



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



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

MONDAY, MARCH 11, 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: Mayor Pro Tem Peters

PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG

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

PROCLAMATIONS:

- A) American Legion Day

PRESENTATIONS:

- A) 175th Medallion presentation
Anne Miller, 175th Anniversary Committee
- B) Presentation on the U.S. Census Bureau's 2020 Decennial Census
Complete Count Committee.
Richard Castanon, U.S. Census Bureau

1. MINUTES

- A) Discuss and consider approval of the minutes of the regular City
Council meeting of February 25, 2019.
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 a resolution adopting an order cancelling the May 4, 2019 Regular Election for City Council District One; and declaring the candidate for City Council District One Elected.
Patrick Aten, City Secretary
- B) Approval of a resolution approving the form of Notice for the Special Election to be held in the City of New Braunfels on May 4, 2019, for a bond election and making conforming changes to comply with state law.
Patrick Aten, City Secretary
- C) Approval of a contract for medical examinations and health testing through Life Extension Clinics Inc D/B/A Life Scan Wellness Centers for the City Firefighters at an annual cost of \$70,380.
Patrick O'Connell, Assistant Fire Chief
- D) Approval of a 2006 Tymco Street Sweeper to be declared as surplus and the sale to the Victoria Regional Airport.
Barbara Coleman, Purchasing Manager
- E) Approval of a contract with The Levy Company, L.P. for on-call maintenance and installation services for traffic signals.
Greg Malatek, Public Works Director
- F) Approval of a resolution in support of HB 481 related to storage and recovery of potable water in the brackish portion of the Edwards Aquifer.
Ian Taylor, NBU CEO
- G) Approval of a resolution, ratification of the submission of an application for the continued funding of a Criminal Investigations Division Officer utilizing a U.S. Department of Justice Violence Against Women Formula Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this grant.
Tom Wibert, Chief of Police

- H) Approval of a resolution, ratification of the submission of an application for funding of the purchase of Hazmat equipment utilizing a U.S. Department of Homeland Security State Homeland Security Program - Regular Projects Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this grant.

Kenneth Jacks, Fire Chief

- I) Approval of a contract modification to Urban Civil Engineering for sidewalk design work on Timber Hollow and Crown Ridge as part of the proposed 2019 Bond Citywide Streets and Sidewalks Program.

Jennifer Cain, Capital Programs Manager

Ordinances

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

- J) Approval of the second and final reading of an ordinance regarding the proposed rezoning of 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr., to apply a Special Use Permit to allow a car wash in the "C-1" Local Business District.

Christopher J. Looney, Planning and Community Development Director

- K) Approval of the second and final reading of an ordinance regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from "R-1A-6.6" Single Family District, "APD" Agricultural/Pre-Development District and Zipp Meadows Planned Development District to "ZH-A" Zero Lot Line Home District.

Christopher J. Looney, Planning and Community Development Director

4. INDIVIDUAL ITEMS FOR CONSIDERATION

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

Garry Ford, City Engineer

- B) Discuss and consider approval of the first reading of an ordinance amending Chapter 130, Article IV, Division 5, Division 6, and Division 7 of the Code of Ordinances relating to Water Conservation and Critical Period Management Plan, Regulated Activities, and Drought

Management Plan.

Ian Taylor, NBU CEO

- C) Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards, Exterior Building Material requirements for a proposed expansion to the Comal County Landa Building in the "C-2" General Business District addressed at 199 Main Plaza.

Christopher J. Looney, Planning and Community Development Director

- D) Discuss and consider approval of the first reading of an ordinance amending Code of Ordinances Chapter 126 Traffic and Vehicles to prohibit shared mobility services using motor-assisted scooter and electric bicycles.

Garry Ford, City Engineer

- E) Discuss and consider approval of the first reading of an ordinance granting the extension of rehabilitation tax relief for a second five-year period to the property addressed as 455 S. Academy Avenue, a Local Historic Landmark known as the Schaeffer-Brewer House.

Amy McWhorter, Historic Preservation Officer

- F) Discuss and consider approval of the first reading of an ordinance granting the extension of rehabilitation tax relief for a second five-year period to the property addressed as 586 W. Mill Street, a Local Historic Landmark known as the Froehlich-Stein House.

Amy McWhorter, Historic Preservation Officer

- G) Discuss and consider a request for a conditional sign permit to allow a pole sign that would be taller and with a larger sign cabinet than allowed by ordinance, for TexStar Bank, presently addressed at 954 Loop 337.

Christopher Looney, Planning and Community Development Director

- H) Discuss and consider a request for a conditional sign permit for a subdivision entry sign for the Heather Glen Subdivision addressed at 445 Nissan Way.

Christopher J. Looney, Planning and Community Development Director

- I) Discuss and consider approval of walkway improvements around the City Tube Chute.

Amy Niles, River Operations Manager

5. **EXECUTIVE SESSIONS**

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

- A) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
 - Property for city facilities

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

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

7. **ADJOURNMENT**

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on March 6, 2019, at 4:00 p.m.

Patrick Aten, City Secretary

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

City of New Braunfels



Proclamation

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

WHEREAS, The American Legion is the nation's largest and most powerful organization of U.S. wartime veterans and their families; and

WHEREAS, since its inception by Congress in 1919, The American Legion has delivered substantial improvements for veterans, their families, and their communities with promoting and supporting the modern Veteran's Administration, drafting of the GI Bill, the Post-911 GI Bill, and numerous health care benefits; and

WHEREAS, The American Legion works every day on behalf of U.S. servicemen and women with transition assistance to civilian life with resources for careers, education, and child care; and

WHEREAS, The American Legion develops individual responsibility to the community, state, and nation through programs that promote public appreciation for the U.S. Flag, the Constitution, law enforcement, faith, civic responsibility, and community service; and

WHEREAS, The American Legion's fundraising programs convert donations into grants for disaster victims, sports adaptive therapy equipment for wounded servicemembers and scholarships for children of military members who died since 9/11; and

WHEREAS, The American Legion has been devoted to community-building, the welfare of children, patriotism, education, peace, and goodwill for the past 100 years.

NOW, THEREFORE, I, WAYNE PETERS, Mayor Pro Tem of the City of New Braunfels, do hereby proclaim the 15th day of March 2019 as

AMERICAN LEGION DAY

in New Braunfels and encourage all citizens to join me in this special observance.

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 11th day of March 2019.

CITY OF NEW BRAUNFELS

WAYNE PETERS, Mayor Pro Tem



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. A)

Presenter/Contact

*Anne Miller, 175th Anniversary Committee
(830) 221-#### - ____@nbtexas.org*

SUBJECT:

175th Medallion presentation

BACKGROUND / RATIONALE:

[Enter Background/Rationale Here]

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

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FISCAL IMPACT:

[Enter Fiscal Impact Here]

COMMITTEE RECOMMENDATION:

[Enter Committee Recommendation Here]

STAFF RECOMMENDATION:

[Enter Staff Recommendation Here]



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. B)

Presenter

*Richard Castanon, U.S. Census Bureau
(972) 510-1800 - richard.castanon@census.gov*

Staff Contact

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

SUBJECT:

Presentation on the U.S. Census Bureau's 2020 Decennial Census Complete Count Committee.

BACKGROUND / RATIONALE:

[Enter Background/Rationale Here]

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

City Plan/Council Priority Envision New Braunfels Comprehensive Plan	An accurate, complete population count ensures correct apportionment, appropriate federal funding allocations and other thresholds which contribute to implementing many if not all of the goals, strategies and actions of the Comprehensive Plan.
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FISCAL IMPACT:

[Enter Fiscal Impact Here]

COMMITTEE RECOMMENDATION:

[Enter Committee Recommendation Here]

STAFF RECOMMENDATION:

[Enter Staff Recommendation Here]

**MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
REGULAR MEETING OF MONDAY, FEBRUARY 25, 2019**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on February 25, 2019, at 6:00 p.m.

City Councilmembers present were:

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

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

PROCLAMATIONS:

A) Teen Dating Violence Awareness Month

Mayor Casteel proclaimed February 2019 as Teen Dating Violence Awareness Month.

B) Rare Disease Day

Mayor Casteel proclaimed February 28, 2019, as Rare Disease Day.

C) Comal County Habitat for Humanity 25th Anniversary

Mayor Casteel recognized the 25th Anniversary of the Comal County Habitat for Humanity.

PRESENTATIONS:

A) Presentation on the City's Adopt-A-Spot River Clean-Up Program and acknowledgement of program participants

Mayor Casteel read the aforementioned caption.

Mark Enders and Amy Niles presented the item.

1. MINUTES

A) Discuss and consider approval of the minutes of the regular City Council meeting of February 11, 2019.

Mayor Casteel read the aforementioned caption.

Councilmember Garcia moved to approve the item. Mayor Pro Tem Peters 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.

Ray Lorence spoke about streets.

3. CONSENT AGENDA

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

Resolutions & Action Items

- A) Approval of the appointment of one individual to the Impact Fee Advisory Committee for a term ending January 10, 2021.
- B) Approval of the appointment of one individual to the Community Development Advisory Committee for a term ending December 13, 2021.
- C) Approval of an annual contract renewal with Clean Harbors Environmental Services Inc. for the collection, management, and disposal of household hazardous waste accepted at City sponsored events.
- D) Approval of the City of New Braunfels FY 2018-19 First Quarter Investment Report.
- E) Approval of an Addendum to Lease Agreement between the City of New Braunfels and Sweetwater Aviation, LLC.
- F) Approval to authorize the City Manager to enter into a development agreement between the City of New Braunfels, New Braunfels Utilities,

and August Fields, LP for utility modifications as part of the Alves Lane Improvements Project.

- G) Approval of the renewal of annual contracts which include: legal bond counsel services and school crossing guard services.
- H) Approval to authorize the City Manager to enter into a development agreement between the City of New Braunfels, New Braunfels Utilities, and Mosaic Land Development, LLC for utility modifications as part of the Solms Road/Morningside Drive/Rueckle Road Reconstruction Project.
- I) Approval of a special warranty deed between Pecan Crossing Owners Association, Inc and the City of New Braunfels for the conveyance of two drainage rights-of-way, Lots 112 and 113, Block 3, Pecan Crossing, Unit Four 4, a subdivision situated in the City of New Braunfels, Guadalupe County Texas.

Ordinances

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

- J) Approval of the first reading of an ordinance to amend Chapter 66 of the Code of Ordinances, Sections 26 and 52, regarding membership qualifications of the Heritage Commission and the Historic Landmark Commission.
- K) Approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking, standing or stopping along a portion of Rainy Creek.

Mayor Casteel read the aforementioned captions.

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

4. INDIVIDUAL ITEMS FOR CONSIDERATION

Councilmember Meadows moved to take items 4H and 4K out of order. Councilmember Hines seconded the motion which passed 6-1 with Councilmember Hoyt opposed.

- H) Public hearing and first reading of an ordinance regarding the

proposed rezoning of Lots 2 and 3, Country Meadows Subdivision, addressed at 2254 and 2316 FM 725, from “R-1” Single Family District and “APD” Agricultural/Pre-Development District to “C-1A” Neighborhood Business District and “C-O” Commercial Office District.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Sandi Watson spoke on the item.

Councilmember Meadows moved to postpone the item to April 8. Councilmember Garcia seconded the motion which passed unanimously.

- K) Public hearing and first reading of an ordinance rezoning Lots A & B City Block 5023, addressed at 415 and 435 S. Union Avenue, from “R-2” Single and Two-family District to “C-O” Commercial Office District.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Rafael Marfil, David Crabill, Wilton Warnecke, Patricia Freer, Alma Martinez, Debbie Freer, Wayman Jones, Violet Tannenberger, and John Grimsley spoke on the item.

The item failed due to lack of a motion.

- A) Discuss and consider approval of the appointment of two individuals to the Landa Park Golf Course Advisory Board for terms ending December 31, 2021.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Hines moved to appoint John Coker and Chris Owen to the Landa Park Golf Course Advisory Board. Councilmember Hoyt seconded the motion which passed unanimously.

- B) Discuss and consider approval of the appointment of one individual to the Watershed Advisory Committee for a term ending April 18, 2022.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Hines moved to appoint Daniel Oldani to the Watershed Advisory Committee. Councilmember Bowers seconded the motion which passed unanimously.

- C) Discuss and consider approval of the second and final reading of an ordinance amending Section 86-7 of the Code of Ordinances to include \$20 paid parking on the north side of East San Antonio Street between the intersection with South Liberty Avenue and the Comal River bridge, and \$30 paid parking at the parking spaces on Hinman Island Drive annually from May 1 through Labor Day.

Mayor Casteel read the aforementioned caption.

Kristi Aday presented the item.

This item was read and deliberated at the same time as item D.

- D) Discuss and consider approval of the second and final reading of an ordinance amending the Code of Ordinances Section 86-7 Operation of Vehicles in Parks revising Subsection (d) by establishing a resident parking pass for Prince Solms Park and Landa Park parking lots located off Elizabeth Avenue.

Mayor Casteel also read this caption.

Kristi Aday presented the item.

Bob Wolf, Kelly Broussard, James Riegler, George Green, and Shane Wolf spoke on the items.

Justin Meadows moved to approve the items with a three-year free parking permit for residents, a \$5 replacement fee, and to be effective on portions of E. San Antonio Street, Hinman Island Drive, and Elizabeth Street; and a two-year \$40 sports pass with a \$5 replacement fee. Councilmember Garcia seconded the motion which passed

unanimously via roll call vote.

<City Council took a break.>

- E) Public hearing and first reading of an ordinance rezoning approximately six acres out of the William Mockford Survey 285, addressed at 2850 Loop 337, from “R-2” Single and Two-family District to “C-1B” General Business District.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

No one spoke during the public hearing.

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

- F) Public hearing and consideration of the proposed Veramendi Sector Plan 2 within the Veramendi Water Improvement District #1 encompassing approximately 564 acres out of the Juan Martin de Veramendi Survey No. 2 Abstract 3, including property fronting Loop 337, from approximately 500 feet east of Independence Drive extending eastward to approximately 4,000 feet east of Oakwood Church, excluding the church property, and property east of the intersection of Oak Run Parkway and Geneva Street.

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.

- G) Public hearing and first reading of an ordinance regarding the proposed rezoning of 78.93 acres of land out of Subdivision 13 of the A.M. Esnaurizar Eleven League Grant, addressed at 4958 IH 35 North from “APD” Agricultural/Pre-Development District to “ZH-A” Zero Lot Line Home District.

Mayor Casteel read the aforementioned caption.

This item was withdrawn by the applicant. No action was taken.

- I) Public hearing and first reading of an ordinance regarding the proposed rezoning of 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr., to apply a Special Use Permit to allow a car wash in the "C-1" Local Business District.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Daniel McCutchen, Thor Thornhill, and Glenn Effenberger spoke on the item.

Councilmember Hoyt moved to approve the item with a ten-foot masonry wall abutting the residences, enclose the conveyor and blower on the west side, enclose the roof of the conveyor and blower area, and add a four-foot masonry wall across a portion of the northwest edge of the business. Councilmember Hines seconded the motion which passed unanimously.

- J) Public hearing and first reading of an ordinance regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from "R-1A-6.6" Single Family District, "APD" Agricultural/Pre-Development District and Zipp Meadows Planned Development District to "ZH-A" Zero Lot Line Home District.

Mayor Casteel read the aforementioned caption.

Chris Looney presented the item.

Thor Thornhill spoke on the item.

Councilmember Meadows 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

The City Council did not recess into Executive Session.

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**

The meeting adjourned at 9:05 p.m.

Date Approved: March 11, 2019

Barron Casteel, Mayor

Attest:

Patrick Aten, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. A)

Presenter/Contact

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

SUBJECT:

Approval of a resolution adopting an order cancelling the May 4, 2019 Regular Election for City Council District One; and declaring the candidate for City Council District One Elected.

BACKGROUND / RATIONALE:

The Texas Election Code specifies procedures for electing unopposed candidates for City Council. The City Secretary is to certify that a candidate is unopposed for election and that if the election were held only the votes cast for that candidate in the election for that office may be counted. After the deadline for filing an application for a place on the ballot passed on February 15, 2019, without additional candidates, the City Secretary certified in writing to the City Council that the candidate for City Council District One is unopposed. After such certification the City Council may declare by order each unopposed candidate elected to the office, thereby canceling the May 4, 2019 Regular Election for District One.

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 resolution.

RESOLUTION NO. 2019- R_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ADOPTING AN ORDER DECLARING EACH UNOPPOSED CANDIDATE FOR THE MAY 4, 2019 REGULAR CITY COUNCIL ELECTION AS ELECTED TO OFFICE.

WHEREAS, The Texas Election Code requires the City Secretary to certify to the City Council that the candidate for City Council District One is unopposed for election; and

WHEREAS, the City Council was notified by the City Secretary of the unopposed candidates; and

WHEREAS, only the votes cast in the election for the candidate for District One may be counted; and

WHEREAS, the City Council may declare each unopposed candidate elected to office by order.

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

THAT, the City Council adopts the Order of Cancellation for City Council District One, and declares the unopposed candidate as elected.

PASSED, ADOPTED, AND APPROVED this 11th day of March, 2019.

City of New Braunfels, Texas

BARRON CASTEEL, Mayor

Attest:

PATRICK D. ATEN, City Secretary

ORDER OF CANCELLATION
ORDEN DE CANCELACIÓN

The City Council of the City of New Braunfels hereby cancels the election scheduled to be held on May 4, 2019, in accordance with Section 2.053(a) of the Texas Election Code. The following candidates have been certified as unopposed and are hereby elected as follows:

El Ayuntamiento de la Ciudad de New Braunfels por la presente cancela la elección que, de lo contrario, se hubiera celebrado el día 4 de mayo de 2019 de conformidad, con la Sección 2.053(a) del Código de Elecciones de Texas. Los siguientes candidatos han sido certificados como candidatos únicos y por la presente quedan elegidos como se haya indicado a continuación:

Candidate: Shane Hines Office Sought: Councilmember District One

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

El Día de las Elecciones se exhibirá una copia de esta orden en todas las mesas electorales que se hubieran utilizado en la elección.

Passed, Adopted, and Approved this 11th day of March, 2019.

Barron Casteel, Mayor

Patrick Aten, City Secretary



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. B)

Presenter/Contact

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

SUBJECT:

Approval of a resolution approving the form of Notice for the Special Election to be held in the City of New Braunfels on May 4, 2019, for a bond election and making conforming changes to comply with state law.

BACKGROUND / RATIONALE:

The attached resolution and exhibit clarify changes to the notice of special election to conform with state law. Copies of the notice shall be published in the Herald-Zeitung and posted in various locations throughout the city.

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 resolution.

RESOLUTION No. 2019-R____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS APPROVING THE FORM OF NOTICE FOR THE SPECIAL ELECTION TO BE HELD IN THE CITY OF NEW BRAUNFELS, TEXAS, ON MAY 4, 2019, FOR A BOND ELECTION AND MAKING CONFORMING CHANGES TO COMPLY WITH STATE LAW.

WHEREAS, the City Council of the City of New Braunfels, Texas (the "City") called a bond election pursuant to Resolution No. 2019-R06 on February 11, 2019 (the "Election Resolution"); and

WHEREAS, the City Council authorized preparation of the form of legal notice for such election; and

WHEREAS, the City Council determines it to be in the best interest of the City to make appropriate revisions to the Election Resolution including clarifying changes conforming to State law and to the form of legal notice approved hereby; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place, and purpose of the meeting was given, all as required by the Texas Government Code, Chapter 551.

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

1. The form of notice attached to this Resolution as Exhibit "A" is hereby approved in substantially final form, subject to any necessary modifications as determined by City staff including modifications necessary to meet available posting space.

2. Any revisions to the Election Resolution that are necessary to conform to the form of notice attached hereto as Exhibit "A" are hereby authorized and approved.

3. The provisions of this Resolution are severable; and in case any one or more of the provisions of this Resolution or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Resolution nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

PASSED, ADOPTED, AND APPROVED this the ____ day of _____, 2019

CITY OF NEW BRAUNFELS, TEXAS

BARRON CASTEEL, Mayor

Attest:

PATRICK ATEN, City Secretary

EXHIBIT "A"

NOTICE OF ELECTION

THE STATE OF TEXAS	§
COUNTIES OF COMAL AND GUADALUPE	§
CITY OF NEW BRAUNFELS	§

TO THE RESIDENT, QUALIFIED ELECTORS OF SAID CITY:

TAKE NOTICE that an election will be held in said City as provided in an A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF NEW BRAUNFELS, TEXAS, ON MAY 4, 2019, FOR A BOND ELECTION, AND ESTABLISHING AN EARLY VOTING LOCATION AND POLLING PLACES FOR THIS ELECTION; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION to be held on May 4, 2019 duly passed by the City Council of said City, which order is substantially as follows:

WHEREAS, the City Council of the City of New Braunfels, Texas (the "City") deems it advisable to call the bond election hereinafter ordered; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place, and purpose of the meeting was given, all as required by the Texas Government Code, Chapter 551.

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

1. A bond election shall be held within the City on May 4, 2019, between the hours of 7:00 A.M. and 7:00 P.M., at such polling places hereby established and designated as set forth on Exhibit "A" to this Resolution. Exhibit "A" shall be revised, if necessary, to comply with Texas law and any requirements of Comal or Guadalupe County (the "Counties"). The election will be conducted pursuant to Texas law. Election equipment from the City shall be used in the election, as appropriate. The election judges, clerks, early voting ballot board presiding judge, central counting station presiding judge and early voting clerks shall be appointed by the City in accordance with the Texas Election Code. Oral assistance in Spanish shall be made available to all persons requiring such assistance. Any person requiring oral assistance in Spanish should contact the presiding judge or the early voting clerk. The use of ES&S iVotronic Touch Screen voting system, as the term is defined in the Texas Election Code, shall be utilized in connection with the election. This system shall be utilized for early voting as well as for district voting conducted on Election Day. Patrick Aten is appointed as programmer, and he shall prepare a program for the automatic tabulating equipment. Ample voting equipment shall be provided for early voting and in the specific districts on Election Day. The central counting station is established as the office of the City Secretary of the City of New Braunfels, City Hall.

2. Early voting shall be conducted for all voters by personal appearance and mail at the designated early voting polling place or places and during the hours set forth in Exhibit "B" hereto. Exhibit "B" shall be revised, if necessary, to comply with any necessary changes.

3. An early voting ballot board is hereby created to process early voting results, and Clinton Brandt is hereby appointed as the presiding judge of the board. The presiding judge shall appoint at least two other members of the board.

4. The early voting clerk for the election shall be Patrick Aten. The City may appoint additional early voting clerks in accordance with the Texas Election Code.

5. Applications for early voting by mail for all residents of the City shall be sent to:

City Secretary
550 Landa Street
New Braunfels, TX 78130

An application for a ballot by mail must be received no later than the close of business on April 23, 2019.

6. All resident, qualified electors of the City shall be entitled to vote at the election.

7. At the election the following PROPOSITION, setting forth the purpose for which the bonds shall be authorized, shall be submitted in accordance with law:

NEW BRAUNFELS PROPOSITION 1

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$44,512,490 for the purpose of constructing, acquiring, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections including, utility relocation, sidewalks, traffic safety and operational improvements, the purchase of any necessary land, rights-of-way, drainage and other related costs, to include Klein Road, Goodwin Lane, Conrads Lane, the extensions of FM 306 and Business 81, and a Citywide Streets Improvement Program, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

NEW BRAUNFELS PROPOSITION 2

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue,

respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$16,547,420 for the purpose of constructing, acquiring, improving, renovating, developing and equipping, land and buildings for park and recreational purposes, parkland, scenic easement and trail acquisition, development and improvement and related infrastructure and other costs to include the Sport Field Complex, Comal Cemetery wall stabilization and improvements, and all abilities park amenities, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

NEW BRAUNFELS PROPOSITION 3

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$50,414,750 for the purpose of constructing, acquiring, improving, renovating and equipping City public safety facilities for police and fire protection, including the acquisition of any necessary sites and related infrastructure, demolition and other costs to include two new Fire Stations and a new Police Department, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

NEW BRAUNFELS PROPOSITION 4

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$5,525,340 for the purpose of constructing, renovating, improving, and equipping existing and/or additional City library facilities including acquisition of any necessary sites and related water, wastewater, drainage, streets, sidewalks, parking infrastructure and other related costs to include the New Braunfels Public Library – Westside Community Center Branch, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad

valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

8. The official ballots for the election shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote "FOR" or "AGAINST" the aforesaid PROPOSITION with the ballots to contain such provisions, markings and language as required by law, and with such PROPOSITION to be expressed substantially as follows:

NEW BRAUNFELS PROPOSITION 1

FOR	_____	)	THE ISSUANCE OF \$44,512,490 OF TAX BONDS BY THE
		)	CITY OF NEW BRAUNFELS, TEXAS, FOR THE
		)	CONSTRUCTION, ACQUISITION, IMPROVEMENT, AND
		)	UPGRADING OF STREETS TO INCLUDE KLEIN ROAD,
AGAINST	_____	)	GOODWIN LANE, CONRAD'S LANE, THE EXTENSIONS OF
		)	FM 306 AND BUSINESS 81 AND A CITYWIDE STREETS
		)	IMPROVEMENT PROGRAM AND LEVYING THE TAX IN
			PAYMENT THEREOF.

NEW BRAUNFELS PROPOSITION 2

FOR	_____	)	THE ISSUANCE OF \$16,547,420 OF TAX BONDS FOR PARK
		)	AND RECREATIONAL FACILITIES AND PROJECTS TO
		)	INCLUDE THE SPORTS FIELD COMPLEX, COMAL
		)	CEMETERY WALL STABILIZATION AND IMPROVEMENTS,
AGAINST	_____	)	AND ALL ABILITIES PARK AMENITIES AND LEVYING THE
		)	TAX IN PAYMENT THEREOF.

NEW BRAUNFELS PROPOSITION 3

FOR	_____	)	THE ISSUANCE OF \$50,414,750 OF TAX BONDS FOR
		)	PUBLIC SAFETY FACILITIES AND PROJECTS TO INCLUDE
		)	TWO NEW FIRE STATIONS AND A NEW POLICE
AGAINST	_____	)	DEPARTMENT AND LEVYING THE TAX IN PAYMENT
		)	THEREOF.

NEW BRAUNFELS PROPOSITION 4

FOR	_____	)	THE ISSUANCE OF \$5,525,340 OF TAX BONDS FOR CITY
		)	LIBRARY FACILITIES AND PROJECTS TO INCLUDE THE
		)	NEW BRAUNFELS PUBLIC LIBRARY – WESTSIDE
AGAINST	_____	)	COMMUNITY CENTER BRANCH AND LEVYING THE TAX
		)	IN PAYMENT THEREOF.

9. Solely for purposes of compliance with Section 3.009(b) of the Texas Election Code, set forth in Exhibit "C" attached hereto is the information required in a bond election resolution in

accordance with Section 3.009(b) of the Texas Election Code. Exhibit "C" is hereby incorporated by reference for all purposes.

10. In accordance with Section 4.003(a)(1) of the Texas Election Code, a substantial copy of this Resolution, appearing in English and Spanish, shall serve as proper notice of said election, and the Mayor or other representatives of the City shall cause the notice to be published two time, not earlier than the 30th day or later than the 10th day prior to the date set for the election, in a newspaper published in the City or, if none is published in the City, in a newspaper of general circulation in the City. In addition, in accordance with Section 4.003 of the Texas Election Code, a substantial copy of this Resolution, appearing in English and Spanish, shall be posted on the bulletin board used by the City to post meetings of the City Council not later than the 21st day before the election. In accordance with Section 4.003(f) of the Texas Election Code, a substantial copy of this Resolution, appearing in English and Spanish, shall be posted on election day and during early voting by personal appearance in a prominent location at each polling place; in three public places in the boundaries of the City no later than the 21st day before the election; and on the City's Internet website during the 21 days before the election if the City maintains an Internet website.

11. The provisions of this Resolution are severable; and in case any one or more of the provisions of this Resolution or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Resolution nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

12. The official canvass of the results of the special election shall be conducted by the City at a regular or special meeting in accordance with the Texas Election Code.

EXHIBIT "A"
ANEXO "A"

ELECTION DAY POLLING PLACES
LUGARES DE VOTACIÓN DEL DÍA DE ELECCIÓN
MAY 4, 2019
4 DE MAYO DE 2019

District One, Westside Community Center, 2932 S. IH35 Frontage Road
District Two, New Braunfels First Church of the Nazarene, 210 W. Klein Road
District Three, Seele Elementary School, 540 Howard Street
District Four, Faith United Church of Christ, 970 N Loop 337
District Five, Lamar Elementary School, 240 N. Central Avenue
District Six, Walnut Springs Elementary School, 1900 S. Walnut Avenue

7:00 a.m. – 7:00 p.m.

Subject to Change
Sujeto a Cambios

EXHIBIT "B"
ANEXO "B"

EARLY VOTING SCHEDULE
(HORARIO DE LA VOTACION ADELANTADA)
MAY 4, 2019
4 DE MAYO DE 2019

Location:
Comal County Elections Office
396 N. Seguin Avenue
New Braunfels, TX 78130

Dates & Hours:

Monday, April 22, 2019	8am-5pm
Tuesday, April 23, 2019	8am-5pm
Wednesday, April 24, 2019	7am-7pm
Thursday, April 25, 2019	8am-5pm
Friday, April 26, 2019	8am-5pm
Saturday, April 27, 2019	9am-1pm
Monday, April 29, 2019	7am-7pm
Tuesday, April 30, 2019	8am-5pm

Subject to Change
Sujeto a Cambios

EXHIBIT "C"
ANEXO "C"

INFORMATION REQUIRED PURSUANT TO
SECTION 3.009(b) OF THE TEXAS ELECTION CODE¹

- (1) The proposition language that will appear on the ballot is set forth in Section 8 hereof.
- (2) The purpose for which the bonds are to be authorized is set forth in Section 7 hereof.
- (3) The principal amount of the debt obligations to be authorized is set forth in Sections 7 and 8 hereof.
- (4) As set forth in Sections 7 and 8 hereof, if the bonds are approved by the voters, the City Council will be authorized to levy annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds.
- (5) Based upon the bond market conditions at the date of adoption of this Resolution, the maximum interest rate for any series of the bonds is estimated to be 4% as calculated in accordance with applicable law. Such estimate takes into account a number of factors, including the issuance schedule, maturity schedule and the expected bond ratings of the proposed bonds. Such estimated maximum interest rate is provided as a matter of information, but is not a limitation on the interest rate at which the bonds, or any series thereof, may be sold.
- (6) As set forth in Section 7 hereof, if the bonds are approved, they may be issued in one or more series, to mature serially, over a period not to exceed 40 years.
- (7) The aggregate amount of the outstanding principal of the City's debt obligations (all of which are secured by a tax levied for debt service purposes) as of the beginning of the City's 2018-19 fiscal year is \$180,520,000.
- (8) The aggregate amount of the outstanding interest of the City's debt obligations (all of which are secured by a tax levied for debt service purposes) as of the beginning of the City's 2018-19 fiscal year is \$60,249,669.67.
- (9) The ad valorem debt service tax rate for the City for the 2018-19 fiscal year is \$0.4882 per \$100 of taxable assessed valuation.

¹ This information is provided solely for purposes of compliance with Section 3.009(b) of the Texas Election Code and is for illustration purposes only. The information is not a part of the proposition to be voted on and does not create a contract with the voters.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. C)

Presenter/Contact

*Patrick O'Connell, Assistant Fire Chief
(830) 221-4204 - POConnell@nbtexas.org*

SUBJECT:

Approval of a contract for medical examinations and health testing through Life Extension Clinics Inc D/B/A Life Scan Wellness Centers for the City Firefighters at an annual cost of \$70,380.

BACKGROUND / RATIONALE:

The Fire department is required to perform Physical Exams on its firefighters to assess their fitness for duty. Specific types of physicals are required to meet OSHA and NFPA 1582 and 1583 guidelines as well as other wellness fitness requirements. These physicals are much more in-depth than a standard physical offered through our medical plan. These physicals are designed for emergency services first responders that come in contact with various types of hazardous materials that our employees encounter.

On February 13, 2019 competitive bids were received with one (1) response received from Life Extension Clinics Inc D/B/A Life Scan Wellness Centers, herein referred to as "Life Scan Wellness Centers". Life Scan Wellness Centers meets the specified requirements at a cost \$510 per physical exam. The Fire Department will require approximately 138 physicals annually. The estimated contract expenditures for FY 18/19 is \$70,380, which includes additional new staff. This is a 12-month contract with four (4) annual renewals. The cost will include an annual Medical Price Index increase not to exceed 5%. The Fire Department recommends awarding to Life Scan Wellness Centers to perform physical exams to meet the required standards.

