previously approved) | \$89,892 |
| | Engineering services and construction contractor for additional stormwater treatment projects. | TBD | \$160,108 |
| Total | | | \$605,000 |

The City is also responsible for coordination and accomplishment of other EAHCP program items identified in the City's 2019 EAHCP workplan. Staff implements the activities as described in the following table.

| Project | Description | Contractor | Year Seven (2019) Approved Budget |
|--|---|--|--|
| Household Hazardous Waste Program | Reduction of improper disposal of hazardous wastes by holding drop off events. | CoNB - Solid Waste (Clean Harbors) | \$30,000 |
| Litter Control and Floating Vegetation Control | Dislodge floating vegetation mats in Landa Lake and litter clean-up along banks of Old Channel. | Pristine Texas Rivers (work included in overall River Services contract) | \$30,000 |
| Total | | | \$60,000 |

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

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

FISCAL IMPACT:

Contracts are being funded through the EAHCP program. Currently the City pays the initial expense and is reimbursed by the Edwards Aquifer Authority (EAA) within 30 days. An Interlocal Agreement between the EAA and the City is currently in place and includes the EAA's commitment to pay all contractual costs associated with these projects as well as describing the reimbursement process. Monthly, the City submits a request for reimbursement to the EAA including invoices from contractors as well as a report on the work completed, compliance with the work schedule, percent complete of the project and identification of any project issues. The EAA reimburses the City within 30 days of receipt of the request.

The funding application to support CoNB's Year Seven (2019) EAHCP workplan was approved by the EAHCP Implementing Committee on December 20, 2018 in the amount of \$665,000. Project costs are covered by the EAHCP program as administered by the EAA at no net cost to the City.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of contracts associated with the Edwards Aquifer Habitat Conservation Plan program and authorization for the City Manager to execute contracts for Old Channel Aquatic Vegetation Restoration, Comal River/ Landa Lake Aquatic Vegetation Restoration, Dissolved Oxygen Management, Gill Parasite Control and Riparian Restoration with BIO-WEST, Inc; Non-Native Animal Species Control with Atlas Environmental; Riparian Restoration with EBR Enterprises; and Riparian Restoration with Environmental Survey Consulting.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. K)

Presenter/Contact

Jared Werner, Chief Financial Officer
(830) 221-4395 - jwerner1@nbtexas.org

SUBJECT:

Approval of a resolution recommended by the New Braunfels Economic Development Corporation to provide up to \$140,000 to the Center for Entrepreneurship for operation of the Small Business Development Center in 2018-19.

BACKGROUND / RATIONALE:

This expenditure will allow the Spark Small Business Center (SPARK) to renew its contract with UTSA to operate the Small Business Development Center (SBDC) in New Braunfels for fiscal year 2018-2019. SPARK, formally known as the Center for Entrepreneurship, has facilitated a partnership between the New Braunfels and Seguin economic development corporations to provide an opportunity for local business owners to locally access the programs and services offered by small business development centers. SPARK supports the entrepreneurial and small business environment in New Braunfels by providing free services targeted to existing businesses and aspiring entrepreneurs. SPARK primarily focuses on counseling sessions, expanding access to capital, contracting and procurement opportunities and exporting initiatives. The NBIDC board continues to receive regular updates on the performance measures of the center.

Since 2011, the New Braunfels Economic Development Corporation (NBEDC) has partially funded a contract with the SPARK to fund New Braunfels' portion of the satellite center. The SPARK board establishes performance goals for the SBDC center and reviews the contract on an annual basis. Through the end of the third quarter, the Center advised 386 clients, delivered 1311 advising hours, trained 278 clients and held 24 training events. The center had facilitated the creation of 19 new businesses and 13 business expansions with 105 jobs created and 291 jobs retained. These businesses attracted more than \$9.2 million in new capital infusion into the community. The Center exceeded their performance measures through the end of the third quarter of FY 2017-2018.

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

| | | | |
|-------------------------------------|-----|------------------------------------|---|
| <input checked="" type="checkbox"/> | Yes | City Plan/Council Priority: | Strategic Priorities: 12 - Work with existing entities to ensure balanced economic development |
|-------------------------------------|-----|------------------------------------|---|

FISCAL IMPACT:

Up to \$140,000 in FY 2018-19 from the NBEDC. There are sufficient funds available to approve this resolution.

COMMITTEE RECOMMENDATION:

The Board of Directors of the NBIDC unanimously approved this expenditure at their September 20, 2018 meeting.

STAFF RECOMMENDATION:

Staff recommends approval of the resolution.

UTSA SBDC/SPARK 4B Presentation

- UTSA Small Business Development Center 3rd Quarter and FY2018 YTD Report
- Success Stories
- SPARK Small Business Center Update
- SPARK FY2019 Budget

UTSA SBDC

- Largest/Best in the U.S.
- Confidential, No-cost Business Advising
- Low Cost Workshops
- Resources to help grow your business
- SBDC, International Trade Center, SBDC-Procurement Technical Assistance Center, SBDCNet...and 6 other programs



EXECUTIVE SUMMARY

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

EXECUTIVE SUMMARY – 3RD QTR

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

EXECUTIVE SUMMARY – YTD

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

EXECUTIVE SUMMARY – OUTPUTS

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

EXECUTIVE SUMMARY – OUTCOME

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

EXECUTIVE SUMMARY

| | 3rd QUARTER | | | YEAR-TO-DATE | | |
|---------------------|--------------------------|--------------|--------------|----------------------------|--------------|--------------|
| | (April 2018 - June 2018) | | | (October 2017 - June 2018) | | |
| | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE |
| Outputs | | | | | | |
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 |
| Advising Hours | 523 | 433 | -90 | 1,406 | 1,311 | -95 |
| Training Clients | 40 | 112 | +72 | 110 | 278 | +168 |
| Training Events | 4 | 11 | +7 | 12 | 24 | +12 |
| Total Clients | 107 | 236 | +129 | 285 | 664 | +379 |
| Outcomes | | | | | | |
| Business Starts | 6 | 7 | +1 | 11 | 19 | +8 |
| Business Expansions | 6 | 6 | 0 | 11 | 13 | +2 |
| Jobs Created | 34 | 34 | 0 | 79 | 105 | +26 |
| Jobs Retained | 29 | 234 | +205 | 50 | 291 | +241 |
| Capital Infusion | \$ 792,952 | \$ 5,315,100 | +\$4,522,148 | \$ 1,693,936 | \$ 9,247,450 | +\$7,553,514 |
| | | | | | | \$ 2,506,197 |

ADVISING CLIENTS

| Outputs | GOAL | ACTUAL | VARIANCE | GOAL | ACTUAL | VARIANCE | GOAL |
|------------------|------|--------|----------|-------|--------|----------|-------|
| Advising Clients | 67 | 124 | +57 | 175 | 386 | +211 | 241 |
| Advising Hours | 522 | 422 | -100 | 1,406 | 1,211 | -195 | 1,018 |

53

TRAINING

| | | | |
|------------------|-----|-----|------|
| Training Clients | 40 | 112 | +72 |
| Training Events | 4 | 11 | +7 |
| Total Clients | 107 | 226 | +119 |

54

DISTRIBUTION

The distribution of counseling client activity between counties:

| 3rd QUARTER (April 2018 - June 2018) | | | | | | |
|--------------------------------------|---------|----------|-------|--------------|---------------|------------|
| COUNTY | CLIENTS | SESSIONS | HOURS | JOBS CREATED | JOBS RETAINED | TOTAL JOBS |
| Comal | 64% | 63% | 59% | 85% | 94% | 93% |
| Guadalupe | 36% | 37% | 41% | 15% | 6% | 7% |

55

| YEAR-TO-DATE (October 2017 - June 2018) | | | | | | |
|---|---------|----------|-------|--------------|---------------|------------|
| COUNTY | CLIENTS | SESSIONS | HOURS | JOBS CREATED | JOBS RETAINED | TOTAL JOBS |
| Comal | 60% | 57% | 54% | 36% | 77% | 66% |
| Guadalupe | 40% | 43% | 46% | 64% | 23% | 34% |



South-West Texas Border
Small Business
Development Center Network
UTSA Small Business Development Center

UTSA



SUCCESS STORY 1

C. Kelly Family Clinic, P.A.

Austin Kelly used the assistance of the New Braunfels Small Business Development Center and the Center's Business Advisor, Larry New. Together, they worked on financial projections and a business plan. They are expanding their business by purchasing a larger facility and hiring more physicians and staff.

"Larry New was able to provide assistance with explaining the process of the small business loan application and helping us form financial projections. He helped get our ideas into a commonly used format to tell our story effectively to the bank. He was instrumental in getting our expansion from an idea into reality."

Business Impacts

- Business Expansion
- 2 New Full-Time Jobs
- 11 Retained Jobs
- \$100,000 Owner Investment
- \$880,000 SBA Loan



56

SUCCESS STORY 2

Jungle Jam Party & Play

Elaine Moore used the assistance of the New Braunfels Small Business Development Center and the Center's Business Advisor, Larry New. Together, they worked on financial projections and a business plan.

"Larry New has been very helpful. He met with me and took time to talk and help me understand the steps I needed to take to get started. He is always quick to respond to my emails and provided samples or further information I need. With

Larry's help, I was able to complete my business plan and get an SBA loan through Randolph Brooks FCU."

Business Impacts

- Business Start
- 2 New Part-Time Jobs
- \$40,000 Owner Investment
- \$70,000 SBA Loan



SUCCESS STORY 3

Wicked Voodoo Espresso

Laurel Winslow continues to use the New Braunfels Small Business Development Center and the Center's Business Advisor, Larry New. Together, they discussed bean wholesaling, warehouse space in Seguin and managing warehouse space for other businesses as a business. They discussed how to become certified as a woman-owned business to do business with Dell, Samsung, Princess Cruise Lines, etc.

With the help of SBDC she opened her first drive-through kiosk location in 2016.
She has since expanded to a second retail storefront location in 2018.

Business Impacts

- Business Expansion
- 6 New Full-Time Jobs
- 6 Retained Jobs
- \$250,000 Owner Investment



SUCCESS STORY 4

NBPSI, LLC

Terry Muckenfuss used the assistance of the San Antonio Small Business Development Center and the Center's Senior Business Advisor, Wayne Looft. Together, they worked on a business plan, property research, construction, franchise information, business concepts, and more.

Terry Muckenfuss is opening Muck and Fuss Burgers connected through a courtyard to the Historic Prince Solms Inn.

Business Impacts

- Business Expansion
- 1 New Full-Time Job
- 5 New Part-Time Jobs
- 202 Retained Jobs
- \$750,000 Owner Investment
- \$2,700,000 SBA Loan



59

SPARK UPDATE

- Added 16 Hours Additional Advising
- Problem: Booked 4-5 Weeks
- Full Extra Day NB & Seguin



• • • • •
SPARK •
SMALL BUSINESS CENTER

SPARK OFFICE

- One Year in New Space
- Traffic Increase
 - Advisors
 - Angel Group
 - Children's Entrepreneur Event
 - Small Business Week, TRC



• • • • •
SPARK •
SMALL BUSINESS CENTER

SPARK BUDGET FY2019

- \$210,000 Total
- \$140,000 New Braunfels
- 16 Hours Advising, Cleaning
- Signage, Security, Insurance Increase



• • • • •
SPARK •
SMALL BUSINESS CENTER

QUESTIONS



RESOLUTION NO. 2019-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS ECONOMIC DEVELOPMENT CORPORATION TO RENEW A CONTRACT WITH THE CENTER FOR ENTREPRENEURSHIP FOR A GRANT IN AN AMOUNT NOT TO EXCEED \$140,000 FOR THE CONTINUATION OF OPERATION OF A SMALL BUSINESS DEVELOPMENT CENTER; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Economic Development Corporation ("EDC") Board of Directors met on September 20, 2018 to consider a request from the Spark Small Business Center ("SPARK") for a grant in an amount not to exceed \$140,000 to continue operating a Small Business Development Center ("SBDC") satellite center to the University of Texas at San Antonio's ("UTSA") SBDC in New Braunfels in 2018-19; and

WHEREAS, the SBDC satellite center is part of the UTSA's Institute for Economic Development and the Center for Entrepreneurship is a non-profit organization; and

WHEREAS, both organizations are dedicated to support and further develop the entrepreneurial and small business environment in New Braunfels; and

WHEREAS, SPARK supports the entrepreneurial and small business environment in New Braunfels by providing free services targeted to existing businesses and aspiring entrepreneurs; and

WHEREAS, the SPARK satellite center, through the end of the third quarter for fiscal year 2017-18, advised 386 clients, delivered 1,311 advising hours, trained 278 clients, and held 24 training events; and

WHEREAS, the SPARK satellite center, through the end of the third quarter for fiscal year 2017-18, has facilitated the creation of 19 new businesses and 13 business expansions, with the creation of 105 jobs and retention of 291 jobs; and

WHEREAS, the EDC is an economic development corporation formed by the City of New Braunfels pursuant to the Local Government Code, Chapters 501-505 that is authorized by Chapter 505.102, which authorizes a Type B corporation to contract with another private corporation to assist with the development or operation of an economic development program or objective consistent with the purposes and duties as specified in subchapter 505 and consistent with the powers and limitations of 505.101; and

WHEREAS, the EDC Board of Directors, after discussing the request, voted to approve renewing a contract with the SPARK for a grant in an amount not to exceed \$140,000 to continue operating a SBDC satellite center in New Braunfels;

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 renew a contract with the SPARK Small Business Center for a grant in an amount not to exceed \$140,000 to continue operating a Small Business Development Center satellite center to the University of Texas at San Antonio's SBDC in New Braunfels is hereby approved.

SECTION 2: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this ____ day of January, 2019.

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

1/14/2019

Agenda Item No. L)

Presenter/Contact

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

SUBJECT:

Approval of a budget amendment in the FY 2017-18 Debt Service Fund.

BACKGROUND / RATIONALE:

In the City's continuing effort for financial transparency in addition to our enhanced account reconciliation efforts, the Finance Department is adjusting an entry made in FY 2014-15 to the interest payment account in the Debt Service Fund. The adjustment will be made in FY 2017-18 and will require a budget amendment to comply with current financial policies. Therefore, the following budget amendment is recommended for City Council consideration

Budget Amendment - Debt Service Fund

Increase: Debt Service Expenditures \$59,288

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

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

FISCAL IMPACT:

There are sufficient funds available in the Debt Service Fund to approve the amendment as described above.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the budget amendment.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. M)

Presenter/Contact

*Tom Scheuermann, Police Administrative Sergeant
(830) 221-4579 - TScheuermann@nbtexas.org*

SUBJECT:

Approval of the ratification of the submission of a grant application to the U.S. Department of Justice FY 2018 Bulletproof Vest Partnership program for \$30,780 and authorizing the City Manager to accept funds and to execute all contract documents associated with the grant.

BACKGROUND / RATIONALE:

The New Braunfels City Council strategic priorities include using a variety of funding sources for operational and capital needs. As such, Staff submitted a grant application to the U. S. Department of Justice FY 2018 Bulletproof Vest Partnership program for \$30,780 towards the purchase of 27 bulletproof vests, at a cost of approximately \$1,140 each, during the City's 2019 fiscal year.

The application was approved by the agency in late 2018; therefore, Staff is requesting approval for the ratification of the grant application, and authorization for the City Manager to accept funds and to execute all contract documents associated with the award of the grant.

The total grant award amount is \$30,780 with a 50 percent City match requirement. Therefore, the total cost to the City equals \$15,390.

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

| | | |
|------------|-----------------------------|---|
| Yes | Strategic Priorities | Use a variety of funding sources for operational and capital needs. |
|------------|-----------------------------|---|

FISCAL IMPACT:

The 50 percent matching requirement for the above-referenced grant equals \$15,390. The match funds will be supported by the General Fund via a transfer to the Grant Fund.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the ratification of the submission of a grant application to the U.S. Department of Justice FY 2018 Bulletproof Vest Partnership program for \$30,780 and authorizing the City Manager to accept funds and to execute all contract documents associated with the grant.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. N)

Presenter/Contact

*Christopher J. Looney, Planning and Community Development Director
(830) 221-4055 - clooney@nbtexas.org*

SUBJECT:

Approval of the second and final reading of an ordinance amending the Code of Ordinances, Chapter 144, Zoning, Sections 4 and 5, regarding above-ground fuel storage tanks.

BACKGROUND / RATIONALE:

Case No.: CS-18-034

Council District: All

Applicant: City of New Braunfels

At their December 10, 2018 regular meeting, City Council unanimously approved the first reading of this ordinance (6-0).

The Zoning Ordinance currently includes a definition for the term "Bulk Storage":

Bulk storage of fuel and flammable liquids (except liquefied petroleum gas) shall be any aboveground tank for storage of subject liquids which exceeds 500 gallons water capacity, or any facility for which the total aggregate capacity of belowground storage tanks shall exceed 50,000 gallons. Bulk storage of liquefied petroleum gas shall be any facility for which the total aggregate capacity of storage tanks (including truck and/or trailer tanks) exceeds 2,000 gallons water capacity.

This definition in the Zoning Ordinance does not make a distinction between retail uses (such as gasoline filling stations), or other uses that may require fuel tanks (such as wholesale distributors, auto dealers, farm equipment sales, etc.).

The Use Matrix then specifies that bulk storage of gasoline petroleum products, liquefied petroleum and flammable liquids is not allowed in any of the current zoning districts. While that may give the impression this use is not allowed in New Braunfels, the beginning of the Use Matrix notes that an application for a Special Use Permit (SUP) may be made for any land use not permitted in any district.

Therefore, proposals for above-ground fuel storage tanks for any use (retail, wholesale, personal filling, etc.), and below ground tanks larger than 50,000 gallons aggregate, have been following the SUP procedures. **However**, as staff commenced research into any needed amendments related to this use/activity, staff was made aware of associated state law (see attachment).

State of Texas Health and Safety Code Chapter 753, subsection 004(a) states that flammable liquids

cannot be stored **at a retail service station** in aboveground containers larger than 60 gallons within the city limits **of a municipality over 5,000 in population**. This statute further stipulates that **underground storage tanks for retail service stations may not be limited**.

The proposed amendments to New Braunfels' Zoning Ordinance (see attached) will codify this state pre-emption in our local codes to ensure consistency and broad knowledge of regulations already in place.

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

| | |
|--|---|
| City Plan/Council Priority: Envision New Braunfels | Action 1.11: <i>Update policies and codes to achieve development patterns that implement the goals of this plan.</i> The proposed amendments will make local regulations consistent with the state's direction to its cities. Action 3.6: <i>Pro actively provide a regulatory environment that remains business and resident friendly.</i> In addition to state statute consistency, the proposed amendments include corrections and clarification that will improve administration of the local code and processes. |
|--|---|

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval at their December 4, 2018 meeting.

STAFF RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

- State of Texas Health and Safety Code Chapter 753 excerpt
- Draft amendments with strikeouts (deletions) and underlines (additions).
- Draft ordinance

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE A. PUBLIC SAFETY

CHAPTER 753. FLAMMABLE LIQUIDS

Sec. 753.004. STORAGE TANKS. (a) Except as provided by Subsection (d), flammable liquids may not be stored at a retail service station in a tank that has a gross capacity of more than 60 gallons above the surface of the ground. The individual or combined capacity or size of an underground flammable liquid tank at a retail service station may not be limited.

(b) A retail service station may operate in conjunction with a bulk plant that has aboveground storage tanks if:

(1) there are separate underground tanks having a capacity of not less than 550 gallons each for final storage and dispensing of flammable liquids into motor vehicle fuel tanks; and

(2) any piping that connects the bulk plant storage tanks with the retail service station's underground tanks is equipped with a valve that is within the control of the retail service station operator and that is kept closed and locked when the underground tanks are not being filled.

(c) Each aboveground tank at a bulk plant that is operated in conjunction with a retail service station that is on the same or contiguous property must be equipped with emergency vents of the types and capacities prescribed by standards adopted under Section 753.003.

(d) Except as provided by Subsection (d-1), gasoline, diesel fuel, or kerosene may be stored in an aboveground storage tank at a retail service station located in an unincorporated area or in a municipality with a population of less than 5,000.

(d-1) A commissioners court of a county with a population of 3.3 million or more may by order limit the maximum volume of an aboveground storage tank in an unincorporated area of the county in accordance with the county fire code.

(e) Under Subsection (d), a retail service station may have a tank for each separate grade of gasoline, diesel fuel, or kerosene, but may not have more than one tank for the same grade.

(f) A new aboveground storage tank may not be constructed within:

(1) 15 feet of an adjoining property line, including the full width of the right-of-way of a public road that runs between the property on which the proposed tank site is located and an adjoining property;

(2) 15 feet of the right-of-way line of a public road that is nearest to the proposed tank site;

(3) five feet of an established place of business or other building designated by board rule;

(4) 100 feet of the property line of any established school, hospital, nursing home, day-care center, preschool, or nursery school; or

(5) 15 feet of any fuel dispenser.

(g) In adopting rules under Section [753.003](#), the board shall include rules concerning the design, construction, and installation of tanks permitted to be used under Subsection (d). Except as provided by Subsection (f), the rules may not be more stringent than the standards of the National Fire Protection Association.

(h) The authority of a retail service station to store flammable liquids in an aboveground storage tank under Subsection (d) is not affected by a change in the boundaries or population of a municipality that occurs after the date the retail service station begins operation, unless prohibited by municipal ordinance. A municipal ordinance prohibiting the use of aboveground storage tanks may not take effect before the

second anniversary of the date on which the ordinance was adopted.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 225, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 902, Sec. 1, eff. June 16, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 388 (H.B. [239](#)), Sec. 1, eff. June 10, 2015.

CHAPTER 144, ZONING

Sec. 4. Use Regulations

4.2 Land Use Matrix

| Legend | |
|--|---------------------------|
| P – The land use is permitted by right in the zoning district indicated. | |
| – The land use is prohibited in the zoning district indicated (Blank). | |
| Note: Unless otherwise noted in this chapter, an Aa application for a Special Use Permit may be made for any land use not permitted in any district, except PD | |
| Types of Land Uses | Pre-1987 Zoning Districts |
| | R-1 |
| | R-2 |
| | R-3 |
| | B-1 |
| | TH |
| | ZH |
| | C-1 |
| | C-2 |
| | C-3 |
| | C-4 |
| | M-1 |
| | M-2 |
| | APD |
| | R-1A 43.5 |
| | R-1A 12 |
| | R-1A 8 |
| | R-1A 6.6 |
| | R-2A |
| | R-3L |
| | R-3H |
| | B-1A |
| | B-1B |
| | TH-A |
| | ZH-A |
| MU-A | |
| MU-B | |
| C-1A | |
| C-1B | |
| C-2A | |
| C-4A | |
| C-4B | |
| CO | |
| M-1A | |
| M-2A | |

[illegible]

5.27 Bulk storage

5.27-1 Applicability. Bulk storage of fuel and flammable liquids is as defined in Sec. 1.3.

5.27-2 Retail Sales. Pursuant to Chapter 753 of the State of Texas Health and Safety Code, flammable liquids may not be stored at a retail service station in a tank that has a gross capacity of more than 60 gallons above the surface of the ground. The individual or combined capacity or size of an underground flammable liquid tank at a retail service station may not be limited, however other state and local regulations concerning the location and construction of underground storage of flammable liquids or fuels still governs.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES, CHAPTER 144, ZONING, AMENDING SECTION 4.2 USE MATRIX; AND AMENDING SECTION 5 TO ADD SECTION 5.27 BULK STORAGE; 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 administration thereof; and

WHEREAS, the Planning Commission held a public hearing on December 4, 2018 and recommends approval of amendments to the use matrix and bulk storage requirements; and

WHEREAS, the City Council finds that adopting updated regulations for bulk storage are required to be consistent with state statute, which is in the best interest of the citizens of New Braunfels; **now therefore**,

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

SECTION 1

THAT Chapter 144, Zoning, Section 4.2 Use Matrix, is hereby amended as shown below:

CHAPTER 144, ZONING

Sec. 4. Use Regulations

4.2 Land Use Matrix

| Legend | |
|---|----------------------------|
| P – The land use is permitted by right in the zoning district indicated. | |
| – The land use is prohibited in the zoning district indicated (Blank). | |
| Note: Unless otherwise noted in this chapter, an A application for a Special Use Permit may be made for any land use not permitted in any district, except PD | |
| Types of Land Uses | Post-1987 Zoning Districts |
| | Pre-1987 Zoning Districts |
| | R-1 |
| | R-2 |
| | R-3 |
| | B-1 |
| | TH |
| | ZH |
| | C-1 |
| | C-2 |
| | C-3 |
| | C-4 |
| | M-1 |
| | M-2 |
| | APD |
| | R-1A 43.5 |
| | R-1A 12 |
| | R-1A 8 |
| | R-1A 6.6 |
| | R-2A |
| | R-3L |
| | R-3H |
| | B-1A |
| | B-1B |
| | TH-A |
| | ZH-A |
| | MU-A |
| | MU-B |
| | C-1A |
| | C-1B |
| | C-2A |
| | C-4A |
| | C-4B |
| | CO |
| | M-1A |
| | M-2A |

| | |
|---|--|
| Bulk storage of gasoline, petroleum products, liquefied petroleum and flammable liquids (see Sec. 5.27) | |
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SECTION 2

THAT Chapter 144, Zoning, Section 5 Development Standards, is hereby amended by adding Section 5.27 Bulk storage as shown below:

Sec. 5. Development Standards.

5.27 Bulk storage

5.27-1 Applicability. Bulk storage of fuel and flammable liquids is as defined in Sec. 1.3.

5.27-2 Retail Sales. Pursuant to Chapter 753 of the State of Texas Health and Safety Code, flammable liquids may not be stored at a retail service station in a tank that has a gross capacity of more than 60 gallons above the surface of the ground. The individual or combined capacity or size of an underground flammable liquid tank at a retail service station may not be limited, however other state and local regulations concerning the location and construction of underground storage of flammable liquids or fuels still governs.

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 10th day of December, 2018.

PASSED AND APPROVED: Second and Final Reading this the 14th day of January, 2019.

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

1/14/2019

Agenda Item No. O)

Presenter/Contact

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

SUBJECT:

Approval of the second and final reading of an ordinance amending Article V of Chapter 126 of the Code of Ordinances regarding bicycles.

BACKGROUND / RATIONALE:

City Council unanimously approved the first reading of an ordinance amending Article V of Chapter 126 of the Code of Ordinances regarding bicycles on November 26, 2018.

City staff is proposing amendments to Article V of Chapter 126 of the Code of Ordinances regarding bicycles to clean up this ordinance and address the operation of bicycles on sidewalks. In addition, the definition of a “vulnerable road user” is proposed to be moved into the definitions section of Chapter 126. Changes to specific sections are detailed below:

Sec. 126-1. Definitions.

- Revising the diameter of a bicycle wheel from 14 to 10 inches in the definition of bicycle.
- Moving the definition of “vulnerable road user” from Sec. 126-103.

Sec. 126-103. Vulnerable road users.

- Moving the definition of “vulnerable road user” to Sec. 126-1.

Ch. 126, Art. V, Div. 2. Licenses, Tags, Registration and Fees.

- Removing this division for bicycle registration, issuance of bicycle licenses and metal tags, and bicycle inspections. The Police Department does not have a formal process for these procedures, and they are not commonly requested.

Sec. 126-251. Lamps and reflectors.

- Clean up of this section to make it more enforceable.

Sec. 126-266. Traffic regulations apply to persons riding bicycles; competitive racing.

- Removed definition of bicycle as it is already listed in Sec. 126-1.

Sec. 126-267. Obedience to traffic devices.

- Specifying that bicycles in the bike lanes must travel in the direction of adjacent motor vehicles unless the bike lane is designated otherwise.

Sec. 126-271. Manner of riding on roadways; use of bicycle paths.

- Clean up of the text to make more enforceable.

Sec. 126-272. Prohibited on sidewalks; posted areas.

- Renaming section to “Riding on sidewalks”.
- Allowing for operation of bicycles on sidewalks with the exception of specified areas, including where the sidewalk abuts a building, when it would endanger pedestrians, or where operation of a bicycle on the sidewalk is prohibited by an official traffic control device.
- Requiring cyclists on the sidewalk to yield right-of-way to pedestrians and give an audible signal before overtaking and passing a pedestrian.
- Requiring cyclists to dismount and walk their bicycle across in pedestrian crosswalks when pedestrians are present.
- Created exceptions for the riding on sidewalk prohibitions for people 12 years of age or under, an adult accompanying a person 12 years of age or under, and where there is an obstruction in the bike lane adjacent to the sidewalk.

Sec. 126-276. Bicycle turn signals.

- Created this section to require cyclists to give hand and arm signals.

All proposed amendments have been reviewed by the Police Department and City Attorney’s Office.

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

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

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board unanimously voted to recommend the proposed amendments to Article V of Chapter 126 of the City of New Braunfels Code of Ordinances regarding bicycles at their meeting on October 18, 2018.

STAFF RECOMMENDATION:

Staff recommends approval of the amendments to Article V of Chapter 126 of the Code of Ordinances regarding bicycles.

Sec. 126-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bicycle means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than ~~14~~ten (10) inches in diameter.

Vulnerable road user means a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger, a person on horseback, a person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment, or a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

(Code 1961, §§ 23-1, 23-69; Ord. No. 2005-06, § I, 1-24-05; Ord. No. 2011-59, § 1, 8-8-11)

Cross reference— Definitions generally, § 1-2.

State Law reference— Definitions, Vernon's Ann. Civ. St. art. 6701d, §§ 1 et seq., 20A.

Sec. 126-103. - Vulnerable road users.

(a) ~~In this section, a vulnerable road user means:~~

~~(1) A pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger;~~

~~(2) A person on horseback;~~

~~(3) A person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or~~

~~(4) A person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.~~

~~(b)~~ An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:

(1) Vacate the lane in which the vulnerable road user is located if the highway or street has two or more marked lanes of traffic running in the same direction; or

(2) Pass the vulnerable road user at a safe distance.

~~(be)~~ For the purpose of subsection ~~(ba)~~(2), when road conditions allow, safe distance is at least:

(1) Three feet if the operator's vehicle is a passenger car or light truck; or

(2) Six feet if the operator's vehicle is a truck, other than a light truck, or a commercial motor vehicle as defined by V.T.C.A., Transportation Code § 552.003.

~~(dc)~~ An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection, or is in such proximity to the intersection as to be an immediate hazard.

~~(de)~~ An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the

vulnerable road user is traveling and the braking requirements of the motor vehicle making the right-hand turn.

(~~ef~~) An operator of a motor vehicle may not maneuver the vehicle in a manner that:

- (1) Is intended to cause intimidation or harassment to a vulnerable road user; or
- (2) Threatens a vulnerable road user.

(~~gf~~) An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a highway or street or in an intersection of highways or streets.

(~~gh~~) It is an offense for an operator of a motor vehicle to violate subsections (~~ba~~), (~~dc~~), (~~ed~~), (~~fe~~) or (~~gf~~).

(~~hi~~) It is an affirmative defense to prosecution under this section that at the time of the offense the vulnerable road user was acting in violation of the law.

(Ord. No. 2010-23, § 1, 4-26-10)

ARTICLE V. - BICYCLES

DIVISION 1. - RESERVED⁽⁶⁾

Footnotes:

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Editor's note— Sections I and II of Ord. No. 99-62, adopted Sept. 13, 1999, repealed §§ 126-196 and 126-197 in their entirety. Formerly, §§ 126-196 and 126-197 pertained to bicycles generally and derived from §§ 23-52 and 23-64 of the 1961 Code.

Secs. 126-196—126-210. - Reserved.

DIVISION 2. - ~~LICENSES, TAGS, REGISTRATION AND FEES~~RESERVED

~~Sec. 126-211. — License — Voluntary.~~

~~Any person who operates a bicycle upon any of the streets of the City of New Braunfels may register the bicycle with the New Braunfels Police Department as provided in this article.~~

~~(Code 1961, § 23-53; Ord. No. 99-62, § VIII, 9-13-99)~~

~~Sec. 126-212. — Reserved.~~

Editor's note— Section II of Ord. No. 99-59, adopted Aug. 23, 1999, repealed § 126-212 in its entirety. Formerly, § 126-212 pertained to application for bicycle license, etc., and derived from § 23-54 of the 1961 Code.

~~Sec. 126-213. — Issuance — Duration.~~

~~The police department upon receiving proper application therefor is authorized and directed to issue a bicycle license. The license shall be perpetual in duration and may be transferred in a manner consistent with this article.~~

~~(Code 1961, § 23-55; Ord. No. 99-62, § IX, 9-13-99)~~

~~Sec. 126-214. Same—Same—Prohibited under suspicious circumstances.~~

~~The police department shall not issue a license for any bicycle when it is known or there is reasonable grounds to believe that the applicant is not the owner of or entitled to the possession of such bicycle.~~

~~(Code 1961, § 23-56)~~

~~Sec. 126-215. Same—Same—Inspection; refusal if unsafe.~~

~~The chief of police or an officer assigned such responsibility shall, if it is deemed necessary, inspect each bicycle before licensing such bicycle, and if it is found that the bicycle is in unsafe mechanical condition, such license shall be refused.~~

~~(Code 1961, § 23-57)~~

~~Secs. 126-216. Reserved.~~

Editor's note— Section III of Ord. No. 99-62, adopted Sept. 13, 1999, repealed § 126-216 in its entirety. Formerly, § 126-216 pertained to renewal of license and derived from § 23-58 of the 1961 Code.

~~Sec. 126-217. Metal tags—Issuance.~~

~~Each year the police department shall:~~

- ~~(1) *Issuance of tags.* Provide metallic tags and seals having the registration number, the year issued, and the letters "NBBL" stamped thereon, suitable for attachment upon the rear of each bicycle.~~
- ~~(2) *Attachment to bicycle.* See that the metallic tag is attached to the rear of each bicycle where it is clearly visible at all times, and that at all times during the license year for which it is issued it remains so attached.~~
- ~~(3) *Registration card.* At the time of the issuance of the license, the police department shall also issue to the person obtaining the license a registration card, which card shall bear the license and registration number of such bicycle.~~
- ~~(4) *Records.* Keep a record of the date of the issuance of each license, the name of the person to whom issued, the number thereof, together with a description of the bicycle.~~

~~(Code 1961, § 23-59)~~

~~Sec. 126-218. Duplicate tags.~~

~~Any licensee who has lost his bicycle registration card or license tag may receive a duplicate at no cost.~~

~~(Code 1961, § 23-60; Ord. No. 99-62, § X, 9-13-99)~~

~~Sec. 126-219. — Transfer of ownership—Seller's report; purchaser's registration.~~

- ~~(a) — *Seller's report.* It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the police department the registration card issued to such person as licensee thereof, together with the name and address of the person to whom such bicycle was sold or transferred. Such report shall be made within five days of the date of the sale or transfer.~~
- ~~(b) — *Purchaser's registration.* It shall be the duty of the purchaser or transferee of a bicycle to apply for a transfer of registration therefor within five days of the sale or transfer.~~

~~(Code 1961, § 23-61)~~

~~Sec. 126-220. — Reserved.~~

Editor's note— Section IV of Ord. No. 99-62, adopted Sept. 13, 1999, repealed § 126-220 in its entirety. Formerly, § 126-220 pertained to metal tag fees and derived from § 23-62 of the 1961 Code.

~~Sec. 126-221. — Removal or alteration of identifying numbers; provision for supplying numbers.~~

- ~~(a) — *Removal of factory numbers prohibited.* It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the serial number of any bicycle frame licensed pursuant to this article.~~
- ~~(b) — *Removal or destruction of license plate, seal or registration card prohibited.* It shall be unlawful for any person to remove, destroy, mutilate or alter the number of any bicycle license plate, seal or registration card during the time for which issued.~~
- ~~(c) — *Provision for supplying numbers.* Nothing in this article shall prohibit the police department from stamping numbers on the frames of bicycles on which no serial number can be found, or on which the serial number is illegible or insufficient for identification purposes.~~

~~(Code 1961, § 23-63)~~

~~Sec. 126-222. — Dismantling or taking out of operation.~~

~~Within ten days after any bicycle registered and licensed under this article shall have been dismantled and taken out of operation, such information shall be reported to the police department by the person in whose name the bicycle has been licensed and registered.~~

~~(Code 1961, § 23-68)~~

~~Secs. 126-223—126-235. — Reserved.~~

DIVISION 3. - RESERVED [\[7\]](#)

Footnotes:

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Editor's note— Sections V—VII of Ord. No. 99-62, adopted Sept. 13, 1999, repealed §§ 126-236—126-238 in their entirety. Formerly, §§ 126-236—126-238 pertained bicycle dealers and derived from §§ 23-65—23-67 of the 1961 Code.

Secs. 126-236—126-250. - Reserved.

DIVISION 4. - EQUIPMENT

Sec. 126-251. - Lamps and reflectors.

(a) ~~No person shall operatedrive a bicycle between 9:00 p.m. and 7:00 a.m. unless the bicycle is equipped with either: (1) a red rear reflector mounted on the bicycle so located and of sufficient size and reflectivity to be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle; or (2) a lamp mounted to the rear of the bicycle emitting a red light visible from a distance of at least 500 feet from the rear of the bicycle.~~

(b) ~~No person shall operate a bicycle between 9:00 p.m. and 7:00 a.m. unless it is equipped with a lamp mounted on the front of the bicycle that emits a white light visible from a distance of at least 500 feet from the front of the bicycle.~~

~~Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.~~

(Code 1961, § 23-69)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 184(a).

Sec. 126-252. - Reserved.

Editor's note— Section I of Ord. No. 99-59, adopted Aug. 23, 1999, repealed § 126-252 in its entirety. Formerly, § 126-252 pertained to bells and derived from § 23-70 of the 1961 Code.

Sec. 126-253. - Brakes.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(Code 1961, § 23-71)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 184(b).

Secs. 126-254—126-265. - Reserved.

DIVISION 5. - OPERATION

Sec. 126-266. - Traffic regulations apply to persons riding bicycles; competitive racing.

(a) Every person riding a bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

- (b) However organized, competitive bicycle races may be held on public roads, provided that the sponsoring organization shall have obtained the approval of the appropriate local law enforcement agencies. The sponsoring organization and the local law enforcement agency may establish by agreement special regulations regarding the movement of bicycles during such races, or in training for races, including, but not limited to, permission to ride abreast and other regulations to facilitate the safe conduct of such races or training for races. ~~"Bicycle" as used in this section means a nonmotorized vehicle propelled by human power.~~

(Code 1961, § 23-72)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 179.

Sec. 126-267. - Obedience to traffic devices.

- (a) *Signs, signals and other devices.* Any person operating a bicycle shall obey the instructions of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) *Turning.* Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(c) *Bike Lanes.* Unless a bike lane is specifically designated otherwise, a bicyclist riding in a bike lane may not travel in the opposite direction of adjacent motor vehicles in the roadway.

(Code 1961, § 23-73)

Sec. 126-268. - Riding on seat required.

- (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed or equipped.

(Code 1961, § 23-74)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 180.

Sec. 126-269. - Clinging to vehicles.

No person riding upon any bicycle shall attach such bicycle or himself to any vehicle upon a roadway.

(Code 1961, § 23-75)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 181.

Sec. 126-270. - Carrying articles.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handlebars.

(Code 1961, § 23-76)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 183.

Sec. 126-271. - Manner of riding on roadways; use of bicycle paths.

- (a) Any person operating a bicycle upon a roadway at less than the normal and reasonable speed of traffic shall ride in the right-hand lane of the roadway subject to the following provisions:
 - (1) If the right-hand lane is wide enough to be safely shared with overtaking vehicles, a person operating a bicycle shall ride far enough to the right as judged safe by a reasonable bicyclist to facilitate the movement of such overtaking vehicles of the bicyclist unless other conditions make it unsafe to do so.
 - (2) A person operating a bicycle may use a lane other than the right-hand lane when:
 - a. Passing another vehicle;
 - b. Preparing for a left turn;
 - c. Avoiding fixed or moving hazardous or potentially hazardous conditions or objects;
 - d. Lanes are too narrow for a bicycle and vehicle to travel safely side by side;
 - e. Approaching an intersection where there is a designated right turn lane and the bicyclist does not intend to turn right, the cyclist may ride on the left-hand side of such designated lane;
 - f. Riding on a roadway designated for one-way traffic, when the bicyclist may ride as near to the left-hand curb or edge of such roadway as judged safe by the bicyclist; or
 - g. Riding on parts of roadways designated for bicycles.
- (b) A bicyclist shall not be expected or required to:
 - (1) Ride over or through any hazards or apparent hazards.
 - (2) Ride without a reasonable safety margin on the right-hand side of the roadway.
- (c) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable flow of traffic on the roadway. If persons are riding two abreast on a laned roadway, they must ride in a single lane.
- (d) A person operating a bicycle in compliance with this section and not violating any other section of law is not impeding traffic.~~(a) Except as provided by subsection (c) of this section, a person operating a bicycle upon a roadway at less than the speed of the other traffic on the roadway at that time shall ride as near as practicable to the right curb or edge of the roadway, except when:~~
 - ~~(1) The person is overtaking and passing another vehicle proceeding in the same direction;~~
 - ~~(2) The person is preparing for a left turn at an intersection or onto a private road or driveway; or~~
 - ~~(3) Conditions on the roadway, including fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes, make it unsafe to ride next to the right curb or edge of the roadway.~~
- ~~(b) For the purpose of subsection (a) of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a motor vehicle to travel in the lane safely side by side.~~

- ~~(c) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.~~
- ~~(d) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable flow of traffic on the roadway. If persons are riding two abreast on a laned roadway, they must ride in a single lane.~~
- ~~(e) Whenever a path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.~~

(Code 1961, § 23-77)

State Law reference— Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 182.

Sec. 126-272. - ~~Prohibited on sidewalks; posted areas~~Riding on sidewalks.

- (a) No person shall operate a bicycle upon a sidewalk ~~where the sidewalk~~^{which} abuts a building, or when riding on the sidewalk would endanger pedestrians, or where operation of a bicycle on a sidewalk is prohibited by an official traffic control device.
- (b) Any individual operating a bicycle upon a sidewalk shall yield the right-of-way to pedestrians and shall give an audible signal before overtaking and passing a pedestrian.
- (c) Any individual operating a bicycle within a pedestrian crosswalk must yield the right-of-way to motor vehicle traffic and pedestrians. When pedestrians are present within a crosswalk, an individual must dismount, walk the bicycle and obey applicable traffic control devices.
- (d) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver of a bicycle or pedestrian shall fail to obey the requirements of the device.
- (e) The chief of police or city engineer is authorized to designate areas and erect signs on any roadway prohibiting the riding of bicycles thereon by any person, and when such signs are in place no person shall disobey such signs.
- ~~(a) Sidewalks. No person shall ride a bicycle upon a sidewalk within the city.~~
- (f) The following exceptions apply to riding on sidewalk prohibitions:
 - (1) Any person 12 years of age or under may ride or operate bicycles on sidewalks within a designated area;
 - (2) Any adult accompanying a person 12 years of age or under riding a bicycle or transporting a person 12 years of age or under, may ride or operate a bicycle on sidewalks within a designated area; or
 - (3) Any person may ride or operate a bicycle on those portions of sidewalks within a designated area where there is an obstruction in the bike lane adjacent to the sidewalk.
- ~~(b) Places posted. The police department is authorized to erect signs on any roadway prohibiting the riding of bicycles thereon by any person, and when such signs are in place no person shall disobey such signs.~~

(Code 1961, § 23-78)

Sec. 126-273. - Emerging from alley, driveway or building.

The operator of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk area, yield the right-of-way to all pedestrians approaching on such sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

(Code 1961, § 23-79)

Sec. 126-274. - Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code 1961, § 23-80)

Sec. 126-275. - Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle, or against a building, or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

(Code 1961, § 23-81)

Sec. 126-276. – Bicycle turn signals.

The driver of a bicycle is excepted from giving the hand and arm signal continuously if the hand is needed in the control or operation of the bicycle, but it shall be given for a substantial period while stopped waiting to turn. The driver of a bicycle may signal a right turn by extending the right hand and arm horizontally.

Secs. 126-27~~6~~—126-295. - Reserved.

ORDINANCE NO. 2019-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW
BRAUNFELS, TEXAS, AMENDING PORTIONS OF CHAPTER 126 OF
THE NEW BRAUNFELS CODE OF ORDINANCES REGARDING
BICYCLES.**

WHEREAS, to move the definition of vulnerable road user to the definitions section; and

WHEREAS, to remove the voluntary license, tag, registration, and fees for bicycles in the city; and

WHEREAS, to update the requirements for bicycles in the city to provide clear guidance for safety requirements, including lights, travel direction, and hand signals; and

WHEREAS, to allow for riding bicycles on sidewalks in specified areas and for certain age groups within the city; and

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

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

I.

THAT Chapter 126 of the City of New Braunfels Code of Ordinances is hereby amended as follows:

Sec. 126-1. – Definitions.

Bicycle means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than ten (10) inches in diameter.

Vulnerable road user means a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger, a person on horseback, a person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment, or a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

Sec. 126-103. – Vulnerable road users.

- (a) An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:
 - (1) Vacate the lane in which the vulnerable road user is located if the highway or street has two or more marked lanes of traffic running in the same direction; or
 - (2) Pass the vulnerable road user at a safe distance.
- (b) For the purpose of subsection (a)(2), when road conditions allow, safe distance is at least:
 - (1) Three feet if the operator's vehicles is a passenger car or light truck; or
 - (2) Six feet if the operator's vehicle is a truck, other than a light truck, or a commercial motor vehicle as defined by V.T.C.A., Transportation Code § 552.003.
- (c) An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection, or is in such proximity to the intersection as to be an immediate hazard.
- (d) An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the vulnerable road user is traveling and the braking requirements of the motor vehicle making the right-hand turn.
- (e) An operator of a motor vehicle may not maneuver the vehicle in a manner that:
 - (1) Is intended to cause intimidation or harassment to a vulnerable road user; or
 - (2) Threatens a vulnerable road user.
- (f) An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a highway or street or in an intersection of highways or streets.
- (g) It is an offense for an operator of a motor vehicle to violate subsections (a), (c), (d), (e) or (f).

- (h) It is an affirmative defense to prosecution under this section that at the time of the offense the vulnerable road user was acting in violation of the law.

ARTICLE V. – BICYCLES

DIVISION 2. – RESERVED

Secs. 126-211 – 126-235. – Reserved.

DIVISION 4 – EQUIPMENT

Sec. 126-251. – Lamps and reflectors.

- (a) No person shall operate a bicycle between 9:00 p.m. and 7:00 a.m. unless the bicycle is equipped with either: (1) a red rear reflector mounted on the bicycle so located and of sufficient size and reflectivity to be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle; or (2). a lamp mounted to the rear of the bicycle emitting a red light visible from a distance of at least 500 feet from the rear of the bicycle.
- (b) No person shall operate a bicycle between 9:00 p.m. and 7:00 a.m. unless it is equipped with a lamp mounted on the front of the bicycle that emits a white light visible from a distance of at least 500 feet from the front of the bicycle.

Sec. 126-266. – Traffic regulations apply to persons riding bicycles; competitive racing.

- (a) Every person riding a bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.
- (b) However organized, competitive bicycle races may be held on public roads, provided that the sponsoring organization shall have obtained the approval of the appropriate local law enforcement agencies. The sponsoring organization and the local law enforcement agency may establish by agreement special regulations regarding the movement of bicycles during such races, or in training for races, including, but not limited to, permission to ride abreast and other regulations to facilitate the safe conduct of such races or training for races.

Sec. 126-267. – Obedience to traffic devices.

- (a) *Signs, signals and other devices.* Any person operating a bicycle shall obey the instructions of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) *Turning.* Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.
- (c) *Bike lanes.* Unless a bike lane is specifically designated otherwise, a bicyclist riding in a bike lane may not travel in the opposite direction of adjacent motor vehicles in the roadway.

Sec. 126-271. – Manner of riding on roadways; use of bicycle paths.

- (a) Any person operating a bicycle upon a roadway at less than the normal and reasonable speed of traffic shall ride in the right-hand lane of the roadway subject to the following provisions:
 - (1) If the right-hand lane is wide enough to be safely shared with overtaking vehicles, a person operating a bicycle shall ride far enough to the right as judged safe by a reasonable bicyclist to facilitate the movement of such overtaking vehicles of the bicyclist unless other conditions make it unsafe to do so.
 - (2) A person operating a bicycle may use a lane other than the right-hand lane when:
 - a. Passing another vehicle;
 - b. Preparing for a left turn;
 - c. Avoiding fixed or moving hazardous or potentially hazardous conditions or objects;
 - d. Lanes are too narrow for a bicycle and vehicle to travel safely side by side;
 - e. Approaching an intersection where there is a designated right turn lane and the bicyclist does not intend to turn right, the cyclist may ride on the left-hand side of such designated lane;

- f. Riding on a roadway designated for one-way traffic, when the bicyclist may ride as near to the left-hand curb or edge of such roadway as judged safe by the bicyclist; or
 - g. Riding on parts of roadways designated for bicycles.
- (b) A bicyclist shall not be expected or required to:
 - (1) Ride over or through any hazards or apparent hazards.
 - (2) Ride without a reasonable safety margin on the right-hand side of the roadway.
- (c) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable flow of traffic on the roadway. If persons are riding two abreast on a laned roadway, they must ride in a single lane.
- (d) A person operating a bicycle in compliance with this section and not violating any other section of law is not impeding traffic.

Sec. 126-272. – Riding on sidewalks.

- (a) No person shall operate a bicycle upon a sidewalk where the sidewalk abuts a building, or when riding on the sidewalk would endanger pedestrians, or where operation of a bicycle on a sidewalk is prohibited by an official traffic control device.
- (b) Any individual operating a bicycle upon a sidewalk shall yield the right-of-way to pedestrians and shall give an audible signal before overtaking and passing a pedestrian.
- (c) Any individual operating a bicycle within a pedestrian crosswalk must yield the right-of-way to motor vehicle traffic and pedestrians. When pedestrians are present within a crosswalk, an individual must dismount, walk the bicycle and obey applicable traffic control devices.
- (d) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver of a bicycle or pedestrian shall fail to obey the requirements of the device.
- (e) The chief of police or city engineer is authorized to designate areas and erect signs on any roadway prohibiting the riding of bicycles thereon by any person, and when such signs are in place no person shall disobey such signs.

(f) The following exceptions apply to riding on sidewalk prohibitions:

- (1) Any person 12 years of age or under may ride or operate bicycles on sidewalks within a designated area;
- (2) Any adult accompanying a person 12 years of age or under riding a bicycle or transporting a person 12 years of age or under, may ride or operate a bicycle on sidewalks within a designated area; or
- (3) Any person may ride or operate a bicycle on those portions of sidewalks within a designated area where there is an obstruction in the bike lane adjacent to the sidewalk.

Sec. 126-276. – Bicycle turn signals.

The driver of a bicycle is excepted from giving the hand and arm signal continuously if the hand is needed in the control or operation of the bicycle, but it shall be given for a substantial period while stopped waiting to turn. The driver of a bicycle may signal a right turn by extending the right hand and arm horizontally.

Secs. 126-277 – 126-295. – Reserved.

II.

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

III.

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.

IV.

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

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

PASSED AND APPROVED: Second reading this the _____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. P)

Presenter/Contact

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

SUBJECT:

Approval of the first reading of an ordinance amending Section 126-186 of the Code of Ordinances to prohibit through truck traffic on Oak Run Parkway.

BACKGROUND / RATIONALE:

Council District: 3

In November 2018, City Council approved a No Through Truck restriction on Oak Run Parkway between Loop 337 and SH 46. The ordinance that was passed should have added this section onto the existing through truck restriction from SH 46 to Oak Brook Drive, but instead replaced that section with the newly requested section. This ordinance is to correct that and create a through truck restriction on Oak Run Parkway between Oak Brook Drive and Loop 337.

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

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

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funding is allocated in the FY 2018-19 Public Works budget to support traffic signage.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends correcting the through truck restriction on Oak Run Parkway to be between Oak Brook Drive and Loop 337.

ORDINANCE NO. 2019-_____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-186 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT THROUGH TRUCK TRAFFIC ON OAK RUN PARKWAY.**

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

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

I.

THAT, Section 126-186, Through trucks prohibited, is amended to read:

(a) Through trucks are prohibited on the following roads:

(5) Oak Run Parkway between Oak Brook Drive and Loop 337.

II.

That the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

This Ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to parking within the City of New Braunfels, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this Ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

IV.

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

V.

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

PASSED AND APPROVED: First reading this the _____ day of _____, 2019.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. Q)

Presenter/Contact

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

SUBJECT:

Approval of the first reading of an ordinance amending Section 126-186 of the Code of Ordinances to prohibit through truck traffic on Saur Lane and Barbarosa Road.

BACKGROUND / RATIONALE:

Council Districts: 2 and 5

The Engineering Division received a request from a citizen to establish a No Through Truck restriction on Saur Lane between Barbarosa Road and FM 758 due to concerns related to through commercial truck traffic, specifically gravel trucks and commercial delivery trucks, on a narrow roadway. Saur Lane is a 20 foot wide street with a posted speed limit of 30 mph.

Through truck restrictions apply to any truck that is traveling and not bound for a destination along the specified roadway. Delivery or service trucks driving to a destination along a route with through truck restrictions are not prohibited from these roads because they are not through traffic.

At the request of the Transportation and Traffic Advisory Board, staff researched exemptions for agricultural trucks for this request because of the farm land surrounding the requested roadway. Currently, no exemptions exist for agricultural trucks on a road with a through truck restriction in either state or federal code. However, there is a definition of a 'covered farm vehicle' in Title 49 of the Code of Federal Regulations (49 CFR) that describes the type of agricultural trucks that would be using this route. Staff is recommending referencing this definition to provide an agricultural exemption for through truck traffic on the requested roadway in the city's code of ordinances.

The New Braunfels Police Department and Public Works Department are in favor of restricting trucks on Saur Lane/Barbarosa Road (Saur Lane is the road name in Guadalupe County and Barbarosa Road is the road name in Comal County) between FM 1101 and FM 758 due to the roadway width and sharp curves. SH 46 is a more acceptable route for these types of vehicles that are traveling between FM 1101 and FM 758.

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

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

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funds are available in the FY 2018-19

approved Public Works budget.

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board unanimously recommended the creation of a through truck restriction on Saur Lane and Barbarosa Road between FM 1101 and FM 758 with an exemption for through agricultural trucks at their meeting on December 13, 2018.

STAFF RECOMMENDATION:

Staff recommends creating a truck restriction on Saur Lane and Barbarosa Road between FM 1101 and FM 758 with an exemption for through agricultural trucks.

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-1 AND SECTION 126-186 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT THROUGH TRUCK TRAFFIC ON SAUR LANE AND BARBAROSA ROAD.

WHEREAS, to update the Traffic and Vehicles ordinance to include a definition of a covered farm vehicle; and

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

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

I.

THAT Chapter 126 of the City of New Braunfels Code of Ordinances is hereby amended as follows:

Sec. 126-1. – Definitions.

Covered farm vehicle means any vehicle as defined as a covered farm vehicle in Title 49 of the Code of Federal Regulations §390.5.

Sec. 126-186. – Through trucks prohibited.

Through trucks are prohibited on the following roads:

- (30) Saur Lane and Barbarosa Road between FM 1101 and FM 758, with the exception of covered farm vehicles.

II.

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

III.

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.

IV.

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

PASSED AND APPROVED: First reading this the _____ day of _____, 2019.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

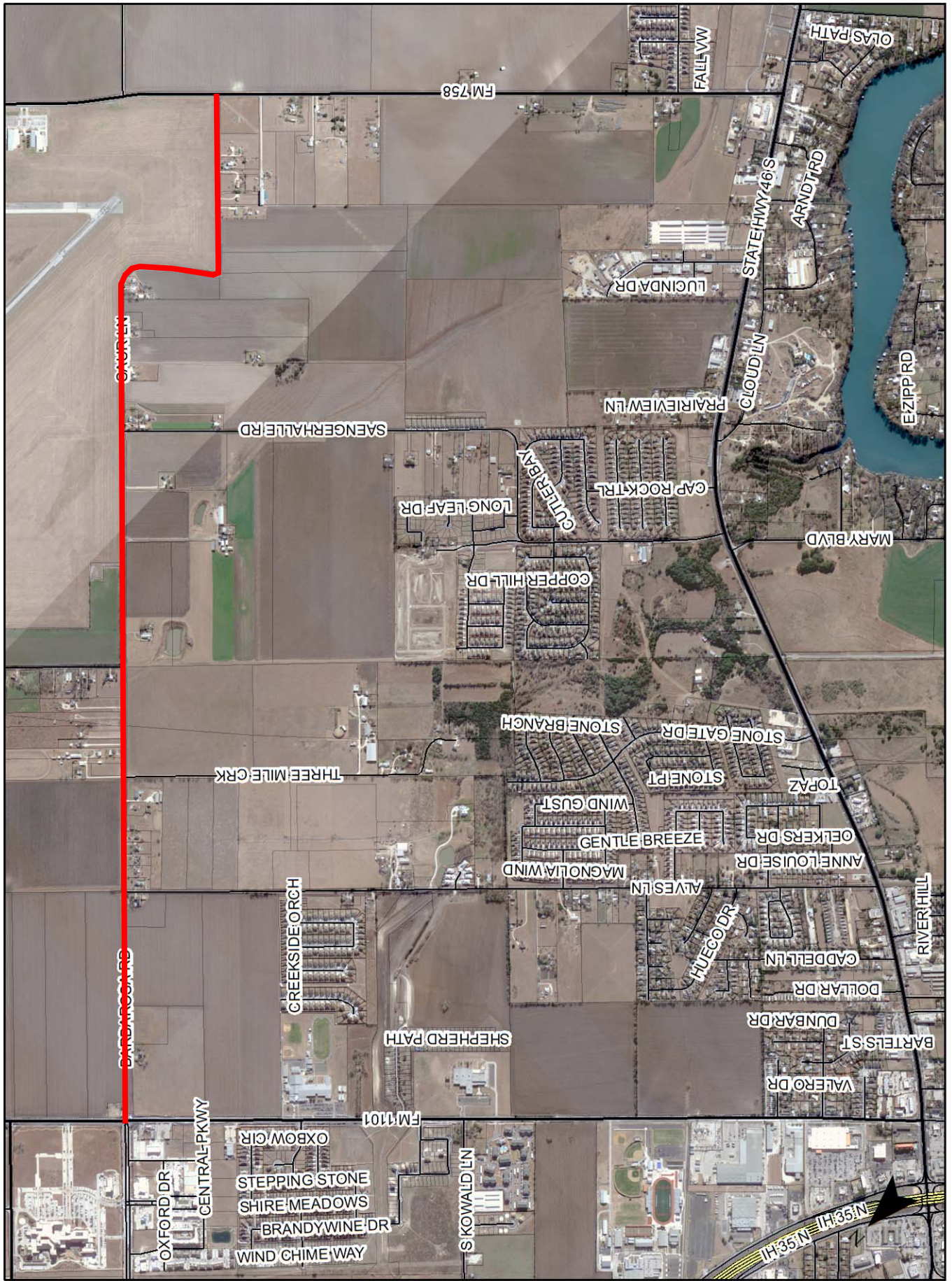
BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



Proposed Through Truck Restriction on Barbara Road/Saur Lane

Sec. 126-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Covered farm vehicle means any vehicle as defined as a covered farm vehicle in Title 49 of the Code of Federal Regulations §390.5.

Cross reference— Definitions generally, § 1-2.

State Law reference— Definitions, Vernon's Ann. Civ. St. art. 6701d, §§ 1 et seq., 20A.

Sec. 126-186. - Through trucks prohibited.

Through trucks are prohibited on the following roads:

(30) Saur Lane and Barbarosa Road between FM 1101 and FM 758, with the exception of covered farm vehicles.

(Ord. No. 2016-20, §§ I, II, 4-25-2016; Ord. No. 2017-85, § I, 10-23-17)



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. R)

Presenter/Contact

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

SUBJECT:

Approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking along a portion of East Nacogdoches Street.

BACKGROUND / RATIONALE:

Council District: 5

Engineering staff received a request to restrict parking along the north side of East Nacogdoches Street between Kuehler Avenue and Karbach Avenue due to concerns about narrow streets and asphalt maintenance. This section of East Nacogdoches Street is approximately 23 feet wide. Vehicles parking on the north side of this section of East Nacogdoches Street are pulling off of the asphalt to allow for travel lanes to remain clear, but this causes the edge of the asphalt to require more maintenance as it breaks with vehicles driving over it.

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

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

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funds are available in the FY 2018-19 Public Works budget.

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board unanimously approved a parking restriction along the north side of East Nacogdoches Street from the intersection with Kuehler Avenue to Karbach Avenue at their meeting on December 13, 2018.

STAFF RECOMMENDATION:

Staff recommends approval of establishing a no parking zone along the north side of East Nacogdoches Street from the intersection with Kuehler Avenue to Karbach Avenue.



Proposed No Parking Zone on East Nacogdoches Street

ORDINANCE NO. 2019-_____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING ON A PORTION OF EAST NACOGDOCHES STREET.**

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

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

I.

THAT the City of New Braunfels Code of Ordinances Section 126-346 (f) is hereby amended as follows:

- (120) On the north side of East Nacogdoches Street from the intersection with Kuehler Avenue to Karbach Avenue. Such no parking zone shall be designated as a tow away zone.

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

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

IV.

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

V.

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

PASSED AND APPROVED: First reading this the _____ day of _____, 2019.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, MAYOR

ATTEST:

PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, CITY ATTORNEY



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. A)

Presenter/Contact

Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:

Discuss and consider approval of the appointment of three individuals to the Arts Commission for terms ending January 31, 2022.

BACKGROUND / RATIONALE:

The Arts Commission is a seven-member board with three-year alternating terms. Notice of vacancies was advertised from November 16, 2018 to December 16, 2018.

Four qualified applications were submitted for the three Arts Commission vacancies:

- Janet Allen (incumbent)
- Carol Snider (incumbent)
- Patrick Winn (incumbent)
- MaryEllen Gaubatz

Applicants' current & prior service on Boards and Commissions

Janet Allen has served on the Arts Commission since January 2015.

Carol Snider has served on the Arts Commission since January 2010.

Patrick Winn has served on the Arts Commission since June 2018.

MaryEllen Gaubatz has no previous experience on City boards or commissions.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the appointment of three individuals to the Arts Commission for a term ending January 31, 2022.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. B)

Presenter/Contact

Robert Camareno, City Manager
rcamareno@nbtexas.org

SUBJECT:

Public hearing and possible action on the creation of the Solms Landing/New Braunfels Co-Op Public Improvement District.

BACKGROUND / RATIONALE:

Pursuant to Section 372.009(c) and (d) of the Texas Local Government Code, the City is holding a public hearing to accept public comments and discuss the petition filed by the Solms Landing Development, LLC, and the Jerome W. Timmerman Family Trust (collectively the "Owners"), requesting that the City create a public improvement district (PID) to include approximately 97.97 acres of property owned by the Owners.

The purposes of the PID include the design, acquisition, construction, and improvement of public improvement projects that are necessary for the development of the property, which public improvements will generally include: (i) the establishment of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, pavilions, community facilities, parking structures, sidewalks, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein; (ii) landscaping; (iii) acquisition, construction, and improvement of water, wastewater and drainage facilities; (iv) acquisition, construction and improvement of streets, roadways, rights-of-way and related facilities; (v) entry monumentation and features; (vi) signage; (vii) projects similar to those listed in subsections (i) - (vi) above; and (viii) payment of costs associated with constructing and financing the public improvements listed in subparagraphs (i) - (vii) above, including costs of establishing, administering and operating the PID.

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

N/A

FISCAL IMPACT:

The City will not be obligated to provide any funds to finance the Public Improvements, other than from assessments levied on the public improvement district property. Administration of the PID will also be covered by the assessments. No municipal property in the public improvement district shall be assessed.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

No action is necessary.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. C)

Presenter/Contact

Robert Camareno, City Manager
(830) 221-4287 - rcamareno@nbtexas.org

SUBJECT:

Discuss and consider possible action on a resolution creating the Solms Landing/New Braunfels Co-Op Public Improvement District.

BACKGROUND / RATIONALE:

The purposes of the PID include the design, acquisition, construction, and improvement of public improvement projects that are necessary for the development of the property, which public improvements will generally include: (i) the establishment of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, pavilions, community facilities, parking structures, sidewalks, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein; (ii) landscaping; (iii) acquisition, construction, and improvement of water, wastewater and drainage facilities; (iv) acquisition, construction and improvement of streets, roadways, rights-of-way and related facilities; (v) entry monumentation and features; (vi) signage; (vii) projects similar to those listed in subsections (i) - (vi) above; and (viii) payment of costs associated with constructing and financing the public improvements listed in subparagraphs (i) - (vii) above, including costs of establishing, administering and operating the PID.

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

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

FISCAL IMPACT:

The City will not be obligated to provide any funds to finance the public improvements, other than from assessments levied on the public improvement district property. Administration of the PID will also be covered by the assessments. No municipal property in the public improvement district shall be assessed.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the resolution.

CITY OF NEW BRAUNFELS

RESOLUTION NO. - _____

**RESOLUTION OF THE CITY OF NEW BRAUNFELS, TEXAS,
AUTHORIZING AND CREATING THE SOLMS LANDING PUBLIC
IMPROVEMENT DISTRICT WITHIN THE CITY OF NEW BRAUNFELS
PURSUANT TO CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT
CODE**

WHEREAS, the City Council (the “City Council”) of the City of New Braunfels, Texas (the “City”) has received a petition (the “Petition”) requesting creation of a public improvement district (the “District”) under Chapter 372 of the Texas Local Government Code (the “Act”), from the record owners of taxable real property representing more than 50% of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Comal County) in the proposed District and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment under the proposal; and

WHEREAS, the Petition has been examined, verified, found to meet the requirements of Section 372.005(b) of the Act, and found to be sufficient for consideration by the City Council; and

WHEREAS, the boundaries of the proposed District are described in as Exhibit A attached hereto, said area for the District being within the boundaries and/or the extraterritorial jurisdiction of the City; and

WHEREAS, after providing all notices required by the Act, the City conducted a public hearing on the advisability of the improvements and services described in the Petition;

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

SECTION 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct.

SECTION 2: The Petition submitted to the City was filed with the City Secretary and complies with Subchapter A of the Act.

SECTION 3. Pursuant to the requirements of the Act, the City Council, after considering the Petition and the evidence and testimony presented at the public hearing, hereby finds and declares:

- (a) Advisability of the Proposed Improvements. It is advisable to create the District to provide the Authorized Improvements (defined below) described in the Petition and this Resolution. The Authorized Improvements will promote the interests of the City and will confer a special benefit on the District.

- (b) General Nature of the Improvements. The public improvements for the District (the “Authorized Improvements”) may consist of one or more of the public improvements included in Section 372.003(b) of the Act. The general nature of the Authorized Improvements are: (i) the establishment of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, pavilions, community facilities, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein; (ii) landscaping; (iii) acquisition, construction, and improvement of water, wastewater and drainage facilities; (iv) acquisition, construction and improvement of streets, roadways, rights-of-way and related facilities; (v) entry monumentation and features; (vi) signage; (vii) projects similar to those listed in subsections (i) – (vi) above; and (viii) payment of costs associated with constructing and financing the public improvements listed in subparagraphs (i) – (vii) above, including costs of establishing, administering and operating the District.
- (c) Estimated Cost of the Authorized Improvements. The estimated cost to design, acquire and construct the Authorized Improvements is \$12,500,000.00 (including issuance and other financing costs).
- (d) Boundaries. The boundaries of the District are set forth in Exhibit A.
- (e) Proposed Method of Assessment. An assessment methodology will be prepared that will address: (i) how the costs of the Authorized Improvements financed with the assessments are assessed against the property in the District, (ii) the assessments to be collected each year, and (iii) reduction of the assessments for costs savings (pursuant to the annual review of the service plan for the District). Additionally, a report will be prepared showing the special benefits accruing to property in the District and how the costs of the Authorized Improvements are assessed to property on the basis of the special benefits. The result will be that equal shares of the costs will be imposed on property similarly benefited.
- The assessment methodology will result in each parcel paying its fair share of the costs of the Authorized Improvements provided with the assessments based on the special benefits received by the property from the Authorized Improvements and property equally situated paying equal shares of the costs of the Authorized Improvements.
- (f) Apportionment of Cost between the City and the District. Approval and creation of the District will not obligate the City to provide any funds to finance the proposed Authorized Improvements. All of the costs of the proposed Authorized Improvements will be paid by issuance of bonds secured, directly or indirectly by, assessments of the property within the District and from other sources of funds, if any, available to the owner or owners of the real property in the District.
- (g) Management of the District. The District shall be managed by the City. The City may contract with a consultant or third-party administrator, who shall, from time to time, advise the City regarding certain operations of the District.

- (h) Advisory Body. The District shall be currently managed without the creation of an advisory body. The City Council reserves the right to appoint an advisory body in the future.

SECTION 4. The Solms Landing Public Improvement District is hereby authorized and created as a Public Improvement District under the Act in accordance with the findings as to the advisability of the Authorized Improvements contained in this Resolution.

SECTION 5. The City's staff is directed to give notice of the authorization for the establishment of the Solms Landing Public Improvement District by publishing a copy of this Resolution once in a newspaper of general circulation within the City. Such authorization shall take effect and the Solms Landing Public Improvement District shall be deemed to be established effective upon the publication of such notice. The Solms Landing Public Improvement District shall exist until dissolved or terminated as provided by law.

SECTION 6. This Resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

[Signature page follows]

PASSED & APPROVED by the **CITY COUNCIL** of the **CITY OF NEW BRAUNFELS** on
January 14, 2019 on vote of ____ **AYES**; ____ **NAYS**; ____ **ABSTENTIONS**.

MAYOR
CITY OF NEW BRAUNFELS

ATTEST:

CITY SECRETARY
CITY OF NEW BRAUNFELS

**EXHIBIT A
BOUNDARIES**

[attached]



**FIELD NOTES
FOR
A 97.97 ACRE TRACT**

A **97.97** acre tract of land, situated in the City of New Braunfels, out of the A.M. Esnaurizar Survey No. 1, Abstract 98, Comal County, Texas, and being the remaining portion of a called 2.028 acre tract of land, Tract I, and the remaining portion of a called 96.26 acre tract of land, Tract II, both being described by Deed of Gift of record in Volume 365 Page 866 of the Deed Records of Comal County, Texas and also being all of a called 4.225 acre tract of land as described by Deed of Gift of record in Volume 365 Page 869 of the Deed Records of Comal County, Texas. Said **97.97** acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "Bury & Partners" in the current southeast right-of-way line of Interstate Highway 35 (I.H. 35), a variable width public right-of-way, for the most easterly corner of a called 0.020 acre tract of land as conveyed to the State of Texas of record in Document No. 9906030874 of the Official Public records of Comal County, Texas, for the most west corner of Lot 1, Block "A", of the Canyon Crossroads Subdivision Plat of record in Document No. 201106028280 of the Map and Plat Records of Comal County, Texas, in the northeast line of said 2.028 acre tract and for the most northerly corner of the tract described herein, from which a found "x" in concrete for the west end of a cutback at the intersection of I.H. 35 and F.M. 306 bears, N 47° 22' 18" E, a distance of 1162.81 feet;

THENCE: S 43° 30' 05" E, departing the southeast right-of-way line of I.H. 35 and along and with the northeast line of said 2.028 acre tract and the southwest line of said Lot 1, at a distance of 657.49 feet passing a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "Bury & Partners" for the south corner of said Lot 1 and the west corner of Lot 6, Block "A", Replat of Lot 2, Canyon Crossroads Subdivision of record in Document No. 201206016264 of the Map and Plat Records of Comal County, Texas, and continuing along and with the southwest line of Lot 6 and the northeast line of said 2.028 acre tract, a total distance of **1456.05 feet** to a found $\frac{1}{2}$ " iron rod (bent) for the east corner of said 2.028 acre tract, the south corner of said Lot 6, in the northwest line of said 4.225 acre tract, in the northwest line of said 96.26 acre tract and for an interior corner of the tract described herein;

THENCE: N 45° 03' 35" E, along and with the northwest line of the 4.225 acre tract and the 96.26 acre tract, and the southeast line of Lot 6, a distance of **369.73 feet** to a found $\frac{1}{2}$ " iron rod for the an interior corner of Lot 6, the north corner of said 4.225 acre tract and 96.26 acre tract, and a north exterior corner of the tract described herein;

THENCE: S 43° 58' 01" E, along and with a southwest line of said lot 6, the southwest line of Lot 1, Block 1, of the Creekside Fire Station Subdivision Plat of record in Document No. 201006023741 of the Map and Plat Records of Comal County, Texas, the southwest line of a called 5.395 acre tract of land as conveyed to the City of New Braunfels of record in Document No. 200606042906 of the Official Public Records of Comal County, Texas (now known as Creekside Crossing, a 150 foot wide public right-of-way), the northeast line of the 4.225 acre tract and the 96.26 acre tract, a distance of **1505.89 feet** to a found $\frac{1}{2}$ " iron rod for the most southerly corner of said 5.395 acre tract, the most westerly corner of a called 6.529 acre tract of land as conveyed to the City of New Braunfels of record in Document No.

Page 1 of 3

200606042905 of the Official Public Records of Comal County, Texas, the most northerly corner of Lot 14R1, of the Amending Plat of lots 8R, 14R, and 32R of Creekside Wellness Center Establishing Lots 8R1, 14R1 and 32R of Creekside Wellness Center of record in Document no. 201306033846 of the Map and Plat Records of Comal County, Texas, for the east corner of the 96.26 acre tract and the tract described herein, from which a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "TEAM" bears, S 38° 38' 50" E, a distance of 0.16 feet;

THENCE: S 45° 01' 44" W, along and with the westerly line of said Lot 14R1, a distance of 369.20 feet to a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "Hollmig" for an interior corner of said Lot 14R1 and an exterior corner of the tract described herein;

THENCE: S 45° 29' 57" W, along and with the northwest lines of Lot 14R1, at a distance of 912.00 feet, a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "HMT" for the west corner of said Lot 14R1 and the north corner of a called 82.76 acre tract of land as conveyed to KB Home Lone Star Inc., of record in Document No. 201406004602 of the Official Public Records of Comal County, Texas, continuing along and with the northwest line of the 82.76 acre tract, at a distance of 2001.79 feet, a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "HMT" for the west corner of said 82.76 acre tract and a northwest exterior corner of a called 36.90 acre tract of land as conveyed to KB Home Lone Star Inc., of record in Document No. 201606006903 of the Official Public Records of Comal County, Texas, and continuing along and with the northwest line of said 36.90 acre tract, a total distance of 3694.97 feet to a set $\frac{1}{2}$ " iron rod with a blue plastic cap stamped "KFW SURVEYING" in the northeast right-of-way line of South Kowald Road (also being the northeast line of a called 0.295 acre tract of land as conveyed to the County of Comal of record in Volume 140 Page 563 of the Deed Records of Comal County, Texas), at the most westerly corner of said 36.90 acre tract, in the southeast line of said 96.26 acre tract and for the most southerly corner of the tract described herein;

THENCE: N 43° 16' 27" W, along and with the northeast right-of-way line of South Kowald Road and the 0.295 acre tract, a distance of 793.41 feet to a set $\frac{1}{2}$ " iron rod with a blue plastic cap stamped "KFW SURVEYING" for the north corner of said 0.295 acre tract, the most southerly corner of Comal Farms Subdivision, Unit One, a plat of record in Volume 12 Pages 217-218 of the Map and Plat Records of Comal County, Texas, in the northwest line of said 96.26 acre tract and for the most westerly corner of the tract described herein;

THENCE: Departing the northeast right-of-way line of South Kowald Road and along and with the common line between said Comal Farms Subdivision and the 96.26 acre tract, the following two (2) courses:

1. N 45° 21' 50" E, a distance of 2719.37 feet to a found $\frac{1}{2}$ " iron rod for the most easterly corner of said Comal Farms Subdivision, an interior corner of the 96.26 acre tract and the tract described herein, and
2. N 44° 29' 27" W, a distance of 703.79 feet to a found $\frac{1}{2}$ " iron rod with a blue plastic cap stamped "KFW SURVEYING" for the south corner of Lot 1 of the New Braunfels Storage Subdivision Plat of record in Volume 13 Page 101 of the Map and Plat Records of Comal County, Texas, a southwest exterior corner of the 96.26 acre tract and the tract described herein;

THENCE: N 45° 29' 59" E, along and with the northwest line of the 96.26 acre tract, the southeast line of said Lot 1, the southeast line of a called 7.66 acre tract of land as conveyed to Barbara Nell Dean of record in Document No. 200306047820 of the Official Public Records of Comal County, Texas and the southeast line of Lot 3, Block 1 of the Richter Estates Subdivision Plat of record in Volume 7 Page 64 of the Map and Plat Records of Comal County, Texas, a distance of 911.95 feet to a point for the west

corner of the 4.225 acre tract, the east corner of said Lot 3, the south corner of the 2.028 acre tract and an interior corner of the tract described herein, from which a found ½" iron rod (leaning) bears, N 19° 09' 21" W, a distance of 0.45 feet;

THENCE: N 43° 30' 05" W, along and with the northeast line of Lot 3 and Lot 1, both of said Richter Estates Subdivision, and the southwest line of the 2.028 acre tract, a distance of **1458.50 feet** to a set ½" iron rod in the current southeast right-of-way line of I.H. 35, for the south corner of the 0.020 acre tract, the most easterly corner of a called 0.076 acre tract of land as conveyed to the State of Texas of record in Document No. 200106035524 of the Official Public records of Comal County, Texas and for a southwest exterior corner of the tract described herein, from which a found ½" iron rod in the current southeast right-of-way line of I.H. 35 and for the south corner of said 0.076 acre tract bears, S 45° 22' 17" W, a distance of 227.32 feet;

THENCE: N 45° 22' 17" E, along and with the current southeast right-of-way line of I.H. 35, also being the southeast line of said 0.020 acre tract, a distance of **60.01 feet** to the **POINT OF BEGINNING** and containing **97.97 acres**, more or less, in the City of New Braunfels, Comal County, Texas. Said tract being described in accordance with a survey prepared by KFW Surveying. Bearings are based on NAD83 (2011) Texas State Plane South Central Zone, 4204. Distances recited herein are surface distances using an average combined scale factor of 0.99985790106.



Job No.: 16-139
 Prepared by: KFW Surveying
 Date: December 2, 2016
 File: S:\Draw 2016\16-139 95 Acres Timmerman Tract - New Braunfels\DOCS\FN -
 97.97 Acres

Agreement Regarding the Dissolution of the Solms Landing Public Improvement District

This Agreement Regarding the Dissolution of the Solms Landing Public Improvement District (the “Agreement”) is entered into on this ____ day of January, 2019 by Solms Landing Development, LLC, a Texas limited liability company and The Jerome W. Timmermann Family Trust (collectively, the “Owner”) and the City of New Braunfels, a Texas home rule municipality (the “City”), hereinafter sometimes referred to collectively as the “Parties”.

Whereas, the Owner requested the City establish the Solms Landing Public Improvement District (the “District”) in that certain Petition for the Creation of a Public Improvement District to Finance Improvements to Solms Landing dated _____, 2018 (the “Petition”);

Whereas, on the same date that the Parties entered into this Agreement, the City approved the formation of the District over the property described in Exhibit A (the “Property”), attached hereto and incorporated herein for all purposes, by Resolution No. _____ (the “Resolution”);

Whereas, the Owner owns fee simple title to all the Property; and

Whereas, the Parties desire to provide for the dissolution of the District if special assessments are not levied or the PID Bonds are not issued by the deadline set forth herein;

NOW, THEREFORE, for and in consideration of the above recitals and the terms, conditions and agreements stated in this Agreement, the Parties agree as follows:

1. The Owner agrees that this Agreement constitutes Owner’s petition to dissolve the District under Section 372.011, Texas Local Government Code, and the City is hereby authorized to dissolve the District, in the event that the first issuance of PID Bonds or a levy of special assessments does not occur by January 14, 2021, (the “Authorization”). The Owner will not oppose the City’s dissolution of the District undertaken in accordance with this Agreement, and will cooperate with the City to cause the District to be dissolved. The Authorization shall terminate and expire upon the earlier of (i) the levy of special assessments on any part of the Property within the District or (ii) the first issuance of the PID Bonds.
2. This Agreement shall be a covenant running with the land and shall be binding upon future owners of the Property or portions thereof and shall further be binding upon and inure to the benefit of the Parties, and their successors and assigns. The Owner shall cause any person or entity to whom it transfers the Property or any portion thereof (a “Subsequent Owner”) to execute a document containing language substantially similar to that set forth in paragraph 1 granting the City the authorization to dissolve the District as provided in paragraph 1. Owner shall provide the City with a copy of said document.
3. This Agreement may be amended only by a written instrument executed by all the Parties. Upon satisfaction of one of the conditions set forth in paragraph 1, the City will execute an instrument confirming the termination and expiration of this Agreement so that it can be recorded in the Official Public Records of Comal County, Texas.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflict of laws provisions, and venue shall lie in Comal County, Texas.
5. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement and this Agreement is effective as of the first date indicated above.

[Signature Pages to Follow]

CITY:**City of New Braunfels, Texas**

a Texas home-rule municipal corporation

Attest:

By: _____

Name: _____

Title: City Secretary

By: _____

Name: _____

Title: Mayor

THE STATE OF TEXAS §**COUNTY OF COMAL §**

This instrument was acknowledged before me on this ____ day of _____, 2019, by _____ and _____, Mayor and Secretary of the City of New Braunfels, Texas, a Texas home-rule municipal corporation, on behalf of said municipal corporation.

(SEAL)

Notary Public, State of Texas

OWNERS:

Solms Landing Development, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____, 2019, by _____, _____ of Solms Landing Development, LLC a Texas limited liability company, on behalf of said limited liability company.

(SEAL)

Notary Public, State of Texas

The Jerome W. Timmermann Family Trust

By: _____
Betty M. Timmermann
Trustee

THE STATE OF TEXAS
COUNTY OF _____

THIS INSTRUMENT is acknowledged before me on this ____ day of _____, 2019, by Betty M. Timmermann as Trustee of The Jerome W. Timmermann Family Trust on behalf of said Trust.

[SEAL]

Notary Public, State of Texas

Exhibit “A”

The Property



**FIELD NOTES
FOR
A 97.97 ACRE TRACT**

A **97.97** acre tract of land, situated in the City of New Braunfels, out of the A.M. Esnaurizar Survey No. 1, Abstract 98, Comal County, Texas, and being the remaining portion of a called 2.028 acre tract of land, Tract I, and the remaining portion of a called 96.26 acre tract of land, Tract II, both being described by Deed of Gift of record in Volume 365 Page 866 of the Deed Records of Comal County, Texas and also being all of a called 4.225 acre tract of land as described by Deed of Gift of record in Volume 365 Page 869 of the Deed Records of Comal County, Texas. Said **97.97** acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "Bury & Partners" in the current southeast right-of-way line of Interstate Highway 35 (I.H. 35), a variable width public right-of-way, for the most easterly corner of a called 0.020 acre tract of land as conveyed to the State of Texas of record in Document No. 9906030874 of the Official Public records of Comal County, Texas, for the most west corner of Lot 1, Block "A", of the Canyon Crossroads Subdivision Plat of record in Document No. 201106028280 of the Map and Plat Records of Comal County, Texas, in the northeast line of said 2.028 acre tract and for the most northerly corner of the tract described herein, from which a found "x" in concrete for the west end of a cutback at the intersection of I.H. 35 and F.M. 306 bears, N 47° 22' 18" E, a distance of 1162.81 feet;

THENCE: S 43° 30' 05" E, departing the southeast right-of-way line of I.H. 35 and along and with the northeast line of said 2.028 acre tract and the southwest line of said Lot 1, at a distance of 657.49 feet passing a found $\frac{1}{2}$ " iron rod with a plastic cap stamped "Bury & Partners" for the south corner of said Lot 1 and the west corner of Lot 6, Block "A", Replat of Lot 2, Canyon Crossroads Subdivision of record in Document No. 201206016264 of the Map and Plat Records of Comal County, Texas, and continuing along and with the southwest line of Lot 6 and the northeast line of said 2.028 acre tract, a total distance of **1456.05 feet** to a found $\frac{1}{2}$ " iron rod (bent) for the east corner of said 2.028 acre tract, the south corner of said Lot 6, in the northwest line of said 4.225 acre tract, in the northwest line of said 96.26 acre tract and for an interior corner of the tract described herein;

THENCE: N 45° 03' 35" E, along and with the northwest line of the 4.225 acre tract and the 96.26 acre tract, and the southeast line of Lot 6, a distance of **369.73 feet** to a found $\frac{1}{2}$ " iron rod for the an interior corner of Lot 6, the north corner of said 4.225 acre tract and 96.26 acre tract, and a north exterior corner of the tract described herein;

THENCE: S 43° 58' 01" E, along and with a southwest line of said lot 6, the southwest line of Lot 1, Block 1, of the Creekside Fire Station Subdivision Plat of record in Document No. 201006023741 of the Map and Plat Records of Comal County, Texas, the southwest line of a called 5.395 acre tract of land as conveyed to the City of New Braunfels of record in Document No. 200606042906 of the Official Public Records of Comal County, Texas (now known as Creekside Crossing, a 150 foot wide public right-of-way), the northeast line of the 4.225 acre tract and the 96.26 acre tract, a distance of **1505.89 feet** to a found $\frac{1}{2}$ " iron rod for the most southerly corner of said 5.395 acre tract, the most westerly corner of a called 6.529 acre tract of land as conveyed to the City of New Braunfels of record in Document No.

Page 1 of 3

200606042905 of the Official Public Records of Comal County, Texas, the most northerly corner of Lot 14R1, of the Amending Plat of lots 8R, 14R, and 32R of Creekside Wellness Center Establishing Lots 8R1, 14R1 and 32R of Creekside Wellness Center of record in Document no. 201306033846 of the Map and Plat Records of Comal County, Texas, for the east corner of the 96.26 acre tract and the tract described herein, from which a found ½" iron rod with a plastic cap stamped "TEAM" bears, S 38° 38' 50" E, a distance of 0.16 feet;

THENCE: S 45° 01' 44" W, along and with the westerly line of said Lot 14R1, a distance of 369.20 feet to a found ½" iron rod with a plastic cap stamped "Hollmig" for an interior corner of said Lot 14R1 and an exterior corner of the tract described herein;

THENCE: S 45° 29' 57" W, along and with the northwest lines of Lot 14R1, at a distance of 912.00 feet, a found ½" iron rod with a plastic cap stamped "HMT" for the west corner of said Lot 14R1 and the north corner of a called 82.76 acre tract of land as conveyed to KB Home Lone Star Inc., of record in Document No. 201406004602 of the Official Public Records of Comal County, Texas, continuing along and with the northwest line of the 82.76 acre tract, at a distance of 2001.79 feet, a found ½" iron rod with a plastic cap stamped "HMT" for the west corner of said 82.76 acre tract and a northwest exterior corner of a called 36.90 acre tract of land as conveyed to KB Home Lone Star Inc., of record in Document No. 201606006903 of the Official Public Records of Comal County, Texas, and continuing along and with the northwest line of said 36.90 acre tract, a total distance of 3694.97 feet to a set ½" iron rod with a blue plastic cap stamped "KFW SURVEYING" in the northeast right-of-way line of South Kowald Road (also being the northeast line of a called 0.295 acre tract of land as conveyed to the County of Comal of record in Volume 140 Page 563 of the Deed Records of Comal County, Texas), at the most westerly corner of said 36.90 acre tract, in the southeast line of said 96.26 acre tract and for the most southerly corner of the tract described herein;

THENCE: N 43° 16' 27" W, along and with the northeast right-of-way line of South Kowald Road and the 0.295 acre tract, a distance of 793.41 feet to a set ½" iron rod with a blue plastic cap stamped "KFW SURVEYING" for the north corner of said 0.295 acre tract, the most southerly corner of Comal Farms Subdivision, Unit One, a plat of record in Volume 12 Pages 217-218 of the Map and Plat Records of Comal County, Texas, in the northwest line of said 96.26 acre tract and for the most westerly corner of the tract described herein;

THENCE: Departing the northeast right-of-way line of South Kowald Road and along and with the common line between said Comal Farms Subdivision and the 96.26 acre tract, the following two (2) courses:

1. N 45° 21' 50" E, a distance of 2719.37 feet to a found ½" iron rod for the most easterly corner of said Comal Farms Subdivision, an interior corner of the 96.26 acre tract and the tract described herein, and
2. N 44° 29' 27" W, a distance of 703.79 feet to a found ½" iron rod with a blue plastic cap stamped "KFW SURVEYING" for the south corner of Lot 1 of the New Braunfels Storage Subdivision Plat of record in Volume 13 Page 101 of the Map and Plat Records of Comal County, Texas, a southwest exterior corner of the 96.26 acre tract and the tract described herein;

THENCE: N 45° 29' 59" E, along and with the northwest line of the 96.26 acre tract, the southeast line of said Lot 1, the southeast line of a called 7.66 acre tract of land as conveyed to Barbara Nell Dean of record in Document No. 200306047820 of the Official Public Records of Comal County, Texas and the southeast line of Lot 3, Block 1 of the Richter Estates Subdivision Plat of record in Volume 7 Page 64 of the Map and Plat Records of Comal County, Texas, a distance of 911.95 feet to a point for the west

Page 2 of 3

corner of the 4.225 acre tract, the east corner of said Lot 3, the south corner of the 2.028 acre tract and an interior corner of the tract described herein, from which a found ½" iron rod (leaning) bears, N 19° 09' 21" W, a distance of 0.45 feet;

THENCE: N 43° 30' 05" W, along and with the northeast line of Lot 3 and Lot 1, both of said Richter Estates Subdivision, and the southwest line of the 2.028 acre tract, a distance of **1458.50 feet** to a set ½" iron rod in the current southeast right-of-way line of I.H. 35, for the south corner of the 0.020 acre tract, the most easterly corner of a called 0.076 acre tract of land as conveyed to the State of Texas of record in Document No. 200106035524 of the Official Public records of Comal County, Texas and for a southwest exterior corner of the tract described herein, from which a found ½" iron rod in the current southeast right-of-way line of I.H. 35 and for the south corner of said 0.076 acre tract bears, S 45° 22' 17" W, a distance of 227.32 feet;

THENCE: N 45° 22' 17" E, along and with the current southeast right-of-way line of I.H. 35, also being the southeast line of said 0.020 acre tract, a distance of **60.01 feet** to the **POINT OF BEGINNING** and containing **97.97 acres**, more or less, in the City of New Braunfels, Comal County, Texas. Said tract being described in accordance with a survey prepared by KFW Surveying. Bearings are based on NAD83 (2011) Texas State Plane South Central Zone, 4204. Distances recited herein are surface distances using an average combined scale factor of 0.99985790106.



Job No.: 16-139
 Prepared by: KFW Surveying
 Date: December 2, 2016
 File: S:\Draw 2016\16-139 95 Acres Timmerman Tract - New Braunfels\DOCS\FN -
 97.97 Acres



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. D)

Presenter/Contact

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

SUBJECT:

Discuss and consider approval of the first reading of an ordinance amending the Code of Ordinances Chapter 14 Building Regulations, Chapter 54 Fire Prevention and Protection; Emergency Medical Services, and Appendix D Fee Schedule.

BACKGROUND / RATIONALE:

Council District: City-wide

Applicant: City of New Braunfels

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

Pursuant to City Council adoption in 2015, the City of New Braunfels is currently operating under the 2015 International Building Codes with two exceptions: the 2014 National Electric Code and the 2012 International Energy Conservation Code. The International Code Council (ICC) along with the National Fire Protection Agency has published updated versions of these Codes, a process they complete every 3 years. In an effort to keep the City of New Braunfels construction standards current with the internationally recognized building codes, an amendment to Chapter 14 Building Regulations, Chapter 54 Fire Prevention and Protection; Emergency Medical Services, and Appendix D Fee Schedule is in order. The amendments include adoption of the 2018 International Building Code (IBC), 2018 International Residential Code (IRC), International Plumbing Code (IPC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), International Property Maintenance Code (IPMC), International Existing Building Code (IEBC), International Energy Conservation Code (IECC), International Private Sewage Code (IPSC), International Swimming Pool and Spa Code (ISPSC), International Fire Code (IFC), and 2017 National Electric Code (NEC) with associated amendments as read in Attachment 1.

Within each code there are sections that require words or amounts inserted, which can be seen in the draft ordinance. There are also some amendments within the International Fire Code which the Fire Department has enforced with past adoptions of the IFC; with the exception of the new requirement to retrofit a fire sprinkler system within A2 Occupancies with an occupant load over 300 and the consumption of alcohol. Staff informed each business impacted by this new safety rule. The proposal is to allow the impacted business owners 3 years to come into compliance with this new requirement.

Appendix D would be amended to capture the current Building Valuation Data that is published twice a year. This Data Table provides the average cost of construction per square foot based on use and construction type. Currently, New Braunfels uses the Data Table published in February of 2012. The proposed amendment would change the language of the dated BVD table to the most current, so New Braunfels would continue to capture the most current data without needing to amend the Code of Ordinances.

In addition to adoption of the updated ICC Codes, the proposed amendments better organize all of the building codes within the City's Code of Ordinances. This will improve transparency allowing customers and staff easier access to the code requirements, as well as the information for contractor registrations.

Staff held a meeting with builders and contractors in October, 2018 to discuss the updates. Staff has also had continued conversations with customers, including design professionals and the New Braunfels Builders Association.

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

| | |
|------------------------------------|--|
| City Plan/Council Priority: | Updating New Braunfels' building codes every three |
| Envision New Braunfels | years ensures the most current building standards are |
| Comprehensive Plan | adhered to, which makes our communities more resilient, |
| | sustainable, safe and livable for generations to come. |
| | Action 1.11: Update policies and codes to achieve |
| | development patterns that implement the goals of |
| | Envision New Braunfels. Action 6.12: Implement |
| | measures to maintain an ISO rating of 1 for Fire |
| | Protection to ensure the safety of all residents and to |
| | keep property insurance rates low. |

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the proposed amendments as presented, including the aforementioned 3-year grace period for the fire sprinkler system retrofit in A2 Occupancies with an occupant load over 300 and the consumption of alcohol. Updating the Building Codes every three years keeps New Braunfels up to date with building standards and safety, and maintains consistency for the development and contracting community and design professionals, all of whom build in other communities in the region as well.

Chapter 14 - BUILDINGS AND BUILDING REGULATIONS¹¹

Footnotes:

---(1)---

Editor's note—Ord. No. 2015-35, § 1, adopted July 13, 2015, amended chapter 14 in its entirety to read as herein set out. Formerly, chapter 14 pertained to similar subject matter, and derived from Ord. No. 2013-23, § 1, adopted April 15, 2013.

Cross reference—Contractors, § 18-66 et seq.; cable communications, ch. 22; civic and cultural facilities and affairs, ch. 30; condition of premises, § 50-56 et seq.; fire prevention and protection, ch. 54; fire lanes, § 54-121 et seq.; water distribution system for fire protection, § 54-146 et seq.; floods, ch. 58; mobile homes, house cars and tourist courts, § 62-196 et seq.; tent campgrounds, § 62-311 et seq.; historic preservation, ch. 66; planning, ch. 98; signs, ch. 106; streets, sidewalks and other public places, ch. 114; address numbering, § 114-61 et seq.; utilities, ch. 130; zoning, app. A; mobile home communities, app. B.

State Law reference—Trench excavation safety, V.T.C.A., Health and Safety Code § 756.021 et seq.; fire escapes, V.T.C.A., Health and Safety Code § 791.001 et seq.; protection of workmen on buildings, Vernon's Ann. Civ. St. arts. 5182, 5182-1; Manufactured Housing Standards Act, Vernon's Ann. Civ. St. art. 5221f; industrialized housing and buildings, Vernon's Ann. Civ. St. art. 5221f-1; Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101; Residential Service Company Act, Vernon's Ann. Civ. St. art. 6573b; establishment of building lines, V.T.C.A., Local Government Code § 213.001 et seq.; municipal regulation of structures, V.T.C.A., Local Government Code § 214.001 et seq.

ARTICLE I. — IN GENERAL

~~Sec. 14-1. — Standard Swimming Pool Code adopted; amendments; appeals; re-inspection fee; penalty.~~

- ~~(a) — The International Swimming Pool and Spa Code (ISPSC), 2015 edition, as published by the International Code Council (ICC) is hereby adopted and incorporated by reference as the standard for residential swimming pools, for one- or two-family dwellings.~~
- ~~(b) — The International Swimming Pool and Spa Code (ISPSC), 2015 edition is adopted as the standard for multifamily, commercial and public swimming pools.~~
- ~~(c) — Permit limitations. An application for a permit for any proposed work shall be deemed abandoned if the permit has not been issued (physically received by the applicant) within 30 days of the date of the application's approval, with or without conditions imposed by the city and any reviewing department or agency. An application is considered approved once all reviews are complete and the permit is ready to be issued subject to any condition attached thereto. If abandoned, the work shall not be commenced and no inspections will be made until another application has been made and another permit approved and issued. All permits shall expire a maximum of six months after the date the application is approved or conditionally approved, regardless of whether the permit had been issued (received by the applicant). Extensions of the expiration period may be made by the building official upon presentation by the applicant of good and justifiable cause. Examples of justification could include natural or manmade disasters, scope of extremely large projects that typically require more than six months to complete, or a lack of availability of materials due to regional or nationwide shortages.~~
 - ~~(1) — Fees. Fees for pools and related systems, equipment, and appurtenances shall be based on the schedules approved for the building, electrical, mechanical, gas, and plumbing codes of the city as outlined in appendix D of this Code.~~
 - ~~(2) — Electrical applications to comply with the 2014 National Electrical Code.~~
- ~~(d) — Reinspection fees are outlined in appendix D of this Code.~~

- ~~(e) Where there is conflict between the code adopted in this section and any city, state, or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.~~
- ~~(f) Any person, firm, corporation, agent, or entity that violates a provision of the code adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any such violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-2. Standard Amusement Device Code adopted; amendments; re-inspection fee; penalty.~~

- ~~(a) The Standard Amusement Device Code, 1985 edition, as published by the Southern Building Code Congress International, Inc., as previously adopted by the city, shall remain in full force and effect subject to and including by reference such revisions, corrections, additions, and deletions as shall appear in this section.~~
- ~~(b) The Standard Amusement Device Code adopted in subsection (a) of this section is hereby amended in the following respects:~~
~~Section 108 shall be renamed the "Construction Board of Adjustment and Appeals" and sections 108.1 through 108.5, inclusive, shall be deleted in their entirety and the following added:~~

~~Appeals of the requirements in the Standard Amusement Device Code may be made to the construction board of adjustment and appeals in accordance with the requirements set forth in the building code.~~

- ~~(c) Reinspection fees are outlined in appendix D of this Code.~~
- ~~(d) Where there is conflict between the code adopted by this section and any city, state or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.~~
- ~~(e) Any person, firm, corporation, agent, or entity that violates a provision of the codes adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-3. Administration and enforcement of codes, ordinances and articles.~~

~~The building official of the city shall have the responsibility for the administration and enforcement of these codes ordinances and articles as adopted by this chapter, and such official shall have all of the responsibilities called for in these articles and the specifications, rules and regulations adopted by these codes, ordinance and articles.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-4. Interpretation of codes, ordinances and articles.~~

~~The building official shall have the authority to render interpretations of these codes, ordinance, and articles; and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes, ordinances and articles. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes, ordinances and articles.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-5. Commercial premium or overtime inspection fees.~~

~~Premium or overtime inspections are those inspections requested for times other than the normal working hours. Fees for premium inspections done after 4:00 p.m. on weekdays and on weekends shall be at a rate of \$45.00 per inspection with a minimum of three inspections required.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-6. Building official to determine conflicts between codes.~~

~~The code official is the building official except where specifically described as the fire code official. Applying to any construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, occupancy loads, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, the building official is hereby authorized and directed to enforce the provisions of these codes and ordinances (all ICC codes adopted by the city and all city and all city ordinances that apply). The building official shall have the authority to render interpretations of all of these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-7—14-25. Reserved.~~

~~ARTICLE II. BUILDING CODE~~

~~Sec. 14-26. Short title.~~

~~This article shall be known as the building code of the city and may be cited as such.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-27. International Building Code (IBC) 2015 and International Residential Code (IRC) 2015.~~

- ~~(a) The IBC 2015 and the IRC 2015, and all appendices, are hereby adopted and incorporated by reference as the building codes of the city, except as stated in the following.~~
- ~~(b) Appendix A, IBC, Employee Qualifications is not adopted.~~
- ~~(c) Appendix B, IBC, Board of Appeals is not adopted.~~
- ~~(d) Appendix D, IBC, Fire Districts is not adopted.~~

~~(e) Appendix H, IBC, Signs is amended as follows:~~

~~Section 101.2, Signs Exempt from Permits is deleted and replaced with Section 106.10 Code of Ordinances, City of New Braunfels, Texas, Signs exempt from regulation or permits.~~

~~(f) Delete Section 105.2 IBC and IRC and amended as follows:~~

~~1. Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work.~~

~~2. Swings and other playground equipment accessory to detached one- and two-family dwellings.~~

~~(g) Appendix J, IBC, Grading is not adopted.~~

~~(h) Appendix I, IRC, Private Sewage Disposal is not adopted.~~

~~(i) Appendix L, IRC, Permit Fees is not adopted.~~

~~(j) All references to the International Electric Code are hereby deleted.~~

~~(k) All references to the Department of Building Safety, as found in Section R103, IRC and Section 103, IBC, are hereby deleted and shall be known as the Building Department.~~

~~(l) All references to the Board of Appeals, as found in Section 112, IRC and Section 113, IBC, are hereby deleted and shall be known as the Construction Board of Appeals Section 14-404 of the City of New Braunfels Code of Ordinances.~~

~~(m) Delete Section R302.5.1 IRC and replace as follows:~~

~~Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches thick, or 20 minute fire-rated door.~~

~~(n) Delete Section R311.2 IRC and replace as follows:~~

~~Exit Door Required. Not less than two doors conforming to this section shall be provided for each dwelling unit. The required doors shall provide for direct access from the habitable portions of the dwelling to the exterior without travel through a garage. Access to habitable levels not having two exits in accordance with this section shall be by a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.~~

~~(o) Delete Chapter 11 of the IBC and replace as follows:~~

~~1. Chapter 11 – Accessibility: All buildings or portions of buildings must comply with the accessibility standards adopted by the state of Texas. All projects shall be submitted to Texas Department of Licensing & Regulation (TDLR) for review, inspection and approval in accordance with state law.~~

~~2. Before a contractor applies for a permit for a building or structure per the Texas Architectural Barriers Act, Texas Government Code, Chapter 469, Section 469.101 the contractor shall provide proof that he has registered the construction documents with the TDLR. Proof of registration consists of the project registration number from the TDLR.~~

~~3. The Building Official shall have the authority to require registration with TDLR.~~

~~4. The Building Official shall require an asbestos survey as required by the Texas Asbestos Health Protection Act (Art. 4472-3a Vernon's Texas Civil Statutes).~~

~~(p) Chapter 10, Section 1004.1.2 of the IBC is amended to read as follows:~~

~~1004.1.2 Number by Table 1004.1.2. The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.2~~

~~Exception: The Building Official shall have the authority to assign occupancy load that is less than required by Table 1004.1.2.~~

~~(g) Chapter 9, Section 903.1 of the IBC shall be amended to read as follows:~~

~~903.1 General. Automatic sprinkler systems shall comply with this section.~~

~~Exception: Change of occupancy from any other occupancy other than R-3 will require compliance with this section.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-28. Reserved.~~

Editor's note ~~— Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-28 in its entirety, which pertained to building code fees, and derived from Ord. No. 2015-35, § 1, adopted July 13, 2015.~~

~~— For current provisions pertaining to building code fees, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-29. Contractors.~~

~~(a) General contractor-local registration shall expire on February 28th of each year. The term "general contractor" shall mean and include every person who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, under the IRC 2015 R101.2 Scope. The provisions of the IRC for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures except for the following:~~

- ~~(1) The term "general contractor-residential" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a licensed general contractor;~~
- ~~(2) The term "general contractor-residential" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
- ~~(3) The term "general contractor-residential" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing.~~

~~(b) General contractor-commercial shall be defined as IBC 2015 Section 101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.~~

- ~~(1) Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the IRC.~~
- ~~(2) General contractor commercial shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year except for the following:~~
 - ~~a. The term "general contractor-commercial" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;~~

- ~~b. The term "general contractor-commercial" shall not apply to the trade of electricians who are registered separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
- ~~c. The term "general contractor-commercial" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring registration.~~

~~(c) Contractor-limited defined; scope of work.~~

- ~~(1) The term "contractor-limited" or "limited contractor" shall mean a person who is not a general contractor and who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, except for the following:~~
 - ~~a. The term "limited contractor" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;~~
 - ~~b. The term "limited contractor" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
 - ~~c. The term "limited contractor" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing or permitting.~~
- ~~(2) A limited contractor is considered applicable to such trades as roofing, framing, paving, fencing, and other specialty crafts.~~
- ~~(d) Building permit required. No person, firm, corporation, or any other entity shall erect, construct, enlarge, alter, repair, modify, excavate, fill, or change any fence, sign, land, building, structure, or property in the city, nor cause such work to be done; nor shall any building or structure be moved, removed, converted, or demolished without first obtaining any necessary permit therefore from the building official and complying with all applicable requirements of the city.~~

~~In addition to a registered contractor, the designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. Or, the property owner may apply for the building permit. Such permit shall be issued only to a registered contractor or other person approved by the building official in accordance with this section who will construct the building.~~

~~(e) Owner doing own work; permits required; compliance with applicable laws and requirements.~~

- ~~(1) An owner of an existing single-family residence who permanently resides in that residence and who claims it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.~~
- ~~(2) A person who intends to build a single-family residence and permanently reside therein and claim it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered if approved by the building official. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.~~
- ~~(3) No single-family resident homeowner will be issued a permit under the provisions of this section involving any structural, electrical, or plumbing work unless the building official is satisfied that the applicant can competently and safely perform the work.~~

~~(f) Reserved.~~

- ~~(g) *Registration—Application generally.* Every person desiring to engage in the business of general or limited contractor in the city shall obtain a city registration authorizing him to engage in such business. Individuals desiring such registration shall make application with the building official on the form, which may be obtained from the office of the building department of the city. The building official may, at his discretion, issue one permit for the initial work of any otherwise approved structure pending approval of the appropriate general or limited contractor's registration. Only individuals shall be so registered, and the registration is not transferable.~~
- ~~(h) *Insurance required.* Before any person shall engage in the business of a general or limited contractor or be granted a registration to do so, he shall first provide the city proof of \$1,000,000.00 liability insurance for general contractor-commercial and \$300,000.00 for limited contractor and general contractor-residential.~~
- ~~(i) *Application for registration—Applicant who has had registration previously denied or revoked.* An applicant for a general or limited contractor's registration who has been denied a registration or had a registration revoked by this city or another entity for any building or related trade must disclose that information to the building official at the time of application. Any conviction for a misdemeanor or felony, other than traffic citations, must also be disclosed. Failure to disclose such information will result in automatic disapproval of the application. If the registration is issued and such failure to disclose is discovered later, the registration will be revoked. Any additional legal remedies may also be pursued by the building official. Upon disclosure at the time of registration application, the building official will make a thorough investigation and weigh carefully all details available prior to approving registration.~~
- ~~(j) *Fee.* Every applicant who shall make application for a general contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.~~
- ~~(k) *Issuance of registration.* A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (h).~~
- ~~(l) *Term of registration.* All registrations issued under the provisions of this article shall expire on December 31st, except the registrations identified under subsection (a).~~
- ~~(m) *Registration renewal; fee; requirements for renewal.* A registration holder may renew his general contractor's registration any time during the period within December 1 and 30 calendar days after the date of its expiration by paying an annual renewal fee of \$100.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 60 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.~~
- ~~(n) *Procedure for denial, revocation, or suspension of registration or right to obtain permits.* If the building official initiates a recommendation for denial, revocation, or suspension of a registration or of a right to obtain permits to work under an adopted code or ordinance of the city, the following procedure will apply:~~
- ~~(1) An applicant for registration or a registrant of the city shall have ten business days to request a review hearing to be held before the construction board of appeals as referenced in section 14-404. During the ten business day period a current registrant shall not be allowed to obtain permits. If the applicant for registration or a registrant fails to request a hearing within ten business days the recommendation of the building official shall become final. If a registrant requests a hearing, any denial, revocation or suspension of registration or right to obtain permits shall be stayed pending the decision of the board. The board shall by majority vote affirm or reject the building official's recommendation.~~
 - ~~(2) If the registrant is registered by the state, such as an electrical contractor, mechanical contractor or plumbing contractor, the process in subsection (1) of this section would apply.~~

~~Sec. 14-30. Requirements not covered by Code.~~

~~Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the building official. In addition, other requirements to implement, clarify or set procedures to accomplish the intent of this Code may be set in writing by the building official and may be posted electronically for public access.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-31. Construction work hours and/or noise.~~

- ~~(a) Construction work hours and/or noise means any construction or noise generated by construction activities, such as the operation of power equipment, machinery or tools, the use of air-powered or impact tools, hammers, saws, picks, shovels and other similar tools, and the loading, unloading, conveyance or assembly of construction materials, equipment, machinery or tools.~~
- ~~(b) It is unlawful for a person to start work and/or cause construction noise to be made between 9:00 p.m. and 6:00 a.m.~~
- ~~(c) It is unlawful for a person to whom a construction permit is issued by the city to cause or allow work to start and/or construction noise to be made in connection with the performance of work under the permit between 9:00 p.m. and 6:00 a.m.~~

~~Exceptions:~~

~~The building department understands that there may be times when work must occur outside of the permissible hours. If you have an emergency that includes any of the following, then the start work and/or noise regulations do not apply:~~

- ~~• Work made necessary to restore a property to a safe condition following a public calamity.~~
- ~~• Work to restore public utilities.~~
- ~~• Work required to protect persons or property from imminent exposure to danger.~~

~~There may be other situations that require work outside of permissible hours. For these situations, you must apply for a variance subject to approval by the building official. Application for variance must be in filed with the building department at least 48 hours in advance.~~

- ~~(d) A person who violates this section shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-32. Erosion control.~~

- ~~(a) Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Below-ground installations* means activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.~~

~~*Building official* means the building official for the City of New Braunfels or his designee.~~

~~*Construction activities* means construction activities that require a building permit.~~

~~*Erosion control plan* means a site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures and practices to be used to control erosion and sedimentation.~~

~~*Final approval* means completion of a project, site or building in accordance with city requirements and ordinances. In the case of a building, a certificate of occupancy is issued.~~

~~*Land disturbing activity* means any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind.~~

~~*Off-site borrow area* means a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.~~

~~*Off-site sedimentation* means deposit of soil material beyond the limits of the property undergoing land disturbing activity or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.~~

~~*Off-site spoil area* means an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.~~

~~*Permanent erosion control devices* means devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.~~

~~*Permanent ground cover* means permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.~~

~~*Phased occupancy* means use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by city.~~

~~*Related land area* includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.~~

~~*Responsible party* means a business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.~~

~~*Staging area* means an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.~~

~~*Stop work order* means the suspension of all city permits with no approvals or inspections of work for the site or project being performed.~~

~~*Temporary erosion control devices* means devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.~~

~~(b) *Building permit.* When land disturbing activities are conducted on a lot for which a building permit must be issued, the responsible party shall comply with the following:~~

~~(1) *Erosion control plan.* Prior to approval of a building permit for a lot by the city, the contractor or other responsible party obtaining the building permit shall submit an erosion control plan for approval by the city. No inspection may be performed on a project until a city-approved erosion control plan is implemented.~~

~~(2) *Stop work order/citation.* City shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan submitted for such site. If a responsible party fails to implement or maintain erosion control devices as specified in his approved erosion control plan, city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance. The responsible party shall have 24 hours to bring his erosion control devices into compliance with the approved erosion control plan for the site where the violation occurred. Correction shall include sediment clean up, erosion control device repair, erosion control device maintenance, and/or installation of additional erosion control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.~~

~~At the end of the 24-hour cure period, city shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, city may issue a stop work order and issue a citation for each violation of the city's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted there for and a re-inspection fee, as set by the building inspection department of the city, shall be paid.~~

~~(3) *Removal of erosion control devices.* Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.~~

~~(c) *Enforcement.*~~

~~(1) *Violations.* It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:~~

- ~~a. Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred.~~
- ~~b. Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred.~~
- ~~c. Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred.~~
- ~~d. Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.~~
- ~~e. Failing to repair damage to existing erosion control devices, including replacement of existing grass or sed.~~

~~(2) *Notice of violation.* Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan.~~

~~(3) *Class C misdemeanor.* Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.~~

~~(d) *Appeals.*~~

- (1) ~~*Appeal to building official.* Upon notice of noncompliance, a responsible party may appeal the city's decision to take deductions from his erosion control deposit pursuant to section 14-96 of this article, by filing a written appeal to the building official within seven days of city's written notice of its intent to make such deduction for costs as allowed herein. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority to take deductions under this article.~~
- (2) ~~*Standard for appeals.* When reviewing an appeal filed pursuant to this section, the building official shall evaluate all evidence submitted. The burden of proving that a violation of this article occurred shall be on the city. The city shall provide evidence sufficient to reasonably support a determination that the responsible party failed to comply with the requirements of this article as alleged by the city.~~
- (3) ~~*Issuance of opinion by director.* Decisions of the building official shall be issued within 20 days of city's receipt of the written appeal. Decisions of the building official shall be final.~~

GLOSSARY

- ~~BARREL—A pipe placed through a dam, levee or dike to control the release of water.~~
- ~~BMP—Best Management Practices. Consist of practices, procedures, and devices used to prevent or reduce pollutants, including sediment, from polluting the waters of the United States.~~
- ~~BORROW AREA—A source of earth fill material used in the construction of embankments or other earth fill structures.~~
- ~~CHANNEL—A natural stream or excavated ditch that conveys water.~~
- ~~CHANNELIZATION—Alteration of a stream channel by widening, deepening, straightening, or paving certain areas to improve flow characteristics.~~
- ~~CHECK DAM—A small, temporary dam constructed across a drainage ditch, swale or channel to lower the speed of concentrated flows and promote sediment deposition.~~
- ~~CONTOUR—An imaginary line on the surface of the earth connecting points of the same elevation.~~
- ~~CUT—Portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below the original ground surface to the excavated ground surface.~~
- ~~DAM—A barrier to confine or impound water or for the retention of soil, sediment or debris.~~
- ~~DESIGN STORM—A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.~~
- ~~DISCHARGE—Usually the rate of water flow commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.~~
- ~~DIVERSION—A channel with a supporting ridge on the lower side constructed at the top, across, or at the bottom of a slope for the purpose of controlling surface runoff.~~

- ~~DIVERSION DIKE—A barrier built to divert surface runoff.~~
- ~~DIVIDE, DRAINAGE—The boundary between watersheds.~~
- ~~DRAINAGEWAY—A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river or lake.~~
- ~~DROP INLET—Overall structure in which the water drops through a vertical riser connected to a discharge conduit or storm sewer.~~
- ~~EARTH DAM—Dam constructed of compacted suitable soil materials.~~
- ~~ENERGY DISSIPATOR—A device used to reduce the energy of flowing water to prevent erosion.~~
- ~~EPA—The Environmental Protection Agency. The federal agency responsible for administering the NPDES permit program.~~
- ~~ERODIBILITY—Susceptibility to erosion.~~
- ~~EROSION—The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.~~
- ~~EROSION CONTROL PLAN—A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of BMPs to be used to control erosion and sedimentation.~~
- ~~FILTER FABRIC—A woven or non-woven, water-permeable material generally made of synthetic products such as polypropylene and used in erosion and sediment control applications to trap sediment or prevent the movement of fine soil particles.~~
- ~~FLOOD PLAIN—The lowland that borders a stream and is subject to flooding when the stream overflows its banks.~~
- ~~GABION—A wire mesh cage, usually rectangular, filled with rock and used to protect channel banks and other sloping areas from erosion.~~
- ~~GEOTEXTILES—See filter fabric.~~
- ~~GRADE STABILIZATION STRUCTURE—A structure for the purpose of stabilizing the grade of a gully or other watercourse, thereby preventing further erosion or lowering of the channel bottom.~~
- ~~GRADING—The cutting and/or filling of the land surface to a desired slope or elevation.~~

- ~~GRASSED WATERWAY~~—A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses and used to safely conduct surface water from an area.
- ~~GROUND COVER~~—Low growing, spreading plants (grasses or legumes) useful for low-maintenance landscape areas.
- ~~INVERT~~—The inside bottom of a culvert or other conduit.
- ~~LEGUME~~—Any member of the pea or pulse family which includes peas, beans, peanuts, clovers, alfalfa, sweet clovers, lespedezas, vetches, black locust, and kudzu.
- ~~NPDES~~—National Pollutant Discharge Elimination System. A federal program that requires a permit for storm water discharges to the waters of the U.S.
- ~~OUTLET PROTECTION~~—Stone, rip-rap, concrete or asphalt aprons installed to reduce the speed of concentrated storm water flows, thereby reducing erosion and scouring at storm water outlets.
- ~~RAINFALL INTENSITY~~—The rate at which rain is falling at any given instant, usually expressed in inches per hour.
- ~~RATIONAL METHOD~~—A means of computing storm drainage flow rates by use of the formula $Q = CiA$, where C is a coefficient describing the physical drainage area, i is the rainfall intensity, and A is the drainage area.
- ~~RECEIVING STREAM~~—The body of water into which runoff or effluent is discharged.
- ~~RILL~~—A small intermittent watercourse with steep sides, usually only a few inches deep, normally caused by erosion.
- ~~RISER~~—A vertical pipe or structure extending from the barrel, storm sewer or bottom of a pond BMP that is used to convey the discharge from the pond or drainage area.
- ~~RUNOFF~~—That portion of precipitation that flows from a drainage area on the land surface, in open channels or in storm water conveyance systems.
- ~~SCOUR~~—The clearing and digging action of flowing water, especially the downward erosion caused by stream water in sweeping away mud and silt from the stream bed.
- ~~SEDIMENT~~—Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice.
- ~~SEDIMENT BASIN~~—A settling pond with a controlled storm water release structure used to collect and store sediment produced by land disturbing activities. The basin detains sediment-laden runoff from larger drainage areas long enough to allow most of the sediment to settle out.

- ~~SEDIMENT POOL—The reservoir space allocated for the accumulation of sediment in a sedimentation control device.~~
- ~~SEDIMENT TRAP—A settling basin with a filter outlet designed to retain runoff long enough to allow most of the silt to settle out.~~
- ~~SEDIMENTATION—The deposition of suspended soil particles that have settled out from storm water runoff.~~
- ~~SHEETFLOW—Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel or a rill.~~
- ~~SILT—Parts of the soil structure consisting of particles between 0.002 and 0.05 mm in diameter.~~
- ~~SLOPE—Degree of deviation of a surface from the horizontal. Slope is measured and is shown as a numerical ratio or percent.~~
- ~~SOIL—The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.~~
- ~~STABILIZATION—The proper placing, grading and/or covering of soil, rock or earth to ensure its resistance to erosion, sliding, or other movement. Also see Vegetative Stabilization.~~
- ~~STORM FREQUENCY—The time interval between major storms of predetermined intensity and volumes of runoff (e.g. ten year or 100 year storm).~~
- ~~STORM SEWER (DRAIN)—A sewer that carries storm water, surface drainage, street wash and other wash waters, but excludes sewage and industrial wastes. Also called a storm drain.~~
- ~~STORM WATER—Runoff from a rain event or snow melt runoff. Also called surface runoff.~~
- ~~SWALE—An elongated, gentle depression in the land surface that conveys storm water into primary drainage channels. Swales are normally without flowing or standing water.~~
- ~~SWPPP—Storm Water Pollution Prevention Plan. A document that is a part of the NPDES permit application and consists of the site erosion control plan, waste management plan, and site narrative as required by the EPA.~~
- ~~TEMPORARY SEEDING—The growing of short term (less than 1 year) vegetation on disturbed areas to prevent erosion.~~
- ~~TOE OF SLOPE—The base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.~~

- ~~TOPOGRAPHY—A general term that includes the physical features of a surface area including relative elevations and the position of natural and man-made features.~~
- ~~VEGETATIVE STABILIZATION—Protection of erodible areas with temporary seeding, permanent seeding, or sodding.~~
- ~~WATERSHED—The region drained by or contributing water to a stream, lake, or other body of water.~~

(Ord. No. 2015-35, § I, 7-13-15)

~~Sec. 14-33. Irrigation systems.~~

- (a) ~~Scope. This appendix [section] applies to the installation, alteration, repairs, relocation, replacement, addition to, use, or maintenance of irrigation systems within the city. This appendix [section] regulates the installation of backflow prevention devices, control valves, automatic irrigation controllers, control wiring, and water conservation required for the proper design, installation, and operation of irrigation systems. All irrigation systems must comply with the provisions of this appendix [section] and with Title 30, Texas Administrative Code, Chapter 344.~~
- (b) ~~Purpose. The purpose of this appendix [section] is to require all irrigation systems to be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation.~~
- (c) ~~Definitions. The following words and terms shall have the meanings shown herein.~~

~~Design means the act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.~~

~~Design pressure means the pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.~~

~~Emission device means any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads and drip irrigation emitters.~~

~~Employed means engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, Title 26, United States Code Service, Section 3312(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.~~

~~Head-to-head spacing means the spacing of spray or rotary sprinkler heads equal to the manufacturer's published radius of the head.~~

~~Hydraulics means the science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.~~

~~Inspector means a licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.~~

~~*Installer* means a person who connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation inspector* means a person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation plan* means a scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.~~

~~*Irrigation services* means selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.~~

~~*Irrigation system* means an assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by V.T.C.A., Agricultural Code § 251.002.~~

~~*Irrigation technician* means a person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation zone* means a subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope), and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.~~

~~*Irrigator* means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system, or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigator-in-charge* means the irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to, obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.~~

~~*Landscape irrigation* means the science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.~~

~~*License* means an occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30, to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.~~

~~*Mainline* means a pipe within an irrigation system that delivers water from the water source to the individual zone valves.~~

~~*Maintenance checklist* means a document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to, checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.~~

~~*Major maintenance, alteration, repair, or service* means any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control~~

~~valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.~~

~~Master valve means a remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.~~

~~Matched precipitation rate means the condition in which all sprinkler heads within an irrigation zone apply water at the same rate.~~

~~Pass-through contract means a written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.~~

~~Reclaimed water means domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.~~

~~Records of landscape irrigation activities means the irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.~~

~~Static water pressure means the pressure of water when it is not moving.~~

~~Supervision means the on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair, or service an irrigation system.~~

~~Water conservation means the design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.~~

~~Zone flow means a measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.~~

~~Zone valve means an automatic valve that controls a single zone of a landscape irrigation system.~~

~~(d) License. Any person who connects an irrigation system to the water supply in the city must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30, and V.T.C.A., Occupations Code ch. 1903, or as defined by Title 22 of the Texas Administrative Code, Chapter 365, and required by V.T.C.A., Occupations Code ch. 1301.~~

~~Exemption: A homeowner is not required to be licensed in accordance with V.T.C.A., Occupations Code tit. 12, § 1903.002(c)(1) if the homeowner is performing irrigation work in a building or on a premises owned and occupied by the homeowner as the homeowner's homestead. A homeowner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344, regarding spacing, water pressure, spraying water over impervious materials, rain and freeze sensors, backflow prevention and isolation valves.~~

~~(e) Permit. Any person or homeowner installing an irrigation system in the city is required to obtain a permit from the city. Any plan approved for a permit must be in compliance with the requirements of this appendix [section].~~

~~Exemptions:~~

~~(1) An irrigation system that is an on-site sewage disposal system, as defined by V.T.C.A., Health and Safety Code § 355.002; or~~

~~(2) An irrigation system used on or by an agricultural operation as defined by V.T.C.A., Agriculture Code § 251.002; or~~

~~(3) An irrigation system connected to a groundwater well used by the property owner for domestic use.~~

~~(f) Backflow prevention methods and devices.~~

~~(1) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by: the American Society of Sanitary Engineers; the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; the International Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.~~

~~(2) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:~~

~~a. An air gap may be used if:~~

- ~~1. There is an unobstructed physical separation; and~~
- ~~2. The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.~~

~~b. Reduced pressure principle backflow prevention assemblies may be used if:~~

- ~~1. The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and~~
- ~~2. Drainage is provided for any water that may be discharged through the assembly relief valve.~~

~~c. Pressure vacuum breakers may be used if:~~

- ~~1. No back-pressure condition will occur; and~~
- ~~2. The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.~~

~~d. Atmospheric vacuum breakers may be used if:~~

- ~~1. No back-pressure will be present;~~
- ~~2. There are no shutoff valves downstream from the atmospheric vacuum breaker;~~
- ~~3. The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;~~
- ~~4. There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and~~
- ~~5. A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve between the valve and all the emission devices that the valve controls.~~

~~(3) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.~~

~~(4) If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.~~

- (5) ~~If a double check valve is installed below ground:~~
- a. ~~Test cocks must be plugged, except when the double check valve is being tested;~~
 - b. ~~Test cock plugs must be threaded, water-tight, and made of non-ferrous material;~~
 - c. ~~A y-type strainer is installed on the inlet side of the double check valve;~~
 - d. ~~There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and~~
 - e. ~~There must be space on the side of the double check valve to test and repair the double check valve.~~
- (6) ~~If an existing irrigation system without a backflow prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.~~
- (7) ~~If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.~~
- (8) ~~The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.~~
- (g) ~~Specific conditions and cross-connection control.~~
- (1) ~~Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.~~
 - (2) ~~Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.~~
 - (3) ~~Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.~~
 - (4) ~~If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:~~
 - a. ~~All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);~~
 - b. ~~Any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and~~
 - c. ~~Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.~~
- (h) ~~Irrigation plan design: Minimum standards.~~
- (1) ~~An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times~~

~~during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:~~

- ~~a. Diminish the operational integrity of the irrigation system;~~
- ~~b. Violate any requirements of this appendix [section]; and~~
- ~~c. Go unnoted in red on the irrigation plan.~~

~~(2) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.~~

~~(3) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:~~

- ~~a. The irrigator's seal, signature, and date of signing;~~
- ~~b. All major physical features and the boundaries of the areas to be watered;~~
- ~~c. A North arrow;~~
- ~~d. A legend;~~
- ~~e. The zone flow measurement for each zone;~~
- ~~f. Location and type of each:

 - ~~1. Controller; and~~
 - ~~2. Sensor (i.e., rain and freeze);~~~~
- ~~g. Location, type, and size of each:

 - ~~1. Water source, including, but not limited to, a water meter and point(s) of connection;~~
 - ~~2. Backflow prevention device;~~
 - ~~3. Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;~~
 - ~~4. Valve, including but not limited to, zone valves, master valves, and isolation valves;~~
 - ~~5. Pressure regulation component; and~~
 - ~~6. Main line and lateral piping.~~~~
- ~~h. The scale used; and~~
- ~~i. The design pressure.~~

~~(i) Design and installation: Minimum requirements.~~

~~(1) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.~~

~~(2) Spacing.~~

- ~~a. The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.~~
- ~~b. New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system,~~

~~the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, including, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.~~

- ~~c. Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.~~
- ~~(3) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.~~
- ~~(4) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.~~
- ~~(5) Irrigation zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.~~
- ~~(6) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.~~
- ~~(7) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.~~
- ~~(8) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.~~
- ~~(9) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a purple primer prior to applying the PVC cement in accordance with the International Plumbing Code, Section 605.~~
- ~~(10) Rain and freeze sensors.~~
 - ~~a. Any commercial, industrial, multi-family, or residential customer class irrigation system installed within the city on or after January 1, 2009, must be equipped with rain and freeze sensors.~~
 - ~~b. Any commercial, industrial, or multi-family customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2010, without being equipped with rain and freeze sensors.~~
 - ~~c. Any residential customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2011, without being equipped with rain and freeze sensors. If a person repairs or replaces more than 50 percent of a residential customer class irrigation system before January 1, 2011, then such irrigation system must be equipped with rain and freeze sensors.~~
 - ~~d. Any rain and freeze sensor shall be installed according to the manufacturer's published recommendation and shall be from a list approved by the building official.~~
 - ~~e. Repairs to existing automatic irrigation systems that require replacement of an existing controller shall include a rain and freeze sensor designed to inhibit or interrupt operation of the irrigation system during periods of freezing temperatures and rainfall.~~
- ~~(11) Isolation valve. All new irrigation systems must include a lockable isolation valve between the water meter and the backflow prevention device.~~
- ~~(12) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.~~
 - ~~a. If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill,~~

~~between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.~~

- ~~b. If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.~~
- ~~c. All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.~~

~~(13) Wiring irrigation systems.~~

- ~~a. Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.~~
- ~~b. Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.~~
- ~~c. Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.~~
- ~~d. Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.~~

~~(14) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, including, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box, and the hose bib and any hoses connected to the bib must be labeled "non-potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.~~

~~(15) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.~~

~~(j) Completion of irrigation system installation. Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:~~

- ~~(1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system.~~
- ~~(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include, but are not limited to:~~
 - ~~a. The manufacturer's manual for the automatic controller, if the system is automatic;~~

- ~~b. A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;~~
- ~~c. A list of components, such as the nozzle, pump filters, and other such components, that require maintenance and the recommended frequency for the service; and~~
- ~~d. The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."~~
- ~~(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink.~~
- ~~(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.~~
- ~~(k) Maintenance, alteration, repair, or service of irrigation systems.~~
 - ~~(1) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.~~
 - ~~(2) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.~~
 - ~~(3) Purple PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the International Plumbing Code, Section 605.~~
 - ~~(4) When maintenance, alteration, repair, or service of an irrigation system involves excavation work at the water meter or backflow prevention device, a lockable isolation valve shall be installed, if an isolation valve is not present.~~
- ~~(l) Reclaimed water. Reclaimed water may be utilized in landscape irrigation systems if:~~
 - ~~(1) There is no direct contact with edible crops, unless the crop is pasteurized before consumption;~~
 - ~~(2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;~~
 - ~~(3) The irrigation system is installed using purple components;~~
 - ~~(4) The domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i);~~
 - ~~(5) A minimum of an eight-inch by eight-inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER — DO NOT DRINK" and "AGUA DE RECUPERACION — NO BEBER"; and~~
 - ~~(6) Backflow prevention on the reclaimed water supply line shall be in accordance with city ordinances.~~
- ~~(m) Lawn and landscape irrigation restrictions.~~

- ~~(1) A person commits an offense if the person knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased, or managed by the person in a manner that causes:~~
- ~~a. A substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area; or~~
 - ~~b. An irrigation system or other lawn or landscape watering device to operate during any form of precipitation.~~
- ~~(2) A person commits an offense if, on premises owned, leased, or managed by that person, the person operates an irrigation system or other lawn or landscape watering device that:~~
- ~~a. Has any broken or missing sprinkler head; or~~
 - ~~b. Has not been properly maintained in a manner that prevents the waste of water.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-34—14-50. Reserved.~~

~~ARTICLE III.—ELECTRICAL CODE^[2]~~

Footnotes:

~~—(2)—~~

~~**Cross reference**—Businesses, ch. 18.~~

~~Sec. 14-51.—Electrical code.~~

~~The National Electrical Code 2014 is hereby adopted as the electrical code of the city, except:~~

- ~~(1) Section 80-35, Effective Date, is not adopted.~~
- ~~(2) Section 80.15, Electrical Board of the National Electrical Code, is deleted.~~
- ~~(3) That paragraph 80.23(B)(3) of the 2014 National Electrical Code is deleted.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-52.—Scope of article.~~

~~The provisions of this article shall apply to all electrical wiring and equipment installed, used or maintained in the city, except the electrical work, wiring or equipment used in the generation, distribution and rendition of service to the public which is installed by or for and owned or maintained by a public utility, telephone, telegraph or district messenger company permitted to operate in the city, and the registration fees and liability insurance provided for in this article shall not apply to such companies and their employees in the performance of such work, but the wiring and installations for light, heat and power equipment of such companies which are installed for their own use as office, warehouse or repair facilities shall be done under permit according to the requirements of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-53. Maintenance.~~

- ~~(a) The electrical service and wiring of all buildings and structures, both existing and new, shall be maintained in a safe and operating condition unless electrical service is completely removed from such building or structure.~~
- ~~(b) Electrical wiring for which the owner no longer has use, need or desire for and therefore disconnects from its electrical source shall be completely removed from the building or structure unless electrical service to such structure is completely removed.~~
- ~~(c) The owner, or his designated agent, shall be responsible for the electrical maintenance of buildings or structures.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-54. Administration and enforcement generally.~~

~~The building official is designated as the city officer responsible for enforcing the requirements of this article and is the administrative authority. He and/or members of his department shall serve as electrical inspectors when enforcing the provisions of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-55. Conflicts of interest; restrictions on providing initial electrical service.~~

- ~~(a) No person employed by the building department of this city shall be financially interested in the furnishing of labor, material or appliances for use in any manner in the electrical installation of a building or structure unless such person is otherwise eligible under the property and homeowner exception as set forth in section 14-62.~~
- ~~(b) Utility providers shall not provide initial electrical service to any building or structure unless such utility has been furnished a certificate of occupancy or release as required by the city for such building or structure that corresponds to the intended use of the building. Temporary electrical service may be provided to such building or structure for a period not exceeding 180 days after the utility provider has been furnished a certificate of inspection or temporary certificate of occupancy. When temporary service has been provided for the purpose of construction, the period of service may be extended by the building official. Each of the certificates referred to in this section will be issued as appropriate by the building official upon completion of the required inspections.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-56. Electrical inspector, powers and duties.~~

- ~~(a) *Right of entry.* The building official and/or his department and personnel when serving as electrical inspectors in enforcement of this article may enter any building, structure, portion thereof, or premises during reasonable hours to perform any duty imposed upon him by this article.~~
- ~~(b) *Issuance of permits; supervision of work.* The building official shall cause to be issued for each job requiring any type of electrical work a permit, shall see that the fees (see section 14-66) set out in this article are properly paid, and that all work done under such permits are accomplished in accordance with this article under the direct supervision of persons registered under the provisions of this article.~~
- ~~(c) *Stop work orders.* Upon notice from the building official that electrical work on any building or structure is being done contrary to the provisions of this article or in a dangerous or unsafe manner,~~

~~such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the stop work order shall be given verbally with written notice following within two working days.~~

- ~~(d) *Revocation of permits.* The building official may revoke a permit or approval issued under the provisions of this article if there has been any false statement, misunderstanding or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.~~
- ~~(e) *Electrically unsafe buildings.* All buildings or structures which in the opinion of the electrical inspector are electrically unsafe so as to create a hazard to life or constitute a fire hazard or are otherwise dangerous to life or property are hereby declared illegal and shall have the electrical power removed or disconnected and then shall be abated by repair, rehabilitation or demolition in accordance with condemnation procedures as established by the codes as adopted by this city.~~
- ~~(f) *Requirements not covered by this article.* Any requirement necessary for the electrical safety to life and property not specifically covered by this article shall be determined by the building official subject to appeal to the electrical appeals board.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-57. Electrical contractor registration.~~

~~It shall be unlawful for any corporation, partnership, association, or individual to engage in the business of installing, altering or changing of any electrical wiring and apparatus within any building in the city that does not have a valid, unexpired electrical contractor's registration from the city. The registration must be issued in the name of the individual who met the requirements of this article. Nothing contained in this article shall be construed to prevent a property owner from doing electrical work in a building owned by him to be occupied by him as a dwelling or home of a two-family dwelling or single-family dwelling type; provided, that the property owner must actually perform the work and that no person other than the actual owner shall do any part of the work unless such persons possess a electrical contractor's registration in full compliance with all provisions of this article, and further provided, that all work performed and material used meets the requirements of this article and the city electrical inspector's approval.~~

- ~~(1) An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.~~
- ~~(2) Electrical contractor's registration. The applicant must show proof of state registration~~
- ~~(3) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, conditioned that the person engaged in the electrical business will faithfully observe all the laws pertaining to electric installation and maintenance, and further, that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the electric business, or by any other unfaithful or inadequate work done either by the person or his agents or employees.~~
- ~~(4) Upon acceptance of the proof of insurance required under subsection (3) of this section by the city, the individual, firm or corporation desiring to do such work shall secure from the building division of the city an electrical contractor's registration, which shall not be transferable. In the event of the dissolution of any company or partnership holding such registration, the member in whose name the registration was issued and who retains such registration shall be required to renew the certificate of insurance provided for in this section before doing any such work~~

~~provided for in this article. The person obtaining an electrical contractor's registration shall pay to the city the sum of \$200.00 for the first year and \$75.00 as an annual renewal fee for such registration. Every registered electrical contractor shall have his city registration in his possession when performing or supervising electrical work.~~

- ~~(5) Master electrician's registration. The applicant must show proof of state registration. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.~~
- ~~(6) Journeyman electrician's registration. The applicant must show proof of state registration. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.~~
- ~~(7) Wireman electrician's registration. The applicant must show proof of state registration. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single family and duplex residences only.~~
- ~~(8) Maintenance electrician's registration. The applicant must show proof of state registration. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.~~
- ~~(9) Sign electrician's registration. The applicant must show proof of state registration. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.~~
- ~~(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.~~
- ~~(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.~~
- ~~(12) Any holder of an expired registration issued under the provisions of this article may renew such registration within 30 days of its expiration by paying the annual renewal fee for such~~

~~registration. A holder of a registration issued under the provisions of this article, which has expired in excess of 30 days, shall be considered as a new applicant.~~

- ~~(13) Any person who has applied for an electrician's registration and who has been refused such registration by the administrative authority of this article may apply to the construction board of appeals for a full hearing.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

Editor's note—~~Ord. No. 2018-21, § 5, adopted March 26, 2018, changed the title of section 14-57 from "Registration and bond generally" to "Electrical contractor registration."~~

~~Sec. 14-58. Reserved.~~

~~Sec. 14-59. Work standards.~~

~~(a) *New residential construction.* New residential construction shall be electrically wired to conform to the National Electrical Code, currently adopted edition.~~

~~(b) *New commercial construction.* Electrical conductors shall be installed in conduit and will meet the requirements of the National Electrical Code, currently adopted edition.~~

~~*Exception:* Any multi-family construction three stories or less shall not apply but shall meet the requirements of the National Electrical Code, currently adopted edition.~~

~~(c) *Existing buildings.*~~

~~(1) If an existing unsafe condition is discovered by the electrical inspector that, in the opinion of the inspector, requires immediate correction, he will issue verbal and written instructions to the property owner requiring such corrections as needed and/or proceed in accordance with subsection 14-56(c).~~

~~(2) If an existing building is condemned for any reason under the provisions of the adopted building code, the electrical wiring within that building and/or premises shall be required to be upgraded to new construction standards before electrical power is restored.~~

~~(3) Should the electrical meter loop be judged inadequate or substandard by the utility company providing electrical service and the building official agrees that meter loop shall be required to be updated to the utility connection policy standards. Electrical power once severed will only be reestablished when that meter loop installation meets city standards.~~

~~(d) *Reference standards for construction.*~~

~~(1) Meter loop installation must comply with city utility connection policy.~~

~~(2) No residential branch circuit shall have more than ten outlets.~~

~~(3) Equipment ground shall be installed in all conduit and cable systems.~~

~~(4) In any R or I type occupancy, any room constructed with a door, closet, window and can be utilized as a sleeping area shall be classified as a bedroom.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-60. Reserved.~~

~~Sec. 14-61. Permits, fees and inspections.~~

- ~~(a) The holder of an electrical contractor's registration issued by this city desiring to perform or have his employees perform any electrical installation, repair or alteration or extension of any existing electrical system shall apply to the building department for a permit to perform such work.~~
- ~~(b) The holder of an electrical contractor's registration may designate in writing to the building official one employee whom he authorizes to sign a permit application in his place. Such authorization shall in no way alter or relieve the master electrician from any responsibility or legal liability of complying with this article nor from the responsibility for safe and satisfactory performance of any such work done under authority of a permit signed by such employee.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-62. Violations; record of permits and inspections; penalty.~~

- ~~(a) No corporation, partnership, association or individual shall cause or allow any electric wiring or apparatus to be installed, altered or changed in any building within the city unless the corporation, partnership, association or individual doing all of such work has been registered under the provisions of this article and has received a permit or authority under the provisions of this article to do that particular electric wiring and apparatus work.~~
- ~~(b) No corporation, copartnership, association or individual or agent thereof shall interfere with the electrical inspector or any persons deputized to assist him as provided in this article when in the performance of duty, and each such interference shall be deemed to constitute a separate offense within the intent and meaning of this article.~~
- ~~(c) The building official shall cause to be kept a record of permits issued, inspections made, or other official work performed as required by this article.~~
- ~~(d) In case of a violation of any of the terms or provisions of this article by any person, corporation or firm, the officers and agents actively in charge of the business of such corporation or firm or the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this Code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-63. Savings clause.~~

~~The terms of this article shall not be construed to operate against or upon any contract or contracts for the installation, alteration or changes in electrical wiring or apparatus which may have been entered into under the existing ordinances, if the performance of the work under such contract or contracts has been undertaken and is unfinished at the time of the taking effect of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-64 — 14-90. Reserved.~~

Editor's note—Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-64 in its entirety, which pertained to electrical fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.

—For current provisions pertaining to electrical fees, the user's attention is directed to appendix D of this Code.

ARTICLE IV. PLUMBING CODE^[2]

Footnotes:

~~—(3)—~~

Cross reference— ~~Businesses, ch. 18; health and sanitation, ch. 62; wastewater from tourist courts, § 62-232; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water service, § 130-121 et seq.; sewer service, § 130-231 et seq.~~

State Law reference— ~~Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.~~

~~Sec. 14-91. Plumbing code.~~

~~(a) The International Plumbing Code 2015 is hereby adopted as the plumbing code of the city except as stated in the following:~~

~~(b) (1) Section 410.1: Drinking Fountains. Delete the last sentence and replace with the following:~~

~~Deleted Sentence:~~

~~"In other occupancies, where drinking fountains are required, water coolers or bottled water dispensers shall be permitted to be substituted for not more than 50 percent of the required drinking fountains."~~

~~Replacement:~~

~~"In other occupancies, where drinking fountains are required, bottle water dispensers or water coolers shall be permitted as a substitution; in occupancies with an occupant load of not more than 15 and mercantile occupancies with an occupant load of not more than 30."~~

~~(2) Appendix A, Fee Schedule, paragraph 106.6 Fees, Section 109 Means of Appeal, paragraph 108.4 Violation penalties are not adopted.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-92. Registration and insurance; quality of work.~~

~~(a) *Registration and insurance required.* Before any person shall engage in the plumbing business, he shall be registered with the building official and otherwise qualified as set forth in this section and as provided by state law. Where any plumbing work is being done, a registered master or journeyman plumber shall at all times be present on the job and in direct control and in charge of the work being done.~~

~~(b) *Revocation of license.* Although licensed by the state board of plumbing examiners, the building official may, after a hearing as provided in this section, revoke the city plumbing registration to the extent that such person is no longer authorized to perform plumbing work or receive plumbing permits in the city. Such registration revocation may be reported to the state board of plumbing examiners along with the grounds for such registration revocation.~~

~~(c) *Quality of work.* Any person engaged in the plumbing business whose work does not conform to the rules and regulations set out in this article, or whose workmanship or materials are of inferior quality, shall on notice from the building official make necessary changes or corrections at once so as to conform to this article. If work has not been so changed after ten days' notice from the building official, the building official may then refuse to issue any more permits to such person until such work has fully complied with the rules and regulations of this article. The building official may revoke or suspend city registration because of continuous violations. When the revocation or suspension of any such registration is to be considered at any meeting, the person to whom the registration has~~

~~been issued shall have at least three days' notice in writing of the time and place of such meeting, together with a statement of the grounds upon which it is proposed to revoke such registration.~~

- ~~(d) *Insurance certificate required.* Before any person shall engage in the business of plumbing, he shall first obtain the proper registration, and deposit with the city good and sufficient proof of a certificate of insurance in the amount of \$300,000.00 with the certificate holder being the city.~~
- ~~(e) *Allowing one's name, license or bond to be used to obtain permit fraudulently.* No person engaged in the business of plumbing shall allow his name to be used by any other person, directly or indirectly, to obtain a permit, or for the construction of any work under his name, registration or insurance; nor shall such person make any misrepresentations or omissions in his returns.~~
- ~~(f) *Hearings.* Any person who has applied for a plumber's registration and who has been refused such registration by the building official may apply to the construction board of appeals for a full hearing.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

Cross reference—~~Businesses, ch. 18.~~

State Law reference—~~Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.~~

~~Secs. 14-93—14-95.—Reserved.~~

Editor's note—~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-94 in its entirety, which pertained to plumbing fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.~~

~~—For current provisions pertaining to plumbing fees, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-96.—Violations and penalties.~~

- ~~(a) Any person or agent who shall violate a provision of this article or fail to comply therewith or with any of the provisions thereof, or violate a detail, statement or plan submitted and approved there under, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction in the court of jurisdiction for any such violation, such person shall be punished by a fine of not more than \$2,000.00.~~
- ~~(b) The building official shall have the authority to require, where work for which a permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be \$200.00 or double the original permit fee per occurrence as determined by the building official, but the payment of such fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed herein.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Secs. 14-97—14-115.—Reserved.~~

~~ARTICLE V.—MECHANICAL CODE~~

~~Sec. 14-116.—Mechanical code.~~

- ~~(a) The International Mechanical Code 2015 and all its appendices are hereby adopted as the Mechanical Code of the city, except as stated in the following:~~
- ~~(b) Appendix B, Recommended Permit Fee Schedule, paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-117. Administration and enforcement generally.~~

~~The building official is designated as the city officer responsible for enforcing the requirements of this code and is the administrative authority. He and/or members of his department shall serve as mechanical inspectors when enforcing the provisions of this code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-118. Registered and liability insured personnel to perform work.~~

- ~~(a) Any person doing any work within the scope of this code shall be registered as an air conditioning contractor by the state department of labor and standards, boiler division.~~
- ~~(b) Before any state registered air conditioning contractor may secure a mechanical permit from the city, he shall deposit with the city a good and sufficient liability insurance in the amount of \$2,000.00 conditioned that the contractor will faithfully observe all laws pertaining to air conditioning contractors and further that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence or other failure of such person engaged in the business of a general contractor.~~
- ~~(c) An annual registration fee of \$100.00 shall be paid to the city by mechanical contractors and must show proof of licensing by the state department of licensing and regulations. Every registered mechanical contractor shall have his license in his possession when performing or supervising mechanical work and shall have his company name and license number affixed to each company vehicle.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-119—14-140. Reserved.~~

Editor's note—Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-120 in its entirety, which pertained to mechanical fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.

—For current provisions pertaining to mechanical fees, the user's attention is directed to appendix D of this Code.

ARTICLE VI. LIQUEFIED PETROLEUM GAS CODE⁽⁴⁾

Footnotes:

—(4)—

Cross reference—~~Fire prevention and protection, ch. 54; streets, sidewalks and other public places, ch. 114; utilities, ch. 130.~~

State Law reference—~~Liquefied petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq. Sec. 14-141.— Short title.~~

~~This article shall be known as the "Liquefied Petroleum Gas Code" of the city, and may be cited as such.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-142.— Definitions.~~

~~The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:~~

~~*Certain appliances* means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.~~

~~*Certificate of approval* means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signature of the inspector.~~

~~*Inspector* means the building official of the city.~~

~~*Liquefied petroleum gas company* means any person distributing liquefied petroleum gas within the corporation limits of the city, or authorized and proposing to so engage.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

Cross reference—~~Definitions generally, § 1-2.~~

State Law reference—~~Definitions, V.T.C.A., Natural Resources Code § 113.002.~~

~~Sec. 14-143.— Compliance with article and other applicable regulations; Liquefied Petroleum Gas Docket No. 1 adopted.~~

~~All liquefied petroleum gas bulk storage facilities, wholesale and retail distribution facilities and consumer system piping and appliances installed, replaced, maintained, or repaired within the corporate limits of the city shall conform to the requirements of this article, the specifications, rules and regulations entitled "Liquefied Petroleum Gas Docket No. 1, Railroad Commission of Texas, L.P. Gas Division, September, 2001 Revision," the Standard Fire Prevention Code, chapter 54 of this Code of Ordinances, the zoning ordinance of the city, and all other applicable ordinances. The September 2001 revision of the Liquefied Petroleum Gas Docket No. 1 is hereby adopted by the city, incorporated by reference in this article and made a part of this article as fully as if set out at length herein, and copies of these regulations shall be kept on file in the office of the building official.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-144.— Conflicts between article and Liquefied Petroleum Gas Docket No. 1.~~

~~In the event of any conflict between this article and the Liquefied Petroleum Gas Docket No. 1, as adopted in section 14-143, the most restrictive requirements shall prevail.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-145.— Permit not to issue for new construction, additions, unless applicable ordinances are complied with.~~

~~No permit shall be issued for new construction unless such construction will be in compliance with all applicable ordinances. No permit shall be issued for an addition to an existing facility unless such existing facility and the addition thereto are in compliance with all applicable ordinances or unless such addition is required to make the existing facility comply with all applicable ordinances.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-146.— Conversion to liquefied petroleum gas.~~

~~Unless stated otherwise in this article, consumer's piping installed prior to April 9, 1973, or piping installed to supply natural gas may be converted to liquefied petroleum gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-147.— Liability insurance and registration required; exception.~~

- ~~(a) No person other than a single family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety liability insurance acceptable to the building official in the amount of \$2,000.00, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter, so as to be in effect at all times the individual is registered. Until proof of registration and liability insurance is accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.~~
- ~~(b) Nothing contained in this article shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a registration or liability insurance from an individual doing such work on his own premises; provided, however, that all such work must be done in conformity with all other provisions of this article, including those relating to permits, inspection, and fees, as long as the individual performing the work is the single-family homeowner working on his own permanent homestead residence.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

State Law reference—Licensing, V.T.C.A., Natural Resources Code § 113.081 et seq.

~~Sec. 14-148.— Administration and enforcement of article.~~

~~The building official of the city shall have the responsibility for the administration and enforcement of this article, and such official shall have all of the responsibilities of the office of gas inspector called for in this article and the specifications, rules and regulations adopted by this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

State Law reference—~~Administrative provisions, V.T.C.A., Natural Resources Code § 113.011 et seq.~~

~~Sec. 14-149.—City's right of entry; authority of inspector to disconnect piping; notice of disconnection; duty of inspector to confer with various departments and agencies.~~

- ~~(a) The inspector is authorized and directed to enforce all of the provisions of this article, and the inspector, upon presentation of proper credentials, may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of this article.~~
- ~~(b) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to such piping, fixture or appliance, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that such piping, fixture or appliance has been disconnected by the inspector, together with the reason therefor, and it shall be unlawful for any person to remove such notice or reconnect such gas piping, fixture or appliance without authorization by the inspector, and such gas piping, fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.~~
- ~~(c) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the liquefied petroleum gas division, state railroad commission, and otherwise obtain from proper sources all helpful information and advice, presenting such information to the appropriate officials from time to time for their consideration.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-150.—Permit required; exception.~~

- ~~(a) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the permit clerk of the city building official's office.~~
- ~~(b) The liquefied petroleum gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, or other facilities, or for work having to do with its own gas system.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-151.—Piping inspection.~~

- ~~(a) *Rough piping inspection.* A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.~~
- ~~(b) *Final piping inspection.* A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed, by plastering or otherwise, have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches in height, and the~~

~~piping shall hold this air pressure for a period of at least ten minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the tests shall be furnished by the installer of such piping.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-152. Issuance of certificate of approval.~~

~~The inspector may issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of this article. A duplicate of each certificate issued covering consumer's gas piping may be delivered to the liquefied petroleum gas company and used as its authority to render gas service.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-153. Inspection fees.~~

~~Inspection fees and reinspection fees shall be as outlined in appendix D of this Code.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-154. Violation declared misdemeanor.~~

~~Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-155. Nonliability of city.~~

~~This article shall not be construed as imposing upon the city or any of its officials or employees any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned in this article, or by installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or the certificate of approval issued by the inspector.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-156—14-175. Reserved.~~

~~ARTICLE VII. NATURAL GAS CODE⁽⁵⁾~~

Footnotes:

~~—(5)—~~

Cross reference—~~Natural gas service, § 130-431 et seq.~~

State Law reference—~~Regulation of natural gas, V.T.C.A., Natural Resources Code ch. 86-
Sec. 14-176.—Fuel gas code.~~

- ~~(a) The International Fuel Gas Code 2015 and all its appendices are hereby adopted as the fuel gas code of the city, except as stated in the following.~~
- ~~(b) Paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.~~
- ~~(c) Paragraph 108.5 Stop Work Orders is deleted and amended as follows:~~

~~108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to be cited and subject to a fine as determined by law and this chapter.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-177.—Definitions.~~

~~The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:~~

~~*Certain appliances* means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.~~

~~*Certificate of approval* means a document or tab issued and/or attached by the inspector to the inspected material, piping or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.~~

~~*Gas company* means any person distributing gas within the corporate limits of the city, or authorized and proposed to so engage.~~

~~*Inspector* means the city building official referred to in this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

Cross reference—~~Definitions generally, § 1-2.~~

State Law reference—~~Definitions, V.T.C.A., Natural Resources Code § 86.002.~~

~~Sec. 14-177.5.—Registration and liability insurance generally.~~

~~No person other than a single-family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety liability insurance acceptable to the building official, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter so as to be in effect at all~~

~~times the individual is registered. Until proof of registration and liability insurance is accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-177.6. -- Reserved.~~

Editor's note—~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-177.6 in its entirety, which pertained to fuel gas fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.~~

~~—For current provisions pertaining to fuel gas fees, the user's attention is directed to appendix D of this Code.~~

~~Secs. 14-178—14-200. -- Reserved.~~

~~ARTICLE VIII. -- PROPERTY MAINTENANCE CODE⁽⁶⁾~~

Footnotes:

~~—(6)—~~

State Law reference—~~Dangerous structures, V.T.C.A., Local Government Code § 214.001 et seq.~~

~~Sec. 14-201. -- Property maintenance code.~~

~~(a) The International Property Maintenance Code 2015 and all its appendices are hereby adopted as the Property Maintenance Code of the city, except as stated in the following.~~

~~(b) Section 110, Demolition, paragraph 110.2, Notices and Orders is amended by adding the following sentence to paragraph 110.2: All demolition procedures, notices and orders shall comply with Chapter 50 of the Code of Ordinances, City of New Braunfels, Texas.~~

~~(c) Section 103.5 Fees is not adopted and is replaced with the following:~~

~~Section 103.5 Fees. There shall be no fee charged for an inspection. If a violation is noted requiring a re-inspection to determine if the violation is abated, a re-inspection fee of \$35.00 shall be paid for each violation re-inspected by the owner or agent for the owner. The re-inspection fee will double with each failed inspection.~~

~~(d) Section 111 Means of Appeal is not adopted.~~

~~(e) The first phrase in Section 303.14 Insect Screens, which states "During the period from [date] to [date]" is deleted and replaced with the following phrase: "At all times..."~~

~~(f) The dates in Section 602.3 Heat supply shall be from November 1 to April 1.~~

~~(g) Sections 604.2 Service is amended by replacing the words "ICC Electrical Code" with the words "National Electrical Code adopted by the City".~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-202. -- International existing building code.~~

~~The International Existing Building Code 2015 and appendix is hereby adopted as the city existing building code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-203—14-300. Reserved.~~

~~ARTICLE IX.—ENERGY CONSERVATION CODE~~

~~Sec. 14-301.—Energy conservation code.~~

~~The International Energy Conservation Code 2012 and its appendix is hereby adopted as the city energy conservation code, except as noted in the following:~~

~~Section 105.5. Re-inspection fee is added as follows:~~

~~Section 105.5 Re-inspection Fees. A fee of \$35.00 must be paid to the city for each re-inspection of work authorized under this code. The re-inspection fee will double with each failed inspection. The person or agent to whom the permit was issued prior to any re-inspection must pay the re-inspection fee.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-302—14-400. Reserved.~~

~~ARTICLE X.—VIOLATIONS, PENALTIES, FEE REFUND POLICY, BOARD OF APPEALS AND ADMINISTRATIVE~~

~~Sec. 14-401.—General.~~

~~The provisions of this article apply to all the articles of this chapter unless the article expressly states otherwise.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-402.—Violation and penalty.~~

~~Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall constitute an endangerment of the public's health, safety, and welfare and be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-403.—Reserved.~~

Editor's note—Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-403 in its entirety, which pertained to fee refunds and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.

~~—For current provisions pertaining to fee refunds, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-404. Construction board of appeals.~~

- ~~(a) There shall be a single consolidated construction board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals.~~
- ~~(b) Application. The application for appeal shall be filed on a form obtained from the building official within ten days after the notice was served. An application fee of \$200.00 for residential or \$300.00 for commercial shall be paid to the city by applicants desiring an audience before the construction board of appeals.~~
- ~~(c) The construction board of appeals shall consist of persons appointed by the city council. Each member shall serve for five years or until a successor has been appointed. The building official shall be an ex-officio member of said board but shall have no vote on any matter before the board.~~
- ~~(d) Alternate members. The city council shall appoint four alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.~~
- ~~(e) Qualifications. The construction board of appeals shall consist of seven individuals, one from each of the following professions or disciplines:~~
 - ~~(1) A registered design professional with architectural experience or a builder or superintendent of building construction.~~
 - ~~(2) A registered design professional with engineering experience.~~
 - ~~(3) A registered mechanical contractor.~~
 - ~~(4) A registered electrical contractor.~~
 - ~~(5) A registered plumbing contractor.~~
 - ~~(6) Two registered general contractors.~~
 - ~~(7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.~~
 - ~~(8) Or, the council may appoint an interim board with the persons of qualification determined by the council.~~
- ~~(f) Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.~~
- ~~(g) Chairperson. The board shall annually select one of its members to serve as chairperson.~~
- ~~(h) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.~~
- ~~(i) Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the building official.~~
- ~~(j) Notice of meeting. The board shall meet upon notice from the chairperson, within ten days of the filing of an appeal or at stated periodic meetings.~~
- ~~(k) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person who interests are affected shall be given an opportunity to be heard.~~

- ~~(l) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.~~
- ~~(m) Postponed hearing. When seven members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~
- ~~(n) Board decision. The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members. The board may deny the appeal, approve the appeal, or approve the appeal with conditions.~~
- ~~(o) Administration. The building official shall take immediate action in accordance with the decision of the board.~~
- ~~(p) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted there under have been incorrectly interpreted, the provisions of this chapter do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this chapter.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

ARTICLE I. - IN GENERAL

Sec. 14-1. - Administration and enforcement of codes, ordinances and articles.

The building official of the city shall have the responsibility for the administration and enforcement of these codes ordinances and articles as adopted by this chapter, and such official shall have all of the responsibilities called for in these articles and the specifications, rules and regulations adopted by these codes, ordinance and articles.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-2. - Interpretation of codes, ordinances and articles.

The building official shall have the authority to render interpretations of these codes, ordinance, and articles; and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes, ordinances and articles. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes, ordinances and articles.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-3. - Commercial premium or overtime inspection fees.

Premium or overtime inspections are those inspections requested for times other than the normal working hours. Fees for premium inspections done after 4:00 p.m. on weekdays and on weekends shall be at a rate of \$45.00 per inspection with a minimum of three inspections required.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-4. - Building official to determine conflicts between codes.

The code official is the building official except where specifically described as the fire code official. Applying to any construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, occupancy loads, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, the building official is hereby authorized and directed to enforce the provisions of these codes and ordinances (all ICC codes adopted by the city and all city and all city ordinances that apply). The building official shall have the authority to render interpretations of all these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.

(Ord. No. 2015-35, § I, 7-13-15)

Sec.14-5. – Building Permit Required.

No person, firm, corporation, or any other entity shall erect, construct, enlarge, alter, repair, modify, excavate, fill, or change any fence, sign, land, building, structure, or property in the city, nor cause such work to be done; nor shall any building or structure be moved, removed, converted, or demolished without first obtaining any necessary permit therefore from the building official and complying with all applicable requirements of the city.

Sec. 14-6. - Requirements not covered by Code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the building official. In addition, other requirements to implement, clarify or set procedures to accomplish the intent of this Code may be set in writing by the building official and may be posted electronically for public access.

Sec. 14-7. - Construction work hours and/or noise.

- a) Construction work hours and/or noise means any construction or noise generated by construction activities, such as the operation of power equipment, machinery or tools, the use of air-powered or impact tools, hammers, saws, picks, shovels and other similar tools, and the loading, unloading, conveyance or assembly of construction materials, equipment, machinery or tools.
- b) It is unlawful for a person to start work and/or cause construction noise to be made between 9:00 p.m. and 6:00 a.m.

c) It is unlawful for a person to whom a construction permit is issued by the city to cause or allow work to start and/or construction noise to be made in connection with the performance of work under the permit between 9:00 p.m. and 6:00 a.m.

Exceptions:

The building department understands that there may be times when work must occur outside of the permissible hours. If you have an emergency that includes any of the following, then the start of work and/or noise regulations do not apply:

- Work made necessary to restore a property to a safe condition following a public calamity.
- Work to restore public utilities.
- Work required to protect persons or property from imminent exposure to danger.

There may be other situations that require work outside of permissible hours. For these situations, you must apply for a variance subject to approval by the building official. Application for variance must be in filed with the building department at least 48 hours in advance.

d) A person who violates this section shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

Sec. 14-8—14-26. - Reserved.

ARTICLE II. - BUILDING CODE

Sec. 14-27. – 2018 International Building Code (IBC)

The 2018 International Building Code and all appendices, are hereby adopted and incorporated by reference as the building codes of the City of New Braunfels, except as stated in the following:

- a) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- b) Section 105.1.1 Annual permit shall be deleted.
- c) Section 105.1.2 Annual permit records shall be deleted.
- d) Section 105.2 Work exempt from permit shall be amended as follows:
 1. 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

- a. Private Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over 32 square feet total.
 - b. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - c. Swings and other playground equipment accessory to detached one- and two-family dwellings.
- e) Section 1612.3. Insert: City of New Braunfels
 - f) Section 1612.3. Insert: September 2, 2009
 - g) Appendix B shall be deleted
 - h) Appendix D shall be deleted.
 - i) Appendix H is adopted with sections amended as follows:
 - 1. Section H101.2 Signs exempt from permits shall be deleted.
 - 2. H105.2 Permits, drawings and specifications. Where a permit is required, as provided in Chapter 1, construction documents shall be required. These documents shall show the dimensions, material and required details of construction, including loads, stresses and anchors. Engineered Drawings may be required for free standing signs over 8' in height and monument signs over 6' in height.

Sec. 14-28. - Reserved.

ARTICLE III. – RESIDENTIAL CODE

Sec. 14-29. – 2018 International Residential Code (IRC)

The 2018 International Residential Code and all appendices, are hereby adopted and incorporated by reference as the building code of the City of New Braunfels, except as stated in the following:

- a) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- b) Section 105.2 Work exempt from permit shall be amended as follows:
 - 1. 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
 - 2. Private Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not more than 32 square feet total.
 - 3. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

4. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
5. Swings and other playground equipment.

c) Table R301.2(1)—Insert:

| TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA | | | | | | | | | | | | | |
|--|-----------------------------|-------------------------------------|-------------------------------------|---------------------------------------|--|-------------------------|----------------------------------|----------------------|---------------------------------------|--|-------------------------------|---------------------------------------|-------------------------------------|
| GROUND SNOW LOAD ^a | WIND DESIGN | | | | SEISMIC DESIGN CATEGORY ^f | SUBJECT TO DAMAGE FROM | | | WINTER DESIGN TEMP ^g | ICE BARRIER UNDERLAYMENT REQUIRED ^h | FLOOD HAZARDS ⁱ | AIR FREEZING INDEX ^j | MEAN ANNUAL TEMP ^k |
| | Speed ^d (mph) | Topographic effects ^a | Special wind region ^l | Windborne debris zone ^m | | Weathering ^a | Frost line depth ^b | Termite ^e | | | | | |
| 5 | 115 | No | No | No | A | Negligible | 0 | Moderate | 30 | No | Yes | 29 | 68.5 |

- d) Appendix L Permit Fees shall be deleted.
- e) Appendix T Solar Ready Provisions shall be deleted.

ARTICLE IV. - ELECTRICAL CODE [2]

Footnotes: --- (2) ---

Cross reference— Businesses, ch. 18.

Sec. 14-30. - Electrical code.

The 2017 National Electrical Code (NEC) and all annexes, are hereby adopted and incorporated by reference as the electrical code of the City of New Braunfels.

(1) All Enforcement and Administrative Provisions of the Electrical Code has been referenced in Appendix K of the 2018 International Building Code.

Sec. 14-31. - Conflicts of interest; restrictions on providing initial electrical service.

(a) No person employed by the building department of this city shall be financially interested in the furnishing of labor, material or appliances for use in any manner in the electrical installation of a building or structure unless such person is otherwise eligible under the property and homeowner exception as set forth in section 14-62.

(b) Utility providers shall not provide initial electrical service to any building or structure unless such utility has been furnished a certificate of occupancy or release as required by the city for such building or structure that corresponds to the intended use of the building. Temporary electrical service may be provided to such building or structure for a period not exceeding 180 days after the utility provider has been furnished a certificate of inspection or temporary certificate of occupancy. When temporary service has been provided, for the purpose of construction, the period of service may be extended by the building official. Each of the certificates referred to in this section will be issued as appropriate by the building official upon completion of the required inspections.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-32. - Electrical inspector, powers and duties.

- (a) Right of entry. The building official and/or his department and personnel when serving as electrical inspectors in enforcement of this article may enter any building, structure, portion thereof, or premises during reasonable hours to perform any duty imposed upon him by this article.
- (b) Issuance of permits; supervision of work. The building official shall cause to be issued for each job requiring any type of electrical work a permit, shall see that the fees (see section 14-66) set out in this article are properly paid, and that all work done under such permits are accomplished in accordance with this article under the direct supervision of persons registered under the provisions of this article.
- (c) Stop work orders. Upon notice from the building official that electrical work on any building or structure is being done contrary to the provisions of this article or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the stop work order shall be given verbally with written notice following within two working days.
- (d) Revocation of permits. The building official may revoke a permit or approval issued under the provisions of this article if there has been any false statement, misunderstanding or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
- (e) Electrically unsafe buildings. All buildings or structures which in the opinion of the electrical inspector are electrically unsafe so as to create a hazard to life or constitute a fire hazard or are otherwise dangerous to life or property are hereby declared illegal and shall have the electrical power removed or disconnected and then shall be abated by repair, rehabilitation or demolition in accordance with condemnation procedures as established by the codes as adopted by this city.
- (f) Requirements not covered by this article. Any requirement necessary for the electrical safety to life and property not specifically covered by this article shall be determined by the building official subject to appeal to the electrical appeals board.

ARTICLE IV. - PLUMBING CODE[3]

Footnotes: --- (3) ---

Cross reference— Businesses, ch. 18; health and sanitation, ch. 62; wastewater from tourist courts, § 62-232; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water service, § 130-121 et seq.; sewer service, § 130-231 et seq.

State Law reference— Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.

Sec. 14-33. - Plumbing code.

(a) The 2018 International Plumbing Code (IPC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted.
- 3) Section 106.6.3 Fee Refund shall be deleted.
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]
- 6) Appendix A shall be deleted
- 7) Appendix B shall be deleted and replaced with NOAA Atlas 14 Texas

ARTICLE V. - MECHANICAL CODE

Sec. 14-34. - Mechanical code.

(a) The 2018 International Mechanical Code (IMC) and all appendices are hereby adopted and incorporated by reference as the Mechanical Code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.5.2 Fee Schedule shall be deleted
- 3) Section 106.5.3 Fee Refund shall be deleted
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]
- 6) Appendix D Permit Fee Schedule shall be deleted

ARTICLE VI. – FUEL GAS CODE[5]

Footnotes: --- (5) ---

Cross reference— Natural gas service, § 130-431 et seq.

State Law reference— Regulation of natural gas, V.T.C.A., Natural Resources Code ch. 86.

Sec. 14-35. - Fuel gas code.

(a) The 2018 International Fuel Gas Code (IFGC) and all its appendices are hereby adopted and incorporated by reference as the fuel gas code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted
- 3) Section 106.6.3 Fee Refund shall be deleted
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE VII. - PROPERTY MAINTENANCE CODE[6]

Footnotes: --- (6) ---

State Law reference— Dangerous structures, V.T.C.A., Local Government Code § 214.001 et seq.

Sec. 14-36. - Property maintenance code.

(a) The 2018 International Property Maintenance Code (IPMC) and all its Appendices are hereby adopted and incorporated by reference as the Property Maintenance Code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 103.5 Fee Schedule shall be deleted
- 3) Section 112.4 Failure to Comply shall be deleted and replaced with, "Section 108.4 Failure to Comply. Violations and penalties shall be set forth by City Ordinance"
- 4) Section 302.4 Insert: [HEIGHT IN INCHES] [12"]
- 5) Section 304.14. Insert: [DATES IN TWO LOCATIONS][January 1st] [December 31st]
- 6) Section 602.3. Insert: [DATES IN TWO LOCATIONS] [November 1st] [April 1st]
- 7) Section 602.4. Insert: [DATES IN TWO LOCATIONS] [November 1st] [April 1st]

ARTICLE VIII. – Existing Building Code

Sec. 14-37. - International existing building code.

(a) The 2018 International Existing Building Code (IEBC) and all its appendices are hereby adopted and incorporated by reference as the fuel gas code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]

ARTICLE IX. - ENERGY CONSERVATION CODE

Sec. 14-38. - Energy conservation code.

(a) The 2018 International Energy Conservation Code (IECC) and all its appendices are hereby adopted and incorporated by reference as the energy conservation code of the City of New Braunfels, except as stated in the following:

- 1) Section C101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section R101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]

ARTICLE X. – PRIVATE SEWAGE CODE

Sec. 14-39. – Private sewage code.

(a) The 2018 International Private Sewage Code (IPSC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted.
- 3) Section 106.6.3 Fee Refund shall be deleted.
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE XI. – SWIMMING POOL AND SPA CODE

Sec. 14-40. – Swimming pool and Spa Code.

(a) The 2018 International Swimming Pool and Spa Code (IPSC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 105.6.2 Fee Schedule shall be deleted.
- 3) Section 105.6.3 Fee Refund shall be deleted.
- 4) Section 107.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 107.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE XII. - VIOLATIONS, PENALTIES, BOARD OF APPEALS AND ADMINISTRATIVE

Sec. 14-41. - General.

The provisions of this article apply to all the articles of this chapter unless the article expressly states otherwise.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-42. - Violation and penalty.

Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall constitute an endangerment of the public's health, safety, and welfare and be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

Sec. 14-43. - Construction board of appeals.

(a) There shall be a single consolidated construction board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals.

(b) Application. The application for appeal shall be filed on a form obtained from the building official within ten days after the notice was served. An application fee of \$200.00 for residential or \$300.00 for commercial shall be paid to the city by applicants desiring an audience before the construction board of appeals.