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

City Council Priority:	Strategic Priorities: 17. Ensure expanded age-appropriate educational, workforce development and literacy opportunities.
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FISCAL IMPACT:

Funding for these expenditures above are incorporated into the appropriate FY 2018-19 department budget, therefore, sufficient funds are available.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a contract for medical examinations and health testing through Life Extension Clinics Inc D/B/A Life Scan Wellness Centers for the City Firefighters at an annual cost of \$70,380.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. D)

Presenter/Contact

Barbara Coleman, Purchasing Manager
(830) 221-4389 - BColeman@nbtexas.org

SUBJECT:

Approval of a 2006 Tymco Street Sweeper to be declared as surplus and the sale to the Victoria Regional Airport.

BACKGROUND / RATIONALE:

City staff have identified a 2006 435 Tymco Street Sweeper as surplus. The 2006 Sweeper was replaced with new equipment which was approved by City Council on September 28, 2015. The equipment is used by the Public Works Department for general operations support.

To ensure compliance with City code, staff requests that City Council declare the 2006 Tymco Street Sweeper to be considered surplus.

Staff is also requesting Councils approval to sell the Street Sweeper directly to Victoria Regional Airport for \$15,000. This is consistent with the market analysis and supports the value in its present condition. The Victoria Regional Airport has agreed to pay the market value. The items are being sold in "as-is" condition.

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

City Council Priority:	Strategic Priorities: 9. Maintain fiscal stability of City operations
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FISCAL IMPACT:

All proceeds from the sale will be place in the Equipment/Vehicle Replacement fund to offset the cost of replacement vehicles and other equipment purchases.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a 2006 Tymco Street Sweeper to be declared as surplus and the sale to the Victoria Regional Airport.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. E)

Presenter/Contact

*Greg Malatek, Public Works Director
(830) 221-4025 - GMalatek@nbtexas.org*

SUBJECT:

Approval of a contract with The Levy Company, L.P. for on-call maintenance and installation services for traffic signals.

BACKGROUND / RATIONALE:

The City of New Braunfels issued a competitive sealed proposal on January 4, 2019 for on-call maintenance and installation services to support City traffic signals. The work included in the contract consist of providing all material, labor, traffic control plans, and any other items required services to install and/or repair traffic signals on an as-needed basis for the Public Works Department.

The contract is a three (3) year contract with 2 annual one-year renewal options. One response was received on January 25, 2019 from the incumbent company, The Levy Company. They have supported the City since 2014 and are in good standing. Staff recommends award to The Levy Company.

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

City Plan/Council Priority:	Public Safety 6: Continue to develop proactive programs for traffic control.
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FISCAL IMPACT:

Funding for traffic signal maintenance and installation is a component of the Public Works - Streets division operating budget. There is currently \$92,000 budgeted specifically for street lighting/signal repairs and supplies, including outside services that may be needed un the proposed contract.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a contract with The Levy Company, L.P. for on-call maintenance and installation services for traffic signals.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. F)

Presenter/Contact

Ian Taylor, NBU CEO
itaylor@nbutexas.com

SUBJECT:

Approval of a resolution in support of HB 481 related to storage and recovery of potable water in the brackish portion of the Edwards Aquifer.

BACKGROUND / RATIONALE:

In May 2012, New Braunfels Utilities (NBU) completed a feasibility study that evaluated Aquifer Storage and Recovery (ASR) as a water management strategy for the utility (the "ASR Feasibility Study"). ASR is a rapidly-growing water resources technology that allows water utilities to store water in underground aquifers when it is available and recover that water when it is needed during times of drought, peak demand or emergency. There are currently over 500 ASR wells successfully operating in 21 states. In Texas, successful ASR facilities are owned and operated by El Paso Water, the city of Kerrville and the San Antonio Water System (SAWS). The SAWS ASR wellfield is one of the largest in the United States, with a recovery capacity of over 60 million gallons of water per day.

The NBU Feasibility Study determined that ASR could be a very valuable management strategy which would allow NBU to more-fully and more-efficiently use its existing water rights from the Texas Commission on Environmental Quality (TCEQ), its contract for stored water in Canyon Reservoir and its groundwater permits from the Edwards Aquifer Authority (EAA). The Feasibility Study recommended that the most viable location for an ASR wellfield would be in the brackish (Saline Zone) portion of the Edwards Aquifer near the New Braunfels Regional Airport.

In 2015, the 84th Texas Legislature passed Rider 25 to H.B. 1 that appropriated \$1 million to the Texas Water Development Board (TWDB) for demonstration projects to support ASR and other innovative water storage technologies. Based on a competitive process, the TWDB selected three projects for funding, including the ASR data-collection project sponsored by EAA and NBU.

The EAA/NBU demonstration project has recently been completed, and the draft final report is being reviewed by the TWDB. Based on hydrogeologic, water quality and geochemical analyses of data gathered from a wireline core and a monitoring well, NBU has confirmed that ASR is very viable in the Saline Zone of the Edwards Aquifer at and near the New Braunfels Regional Airport.

In 2017 NBU and EAA jointly developed an Interlocal Agreement (ILA) that documents the procedures, studies and monitoring required for NBU to implement an ASR program in the Saline Zone of the Edwards Aquifer without detrimentally affecting water levels or water quality at the Comal and San Marcos Springs. Using the authorizations and requirements contained in the ILA, NBU is currently permitting, designing and constructing a full-scale ASR demonstration well and three additional monitoring wells.

Source Waters for Recharge, Storage and Recovery.

Over the last 75 years, NBU has diligently developed a diverse inventory of water supply sources, including both treated surface water from the Guadalupe River and Canyon Reservoir, and groundwater from the Edwards and Trinity Aquifers. However, during times of drought, only about 50 percent of that water is available due to regulatory restrictions by TCEQ and EAA. ASR will give NBU the ability to store treated surface water and groundwater during times when excess water is available. The water to be stored will be drinking water directly from NBU's public water distribution system.

Needed Changes to the EAA Act.

When the EAA's enabling act (SB 1477) was passed in 1993 (the "EAA Act"), Legislators did not envision ASR-type projects. In the EAA Act the provisions related to aquifer recharge focus on recharge of water into the freshwater portion of the Aquifer using water from the Edwards Aquifer itself, or diversion dams and natural recharge features. Based on years of research (including the recently-completed TWDB project) and more knowledge about ASR's potential benefits to the region, EAA and NBU understand and agree that it is feasible and appropriate to store freshwater in the Saline Zone of the Edwards Aquifer through ASR wells. To greatly increase the efficiency of that recharge and storage, changes are needed to Section 1.44 of the EAA Act in order for water utilities like NBU to store water directly from the potable water distribution system into the Saline Zone of the Aquifer.

Needed Changes to Texas Water Code Section 27.051.

Likewise, changes are needed to Section 27.051 of the Texas Water Code (TWC) to allow utilities like NBU to store potable water from the public water distribution system. Currently the TWC provides that only Edwards Aquifer water and stormwater can be recharged into the Edwards Aquifer. Those provisions mean that NBU cannot recharge into an ASR wellfield any water directly from NBU's public water system because the drinking water in that distribution system is comprised of a blend of treated surface water from Canyon Reservoir and the Guadalupe River, and groundwater from the Edwards and Trinity Aquifers.

Importance of H.B. 481.

The changes proposed in H.B. 481 will allow NBU to recharge drinking water with a total dissolved solids (TDS) of less than 1,500 milligrams per liter (mg/L) into the Saline Zone of the Edwards Aquifer where the TDS is greater than 5,000 mg/L. This is important to NBU because it:

- Allows NBU to more efficiently manage its treated surface water and groundwater by storing excess drinking water when it is available; and
- Eliminates the need to make significant and costly modifications to isolate portions of NBU's water distribution system or to lay dedicated pipelines from NBU's Edwards Aquifer wells to the ASR wellfield.

As drafted, H.B. 481 specifies that domestic wastewater, municipal wastewater and reclaimed water cannot be recharged or stored.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

NBU staff recommends approval of the resolution of support for HB 481.

RESOLUTION NO. 2019-XX**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, EXPRESSING SUPPORT FOR THE PASSAGE OF H.B. 481 RELATED TO STORAGE AND RECOVERY OF POTABLE WATER IN THE BRACKISH PORTION OF THE EDWARDS AQUIFER**

WHEREAS, New Braunfels, Texas and the surrounding area have been documented by the U.S. Census Bureau as one of the fastest growing communities in the United States; and

WHEREAS, New Braunfels Utilities (“NBU”) is a municipally-owned public utility responsible for water, wastewater, and electric service for the residents and businesses in the New Braunfels area, within portions of Comal and Guadalupe Counties; and

WHEREAS, over the last 75 years, NBU has diligently developed a diverse inventory of surface water and groundwater sources, but about half of that water supply is subject to decreased availability because of regulatory restrictions during periods of severe drought; and

WHEREAS, Aquifer Storage and Recovery (“ASR”) has proven to be a successful water management technology in Texas and over 20 other states by giving utilities the ability to: (i) recharge water into underground aquifers during times when excess water is available and (ii) later recover that stored water during times of drought, peak demand, or emergency; and

WHEREAS, over the last eight years, NBU has methodically studied the feasibility of ASR as a strategy for significantly improving the reliability of NBU’s water supply; and

WHEREAS, NBU has worked with the Edwards Aquifer Authority (“EAA”) and the Texas Water Development Board on a multi-phased data-collection project to further confirm the feasibility of storing water in, and recovering water from, the brackish portion of the Edwards Aquifer (the “Saline Zone”) at or near the New Braunfels Regional Airport; and

WHEREAS, NBU and EAA have jointly developed an Interlocal Agreement (“ILA”) that documents the procedures, studies, and monitoring required for NBU to implement an ASR program in the Saline Zone of the Edwards Aquifer without detrimentally affecting water levels or water quality at the Comal and San Marcos Springs; and

WHEREAS, NBU is currently using the ILA authorizations and requirements to permit, design, and construct a full-scale ASR demonstration well and three additional monitoring wells; and

WHEREAS, NBU has determined, with input from EAA, that House Bill (“H.B.”) 481, which makes minor changes to Texas law, will improve the efficiency of NBU’s ASR program by allowing NBU to recharge drinking water from the NBU public water distribution system into the Saline Zone of the Edwards Aquifer; and

WHEREAS, the NBU ASR program will provide regional benefits by more-efficiently using existing water supplies during times of plenty while reducing NBU’s dependence on existing supplies during times of drought, and further demonstrating that storing water in the brackish portion of the Edwards Aquifer is a viable technology.

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

SECTION 1. The City Council of the City of New Braunfels, Texas supports the passage of HB 481 by the Texas Legislature during its 86th Regular Session.

SECTION 2. This Resolution takes effect immediately upon adoption.

Adopted on February 25, 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

3/11/2019

Agenda Item No. G)

Presenter/Contact

Tom Wibert, Chief of Police
(830) 221-4102 - twibert@nbtexas.org

SUBJECT:

Approval of a resolution, ratification of the submission of an application for the continued funding of a Criminal Investigations Division Officer utilizing a U.S. Department of Justice Violence Against Women Formula Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this 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 recently submitted a grant application to the U.S. Department of Justice, Violence Against Women Formula Grant for Program Year 2020 for the continued funding of a Criminal Investigations Division (CID) Officer ("Detective") dedicated solely to investigating violent crimes against women, including domestic violence, sexual assault, dating violence, and stalking.

The grant application submitted on behalf of the New Braunfels Police Department (NBPD) is for the continuation of the Detective's currently grant-funded position; the funding was first awarded in by this program in 2015 and the City has been fortunate to continue to receive annual funding from the program for the position.

City staff has submitted a grant application for a total amount of \$126,760.56; the granting agency will provide funds for 71% of the total amount, and City will provide funds for a minimum of 29% as a City-match requirement. Therefore, the total cost to the City equals \$36,760.56 and will include personnel costs and position-specific travel/training for the Detective.

CATEGORY	GRANT AMOUNT (71%)	CITY MATCH (29%)	TOTAL
Personnel	\$ 90,000.00	\$ 34,016.56	\$ 124,016.56
Travel/Training	\$ 0.00	\$ 2,744.00	\$ 2,744.00
TOTAL	\$ 90,000.00	\$ 36,760.56	\$ 126,760.56

If approved, the grant will be awarded in September 2019.

Staff is also requesting City Council approval of a resolution, as required by the granting agency, that will authorize our City Manager to act as the authorized official on behalf of the City in all matters

related to this grant. The designated authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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.
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FISCAL IMPACT:

The 29% matching requirement for the above-referenced grant equals \$36,760.56. 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 the approval of a resolution, ratification of the submission of an application for the continued funding of a Criminal Investigations Division Officer utilizing a U.S. Department of Justice Violence Against Women Formula Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this grant.

RESOLUTION 2019-R_____

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FUNDING UNDER THE U.S. DEPARTMENT OF JUSTICE, VIOLENCE AGAINST WOMEN FORMULA GRANT AND AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTATION ASSOCIATED WITH ANY RESULTING AWARD.

WHEREAS, The City of New Braunfels finds it in the best interest of the citizens of Comal County that the “Criminal Investigations Division Officer” project be operated for the 2020 Program Year; and

WHEREAS, the City of New Braunfels agrees to provide applicable matching funds for said project as required by the Office of the Governor, Public Safety Office, Criminal Justice Division’s Violence Against Women Justice and Training Program grant application; and

WHEREAS, the City of New Braunfels agrees that in the event of loss or misuse of the Office of the Governor funds, the City of New Braunfels assures that the funds will be returned to the Office of the Governor in full.

WHEREAS; the City of New Braunfels designates the City Manager as the grantee’s authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

THAT, the City of New Braunfels’ City Council approves submission of the grant application for the “Criminal Investigations Division Officer” project to the Office of the Governor.

ADOPTED AND APPROVED on this the 11th day of March 2019.
Grant Number: 2879905

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

3/11/2019

Agenda Item No. H)

Presenter/Contact

Kenneth Jacks, Fire Chief
(830) 221-4207 - kjacks@nbtexas.org

SUBJECT:

Approval of a resolution, ratification of the submission of an application for funding of the purchase of Hazmat equipment utilizing a U.S. Department of Homeland Security State Homeland Security Program - Regular Projects Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this 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 recently submitted a grant application to the U.S. Department of Homeland Security, State Homeland Security Program - Regular Projects Grant for Program Year 2020 for the purchase of equipment for the New Braunfels Fire Department's (NBFD) Hazmat team.

The grant application submitted on behalf of the NBFD is for the purchase of an AreaRAE Rapid Deployment Kit (RDK) which will allow first responders to remotely monitor air conditions during Hazmat events, or large public gatherings such as Wurstfest, by collectively surveying a large area, identifying and monitoring potential threats, and providing for a safer working environment by establishing exclusion zones. Additionally, the kit will assist in the detection, identification, and response to Suspicious Packages and Improvised Explosive Devices.

City staff has submitted a grant application for a total amount of \$72,000.00. The granting agency will provide funds for 100% of the total amount therefore, there is no City-match requirement.

If approved, the grant will be awarded by September 2019.

Staff is requesting City Council approval of a resolution, as required by the granting agency, that will authorize our City Manager to act as the authorized official on behalf of the City in all matters related to this grant. The designated authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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.
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FISCAL IMPACT:

There is no City-match requirement for this grant.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends the approval of a resolution, ratification of the submission of an application for funding of the purchase of Hazmat equipment utilizing a U.S. Department of Homeland Security State Homeland Security Program - Regular Projects Grant for Program Year 2020, and authorization for the City Manager to act on behalf of the City in all matters related to this grant.

RESOLUTION 2019-R_____

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FUNDING UNDER THE U.S. DEPARTMENT OF HOMELAND SECURITY, STATE HOMELAND SECURITY PROGRAM – REGULAR PROJECTS GRANT AND AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTATION ASSOCIATED WITH ANY RESULTING AWARD.

WHEREAS, The City of New Braunfels finds it in the best interest of the citizens of Comal County that the “Guada-Coma Hazmat Project #1” project be operated for the 2020 Program Year; and

WHEREAS, the City of New Braunfels agrees to provide applicable matching funds for said project as required by the Office of the Governor, Public Safety Office, Homeland Security Grants Division’s 2019 State Homeland Security Program grant application; and

WHEREAS, the City of New Braunfels agrees that in the event of loss or misuse of the Office of the Governor funds, the City of New Braunfels assures that the funds will be returned to the Office of the Governor in full.

WHEREAS; the City of New Braunfels designates the City Manager as the grantee’s authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

THAT, the City of New Braunfels’ City Council approves submission of the grant application for the “Guada-Coma Hazmat Project #1” project to the Office of the Governor.

ADOPTED AND APPROVED on this the 11th day of March 2019.
Grant Number: 3851401

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

3/11/2019

Agenda Item No. I)

Presenter/Contact

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

SUBJECT:

Approval of a contract modification to Urban Civil Engineering for sidewalk design work on Timber Hollow and Crown Ridge as part of the proposed 2019 Bond Citywide Streets and Sidewalks Program.

BACKGROUND / RATIONALE:

On September 10, 2018, City Council approved the Oak Run sidewalks project for design as part of the proposed 2019 Bond Citywide Streets and Sidewalks Program. Urban Civil Engineering was selected to design the project. The limits of the sidewalk improvements are Oak Glen from Oak Run Parkway to Timber Hollow, and Timber Hollow from Oak Glen to Crown Ridge. After further discussions, additional sidewalks are needed to fill in gaps between existing sidewalks already in place. The new sections to be added are Crown Ridge from Timber Hollow to Oak Glen, and Timber Hollow from Crown Ridge to the cul-de-sac by Quail Creek. Urban Civil's proposal for the additional design work for Crown Ridge is \$20,980 and Timber Hollow is \$10,600 for a total of \$31,580.

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

X	Yes	City of New Braunfels Strategic Priorities	Infrastructure-Continue an ongoing program of infrastructure construction and maintenance.
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FISCAL IMPACT:

There are sufficient funds remaining from the tax note issued for the 2019 Bond Preliminary Engineering Reports/Design.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a contract modification to Urban Civil Engineering for \$31,580 to complete the additional sidewalk design for Timber Hollow and Crown Ridge.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. J)

Presenter

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

SUBJECT:

Approval of the second and final reading of an ordinance regarding the proposed rezoning of 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr., to apply a Special Use Permit to allow a car wash in the "C-1" Local Business District.

BACKGROUND / RATIONALE:

Case No.: PZ-18-048

Council District: 4

Owner Aquacorp, Inc.
Robert C. Mason, President
P.O. Box 311947
New Braunfels, TX 78131

Applicant: Daniel McCutchen - Agent
723 Deer Run Way
New Braunfels TX, 78132
(405) 413-4982

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

City Council held a public hearing on February 25, 2019 and approved the first reading of this requested rezoning, with the following conditions:

1. A 10-foot tall masonry buffer wall along the western property line abutting residential use.
2. A minimum 4-foot tall masonry wall that is 50-feet long beginning at the northwestern corner of the carwash business property and extending perpendicular to Loop 337.
3. The west side of the conveyor tunnel must be fully enclosed with a solid wall.
4. The west side of the blower area must be fully enclosed with a solid wall.
5. The roof of the conveyor tunnel and blower area must be fully covered.

The approximately 1.5 acre subject property is adjacent to Loop 337 between its intersections with

Rivercrest and Hillcrest Drives. The southern half of the subject property is developed with a self-serve car wash constructed in 1985; the northern half is vacant. Platting of the property may be required prior to redevelopment.

The applicant is requesting the property be rezoned to apply a Type 1 Special Use Permit (SUP) to allow a car wash. It is unclear if the uses allowed in C-1 changed at some point, or if the current car wash is grandfathered based on the property being zoning differently in the past. However, the proposed SUP would allow the applicant to proceed with his plans to remove the existing older self-serve car wash facility, and construct a new automated self-propelled car wash tunnel on the property. Any redevelopment would be subject to current residential buffering requirements (6 to 8 foot tall masonry fence/wall plus trees).

General Information:

Surrounding Zoning and Land Use:

North - Across Rivercrest Dr., C-1 / Restaurant

South - Across Hillcrest Dr., C-1 / fuel sales, convenience store

East - Across Loop 337, C-1 / Dentist and single-family residences

West - R-1 / Single-family residences

Floodplain:

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

Regional Transportation Plan:

Loop 337 is designated as a 150-foot wide Principal Arterial and has a current right-of-way width of approximately 210 feet. Any necessary mitigation measures will be reviewed for compliance with code requirements with the platting and permitting of the subject property.

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 a car wash is established and is appropriate along major thoroughfares such as Loop 337, and is consistent with other commercial uses in the area. Redevelopment would have to comply with the new buffering requirements which would improve upon the current situation. If there is any concern about specific issues or impacts, mitigating conditions can be placed on an SUP.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed zoning should not conflict with existing and proposed schools, streets, or utilities in the area. The Loop improvements will complement this proposed redevelopment.*);
- How other areas designated for similar development will be affected (*The proposed zoning should not impact other areas designated for similar development.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*Drainage, utilities and traffic impact will be reviewed and addressed through the platting and permitting processes.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The subject property lies within the New Braunfels Sub Area, a Transitional Mixed-Use Corridor (Loop 337), and in close proximity to existing Civic, Market and Employment Centers.*)

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> Action 3.10: <i>Change zoning/land use and platting rules, and create tax and permit fee incentives in underutilized neighborhoods, nodes, and corridors to encourage redevelopment.</i>
--	---

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on February 5, 2019 and recommended approval with a condition that the required masonry buffer wall be 8 feet tall along the common property line shared with residential uses (8-0-0).

STAFF RECOMMENDATION:

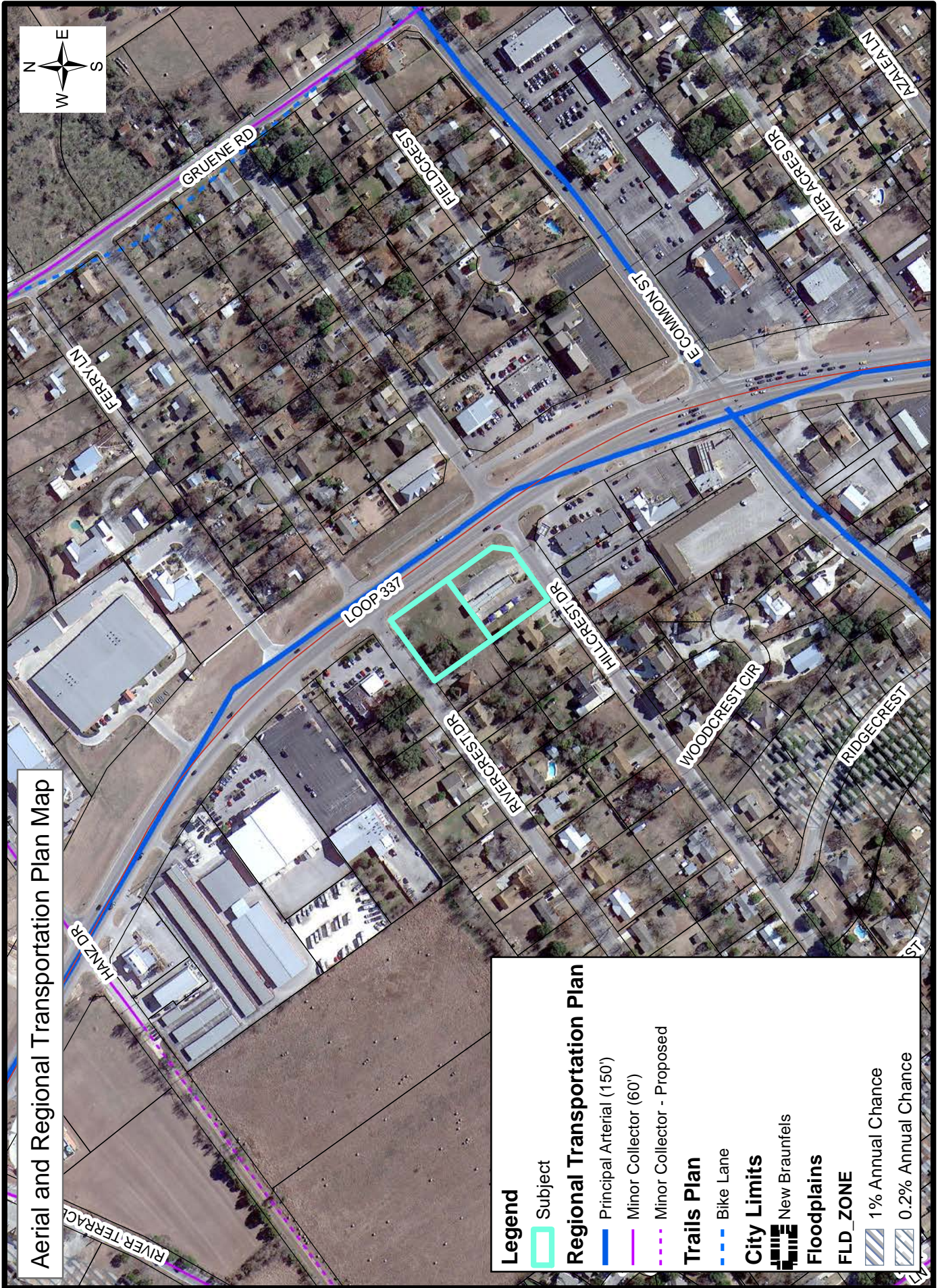
The subject property is adjacent to the Common/Loop 337 Market Center which includes a transitional mix of commercial and residential uses that maintain the stability of the surrounding neighborhoods. Redevelopment of this site will provide services consistent with the existing commercial corridor and would be consistent with the established use of the property. Additionally, redevelopment will result in enhanced residential buffering than what was required in 1985. Staff recommends approval including the condition recommended by the Planning Commission to help mitigate any noise concerns.

Notification:

Public hearing notices were sent to 14 owners of property within 200 feet of the request. The City has received two responses in favor (#1 & 2) and five in opposition (#4, 6, 7, 8 & 14).

ATTACHMENTS:

1. Aerial and Regional Transportation Plan Map
2. Conceptual Site Plan
3. Land Use Maps (Zoning, Existing Land Use, Existing Centers & Future Land Use Plan)
4. Notification List, Notification Map and Notification Responses
5. Photograph
6. Zoning Ordinance Sections:
 - Sec. 3.3-7 "C-1" Local Business District
 - Sec. 3.6 Special Use Permits
7. Planning Commission Meeting Draft Minutes
8. Ordinance



PZ-18-048
1290 Rivercrest Drive and 1293 Hillcrest Drive
SUP to Allow a Car Wash

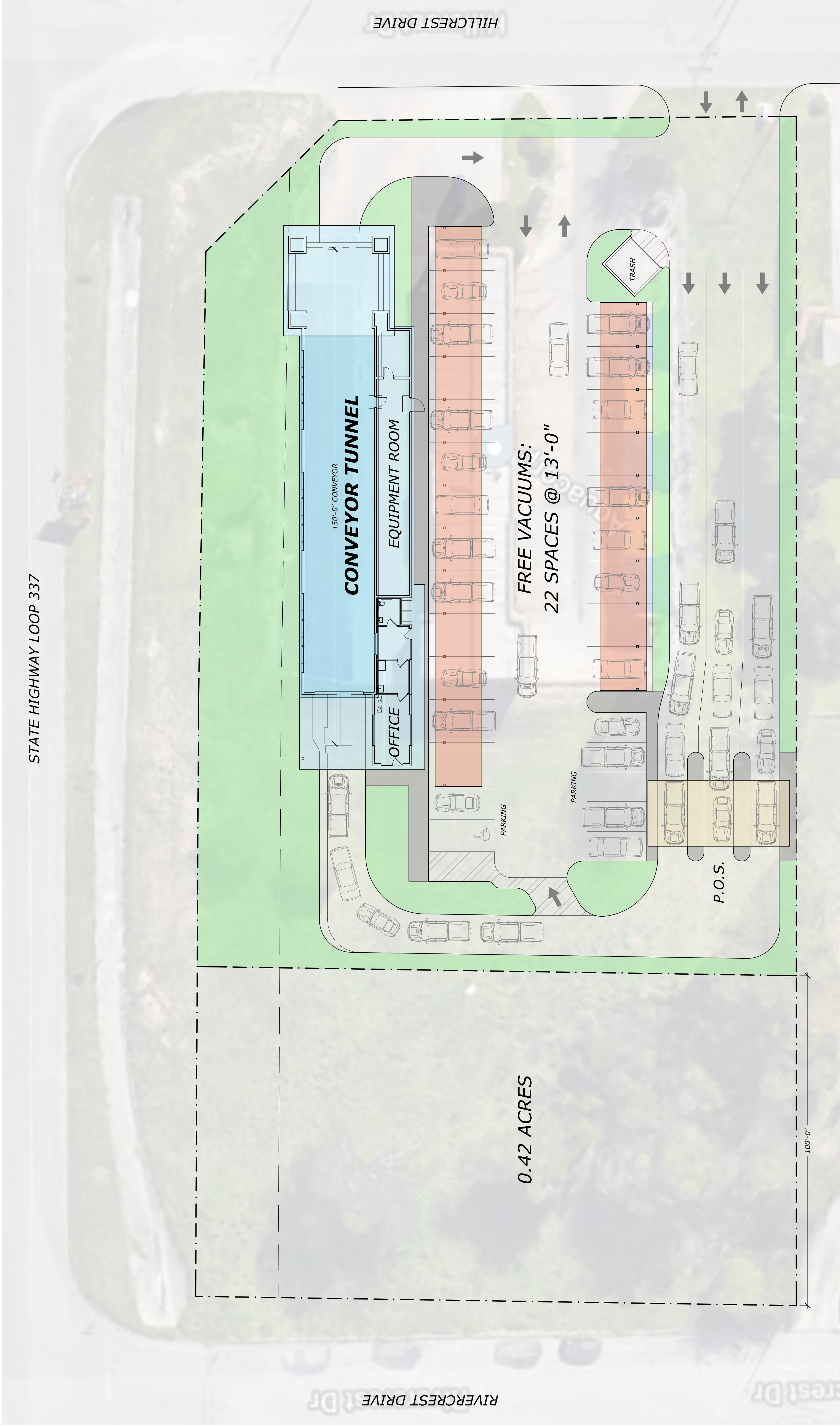


PRELIMINARY
NOT FOR
CONSTRUCTION

These Drawings are incomplete and may not be used for regulatory approval, permit, or construction.

Site Location
Scale: N.T.S.

Site Imagery (Google Maps)
Scale: N.T.S.