(c) The construction board of appeals shall consist of persons appointed by the city council. Each member shall serve for five years or until a successor has been appointed. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

(d) Alternate members. The city council shall appoint four alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

(e) Qualifications. The construction board of appeals shall consist of seven individuals, one from each of the following professions or disciplines:

- (1) A registered design professional with architectural experience or a builder or superintendent of building construction.
- (2) A registered design professional with engineering experience.
- (3) A registered mechanical contractor.
- (4) A registered electrical contractor.
- (5) A registered plumbing contractor.
- (6) Two registered general contractors.
- (7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.
- (8) Or, the council may appoint an interim board with the persons of qualification determined by the council.

(f) Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.

(g) Chairperson. The board shall annually select one of its members to serve as chairperson.

(h) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(i) Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the building official.

- (j) Notice of meeting. The board shall meet upon notice from the chairperson, within ten days of the filing of an appeal or at stated periodic meetings.
- (k) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.
- (l) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- (m) Postponed hearing. When seven members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (n) Board decision. The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members. The board may deny the appeal, approve the appeal, or approve the appeal with conditions.
- (o) Administration. The building official shall take immediate action in accordance with the decision of the board.
- (p) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this chapter.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-44. - Contractors.

(a) General contractor residential shall be defined as, contractors regulated by 2018 IRC Section 101.2 Scope.

(1) General contractor Residential shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.

(b) General contractor-commercial shall be defined as, contractors regulated by IBC 2018 Section 101.2 Scope.

(1) General contractor commercial shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.

(c) Contractor-limited shall be defined as, a contractor other than Electrical, Mechanical, Plumbing, and Irrigator.

- (1) The term "contractor-limited" shall apply to home owners doing work on properties they own.
 - (2) A Contractor Limited shall apply to such trades as roofing, framing, paving, fencing, and other specialty crafts.
 - (3) Contractor Limited shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.
- (e) Owner doing own work; Homestead.
- (1) An owner of an existing single-family residence who permanently resides in that residence and who claims it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.
 - (2) A person who intends to build a single-family residence and permanently reside therein and claim it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered if approved by the building official. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.
 - (3) No single-family resident homeowner will be issued a permit under the provisions of this section involving any structural, electrical, or plumbing work unless the building official is satisfied that the applicant can competently and safely perform the work.
- (g) Contractor Registration—Application generally. Every person desiring to engage in the business of general or limited contractor in the city shall obtain a city registration authorizing him to engage in such business. Individuals desiring such registration shall make application with the building official on the form, which may be obtained from the office of the building department of the city. The building official may, at his discretion, issue one permit for the initial work of any otherwise approved structure pending approval of the appropriate general or limited contractor's registration. Only individuals shall be so registered, and the registration is not transferable.
- (h) Insurance required. Before any person shall engage in the business of a general or limited contractor or be granted a registration to do so, he shall first provide the city proof of \$1,000,000.00 liability insurance for general contractor-commercial and \$300,000.00 for limited contractor and general contractor-residential, naming the City of New Braunfels as the Certificate Holder.
- (i) Application for registration—Applicant who has had registration previously denied or revoked. An applicant for a general or limited contractor's registration who has been denied a registration or had a registration revoked by this city or another entity for any building or related trade must disclose that information to the building official at the time of application. Any conviction for a misdemeanor or felony, other than traffic citations, must also be disclosed. Failure to disclose such information will result

in automatic disapproval of the application. If the registration is issued and such failure to disclose is discovered later, the registration will be revoked. Any additional legal remedies may also be pursued by the building official. Upon disclosure at the time of registration application, the building official will make a thorough investigation and weigh carefully all details available prior to approving registration.

(j) Fee. Every applicant who shall make application for a general contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(k) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (h).

(m) Registration renewal; fee; requirements for renewal. A registration holder may renew his general contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$100.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 30 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

Sec. 14-45. - Electrical contractor registration.

(1) Electrical contractor's registration. The applicant must show proof of state registration. An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Electrical Contractors shall be registered with the city. Electrical Contractor registration shall expire June 30th of each year.

(b) Fee. Every applicant who shall make application for an electrical contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(c) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(d) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (c).

(e) Registration renewal; fee; requirements for renewal. A registration holder may renew his electrical contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$75.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the

preceding 24 months. A registration holder who has exceeded the allowed 30 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

(5) Master electrician's registration. The applicant must show proof of state registration. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(6) Journeyman electrician's registration. The applicant must show proof of state registration. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(7) Wireman electrician's registration. The applicant must show proof of state registration. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single-family and duplex residences only.

(8) Maintenance electrician's registration. The applicant must show proof of state registration. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.

(9) Sign electrician's registration. The applicant must show proof of state registration. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every sign electrician shall have his city registration in his possession when performing

electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.

(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.

(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.

Sec. 14-46. – Plumbing Contractor Registration

(1) Plumbing contractor's registration. The applicant must show proof of state registration. An applicant for any Plumbing contractor registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Plumbing Contractors shall be registered with the city. Plumbing contractor registration shall expire when insurance or state license have expired.

(b) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(c) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (b).

Sec. 14-47. – Mechanical Contractor Registration

(1) Mechanical contractor's registration. The applicant must show proof of state registration. An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Mechanical Contractors shall be registered with the city. Mechanical Contractor registration shall expire June 30th of each year.

(b) Fee. Every applicant who shall make application for an Mechanical contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(c) Liability insurance required. Before any person shall be issued an Mechanical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(d) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (c).

(e) Registration renewal; fee; requirements for renewal. A registration holder may renew his Mechanical contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$75.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 30 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

Sec.14-48. Revocation or Denial of Contractor Registration

(1) Procedure for denial, revocation, or suspension of registration or right to obtain permits. If the building official initiates a recommendation for denial, revocation, or suspension of a registration or of a right to obtain permits to work under an adopted code or ordinance of the city, the following procedure will apply:

(a) An applicant for registration or a registrant of the city shall have ten business days to request a review hearing to be held before the construction board of appeals as referenced in section 14-404. During the ten business-day period a current registrant shall not be allowed to obtain permits. If the applicant for registration or a registrant fails to request a hearing within ten business days the recommendation of the building official shall become final. If a registrant requests a hearing, any denial, revocation or suspension of registration or right to obtain permits shall be stayed pending the decision of the board. The board shall by majority vote affirm or reject the building official's recommendation.

(b) If the registrant is registered by the state, such as an electrical contractor, mechanical contractor or plumbing contractor, the process in subsection (1) of this section would apply.

Sec. 14-49. - Erosion control.

(a) Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Below ground installations means activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.

Building official means the building official for the City of New Braunfels or his designee.

Construction activities means construction activities that require a building permit.

Erosion control plan means a site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures and practices to be used to control erosion and sedimentation.

Final approval means completion of a project, site or building in accordance with city requirements and ordinances. In the case of a building, a certificate of occupancy is issued.

Land disturbing activity means any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind.

Off-site borrow area means a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.

Off-site sedimentation means deposit of soil material beyond the limits of the property undergoing land disturbing activity or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

Off-site spoil area means an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

Permanent erosion control devices means devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.

Permanent ground cover means permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

Phased occupancy means use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by city.

Related land area includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

Responsible party means a business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

Staging area means an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

Stop work order means the suspension of all city permits with no approvals or inspections of work for the site or project being performed.

Temporary erosion control devices means devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

(b) Building permit. When land disturbing activities are conducted on a lot for which a building permit must be issued, the responsible party shall comply with the following:

(1) Erosion control plan. Prior to approval of a building permit for a lot by the city, the contractor or other responsible party obtaining the building permit shall submit an erosion control plan for approval by the city. No inspection may be performed on a project until a city-approved erosion control plan is implemented.

(2) Stop work order/citation. City shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan submitted for such site. If a responsible party fails to implement or maintain erosion control devices as specified in his approved erosion control plan, city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance. The responsible party shall have 24 hours to bring his erosion control devices into compliance with the approved erosion control plan for the site where the violation occurred. Correction shall include sediment clean-up, erosion control device repair, erosion control device maintenance, and/or installation of additional erosion control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.

At the end of the 24-hour cure period, city shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, city may issue a stop work order and issue a citation for each violation of the city's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted there for and a re-inspection fee, as set by the building inspection department of the city, shall be paid.

(3) Removal of erosion control devices. Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.

(c) Enforcement.

(1) Violations. It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:

- a. Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred.
- b. Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred.
- c. Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred.
- d. Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.
- e. Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.

(2) Notice of violation. Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan.

(3) Class C misdemeanor. Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

(d) Appeals.

(1) Appeal to building official. Upon notice of noncompliance, a responsible party may appeal the city's decision to take deductions from his erosion control deposit pursuant to section 14-96 of this article, by filing a written appeal to the building official within seven days of city's written notice of its intent to make such deduction for costs as allowed herein. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority to take deductions under this article.

(2) Standard for appeals. When reviewing an appeal filed pursuant to this section, the building official shall evaluate all evidence submitted. The burden of proving that a violation of this article occurred shall be on the city. The city shall provide evidence sufficient to reasonably support a determination that the responsible party failed to comply with the requirements of this article as alleged by the city.

(3) Issuance of opinion by director. Decisions of the building official shall be issued within 20 days of city's receipt of the written appeal. Decisions of the building official shall be final.

GLOSSARY

- BARREL - A pipe placed through a dam, levee or dike to control the release of water.
- BMP - Best Management Practices. Consist of practices, procedures, and devices used to prevent or reduce pollutants, including sediment, from polluting the waters of the United States.
- BORROW AREA - A source of earth fill material used in the construction of embankments or other earth fill structures.
- CHANNEL - A natural stream or excavated ditch that conveys water.
- CHANNELIZATION - Alteration of a stream channel by widening, deepening, straightening, or paving certain areas to improve flow characteristics.
- CHECK DAM - A small, temporary dam constructed across a drainage ditch, swale or channel to lower the speed of concentrated flows and promote sediment deposition.
- CONTOUR - An imaginary line on the surface of the earth connecting points of the same elevation.
- CUT - Portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below the original ground surface to the excavated ground surface.
- DAM - A barrier to confine or impound water or for the retention of soil, sediment or debris.
- DESIGN STORM - A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.
- DISCHARGE - Usually the rate of water flow commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.
- DIVERSION - A channel with a supporting ridge on the lower side constructed at the top, across, or at the bottom of a slope for the purpose of controlling surface runoff.
- DIVERSION DIKE - A barrier built to divert surface runoff.
- DIVIDE, DRAINAGE - The boundary between watersheds.
- DRAINAGEWAY - A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river or lake.
- DROP INLET - Overall structure in which the water drops through a vertical riser connected to a discharge conduit or storm sewer.
- EARTH DAM - Dam constructed of compacted suitable soil materials.

- **ENERGY DISSIPATOR** - A device used to reduce the energy of flowing water to prevent erosion.
- **EPA** - The Environmental Protection Agency. The federal agency responsible for administering the NPDES permit program.
- **ERODIBILITY** - Susceptibility to erosion.
- **EROSION** - The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.
- **EROSION CONTROL PLAN** - A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of BMPs to be used to control erosion and sedimentation.
- **FILTER FABRIC** - A woven or non-woven, water-permeable material generally made of synthetic products such as polypropylene and used in erosion and sediment control applications to trap sediment or prevent the movement of fine soil particles.
- **FLOOD PLAIN** - The lowland that borders a stream and is subject to flooding when the stream overflows its banks.
- **GABION** - A wire mesh cage, usually rectangular, filled with rock and used to protect channel banks and other sloping areas from erosion.
- **GEOTEXTILES** - See filter fabric.
- **GRADE STABILIZATION STRUCTURE** - A structure for the purpose of stabilizing the grade of a gully or other watercourse, thereby preventing further erosion or lowering of the channel bottom.
- **GRADING** - The cutting and/or filling of the land surface to a desired slope or elevation.
- **GRASSED WATERWAY** - A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses and used to safely conduct surface water from an area.
- **GROUND COVER** - Low-growing, spreading plants (grasses or legumes) useful for low-maintenance landscape areas.
- **INVERT** - The inside bottom of a culvert or other conduit.
- **LEGUME** - Any member of the pea or pulse family which includes peas, beans, peanuts, clovers, alfalfa, sweet clovers, lespedezas, vetches, black locust, and kudzu.
- **NPDES** - National Pollutant Discharge Elimination System. A federal program that requires a permit for storm water discharges to the waters of the U.S.
- **OUTLET PROTECTION** - Stone, rip-rap, concrete or asphalt aprons installed to reduce the speed of concentrated storm water flows, thereby reducing erosion and scouring at storm water outlets.

- **RAINFALL INTENSITY** - The rate at which rain is falling at any given instant, usually expressed in inches per hour.
- **RATIONAL METHOD** - A means of computing storm drainage flow rates by use of the formula $Q = CiA$, where C is a coefficient describing the physical drainage area, i is the rainfall intensity, and A is the drainage area.
- **RECEIVING STREAM** - The body of water into which runoff or effluent is discharged.
- **RILL** - A small intermittent watercourse with steep sides, usually only a few inches deep, normally caused by erosion.
- **RISER** - A vertical pipe or structure extending from the barrel, storm sewer or bottom of a pond BMP that is used to convey the discharge from the pond or drainage area.
- **RUNOFF** - That portion of precipitation that flows from a drainage area on the land surface, in open channels or in storm water conveyance systems.
- **SCOUR** - The clearing and digging action of flowing water, especially the downward erosion caused by stream water in sweeping away mud and silt from the stream bed.
- **SEDIMENT** - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice.
- **SEDIMENT BASIN** - A settling pond with a controlled storm water release structure used to collect and store sediment produced by land disturbing activities. The basin detains sediment-laden runoff from larger drainage areas long enough to allow most of the sediment to settle out.
- **SEDIMENT POOL** - The reservoir space allocated for the accumulation of sediment in a sedimentation control device.
- **SEDIMENT TRAP** - A settling basin with a filter outlet designed to retain runoff long enough to allow most of the silt to settle out.
- **SEDIMENTATION** - The deposition of suspended soil particles that have settled out from storm water runoff.
- **SHEETFLOW** - Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel or a rill.
- **SILT** - Parts of the soil structure consisting of particles between 0.002 and 0.05 mm in diameter.
- **SLOPE** - Degree of deviation of a surface from the horizontal. Slope is measured and is shown as a numerical ratio or percent.
- **SOIL** - The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

- **STABILIZATION** - The proper placing, grading and/or covering of soil, rock or earth to ensure its resistance to erosion, sliding, or other movement. Also see Vegetative Stabilization.
- **STORM FREQUENCY** - The time interval between major storms of predetermined intensity and volumes of runoff (e.g. ten-year or 100-year storm).
- **STORM SEWER (DRAIN)** - A sewer that carries storm water, surface drainage, street wash and other wash waters, but excludes sewage and industrial wastes. Also called a storm drain.
- **STORM WATER** - Runoff from a rain event or snow melt runoff. Also called surface runoff.
- **SWALE** - An elongated, gentle depression in the land surface that conveys storm water into primary drainage channels. Swales are normally without flowing or standing water.
- **SWPPP** - Storm Water Pollution Prevention Plan. A document that is a part of the NPDES permit application and consists of the site erosion control plan, waste management plan, and site narrative as required by the EPA.
- **TEMPORARY SEEDING** - The growing of short-term (less than 1-year) vegetation on disturbed areas to prevent erosion.
- **TOE OF SLOPE** - The base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.
- **TOPOGRAPHY** - A general term that includes the physical features of a surface area including relative elevations and the position of natural and man-made features.
- **VEGETATIVE STABILIZATION** - Protection of erodible areas with temporary seeding, permanent seeding, or sodding.
- **WATERSHED** - The region drained by or contributing water to a stream, lake, or other body of water.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-50. - Irrigation systems.

(a) **Scope.** This Section applies to the installation, alteration, repairs, relocation, replacement, addition to, use, or maintenance of irrigation systems within the city. This Section regulates the installation of backflow prevention devices, control valves, automatic irrigation controllers, control wiring, and water conservation required for the proper design, installation, and operation of irrigation systems. All irrigation systems must comply with the provisions of this Section and with Title 30, Texas Administrative Code, Chapter 344.

(b) **Purpose.** The purpose of this Section is to require all irrigation systems to be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation.

(c) **Definitions.** The following words and terms shall have the meanings shown herein.

Design means the act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

Design pressure means the pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

Emission device means any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads and drip irrigation emitters.

Employed means engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, Title 26, United States Code Service, Section 3312(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

Head-to-head spacing means the spacing of spray or rotary sprinkler heads equal to the manufacturer's published radius of the head.

Hydraulics means the science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

Inspector means a licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

Installer means a person who connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30.

Irrigation inspector means a person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigation plan means a scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

Irrigation services means selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

Irrigation system means an assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by V.T.C.A., Agricultural Code § 251.002.

Irrigation technician means a person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigation zone means a subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope), and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

Irrigator means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system, or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigator-in-charge means the irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to, obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

Landscape irrigation means the science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

License means an occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30, to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

Mainline means a pipe within an irrigation system that delivers water from the water source to the individual zone valves.

Maintenance checklist means a document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to, checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

Major maintenance, alteration, repair, or service means any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

Master valve means a remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

Matched precipitation rate means the condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

Pass-through contract means a written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

Reclaimed water means domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

Records of landscape irrigation activities means the irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

Static water pressure means the pressure of water when it is not moving.

Supervision means the on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair, or service an irrigation system.

Water conservation means the design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

Zone flow means a measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

Zone valve means an automatic valve that controls a single zone of a landscape irrigation system.

(d) License. Any person who connects an irrigation system to the water supply in the city must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30, and V.T.C.A., Occupations

Code ch. 1903, or as defined by Title 22 of the Texas Administrative Code, Chapter 365, and required by V.T.C.A., Occupations Code ch. 1301.

Exemption: A homeowner is not required to be licensed in accordance with V.T.C.A., Occupations Code tit. 12, § 1903.002(c)(1) if the homeowner is performing irrigation work in a building or on a premises owned and occupied by the homeowner as the homeowner's homestead. A homeowner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344, regarding spacing, water pressure, spraying water over impervious materials, rain and freeze sensors, backflow prevention and isolation valves.

(e) Permit. Any person or homeowner installing an irrigation system in the city is required to obtain a permit from the city. Any plan approved for a permit must be in compliance with the requirements of this appendix [section].

Exemptions:

(1) An irrigation system that is an on-site sewage disposal system, as defined by V.T.C.A., Health and Safety Code § 355.002; or

(2) An irrigation system used on or by an agricultural operation as defined by V.T.C.A., Agriculture Code § 251.002; or

(3) An irrigation system connected to a groundwater well used by the property owner for domestic use.

(f) Backflow prevention methods and devices.

(1) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by: the American Society of Sanitary Engineers; the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; the International Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(2) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:

a. An air gap may be used if:

1. There is an unobstructed physical separation; and

2. The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.

- b. Reduced pressure principle backflow prevention assemblies may be used if:
 - 1. The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and
 - 2. Drainage is provided for any water that may be discharged through the assembly relief valve.
 - c. Pressure vacuum breakers may be used if:
 - 1. No back-pressure condition will occur; and
 - 2. The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.
 - d. Atmospheric vacuum breakers may be used if:
 - 1. No back-pressure will be present;
 - 2. There are no shutoff valves downstream from the atmospheric vacuum breaker;
 - 3. The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;
 - 4. There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and
 - 5. A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve between the valve and all the emission devices that the valve controls.
- (3) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.
- (4) If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.
- (5) If a double check valve is installed below ground:
- a. Test cocks must be plugged, except when the double check valve is being tested;
 - b. Test cock plugs must be threaded, water-tight, and made of non-ferrous material;
 - c. A y-type strainer is installed on the inlet side of the double check valve;
 - d. There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and

e. There must be space on the side of the double check valve to test and repair the double check valve.

(6) If an existing irrigation system without a backflow-prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.

(7) If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

(8) The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.

(g) Specific conditions and cross-connection control.

(1) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

(2) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.

(3) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(4) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

a. All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);

b. Any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

c. Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete

control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.

(h) Irrigation plan design: Minimum standards.

(1) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- a. Diminish the operational integrity of the irrigation system;
- b. Violate any requirements of this appendix [section]; and
- c. Go unnoted in red on the irrigation plan.

(2) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(3) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- a. The irrigator's seal, signature, and date of signing;
- b. All major physical features and the boundaries of the areas to be watered;
- c. A North arrow;
- d. A legend;
- e. The zone flow measurement for each zone;
- f. Location and type of each:
 - 1. Controller; and
 - 2. Sensor (i.e., rain and freeze);
- g. Location, type, and size of each:
 - 1. Water source, including, but not limited to, a water meter and point(s) of connection;
 - 2. Backflow prevention device;
 - 3. Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;

4. Valve, including but not limited to, zone valves, master valves, and isolation valves;
 5. Pressure regulation component; and
 6. Main line and lateral piping.
- h. The scale used; and
 - i. The design pressure.
- (i) Design and installation: Minimum requirements.
 - (1) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.
 - (2) Spacing.
 - a. The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.
 - b. New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, including, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.
 - c. Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.
 - (3) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.
 - (4) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.
 - (5) Irrigation zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.
 - (6) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(7) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(8) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(9) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a purple primer prior to applying the PVC cement in accordance with the International Plumbing Code, Section 605.

(10) Rain and freeze sensors.

a. Any commercial, industrial, multi-family, or residential customer class irrigation system installed within the city on or after January 1, 2009, must be equipped with rain and freeze sensors.

b. Any commercial, industrial, or multi-family customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2010, without being equipped with rain and freeze sensors

c. Any residential customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2011, without being equipped with rain and freeze sensors. If a person repairs or replaces more than 50 percent of a residential customer class irrigation system before January 1, 2011, then such irrigation system must be equipped with rain and freeze sensors.

d. Any rain and freeze sensor shall be installed according to the manufacturer's published recommendation and shall be from a list approved by the building official.

e. Repairs to existing automatic irrigation systems that require replacement of an existing controller shall include a rain and freeze sensor designed to inhibit or interrupt operation of the irrigation system during periods of freezing temperatures and rainfall.

(11) Isolation valve. All new irrigation systems must include a lockable isolation valve between the water meter and the backflow prevention device.

(12) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

a. If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

b. If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

c. All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(13) Wiring irrigation systems.

a. Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

b. Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

c. Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

d. Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(14) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, including, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box, and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(15) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

(j) Completion of irrigation system installation. Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system.

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If

the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include, but are not limited to:

- a. The manufacturer's manual for the automatic controller, if the system is automatic;
- b. A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
- c. A list of components, such as the nozzle, pump filters, and other such components, that require maintenance and the recommended frequency for the service; and
- d. The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink.

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

(k) Maintenance, alteration, repair, or service of irrigation systems.

(1) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(2) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(3) Purple PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the International Plumbing Code, Section 605.

(4) When maintenance, alteration, repair, or service of an irrigation system involves excavation work at the water meter or backflow prevention device, a lockable isolation valve shall be installed, if an isolation valve is not present.

(l) Reclaimed water. Reclaimed water may be utilized in landscape irrigation systems if:

(1) There is no direct contact with edible crops, unless the crop is pasteurized before consumption;

(2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;

(3) The irrigation system is installed using purple components;

(4) The domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i);

(5) A minimum of an eight-inch by eight-inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER — DO NOT DRINK" and "AGUA DE RECUPERACION — NO BEBER"; and

(6) Backflow prevention on the reclaimed water supply line shall be in accordance with city ordinances.

(m) Lawn and landscape irrigation restrictions.

(1) A person commits an offense if the person knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased, or managed by the person in a manner that causes:

a. A substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area; or

b. An irrigation system or other lawn or landscape watering device to operate during any form of precipitation.

(2) A person commits an offense if, on premises owned, leased, or managed by that person, the person operates an irrigation system or other lawn or landscape watering device that:

a. Has any broken or missing sprinkler head; or

b. Has not been properly maintained in a manner that prevents the waste of water.

ARTICLE III. - FIRE PREVENTION^[4]

Footnotes: --- (4) ---

Editor's note— Ord. No. 2003-17, adopted February 24, 2003, repealed and reenacted article III in its entirety to read as herein set out. Formerly, article III pertained to similar subject matter and derived from the Code of 1961, §§ 8-5—8-17, and Ord. No. 98-24, adopted September 14, 1998.

Cross reference— Fire prevention in tourist courts, § 62-248; natural gas service, § 130-431 et seq.

Sec. 54-86. - International Fire Code; and amendments.

- (a) *Adopted.* The International Fire Code, 2015⁵⁸ edition, (IFC) including appendixes, B, D, E, F, G, H and I thereto, as published by the International Code Council, Inc. are hereby adopted and incorporated by reference as the fire code of the city, subject to and including by reference such amendments as shall appear in this article.
- (b) *Amendments, modifications, and deletions to the 2015⁵⁸ International Fire Code.* Amendments, modifications, and deletions to the 2015⁵⁸ International Fire Code are adopted as follows:

Section 103.2 is deleted.

~~Section 108.1 is amended to read as follows:~~

~~108.1 Construction board of appeals. The construction board of appeals will hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code.~~

Section ~~109.4~~ ^{110.4} is amended to read as follows:

~~109.4.~~ ^{110.4} Violation penalties. Persons who violate this code or who fail to comply with any of the requirements in this code, or who erect, install, alter, repair or do work in violation of the approved construction documents or contrary to the directives of the fire code official or in violation of a permit or certificate issued under provisions of this code, shall be assessed a fine up to \$2,000. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section ~~111.4~~ ^{112.4} is amended to read as follows:

~~111.4.~~ ^{112.4} Failure to comply. Any person who continues work after having been served with a stop work order, except such work the code official has directed to be performed to remedy a violation or unsafe condition, shall be subjected to a fine not to exceed \$2,000.

~~The following definitions in Section 202 are amended to read as follows:~~

~~Code official. The Code Official is the Building Official except where specifically described as the Fire Code Official. The building official shall have the authority to render interpretations of all of these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.~~

~~Fire Code official. The fire marshal or a duly authorized representative charged with the duties of administration and enforcement of the Fire Code.~~

~~Fire Watch. A temporary measure intended to ensure continuous and systematic surveillance of a building and portion thereof by one (1) or more fire marshal approved individuals for the purpose of~~

~~identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire, and notifying the fire department.~~

Section 307 is amended to read as follows:

~~307.2. Permits. A permit or authorization from the fire code official shall be obtained in accordance with § 105.6 before engaging in open trench burning or open air burning of dead livestock.~~

~~307.2.2. Some fires prohibited. The fire code official may prohibit any or all burning, including permit burning, when the atmospheric conditions or circumstances make such fires hazardous.~~

Section 308.1.4 is amended to read as follows:

308.1.4 Outdoor cooking. It is unlawful to use or to store a charcoal burner, open flame, LP gas burner, outdoor grill, barbecue, or other outdoor cooking appliance with open flame on the premises of a residential building with three or more dwelling units or of a multifamily residential building with two or more stories. The provision does not apply to the use of permanently mounted outdoor cooking devices located ten or more feet from any structure.

~~Section 401.1 is amended by deleting the exception.~~

Section 503.2.7 is amended to read as follows:

~~503.2.7 Grade. The grade of the fire apparatus access road shall not exceed 6 percent in grade.~~

~~Exception: Grades steeper than 6 percent as approved by the fire code official.~~

Section 503.3 is amended to read as follows:

~~503.3 Marking. Approved markings, signs, or other notices to identify such roads or prohibit the obstruction thereof shall be provided for fire apparatus access roads. The fire code official shall provide the acceptable standards and specifications. Signs, markings, and other notices shall be maintained in a clean and legible condition at all times and shall be replaced or repaired when necessary to provide adequate visibility.~~

Section 503.4.1 is amended to read as follows:

~~503.4.1 Traffic Calming Devices. Traffic calming devices on public and private streets shall be approved by the fire code official and the city engineer. Traffic calming devices on fire apparatus access roadways in private property shall be prohibited unless approved by the fire code official.~~

Section 505.1 is amended to read as follows:

505.1. Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street and/or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 6 inches high with a minimum stroke width of ½ inch. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

Section 506.1 is amended to read as follows:

~~506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in a approved location.~~

Section 507.2.1 is amended to read as follows:

507.2.1 Public and private fire service mains. Public and private fire service mains and appurtenances shall be installed in accordance with NFPA 24.

~~Section 507.3 is amended to read as follows:~~

~~507.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by using the Insurance Services Office (ISO) Guide for Determination of Needed Fire Flow (Edition 06-2014).~~

~~Exceptions:~~

- ~~1. Every fire hydrant shall be capable of providing a minimum flow of 500 GPM in areas zoned residential and 1500 GPM in areas zoned commercial or industrial.~~
- ~~2. Fire hydrant flows for buildings, excluding 1 or 2 family dwellings, provided with fire sprinkler systems shall be the required fire flow of the fire sprinkler system plus 500 GPM or a minimum of 1000 GPM, whichever is greater.~~
- ~~3. The fire flow requirements listed in this section shall be met with a minimum of 20 psi residual~~

Section 507.5.1 is amended to ~~read as follows:~~ exclude exception 1.

~~507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.~~

~~Exceptions:~~

- ~~1. Hydrants shall be spaced not over 600 feet away from the facility or building in residential (one- and two-family dwelling) areas, and not over 300 feet away from the facility or building in commercial or industrial-zoned areas, including heavily congested residential areas.~~
- ~~2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet.~~

Section 507.5.1.1 is amended to read as follows:

~~507.5.1.1 Hydrant for fire department connections. Buildings or facilities equipped with a fire sprinkler system or a fire standpipe system shall have a fire hydrant located within 100 feet of the fire department connections.~~

~~Exceptions: The distance shall be permitted to exceed 100 feet where approved by the fire code official.~~

Section 507.5.3 is amended to read as follows:

~~507.5.3 Water mains. Public and private fire service mains shall be installed, inspected, tested and maintained in accordance with the following requirements:~~

- ~~1. Water mains shall be at least 8 inches and large enough to supply the required fire flows.~~
- ~~2. New 8 inch mains longer than 1320 feet must be looped.~~
- ~~3. 6 inch lead lines for fire hydrants shall not exceed 100 feet, and in no case, reduce the amount of required fire flow.~~

- ~~4. Primate mains, tanks, and hydrants shall be installed, inspected, tested and maintained in accordance with the requirements of the most current editions of NFPA 24 and NFPA 25.~~

Section 507.5 is amended by adding the following:

507.5.7 Fire hydrant marking. All fire hydrants located within the city, or its extraterritorial jurisdiction, shall be identified with a blue reflector affixed to the pavement so that the hydrant is readily visible to arriving fire companies. On unpaved streets, a blue reflector shall be fixed to a post as close as practicable to the edge of the roadway so as to be visible. Specifications and type and placement locations of markers shall be obtained from the fire code official.

Section 903.3.1.1.2 is deleted.

Section 1103.5.1 is amended to read as follows:

1103.5.1 Group A-2.

Where alcoholic beverages are consumed in a Group A-2 occupancy having an occupant load of 300 or more, the fire area containing the Group A-2 occupancy shall be equipped with an *automatic sprinkler system* in accordance with Section 903.3.1.1. Building owners shall file a compliance schedule with the fire code official not later than 365 days after receipt of a written notice of violation. The compliance schedule shall not exceed 3 years for an automatic sprinkler system retrofit.

Appendix D to be amended as follows:

SECTION D107

ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments. Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads.

Exceptions

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.
3. Where there are more than 30 but less than 126 dwelling units on a single public or private fire apparatus access road and this access road is at least 40 feet wide, access from two directions shall not be required.

(Ord. No. 2003-17, 2-24-03; Ord. No. 2004-17, 3-8-04; Ord. No. 2008-65, § 2, 9-22-08; Ord. No. 2010-79, § 1, 10-25-10; Ord. No. 2015-36, § 1(Exh. A), 7-13-15; Ord. No. 2015-65, § 1(Exh. A), 11-9-15)

Sec. 54-87. - Fire prevention and protection fees.

Fees are as adopted in appendix D of this Code.

(Ord. No. 2003-17, 2-24-03; Ord. No. 2004-17, 3-8-04; Ord. No. 2008-65, § 2, 9-22-08; Ord. No. 2009-32, § 1, 5-26-09; Ord. No. 2010-78, § 1, 10-25-10; Ord. No. 2018-21, § 6, 3-26-18)

Sec. 54-88. - Smoke detectors.

Every dwelling and every dwelling unit within an apartment, house, condominium, townhouse, and every guest or sleeping room in a motel, hotel, dormitory, one-family and two-family dwelling unit which is rented or leased, shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendation and listing. In dwellings and dwelling units, a smoke detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. The landlord or agents of the landlord are responsible for installing smoke detectors in all residential dwelling units, as listed in this section, which are rented or leased. The landlord shall install at least one smoke detector prior to possession by a tenant. The landlord shall also test the smoke detector to verify that it is in good working order when a tenant takes possession of the dwelling. The landlord further has a duty to inspect or repair malfunctioning smoke detectors unless damage to the detector was caused by the tenant and tenant's family or guests. The landlord has a duty to inspect or repair damaged units if the tenant pays in advance for the reasonable cost of repair or replacement.

(Ord. No. 2003-17, 2-24-03)

Sec. 54-89. - Establishment of motor vehicle routes—For vehicles transporting explosives and blasting agents.

The routes referred to in the state law for vehicles transporting explosives and blasting agents are hereby established as follows: Such vehicles shall be restricted to railroads, state and federal highways, and M-2 industrial districts.

(Ord. No. 2003-17, 2-24-03)

Cross reference—Operation of vehicles, § 126-91 et seq.

Sec. 54-90. - Same—For vehicles transporting hazardous chemicals or other dangerous articles.

The routes for vehicles transporting hazardous chemicals or other dangerous articles are hereby established as follows: Such vehicles shall be restricted to railroads, state and federal highways, and M-2 industrial districts.

(Ord. No. 2003-17, 2-24-03)

Cross reference—Operation of vehicles, § 126-91 et seq.

~~Sec. 54-91. —Violations declared nuisances: extraterritorial application.~~

~~(a) —The following are declared public nuisances:~~

~~(1) —The possession, storage, or discharge, of fireworks; or~~

~~(2) Any violation of article III, Fire prevention, which poses a serious danger to the safety of persons or property.~~

~~(b) It is unlawful for a person to create or maintain a public nuisance, or to engage in any activity that constitutes a public nuisance, within the city limits or within 5,000 feet of the city limits.~~

(Ord. No. 2006-88, § 1, 9-11-06; Ord. No. 2015-51, § 1, 10-12-15)

Editor's note— Ord. No. 2006-88, § 1, adopted September 11, 2006, amended § 54-91 in its entirety to read as herein set out. Formerly, § 54-91 pertained to the manufacture and sale of fireworks, and derived from Ord. No. 2003-17, adopted February 24, 2003.

State Law reference— Extent of extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021.

Secs. 54-92—54-120. - Reserved.

APPENDIX D - FEE SCHEDULE amended as follows:

Sec. B. - Additional fees specific to building permitting.

(b) Building permit fees for new construction or new additions, shall be calculated on square footage using the following table identified as Building Permit Fee Schedule B which is dependent upon the use and construction type.

- (1) Buildings with multiple (mixed) use groups shall be charged the applicable fee per use group.
- (2) Shell buildings shall be charged a fee based on 80 percent of the calculated permit fee (0.80 x permit fee).
- (3) When proposed work involves both remodel of existing and new construction/addition, the fee for the remodel will be based on the remodel valuation and the fee for the new construction/addition shall be based on the square footage.
- (4) Permit fees are derived from ICC's ~~2012~~ [most current published](#) Building Valuation Data (BVD) fee schedule using a spreadsheet that has been set with an appropriate multiplier.

Instructions: (Complete Steps 1 and 2 for EACH Permit separately.)

Step 1. Select Occupancy Groups, Construction Type, and Square Footage for each building area.

Step 2. Input the value of Roadway impact fees for your project.

The fee estimator will use your input values to automatically calculate the approximate cost of the fees you will be charged at time of submittal.

Pick your Occupancy and Construction Type by clicking on a yellow box and selecting from the drop-down menus below:

Type in the square footage for each area in the building:

Applicable to New Construction and Additions only.

| | | | |
|---------------------------------|--------------------------------|----|---|
| Estimated Building Permit Fee = | Calculated Building Permit Fee | \$ | - |
|---------------------------------|--------------------------------|----|---|

Enter the cost of Roadway
Impact fees.

Building Permit Fee + Roadway
Impact fees.

The amounts estimated through this tool may not be accurate if the values entered into the tool are incorrect.

NOTES: The Building Division will accept intake fees that fall reasonably close to the amount required.

All fees must be paid in their entirety before a permit can be issued.

Occupancy Group Definitions

| IBC Occupancy Group | ICC BVD Uses | 2015 ICC Uses |
|---------------------------|--------------------------------|-----------------------|
| A-1 | Assembly, theaters, with stage | Theaters, auditoriums |

| | | |
|---------|---|---|
| A-1a | Assembly, theaters, without stage | Theaters, auditoriums |
| A-2 | Assembly, nightclubs | |
| A-2a | Assembly, restaurants, bars, banquet halls | Restaurants |
| A-3 | Assembly, churches | Churches |
| A-3a | Assembly, general, community halls, libraries, museums | Bowling alleys, libraries |
| A-4 | Assembly, arenas | |
| B | Business | Banks, medical office, office |
| E | Educational | Schools |
| F-1 | Factory and industrial, moderate hazard | Industrial plants |
| F-2 | Factory and industrial, low hazard | Industrial plants |
| H-1 | High Hazard, explosives | |
| H-2,3,4 | High Hazard | |
| H-5 | HPM | |
| I-1 | Institutional, supervised environment | Convalescent hospitals, homes for the elderly |
| I-2 | Institutional, incapacitated | Hospitals |
| I-2a | Institutional | Nursing homes |
| I-3 | Institutional, restrained | Jails |
| I-4 | Institutional, day care facilities | |
| M | Mercantile | Stores, service stations (mini-marts) |
| R-1 | Residential, hotels | Hotels and motels |

| | | |
|-----|--|---|
| R-2 | Residential, multiple family | Apartment houses |
| R-3 | Residential, one- and two-family | Dwellings |
| R-4 | Residential care, assisted living facilities | |
| S-1 | Storage, moderate hazard | Service stations (canopies and service bays), warehouses |
| S-2 | Storage, low hazard | Public garages, warehouse |
| U | Utility, miscellaneous | Residential garage, private garage |

Construction Types

| Type of User | Construction Type and Circumstances |
|----------------------|---|
| Single-Family | Use R-3 Under Occupancy Group and VB under Construction Type for all aspects of all Single Family projects. |
| Small Businesses | Construction type for commercial projects/businesses varies according to type of material and size of project. Note that alterations or additions valued at \$50,000.00 or more and new construction projects valued at \$100,000.00 or more must involve a licensed design professional. |
| Design Professionals | Designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. However, a permit can only be issued to a registered contractor. |

~~The International Code Council using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California, has compiled this building valuation table. ICC has developed this data to aid jurisdictions in determining fees.~~

| | | | | | | | | | |
|---|---------------|---------------|----------------|----------------|-----------------|-----------------|---------------|---------------|---------------|
| Group (2012 International Building Code) | IA | IB | IIA | IIB | IIIA | IIIB | IV | VA | VB |
|---|---------------|---------------|----------------|----------------|-----------------|-----------------|---------------|---------------|---------------|

| | | | | | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| A-1 Assembly, theaters, with stage | 212.00 | 204.85 | 199.65 | 191.24 | 179.60 | 174.56 | 184.86 | 164.20 | 157.69 |
| A-1 Assembly, theaters, without stage | 194.08 | 186.93 | 181.72 | 173.31 | 161.68 | 156.64 | 166.93 | 146.29 | 139.78 |
| A-2 Assembly, nightclubs | 166.35 | 161.60 | 157.13 | 150.84 | 141.62 | 137.83 | 145.25 | 128.47 | 123.67 |
| A-2 Assembly, restaurants, bars, banquet halls | 165.35 | 160.60 | 155.13 | 149.84 | 139.62 | 136.83 | 144.25 | 126.47 | 122.67 |
| A-3 Assembly, churches | 195.96 | 188.81 | 183.60 | 175.20 | 163.70 | 158.66 | 168.82 | 148.30 | 141.80 |
| A-3 Assembly, general, community halls, libraries, museums | 163.95 | 156.80 | 150.60 | 143.19 | 130.66 | 126.63 | 136.81 | 115.27 | 109.76 |
| A-4 Assembly, arenas | 193.08 | 185.93 | 179.72 | 172.31 | 159.68 | 155.64 | 165.93 | 144.29 | 138.78 |
| B Business | 169.14 | 162.95 | 157.42 | 149.72 | 135.78 | 130.75 | 143.54 | 119.31 | 113.65 |
| E Educational | 178.16 | 172.02 | 166.90 | 159.29 | 148.37 | 140.44 | 153.73 | 129.09 | 124.71 |
| F-1 Factory and industrial, moderate hazard | 100.75 | 96.02 | 90.26 | 86.94 | 77.68 | 74.37 | 83.16 | 64.01 | 60.19 |
| F-2 Factory and industrial, low hazard | 99.75 | 95.02 | 90.26 | 85.94 | 77.68 | 73.37 | 82.16 | 64.01 | 59.19 |
| H-1 High Hazard, explosives | 94.40 | 89.68 | 84.92 | 80.59 | 72.52 | 68.22 | 76.82 | 58.86 | 0.00 |
| H234 High Hazard | 94.40 | 89.68 | 84.92 | 80.59 | 72.52 | 68.22 | 76.82 | 58.86 | 54.03 |
| H-5 HPM | 169.14 | 162.95 | 157.42 | 149.72 | 135.78 | 130.75 | 143.54 | 119.31 | 113.65 |
| I-1 Institutional, supervised environment | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| I-2 Institutional, hospitals | 287.21 | 281.02 | 275.49 | 267.79 | 252.87 | 0.00 | 261.61 | 236.40 | 0.00 |

| | | | | | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| I-2 Institutional, nursing homes | 198.55 | 192.37 | 186.83 | 179.13 | 165.20 | 0.00 | 172.95 | 148.74 | 0.00 |
| I-3 Institutional, restrained | 192.65 | 186.47 | 180.93 | 173.23 | 160.79 | 154.76 | 167.05 | 144.32 | 136.66 |
| I-4 Institutional, day care facilities | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| M Mercantile | 123.91 | 119.17 | 113.69 | 108.40 | 98.85 | 96.06 | 102.82 | 85.70 | 81.90 |
| R-1 Residential, hotels | 169.51 | 163.62 | 159.09 | 152.26 | 140.12 | 136.46 | 148.59 | 125.88 | 121.46 |
| R-2 Residential, multiple family | 142.14 | 136.24 | 131.71 | 124.88 | 113.41 | 109.75 | 121.89 | 99.18 | 94.76 |
| R-3 Residential, one- and two-family | 133.78 | 130.13 | 126.82 | 123.67 | 118.74 | 115.78 | 119.75 | 110.94 | 103.92 |
| R-4 Residential, care/assisted living facilities | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| S-1 Storage, moderate hazard | 93.40 | 88.68 | 82.92 | 79.59 | 70.52 | 67.22 | 75.82 | 56.86 | 53.03 |
| S-2 Storage, low hazard | 92.40 | 87.68 | 82.92 | 78.59 | 70.52 | 66.22 | 74.82 | 56.86 | 52.03 |
| U Utility, miscellaneous | 71.08 | 67.13 | 62.83 | 59.33 | 53.24 | 49.79 | 56.48 | 41.64 | 39.44 |

ORDINANCE NO. 2019-

AN ORDINANCE AMENDING CHAPTER 14-BUILDING AND BUILDING REGULATIONS BY REPEALING ARTICLES I THROUGH X AND REORGANIZING, DELETING AND UPDATING THESE PROVISIONS AND ADOPTING THE CURRENT CODES; AND AMENDING CHAPTER 54-FIRE PREVENTION AND PROTECTION, EMERGENCY MEDICAL SERVICES, ARTICLE III, BY ADOPTING THE 2018 INTERNATIONAL FIRE CODE, AND AMENDING APPENDIX D- FEE SCHEDULE TO ADOPT THE MOST CURRENT PUBLICATION OF THE INERNATIONAL CODE COUNCIL’S BUILDING VALUATION DATA TABLE; REPEALING ALL ORDINANCES IN CONFLICT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels is currently under 2015 International Residential, Building, Plumbing, Mechanical, Fuel Gas, Energy Conservation, Fire, Property Maintenance and Existing Building Codes and the 2014 National Electrical Code, and should be brought up to current building standards to be consistent with other municipalities in the State; and,

WHEREAS, the City Building Department, has advised local builders and contractors of the City’s intention to adopt the updated version of the aforementioned codes; and

WHEREAS, the City of New Braunfels also finds it necessary to adopt the most recent codes, in order to protect the health, safety and welfare of the public.

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

I.

SECTION 1: That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2: That Chapter 14, “Buildings and Building Regulations” of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

Chapter 14 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. ~~IN GENERAL~~

~~Sec. 14-1. Standard Swimming Pool Code adopted; amendments; appeals; re-inspection fee; penalty.~~

~~(a) The International Swimming Pool and Spa Code (ISPSC), 2015 edition, as published by the International Code Council (ICC) is hereby adopted and incorporated by reference as the standard for residential swimming pools, for one or two family dwellings.~~

- ~~(b) The International Swimming Pool and Spa Code (ISPSC), 2015 edition is adopted as the standard for multifamily, commercial and public swimming pools.~~
- ~~(c) Permit limitations. An application for a permit for any proposed work shall be deemed abandoned if the permit has not been issued (physically received by the applicant) within 30 days of the date of the application's approval, with or without conditions imposed by the city and any reviewing department or agency. An application is considered approved once all reviews are complete and the permit is ready to be issued subject to any condition attached thereto. If abandoned, the work shall not be commenced and no inspections will be made until another application has been made and another permit approved and issued. All permits shall expire a maximum of six months after the date the application is approved or conditionally approved, regardless of whether the permit had been issued (received by the applicant). Extensions of the expiration period may be made by the building official upon presentation by the applicant of good and justifiable cause. Examples of justification could include natural or manmade disasters, scope of extremely large projects that typically require more than six months to complete, or a lack of availability of materials due to regional or nationwide shortages.~~
 - ~~(1) Fees. Fees for pools and related systems, equipment, and appurtenances shall be based on the schedules approved for the building, electrical, mechanical, gas, and plumbing codes of the city as outlined in appendix D of this Code.~~
 - ~~(2) Electrical applications to comply with the 2014 National Electrical Code.~~
- ~~(d) Reinspection fees are outlined in appendix D of this Code.~~
- ~~(e) Where there is conflict between the code adopted in this section and any city, state, or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.~~
- ~~(f) Any person, firm, corporation, agent, or entity that violates a provision of the code adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any such violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14.2. Standard Amusement Device Code adopted; amendments; re-inspection fee; penalty.~~

- ~~(a) The Standard Amusement Device Code, 1985 edition, as published by the Southern Building Code Congress International, Inc., as previously adopted by the city, shall remain in full force and effect subject to and including by reference such revisions, corrections, additions, and deletions as shall appear in this section.~~
- ~~(b) The Standard Amusement Device Code adopted in subsection (a) of this section is hereby amended in the following respects:~~
 - ~~Section 108 shall be renamed the "Construction Board of Adjustment and Appeals" and sections 108.1 through 108.5, inclusive, shall be deleted in their entirety and the following added:~~
 - ~~Appeals of the requirements in the Standard Amusement Device Code may be made to the construction board of adjustment and appeals in accordance with the requirements set forth in the building code.~~
- ~~(c) Reinspection fees are outlined in appendix D of this Code.~~
- ~~(d) Where there is conflict between the code adopted by this section and any city, state or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.~~

~~(e) Any person, firm, corporation, agent, or entity that violates a provision of the codes adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-3. Administration and enforcement of codes, ordinances and articles.~~

~~The building official of the city shall have the responsibility for the administration and enforcement of these codes, ordinances and articles as adopted by this chapter, and such official shall have all of the responsibilities called for in these articles and the specifications, rules and regulations adopted by these codes, ordinance and articles.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-4. Interpretation of codes, ordinances and articles.~~

~~The building official shall have the authority to render interpretations of these codes, ordinance, and articles; and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes, ordinances and articles. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes, ordinances and articles.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-5. Commercial premium or overtime inspection fees.~~

~~Premium or overtime inspections are those inspections requested for times other than the normal working hours. Fees for premium inspections done after 4:00 p.m. on weekdays and on weekends shall be at a rate of \$45.00 per inspection with a minimum of three inspections required.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-6. Building official to determine conflicts between codes.~~

~~The code official is the building official except where specifically described as the fire code official. Applying to any construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, occupancy loads, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, the building official is hereby authorized and directed to enforce the provisions of these codes and ordinances (all ICC codes adopted by the city and all city and all city ordinances that apply). The building official shall have the authority to render interpretations of all of these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-7—14-25. Reserved.~~

~~ARTICLE II. BUILDING CODE~~

~~Sec. 14-26. Short title.~~

~~This article shall be known as the building code of the city and may be cited as such.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-27. International Building Code (IBC) 2015 and International Residential Code (IRC) 2015.~~

~~(a) The IBC 2015 and the IRC 2015, and all appendices, are hereby adopted and incorporated by reference as the building codes of the city, except as stated in the following.~~

~~(b) Appendix A, IBC, Employee Qualifications is not adopted.~~

~~(c) Appendix B, IBC, Board of Appeals is not adopted.~~

~~(d) Appendix D, IBC, Fire Districts is not adopted.~~

~~(e) Appendix H, IBC, Signs is amended as follows:~~

~~Section 101.2, Signs Exempt from Permits is deleted and replaced with Section 106.10 Code of Ordinances, City of New Braunfels, Texas, Signs exempt from regulation or permits.~~

~~(f) Delete Section 105.2 IBC and IRC and amended as follows:~~

~~1. Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work.~~

~~2. Swings and other playground equipment accessory to detached one- and two-family dwellings.~~

~~(g) Appendix J, IBC, Grading is not adopted.~~

~~(h) Appendix I, IRC, Private Sewage Disposal is not adopted.~~

~~(i) Appendix L, IRC, Permit Fees is not adopted.~~

~~(j) All references to the International Electric Code are hereby deleted.~~

~~(k) All references to the Department of Building Safety, as found in Section R103, IRC and Section 103, IBC, are hereby deleted and shall be known as the Building Department.~~

~~(l) All references to the Board of Appeals, as found in Section 112, IRC and Section 113, IBC, are hereby deleted and shall be known as the Construction Board of Appeals Section 14-404 of the City of New Braunfels Code of Ordinances.~~

~~(m) Delete Section R302.5.1 IRC and replace as follows:~~

~~Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb-core steel doors not less than 1 3/8 inches thick, or 20 minute fire-rated door.~~

~~(n) Delete Section R311.2 IRC and replace as follows:~~

~~Exit Door Required. Not less than two doors conforming to this section shall be provided for each dwelling unit. The required doors shall provide for direct access from the habitable portions of the dwelling to the exterior without travel through a garage. Access to habitable levels not having two exits in accordance with this section shall be by a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.~~

~~(e) Delete Chapter 11 of the IBC and replace as follows:~~

- ~~1. Chapter 11 – Accessibility: All buildings or portions of buildings must comply with the accessibility standards adopted by the state of Texas. All projects shall be submitted to Texas Department of Licensing & Regulation (TDLR) for review, inspection and approval in accordance with state law.~~
- ~~2. Before a contractor applies for a permit for a building or structure per the Texas Architectural Barriers Act, Texas Government Code, Chapter 469, Section 469.101 the contractor shall provide proof that he has registered the construction documents with the TDLR. Proof of registration consists of the project registration number from the TDLR.~~
- ~~3. The Building Official shall have the authority to require registration with TDLR.~~
- ~~4. The Building Official shall require an asbestos survey as required by the Texas Asbestos Health Protection Act (Art. 4472-3a Vernon's Texas Civil Statutes).~~

~~(p) Chapter 10, Section 1004.1.2 of the IBC is amended to read as follows:~~

~~1004.1.2 Number by Table 1004.1.2. The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.2~~

~~Exception: The Building Official shall have the authority to assign occupancy load that is less than required by Table 1004.1.2.~~

~~(q) Chapter 9, Section 903.1 of the IBC shall be amended to read as follows:~~

~~903.1 General. Automatic sprinkler systems shall comply with this section.~~

~~Exception: Change of occupancy from any other occupancy other than R-3 will require compliance with this section.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-28. Reserved.~~

Editor's note — ~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-28 in its entirety, which pertained to building code fees, and derived from Ord. No. 2015-35, § 1, adopted July 13, 2015.~~

~~— For current provisions pertaining to building code fees, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-29. Contractors.~~

~~(a) General contractor-local registration shall expire on February 28th of each year. The term "general contractor" shall mean and include every person who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, under the IRC 2015 R101.2 Scope. The provisions of the IRC for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures except for the following:~~

- ~~(1) The term "general contractor-residential" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a licensed general contractor;~~

- ~~(2) The term "general contractor-residential" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
- ~~(3) The term "general contractor-residential" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing.~~
- ~~(b) *General contractor-commercial shall be defined as IBC 2015 Section 101.2 Scope.* The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.~~
 - ~~(1) Detached one and two family dwellings and multiple single family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the IRC.~~
 - ~~(2) General contractor commercial shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year except for the following:~~
 - ~~a. The term "general contractor-commercial" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;~~
 - ~~b. The term "general contractor-commercial" shall not apply to the trade of electricians who are registered separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
 - ~~c. The term "general contractor-commercial" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring registration.~~
- ~~(c) *Contractor-limited defined; scope of work.*~~
 - ~~(1) The term "contractor-limited" or "limited contractor" shall mean a person who is not a general contractor and who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, except for the following:~~
 - ~~a. The term "limited contractor" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;~~
 - ~~b. The term "limited contractor" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and~~
 - ~~c. The term "limited contractor" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing or permitting.~~
 - ~~(2) A limited contractor is considered applicable to such trades as roofing, framing, paving, fencing, and other specialty crafts.~~
- ~~(d) *Building permit required.* No person, firm, corporation, or any other entity shall erect, construct, enlarge, alter, repair, modify, excavate, fill, or change any fence, sign, land, building, structure, or property in the city, nor cause such work to be done; nor shall any building or structure be moved, removed, converted, or demolished without first obtaining any necessary permit therefore from the building official and complying with all applicable requirements of the city.~~

~~In addition to a registered contractor, the designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. Or, the property~~

owner may apply for the building permit. Such permit shall be issued only to a registered contractor or other person approved by the building official in accordance with this section who will construct the building.

~~(e) — Owner doing own work; permits required; compliance with applicable laws and requirements.~~

~~(1) — An owner of an existing single-family residence who permanently resides in that residence and who claims it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.~~

~~(2) — A person who intends to build a single-family residence and permanently reside therein and claim it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered if approved by the building official. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.~~

~~(3) — No single-family resident homeowner will be issued a permit under the provisions of this section involving any structural, electrical, or plumbing work unless the building official is satisfied that the applicant can competently and safely perform the work.~~

~~(f) — Reserved.~~

~~(g) — Registration — Application generally. Every person desiring to engage in the business of general or limited contractor in the city shall obtain a city registration authorizing him to engage in such business. Individuals desiring such registration shall make application with the building official on the form, which may be obtained from the office of the building department of the city. The building official may, at his discretion, issue one permit for the initial work of any otherwise approved structure pending approval of the appropriate general or limited contractor's registration. Only individuals shall be so registered, and the registration is not transferable.~~

~~(h) — Insurance required. Before any person shall engage in the business of a general or limited contractor or be granted a registration to do so, he shall first provide the city proof of \$1,000,000.00 liability insurance for general contractor-commercial and \$300,000.00 for limited contractor and general contractor-residential.~~

~~(i) — Application for registration — Applicant who has had registration previously denied or revoked. An applicant for a general or limited contractor's registration who has been denied a registration or had a registration revoked by this city or another entity for any building or related trade must disclose that information to the building official at the time of application. Any conviction for a misdemeanor or felony, other than traffic citations, must also be disclosed. Failure to disclose such information will result in automatic disapproval of the application. If the registration is issued and such failure to disclose is discovered later, the registration will be revoked. Any additional legal remedies may also be pursued by the building official. Upon disclosure at the time of registration application, the building official will make a thorough investigation and weigh carefully all details available prior to approving registration.~~

~~(j) — Fee. Every applicant who shall make application for a general contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.~~

~~(k) — Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (h).~~

~~(l) — Term of registration. All registrations issued under the provisions of this article shall expire on December 31st, except the registrations identified under subsection (a).~~

~~(m) — Registration renewal; fee; requirements for renewal. A registration holder may renew his general contractor's registration any time during the period within December 1 and 30 calendar days after the date of its expiration by paying an annual renewal fee of \$100.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 60 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.~~

~~(n) Procedure for denial, revocation, or suspension of registration or right to obtain permits. If the building official initiates a recommendation for denial, revocation, or suspension of a registration or of a right to obtain permits to work under an adopted code or ordinance of the city, the following procedure will apply:~~

- ~~(1) An applicant for registration or a registrant of the city shall have ten business days to request a review hearing to be held before the construction board of appeals as referenced in section 14-404. During the ten business day period a current registrant shall not be allowed to obtain permits. If the applicant for registration or a registrant fails to request a hearing within ten business days the recommendation of the building official shall become final. If a registrant requests a hearing, any denial, revocation or suspension of registration or right to obtain permits shall be stayed pending the decision of the board. The board shall by majority vote affirm or reject the building official's recommendation.~~
- ~~(2) If the registrant is registered by the state, such as an electrical contractor, mechanical contractor or plumbing contractor, the process in subsection (1) of this section would apply.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-30. Requirements not covered by Code.~~

~~Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the building official. In addition, other requirements to implement, clarify or set procedures to accomplish the intent of this Code may be set in writing by the building official and may be posted electronically for public access.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-31. Construction work hours and/or noise.~~

- ~~(a) Construction work hours and/or noise means any construction or noise generated by construction activities, such as the operation of power equipment, machinery or tools, the use of air-powered or impact tools, hammers, saws, picks, shovels and other similar tools, and the loading, unloading, conveyance or assembly of construction materials, equipment, machinery or tools.~~
- ~~(b) It is unlawful for a person to start work and/or cause construction noise to be made between 9:00 p.m. and 6:00 a.m.~~
- ~~(c) It is unlawful for a person to whom a construction permit is issued by the city to cause or allow work to start and/or construction noise to be made in connection with the performance of work under the permit between 9:00 p.m. and 6:00 a.m.~~

~~Exceptions:~~

~~The building department understands that there may be times when work must occur outside of the permissible hours. If you have an emergency that includes any of the following, then the start work and/or noise regulations do not apply:~~

- ~~• Work made necessary to restore a property to a safe condition following a public calamity.~~
- ~~• Work to restore public utilities.~~
- ~~• Work required to protect persons or property from imminent exposure to danger.~~

~~There may be other situations that require work outside of permissible hours. For these situations, you must apply for a variance subject to approval by the building official. Application for variance must be in filed with the building department at least 48 hours in advance.~~

- ~~(d) A person who violates this section shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-32. Erosion control.~~

- ~~(a) *Definitions.* The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Below ground installations* means activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.~~

~~*Building official* means the building official for the City of New Braunfels or his designee.~~

~~*Construction activities* means construction activities that require a building permit.~~

~~*Erosion control plan* means a site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures and practices to be used to control erosion and sedimentation.~~

~~*Final approval* means completion of a project, site or building in accordance with city requirements and ordinances. In the case of a building, a certificate of occupancy is issued.~~

~~*Land disturbing activity* means any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind.~~

~~*Off-site borrow area* means a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.~~

~~*Off-site sedimentation* means deposit of soil material beyond the limits of the property undergoing land disturbing activity or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.~~

~~*Off-site spoil area* means an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.~~

~~*Permanent erosion control devices* means devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.~~

~~*Permanent ground cover* means permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.~~

~~*Phased occupancy* means use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by city.~~

~~Related land area~~ includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

~~Responsible party~~ means a business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

~~Staging area~~ means an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

~~Stop work order~~ means the suspension of all city permits with no approvals or inspections of work for the site or project being performed.

~~Temporary erosion control devices~~ means devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

~~(b) Building permit.~~ When land disturbing activities are conducted on a lot for which a building permit must be issued, the responsible party shall comply with the following:

~~(1) Erosion control plan.~~ Prior to approval of a building permit for a lot by the city, the contractor or other responsible party obtaining the building permit shall submit an erosion control plan for approval by the city. No inspection may be performed on a project until a city approved erosion control plan is implemented.

~~(2) Stop work order/citation.~~ City shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan submitted for such site. If a responsible party fails to implement or maintain erosion control devices as specified in his approved erosion control plan, city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance. The responsible party shall have 24 hours to bring his erosion control devices into compliance with the approved erosion control plan for the site where the violation occurred. Correction shall include sediment clean-up, erosion control device repair, erosion control device maintenance, and/or installation of additional erosion control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.

At the end of the 24 hour cure period, city shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, city may issue a stop work order and issue a citation for each violation of the city's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted there for and a re-inspection fee, as set by the building inspection department of the city, shall be paid.

~~(3) Removal of erosion control devices.~~ Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.

~~(c) Enforcement.~~

~~(1) Violations.~~ It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:

- ~~a. Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred.~~
- ~~b. Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred.~~
- ~~c. Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion~~

~~control devices as specified in an approved erosion control plan for the location where the violation occurred.~~

~~d. Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.~~

~~e. Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.~~

~~(2) *Notice of violation.* Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan.~~

~~(3) *Class C misdemeanor.* Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.~~

~~(d) *Appeals.*~~

~~(1) *Appeal to building official.* Upon notice of noncompliance, a responsible party may appeal the city's decision to take deductions from his erosion control deposit pursuant to section 14-96 of this article, by filing a written appeal to the building official within seven days of city's written notice of its intent to make such deduction for costs as allowed herein. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority to take deductions under this article.~~

~~(2) *Standard for appeals.* When reviewing an appeal filed pursuant to this section, the building official shall evaluate all evidence submitted. The burden of proving that a violation of this article occurred shall be on the city. The city shall provide evidence sufficient to reasonably support a determination that the responsible party failed to comply with the requirements of this article as alleged by the city.~~

~~(3) *Issuance of opinion by director.* Decisions of the building official shall be issued within 20 days of city's receipt of the written appeal. Decisions of the building official shall be final.~~

GLOSSARY

• ~~BARREL~~—A pipe placed through a dam, levee or dike to control the release of water.

• ~~BMP~~—Best Management Practices. Consist of practices, procedures, and devices used to prevent or reduce pollutants, including sediment, from polluting the waters of the United States.

• ~~BORROW AREA~~—A source of earth fill material used in the construction of embankments or other earth fill structures.

• ~~CHANNEL~~—A natural stream or excavated ditch that conveys water.

• ~~CHANNELIZATION~~—Alteration of a stream channel by widening, deepening, straightening, or paving certain areas to improve flow characteristics.

• ~~CHECK DAM~~—A small, temporary dam constructed across a drainage ditch, swale or channel to lower the speed of concentrated flows and promote sediment deposition.

- ~~CONTOUR—An imaginary line on the surface of the earth connecting points of the same elevation.~~
- ~~CUT—Portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below the original ground surface to the excavated ground surface.~~
- ~~DAM—A barrier to confine or impound water or for the retention of soil, sediment or debris.~~
- ~~DESIGN STORM—A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.~~
- ~~DISCHARGE—Usually the rate of water flow commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.~~
- ~~DIVERSION—A channel with a supporting ridge on the lower side constructed at the top, across, or at the bottom of a slope for the purpose of controlling surface runoff.~~
- ~~DIVERSION DIKE—A barrier built to divert surface runoff.~~
- ~~DIVIDE, DRAINAGE—The boundary between watersheds.~~
- ~~DRAINAGEWAY—A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river or lake.~~
- ~~DROP INLET—Overall structure in which the water drops through a vertical riser connected to a discharge conduit or storm sewer.~~
- ~~EARTH DAM—Dam constructed of compacted suitable soil materials.~~
- ~~ENERGY DISSIPATOR—A device used to reduce the energy of flowing water to prevent erosion.~~
- ~~EPA—The Environmental Protection Agency. The federal agency responsible for administering the NPDES permit program.~~
- ~~ERODIBILITY—Susceptibility to erosion.~~
- ~~EROSION—The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.~~
- ~~EROSION CONTROL PLAN—A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of BMPs to be used to control erosion and sedimentation.~~

- ~~FILTER FABRIC—A woven or non-woven, water permeable material generally made of synthetic products such as polypropylene and used in erosion and sediment control applications to trap sediment or prevent the movement of fine soil particles.~~
- ~~FLOOD PLAIN—The lowland that borders a stream and is subject to flooding when the stream overflows its banks.~~
- ~~GABION—A wire mesh cage, usually rectangular, filled with rock and used to protect channel banks and other sloping areas from erosion.~~
- ~~GEOTEXTILES—See filter fabric.~~
- ~~GRADE STABILIZATION STRUCTURE—A structure for the purpose of stabilizing the grade of a gully or other watercourse, thereby preventing further erosion or lowering of the channel bottom.~~
- ~~GRADING—The cutting and/or filling of the land surface to a desired slope or elevation.~~
- ~~GRASSED WATERWAY—A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses and used to safely conduct surface water from an area.~~
- ~~GROUND COVER—Low-growing, spreading plants (grasses or legumes) useful for low-maintenance landscape areas.~~
- ~~INVERT—The inside bottom of a culvert or other conduit.~~
- ~~LEGUME—Any member of the pea or pulse family which includes peas, beans, peanuts, clovers, alfalfa, sweet clovers, lespedezas, vetches, black locust, and kudzu.~~
- ~~NPDES—National Pollutant Discharge Elimination System. A federal program that requires a permit for storm water discharges to the waters of the U.S.~~
- ~~OUTLET PROTECTION—Stone, rip rap, concrete or asphalt aprons installed to reduce the speed of concentrated storm water flows, thereby reducing erosion and scouring at storm water outlets.~~
- ~~RAINFALL INTENSITY—The rate at which rain is falling at any given instant, usually expressed in inches per hour.~~
- ~~RATIONAL METHOD—A means of computing storm drainage flow rates by use of the formula $Q = CiA$, where C is a coefficient describing the physical drainage area, i is the rainfall intensity, and A is the drainage area.~~
- ~~RECEIVING STREAM—The body of water into which runoff or effluent is discharged.~~

- ~~RILL~~—A small intermittent watercourse with steep sides, usually only a few inches deep, normally caused by erosion.
- ~~RISER~~—A vertical pipe or structure extending from the barrel, storm sewer or bottom of a pond BMP that is used to convey the discharge from the pond or drainage area.
- ~~RUNOFF~~—That portion of precipitation that flows from a drainage area on the land surface, in open channels or in storm water conveyance systems.
- ~~SCOUR~~—The clearing and digging action of flowing water, especially the downward erosion caused by stream water in sweeping away mud and silt from the stream bed.
- ~~SEDIMENT~~—Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice.
- ~~SEDIMENT BASIN~~—A settling pond with a controlled storm water release structure used to collect and store sediment produced by land disturbing activities. The basin detains sediment-laden runoff from larger drainage areas long enough to allow most of the sediment to settle out.
- ~~SEDIMENT POOL~~—The reservoir space allocated for the accumulation of sediment in a sedimentation control device.
- ~~SEDIMENT TRAP~~—A settling basin with a filter outlet designed to retain runoff long enough to allow most of the silt to settle out.
- ~~SEDIMENTATION~~—The deposition of suspended soil particles that have settled out from storm water runoff.
- ~~SHEETFLOW~~—Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel or a rill.
- ~~SILT~~—Parts of the soil structure consisting of particles between 0.002 and 0.05 mm in diameter.
- ~~SLOPE~~—Degree of deviation of a surface from the horizontal. Slope is measured and is shown as a numerical ratio or percent.
- ~~SOIL~~—The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- ~~STABILIZATION~~—The proper placing, grading and/or covering of soil, rock or earth to ensure its resistance to erosion, sliding, or other movement. Also see Vegetative Stabilization.
- ~~STORM FREQUENCY~~—The time interval between major storms of predetermined intensity and volumes of runoff (e.g. ten-year or 100-year storm).

- ~~STORM SEWER (DRAIN)~~—A sewer that carries storm water, surface drainage, street wash and other wash waters, but excludes sewage and industrial wastes. Also called a storm drain.
- ~~STORM WATER~~—Runoff from a rain event or snow melt runoff. Also called surface runoff.
- ~~SWALE~~—An elongated, gentle depression in the land surface that conveys storm water into primary drainage channels. Swales are normally without flowing or standing water.
- ~~SWPPP~~—Storm Water Pollution Prevention Plan. A document that is a part of the NPDES permit application and consists of the site erosion control plan, waste management plan, and site narrative as required by the EPA.
- ~~TEMPORARY SEEDING~~—The growing of short-term (less than 1-year) vegetation on disturbed areas to prevent erosion.
- ~~TOE OF SLOPE~~—The base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.
- ~~TOPOGRAPHY~~—A general term that includes the physical features of a surface area including relative elevations and the position of natural and man-made features.
- ~~VEGETATIVE STABILIZATION~~—Protection of erodible areas with temporary seeding, permanent seeding, or sodding.
- ~~WATERSHED~~—The region drained by or contributing water to a stream, lake, or other body of water.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-33. ~~Irrigation systems.~~

- (a) ~~Scope.~~ This appendix [section] applies to the installation, alteration, repairs, relocation, replacement, addition to, use, or maintenance of irrigation systems within the city. This appendix [section] regulates the installation of backflow prevention devices, control valves, automatic irrigation controllers, control wiring, and water conservation required for the proper design, installation, and operation of irrigation systems. All irrigation systems must comply with the provisions of this appendix [section] and with Title 30, Texas Administrative Code, Chapter 344.
- (b) ~~Purpose.~~ The purpose of this appendix [section] is to require all irrigation systems to be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation.
- (c) ~~Definitions.~~ The following words and terms shall have the meanings shown herein.

~~Design~~ means the act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

~~*Design pressure* means the pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.~~

~~*Emission device* means any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads and drip irrigation emitters.~~

~~*Employed* means engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, Title 26, United States Code Service, Section 3312(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment-related tasks.~~

~~*Head-to-head spacing* means the spacing of spray or rotary sprinkler heads equal to the manufacturer's published radius of the head.~~

~~*Hydraulics* means the science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.~~

~~*Inspector* means a licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.~~

~~*Installer* means a person who connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation inspector* means a person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation plan* means a scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.~~

~~*Irrigation services* means selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.~~

~~*Irrigation system* means an assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by V.T.C.A., Agricultural Code § 251.002.~~

~~*Irrigation technician* means a person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigation zone* means a subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope), and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.~~

~~*Irrigator* means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system, or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.~~

~~*Irrigator-in-charge* means the irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to, obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.~~

~~*Landscape irrigation* means the science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.~~

~~*License* means an occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30, to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.~~

~~*Mainline* means a pipe within an irrigation system that delivers water from the water source to the individual zone valves.~~

~~*Maintenance checklist* means a document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to, checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.~~

~~*Major maintenance, alteration, repair, or service* means any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.~~

~~*Master valve* means a remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.~~

~~*Matched precipitation rate* means the condition in which all sprinkler heads within an irrigation zone apply water at the same rate.~~

~~*Pass-through contract* means a written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.~~

~~*Reclaimed water* means domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.~~

~~*Records of landscape irrigation activities* means the irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.~~

~~*Static water pressure* means the pressure of water when it is not moving.~~

~~*Supervision* means the on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair, or service an irrigation system.~~

~~*Water conservation* means the design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.~~

~~*Zone flow* means a measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.~~

~~*Zone valve* means an automatic valve that controls a single zone of a landscape irrigation system.~~

~~(d) *License*. Any person who connects an irrigation system to the water supply in the city must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30, and V.T.C.A.,~~

~~Occupations Code ch. 1903, or as defined by Title 22 of the Texas Administrative Code, Chapter 365, and required by V.T.C.A., Occupations Code ch. 1301.~~

~~Exemption: A homeowner is not required to be licensed in accordance with V.T.C.A., Occupations Code tit. 12, § 1903.002(c)(1) if the homeowner is performing irrigation work in a building or on a premises owned and occupied by the homeowner as the homeowner's homestead. A homeowner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344, regarding spacing, water pressure, spraying water over impervious materials, rain and freeze sensors, backflow prevention and isolation valves.~~

- ~~(e) *Permit.* Any person or homeowner installing an irrigation system in the city is required to obtain a permit from the city. Any plan approved for a permit must be in compliance with the requirements of this appendix [section].~~

~~Exemptions:~~

- ~~(1) An irrigation system that is an on-site sewage disposal system, as defined by V.T.C.A., Health and Safety Code § 355.002; or~~
- ~~(2) An irrigation system used on or by an agricultural operation as defined by V.T.C.A., Agriculture Code § 251.002; or~~
- ~~(3) An irrigation system connected to a groundwater well used by the property owner for domestic use.~~

- ~~(f) *Backflow prevention methods and devices.*~~

- ~~(1) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by: the American Society of Sanitary Engineers; the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; the International Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.~~

- ~~(2) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:~~

~~a. An air gap may be used if:~~

- ~~1. There is an unobstructed physical separation; and~~
- ~~2. The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.~~

~~b. Reduced pressure principle backflow prevention assemblies may be used if:~~

- ~~1. The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and~~
- ~~2. Drainage is provided for any water that may be discharged through the assembly relief valve.~~

~~c. Pressure vacuum breakers may be used if:~~

- ~~1. No back-pressure condition will occur; and~~
- ~~2. The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.~~

~~d. Atmospheric vacuum breakers may be used if:~~

1. ~~No back-pressure will be present;~~
 2. ~~There are no shutoff valves downstream from the atmospheric vacuum breaker;~~
 3. ~~The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;~~
 4. ~~There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and~~
 5. ~~A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve between the valve and all the emission devices that the valve controls.~~
- (3) ~~Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.~~
- (4) ~~If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.~~
- (5) ~~If a double check valve is installed below ground:~~
- a. ~~Test cocks must be plugged, except when the double check valve is being tested;~~
 - b. ~~Test cock plugs must be threaded, water-tight, and made of non-ferrous material;~~
 - c. ~~A y-type strainer is installed on the inlet side of the double check valve;~~
 - d. ~~There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and~~
 - e. ~~There must be space on the side of the double check valve to test and repair the double check valve.~~
- (6) ~~If an existing irrigation system without a backflow prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.~~
- (7) ~~If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.~~
- (8) ~~The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.~~
- (g) ~~Specific conditions and cross-connection control.~~
- (1) ~~Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.~~
 - (2) ~~Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced pressure principle backflow prevention assembly or an air gap.~~
 - (3) ~~Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.~~

- (4) ~~If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:~~
- a. ~~All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);~~
 - b. ~~Any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and~~
 - c. ~~Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.~~
- (h) ~~Irrigation plan design: Minimum standards.~~
- (1) ~~An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:~~
 - a. ~~Diminish the operational integrity of the irrigation system;~~
 - b. ~~Violate any requirements of this appendix [section]; and~~
 - c. ~~Go unnoted in red on the irrigation plan.~~
 - (2) ~~The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.~~
 - (3) ~~All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:~~
 - a. ~~The irrigator's seal, signature, and date of signing;~~
 - b. ~~All major physical features and the boundaries of the areas to be watered;~~
 - c. ~~A North arrow;~~
 - d. ~~A legend;~~
 - e. ~~The zone flow measurement for each zone;~~
 - f. ~~Location and type of each:~~
 - 1. ~~Controller; and~~
 - 2. ~~Sensor (i.e., rain and freeze);~~
 - g. ~~Location, type, and size of each:~~
 - 1. ~~Water source, including, but not limited to, a water meter and point(s) of connection;~~
 - 2. ~~Backflow prevention device;~~
 - 3. ~~Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;~~
 - 4. ~~Valve, including but not limited to, zone valves, master valves, and isolation valves;~~
 - 5. ~~Pressure regulation component; and~~
 - 6. ~~Main line and lateral piping.~~

h. ~~The scale used; and~~

i. ~~The design pressure.~~

(i) ~~Design and installation: Minimum requirements.~~

- (1) ~~No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.~~
- (2) ~~Spacing.~~
 - a. ~~The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.~~
 - b. ~~New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, including, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.~~
 - c. ~~Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.~~
- (3) ~~Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.~~
- (4) ~~Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.~~
- (5) ~~Irrigation zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.~~
- (6) ~~Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.~~
- (7) ~~Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.~~
- (8) ~~Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.~~
- (9) ~~PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a purple primer prior to applying the PVC cement in accordance with the International Plumbing Code, Section 605.~~
- (10) ~~Rain and freeze sensors.~~
 - a. ~~Any commercial, industrial, multi family, or residential customer class irrigation system installed within the city on or after January 1, 2009, must be equipped with rain and freeze sensors.~~
 - b. ~~Any commercial, industrial, or multi-family customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2010, without being equipped with rain and freeze sensors~~

- ~~c. Any residential customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2011, without being equipped with rain and freeze sensors. If a person repairs or replaces more than 50 percent of a residential customer class irrigation system before January 1, 2011, then such irrigation system must be equipped with rain and freeze sensors.~~
- ~~d. Any rain and freeze sensor shall be installed according to the manufacturer's published recommendation and shall be from a list approved by the building official.~~
- ~~e. Repairs to existing automatic irrigation systems that require replacement of an existing controller shall include a rain and freeze sensor designed to inhibit or interrupt operation of the irrigation system during periods of freezing temperatures and rainfall.~~
- ~~(11) Isolation valve. All new irrigation systems must include a lockable isolation valve between the water meter and the backflow prevention device.~~
- ~~(12) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.~~
 - ~~a. If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.~~
 - ~~b. If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.~~
 - ~~c. All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.~~
- ~~(13) Wiring irrigation systems.~~
 - ~~a. Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.~~
 - ~~b. Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.~~
 - ~~c. Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.~~
 - ~~d. Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.~~
- ~~(14) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, including, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box, and the hose bib and any hoses connected to the bib must be labeled "non-potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.~~
- ~~(15) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is~~

~~not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.~~

~~(j) Completion of irrigation system installation. Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:~~

- ~~(1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system.~~
- ~~(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include, but are not limited to:~~
 - ~~a. The manufacturer's manual for the automatic controller, if the system is automatic;~~
 - ~~b. A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;~~
 - ~~c. A list of components, such as the nozzle, pump filters, and other such components, that require maintenance and the recommended frequency for the service; and~~
 - ~~d. The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."~~
- ~~(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink.~~
- ~~(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.~~

~~(k) Maintenance, alteration, repair, or service of irrigation systems.~~

- ~~(1) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.~~
- ~~(2) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.~~
- ~~(3) Purple PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the International Plumbing Code, Section 605.~~
- ~~(4) When maintenance, alteration, repair, or service of an irrigation system involves excavation work at the water meter or backflow prevention device, a lockable isolation valve shall be installed, if an isolation valve is not present.~~

~~(l) Reclaimed water. Reclaimed water may be utilized in landscape irrigation systems if:~~

- ~~(1) There is no direct contact with edible crops, unless the crop is pasteurized before consumption;~~

- ~~(2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;~~
- ~~(3) The irrigation system is installed using purple components;~~
- ~~(4) The domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i);~~
- ~~(5) A minimum of an eight-inch by eight-inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER — DO NOT DRINK" and "AGUA DE RECUPERACION — NO BEBER"; and~~
- ~~(6) Backflow prevention on the reclaimed water supply line shall be in accordance with city ordinances.~~

~~(m) Lawn and landscape irrigation restrictions.~~

- ~~(1) A person commits an offense if the person knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased, or managed by the person in a manner that causes:

 - ~~a. A substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area; or~~
 - ~~b. An irrigation system or other lawn or landscape watering device to operate during any form of precipitation.~~~~
- ~~(2) A person commits an offense if, on premises owned, leased, or managed by that person, the person operates an irrigation system or other lawn or landscape watering device that:

 - ~~a. Has any broken or missing sprinkler head; or~~
 - ~~b. Has not been properly maintained in a manner that prevents the waste of water.~~~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-34—14-50. Reserved.~~

~~ARTICLE III. — ELECTRICAL CODE^[2]~~

Footnotes:

~~—(2)—~~

~~**Cross reference**—Businesses, ch. 18.~~

~~Sec. 14-51. —Electrical code.~~

~~The National Electrical Code 2014 is hereby adopted as the electrical code of the city, except:~~

- ~~(1) Section 80-35, Effective Date, is not adopted.~~
- ~~(2) Section 80.15, Electrical Board of the National Electrical Code, is deleted.~~
- ~~(3) That paragraph 80.23(B)(3) of the 2014 National Electrical Code is deleted.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-52. Scope of article.~~

~~The provisions of this article shall apply to all electrical wiring and equipment installed, used or maintained in the city, except the electrical work, wiring or equipment used in the generation, distribution and rendition of service to the public which is installed by or for and owned or maintained by a public utility, telephone, telegraph or district messenger company permitted to operate in the city, and the registration fees and liability insurance provided for in this article shall not apply to such companies and their employees in the performance of such work, but the wiring and installations for light, heat and power equipment of such companies which are installed for their own use as office, warehouse or repair facilities shall be done under permit according to the requirements of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-53. Maintenance.~~

- ~~(a) The electrical service and wiring of all buildings and structures, both existing and new, shall be maintained in a safe and operating condition unless electrical service is completely removed from such building or structure.~~
- ~~(b) Electrical wiring for which the owner no longer has use, need or desire for and therefore disconnects from its electrical source shall be completely removed from the building or structure unless electrical service to such structure is completely removed.~~
- ~~(c) The owner, or his designated agent, shall be responsible for the electrical maintenance of buildings or structures.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-54. Administration and enforcement generally.~~

~~The building official is designated as the city officer responsible for enforcing the requirements of this article and is the administrative authority. He and/or members of his department shall serve as electrical inspectors when enforcing the provisions of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-55. Conflicts of interest; restrictions on providing initial electrical service.~~

- ~~(a) No person employed by the building department of this city shall be financially interested in the furnishing of labor, material or appliances for use in any manner in the electrical installation of a building or structure unless such person is otherwise eligible under the property and homeowner exception as set forth in section 14-62.~~
- ~~(b) Utility providers shall not provide initial electrical service to any building or structure unless such utility has been furnished a certificate of occupancy or release as required by the city for such building or structure that corresponds to the intended use of the building. Temporary electrical service may be provided to such building or structure for a period not exceeding 180 days after the utility provider has been furnished a certificate of inspection or temporary certificate of occupancy. When temporary service has been provided for the purpose of construction, the period of service may be extended by the building official. Each of the certificates referred to in this section will be issued as appropriate by the building official upon completion of the required inspections.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-56. Electrical inspector, powers and duties.~~

- ~~(a) *Right of entry.* The building official and/or his department and personnel when serving as electrical inspectors in enforcement of this article may enter any building, structure, portion thereof, or premises during reasonable hours to perform any duty imposed upon him by this article.~~
- ~~(b) *Issuance of permits; supervision of work.* The building official shall cause to be issued for each job requiring any type of electrical work a permit, shall see that the fees (see section 14-66) set out in this article are properly paid, and that all work done under such permits are accomplished in accordance with this article under the direct supervision of persons registered under the provisions of this article.~~
- ~~(c) *Stop work orders.* Upon notice from the building official that electrical work on any building or structure is being done contrary to the provisions of this article or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the stop work order shall be given verbally with written notice following within two working days.~~
- ~~(d) *Revocation of permits.* The building official may revoke a permit or approval issued under the provisions of this article if there has been any false statement, misunderstanding or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.~~
- ~~(e) *Electrically unsafe buildings.* All buildings or structures which in the opinion of the electrical inspector are electrically unsafe so as to create a hazard to life or constitute a fire hazard or are otherwise dangerous to life or property are hereby declared illegal and shall have the electrical power removed or disconnected and then shall be abated by repair, rehabilitation or demolition in accordance with condemnation procedures as established by the codes as adopted by this city.~~
- ~~(f) *Requirements not covered by this article.* Any requirement necessary for the electrical safety to life and property not specifically covered by this article shall be determined by the building official subject to appeal to the electrical appeals board.~~

(Ord. No. 2015-35, § I, 7-13-15)

~~Sec. 14-57. Electrical contractor registration.~~

~~It shall be unlawful for any corporation, partnership, association, or individual to engage in the business of installing, altering or changing of any electrical wiring and apparatus within any building in the city that does not have a valid, unexpired electrical contractor's registration from the city. The registration must be issued in the name of the individual who met the requirements of this article. Nothing contained in this article shall be construed to prevent a property owner from doing electrical work in a building owned by him to be occupied by him as a dwelling or home of a two-family dwelling or single-family dwelling type; provided, that the property owner must actually perform the work and that no person other than the actual owner shall do any part of the work unless such persons possess a electrical contractor's registration in full compliance with all provisions of this article, and further provided, that all work performed and material used meets the requirements of this article and the city electrical inspector's approval.~~

- ~~(1) An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.~~
- ~~(2) Electrical contractor's registration. The applicant must show proof of state registration~~
- ~~(3) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, conditioned that the person engaged in the electrical business will faithfully observe all the laws pertaining to electric installation and maintenance, and further, that the city shall be indemnified and saved harmless from all claims~~

~~arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the electric business, or by any other unfaithful or inadequate work done either by the person or his agents or employees.~~

- ~~(4) Upon acceptance of the proof of insurance required under subsection (3) of this section by the city, the individual, firm or corporation desiring to do such work shall secure from the building division of the city an electrical contractor's registration, which shall not be transferable. In the event of the dissolution of any company or partnership holding such registration, the member in whose name the registration was issued and who retains such registration shall be required to renew the certificate of insurance provided for in this section before doing any such work provided for in this article. The person obtaining an electrical contractor's registration shall pay to the city the sum of \$200.00 for the first year and \$75.00 as an annual renewal fee for such registration. Every registered electrical contractor shall have his city registration in his possession when performing or supervising electrical work.~~
- ~~(5) Master electrician's registration. The applicant must show proof of state registration. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.~~
- ~~(6) Journeyman electrician's registration. The applicant must show proof of state registration. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.~~
- ~~(7) Wireman electrician's registration. The applicant must show proof of state registration. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single-family and duplex residences only.~~
- ~~(8) Maintenance electrician's registration. The applicant must show proof of state registration. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.~~
- ~~(9) Sign electrician's registration. The applicant must show proof of state registration. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.~~
- ~~(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's~~

~~registration by the city. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.~~

- ~~(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.~~
- ~~(12) Any holder of an expired registration issued under the provisions of this article may renew such registration within 30 days of its expiration by paying the annual renewal fee for such registration. A holder of a registration issued under the provisions of this article, which has expired in excess of 30 days, shall be considered as a new applicant.~~
- ~~(13) Any person who has applied for an electrician's registration and who has been refused such registration by the administrative authority of this article may apply to the construction board of appeals for a full hearing.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

Editor's note — Ord. No. 2018-21, § 5, adopted March 26, 2018, changed the title of section 14-57 from "Registration and bond generally" to "Electrical contractor registration."

~~Sec. 14-58. Reserved.~~

~~Sec. 14-59. Work standards.~~

- ~~(a) *New residential construction.* New residential construction shall be electrically wired to conform to the National Electrical Code, currently adopted edition.~~
- ~~(b) *New commercial construction.* Electrical conductors shall be installed in conduit and will meet the requirements of the National Electrical Code, currently adopted edition.~~

~~*Exception:* Any multi-family construction three stories or less shall not apply but shall meet the requirements of the National Electrical Code, currently adopted edition.~~

~~(c) *Existing buildings.*~~

- ~~(1) If an existing unsafe condition is discovered by the electrical inspector that, in the opinion of the inspector, requires immediate correction, he will issue verbal and written instructions to the property owner requiring such corrections as needed and/or proceed in accordance with subsection 14-56(c).~~
- ~~(2) If an existing building is condemned for any reason under the provisions of the adopted building code, the electrical wiring within that building and/or premises shall be required to be upgraded to new construction standards before electrical power is restored.~~
- ~~(3) Should the electrical meter loop be judged inadequate or substandard by the utility company providing electrical service and the building official agrees that meter loop shall be required to be updated to the utility connection policy standards. Electrical power once severed will only be reestablished when that meter loop installation meets city standards.~~

~~(d) *Reference standards for construction.*~~

- ~~(1) Meter loop installation must comply with city utility connection policy.~~
- ~~(2) No residential branch circuit shall have more than ten outlets.~~
- ~~(3) Equipment ground shall be installed in all conduit and cable systems.~~
- ~~(4) In any R or I type occupancy, any room constructed with a door, closet, window and can be utilized as a sleeping area shall be classified as a bedroom.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-60. Reserved.~~

~~Sec. 14-61. Permits, fees and inspections.~~

- ~~(a) The holder of an electrical contractor's registration issued by this city desiring to perform or have his employees perform any electrical installation, repair or alteration or extension of any existing electrical system shall apply to the building department for a permit to perform such work.~~
- ~~(b) The holder of an electrical contractor's registration may designate in writing to the building official one employee whom he authorizes to sign a permit application in his place. Such authorization shall in no way alter or relieve the master electrician from any responsibility or legal liability of complying with this article nor from the responsibility for safe and satisfactory performance of any such work done under authority of a permit signed by such employee.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-62. Violations; record of permits and inspections; penalty.~~

- ~~(a) No corporation, partnership, association or individual shall cause or allow any electric wiring or apparatus to be installed, altered or changed in any building within the city unless the corporation, partnership, association or individual doing all of such work has been registered under the provisions of this article and has received a permit or authority under the provisions of this article to do that particular electric wiring and apparatus work.~~
- ~~(b) No corporation, copartnership, association or individual or agent thereof shall interfere with the electrical inspector or any persons deputized to assist him as provided in this article when in the performance of duty, and each such interference shall be deemed to constitute a separate offense within the intent and meaning of this article.~~
- ~~(c) The building official shall cause to be kept a record of permits issued, inspections made, or other official work performed as required by this article.~~
- ~~(d) In case of a violation of any of the terms or provisions of this article by any person, corporation or firm, the officers and agents actively in charge of the business of such corporation or firm or the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this Code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-63. Savings clause.~~

~~The terms of this article shall not be construed to operate against or upon any contract or contracts for the installation, alteration or changes in electrical wiring or apparatus which may have been entered into under the existing ordinances, if the performance of the work under such contract or contracts has been undertaken and is unfinished at the time of the taking effect of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-64—14-90. Reserved.~~

Editor's note—Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-64 in its entirety, which pertained to electrical fees and derived from Ord. No. 2015-35, § I,

adopted July 13, 2015.

—For current provisions pertaining to electrical fees, the user's attention is directed to appendix D of this Code.

ARTICLE IV. PLUMBING CODE^[a]

Footnotes:

~~—(3)—~~

Cross reference—~~Businesses, ch. 18; health and sanitation, ch. 62; wastewater from tourist courts, § 62-232; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water service, § 130-121 et seq.; sewer service, § 130-231 et seq.~~

State Law reference—~~Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.~~

~~Sec. 14-91. Plumbing code.~~

~~(a) The International Plumbing Code 2015 is hereby adopted as the plumbing code of the city except as stated in the following:~~

~~(b) (1) Section 410.1: Drinking Fountains. Delete the last sentence and replace with the following:~~

~~Deleted Sentence:~~

~~"In other occupancies, where drinking fountains are required, water coolers or bottled water dispensers shall be permitted to be substituted for not more than 50 percent of the required drinking fountains."~~

~~Replacement:~~

~~"In other occupancies, where drinking fountains are required, bottle water dispensers or water coolers shall be permitted as a substitution; in occupancies with an occupant load of not more than 15 and mercantile occupancies with an occupant load of not more than 30."~~

~~(2) Appendix A, Fee Schedule, paragraph 106.6 Fees, Section 109 Means of Appeal, paragraph 108.4 Violation penalties are not adopted.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-92. Registration and insurance; quality of work.~~

~~(a) *Registration and insurance required.* Before any person shall engage in the plumbing business, he shall be registered with the building official and otherwise qualified as set forth in this section and as provided by state law. Where any plumbing work is being done, a registered master or journeyman plumber shall at all times be present on the job and in direct control and in charge of the work being done.~~

~~(b) *Revocation of license.* Although licensed by the state board of plumbing examiners, the building official may, after a hearing as provided in this section, revoke the city plumbing registration to the extent that such person is no longer authorized to perform plumbing work or receive plumbing permits in the city. Such registration revocation may be reported to the state board of plumbing examiners along with the grounds for such registration revocation.~~

- ~~(c) *Quality of work.* Any person engaged in the plumbing business whose work does not conform to the rules and regulations set out in this article, or whose workmanship or materials are of inferior quality, shall on notice from the building official make necessary changes or corrections at once so as to conform to this article. If work has not been so changed after ten days' notice from the building official, the building official may then refuse to issue any more permits to such person until such work has fully complied with the rules and regulations of this article. The building official may revoke or suspend city registration because of continuous violations. When the revocation or suspension of any such registration is to be considered at any meeting, the person to whom the registration has been issued shall have at least three days' notice in writing of the time and place of such meeting, together with a statement of the grounds upon which it is proposed to revoke such registration.~~
- ~~(d) *Insurance certificate required.* Before any person shall engage in the business of plumbing, he shall first obtain the proper registration, and deposit with the city good and sufficient proof of a certificate of insurance in the amount of \$300,000.00 with the certificate holder being the city.~~
- ~~(e) *Allowing one's name, license or bond to be used to obtain permit fraudulently.* No person engaged in the business of plumbing shall allow his name to be used by any other person, directly or indirectly, to obtain a permit, or for the construction of any work under his name, registration or insurance; nor shall such person make any misrepresentations or omissions in his returns.~~
- ~~(f) *Hearings.* Any person who has applied for a plumber's registration and who has been refused such registration by the building official may apply to the construction board of appeals for a full hearing.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

Cross reference — ~~Businesses, ch. 18.~~

State Law reference — ~~Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.~~

~~Secs. 14-93—14-95. — Reserved.~~

Editor's note — ~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-94 in its entirety, which pertained to plumbing fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.~~

~~— For current provisions pertaining to plumbing fees, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-96. — Violations and penalties.~~

- ~~(a) Any person or agent who shall violate a provision of this article or fail to comply therewith or with any of the provisions thereof, or violate a detail, statement or plan submitted and approved there under, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction in the court of jurisdiction for any such violation, such person shall be punished by a fine of not more than \$2,000.00.~~
- ~~(b) The building official shall have the authority to require, where work for which a permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be \$200.00 or double the original permit fee per occurrence as determined by the building official, but the payment of such fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed herein.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Secs. 14-97—14-115. Reserved.~~

~~ARTICLE V. MECHANICAL CODE~~

~~Sec. 14-116. Mechanical code.~~

- ~~(a) The International Mechanical Code 2015 and all its appendices are hereby adopted as the Mechanical Code of the city, except as stated in the following:~~
- ~~(b) Appendix B, Recommended Permit Fee Schedule, paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-117. Administration and enforcement generally.~~

~~The building official is designated as the city officer responsible for enforcing the requirements of this code and is the administrative authority. He and/or members of his department shall serve as mechanical inspectors when enforcing the provisions of this code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-118. Registered and liability insured personnel to perform work.~~

- ~~(a) Any person doing any work within the scope of this code shall be registered as an air conditioning contractor by the state department of labor and standards, boiler division.~~
- ~~(b) Before any state registered air conditioning contractor may secure a mechanical permit from the city, he shall deposit with the city a good and sufficient liability insurance in the amount of \$2,000.00 conditioned that the contractor will faithfully observe all laws pertaining to air conditioning contractors and further that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence or other failure of such person engaged in the business of a general contractor.~~
- ~~(c) An annual registration fee of \$100.00 shall be paid to the city by mechanical contractors and must show proof of licensing by the state department of licensing and regulations. Every registered mechanical contractor shall have his license in his possession when performing or supervising mechanical work and shall have his company name and license number affixed to each company vehicle.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-119—14-140. Reserved.~~

Editor's note—Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-120 in its entirety, which pertained to mechanical fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.

—For current provisions pertaining to mechanical fees, the user's attention is directed to appendix D of this Code.

~~ARTICLE VI. LIQUEFIED PETROLEUM GAS CODE~~⁴⁴¹

Footnotes:

~~—(4)—~~

~~**Cross reference**— Fire prevention and protection, ch. 54; streets, sidewalks and other public places, ch. 114; utilities, ch. 130.~~

~~**State Law reference**— Liquefied petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq. Sec. 14-141. Short title.~~

~~This article shall be known as the "Liquefied Petroleum Gas Code" of the city, and may be cited as such.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-142. Definitions.~~

~~The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:~~

~~*Certain appliances* means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.~~

~~*Certificate of approval* means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signature of the inspector.~~

~~*Inspector* means the building official of the city.~~

~~*Liquefied petroleum gas company* means any person distributing liquefied petroleum gas within the corporation limits of the city, or authorized and proposing to so engage.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~**Cross reference**— Definitions generally, § 1-2.~~

~~**State Law reference**— Definitions, V.T.C.A., Natural Resources Code § 113.002.~~

~~Sec. 14-143. Compliance with article and other applicable regulations; Liquefied Petroleum Gas Docket No. 1 adopted.~~

~~All liquefied petroleum gas bulk storage facilities, wholesale and retail distribution facilities and consumer system piping and appliances installed, replaced, maintained, or repaired within the corporate limits of the city shall conform to the requirements of this article, the specifications, rules and regulations entitled "Liquefied Petroleum Gas Docket No. 1, Railroad Commission of Texas, L.P. Gas Division, September, 2001 Revision," the Standard Fire Prevention Code, chapter 54 of this Code of Ordinances, the zoning ordinance of the city, and all other applicable ordinances. The September 2001 revision of the Liquefied Petroleum Gas Docket No. 1 is hereby adopted by the city, incorporated by reference in this article and made a part of this article as fully as if set out at length herein, and copies of these regulations shall be kept on file in the office of the building official.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-144. Conflicts between article and Liquefied Petroleum Gas Docket No. 1.~~

~~In the event of any conflict between this article and the Liquefied Petroleum Gas Docket No. 1, as adopted in section 14-143, the most restrictive requirements shall prevail.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-145. Permit not to issue for new construction, additions, unless applicable ordinances are complied with.~~

~~No permit shall be issued for new construction unless such construction will be in compliance with all applicable ordinances. No permit shall be issued for an addition to an existing facility unless such existing facility and the addition thereto are in compliance with all applicable ordinances or unless such addition is required to make the existing facility comply with all applicable ordinances.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-146. Conversion to liquefied petroleum gas.~~

~~Unless stated otherwise in this article, consumer's piping installed prior to April 9, 1973, or piping installed to supply natural gas may be converted to liquefied petroleum gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-147. Liability insurance and registration required; exception.~~

- ~~(a) No person other than a single-family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety liability insurance acceptable to the building official in the amount of \$2,000.00, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter, so as to be in effect at all times the individual is registered. Until proof of registration and liability insurance is accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.~~
- ~~(b) Nothing contained in this article shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a registration or liability insurance from an individual doing such work on his own premises; provided, however, that all such work must be done in conformity with all other provisions of this article, including those relating to permits, inspection, and fees, as long as the individual performing the work is the single-family homeowner working on his own permanent homestead residence.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

State Law reference—Licensing, V.T.C.A., Natural Resources Code § 113.081 et seq.

~~Sec. 14-148. Administration and enforcement of article.~~

~~The building official of the city shall have the responsibility for the administration and enforcement of this article, and such official shall have all of the responsibilities of the office of gas inspector called for in this article and the specifications, rules and regulations adopted by this article.~~

~~(Ord. No. 2015 35, § I, 7 13 15)~~

~~**State Law reference**—Administrative provisions, V.T.C.A., Natural Resources Code § 113.011 et seq.~~

~~Sec. 14-149. City's right of entry; authority of inspector to disconnect piping; notice of disconnection; duty of inspector to confer with various departments and agencies.~~

- ~~(a) The inspector is authorized and directed to enforce all of the provisions of this article, and the inspector, upon presentation of proper credentials, may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of this article.~~
- ~~(b) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to such piping, fixture or appliance, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that such piping, fixture or appliance has been disconnected by the inspector, together with the reason therefor, and it shall be unlawful for any person to remove such notice or reconnect such gas piping, fixture or appliance without authorization by the inspector, and such gas piping, fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.~~
- ~~(c) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the liquefied petroleum gas division, state railroad commission, and otherwise obtain from proper sources all helpful information and advice, presenting such information to the appropriate officials from time to time for their consideration.~~

~~(Ord. No. 2015 35, § I, 7 13 15)~~

~~Sec. 14-150. Permit required; exception.~~

- ~~(a) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the permit clerk of the city building official's office.~~
- ~~(b) The liquefied petroleum gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, or other facilities, or for work having to do with its own gas system.~~

~~(Ord. No. 2015 35, § I, 7 13 15)~~

~~Sec. 14-151. Piping inspection.~~

- ~~(a) *Rough piping inspection.* A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.~~
- ~~(b) *Final piping inspection.* A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed, by plastering or otherwise, have been so concealed, and before any fixtures or gas appliances have been attached thereto. This~~

~~inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches in height, and the piping shall hold this air pressure for a period of at least ten minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the tests shall be furnished by the installer of such piping.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-152. -- Issuance of certificate of approval.~~

~~The inspector may issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of this article. A duplicate of each certificate issued covering consumer's gas piping may be delivered to the liquefied petroleum gas company and used as its authority to render gas service.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-153. -- Inspection fees.~~

~~Inspection fees and reinspection fees shall be as outlined in appendix D of this Code.~~

~~(Ord. No. 2015-35, § I, 7-13-15; Ord. No. 2018-21, § 5, 3-26-18)~~

~~Sec. 14-154. -- Violation declared misdemeanor.~~

~~Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-155. -- Nonliability of city.~~

~~This article shall not be construed as imposing upon the city or any of its officials or employees any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned in this article, or by installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or the certificate of approval issued by the inspector.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-156 -- 14-175. -- Reserved.~~

~~ARTICLE VII. -- NATURAL GAS CODE~~^[5]

Footnotes:

~~—(5)—~~

~~**Cross reference**—Natural gas service, § 130-431 et seq.~~

~~**State Law reference**—Regulation of natural gas, V.T.C.A., Natural Resources Code ch. 86.~~

~~Sec. 14-176.—Fuel gas code.~~

~~(a) The International Fuel Gas Code 2015 and all its appendices are hereby adopted as the fuel gas code of the city, except as stated in the following.~~

~~(b) Paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.~~

~~(c) Paragraph 108.5 Stop Work Orders is deleted and amended as follows:~~

~~108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to be cited and subject to a fine as determined by law and this chapter.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-177.—Definitions.~~

~~The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:~~

~~*Certain appliances* means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.~~

~~*Certificate of approval* means a document or tab issued and/or attached by the inspector to the inspected material, piping or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.~~

~~*Gas company* means any person distributing gas within the corporate limits of the city, or authorized and proposed to so engage.~~

~~*Inspector* means the city building official referred to in this article.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~**Cross reference**—Definitions generally, § 1-2.~~

~~**State Law reference**—Definitions, V.T.C.A., Natural Resources Code § 86.002.~~

~~Sec. 14-177.5.—Registration and liability insurance generally.~~

~~No person other than a single-family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety~~

liability insurance acceptable to the building official, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter so as to be in effect at all times the individual is registered. Until proof of registration and liability insurance is accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-177.6. — Reserved.~~

Editor's note — ~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-177.6 in its entirety, which pertained to fuel gas fees and derived from Ord. No. 2015-35, § I, adopted July 13, 2015.~~

~~— For current provisions pertaining to fuel gas fees, the user's attention is directed to appendix D of this Code.~~

~~Secs. 14-178 — 14-200. — Reserved.~~

ARTICLE VIII. — PROPERTY MAINTENANCE CODE⁽⁶⁾

Footnotes:

~~—(6)—~~

State Law reference — ~~Dangerous structures, V.T.C.A., Local Government Code § 214.001 et seq.~~

~~Sec. 14-201. — Property maintenance code.~~

~~(a) — The International Property Maintenance Code 2015 and all its appendices are hereby adopted as the Property Maintenance Code of the city, except as stated in the following.~~

~~(b) — Section 110, Demolition, paragraph 110.2, Notices and Orders is amended by adding the following sentence to paragraph 110.2: All demolition procedures, notices and orders shall comply with Chapter 50 of the Code of Ordinances, City of New Braunfels, Texas.~~

~~(c) — Section 103.5 Fees is not adopted and is replaced with the following:~~

~~Section 103.5 Fees. There shall be no fee charged for an inspection. If a violation is noted requiring a re-inspection to determine if the violation is abated, a re-inspection fee of \$35.00 shall be paid for each violation re-inspected by the owner or agent for the owner. The re-inspection fee will double with each failed inspection.~~

~~(d) — Section 111 Means of Appeal is not adopted.~~

~~(e) — The first phrase in Section 303.14 Insect Screens, which states "During the period from [date] to [date]" is deleted and replaced with the following phrase: "At all times..."~~

~~(f) — The dates in Section 602.3 Heat supply shall be from November 1 to April 1.~~

~~(g) — Sections 604.2 Service is amended by replacing the words "ICC Electrical Code" with the words "National Electrical Code adopted by the City".~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-202. International existing building code.~~

~~The International Existing Building Code 2015 and appendix is hereby adopted as the city existing building code.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-203—14-300. Reserved.~~

~~ARTICLE IX. ENERGY CONSERVATION CODE~~

~~Sec. 14-301. Energy conservation code.~~

~~The International Energy Conservation Code 2012 and its appendix is hereby adopted as the city energy conservation code, except as noted in the following:~~

~~Section 105.5. Re-inspection fee is added as follows:~~

~~Section 105.5 Re-inspection Fees. A fee of \$35.00 must be paid to the city for each re-inspection of work authorized under this code. The re-inspection fee will double with each failed inspection. The person or agent to whom the permit was issued prior to any re-inspection must pay the re-inspection fee.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Secs. 14-302—14-400. Reserved.~~

~~ARTICLE X. VIOLATIONS, PENALTIES, FEE REFUND POLICY, BOARD OF APPEALS AND ADMINISTRATIVE~~

~~Sec. 14-401. General.~~

~~The provisions of this article apply to all the articles of this chapter unless the article expressly states otherwise.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-402. Violation and penalty.~~

~~Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall constitute an endangerment of the public's health, safety, and welfare and be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

~~Sec. 14-403. Reserved.~~

Editor's note—~~Ord. No. 2018-21, § 5, adopted March 26, 2018, repealed the former section 14-403 in its entirety, which pertained to fee refunds and derived from Ord. No. 2015-35, § I,~~

adopted July 13, 2015.

~~—For current provisions pertaining to fee refunds, the user's attention is directed to appendix D of this Code.~~

~~Sec. 14-404. Construction board of appeals.~~

- ~~(a) There shall be a single consolidated construction board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals.~~
- ~~(b) Application. The application for appeal shall be filed on a form obtained from the building official within ten days after the notice was served. An application fee of \$200.00 for residential or \$300.00 for commercial shall be paid to the city by applicants desiring an audience before the construction board of appeals.~~
- ~~(c) The construction board of appeals shall consist of persons appointed by the city council. Each member shall serve for five years or until a successor has been appointed. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.~~
- ~~(d) Alternate members. The city council shall appoint four alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.~~
- ~~(e) Qualifications. The construction board of appeals shall consist of seven individuals, one from each of the following professions or disciplines:~~
 - ~~(1) A registered design professional with architectural experience or a builder or superintendent of building construction.~~
 - ~~(2) A registered design professional with engineering experience.~~
 - ~~(3) A registered mechanical contractor.~~
 - ~~(4) A registered electrical contractor.~~
 - ~~(5) A registered plumbing contractor.~~
 - ~~(6) Two registered general contractors.~~
 - ~~(7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.~~
 - ~~(8) Or, the council may appoint an interim board with the persons of qualification determined by the council.~~
- ~~(f) Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.~~
- ~~(g) Chairperson. The board shall annually select one of its members to serve as chairperson.~~
- ~~(h) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.~~
- ~~(i) Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the building official.~~
- ~~(j) Notice of meeting. The board shall meet upon notice from the chairperson, within ten days of the filing of an appeal or at stated periodic meetings.~~
- ~~(k) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person who interests are affected shall be given an opportunity to be heard.~~
- ~~(l) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.~~

- ~~(m) Postponed hearing. When seven members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~
- ~~(n) Board decision. The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members. The board may deny the appeal, approve the appeal, or approve the appeal with conditions.~~
- ~~(o) Administration. The building official shall take immediate action in accordance with the decision of the board.~~
- ~~(p) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted there under have been incorrectly interpreted, the provisions of this chapter do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this chapter.~~

~~(Ord. No. 2015-35, § I, 7-13-15)~~

ARTICLE I. - IN GENERAL

Sec. 14-1. - Administration and enforcement of codes, ordinances and articles.

The building official of the city shall have the responsibility for the administration and enforcement of these codes ordinances and articles as adopted by this chapter, and such official shall have all of the responsibilities called for in these articles and the specifications, rules and regulations adopted by these codes, ordinance and articles.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-2. - Interpretation of codes, ordinances and articles.

The building official shall have the authority to render interpretations of these codes, ordinance, and articles; and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes, ordinances and articles. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes, ordinances and articles.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-3. - Commercial premium or overtime inspection fees.

Premium or overtime inspections are those inspections requested for times other than the normal working hours. Fees for premium inspections done after 4:00 p.m. on weekdays and on weekends shall be at a rate of \$45.00 per inspection with a minimum of three inspections required.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-4. - Building official to determine conflicts between codes.

The code official is the building official except where specifically described as the fire code official. Applying to any construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, occupancy loads, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, the building official is hereby authorized and directed to enforce the provisions of these codes and ordinances (all ICC codes adopted by the city and all city and all city ordinances that apply). The building official shall have the authority to render interpretations of all these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.

(Ord. No. 2015-35, § I, 7-13-15)

Sec.14-5. – Building Permit Required.

No person, firm, corporation, or any other entity shall erect, construct, enlarge, alter, repair, modify, excavate, fill, or change any fence, sign, land, building, structure, or property in the city, nor cause such work to be done; nor shall any building or structure be moved, removed, converted, or demolished without first obtaining any necessary permit therefore from the building official and complying with all applicable requirements of the city.

Sec. 14-6. - Requirements not covered by Code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the building official. In addition, other requirements to implement, clarify or set procedures to accomplish the intent of this Code may be set in writing by the building official and may be posted electronically for public access.

Sec. 14-7. - Construction work hours and/or noise.

- a) Construction work hours and/or noise means any construction or noise generated by construction activities, such as the operation of power equipment, machinery or tools, the use of air-powered or impact tools, hammers, saws, picks, shovels and other similar tools, and the loading, unloading, conveyance or assembly of construction materials, equipment, machinery or tools.
- b) It is unlawful for a person to start work and/or cause construction noise to be made between 9:00 p.m. and 6:00 a.m.
- c) It is unlawful for a person to whom a construction permit is issued by the city to cause or allow work to start and/or construction noise to be made in connection with the performance of work under the permit between 9:00 p.m. and 6:00 a.m.

Exceptions:

The building department understands that there may be times when work must occur outside of the permissible hours. If you have an emergency that includes any of the following, then the start of work and/or noise regulations do not apply:

- Work made necessary to restore a property to a safe condition following a public calamity.
- Work to restore public utilities.
- Work required to protect persons or property from imminent exposure to danger.

There may be other situations that require work outside of permissible hours. For these situations, you must apply for a variance subject to approval by the building official. Application for variance must be in filed with the building department at least 48 hours in advance.

d) A person who violates this section shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

Sec. 14-8—14-26. - Reserved.

ARTICLE II. - BUILDING CODE

Sec. 14-27. – 2018 International Building Code (IBC)

The 2018 International Building Code and all appendices, are hereby adopted and incorporated by reference as the building codes of the City of New Braunfels, except as stated in the following:

- a) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- b) Section 105.1.1 Annual permit shall be deleted.
- c) Section 105.1.2 Annual permit records shall be deleted.
- d) Section 105.2 Work exempt from permit shall be amended as follows:
 1. 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
 - a. Private Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over 32 square feet total.
 - b. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

- c. Swings and other playground equipment accessory to detached one- and two-family dwellings.
- e) Section 1612.3. Insert: City of New Braunfels
- f) Section 1612.3. Insert: September 2, 2009
- g) Appendix B shall be deleted
- h) Appendix D shall be deleted.
- i) Appendix H is adopted with sections amended as follows:
 - 1. Section H101.2 Signs exempt from permits shall be deleted.
 - 2. H105.2 Permits, drawings and specifications. Where a permit is required, as provided in Chapter 1, construction documents shall be required. These documents shall show the dimensions, material and required details of construction, including loads, stresses and anchors. Engineered Drawings may be required for free standing signs over 8' in height and monument signs over 6' in height.

Sec. 14-28. - Reserved.

ARTICLE III. – RESIDENTIAL CODE

Sec. 14-29. – 2018 International Residential Code (IRC)

The 2018 International Residential Code and all appendices, are hereby adopted and incorporated by reference as the building code of the City of New Braunfels, except as stated in the following:

- a) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- b) Section 105.2 Work exempt from permit shall be amended as follows:
 - 1. 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
 - 2. Private Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not more than 32 square feet total.
 - 3. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - 4. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
 - 5. Swings and other playground equipment.

c) Table R301.2(1)—Insert:

| TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA | | | | | | | | | | | | | |
|--|-----------------------------|-------------------------------------|-------------------------------------|---------------------------------------|--|-------------------------|----------------------------------|----------------------|---------------------------------------|--|-------------------------------|---------------------------------------|-------------------------------------|
| GROUND SNOW LOAD ^a | WIND DESIGN | | | | SEISMIC DESIGN CATEGORY ^f | SUBJECT TO DAMAGE FROM | | | WINTER DESIGN TEMP ^a | ICE BARRIER UNDERLAYMENT REQUIRED ^h | FLOOD HAZARDS ^g | AIR FREEZING INDEX ⁱ | MEAN ANNUAL TEMP ⁱ |
| | Speed ^d (mph) | Topographic effects ^k | Special wind region ^l | Windborne debris zone ^m | | Weathering ^a | Frost line depth ^b | Termite ^e | | | | | |
| 5 | 115 | No | No | No | A | Negligible | 0 | Moderate | 30 | No | Yes | 29 | 68.5 |

d) Appendix L Permit Fees shall be deleted.

e) Appendix T Solar Ready Provisions shall be deleted.

ARTICLE IV. - ELECTRICAL CODE [2]

Footnotes: --- (2) ---

Cross reference— Businesses, ch. 18.

Sec. 14-30. - Electrical code.

The 2017 National Electrical Code (NEC) and all annexes, are hereby adopted and incorporated by reference as the electrical code of the City of New Braunfels.

(1) All Enforcement and Administrative Provisions of the Electrical Code has been referenced in Appendix K of the 2018 International Building Code.

Sec. 14-31. - Conflicts of interest; restrictions on providing initial electrical service.

(a) No person employed by the building department of this city shall be financially interested in the furnishing of labor, material or appliances for use in any manner in the electrical installation of a building or structure unless such person is otherwise eligible under the property and homeowner exception as set forth in section 14-62.

(b) Utility providers shall not provide initial electrical service to any building or structure unless such utility has been furnished a certificate of occupancy or release as required by the city for such building or structure that corresponds to the intended use of the building. Temporary electrical service may be provided to such building or structure for a period not exceeding 180 days after the utility provider has been furnished a certificate of inspection or temporary certificate of occupancy. When temporary service has been provided, for the purpose of construction, the period of service may be extended by the building official. Each of the certificates referred to in this section will be issued as appropriate by the building official upon completion of the required inspections.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-32. - Electrical inspector, powers and duties.

- (a) Right of entry. The building official and/or his department and personnel when serving as electrical inspectors in enforcement of this article may enter any building, structure, portion thereof, or premises during reasonable hours to perform any duty imposed upon him by this article.
- (b) Issuance of permits; supervision of work. The building official shall cause to be issued for each job requiring any type of electrical work a permit, shall see that the fees (see section 14-66) set out in this article are properly paid, and that all work done under such permits are accomplished in accordance with this article under the direct supervision of persons registered under the provisions of this article.
- (c) Stop work orders. Upon notice from the building official that electrical work on any building or structure is being done contrary to the provisions of this article or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the stop work order shall be given verbally with written notice following within two working days.
- (d) Revocation of permits. The building official may revoke a permit or approval issued under the provisions of this article if there has been any false statement, misunderstanding or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
- (e) Electrically unsafe buildings. All buildings or structures which in the opinion of the electrical inspector are electrically unsafe so as to create a hazard to life or constitute a fire hazard or are otherwise dangerous to life or property are hereby declared illegal and shall have the electrical power removed or disconnected and then shall be abated by repair, rehabilitation or demolition in accordance with condemnation procedures as established by the codes as adopted by this city.
- (f) Requirements not covered by this article. Any requirement necessary for the electrical safety to life and property not specifically covered by this article shall be determined by the building official subject to appeal to the electrical appeals board.

ARTICLE IV. - PLUMBING CODE[3]

Footnotes: --- (3) ---

Cross reference— Businesses, ch. 18; health and sanitation, ch. 62; wastewater from tourist courts, § 62-232; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water service, § 130-121 et seq.; sewer service, § 130-231 et seq.

State Law reference— Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.

Sec. 14-33. - Plumbing code.

(a) The 2018 International Plumbing Code (IPC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted.
- 3) Section 106.6.3 Fee Refund shall be deleted.
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]
- 6) Appendix A shall be deleted
- 7) Appendix B shall be deleted and replaced with NOAA Atlas 14 Texas

ARTICLE V. - MECHANICAL CODE

Sec. 14-34. - Mechanical code.

(a) The 2018 International Mechanical Code (IMC) and all appendices are hereby adopted and incorporated by reference as the Mechanical Code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.5.2 Fee Schedule shall be deleted
- 3) Section 106.5.3 Fee Refund shall be deleted
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]
- 6) Appendix D Permit Fee Schedule shall be deleted

ARTICLE VI. – FUEL GAS CODE[5]

Footnotes: --- (5) ---

Cross reference— Natural gas service, § 130-431 et seq.

State Law reference— Regulation of natural gas, V.T.C.A., Natural Resources Code ch. 86.

Sec. 14-35. - Fuel gas code.

(a) The 2018 International Fuel Gas Code (IFGC) and all its appendices are hereby adopted and incorporated by reference as the fuel gas code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted
- 3) Section 106.6.3 Fee Refund shall be deleted
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE VII. - PROPERTY MAINTENANCE CODE[6]

Footnotes: --- (6) ---

State Law reference— Dangerous structures, V.T.C.A., Local Government Code § 214.001 et seq.

Sec. 14-36. - Property maintenance code.

(a) The 2018 International Property Maintenance Code (IPMC) and all its Appendices are hereby adopted and incorporated by reference as the Property Maintenance Code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 103.5 Fee Schedule shall be deleted
- 3) Section 112.4 Failure to Comply shall be deleted and replaced with, "Section 108.4 Failure to Comply. Violations and penalties shall be set forth by City Ordinance"
- 4) Section 302.4 Insert: [HEIGHT IN INCHES] [12"]
- 5) Section 304.14. Insert: [DATES IN TWO LOCATIONS][January 1st] [December 31st]
- 6) Section 602.3. Insert: [DATES IN TWO LOCATIONS] [November 1st] [April 1st]
- 7) Section 602.4. Insert: [DATES IN TWO LOCATIONS] [November 1st] [April 1st]

ARTICLE VIII. – Existing Building Code

Sec. 14-37. - International existing building code.

(a) The 2018 International Existing Building Code (IEBC) and all its appendices are hereby adopted and incorporated by reference as the fuel gas code of the City of New Braunfels, except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]

ARTICLE IX. - ENERGY CONSERVATION CODE

Sec. 14-38. - Energy conservation code.

(a) The 2018 International Energy Conservation Code (IECC) and all its appendices are hereby adopted and incorporated by reference as the energy conservation code of the City of New Braunfels, except as stated in the following:

- 1) Section C101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section R101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]

ARTICLE X. – PRIVATE SEWAGE CODE

Sec. 14-39. – Private sewage code.

(a) The 2018 International Private Sewage Code (IPSC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 106.6.2 Fee Schedule shall be deleted.
- 3) Section 106.6.3 Fee Refund shall be deleted.
- 4) Section 108.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 108.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE XI. – SWIMMING POOL AND SPA CODE

Sec. 14-40. – Swimming pool and Spa Code.

(a) The 2018 International Swimming Pool and Spa Code (IPSC) and all Appendices are hereby adopted and incorporated by reference as the plumbing code of the City of New Braunfels except as stated in the following:

- 1) Section 101.1. Insert: [NAME OF JURISDICTION] [City of New Braunfels]
- 2) Section 105.6.2 Fee Schedule shall be deleted.
- 3) Section 105.6.3 Fee Refund shall be deleted.
- 4) Section 107.4 Violation Penalties shall be deleted and replaced with, "Section 108.4 Violation Penalties. Violations and penalties shall be set forth by City Ordinance"
- 5) Section 107.5. Insert: [DOLLAR AMOUNT IN TWO LOCATIONS] [\$200] [2 x the cost of the permit]

ARTICLE XII. - VIOLATIONS, PENALTIES, BOARD OF APPEALS AND ADMINISTRATIVE

Sec. 14-41. - General.

The provisions of this article apply to all the articles of this chapter unless the article expressly states otherwise.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-42. - Violation and penalty.

Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall constitute an endangerment of the public's health, safety, and welfare and be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than \$2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

Sec. 14-43. - Construction board of appeals.

(a) There shall be a single consolidated construction board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals.

(b) Application. The application for appeal shall be filed on a form obtained from the building official within ten days after the notice was served. An application fee of \$200.00 for residential or \$300.00 for

commercial shall be paid to the city by applicants desiring an audience before the construction board of appeals.

(c) The construction board of appeals shall consist of persons appointed by the city council. Each member shall serve for five years or until a successor has been appointed. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

(d) Alternate members. The city council shall appoint four alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

(e) Qualifications. The construction board of appeals shall consist of seven individuals, one from each of the following professions or disciplines:

- (1) A registered design professional with architectural experience or a builder or superintendent of building construction.
- (2) A registered design professional with engineering experience.
- (3) A registered mechanical contractor.
- (4) A registered electrical contractor.
- (5) A registered plumbing contractor.
- (6) Two registered general contractors.
- (7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.
- (8) Or, the council may appoint an interim board with the persons of qualification determined by the council.

(f) Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.

(g) Chairperson. The board shall annually select one of its members to serve as chairperson.

(h) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(i) Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the building official.

(j) Notice of meeting. The board shall meet upon notice from the chairperson, within ten days of the filing of an appeal or at stated periodic meetings.

- (k) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.
- (l) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- (m) Postponed hearing. When seven members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (n) Board decision. The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members. The board may deny the appeal, approve the appeal, or approve the appeal with conditions.
- (o) Administration. The building official shall take immediate action in accordance with the decision of the board.
- (p) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted there under have been incorrectly interpreted, the provisions of this chapter do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this chapter.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-44. - Contractors.

- (a) General contractor residential shall be defined as, contractors regulated by 2018 IRC Section 101.2 Scope.
 - (1) General contractor Residential shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.
- (b) General contractor-commercial shall be defined as, contractors regulated by IBC 2018 Section 101.2 Scope.
 - (1) General contractor commercial shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.
- (c) Contractor-limited shall be defined as, a contractor other than Electrical, Mechanical, Plumbing, and Irrigator.
 - (1) The term "contractor-limited" shall apply to home owners doing work on properties they own.

(2) A Contractor Limited shall apply to such trades as roofing, framing, paving, fencing, and other specialty crafts.

(3) Contractor Limited shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year.

(e) Owner doing own work; Homestead.

(1) An owner of an existing single-family residence who permanently resides in that residence and who claims it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.

(2) A person who intends to build a single-family residence and permanently reside therein and claim it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered if approved by the building official. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.

(3) No single-family resident homeowner will be issued a permit under the provisions of this section involving any structural, electrical, or plumbing work unless the building official is satisfied that the applicant can competently and safely perform the work.

(g) Contractor Registration—Application generally. Every person desiring to engage in the business of general or limited contractor in the city shall obtain a city registration authorizing him to engage in such business. Individuals desiring such registration shall make application with the building official on the form, which may be obtained from the office of the building department of the city. The building official may, at his discretion, issue one permit for the initial work of any otherwise approved structure pending approval of the appropriate general or limited contractor's registration. Only individuals shall be so registered, and the registration is not transferable.

(h) Insurance required. Before any person shall engage in the business of a general or limited contractor or be granted a registration to do so, he shall first provide the city proof of \$1,000,000.00 liability insurance for general contractor-commercial and \$300,000.00 for limited contractor and general contractor-residential, naming the City of New Braunfels as the Certificate Holder.

(i) Application for registration—Applicant who has had registration previously denied or revoked. An applicant for a general or limited contractor's registration who has been denied a registration or had a registration revoked by this city or another entity for any building or related trade must disclose that information to the building official at the time of application. Any conviction for a misdemeanor or felony, other than traffic citations, must also be disclosed. Failure to disclose such information will result in automatic disapproval of the application. If the registration is issued and such failure to disclose is discovered later, the registration will be revoked. Any additional legal remedies may also be pursued by

the building official. Upon disclosure at the time of registration application, the building official will make a thorough investigation and weigh carefully all details available prior to approving registration.

(j) Fee. Every applicant who shall make application for a general contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(k) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (h).

(m) Registration renewal; fee; requirements for renewal. A registration holder may renew his general contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$100.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 30 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

Sec. 14-45. - Electrical contractor registration.

(1) Electrical contractor's registration. The applicant must show proof of state registration. An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Electrical Contractors shall be registered with the city. Electrical Contractor registration shall expire June 30th of each year.

(b) Fee. Every applicant who shall make application for an electrical contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(c) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(d) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (c).

(e) Registration renewal; fee; requirements for renewal. A registration holder may renew his electrical contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$75.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 30 days past

expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

(5) Master electrician's registration. The applicant must show proof of state registration. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(6) Journeyman electrician's registration. The applicant must show proof of state registration. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(7) Wireman electrician's registration. The applicant must show proof of state registration. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single-family and duplex residences only.

(8) Maintenance electrician's registration. The applicant must show proof of state registration. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.

(9) Sign electrician's registration. The applicant must show proof of state registration. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.

(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.

(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.

Sec. 14-46. – Plumbing Contractor Registration

(1) Plumbing contractor's registration. The applicant must show proof of state registration. An applicant for any Plumbing contractor registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Plumbing Contractors shall be registered with the city. Plumbing contractor registration shall expire when insurance or state license have expired.

(b) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(c) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (b).

Sec. 14-47. – Mechanical Contractor Registration

(1) Mechanical contractor's registration. The applicant must show proof of state registration. An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(a) Mechanical Contractors shall be registered with the city. Mechanical Contractor registration shall expire June 30th of each year.

(b) Fee. Every applicant who shall make application for an Mechanical contractor's registration, as provided for in this article, shall pay a fee of \$200.00 upon submitting such application.

(c) Liability insurance required. Before any person shall be issued an Mechanical contractor's registration, retain such registration or engage in the business of electrical work in the city, he

shall first provide proof of \$300,000.00 liability insurance, naming the City of New Braunfels as the certificate holder.

(d) Issuance of registration. A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (c).

(e) Registration renewal; fee; requirements for renewal. A registration holder may renew his Mechanical contractor's registration any time during the period of 60 days prior to expiration, but no later than 30 days after the expiration date, by paying an annual renewal fee of \$75.00. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued sometime within the preceding 24 months. A registration holder who has exceeded the allowed 30 days past expiration will be considered as a new applicant should he desire to reestablish his general contractor's registration.

Sec.14-48. Revocation or Denial of Contractor Registration

(1) Procedure for denial, revocation, or suspension of registration or right to obtain permits. If the building official initiates a recommendation for denial, revocation, or suspension of a registration or of a right to obtain permits to work under an adopted code or ordinance of the city, the following procedure will apply:

(a) An applicant for registration or a registrant of the city shall have ten business days to request a review hearing to be held before the construction board of appeals as referenced in section 14-404. During the ten business-day period a current registrant shall not be allowed to obtain permits. If the applicant for registration or a registrant fails to request a hearing within ten business days the recommendation of the building official shall become final. If a registrant requests a hearing, any denial, revocation or suspension of registration or right to obtain permits shall be stayed pending the decision of the board. The board shall by majority vote affirm or reject the building official's recommendation.

(b) If the registrant is registered by the state, such as an electrical contractor, mechanical contractor or plumbing contractor, the process in subsection (1) of this section would apply.

Sec. 14-49. - Erosion control.

(a) Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Below ground installations means activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.

Building official means the building official for the City of New Braunfels or his designee.

Construction activities means construction activities that require a building permit.

Erosion control plan means a site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures and practices to be used to control erosion and sedimentation.

Final approval means completion of a project, site or building in accordance with city requirements and ordinances. In the case of a building, a certificate of occupancy is issued.

Land disturbing activity means any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind.

Off-site borrow area means a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.

Off-site sedimentation means deposit of soil material beyond the limits of the property undergoing land disturbing activity or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

Off-site spoil area means an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

Permanent erosion control devices means devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.

Permanent ground cover means permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

Phased occupancy means use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by city.

Related land area includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

Responsible party means a business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

Staging area means an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

Stop work order means the suspension of all city permits with no approvals or inspections of work for the site or project being performed.

Temporary erosion control devices means devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

(b) Building permit. When land disturbing activities are conducted on a lot for which a building permit must be issued, the responsible party shall comply with the following:

(1) Erosion control plan. Prior to approval of a building permit for a lot by the city, the contractor or other responsible party obtaining the building permit shall submit an erosion control plan for approval by the city. No inspection may be performed on a project until a city-approved erosion control plan is implemented.

(2) Stop work order/citation. City shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan submitted for such site. If a responsible party fails to implement or maintain erosion control devices as specified in his approved erosion control plan, city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance. The responsible party shall have 24 hours to bring his erosion control devices into compliance with the approved erosion control plan for the site where the violation occurred. Correction shall include sediment clean-up, erosion control device repair, erosion control device maintenance, and/or installation of additional erosion control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.

At the end of the 24-hour cure period, city shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, city may issue a stop work order and issue a citation for each violation of the city's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted there for and a re-inspection fee, as set by the building inspection department of the city, shall be paid.

(3) Removal of erosion control devices. Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.

(c) Enforcement.

(1) Violations. It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:

- a. Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred.
 - b. Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred.
 - c. Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred.
 - d. Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.
 - e. Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.
- (2) Notice of violation. Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan.
- (3) Class C misdemeanor. Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- (d) Appeals.
- (1) Appeal to building official. Upon notice of noncompliance, a responsible party may appeal the city's decision to take deductions from his erosion control deposit pursuant to section 14-96 of this article, by filing a written appeal to the building official within seven days of city's written notice of its intent to make such deduction for costs as allowed herein. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority to take deductions under this article.
- (2) Standard for appeals. When reviewing an appeal filed pursuant to this section, the building official shall evaluate all evidence submitted. The burden of proving that a violation of this article occurred shall be on the city. The city shall provide evidence sufficient to reasonably support a determination that the responsible party failed to comply with the requirements of this article as alleged by the city.
- (3) Issuance of opinion by director. Decisions of the building official shall be issued within 20 days of city's receipt of the written appeal. Decisions of the building official shall be final.

GLOSSARY

- **BARREL** - A pipe placed through a dam, levee or dike to control the release of water.
- **BMP** - Best Management Practices. Consist of practices, procedures, and devices used to prevent or reduce pollutants, including sediment, from polluting the waters of the United States.
- **BORROW AREA** - A source of earth fill material used in the construction of embankments or other earth fill structures.
- **CHANNEL** - A natural stream or excavated ditch that conveys water.
- **CHANNELIZATION** - Alteration of a stream channel by widening, deepening, straightening, or paving certain areas to improve flow characteristics.
- **CHECK DAM** - A small, temporary dam constructed across a drainage ditch, swale or channel to lower the speed of concentrated flows and promote sediment deposition.
- **CONTOUR** - An imaginary line on the surface of the earth connecting points of the same elevation.
- **CUT** - Portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below the original ground surface to the excavated ground surface.
- **DAM** - A barrier to confine or impound water or for the retention of soil, sediment or debris.
- **DESIGN STORM** - A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.
- **DISCHARGE** - Usually the rate of water flow commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.
- **DIVERSION** - A channel with a supporting ridge on the lower side constructed at the top, across, or at the bottom of a slope for the purpose of controlling surface runoff.
- **DIVERSION DIKE** - A barrier built to divert surface runoff.
- **DIVIDE, DRAINAGE** - The boundary between watersheds.
- **DRAINAGEWAY** - A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river or lake.
- **DROP INLET** - Overall structure in which the water drops through a vertical riser connected to a discharge conduit or storm sewer.
- **EARTH DAM** - Dam constructed of compacted suitable soil materials.
- **ENERGY DISSIPATOR** - A device used to reduce the energy of flowing water to prevent erosion.
- **EPA** - The Environmental Protection Agency. The federal agency responsible for administering the NPDES permit program.

- **ERODIBILITY** - Susceptibility to erosion.
- **EROSION** - The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.
- **EROSION CONTROL PLAN** - A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of BMPs to be used to control erosion and sedimentation.
- **FILTER FABRIC** - A woven or non-woven, water-permeable material generally made of synthetic products such as polypropylene and used in erosion and sediment control applications to trap sediment or prevent the movement of fine soil particles.
- **FLOOD PLAIN** - The lowland that borders a stream and is subject to flooding when the stream overflows its banks.
- **GABION** - A wire mesh cage, usually rectangular, filled with rock and used to protect channel banks and other sloping areas from erosion.
- **GEOTEXTILES** - See filter fabric.
- **GRADE STABILIZATION STRUCTURE** - A structure for the purpose of stabilizing the grade of a gully or other watercourse, thereby preventing further erosion or lowering of the channel bottom.
- **GRADING** - The cutting and/or filling of the land surface to a desired slope or elevation.
- **GRASSED WATERWAY** - A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses and used to safely conduct surface water from an area.
- **GROUND COVER** - Low-growing, spreading plants (grasses or legumes) useful for low-maintenance landscape areas.
- **INVERT** - The inside bottom of a culvert or other conduit.
- **LEGUME** - Any member of the pea or pulse family which includes peas, beans, peanuts, clovers, alfalfa, sweet clovers, lespedezas, vetches, black locust, and kudzu.
- **NPDES** - National Pollutant Discharge Elimination System. A federal program that requires a permit for storm water discharges to the waters of the U.S.
- **OUTLET PROTECTION** - Stone, rip-rap, concrete or asphalt aprons installed to reduce the speed of concentrated storm water flows, thereby reducing erosion and scouring at storm water outlets.
- **RAINFALL INTENSITY** - The rate at which rain is falling at any given instant, usually expressed in inches per hour.

- **RATIONAL METHOD** - A means of computing storm drainage flow rates by use of the formula $Q = CiA$, where C is a coefficient describing the physical drainage area, i is the rainfall intensity, and A is the drainage area.
- **RECEIVING STREAM** - The body of water into which runoff or effluent is discharged.
- **RILL** - A small intermittent watercourse with steep sides, usually only a few inches deep, normally caused by erosion.
- **RISER** - A vertical pipe or structure extending from the barrel, storm sewer or bottom of a pond BMP that is used to convey the discharge from the pond or drainage area.
- **RUNOFF** - That portion of precipitation that flows from a drainage area on the land surface, in open channels or in storm water conveyance systems.
- **SCOUR** - The clearing and digging action of flowing water, especially the downward erosion caused by stream water in sweeping away mud and silt from the stream bed.
- **SEDIMENT** - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice.
- **SEDIMENT BASIN** - A settling pond with a controlled storm water release structure used to collect and store sediment produced by land disturbing activities. The basin detains sediment-laden runoff from larger drainage areas long enough to allow most of the sediment to settle out.
- **SEDIMENT POOL** - The reservoir space allocated for the accumulation of sediment in a sedimentation control device.
- **SEDIMENT TRAP** - A settling basin with a filter outlet designed to retain runoff long enough to allow most of the silt to settle out.
- **SEDIMENTATION** - The deposition of suspended soil particles that have settled out from storm water runoff.
- **SHEETFLOW** - Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel or a rill.
- **SILT** - Parts of the soil structure consisting of particles between 0.002 and 0.05 mm in diameter.
- **SLOPE** - Degree of deviation of a surface from the horizontal. Slope is measured and is shown as a numerical ratio or percent.
- **SOIL** - The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- **STABILIZATION** - The proper placing, grading and/or covering of soil, rock or earth to ensure its resistance to erosion, sliding, or other movement. Also see Vegetative Stabilization.

- **STORM FREQUENCY** - The time interval between major storms of predetermined intensity and volumes of runoff (e.g. ten-year or 100-year storm).
- **STORM SEWER (DRAIN)** - A sewer that carries storm water, surface drainage, street wash and other wash waters, but excludes sewage and industrial wastes. Also called a storm drain.
- **STORM WATER** - Runoff from a rain event or snow melt runoff. Also called surface runoff.
- **SWALE** - An elongated, gentle depression in the land surface that conveys storm water into primary drainage channels. Swales are normally without flowing or standing water.
- **SWPPP** - Storm Water Pollution Prevention Plan. A document that is a part of the NPDES permit application and consists of the site erosion control plan, waste management plan, and site narrative as required by the EPA.
- **TEMPORARY SEEDING** - The growing of short-term (less than 1-year) vegetation on disturbed areas to prevent erosion.
- **TOE OF SLOPE** - The base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.
- **TOPOGRAPHY** - A general term that includes the physical features of a surface area including relative elevations and the position of natural and man-made features.
- **VEGETATIVE STABILIZATION** - Protection of erodible areas with temporary seeding, permanent seeding, or sodding.
- **WATERSHED** - The region drained by or contributing water to a stream, lake, or other body of water.

(Ord. No. 2015-35, § I, 7-13-15)

Sec. 14-50. - Irrigation systems.

(a) **Scope.** This Section applies to the installation, alteration, repairs, relocation, replacement, addition to, use, or maintenance of irrigation systems within the city. This Section regulates the installation of backflow prevention devices, control valves, automatic irrigation controllers, control wiring, and water conservation required for the proper design, installation, and operation of irrigation systems. All irrigation systems must comply with the provisions of this Section and with Title 30, Texas Administrative Code, Chapter 344.

(b) **Purpose.** The purpose of this Section is to require all irrigation systems to be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation.

(c) **Definitions.** The following words and terms shall have the meanings shown herein.

Design means the act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of

the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

Design pressure means the pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

Emission device means any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads and drip irrigation emitters.

Employed means engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, Title 26, United States Code Service, Section 3312(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

Head-to-head spacing means the spacing of spray or rotary sprinkler heads equal to the manufacturer's published radius of the head.

Hydraulics means the science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

Inspector means a licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

Installer means a person who connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30.

Irrigation inspector means a person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigation plan means a scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

Irrigation services means selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

Irrigation system means an assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location,

and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by V.T.C.A., Agricultural Code § 251.002.

Irrigation technician means a person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigation zone means a subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope), and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

Irrigator means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system, or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

Irrigator-in-charge means the irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to, obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

Landscape irrigation means the science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

License means an occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30, to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

Mainline means a pipe within an irrigation system that delivers water from the water source to the individual zone valves.

Maintenance checklist means a document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to, checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

Major maintenance, alteration, repair, or service means any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control

valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

Master valve means a remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

Matched precipitation rate means the condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

Pass-through contract means a written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

Reclaimed water means domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

Records of landscape irrigation activities means the irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

Static water pressure means the pressure of water when it is not moving.

Supervision means the on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair, or service an irrigation system.

Water conservation means the design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

Zone flow means a measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

Zone valve means an automatic valve that controls a single zone of a landscape irrigation system.

(d) License. Any person who connects an irrigation system to the water supply in the city must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30, and V.T.C.A., Occupations Code ch. 1903, or as defined by Title 22 of the Texas Administrative Code, Chapter 365, and required by V.T.C.A., Occupations Code ch. 1301.

Exemption: A homeowner is not required to be licensed in accordance with V.T.C.A., Occupations Code tit. 12, § 1903.002(c)(1) if the homeowner is performing irrigation work in a building or on a premises owned and occupied by the homeowner as the homeowner's homestead. A homeowner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344, regarding spacing, water pressure, spraying water over impervious materials, rain and freeze sensors, backflow prevention and isolation valves.

(e) Permit. Any person or homeowner installing an irrigation system in the city is required to obtain a permit from the city. Any plan approved for a permit must be in compliance with the requirements of this appendix [section].

Exemptions:

(1) An irrigation system that is an on-site sewage disposal system, as defined by V.T.C.A., Health and Safety Code § 355.002; or

(2) An irrigation system used on or by an agricultural operation as defined by V.T.C.A., Agriculture Code § 251.002; or

(3) An irrigation system connected to a groundwater well used by the property owner for domestic use.

(f) Backflow prevention methods and devices.

(1) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by: the American Society of Sanitary Engineers; the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; the International Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(2) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:

a. An air gap may be used if:

1. There is an unobstructed physical separation; and
2. The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.

b. Reduced pressure principle backflow prevention assemblies may be used if:

1. The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and
2. Drainage is provided for any water that may be discharged through the assembly relief valve.
- c. Pressure vacuum breakers may be used if:
 1. No back-pressure condition will occur; and
 2. The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.
- d. Atmospheric vacuum breakers may be used if:
 1. No back-pressure will be present;
 2. There are no shutoff valves downstream from the atmospheric vacuum breaker;
 3. The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;
 4. There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and
 5. A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve between the valve and all the emission devices that the valve controls.
- (3) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.
- (4) If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.
- (5) If a double check valve is installed below ground:
 - a. Test cocks must be plugged, except when the double check valve is being tested;
 - b. Test cock plugs must be threaded, water-tight, and made of non-ferrous material;
 - c. A y-type strainer is installed on the inlet side of the double check valve;
 - d. There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and

e. There must be space on the side of the double check valve to test and repair the double check valve.

(6) If an existing irrigation system without a backflow-prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.

(7) If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

(8) The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.

(g) Specific conditions and cross-connection control.

(1) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

(2) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.

(3) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(4) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

a. All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);

b. Any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

c. Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete

control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.

(h) Irrigation plan design: Minimum standards.

(1) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- a. Diminish the operational integrity of the irrigation system;
- b. Violate any requirements of this appendix [section]; and
- c. Go unnoted in red on the irrigation plan.

(2) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(3) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- a. The irrigator's seal, signature, and date of signing;
- b. All major physical features and the boundaries of the areas to be watered;
- c. A North arrow;
- d. A legend;
- e. The zone flow measurement for each zone;
- f. Location and type of each:
 - 1. Controller; and
 - 2. Sensor (i.e., rain and freeze);
- g. Location, type, and size of each:
 - 1. Water source, including, but not limited to, a water meter and point(s) of connection;
 - 2. Backflow prevention device;
 - 3. Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;

4. Valve, including but not limited to, zone valves, master valves, and isolation valves;
 5. Pressure regulation component; and
 6. Main line and lateral piping.
- h. The scale used; and
 - i. The design pressure.
- (i) Design and installation: Minimum requirements.
 - (1) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.
 - (2) Spacing.
 - a. The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.
 - b. New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, including, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.
 - c. Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.
 - (3) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.
 - (4) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.
 - (5) Irrigation zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.
 - (6) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(7) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(8) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(9) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a purple primer prior to applying the PVC cement in accordance with the International Plumbing Code, Section 605.

(10) Rain and freeze sensors.

a. Any commercial, industrial, multi-family, or residential customer class irrigation system installed within the city on or after January 1, 2009, must be equipped with rain and freeze sensors.

b. Any commercial, industrial, or multi-family customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2010, without being equipped with rain and freeze sensors

c. Any residential customer class irrigation system installed within the city before January 1, 2009, may not be operated after January 1, 2011, without being equipped with rain and freeze sensors. If a person repairs or replaces more than 50 percent of a residential customer class irrigation system before January 1, 2011, then such irrigation system must be equipped with rain and freeze sensors.

d. Any rain and freeze sensor shall be installed according to the manufacturer's published recommendation and shall be from a list approved by the building official.

e. Repairs to existing automatic irrigation systems that require replacement of an existing controller shall include a rain and freeze sensor designed to inhibit or interrupt operation of the irrigation system during periods of freezing temperatures and rainfall.

(11) Isolation valve. All new irrigation systems must include a lockable isolation valve between the water meter and the backflow prevention device.

(12) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

a. If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

b. If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

c. All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(13) Wiring irrigation systems.

a. Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

b. Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

c. Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

d. Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(14) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, including, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box, and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(15) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

(j) Completion of irrigation system installation. Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system.

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If

the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include, but are not limited to:

- a. The manufacturer's manual for the automatic controller, if the system is automatic;
- b. A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
- c. A list of components, such as the nozzle, pump filters, and other such components, that require maintenance and the recommended frequency for the service; and
- d. The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink.

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

(k) Maintenance, alteration, repair, or service of irrigation systems.

(1) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(2) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(3) Purple PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the International Plumbing Code, Section 605.

(4) When maintenance, alteration, repair, or service of an irrigation system involves excavation work at the water meter or backflow prevention device, a lockable isolation valve shall be installed, if an isolation valve is not present.

(l) Reclaimed water. Reclaimed water may be utilized in landscape irrigation systems if:

(1) There is no direct contact with edible crops, unless the crop is pasteurized before consumption;

(2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;

(3) The irrigation system is installed using purple components;

(4) The domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i);

(5) A minimum of an eight-inch by eight-inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER — DO NOT DRINK" and "AGUA DE RECUPERACION — NO BEBER"; and

(6) Backflow prevention on the reclaimed water supply line shall be in accordance with city ordinances.

(m) Lawn and landscape irrigation restrictions.

(1) A person commits an offense if the person knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased, or managed by the person in a manner that causes:

a. A substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape onto a street or other drainage area; or

b. An irrigation system or other lawn or landscape watering device to operate during any form of precipitation.

(2) A person commits an offense if, on premises owned, leased, or managed by that person, the person operates an irrigation system or other lawn or landscape watering device that:

a. Has any broken or missing sprinkler head; or

b. Has not been properly maintained in a manner that prevents the waste of water.

SECTION 3: That Chapter 54, "Fire Protection and Prevention" and Appendix D—"Fee Schedule" of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

Chapter 54 - FIRE PREVENTION AND PROTECTION; EMERGENCY MEDICAL SERVICES[1]

ARTICLE III. - FIRE PREVENTION^[4]

Footnotes: --- (4) ---

Editor's note— Ord. No. 2003-17, adopted February 24, 2003, repealed and reenacted article III in its entirety to read as herein set out. Formerly, article III pertained to similar subject matter and derived from the Code of 1961, §§ 8-5—8-17, and Ord. No. 98-24, adopted September 14, 1998.

Cross reference— Fire prevention in tourist courts, § 62-248; natural gas service, § 130-431 et seq.

Sec. 54-86. - International Fire Code; and amendments.

- (a) *Adopted.* The International Fire Code, 2015⁸ edition, (IFC) including appendixes, B, D, E, F, G, H and I thereto, as published by the International Code Council, Inc. are hereby adopted and incorporated by reference as the fire code of the city, subject to and including by reference such amendments as shall appear in this article.
- (b) *Amendments, modifications, and deletions to the 2015⁸ International Fire Code.* Amendments, modifications, and deletions to the 2015⁸ International Fire Code are adopted as follows:

Section 103.2 is deleted.

Section 108.1 is amended to read as follows:

~~108.1 Construction board of appeals. The construction board of appeals will hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code.~~

Section 409.4 ^{110.4} is amended to read as follows:

409.4. ^{110.4} Violation penalties. Persons who violate this code or who fail to comply with any of the requirements in this code, or who erect, install, alter, repair or do work in violation of the approved construction documents or contrary to the directives of the fire code official or in violation of a permit or certificate issued under provisions of this code, shall be assessed a fine up to \$2,000. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 411.4 ^{112.4} is amended to read as follows:

411.4. ^{112.4} Failure to comply. Any person who continues work after having been served with a stop work order, except such work the code official has directed to be performed to remedy a violation or unsafe condition, shall be subjected to a fine not to exceed \$2,000.

The following definitions in Section 202 are amended to read as follows:

~~Code official. The Code Official is the Building Official except where specifically described as the Fire Code Official. The building official shall have the authority to render interpretations of all of these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.~~

~~Fire Code official. The fire marshal or a duly authorized representative charged with the duties of administration and enforcement of the Fire Code.~~

~~Fire Watch. A temporary measure intended to ensure continuous and systematic surveillance of a building and portion thereof by one (1) or more fire marshal approved individuals for the purpose of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire, and notifying the fire department.~~

Section 307 is amended to read as follows:

~~307.2. Permits. A permit or authorization from the fire code official shall be obtained in accordance with § 105.6 before engaging in open trench burning or open air burning of dead livestock.~~

~~307.2.2. Some fires prohibited. The fire code official may prohibit any or all burning, including permit burning, when the atmospheric conditions or circumstances make such fires hazardous.~~

Section 308.1.4 is amended to read as follows:

308.1.4 Outdoor cooking. It is unlawful to use or to store a charcoal burner, open flame, LP gas burner, outdoor grill, barbecue, or other outdoor cooking appliance with open flame on the premises of a residential building with three or more dwelling units or of a multifamily residential building with two or more stories. The provision does not apply to the use of permanently mounted outdoor cooking devices located ten or more feet from any structure.

Section 401.1 is amended by deleting the exception.

Section 503.2.7 is amended to read as follows:

~~503.2.7 Grade. The grade of the fire apparatus access road shall not exceed 6 percent in grade.~~

~~Exception: Grades steeper than 6 percent as approved by the fire code official.~~

Section 503.3 is amended to read as follows:

~~503.3 Marking. Approved markings, signs, or other notices to identify such roads or prohibit the obstruction thereof shall be provided for fire apparatus access roads. The fire code official shall provide the acceptable standards and specifications. Signs, markings, and other notices shall be maintained in a clean and legible condition at all times and shall be replaced or repaired when necessary to provide adequate visibility.~~

Section 503.4.1 is amended to read as follows:

~~503.4.1 Traffic Calming Devices. Traffic calming devices on public and private streets shall be approved by the fire code official and the city engineer. Traffic calming devices on fire apparatus access roadways in private property shall be prohibited unless approved by the fire code official.~~

Section 505.1 is amended to read as follows:

505.1. Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street and/or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 6 inches high with a minimum stroke width of ½ inch. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

Section 506.1 is amended to read as follows:

~~506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in a approved location.~~

Section 507.2.1 is amended to read as follows:

507.2.1 Public and private fire service mains. Public and private fire service mains and appurtenances shall be installed in accordance with NFPA 24.

Section 507.3 is amended to read as follows:

~~507.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by using the Insurance Services Office (ISO) Guide for Determination of Needed Fire Flow (Edition 06-2014).~~

~~Exceptions:~~

- ~~1. Every fire hydrant shall be capable of providing a minimum flow of 500 GPM in areas zoned residential and 1500 GPM in areas zoned commercial or industrial.~~
- ~~2. Fire hydrant flows for buildings, excluding 1 or 2 family dwellings, provided with fire sprinkler systems shall be the required fire flow of the fire sprinkler system plus 500 GPM or a minimum of 1000 GPM, whichever is greater.~~
- ~~3. The fire flow requirements listed in this section shall be met with a minimum of 20 psi residual~~

Section 507.5.1 is amended to read as follows: exclude exception 1.

~~507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.~~

~~Exceptions:~~

- ~~1. Hydrants shall be spaced not over 600 feet away from the facility or building in residential (one- and two-family dwelling) areas, and not over 300 feet away from the facility or building in commercial or industrial-zoned areas, including heavily congested residential areas.~~
- ~~2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet.~~

Section 507.5.1.1 is amended to read as follows:

~~507.5.1.1 Hydrant for fire department connections. Buildings or facilities equipped with a fire sprinkler system or a fire standpipe system shall have a fire hydrant located within 100 feet of the fire department connections.~~

~~Exceptions: The distance shall be permitted to exceed 100 feet where approved by the fire code official.~~

Section 507.5.3 is amended to read as follows:

~~507.5.3 Water mains. Public and private fire service mains shall be installed, inspected, tested and maintained in accordance with the following requirements:~~

- ~~1. Water mains shall be at least 8 inches and large enough to supply the required fire flows.~~
- ~~2. New 8 inch mains longer than 1320 feet must be looped.~~

- ~~3. 6 inch lead lines for fire hydrants shall not exceed 100 feet, and in no case, reduce the amount of required fire flow.~~
- ~~4. Primate mains, tanks, and hydrants shall be installed, inspected, tested and maintained in accordance with the requirements of the most current editions of NFPA 24 and NFPA 25.~~

Section 507.5 is amended by adding the following:

507.5.7 Fire hydrant marking. All fire hydrants located within the city, or its extraterritorial jurisdiction, shall be identified with a blue reflector affixed to the pavement so that the hydrant is readily visible to arriving fire companies. On unpaved streets, a blue reflector shall be fixed to a post as close as practicable to the edge of the roadway so as to be visible. Specifications and type and placement locations of markers shall be obtained from the fire code official.

Section 903.3.1.1.2 is deleted.

Section 1103.5.1 is amended to read as follows:

1103.5.1 Group A-2.

Where alcoholic beverages are consumed in a Group A-2 occupancy having an occupant load of 300 or more, the fire area containing the Group A-2 occupancy shall be equipped with an *automatic sprinkler system* in accordance with Section 903.3.1.1. Building owners shall file a compliance schedule with the fire code official not later than 365 days after receipt of a written notice of violation. The compliance schedule shall not exceed 3 years for an automatic sprinkler system retrofit.

Appendix D to be amended as follows:

SECTION D107

ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments. Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads.

Exceptions

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.
3. Where there are more than 30 but less than 126 dwelling units on a single public or private fire apparatus access road and this access road is at least 40 feet wide, access from two directions shall not be required.

(Ord. No. 2003-17, 2-24-03; Ord. No. 2004-17, 3-8-04; Ord. No. 2008-65, § 2, 9-22-08; Ord. No. 2010-79, § 1, 10-25-10; Ord. No. 2015-36, § 1(Exh. A), 7-13-15; Ord. No. 2015-65, § 1(Exh. A), 11-9-15)

Sec. 54-87. - Fire prevention and protection fees.

Fees are as adopted in appendix D of this Code.

(Ord. No. 2003-17, 2-24-03; Ord. No. 2004-17, 3-8-04; Ord. No. 2008-65, § 2, 9-22-08; Ord. No. 2009-32, § 1, 5-26-09; Ord. No. 2010-78, § 1, 10-25-10; Ord. No. 2018-21, § 6, 3-26-18)

Sec. 54-88. - Smoke detectors.

Every dwelling and every dwelling unit within an apartment, house, condominium, townhouse, and every guest or sleeping room in a motel, hotel, dormitory, one-family and two-family dwelling unit which is rented or leased, shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendation and listing. In dwellings and dwelling units, a smoke detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. The landlord or agents of the landlord are responsible for installing smoke detectors in all residential dwelling units, as listed in this section, which are rented or leased. The landlord shall install at least one smoke detector prior to possession by a tenant. The landlord shall also test the smoke detector to verify that it is in good working order when a tenant takes possession of the dwelling. The landlord further has a duty to inspect or repair malfunctioning smoke detectors unless damage to the detector was caused by the tenant and tenant's family or guests. The landlord has a duty to inspect or repair damaged units if the tenant pays in advance for the reasonable cost of repair or replacement.

(Ord. No. 2003-17, 2-24-03)

Sec. 54-89. - Establishment of motor vehicle routes—For vehicles transporting explosives and blasting agents.

The routes referred to in the state law for vehicles transporting explosives and blasting agents are hereby established as follows: Such vehicles shall be restricted to railroads, state and federal highways, and M-2 industrial districts.

(Ord. No. 2003-17, 2-24-03)

Cross reference— Operation of vehicles, § 126-91 et seq.

Sec. 54-90. - Same—For vehicles transporting hazardous chemicals or other dangerous articles.

The routes for vehicles transporting hazardous chemicals or other dangerous articles are hereby established as follows: Such vehicles shall be restricted to railroads, state and federal highways, and M-2 industrial districts.

(Ord. No. 2003-17, 2-24-03)

Cross reference— Operation of vehicles, § 126-91 et seq.

~~Sec. 54-91. Violations declared nuisances: extraterritorial application.~~

~~(a) The following are declared public nuisances:~~

~~(1) The possession, storage, or discharge, of fireworks; or~~

~~(2) Any violation of article III, Fire prevention, which poses a serious danger to the safety of persons or property.~~

~~(b) It is unlawful for a person to create or maintain a public nuisance, or to engage in any activity that constitutes a public nuisance, within the city limits or within 5,000 feet of the city limits.~~

(Ord. No. 2006-88, § 1, 9-11-06; Ord. No. 2015-51, § 1, 10-12-15)

Editor's note— Ord. No. 2006-88, § 1, adopted September 11, 2006, amended § 54-91 in its entirety to read as herein set out. Formerly, § 54-91 pertained to the manufacture and sale of fireworks, and derived from Ord. No. 2003-17, adopted February 24, 2003.

State Law reference— Extent of extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021.

Secs. 54-92—54-120. - Reserved.

APPENDIX D - FEE SCHEDULE amended as follows:

Sec. B. - Additional fees specific to building permitting.

(b) Building permit fees for new construction or new additions, shall be calculated on square footage using the following table identified as Building Permit Fee Schedule B which is dependent upon the use and construction type.

(1) Buildings with multiple (mixed) use groups shall be charged the applicable fee per use group.

(2) Shell buildings shall be charged a fee based on 80 percent of the calculated permit fee (0.80 x permit fee).

(3) When proposed work involves both remodel of existing and new construction/addition, the fee for the remodel will be based on the remodel valuation and the fee for the new construction/addition shall be based on the square footage.

(4) Permit fees are derived from ICC's 2012- [most current published](#) Building Valuation Data (BVD) fee schedule using a spreadsheet that has been set with an appropriate multiplier.

Reference Tables:*Occupancy Group Definitions*

| IBC Occupancy Group | ICC BVD Uses | 2015 ICC Uses |
|---------------------------|---|--|
| A-1 | Assembly, theaters, with stage | Theaters, auditoriums |
| A-1a | Assembly, theaters, without stage | Theaters, auditoriums |
| A-2 | Assembly, nightclubs | |
| A-2a | Assembly, restaurants, bars, banquet halls | Restaurants |
| A-3 | Assembly, churches | Churches |
| A-3a | Assembly, general, community halls, libraries, museums | Bowling alleys, libraries |
| A-4 | Assembly, arenas | |
| B | Business | Banks, medical office, office |
| E | Educational | Schools |
| F-1 | Factory and industrial, moderate hazard | Industrial plants |
| F-2 | Factory and industrial, low hazard | Industrial plants |
| H-1 | High Hazard, explosives | |
| H-2,3,4 | High Hazard | |
| H-5 | HPM | |
| I-1 | Institutional, supervised environment | Convalescent hospitals, homes for the elderly |
| I-2 | Institutional, incapacitated | Hospitals |

| | | |
|------|--|---|
| I-2a | Institutional | Nursing homes |
| I-3 | Institutional, restrained | Jails |
| I-4 | Institutional, day care facilities | |
| M | Mercantile | Stores, service stations (mini-marts) |
| R-1 | Residential, hotels | Hotels and motels |
| R-2 | Residential, multiple family | Apartment houses |
| R-3 | Residential, one- and two-family | Dwellings |
| R-4 | Residential care, assisted living facilities | |
| S-1 | Storage, moderate hazard | Service stations (canopies and service bays), warehouses |
| S-2 | Storage, low hazard | Public garages, warehouse |
| U | Utility, miscellaneous | Residential garage, private garage |

Construction Types

| Type of User | Construction Type and Circumstances |
|----------------------|---|
| Single-Family | Use R-3 Under Occupancy Group and VB under Construction Type for all aspects of all Single Family projects. |
| Small Businesses | Construction type for commercial projects/businesses varies according to type of material and size of project. Note that alterations or additions valued at \$50,000.00 or more and new construction projects valued at \$100,000.00 or more must involve a licensed design professional. |
| Design Professionals | Designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. However, a permit can only be issued to a registered contractor. |

The International Code Council using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California, has compiled this building valuation table. ICC has developed this data to aid jurisdictions in determining fees.

| Group (2012 International Building Code) | IA | IB | IIA | IIB | IIIA | IIIB | IV | VA | VB |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| A-1 Assembly, theaters, with stage | 212.00 | 204.85 | 199.65 | 191.24 | 179.60 | 174.56 | 184.86 | 164.20 | 157.69 |
| A-1 Assembly, theaters, without stage | 194.08 | 186.93 | 181.72 | 173.31 | 161.68 | 156.64 | 166.93 | 146.29 | 139.78 |
| A-2 Assembly, nightclubs | 166.35 | 161.60 | 157.13 | 150.84 | 141.62 | 137.83 | 145.25 | 128.47 | 123.67 |
| A-2 Assembly, restaurants, bars, banquet halls | 165.35 | 160.60 | 155.13 | 149.84 | 139.62 | 136.83 | 144.25 | 126.47 | 122.67 |
| A-3 Assembly, churches | 195.96 | 188.81 | 183.60 | 175.20 | 163.70 | 158.66 | 168.82 | 148.30 | 141.80 |
| A-3 Assembly, general, community halls, libraries, museums | 163.95 | 156.80 | 150.60 | 143.19 | 130.66 | 126.63 | 136.81 | 115.27 | 109.76 |
| A-4 Assembly, arenas | 193.08 | 185.93 | 179.72 | 172.31 | 159.68 | 155.64 | 165.93 | 144.29 | 138.78 |
| B Business | 169.14 | 162.95 | 157.42 | 149.72 | 135.78 | 130.75 | 143.54 | 119.31 | 113.65 |
| E Educational | 178.16 | 172.02 | 166.90 | 159.29 | 148.37 | 140.44 | 153.73 | 129.09 | 124.71 |
| F-1 Factory and industrial, moderate hazard | 100.75 | 96.02 | 90.26 | 86.94 | 77.68 | 74.37 | 83.16 | 64.01 | 60.19 |
| F-2 Factory and industrial, low hazard | 99.75 | 95.02 | 90.26 | 85.94 | 77.68 | 73.37 | 82.16 | 64.01 | 59.19 |
| H-1 High Hazard, explosives | 94.40 | 89.68 | 84.92 | 80.59 | 72.52 | 68.22 | 76.82 | 58.86 | 0.00 |

| | | | | | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| H234 High Hazard | 94.40 | 89.68 | 84.92 | 80.59 | 72.52 | 68.22 | 76.82 | 58.86 | 54.03 |
| H-5 HPM | 169.14 | 162.95 | 157.42 | 149.72 | 135.78 | 130.75 | 143.54 | 119.31 | 113.65 |
| I-1 Institutional, supervised environment | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| I-2 Institutional, hospitals | 287.21 | 281.02 | 275.49 | 267.79 | 252.87 | 0.00 | 261.61 | 236.40 | 0.00 |
| I-2 Institutional, nursing homes | 198.55 | 192.37 | 186.83 | 179.13 | 165.20 | 0.00 | 172.95 | 148.74 | 0.00 |
| I-3 Institutional, restrained | 192.65 | 186.47 | 180.93 | 173.23 | 160.79 | 154.76 | 167.05 | 144.32 | 136.66 |
| I-4 Institutional, day care facilities | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| M Mercantile | 123.91 | 119.17 | 113.69 | 108.40 | 98.85 | 96.06 | 102.82 | 85.70 | 81.90 |
| R-1 Residential, hotels | 169.51 | 163.62 | 159.09 | 152.26 | 140.12 | 136.46 | 148.59 | 125.88 | 121.46 |
| R-2 Residential, multiple family | 142.14 | 136.24 | 131.71 | 124.88 | 113.41 | 109.75 | 121.89 | 99.18 | 94.76 |
| R-3 Residential, one- and two-family | 133.78 | 130.13 | 126.82 | 123.67 | 118.74 | 115.78 | 119.75 | 110.94 | 103.92 |
| R-4 Residential, care/assisted living facilities | 168.08 | 162.18 | 157.65 | 150.82 | 138.52 | 134.86 | 146.99 | 124.28 | 119.86 |
| S-1 Storage, moderate hazard | 93.40 | 88.68 | 82.92 | 79.59 | 70.52 | 67.22 | 75.82 | 56.86 | 53.03 |
| S-2 Storage, low hazard | 92.40 | 87.68 | 82.92 | 78.59 | 70.52 | 66.22 | 74.82 | 56.86 | 52.03 |
| U Utility, miscellaneous | 71.08 | 67.13 | 62.83 | 59.33 | 53.24 | 49.79 | 56.48 | 41.64 | 39.44 |

SECTION 4: That all provisions hereof declared to be severable and if any provisions hereof are declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which remain in full force and effect.

SECTION 5: All other ordinances or parts of ordinances in conflict herewith are repealed to the extent that they are in conflict.

SECTION 6: This ordinance shall become effective upon its second and final reading by the City Council.

PASSED AND APPROVED: First reading this the _____ day of _____, 2019.

PASSED AND APPROVED: Second and final reading this the _____ day of _____, 2019.

CITY OF NEW BRAUNFELS, TEXAS

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

1/14/2019

Agenda Item No. E)

Presenter/Contact

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

SUBJECT:

Discuss and consider approval of an amendment to the number of authorized Das Rec childcare positions in the FY 2018-19 Adopted Budget.

BACKGROUND / RATIONALE:

Das Rec currently has over 12,000 members, more than double the number of members projected in the FY 2018-19 budget. This has resulted in a need to evaluate staffing in order to keep up with the demand. One of the immediate areas of need is in childcare services.

Our childcare services are provided 51 hours per week. On average, there are 66 kids in childcare each day. To manage that demand requires 199 hours of coverage per week. Current staffing and budgeted positions provides a maximum of 114 hours of coverage per week. Additional coverage is therefore required when the childcare center is near or at capacity. When this occurs, staff will take the older children to the gym leaving the younger children in the KinderCare room. Gym attendants are then pulled from their duties to help with childcare. This is not a sustainable practice.

Current operations have also shown the need for a lead childcare attendant position to be on duty during open childcare hours to provide supervision and coordination of the other attendants. This position will improve coordination and communication for provision of this service to our guests.

To provide the level of coverage needed to support the additional members regularly utilizing our childcare services, staff is requesting that three additional Childcare Attendants and six Lead Attendants be authorized. The methodology for coming up with the additional positions mirrors that of all other part time Das Rec positions, meaning we would only fund the additional hours of coverage needed. All positions would be limited to an average of 19 hours per week.

| | FY 2018-19 | FY 2018-19 |
|----------------------------|----------------------|---------------------------|
| Title | Currently Authorized | Total Projected Positions |
| Childcare Attendant | 9 | 12 |
| Childcare Lead | 0 | 6 |

These additional positions will align with our current coverage needs and will provide outstanding service for the membership at Das Rec while creating a safe environment for the children.

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

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

FISCAL IMPACT:

The maximum annual impact of these additional positions is approximately \$70,000. However, staff does not suggest amending the Das Rec budget at this time. There are vacancy savings in other areas which can allow these positions to be absorbed into the current budget. However, if and when a budget amendment is required, there are sufficient membership revenues up and above the budgeted projections that could support these costs.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of four Childcare Attendants and six Childcare Leads for Das Rec.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. F)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow the short term rental of a single-family residence in the "C-3" Commercial District addressed at 1464 Hillview Avenue.

BACKGROUND / RATIONALE:

Case No.: PZ-18-042

Council District: 1

Owner/Applicant: Zu Hause, LLC (Tracy Fore)
686 S. Seguin Avenue, #310730
New Braunfels, TX 78131
(210) 273-6907

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

The subject property is located on Hillview Avenue, between South Mesquite and Live Oak Avenues, and between IH-35 South and South Business 35. The property is approximately 8,118 square feet in area and is occupied by a 1,206 square foot single family residential structure built in 1950.

The "C-3" zoning allows rental or occupancy for less than one month. However, the structure is a single-family dwelling requiring approval of a Special Use Permit (SUP) before it can be used as a short term rental. If the SUP is approved, an administrative Short Term Rental Permit is also required prior to the first rental, along with annual fire inspections as well as remittance of hotel occupancy tax.

The residence currently contains three bedrooms and two bathrooms. Minimum required off-street parking is one (1) space per sleeping area, not including the garage, with a minimum of two (2) spaces and a maximum not to exceed the number of sleeping areas plus one (1). The applicant's site plan indicates two existing paved parking spaces and two additional proposed paved parking spaces, for a total of four spaces.

The Zoning Ordinance sets maximum short term rental occupancy of two adults per bedroom plus an additional 4 adults. This short term rental would be eligible for a total of 10 adult occupants.

General Information:

Size: = 8,118 square feet

Surrounding Zoning and Land Use:

North - C-3 / Single family residence

South - Across Hillview Ave., C-3 / Undeveloped Lot

East - C-3 / Single family residence

West - C-3 / Single family residence

Request Due to Notice of Violation: No

Comprehensive Plan:

- New Braunfels Sub Area
- Between two Transitional Mixed-Use Corridors
- In close proximity to an existing Market Center

Floodplain:

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

Improvement(s):

Single family residence

Determination Factors:

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

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole *(The subject property is zoned C-3 in an area of mixed commercial and residential uses. Although not in the immediate area of major visitor attractions, the property is centrally located with easy vehicular access to arterial road ways.);*
- 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 effects on other areas designated for similar development. Staff's recommendation includes maintaining the residential appearance of the structure.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. *(The use of this property as a short term rental will be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage appropriate use of the property.);* and
- Whether the request is consistent with the Comprehensive Plan. *(The Comprehensive Plan identifies the subject property as being situated between two Transitional Mixed-Use Corridors, and in close proximity to a Market Center.)*

Supplemental standards for short term rentals are attached, and include:

- an administrative Short Term Rental Permit must be obtained and annual inspections are required, in addition to the SUP;

- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(three (3) sleeping areas plus four (4) additional adults allows for a maximum total of 10 adults);**
- display of a short term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) **(minimum of three (3) spaces and a maximum of four (4) spaces);**
- adherence to the City's adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement including quiet hours, parking limitations, and emergency information.

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

| | |
|---|--|
| <p>City Plan/Council Priority: Envision New Braunfels</p> | <p>Action 1.14 <i>Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.</i> A short term rental on the subject property will allow a unique lodging option in a central location with easy access to main thoroughfares. Action 3.3 <i>Balance commercial centers with stable neighborhoods.</i> The subject property is in an area of mixed commercial and residential uses. Authorized short term rentals, with adherence to the adopted rules/standards, can provide a balance of uses in transition neighborhoods such as this. Potential impacts are managed through conditions on the SUP and the associated development standards.</p> |
|---|--|

FISCAL IMPACT:

If approved, the property will be subject to local and State hotel occupancy tax (HOT). The property owner will be responsible for remitting the local portion of taxes to the City.

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on December 4, 2018 and unanimously recommended approval with Staff's recommendation (7-0-0, with Chair Edwards and Commissioner Tubb absent).