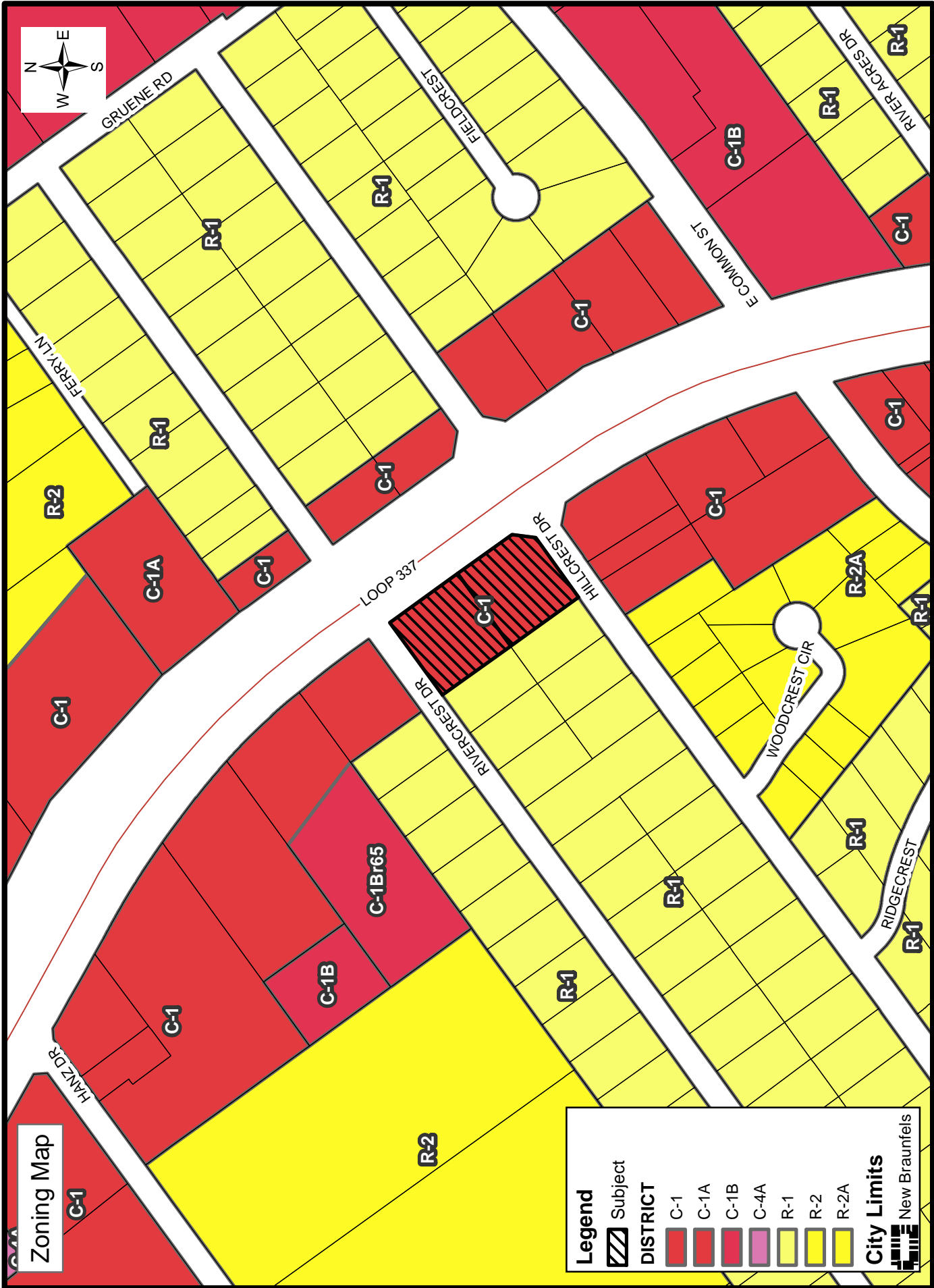
Site Layout
Scale: 1/16" = 1'

[illegible]

Drawn by:	D.H.
Checked by:	----
Project No:	----
Date:	January 11, 2010

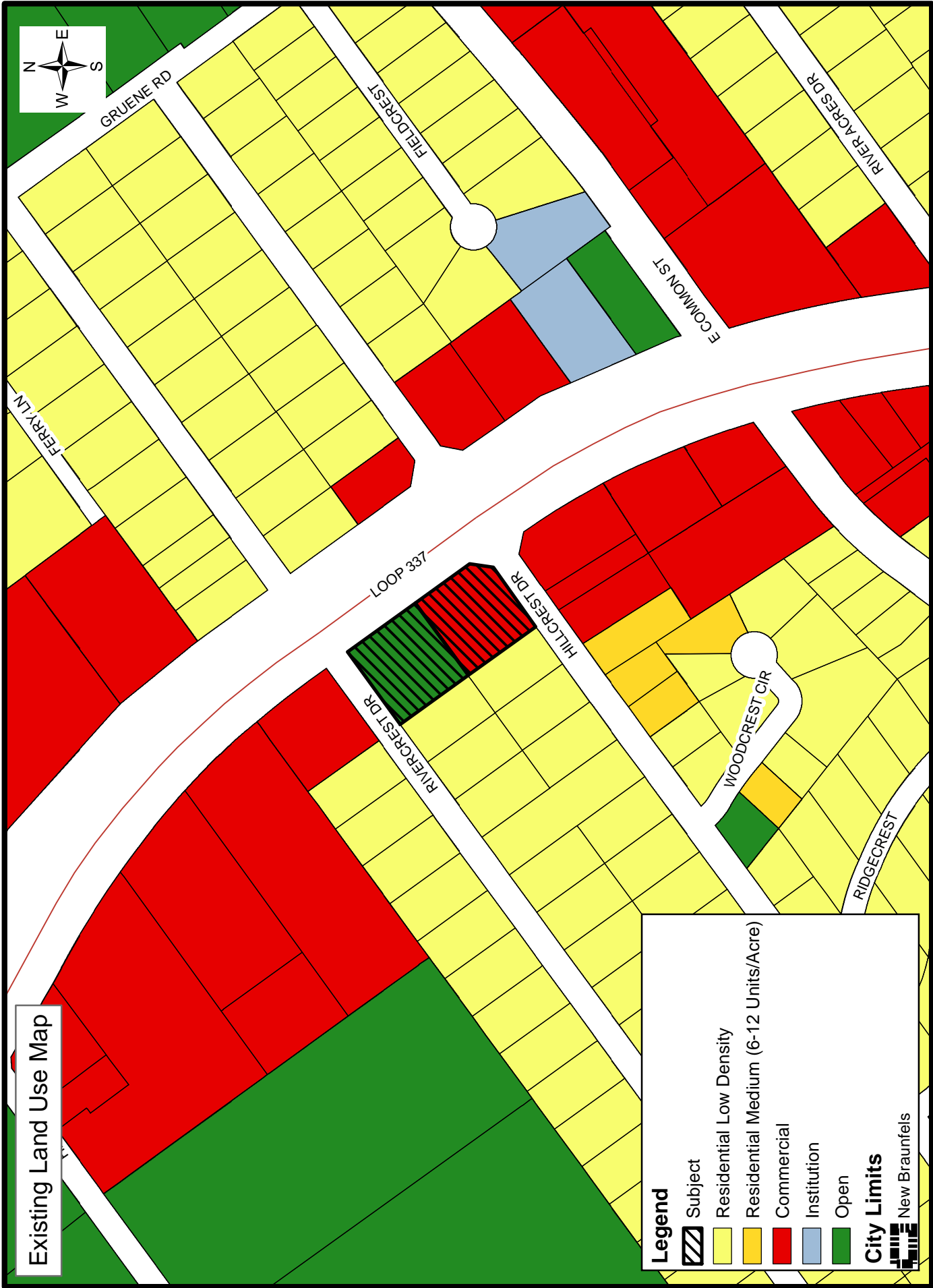
Site Layout & Feasibility

Sheet: CW 0.1



PZ-18-048
1290 Rivercrest Drive and 1293 Hillcrest Drive
SUP to Allow a Car Wash





PZ-18-048
1290 Rivercrest Drive & 1293 Hillcrest Drive
SUP to Allow a Car Wash

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

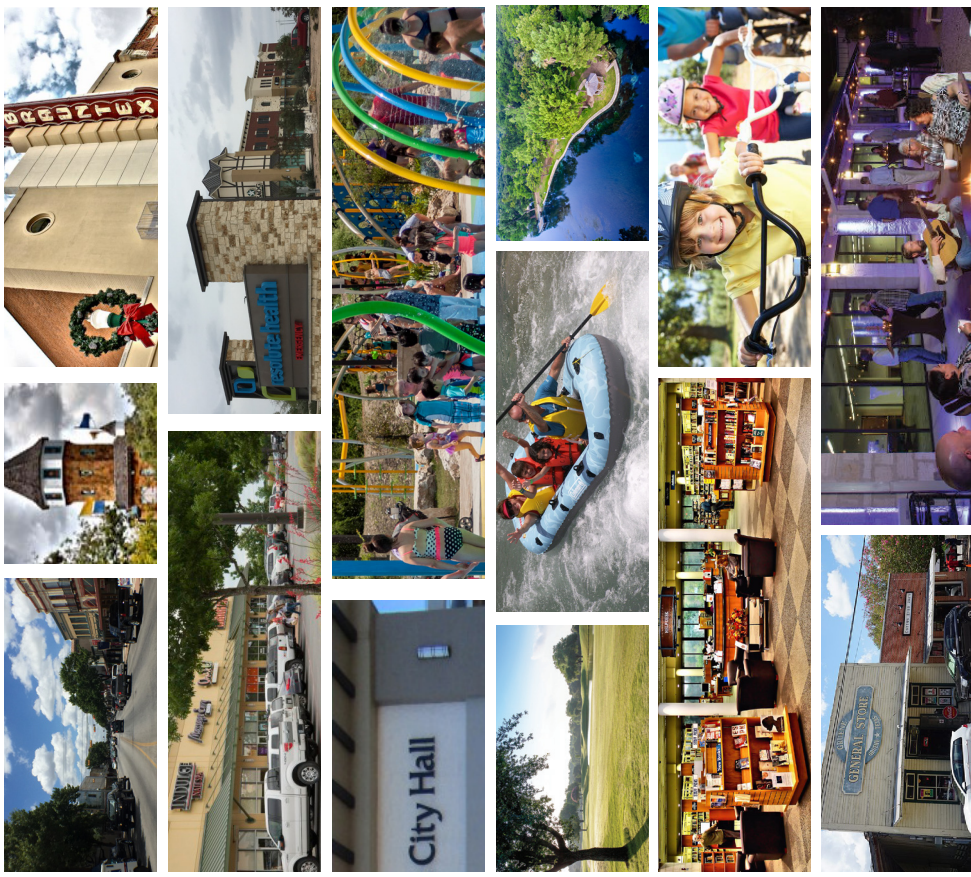
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

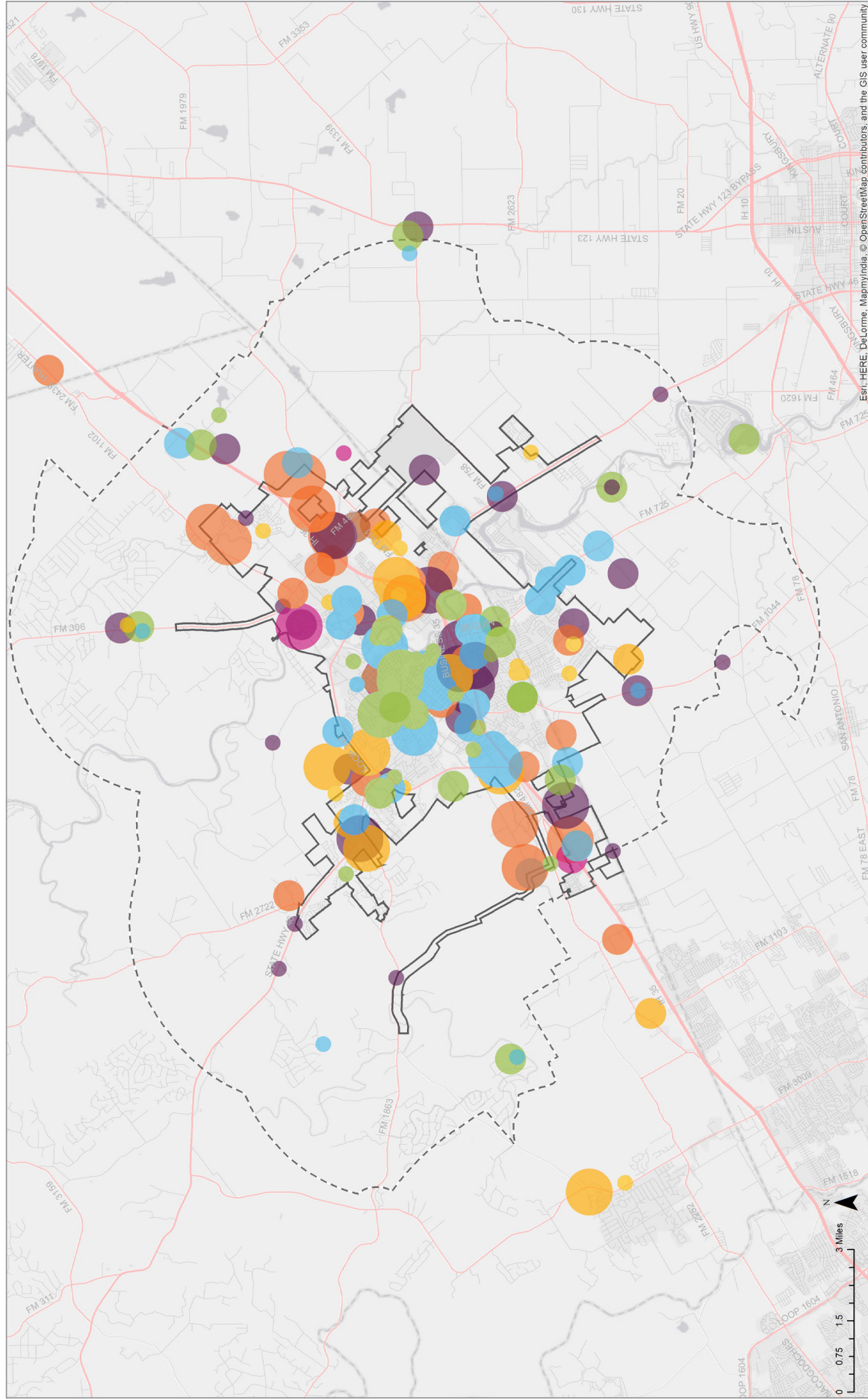
● EDUCATION CENTER

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

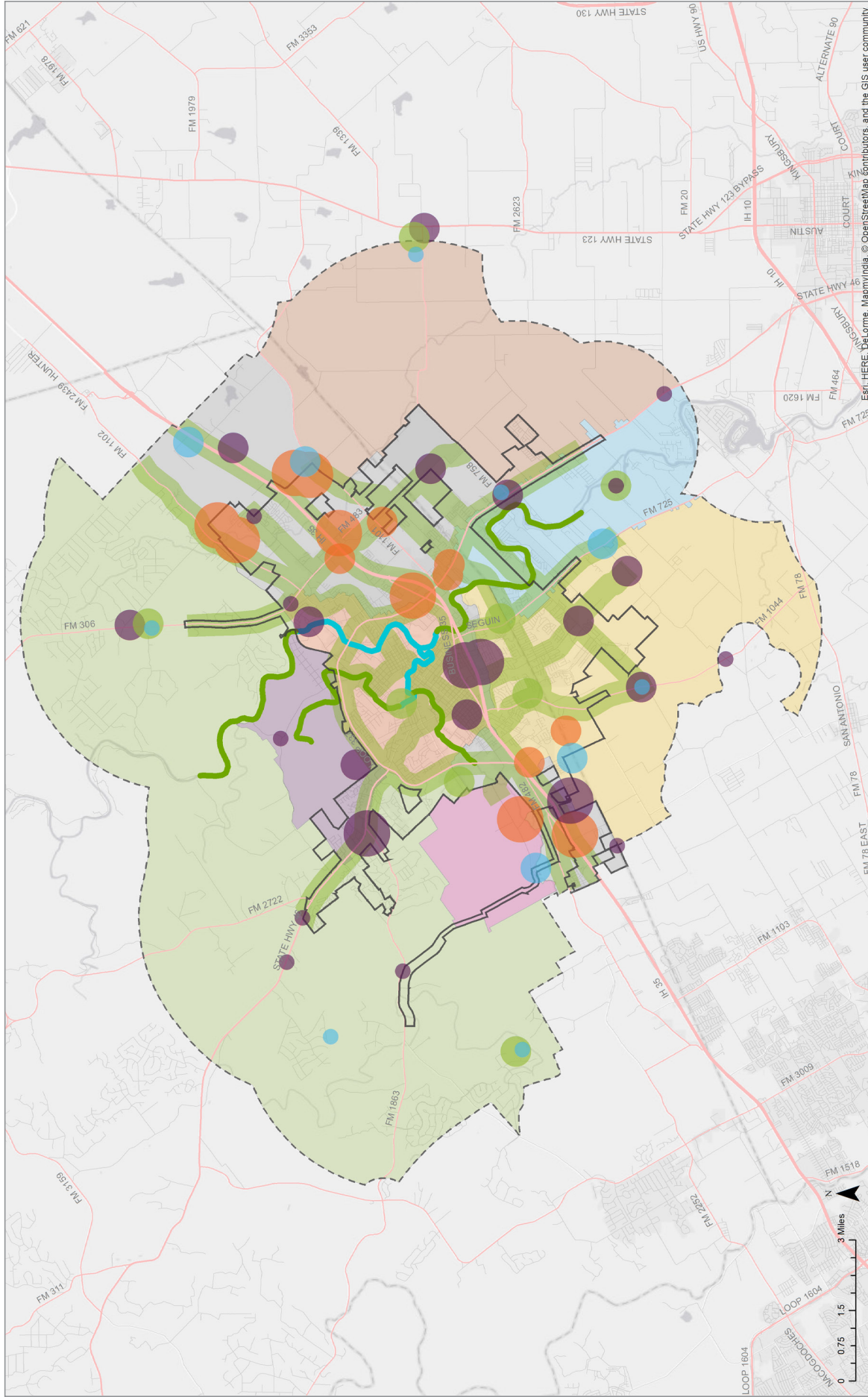
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

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 – FEBRUARY 5, 2019 – 6:00PM

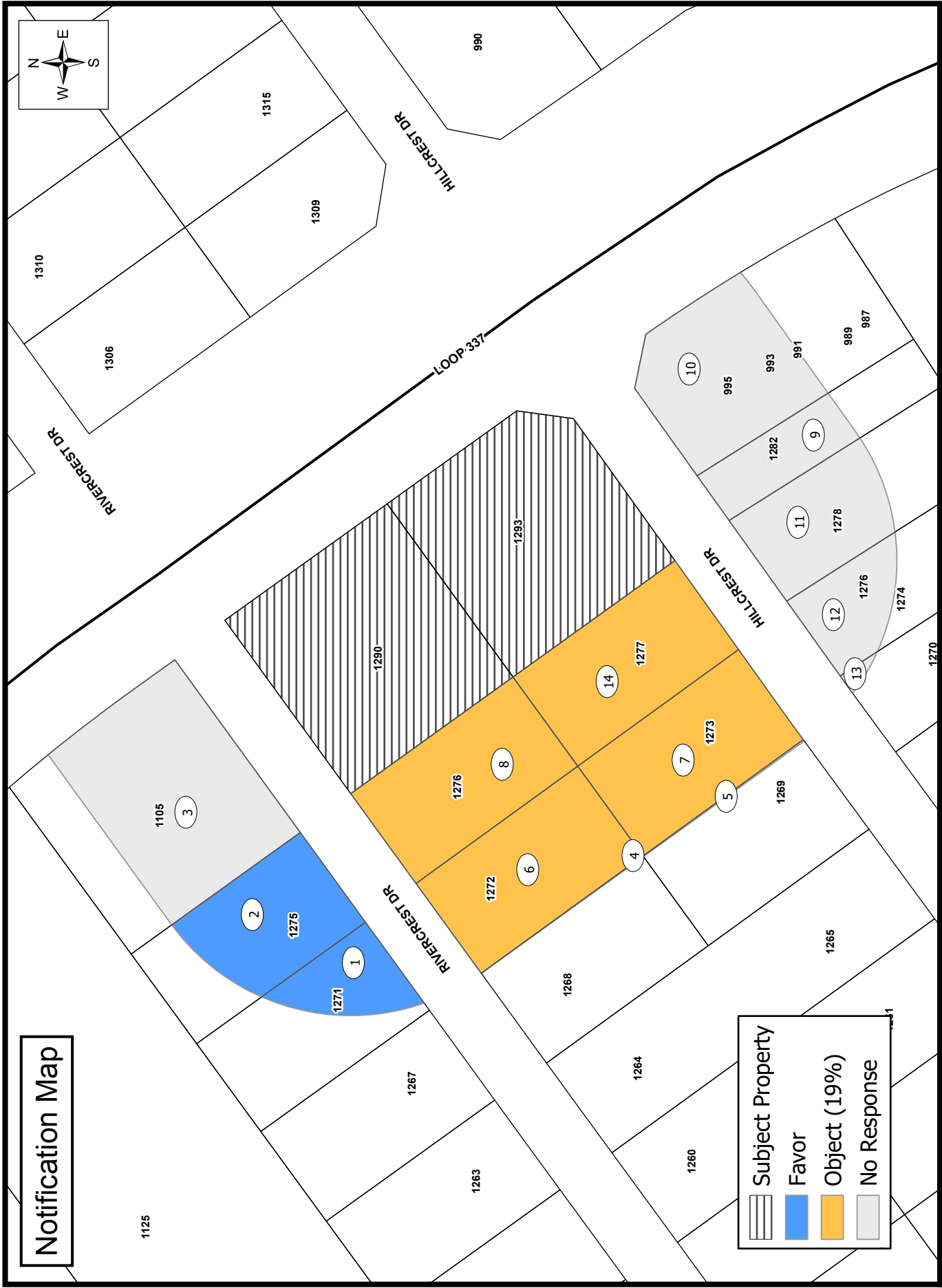
New Braunfels City Hall Council Chambers

Applicant/Owner: Daniel T. McCutchen**Address/Location:** 1290 Rivercrest Drive and 1293 Hillcrest Drive**PROPOSED ZONE CHANGE – CASE #PZ-18-048**

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 | MURROW PHYLIS | 8 | GARCIA LUCY M |
| 2 | WILDER ALMA | 9 | CAR PROPERTIES LLP |
| 3 | GIRON GUADALUPE M & SANTOS M GIRON | 10 | HITZFELDER BRITTNEY L & CHAPA MICHELLE H |
| 4 | KNEESE MARK E & PHYLLIS A | 11 | VULCAN REALTY GROUP LLC |
| 5 | MATHENY SHANE P | 12 | EVANS ROY E & OPAL R |
| 6 | EFFENBERGER GLENN HENRY | 13 | BRYAN JOHN E & TERESA A |
| 7 | CLIFTON DONALD R & BRENDA | 14 | VITOPIL LOUIS J JR |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: Phyllis Murrow

Address: 1271 Rivercrest Dr

Property number on map: 1

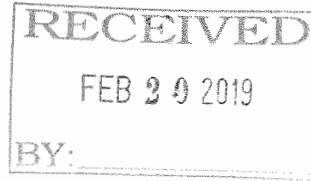
Comments: (Use additional sheets if necessary)

I favor: X

I object: _____

(State reason for objection)

Signature: Phyllis Murrow



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: Wilder Alma

Address: 1275 Rivercrest Dr.

Property number on map: 2

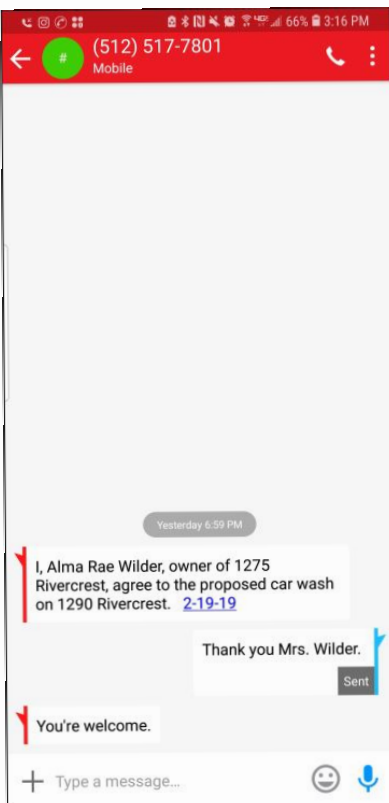
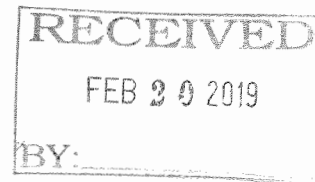
Comments: (Use additional sheets if necessary)

I favor: X

I object: _____

(State reason for objection)

Signature: Wilder Alma
See Attached text message



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: MARK KNEESE

I favor: _____

Address: 1268 RIVERCREST

Property number on map: 4

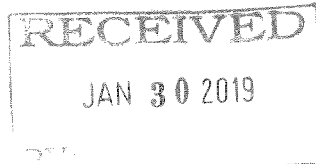
I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

1. NOISE LEVELS AND LIGHTS WILL CAUSE PROPERTY VALUE TO DIMINISH.
2. WILL GENERATE EXCESSIVE TRAFFIC IN THE NEIGHBORHOOD
3. WILL AFFECT MY WELL BEING AND PEACE OF MIND IN MY BACK YARD

Signature: Mark Kneese



Reasons for Objections to Case: #PZ-18-048 by Property owner #6
Glenn Effenberger 1272 Rivercrest Dr.

1. The zoning for these properties is already zoned to exclude carwashes for a reason, this is a residential neighborhood. A carwash such as the one being proposed (Big League Carwash) with the tunnel drive through is very loud with the blower dryers and brushes that whirl around continuously. The noise this creates is continuous all day long and can be heard from more than 200 feet away and is very annoying and will disturb the peace and quiet we would like to maintain at the present level in our neighborhood.
2. The carwash that is currently there is already a nuisance due to constant litter migration from the carwash into the yards of the surrounding residence. Also some of the patrons of the carwash play the music on their radios very loudly while the clean and vacuum their cars which is very disturbing to the residents that live nearby. There is no guarantee that a new or different carwash would be any different.
3. These two subject properties on loop 337 where Rivercrest and Hillcrest begin is the entrance to our neighborhood and the streets that our homes are located on. A structure and business such as this being proposed is not what I want as well as most of the other residents want at the entrance of our neighborhood and street where we live and reside due to its unsightly appearance and industrial type use and nature.
4. It is my opinion and most of the others with in the 200 foot boundary that a structure and business of this kind with the noise and extra traffic it will undoubtedly create around it will certainly have a negative effect on our property values and will mostly likely decrease them in a significant way.
5. This business will most assuredly increase the amount of traffic through the River Acres neighborhood by people that do not even live here that will open the door for more and increased negative activity.

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: Glenn H. Effenberger

Address: 1272 Rivercrest Dr.

Property number on map: 6

Comments: (Use additional sheets if necessary)

see attached comments.

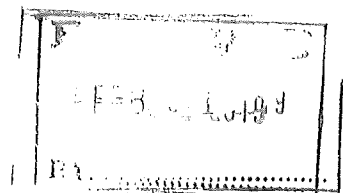
Signature: Glenn H. Effenberger

FEB 01 2019

BY:

I favor: _____

I object: ✓
(State reason for objection)



RECEIVED

JAN 28 2019

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: DONALD R / BRENDA CLIFTONAddress: 1273 HILLCREST DR.Property number on map: 7

I favor: BY: _____

I object: OBJECT

(State reason for objection)

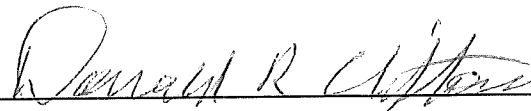
Comments: (Use additional sheets if necessary)

SEE ATTACHMENT

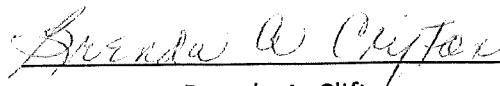
Signature: Donald R Clifton Brenda A Clifton

"OBJECTIONS"

- 1) **PROPERTY VALUE:**
- (A) If this is approved, my property value will be negatively affected (value will drop like a rock).
- (B) If this is approved, this project will cause my property to become A very UNDESIRABLE NEIGHBORHOOD to live in and my property will become very difficult to sell.
- 2) **TRASH/GARBAGE:**
- (A) I am currently spending much of my time picking up garbage From the existing carwash. This 2-block carwash would increase This garbage 3/4 times the current level.
- 3) **NOISE:**
- (A) With the existing carwash in this location, I am having to call the City Police to quiet the location down. Between the Shouting, Loud Vehicles and (so called) Music, it has become almost unbearable. The Police already have more important duties to perform Other than controlling the noise ordinance.
- (B) If this car wash is approved, the City needs to require the Car Wash Company to construct an 10/12 foot SOUND PROOF FENCE AROUND THE PROPERTY so that the neighborhood will be less affected. This fence should be listed in the contract and not a Verbal commitment
- 4) **TRAFFIC:**
- (A) A carwash of this size will cause excessive traffic in the neighborhood, as well as the excessive noise the traffic generates.
- 5) **UNDESIREABLE PEOPLE:**
- (A) This type of business tends to attract a large number of undesirable people, i.e. drunks, drug users/dealers/homeless etc. Between the existing car wash/corner store and the alley, I feel Like we (the neighborhood) already have our share of this type of people.


1/24/19

Signature Donald R. Clifton Date


1-24-19

Signature Brenda A. Clifton Date

⑦

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: Lucy M. GarciaAddress: 1276 Rivercrest Dr.Property number on map: 8

I favor: _____

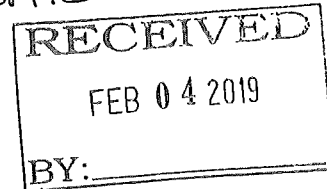
I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

My Property Value will go down
 Eye Sore - (from my Kitchen window)
 Noise - Machinery, loud music, people talking

Trash
 Traffic

Signature: Lucy M. Garcia

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ-18-048 (1290 Rivercrest/1293 Hillcrest - MS)

Name: Louis J. Vitopil Jr.Address: 1277 Hillcrest Dr.Property number on map: 14

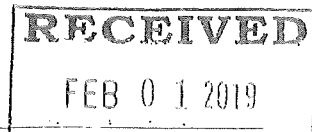
I favor: _____

I object: ☒

(State reason for objection)

Comments: (Use additional sheets if necessary)

1) My property is directly beside the subject property and the noise will be very loud coming from this type of carwash and will negatively effect my peace + tranquility.
 2) A carwash of this type will most assuredly reduce my property value, (over)

Signature: L. Vitopil

- 3) I already have a continuous migration of litter from the existing carwash and do not expect it to lessen with one of the proposed type.
 4) There will undoubtedly be increased traffic through my neighborhood + in front of my house.

PETITION OPPOSING: SPECIAL USE PERMIT TO ALLOW A NEW BIG LEAGUE CAR WASH COVERING LOTS AT 1290 RIVERCREST DR AND 1293 HILLCREST DRIVE

REF: CASE # PZ-18-048

Notice of Public Hearing on Tuesday, Feb 5, 2019, at 6:00 p.m. in the City Council Chambers, 550 Landa St., to provide an opportunity to recommend or oppose this request by Mr. Daniel T. McCutchen.

This property is currently zoned commercial but specifically states that no car wash be built there. Mr. McCutchen is seeking a special permit to change that. The current car wash was there prior to this action and was grandfathered in.

This car wash is huge and would cause increased noise, trash, loud music, and traffic in our neighborhood. It would also mean more damage to our already damaged roads.

Please sign below if you are opposed to this permit and give your address.

OPPOSE PERMIT TO ALLOW NEW CAR WASH

- 1) 1271 Rivercrest Sylvia Storey
- 2) 1267 Rivercrest Juanita Hash
- 3) 1263 Rivercrest John Eddle
- 4) 1260 Rivercrest Brandon Voth
- 5) 1259 Rivercrest Evelyn Biddison
- 6) 1256 Rivercrest Ed Richardson
- 7) 1244 Rivercrest Barbara Rutherson
- 8) 1231 Rivercrest Alicia Castells
- 9) 1228 Rivercrest Clever Engellhardt
- 10) 1228 Rivercrest Dr. Foster Engellhardt
- 11) 1224 Rivercrest Dr. Helen Clayton
- 12) 1220 Rivercrest Dr. [Signature]
- 13) 1216 Rivercrest Dr. [Signature]
- 14) 1208 Rivercrest Dr. Tommy Ratis
- 15) 1203 Rivercrest Dr. [Signature]
- 16) 1251 Rivercrest Dr. Home owner Joseph Rodriguez Joseph Rodriguez
- 17) 1214 80A Renter 1239 Rivercrest Dr.
- 18) 1214 80A Renter 1219 Rivercrest Dr.
- 19) 1212 Rivercrest N.B. 78130 Wesley Odell OWNER
- 20) 1188 Rivercrest N.B. 78130 David Turalanen OWNER
- 21)
- 22)
- 23)
- 24)
- 25)

**PETITION OPPOSING: SPECIAL USE PERMIT TO ALLOW A NEW BIG LEAGUE CAR WASH
COVERING LOTS AT 1290 RIVERCREST DR AND 1293 HILLCREST DRIVE**

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This car wash is huge and would cause increased noise, trash, loud music, and traffic in our neighborhood. It would also mean more damage to our already damaged roads.

Please sign below if you are opposed to this permit and give your address.

OPPOSE PERMIT TO ALLOW NEW CAR WASH

- 1) Denise Skym 1261 Hillcrest, rent *Denise*
- 2) Carol Schumann 1249 Hillcrest owner
- 3) Joshua Buck 1241 Hillcrest Dr. *JB* owner
- 4) Hector Carlos Collazo 1233 Hillcrest owner *Hector*
- 5) Joshua Cook 1269 Hillcrest owner *JC*
- 6) Jack Birkner 1245 Hillcrest owner
- 7) Ken Strats 1237 Hillcrest *Ken*
- 8) Bev Flores 1229 Hillcrest NB
- 9) Amber Loper 1225 Hillcrest Dr owner *Amber*
- 10) Jean Henry 1217 Hillcrest Dr owner *Jean*
- 11) Michael Tubbs 1213 Hillcrest Dr. renter *MT*
- 12) Robert Smith 1209 Hillcrest Dr owner *Robert Smith*
- 13) Barbara C. Bico 1244 Hillcrest owner *Barbara C. Bico*
- 14) Lori Bragins 722 Woodcrest Circle *Lmaigne* rent
- 15) Christopher McNeil 720 Woodcrest Circle owner *Chris*
- 16) Donald R. Clifton 1273 Hillcrest Dr owner
- 17) Katie Rae + Jason Preston 1176 Rivercrest Dr owner *Katie Rae Preston*
- 18) Damon + Jenny Parker 1207 Rivercrest Dr. owner *Damon*
- 19) Charles + Sarah Horner 1174 Woodcrest owner *Clyde*
- 20) Nicole Barnett 640 Crest Ln owner *Nicole*
- 21) Stacy Frank 1139 Rivercrest Dr. owner *Stacy*
- 22) Mark Kneese 1268 Rivercrest Dr owner
- 23) _____
- 24) _____
- 25) _____



Subject Property from Loop 337 facing southwest

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 (with permit from Building Official; 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.

PZ-18-048 Public hearing and recommendation to City Council regarding the proposed rezoning to apply a Special Use Permit to allow a car wash in the “C-1” Local Business District on 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr.

(Applicant: D. McCutchen; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval.

Chair Edwards invited the applicant to speak.

Daniel McCutchen, 723 Deer Run Way, stated he was the applicant. He stated he owns another car-wash business in town. He stated his proposed car wash would be an improvement to the existing self-service car wash in that hours of operation, strict cleaning, and security precautions. He further stated the property's existing 'C-1' zoning allow a wide variety of commercial uses.