STAFF RECOMMENDATION:

Staff recommends approval. The proposed use of the property will complement the mixed uses in the area while maintaining a residential appearance and would be in accordance with the Comprehensive Plan. Staff's recommendation includes the following conditions:

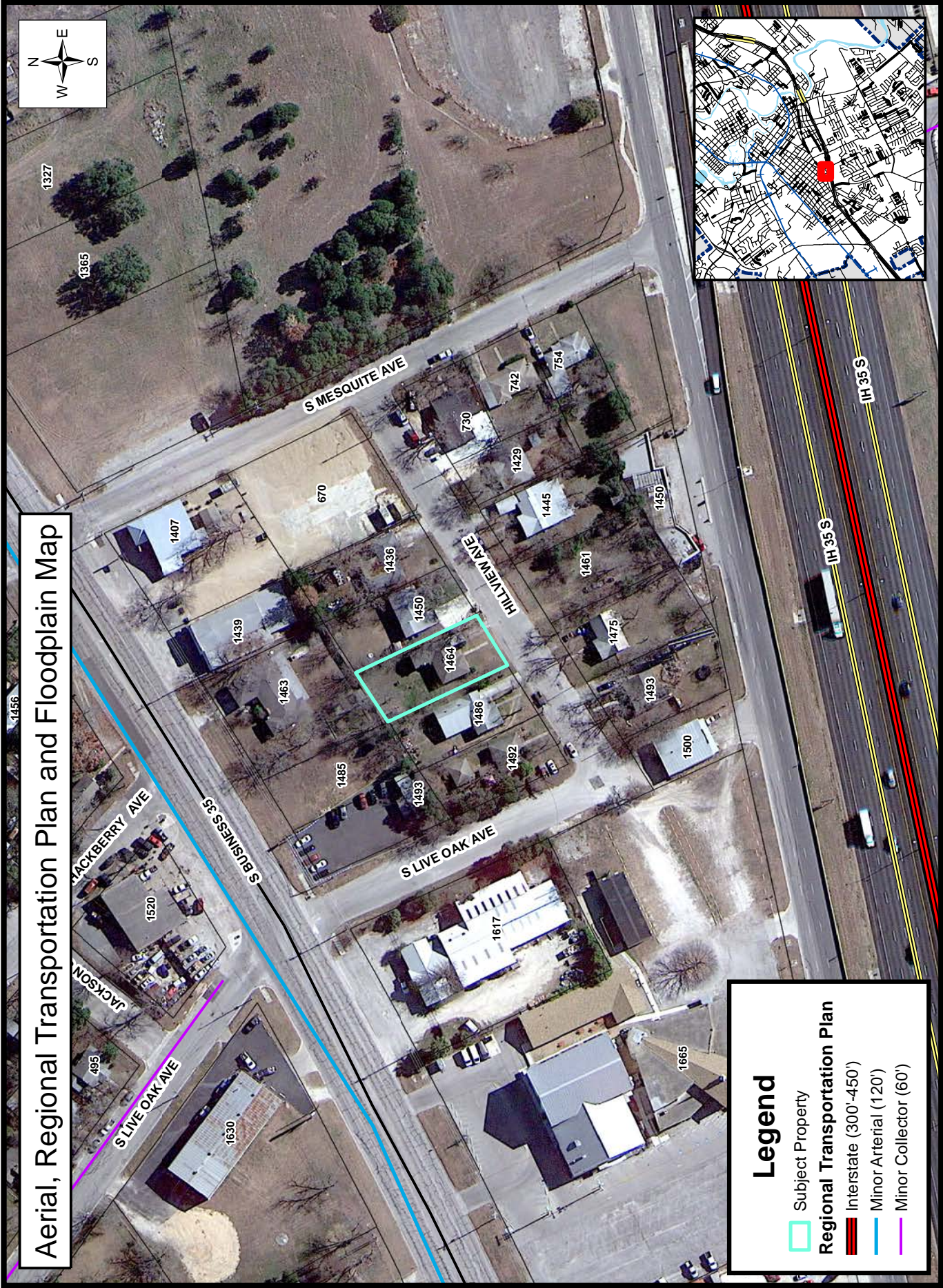
-
1. The applicant will complete construction of the proposed paved driveway addition on Hillview Avenue prior to receiving the administrative short term rental permit.
 2. The residential character of the property must be maintained.
 3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

Notification:

Public hearing notices were sent to 16 owners of property within 200 feet of the request. The Planning Division has received 3 responses in favor from numbers 1, 12 and 15 and none opposed.

ATTACHMENTS:

1. Aerial Maps
2. Application
3. Existing and Proposed Site Plans
4. Floor Plan
5. Maps (Zoning, Existing and Future Land Use, Existing Centers and Short-term Rental Vicinity)
6. Notification List, Map and Responses
7. Photograph of Subject Property
8. Ordinances: Sec. 3.3-9, Sec. 3.6 and Sec. 5.17
9. Excerpt from the December 4, 2018 Planning Commission Regular Meeting
10. Ordinance



PZ-18-042
1464 Hillview Avenue
SUP for STR in C-3





PZ-18-042
1464 Hillview Avenue
SUP for STR in C-3



**Planning & Community Development Department
Planning Division**

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

CC/Cash/Check No.: 1149 Case No.: PZ-18-042
Amount Recd. \$ 1564.00
Receipt No.: 218795



Special Use Permit Application to Allow Short Term Rental

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: Zu Hause LLC TRACY FORE
Mailing Address: 1686 S Seguin Ave #310730 NB TX 78131
Telephone: 210-273-6907 Fax: _____ Mobile: 210-273-6907
Email: TRACYLFORE@GMAIL.COM

2. Property Address/Location: 1464 Hillview Ave NB TX. 78130

3. Legal Description:
Name of Subdivision: William Hoerke Addition
Lot(s): 9 & 10 Block(s): 1 Acreage: 0.187

4. Existing Use of Property: Residential Rental (Vacant)

5. Current Zoning: C-3

*Please note Short Term Rentals are **prohibited** in the following residential districts, & a Special Use Permit could **not** be requested:

- R-1 • ZH • TH • R-1A-43.5 • R-1A-8 • R-2A • B-1B
- R-2 • ZH-A • B-1 • R-1A-12 • R-1A-6.6 • B-1A • TH-A

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. Explain how the proposed Short Term Rental use will be well suited for the neighborhood (attach additional or supporting information if necessary): See Attached

SUBMITTAL CHECKLIST:

| STAFF: | APPLICANT: | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A survey and/or metes and bounds description of the property with an exhibit illustrating property boundaries (if property is not platted). |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Letter of Authorization for appointed agent (if applicable). |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Map of property in relation to City limits/major roadways or surrounding area. |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Copy of deed showing current ownership. |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Floor plan with the following information: |
| | <input checked="" type="checkbox"/> | Layout of the building |
| | <input checked="" type="checkbox"/> | Dimensions of each room |
| | <input checked="" type="checkbox"/> | Room Labels (kitchen, bathroom, dining room, garage, etc.) |
| | <input checked="" type="checkbox"/> | Sleeping areas |
| | <input checked="" type="checkbox"/> | Doors and windows |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Development/site plan with the following information: |
| | | (*Please note: Additional information may be requested.) |
| | <input checked="" type="checkbox"/> | Drawn to scale |
| | <input checked="" type="checkbox"/> | Location of all buildings |
| | <input checked="" type="checkbox"/> | North arrow |
| | <input checked="" type="checkbox"/> | Number of parking spaces (parking calculation table required) |
| | <input checked="" type="checkbox"/> | Property lines |
| | <input checked="" type="checkbox"/> | Dimensions of parking space and maneuvering space |
| | <input checked="" type="checkbox"/> | Adjacent street names |
| | <input checked="" type="checkbox"/> | Driveways (means of ingress/egress) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Application Fee: \$ _____ |
| | | \$1,500 + (.187 acres x \$100) = \$ 1519 (max. \$4,000) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Technology Fee: \$ 45.00 |
| | | 3% of application fee → \$ _____ (application fee) x .03 = \$ _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Hearing Newspaper Notice: \$236 (\$115 each for Planning Commission and City Council + 3% technology fee) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Hearing Mail Notifications and Signage. |
| | | *Please note: The total fee will be calculated by Staff after application submittal based on the quantity of mailed notices and signs and must be paid when sign(s) are picked up by the applicant when sign(s) are picked up by the applicant. |

Please note: The signature indicates that the owner or an authorized agent has reviewed the requirements of this application and attached checklist, and all items on this checklist have been addressed and complied with. The owner/authorized agent understands that an incomplete application will **not** be accepted, and this application will **not** be accepted after the 4 p.m. deadline on an application deadline date, as outlined on the calendar attached to this application. The signature authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted.

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

TRACY FORE 210-273-6907 TRACYLFORE@GMAIL.COM
 Owner's Name (Printed) Phone Number Email
 25 LA MESA DR N.B. TX 78130
 Owner's Mailing Address
 Tracy Fore 10-24-18
 Signature of Owner Date

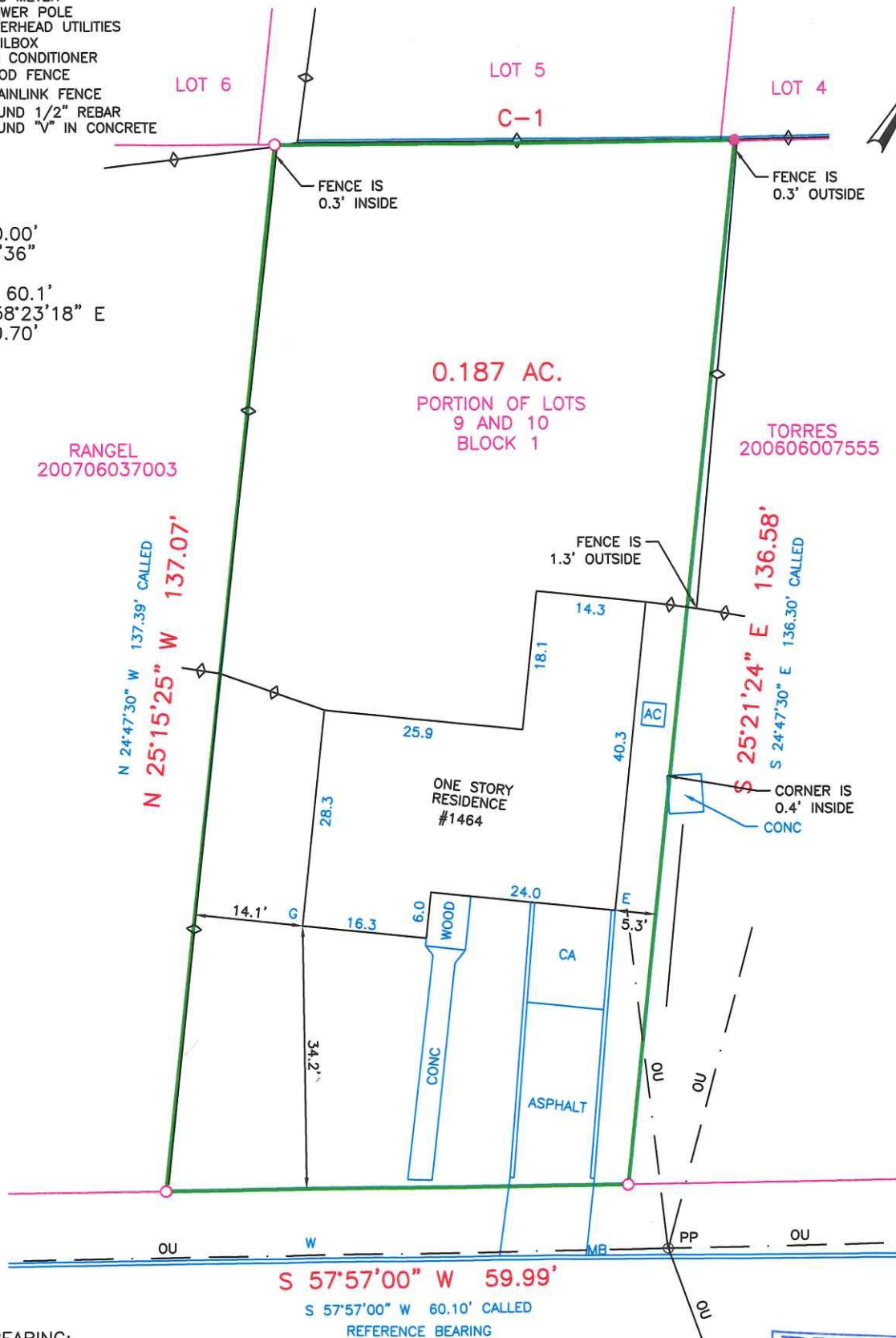
LEGEND:

| | |
|----|-----------------------|
| CA | COVERED ASPHALT |
| W | WATER METER BOX |
| E | ELECTRIC METER |
| G | GAS METER |
| PP | POWER POLE |
| OU | OVERHEAD UTILITIES |
| MB | MAILBOX |
| AC | AIR CONDITIONER |
| — | WOOD FENCE |
| — | CHAINLINK FENCE |
| — | FOUND 1/2" REBAR |
| — | FOUND "V" IN CONCRETE |

Scale: 1" = 20'

EXISTING SITE PLAN

CURVE 1
 RADIUS 5930.00'
 DELTA 00°34'36"
 ARC 59.70'
 ARC CALLED 60.1'
 CHD BRG N 58°23'18" E
 CHD DIST 59.70'



REFERENCE BEARING:
 OBTAINED FROM DOC. #201706005881.

ADDRESS: 1464 HILLVIEW AVE.

REFERENCES: VOL. 70, PGS. 358-359
 DOC. #201706005881

HILLVIEW AVE.

SURVEY PLAT SHOWING A 0.187 OF AN ACRE
 PARCEL OUT OF LOTS 9 AND 10, BLOCK 1,
 WILLIAM HOEKE ADDITION, CITY OF NEW

ATTACHMENT 3

LEGEND:

CA COVERED ASPHALT
 W WATER METER BOX
 E ELECTRIC METER
 G GAS METER
 PP POWER POLE
 OU OVERHEAD UTILITIES
 MB MAILBOX
 AC AIR CONDITIONER
 // WOOD FENCE
 ◇ CHAINLINK FENCE
 ○ FOUND 1/2" REBAR
 ● FOUND "V" IN CONCRETE

Scale: 1" = 20'

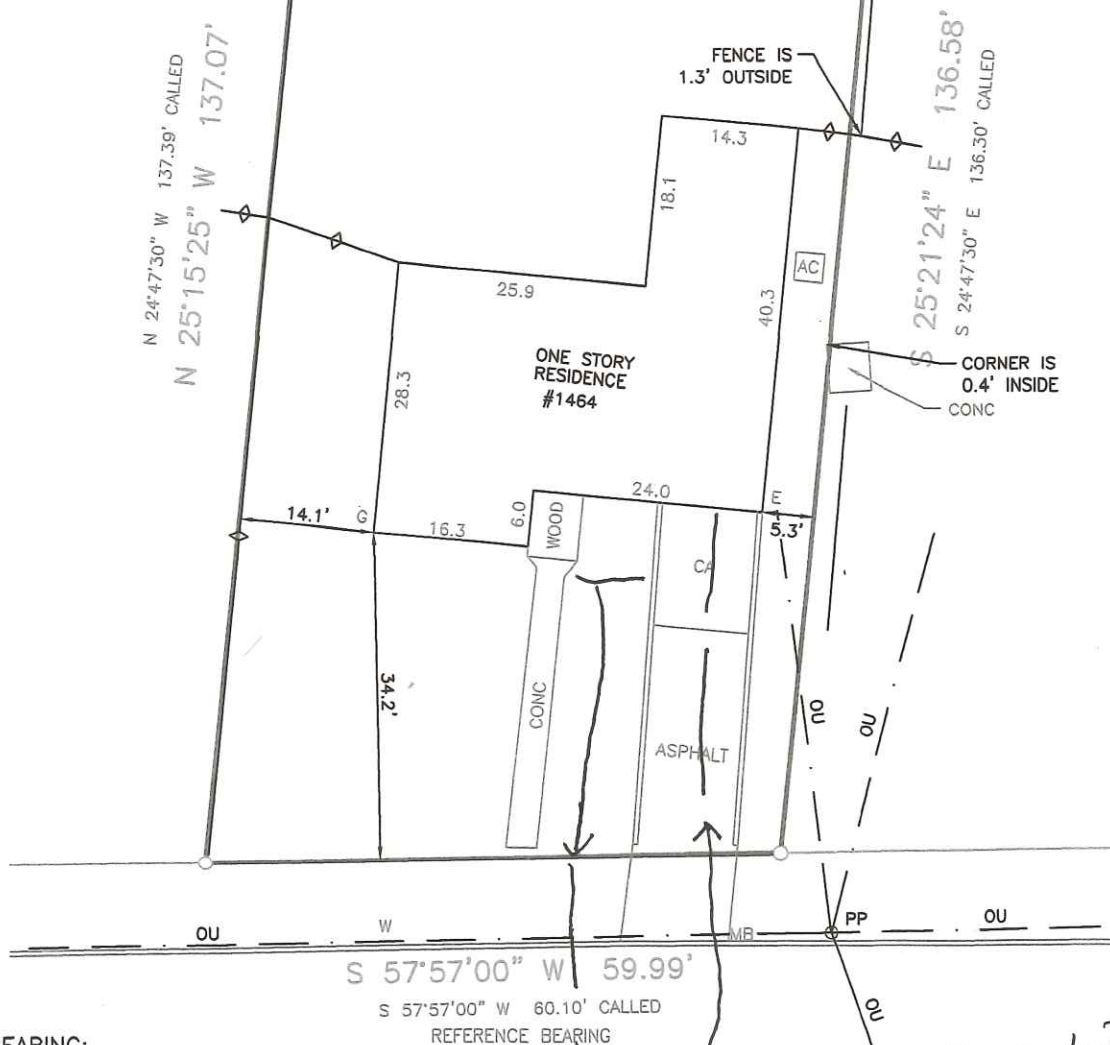
PROPOSED SITE PLAN

CURVE 1
 RADIUS 5930.00'
 DELTA 00°34'36"
 ARC 59.70'
 ARC CALLED 60.1'
 CHD BRG N 58°23'18" E
 CHD DIST 59.70'

RANGEL
 200706037003

0.187 AC.
 PORTION OF LOTS
 9 AND 10
 BLOCK 1

TORRES
 200606007555



REFERENCE BEARING:
 OBTAINED FROM DOC. #201706005881.

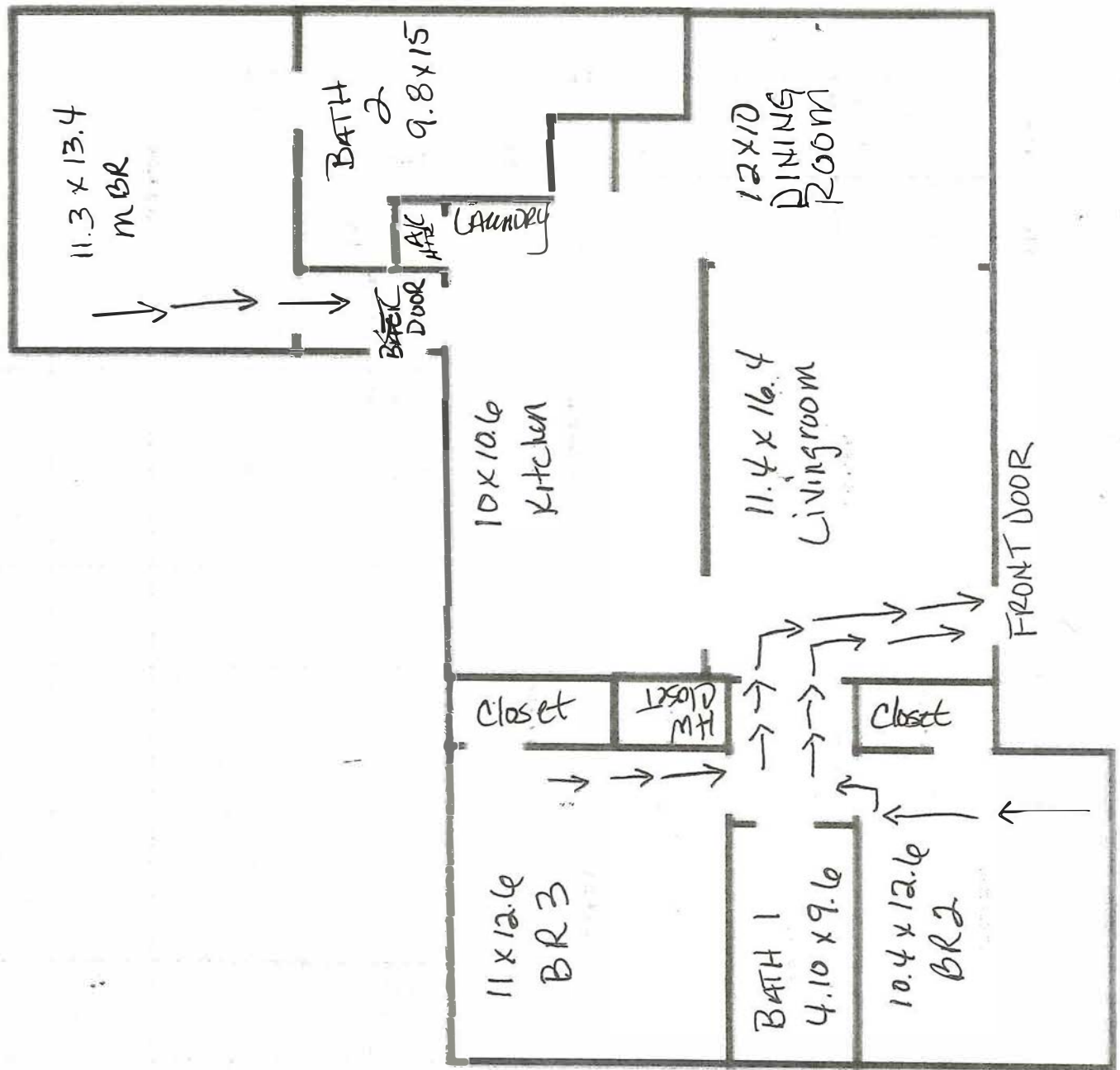
ADDRESS: 1464 HILLVIEW AVE.

REFERENCES: VOL. 70, PGS. 358-359
 DOC. #201706005881

HILLVIEW AVE.

NOTE: THIS SURVEY WAS DONE WITHOUT THE

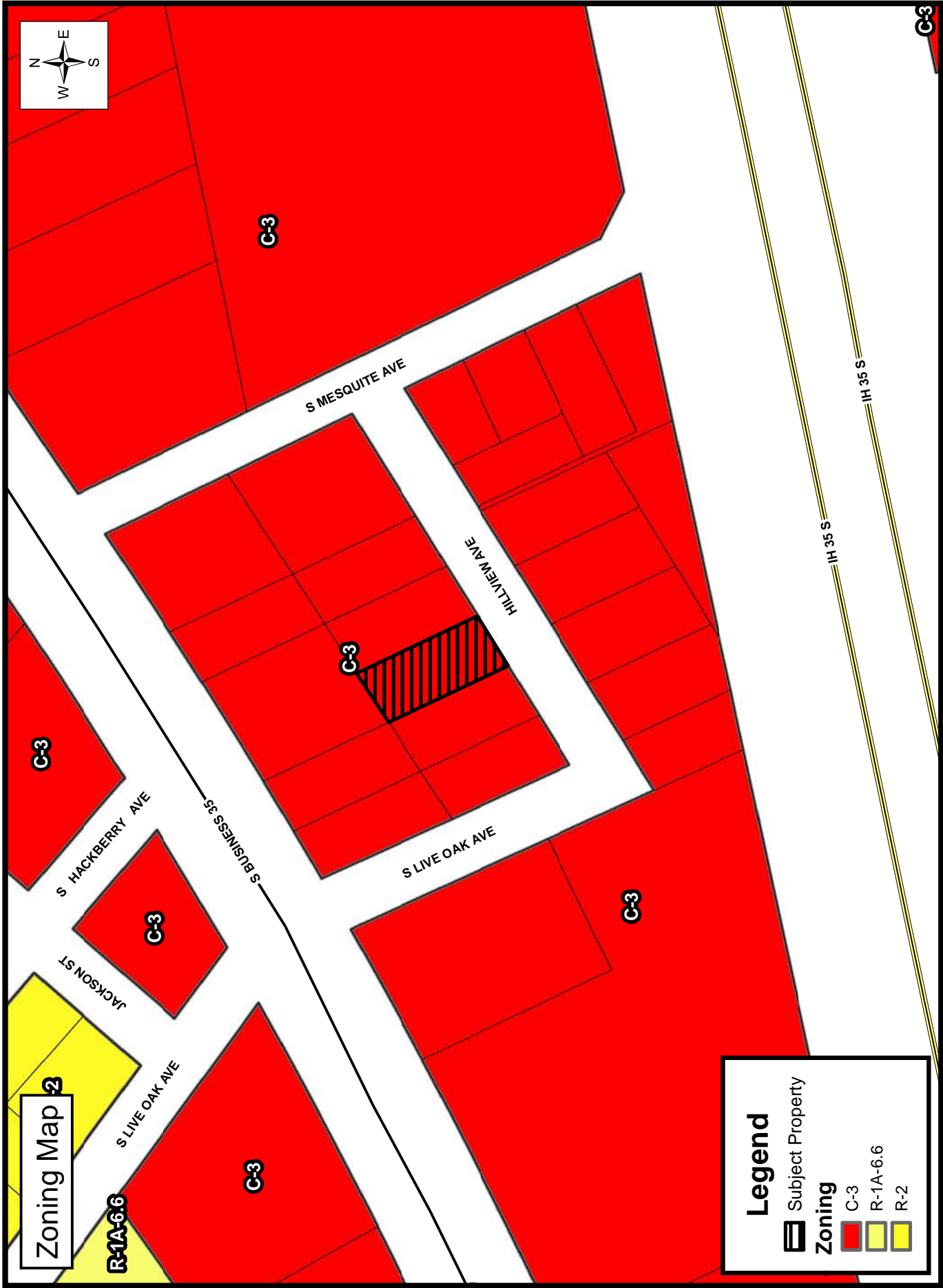
FLOOR PLAN



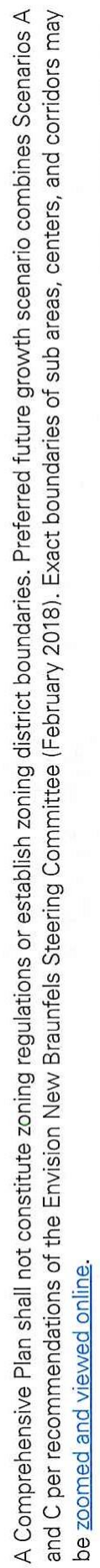
OCT 24 2018

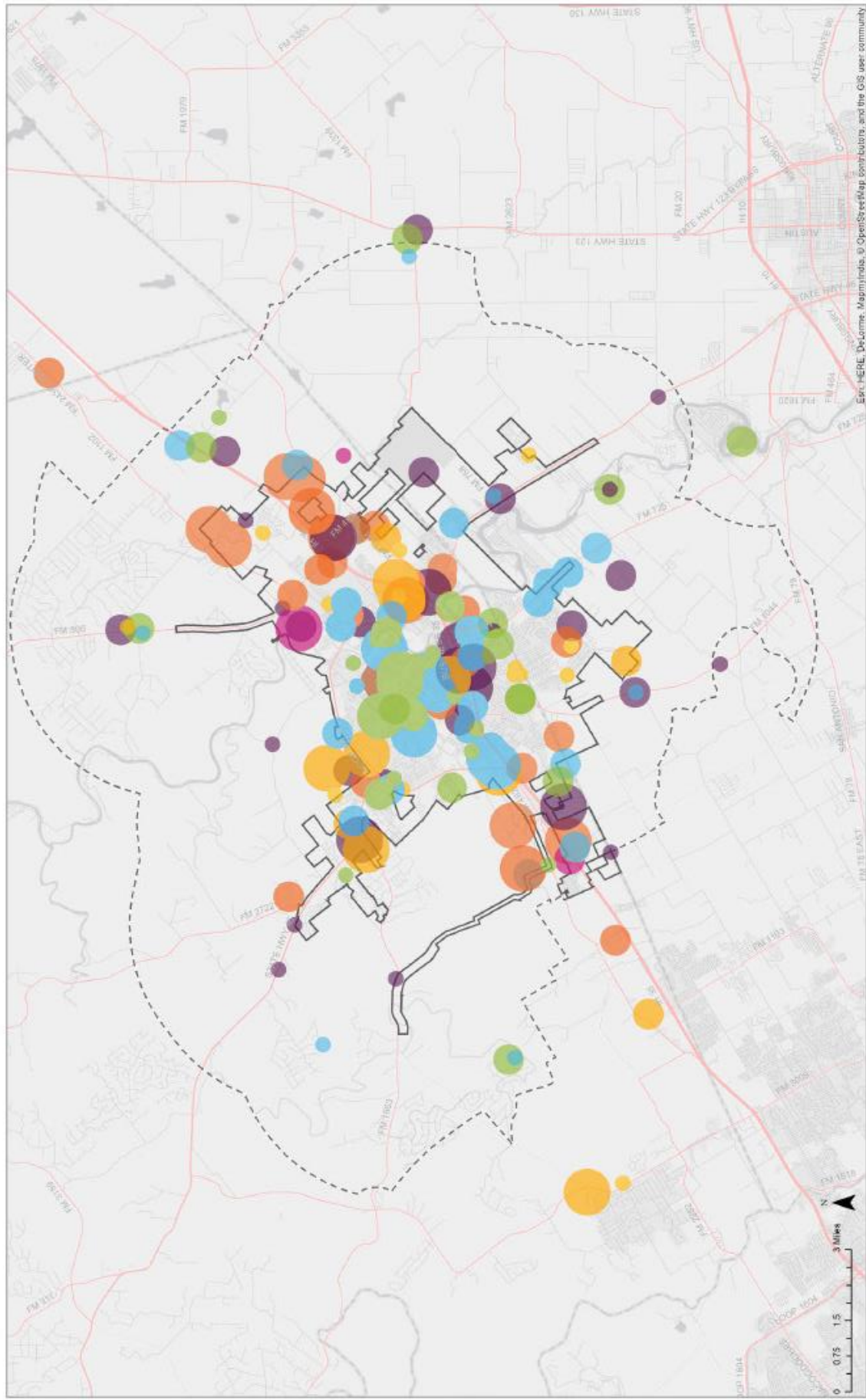
BY:

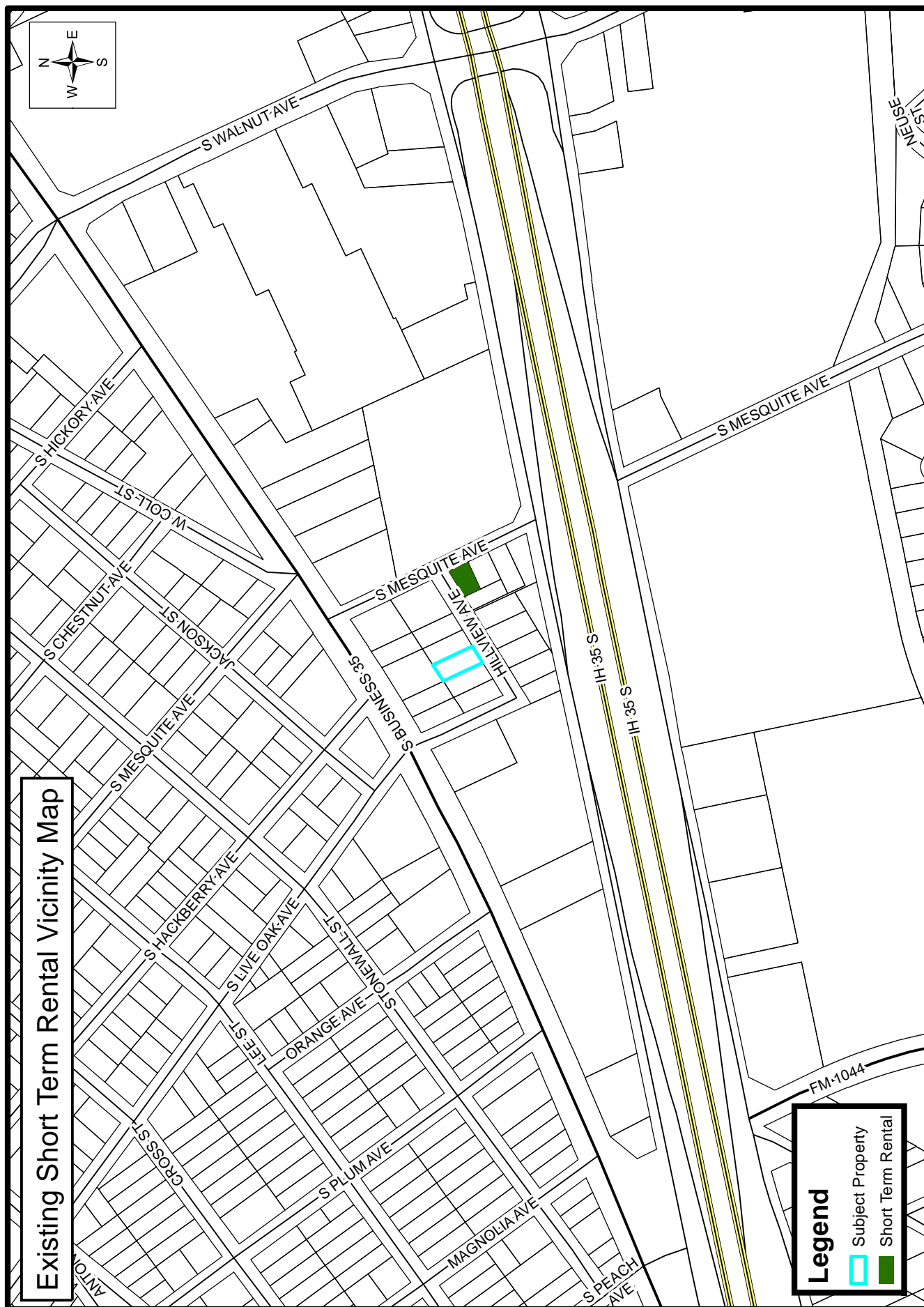
RECEIVED











Map Created: 11/19/2018

PZ-18-042
1464 Hillview Avenue
SUP for STR in C-3



PLANNING COMMISSION – DECEMBER 4, 2018 – 6:00PM

New Braunfels City Hall Council Chambers

Applicant/Owner: Zu Hause, LLC (Tracy Fore)**Address/Location:** 1464 Hillview Avenue**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-042**

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. ALVES JACK | 9. WILLIAMS JEFFREY S |
| 2. BUECHE DORIS RVCBL TRST | 10. AMARO FLORENTINA D |
| 3. SILVA MODESTO | 11. HARRISS MERRI S |
| 4. RANGEL JOSE ANGEL JR & | 12. HUDSON ROBERT B JR |
| 5. TORRES MELISSA ANN | 13. AYALA GERARDO C |
| 6. GARCIA CLARO A III & JOANNA G | 14. BENAVIDES MARIA G |
| 7. PETERMAN ROBERT HENRY | 15. GUADA COMA MECHANICAL INC |
| 8. JOHNSON OLIVIA | 16. CHURCH OF CHRIST OF NEW |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

335

Case: #PZ-18-042 (Zu Hause LLC) (MG)

Name: Jack Alves

Address: 2057 Ch. NABERRY LN

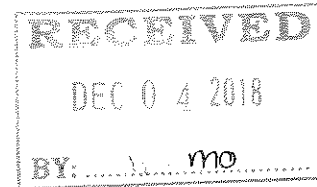
Property number on map: 1

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____
(State reason for objection)

Signature: [Signature]



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-042 (Zu Hause LLC) (MG)

Name: Robert Hudson

Address: 730 S. Mesquite

Property number on map: 12

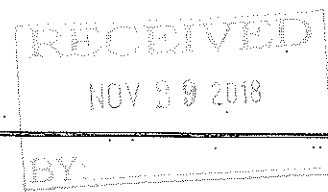
Comments: (Use additional sheets if necessary)

I currently have SUP for my property in the area & think this is a great use for the area

Signature: [Signature]

I favor: [Signature]

I object: _____
(State reason for objection)



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-042 (Zu Hause LLC) (MG)

Name: STONE WILLIAMS

Address: 1417 BUSINESS 35 S.

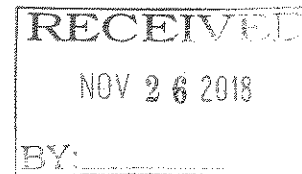
Property number on map: 15

Comments: (Use additional sheets if necessary)

I favor: ✓

I object: _____
(State reason for objection)

Signature: [Signature]





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

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

(1) *Uses permitted by right:*

Residential uses:

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

Non-residential uses:

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

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

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

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

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

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

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

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

(1) Non-residential uses.

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

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

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

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

3.6. *Special Use Permits.*

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

Types of Special Use Permit:

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

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

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

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

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

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

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

5.17. Short term rental or occupancy.

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

5.17-2 Definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

5.17-3 Applicability.

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

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

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

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

(e) *Conduct on premises.*

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

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

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

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

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

5.17-5 Short Term Rental Permit.

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

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

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

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

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

5.17-7 *Enforcement/Penalty.*

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

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

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

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

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

Draft Minutes for the December 4, 2018 Planning Commission Regular Meeting

PZ-18-042 Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family residence in the "C-3" Commercial District at 1464 Hillview Avenue.

(Applicant Zu Hause LLC; Case Manager: M. Greene)

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

1. The applicant will complete construction of the proposed paved driveway addition on Hillview Avenue.
2. The residential character of the property must be maintained.
3. The SUP will be in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.

Vice Chair Reaves inquired if the whole driveway would be paved.

Mr. Greene clarified and stated the applicant was available to answer any questions.

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

Tracey Fore, 25 La Mesa Drive, stated she was the applicant. She stated the existing driveway and future expansion will be paved.

Robert Hudson, 3321 W. Manor, represented as property number 12 on the notice of public hearing, wished to speak in favor. He stated he owner two properties in the area and was previously granted a Special Use Permit for short term rentals at his property. He stated the use fits well with the surrounding uses and will increase the neighborhood's value.

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

No one spoke.

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

Motion by Commissioner Sonier, seconded by Commissioner Mathis, to recommend approval to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family residence in the "C-3" Commercial District at 1464 Hillview Avenue, with Staff recommendations. Motion carried (7-0-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT TERM RENTAL OF A SINGLE FAMILY DWELLING IN THE "C-3" COMMERCIAL DISTRICT, ON THE EAST 2 FEET OF LOT 9 AND WEST 58 FEET OF LOT 10, WILLIAM HOEKE ADDITION, ADDRESSED AT 132 EAST NORTH STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

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

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

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

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for the east 2 feet of Lot 9 and west 58 feet of Lot 10, William Hoeke Addition, addressed at 1464 Hillview Avenue, to allow the short term rental of a single family dwelling in the "C-1" Local Business District; **now therefore**,

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

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being the east 2 feet of Lot 9 and west 58 feet of Lot 10, William Hoeke Addition, addressed at 1464 Hillview Avenue, as delineated in the attached Exhibit 'A', to allow the short term rental of a single family dwelling in the "C-3" Commercial District."

SECTION 2

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

1. The proposed driveway addition must be constructed and paved prior to issuance of a short term rental permit.
2. The residential character of the property must be maintained.
3. 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.

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 14th day of January, 2019.

PASSED AND APPROVED: Second Reading this the 28th day of January, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

LEGEND:

Scale: 1" = 20'

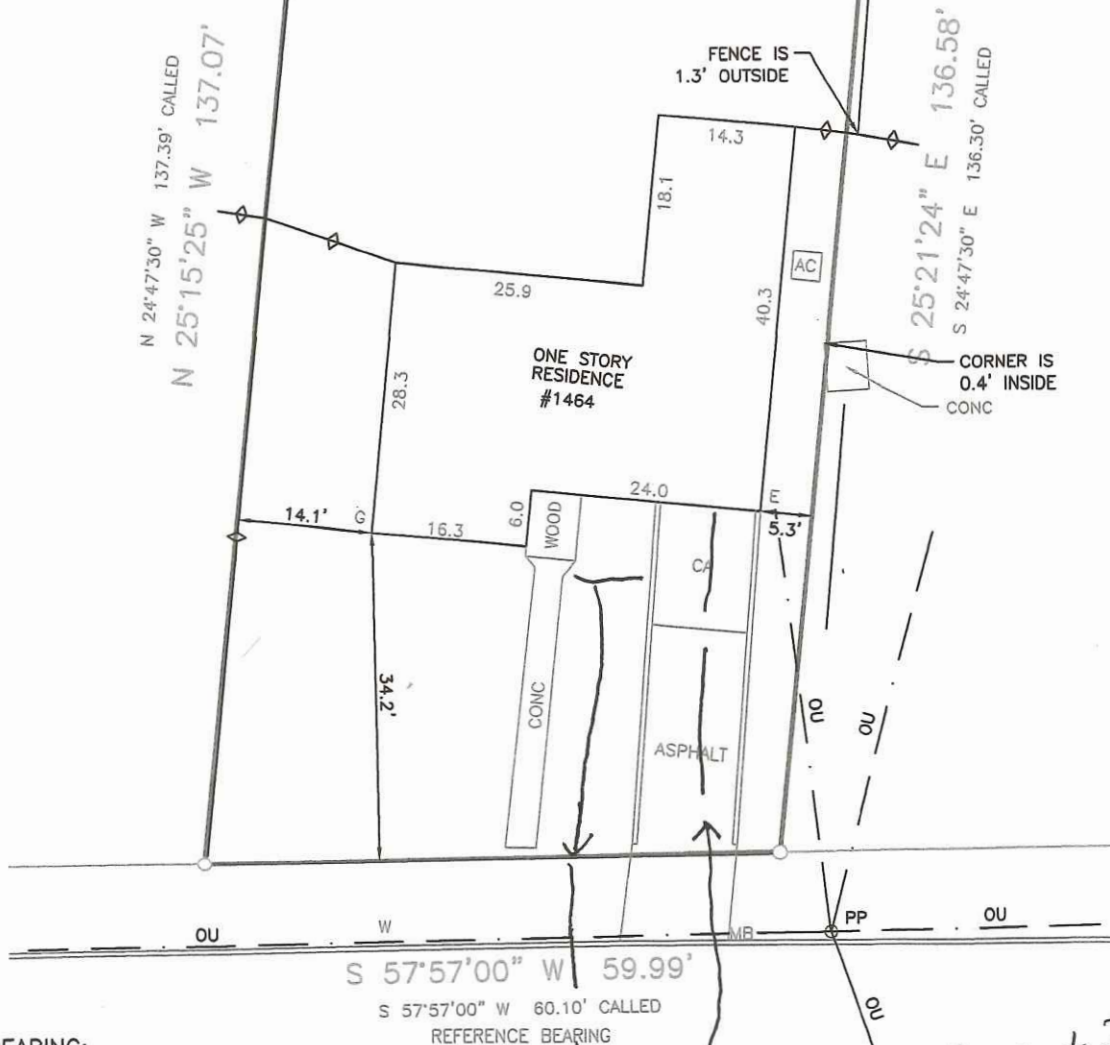
| | |
|-----|---------------------|
| CA | COVERED ASPHALT |
| W | WATER METER BOX |
| E | ELECTRIC METER |
| G | GAS METER |
| PP | POWER POLE |
| OU | OVERHEAD UTILITIES |
| MB | MAILBOX |
| AC | AIR CONDITIONER |
| --- | WOOD FENCE |
| --- | CHAINLINK FENCE |
| ○ | FOUND 1/2" REBAR |
| ● | FOUND " IN CONCRETE |

CURVE 1
 RADIUS 5930.00'
 DELTA 00°34'36"
 ARC 59.70'
 ARC CALLED 60.1'
 CHD BRG N 58°23'18" E
 CHD DIST 59.70'

RANGEL
 200706037003

0.187 AC.
 PORTION OF LOTS
 9 AND 10
 BLOCK 1

TORRES
 200606007555



REFERENCE BEARING:
 OBTAINED FROM DOC. #201706005881.

ADDRESS: 1464 HILLVIEW AVE.

REFERENCES: VOL. 70, PGS. 358-359
 DOC. #201706005881

HILLVIEW AVE.

Current Parking

Proposed ADDED
 PARKING

NOTE: THIS SURVEY WAS DONE WITHOUT THE

EXHIBIT 'B'



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. G)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning of 7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 and 5979 IH-35 South, from "APD" Agricultural/Pre-Development to "M-1A" Light Industrial District.

BACKGROUND / RATIONALE:

Case No.: PZ-18-043

Council District: 1

Applicant: Moeller & Associates, James Ingalls Agent
2021 SH 46 West, Suite 105
New Braunfels, TX 78132

Property Owner: Jeannine C. Engel et al
6783 US Highway 281
Blanco, TX 78606

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

The subject property is located along the frontage road of IH-35 South, near the intersection of Engel Road. A small strip of the property along the interstate was annexed in 1981 and is zoning "M-1" Light Industrial. The remainder, approximately 7 acres, was annexed in 2007 and is currently zoned "APD" Agricultural/Pre-Development.

The applicant is requesting a zoning change from APD to M-1A to provide consistent zoning on the property and facilitate new development.

General Information:

Size: 7.106 acres

Surrounding Zoning and Land Use:

| | |
|---------|---|
| North - | Across IH-35, C-1B, M-1A/ Stone and gravel supply |
| South - | Outside city limits/ Warehouse, outdoor storage |
| East - | M-1, APD/ Single-family residences |
| West - | Outside city limits/ Undeveloped |

Floodplain:

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

Improvement(s):

Two single-family residences

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 (*M-1A zoning is intended for light manufacturing, distribution, wholesaling and warehousing operations that do not typically depend on frequent customer visits. Such uses generally require access to major thoroughfares. The proposed zoning is appropriate for this location along IH-35 and compatible with existing M-1 zoning on the property. A buffer wall and landscaping will be required if new non-residential or multi-family development is adjacent to residential use.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*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 would add to the inventory of light industrial zoning.*);
- 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 property is situated within a Transitional Mixed Use Corridor (IH-35) and is adjacent to a Future Employment Center [see Attachment 3].*)

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

| | |
|--|---|
| City Plan/Council Priority: Envision New Braunfels | Lies within Oak Creek Sub Area (2) Action 1.8 <i>Concentrate future investment in industrial centers near existing and emerging hubs, such as the airport, and along high capacity transportation networks such as IH-35. The proposed rezoning is along IH-35 in an area with existing Light Industrial zoning and will increase the city's inventory of this zoning at an appropriate location for increased economic opportunities.</i> |
|--|---|

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on December 4, 2018 and recommended approval. (7-0-0 with Commissioners Edwards and Tubb absent)

STAFF RECOMMENDATION:

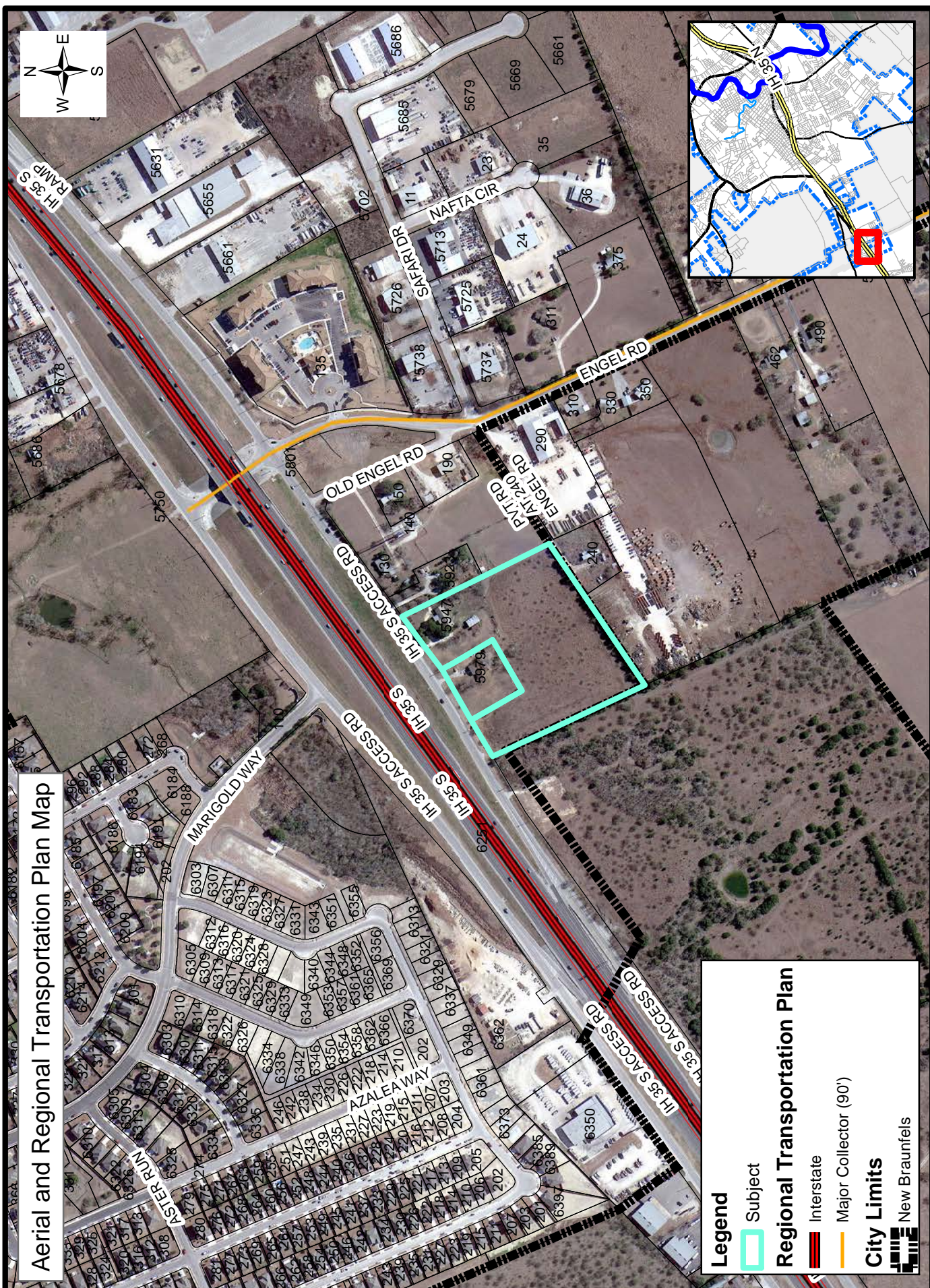
Staff recommends approval as the proposed rezoning is consistent with existing zoning in the surrounding area, lies within a Transitional Mixed Use Corridor, and meets Strategies/Actions of Envision New Braunfels.

Notification:

Public hearing notices were sent to 3 owners of property inside the City limits and within 200 feet of the request. The Planning Division has received no responses.

Attachments:

1. Aerial Map
2. Application
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Notification Map and List
5. Sec. 3.4-18 M-1A
6. Planning Commission Draft Minutes
7. Ordinance



PZ-18-043
5947 IH-35 South
APD to M-1A





**Planning & Community Development Department
Planning Division**

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

361

CC/Cash/Check No.: 4647
Amount Recd. \$ 1,997.30
Receipt No.: 218805

Case No.: PZ-18-043

RECEIVED

OCT 24 2018

BY: K. CROWE

Submittal date - office use only

Zone Change 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: Moeller & Associates, Attn: James Ingalls, PE (Agent)

Mailing Address: 2021 SH 46 W, Ste 105, New Braunfels TX 78132

Telephone: 830-358-7127

Fax: _____

Mobile: _____

Email: jamesingalls@ma-tx.com

2. **Property Address/Location:** 5947 IH 35 S, New Braunfels TX 78132 + 5979 IH 35 S

3. **Legal Description:**

Name of Subdivision: Unplatted, out of John Noyes Survey No. 259, ABS 430

Lot(s): _____ **Block(s):** _____ **Acreage:** 7.106

4. **County:** ☒ Comal ☐ Guadalupe **School District:** ☒ CISD ☐ NBISD ☐ OTHER: _____

5. **Is the property located in the floodway or floodplain:** ☐ YES ☒ NO

6. **Existing Use of Property:** Existing homestead, undeveloped

7. **Zoning Change Request:**

Current Zoning: APD

Proposed Zoning: M-IA

8. **Proposed Use of Property and/or Reason for request (attach additional or supporting information if necessary):** _____

New site for Master Brick company to move into area.



Zoning Application

Please Note: The signature of owner authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted. The signature also indicates that the applicant or his agent has reviewed the requirements of this application/checklist and all items on this checklist have been addressed and complied with.

(Check One:)

☐ I will represent my application before City Staff and/or Planning Commission.

☒ I hereby authorize the person named below to act as my agent/applicant in processing this application before City Staff and/or Planning Commission.

Furthermore, I agree to comply with all platting and subdivision requirements of the City of New Braunfels. I understand the plat will be rejected and will **NOT** be forwarded to the Planning Commission unless staff comments are satisfactorily addressed by the plat resubmittal meeting date. I voluntarily waive my right to request a certificate stating the date the plat was filed and that the Planning Commission failed to act on the plat within thirty days. I do not object to consideration of the plat on 12-4-18 (date of Planning Commission meeting). This waiver expires after 12-4-18 (date of Planning Commission meeting).

Helena J. Cobb, Jeannine C. Engel 830-629-6077 830-552-1631
 Owner's Name (printed) Phone Cell
 a. allison Hantz & Kenneth Gray Cobb
 5947 18355 New Braunfels TX 78132
 Owner's Address City State Zip
 Helena J. Cobb, Jeannine C. Engel
 Owner's Signature Date 12-4-18 Email Address ahantz@nbtx.com

Agent/Applicant Name: JAMES INGALLS

Company: MOELLER & ASSOCIATES

2021 Hwy 46, Ste 105 New Braunfels TX 78132

Mailing Address City State Zip

(830) 358-7127 (210) 392-3212 jamesingalls@ma-tx.com
 Phone Cell Email

APPLICATION FEE SCHEDULE

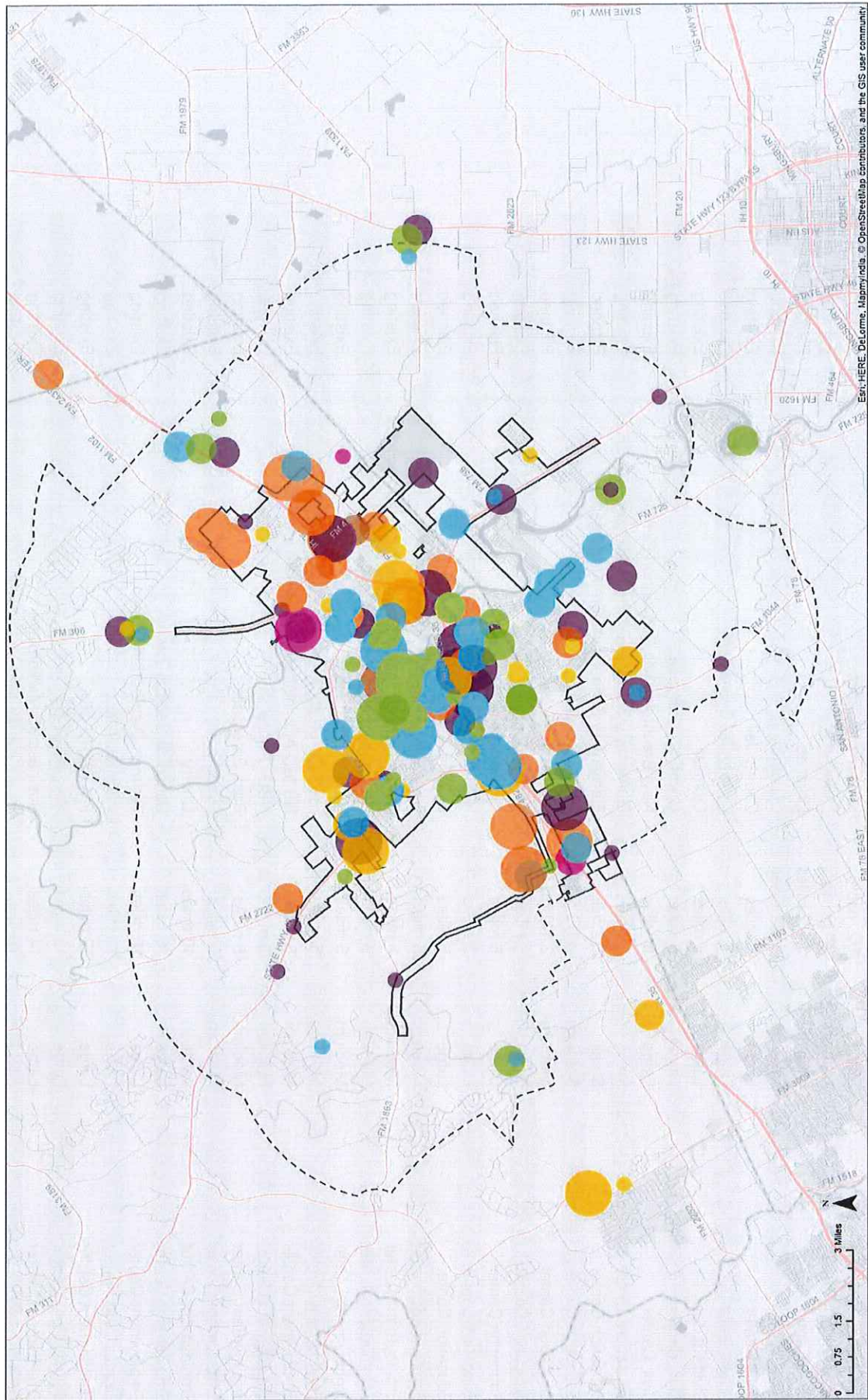
| MASTER PLAN | OTHER FEES THAT APPLY: |
|--|--------------------------------------|
| \$1,000 base fee + \$50 per acre (\$2,500 max) | TIA Worksheet \$100 |
| | Sidewalk Waivers \$300.00 |
| | Plat Variance / Waiver \$150.00 each |
| | Level 1 TIA \$500 |
| | Level 2 TIA \$750 |
| | Level 3 TIA \$1,250 |
| | Technology Fee 3% |



PZ-18-043
5947 IH-35 South
APD to M-1A







The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

● EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

● MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

● MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

● CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

● OUTDOOR RECREATION CENTER

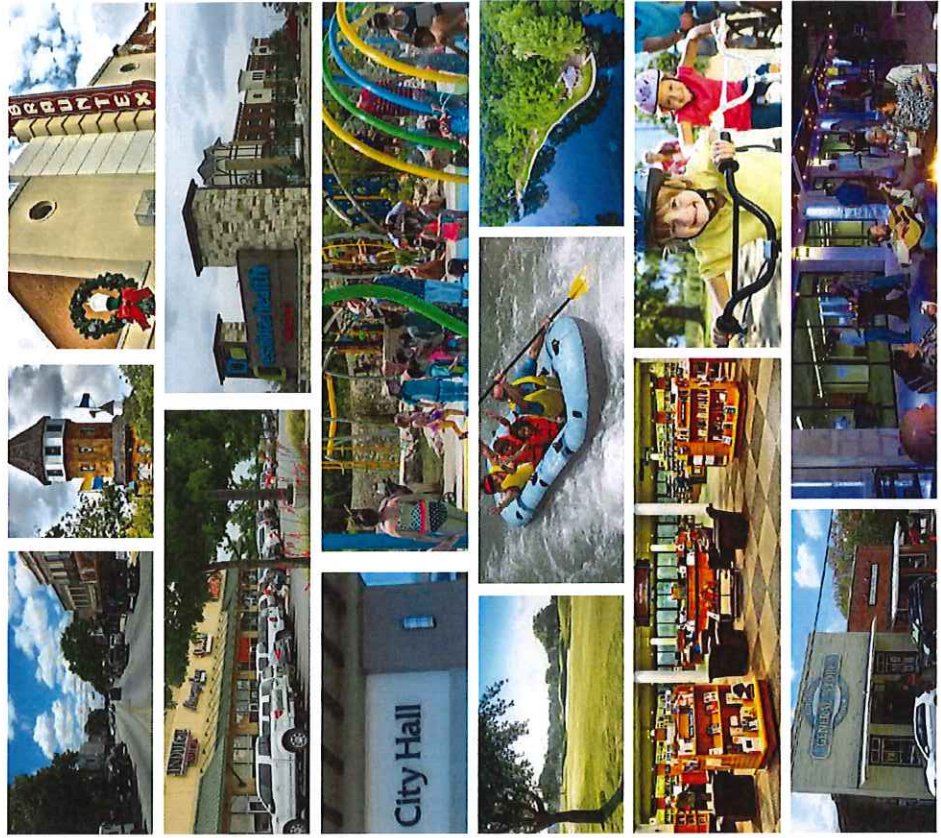
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

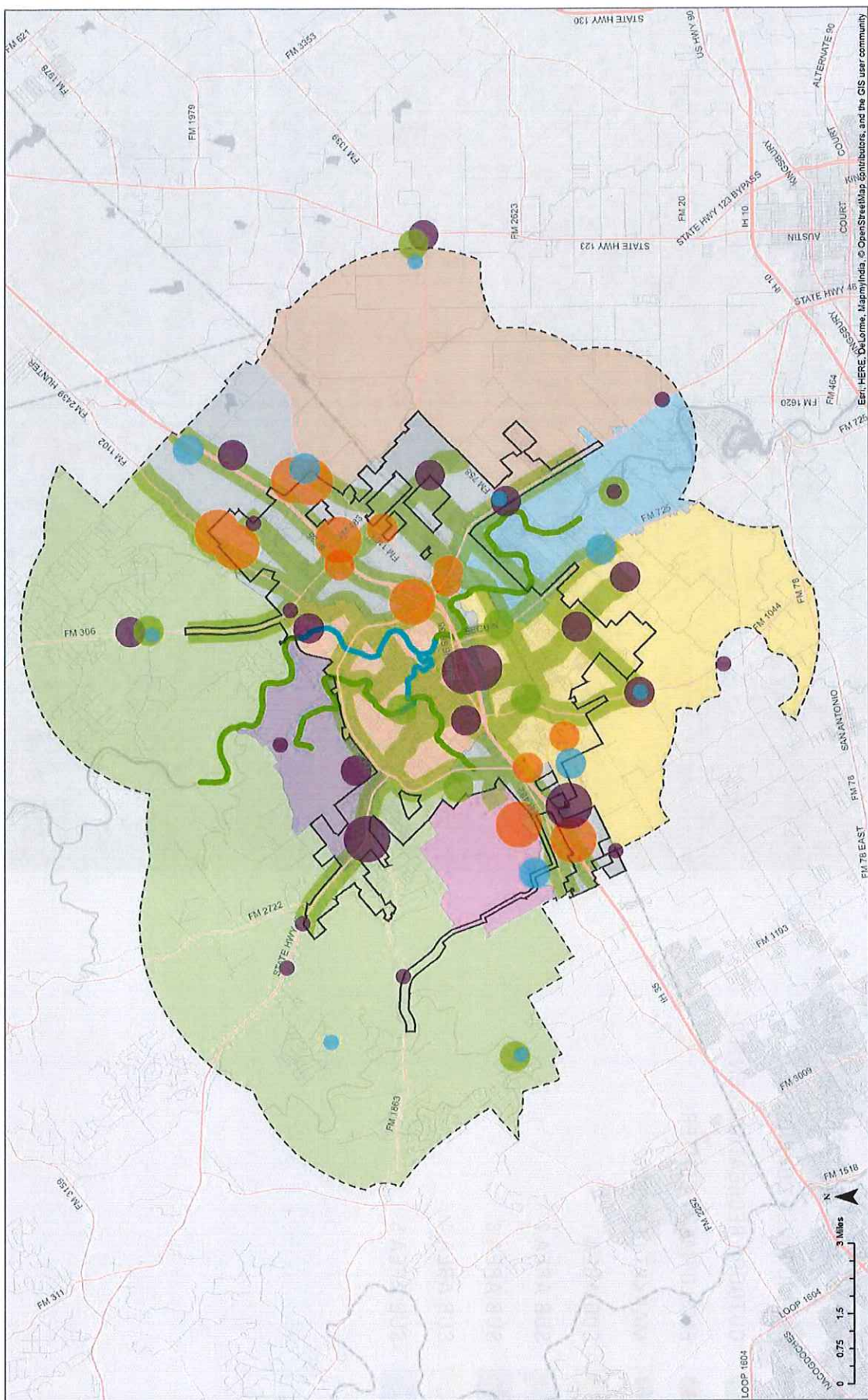
● EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

● TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.

PLANNING COMMISSION – DECEMBER 4, 2018 – 6:00PM

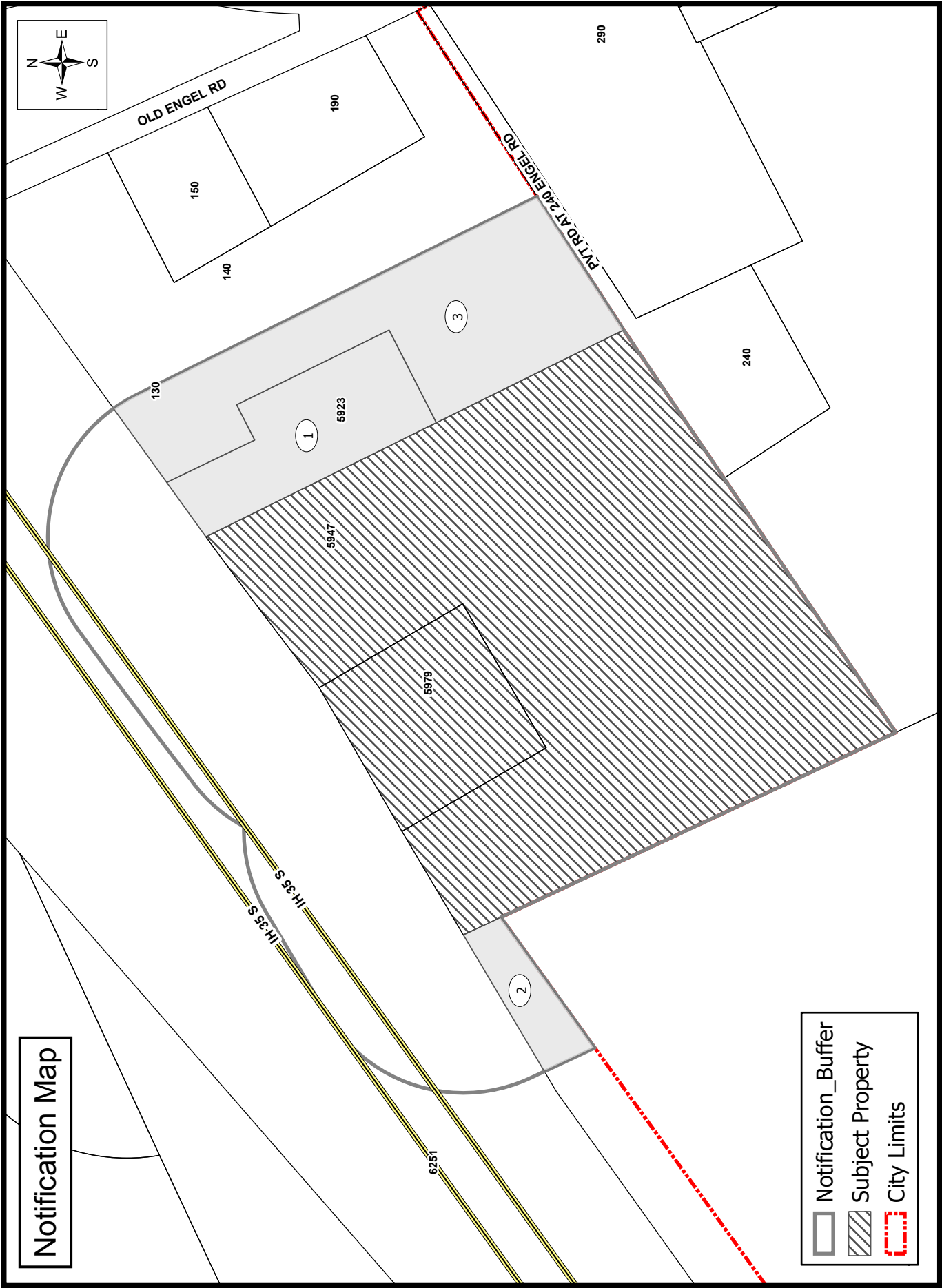
New Braunfels City Hall Council Chambers

Applicant/Owner: James Ingalls (Agent for Jeannine C. Engel et al)**Address/Location:** 5947 & 5979 IH-35 South**PROPOSED ZONE CHANGE – CASE #PZ-18-043**

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”.

1. Rosiles Jaime A & Flores Maria I
2. Khamapirad Family Ltd Prtnrshp
3. Koehler Leelan C

SEE MAP



3.4-18 "M-1A" light industrial district.

Purpose. The M-1A light industrial district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, distribution, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation. The following regulations shall apply in all "M-1A" 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
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Dormitory (in which individual rooms are for rental)
- Multifamily (apartments/condominiums – at least five units)
- Residential use in buildings with the following non-residential uses

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 (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
- Archery range
- 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
 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 (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
 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. 5.7)
 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
 Chemical laboratories (not producing noxious fumes or odors)
 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 and/or repair
 Community building (associated with residential use)
 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
 Credit agency
 Crematorium

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/motor manufacturing re-manufacturing and/or repair
 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 (fuel 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
 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)
 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 (see 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
 Metal fabrication shop
 Micro brewery (onsite manufacturing and/or 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 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
 Outside storage (as primary use)
 Park and/or playground (private)
 Park and/or playground (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 (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
 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
 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 (outdoor)
 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
 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, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

(2) Only the following manufacturing and processes are permitted when they meet the following requirements:

No use is permitted that would emit or cause radiation, dust, odor, smoke, gas or fumes objectionable to persons of ordinary sensitivity or reasonably hazardous to health, beyond the boundary property lines of the lot or tract upon which the use is located, and which do not generate noise or vibration at the boundary of the M-1A district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

Assaying works
 Cooperage works
 Foundries (iron, brass, bronze, aluminum).
 Hides and skins (storage and curing).
 Manufacture of adding machines, cash registers, typewriters, basket material, boxes, electric lamps, clay, shale and glass products, cutlery tools, bicycles, electrical machinery, tools, fiberglass products, and piping subassemblies
 Metal stamping, shearing, punching, forming, cutting, cleaning, heat treating, etc.
 Sheet metal shops
 Welding

(3) *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.* 25 feet.

(iii) *Side building setback.* No side building setback is required.

(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) *Residential setback.* Where a non-residential building 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.

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

(viii) *Width of lot.* 60 feet.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* See Sec. 5.1 for permitted uses' parking.

(2) 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) *Side building setback.* A side building setback five 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.

(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.* 25 feet.

(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) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall be at least 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.

(xii) *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; and a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1)

(xiii) *Minimum number of units.* Five.

(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.

Draft Minutes for the December 4, 2018 Planning Commission Regular Meeting

PZ-18-043 Public hearing and recommendation to City Council regarding the proposed rezoning of 7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 & 5979 IH-35 South, from “APD” Agricultural/Pre-Development to “M-1A” Light Industrial District.

(Applicant: James Ingalls, Moeller & Associates; Case Manager: H. Mullins)

Mrs. Mullins presented the Staff report and recommended approval.

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

James Ingalls, Moeller and Associates, stated he was available to answer any questions.

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

No one spoke.

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

Motion by Commissioner Laskowski, seconded by Commissioner Mathis, to recommend approval to City Council regarding the proposed rezoning of 7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 & 5979 IH-35 South, from “APD” Agricultural/Pre-Development to “M-1A” Light Industrial District, with Staff recommendations. Motion carried (7-0-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING 7.106 ACRES OUT OF THE JOHN NOYES SURVEY 259 A-430, ADDRESSED AT 5947 AND 5979 IH-35 SOUTH, FROM “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT TO “M-1A” LIGHT INDUSTRIAL 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 “M-1A” Light Industrial 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 rezoning 7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 and 5979 IH-35 South, from “APD” Agricultural/Pre-Development District to “M-1A” Light Industrial 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 rezoning the following described tract of land from “APD” to “M-1A” Light Industrial District:

7.106 acres out of the John Noyes Survey 259 A-430, addressed at 5947 and 5979 IH-35 South, as delineated on Exhibit “A” and described in 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 14th day of January, 2019.

PASSED AND APPROVED: Second reading this 28th day of January, 2019.

CITY OF NEW BRAUNFELS

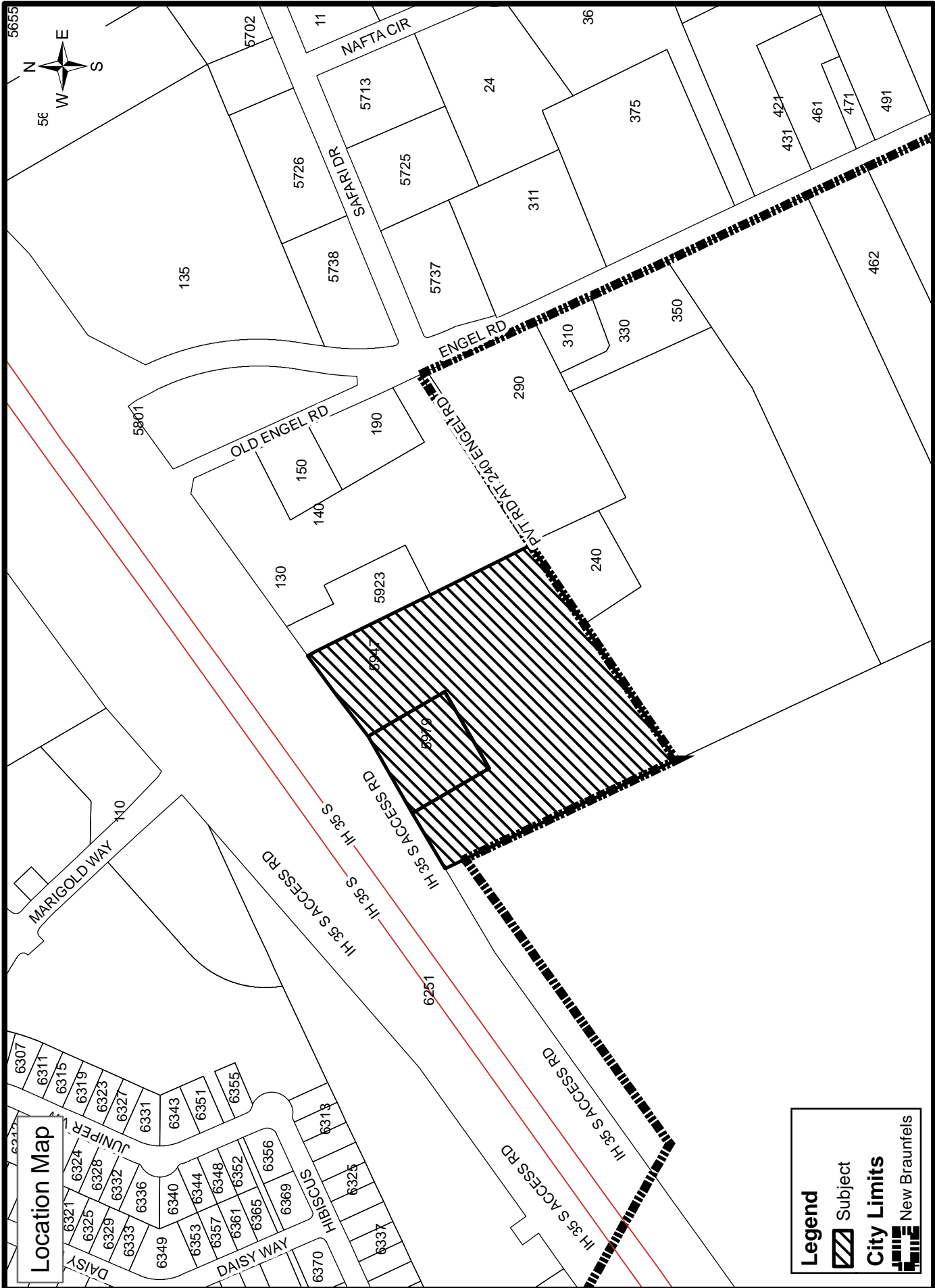
BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

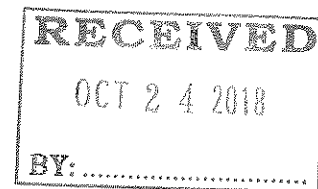
APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney



PZ-18-043
5947 & 5979 IH-35 South
APD to M-1A





METES AND BOUNDS DESCRIPTION
FOR A
7.106 ACRE TRACT OF LAND
"ZONING"

Being 7.106 acres of land situated in the City of New Braunfels, Comal County, Texas, being out of the John Noyes Survey No. 259, Abstract No. 430, and being out of a called 7.23 acre tract of land, as conveyed to Jeannine C. Engel, A. Allyson Hanz and Kenneth Craig Cobb, and recorded in Document No. 200906031538, of the Official Public Records of Comal County, Texas, and out of a called 1.0 acre tract of land, as conveyed to Jeannine C. Engel, A. Allyson Hanz and Kenneth Craig Cobb, and recorded in Document No. 201306007545, of the Official Public Records of Comal County, Texas, and said 7.106 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a corner in the Southeasterly Right-of-Way (R.O.W.) line of Interstate Highway 35 (I.H. 35), being the most Westerly corner of said 7.23 acre tract of land, and being the most Northerly corner of a called 44.328 acre tract of land, as conveyed to Khamapirad Family Limited Partnership, and recorded in Document No. 201206030282, of the Official Public Records of Comal County, Texas;

THENCE departing the Southeasterly R.O.W. line of said I.H. 35, with the Northeasterly line of said 44.328 acre tract of land, and with the Southwesterly line of said 7.23 acre tract of land, S 24° 54' 00" E, a distance of 80.31 feet to a point for a corner, being in the Northeasterly line of said 44.328 acre tract of land, the Southwesterly line of said 7.23 acre tract of land, and being the most Westerly corner of this herein described tract of land and the POINT OF BEGINNING;

THENCE departing the common line between said 44.328 acre tract of land and said 7.23 acre tract of land, and across and through said 7.23 acre tract of land, N 59° 57' 00" E, at a distance of 168.40 feet passing the Southwesterly line of said 1.0 acre tract of land, continuing across and through said 1.0 acre tract of land, at a distance of 377.11 feet passing the Northeasterly line of said 1.0 acre tract of land, and continuing across and through said 7.23 acre tract of land, for a total distance of 381.16 feet to a point for a Northwesterly corner of this herein described tract of land;

THENCE continuing across and through said 7.23 acre tract of land, N 54° 18' 00" E, a distance of 231.17 feet to a point in the Northeasterly line of said 7.23 acre tract of land, being in the Southwesterly line of Lot 2A, Koehler Subdivision, as recorded in Volume 9, Page 151, of the Map and Plat Records of Comal County, Texas, and being the most Northerly corner of this herein described tract of land;

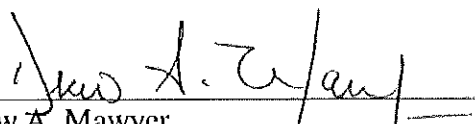
THENCE with the Northeasterly line of said 7.23 acre tract of land, same being the Southwesterly line of said Lot 2A, S 26° 00' 00" E, at a distance of 225.84 feet passing the most Southerly corner of said Lot 2A, same being a Westerly corner of Lot 2B, of said Koehler Subdivision, and continuing with the Southwesterly line of said Lot 2B for a total distance of 504.84 feet to a point for the most Southerly corner of said Lot 2B, being in the Northwesterly line of a called 10.403 acre tract of land, as conveyed to Freddie Engel, and recorded in Volume 605, Page 244, of the Official Public Records of Comal County, Texas, and being the most Easterly corner of said 7.23 acre tract of land and this herein described tract of land;

THENCE with the Southeasterly line of said 7.23 acre tract of land, same being the Northwesterly line of said 10.403 acre tract of land, S 56° 30' 00" W, a distance of 623.40 feet to a point for the most Westerly corner of said 10.403 acre tract of land, being in the Northeasterly line of aforementioned 44.328 acre tract of land, and being the most Southerly corner of said 7.23 acre tract of land and this herein described tract of land;

THENCE with the common line between said 44.328 acre tract of land and said 7.23 acre tract of land, N 24° 54' 00" W, a distance of 520.44 feet to the POINT OF BEGINNING, and containing 7.106 acres of land, more or less.

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

Bearings based on Document No. 200906031583, of the Official Public Records of Comal County, Texas.


 Drew A. Mawyer
 Registered Professional Land Surveyor No. 5348
 TBPLS Firm Registration #10191500
 5151 W. State Highway 46, New Braunfels, TX 78132
 MOE331- ENGEL ZONING M&B





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. H)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning to apply a Special Use Permit to allow the short-term rental of a single-family residence in the "C-1" Local Business District on approximately 0.55 acres, addressed at 118 S. Union Avenue.

BACKGROUND / RATIONALE:

Case No.: PZ-18-044

Council District: 5

Owner: Herring Family Interests LTD (Lawrence Herring)
715 Reiley Road
Seguin, TX 78155

Applicant: Serendipity Vacation Rentals (Tammy Gonzalez & Allyson Hanz)
6783 S. Hwy 281
Blanco, TX 78606

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

The subject property is located on the southwestern corner of the intersection of W. Common Street and S. Union Avenue. The property is approximately 24,000 square feet in area and is occupied by a 2,042 square foot residential structure built in 1909. The property is zoned "C-1" Local Business District and has been used for commercial purposes over the years.

C-1 allows rental or occupancy for less than one month, however since the structure is a single-family dwelling, use of it as a short-term rental requires approval of a Special Use Permit (SUP). If the SUP is approved, an administrative Short Term Rental Permit, annual fire inspections, and remittance of hotel occupancy tax is also required.

The submitted floor plan indicates the existing structure is a four-bedroom, three-bath dwelling, which also contains a sitting room and parlor that would provide additional sleeping areas. Minimum required off-street parking for a short term rental is one space per sleeping area, and the maximum is the number of sleeping areas plus one. The proposed use will require a minimum of 12 with a maximum of 13 parking spaces. The applicant is proposing to utilize the existing paved parking lot

behind the dwelling for the required parking. The applicant has noted that occupants of the short term rental will not be allowed to park outside of the spaces that are designated for vacation rental use.

There are six short-term rental properties in the vicinity.

General Information:

Size: Approximately 0.55 acres

Surrounding Zoning and Land Use:

North - Across W. Common St., C-1/ Day Care Center

South - C-1 / Dental Office

East - Across S. Union Ave., C-1/ Retail and Restaurants

West - C-1 / Tube Rental and Residential Duplex

Request Due to Notice of Violation: No

Comprehensive Plan:

- New Braunfels Sub Area (Sub Area 1)
- At the corner of two Transitional Mixed-Use Corridors
- In close proximity to existing Outdoor Recreation, Tourist/Entertainment and Medical Centers

Floodplain:

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

Improvement(s):

Single-family residence

Determination Factors:

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

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole *(The subject property is zoned C-1 in an area of mixed commercial and residential uses. The property is less than a mile from the Comal County Fairgrounds, Christus Santa Rosa Hospital, many City parks (Prince Solms, Landa, River Acres and Cypress Bend), the library and Schlitterbahn. It is situated on the corner of two thoroughfares heavily traveled by tourists.);*
- 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 effects on other areas designated for similar development. Staff's recommendation includes maintaining the residential appearance of the structure. There are several short-term rentals sprinkled throughout this neighborhood that contribute to competition, variety and mix of uses.);*
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. *(The use of this property as a short term rental will be subject to the supplemental standards as required in Section 5.17 of the Zoning Ordinance. These standards help to ensure that proper measures are in place to protect public health and to encourage*

appropriate use of the property.); and

- Whether the request is consistent with the Comprehensive Plan. *(The subject property lies within the New Braunfels Sub Area, is at the corner of two Transitional Mixed-Use Corridors, and is in close proximity to existing Outdoor Recreation, Tourist/Entertainment and Medical Centers.)*

Supplemental standards for short term rentals are attached, and include:

- an administrative Short Term Rental Permit and annual inspections are required, in addition to the SUP;
- a maximum of two (2) adults per sleeping area plus an additional four (4) adults per residence **(twelve (12) sleeping areas plus four (4) additional adults allows for a maximum total of 28 adults occupying this property);**
- display of a short term rental decal;
- a minimum of one (1) off-street parking space per sleeping area, not including a garage, and not to exceed the number of sleeping areas plus one (1) **(minimum of twelve (12) spaces and a maximum of thirteen (13) spaces);**
- adherence to the City's adopted building codes regarding life safety issues;
- compliance with City codes related to conduct on premises;
- signage in compliance with the current Sign Ordinance (no monument or freestanding pole signs; attached signage is not regulated); and
- required tenant information posted indoors and attached to the rental agreement, including quiet hours, parking limitations and emergency information.

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

| | |
|--|--|
| City Plan/Council Priority: Envision New Braunfels | Action 1.14 <i>Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.</i> A short term rental on the subject property will allow an additional flexible lodging option near Schlitterbahn, City parks and Christus Santa Rosa Hospital. Action 3.3 <i>Balance commercial centers with stable neighborhoods.</i> The subject property is on the corner of two thoroughfares that carry visitors to local destinations. Authorized short term rentals, with adherence to the adopted rules and standards, can integrate a lodging activity into an existing mixed use fabric particularly on a corner lot surrounded predominantly by low-intensity commercial uses. |
|--|--|

FISCAL IMPACT:

If approved, the property will be subject to local and state hotel occupancy tax (HOT). The property owner will be responsible for remitting the local portion to the City.

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on December 4, 2018 and recommended approval with a maximum occupancy of 24 total tenants, and with staff's recommendations (5-2-0), with Vice Chair Reeves and Commissioner Laskowski in opposition. The applicant indicated their agreement

with the maximum occupant limitation.

STAFF RECOMMENDATION:

Staff recommends approval. The proposed use of the property would complement the mixture of uses in the area while maintaining a residential appearance. It would provide an additional lodging option near a Tourist Center and on the corner of two Transitional Mixed-Use Corridors providing ease of access to tenants. Staff's recommendation includes the following conditions:

1. Include in the required information provided to tenants that occupants park only in the (12-13) designated vacation rental parking spaces on the property. The spaces must be clearly delineated within the parking lot.
2. The residential character of the property must be maintained.
3. 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.