Chair Edwards asked if anyone wished to speak in objection.

Glenn Effenberger, 1272 Rivercrest Drive, wished to speak in opposition.

Don Clifton, 1273 Hillcrest Drive,

Mark Kneese, 1268 Rivercrest Drive,

Mr. Simmont asked Chair Edwards

Chair Edwards asked if anyone wished to speak in favor.

Thor Thornhill, 410 N. Seguin Avenue, wished to speak in favor. He stated the property is located on a major arterial which is suitable for the proposed use and the 'C-1' zoning already allows uses with the same level of noise and traffic impact as a car wash.

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

Discussion followed regarding residential buffering requirements.

Commissioner Meyer asked the applicant if he is comfortable with a requirement for the 8-foot buffer wall as a condition for approval for the special use permit.

Commissioner Tubb inquired if the car wash would abide by the City's Noise Ordinance.

Discussion followed.

Motion by Commissioner Sonier, seconded by Commissioner Mathis, to recommend approval City Council regarding the proposed rezoning to apply a Special Use Permit to allow a car wash in the “C-1” Local Business District on 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr, with a condition to require an 8-foot tall minimum masonry buffer wall along the common property shared with residential uses. Motion carried (8-0-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS GRANTING A SPECIAL USE PERMIT TO ALLOW A CAR WASH IN THE "C-1" LOCAL BUSINESS DISTRICT, ON APPROXIMATELY 1.473 ACRES OUT OF THE HENRY FOSTER SURVEY NO. 34, ABSTRACT NO. 154, ADDRESSED AT 1290 RIVERCREST DR. AND 1293 HILLCREST DR.; 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 car wash facilities; and

WHEREAS, the City Council desires to grant a Special Use Permit for approximately 1.473 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and 1293 Hillcrest Dr., to allow a car wash facility 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 tracts of land as a "Special Use Permit" for the uses and conditions herein described:

“Being approximately 0.746 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1290 Rivercrest Dr. and Being approximately 0.727 acres out of the Henry Foster Survey No. 34, Abstract No. 154, addressed at 1293 Hillcrest Dr., as described in the attached Exhibits ‘A’ & ‘B’, and delineated on the attached Exhibits ‘C’ & ‘D’, to allow a car wash facility in the “C-1” Local Business District.”

SECTION 2

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

1. A 10-foot tall masonry buffer wall along the western property line abutting residential use is required.
2. A minimum 4-foot tall masonry wall that is 50-feet long beginning at the northwestern corner of the carwash business property and extending perpendicular to Loop 337 is required.
3. The west side of the conveyor tunnel must be fully enclosed with a solid wall.
4. The west side of the blower area must be fully enclosed with a solid wall.
5. The roof of the conveyor tunnel and blower area must be fully covered.

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 25th day of February, 2019.

PASSED AND APPROVED: Second Reading this the 11th day of March, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

WILLIAM J. KOLODZIE SURVEYING COMPANY

REGISTERED PROFESSIONAL LAND SURVEYORS
 197 EAST MILL STREET
 NEW BRAUNFELS, TEXAS 78130
 830-625-6484 FAX 830-620-6484

WILLIAM J. KOLODZIE, R.P.L.S. 1462

GERARD S. SCHOLLER, R.P.L.S. 1876

August 27, 2004

Description of a 0.746 of an acre tract of land out of the Henry Foster Survey No. 34, Abstract 154, City of New Braunfels, Comal County, Texas, and being that same tract conveyed by West-Leach Homes, Inc. to D. L. West Builders, Inc. by deed dated July 31, 1983 and recorded in Volume 356 on pages 270-271 of the Deed Records of Comal County, Texas, said 0.746 of an acre tract described more particularly by metes and bounds as follows:

BEGINNING at a brass-disk TexDot R.O.W. monument at the point of intersection of the Southwest line of Loop 337 with the Southeast line of Rivercrest Drive, for the North corner of this 0.746 of an acre tract;

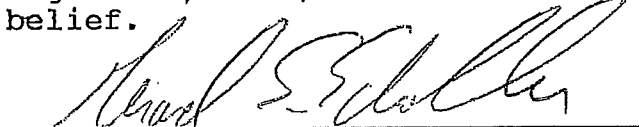
THENCE with the Southwest line of Loop 337, S. 35° 44' 00" E. 180.00 feet to a 1/2" re-bar rod set for the North corner of a 0.725 of an acre tract conveyed to Aquacorp, Inc. by deed dated August 11, 1994 and recorded in Volume 985 on pages 623-625 of the Official Public Records of Comal County, Texas, for the East corner of this 0.746 of an acre tract, from said rod set, a brass-disk TexDot R.O.W. monument bears S. 35° 44' 00" E. 139.80 feet;

THENCE with the Northwest line of the Aquacorp, Inc. 0.725 of an acre tract, S. 54° 16' 09" W. 180.16 feet to a 1/2" re-bar rod found for the West corner of the Aquacorp, Inc. 0.725 of an acre tract, for the North corner of Lot 40, for the East corner of Lot 39, for the South corner of this 0.746 of an acre tract;

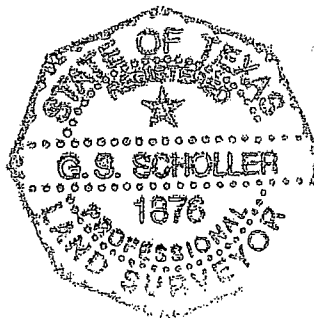
THENCE with the Northeast line of Lot 39, N. 35° 59' 54" W. 179.97 feet to a 1/2" re-bar rod found in the Southeast line of Rivercrest Drive, for the North corner of Lot 39, for the West corner of this 0.746 of an acre tract;

THENCE with the Southeast line of Rivercrest Drive, N. 54° 15' 35" E. 180.99 feet to the Place of Beginning.

I hereby state that this survey was made on the ground and completed on August 20, 2004, and is true and correct to the best of my knowledge and belief.



GERARD S. SCHOLLER
 TEXAS R.P.L.S. 1876

**EXHIBIT 'A'**

M.D.S. LAND SURVEYING CO.

Boundary • Aerial • Topographic • Construction

494 S. Seguin, #102 • New Braunfels, TX 78130

Office (210) 625-0337 Mobile (210) 808-7978

Fax (210) 625-0858

FIELD NOTES FOR A 0.727 OF AN ACRE TRACT OF LAND

BEING a 0.727 of an acre tract of land out of the Henry Foster Survey No. 34, Abstract No. 154, Comal County, Texas, said 0.727 of an acre tract being that certain tract described by deed recorded in volume 853, page 368, Deed Records, Comal County, Texas, said 0.727 of an acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a concrete monument found in the northwest right-of-way line of Hillcrest Drive, said point being at the south end of a cut back line at the intersection of the southwest right-of-way line of State Loop 337, with the northwest right-of-way line of Hillcrest Drive;

THENCE, along the northwest right-of-way line of Hillcrest Drive, S 53°52'07" W, a distance of 139.37' to a found iron rod at the east corner of Lot 40, Rivercrest Heights, Unit 1, recorded in volume 1, page 61, Plat Records, Comal County, Texas;

THENCE, along the northeast boundary line of Lot 40, N 36°02'28" W, a distance of 180.16' to a found iron rod at the south corner of the D. L. West Builder, Inc. tract recorded in volume 356, page 270, Deed Records, Comal County, Texas;

THENCE, along the southeast boundary line of the D. L. West Builder, Inc. tract, N 54°00'59" E, a distance of 181.09' to a found iron rod in the southwest right-of-way line of State Loop 337;

THENCE, along the southwest right-of-way line of State Loop 337, S 35°32'00" E, a distance of 140.44' to a found iron rod at the north end of the aforementioned cutback line;

THENCE, along said cutback line, S 9°47'34" W, a distance of 56.43' to the POINT-OF-BEGINNING and containing 0.727 of an acre tract of land.



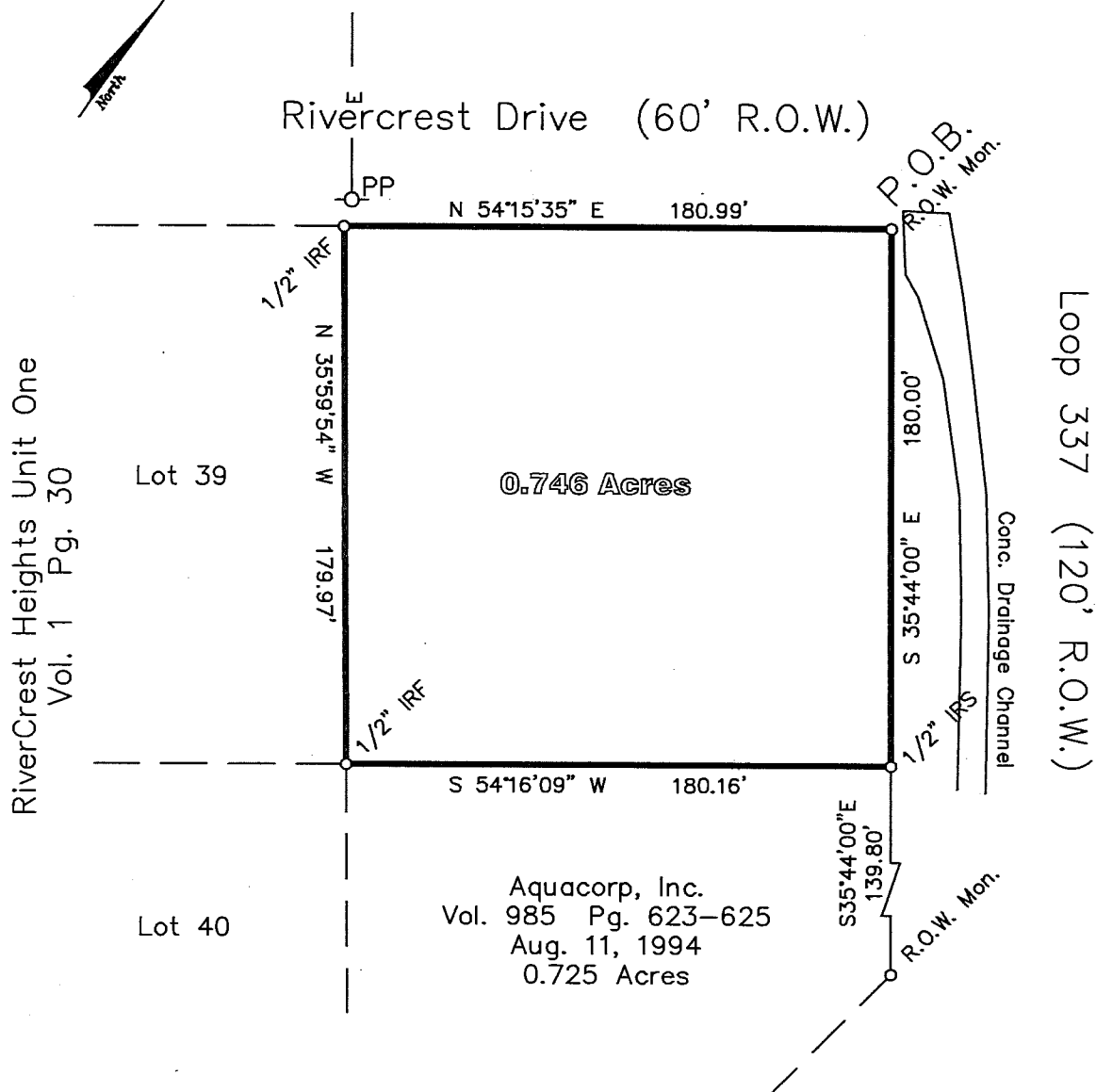
Jeff Boerner 12715 #4939 7-28-94
Jeff Boerner
Registered Professional Land Surveyor
4939

EXHIBIT 'B'

Scale: 1" = 60'

Legend

- IRF = Iron Rod Found
 IRS = Iron Rod Set
 IPF = Iron Pipe Found
 X = Fence
 E = Overhead Power Line
 T = Overhead Tele. Line
 P = Underground Pipe Line
 ⊙ = San. Sewer MH
 ○ PP = Power Pole

**PLAT SHOWING:**

A 0.746 OF AN ACRE TRACT OF LAND OUT OF THE HENRY FOSTER SURVEY NO. 34, ABSTRACT 154, CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, AND BEING THAT SAME TRACT CONVEYED BY WEST-LEACH HOMES, INC. TO D. L. WEST BUILDERS, INC. BY DEED DATED JULY 31, 1983 AND RECORDED IN VOLUME 356 ON PAGES 270-271 OF THE DEED RECORDS OF COMAL COUNTY, TEXAS.

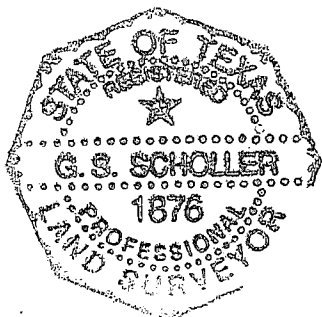
SURVEYOR'S STATEMENT:

I HEREBY STATE THAT THIS SURVEY WAS MADE ON THE GROUND AND COMPLETED ON AUGUST 20, 2004 AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. NO ENCROACHMENTS OF BUILDINGS BY ADJOINING OWNERS UPON THIS PROPERTY WERE FOUND. ACCORDING TO F.E.M.A. FLOOD INSURANCE RATE MAPS, THIS PROPERTY DOES NOT LIE IN A DESIGNATED 100 YEAR FLOOD ZONE.

GERARD S. SCHOLLER
 TEXAS R.P.L.S. 1876

NOTES:

- (1) THIS PROPERTY WAS SURVEYED WITH THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE, OF # 69258, PROVIDED TO US BY NEW BRAUNFELS TITLE COMPANY, NEW BRAUNFELS, TEXAS



WILLIAM J. KOLODZIE SURVEYING CO.
 197 EAST MILL STREET
 NEW BRAUNFELS, TEXAS 78130-5045
 (830) 625-6484
 FAX (830) 620-6484

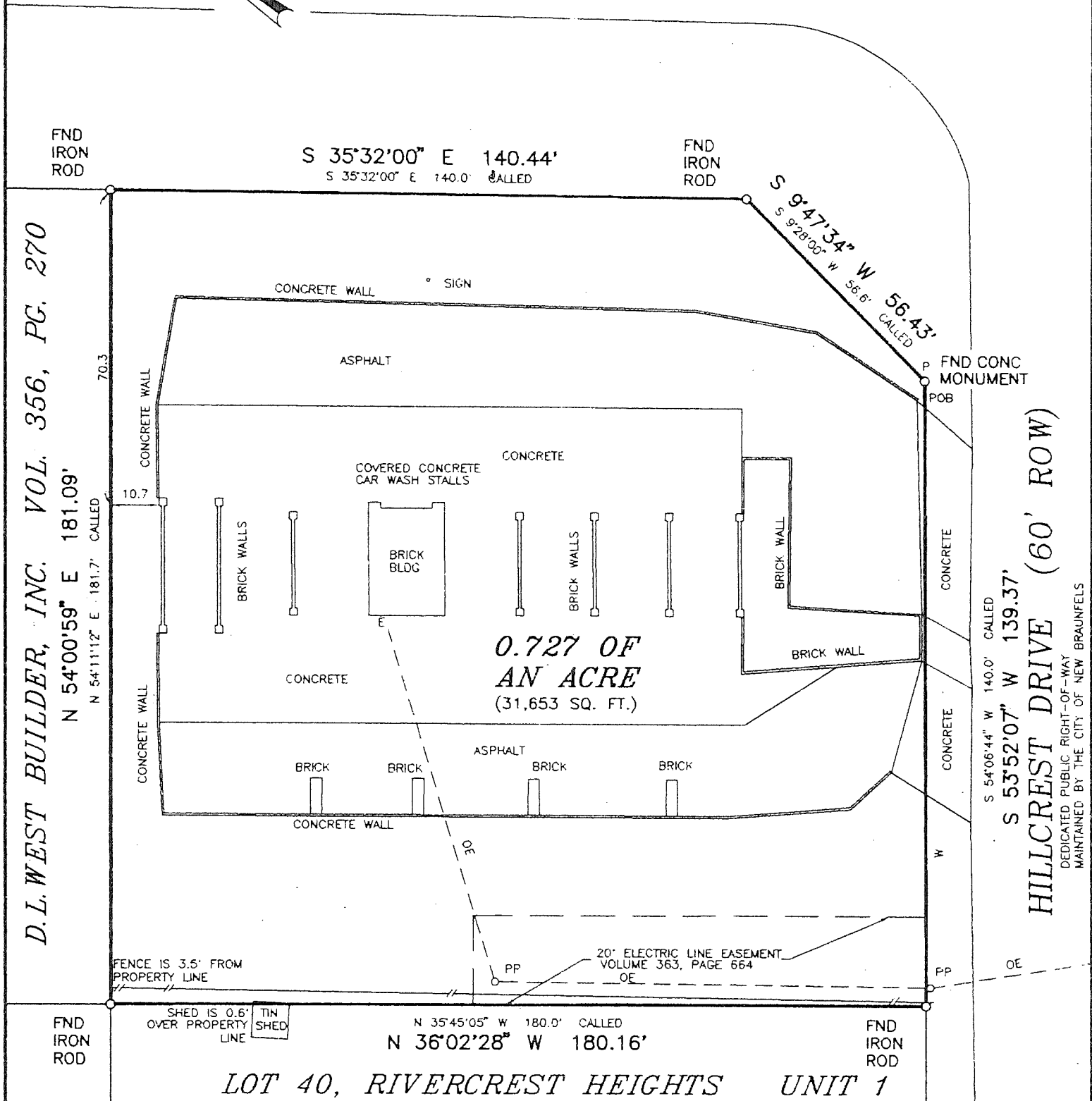
EXHIBIT 'C'

Scale: 1" = 30'

FLOOD NOTE:

THIS PROPERTY IS NOT LOCATED IN FLOOD
ZONE "A" ACCORDING TO FLOOD INSURANCE
RATE MAP COMMUNITY-PANEL
485493 0006 C
DATED JUNE 17, 1986

STATE HWY. LOOP 337 (220' ROW)



REFERENCE BEARING:

BASIS OF BEARING FROM DEED RECORDED IN
VOL. 853, PG. 368, DEED RECORDS, COMAL
COUNTY, TEXAS

ADDRESS:

LEGEND:

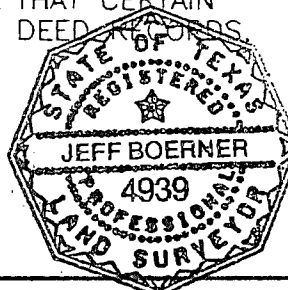
POB POINT OF BEGINNING
E ELECTRIC METER
PP POWER POLE
OE OVERHEAD ELECTRIC
W WATER METER
P PEDESTAL
WOOD FENCE

TO: AQUACORP, INC., A TEXAS CORPORATION
ROBERT CARL MASON AND
DEBORAH BRYANT MASON

PLAT SHOWING: A 0.727 OF AN ACRE TRACT OF LAND
OUT OF THE HENRY FOSTER SURVEY NO. 34, ABST. 154,
COMAL COUNTY, TEXAS, AND ALSO BEING THAT CERTAIN
TRACT RECORDED IN VOL. 853, PG. 368, DEED RECORDS,
COMAL COUNTY, TEXAS

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE
ON THE GROUND, THAT THIS PLAT CORRECTLY
REPRESENTS THE FACTS FOUND AT THE TIME OF
THIS SURVEY AND THAT THERE ARE NO VISIBLE
EASEMENTS OR ENCROACHMENTS OF BUILDINGS
ON ADJOINING PROPERTY AND THAT ALL BUILDINGS
ARE WHOLLY LOCATED ON THIS PROPERTY EXCEPT
AS SHOWN ABOVE AND THIS SURVEY COMPLIES WITH
THE TEXAS STANDARDS AND SPECIFICATIONS FOR A
CATEGORY A, CONDITION II SURVEY.

M.D.S. LAND SURVEYING CO.
494 S. SEGUIN ST. # 102
NEW BRAUNFELS, TEXAS 78130
PHONE: (210) 625-0337



Jeff Boerner 2018-4-1939
JEFF BOERNER
REGISTERED PROFESSIONAL LAND SURVEYOR
4939
TEXAS REGISTRATION NO.
JOB # 94-0580
DATE: 7-27-94
8.9.94



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. K)

Presenter

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

SUBJECT:

Approval of the second and final reading of an ordinance regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from "R-1A-6.6" Single Family District, "APD" Agricultural/Pre-Development District and Zipp Meadows Planned Development District to "ZH-A" Zero Lot Line Home District.

BACKGROUND / RATIONALE:

Case No.: PZ-18-050

Council District: 2

Owners Schumzipp LLC / Schumacher Rentals LLC
333 Schum Zipp Lane
New Braunfels, TX 78130

Applicant: Fred Heimer - Agent
130 S. Seguin Ave.
New Braunfels TX, 78130
(210) 913-8720

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

City Council held a public hearing on February 25, 2019 and approved the first reading of this requested rezoning.

The approximately 190 acre, L-shaped subject property is unplatted and is occupied by one home. It has approximately 1,600 feet of frontage along W. Zipp Road and is adjacent to, and southeast of, the Legend Pond Subdivision on the southern edge of the city limits. The applicant is requesting the property be rezoned from "R-1A-6.6" Single Family District (41 acres), "APD" Agricultural/Pre-Development District (135 acres) and Zipp Meadows Planned Development District (13 acres) to "ZH-A" Zero Lot Line Home District.

The Zipp Meadows Planned Development District was adopted by City Council in 2007 as a 50-lot

single-family residential neighborhood with minimum 50-foot lot widths. The adjacent 41 acres was rezoned R-1A-6.6 at the same time. The Zipp Meadows Master Plan comprised both the PD and R-1A 6.6 areas for a total of 203 lots. The developer chose not to move forward, though, and their master plan has since expired.

ZH-A would allow for the development of a single family subdivision with lots that are a minimum of forty feet wide and 100 feet deep, with a minimum lot area of 4,000 square feet. Zero-lot line homes (a.k.a. patio homes/garden homes) with a 10-foot setback on one side/zero on the other, are allowed in ZH-A, as well as are homes with typical 5-foot side setbacks on both sides. The developer must determine at time of platting which setbacks, or home type mix, are to be developed.

General Information:

Surrounding Zoning and Land Use:

North - Legend Pond PD (42-foot to 45-foot minimum lot widths)/ Subdivision under construction, New Braunfels Middle School

South - APD and outside city limits / Single-family residences; undeveloped

East - APD, then outside city limits across W. Zipp Rd. / Single-family residences and undeveloped

West - Outside city limits / Undeveloped

Floodplain:

A portion of the northwestern side of the subject property is located within the 100-year floodplain.

Regional Transportation Plan:

The extension of W. Zipp Road and additional segments of proposed 60-foot wide Minor Collectors are identified on the subject property. A portion of the right-of-way for the extension of W. Zipp Road was dedicated with the Legend Pond Subdivision. Additional right-of-way dedication, roadway construction and/or mitigation measures will be reviewed for compliance with code requirements with the platting of the subject property.

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 zoning would allow more dense residential than what would be allowed with the property's present zoning, but would be compatible with neighboring single-family development, and consistent with density of new subdivisions on the edges of town.*);
- 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 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 rezoning should not negatively affect other areas designated for similar development; continued suburban style single-family detached residential development of the vacant tracts along the edges of the City will contribute to increased infrastructure and utility demands.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare. (*Drainage, utilities and traffic impact will be reviewed and addressed through the platting and permitting processes.*); and
- Whether the request is consistent with the Comprehensive Plan. (*The subject property lies*

within the Walnut Springs Sub Area and is near an existing Education Center.)

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> 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>
--	---

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Planning Commission held a public hearing on February 5, 2019 and recommended approval (7-1-0).

STAFF RECOMMENDATION:

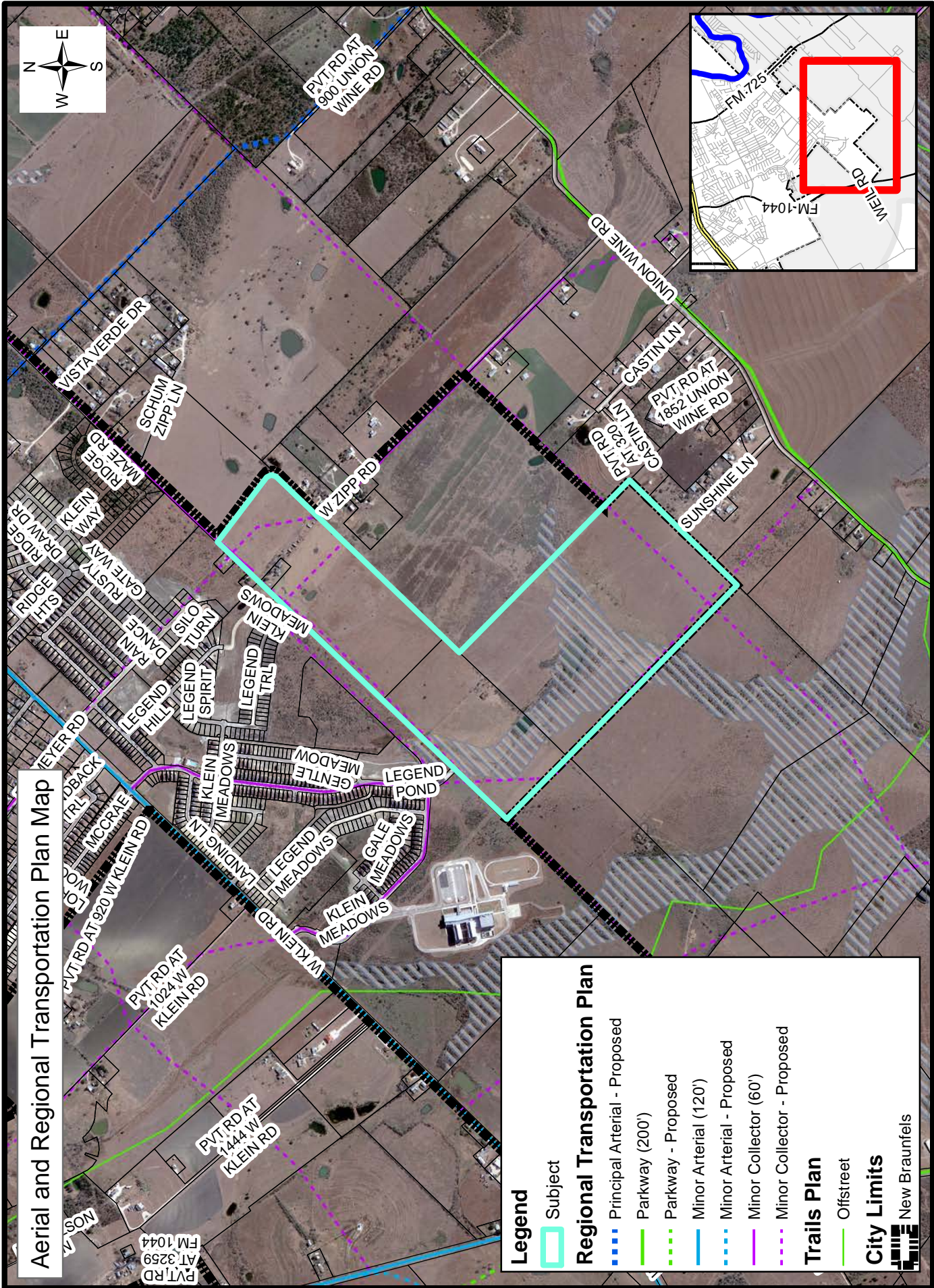
The proposed zoning is consistent with existing and developing surrounding neighborhoods, including the adjacent Legend Pond PD. ZH-A would allow development of a variety of small lot single-family housing types for a walkable neighborhood in close proximity to the New Braunfels Middle School (the future new Ninth Grade Center - 2021). Therefore, staff recommends approval.

Notification:

Public hearing notices were sent to 20 owners of property within 200 feet, and the City has received no responses.

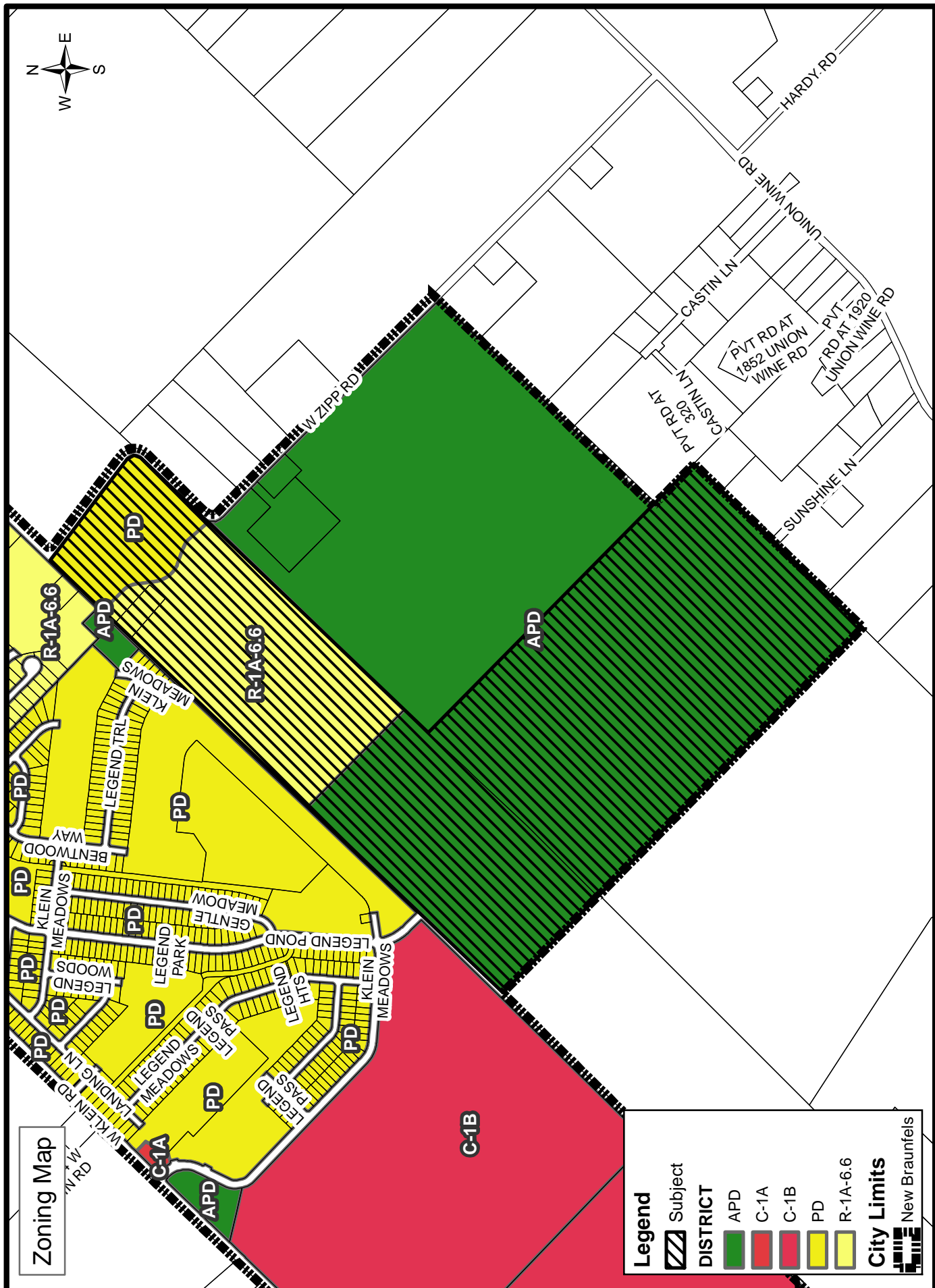
ATTACHMENTS:

1. Aerial and Regional Transportation Plan Map
2. Land Use Maps
3. Notification List and Map
4. Photograph
5. Ordinances:
 - Sec. 3.4-1 "APD" Agricultural/Pre-Development District
 - Sec. 3.4-2 "R-1A-6.6" Single-Family District
 - Zipp Meadows Planned Development District (Ord. 2007-84)
 - Sec. 3.4-9 "ZH-A" Zero Lot Line Home District
6. Planning Commission Meeting Draft Minutes
7. Ordinance



PZ-18-050
Intersection of Zipp Road and Pahmeyer Road
APD, R-1A-6.6, and Zipp Meadows PD to ZH-A





PZ-18-050
Intersection of Zipp Road and Pahmeyer Road
APD, R-1A-6.6, and Zipp Meadows PD to ZH-A



PZ-18-050
Intersection of Zipp Road and Pahlmeyer Road
APD, R-1A-6.6, and Zipp Meadows PD to ZH-A