Staff concurs with the Planning Commission's additional recommendation:

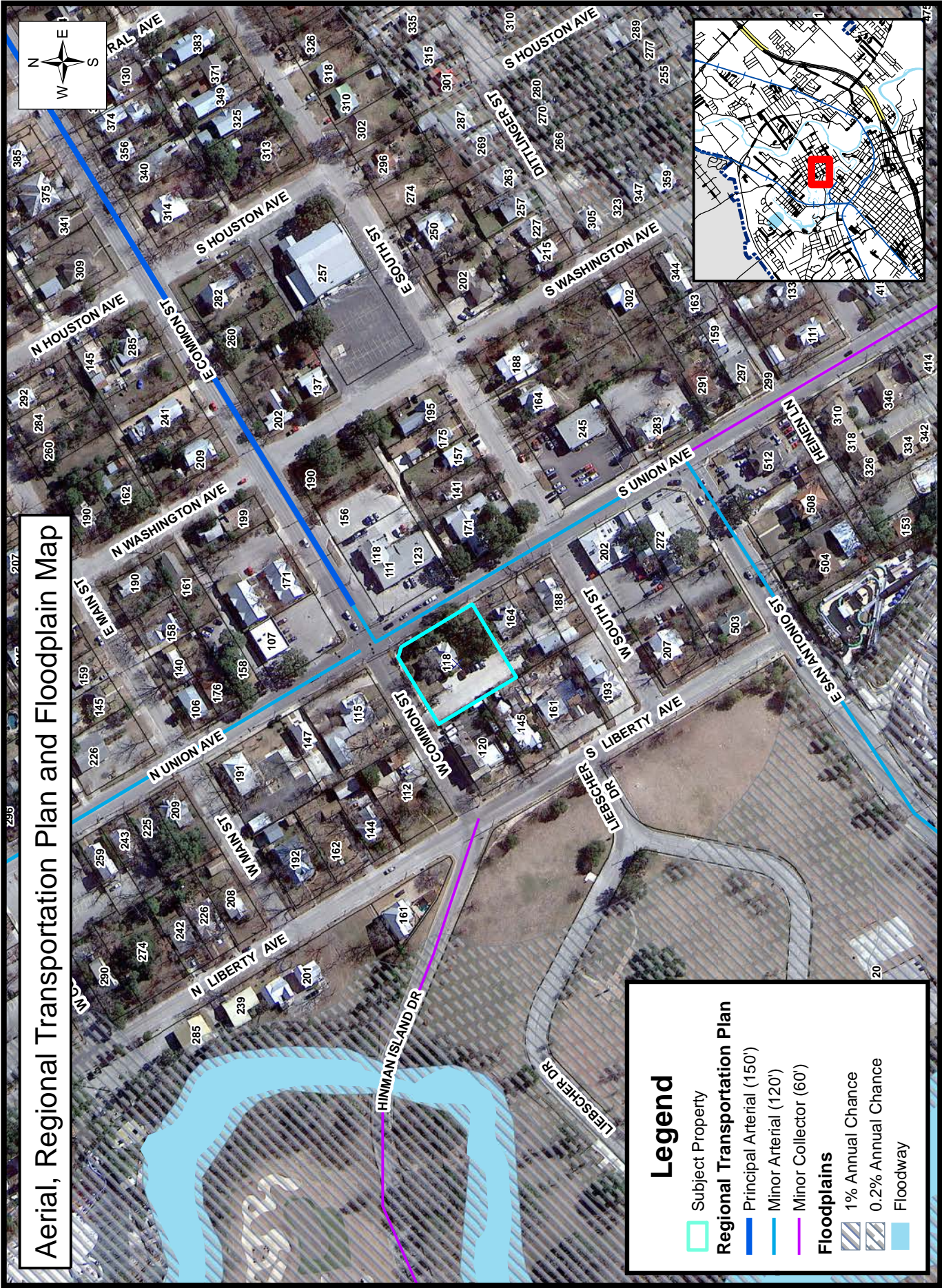
4. Maximum occupancy be limited to 24 individuals.

Notification:

Public hearing notices were sent to 15 owners of property within 200 feet of the request. The Planning Division has received 4 responses (# 1, 8, 11 & 12) in favor and none opposed.

Attachments:

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Application
3. Site Plan and Floor Plan
4. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
5. Existing Short-term Rental Vicinity Map
6. Notification List and Map
7. Photograph
8. Zoning Ordinance Sections:
 - Sec. 3.3-7 "C-1" Local Business District
 - Sec. 3.6 Special Use Permits
 - Sec. 5.17 Short Term Rentals
9. Planning Commission Meeting Draft Minutes
10. Ordinance





**Planning & Community Development Department
Planning Division**

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

CC/Cash/Check No.: 172 Case No.: P2-18-044
Amount Recd. \$ 1,648
Receipt No.: 218813



Submittal date - office use only

Special Use Permit Application to Allow Short Term Rental

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: Serendipity Vacation Rentals
Mailing Address: 6783 S. HWY 281 Blanco TX 78606
Telephone: N/A Fax: N/A Mobile: 830-556-1031
Email: dipity.vacations@gmail.com 830-386-6556

2. Property Address/Location: 118 S. Union St. N.B. TX 78130

3. Legal Description:
Name of Subdivision: Southwest Addition Comal County
Lot(s): 10, 11, 12 Block(s): 5056 Acreage: Almost 1

4. Existing Use of Property: Business -

5. Current Zoning: C-1

*Please note Short Term Rentals are **prohibited** in the following residential districts, & a Special Use Permit could **not** be requested:

- R-1 • ZH • TH • R-1A-43.5 • R-1A-8 • R-2A • B-1B
- R-2 • ZH-A • B-1 • R-1A-12 • R-1A-6.6 • B-1A • TH-A

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

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

7. Explain how the proposed Short Term Rental use will be well suited for the neighborhood (attach additional or supporting information if necessary): This property is located close to all tourist attractions. The guest can walk to restaurants, Schlitterbahn, Comal river and downtown. The local businesses will benefit from our guest. The city will also benefit from large amounts of funding going to hotel taxes.

SUBMITTAL CHECKLIST:

| STAFF: | APPLICANT: | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | A survey and/or metes and bounds description of the property with an exhibit illustrating property boundaries (if property is not platted). ✓ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Letter of Authorization for appointed agent (if applicable). ✓ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Map of property in relation to City limits/major roadways or surrounding area. ✓ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Copy of deed showing current ownership. ✓ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Floor plan with the following information: |
| | <input checked="" type="checkbox"/> | Layout of the building |
| | <input checked="" type="checkbox"/> | Dimensions of each room |
| | <input checked="" type="checkbox"/> | Room Labels (kitchen, bathroom, dining room, garage, etc.) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Development/site plan with the following information: |
| | | (*Please note: Additional information may be requested.) |
| | <input type="checkbox"/> | Drawn to scale |
| | <input type="checkbox"/> | North arrow |
| | <input type="checkbox"/> | Property lines |
| | <input type="checkbox"/> | Adjacent street names |
| | <input type="checkbox"/> | Location of all buildings |
| | <input type="checkbox"/> | Number of parking spaces (parking calculation table required) |
| | <input type="checkbox"/> | Dimensions of parking space and maneuvering space |
| | <input type="checkbox"/> | Driveways (means of ingress/egress) |
| <input type="checkbox"/> | <input type="checkbox"/> | Application Fee: \$ _____ |
| | | \$1,500 + (<u>1</u> acres x \$100) = \$ <u>1600⁰⁰</u> (max. \$4,000) |
| <input type="checkbox"/> | <input type="checkbox"/> | Technology Fee: \$ _____ |
| | | 3% of application fee → \$ <u>1600⁰⁰</u> (application fee) x .03 = \$ <u>48⁰⁰</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Hearing Newspaper Notice: \$236 (\$115 each for Planning Commission and City Council + 3% technology fee) |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Hearing Mail Notifications and Signage. |
| | | (*Please note: The total fee will be calculated by Staff after application submittal based on the quantity of mailed notices and signs and must be paid when sign(s) are picked up by the applicant when sign(s) are picked up by the applicant. |

1884⁰⁰

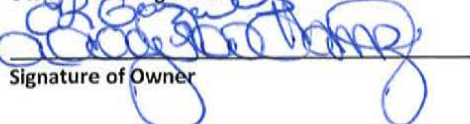
Please note: The signature indicates that the owner or an authorized agent has reviewed the requirements of this application and attached checklist, and all items on this checklist have been addressed and complied with. The owner/authorized agent understands that an incomplete application will **not** be accepted, and this application will **not** be accepted after the 4 p.m. deadline on an application deadline date, as outlined on the calendar attached to this application. The signature authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted.

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

| | | |
|------------------------|--------------|----------------------------|
| Tammy Gonzalez | 830-386-6556 | dipity.vacations@gmail.com |
| Allyson Hanz | 830-556-1631 | |
| Owner's Name (Printed) | Phone Number | Email |

6783 S. HWY 281 Blanco TX 78606

Owner's Mailing Address



Signature of Owner

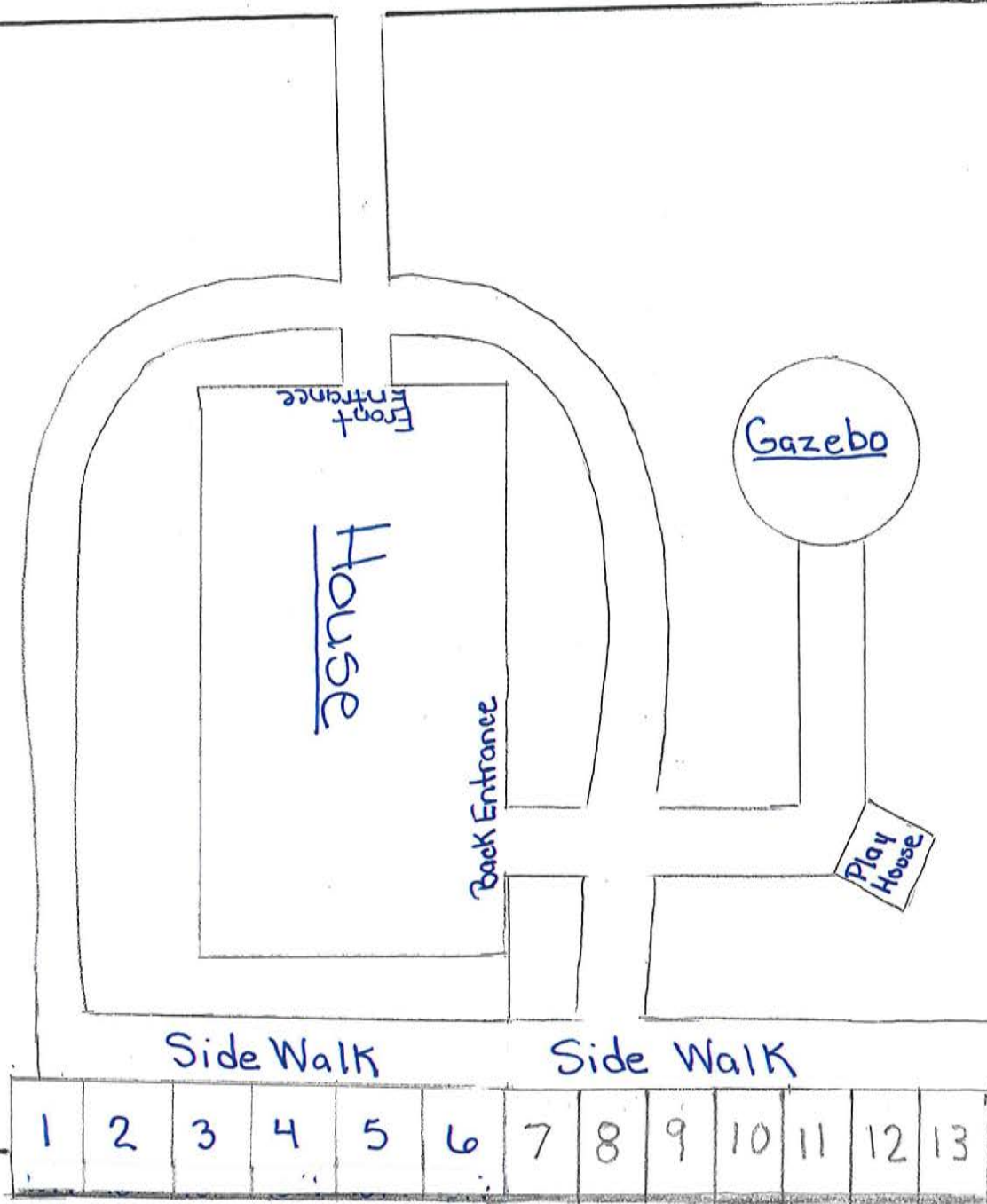
10/24/18

Date

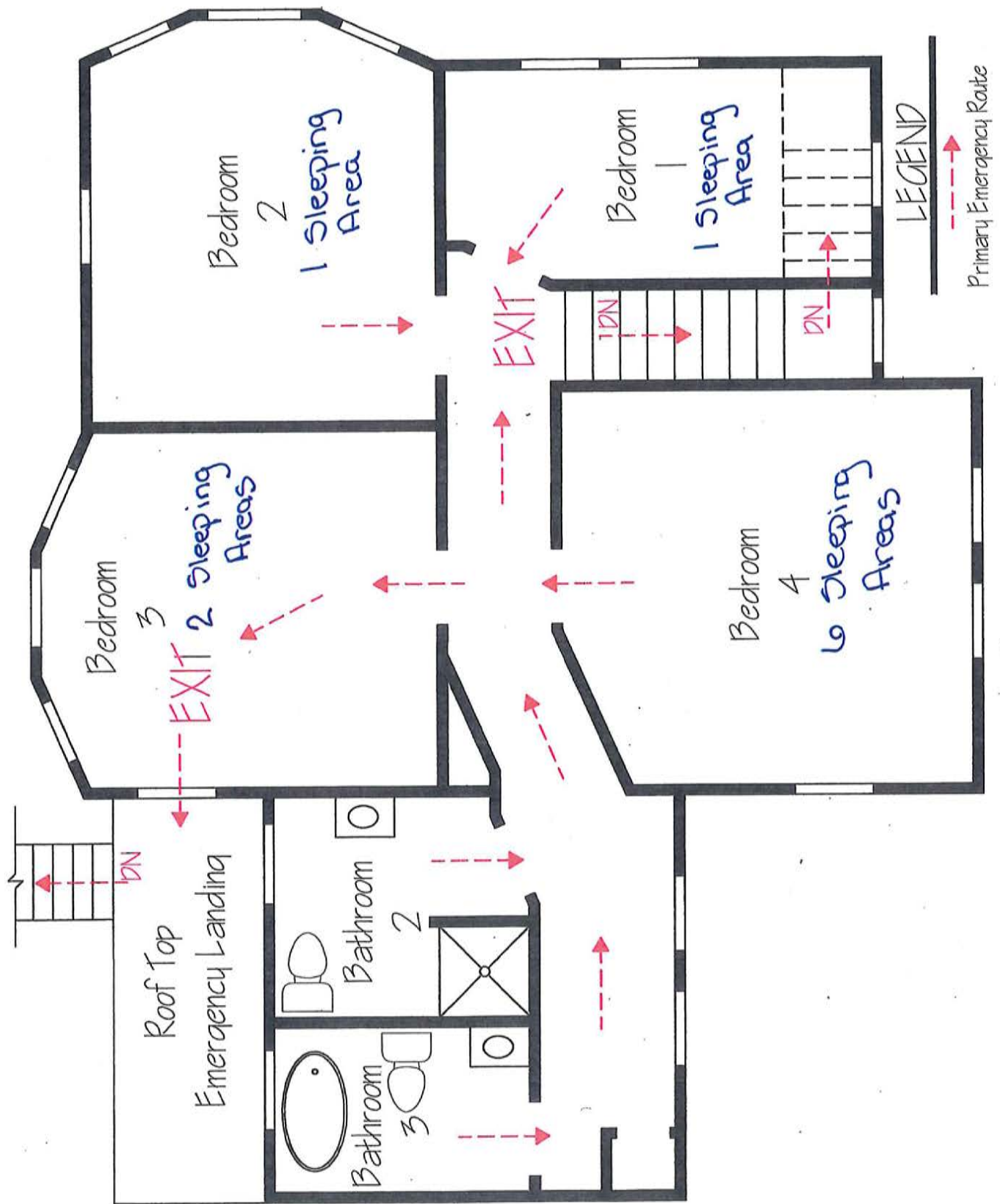
Union Street

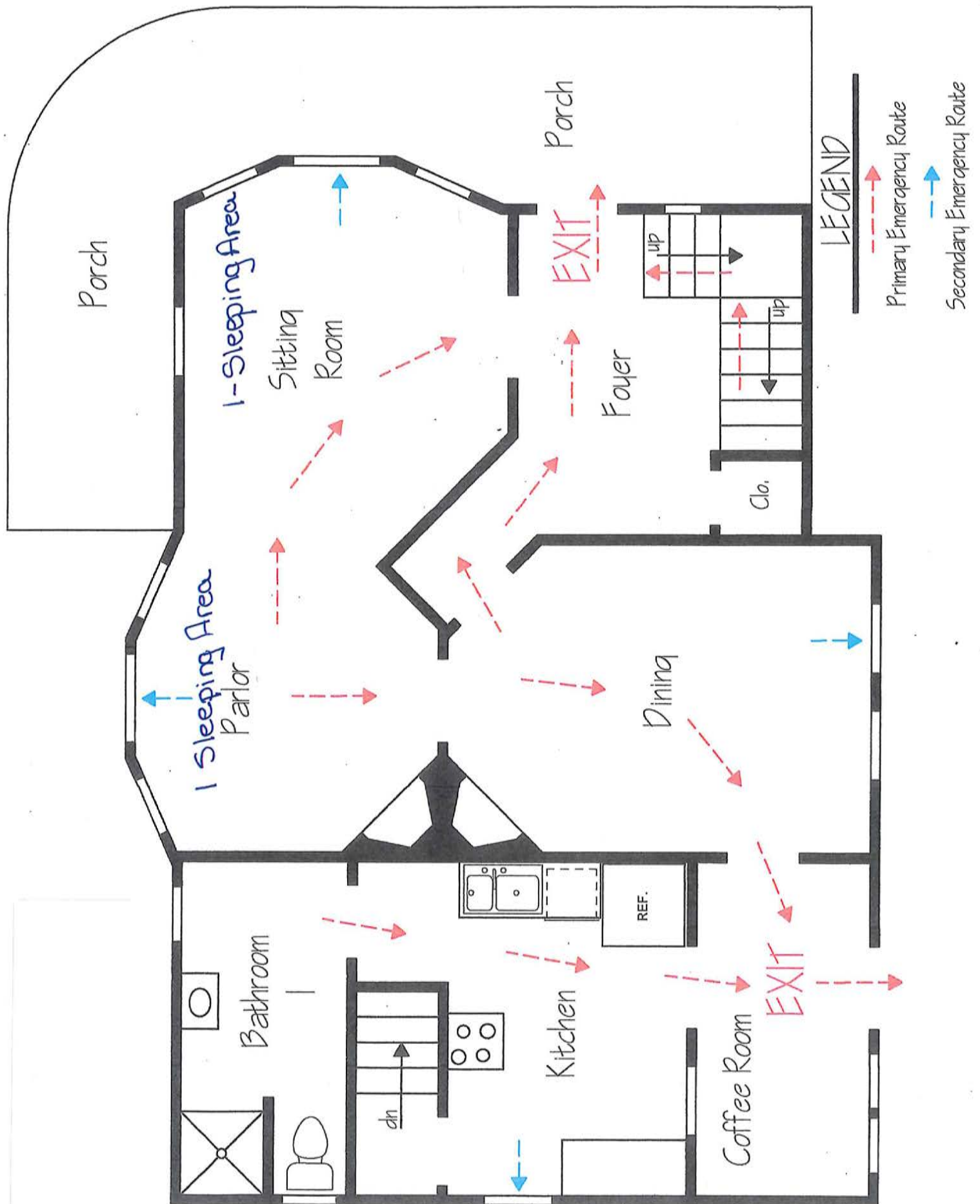
Common

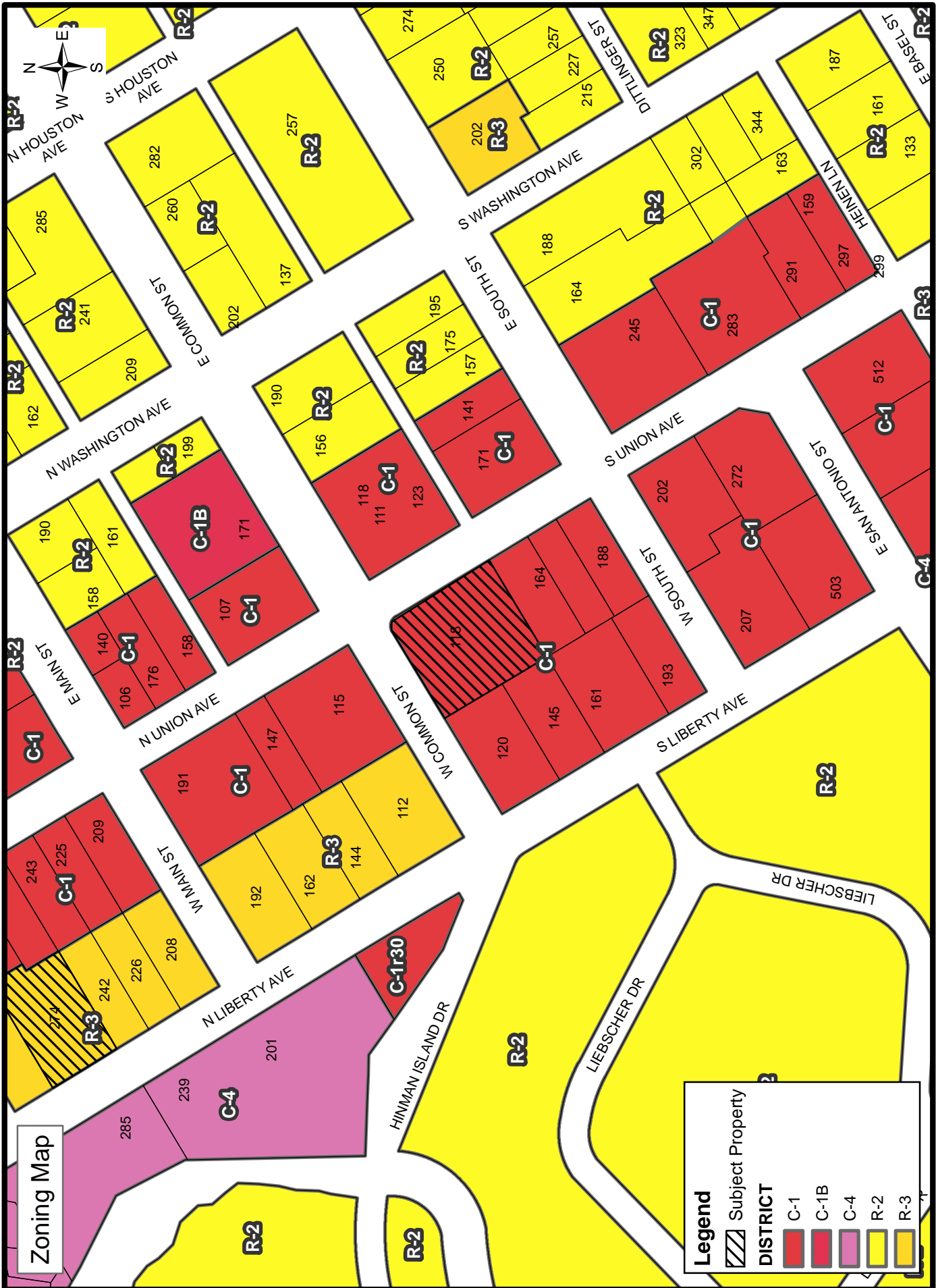
(15ft leinch)
Drive Way
Entrance



Parking

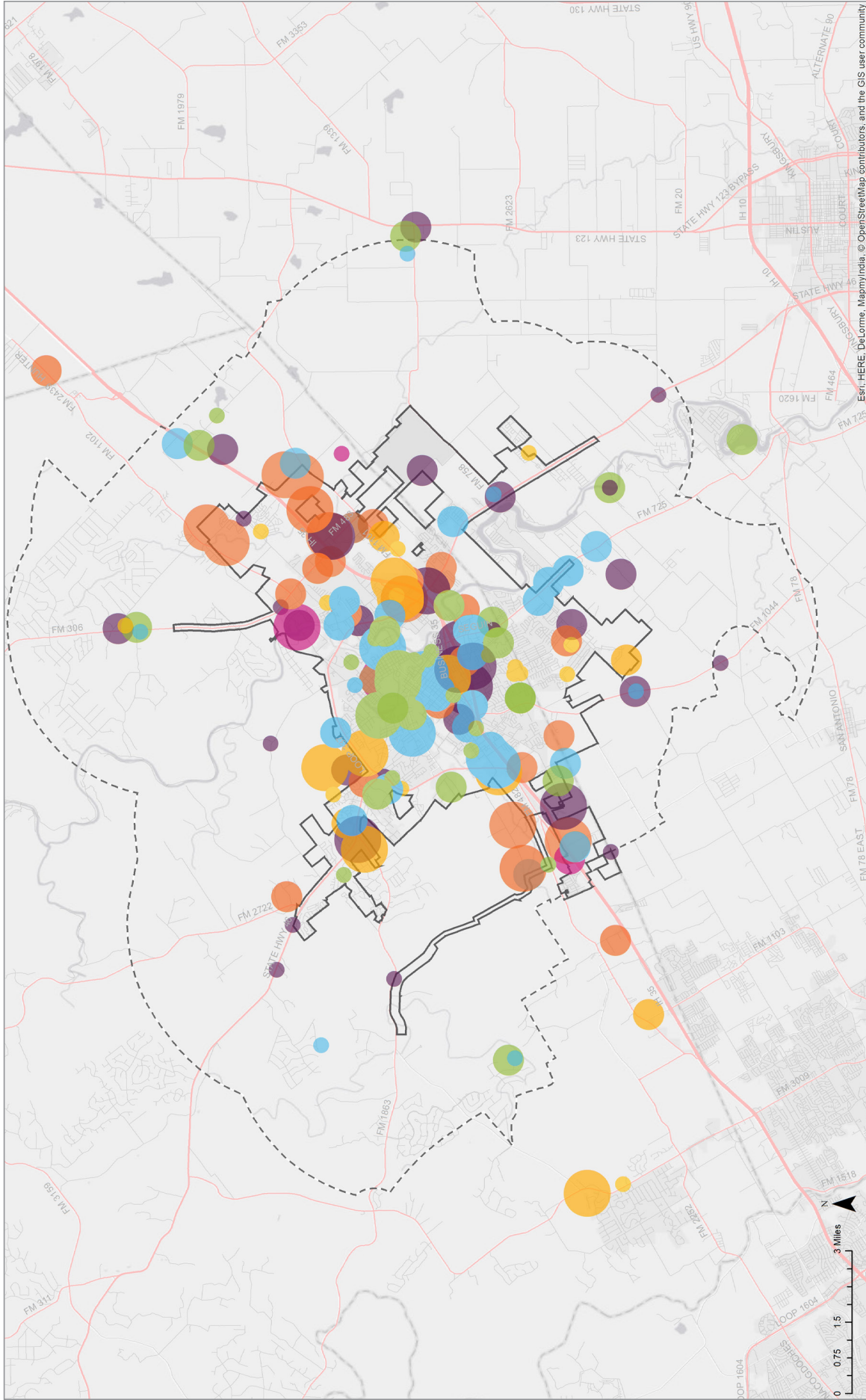






PZ-18-044
118 S. Union Ave
SUP to STR in C-1





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

SUB AREA 6

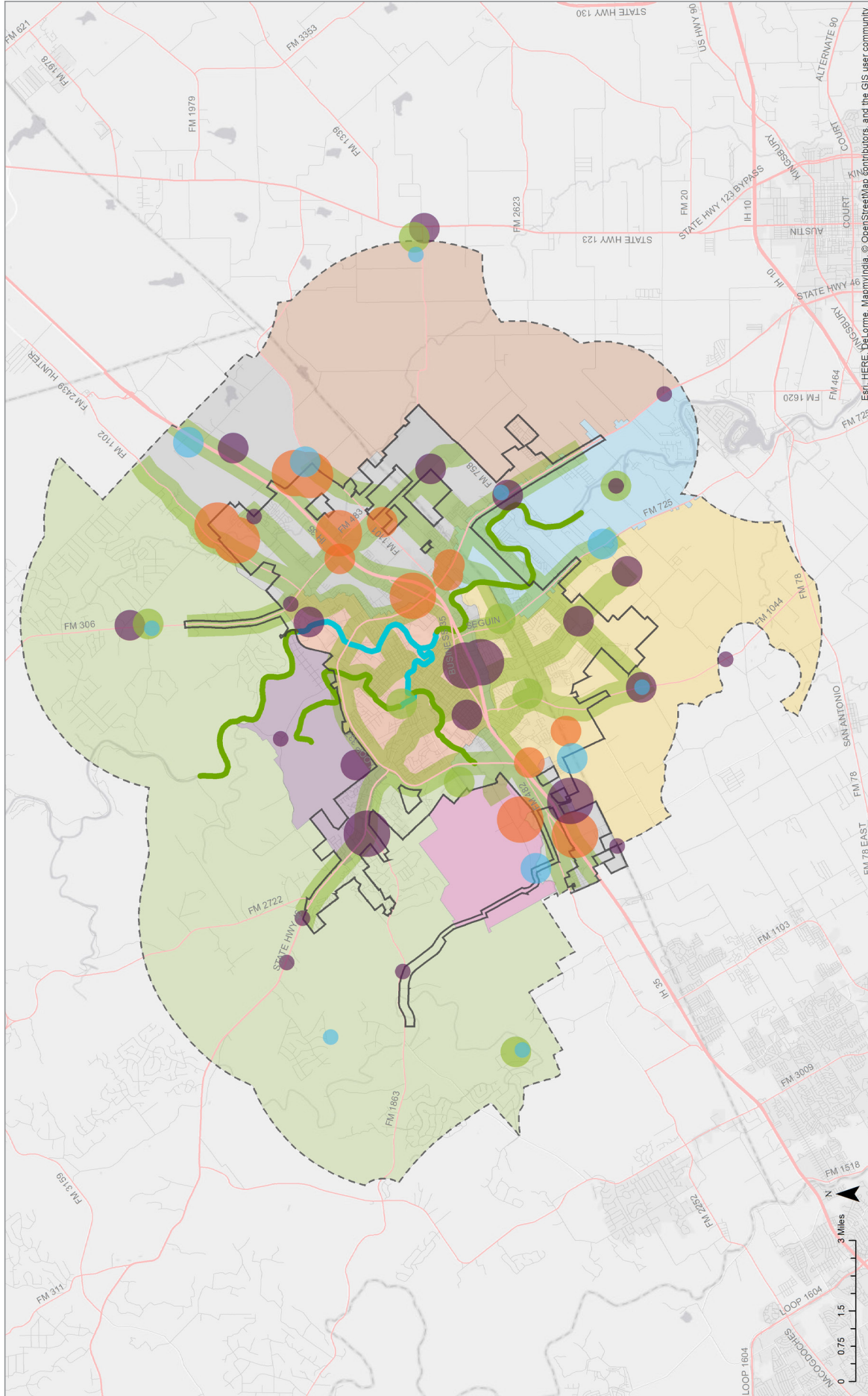
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

SUB AREA 7

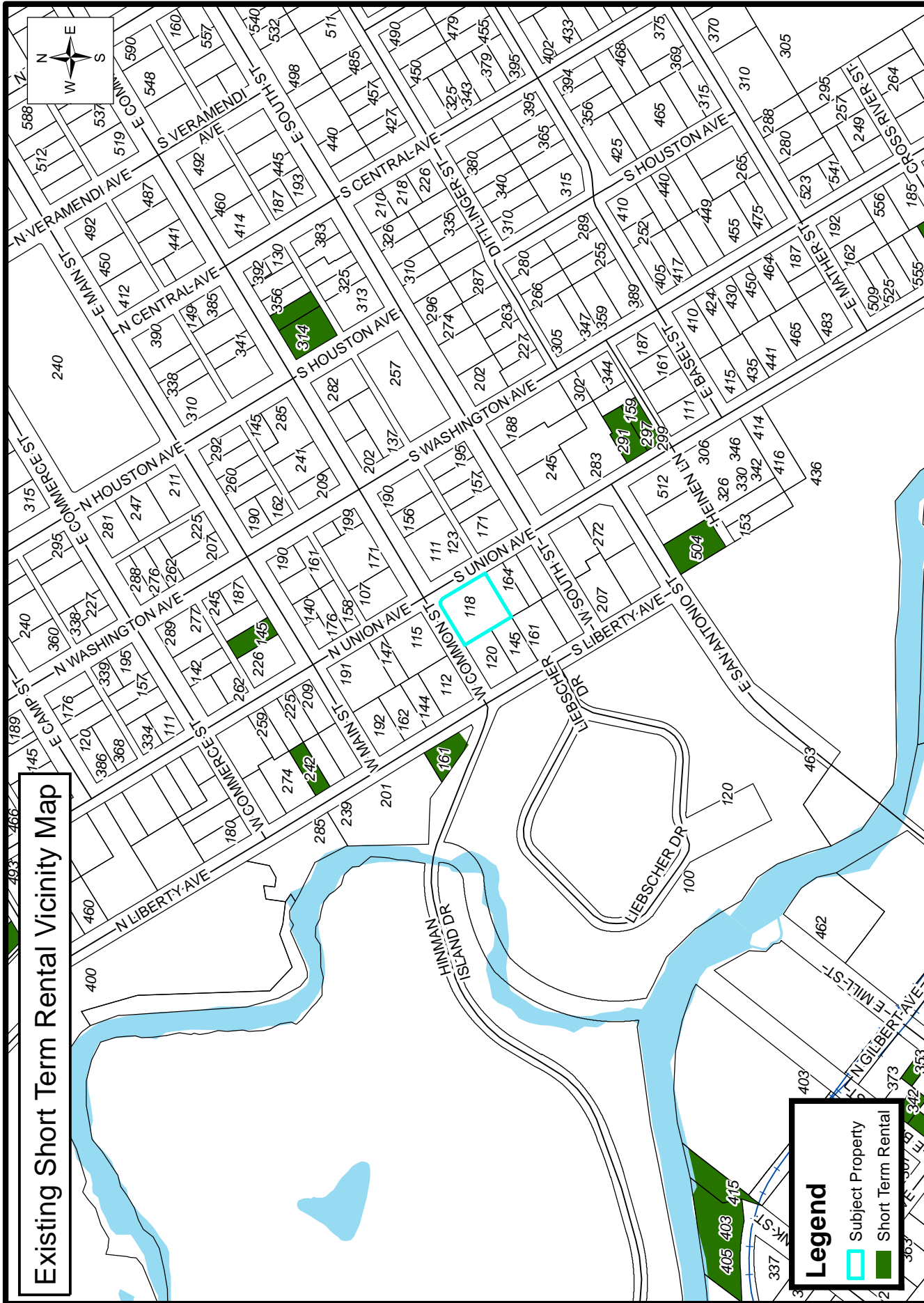
Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).



PLANNING COMMISSION – DECEMBER 4, 2018 – 6:00PM

New Braunfels City Hall Council Chambers

Applicant/Owner: Serendipity Vacation Rentals**Address/Location:** 118 S. Union**PROPOSED SPECIAL USE PERMIT – CASE #PZ-18-044**

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. KTS COMMERCIAL LTD | 9. HERRING PARTICIA D |
| 2. KYLE ELIZABETH B | 10. SMITH ROBERT B FAMILY TRUST |
| 3. MACDONALD KAREN LYNN | 11. SMITHERS RONALD C & SHIRLEY A |
| 4. HOYT MATTHEW E | 12. SMITHERS RONALD C & SHIRLEY A |
| 5. FELGER LIVING TRUST 11-21-2017 | 13. TILLY MICHAEL L |
| 6. RJ FELGER LLC | 14. SUSSE PETROLEUM PROPERTY |
| 7. RIVERS WILLIAM G | 15. KIENY ALLEN & KIMBERLY |
| 8. HERRING FAMILY INTERESTS LTD | |

SEE MAP



Subject Property from W. Common St. facing south

3.3-7. "C-1" local business district. The following regulations shall apply in all "C-1" districts:

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

(1) *Uses permitted by right.*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
- 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 or two 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
- Ambulance service (private)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Automobile driving school (including defensive driving)
- Bakery (retail)
- Bank, savings and loan, or credit union
- Bar/Tavern (No outdoor music)
- 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
- Book binding
- Book store
- Cafeteria / café / delicatessen
- Campers' supplies
- Cemetery and/or mausoleum
- Check cashing service
- Child day care/children's nursery (business)
- Church/place of religious assembly
- Cleaning, pressing and dyeing (non-explosive fluids used)

Clinic (dental)
 Clinic (medical)
 Clinic (emergency care)
 Club (private)
 Coffee shop
 Communication equipment (installation and/or repair)
 Community building (associated with residential uses)
 Computer and electronic sales
 Computer repair
 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
 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)
 Filling station (fuel tanks must be below the ground)
 Florist
 Food or grocery store with or without fuel sales
 Fraternal organization/civic club (private club)
 Frozen food storage for individual or family use
 Funeral home/mortuary
 Furniture sales (indoor)
 Garden shops and greenhouses
 Golf course (miniature)
 Golf course, public or private
 Governmental building or use with no outside storage
 Greenhouse (commercial)
 Handicraft shop
 Hardware store
 Health club (physical fitness; indoors only)
 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/dry cleaning (drop off/pick up)
 Laundry/washateria (self serve)
 Lawnmower sales and/or repair
 Locksmith

Martial arts school
 Medical supplies and equipment
 Mini-warehouse/self storage units (no boat / RV storage permitted; no outside storage)
 Motion picture studio, commercial film
 Motion picture theater (indoors)
 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)
 Pawn shop
 Pet shop / supplies (10,000 sq. ft. or less)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Plant nursery (growing for commercial purposes with retail sales on site)
 Plant nursery (retail sales / outdoor storage)
 Plumbing shop
 Public recreation/services building for public park/playground areas
 Radio/television shop, electronics, computer repair
 Recreation buildings (public)
 Refreshment/beverage stand
 Restaurant/prepared food sales
 Restaurant with drive through service
 Retail store and shopping center with drive through service (50,000 sq. ft. bldg. or less)
 Retirement home/home for the aged
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company
 Shoe repair shops
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Studio for radio or television (without tower)
 Tailor shop (see home occupation)
 Telecommunications towers/antennas (see Sec. 5.7)
 Telemarketing agency
 Telephone exchange buildings (office only)
 Theater (non-motion picture; live drama)
 Tool rental

Travel agency
 University or college (public or private)
 Upholstery shop (non-auto)
 Vacuum cleaner sales and repair
 Video rental / sales
 Water storage (surface, underground or overhead), water wells
 and pumping stations that are part of a public or municipal
 system
 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.* 35 feet.

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

(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 six 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 40 feet,
 provided that where a lot has less width than required and such
 lot was in separate ownership prior to February 4, 1984, this
 requirement will not prohibit the construction of a use
 enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard and side building
 setback adjacent to streets shall be required on all corner lots. A
 canopy at least six feet in height, attached to the main building,
 may be built within 15 feet of the street line so long as such
 construction is not supported by columns which will obstruct the
 vision of vehicles driving upon adjacent streets.

(viii) *Parking.* See Section 5.1. for permitted uses parking.

(2) One family dwellings.

(i) *Height.* 35 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.* 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.* 35 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.

(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 Section 5.1 for other permitted uses' parking.

(4) Multifamily dwellings.

(i) *Height.* 35 feet; 50 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)

(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.)

See Section 5.1 for other 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.

5.17. Short term rental or occupancy.

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

5.17-2 Definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

5.17-3 Applicability.

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

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

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

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

(e) *Conduct on premises.*

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

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

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

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

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

5.17-5 Short Term Rental Permit.

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

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

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

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

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

5.17-7 Enforcement/Penalty.

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

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

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

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

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

Draft Minutes for the December 4, 2018 Planning Commission Regular Meeting

PZ-18-044 Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family residence in the "C-1" Local Business District at 118 S. Union Avenue.

(Applicant: Serendipity Vacation Rentals; Case Manager: M. Simmont)

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

1. *Parking.* Tenant information requires that occupants park only in the (12-13) designated vacation rental parking spaces on the property. The spaces must be clearly delineated within the parking lot.
2. The residential character of the property must be maintained.
3. 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.

Discussion followed regarding the parking lot on the property.

Commissioner Gibson inquired if there were minimum distance requirements from child care facilities.

Mr. Simmont clarified there were not distance requirements for short term rentals from child care facilities.

Commissioner Meyer expressed concerns regarding the maximum occupancy and the number of bathrooms provided.

Discussion followed regarding occupancy and potential code amendments.

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

Tammy Gonzalez, 673 Highway 41, stated she was the applicant. She described the proposed sleeping areas. She stated their occupancy would include adults and children, and would have a maximum occupancy of 24. She described the measures taken to meet fire code requirements.

Commissioner Meyer inquired about the sleeping areas indicated in the parlor room.

Ms. Gonzalez stated the parlor room had pullout sofas and were therefore considered a sleeping area.

Discussion followed regarding occupancy maximums.

Commissioner Sonier commented it was a good location for a short term rental.

Commissioner Meyer requested clarification that the maximum occupancy calculated for the short term rental permit would not include children.

Mr. Simmont verified that that was correct.

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

No one spoke.

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

Motion by Commissioner Sonier, seconded by Commissioner Mathis, to recommend approval to City Council regarding the proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family residence in the "C-1" Local Business District at 118 S. Union Avenue, with a maximum occupancy of 24 and Staff recommendations. Motion carried with Vice Chair Reaves and Commissioner Laskowski in opposition (5-2-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT TERM RENTAL OF A SINGLE FAMILY DWELLING IN THE "C-1" LOCAL BUSINESS DISTRICT, ON LOTS 10, 11 & 12, CITY BLOCK 5056, ADDRESSED AT 118 S. UNION AVENUE; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

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

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

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

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for Lots 10, 11 & 12, City Block 5056, addressed at 118 S. Union Avenue, to allow the short term rental of a single family dwelling in the "C-1" Local Business District; **now therefore**,

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

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a "Special Use Permit" for the uses and conditions herein described:

"Being Lots 10, 11 & 12, City Block 5056, addressed at 118 S. Union Avenue, as delineated in the attached Exhibit 'A', to allow the short term rental of a single family dwelling in the "C-1" Local Business District."

SECTION 2

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

1. *Parking.* The required tenant information will state that occupants may park only in the (12-13) designated vacation rental parking spaces on the property. The spaces must be clearly delineated within the parking lot.
2. The existing residential character of the property must be maintained.
3. Exhibit 'B' shall be considered the adopted site plan. Parking on the property shall be restricted in accordance with the site plan. The property will remain in compliance with the adopted site plan. Any significant changes to the site plan will require a revision to the SUP.
4. Maximum occupancy of the short-term rental is limited to 24 individuals.

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 14th day of January, 2019.

PASSED AND APPROVED: Second Reading this the 28th day of January, 2019.

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

1/14/2019

Agenda Item No. I)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 0.96 acres consisting of Lots 8A and 8B, Block 15, Rivercrest Heights 5E and Lots 9 and 10, Block 15, Rivercrest Heights 6, from "R-1" Single-Family Residential District and "R-2A" Single-Family and Two-Family District to "C-O" Commercial Office District, addressed at 1265, 1267, 1269, 1271 and 1273 E. Common Street.

BACKGROUND / RATIONALE:

Case No.: PZ-18-037

Council District: 4

Owners/

Applicants:

Daniel Olveda
1267 E. Common St.
New Braunfels TX, 78130

Beverly Bannister
1269 E. Common St.
New Braunfels, TX 78130

Hulon Ted Higgenbotham
1273 E. Common St.
New Braunfels, TX 78130

Korey Rohlack
310 Main St./P.O. Box 396
Martindale, TX 78655

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

The approximately 1-acre subject property includes four platted lots with frontage on E. Common Street. Two of the lots (Lot 8A and 10) have been developed with single-family residences and one lot (Lot 9) is occupied by a duplex. Lot 8B is open space. The subject lots all together have approximately 300 feet of frontage along E. Common Street. The applicants are requesting the property be rezoned from "R-1" and "R-2A" to "C-O" Commercial Office District.

C-O zoning is intended for mixed neighborhood services including professional offices and different types of residential uses. The applicants have indicated that the request is due to an interest in using the properties for short-term rental and office use. Short-term rental use in any of the existing structures would require a Special Use Permit (SUP) request, which would be considered separately. Additionally, per the adopted Zoning Ordinance, non-residential and multifamily development adjacent to property zoned or used for single or two-family development requires residential buffering

(wall and trees).

General Information:

Size: Approximately 1 acre

Surrounding Zoning and Land Use:

North - R-2A / Single-family residences

South - Across E. Common St, R-1 & C-1A / Single-family residences; undeveloped

East - R-2A / Duplex

West - R-1 / Single-family residences

Comprehensive Plan / Future Land Use Designation

Transitional Mixed-Use Corridor (East Common Street - a Principal Arterial)

Regional Transportation Plan:

E. Common Street is identified as a 150-foot wide Principal Arterial and the current right-of-way width is approximately 80 feet. Right-of-way dedication and/or mitigation measures will be reviewed for compliance with code requirements with future development of the subject property.

Floodplain:

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

Determination Factors:

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

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*The proposed use of the property for mixed neighborhood services and residential development along E. Common Street is compatible with the neighboring residential development in the area; C-O is intended to be compatible with residential.*);
- 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 change should not conflict with the existing and proposed water supply, sanitary sewer and other utilities in the area. The adequacy of public facilities and utilities to serve the additional demand is evaluated by each provider. NBISD and utility providers have been notified of the request. Impact to streets is noted in the Transportation section above.*);
- How other areas designated for similar development will be affected (*The proposed zoning change should not negatively affect other areas designated for similar development.*);
- 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. Drainage, utility and traffic impact will be addressed through the development review process. C-O is intended to be compatible with residential.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The subject property is situated within a Transitional Mixed-Use Corridor - Common St.*)

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

| | |
|--|---|
| City Plan/Council Priority: Envision New Braunfels | Within the New Braunfels Sub Area and a Transitional Mixed-Use Corridor Action 3.3: <i>Balance commercial centers with stable neighborhoods.</i> The proposed mixed-use district is consistent with the Future Land Use Plan and is compatible with current and anticipated surrounding land uses. The proposed zoning would provide opportunities for retail and services to serve area residents, as well as additional opportunities for residential. Action 3.13: <i>Cultivate an environment where a healthy mix of different housing products at a range of sizes, affordability, densities, amenities and price points can be provided across the community as well as within individual developments.</i> The proposed rezoning would allow development of an additional variety of uses, both commercial and residential, on the periphery of this neighborhood that would provide a transition from the commercial node at Loop 337 to the neighborhood west and north. |
|--|---|

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on December 4, 2018 and recommended approval (4-3-0) with Vice Chair Reeves, Commissioner Mathis and Commissioner Sonier in opposition.

STAFF RECOMMENDATION:

Staff recommends approval as the proposed zoning district would allow mixed neighborhood commercial and a variety of residential use types, which is compatible with the surrounding land uses, and would provide an appropriate intensity transition consistent with the Comprehensive Plan.

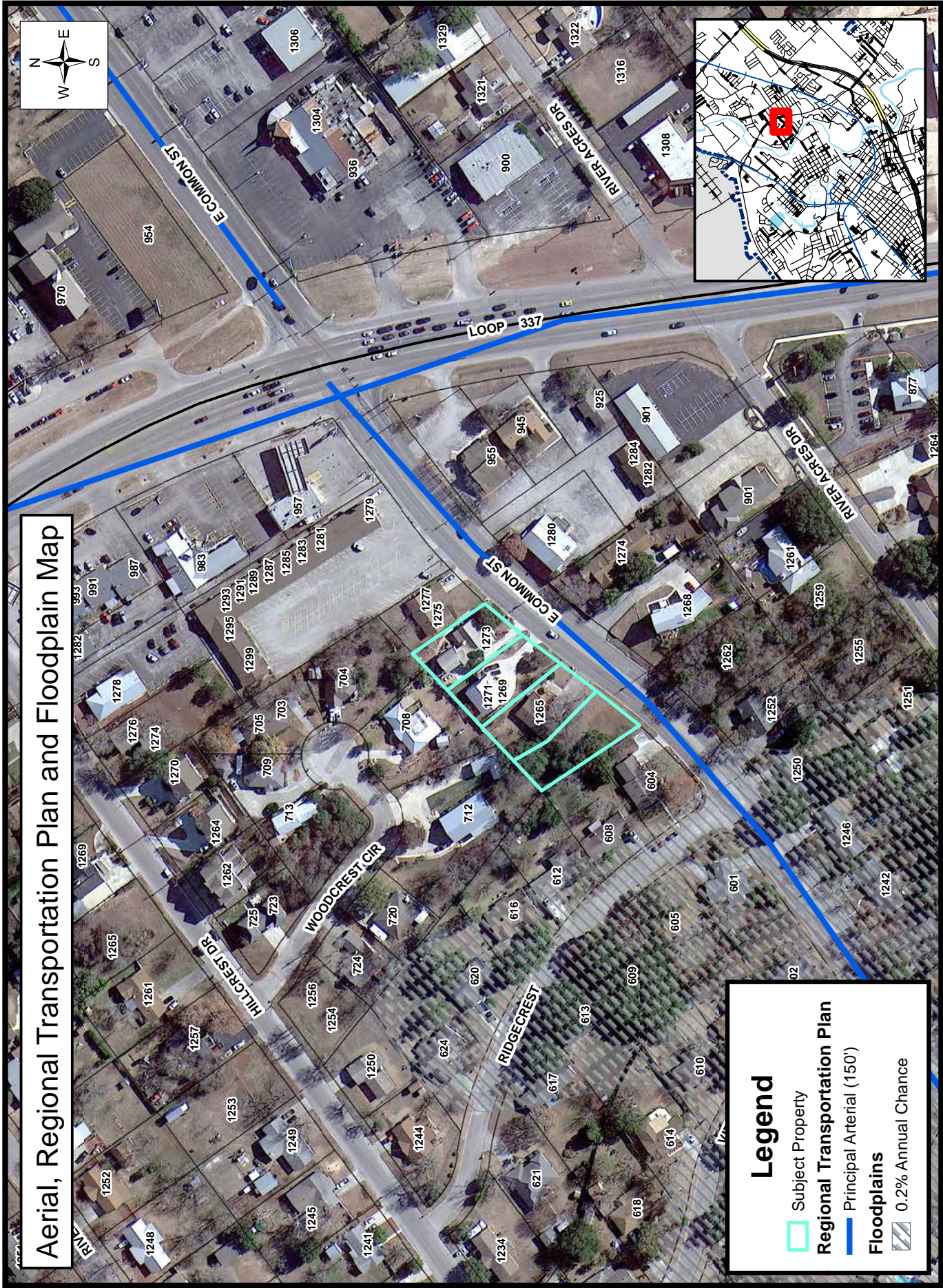
Notification:

Public hearing notices were sent to 18 owners of property within 200 feet of the request. The Planning Division received seven responses (#3, 4, 6, 8, 15, 16 & 17) in opposition to the proposed zoning change, presently equating to 39% opposition.

Attachments:

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Applications
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use Plan)
4. Notification List, Map and Responses
5. Photographs
6. Zoning Sections:
 - Sec. 3.3-1 "R-1" Single-Family District
 - Sec. 3.4-3 "R-2A" Single-Family and Two-Family District

-
- Sec. 3.4-17 "C-O" Commercial Office District
 - 7. Draft Planning Commission Meeting Minutes
 - 8. Ordinance



PZ-18-037
1265 - 1273 E. Common St
Zone Change from R-1 & R-2A to C-O



**Planning & Community Development Department
Planning Division**

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

432

CC/Cash/Check No.: _____ Case No.: _____
Amount Recd. \$ _____
Receipt No.: _____



Submittal date – office use only

Zone Change 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: Korey Rohlack
Mailing Address: 310 Main St./PO Box 396, Martindale, TX 78655
Telephone: _____ Fax: _____ Mobile: 512 787 4215
Email: undertow7@hotmail.com

2. Property Address/Location: 1265 Common

3. Legal Description:

Name of Subdivision: Rivercrest Heights SE
Lot(s): 8B Block(s): 15 Acreage: .2755

4. County: ☒ Comal ☐ Guadalupe School District: ☒ CISD ☐ NBISD ☐ OTHER: _____

5. Is the property located in the floodway or floodplain: ☐ YES ☐ NO

6. Existing Use of Property: undeveloped

7. Zoning Change Request:

Current Zoning: B-1

Proposed Zoning: C-O

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

vacation rental, residential



**Planning & Community Development Department
Planning Division**

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(830) 221-4050 www.nbtexas.org

433

CC/Cash/Check No.: _____
Amount Recd. \$ _____
Receipt No.: _____

Case No.: _____

RECEIVED

SEP 26 2018

BY: _____

Submittal date - office use only

Zone Change 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: Daniel Olveda

Mailing Address: 1267 Common St

Telephone: _____ Fax: _____ Mobile: 830-237-2166

Email: Daniel@silaslacey.com

2. Property Address/Location: 1267 Common

3. Legal Description:

Name of Subdivision: Rivercrest Heights 5E

Lot(s): 8A Block(s): 15 Acreage: ~2376

4. County: ☒ Comal ☐ Guadalupe School District: ☒ CISD ☐ NBISD ☐ OTHER: _____

5. Is the property located in the floodway or floodplain: ☐ YES ☒ NO

6. Existing Use of Property: homestead/residential

7. Zoning Change Request:

Current Zoning: R-1

Proposed Zoning: C-O

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

vacation rental, residential



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Planning Division**

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434

CC/Cash/Check No.: _____ Case No.: _____
Amount Recd. \$ _____
Receipt No.: _____

RECEIVED

SEP 26 2018

BY: _____

Submittal date - office use only

Zone Change 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: Beverly Bannister

Mailing Address: 1269 Common St.

Telephone: _____ Fax: _____ Mobile: 512-720-2564

Email: beverly.bannister@gmail.com

2. Property Address/Location: 1269/1271 Common St.

3. Legal Description:

Name of Subdivision: Rivercrest Heights Co

Lot(s): 9 Block(s): 15 Acreage: 0.2501

4. County: ☒ Comal ☐ Guadalupe School District: ☒ CISD ☐ NBISD ☐ OTHER: _____

5. Is the property located in the floodway or floodplain: ☐ YES ☒ NO

6. Existing Use of Property: residential/homestead/rental

7. Zoning Change Request:

Current Zoning: R-2A

Proposed Zoning: C-D

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

Vacation Rental, residential



**Planning & Community Development Department
Planning Division**

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

435

CC/Cash/Check No.:

Amount Recd. \$ 1,300

Receipt No.:

Case No.: P2-18-037

RECEIVED

SEP 26 2018

BY: mo

Submittal date - office use only

Zone Change 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: Hulon TED Higginbotham

Mailing Address: 1273 Common St

Telephone: _____ Fax: _____ Mobile: 210-478-6039

Email: tedhigginbotham39@gmail.com

2. Property Address/Location: 1273 Common St

3. Legal Description:

Name of Subdivision: Rivercrest Heights Co

Lot(s): 10 Block(s): 15 Acreage: .2327

4. County: ☒ Comal ☐ Guadalupe School District: ☒ CISD ☐ NBISD ☐ OTHER: _____

5. Is the property located in the floodway or floodplain: ☐ YES ☐ NO

6. Existing Use of Property: homestead/residential

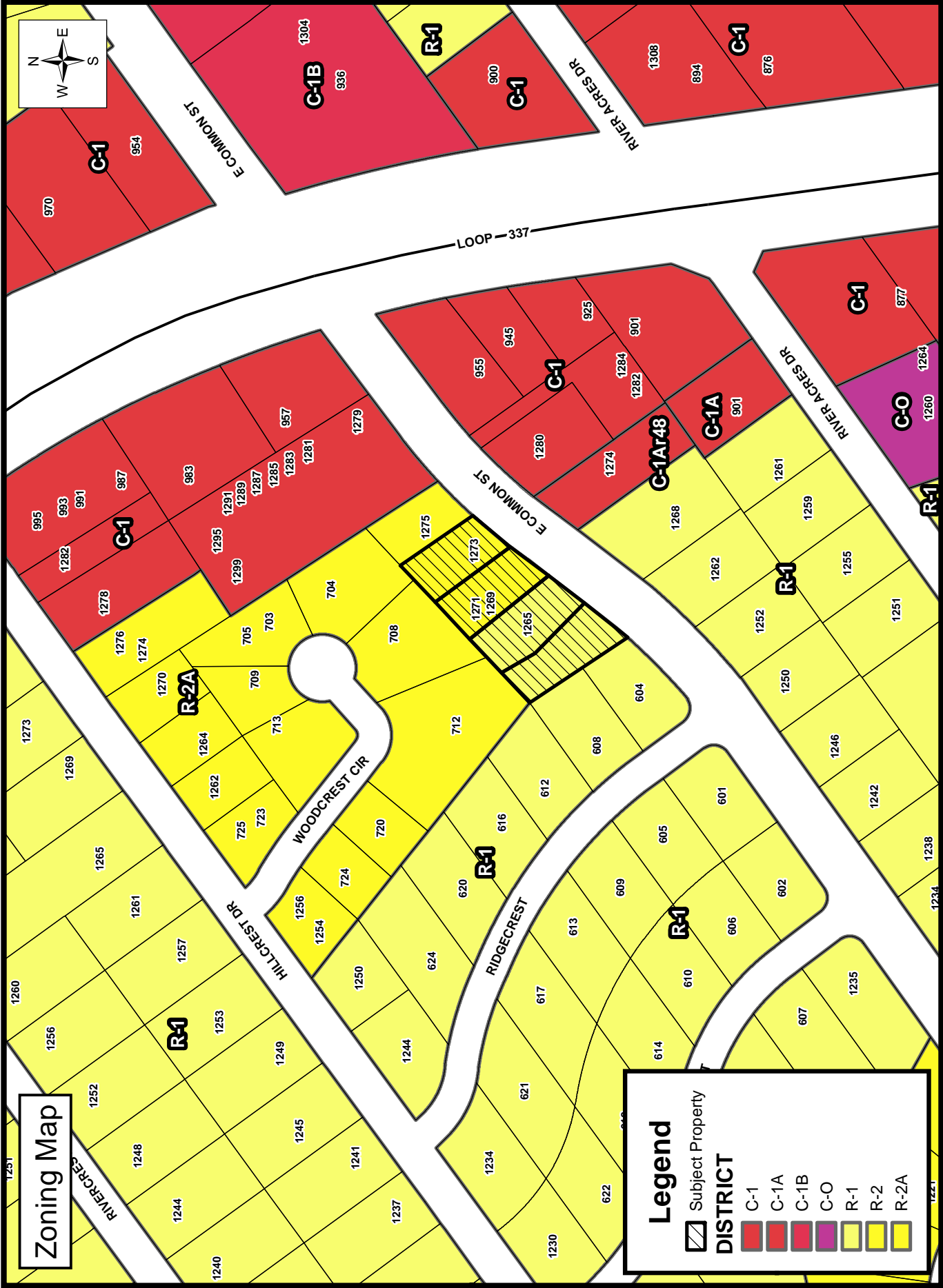
7. Zoning Change Request:

Current Zoning: R-2A

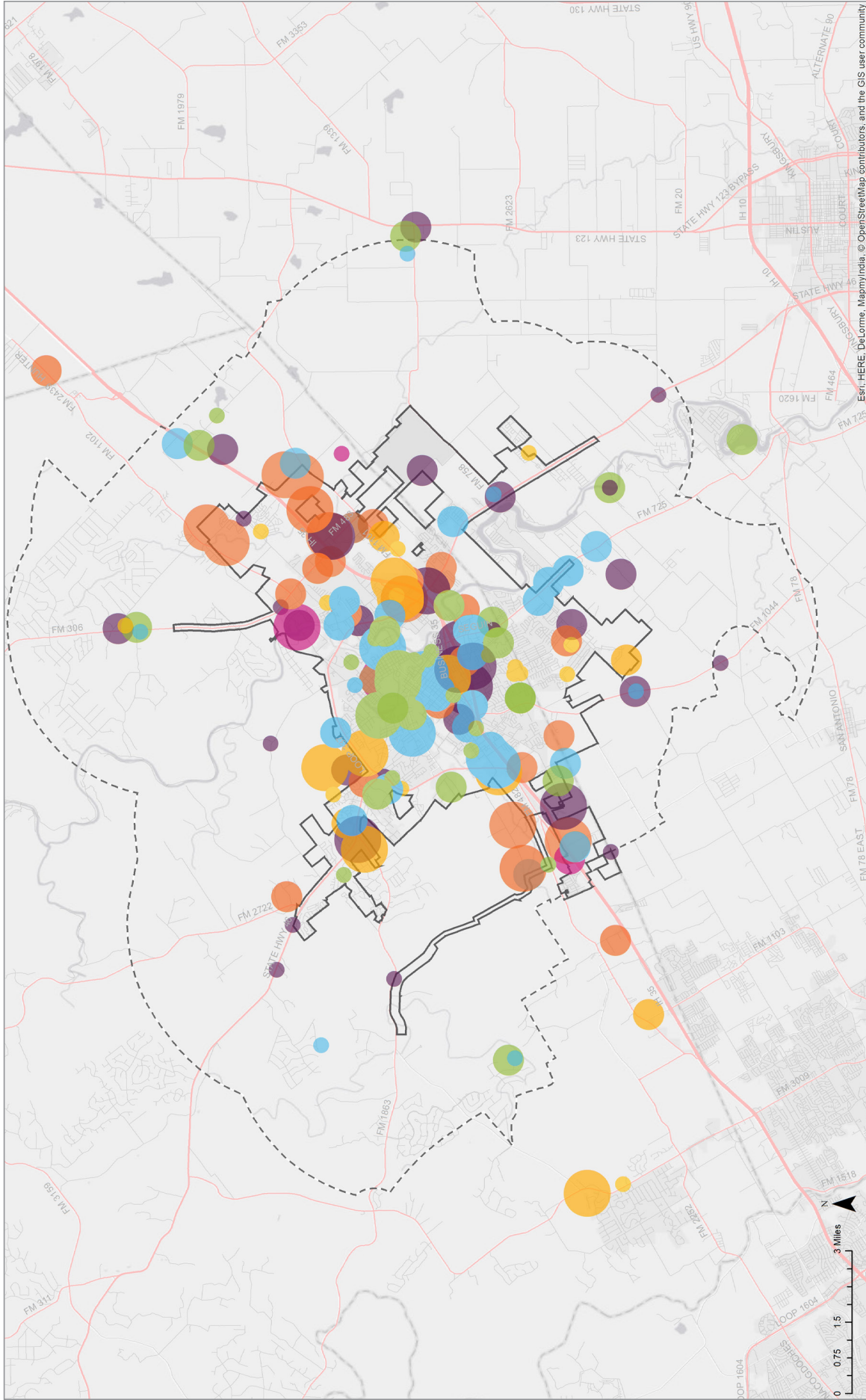
Proposed Zoning: C-O

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

future office, residential



PZ-18-037
1265-1273 E. Common St
Zone Change from R-1 & R-2A to C-O



The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

SUB AREA 6

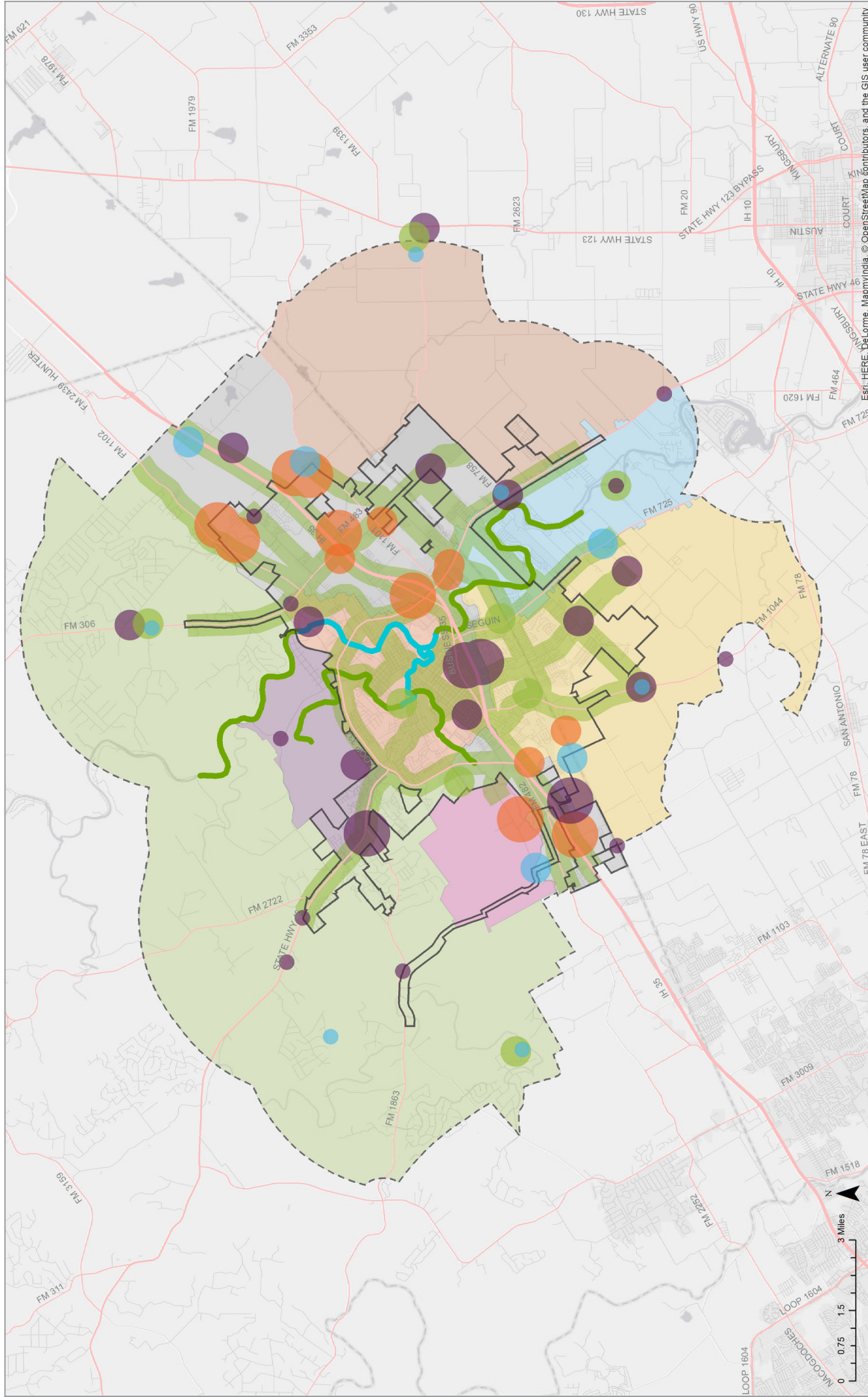
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

PLANNING COMMISSION – DECEMBER 4, 2018 – 6:00PM

New Braunfels City Hall Council Chambers

Applicant/Owner: Daniel Olveda, Beverly Bannister, Hulon Ted Higgenbotham, and Korey Rohlack

Address/Location: Lots 8A & 8B, Block 15, Rivercrest Heights 5E, Lots 9 & 10, Block 15, Rivercrest Heights 6, addressed at 1265, 1267, 1269, 1271 & 1273 E. Common St.

PROPOSED ZONE CHANGE – CASE #PZ-18-037

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. ADAMS MANDY | 10. PRESCOTT LIMBS & BRACES INC |
| 2. BUCK DELIA FAMILY IRRVCBL TRST | 11. 955 LOOP 337 LLC |
| 3. BLAINE RONALD JAMES | 12. LEE WILLIAM T ET AL |
| 4. JOHNSON BRIAN T & KELSEY R K | 13. LOWRY MADISON D MD PA |
| 5. HEYNIS RONALD TODD | 14. HOOPER MONTY A & TASHA D |
| 6. HARWELL DANE L | 15. HART MANAGEMENT TRUST |
| 7. POWELL LUKE S & JEANNETTE A | 16. PROPERTY OWNER |
| 8. CURTIS MATTHEW A | 17. PALACIOS RONALD D & DAWN J |
| 9. LEE WILLIAM T JR & PATRICK | 18. CANET DAN L JR & ANNETTE M |

SEE MAP

PZ-18-037
1265 - 1273 E. Common St
Zone Change from R-1 & R-2 to C-O



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: RONALD BLAINE
Address: 616 RIDGECREST
Property number on map: 3

I favor: _____

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary)

MORE BUILDING + ACTIVITY WILL CAUSE MORE WATER RUNOFF, WHICH IS ALREADY A PROBLEM IN HEAVY RAINS. MAJOR DRAINAGE IMPROVEMENTS WOULD BE NEEDED

Signature: Ronald Blaine To prevent this.



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: Brian Johnson
Address: 612 Ridgcrest, New Braunfels, TX 78130
Property number on map: 4

I favor: _____

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary)

See Attached letter

Signature: Brian Johnson



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: Matthew Curtis
Address: 1268 Common St. NB TX 78130
Property number on map: 8

I favor: _____

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary)

Requested zoning is not consistent with adjacent neighborhood properties. This will have a negative effect

Signature: Matthew Curtis *on my property*



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: HART MANAGEMENT TRUST

Address: 712 Woodcrest Circle

Property number on map: 15

I favor: _____

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary) POSSIBLE EFFECT ON PROPERTY VALUES
DRAINAGE PROBLEM CURRENTLY EXISTS, CONSTRUCTION WOULD MAKE IT
WORSE, INCREASE IN TRAFFIC WHICH ALREADY HEAVY, ADDING
ADDITIONAL TRAFFIC ENTERING & EXITING FOR CONSTRUCTION & HAZARDS
ADDITIONAL COMMERCIAL CODE LIGHTS INVADING PRIVATE RESIDENCES

Signature: _____

[Signature] for HART

INCREASE IN DIFFERENT PEOPLE RAISING
THE POSSIBILITY OF CRIMINAL SITUATIONS

RECEIVED

DEC 03 2018

BY: _____

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: Craig Van Ryswyk

Address: 708 Woodcrest Circle

Property number on map: 16

I favor: _____

I object: ✓

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: [Signature]

we do not wish to
have commercial activity
behind our house and
the associated issues with
it.

RECEIVED
 DEC 03 2018
 BY: _____

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-037 ms

Name: DAWN PALACIOS

Address: 704 WOODCREST CIRCLE

Property number on map: 17

I favor: _____

I object: ✓

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: [Signature]

This is obviously a move to put
the city's and our neighbors'
opportunity to earn money over the
rights of resident homeowners
to live in peace.

RECEIVED

DEC 03 2018

BY: _____

11/28/2018

Matthew Simmont
City of New Braunfels
Planning Commission
550 Landa Street
New Braunfels, TX 78130
Via: msimmont@nbtexas.org



Brian Johnson
612 Ridgecrest
New Braunfels, TX 78130

Dear Matthew and the Planning Commission,

I have reviewed the proposed zoning change request PZ-18-037 and object to the change. The authorized uses afforded by the changes are not conducive with the neighborhood and many of them would be a detriment to the value and enjoyment of my property. I spoke with one of the owners requesting the change and the intended structure they want to build on the vacant lot adjacent to my property is already authorized under the current zoning. If they changed their plans and the vacant lot was developed as a commercial venture the parking and lighting requirements would negatively affect my property. If their intent is to seek special use permits after the zoning change to allow nightly rentals, I would not be supportive of that either.

Furthermore, the deed restrictions recorded in vol 285 pg. 607-610 prohibit the use of the property for anything other than residential use for the subdivision. That being the case, I do not believe it appropriate to authorize the proposed zoning of commercial office.

Sincerely,

Brian Johnson

Matthew W. Simmont

From: Katherine M. Crowe
Sent: Tuesday, December 4, 2018 3:27 PM
To: Matthew W. Simmont
Subject: FW: PZ-18-037
Attachments: EmailLogo-Small_c6d86cff-0062-47bb-89b0-351933562e2d.png; Facebook_small_aac7de18-83ac-45d3-9979-10a37b16c6a6.png; Twitter_small_5b6369c7-c8ee-47ef-82e0-52bd1d59e680.png

*Katherine M. Crowe
 Planning Technician | Planning and Community Development
 550 Landa St | New Braunfels, TX 78130
 830-221-4086 | KCrowe@nbtexas.org | www.nbtexas.org/planning*

From: Cathy Harwell <harwellcathy@gmail.com>
Sent: Tuesday, December 04, 2018 2:12 PM
To: Katherine M. Crowe <KCrowe@nbtexas.org>; brian@bhhsdonjohnson.com; matthewacurtis@gmail.com
Subject: Re: PZ-18-037

Dear Ms. Crowe

We Object to Case #: PZ - 18-037 MS

Thank you for forwarding the information about the Zoning Request I called about this morning. This information was never received to my address. I only saw this information on Rivercrest Heights Facebook. The information mentioned that could be done with these properties if this was approved gave us great concern. My husband and I retired here to our favorite place. It was our plan for years that New Braunfels would be our home. We both have worked very hard to live here. We raised our children coming here to float the river, go to Schlitterbahn, shopping in Gruene, go to San Antonio (Sea World and Fiesta Texas) etc. Now that we have grandchildren we wanted the same for them as well as a safe environment. Unfortunately now we are being faced with a zoning issue. That could pose problems to a safe residential environment.

WE ABSOLUTELY OBJECT!

I was approached by Daniel and Korey whom I like stating not to be alarmed by the letter I would receive in the mail that they are trying to get the home beside me approved so they can use it for nightly rentals. I was ok as I said as long as they were responsible about it and there was no harm done. I have received misleading information from them and the story continues to change last I heard was that a home would be built beside my husband and I with a pool and the home next to Daniels was going to put steps down and possibly rent it out as a Wedding Venue. All three of these homes together. Now that right there tells me there are other intentions. They have mislead many of us to believe that others are ok with this change, however, when speaking with them they are not. Not many want this residential area to change. We certainly do not we love the small town feeling.

Katherine we are so grateful for your kindness in sending this information to us.

Also, I noticed that Brian Johnson's address 612 Ridgecrest was not yellowed in. He sent a letter in before anyone.

Thank you again
Cathy and Dane Harwell

Specialized Medical Management
P.O. Box 18377
Sugar Land, TX. 77478
Phone #: 832-532-0177
Cell #: 832-752-0995
Fax #: 832-218-3333

On Tue, Dec 4, 2018 at 1:09 PM Katherine M. Crowe <KCrowe@nbtexas.org> wrote:

Good afternoon,

Attached are the documents that were provided in the mailing for the proposed rezoning on Common Street.

The case is being heard tonight at the Planning Commission, I have also attached that agenda. It is a public hearing so those in opposition do have an opportunity to speak.

Please let me know if you have any questions.

As I stated on the phone, if you wanted to respond via email I can provide a copy of that to the case manager and the Planning Commissioners for tonight's meeting.

Sincerely,

Katherine M. Crowe
Planning Technician | Planning and Community Development
550 Landa St | New Braunfels, TX 78130
830-221-4086 | KCrowe@nbtexas.org | www.nbtexas.org/planning

Please take a moment to complete the City of New Braunfels [Customer Satisfaction Survey](#).

Do you have a question about a permit? Check out the [Citizen Portal](#).



Subject Property from E. Common St. facing north



Subject Property from E. Common St. facing west

3.3-1 "R-1" single-family district. The following regulations shall apply in all "R-1" 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
- 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)
- 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

(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) 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. 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 set back at least 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.* Interior lots 60 feet. Corner lots 70 feet. 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 provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, 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 per single-family residence 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. See Section 5.1 for other permitted uses' parking.

(2) 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.

3.4-3. "R-2A" single-family and two-family district.

Purpose. The R-2A single-family and two-family districts intended for development of single-family residences and associated uses as well as for development on larger parcels of land of low density two-family duplex units. The following regulations shall apply in all "R-2A" districts:

- (a) *Authorized uses.* Uses permitted by right and by special use permit 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)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- One family dwelling, detached
- Single or two 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)
- Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
- Farms, general (live stock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
- Golf course, public or private
- Governmental building or use with no outside storage
- Park and/or playground (public or private)
- 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 5 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.

- (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.* 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, 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 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 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 5 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.
- (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.* Two-family dwellings (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 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.

3.4-17. "C-O" Commercial office district.

Purpose. The commercial office district is established to create a mixed use district of professional offices and residential use. The regulations set forth in this article are intended to encourage adaptive reuse of buildings or new office developments of the highest character in areas that are compatible and sensitive to the surroundings and ensure historic integrity. Such uses should not generate excess additional traffic or access problems.

(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)
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Dormitory (in which individual rooms are for rental)
- Duplex / two-family / duplex condominiums
- Hospice
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)
- Townhouse (attached)
- Zero lot line / patio homes

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Answering and message services
- Antique shop (household items)
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Bakery (retail)
- Bank, savings and loan, or credit union
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Book store
- Cemetery and/or mausoleum
- Check cashing service
- Church/place of religious assembly
- Clinic (dental)
- Clinic (emergency care)
- Clinic (medical)
- Coffee shop
- Community building (associated with residential uses)
- Confectionery store (retail)

Contractor's temporary on-site construction office (only with permit from building official)
 Credit agency
 Electrical substation
 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)
 Garden shops and greenhouses
 Golf course (public or private)
 Governmental building or use
 Kiosk (providing a retail service)
 Laundry/dry cleaning (drop off/pick up)
 Locksmith
 Needlework shop
 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)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Public recreation/services building for public park/playground areas
 Recreation buildings (public)
 Research lab (non-hazardous)
 Retirement home/home for the aged - public
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company (no outside storage or installation)
 Shoe repair shops
 Telemarketing agency
 Telephone exchange buildings (office only)
 Tennis court (commercial)
 Travel agency
 University or college (public or private)
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

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.* 35 feet.

(ii) *Front building setback.* 15 feet.

(iii) *Side building setback.* A side building setback of not less than five feet shall be provided for a single story building or structure in which there are no openings to the side yard. A minimum 10 foot side building setback shall be provided for a single story building or structure with openings to the side yard.

(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.* 60 feet.

(vii) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street except when abutting any residential district where the side building setback shall then become a minimum of 25-feet.

(viii) *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)

(ix) *Parking.* See Sec. 5.1 for permitted uses' parking.

(2) 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 lines of the corner lots coincide with the side lot lines of the adjacent lots.

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

(v) *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.

(vi) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, 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 not located over the recharge zone and one acre located over the recharge zone.

(vii) *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.* 35 feet.

(ii) *Front yards.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than 5 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.

(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 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) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Section 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.* 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) *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) *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.

(viii) *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.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *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.

(xii) *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; and a minimum of 20 feet between structures backing rear to rear. (See Illustration 2)

(xiii) *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.

(5) 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 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.

(6) Zero lot line / patio homes.

(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.* There shall be no side building setback required on one side of the lot and a minimum of 10 feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot.

(iv) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of 10 feet. If entry to a garage/carport is provided on the exterior side, a minimum yard of 20 feet shall be provided to the garage/carport.

(v) *Rear building setback.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of 10 feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* 40 feet.

(vii) *Lot area.* 4,000 square feet.

(viii) *Lot depth.* 100 feet.

(ix) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(x) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district)

(xi) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(xii) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(xiii) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See Section 5.1 for other permitted uses' parking.

(c) *Parking and off-street loading requirements.* The parking requirements for the permitted uses described herein are outlined in Section 5.1. In the case of mixed uses, i.e., residential and commercial, the parking requirements shall be additive.

Draft Minutes for the December 4, 2018 Planning Commission Regular Meeting

PZ-18-037 Public hearing and recommendation to City Council regarding the proposed rezoning of Lots 8A and 8B, Block 15, Rivercrest Heights 5E, and Lots 9 and 10, Block 15, Rivercrest Heights 6, addressed at 1265, 1267, 1269, 1271 and 1273 E. Common Street, from “R-1” and “R-2A” Residential Districts to “C-O” Commercial Office District.

(Applicant: Hulon “Ted” Higginbotham, et al; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval.

Mr. Simmont indicated the percentage in objection exceeded 20%, therefore a super-majority was required for approval at City Council.

Commissioner Laskowski inquired about the required masonry wall buffer between residential and non-residential properties.

Mr. Simmont explained.

Commissioner Meyer requested clarification if a short term rental use was considered residential.

Mr. Simmont confirmed that short term rental is a residential use.

Vice Chair Reaves inquired if a Special Use Permit would be required for short term rentals.

Mr. Simmont confirmed a Special Use Permit would be required before a Short Term Rental Permit could be issued.

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

Beverly Bannister, 1269 E. Common Street, stated she was one of the applicants. She provided her history with the property and stated the property was zoned as commercial when she purchased. She stated there has been no noise complaints on the properties and that they did not intend to negatively impact the neighborhood.

Piper Olveda, 1267 E. Common Street, stated she was one of the applicants. She described the hazards that the high traffic on E. Common Street creates for her growing family. She stated the properties would be better suited as commercial uses due to the proximity to Loop 337 and existing nearby commercial uses.

Daniel Olveda, 1267 E. Common Street, stated he was one of the applicants. He stated they did not intend to remove existing structures and build commercial. He described existing drainage issues with the properties and explained their proposals to improve drainage.

Ted Higginbotham, 1273 E. Common Street, stated he was one of the applicants. He provided his history with his property and stated he intended to utilize a professional office space on the property.

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

Brian Johnson, 612 Ridgcrest, represented as property number 4 on the notice of public hearing, wished to speak in opposition. He expressed concerns regarding the uses permitted by right in the C-O district, and the potential for increased drainage issues at the time impervious cover is constructed on the vacant lot. He stated he was concerned about the increased occupancies of the adjacent properties due to the proximity to the existing residential properties. He stated there were deed restrictions on the properties prohibiting commercial uses.

JR Johnson, 712 Woodcrest Circle, represented as property number 15 on the notice of public hearing, wished to speak in opposition. He provided his history of his property. He expressed concerns regarding property value, drainage, impervious cover being built on the vacant lot, the uses permitted by right in the C-O district and the

increased traffic. He stated he was opposed to short term rentals. He stated other neighbors were in opposition, but due to various reasons were unable to attend the meeting.

Cathy Harwell, 604 Ridgecrest, represented as property number 6 on the notice of public hearing, wished to speak in opposition. She provided her history of her property. She stated they would not have purchased their property if they knew it would change from residential to commercial. She expressed concerns regarding safety and the impact of future development.

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

Commissioner Sonier inquired when the zoning changed from commercial to residential.

Mr. Simmont said he did not know the exact date at that time.

Discussion followed.

Commissioner Gibson inquired about the deed restrictions.

Mr. Simmont clarified that the deed restrictions could not be evaluated with the proposed zone change consideration.

Commissioner Meyer requested clarification regarding drainage requirements.

Mrs. Reynolds clarified.

Discussion followed regarding drainage requirements at the time of permitting.

Commissioner Meyer clarified that the short term rental use was not being considered with the proposed zone change and would be considered at the time of a Special Use Permit application.

Commissioner Gibson inquired to the reasoning for the previous rezoning from commercial to residential.

Mr. Simmont said he was unaware of the reasoning at that time.

Motion by Commissioner Meyer, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning of Lots 8A and 8B, Block 15, Rivercrest Heights 5E, and Lots 9 and 10, Block 15, Rivercrest Heights 6, addressed at 1265, 1267, 1269, 1271 and 1273 E. Common Street, from "R-1" and "R-2A" Residential Districts to "C-O" Commercial Office District, with Staff recommendations. Motion carried, with Vice Chair Reaves, Commissioner Mathis and Commissioner Sonier in opposition. (4-3-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 0.96 ACRES CONSISTING OF LOTS 8A AND 8B, BLOCK 15, RIVERCREST HEIGHTS UNIT 5-E AND LOTS 9 AND 10, BLOCK 15, RIVERCREST HEIGHTS UNIT 6, ADDRESSED AS 1265, 1267, 1269, 1271 AND 1273 E. COMMON ST., FROM “R-1” SINGLE-FAMILY DISTRICT AND “R-2A” SINGLE-FAMILY AND TWO-FAMILY DISTRICT TO “C-O” COMMERCIAL OFFICE 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 “C-O” Commercial Office 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 approximately 0.96 acres consisting of Lots 8A and 8B, Block 15, Rivercrest Heights Unit 5-E and Lots 9 and 10, Block 15, Rivercrest Heights Unit 6, addressed as 1265, 1267, 1269, 1271 and 1273 E. Common St., from “R-1” Single-Family District and “R-2A” Single-Family and Two-Family District to “C-O” Commercial Office District; **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 “R-1” Single-Family District and “R-2” Single-Family and Two-Family District to “C-O” Commercial Office District:

“Lots 8A and 8B, Block 15, Rivercrest Heights Unit 5-E and Lots 9 and 10,

Block 15, Rivercrest Heights Unit 6, addressed as 1265, 1267, 1269, 1271 and 1273 E. Common St., 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 14th day of January, 2019.

PASSED AND APPROVED: Second reading this 28th day of January, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2018 cases\PZ-18-037 Common St C-O\Ordinance.docx

393010



S. CRAIG HOLLMIG, INC.
engineers - surveyors
new braunfels, texas



*Revised Plat of
Lot 8A & 8B, Block 15
Rivercrest Heights
Unit 5-E*

STATE OF TEXAS
COUNTY OF COMAL

I, THE UNDERSIGNED S. CRAIG HOLLMIG, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEY REGULATIONS AND LAWS MADE ON THE GROUND AND THAT THE CONVEYANCE HEREIN IS NOT SUBJECT TO ANY OTHER SURVEY OR PLAT.