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

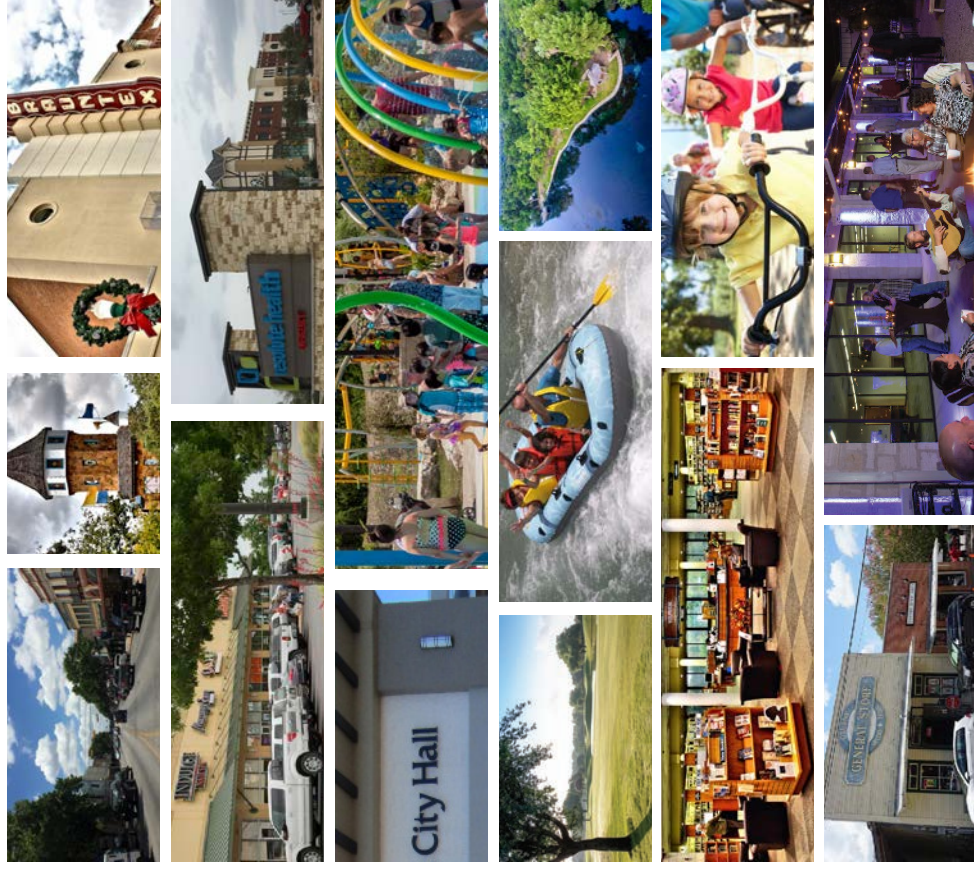
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

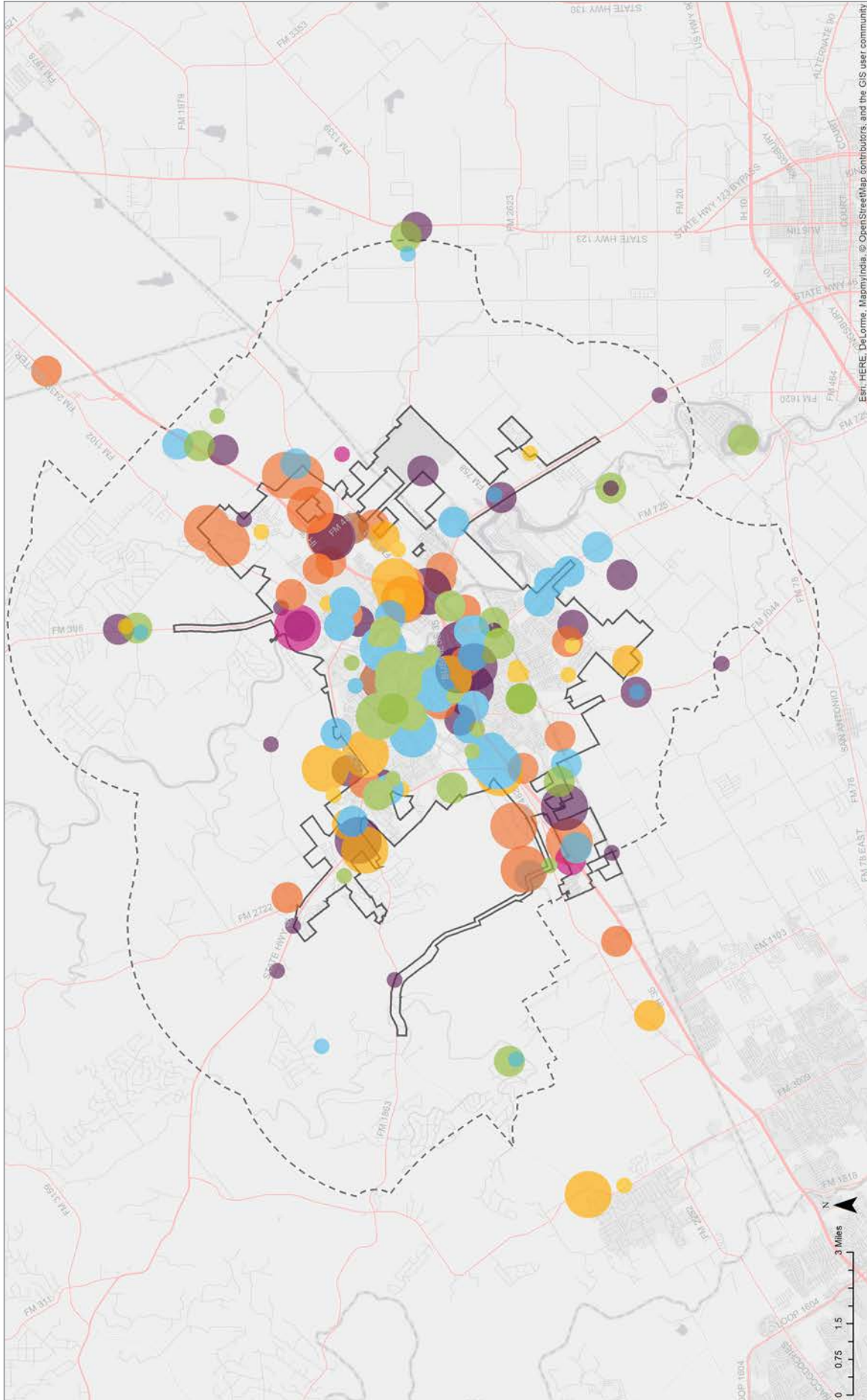
● EDUCATION CENTER

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

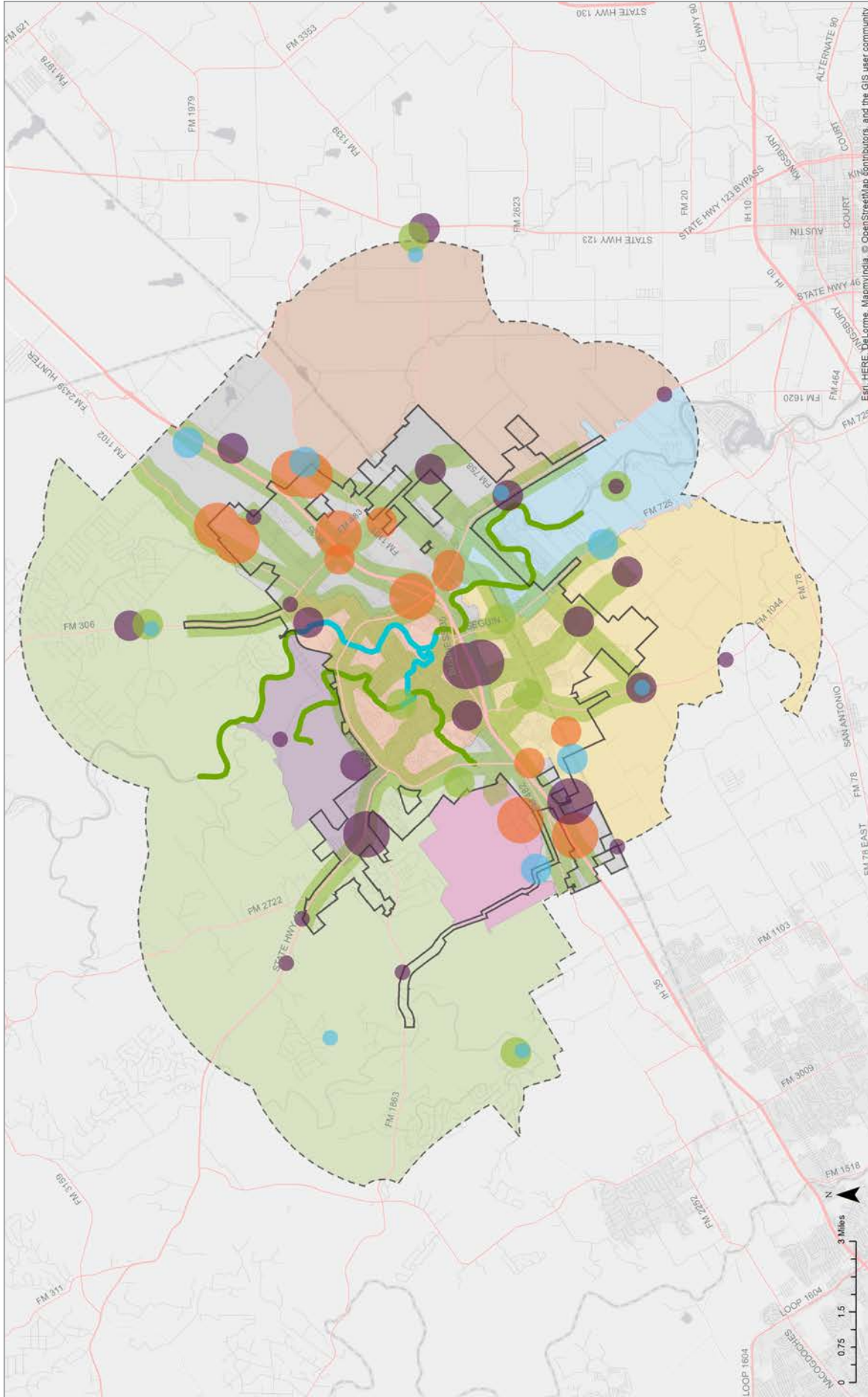
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

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 – FEBRUARY 5, 2019 – 6:00PM

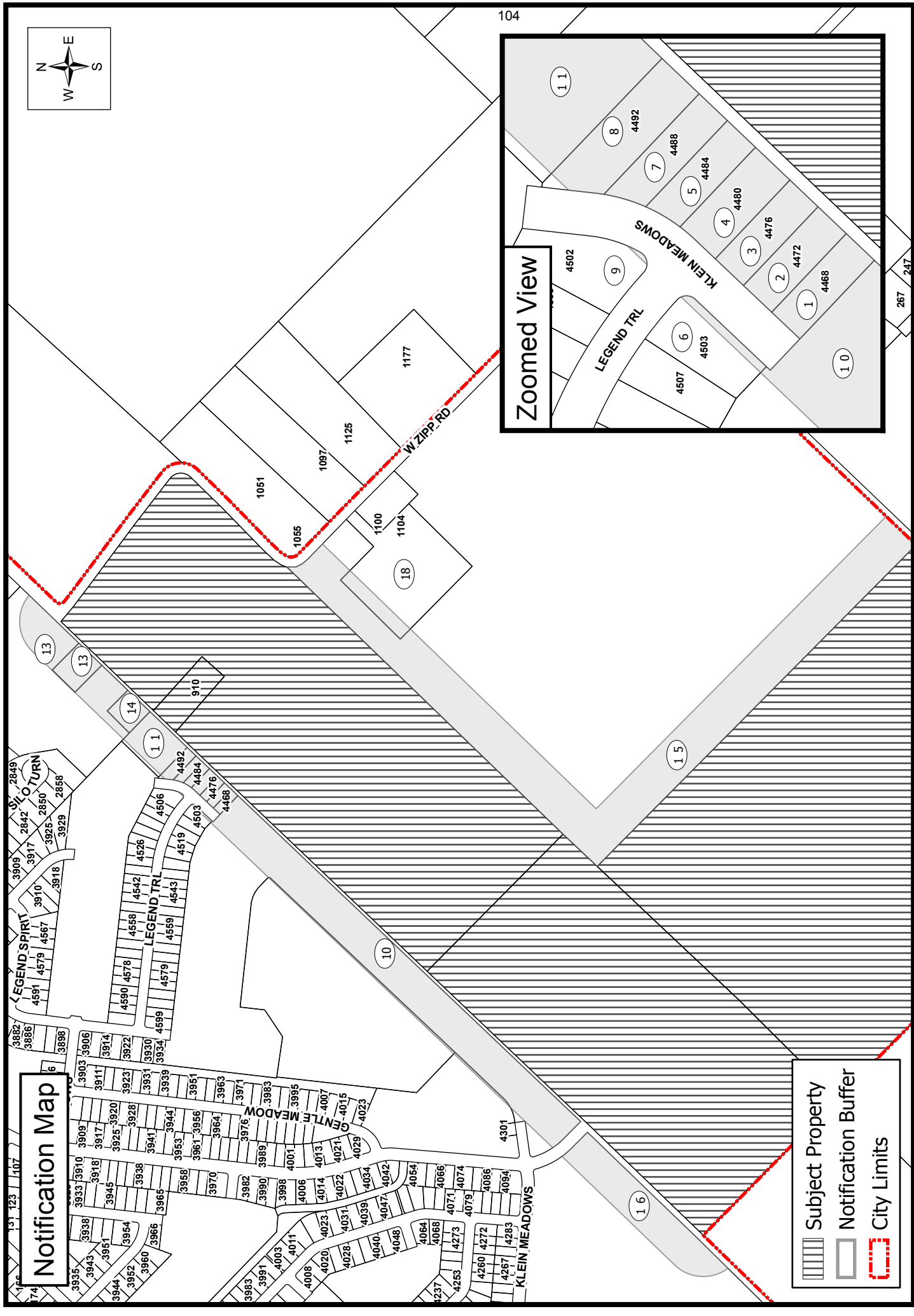
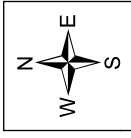
New Braunfels City Hall Council Chambers

Applicant/Owner: Fred Heimer**Address/Location:** 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd.**PROPOSED ZONE CHANGE – CASE #PZ-18-050**

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. PROPERTY OWNER | 11. GREEN VALLEY SPECIAL UTILITY DISTRICT |
| 2. PROPERTY OWNER | 12. GRIER NANCY KAY |
| 3. PROPERTY OWNER | 13. MILESTONE CREST INVESTMENTS LTD |
| 4. PROPERTY OWNER | 14. MILESTONE CREST INVESTMENTS LTD |
| 5. PROPERTY OWNER | 15. SKEOCH GARY D |
| 6. PROPERTY OWNER | 16. JONAS DONALD B & E |
| 7. PROPERTY OWNER | 17. NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT |
| 8. PROPERTY OWNER | 18. NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT |
| 9. PROPERTY OWNER | 19. LEGEND POINT HOMEOWNERS ASSOCIATION INC |
| 10. KB HOME LONE STAR INC | 20. JONAS DENISE |

SEE MAP





Subject Property from W. Zipp Rd. facing southwest

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

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

Purpose. This district is designed for newly annexed areas, agricultural uses, and for areas where development is premature because of a lack of utilities, capacity, or service, or where the ultimate use has not been determined. The following regulations shall apply in all "APD" districts:

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

(1) *Uses permitted by right:*

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Community home (see definition)
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- One family, dwelling, detached
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

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

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

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

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

(1) *Height.* 35 feet.

(2) *Front yards.* 25 feet.

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

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

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

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

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 15,000 square feet per dwelling, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.

(8) *Lot depth.* 100 feet.

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

3.4-2. "R-1A-6.6" single-family district.

Purpose. The R-1A-6.6 single-family district is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 6,600 square feet in size. The following regulations shall apply in all "R-1A-6.6" districts:

"R-1A" district. The district called "R-1A" shall be renamed and shown on the zoning map as "R-1A-6.6".

- (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)
- Church/place of religious assembly
- Community building (associated with residential uses)
- Contractor's temporary on-site construction office (with permit from Building Official; Sec 5.10)
- Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
- Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
- Golf course, public or private
- Governmental building or use with no outside storage
- Park and/or playground (public)
- 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) *Height and area requirements:*

(1) Residential uses.

- (i) *Height.* 35 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *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 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 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 dwelling unit not located over the recharge zone and one acre per dwelling unit located over the 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.

ORDINANCE NO. 2007-84

AN ORDINANCE REZONING 53.74 ACRES LOCATED ON W. ZIPP RD. FROM "APD AGRICULTURAL/PRE-DEVELOPMENT DISTRICT" TO "R-1A-6.6 SINGLE FAMILY DISTRICT" AND "PDD PLANNED DEVELOPMENT DISTRICT", AND ADOPTING A DETAIL PLAN.

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 "R-1A-6.6 Single Family District" and "PDD Planned Development District", the City Council has given due consideration to all components of said districts; 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 53.74 acres located on W. Zipp Rd., from "APD Agricultural/Pre-Development District" to "R-1A-6.6 Single Family District" and "PDD Planned Development District", **now, therefore;**

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

SECTION 1

THAT Sections 4.1 and 4.2, Appendix "A" of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing a 12.864 acre tract of land from "APD Agricultural/Pre-Development District" to "PDD Planned Development District" and changing a 40.880 acre tract of land from "APD Agricultural/Pre-Development District" to "R-1A-6.6 Single Family District", as delineated in Exhibit "A", and described in Exhibit "B" with Development Standards.

SECTION 2

THAT Exhibit "B" is adopted as the Concept Plan and Development Standards for this Planned Development.

SECTION 3

THAT the Zoning Maps of the City of New Braunfels be amended to indicate the previously described change.

SECTION 4

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

SECTION 5

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

SECTION 6

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

SECTION 7

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

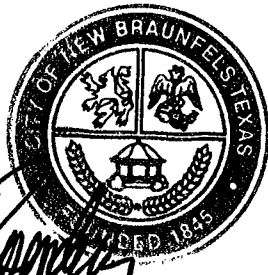
PASSED AND APPROVED: First Reading this the 22nd day of October, 2007.

PASSED AND APPROVED: Second and Final Reading this the 12th day of November, 2007.

CITY OF NEW BRAUNFELS

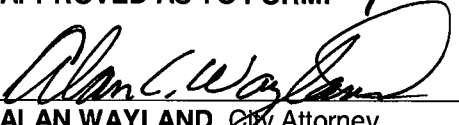
ATTEST:


MICHAEL A. RESENDEZ, City Secretary




R. BRUCE BOYER, Mayor

APPROVED AS TO FORM:


ALAN WAYLAND, City Attorney

METES AND BOUNDS DESCRIPTION
FOR A
12.86 ACRE TRACT OF LAND (PD Zoning)
NOT AN OFFICIAL SURVEY

Beginning at a ½" iron pin found being the most Northerly corner of the original 53.744 acre tract of land,

Thence departing said ½" iron pin along the southwest ROW of Zipp Road with the following calls:

S 52°25'10" E, a distance of 334.83 feet to a ½" iron pin;

S 43°37'44" W, a distance of 2.82 feet to a ½" iron pin;

S 52°41'46" E, a distance of 570.38 feet to a ½" iron pin;

S 02°07'02" E, a distance of 34.46 feet to a ½" iron pin;

Thence along the northwest ROW of Zipp Road with the following calls

S 43°40'55" W, a distance of 476.15 feet to a ½" iron pin;

S 46°22'05" E, a distance of 2.10 feet to a ½" iron pin;

S 44°12'21" W, a distance of 220.51 feet to a calculated point;

Thence departing said calculated point across the original 53.744 acre tract of land, along the proposed unit boundary with the following calls:

N 45°36'29" W, a distance of 93.86 feet to a calculated point;

Thence with curve to the left having a radius of 300.00 feet, a central angle of 9° 23' 57", an arc length of 49.21 feet, and chord bearing and distance of N 50° 18' 28" W, 49.16 feet to a calculated point;

N 55°00'26" W, a distance of 122.46 feet to a calculated point;

Thence with curve to the right having a radius of 300.00 feet, a central angle of 50° 12' 10", an arc length of 262.86 feet, and chord bearing and distance of N 29° 54' 21" W, 254.53 feet to a calculated point;

N 04°48'16" W, a distance of 84.70 feet to a calculated point;

Thence with curve to the left having a radius of 300.00 feet, a central angle of 41° 26' 35", an arc length of 217.00 feet, and chord bearing and distance of N 25° 31' 33" W, 212.30 feet to a calculated point;

N 46°13'40" W, a distance of 156.11 feet to a calculated point;

N 43°45'51" E, a distance of 441.54 to the Point Of Beginning and containing 12.86 acres of land;

**METES AND BOUNDS DESCRIPTION
FOR A
40.88 ACRE TRACT OF LAND (R-1A-6.6 Zoning)
NOT AN OFFICIAL SURVEY**

Beginning at a calculated point, said point being S 43° 45' 51" W, a distance of 441.54 feet from a ½" iron pipe found being the most Northerly corner of the original 53.744 acre tract of land,

Thence departing said calculated point across the original 53.744 acre tract of land, along the proposed unit boundary with the following calls:

S 46° 13' 40" E, a distance of 156.11 feet to a calculated point;

Thence with curve to the right having a radius of 300.00 feet, a central angle of 41° 26' 35", an arc length of 217.00 feet, and chord bearing and distance of S 25° 31' 33" E, 212.30 feet to a calculated point;

S 04° 48' 16" E, a distance of 84.70 feet to a calculated point;

Thence with curve to the left having a radius of 300.00 feet, a central angle of 50° 12' 10", an arc length of 262.86 feet, and chord bearing and distance of S 29° 54' 21" E, 254.53 feet to a calculated point;

S 55° 00' 26" E, a distance of 122.46 feet to a calculated point;

Thence with curve to the right having a radius of 300.00 feet, a central angle of 9° 23' 57", an arc length of 49.21 feet, and chord bearing and distance of S 50° 18' 28" E, 49.16 feet to a calculated point;

S 45° 36' 29" E, a distance of 93.86 feet to a calculated point on the south-east property line of the original 53.744 acre tract of land;

Thence following the property line of the original 53.744 acre tract of land with the following calls;

S 44° 12' 21" W, a distance of 4.85 feet;

S 22° 19' 03" W, a distance of 27.64 feet;

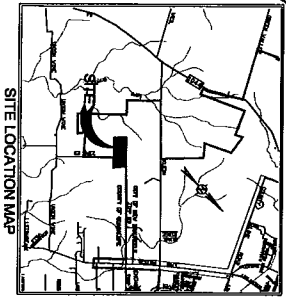
S 43° 42' 42" W, a distance of 1823.39 feet;

N 45° 02' 44" W, a distance of 927.87 feet;

N 43° 26' 22" E, a distance of 1839.56 feet;

N 43° 45' 51" E, a distance of 176.74 feet to the Point Of Beginning and containing 40.88 acres of land;

Drawing Name: W:\310608.D12 - Zipp Meadows.dwg User: bawerlufg Date: 06/26/2007 Time: 13:25pm



SITE LOCATION MAP

EXISTING SITE: APD
33.744 ACRES
2.341,148.00 SQ. FT.

PROPOSED SITE: R-1A-6.6
40.860 ACRES
1,760,171.00 SQ. FT.

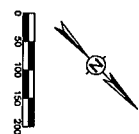
PROPOSED SITE: PD
561,203.70 SQ. FT.
8.064 ACRES

CURVE TABLE

CURVE	LENGTH	ANGLE	PC	PNT	PT	CHORD	BEARING
1	202.34	200.00	202.34	202.34	202.34	202.34	180.00
2	202.34	200.00	202.34	202.34	202.34	202.34	180.00
3	202.34	200.00	202.34	202.34	202.34	202.34	180.00

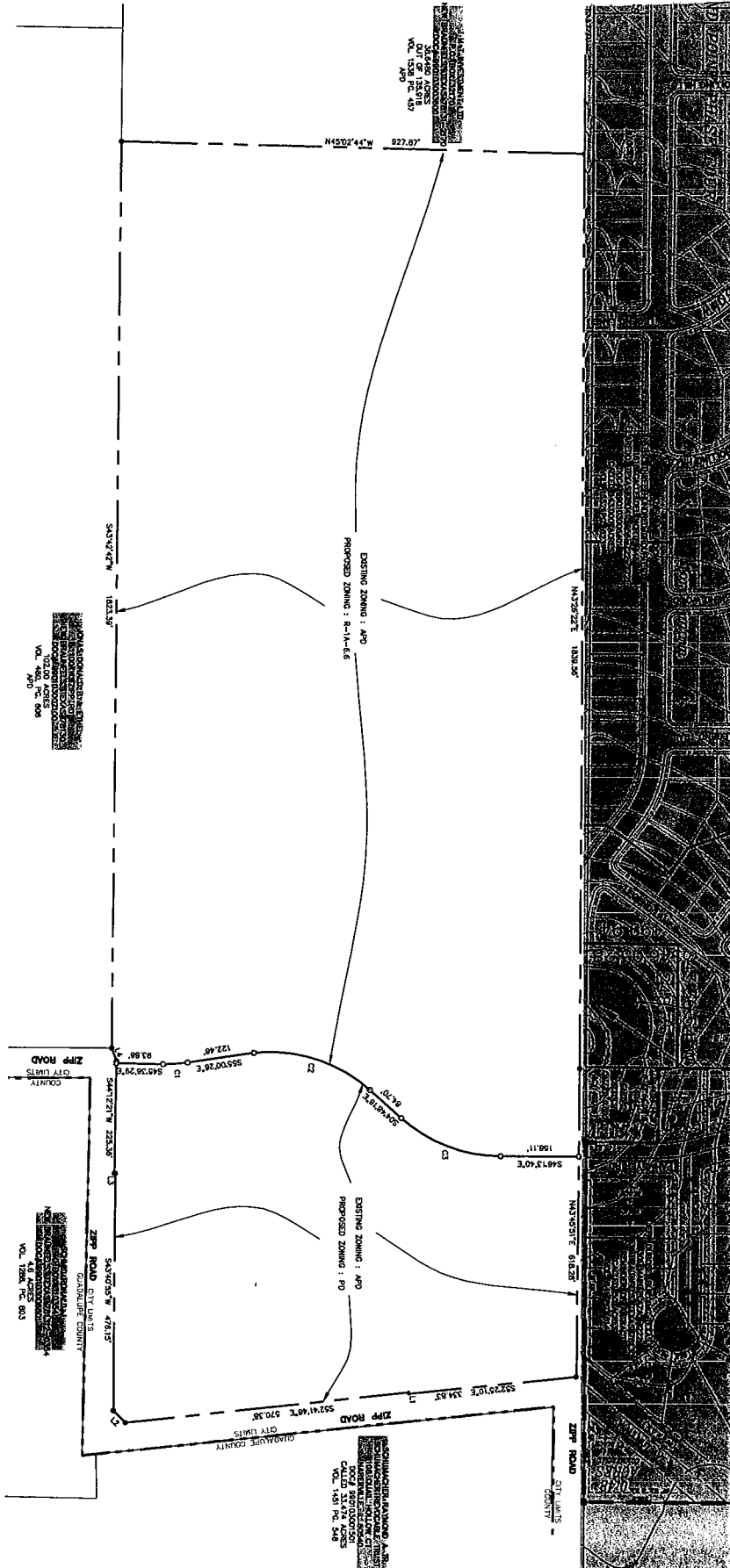
LINE TABLE

LINE	LENGTH	BEARING
1	202.34	180.00
2	202.34	180.00
3	202.34	180.00



PROPOSED LEGEND POND MASTER PLAN

PROPOSED ROLLING MEADOWS MASTER PLAN



BOUNDARY SURVEY
THE BOUNDARY SURVEY WAS CONDUCTED BY THE BOUNDARY SURVEY COMPANY, INC. ON 16 NOV. 2006.
BY S. DAVID ROLLING, INC.

SEWAGE TREATMENT PLANT
THE BOUNDARY SURVEY WAS CONDUCTED BY THE BOUNDARY SURVEY COMPANY, INC. ON 16 NOV. 2006.
BY S. DAVID ROLLING, INC.

DATE: _____
DRAWN BY: _____
CHECKED BY: _____
REVIEWED BY: _____
PROJECT NUMBER: 310608.D12

**ZIPP MEADOWS
SUBDIVISION**
ZIPP MEADOWS, LLC

ZONING EXHIBIT

Carter-Burgess
Consultants in Engineering, Architecture,
Construction Management and Related Services
Carter and Burgess, Inc.
200 Capital Parkway North, Suite 100
San Antonio, Texas 78208
210.491.0000 Fax 210.491.0000
© Copyright 2007 Carter and Burgess, Inc.

UNIT 1 ZONING : PD 50 LOTS

RESIDENTIAL LOTS	=	8.45 ACRES
STREETS AND ROADS.....	=	2.40 ACRES
LENGTH OF STREET AND ROADS	=	APPROXIMATELY 3,050 LF
OPEN SPACE/PARKS/DETENTION	=	2.01 ACRES
TOTAL ACREAGE	=	12.864 ACRES
RESIDENTIAL LOT DENSITY	=	3.89 LOTS PER ACRE
AVERAGE RESIDENTIAL LOT SIZE	=	7,362 SQUARE FEET
EXISTING LAND USE	=	OPEN SPACE
PROPOSED LAND USE	=	SINGLE FAMILY RESIDENTIAL

PROPOSED ZONING STANDARDS

SETBACKS:

- INTERIOR RESIDENTIAL LOTS SHALL HAVE A FRONT BUILDING SETBACK LINE OF 20 FEET, A FRONT UTILITY EASEMENT OF 15 FEET, AND A SIDE YARD SETBACK OF 5 FEET (10 FOOT SIDE YARD SETBACK IF ADJACENT TO ANOTHER ZONE).
- CORNER LOTS SHALL HAVE A 15 FOOT SIDE YARD AND A 15 FOOT UTILITY EASEMENT ADJACENT TO THE SIDE STREET AND SIDE ENTRY GARAGE SHALL BE SET BACK 20 FEET FROM THE SIDE STREET.
- ALL LOTS SHALL HAVE A 10 FOOT BACK YARD SETBACK.

LOT DIMENSIONS:

- LOT WIDTH MINIMUM 50 FEET, CORNER MINIMUM 60 FEET.
- LOT DEPTH 100 FEET MINIMUM

ADDITIONAL REQUIREMENTS:

- NO BUILDING SHALL EXCEED 35 FEET IN HEIGHT.
- MINIMUM LOT SIZE REQUIRED IS 5,000 SQUARE FEET.
- TWO OFF-STREET PARKING SPACES IN THE CARPORT OR GARAGE FOR EACH ONE-FAMILY DWELLING.
- THE ROAD SYSTEM WILL BE PUBLIC.

3.4-9. "ZH-A" zero lot line home district.

Purpose. The ZH-A zero lot line home district is intended for development of detached single-family residences on compact lots having one side building setback reduced to zero feet, also commonly referred to as "zero lot line", and having a minimum lot size of four thousand (4,000) square feet. The following regulations shall apply in all "ZH-A" districts:

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

(1) *Uses permitted by right:*

Residential uses:

Accessory building/structure
 Accessory dwelling (one accessory dwelling per lot, no kitchen)
 Community home (see definition)
 Family home adult care
 Family home child care
 Home Occupation (Sec. 5.5)
 Single family industrialized housing (Sec. 5.8)
 Zero lot line / patio homes

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses)
 Church/place of religious assembly
 Community building (associated with residential uses)
 Contractor's temporary on-site construction office (with permit from Building Official; Sec. 5.10)
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
 Golf course, public or private
 Governmental building or use with no outside storage
 Park and/or playground (public or private)
 Recreation buildings (public)
 School, K-12 (public or private)
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

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

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

(1) *Height.* 35 feet.

(2) *Front building setback.* A minimum front yard of 10 feet shall be provided to the front of the house. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of 10 feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum depth of 10 feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot. However, a provision can be made for 5 foot setbacks on both sides if it meets all applicable building codes.

(4) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side a minimum yard of 20 feet shall be provided to the garage/carport.