DATE OF TEST: May 1992
COUNTY OF COMAL

ROSIE BOSENBERG, COUNTY CLERK OF COMAL COUNTY, TEXAS, HAS FILED FOR RECORD IN HER OFFICE, ON THE 19th day of May, 1992, A PLAT OF LAND AND ONLY RECORDED THE 19th day of May, 1992, VOLUME 10 OF PAGE 87 PLAT RECORDS OF COMAL COUNTY, TEXAS. WHEREAS WITNESSES BY MARY AND OFFICIAL SEAL OF OFFICE, THIS 19th day of May, 1992.

COUNTY CLERK, COMAL COUNTY, TEXAS
By: *Rosie Bosenberg*

- NOTES:
1. Plat prepared March 10, 1992.
 2. Iron pins set at all corners and angle points.
 3. According to the 2000 Flood Insurance Rate Map, Community Panel 445493 0006 C, dated June 17, 1986, this property does not lie in Zone A.
 4. Reference bearing - S 37° 51' W
 5. Reference to the 1992 Plat of Lot 8A & 8B, Block 15, Rivercrest Heights, Unit 5-E, as recorded in Volume 10 of Page 87 of the Plat Records of Comal County, Texas.
 6. Reference to the 1992 Plat of Lot 8A & 8B, Block 15, Rivercrest Heights, Unit 5-E, as recorded in Volume 10 of Page 87 of the Plat Records of Comal County, Texas.

SCALE: 1" = 50'



Vacating Plat of Lot 8, Block 15-
RIVERCREST HEIGHTS, Unit 5-E, as
recorded in Volume 5, Page 71 of the
Map and Plat Records of Comal County,
Texas.

RESUBDIVISION PLAT OF LOT 8A & 8B, BLOCK 15- RIVERCREST HEIGHTS UNIT 5-E

Being a 0.519 acre tract of land situated in the Henry Foster Survey No. 34 and being known as Lot 8, Block 15 of Rivercrest Heights, Unit 5-E, as recorded in Volume 5, Page 71 of the Map and Plat Records and also being the same tract of land described in deed recorded in Volume 338, Pages 359-361 of the Deed Records of Comal County, Texas.

APPROVED FOR ACCEPTANCE
DATE: *May 1992*
BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF NEW BRAUNFELS, TEXAS.
CITY ENGINEER: *John E. Wiedner*
CITY CLERK: *Rosie Bosenberg*
CITY ATTORNEY: *John E. Wiedner*
CITY MANAGER: *John E. Wiedner*

STATE OF TEXAS
COUNTY OF COMAL

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COUNTY CLERK, COMAL COUNTY, TEXAS
By: *Rosie Bosenberg*

S. CRAIG HOLLMIG & ASSOC.
engineers ~ surveyors
new braunfels, texas



| CURVE | DELTA | RADIUS | LENGTH | TAN |
|-------|-----------|----------|---------|--------|
| A | 29°00'00" | 40.00' | 50.25' | 10.34' |
| B | 14°27'00" | 400.00' | 100.86' | 50.71' |
| C | 20°00'00" | 900.00' | 45.55' | 23.28' |
| D | 14°27'00" | 350.00' | 88.27' | 44.37' |
| E | 82°00'00" | 65.00' | 93.03' | 56.50' |
| F | 82°00'00" | 15.00' | 21.47' | 1.304' |
| G | 08°03'56" | 1174.26' | 155.31' | 82.79' |

RIVERCREST HEIGHTS UNIT SIX

Being 5.506 Acres out of the
Henry Foster Survey, Comal
County, Texas.



THIS PLAN IS A RECREATION PLANNING MAP AND IS NOT A SURVEY MAP. IT IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DESIGNED. THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP. THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP. THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP.

Mark H. 1979
E. J. DeLoach
J. P. DeLoach

FILED FOR RECORD
The 19th day of March, 1979
at 2:00 o'clock P.M.
County Court, Comal County
Texas

177582

STATE OF TEXAS
COUNTY OF COMAL

THE UNDERSIGNED, S. CRAIG HOLLMIG & ASSOCIATES, ENGINEERS & SURVEYORS, NEW BRAUNFELS, TEXAS, HAS PREPARED THIS PLAN FOR THE CITY OF RIVERCREST HEIGHTS, TEXAS, AND THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP. THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP. THE CITY OF RIVERCREST HEIGHTS, TEXAS, HAS ADOPTED THIS PLAN AS A RECREATION PLANNING MAP.

STATE OF TEXAS
COUNTY OF COMAL

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177582

STATE OF TEXAS
COUNTY OF COMAL

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Rivercrest Hts.
Unit 6

Final Plat

File Copy

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General H. DeLoach

Planning



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. J)

Presenter

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

SUBJECT:

Public hearing and first reading of an ordinance regarding the proposed rezoning of approximately 2.53 acres consisting of Lot 1A, Block 1, Oak Grove Estates Subdivision Unit 2, located on the northeast corner of the intersection of FM 306 and Oak Knot Drive from "R-1" Single-Family District to "C-1B" General Business District.

BACKGROUND / RATIONALE:

Case No.: PZ-18-035

Council District: 4

Owner: Gary Spitzer - Representative and Joint Owner
417 Williams Way
New Braunfels TX, 78130

Applicant: Steve Hall
1407 Patterson Road
Austin TX, 78733

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

The approximately 2.5 acre undeveloped subject property is located on the northeast corner of the intersection of FM 306 and Oak Knot Drive within the Hoffman Lane Sub Area (Sub Area 6). The property has approximately 890 feet of frontage along FM 306 and 200 feet of frontage along Oak Knot Drive.

The applicant is requesting the property be rezoned from R-1 to C-1B and has indicated possible general office use for the property at this time. Due to the size of the subject property with a maximum depth of 200 feet, a small strip center or two/three free standing buildings is all that may be accommodated based on setbacks, parking, landscaping, residential buffering and other requirements.

C-1B zoning is intended for a broad range of office, service and retail uses located along or at the intersection of major collectors or arterials that can handle the anticipated traffic volumes. The subject property fronts FM 306, a Principal Arterial, but is relatively shallow and located at the entrance into a

residential subdivision. Per the adopted Zoning Ordinance, non-residential and multifamily development adjacent property zoned or used for single or two-family development requires residential buffering.

General Information:

Size: 2.533 acres

Surrounding Zoning and Land Use:

North - R-1 / Water Utility

South - Across Oak Knot Dr., R-1 / Undeveloped

East - R-1 / Single-family residences

West - Across FM 306, R-1 / Undeveloped

Comprehensive Plan

- Hoffman Lane Sub Area
- Transitional Mixed Use Corridor

Floodplain:

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

Regional Transportation Plan:

FM 306 is identified as a 150-foot wide Principal Arterial and the current right-of-way width is approximately 120 feet.

Oak Knot Drive is identified as a 60-foot wide Minor Collector and the current right-of-way width is approximately 60 feet.

Improvement(s):

None

Determination Factors:

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

- Whether the permitted uses will be appropriate in the immediate area and their relationship to the area and to the City as a whole (*C-1B allows a broad range of office and retail uses. The district should generally be used at commercial nodes along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes. The subject property is located on FM 306, a Principal Arterial, which is intended to carry large volumes of traffic; however, the intersection is with a Residential Collector. Mitigation measures are in place to require a residential buffer between the neighboring single-family residences and non-residential development - trees and a wall/fence.*);
- 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 change should not conflict with the existing and proposed water supply, sanitary sewer and other utilities in the area. The adequacy of public facilities and utilities to serve the additional demand is evaluated by each provider. CISD and utility providers have been notified of the proposed rezoning. Traffic impact review will be required at the time of building permit and may require traffic mitigation measures, depending on the proposed use of the property.*);

- How other areas designated for similar development will be affected (*The proposed zoning change could introduce businesses that could have negative impacts to homes in close proximity. The subject property is shallow, fronting on FM 306 rendering it less than desirable for residential development, but also not necessarily appropriate for intense commercial uses especially once the required buffers are in place.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*Other substantial effects on the public health, safety, morals, or general welfare will depend on the ultimate uses developed. Drainage, utility and traffic impact will be reviewed and addressed through the development process.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The Comprehensive Plan identifies this site as being with a Transitional Mixed-Use Corridor, but not within a Future Market Center. The nearest Future Market Centers are at Hunter Road and at Hoffman Lane.*)

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

| | |
|--|---|
| City Plan/Council Priority: Envision New Braunfels | Action 3.3: <i>Balance commercial centers with stable neighborhoods.</i> Pedestrian scale commercial uses would provide services for area residents. However, more intense commercial uses would have negative impacts on the same residential properties. |
|--|---|

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on December 4, 2018 and recommended approval of "C-O" Commercial Office District (4-2-1) with Vice Chair Reeves and Commissioner Sonier in opposition and Commissioner Gibson abstaining. C-O is less intense than the zoning district the applicant is requesting.

STAFF RECOMMENDATION:

Staff acknowledges the property as situated is better suited for non-residential development, but recommends the less intense C-1A or C-O zoning districts; they are more appropriate due to the characteristics and size of the subject property, and the proximity of the residential neighborhood. Staff recommends denial of C-1B as it is more appropriate at intersections of two arterials or higher.

Notification:

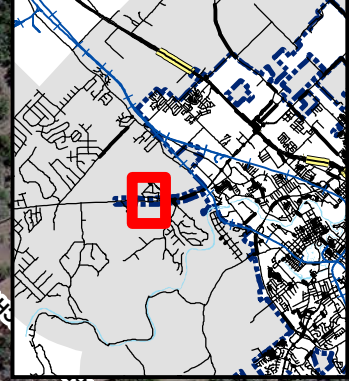
Public hearing notices were sent to 15 owners of property within 200 feet of the request. The Planning Division has received seven responses (#s 3-8 and 10) in objection to the proposed zoning change, and one (#9) in favor.

Attachments:

1. Aerial and Regional Transportation Plan Map
2. Application
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers, Future Land Use)
4. Notification List, Map and Responses
5. Photographs
6. Zoning Ordinance Sections:

-
- Sec. 3.3-1 "R-1" Single-Family District
 - Sec. 3.4-12 "C-1A" Neighborhood Business District
 - Sec. 3.4-13 "C-1B" General Business District
 - Sec. 3.4-17 "C-O" Commercial Office District
7. Draft Panning Commission Meeting Minutes
 8. Ordinance

Aerial, Regional Transportation Plan and Floodplain Map



Legend

- Subject Property
- Regional Transportation Plan**
 - Principal Arterial (150')
 - Minor Collector (60')
 - Minor Collector - Proposed
- Floodplains**
 - 1% Annual Chance
 - 0.2% Annual Chance
 - Floodway

PZ-18-035
OAK GROVE ESTATES 2, LOT 1-A, BLOCK 1
R-1 to C-1B



**Planning & Community Development Department
Planning Division**

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

476

CC/Cash/Check No.: 1100
Amount Recd. \$ 1,290
Receipt No.: 216249

Case No.: PZ-18-035



Zone Change 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: Steve Hall

Mailing Address: 1407 Patterson Rd, Austin, TX 78733

Telephone: _____ Fax: _____ Mobile: 512-468-8255

Email: stevehallrealestate@gmail.com / Sam Shortner (Engineer) 512-861-2900

2. Property Address/Location: _____

3. Legal Description:

Name of Subdivision: Replat of Oak Grove Estates Unit 2

Lot(s): 1A Block(s): 1 Acreage: 2.533

4. County: ☒ Comal ☐ Guadalupe School District: ☒ CISD ☐ NBISD ☐ OTHER: _____

5. Is the property located in the floodway or floodplain: ☐ YES ☒ NO

6. Existing Use of Property: Vacant

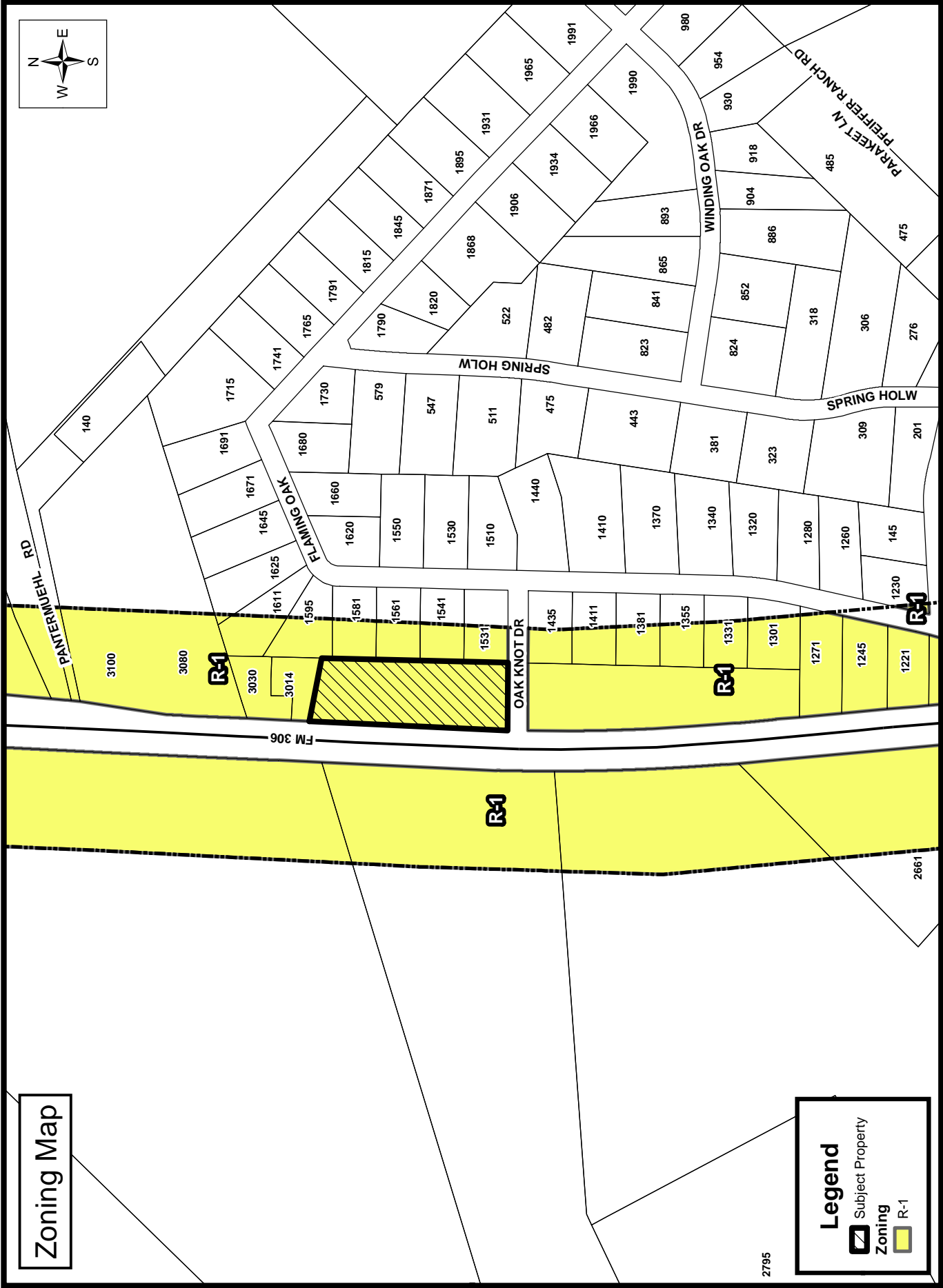
7. Zoning Change Request:

Current Zoning: R-1

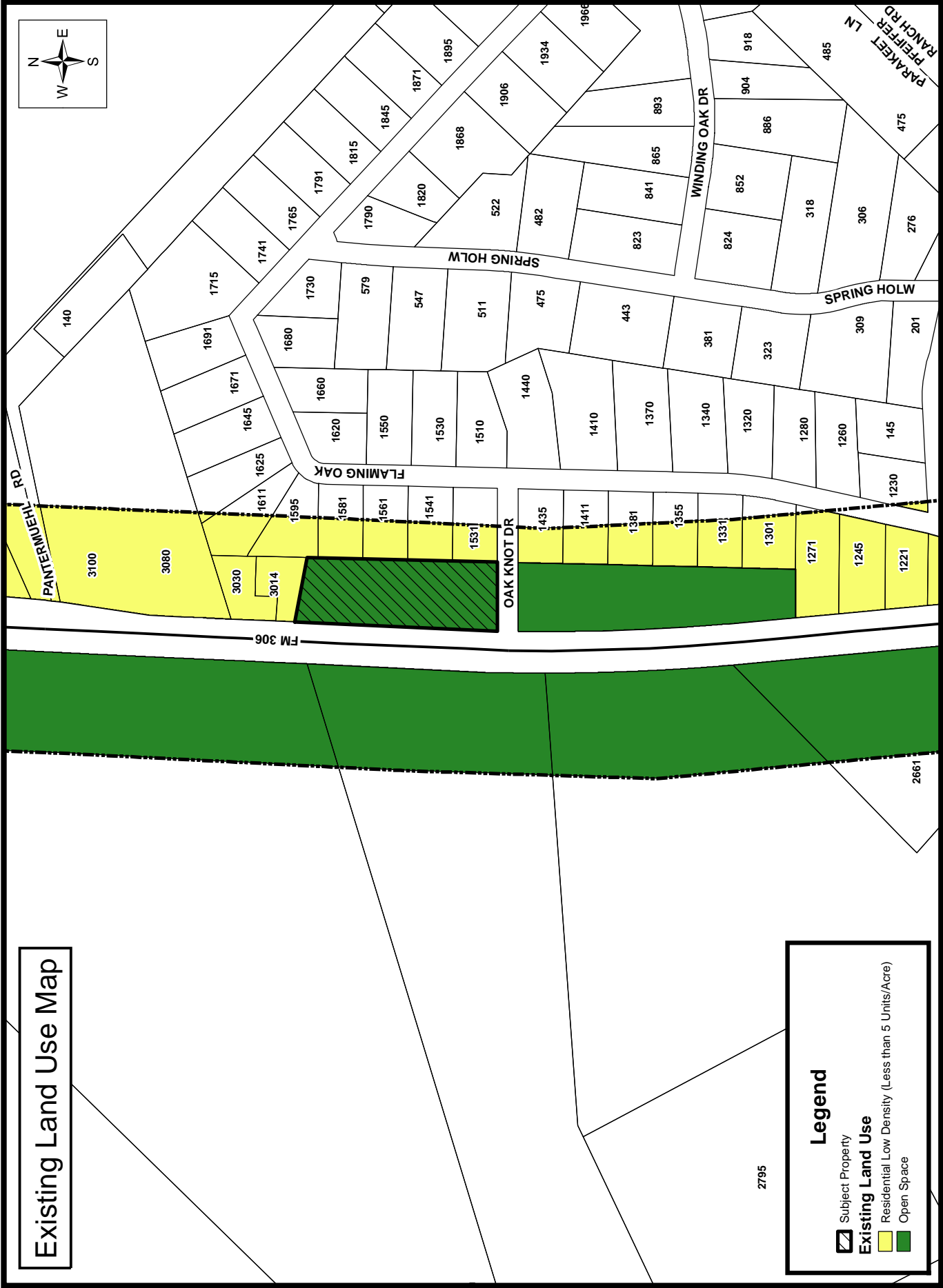
Proposed Zoning: C-1B

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

The applicant proposes to rezone the property to provide office and local retail uses in new buildings. The buildings are proposed as "flex-space" to accommodate future unknown tenants. The zoning change request is in conformance with the City's future land use map, which shows this property as "Commercial".



PZ-18-035
OAK GROVE ESTATES 2, LOT 1-A, BLOCK 1
R-1 to C-1B



PZ-18-035
OAK GROVE ESTATES 2, LOT 1-A, BLOCK 1
R-1 to C-1B

EXISTING CENTERS

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

MEDICAL CENTER

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

OUTDOOR RECREATION CENTER

Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

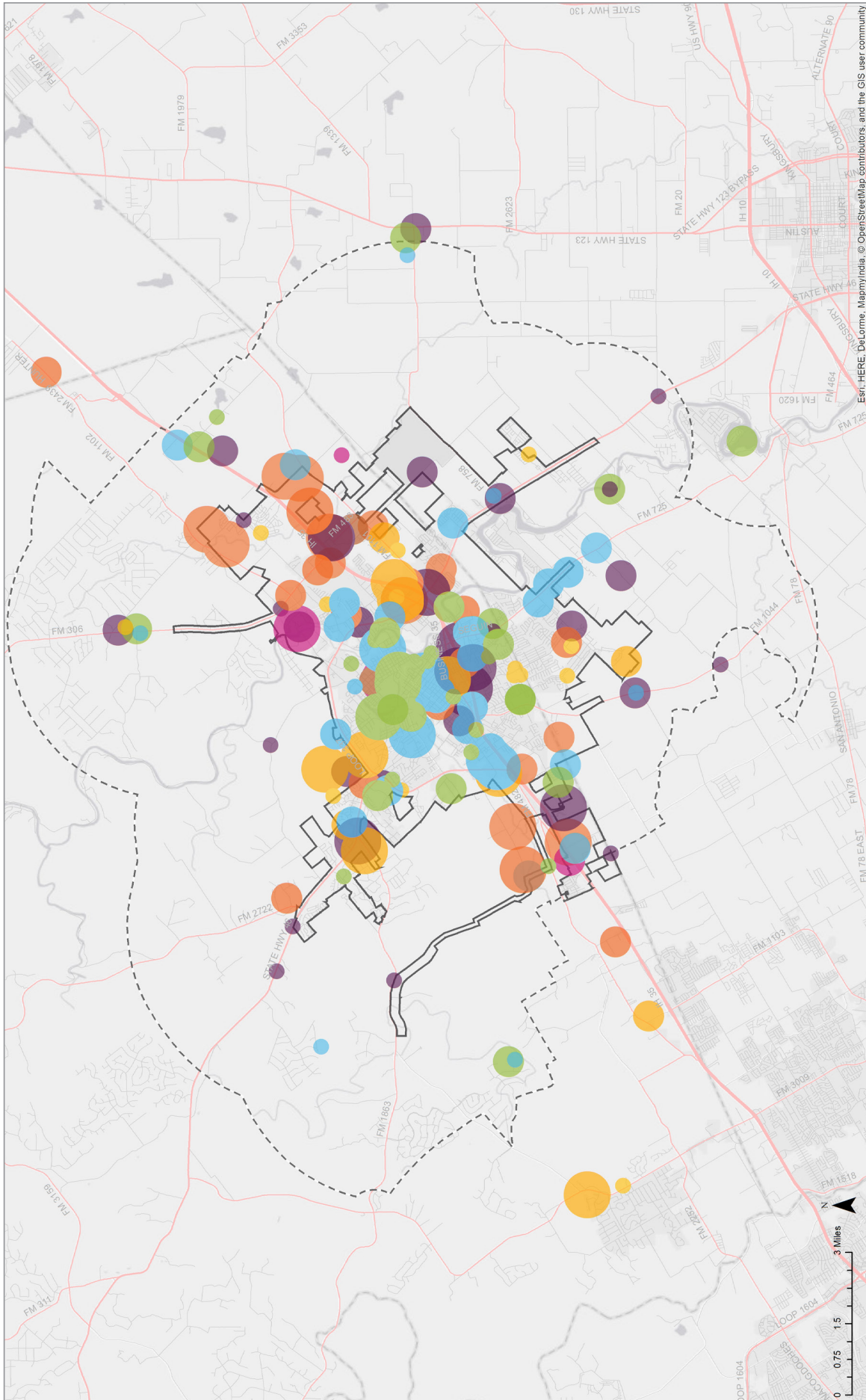
EDUCATION CENTER

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

TOURIST/ENTERTAINMENT CENTER

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

SUB AREA 6

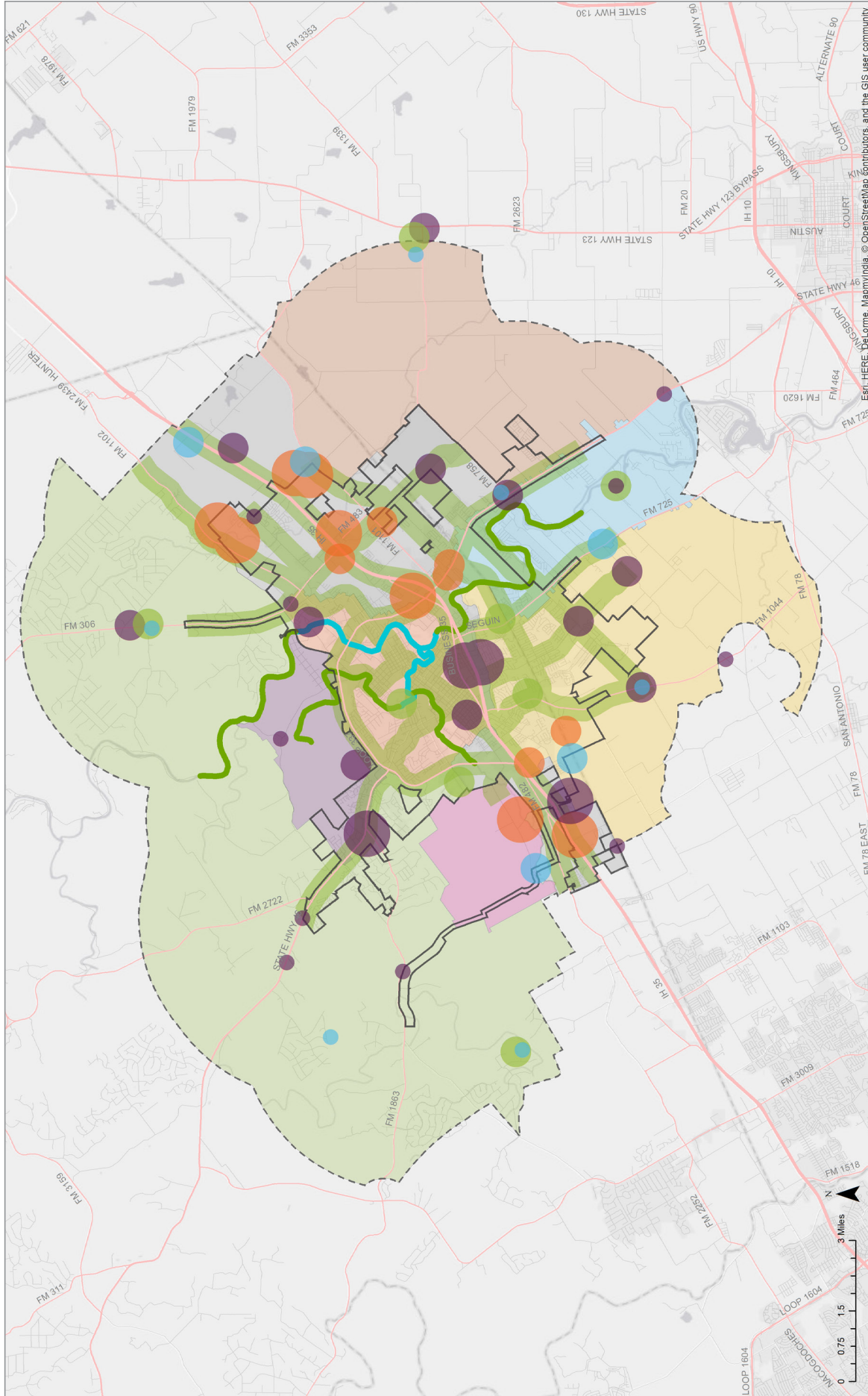
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

PLANNING COMMISSION – OCTOBER 3, 2018 – 6:00PM

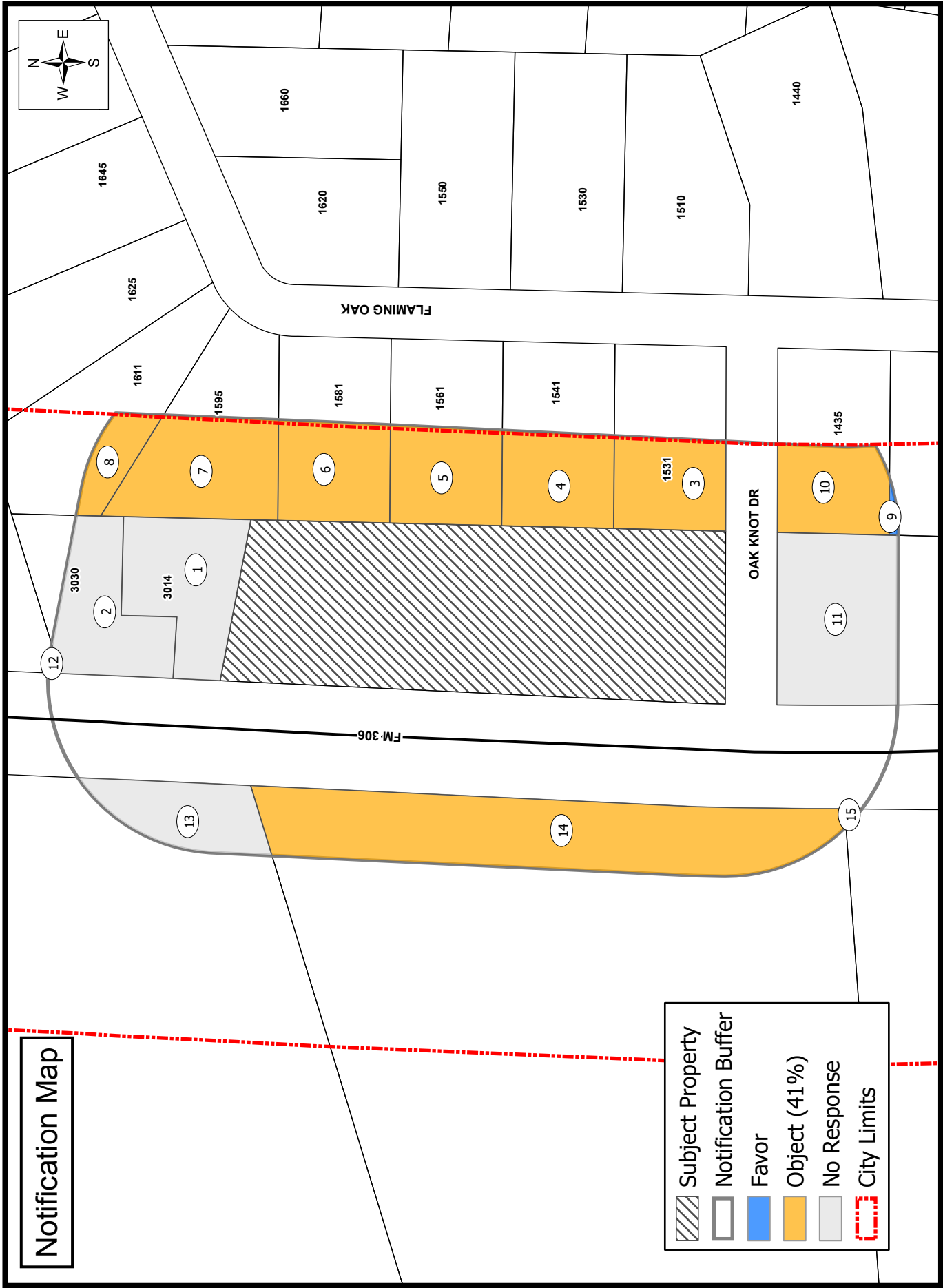
New Braunfels City Hall Council Chambers

Applicant/Owner: Steve Hall (Authorized Applicant)**Address/Location:** 2.533 acres located on the northeast corner of the intersection of FM 306 and Oak Knot Drive – Lot 1A, Block 2, Oak Grove Estates Subdivision Unit 2.**PROPOSED ZONE CHANGE – CASE #PZ-18-035**

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 | 4 D WATER COMPANY LLC | 9 | MACHALEC PAUL G & ELIZABETH |
| 2 | WALKER JEAN | 10 | BRADY CHAD & AMANDA |
| 3 | SCHILLING DEAN W & BETTY A | 11 | OAK GROVE PROPERTY OWNERS |
| 4 | BENCH THOMAS R & JANINE A | 12 | LOWRY JON D & ANNA T |
| 5 | HIXON RON & ANA L | 13 | KARBACH TAYLOR B ET AL |
| 6 | LUCKEMEYER PAUL S & SHERI S | 14 | ENGELHARDT SUSAN E IRRVCBL TRST ET AL |
| 7 | KELLER VALESKA S & KEVIN J MCHUGH | 15 | ANITEI DOROTHEA T E IRREVOCABLE TRUST #2 |
| 8 | BLOCH BOBBIE J & BILLY R | | |

SEE MAP



- My name is Gary Spitzer, current address 417 Williams Way, New Braunfels; my family was a resident of Oak Groves from May 1981- February 2008, 26 years and 9 months, and one of the 11 property owners who purchased Oak Groves Unit II, from Mr. S. D. David.
- History of property
 - First of all, all highway frontage on 306 from Comal Iron Works to the northern city limits of New Braunfels was automatically brought into city as "R1".
 - S. D. David, a local well known developer developed Oak Groves in 1978 or 1979; in 1987 one of Mr. David's partners, wanted to rezone property in question to C1 commercial. Several of the residents of Oak Groves met with the partner one night, and he told us that his intentions were to build a convenience store with gasoline pumps on the property, but no tube rentals. We didn't want a convenience store in 1987 any more than we do in 2018.
 - On October 6, 1987, at the meeting of City of New Braunfels Planning and Zoning, (minutes attached), Mr. David requested the property Oak Groves Unit II, be rezoned for from "R1" to "C1". Several of us opposed; however, a motion was made to rezone the property from "R1" to "C1", and the motion passed. After the Planning and Zoning meeting, Mr. David approached Gary Spitzer, and offered to sell the property to him.
 - There were not as many property owners in 1988, phases 3 & 4 on the back side of Oak Groves had not been developed. There were 35 property owners (families) at that time, and all had an opportunity to participate in the purchase of the property.
 - Soon after the October 6, 1987 Planning and Zoning meeting, 11 of the 35 families formed a group to attempt to purchase Oak Groves Unit 2; even though we offered less than Mr. David's asking price, there was No price concession.
 - At the October 26, 1987 meeting of City Council, (minutes attached), the Director of Planning Environmental Development, Mike Shands, explained that because of the possibility that the property may be sold, the developer wished to table action on the proposed rezoning for about 60 days.
 - In January 1988, the purchase was completed.
 - For 8 ½ years we made note payments until the property was clear. For 30 years we have made annual property tax payments.
 - Of those original 11 families who purchased the property, there are currently 8 owners, and 3 of the 8 currently reside in Oak Groves, Section 1.
 - With the exception of the people who purchased Oak Groves Unit II, since January 1988, anyone past and present, who lived in Oak Groves Units 1, 3 & 4, enjoyed benefits without obligation, no investment, no note payments and property taxes.
 - There are approximately 89 lots within this subdivision; bottom line, 8 have carried the load for the remaining neighborhood.

- Why are selling the property?
 - We, the owners, are 30 years older.
 - During this 30 year period, some of the 11 family members have died, some have moved into NB, some have to other cities in Texas or out of state.
 - Last summer the remaining 8 owners discussed selling the property, so their heirs wouldn't have to deal with property they had no interest in, and not know any of the people with whom they would be dealing 5-10-20 years later.
 - The owners unanimously agreed to sell the property.
- Preparation to sell
 - Much time and deliberation were put into the decision as the best way to sell the property.
 - Mike Norris, SVN, Norris Commercial Group, a friend of one of the owners of the property was contacted.
 - Mike was involved in marketing the property early in the development, and is well known and respected in the community.
 - As I mentioned, 3 of the existing families (owners) live on Flaming Oak.
 - One has a pool that backs up to one section of the property.
 - One has property that has an adjoining side.
 - One lives across the street from the one with the pool
 - Those three created the deed restrictions for the proposed property that is for sale, to protect them as well as their neighbors.
 - There are significant restrictions on anything that will be built in the Oak Groves Unit II.
 - As an example, The City of New Braunfels requires at least a 6' fence constructed of masonry, separating a commercial property from an adjoining residential property. We require 7' on part and 6' on the remaining.
- Listing the Property
 - The property was listed for sale with SVN, Norris Commercial Group, a local broker on April 24, 2018.
- Progression as time passed, emails from residents and contract offers
 - About a month after the signs were in place, advertising the property for sale, emails began to circulate within the Oak Groves community, regarding ownership.
 - In response to an email in which a property owner thought the Oak Grove Unit II property was owned by a "homeowners' association. Karen Krieg, a longtime resident and one of the eight owners, promptly sent an email to correct the false information that was being circulated. At the end of the email, my name, Gary Spitzer, and phone number were included as a contact person for the sale of the property.
 - Finally, on May 18, 2018 I was contacted by three of the current residents of Oak Groves, and I explained to them what was being done with the property, and encouraged them to put a group together and make an offer to possibly purchase Oak Groves Unit II.
 - One resident offered to purchase the property immediately behind his property, nothing either side. (We have never wanted fragmented pieces remaining.)

- One resident stated, “the concern of Oak Groves Unit II is with the people who live in Unit 1, the front unit of the subdivision, not those in units 3 & 4, in the back of Oak Groves.”
- On May 20, 2018, a resident wrote, “I believe a petition at the mailboxes is a good idea.”
- On May 27, 2018, another wrote, “Do we have a group of people that are interested in getting together to talk about what we can do to protect the entrance and maybe acquire the property?”
- On May 30, 2018, another wrote, “I would be willing to get together to talk. I think a sign on the mailboxes to announce a meeting would be appropriate.”
- Afterwards I drove by the mailboxes several times and never saw a petition of offering to meet or organize.
- In the middle of June, 2018, I received information from our realtor regarding the amount of activity in interest of possibly purchasing the property in question; there were several interested parties, all of whom were outside, of Oak Groves.
- On June 19, 2018, a letter of intent was received from an interested party.
- Soon thereafter, three contract offers from three different parties, all outside of Oak Groves, were received.
- On July 3, 2018, a signed contract from an outside party on one tract of land, was in place.
- Another offer was withdrawn, as the result of false information that was given to the prospective purchaser by a resident of Oak Groves.
- Immediately thereafter, negotiations resumed with another prospective purchaser, which resulted in an executed contract.
- There have been no attempts on the part of the residents of Oak Groves as a group, to purchase the property. Based on the group of 11 having owned it for 30 years, we’re trying to protect the current and future property owners of Oak Groves, through the restrictions that will be in place with the sale of the property. Done properly, the residents of Oak Groves will not have to invest/spend any of their money and have a good addition to the neighborhood.
- As those negotiations proceeded, on July 17, 2018, (83) days after the initial listing, Dean Schilling, an Oak Groves resident, presented as he referred to it a (bid) as he called it, which was way too low by comparison to the others . Mr. Schilling was informed that he was too late; and with him being an individual resident, not a group, caused concern for us.
- On July 19, 2018, Mr. Schilling began circulating a petition that included misrepresented information regarding the sale of the property in question.
- On August 2, 2018, Mr. Schilling circulated more incorrect information.
- During the time of the listing, there have been erroneous rumors of gas station, convenience store, and of all things, a McDonalds that would be built on the property in question.
- False information was and is circulated regarding the water system, and it’s capacity.

- New Braunfels going forward
 - In October 1987, almost 31 years ago, Mr. David requested this property in Oak Groves Unit II, be rezoned for from “R1” to “C1”, the Planning and Zoning Commission of New Braunfels agreed, and the motion to rezone the property from “R1” to “C1” passed. Clearly that was the intent of the design of this property.
 - For added protection for the residents of Oak Groves, the sellers of the Property”, have taken Zoning Ordinances of The City of New Braunfels for “C-1B” and further limited the type of businesses that can be operated on the property in question. As a result the residents of Oak Groves won’t be out any money.
 - It doesn’t take long to see the growth from IH 35 and Hwy. 306 is moving north. From a two lane FM Road just a few years ago, to a four lane highway with left hand turn lane expansion, is a pretty good indicator that growth is headed north on Hwy. 306.
 - The question for Planning and Zoning is about more than the residents of Oak Groves and more than owners of a piece of property for sale.
 - As 2018 moves toward the 4th quarter of the year, the question is, “what is future development of the Highway frontage along Hwy. 306 from Comal Iron Works north to the City Limits sign going to look like”? The City of New Braunfels is on the threshold of determining that look.

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-035 (Hall) (ms)

Name: DEAN W. + BETTY A. SCHILLING

Address: 1531 FLAMING OAK Drive

Property number on map: 3 (three)

I favor: _____

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Dean W. Schilling Betty Schilling

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-035 (Hall) (ms)

Name: Greg Machalec

Address: 1411 FLAMING OAK

Property number on map: 9

I favor: ✓

I object: _____

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Greg Machalec



DEAN W SCHILLING
1531 Flaming Oak Drive
New Braunfels, Texas 78132-4173
TEL (830) 832-9893 **E-Mail: trumppetter@gmail.com**

(3)

26SEP18

Oak Grove Estates Unit Two Lot Sales

My wife and I have attempted to compete in the bidding process through their realtor, and purchase at least the 2.5 acre parcel, in order to sustain the green-space natural habitat behind our house, but we were **shut out**, and not allowed to enter a competitive bid. There were a number of other adjacent-lot owners who were met by the same response. In fact, no one in this subdivision was notified of this **commercial** business, thus denying any of us an opportunity to work something out!

Oak Grove Property Owners et al, have demonstrated extreme temerity and coyness concerning their plans for these two lots.

I want to strongly emphasize, that this effects everyone of us in this subdivision.

Here's why:

1) The number one problem is 4D Water is operating at near 100% capacity (per conversations with Art Garza, owner). It has become necessary for him to purchase additional acre-feet of water from the Edwards Aquifer, even at the present time.

His signs are a testament, since we are already at Stage Two.

What I'm trying to say is, 4D Water Co will be forced to buy additional acre-feet of water, and our rates will go up, and we will see significantly higher water bills, as a result. Higher water usage consequently results in higher cost-per-gallon of water used. Also, fire protection becomes an issue.

It is also questionable whether 4-D Water can legally supply water to these properties, since there are no connections, and will Texas PUC allow it?

Alternatively, I enquired with NBU, which has a water line connection near Bretsky Lane, and they would not hesitate to charge us roughly \$1.3 Million to bring a water line up here (which is not an option in my opinion).

2) If you think the traffic congestion on Oak Knot Drive is bad now, wait till these 2 properties turn **C1** commercial.

It is doubtful that the County Road Engineers will allow additional driveways directly from these frontage properties to FM306, because of highway congestion being what it is, and, of course, safety concerns for those of us who traverse Oak Knot Drive, and are attempting to access FM306, which is *all* of us.

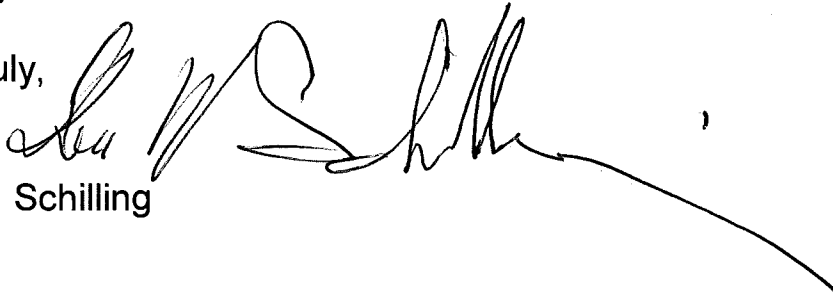
We would then be faced not only with the usual FM306 problem, plus NOW we will be dealing with the cross-traffic exiting and entering the two frontage properties, and crossing Oak Knot Drive. Another exasperation we don't need.

The original intent of the sellers (co-owners) was to preserve these two parcels as "green-space". However, the parcels are currently zoned R1. Now that most of the original owners no longer live in Oak Grove Estates, this intent has now been completely turned into a facade.

Not satisfied with the existing **R1** zone, they not only have completely contradicted the original intent, but since they are no longer here or don't plan to stick around, the rest of us are being sabotaged by this egregious **C1 zone** situation!

I hope you take this seriously, because the future of Oak Grove Estates is really in your hands.

Yours truly,

A handwritten signature in black ink, appearing to read 'Dean W. Schilling', with a long horizontal flourish extending to the right.

Dean W. Schilling

DEAN W SCHILLING

1531 Flaming Oak Drive

(3)

New Braunfels, Texas 78132-4173

TEL (830) 832-9893 E-Mail: trumppetter@gmail.com

3OCT18

My wife & I have lived in Oak Grove Estates for over 16 years.

Oak Grove Estates was initiated and platted as a Residential Subdivision by BRM Land & Cattle Company in 1979, and every lot was subject to residential building restrictions imposed by said company.

In fact, in 1985 the present 2 land parcels of interest at this meeting, Unit 2, Lot 1A, Block 1 & 2 were previously comprised of 15 residential lots, with building restrictions.

In 1988, without any notice to the residents of Oak Grove Estates, these 15 lots in Unit Two were replatted Zone R1, to just the **two** lots, of present interest.

In contempt for the rest of us Oak Grove Estates residents, these same property co-owners in Unit Two, removed **all** building restrictions by censoring them from the original deed recording. The lot owners did this on their own volition, essentially opting out of Oak Grove Estates, and subversively removing the established covenants in cavalier fashion, whereas these same covenants are tantamount and binding for all other Oak Grove Estates residents in this subdivision.

Soon after (in 1988), a Commercial Zoning request was made at that time, and it was soundly defeated at a full-house zone meeting, by a heroic effort on the part of the rest of the Oak Grove Estate residents. These residents in Units 1,3 & 4 had no other options, since they are still totally obligated to this day, to follow all the recorded deed restrictions, as originally enacted and amended.

However, the worst is yet to come. During the past 30 years, resident empathy led to a presumption that the Unit Two co-owners were keeping the property for

green-space reasons, for all residents to enjoy. Some even felt it was their duty to help maintain the property perimeters by mowing and doing repairs.

The Co-Owners said NOTHING!

As an example, eleven years ago (2007) we were attempting to unify the architectural committee standards for all units in the subdivision. In support of this effort, one resident wrote a letter to all those residing in this subdivision, which I would like to quote in part:

“The biggest thing that helped our neighborhood, in my opinion, was when 11 of our neighbors purchased the green space in front of our neighborhood to prevent it from being commercially developed. Some of those neighbors don’t even back up to FM306, so they don’t get a direct benefit of the green-space, but they still stepped up for the benefit of our neighborhood. They continue to pay taxes on the land to this day. I love having neighbors that selflessly work for the benefit of others.” (unquote)

Needless to say, how naive we were to fall for this debacle. Especially irritating was the coyness of the co-owners, with **no** refute on their part, to respond to the above quote, which they knew was totally false.

They simply kept their real intentions under wraps, and let the residents swallow this green-space story “hook, line & sinker”. Lets just say we were all “snookered”.

The fact of the matter is, commingling a residential subdivision with a commercial endeavor this close in proximity, is totally incompatible. These shallow thin lots present a myriad of design problems, given all the setback lines, wall easements, right-of-way widths, and engineering of the various utility easements for water, cable, electric, telephone, etc.

An even larger problem is run-off from these lots once they are hard-surfaced, producing water flows projecting from FM306 to directly at our homes behind these frontage lots. Water will collect at even more dangerous levels at the intersection of Oak Knot Drive and Flaming Oak Drive. These increased flows will worsen considerably as the lot elevations continue to decrease, especially for the 3.5 acre parcel. The folks near this southerly end will have water inside their homes! We have seen this before, in 2002.

A significant problem with this C Zoning is potable water capacity of our rather small neighborhood water system, 4-D, which is at or near 100% capacity. It is also subject to the Edwards Aquifer jurisdiction and New Braunfels Water Distribution Connection Codes.

Commercial zoning requiring extra water volumes and fire hydrant protection, will put the rest of us residents at increasing jeopardy, especially if Edwards Aquifer decides that 4-D Company has reached its limit on purchasing additional acre-feet of water. Purchasing ancillary water from Edwards Aquifer is now routine for 4-D, especially at the present Stage Two, which is happening at this very moment!

So you may ask, how far into the future will Edwards Aquifer allow 4-D Water Company to do this, especially during drought times, given the increasing population explosion in Comal County?

The second problem is traffic congestion. Oak Grove Estates contains about 100 homes, and 180 residents, including the spouses & children. Essentially, it is a large residential Cul-de-Sac to FM306, having only **one** Inlet/Outlet route, that is Oak Knot Drive.

TexDoT will not install a traffic signal on FM306 for Oak Grove Estates, since this requires a minimum of 400 homes. FM306 congestion has increased significantly, and accessing this artery is dangerous, as it is.

This subdivision has many school buses, ambulances, and other emergency vehicles that must have clear access. Since the Unit Two properties will likely also use the central Oak Knot Drive Road, this will create further frustration for drivers that must make two stops when leaving the subdivision. When entering the subdivision, more attention is required when turning to the right, off of FM306, which has **no** right-hand turn lane. Rear-end collisions do occur, when entering Oak Grove Subdivision.

Thirdly, we will lose our precious natural habitat. The oak trees act as a sound-barrier, which definitely helps of course, given the increasing traffic noise on FM306.

Those of us behind these 2 lots will be looking at ominous walls, instead of enjoying the wildlife. I have never seen a rattlesnake here, but I have seen Indigo snakes (an endangered species) which prey on rattlesnakes.

Walls will only promote more crime, and dumpster clanging.

The most egregious problem here is the refusal of the co-owners to enter into any kind of discussion where interested residents of Oak Grove Estates could explore possibilities as new resident co-owners, to carry on the "green-space tradition", which is so flagrantly violated by the present co-owners.

Several of us have tried, and failed.

They make no pretense about the Commercial Zoning goal they have in mind.

Many of the original co-owners have left Oak Grove Estates, and have no interest whatsoever except to maximize their return, in distinct contrast to their original promulgation.

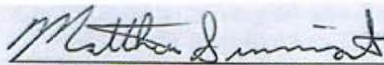
Co-owners of these 2 lots should be residents of Oak Grove Estates, and required to sell their share to the same buyer, should they decide to sell their house. This would eliminate disinterested 3rd parties, like what is happening now.

It is our hope that NB Planning and the NB City Council will vigorously deny this Commercial Zone application, permanently. The future of Oak Grove Estates is literally in your hands.

Yours truly,

Dean W. Schilling

Representing Oak Grove Estates Residents Against 'C' Zoning



Matthew Simmont, AICP
Planning Division

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-035 (Hall) (ms)

Name: Thomas Bunch

I favor: _____

Address: 1541 FLANNERY CIRCLE

Property number on map: 4

I object: X

(State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: 

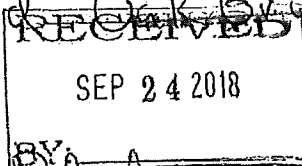
When they widened the 306 they added more hard surface runoff and did nothing to control it. There is not a storm drain system or a place for it to go but across our yards. The existing green belt buffer between the road and our property helps absorb and control this runoff. As a residential property there typically would be a large amount of landscaping to reduce the flow onto our property. Typically a commercial property adds a larger building or hard surface then a home, and a parking lot. This creates almost 100% surface flow and zero ground retention. This would eliminate a natural runoff buffer and increase the runoff. We have not flooded but there have been several inches of water flowing across our properties in heavy rain fall. There are no storm drains at the 306 and any retention pond would have to flow through our neighborhood. We can not handle added flow through our properties. Any rain fall would double the surface flow across our property with a paved lot up stream.

We have petitioned the county and state to create a safer entrance and exit into and out of our subdivision. The crest of the hill makes it hard to see oncoming cars from one direction and there is not enough room for a exit lane from the other side. We may get a flashing warning light. The reason this property was originally changed from several lots to just a few is because they did not want 15 drive ways on the 306. Well, 35 yrs later the 306 is a far more busy road. Adding commercial traffic competing to get on and off would make it impossible to get on the 306. There would be far more in and out traffic with several businesses then the coming and going of 2 or 3 residential lots platted.



Bringing the city development,
people, and cars closer to our
homes is not desirable. It
lowers our standard of living
in Oak Grove. In my view,
— OVER —

it will lower my property
value. In addition, the
rezoning will result in
more congestion at our
already awkward ~~Oak Grove~~
entrance.



BY: Billy Bloch

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-035 (Hall) (ms)

Name: Billy and Bobbie Bloch

Address: 1611/1625 Flaming Oak

Property number on map: 8

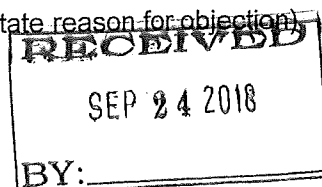
I favor: _____

I object: ✓

(State reason for objection)

Comments: (Use additional sheets if necessary)

We object - see note



Signature: Billy Bloch Bhb

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-035 (Hall) (ms)

Name: Christina Partridge

Address: 2795 FM 306

Property number on map: 14

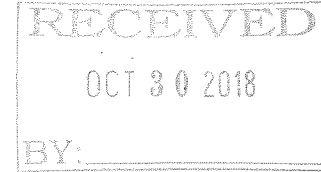
Comments: (Use additional sheets if necessary)

Signature: Christina Partridge

I favor: _____

I object: ✓

(State reason for objection)



Dear Council Members:

My name is Christina Engelhardt Partridge and I own property on FM 306 and am the Trustee for Lot #14.

I am a Daughter of the Republic of Texas, a seventh-generation Texian, with the last six of those seven generations running livestock off of FM 306.

Inspired by the stories of pioneer life on the rangelands of New Braunfels told to me by my grandmother Beulah Karbach Engelhardt, I went to Texas A&M to study Range. While there, I earned undergrad and graduate degrees in Range Science and Rangeland Ecology and Management. I received several "Most Outstanding Range Science Student" awards, as well as certification in the Artificial Insemination of livestock.

I did my graduate research project on brush management down in Alice, Texas, and I have toured and discussed rangeland management with Ranchers across the state of Texas, as well as with Ranchers in New Mexico, Colorado, Wyoming, and Montana.

I know rangeland and I know the land off of FM 306. My entire youth I spent summers and vacations there along FM 306 on the family land. At each visit, I helped my grandfather with his cattle. I walked miles of fence with my grandfather, helping him to repair gaps and leaning posts, and walked even more miles checking on cattle and rounding them up over the dry rocky land by FM 306. As we worked under the hot Texas sun, he would tell me about cattle, about philosophy, about how to live a good life, how to be a lady, and the many family stories of the people that had walked that land before me. When the chores with my grandfather were done, I had free time to help my grandmother with her chores: the chickens, and the garden, and the kitchen, and sewing rag rugs at night in the firelight accompanied by stories of growing up out on the ranch. The hardships, the struggles, and the joys of the generations of family who knew that living there was the best thing in all the world were told to me by that flickering fire.

Every hot rock, tiny spiny cactus, and thin parched grass blade on that property are mine, are known, and are beloved. The stories of my ancestors working that land, being born there, raising their children there, and dying there are in my mind and fill my soul every time I walk across that land. My first child is named after my great-grandfather who was born on that very land, and who died on that very land. Not in a hospital, not in town, but on that land itself!

At some point, you must decide to draw the line in the sand and stand firm. Do we want Texas to become solid concrete and commercial concerns with small-lot housing in between? Do we want to be forced to import all of our range-fed meat from South America? Do we want all Texas meat to be raised in cramped feedlots or packed into indoor housing? And because the area along FM 306 is part of the recharge zone for the Edwards Aquifer, can we truly afford to cover it with impervious concrete and buildings?

We already have commercial areas. Stop expanding the commercial areas and forcing undeveloped land to become developed.

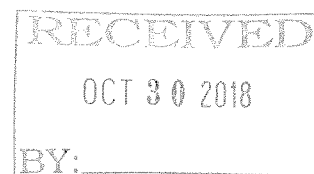
The water table is low enough as it is. Stop developing land. Stop covering rangeland with concrete and buildings.

I realize and fully understand that the property currently being discussed is a small piece without livestock. Small though it is, it helps the Edwards Aquifer. Small though it is, kept as rangeland it helps the entire area by being host to wildlife and making it clear to people driving by that this is a rural residential area, not a commercial zone. Small though it is, it deserves to be saved.

This is our line in the sand. Stand firm, and stand tall.

Yours sincerely,

Christina Partridge
Christina Engelhardt Partridge



YOUR OPINION MATTERS - DETACH AND RETURN

500

Case: #PZ-18-035 (Hall) (ms)

Name: Dorothea Engelhardt Anitei

I favor: _____

Address: 2795 FM 386 New Braunfels, TX 78132

Property number on map: 15

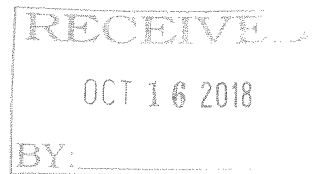
I object: ☒ (letter included)

(State reason for objection)

Comments: (Use additional sheets if necessary)

letter included

Signature: Dorothea T. E. Anitei



Dear Members of the City Council,

I attended the Planning Commission on Wednesday, October 3, 2018.

I heard the buyer's lawyer for the South Lot speak about the inevitability of my property being commercially developed. I was absolutely shocked. My immediate family owns 380 acres on FM 306. If one includes cousins, the extended family owns over 900 acres along the west side of FM 306 starting at Bretzke Lane.

Hearing the lawyer speak with ignorance about the way of life that our family holds dear to our understanding of being faithful Texans painfully reminded me how New Braunfels is repeatedly seduced to turn its back on its Ranching Heritage.

Mini-storage, strip malls, commercial property, and disregard for the ability to live the country life are not something that we will accept quietly.

My family and I live in the house that my great-great-grandfather built in 1870. My cousin lives next door in the house that our great-great-grandfather built in the 1850s. My seven children do not live a life much different from the way my grandmother described her childhood. My 9-year-old boy, just like his great-grandmother, can run barefoot across rocks and burrs, pull out a cactus thorn from his heel, and get to his cousins at a fast run in under 10 minutes. Our 91-year-old neighbor, Mr. Harold Voges, delights in telling my children how as newlyweds, he and his wife would come across the fields, sit on our home's front porch, and visit with Emma Karbach, my children's great-great-grandmother. Our family has been on this land for more than 150 years, and life still revolves around neighbors, family, and visiting.

Commercial property would take all of that away. Commercial business has no place around ranching neighborhoods. These businesses are not the dime stores of our youth that had grandma running the cash register and Uncle Frank sweeping the front steps. How can I as a mother allow my children to continue having the freedom to live country life, when indifferent businesses establish themselves next door?

Commercial properties today are impersonal, revolving doors for whichever employee they can keep for the month and for as many customers as will agree to step inside. I cannot imagine any parent even considering that it would be appropriate to allow commercial property in ranching country.

When I speak with all the new settlers in the area, each and every one of them tells me how they moved to FM 306 to enjoy the country life. They are on small lots, but they appreciate the few of us family ranchers that are left. They might have moved in next door by the score, but I do not know a single one that wants city life here! Why would we bring it to our very own back yard?

What will happen to society when we do away with the little sliver of "country life" that we still have left? When cities focus solely on commercial property projections to the detriment of communities, will anyone still run barefoot across fields to bring over the first tomatoes from the garden? How can New Braunfels turn its back on its Ranching Heritage? Do we submissively acquiesce to what a computer says is inevitable? Or rather, do we stand firm and unite against this impersonal wave that seeks to destroy what little there is left of country?

To hear lawyers speak about commercial properties and future projections while never mentioning the joy of neighbors across the fence, the beauty of kids running through fields for hours without care, and the security of knowing your neighbor just breaks my heart.

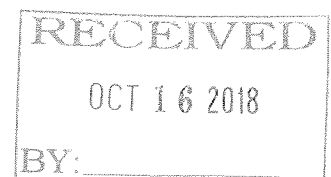
I strongly oppose the rezoning and ask the City Council to stand firmly for the values and ideals of old-fashioned country life in a ranching community.

With confidence that the City Council will vote prudently, I remain,

Yours sincerely,

Dorothea Engelhardt Anitei

2795 FM 306





December 2, 2018

Update from 4-D Water Co.:

- 4-D Water Co. has been working with TCEQ and Public Utility Commission to gather information for water service to Lot 1A, Block 1 Oak Grove Estates Subdivision Unit 2.
- 4-D has contacted TCEQ Region 13 and has submitted the form to conduct an engineering study of the water system for capacity verification.
- 4-D has sent a residential application for water service to the buyer.

Once the engineering study has been completed, 4-D will send the information to the parties involved.

Thank You,
Art Garza
4-D Water Co. LLC
830-214-5518
agarzajr2@sbcglobal.net

Matthew W. Simmont

From: Teri Taylor <teritaylor@aol.com>
Sent: Monday, December 3, 2018 1:37 PM
To: Matthew W. Simmont
Subject: Commercial Zoning on 306 at Oak Grove

Please understand, we have lived here for nearly 40 years. The single exit/entry to our Subdivision has already caused great distress, not to mention lowering of our property value in the eyes of potential buyers. This will destroy what we once had as a unique slice of neighborhood outside the city. Please do not allow this commercial zoning to pass.

Sincerely,
Teri Taylor
Oak Groves Estates

Matthew W. Simmont

From: Anne Marie Fontenot <annemarie94@gmail.com>
Sent: Monday, December 3, 2018 11:39 PM
To: Shane Hines; Matthew E. Hoyt; Barron Casteel; Justin Meadows; Wayne Peters; Matthew W. Simmont; Harry Bowers; Leah Garcia
Subject: Opposition to commercial zoning in Oak Grove Subdivision

I am writing to express my strong opposition to the proposed change in zoning at the entrance to Oak Grove Subdivision and to beg each of you to please stop this action from happening. I believe to allow commercial development on this property would be a danger to all residents in this community and also severely affect the quality of living for homeowners in this subdivision.

Please consider that ever since the widening of 306 it has become increasingly difficult to safely enter and exit the community due to increased traffic and being required to cross multiple lanes of traffic. Vehicle speeds often exceeding 65mph. There is no traffic light to assist nor are there any plans in place to add a stoplight at this location. Adding a business to this site would only serve to increase congestion and make traffic visibility issues worse. There would also be issues with inadequate city services to support commercial development at this location. Since it falls outside city boundaries there would be concerns including police patrol/protection and road maintenance. The community water well also cannot support this development. Most important of all, allowing this zoning change will devalue the properties in this community and change the way residents live. Many people will literally have this in their backyard. There will be increased crime, mischief, and noise. Never mind the general aesthetic. It will become a less desirable place to live. PLEASE PLEASE do not allow this to happen. I pray you see the benefits and justification for keeping these small tracts of land residential only.

Thank you,
Anne Fontenot

Market Analysis Report

Prepared By: Chad Brady

Listings as of 12/04/18 at 11:23 am

Property Type is 'Residential' Status is one of 'Active', 'Pending Take Backups', 'Pending w/Option', 'Under Contract' Status is 'Temp Off Market' Status Contractual Search Date is 12/04/2018 to 03/10/2016 Latitude, Longitude is around 29.76, -98.10
06/07/2018 Status is one of 'Withdrawn', 'Sold', 'Expired' Status Contractual Search Date is 12/04/2018 to 03/10/2016 Latitude, Longitude is around 29.76, -98.10

Residential

Sold Properties

| MLS # | Address | Subdivision | BR | FB | HB | WtrFmnt | SqFt | Yr Built | List Price | LP/SqFt | DOM | CDOM | Closed Dt | Sold Price | SP/SqFt | SP/LP% |
|-------------|------------------------|-------------------|----|----|----|---------|-------|----------|------------|----------|-----|------|------------|------------|----------|---------|
| 218792 | 1131 Flaming Oak Drive | Oak Grove Estates | 3 | 2 | 0 | No | 1,695 | 1996 | \$240,500 | \$141.89 | 31 | 44 | 03/30/2016 | \$246,500 | \$145.43 | 102.50% |
| 339693 | 1440 Flaming Oak | | 4 | 2 | 1 | No | 3,107 | 1982 | \$264,900 | \$85.26 | 24 | 24 | 03/30/2018 | \$260,000 | \$83.68 | 98.15% |
| 220192 | 1510 Flaming Oak Drive | Oak Grove Estates | 3 | 2 | 1 | No | 1,808 | 1985 | \$265,000 | \$146.57 | 44 | 44 | 05/27/2016 | \$265,000 | \$146.57 | 100.00% |
| 305635 | 954 Winding Oak Drive | | 3 | 2 | 1 | No | 1,632 | 1994 | \$270,000 | \$165.44 | 37 | 131 | 01/12/2017 | \$265,000 | \$162.38 | 98.15% |
| 309696 | 823 Winding Oak Drive | | 3 | 2 | 0 | No | 1,822 | 1994 | \$276,000 | \$151.48 | 35 | 35 | 04/18/2017 | \$281,098 | \$154.28 | 101.85% |
| 337890 | 1510 Flaming Oak | | 3 | 2 | 1 | No | 1,808 | 1985 | \$292,000 | \$161.50 | 65 | 65 | 05/01/2018 | \$285,000 | \$157.63 | 97.60% |
| 312386 | 150 Spring HOLW | | 3 | 2 | 0 | No | 2,031 | 1985 | \$297,000 | \$146.23 | 85 | 85 | 07/13/2017 | \$300,000 | \$147.71 | 101.01% |
| 318698 | 1791 Flaming Oak Drive | | 3 | 3 | 0 | No | 1,937 | 1985 | \$305,000 | \$157.46 | 22 | 22 | 08/14/2017 | \$300,000 | \$154.88 | 98.36% |
| 219522 | 1435 Flaming Oak Drive | Oak Grove Estates | 3 | 3 | 0 | No | 2,422 | 1990 | \$322,000 | \$132.95 | 195 | 195 | 10/03/2016 | \$308,000 | \$127.17 | 95.65% |
| 301302 | 1355 Flaming Oak | Oak Grove Estates | 4 | 2 | 0 | No | 2,263 | 1998 | \$320,000 | \$141.41 | 269 | 269 | 04/03/2017 | \$310,000 | \$136.99 | 96.88% |
| 330162 | 1991 Flaming Oak | | 5 | 3 | 0 | No | 2,244 | 1993 | \$337,000 | \$150.18 | 58 | 58 | 01/11/2018 | \$337,000 | \$150.18 | 100.00% |
| 332575 | 841 Winding Oak | | 3 | 2 | 1 | No | 2,348 | 1994 | \$389,000 | \$165.67 | 102 | 102 | 04/02/2018 | \$385,000 | \$163.97 | 98.97% |
| # LISTINGS: | 12 | Medians: | 3 | 2 | 0 | | 1,984 | | \$294,500 | \$148.37 | 51 | 62 | | \$292,500 | \$148.95 | 98.67% |
| | | Minimums: | 3 | 2 | 0 | | 1,632 | | \$240,500 | \$85.26 | 22 | 22 | | \$246,500 | \$83.68 | 95.65% |
| | | Maximums: | 5 | 3 | 1 | | 3,107 | | \$389,000 | \$165.67 | 269 | 269 | | \$385,000 | \$163.97 | 102.50% |
| | | Averages: | 3 | 2 | 0 | | 2,093 | | \$298,200 | \$145.50 | 81 | 90 | | \$295,217 | \$144.24 | 99.09% |

Quick Statistics (12 Listings Total)

| | List Price | Min | Max | Average | Median |
|--|------------|-----------|-----------|-----------|-----------|
| | \$240,500 | \$240,500 | \$389,000 | \$298,200 | \$294,500 |
| | Sold Price | \$246,500 | \$385,000 | \$295,217 | \$292,500 |

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This represents an estimated sale price for this property. It is not the same as the opinion of value in an appraisal developed by a licensed appraiser under the Uniform Standards of Professional Appraisal Practice

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

| | | |
|----------------------------------|--------------------------|---|
| Janine Bench | <i>Janine Bench</i> | 1541 |
| Tom Bench | <i>[Signature]</i> | 1541 |
| DEAN W. SCHILLING | <i>de W Schilling</i> | 1531 Flaming OAK (3) |
| BETTY A. SCHILLING | <i>Betty A Schilling</i> | 1531 Flaming Oak (3) |
| DAVID E. RIDLEY & DONA L. RIDLEY | | 1895 FLAMING OAK |
| <i>David E Ridley</i> | <i>Dona L Ridley</i> | |
| JOHN R. JANK | <i>John R Jank</i> | 1550 FLAMING OAKS N.S 78132 |
| Danny Speth | <i>[Signature]</i> | 852 Winding Oak |
| Sandra Bravo | <i>Sandra L Bravo</i> | 852 Winding Oak |
| Steve Abblinger, Steve Abblinger | | 201 Spring Hollow New Braunfels, TX 78132 |
| Joyce Abblinger | <i>Joyce Abblinger</i> | 201 Spring Hollow New Braunfels, TX 78132 |
| Arlene Alvarado | <i>Arlene Alvarado</i> | 893 Winding Oak WB. TX 78132 |

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

| Print | Sign | Address |
|-------------------|-------------------|----------------------|
| Ron Hixon | [Signature] | 1561 FLAMING OAK (5) |
| Jason Sanchez | [Signature] | 1671 FLAMING OAK |
| Katherine E. Pape | Catherine E. Pape | 1680 FLAMING OAK |
| Suzanne Francis | Lisa Francis | 1815 FLAMING OAK |
| Michael Francis | [Signature] | 1815 FLAMING OAK |
| Shannon Canada | [Signature] | 904 WINDING OAK DR. |
| Cody Canada | [Signature] | 904 WINDING OAK |
| Jeff Patten | Jeff Patten | 482 Spring Hollow |
| Rick Mielke | Rick Mielke | 381 SPRING HOLLOW |
| Susan Mielke | Susan Mielke | 381 Spring Hollow |

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

Glenn W Brichter

Glenn W Brichter

1530 Flaming Oak Dr.

Paul Luckemeyer

Paul Luckemeyer

1581 Flaming Oak

(6)

Sheri Luckemeyer

Sheri Luckemeyer

1581 Flaming Oak

(6)

James & Marlene Skidmore

James & Marlene Skidmore

1790 Flaming Oak

ED Barbosa

ED Barbosa

1845 FLAMING OAK DR.

Jim Hurst

1990 Flaming Oak Dr.

Phillip Howell

Phillip Howell

150 Spring Hollow

Rosario McGonaghy

Rosario McGonaghy

120 Spring Hollow

Robert Holburn

Robert Holburn

1015 Flaming Oak

Carissa Kester

Carissa Kester

1161 Flaming Oak

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

Jennifer Moczygemba

JM

190 Spring Hollow
NB 78132

Richard S. Baker

RSB

1245 FLAMING OAK

CYNDI BAKER

Cyndi Baker

1245 FLAMING OAK

Valeska Keller *V Keller* 1595 Dan *DK* (7)

Kevin McHugh *Kevin M/Hugh* 1595 Dan *DK* (7)

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

David Taylor David Taylor 1280 Flaming Oak Dr

Teri Taylor Teri Taylor 1280 Flaming Oak Dr,

William Jensen William Jensen 200 Spring Hollow

Laci-Leigh Jensen Laci-Leigh Jensen 260 Spring Hollow

Chad Brady Chad Brady 1435 Flaming oak Dr (10)

Amanda Brady Amanda Brady (10)

Angela Schaefer Angela Schaefer 1510 Flaming Oak Dr New Braunfels, TX 78132

Evan Schaefer Evan Schaefer 1510 Flaming Oak Dr. New Braunfels, TX 78132

RL Froebel RL Froebel 1036 Winding Oak Dr

Maggie Froebel Maggie Froebel 1036 Winding Oak Drive

RICHARD CALDWELL Richard Caldwell 1221 FLAMING, OAK NB, TX

KERRI CALDWELL Kerri W. Caldwell " " " " "

James E. Rhea James E. Rhea 1791 FLAMING Oak Dr

JAMES E. Rhea

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

| Print | Sign | Address |
|-----------------|------------------------|--|
| James Karas | <i>James Karas</i> | 1355 Flaming Oak Dr. |
| Christine Karas | <i>Christine Karas</i> | 1355 Flaming Oak Dr. |
| Michael Karas | <i>Michael Karas</i> | 1355 Flaming Oak Dr. |
| Eric Jean | <i>Eric Jean</i> | 1331 Flaming Oak Dr. |
| Clinton Shands | | 1741 Flaming Oak |
| May Ann Shands | | 1741 Flaming Oak |
| Lisa Taylor | <i>Lisa Taylor</i> | 823 Winding Oak Dr. |
| Chuck Taylor | <i>Chuck Taylor</i> | 823 Winding Oak Dr. |
| Kyla DuBose | <i>Kyla DuBose</i> | 1131 Flaming Oak |
| Carolyn Hunter | <i>Carolyn Hunter</i> | 1691 Flaming Oak |
| Dennis L Hunter | <i>Dennis L Hunter</i> | 1691 Flaming Oak |
| LEE Roy Eichler | <i>Lee Roy Eichler</i> | 865 WINDING OAK DRIVE NEW BRAUNFELS, TX 78132 |
| Shannon Eichler | <i>Shannon Eichler</i> | 865 Winding Oak Drive New Braunfels TX 78132 |

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

Charles Lotz *Charles Lotz* 306 Spring Hollow

Jennifer Lotz *Jennifer Lotz* 306 Spring Hollow

MATTHEW W. LOTZ *Matthew W. Lotz* 306 Spring Hollow, 78132

MARISSA MUNOZ *Marijuana Munoz* 1111 Flaming Oak

Richard Munoz *Richard Munoz* 1111 Flaming Oak

Tyler Munoz *Tyler Munoz* 1111 Flaming Oak

Tiffany A Cawthra *Tiffany A Cawthra* 1934 F.O.

JERRY V. CAWTHRA *Jerry V. Cawthra* 1934 F.O.

Rebecca S Cawthra *Rebecca S Cawthra* 1934 F.O.

Dorothy S. Dietert *Dorothy S. Dietert* 1301 Flaming Oak Drive
New Braunfels, TX 78132

Gary R Dietert *Gary R Dietert* 1301 Flaming Oak Drive
New Braunfels Tex 78132

Kathleen Kendall *Kathleen Kendall* 240 Spring Hollow

William Kendall *William Kendall* 240 Spring Hollow

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

| Print | Sign | Address |
|----------------------|------------------|---------------------------------------|
| Rick DeLong | Rick DeLong | 220 Spring Hollow, 78132 |
| Ana Avila/Alex Avila | Ana Avila | 1660 Flaming Oak Dr. |
| Garrick Herbert | [Signature] | 886 Winding Oak Dr. |
| Jana Herbert | [Signature] | 886 Winding Oak Dr. |
| Malinda DeLong | Malinda DeLong | 220 Spring Hollow 78132 |
| JERRY GERTH | Jerry Gert | 1381 Fleming Oak Dr. |
| Nancy GERTH | Nancy Gert | 1381 Fleming Oak Dr. |
| Sandy PARKS | Sandy Parks | 918 Winding Oak |
| George PARKS | George Parks | " |
| Trent S. Uehling | Trent S. Uehling | 443 Spring Hollow |
| Barbara Uehling | Barbara Uehling | 443 Spring Hollow |
| Floyd W. Ball | [Signature] | 1236 Flaming Oak New Brunswick, TX |
| Ruthanna Ball | Ruthanna Ball | " " |

Notice of Protest Petition

Regarding Oak Grove Estates

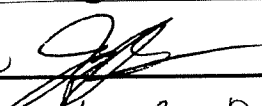

Unit Two, Lot 1A, Blocks 1 & 2

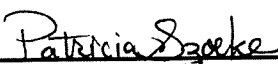
We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

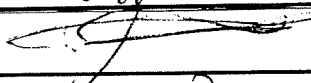
Address

Johnny Baxter  511 Spring Hollow, NB
Gaula Baxter  511 Spring Hollow, NB

PATRICIA SZOEKE  1595 Flaming Oak Dr., New Braunfels, TX

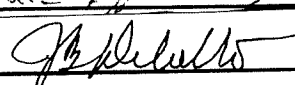
Kathryn Stelmarsik  579 Spring Hollow

Rob Keller  Rik Keller 1680 Flaming Oak Dr

Julian Rodriguez  276 Spring Hollow NB TX 78132

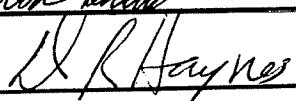
Nina Rodriguez  276 Spring Hollow NB TX 78132

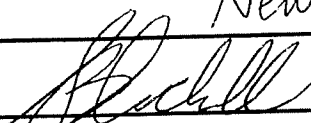
Benjamin Alex Rodriguez  276 Spring Hollow NB TX 78132

JAIME DIBELLO  1340 Flaming Oak, NB, TX

Dale Dibello  1340 Flaming Oak NB TX 78132

Robert Dibello  1340 Flaming Oak NB TX ~~78132~~ 78132

Daniel R. Haynes  841 Winding Oak
New Braunfels TX 78132

Stephanie Blackwell  841 WINDING OAK
New Braunfels 78132

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

| | | |
|-------------------|-------------------|---------------------------|
| Elizabeth M Owen | Elizabeth M Owen | 1260 Flaming Oak |
| Richard W. Owen | [Signature] | 1260 Flaming Oak |
| Robert O Owen | Robert O Owen | 1260 Flaming Oak |
| Hilda E Owen | Hilda E Owen | " " " |
| Robert MICHALSKI | Robert Michalski | 1320 FLAMING OAK |
| DARLENE MICHALSKI | Darlene Michalski | 1320 FLAMING OAK |
| Larry New | [Signature] | 1730 Flaming Oak |
| Paula New | [Signature] | 1730 Flaming Oak |
| Kevin P Seidel | Kevin Seidel | 1966 Flaming Oak |
| Cynthia Seidel | [Signature] | " " |
| Marissa Anderson | Marissa Anderson | 930 Winding Oak Dr. 78132 |
| DAN ANDERSON | [Signature] | 930 WINDING OAK DR 78132 |
| JULIA S. KANE | Julia Kane | 1906 FLAMING OAK |
| Peter G Kane | Peter Kane | 1906 Flaming Oak |

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

Print

Sign

Address

ROSALINDA WARD

Rosalinda Ward.

522 Spring Hollow NB

YASMIN CARILLO

yc

522 Spring Hollow NB

Isaac Barrón

Isaac Barrón

522 Spring Hollow NB

Gerardo Barrón

JB

522 Spring Hollow NB

Ralph D Brock

R D Brock

1820 Flamingo Oak NB, 78132

Marcia G Brock

Marcia G Brock

1820 Flamingo Oak NB, 78132

MARGUERITE HERTH

Marguerite

824 WINDING OAK DR NB

Joyce Hellstem

Joyce Hellstem

323 Spring Hollow

Robert Nowicki

Robert Nowicki

323 Spring Hollow

Linda Rhoe

Linda Rhoe

Linda Rhoe

DAVID BRANDT

1715 Flamingo Oak Dr.

Lauren Brandt

1715 Flamingo Oak Dr.

Diane Baكية

Diane Baكية

1005 Flamingo Oak

Notice of Protest Petition

Regarding Oak Grove Estates

Unit Two, Lot 1A, Blocks 1 & 2

We, the residents of Oak Grove Estates, sign in protest with our signatures below, any attempts by any current or future owners, to change the zoning on the above described properties, from the current R1, to C1:

| Print | Sign | Address |
|--------------------|---------------------------|---------------------|
| Scott Fischer | <i>Scott Fischer</i> | 328 Spring Hollow |
| Bette Jo Curtin | <i>Bette Jo Curtin</i> | 309 Spring Hollow |
| Connie Tuten | <i>Connie Tuten</i> | 309 Spring Hollow |
| Jessica Trussell | <i>Jessica Trussell</i> | 1645 Flaming Oak |
| Lisa McDonald | <i>Lisa McDonald</i> | 1868 Flaming Oak |
| Sierra Santellana | <i>Sierra Santellana</i> | 954 Winding Oak Dr. |
| Orlando Santellana | <i>Orlando Santellana</i> | 954 Winding Oak Dr. |
| Robinson, Evan | <i>Evan Robinson</i> | 1030 Flaming Oak |
| Robinson, Crystal | <i>Crystal Robinson</i> | 1030 Flaming Oak |



Subject Property from Oak Knot Dr.



Subject Property from FM 306

3.3-1 "R-1" single-family district. The following regulations shall apply in all "R-1" 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
- 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)
- 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

(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) 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. 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 set back at least 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.* Interior lots 60 feet. Corner lots 70 feet. 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 provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, 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 per single-family residence 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. See Section 5.1 for other permitted uses' parking.

(2) 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.

3.4-12. "C-1A" neighborhood business district.

Purpose. This district is established to provide office, business and professional services, and light retail and commercial uses to serve adjacent neighborhoods. The uses found in the neighborhood business district are generally clustered at major intersections of collector streets near the perimeters of residential neighborhoods. No major shopping or office centers are included in this district. No use that is noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas shall be included in this district. The following regulations shall apply in all "C-1A" 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)
- Amusement devices/arcade (four or more devices)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Auto leasing
- Auto supply store for new and factory rebuilt parts
- Auto tire repair /sales (indoor)
- Bakery (retail)
- Bank, savings and loan, or credit union
- Bars and taverns (no outdoor music)
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Battery charging station
- Bicycle sales and/or repair
- Bingo facility
- Book binding
- Book store
- Cafeteria / café / delicatessen
- Campers' supplies
- Caterer
- Cemetery and/or mausoleum
- Check cashing service
- Child day care/children's nursery (business)
- Church/place of religious assembly
- Cleaning, pressing and dyeing (non-explosive fluids used)
- Clinic (dental)

Clinic (emergency care)
 Clinic (medical)
 Coffee shop
 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 without fuel sales
 Credit agency
 Curio shops
 Custom work shops
 Department store
 Drapery shop / blind shop
 Drug sales/pharmacy
 Electrical repair shop
 Electrical substation
 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)
 Florist
 Food or grocery store without fuel sales (50,000 sq. ft. or less)
 Frozen food storage for individual or family use
 Garden shops and greenhouses
 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
 Hospital, rehabilitation
 Kiosk (providing a retail service)
 Laundromat and laundry pickup stations
 Laundry/dry cleaning (drop off/pick up)
 Laundry/washateria (self serve)
 Lawnmower sales and/or repair
 Locksmith
 Martial arts school
 Museum
 Needlework shop
 Nursing/convalescent home/sanitarium
 Offices, brokerage services
 Offices, business or professional
 Offices, computer programming and data processing
 Offices, consulting
 Offices, engineering, architecture, surveying or similar
 Offices, health services
 Offices, insurance agency
 Offices, legal services - including court reporting
 Offices, medical offices
 Offices, real estate
 Offices, security/commodity brokers, dealers, exchanges and financial services
 Park and/or playground (private or public)
 Parking lots (for passenger car only) (not as incidental to the main use)

Parking structure / public garage
 Pawn shop
 Pet shop / supplies (10,000 sq. ft. or less)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Plant nursery
 Plant nursery (retail sales / outdoor storage)
 Public recreation/services building for public park/playground areas
 Quick lube/oil change/minor inspection
 Radio/television shop, electronics, computer repair
 Recreation buildings (private or public)
 Recycling kiosk
 Refreshment/beverage stand
 Restaurant
 Restaurant/prepared food sales with drive throughs
 Retail store and shopping center with drive through service (50,000 sq. ft. bldg. or less)
 Retirement home / home for the aged
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company
 Security systems installation company
 Shoe repair shops
 Shopping center
 Specialty shops in support of project guests and tourists
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
 Tailor shop
 Telemarketing agency
 Telephone exchange buildings (office only)
 Theater (non-motion picture; live drama)
 Tool rental
 Travel agency
 University or college (public or private)
 Vacuum cleaner sales and repair
 Veterinary hospital (no outside animal runs or kennels)
 Video rental / sales
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
 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.* 35 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) *Residential/nonresidential 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 setback.* 20 feet.
- (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) *Width of lot.* 60 feet.
- (8) *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.
- (9) *Lot depth.* 100 feet.
- (10) *Parking.* See Section 5.1 for permitted uses' parking.
- (11) *Size.* Any building on a lot shall be 50,000 square feet or less in size.

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.

3.4-17. "C-O" Commercial office district.

Purpose. The commercial office district is established to create a mixed use district of professional offices and residential use. The regulations set forth in this article are intended to encourage adaptive reuse of buildings or new office developments of the highest character in areas that are compatible and sensitive to the surroundings and ensure historic integrity. Such uses should not generate excess additional traffic or access problems.

(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)
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Dormitory (in which individual rooms are for rental)
- Duplex / two-family / duplex condominiums
- Hospice
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)
- Townhouse (attached)
- Zero lot line / patio homes

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Answering and message services
- Antique shop (household items)
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Bakery (retail)
- Bank, savings and loan, or credit union
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Book store
- Cemetery and/or mausoleum
- Check cashing service
- Church/place of religious assembly
- Clinic (dental)
- Clinic (emergency care)
- Clinic (medical)
- Coffee shop
- Community building (associated with residential uses)
- Confectionery store (retail)

Contractor's temporary on-site construction office (only with permit from building official)
 Credit agency
 Electrical substation
 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)
 Garden shops and greenhouses
 Golf course (public or private)
 Governmental building or use
 Kiosk (providing a retail service)
 Laundry/dry cleaning (drop off/pick up)
 Locksmith
 Needlework shop
 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)
 Photographic printing/duplicating/copy shop or printing shop
 Photographic studio (no sale of cameras or supplies)
 Photographic supply
 Public recreation/services building for public park/playground areas
 Recreation buildings (public)
 Research lab (non-hazardous)
 Retirement home/home for the aged - public
 School, K-12 (public or private)
 School, vocational (business/commercial trade)
 Security monitoring company (no outside storage or installation)
 Shoe repair shops
 Telemarketing agency
 Telephone exchange buildings (office only)
 Tennis court (commercial)
 Travel agency
 University or college (public or private)
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

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.* 35 feet.

(ii) *Front building setback.* 15 feet.

(iii) *Side building setback.* A side building setback of not less than five feet shall be provided for a single story building or structure in which there are no openings to the side yard. A minimum 10 foot side building setback shall be provided for a single story building or structure with openings to the side yard.

(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.* 60 feet.

(vii) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street except when abutting any residential district where the side building setback shall then become a minimum of 25-feet.

(viii) *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)

(ix) *Parking.* See Sec. 5.1 for permitted uses' parking.

(2) 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 lines of the corner lots coincide with the side lot lines of the adjacent lots.

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

(v) *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.

(vi) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, 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 not located over the recharge zone and one acre located over the recharge zone.

(vii) *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.* 35 feet.

(ii) *Front yards.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than 5 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.

(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 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) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Section 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.* 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) *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) *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.

(viii) *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.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *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.

(xii) *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; and a minimum of 20 feet between structures backing rear to rear. (See Illustration 2)

(xiii) *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.

(5) 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 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.

(6) Zero lot line / patio homes.

(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.* There shall be no side building setback required on one side of the lot and a minimum of 10 feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot.

(iv) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of 10 feet. If entry to a garage/carport is provided on the exterior side, a minimum yard of 20 feet shall be provided to the garage/carport.

(v) *Rear building setback.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of 10 feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* 40 feet.

(vii) *Lot area.* 4,000 square feet.

(viii) *Lot depth.* 100 feet.

(ix) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(x) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district)

(xi) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(xii) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(xiii) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See Section 5.1 for other permitted uses' parking.

(c) *Parking and off-street loading requirements.* The parking requirements for the permitted uses described herein are outlined in Section 5.1. In the case of mixed uses, i.e., residential and commercial, the parking requirements shall be additive.

Draft Minutes for the December 4, 2018 Planning Commission Regular Meeting

PZ-18-035 Recommendation to City Council regarding the proposed rezoning of approximately 2.53 acres consisting of Lot 1A, Block 1, Oak Grove Estates Subdivision Unit 2

(Applicant: Steve Hall; Case Manager: M. Simmont)

Commissioner Gibson recused himself at 6:33 p.m.

Mr. Simmont presented the Staff report and stated Staff acknowledges the property as it is configured is better suited for non-residential development but believes C-1A may be more appropriate due to the characteristics of the subject property and the proximity of the residential subdivision. He explained C-1A zoning better meets Strategies/Actions of the Comprehensive Plan whereas C-1B is more appropriate at intersections of two arterials or higher.

Mr. Simmont indicated the percentage in objection exceeded 20%, therefore a super-majority was required for approval at City Council.

Chair Edwards stated the item was not a public hearing, but that the public hearing would be opened for a representative to speak on behalf of the adjacent property owners. He explained the item had been held as a public hearing at the October 3, 2018 regular meeting, therefore he requested the information provided be updates to the issues presented at the previous public hearing.

Vice Chair Reaves and Commissioner Meyer expressed agreement.

Chair Edwards opened the public hearing and invited the applicant to speak.

Steve Hall, 1407 Addison Road, stated he was the applicant. He provided the reasoning for the proposed zone change and explained he had agreed to deed restrictions regarding the permitted uses on the property. He described potential uses for the property and stated he had received information showing water availability. He stated he had corresponded with the Fire Department to verify there was adequate water pressure for fire hydrants.

Vice Chair Reaves expressed concern that official verification had not been received regarding water availability. He expressed disappointment that the applicant had not met with the adjacent property owners, as suggested by the Commission at the October meeting. He suggested the C-O zoning district may be better suited for the subject property.

Commissioner Meyer requested clarification regarding the proposed use of the property.

Mr. Hall stated he was unsure, citing the development was contingent on the water availability.

Discussion followed regarding potential uses.

Commissioner Meyer expressed support for the C-O or C-1A districts instead of the requested C-1B district. He inquired about the deed restrictions.

Mr. Simmont clarified that the deed restrictions could not be evaluated with the proposed zone change consideration.

Discussion followed regarding the interactions with the adjacent property owners.

Mr. Hall stated he had no objections to Staff's recommendation of C-1A.

Commissioner Meyer asked if Mr. Hall had objections to the C-O zoning.

Chair Edwards provided Mr. Hall a copy of the C-O zoning ordinance and suggested Mr. Hall review the ordinance with Staff while the Commission proceeded with the public hearing.

Thor Thornhill, 410 N. Seguin Avenue, stated he was the representative for the southern property that had withdrawn their previously requested zone change. He provided the history of the subject property and described his correspondence with adjacent property owners. He provided a recommendation that the subject area should be amended in the Future Land Use Plan to residential to preserve the established neighborhood.

Discussion followed regarding an update on the southern property.

Joyce Hellstern, 323 Spring Hollow, stated she was representing the newly formed homeowners' association for the subdivision. She stated the homeowners' association was interested in purchasing the lot and have formed a non-profit and were raising funds to purchase. She provided an update regarding her correspondence with Mr. Hall and stated her belief that Mr. Hall had not been interested in continued correspondence. She stated the best use for the subject property was residential. She explained that the water company had not provided final verification regarding water availability. She expressed the homeowners' associations concerns regarding the development of the vacant lot to a non-residential use, and stated they were in opposition to the request for a zone change.

Chair Edwards left the dais at 7:02 p.m.

Vice Chair Reaves served as Acting Chair in the absence of the Chair.

Vice Chair Reaves invited the applicant back to speak.

Mr. Hall stated he did not oppose the zone change to C-O. He described the correspondence with the homeowners' association.

Commissioner Meyer inquired if utilities were required at the time of platting.

Mr. Simmont clarified it was required at the time of permitting.

Discussion followed.

Commissioner Meyer inquired if Staff recommended C-O instead of the previously recommended C-1A.

Discussion followed regarding time to review C-O for Staff recommendation prior to the City Council meeting.

Commissioner Sonier stated the property may have a septic system, not public wastewater.

Discussion followed regarding utilities.

Commissioner Sonier inquired if the subject property was located in the Fire Department's service area.

Mr. Looney responded Staff would need to verify, but that the Fire Department responds to calls outside the service area.

Vice Chair Reaves clarified the options for consideration.

Discussion followed.

Motion by Commissioner Meyer, seconded by Commissioner Nolte, to recommend approval to City Council regarding the proposed rezoning of approximately 2.53 acres consisting of Lot 1A, Block 1, Oak Grove Estates Subdivision Unit 2 from "R-1" Single-Family District to "C-O" Commercial Office District. Motion carried, with Vice Chair Reaves and Commissioner Sonier in opposition and Commissioner Gibson abstaining (4-2-1).

Commissioner Gibson returned to the dais at 7:10 p.m.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 2.53 ACRES CONSISTING OF LOT 1A, BLOCK 1, OAK GROVE ESTATES, UNIT 2, LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF FM 306 AND OAK KNOT DRIVE, FROM “R-1” SINGLE-FAMILY DISTRICT TO “C-O” COMMERCIAL OFFICE 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 “C-O” Commercial Office 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 approximately 2.53 acres consisting of Lot 1A, Block 1, Oak Grove Estates, Unit 2, located on the northeast corner of the intersection of FM 306 and Oak Knot Drive, from “R-1” Single-Family District to “C-O” Commercial Office District; **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 “R-1” Single-Family District to “C-O” Commercial Office District:

“Lot 1A, Block 1, Oak Grove Estates, Unit 2, located on the northeast corner of the intersection of FM 306 and Oak Knot Drive, 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 14th day of January, 2019.

PASSED AND APPROVED: Second reading this 28th day of January, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

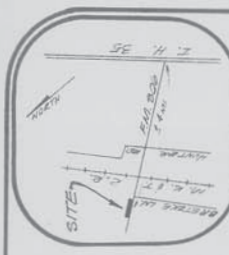
ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2018 cases\PZ-18-035 Hall\Ordinance.docx



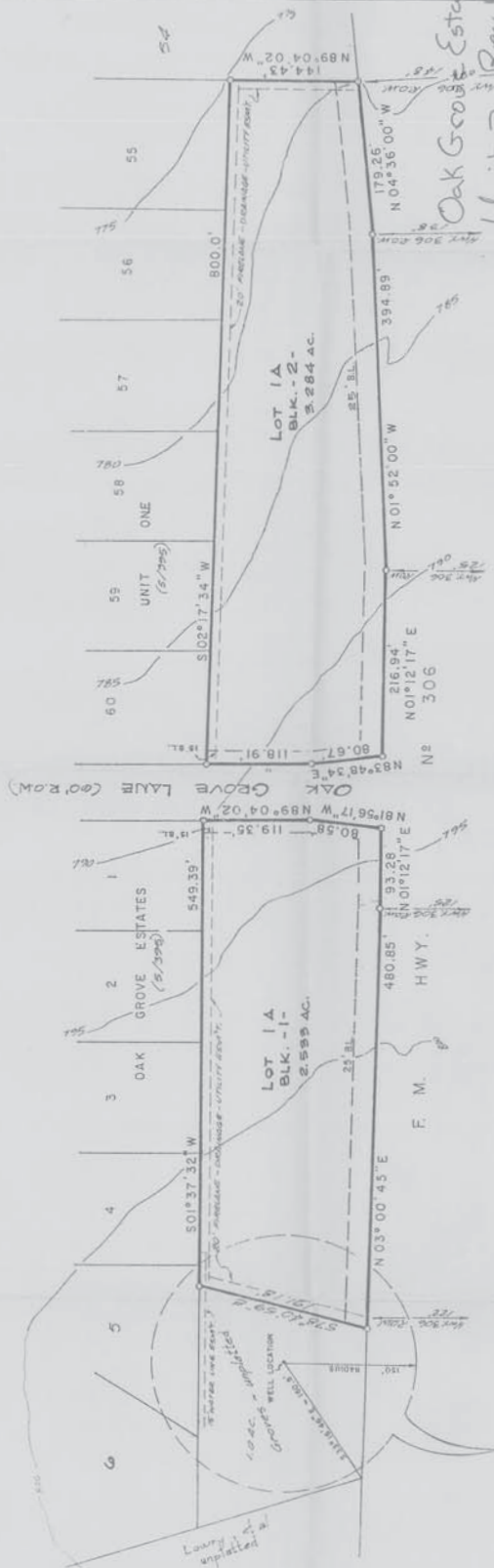
S. CRAIG HOLLMIG, INC.
engineers - surveyors
new braunfels, texas



- NOTES:
1. Plat prepared August 26, 1987.
 2. Iron pins set at all corners and angle points.
 3. Contour lines shown are approximate and were scaled.
 4. According to the FIRM Flood Insurance Rate Map, Community #45493, dated June 1st, 1986, this property does not lie in Zone A.
 5. B.L. = Building Setback Line
 6. There shall be a maximum of two (2) curb cuts onto F.M. 306 and one (1) curb cut onto Oak Grove Lane from the 2.533 acre parcel and a maximum of two (2) curb cuts onto F.M. 306 and one (1) curb cut onto Oak Grove Lane from the 3.284 acre parcel.

1" = 200'
1" = 100'

Vacating Plat of OAK GROVE ESTATES, UNIT TWO,
recorded in Volume 8, Page 172 of the Map and
Plat Records of Comal County, Texas.



File No.
319441

**RESUBDIVISION PLAT OF LOTS 1A, BLK.-1- & 1A, BLK.-2-
OAK GROVE ESTATES
UNIT TWO**

Being 5.817 acres of land and a Sanitary Control Easement out of the
Orilla Russell Survey No. 2 and also being known as Lots 1 through 6, Block
-1- and Lots 1 through 9, Block -2- of Oak Grove Estates, Unit Two, as
recorded in Volume 8, Page 172 of the Map and Plat Records of Comal County,
TEXAS.

NOTE: Within a 50' radius of the radius point, no tile or
concrete sanitary sewer or septic tanks, and no live-
stock shall be located with a 150' radius of the
radius point, no cesspool, open-jointed septic tank
drainfields, or any hazard that might cause pollution
to the water well shall be located.

STATE OF TEXAS
COUNTY OF COMAL
I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DERIVATED HEREIN,
AS THE RESUBDIVISION PLAT OF LOTS 1A, BLK.-1- & 1A, BLK.-2- OAK GROVE ESTATES
TO THE CITY OF NEW BRAUNFELS, COUNTY OF COMAL, TEXAS, AND WHOSE NAME IS SUBSCRIBED
HEREIN, DO HEREBY SUBDIVIDE SUCH PROPERTY AND DEDICATE TO THE USE OF THE PUBLIC
ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINAGE, EASEMENTS, AND PUBLIC PLACES
THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED THERE IS
ALSO DEDICATED FOR UTILITY PURPOSES, AN AERIAL EASEMENT FIVE FEET ON EACH SIDE
OF ALL EASEMENTS AND STREETS AND EXTENDED UPWARD AS REQUIRED

[Signature]
S. CRAIG HOLLMIG
REGISTERED PUBLIC SURVEYOR NO. 2389

STATE OF TEXAS
COUNTY OF COMAL
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 5th DAY OF
DECEMBER, 1987, BY *[Signature]* S. CRAIG HOLLMIG, AS THIRTY

[Signature]
COMMISSIONER EXPIRES 12-31-89



STATE OF TEXAS
COUNTY OF COMAL
I, THE UNDERSIGNED, CLERK OF THE COUNTY, A REGISTERED PUBLIC SURVEYOR IN THE STATE OF
TEXAS, HEREBY CERTIFY THAT THE PLAT AND THE INSTRUMENTS THEREON ARE CORRECTLY MADE AND PREPARED
FROM AN ACTUAL SURVEY OF THE PROPERTY MADE AND CORRECTLY MADE AND MADE ON THE GROUND
AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION
AND THAT THE PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE ACTUAL SURVEY
REGISTERED PUBLIC SURVEYOR NO. 2389



STATE OF TEXAS
COUNTY OF COMAL
I, THE UNDERSIGNED, CLERK OF THE COUNTY, DO HEREBY CERTIFY THAT
THE FOREGOING INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION, WAS
FILED FOR RECORD IN THE PUBLIC RECORDS OF THE COUNTY OF COMAL, TEXAS, ON
DECEMBER 5, 1987, AT 10:30 A.M. IN THE MAP AND PLAT RECORDS OF THE COUNTY OF COMAL,
VOLUME 8, PAGE 172.

[Signature]
CLERK OF COMAL COUNTY, TEXAS



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. K)

Presenter

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

SUBJECT:

Discuss and consider a waiver from the requirement to construct sidewalks along East Zipp Road for the proposed Zipp Compound Subdivision.

BACKGROUND / RATIONALE:

Case #: PL-18-116

Applicant: Terrance Powell
1439 E. Zipp Road
New Braunfels, TX 78130
(210) 326-7883

Owner: Guadalupe County (Mark Green, County Road Administrator)
2605 N. Guadalupe
Seguin, TX 78155
(830) 379-9721

Engineer: HMT Engineering & Surveying (Dorothy Taylor, RPLS)
410 N. Seguin Ave.
New Braunfels, TX 78130
(830) 221-4053

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

The subject property consists of 0.159 acres (142 feet by 50 feet) of street right-of-way located at the terminus of East Zipp Road in the ETJ in Guadalupe County. The three property owners at the terminus of East Zipp Road (represented as the Zipp Compound Association properties on page 2 of Attachment 1) approached the Guadalupe Commissioner's Court with a request to abandon the segment of East Zipp Road right-of-way (subject property) so the owners could develop the right-of-way as a gated private street (see Attachment 3). The applicant received County approval of the right-of-way abandonment request on May 1, 2018.

The applicant has requested a waiver from the sidewalk requirement adjacent to the proposed East Zipp Road private street section, citing the rural nature of the neighborhood and the absence of existing sidewalks on East Zipp Road, which is approximately 2 miles in length, beginning at FM 725

and ending at the subject property.

The City's Subdivision Platting Ordinance allows an exemption from the sidewalk requirement for Rural Residential Street Sections with 60 feet of right-of-way width if all lots have at least 100 feet of street frontage. East Zipp Road does not meet all of the criteria for an automatic exemption as the right-of-way width is approximately 50 feet and only 3 of the 4 parcels of land adjacent to the subject property have at least 100 feet of street frontage.

Sidewalk connectivity is important for mobility as well as for community health. Where not built by developers as part of new development, the sidewalk network is generally built property by property based upon current development regulations, so exempting individual projects weakens the effectiveness of this endeavor. However, there are no existing sidewalks in the subject neighborhood or surrounding neighborhoods. The nearest sidewalks are approximately 0.6 miles away, but are across Lake Dunlap and across State Highway 46 in the Caprock Subdivision (see Attachment 4). The nearest sidewalks on the west side of Lake Dunlap are almost 2 miles away in a new subdivision off of FM 725.

The Subdivision Platting Ordinance authorizes waivers to be granted when an undue hardship will result from strict compliance with the ordinance, or where the purpose of the regulation may be served to a greater extent by an alternative proposal, so that substantial justice may be done, and the public interest secured. A waiver may not be approved unless it is found that:

1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
2. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed in the Subdivision Platting Ordinance; and
3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance (s) of the City.

Sidewalk waivers may only be granted by City Council after a recommendation from the Planning Commission. If approved, sidewalk construction will not be required along the proposed private street section of East Zipp Road.

If the sidewalk waiver is denied, a 4-foot wide sidewalk will be required along the subject property, within the right-of-way of the proposed private street section.

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

| | |
|--|--|
| City Plan/Council Priority: Envision New Braunfels Comprehensive Plan | Located within the Dunlap Sub Area and near a Scenic River Corridor Action 7.5 <i>Continue development of sidewalks and trails to increase interconnectivity by 5 percent each year to support reduction of carbon footprint.</i> |
|--|--|

FISCAL IMPACT:

At some point in the future, sidewalks may have to be constructed, or other modifications made to the right-of-way, to comply with the Americans with Disabilities Act (ADA).

COMMITTEE RECOMMENDATION:

On December 4, 2018 the Planning Commission approved the final plat for Zipp Compound Subdivision with a recommendation for approval of a waiver from the sidewalk requirement.

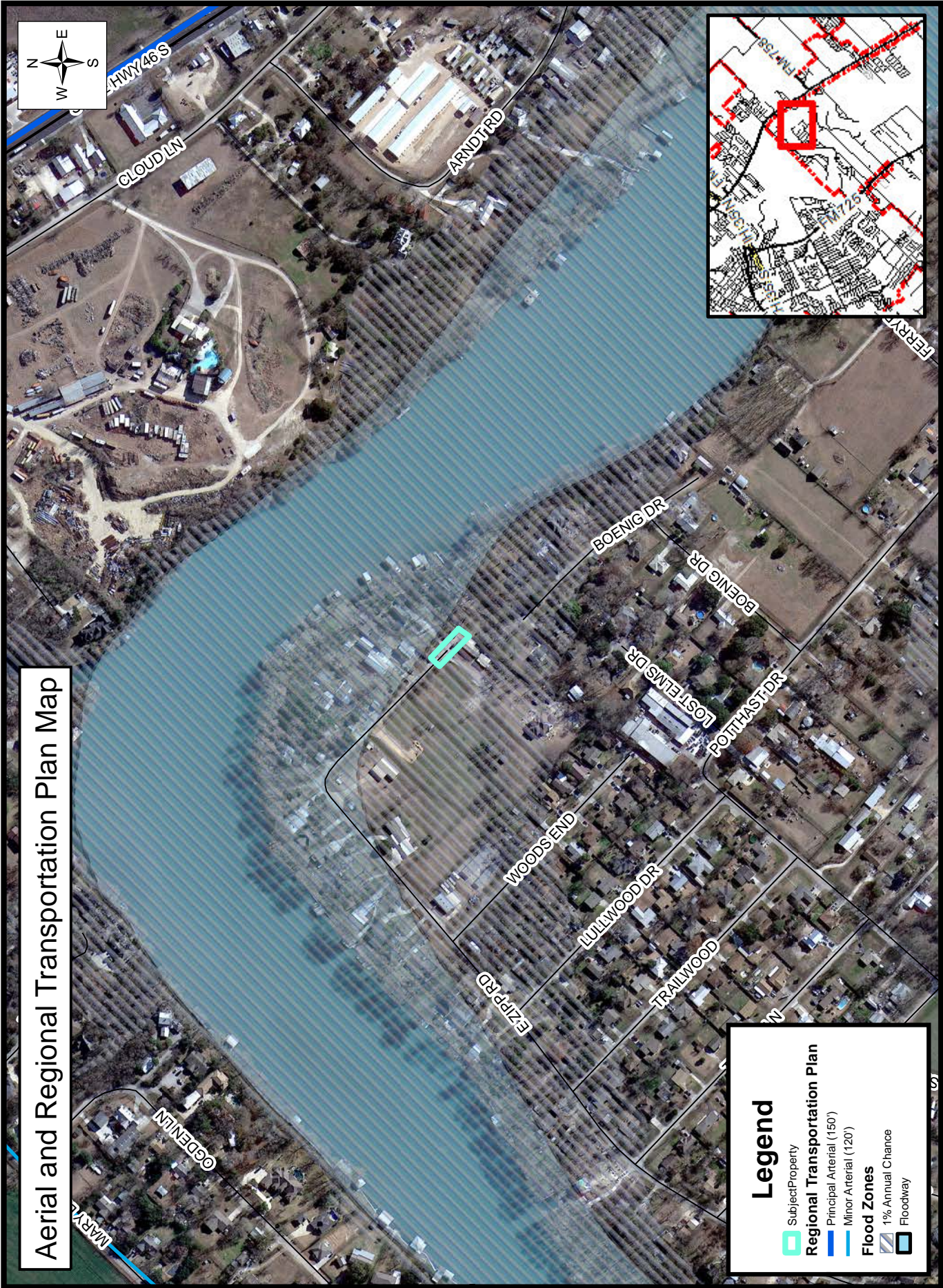
STAFF RECOMMENDATION:

Staff recommends approval of the applicant's request due to:

- The rural nature of the area with a development pattern designed to provide vehicular access to homes on the lake as opposed to pedestrian destinations;
- There are no existing sidewalks within the neighborhood or surrounding neighborhoods, with the nearest sidewalks being inaccessible by foot; and
- The private street section will only be providing access to 4 properties at the terminus of a street with no other pedestrian connections present or planned.

Attachments:

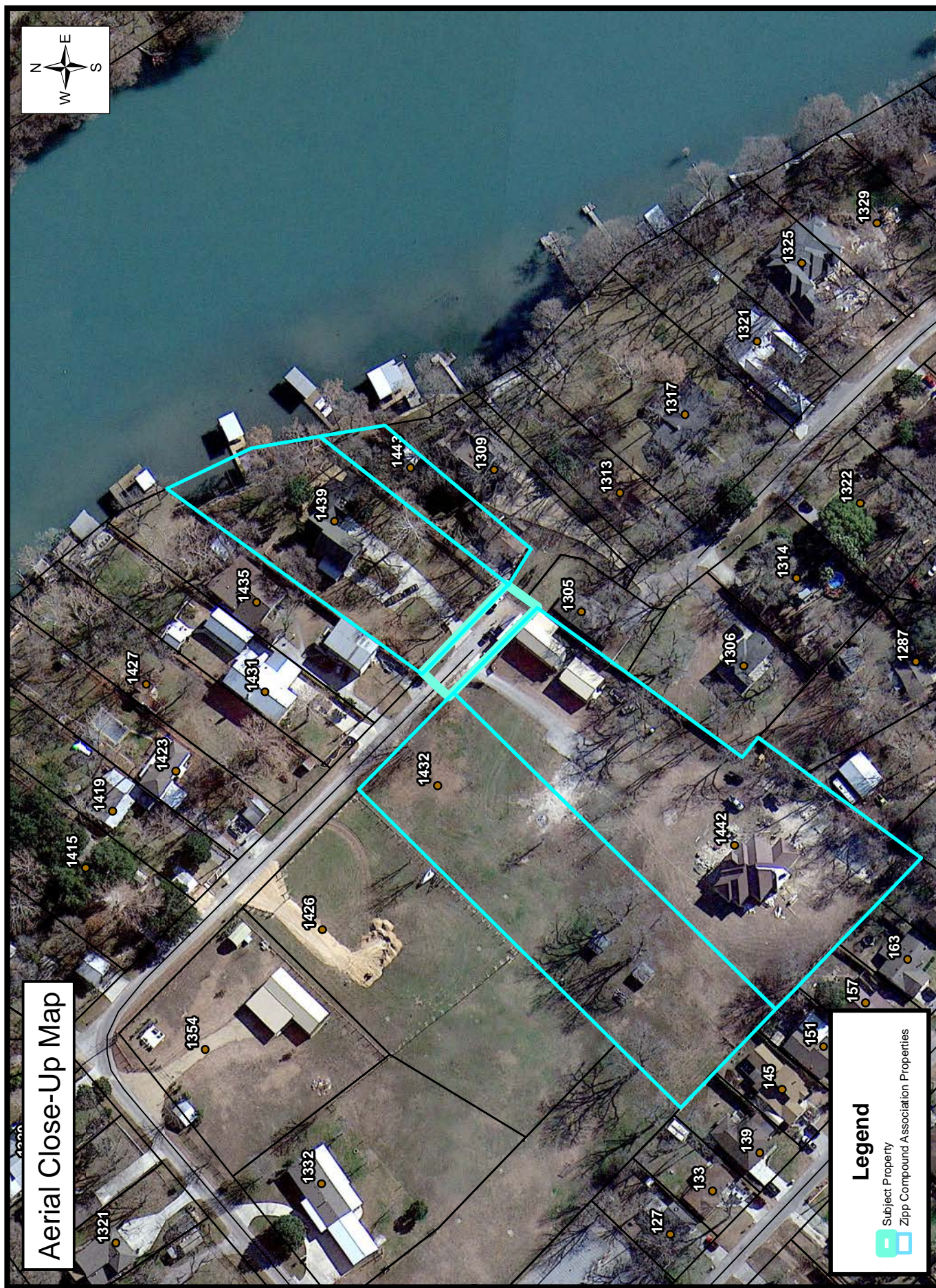
1. Aerial Maps
2. Application and Waiver Request
3. Plat
4. Sidewalk Exhibit
5. Photograph of Proposed Private Street Section



Map Created 11/1/18

PL-18-116
Zipp Compound
Final Plat





Map Created 11/1/18

PL-18-116
Zipp Compound
Final Plat





Final Plat Application & Checklist

Case No.: PL-18-_____

1. **Proposed Subdivision Plat Name:** ZIPP Compound Unit No. 1
Nearest Street Intersection: E. Zipp Rd / Woods End
Acreage: 0.159
Quantity of proposed lots: _____ Res. _____ Com. _____ Park _____ Drainage 1 private Road
1 Open Space
2. **Boundaries:** City Limits: ☐ In ☒ Out **County:** ☐ Comal ☒ Guadalupe
School District: ☐ CISD ☒ NBISD ☐ Other _____
Adjacent TxDOT Roadway: ☐ Yes ☒ No
Utility District: ☐ NBU ☒ GVEC ☐ AT&T ☐ GBRA ☒ Green Valley ☐ Other _____
3. **Preliminary Plat:** ☒ Yes ☐ No Date approved: _____
 If yes, provide a copy of Preliminary Plat and verify conformance.
4. **Subdivision Master Plan:** ☐ Yes ☐ No Date approved: NA
 If yes, provide a copy of the Master Plan and verify conformance
5. **Planned Development District:** ☐ No ☐ Yes Date approved: NA Ord. No. _____
 If yes, provide a copy of the PDD development standards and concept/detail plan and verify conformance
6. **Public infrastructure proposed with subdivision.** ☒ Water ☐ Wastewater ☒ Streets (including private)
☐ Stormwater **Construction plans approved?** ☐ Yes ☐ No
 Construction plans approved/date and agency: _____
7. **Licensed Engineer/Surveyor:** HMT ENGINEERING
Mailing Address: 410 N. Seguin Ave New Braunfels TX 78130
Telephone: 830-625-8555 **Email:** WWW.HMTNB.COM
8. **Waiver(s) approved with the Master Plan or Preliminary Plat:** _____
 If yes, provide copy of approval letter. 1 Sidewalk waiver
9. **Waiver(s) requested (\$150-\$300 each):** 1 waiver requested for NBCO Sec 118-46- Attached
 Justification for waiver(s) in compliance with NBCO Sec. 118-11 must be attached in separate document.
10. **Present use of the property:** RESIDENTIAL **Current Zoning:** RESIDENTIAL
11. **Proposed use(s) of the property:** RESIDENTIAL - Private Road
12. **Traffic Impact Analysis document required per NBCO Sec. 114-99, Sec. 118-46:** _____
Worksheet (always) ☒ TIA per worksheet: ☒ None ☐ Level 1 ☐ Level 2 ☐ Level 3
 If previously approved, provide a copy of the Traffic Impact Analysis and verify conformance
13. **Is the property subject to any liens, encumbrances, or judgments?** ☐ Yes ☒ No
 If yes, provide details on a separate sheet. Permission from any lien holder(s) and/or removal of any encumbrances or judgments will be necessary prior to filing of a plat with the County Clerk's office.
14. **Is any part of the property in a regulatory floodway?** ☐ Yes ☒ No
15. **Is any part of the property in a regulatory floodplain?** ☒ Yes ☐ No

IMPORTANT NOTES:

- All staff comments must be addressed by the resubmittal date. If not, the plat will be rejected and will NOT be forwarded to the Planning Commission.
- For plats on TxDOT right-of-way, it is highly recommended that a permit be submitted to TxDOT prior to submitting the plat application.
- All new plats must be reviewed by the Park Development Manager in the Parks and Ri
221-4358.



Final Plat Application

Please Note: The signature of owner authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted. The signature also indicates that the applicant or his agent has reviewed the requirements of this application/checklist and all items on this checklist have been addressed and complied with.

(Check One:)

☒ I will represent my application before the City Staff and/or Planning Commission.

☐ I hereby authorize the person named below to act as my agent/applicant in processing this application before the City Staff and/or Planning Commission.

Furthermore, I agree to comply with all platting and subdivision requirements of the City of New Braunfels. I understand the plat will be rejected and will **NOT** be forwarded to the Planning Commission unless staff comments are satisfactorily addressed by the plat resubmittal meeting date. I voluntarily waive my right to request a certificate stating the date the plat was filed and that the Planning Commission failed to act on the plat within thirty days. I do not object to consideration of the plat on 9/5/18 (date of Planning Commission meeting). This waiver expires after 9/5/18 (date of Planning Commission meeting).

Terrence Power 210-326-7883
 Owner's Name (printed) Phone Cell
 1439 E. Zipp Rd New Braunfels TX 78130
 Owner's Address City State Zip
 [Signature] 6/21/18 tpower1439@gmail.com
 Owner's Signature Date Email Address

Agent/Applicant Name: Terrence Power

Company: Self

same as above
 Mailing Address City State Zip

Phone Cell Email

APPLICATION FEE SCHEDULE

| FEE TO PLAT | OTHER FEES THAT APPLY: |
|---|---|
| \$1,250 base fee + \$100 per acre (\$2,500 max) | TIA Worksheet \$100 |
| | Sidewalk Waivers \$300.00 |
| | Plat Variance / Waiver \$150.00 each |
| | Level 1 TIA \$500 |
| | Level 2 TIA \$750 |
| | Level 3 TIA \$1,250 |
| | Technology Fee 3% of Application subtotal fee |

**WAIVER JUSTIFICATIONS
CITY OF NEW BRAUNFELS PLATTING ORDINANCE, 118-46
ZIPP COMPOUND ASSOCIATION PRIVATE ROAD**

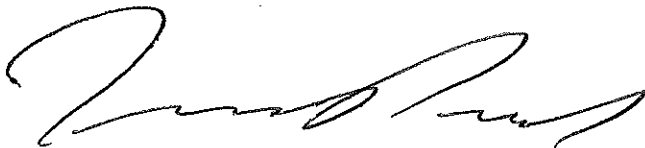
8/24/18/18

To whom it may concern,

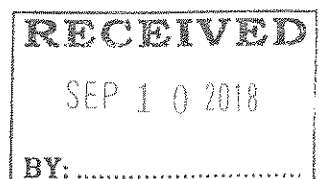
We request a waiver from the Private Road provisions of the Platting Ordinance in the following areas:

1. The distance from the exterior call box to the gate will be less than 30'; approximately 20' to have the call box located on the HOA property.
2. The pavement width will be less than 20'. The width of the current Guadalupe County road width where the gate will be located is 14'.
3. There will be no center median since this is a sliding gate.

We request a sidewalk waiver: there are no sidewalks installed anywhere in this area.



Terrence Powell, President
Zipp Compound Association
1439 E. Zipp Rd, New Braunfels TX, 78130
210-326-7883



PLAT NOTES:

1. THIS PROPERTY WILL BE SERVED BY THE FOLLOWING:
ELECTRIC – GUADALUPE VALLEY ELECTRIC COOP
TELEPHONE – AT&T
WATER – GREEN VALLEY SPECIAL UTILITY DISTRICT (GVSUD)
SEWER – THIS IS A PRIVATE ROAD AND WILL NOT HAVE ANY SEWER
2. ALL BEARINGS AND COORDINATES SHOWN HEREON ARE BASED UPON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983. GRID DISTANCES SHOWN HEREON ARE BASED UPON SURFACE MEASUREMENTS. TO CONVERT SURFACE DISTANCES TO GRID, APPLY A COMBINED SCALE FACTOR OF 1.00015.
3. MONUMENTS WERE FOUND OR SET AT EACH CORNER OF THE SURVEY BOUNDARY OF THIS SUBDIVISION. MONUMENTS AND LOT MARKERS WILL BE SET WITH 1/2" IRON PINS WITH PLASTIC CAP STAMPED "HMT" IMMEDIATELY AFTER COMPLETION OF UTILITY INSTALLATION AND STREET CONSTRUCTION UNLESS NOTED OTHERWISE.
4. THIS SUBDIVISION IS NOT WITHIN THE EDWARDS AQUIFER RECHARGE ZONE.
5. THIS SUBDIVISION IS WITHIN THE EXTRATERRITORIAL LIMITS OF NEW BRAUNFELS, TEXAS.
6. THIS SUBDIVISION IS WITHIN THE NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT.
7. ALL OF THE SUBDIVISION IS LOCATED WITHIN THE SPECIAL FLOOD HAZARD AREA, ZONE AE (100 YR. FLOOD), AS DEFINED BY THE GUADALUPE COUNTY, TEXAS, FLOOD INSURANCE RATE MAP NUMBER 46187/00115F, EFFECTIVE DATE NOVEMBER 2, 2007 AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
8. NO STRUCTURES, WALLS OR OTHER OBSTRUCTIONS OF ANY KIND SHALL BE PLACED WITHIN THE LIMITS OF THE DRAINAGE EASEMENTS SHOWN ON THIS PLAT. NO LANDSCAPING, FENCES, OR OTHER TYPE OF MODIFICATIONS WHICH ALTER THE CROSS SECTIONS OF THE DRAINAGE EASEMENTS OR DECREASE THE HYDRAULIC CAPACITY OF THE EASEMENT, AS APPROVED, SHALL BE ALLOWED WITHOUT THE APPROVAL OF THE CITY ENGINEER. THE CITY OF NEW BRAUNFELS SHALL HAVE THE RIGHT OF INGRESS AND EGRESS OVER GRANTOR'S ADJACENT PROPERTY TO REMOVE ANY OBSTRUCTIONS PLACED WITHIN THE LIMITS OF SAID DRAINAGE EASEMENTS AND TO MAKE ANY MODIFICATIONS OR IMPROVEMENTS WITHIN SAID DRAINAGE EASEMENTS.
9. FUTURE DEVELOPMENT IS SUBJECT TO CHAPTER 114 (STREETS, SIDEWALKS AND OTHER PUBLIC SPACES) OF THE NEW BRAUNFELS CODE OF ORDINANCES.
10. SIDEWALKS ARE NOT REQUIRED WITH THIS PLAT AS THE PROPERTY DOES NOT HAVE ROADWAY FRONTAGE.
11. THE ELEVATION OF THE LOWEST FLOOR OF STRUCTURE SHALL BE AT LEAST 10 INCHES ABOVE THE FINISHED GRADE OF THE SURROUNDING GROUND, WHICH SHALL BE SLOPED IN A FASHION SO AS TO DIRECT STORMWATER AWAY FROM THE STRUCTURE. PROPERTIES ADJACENT TO STORMWATER CONVEYANCE STRUCTURES MUST HAVE A FLOOR SLAB ELEVATION OR BOTTOM OF FLOOR JOISTS A MINIMUM OF ONE FOOT ABOVE THE 100-YEAR WATER FLOW ELEVATION IN THE STRUCTURE. DRIVEWAYS SERVING HOUSES ON THE DOWNHILL SIDE OF THE STREET SHALL HAVE A PROPERLY SIZED CROSS SWALE PREVENTING RUNOFF FROM ENTERING THE GARAGE AND SHALL PREVENT WATER FROM LEAVING THE STREET.
12. THIS SUBDIVISION IS SUBJECT TO THE 2018 CITY OF NEW BRAUNFELS PARK LAND DEDICATION AND DEVELOPMENT ORDINANCE. NON-RESIDENTIAL COMMERCIAL BUILDINGS AND EXCESSIVE SIGNAGE ARE PROHIBITED. AT SUCH TIME THAT A DWELLING UNIT IS CONSTRUCTED, THE OWNER OF THE LOT SHALL CONTACT THE CITY AND COMPLY WITH THE ORDINANCE.
13. THIS SUBDIVISION IS A PRIVATE STREET AND SHALL BE MAINTAINED BY THE ZIPP COMPOUND HOMEOWNERS ASSOCIATION. THE CITY OF NEW BRAUNFELS AND GUADALUPE COUNTY SHALL HAVE NO MAINTENANCE OR REPAIR RESPONSIBILITIES. THE CITY OF NEW BRAUNFELS AND GUADALUPE COUNTY MAY PERIODICALLY INSPECT PRIVATE STREETS AND MAY REQUIRE ANY REPAIRS NECESSARY TO ENSURE EFFICIENT EMERGENCY ACCESS AND TO PROTECT THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND WELFARE.
14. ANY INSTALLATION OF SEPTIC SYSTEMS WITHIN THE UNINCORPORATED AREAS OF GUADALUPE COUNTY MUST BE PERMITTED BY THE GUADALUPE COUNTY ROAD DEPT. AND GUADALUPE COUNTY ENVIRONMENTAL HEALTH DEPT.
15. ANY ACTIVITY OCCURRING WITHIN THE REGULATORY FLOODPLAIN OF THE UNINCORPORATED AREAS OF GUADALUPE COUNTY MUST BE PERMITTED BY THE GUADALUPE COUNTY FLOODPLAIN MANAGER.
16. FINISH FLOOR ELEVATION OF EACH LOT SHALL BE AT LEAST 1-FOOT ABOVE BASE FLOOD ELEVATION PER GUADALUPE COUNTY STANDARDS.

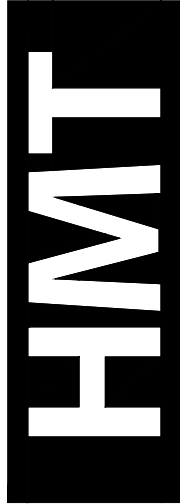
KNOW ALL MEN BY THESE PRESENTS:

I, THE UNDERSIGNED DOROTHY J. TAYLOR, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE ON THE GROUND UNDER MY SUPERVISION AND IN COMPLIANCE WITH CITY AND STATE SURVEY REGULATIONS AND LAWS AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE.

DOROTHY J. TAYLOR
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6295
410 N. SEGUN AVE., NEW BRAUNFELS, TEXAS 78130

PLAT REVISED OCTOBER 23, 2018
PLAT PREPARED JUNE 21, 2018

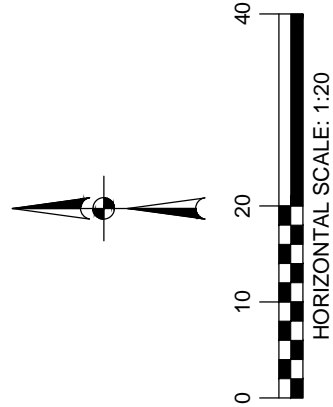


ENGINEERING & SURVEYING

410 N. SEGUN AVE.
NEW BRAUNFELS,
TEXAS 78130
WWW.HMTNB.COM
PH: (830)625-8555
TBPE FIRM F-10961
TBPLS FIRM 10153600

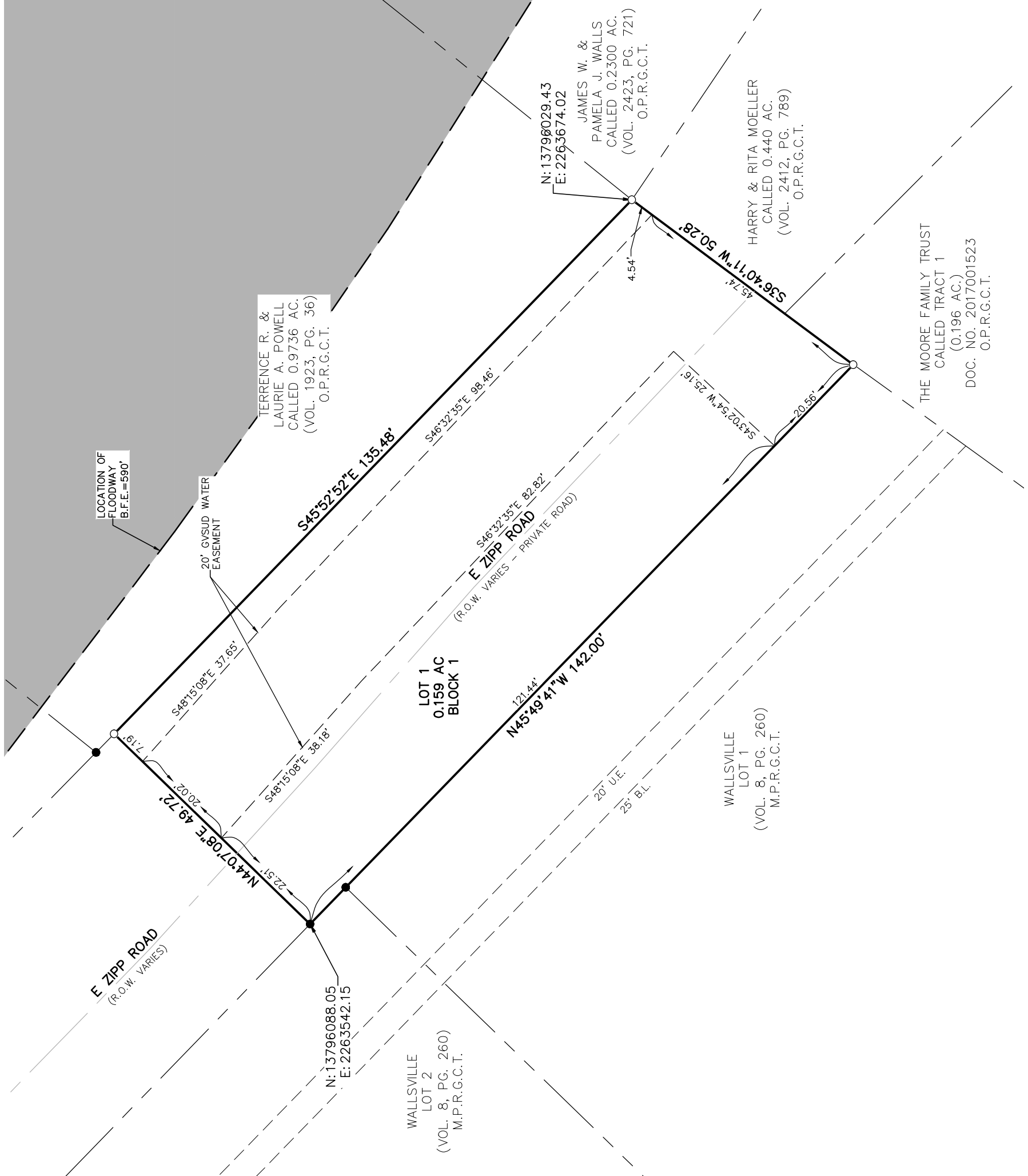
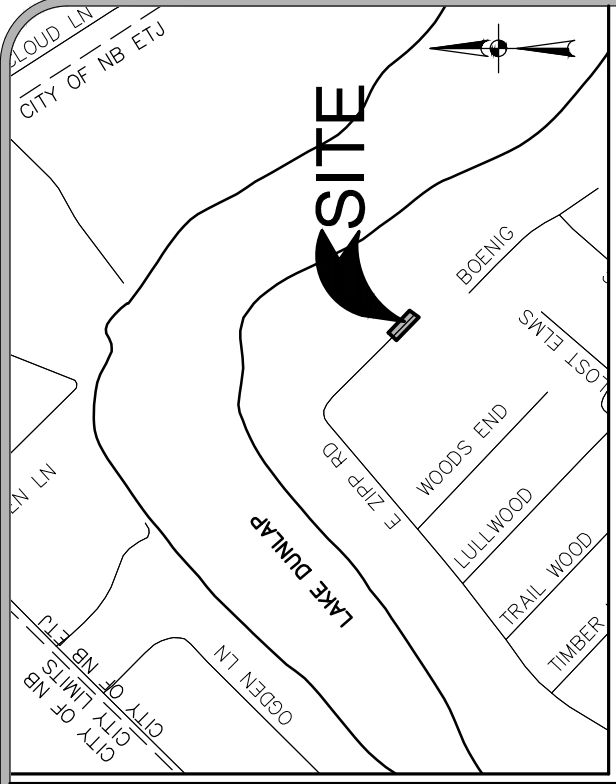
FINAL PLAT ESTABLISHING
ZIPP COMPOUND

BEING 0.159 ACRE TRACT SITUATED WITHIN THE SARAH DEWITT SURVEY, ABSTRACT NO. 103, GUADALUPE COUNTY, TEXAS; BEING A PORTION OF THE EAST ZIPP RIGHT-OF-WAY TO BE ABANDONED.



- LEGEND:
- = END 1/2" IRON PIN W/ PLASTIC CAP STAMPED "HMT" (UNLESS NOTED OTHERWISE)
 - = SET 1/2" IRON PIN W/ PLASTIC CAP STAMPED "HMT"
 - B.F.E. = BASE FLOOD ELEVATION
 - U.E. = UTILITY EASEMENT
 - R.O.W. = RIGHT-OF-WAY
 - M.P.R.G.C.T. = MAP AND PLAT RECORDS, GUADALUPE COUNTY, TEXAS
 - O.P.R.G.C.T. = OFFICIAL PUBLIC RECORDS, GUADALUPE COUNTY, TEXAS
 - [Shaded Box] = FLOODWAY PER FEMA

LOCATION MAP
NOT TO SCALE



STATE OF TEXAS
COUNTY OF GUADALUPE

I, THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS ZIPP COMPOUND SUBDIVISION, A SUBDIVISION TO THE CITY OF NEW BRAUNFELS, COUNTY OF GUADALUPE, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, DO HEREBY SUBDIVIDE SUCH PROPERTY AND DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, DRAINS, EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

ZIPP COMPOUND ASSOCIATION
BY: TERRENCE POWELL – PRESIDENT
1439 E. ZIPP ROAD
NEW BRAUNFELS, TEXAS 78130

STATE OF TEXAS
COUNTY OF COMAL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS
____ DAY OF _____, 20____

BY _____

NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES: _____

GREEN VALLEY SPECIAL UTILITY DISTRICT:

EASEMENT CERTIFICATE
THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERETO, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO GREEN VALLEY SPECIAL UTILITY DISTRICT OF WARION, TEXAS, ITS SUCCESSORS AND ASSIGNS, A PERPETUAL EASEMENT WITH THE RIGHT TO ERECT, CONSTRUCT, INSTALL AND LAY OVER AND ACROSS THOSE AREAS MARKED AS WATERLINE EASEMENT AND IN ALL STREETS AND BYWAYS, SUCH PIPELINES, STRUCTURES, SHEDS, TRENCHES, DRAINS, DITCHES, AND OTHER UTILITIES, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, THE RIGHT TO REMOVE FROM SAID LAND ALL TREES, SHRUBS, GRASSES, FENCES, STRUCTURES, IMPROVEMENTS OR OTHER OBSTRUCTIONS WHICH MAY INTERFERE WITH THE FACILITY OR THE ACCESS THERETO. IT IS AGREED AND UNDERSTOOD THAT NO BUILDING, CONCRETE SLAB OR WALLS WILL BE PLACED WITHIN SAID EASEMENT AREAS. NO OTHER UTILITY LINES MAY BE LOCATED WITHIN 36" PARALLEL TO WATER LINES.

ANY MONETARY LOSS TO GREEN VALLEY SUD RESULTING FROM MODIFICATIONS REQUIRED OF UTILITY EQUIPMENT LOCATED WITHIN SAID EASEMENTS DUE TO GRADE CHANGE OR GROUND ELEVATION ALTERATION SHALL BE CHARGED TO THE PERSON OR PERSONS DEEMED RESPONSIBLE THEREFOR. THE DISTRICT WILL ENDEAVOR TO RESTORE THE LAND SURFACE TO A USEABLE CONDITION BUT IS NOT OBLIGATED TO RESTORE IT TO A PRE-EXISTING CONDITION.

THE EASEMENT CONVEYED HEREIN WAS OBTAINED OR IMPROVED THROUGH FEDERAL FINANCIAL ASSISTANCE. THIS EASEMENT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL CIVIL RIGHTS ACT, 42 U.S.C. 1981-1984. THE EASEMENT IS NOT TO BE USED FOR THE SAME OR SIMILAR PURPOSE FOR WHICH FINANCIAL ASSISTANCE WAS EXTENDED OR FOR AS LONG AS THE GRANTEE OWNS IT, WHICHEVER IS LONGER.

GREEN VALLEY SPECIAL UTILITY DISTRICT:

THIS SUBDIVISION PLAT HAS BEEN SUBMITTED TO AND APPROVED FOR EASEMENTS. UPON REQUEST OF THE CUSTOMER AND PAYMENT OF THE REQUIRED FEES, THE DISTRICT WILL PROVIDE DOMESTIC WATER SERVICE TO EACH LOT IN THIS SUBDIVISION, BY AGREEMENT WITH THE DEVELOPER.

GREEN VALLEY SPECIAL UTILITY DISTRICT _____ DATE _____

APPROVED THIS THE _____ DAY OF _____, 20____
BY THE PLANNING COMMISSION OF THE CITY OF NEW BRAUNFELS, TEXAS.

CHAIRMAN _____

APPROVED FOR ACCEPTANCE _____

DATE _____ PLANNING DIRECTOR _____

DATE _____ CITY ENGINEER _____

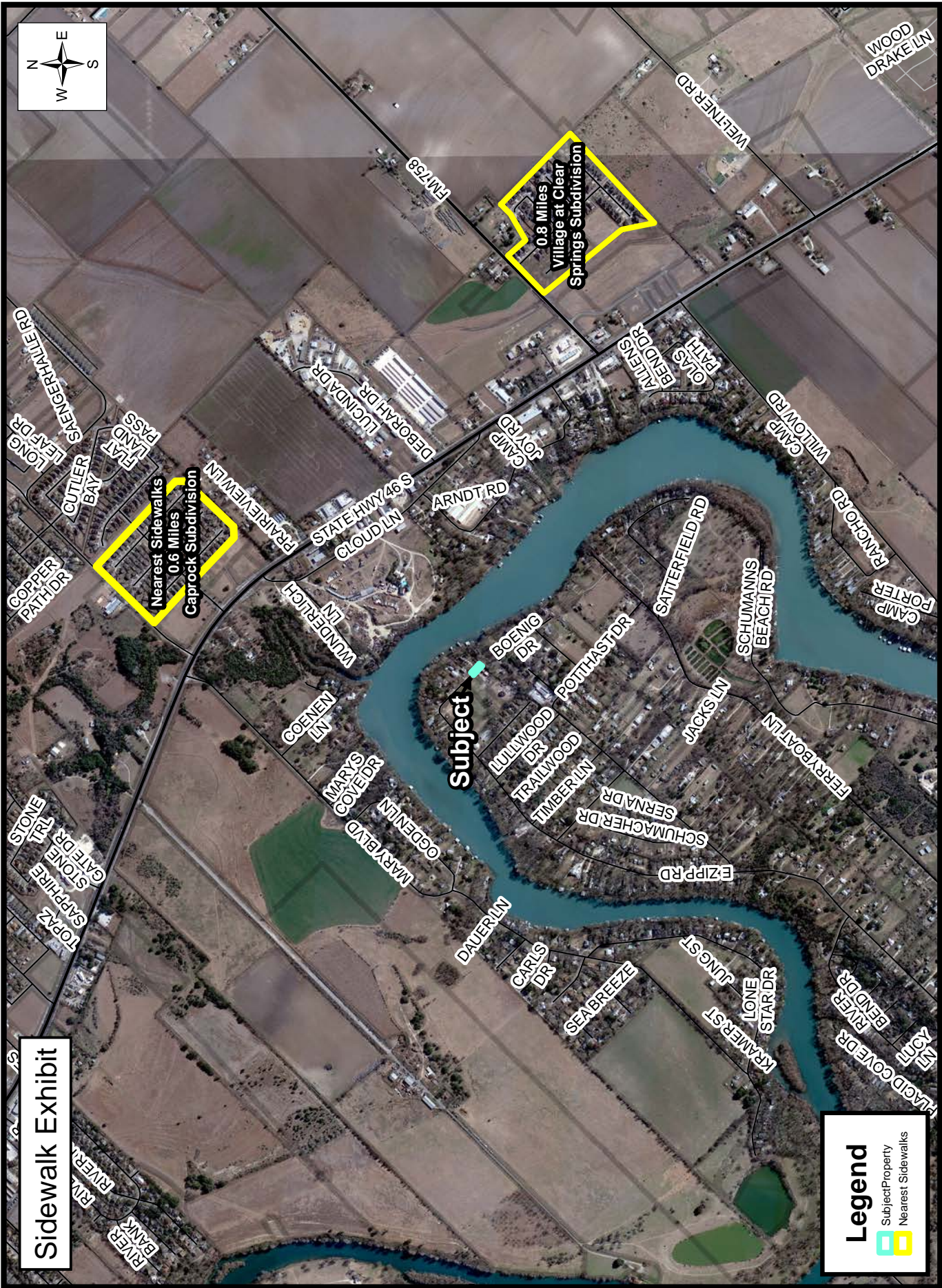
STATE OF TEXAS
COUNTY OF GUADALUPE

I, _____, COUNTY CLERK OF GUADALUPE COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF _____, A.D., 20____. AT _____ M. AND DULY RECORDED THE _____ DAY OF _____, A.D. 20____.

AT _____ M. IN THE MAP AND PLAT RECORDS OF GUADALUPE COUNTY IN BOOK VOLUME _____ ON PAGE _____ IN TESTIMONY WHEREOF WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE THIS _____ DAY OF _____, 20____.

COUNTY CLERK, GUADALUPE COUNTY, TEXAS

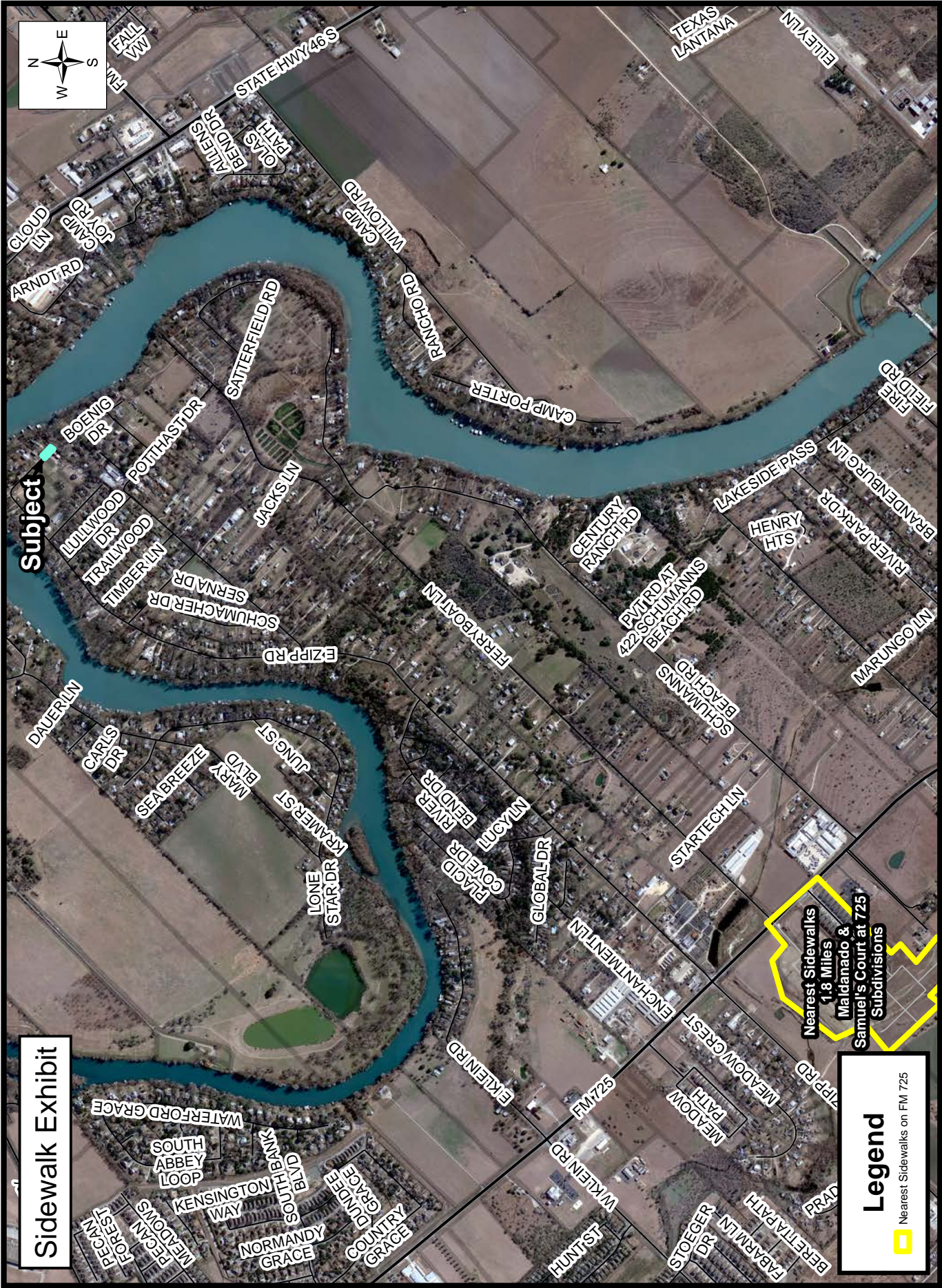
DEPUTY _____

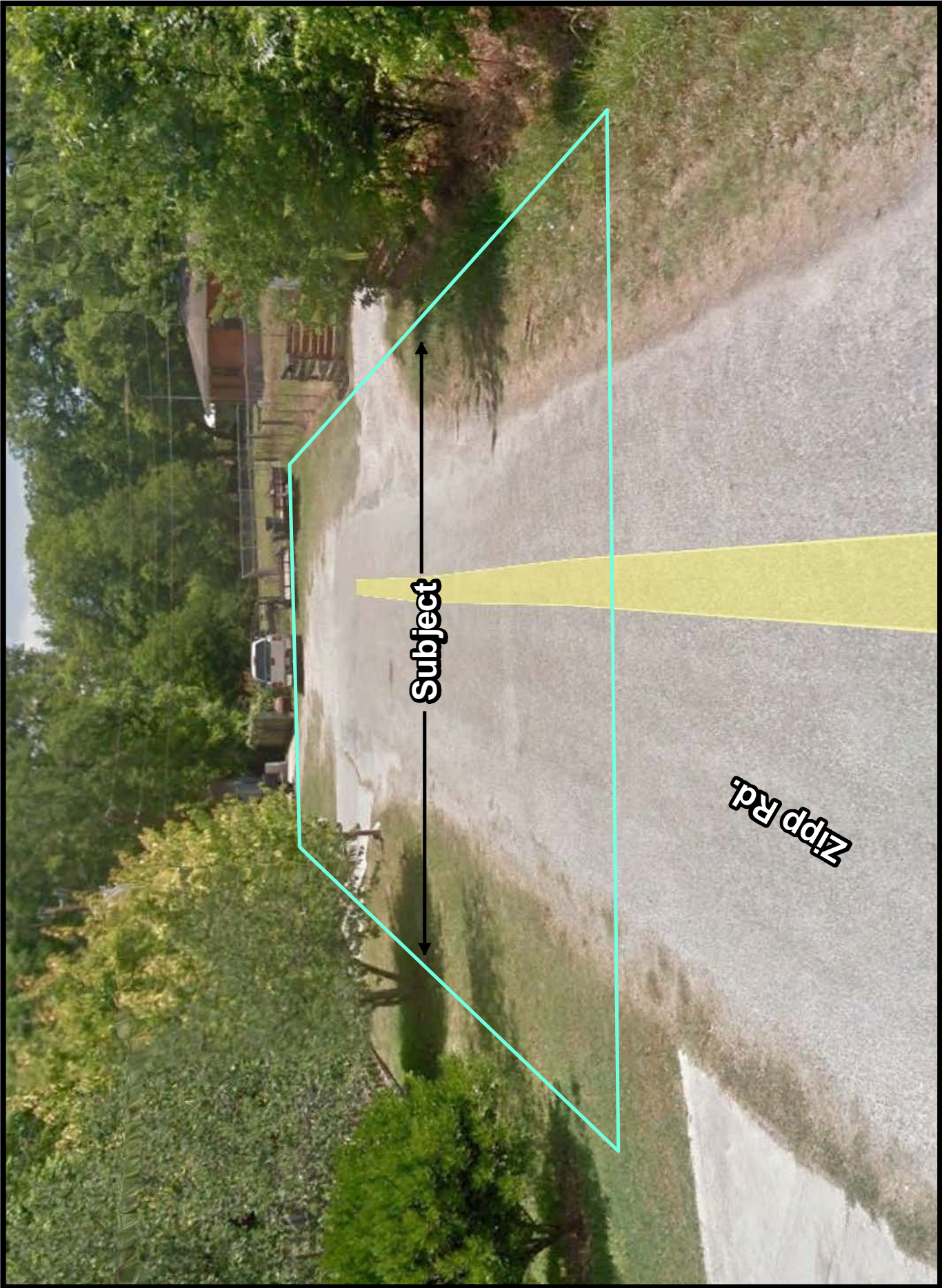


Map Created 12/12/18

PL-18-116
Zipp Compound
Final Plat

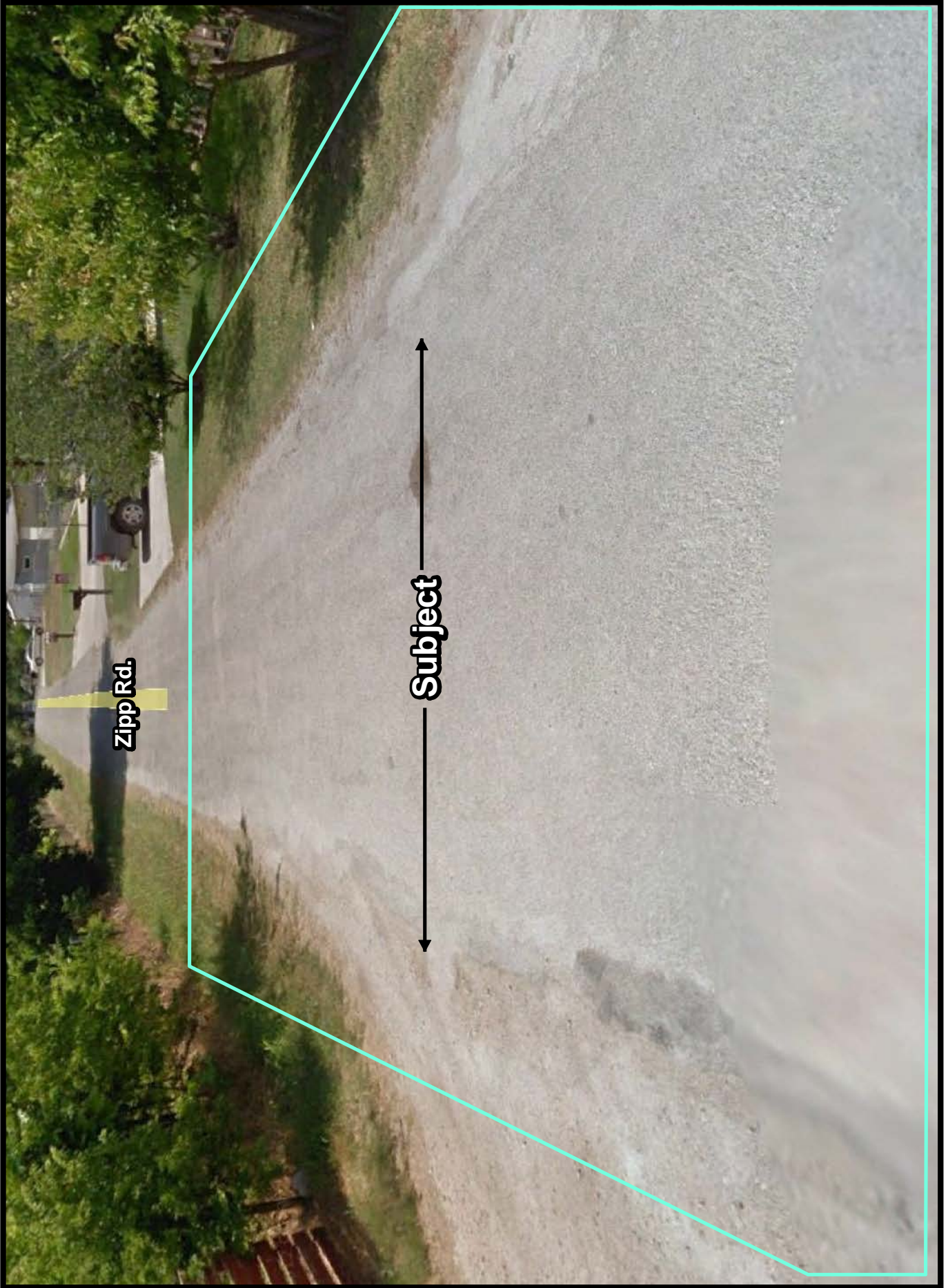






PL-18-116
Zipp Compound
Final Plat





PL-18-116
Zipp Compound
Final Plat



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. L)

Presenter/Contact

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

SUBJECT:

Discuss and consider a waiver from the requirement to construct sidewalks along FM 1102 for the proposed Westridge Oaks Subdivision.

BACKGROUND / RATIONALE:

Case #: PL-18-134

Applicant: M & S Engineering
376 Landa Street
New Braunfels, TX 78130
(830) 629-2899

Owner: Hunter Creek Enterprises, LP
Chris Harborth
120 Colette Lane
Marion, TX 78124

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

The subject property is approximately 69 acres located adjacent to Havenwood Subdivision on the west side of FM 1102 (Hunter Road), in the City's ETJ. The proposed subdivision consists of 193 residential lots with sidewalks along all internal streets. The developer is also planning to build trails and maintain green spaces to provide pedestrian activity within the subdivision.

While the applicant intends to build the required internal sidewalks, he has requested a waiver from the requirement to construct a perimeter sidewalk along FM 1102. The applicant describes FM 1102 as a rural road with one lane in each direction, a narrow shoulder, and current speed limit of 55 miles per hour. He notes there are no pedestrian facilities or destinations in the area. It is the applicant's belief that sidewalks along FM 1102 at this time would not provide any reasonable use to the community, could potentially create a safety hazard, and are likely to be relocated with potential future roadway improvements. The nearest sidewalks are approximately 2.5 miles away, in the Cloud Country and Northwest Crossing Subdivisions off Conrads Lane (Attachment 4). A similar waiver request was approved by City Council for The Crossings at Havenwood, across FM 1102, in 2017.

Staff recognizes this section of FM 1102 is a rural state Farm-to-Market highway that has primarily served large lot residential and farm land, as well as being a local alternate route to San Marcos. The City of New Braunfels is not aware of planned nearby development that would generate or attract pedestrians in the near future. Because of the importance of sidewalks to the public, in situations such as this the City would typically recommend funds for sidewalk construction be placed in escrow by the developer for construction by the City at a later date. However, escrowed funds must be used within ten years and the City Engineer does not anticipate an FM 1102 project that would include sidewalks within that timeframe. Therefore, the City does not oppose the request to waive the requirement for perimeter sidewalks along FM 1102, with internal sidewalks to be installed as required.

The Subdivision Platting Ordinance authorizes waivers to be granted when an undue hardship will result from strict compliance with the ordinance, or where the purpose of the regulation may be served to a greater extent by an alternative proposal, so that substantial justice may be done, and the public interest secured. A waiver may not be approved unless it is found that:

1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
2. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed in the Subdivision Platting Ordinance; and
3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.

Sidewalk waivers may only be granted by City Council after a recommendation from the Planning Commission. If the applicant's request is approved, TxDOT still requires streets accessing FM 1102 to have a pedestrian crossing area that meets Texas Department of Licensing and Regulation (TDLR) and Americans with Disabilities (ADA) requirements. Any connecting sidewalk construction in the future would then become the responsibility of the taxpayers.

If the sidewalk waiver request is denied, a 4-foot wide sidewalk will be required along FM 1102 adjacent to the subject property, with the exact location determined by TxDOT.

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

| | |
|--|--|
| City Plan/Council Priority: Envision New Braunfels Comprehensive Plan | Located within a Transitional Mixed Use Corridor and on the southern edge of the Hoffmann Lane Sub Area. Action 3.19: Improve walkability across town to attract younger generations seeking pedestrian connections. Action 7.3: Prioritize connecting sidewalk gaps through development requirements or public investment. Action 7.5: Continue development of sidewalks and trails to increase interconnectivity by 5 percent each year to support reduction of carbon footprint. Action 7.19: Improve connectivity for all modes of transportation including bicycles. |
|--|--|

FISCAL IMPACT:

At some point in the future, sidewalks may have to be constructed, or other modifications made to the right-of-way, to comply with the Americans with Disabilities Act, possibly at taxpayer expense.

COMMITTEE RECOMMENDATION:

On December 4, 2018 the Planning Commission approved the preliminary plat for Westridge Oaks Subdivision with a recommendation for approval of a waiver from the requirements for sidewalks to be built along FM 1102.

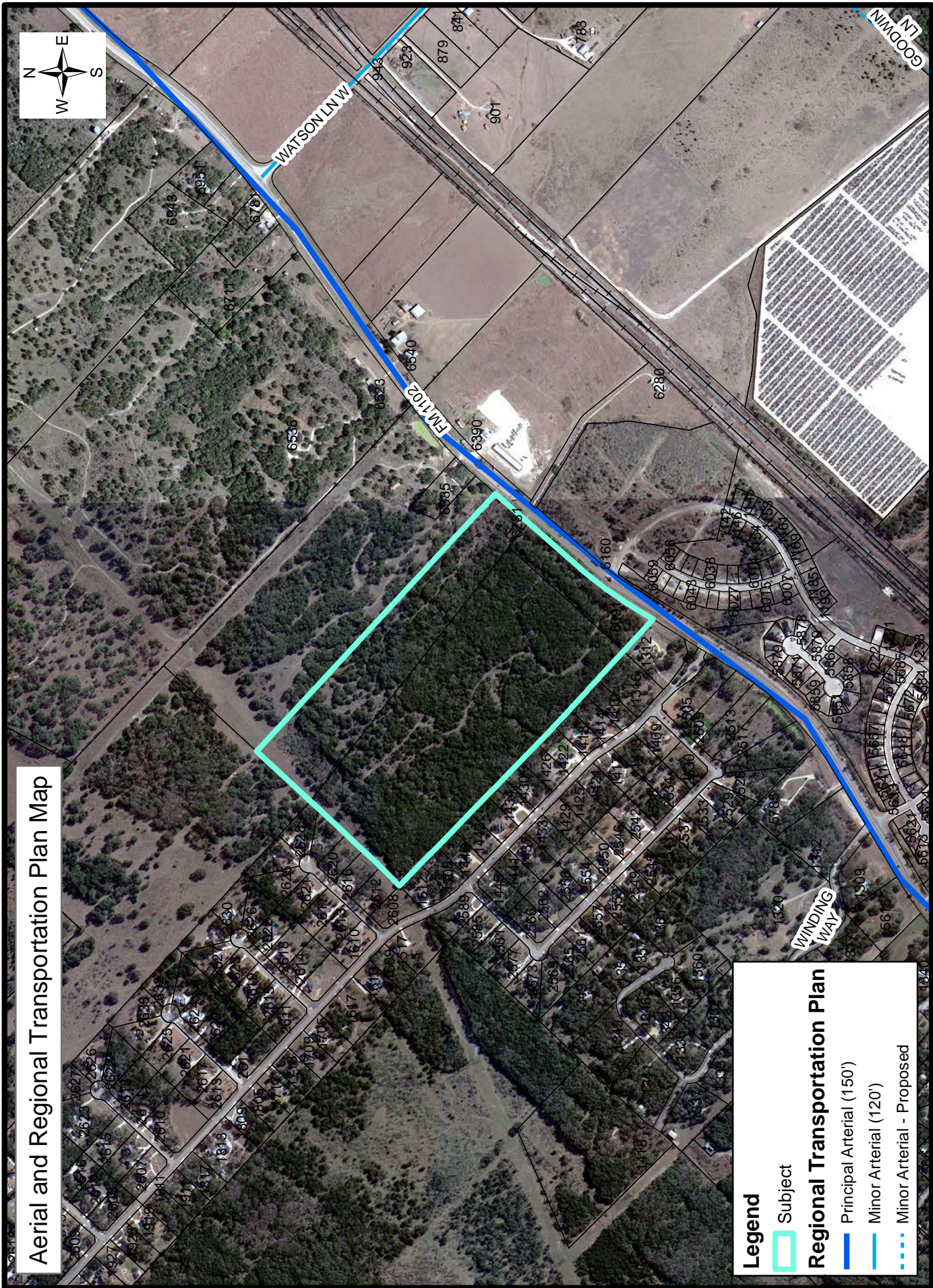
STAFF RECOMMENDATION:

Staff recommends approval of the applicant's request due to:

- The nature of FM 1102 as a rural highway with no nearby current or planned development to generate or attract pedestrians;
- No road improvement projects that include sidewalks proposed in the next ten years to justify the developer's escrow of funds for construction.

Attachments:

1. Aerial Map
2. Application and Waiver Request
3. Plat
4. Sidewalk Exhibit



**PL-18-134
Westridge Oaks
Preliminary Plat**

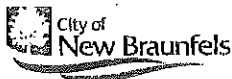


Preliminary Plat Application

1. **Proposed Subdivision Plat Name:** Westridge Oaks Subdivision Unit No. _____
Nearest Street Intersection: 0.07 miles southwest to Havenwood Blvd & FM 1102 intersection
Acreage: 68.976
Quantity of proposed lots: 193 Res. _____ Com. _____ 3 Park 2 Drainage 2 Open Space
2. **Boundaries:** City Limits: ☐ In ☒ Out **County:** ☒ Comal ☐ Guadalupe
School District: ☒ CISD ☐ NBISD ☐ Other _____
Adjacent TxDOT Roadway: ☒ Yes ☐ No
Utility District: ☒ NBU ☐ GVEC ☒ AT&T ☐ GBRA ☐ Green Valley ☒ Other Crystal Clear SUD
3. **Subdivision Master Plan:** ☐ Yes ☒ No Date approved: _____
 If yes, provide a copy of the Master Plan and verify conformance
4. **Planned Development District:** ☒ No ☐ Yes Date approved: _____ Ord. No. _____
 If yes, provide a copy of the PDD development standards and concept/detail plan and verify conformance
5. **Public infrastructure proposed with subdivision.** ☒ Water ☒ Wastewater ☒ Streets (including private)
☐ Stormwater **Construction plans approved?** ☐ Yes ☒ No
 Construction plans approved/date and agency: _____
6. **Licensed Engineer/Surveyor:** Richard A. Goodwin, RPLS
Mailing Address: P.O. Box 9925 Spring Branch, TX 78070
Telephone: (830) 228-5446 **Email:** rgoodwin@msenr.com
7. **Waiver(s) approved with the Master Plan:** N/A
 If yes, provide copy of approval letter.
8. **Waiver(s) requested (\$150-\$300 each):** N/A
 Justification for waiver(s) in compliance with NBCO Sec. 118-11 must be attached in separate document.
9. **Present use of the property:** Open **Current Zoning:** OCU
10. **Proposed use(s) of the property:** Residential Subdivision
11. **Traffic Impact Analysis document required per NBCO Sec. 114-99, Sec. 118-46:** _____
 Worksheet (always) TIA per worksheet: ☐ None ☒ Level 1 ☐ Level 2 ☐ Level 3
 If previously approved, provide a copy of the Traffic Impact Analysis and verify conformance
12. **Is the property subject to any liens, encumbrances, or judgments?** ☐ Yes ☒ No
 If yes, provide details on a separate sheet. Permission from any lien holder(s) and/or removal of any encumbrances or judgments will be necessary prior to filing of a plat with the County Clerk's office.
13. **Is any part of the property in a regulatory floodway?** ☐ Yes ☒ No
14. **Is any part of the property in a regulatory floodplain?** ☐ Yes ☒ No

IMPORTANT NOTES:

- All staff comments must be addressed by the resubmittal date. If not, the plat will be rejected and will NOT be forwarded to the Planning Commission.
- For plats on TxDOT right-of-way, it is highly recommended that a permit be submitted to TxDOT prior to submitting the plat application.
- All new plats must be reviewed by the Park Development Manager in the Parks and Recreation Department, (830) 221-4358.



Preliminary Plat Application

Please Note: The signature of owner authorizes City of New Braunfels staff to visit and inspect the property for which this application is being submitted. The signature also indicates that the applicant or his agent has reviewed the requirements of this application/checklist and all items on this checklist have been addressed and complied with.

(Check One:)

☐ I will represent my application before the Planning Division and/or Planning Commission.

☒ I hereby authorize the person named below to act as my agent/applicant in processing this application before the Planning Division and/or Planning Commission.

Furthermore, I agree to comply with all platting and subdivision requirements of the City of New Braunfels. I understand the plat will be rejected and will **NOT** be forwarded to the Planning Commission unless staff comments are satisfactorily addressed by the plat resubmittal meeting date. I voluntarily waive my right to request a certificate stating the date the plat was filed and that the Planning Commission failed to act on the plat within thirty days. I do not object to consideration of the plat on 12-4-18 (date of Planning Commission meeting). This waiver expires after 12-4-18 (date of Planning Commission meeting).

7 Hunter Creek Enterprises LP Chris Harborth 979-203-4080
 Owner's Name (printed) Phone Cell
 X Rocolette Ln Merion TX 79124
 Owner's Address City State Zip
 X [Signature] 9-7-18 chrisharborth@bwicompanies.com
 Owner's Signature Date Email Address

Agent/Applicant Name: BRIAN MENDEZ

Company: M2S ENGINEERING

376 LANDA ST. NEW BRAUNFELS TX 78130
 Mailing Address City State Zip
 (830) 629-2899 (210) 215-8599 BMENDEZ@M2SENGR.COM
 Phone Cell Email

APPLICATION FEE SCHEDULE

| FEE TO PLAT | OTHER FEES THAT APPLY: |
|--|--------------------------------------|
| \$1,000 base fee + \$50 per acre (\$2,500 max) | TIA Worksheet \$100 |
| | Sidewalk Waivers \$300.00 |
| | Plat Variance / Waiver \$150.00 each |
| | Level 1 TIA (\$500) |
| | Level 2 TIA \$750 |
| | Level 3 TIA \$1,250 |
| | Technology Fee 3% |



M&S ENGINEERING
CIVIL | ELECTRICAL | STRUCTURAL | MEP

376 LANDA STREET
NEW BRAUNFELS, TX 78130
(830) 629-2988 PH | (830) 885-2170 FX
FIRM F-1394
WWW.MSENGR.COM

November 14, 2018

City of New Braunfels
550 Landa St.
New Braunfels, TX 78130

RE: Westridge Oaks Subdivision – Preliminary Plat

To Whom It May Concern,

This letter is to request a variance exception to Section 118-49 of the New Braunfels Subdivision Ordinance that would require sidewalks along FM 1102 at the Westridge Oaks Subdivision.

FM 1102 is a rural Farm to Market road with a speed limit of 55 miles per hour, with the majority of the roadway being one lane in each direction with a narrow shoulder. Currently, there are no other pedestrian facilities along FM 1102 in the immediate vicinity of the project, including the Havenwood subdivisions and the Crossings at Havenwood subdivision directly across the street from Westridge Oaks.

On behalf of the development staff of the Westridge Oaks Subdivision we would like to request a variance to eliminate the sidewalk along the FM 1102 ROW, as, at this time, any practical use of the sidewalk facility would come from the neighborhood itself. As a safety concern, the developer does not want to encourage pedestrian activity, from potential homeowners within the subdivision, along a higher speed narrow Farm to Market highway. Additionally, there are no other pedestrian accessible destinations from this subdivision, within a reasonable distance, that would require pedestrian facilities along this rural highway. The overall project development is planning to have internal sidewalks, trails, and green areas to provide ample pedestrian activity within a more controlled environment within the subdivision, where the developer has a better opportunity to require lower street speeds and safer pedestrian facilities. Lastly, with the offset ROW established with the subdivision plat, and considering TxDOT would require this sidewalk to be placed along the ROW line, future unplatted development would have a difficult time connecting to this sidewalk.

In closing, FM 1102 is on the Major Thoroughfare Plan as a Secondary Arterial Type A (120'). In the future, when development and growth require, this roadway will undergo major reconstruction. At the time of this major reconstruction, it is likely all of the roadway, drainage, and pedestrian facilities will be improved and efforts put forth at this time are likely to be removed or realigned.

It is our belief, sidewalk improvements along FM 1102, at this time, would not provide any reasonable use to the community, it would potentially create a safety hazard, and relocation is a high probability in the future in order to meet the current street standards having the sidewalk adjacent to the curb line. In our opinion, the allowance of this variance would better protect the health, safety, and welfare of the general public.



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CIVIL | ELECTRICAL | STRUCTURAL | MEP

Thank you for your consideration of this variance. If you have any questions or require additional information, please call me or Brian Mendez at (830)629-2988.

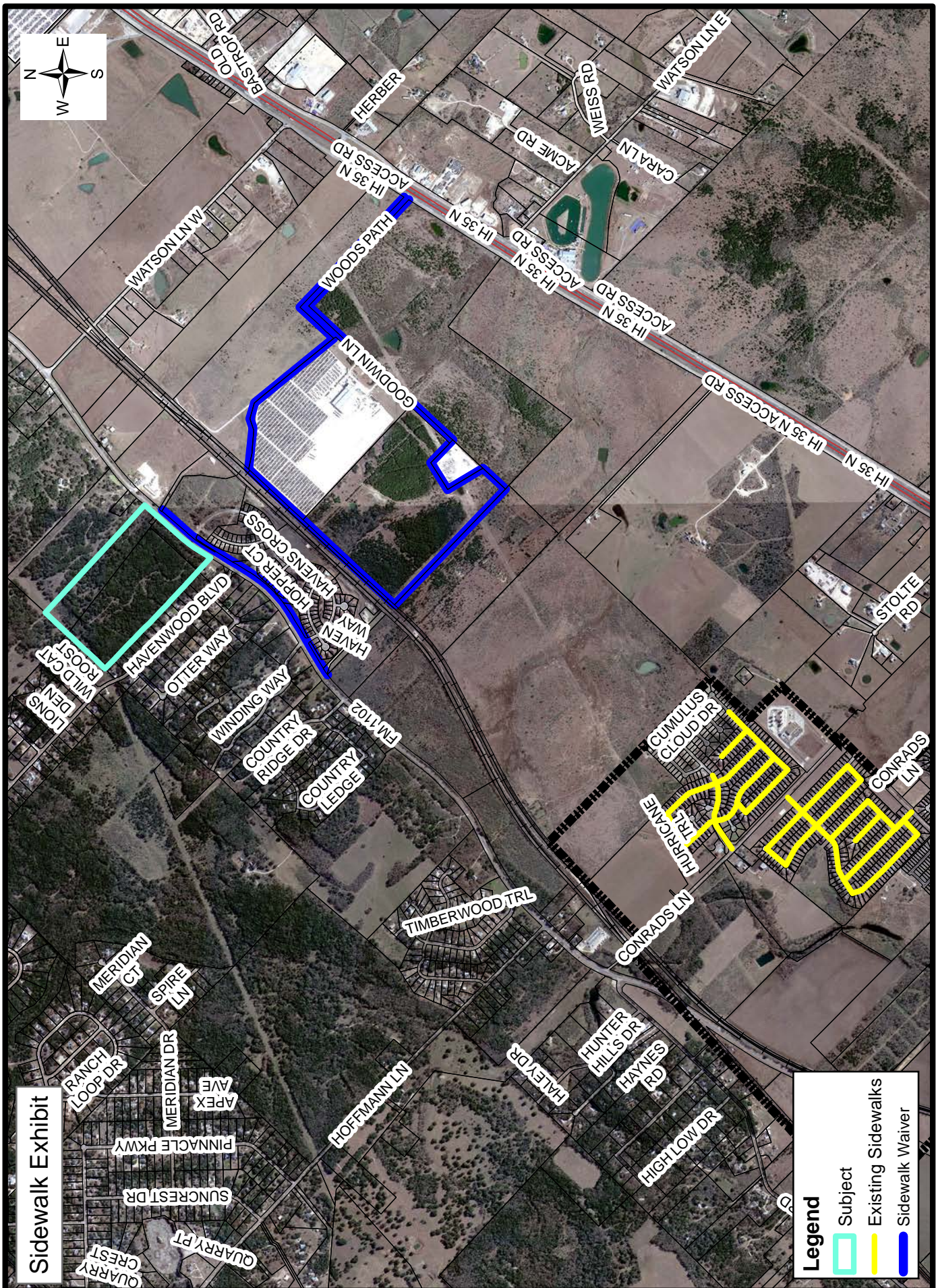
Sincerely,

A handwritten signature in black ink, appearing to read 'Trevor Tast', with a long horizontal flourish extending to the right.

Trevor Tast, P.E.

M & S Engineering, L.L.C.

Cc: File



**PL-18-134
Westridge Oaks
Preliminary Plat**



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

1/14/2019

Agenda Item No. A)

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

1/14/2019

Agenda Item No. B)

Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:

- National Flight Services, Inc. Agreement