(5) *Rear building setbacks.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries

are from the front, the rear building setback shall have a minimum depth of 10 feet. If the rear of the lots abuts any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

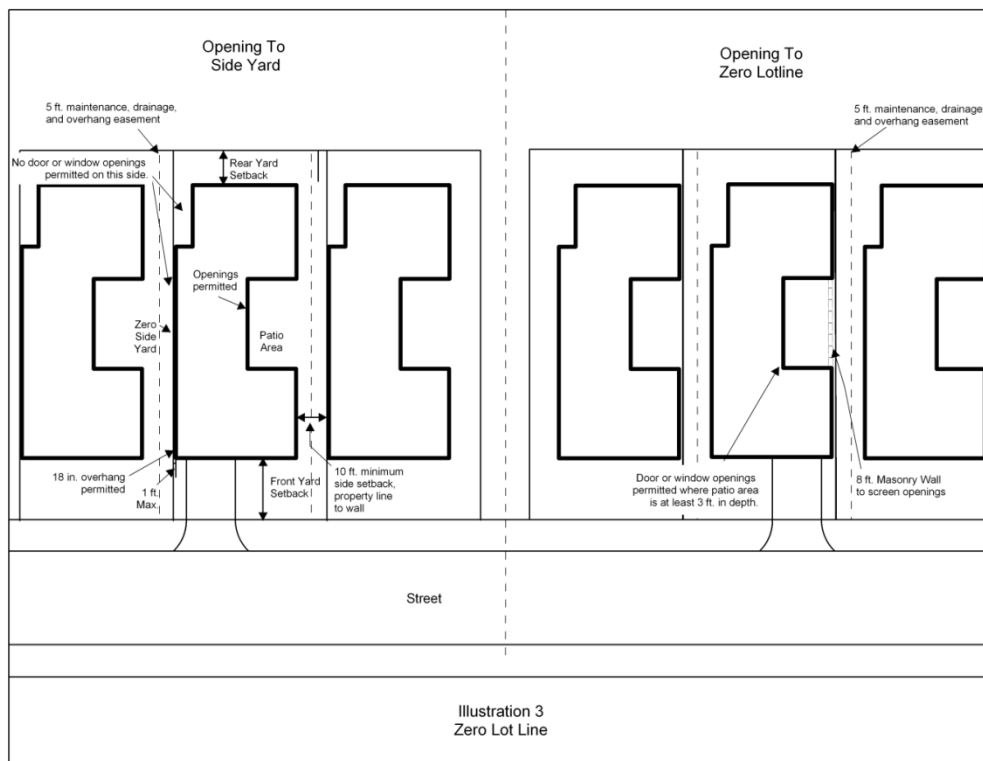
(6) *Width of lot.* 40 feet.

(7) *Lot area.* 4,000 square feet.

(8) *Lot depth.* 100 feet.

(c) *Other requirements:*

- (1) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.
- (2) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district)
- (3) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.
- (4) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.
- (5) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See Section 5.1 for other permitted uses' parking.



PZ-18-050 Public hearing and recommendation to City Council regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from “R-1A-6.6” Single Family District, “APD” Agricultural/Pre-Development District and Zipp Meadows Planned Development District to “ZH-A” Zero Lot Line Home District.

(Applicant: F. Heimer; Case Manager: M. Simmont)

Mr. Simmont presented the Staff report and recommended approval.

Commissioner Mathis left the dais at 8:08 p.m.

Discussion....

Commissioner Mathis returned to the dais at 8:10 p.m.

Chair Edwards invited the applicant to speak.

Thor Thornhill, 410 N. Seguin Avenue, stated he was speaking on behalf of the applicant. He explained the request for the ‘ZH-A’ zoning designation and stated he can make sure to put a note on the master plan notes for the project indicating the homes will not be zero lot line and maintain 5-foot side setbacks.

Discussion followed regarding properties adjacent to the subject property.

Chair Edwards asked if anyone wished to speak in favor.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

Chair Edwards asked if anyone wished to speak in opposition.

No one spoke.

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

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to recommend approval to City Council regarding the proposed rezoning of 97.27 acres out of the J S Johnson Survey, Abstract 190 and 91.422 acres out of the Sarah Dewitt Survey, Abstract 103, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Rd., from “R-1A-6.6” Single Family District, “APD” Agricultural/Pre-Development District and Zipp Meadows Planned Development District to “ZH-A” Zero Lot Line Home District.

Discussion followed.

Vice Chair Reaves, Commissioner Meyer, and Commissioner Mathis expressed support for requiring the master plan to have a plat note indicating 5-foot side setbacks will be required on all lots.

Mr. Looney clarified the Commission may not make the plat note a condition of the zone change approval and it can only be required upon approval of the master plan.

The motion carried (7-0-1) with Commissioner Tubb in opposition.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 97.27 ACRES OUT OF THE J.S. JOHNSON SURVEY, ABSTRACT 190, AND APPROXIMATELY 91.42 ACRES OUT OF THE SARAH DEWITT SURVEY, ABSTRACT 103, GUADALUPE COUNTY, TEXAS, LOCATED NORTH OF THE TERMINUS OF SUNSHINE LANE, SOUTHEAST OF THE LEGEND POND SUBDIVISION AND SURROUNDING PROPERTY ADDRESSED AT 910 W. ZIPP ROAD, FROM “R-1A-6.6” SINGLE FAMILY DISTRICT, “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT AND ZIPP MEADOWS PLANNED DEVELOPMENT DISTRICT TO “ZH-A” ZERO LOT LINE HOME DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of the “ZH-A” Zero Lot Line Home District, the City Council has given due consideration to all components of said district; and

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

WHEREAS, the City Council desires to amend the Zoning Map by changing the zoning of approximately 190.28 acres, located north of the terminus of Sunshine Lane, southeast of the Legend Pond Subdivision and surrounding property addressed at 910 W. Zipp Road, from “R-1A-6.6” Single-Family District, “APD” Agricultural/Pre-Development District and Zipp Meadows Planned Development District to “ZH-A” Zero Lot Line Home District; **now, therefore;**

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

SECTION 1

THAT 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-1A-6.6” Single-Family District,

“APD” Agricultural / Pre-Development District and Zipp Meadows Planned Development District to “ZH-A” Zero Lot Line Home District:

“Approximately 190.28 acres situated in the J.S. Johnson Survey, Abstract 190 and the Sarah Dewitt Survey, Abstract 103, being all of a called Tract 1, 135.918 acres, described in Document No. 2014022588, Official Public Records, Guadalupe County, Texas, all of a called Tract 2, 0.673 acres, described in Document No. 2014022588, Official Public Records, Guadalupe County, Texas, and all of a called 53.744 acre tract, described in Document No. 2014020421, Official Public Records, Guadalupe County, Texas, as described on Exhibit “A” and delineated on Exhibit “B” attached.”

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

PASSED AND APPROVED: First reading this 25th day of February, 2019.

PASSED AND APPROVED: Second reading this 11th day of March, 2019.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK D. ATEN, City Secretary

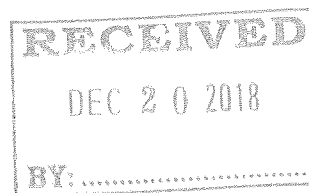
APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

\\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2018 cases\PZ-18-050 Heimer\Ordinance.docx



410 N. Seguin Ave.
 New Braunfels, TX 78130
 HMTNB.COM
 830.625.8555 • FAX: 830.625.8556
 TBPLS FIRM 10153600



**METES AND BOUNDS DESCRIPTION
 FOR A 190.282 ACRE TRACT OF LAND**

Being a 190.282 acre tract of land, located in the Sarah DeWitt Survey, Abstract No. 103 and the J.S. Johnson Survey, Abstract No. 190, being all of a called Tract 1, 135.918 acres, described in Document No. 2014022588, Official Public Records, Guadalupe County, Texas, all of a called Tract 2, 0.673 acres, described in Document No. 2014022588, Official Public Records, Guadalupe County, Texas, and all of a called 53.744 acre tract, described in Document No. 2014020421, Official Public Records, Guadalupe County, Texas, said 190.282 acre tract of land being more particularly described as follows:

BEGINNING at a 60D nail called for the West corner of said Tract 1, same being the West corner of the herein described tract;

THENCE with the Northwest line of said Tract 1, N 44°37'44" E a distance of 1845.98 feet to a 60D nail called for the North corner of said Tract 1, same being the West corner of said 53.744 acre tract, an angle point of the herein described tract;

THENCE with the Northwest line of said 53.744 acre tract, the following 2 (two) calls:

1. N 44°08'59" E a distance of 1839.56 feet to a 10 inch fence post called for an angle point of the herein described tract;
2. N 44°28'28" E a distance of 618.28 feet to a called 1/2" iron pin in the Southwest right-of-way line of Zipp Road for the North corner of said 53.744 acre tract, the North corner of the herein described tract;

THENCE with the common line of said 53.744 acre tract and the right-of-way line of a road, the following 8 (eight) calls:

1. S 51°42'33" E a distance of 334.83 feet to a called 1/2" iron pin;
2. S 44°20'21" W a distance of 2.82 feet to a called 1/2" iron pin;
3. S 51°59'09" E a distance of 570.38 feet to a called 1/2" iron pin;
4. S 01°24'25" E a distance of 34.46 feet to a called 1/2" iron pin;
5. S 44°23'32" W a distance of 476.15 feet to a called 1/2" iron pin;
6. S 45°39'28" E a distance of 2.10 feet to a called 1/2" iron pin;
7. S 44°54'58" W a distance of 225.36 feet to a called 1/2" iron pin;
8. S 23°01'40" W a distance of 27.64 feet to a called 1/2" iron pin;

THENCE departing the right-of-way of said Road, with the Southeast line of said 53.744 acre tract, S 44°25'19" W a distance of 1823.28 feet to a point for the South corner of said 53.744 acre tract, an interior corner of the herein described tract, in the Northeast line of said Tract 1;

THENCE with the Northeast line of the said Tract 1, the following 4 (four) calls:

1. S 44°20'07" E a distance of 2.09 feet to a point for a corner, an angle point of said Tract 1 and an angle point of the herein described tract;

EXHIBIT 'A'

2. S 45°19'54" W a distance of 226.76 feet to a called 1/2" iron pin for an interior corner of the herein described tract;
3. S 44°41'06" E a distance of 2200.94 feet to a called 1/2" iron pin in concrete;
4. S 44°41'06" E a distance of 410.14 feet to a called 1/2" iron pin for the East corner of said Tract 1, an East corner of the herein described tract;

THENCE with the Southeast line of Tract 1, S 45°08'26" W a distance of 739.80 feet to a called 1/2" iron pin in fence line for the North corner of said Tract 2;

THENCE with the boundary of said Tract 2, the following 3 (three) calls:

1. S 44°42'24" E a distance of 488.30 feet to a called 1/2" iron pin for the East corner of said Tract 2, an angle point of the herein described tract;
2. S 45°17'36" W a distance of 60.00 feet to a called 1/2" iron pin for the South corner of said Tract 2, an angle point of the herein described tract;
3. N 44°42'24" W a distance of 488.14 feet to a called 1/2" iron pin in a fence line for the West corner of said Tract 2, an interior corner of the herein described tract, in the Southeast line of said Tract 1;

THENCE with the boundary of said Tract 1, the following 2 (two) calls:

1. S 45°08'26" W a distance of 820.51 feet to a called 1/2" iron pin for the South corner of said Tract 1, the South corner of the herein described tract;
2. N 44°34'23" W a distance of 3522.90 feet to the POINT OF BEGINNING and containing a 190.282 acre tract of land in Guadalupe County, Texas.

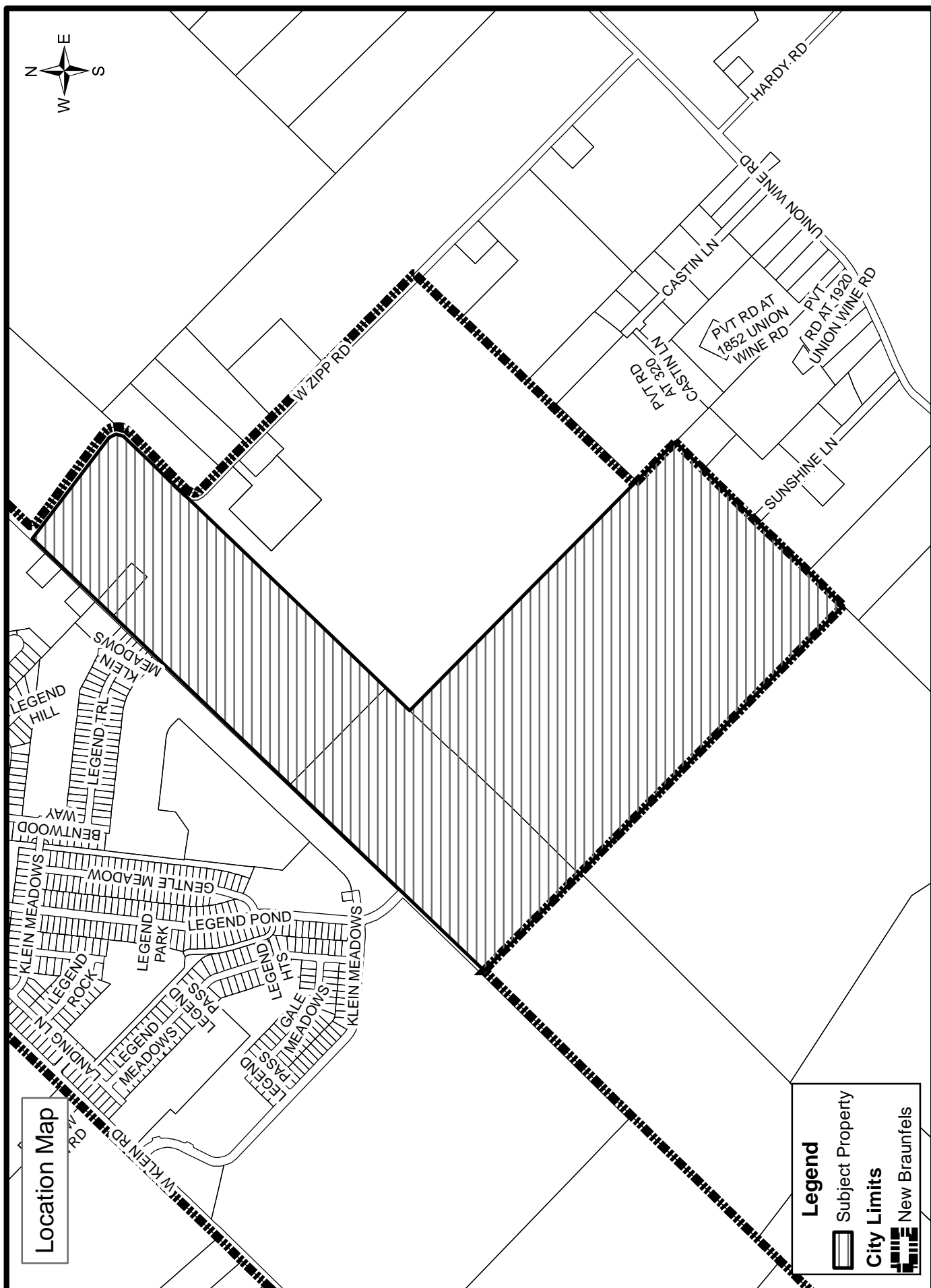
Bearings shown hereon are based on the Texas Coordinate System, South Central Zone (4204), NAD 83.

Written this 20th day of December, 2018.

Description based on field notes of said Tract 1, Tract 2, and said 53.744 acre tract. Field notes of Tract 1 were prepared on August 16th, 2000. The dates of preparation for field notes describing Tract 2 and said 53.744 acre tract were unspecified in the deeds of record.

This description was prepared for zoning purposes only and shall not be used for any other purpose.

S:\Projects\Title Surveys\DeWitt, Sarah Survey Guadalupe County\190 Acres_Schumacher\190ac_m&b.docx



PZ-18-050
APD, R-1A-6.6, and Zipp Meadows PD to ZH-A



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. A)

Presenter/Contact

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

SUBJECT:

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

BACKGROUND / RATIONALE:

Council District: 6

This item was postponed from the February 11 City Council meeting.

Staff has received a request from multiple property owners along the 600-700 blocks of West Merriweather Street, the 600 block of Southeast Terrace, Tower Line, and the 1000-1300 blocks of Unicorn Avenue to create a new parking by permit area. The requested time for parking by permit is at all times and year-round. The requested area consists of single-family homes with the exception of businesses on the north side of Tower Line. The primary reason for the request is due to on-street parking from CBE Companies employees in the neighborhood.

A signed petition was received from the property owners and residents of single family homes requesting the creation of a new parking by permit area on the 600-700 blocks of West Merriweather Street, the 600 block of Southeast Terrace, Tower Line, and the 1000-1300 blocks of Unicorn Avenue at all times, year-round.

The proposed designated parking by permit area is a contiguous residential area and matches the schedule of existing parking by permit areas. Over two-thirds of the affected residents have submitted a signed statement of the following:

We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or residential property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of issuing the annual parking permits will be paid by the residents and/or property owners.

At their meeting on January 10, 2019, the Transportation and Traffic Advisory Board discussed and

recommended that the proposed time for the parking by permit area be revised to daily, from 7:00 a.m. to 7:00 p.m., instead of the year-round time that was requested. Representatives from the neighborhood agreed that this change would address the existing parking concerns.

Discussion between City Council, residents, and staff at the February 11, 2019 City Council meeting led to revisions to the proposed parking by permit area location to only include the residential properties along Unicorn Avenue in the proposed parking by permit area. The portion of the west side of Unicorn Avenue along commercial property is proposed to be a no parking, tow-away zone.

A public hearing on the application shall be conducted by City Council. Notices of the public hearing were mailed to all property owners (as shown on the latest tax roll) and residents who signed the petition within a 300 foot radius of the requested permit area prior to the February 11 meeting. Notices were mailed out again prior to the March 11 meeting to the same recipients.

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

Strategy 1: Support Vibrant Centers; Action 1.2: Create plans for neighborhoods and transitional areas to maintain quality of life.

FISCAL IMPACT:

Traffic control signs cost approximately \$150 each. Sufficient funding is available in the FY18-19 approved Public Works budget.

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board approved the recommendation to City Council to amend Section 126-354 of the City of New Braunfels Code of Ordinances to create a new Parking by Permit Area O with parking restrictions daily, between the hours of 7:00 a.m. to 7:00 p.m. by a vote of six in favor and one opposed at their meeting on January 10, 2019.

STAFF RECOMMENDATION:

Staff recommends approval of the creation of a new parking by permit area on the east side of Unicorn Avenue from 1135 Unicorn Avenue to 1383 Unicorn Avenue and on the west side of Unicorn Avenue from the property at 706 West Merriweather Street to 1384 Unicorn Avenue. Additionally, staff recommends the creation of a no parking, tow-away zone on the west side of Unicorn Avenue from the intersection with South Business 35 south for a distance of 760 feet.

ORDINANCE NO. 2019-_____**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-354 (c) TO CREATE PARKING BY PERMIT AREA O AND AMENDING SECTION 126-346 TO RESTRICT PARKING ON A PORTION OF UNICORN AVENUE.**

WHEREAS, the City Council has determined that Section 126-354 (c) Parking by Permit Only, Designated Permit Areas be amended in order to protect the health, safety and welfare of the citizens.

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 Section 126-354 (c) is hereby amended to read:

- (16) Area O, daily between the hours of 6:00 a.m. and 6:00 p.m., year-round.
 - a. On the east side of Unicorn Avenue from 1135 Unicorn Avenue to 1383 Unicorn Avenue.
 - b. On the west side of Unicorn Avenue from the property at 706 West Merriweather Street to 1384 Unicorn Avenue.

II.

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

- (121) On the west side of Unicorn Avenue from the intersection with South Business 35 south for a distance of 760 feet. Such no parking zone shall be designated as a tow away zone.

III.

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.

IV.

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

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



Requested new Parking by Permit Area O and new No Parking Zone



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. B)

Presenter/Contact
Ian Taylor, NBU CEO
itaylor@nbutexas.com

SUBJECT:

Discuss and consider approval of the first reading of an ordinance amending Chapter 130, Article IV, Division 5, Division 6, and Division 7 of the Code of Ordinances relating to Water Conservation and Critical Period Management Plan, Regulated Activities, and Drought Management Plan.

BACKGROUND / RATIONALE:

The Drought Management Plan was last modified in February 2014. To update the Ordinance and to ensure the community of New Braunfels will have an adequate water supply during and outside times of drought, the proposed revisions include the following:

1. revising the stages of watering restrictions based upon the Comal Spring flow, Edwards Aquifer J-17 well level, and potable water system capacity;
2. indicating that Chapter 130 applies to all NBU customers as a condition of service; and
3. restricting outdoor watering during non-drought periods to twice per week.

Due to the proximity of New Braunfels to San Antonio and its large media outlets, the proposed ordinance also includes the requirements to declare and terminate drought stages to mirror those of San Antonio Water Systems.

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

N/A

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

NBU Board recommends voted to approve the changes on February 28, 2019.

STAFF RECOMMENDATION:

New Braunfels Utilities staff recommends modifying Chapter 130 of the New Braunfels Code of Ordinances.

R#2019-125

A RESOLUTION BY THE BOARD OF TRUSTEES OF NEW BRAUNFELS UTILITIES APPROVING PROPOSED AMENDMENTS TO CHAPTER 130, ARTICLE IV, DIVISION 5, DIVISION 6, AND DIVISION 7, RELATING TO WATER CONSERVATION AND CRITICAL PERIOD MANAGEMENT PLAN, REGULATED ACTIVITIES, AND DROUGHT MANAGEMENT PLAN, AND AUTHORIZING THE PRESENTATION OF SAME TO THE NEW BRAUNFELS CITY COUNCIL FOR CONSIDERATION AND PASSAGE

WHEREAS, the New Braunfels City Council has enacted an ordinance containing the rules, regulations, and policies for water conservation and drought management for the service area of New Braunfels Utilities and that ordinance has been codified in Chapter 130, Article IV, Code of Ordinances of said City;

WHEREAS, the Board of Trustees of the New Braunfels Utilities is of the opinion that it is now necessary and advisable that Division 5, Division 6 and Division 7 of that chapter and article of the Code of Ordinances be amended;

WHEREAS, the Board of Trustees has reviewed the proposed amendments to Division 5, Division 6, and Division 7, and is of the opinion that the same should be approved and submitted to the City Council of New Braunfels for its consideration and passage;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NEW BRAUNFELS UTILITIES:

SECTION 1: That the proposed amendments and restatement of Chapter 130, Article IV, Division 5, Division 6 and Division 7 of the Code of Ordinances of the City of New Braunfels as set forth in "Exhibit A" attached hereto are approved and approval by the City Council is recommended.


SECTION 2: That the Chief Executive Officer of New Braunfels Utilities is hereby authorized and directed to present the proposed ordinance amendments in ordinance form to the City Council of New Braunfels for its consideration and passage, as provided by law.

PASSED AND APPROVED this 28th day of February, 2019.



JOHN HARRELL, President
Board of Trustees
NEW BRAUNFELS UTILITIES

ATTEST:



IAN TAYLOR, Secretary
Board of Trustees
NEW BRAUNFELS UTILITIES

ORDINANCE NO. 2019 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS AMENDING CHAPTER 130, ARTICLE IV. OF THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS, TO AMEND THE WATER CONSERVATION AND DROUGHT MANAGEMENT PLAN ORDINANCE, REPEALING ALL ORDINANCES IN CONFLICT, ADDING A SAVINGS CLAUSE, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the New Braunfels Utilities has recommended that the City Council approve amendments to Chapter 130, Article IV, Divisions 5, 6 and 7 of the Code of Ordinances of the City of New Braunfels concerning water conservation and drought management; and

WHEREAS, City Councilmembers have determined that the recommended amendments to the water conservation and drought management ordinance should be accepted and approved; and

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

I.

THAT, the following sections in Chapter 130, Article IV, Code of Ordinances, as heretofore established by ordinance, be and are hereby amended as set forth below effective for all customers on or after May 1, 2019:

A. Section 130-209 concerning authorization to enforce is amended to read in its entirety as follows:

Sec. 130-209. – Authorization to Enforce.

The CEO of NBU or his or her designee and/or the city is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this article. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances. The CEO of NBU or the designee and/or the city may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this article, under V.T.C.A., Local Government Code Ch. 54 as it may be amended to address the subject matter of this article, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

B. Section 130-213.1 with respect to landscape watering in general is amended to read in its entirety as follows:

Sec. 130-213.1. – Landscape Watering.

From and after the effective date of this division, landscape watering is regulated as described in section 130-220.1

C. Section 130-219(a) concerning enforcement and violations is amended to read in its entirety as follows:

Sec. 130-219. – Enforcement.

(a) *Violations.* It shall be a violation of this article for any person in the corporate limits of the city or its extra territorial jurisdiction or any person in the NBU CCN that receives water service from NBU to intentionally, knowingly, recklessly or criminally negligently allow or cause water waste, allow landscape watering outside the prescribed hours for sprinkling, or allow or cause any violation of any provision of this division or of the drought management plan. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances.

D. A new Section 130.220.1 providing for regulation of landscape watering is added to read in its entirety as follows:

Sec. 130-220.1. – Landscape Watering.

It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis. From and after the effective date of this division, landscape watering for residential and commercial properties will be limited to two days per week according to the street address as follows.

Last number of address	Watering Day
Even number (0,2,4,6,8)	Monday, Thursday
Odd number (1,3,5,7,9)	Tuesday, Friday
No address, more than one address associated with a single contiguous property	Monday, Friday

It is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

E. Section 130-221 establishing the basis of water use reduction measures and aquifer stage conditions is amended to read in its entirety as follows:

Sec. 130-221. – Basis of water use reduction measures and aquifer stage conditions.

The water use reduction measures may be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17") as set out in section 130-224, or on the discharge level of the Comal Springs, NBU water supply, or on aquifer water quality or other aquifer, potable water system capacity, or seasonal or weather conditions not based on water levels in J-17 (set out in section 130-226).

F. Section 130-222 is amended by deleting the title and text and indicating that it is reserved.

G. Section 130-223(a) concerning authorization of the Mayor to declare water use reductions is amended to read in its entirety as follows:

Sec. 130-223. – Declaration of Water Use Restriction Stages in effect; notice by publication required.

(a) The Mayor of the City of New Braunfels or his or her designee, in consultation with NBU, is hereby authorized to declare that water use reduction measures are in effect.

H. Section 130-224 establishing trigger levels for water use reduction is amended to read in its entirety as follows:

Sec. 130-224. – “Trigger levels” for implementation and termination of water use reduction measures, stages I, II and III.

Implementation and termination of stages I, II and III of the water use reduction measures, based upon the J-17 Edwards Aquifer water levels or the Comal Springs discharge may occur according to the following schedule:

	Description	Stage I	Stage II	Stage III
1	When the aquifer is at or below this level msl, based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority, or the discharge from the Comal Springs is at or below this cfs, whichever happens first, or as determined by section 130-221, the Mayor of the City of New Braunfels, in consultation with NBU, may officially declare the respective stage. NBU shall coordinate water use reduction with customers in its service area. The City and NBU shall enforce the water use reduction provisions set out in section 130-225, for each stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs
2	When the aquifer subsequently rises above this level msl or the discharge from the Comal Springs rises above this cfs, whichever occurs last, NBU staff will monitor the consistency of the various levels and other conditions as set out in section 130-221 for a period of 15 calendar days, before consulting with the Mayor of the City of New Braunfels on whether to terminate the drought restrictions for that stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs

I. Section 130-225 designating landscape irrigation times and days is amended to read in its entirety as follows:

Sec. 130-225. – Designated landscape irrigation times and days (stages I, II and III).

During any period when stages I, II, or III have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than parks and athletic fields, the restrictions for which are set out in section 130-228) may occur only on certain designated days and at certain times, as follows:

(1) For stage I, landscape watering for residential and commercial properties will be limited to one day per week according to the street address as follows:

Last number of address	Watering day
0,1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(2) For stage II, landscape watering for residential and commercial properties will be limited to one day per week, according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(3) For stage III, landscape watering for residential and commercial properties will be limited to one day per week **every other week**, beginning on the second Monday after the stage III has been declared according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(4) For stage I, II and III the following associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the days specified.

(5) For stage I landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day at any time.

(6) For stage II and III landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day.

Note: Vehicle washing at home is limited to designated landscape sprinkling watering days and times, but use of a commercial facility is permitted any day for all drought stages.

II.

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

III.

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

IV.

THAT, this ordinance shall become adopted as shown below and effective April 1, 2019.

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

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

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK ATEN, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

PART II - CODE OF ORDINANCES
Chapter 130 - UTILITIES
ARTICLE IV. - WATER SERVICE

Approved: February 10, 2014
Draft 0219

**DIVISION 5. - WATER CONSERVATION AND CRITICAL PERIOD MANAGEMENT
PLAN—GENERALLY ^[124]**

⁽¹²⁴⁾ **Editor's note**— Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 5 in its entirety to read as herein set out. Formerly, division 5 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-206.- Definitions.

Air conditioning system(s) means a mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this article, an air conditioning system does not include window units.

Aesthetic use means the use of water for outdoor fountains, waterfalls, and landscape lakes, ponds, or other water related features where such use is entirely ornamental and serves no other functional purpose.

Agricultural irrigation means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Athletic field means a sports playing field, the essential feature of which is turf grass, used primarily for organized sports for schools, professional sports, or organized league play.

Automatic irrigation controller means a device that automatically activates and deactivates an irrigation system at times selected by the operator.

Base usage means the average monthly total water usage for the three lowest months of November and December and the following January and February during each of the three consecutive 12-month periods preceding the commencement of the user's use of water.

Beneficial use means the amount of water that is economically necessary for a purpose not otherwise prohibited by the city, state or federal law or regulation, when reasonable intelligence and reasonable diligence is used in applying water for that purpose.

Blowdown meter means a meter that tracks the amount of water discharged from a cooling tower system.

Bucket means a bucket or other container holding five gallons or less, used singly by one person.

CEO means the chief executive officer of NBU or designee.

Certificate of convenience and necessity (CCN) means the service area of NBU as granted by the TCEQ. Also referred to as the certified service area.

Cfs means cubic feet per second.

Commercial dining facility means a business that serves prepared food and beverages to be consumed on the premises.

Computer controlled irrigation system (CCIS) means a system comprised of a computer controller (digital

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operating system), software, interface modules, satellite field controllers, soil sensors, weather station, or similar devices which is capable of achieving maximum efficiency and conservation in the application of water for irrigation. A CCIS, at a minimum, should be designed to:

- (1) Prevent overwatering, flooding, pooling, evaporation and run-off; and
- (2) Prohibit sprinkler heads from applying water at an intake rate exceeding the capability of the soil.

Conductivity controller means a device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

Conservation compliance officer or *compliance officer* means the person acting in the position of conservation compliance officer.

Conservation coordinator or *coordinator* means the person acting in the position of conservation coordinator of New Braunfels Utilities.

Cooling tower means an open water recirculation device that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process.

Day means a 24-hour period beginning at midnight.

Drip irrigation means an irrigation system (drip, porous pipe, etc.) designed to emit water at low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Drought means any condition, whether man-made or natural, where the available water supply or resources are not meeting the water demand, or if the water supply or resources are being depleted at a faster rate than they are being replenished. It is not intended to be limited to any meteorological definition of the term.

Drought management plan means the plan for management of the aquifer described and set out in division 7, as amended from time to time.

EAA means Edwards Aquifer Authority.

Edwards Aquifer or *aquifer* means that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast from the hydrologic division near Brackettville in Kinney County that separates underground flow toward the Comal Springs and San Marcos Springs from underground flow to the Rio Grande Basin through Uvalde, Medina, Atascosa, Bexar, Guadalupe and Comal counties, and in Hays County south of the hydrologic division near Kyle that separates flow toward the San Marcos River from flow to the Colorado River Basin.

Essential use means a use of water which is:

- (1) Essential to the protection of public health, safety, or welfare, including but not limited to use for drinking, food preparation, personal hygiene, public sanitation, control or prevention of disease and firefighting;
- (2) Essential to an industrial use or agricultural or military activity which directly supports gainful employment, unless the use is specifically defined in this article as a discretionary use;

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(3) Watering of livestock.

Evapotranspiration rate (ET rate) means the rate which the combination of evaporation from soil surface and transpiration from vegetation will occur for specific climatic conditions.

Existing landscaping plant means a landscaping plant existing after such period of time as to accomplish an establishment and maintenance of growth.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways and roughs and related areas used for the playing of golf.

Gray water means water after use in bath and utility sinks, tubs, showers and washing machines.

Hand-held hose means a hose attended by one person, fitted with a manual or automatic shutoff nozzle.

Health care facility means any hospital, clinic, nursing home or other health care or medical research facility.

Hose-end sprinkler means a sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Household use means the use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

Impervious surface area means any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground.

Industrial use means the use of water for or in connection with commercial or industrial activities, including manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, commercial uses of water for tourism, entertainment, and hotel or motel lodging, generation of power other than hydroelectric, and other business activities.

Irrigation system, also referred to as an in-ground or permanent irrigation system, being a system with fixed pipes and emitters or heads that apply water to landscape plants or turfgrass.

Irrigation system analysis means a zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements:

- (1) Design appropriateness for current landscape requirements;
- (2) Irrigation spray heads and valves;
- (3) Precipitation rates expressed in inches per hour; and
- (4) Annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

Landscape renovation means the removal and replacement of existing landscape plants with new landscape plants.

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Landscape watering means the application of water to grow or maintain landscaping plants, such as flowers, ground covers, turf or grasses (other than golf courses or athletic fields), shrubs, and trees, but for purposes of this article does not include:

- (1) Essential use without waste of water by a commercial nursery to the extent the water is used for production rather than decorative landscaping;
- (2) Application of water without waste to a noncommercial family garden or orchard the produce of which is for household consumption only; and
- (3) Except when stages II and III of the drought management plan are in effect, application of water at any time on any day by means of a bucket, hand-held hose, soaker hose (but not one that sprays water in the air), or properly installed drip irrigation system.

Landscaping plant means any member of the kingdom plantae, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species that grows or has been planted out-of-doors.

Large property means a land tract owned by a general customer that equals or exceeds five acres in size and has an irrigation system.

Livestock means cattle, sheep, goats, hogs, poultry, horses, and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

Livestock use means the use of water for drinking by or washing of livestock.

Low-flow toilet means a tank toilet that is designed to use 1.6 gallons or less of water per flush.

Make-up meter means a meter that measures the amount of water entering a cooling tower system.

Maintenance level means the level of water in a swimming pool required for proper circulation for operation of filter equipment for the swimming pool.

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

msl means elevation above mean sea level.

Mulch means any material such as bark, leaves, straw or other materials left loose and applied to the soil surface to reduce evaporation.

NBU means New Braunfels Utilities.

New landscaping plant means any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. Application of grass seed to an existing stand of grass or turf is not considered new landscaping.

NPDES/TPDES permit holders means those entities that have valid state or federal permits commonly referred to as NPDES or TPDES [National Pollutant Discharge Elimination System/Texas Pollutant Discharge Elimination System] permits to satisfy requirements of the federal Clean Water Act.

Organic material means organic substances in differing stages of decay.

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Other outdoor use means the use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, or the washing of streets, driveways, sidewalks, patios and other similar areas.

Park means a tract of land maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Person means any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious hardscape means patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground. Examples include flagstone set in sand and wood plank decks, but exclude concrete slab patios and sidewalks or pavers set with mortar.

Pervious surface means any ground surface which can absorb water or other liquids.

Positive shut-off means a valve that is held in a closed position by system pressure until overridden by an outside force.

Power Wash means a machine that uses water or a water-based product applied at high pressure to clean impervious surfaces.

Precipitation rate means the speed at which a sprinkler or irrigation system applies water. Precipitation rates are measured in inches per hour or inches per minute.

Prescribed hours for sprinkling means between the hours of 8:00 p.m. and 10:00 a.m. when the drought management plan is not in effect, and during the hours specified therein when the drought management plan is in effect.

Private residential swimming pool. See "Swimming pool."

Property address means the street address of a property, unless multiple street addresses are served by a single meter, in which case the billing address will be used.

Public facilities means municipally-owned or operated facilities.

Public swimming pool. See "Swimming pool".

Rain sensor means a device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

Recycled or reuse water means domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor means a customer who requests a variance under this article.

Residential customer means a single or multi-family dwelling unit containing two or fewer family units.

Responsible Person means a natural person or legal entity who causes, maintains or allows a violation(s) of the city code to occur or continue by action or failure to act. A responsible person includes, but is not limited to, the owner, tenant, co-tenant, lessee, sub-lessee or other person with any right to possession of

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the property where a city code violation that is related to the use or condition of property occurs, the on-site manager who normally works daily at the site when the business is open and is responsible for the activities at such premises, and the owner, and general partners of a legal entity. There may be more than one responsible person for a violation.

Soaker hose means plastic or flexible hose that emit water across the entire length based on water pressure, and connect directly to a flexible hose or spigot.

Soil holding capacity means the amount of moisture in the soil that can occur without becoming saturated.

Sprinkler means an emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Swimming pool means any structure, basin, chamber, or tank, including hot tubs, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two feet or more at any point.

(1) *Private residential swimming pool.* Any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by the homeowner's family or invited guests.

(2) *Public swimming pool.* Any swimming pool, other than a private residential swimming pool, intended to be used collectively by persons for swimming or bathing, operated by any person as defined herein, whether owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use. The term includes, but is not limited to, apartment community pools, condominium association pools and community association pools.

TCEQ means the Texas Commission on Environmental Quality.

TDS means total dissolved solids.

Trigger level means the mean sea level of the Edwards Aquifer as indicated by the J-17 index well and/or the discharge from the Comal Springs according to the USGS log in cubic feet per second (cfs) that result in the implementation or termination of water use reduction measures.

Turf means a surface layer of earth containing mowed grass with roots.

Turfgrass means perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

Vacuum system means a system, often consisting of a pump, chamber, and tubes, that is used to create a vacuum for any of a variety of purposes, including but not limited to medical, dental and industrial applications.

Vegetable garden means any "non-commercial" vegetable garden planted primarily for household use; "non-commercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Vehicle wash facility means a permanently-located business that washes vehicles with water or water based product, including but not limited to self-service car washes, full-service car washes, roll-over/in-bay style car washes, and fleet maintenance wash facilities.

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Vehicle wash fundraiser means any special-purpose vehicle wash event for which a fee is charged or donation accepted.

Water includes, but is not limited to potable water supplied by NBU or other water purveyor, potable water withdrawn from their groundwater well, surface water from any river, creek, natural watercourse, pond, lake or reservoir, and recycled water supplied by NBU or other water purveyor.

Water waste means use of water without obtaining maximum beneficial use thereof.

Water waste shall also include, but not be limited to:

- a. causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the lands of another person or upon public lands.
- b. Any discharge of water used for commercial, industrial, or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof.
- c. Failure by any Responsible Person, to repair any controllable leak on property. See also Sec. 130-228 for additional information on leaks.
- d. Watering landscaped areas during rain or high wind.
- e. Washing outdoor impervious surfaces, with a pressure washer or garden hose, such as sidewalks, driveways and patios during drought stage, except to remove spills of hazardous materials, eliminate dangerous conditions which threaten the public health, safety, or welfare, or to prepare surface for maintenance work.
- f. Washing buildings, houses or structures with a pressure washer or garden hose for aesthetic purposes during a drought stage.
- g. Washing vehicles with a hose that lacks an automatic shut-off valve.

Water conservation plan means the water conservation plan required as part of the drought management plan referred to in Division 7 must include proof of irrigation efficiency of 60 percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for each stage I, II and III. A plan should also include precipitation rates and irrigation schedules with run times. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan.

Water flow restrictor means an orifice or other device through which water passes at a restricted rate.

Water purveyor use means water used for withdrawal, treatment, remediation, transmission and distribution by a potable water purveyor.

Watering day means a day designated for landscape watering in this ordinance. Thus, if it is stage I and Wednesday is a designated watering day, the period of time referenced is Wednesday morning between midnight to 10:00 a.m., and Wednesday evening between 8:00 p.m. and 11:59pm.

Xeriscape means a landscape consisting of a maximum of 50 percent turf grass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved low water use plant list, as may be amended from time to time, shall be available from NBU and located at NBU and at www.nbutexas.com.

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Zonal irrigation system means an irrigation system that segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-207.- Nuisance declared.

The violation of any part of division 6 and 7 is deemed a nuisance which may be abated and enjoined by the city. Any person creating a public nuisance shall be subject to the provisions of this Code and other applicable law governing such nuisances, including reimbursing NBU or the city for any costs incurred in removing, abating or remedying such nuisance. The owner of any property where such nuisance has occurred shall be liable to the city and/or NBU for the cost of such abatement, removal or remediation, and shall pay such cost on demand, and the city acting for itself and/or NBU shall have the right to file a lien on the property to secure payment of the cost of such abatement, removal or remediation of the nuisance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-208.- Presumption and exception.

For purposes of this article, it shall be presumed that the person in whose name a water and/or electric meter connection is registered with NBU, or other purveyor servicing the property, is the responsible party who has made, caused, allowed or permitted a violation of the provisions of this article.

Proof that the particular premises had a water and/or electric meter connection registered in the name of the defendant cited in a criminal or civil complaint filed pursuant to this article shall constitute a prima facie presumption that the defendant is a person who made, caused, allowed or permitted a violation pursuant to the provisions of this article.

An exception to these presumptions can be granted if:

- a. the meter holder can prove that another party is the Responsible Person.
- b. exception to this presumption is found in subsection 130-214.3(b), wherein the city, whose premises are used by a tenant/lessee, is generally not responsible for the tenant/lessee's compliance. In such cases, the tenant/lessee of the city is responsible for compliance, and the city shall have no duty to enforce against the tenant/lessee except to the extent the city's municipal courts may be fully utilized by the NBU enforcement officers or other duly authorized governmental personnel charged with enforcement duties.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-209.- Authorization to enforce.

The CEO of NBU or his or her designee and/or the city is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this article. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances. The CEO of NBU or the designee and/or the city may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this article, under V.T.C.A., Local Government Code ch. 54 as it may be amended to address the subject matter of this article, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

(Ord. No. 2008-50, § I, 7-28-08)

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Sec. 130-210.- Access to premises.

The city and NBU and all persons or agents employed by either shall, at all reasonable hours, have free access to properties to ascertain if water is being wasted and whether provisions of this article have been and are being complied with in all aspects, however, this section does not authorize entry into a residence without consent of the owner or occupant.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-211.- Divisions 5, 6 and 7 to prevail if conflict.

In the event any section or provision of divisions 5, 6 and 7 of this article conflict in effect or application with any other section of this Code, the section or provision of divisions 5, 6 and 7 of this article will prevail.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-212.- Severability.

If for any reason, any division, section, sentence, clause or part of this article is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining divisions or sections of this article, but shall be confined to the specific division, section, sentence, clause or part of this article held legally invalid.

(Ord. No. 2008-50, § I, 7-28-08)

DIVISION 6. - REGULATED ACTIVITIES ^[125]

⁽¹²⁵⁾ **Editor's note**— Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 6 in its entirety to read as herein set out. Formerly, division 6 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-213.- Activities to be regulated on and after effective dates.

The following activities shall be regulated in the manner set out herein on and after the respective dates indicated in the sections and subsections. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division or of the drought management plan set out in division 7.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.1.- Landscape watering.

From and after the effective date of this division, landscape watering is regulated as described in section 130-220.1

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.2.- Vehicle wash fundraisers.

From and after the effective date of this division, any vehicle wash fundraiser shall be conducted at a vehicle wash facility using such facility's equipment.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.3.- Golf courses.

From and after the effective date of this division, no golf courses shall be allowed to irrigate the greens, tees, roughs or fairways with potable water. Use of potable water for landscape irrigation in and around the club house will be permitted but must conform to all other requirements for landscape irrigation.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.- Activities to be regulated on and after January 1, 2007.

Except as provided by a specific and alternative application date, particularly systems analysis, the following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.1.- Minimum irrigation area and flow direction.

Effective January 1, 2007, newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both: (a) dimensions less than five feet in length and/or width; and, b) impervious pedestrian or vehicular traffic surfaces along two (2) or more perimeters. Where pop-up sprays and rotor heads are allowed in newly installed irrigation systems, they (a) must direct flow away from any adjacent impervious surface and (b) shall not be placed within four (4) inches from an impervious surface.

Sec. 130-214.2.- Annual irrigation system analysis for athletic fields, and large properties requiring variance from water use reduction measures.

Effective January 1, 2007:

- (1) An annual irrigation system analysis demonstrating no water waste shall be required for all athletic fields and large properties and shall be submitted in writing to the NBU conservation coordinator on or before May 1st of each year, beginning on May 1, 2007.
- (2) Municipal tenants and lessees of sports and athletic playing fields and any other municipally owned properties shall be responsible for compliance with this section and subsection. NBU shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant/lessee to assume the tenant/lessee's responsibility for compliance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.3. - Cooling towers.

Effective January 1, 2007:

- (1) Cooling towers, not utilizing recycled water, shall operate a minimum of four cycles of concentration. For the purposes of this section "concentration" means recirculated water that has elevated levels of total dissolved solids as compared to the original make-up water.
- (2) Newly constructed cooling towers shall be operated with conductivity controllers, as well as make-up and blowdown meters.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.4.- Ice machines.

Effective January 1, 2007, newly installed ice machines shall not be single pass water-cooled. (Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.5.- Commercial dining facilities.

Effective January 1, 2007, commercial dining facilities shall:

- (1) Utilize positive shut-offs for hand-held dish-rinsing wands
- (2) Utilize water flow restrictors for all garbage disposals.

Comment: NBU strongly encourages that water be served to guests only upon request. Many guests do not drink water which is not requested and water use involved with dishwashing occurs whether or not the guest consumes the water served.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.6.- Vehicle wash facilities.

(a) Vehicle wash facilities, commencing operation on or after January 1, 2007, using conveyORIZED, touchless, and/or rollover in-bay technology shall reuse a minimum of 50 percent of water from previous vehicle rinses in subsequent washes.

(b) Vehicle wash facilities, commencing operation on or after January 1, 2007, using reverse osmosis to produce water rinse with a lower mineral content, shall incorporate the unused concentrate in subsequent vehicle washes.

(c) Regardless of date of operation commencement, from and after January 1, 2007, self-service spray wands used shall emit no more than three gallons of water per minute.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.- Other activities to be regulated on and after January 1, 2007.

The following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.1.- Condensate collection.

Newly constructed commercial buildings installing air conditioning systems on and after January 1, 2007, shall have a single and independent condensate wastewater line to collect condensate wastewater to provide for future utilization as:

- (1) Process water and cooling tower make-up, and/or
- (2) Landscape irrigation water. Condensate wastewater shall not be allowed to drain into a storm sewer, roof drain overflow piping system public way or impervious surface.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.2.- Rain sensors.

Effective January 1, 2007, rain sensors shall be properly maintained and operational on all irrigation systems equipped with automatic irrigation controllers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.- Landscaping regulations generally applicable on and after January 1, 2007.

Except as specifically provided with alternative effective dates, persons affected by the regulations set out herein below shall comply on and after January 1, 2007, and may request a variance to such regulations in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.1.- Xeriscape option.

Effective January 1, 2007, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.2.- Model homes.

Effective January 1, 2007, homebuilders and/or developers who construct one or more model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to a xeriscape design.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.3.- Zonal system.

In-ground irrigation systems installed on and after January 1, 2007, shall be zonal irrigation systems.

(Ord. No. 2008-50, § I, 7-28-08)

Note—Comment: This comment does not have force of law, but is provided here for informational purposes only. The Texas Property Code, Chapter 202, Section 202.001, et. seq., entitled "Certain Restrictive Covenants," reflects a growing public interest in water conservation and its relationship to the public health, safety, and welfare.

Texas Property Code, Chapter 202, Section 202.007, provides that a property owners association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from implementing certain efficient irrigation systems, including underground drip or other drip systems. Any dedicatory instrument provision, attempting to restrict a property owner from installing such efficient systems, is void. Therefore, such restrictions, running counter to certain conservation efforts, cannot be enforced. Texas Real Property Code, Sec. 202.007(b). Added by Acts 2003. 78th Legislature, chapter 1024. § 1, Effective, September 1, 2003.

As used within the Texas Property Code, "dedicatory instrument" means a governing instrument for the establishment, maintenance, and operation of a residential subdivision, planned unit development, condominium, townhouse regime, or any similar planned development. Texas Property Code, Sec. 202.007(1).

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The Texas Property Code also allows that a property owners' association may restrict the type of turf used by a property owner in the planting of new turf [in the future] in order to encourage or require water conserving turf.

According to the Texas Property Code, property owners' associations may regulate, by dedicatory instrument or other legal means, installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes.

NBU endorses and advocates the use of dedicatory instruments and other legal obligations among private parties which understandings may support and promote a culture of water conservation.

Sec. 130-217.- Conservation provisions in wholesale water contracts.

Each wholesale potable water supply contract entered into by NBU after this division becomes effective, including contract extensions, must include:

- (1) A provision that the wholesale customer is required to conform to the city's water conservation ordinance set out as article IV, divisions 5, 6 and 7, as amended from time to time;
- (2) A provision that NBU may implement a pro rata curtailment of water deliveries to or diversions by wholesale water customers as provided by V.T.C.A., Administrative Code tit. 30, ch. 288;
- (3) A provision that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with V.T.C.A., Administrative Code tit. 30, ch. 288.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.- Variances.

The authority to grant a variance and an appeal from such variance to the provisions of this division 6 or division 7, is hereby delegated to NBU in the manner described herein. A determination by NBU pursuant to this section shall be deemed final for purposes of appeal. Appeal procedures are detailed below.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.1.- Variance. A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within 30 days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within 30 days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the conservation coordinator when, in the coordinator's judgment, to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case. In the latter situation, for purposes of justice and equity, the standard for allowing a variance application to be heard or considered are the common notions of rightness and fair play.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.2.- Time, date, place.

A person seeking a variance under these provisions shall make such request in writing to the conservation coordinator. Such request shall be reviewed by the conservation coordinator. If the application, on its face, warrants a variance, the coordinator may grant the request without hearing. Otherwise, the coordinator shall review such request within 30 days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing if necessary.

(Ord. No. 2008-50, § I, 7-28-08)

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Sec. 130-218.3.- Representation and notice of NBU's response; first hearing.

The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The coordinator and appropriate NBU personnel shall hear the request. The requestor shall receive written notification by the coordinator within 30 days of the date of the hearing whether such variance is granted or denied.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.4.- Appeal.

In the event the variance is granted, the decision of the coordinator shall be final. Should the variance be denied, however, the requestor shall have ten days from receipt of the denial of the variance to seek an appeal in writing. Within 30 days of the written request for an appeal from the denial of a variance, a three member variance appeals panel composed of NBU customers appointed by and serving at the pleasure of the NBU board of trustees shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the variance appeals panel why such appeal should be granted. The variance appeals panel shall inform the requestor within 30 days of the date of the hearing of the appeal whether the appeal has been granted or denied. The determination of the variance appeals panel shall be final and shall be in writing. If a judicial appeal is pursued, the applicant must take such appeal to district court or other court of competent jurisdiction within 30 days of the variance appeals panel's final determination, which further appeal shall be pursued under appropriate standards of the substantial evidence rule.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.5.- Variance qualifications.

Variances to the regulated activities in this division 6 or the drought management plan in division 7 may be issued by the conservation coordinator provided that the general intent of the provisions of this division 6 or division 7 has been met, and strict compliance with this division 6 or division 7 is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with this article. See also Sec. 130-228 for additional variance qualifications.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.6.- Variance criteria.

The conservation coordinator shall also develop specific criteria to be used for the granting of variances from the provisions of division 6 or division 7 which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the coordinator prior to his/her variance application and/or appeal being heard.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-219.- Enforcement

- (a) *Violations.* It shall be a violation of this article for any person in the corporate limits of the city or its extra territorial jurisdiction or any person in the NBU CCN that receives water service from NBU to intentionally, knowingly, recklessly or criminally negligently allow or cause water

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waste, allow landscape watering outside the prescribed hours for sprinkling, or allow or cause any violation of any provision of this division or of the drought management plan. As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances.

- (b) *Continued violations.* At locations of repeated or continued violations of this division or of the drought management plan, the CEO of NBU shall have the authority to discontinue the supply of potable water to the registered meter holder or Responsible Person.

Penalties; fines.

(1) *Criminal.* Any person violating any provision of this article shall be guilty of an offense, and upon citation and conviction, shall be punished by a fine not less than \$100.00 and not more than \$500.00 for the first offense; a fine not less than \$200.00 and not more than \$500.00 for the second offense; a fine of not less than \$400.00 and not more than \$500.00 for the third and additional offenses. If the court determines the offense relates to public health or sanitation, the maximum fine is \$2,000.00, regardless of the number of offenses. Each violation of a particular section of this division or division 7 shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article. All fines collected under this section shall be remitted to NBU and used by NBU for the furtherance of water conservation programs and to help defray the cost of enforcement of this article.

(2) *Civil.* Civil penalties, imposed by courts of competent jurisdiction in civil actions for violations of this article, may also be assessed as may be allowed by applicable state law in any amount to be authorized by the state. Under V.T.C.A., Local Government Code ch. 54, NBU and the office of the city attorney may presently pursue civil enforcement for injunctive relief and the imposition of up to

\$1,000.00 per day civil penalties appropriately imposed by the court. This statutory remedy is in addition to the city's common law right to bring civil actions for injunctive relief to stop harmful acts, independent of authority found in the Texas Local Government Code.

(3) *Surcharges.* Any person who violates the watering restriction provisions of this division or of the drought management plan will be held strictly liable and the punishment for such violation may include the imposition of punitive surcharges. NBU is authorized to assess one or more surcharges on the water bill of any person presumed to have been the one who violated this division or a provision of the drought management plan. In the event NBU determines a violation has occurred, the person assessed the punitive surcharge by NBU is prima facie presumed to have violated this division or the drought management plan for the purpose of assessment of surcharges. Punitive surcharges may be assessed as follows:

First violation in any 12-month period	Warning
Second violation in any 12-month period	\$25.00
Third violation in any 12-month period	\$250.00
Fourth violation in any 12-month period	\$500.00

Non-payment of any assessed surcharge or repeated or continued violations of watering restrictions imposed by this article can result in termination of water service. A person who believes that a surcharge was unwarranted because either the violation did not occur or the violation was excused, may appeal the determination to the conservation coordinator and then to the variance appeals panel, whose decision on the matter is final. (Ord. No. 2008-50, § I, 7-28-08)

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Secs. 130-219.1—130-219.3.- Reserved.

Sec. 130-219.4.- Defenses.

(a) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed on any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth, generally three weeks.

(b) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed by a commercial enterprise in the business of growing or maintaining plants for sale, such as plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants and not wasted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-219.5.- Conservation compliance officer.

(a) A conservation compliance officer shall be appointed by NBU. The compliance officer shall be authorized to administer and enforce this article.

(b) The compliance officer is authorized and directed to enforce all of the provisions of this article, and the compliance officer, upon presentation of proper credentials, may enter properties in accordance with section 130-210 at reasonable times for the purpose of making inspections or preventing violations of this article. This section shall not be construed as imposing upon NBU and/or the city (or any official or employee of either) any liability or responsibility for damages to any property by reason of the inspections authorized under this section.

(Ord. No. 2008-50, § I, 7-28-08)

DIVISION 7. - DROUGHT MANAGEMENT PLAN ^[126]

⁽¹²⁶⁾ **Editor's note—** Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 7 in its entirety to read as herein set out. Formerly, division 7 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-220.- Adoption of drought management plan, water use reduction measures, and aquifer stage conditions.

The drought management plan, including the water use reduction measures and associated aquifer stage conditions set out therein, is hereby adopted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-220.1.- Landscape watering.

It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis. From and after the effective date of this division, landscape watering for residential and commercial properties will be limited to two days per week according to the street address as follows.

Last number of address	Watering Day
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Even number (0,2,4,6,8)	Monday, Thursday
Odd number (1,3,5,7,9)	Tuesday, Friday
No address, more than one address associated with a single contiguous property	Monday, Friday

It is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-221.- Basis of water use reduction measures and aquifer stage conditions.

The water use reduction measures may be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17") as set out in section 130-224, or on the discharge level of the Comal Springs, NBU water supply, or on aquifer water quality or other aquifer, potable water system capacity, or seasonal or weather conditions not based on water levels in J-17 (set out in section 130-226).

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-222.- Reserved

Implementation of water use reduction measures and stages, generally.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-223.- Declaration of Water Use Reduction Stages in effect; notice by publication required

(a) The Mayor of the City of New Braunfels or his or her designee, in consultation with NBU, is hereby authorized to declare that water use reduction measures are in effect.

(b) Notices of the implementation and termination of the water use reduction measures and each of the various stages, as appropriate, shall be publicly announced in the local media for a minimum of one day. The implementation or termination of the measures and each of the stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-224.- "Trigger levels" for implementation and termination of water use reduction measures, stages I, II and III.

Implementation and termination of stages I, II and III of the water use reduction measures, based upon the J-17 Edwards Aquifer water levels or the Comal Springs discharge may occur according to the following schedule:

Description	Stage I	Stage II	Stage III
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1	When the aquifer is at or below this level msl, based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority, or the discharge from the Comal Springs is at or below this cfs, whichever happens first, or as determined by section 130-221, the Mayor of the City of New Braunfels, in consultation with NBU, may officially declare the respective stage. NBU shall coordinate water use reduction with customers in its service area. The City and NBU shall enforce the water use reduction provisions set out in section 130-225, for each stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs
2	When the aquifer subsequently rises above this level msl or the discharge from the Comal Springs rises above this cfs, whichever occurs last, NBU staff will monitor the consistency of the various levels and other conditions as set out in section 130-221 for a period of 15 calendar days, before consulting with the Mayor of the City of New Braunfels on whether to terminate the drought restrictions for that stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-225.- Designated landscape irrigation times and days (stages I, II, III).

During any period when stages I, II, or III have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than parks and athletic fields, the restrictions for which are set out in section 130-228) may occur only on certain designated days and at certain times, as follows:

- (1) For stage I, landscape watering for residential and commercial properties will be limited to one day per week according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

- (2) For stage II, landscape watering for residential and commercial properties will be limited to one day per week, according to the street address as follows:

Last number of address	Watering day
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0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

- (3) For stage III, landscape watering for residential and commercial properties will be limited to one day per week **every other week**, beginning on the second Monday after the stage III has been declared according to the street address as follows:

Last number of address	Watering day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

- (4) For stage I, II and III the following associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the days specified.
- (5) For stage I landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day at any time.
- (6) For stage II and III landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day.

Note: Vehicle washing at home is limited to designated landscape sprinkling watering days and times, but use of a commercial facility is permitted any day for all drought stages.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-226.- Implementation of additional water use reduction measures, ("aquifer risk").

(a) Implementation of additional water use reduction measures, such as declaring Stage IV in periods of exceptional drought conditions, need not be based on the trigger levels set forth in section 130-224 but may instead be based on consideration of aquifer water quality or on other aquifer, seasonal or weather conditions not based on water levels in J-17.

(b) Whenever aquifer quality measures 30 percent TDS above historical average and above the maximum TDS value for any public supply water well, the Mayor of the City of New Braunfels, in consultation with NBU, shall declare additional measures to protect the aquifer and shall be implemented by the city council as necessary.

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(c) Regardless of consideration of aquifer quality, whenever the Mayor of the City of New Braunfels in consultation with NBU may determine that the NBU water supply, or other aquifer, seasonal, or weather conditions not based on water levels in J-17 warrant, the Mayor may also impose additional restrictions for all water uses

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-227.- Termination of water use reduction measures, stages.

The Mayor of the City of New Braunfels, in consultation with NBU, may declare the termination of water use reduction measures and stages as scheduled in Sec. 130-224. Notice of the termination of the water use reduction measures and each of its various stages, as appropriate, shall be publicly announced in local media for a minimum of one day. Termination of the measures and each of its stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-228.- Specific water use reduction measures.

Specific water use reduction measures, their corresponding stages and scope are set out in the table, below:

Measures for	Stages	Scope of Restrictions
Essential Services	I, II, III	Fire-fighting & medical uses — no restrictions.
	I	Reduction in fire hydrant; sewer line flushing recommended.
	II, III	Hydrant flushing & sewer line flushing — only on emergency basis.
Water Purveyor Use	I, II, III	Water purveyors are encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.
Power Production	I, II, III	Water used for power production shall be voluntarily reduced.
Agricultural	I	Reduction of water use by any means available is encouraged.
	II, III	The escape of irrigation tail water, as that term is commonly used in the agricultural community, is prohibited. Water loss through percolation in transmission canals is prohibited.
	III	Additional reductions may be imposed by the City Council if conditions warrant.
Livestock Use	I, II, III	Reduction of water use by any means available is encouraged.

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Industrial, Commercial, and Other	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures is required for those uses in the outdoor category, including landscape watering, swimming pools, hot tubs and similar facilities, golf courses, aesthetic uses such as fountains; such restrictions specifically include industrial users, as well as all others. Use of gray water, treated wastewater or reuse water is a defense to prosecution.
	III	Additional reductions may be imposed by the Mayor if conditions warrant. Use of treated wastewater or recycled water is a defense to prosecution.
Restaurants, or other Eating Establishments	Year Round	NBU strongly encourages that water be served to guests only upon request.
Household	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures shall be achieved for those uses in the outdoor category, such as landscape watering, swimming pools, hot tubs, and similar facilities.
Swimming Pools, Hot Tubs, etc.	I, II, III	NBU strongly encourages that all swimming pools, other than public swimming pools, be covered with an effective evaporation cover or screen or evaporation shields covering at least 25% of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen, or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed.
Replenishing Pool, Hot Tubs, etc. water levels	I, II, III	Replenishing to maintenance level permitted within watering hours.
New Pools, Filling New Pools, Hot Tubs etc.	I, II	Construction, installation, and filling of new pools will be allowed.
	III	Construction, installation, and filling of new pools will not be allowed. If a building permit has already been issued for pool construction, before the drought management stage was declared, construction, installation, and filling of new pools is allowed. Property owners, prior to construction, installation, or filling of pools should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new pool is to be installed, the date of installation, and copy of the approved building permit in order to receive an approval letter from NBU.
Draining Pools, Hot Tubs, etc.	I, II, III	Draining permitted only onto pervious surface, or onto pool deck where the water is transmitted directly to a previous surface, only if:

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		<p>(1) Draining excess water from pool due to rain in order to lower water to maintenance level;</p> <p>(1) Repairing, maintaining or replacing pool component that has become hazardous; or</p> <p>(2) Repairing pool leak</p> <p>(3) Refilling of public swimming pool permitted only if pool has been drained for the repairs, maintenance or replacement set out in items 2 or 3 above</p> <p>It is prohibited to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. It is considered water waste to drain a pool and allow the water to leave the property in which the pool is located.</p>
Aesthetics (fountains, waterfalls, etc.)	I, II, III	<p>Outside prohibited. The one hundred (100) percent use of treated wastewater, condensate, or cooling tower blow down is defense to prosecution under this paragraph. Alternate on-site reclaimed sources may be approved through variance on a case-by-case basis.</p> <p>If one hundred (100) percent use of gray water, treated wastewater or reuse water, condensate water, cooling tower blow will be used, signs identifying this property as using recycled or reclaimed water source must be posted on site at a location for the general public view.</p>
Ornamental lakes and ponds, etc.	I, II, III	<p>Re-filling of ornamental lakes or ponds is prohibited; except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance.</p> <p>A user may file, in writing, with NBU a request for an Aquatic Life Variance. The request must include:</p> <p>(1) a statement indicating compelling reasons why the users aquatic life qualifies as significant value; and</p> <p>(2) the amount of time the aquatic life have been present in the said lake/pond; and</p> <p>(3) a management plan for the aquatic life.</p>
Foundation Watering	I, II, III	<p>Foundations may be watered up to two hours on any day, during watering times, by handheld hose; or using a soaker hose or drip system placed within 24 inches of the foundation that does not produce a spray of water above the ground.</p>
Other Outdoor Uses	I, II, III, II, III	<p>Waste is prohibited. No person may allow irrigation tail water to escape from that person's land. Non-commercial washing of vehicles and mobile equipment (e.g., washing vehicle at a residence) is permitted only on assigned residential landscape sprinkling watering days and times</p>

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		(see Sec. 130-225) with hand-held hose (with automatic shut-off nozzle) or bucket of five (5) gallons or less, but is prohibited between the hours of 11:00 a.m. and 7:00 p.m. every day. Use of commercial vehicle wash facility permitted any day. Citizens are encouraged to wash their cars no more than twice a month. Use of gray water, treated wastewater or recycled water is a defense to prosecution.
Pressure Washing	I, II, III	<p>Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare.</p> <p>Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;</p> <p>A variance from NBU must be obtained for any pressure washing performed during drought stage.</p>
Landscape Irrigation: Established Plants	I	<p>Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include:</p> <p>(1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and</p> <p>(2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage I.</p> <p>NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.</p>

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	II, III	<p>Landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include:</p> <p>(1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and</p> <p>(2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage II or III.</p> <p>NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.</p>
Landscape Irrigation: New Landscaping Plants	I	<p>Landscape watering permitted with variance confirmation letter to maintain adequate growth until established, generally three (3) weeks. Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted at any time. The use of gray water, treated wastewater or reuse water is a defense to prosecution.</p>
	II	<p>New Landscape installation restricted: during stage II drought restrictions, variance requests must be approved prior to new landscape installation.</p> <p>Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name and address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a</p>

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		<p>confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged</p> <p>Once variance letter has been received , Landscape watering permitted, to maintain adequate growth until established, generally three (3) weeks.</p>
	III	<p>New Landscape installation restricted: during stage III drought restrictions variances requests must be approved prior to new landscape installation.</p> <p>Installation of new landscapes is permitted only if not more than fifty percent (50%) of the available landscape area is planted with turf and If proper horticultural practices are followed, including use of mulch and zonal irrigation systems if a permanent irrigation system is installed. A user may file with NBU a request to install more than fifty percent (50%) turf. The request must include:</p> <p>(1) a statement or plan describing the landscaping plan; and</p> <p>(2) a statement indicating how the landscaping plan will achieve the goals of this chapter. Upon the approval of the alternate landscaping plan as set forth herein, the user may be granted an exception. Landscape renovation is allowed only if proper horticultural practices are followed, including use of mulch. Additionally, if the newly renovated landscaped area is watered with an irrigation system, then a zonal irrigation system must be installed.</p> <p>Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter,</p>

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		<p>landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged</p> <p>Once variance letter has been received, Landscape watering permitted, to maintain adequate growth until established, generally three (3) weeks.</p>
Parks/Athletic Fields	I, II, III	Park and athletic field owner/operators shall be required to submit a water conservation plan and shall be defined as "conforming" or "non-conforming". An athletic field or park will be deemed "conforming" if there is a CCIS in place and the owner/operator is utilizing the system to achieve maximum conservation and the goals of this division. Conforming facilities should have a conservation plan approved and on file with NBU. A park or athletic field that is not conforming is deemed "non-conforming" for the purposes of this division. Owners/operators of athletic fields or parks shall reduce water usage under the following terms:
	I, II, III	Use of gray water, treated wastewater or recycled water is a defense to prosecution.
	I	A. A conforming park/athletic fields shall implement a ten percent (10%) reduction in the replacement of daily evapotranspiration rate ("ET rate") or daily soil-holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals.
		B. A non-conforming park/athletic fields shall not use more than 1.8 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.

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	II	A. A conforming park/athletic field shall implement a twenty percent (20%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.6 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
	III	A. A conforming park/athletic field shall implement a thirty percent (30%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.4 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
Construction	I, II, III	Construction operations receiving water from a construction meter, fire hydrant meter or water truck shall not use water unnecessarily for any purpose other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation requirements set forth herein.
Hotels, Motels, Bed and Breakfasts	I, II	Hotels, motels and B&B's must offer and clearly notify guests of a "no linen/towel change" program.
	III	Hotels, motels, B&B's must limit linen/towel changes to once every three (3) nights or for the entire stay, whichever is shorter, except for health and safety.
Leaks	Year Round	Repair all water leaks within seventy-two (72) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.
	I, II	Repair all leaks within forty-eight (48) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.
	III	Repair all water leaks within twenty-four (24) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.

(Ord. No. 2008-50, § I, 7-28-08)

Secs. 130-229, 130-230.- Reserved.

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Approved: February 10, 2014

Draft 0219

**DIVISION 5. - WATER CONSERVATION AND CRITICAL PERIOD MANAGEMENT
PLAN—GENERALLY ^[124]**

⁽¹²⁴⁾ **Editor's note—** Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 5 in its entirety to read as herein set out. Formerly, division 5 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-206.- Definitions.

Air conditioning system(s) means a mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this article, an air conditioning system does not include window units.

Aesthetic use means the use of water for outdoor fountains, waterfalls, and landscape lakes, ponds, or other water related features where such use is entirely ornamental and serves no other functional purpose.

Agricultural irrigation means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Athletic field means a sports playing field, the essential feature of which is turf grass, used primarily for organized sports for schools, professional sports, or organized league play.

Automatic irrigation controller means a device that automatically activates and deactivates an irrigation system at times selected by the operator.

Base usage means the average monthly total water usage for the three lowest months of November and December and the following January and February during each of the three consecutive 12-month periods preceding the commencement of the user's use of water.

Beneficial use means the amount of water that is economically necessary for a purpose not otherwise prohibited by the city, state or federal law or regulation, when reasonable intelligence and reasonable diligence is used in applying water for that purpose.

Blowdown meter means a meter that tracks the amount of water discharged from a cooling tower system.

Bucket means a bucket or other container holding five gallons or less, used singly by one person.

CEO means the chief executive officer of NBU or designee.

Certificate of convenience and necessity (CCN) means the service area of NBU as granted by the TCEQ. Also referred to as the certified service area.

Cfs means cubic feet per second.

Commercial dining facility means a business that serves prepared food and beverages to be consumed on the premises.

Computer controlled irrigation system (CCIS) means a system comprised of a computer controller (digital

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operating system), software, interface modules, satellite field controllers, soil sensors, weather station, or similar devices which is capable of achieving maximum efficiency and conservation in the application of water for irrigation. A CCIS, at a minimum, should be designed to:

- (1) Prevent overwatering, flooding, pooling, evaporation and run-off; and
- (2) Prohibit sprinkler heads from applying water at an intake rate exceeding the capability of the soil.

Conductivity controller means a device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

Conservation compliance officer or *compliance officer* means the person acting in the position of conservation compliance officer.

Conservation coordinator or *coordinator* means the person acting in the position of conservation coordinator of New Braunfels Utilities.

Cooling tower means an open water recirculation device that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process.

Day means a 24-hour period beginning at midnight.

Drip irrigation means an irrigation system (drip, porous pipe, etc.) designed to emit water at low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Drought means any condition, whether man-made or natural, where the available water supply or resources are not meeting the water demand, or if the water supply or resources are being depleted at a faster rate than they are being replenished. It is not intended to be limited to any meteorological definition of the term.

Drought management plan means the plan for management of the aquifer described and set out in division 7, as amended from time to time.

EAA means Edwards Aquifer Authority.

Edwards Aquifer or *aquifer* means that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast from the hydrologic division near Brackettville in Kinney County that separates underground flow toward the Comal Springs and San Marcos Springs from underground flow to the Rio Grande Basin through Uvalde, Medina, Atascosa, Bexar, Guadalupe and Comal counties, and in Hays County south of the hydrologic division near Kyle that separates flow toward the San Marcos River from flow to the Colorado River Basin.

Essential use means a use of water which is:

- (1) Essential to the protection of public health, safety, or welfare, including but not limited to use for drinking, food preparation, personal hygiene, public sanitation, control or prevention of disease and firefighting;
- (2) Essential to an industrial use or agricultural or military activity which directly supports gainful employment, unless the use is specifically defined in this article as a discretionary use;

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(3) Watering of livestock.

Evapotranspiration rate (ET rate) means the rate which the combination of evaporation from soil surface and transpiration from vegetation will occur for specific climatic conditions.

Existing landscaping plant means a landscaping plant existing after such period of time as to accomplish an establishment and maintenance of growth.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways and roughs and related areas used for the playing of golf.

Gray water means water after use in bath and utility sinks, tubs, showers and washing machines.

Hand-held hose means a hose attended by one person, fitted with a manual or automatic shutoff nozzle.

Health care facility means any hospital, clinic, nursing home or other health care or medical research facility.

Hose-end sprinkler means a sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Household use means the use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

Impervious surface area means any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground.

Industrial use means the use of water for or in connection with commercial or industrial activities, including manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, commercial uses of water for tourism, entertainment, and hotel or motel lodging, generation of power other than hydroelectric, and other business activities.

Irrigation system, also referred to as an in-ground or permanent irrigation system, being a system with fixed pipes and emitters or heads that apply water to landscape plants or turfgrass.

Irrigation system analysis means a zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements:

- (1) Design appropriateness for current landscape requirements;
- (2) Irrigation spray heads and valves;
- (3) Precipitation rates expressed in inches per hour; and
- (4) Annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

Landscape renovation means the removal and replacement of existing landscape plants with new landscape plants.

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Landscape watering means the application of water to grow or maintain landscaping plants, such as flowers, ground covers, turf or grasses (other than golf courses or athletic fields), shrubs, and trees, but for purposes of this article does not include:

- (1) Essential use without waste of water by a commercial nursery to the extent the water is used for production rather than decorative landscaping;
- (2) Application of water without waste to a noncommercial family garden or orchard the produce of which is for household consumption only; and
- (3) Except when stages II and III of the drought management plan are in effect, application of water at any time on any day by means of a bucket, hand-held hose, soaker hose (but not one that sprays water in the air), or properly installed drip irrigation system.

Landscaping plant means any member of the kingdom plantae, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species that grows or has been planted out-of-doors.

Large property means a land tract owned by a general customer that equals or exceeds five acres in size and has an irrigation system.

Livestock means cattle, sheep, goats, hogs, poultry, horses, and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

Livestock use means the use of water for drinking by or washing of livestock.

Low-flow toilet means a tank toilet that is designed to use 1.6 gallons or less of water per flush.

Make-up meter means a meter that measures the amount of water entering a cooling tower system.

Maintenance level means the level of water in a swimming pool required for proper circulation for operation of filter equipment for the swimming pool.

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

msl means elevation above mean sea level.

Mulch means any material such as bark, leaves, straw or other materials left loose and applied to the soil surface to reduce evaporation.

NBU means New Braunfels Utilities.

New landscaping plant means any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. Application of grass seed to an existing stand of grass or turf is not considered new landscaping.

NPDES/TPDES permit holders means those entities that have valid state or federal permits commonly referred to as NPDES or TPDES [National Pollutant Discharge Elimination System/Texas Pollutant Discharge Elimination System] permits to satisfy requirements of the federal Clean Water Act.

Organic material means organic substances in differing stages of decay.

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Other outdoor use means the use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, or the washing of streets, driveways, sidewalks, patios and other similar areas.

Park means a tract of land maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Person means any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious hardscape means patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground. Examples include flagstone set in sand and wood plank decks, but exclude concrete slab patios and sidewalks or pavers set with mortar.

Pervious surface means any ground surface which can absorb water or other liquids.

Positive shut-off means a valve that is held in a closed position by system pressure until overridden by an outside force.

Power Wash means a machine that uses water or a water-based product applied at high pressure to clean impervious surfaces.

Precipitation rate means the speed at which a sprinkler or irrigation system applies water. Precipitation rates are measured in inches per hour or inches per minute.

Prescribed hours for sprinkling means between the hours of 8:00 p.m. and 10:00 a.m. when the drought management plan is not in effect, and during the hours specified therein when the drought management plan is in effect.

Private residential swimming pool. See "Swimming pool."

Property address means the street address of a property, unless multiple street addresses are served by a single meter, in which case the billing address will be used.

Public facilities means municipally-owned or operated facilities.

Public swimming pool. See "Swimming pool".

Rain sensor means a device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

Recycled or reuse water means domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor means a customer who requests a variance under this article.

Residential customer means a single or multi-family dwelling unit containing two or fewer family units.

Responsible Person means a natural person or legal entity who causes, maintains or allows a violation(s) of the city code to occur or continue by action or failure to act. A responsible person includes, but is not limited to, the owner, tenant, co-tenant, lessee, sub-lessee or other person with any right to possession of

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the property where a city code violation that is related to the use or condition of property occurs, the on-site manager who normally works daily at the site when the business is open and is responsible for the activities at such premises, and the owner, and general partners of a legal entity. There may be more than one responsible person for a violation.

Soaker hose means plastic or flexible hose that emit water across the entire length based on water pressure, and connect directly to a flexible hose or spigot.

Soil holding capacity means the amount of moisture in the soil that can occur without becoming saturated.

Sprinkler means an emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Swimming pool means any structure, basin, chamber, or tank, including hot tubs, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two feet or more at any point.

(1) *Private residential swimming pool.* Any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by the homeowner's family or invited guests.

(2) *Public swimming pool.* Any swimming pool, other than a private residential swimming pool, intended to be used collectively by persons for swimming or bathing, operated by any person as defined herein, whether owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use. The term includes, but is not limited to, apartment community pools, condominium association pools and community association pools.

TCEQ means the Texas Commission on Environmental Quality.

TDS means total dissolved solids. *Trigger level* means the mean sea level of the Edwards Aquifer as indicated by the J-17 index well and/or the discharge from the Comal Springs according to the USGS log in cubic feet per second (cfs) that result in the implementation or termination of water use reduction measures.

Deleted: ¶

Turf means a surface layer of earth containing mowed grass with roots.

Turfgrass means perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

Vacuum system means a system, often consisting of a pump, chamber, and tubes, that is used to create a vacuum for any of a variety of purposes, including but not limited to medical, dental and industrial applications.

Vegetable garden means any "non-commercial" vegetable garden planted primarily for household use; "non-commercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Vehicle wash facility means a permanently-located business that washes vehicles with water or water based product, including but not limited to self-service car washes, full-service car washes, roll-over/in-bay style car washes, and fleet maintenance wash facilities.

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Vehicle wash fundraiser means any special-purpose vehicle wash event for which a fee is charged or donation accepted.

Water includes, but is not limited to potable water supplied by NBU or other water purveyor, potable water withdrawn from their groundwater well, surface water from any river, creek, natural watercourse, pond, lake or reservoir, and recycled water supplied by NBU or other water purveyor.

Water waste means use of water without obtaining maximum beneficial use thereof.

Water waste shall also include, but not be limited to:

- a. causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the lands of another person or upon public lands.
- b. Any discharge of water used for commercial, industrial, or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof.
- c. Failure by any Responsible Person, to repair any controllable leak on property. See also Sec. 130-228 for additional information on leaks.
- d. Watering landscaped areas during rain or high wind.
- e. Washing outdoor impervious surfaces, with a pressure washer or garden hose, such as sidewalks, driveways and patios during drought stage, except to remove spills of hazardous materials, eliminate dangerous conditions which threaten the public health, safety, or welfare, or to prepare surface for maintenance work.
- f. Washing buildings, houses or structures with a pressure washer or garden hose for aesthetic purposes during a drought stage.
- g. Washing vehicles with a hose that lacks an automatic shut-off valve.

Water conservation plan means the water conservation plan required as part of the drought management plan referred to in Division 7 must include proof of irrigation efficiency of 60 percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for each stage I, II and III. A plan should also include precipitation rates and irrigation schedules with run times. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan.

Water flow restrictor means an orifice or other device through which water passes at a restricted rate.

Water purveyor use means water used for withdrawal, treatment, remediation, transmission and distribution by a potable water purveyor.

Watering day means a day designated for landscape watering in this ordinance. Thus, if it is stage I and Wednesday is a designated watering day, the period of time referenced is Wednesday morning between midnight to 10:00 a.m., and Wednesday evening between 8:00 p.m. and 11:59pm.

Xeriscape means a landscape consisting of a maximum of 50 percent turf grass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved low water use plant list, as may be amended from time to time, shall be available from NBU and located at NBU and at www.nbutexas.com.

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Zonal irrigation system means an irrigation system that segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-207.- Nuisance declared.

The violation of any part of division 6 and 7 is deemed a nuisance which may be abated and enjoined by the city. Any person creating a public nuisance shall be subject to the provisions of this Code and other applicable law governing such nuisances, including reimbursing NBU or the city for any costs incurred in removing, abating or remedying such nuisance. The owner of any property where such nuisance has occurred shall be liable to the city and/or NBU for the cost of such abatement, removal or remediation, and shall pay such cost on demand, and the city acting for itself and/or NBU shall have the right to file a lien on the property to secure payment of the cost of such abatement, removal or remediation of the nuisance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-208.- Presumption and exception.

For purposes of this article, it shall be presumed that the person in whose name a water and/or electric meter connection is registered with NBU, or other purveyor servicing the property, is the responsible party who has made, caused, allowed or permitted a violation of the provisions of this article.

Proof that the particular premises had a water and/or electric meter connection registered in the name of the defendant cited in a criminal or civil complaint filed pursuant to this article shall constitute a prima facie presumption that the defendant is a person who made, caused, allowed or permitted a violation pursuant to the provisions of this article.

An exception to these presumptions can be granted if:

- a. the meter holder can prove that another party is the Responsible Person.
- b. exception to this presumption is found in subsection 130-214.3(b), wherein the city, whose premises are used by a tenant/lessee, is generally not responsible for the tenant/lessee's compliance. In such cases, the tenant/lessee of the city is responsible for compliance, and the city shall have no duty to enforce against the tenant/lessee except to the extent the city's municipal courts may be fully utilized by the NBU enforcement officers or other duly authorized governmental personnel charged with enforcement duties.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-209.- Authorization to enforce.

The CEO of NBU or his or her designee and/or the city is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this article. [As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances.](#) The CEO of NBU or the designee and/or the city may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this article, under V.T.C.A., Local Government Code ch. 54 as it may be amended to address the subject matter of this article, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

(Ord. No. 2008-50, § I, 7-28-08)

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Sec. 130-210.- Access to premises.

The city and NBU and all persons or agents employed by either shall, at all reasonable hours, have free access to properties to ascertain if water is being wasted and whether provisions of this article have been and are being complied with in all aspects, however, this section does not authorize entry into a residence without consent of the owner or occupant.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-211.- Divisions 5, 6 and 7 to prevail if conflict.

In the event any section or provision of divisions 5, 6 and 7 of this article conflict in effect or application with any other section of this Code, the section or provision of divisions 5, 6 and 7 of this article will prevail.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-212.- Severability.

If for any reason, any division, section, sentence, clause or part of this article is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining divisions or sections of this article, but shall be confined to the specific division, section, sentence, clause or part of this article held legally invalid.

(Ord. No. 2008-50, § I, 7-28-08)

DIVISION 6. - REGULATED ACTIVITIES ^[125]

⁽¹²⁵⁾ **Editor's note—** Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 6 in its entirety to read as herein set out. Formerly, division 6 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-213.- Activities to be regulated on and after effective dates.

The following activities shall be regulated in the manner set out herein on and after the respective dates indicated in the sections and subsections. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division or of the drought management plan set out in division 7.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.1.- Landscape watering.

From and after the effective date of this division, landscape watering is regulated as described in section 130-220.1.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.2.- Vehicle wash fundraisers.

From and after the effective date of this division, any vehicle wash fundraiser shall be conducted at a vehicle wash facility using such facility's equipment.

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Deleted: It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis.

Deleted: It is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours

Deleted: of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.3.- Golf courses.

From and after the effective date of this division, no golf courses shall be allowed to irrigate the greens, tees, roughs or fairways with potable water. Use of potable water for landscape irrigation in and around the club house will be permitted but must conform to all other requirements for landscape irrigation.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.- Activities to be regulated on and after January 1, 2007.

Except as provided by a specific and alternative application date, particularly systems analysis, the following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.1.- Minimum irrigation area and flow direction.

Effective January 1, 2007, newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both: (a) dimensions less than five feet in length and/or width; and, b) impervious pedestrian or vehicular traffic surfaces along two (2) or more perimeters. Where pop-up sprays and rotor heads are allowed in newly installed irrigation systems, they (a) must direct flow away from any adjacent impervious surface and (b) shall not be placed within four (4) inches from an impervious surface.

Sec. 130-214.2.- Annual irrigation system analysis for athletic fields, and large properties requiring variance from water use reduction measures.

Effective January 1, 2007:

- (1) An annual irrigation system analysis demonstrating no water waste shall be required for all athletic fields and large properties and shall be submitted in writing to the NBU conservation coordinator on or before May 1st of each year, beginning on May 1, 2007.
- (2) Municipal tenants and lessees of sports and athletic playing fields and any other municipally owned properties shall be responsible for compliance with this section and subsection. NBU shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant/lessee to assume the tenant/lessee's responsibility for compliance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.3. - Cooling towers.

Effective January 1, 2007:

- (1) Cooling towers, not utilizing recycled water, shall operate a minimum of four cycles of concentration. For the purposes of this section "concentration" means recirculated water that has elevated levels of total dissolved solids as compared to the original make-up water.
- (2) Newly constructed cooling towers shall be operated with conductivity controllers, as well as make-up and blowdown meters.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.4.- Ice machines.

Effective January 1, 2007, newly installed ice machines shall not be single pass water-cooled. (Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.5.- Commercial dining facilities.

Effective January 1, 2007, commercial dining facilities shall:

- (1) Utilize positive shut-offs for hand-held dish-rinsing wands
- (2) Utilize water flow restrictors for all garbage disposals.

Comment: NBU strongly encourages that water be served to guests only upon request. Many guests do not drink water which is not requested and water use involved with dishwashing occurs whether or not the guest consumes the water served.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.6.- Vehicle wash facilities.

(a) Vehicle wash facilities, commencing operation on or after January 1, 2007, using conveyORIZED, touchless, and/or rollover in-bay technology shall reuse a minimum of 50 percent of water from previous vehicle rinses in subsequent washes.

(b) Vehicle wash facilities, commencing operation on or after January 1, 2007, using reverse osmosis to produce water rinse with a lower mineral content, shall incorporate the unused concentrate in subsequent vehicle washes.

(c) Regardless of date of operation commencement, from and after January 1, 2007, self-service spray wands used shall emit no more than three gallons of water per minute.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.- Other activities to be regulated on and after January 1, 2007.

The following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.1.- Condensate collection.

Newly constructed commercial buildings installing air conditioning systems on and after January 1, 2007, shall have a single and independent condensate wastewater line to collect condensate wastewater to provide for future utilization as:

- (1) Process water and cooling tower make-up, and/or
- (2) Landscape irrigation water. Condensate wastewater shall not be allowed to drain into a storm sewer, roof drain overflow piping system public way or impervious surface.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.2.- Rain sensors.

Effective January 1, 2007, rain sensors shall be properly maintained and operational on all irrigation systems equipped with automatic irrigation controllers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.- Landscaping regulations generally applicable on and after January 1, 2007.

Except as specifically provided with alternative effective dates, persons affected by the regulations set out herein below shall comply on and after January 1, 2007, and may request a variance to such regulations in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.1.- Xeriscape option.

Effective January 1, 2007, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.2.- Model homes.

Effective January 1, 2007, homebuilders and/or developers who construct one or more model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to a xeriscape design.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.3.- Zonal system.

In-ground irrigation systems installed on and after January 1, 2007, shall be zonal irrigation systems.

(Ord. No. 2008-50, § I, 7-28-08)

Note—Comment: This comment does not have force of law, but is provided here for informational purposes only. The Texas Property Code, Chapter 202, Section 202.001, et. seq., entitled "Certain Restrictive Covenants," reflects a growing public interest in water conservation and its relationship to the public health, safety, and welfare.

Texas Property Code, Chapter 202, Section 202.007, provides that a property owners association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from implementing certain efficient irrigation systems, including underground drip or other drip systems. Any dedicatory instrument provision, attempting to restrict a property owner from installing such efficient systems, is void. Therefore, such restrictions, running counter to certain conservation efforts, cannot be enforced. Texas Real Property Code, Sec. 202.007(b). Added by Acts 2003. 78th Legislature, chapter 1024. § 1, Effective, September 1, 2003.

As used within the Texas Property Code, "dedicatory instrument" means a governing instrument for the establishment, maintenance, and operation of a residential subdivision, planned unit development, condominium, townhouse regime, or any similar planned development. Texas Property Code, Sec. 202.007(1).

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The Texas Property Code also allows that a property owners' association may restrict the type of turf used by a property owner in the planting of new turf [in the future] in order to encourage or require water conserving turf.

According to the Texas Property Code, property owners' associations may regulate, by dedicatory instrument or other legal means, installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes.

NBU endorses and advocates the use of dedicatory instruments and other legal obligations among private parties which understandings may support and promote a culture of water conservation.

Sec. 130-217.- Conservation provisions in wholesale water contracts.

Each wholesale potable water supply contract entered into by NBU after this division becomes effective, including contract extensions, must include:

- (1) A provision that the wholesale customer is required to conform to the city's water conservation ordinance set out as article IV, divisions 5, 6 and 7, as amended from time to time;
- (2) A provision that NBU may implement a pro rata curtailment of water deliveries to or diversions by wholesale water customers as provided by V.T.C.A., Administrative Code tit. 30, ch. 288;
- (3) A provision that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with V.T.C.A., Administrative Code tit. 30, ch. 288.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.- Variances.

The authority to grant a variance and an appeal from such variance to the provisions of this division 6 or division 7, is hereby delegated to NBU in the manner described herein. A determination by NBU pursuant to this section shall be deemed final for purposes of appeal. Appeal procedures are detailed below.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.1.- Variance. A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within 30 days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within 30 days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the conservation coordinator when, in the coordinator's judgment, to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case. In the latter situation, for purposes of justice and equity, the standard for allowing a variance application to be heard or considered are the common notions of rightness and fair play.

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.2.- Time, date, place.

A person seeking a variance under these provisions shall make such request in writing to the conservation coordinator. Such request shall be reviewed by the conservation coordinator. If the application, on its face, warrants a variance, the coordinator may grant the request without hearing. Otherwise, the coordinator shall review such request within 30 days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing if necessary.

(Ord. No. 2008-50, § I, 7-28-08)

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Sec. 130-218.3.- Representation and notice of NBU's response; first hearing.

The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The coordinator and appropriate NBU personnel shall hear the request. The requestor shall receive written notification by the coordinator within 30 days of the date of the hearing whether such variance is granted or denied.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.4.- Appeal.

In the event the variance is granted, the decision of the coordinator shall be final. Should the variance be denied, however, the requestor shall have ten days from receipt of the denial of the variance to seek an appeal in writing. Within 30 days of the written request for an appeal from the denial of a variance, a three member variance appeals panel composed of NBU customers appointed by and serving at the pleasure of the NBU board of trustees shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the variance appeals panel why such appeal should be granted. The variance appeals panel shall inform the requestor within 30 days of the date of the hearing of the appeal whether the appeal has been granted or denied. The determination of the variance appeals panel shall be final and shall be in writing. If a judicial appeal is pursued, the applicant must take such appeal to district court or other court of competent jurisdiction within 30 days of the variance appeals panel's final determination, which further appeal shall be pursued under appropriate standards of the substantial evidence rule.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.5.- Variance qualifications.

Variances to the regulated activities in this division 6 or the drought management plan in division 7 may be issued by the conservation coordinator provided that the general intent of the provisions of this division 6 or division 7 has been met, and strict compliance with this division 6 or division 7 is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with this article. See also Sec. 130-228 for additional variance qualifications.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.6.- Variance criteria.

The conservation coordinator shall also develop specific criteria to be used for the granting of variances from the provisions of division 6 or division 7 which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the coordinator prior to his/her variance application and/or appeal being heard.

(Ord. No. 2008-50, § I, 7-28-08)

- (a) **Sec. 130-219.-** Enforcement ~~Violations~~. It shall be a violation of this article for any person in the corporate limits of the city or its extra territorial jurisdiction or any person in the NBU CCN that receives water service from NBU to intentionally, knowingly, recklessly or criminally negligently allow or cause water waste, allow landscape watering outside the prescribed hours for sprinkling,

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or allow or cause any violation of any provision of this division or of the drought management plan.
As a condition of service, all customers, including those whose service properties are located outside the city limits of the City of New Braunfels, are subject to Chapter 130 of New Braunfels Code of Ordinances.

- (b) *Continued violations.* At locations of repeated or continued violations of this division or of the drought management plan, the CEO of NBU shall have the authority to discontinue the supply of potable water to the registered meter holder or Responsible Person.

Penalties; fines.

(1) *Criminal.* Any person violating any provision of this article shall be guilty of an offense, and upon citation and conviction, shall be punished by a fine not less than \$100.00 and not more than \$500.00 for the first offense; a fine not less than \$200.00 and not more than \$500.00 for the second offense; a fine of not less than \$400.00 and not more than \$500.00 for the third and additional offenses. If the court determines the offense relates to public health or sanitation, the maximum fine is \$2,000.00, regardless of the number of offenses. Each violation of a particular section of this division or division 7 shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article. All fines collected under this section shall be remitted to NBU and used by NBU for the furtherance of water conservation programs and to help defray the cost of enforcement of this article.

(2) *Civil.* Civil penalties, imposed by courts of competent jurisdiction in civil actions for violations of this article, may also be assessed as may be allowed by applicable state law in any amount to be authorized by the state. Under V.T.C.A., Local Government Code ch. 54, NBU and the office of the city attorney may presently pursue civil enforcement for injunctive relief and the imposition of up to \$1,000.00 per day civil penalties appropriately imposed by the court. This statutory remedy is in addition to the city's common law right to bring civil actions for injunctive relief to stop harmful acts, independent of authority found in the Texas Local Government Code.

(3) *Surcharges.* Any person who violates the watering restriction provisions of this division or of the drought management plan will be held strictly liable and the punishment for such violation may include the imposition of punitive surcharges. NBU is authorized to assess one or more surcharges on the water bill of any person presumed to have been the one who violated this division or a provision of the drought management plan. In the event NBU determines a violation has occurred, the person assessed the punitive surcharge by NBU is prima facie presumed to have violated this division or the drought management plan for the purpose of assessment of surcharges. Punitive surcharges may be assessed as follows:

First violation in any 12-month period	Warning
Second violation in any 12-month period	\$25.00
Third violation in any 12-month period	\$250.00
Fourth violation in any 12-month period	\$500.00

Non-payment of any assessed surcharge or repeated or continued violations of watering restrictions imposed by this article can result in termination of water service. A person who believes that a surcharge was unwarranted because either the violation did not occur or the violation was excused, may appeal the determination to the conservation coordinator and then to the variance appeals panel, whose decision on the matter is final. (Ord. No. 2008-50, § I, 7-28-08)

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Secs. 130-219.1—130-219.3.- Reserved.

Sec. 130-219.4.- Defenses.

(a) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed on any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth, generally three weeks.

(b) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed by a commercial enterprise in the business of growing or maintaining plants for sale, such as plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants and not wasted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-219.5.- Conservation compliance officer.

(a) A conservation compliance officer shall be appointed by NBU. The compliance officer shall be authorized to administer and enforce this article.

(b) The compliance officer is authorized and directed to enforce all of the provisions of this article, and the compliance officer, upon presentation of proper credentials, may enter properties in accordance with section 130-210 at reasonable times for the purpose of making inspections or preventing violations of this article. This section shall not be construed as imposing upon NBU and/or the city (or any official or employee of either) any liability or responsibility for damages to any property by reason of the inspections authorized under this section.

(Ord. No. 2008-50, § I, 7-28-08)

DIVISION 7. - DROUGHT MANAGEMENT PLAN ^[126]

⁽¹²⁶⁾ **Editor's note—** Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 7 in its entirety to read as herein set out. Formerly, division 7 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.

Sec. 130-220.- Adoption of drought management plan, water use reduction measures, and aquifer stage conditions.

The drought management plan, including the water use reduction measures and associated aquifer stage conditions set out therein, is hereby adopted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-220.1.- Landscape watering.

It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis. From and after the effective date of this division, landscape watering for residential and commercial properties will be limited to two days per week according to the street address as follows.

<u>Last number of address</u>	<u>Watering Day</u>
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<u>Even number (0,2,4,6,8)</u>	<u>Monday, Thursday</u>
<u>Odd number (1,3,5,7,9)</u>	<u>Tuesday, Friday</u>
<u>No address, more than one address associated with a single contiguous property</u>	<u>Monday, Friday</u>

It is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-221.- Basis of water use reduction measures and aquifer stage conditions.

The water use reduction measures may be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17") as set out in section 130-224, or on the discharge level of the Comal Springs, NBU water supply, or on aquifer water quality or other aquifer, potable water system capacity, or seasonal or weather conditions not based on water levels in J-17 (set out in section 130-226).

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-222.- Reserved

Implementation of water use reduction measures and stages, generally.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-223.- Declaration of Water Use Reduction Stages in effect; notice by publication required

(a) The Mayor of the City of New Braunfels or his or her designee, in consultation with NBU, is hereby authorized to declare that water use reduction measures are in effect.

(b) Notices of the implementation and termination of the water use reduction measures and each of the various stages, as appropriate, shall be publicly announced in the local media for a minimum of one day. The implementation or termination of the measures and each of the stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-224.- "Trigger levels" for implementation and termination of water use reduction measures, stages I, II and III.

Implementation and termination of stages I, II and III of the water use reduction measures, based upon the J-17 Edwards Aquifer water levels or the Comal Springs discharge, may occur according to the following schedule:

Description	Stage I	Stage II	Stage III
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Deleted: ~~<object>~~When the aquifer falls to 675 msl, NBU staff shall begin preparations for public awareness, education and enforcement of the respective stage provisions, as set out in section 130-223. The water use reduction measures shall be declared to be in effect when the aquifer level in the index well J-17 is at or below 660 feet msl or the discharge from the Comal Springs is at or below 225 cfs. Each stage of the water use reduction measures shall be implemented when the aquifer level in J-17 or the discharge from the Comal Springs reaches the "trigger levels" set out in sections 130-224, 130-225 and 130-226. Specific water use reduction measures are set out in table I of this division and shall cover the categories of regulated use, applicable stages and corresponding required water use reduction measures.¶

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1	When the aquifer is at or below this level msl, <u>based on a 10 day rolling average calculated and determined by the Edwards Aquifer Authority</u> , or the discharge from the Comal Springs is at or below this cfs, whichever happens first, <u>or as determined by section 130-221</u> , the Mayor of the City of New Braunfels, in consultation with NBU, <u>may</u> officially declare the respective stage. NBU shall coordinate water use reduction with customers in its service area. The City and NBU shall enforce the water use reduction provisions set out in section 130-225, for each stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs
2	When the aquifer subsequently rises above this level msl or the discharge from the Comal Springs rises above this cfs, whichever occurs last, <u>NBU staff will monitor the consistency of the various levels and other conditions as set out in section 130221 for a period of 15 calendar days, before consulting with the Mayor of the City of New Braunfels on whether to terminate the drought restrictions for that stage.</u>	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-225.- Designated landscape irrigation times and days (stages I, II, III).

During any period when stages I, II, or III have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than parks and athletic fields, the restrictions for which are set out in section 130-228) may occur only on certain designated days and at certain times, as follows:

- (1) For stage I, landscape watering for residential and commercial properties will be limited to one day per week according to the street address as follows:

<u>Last number of address</u>	<u>Watering day</u>
<u>0, 1</u>	<u>Monday</u>
<u>2, 3</u>	<u>Tuesday</u>
<u>4, 5</u>	<u>Wednesday</u>
<u>6, 7</u>	<u>Thursday</u>
<u>8, 9</u>	<u>Friday</u>

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

Deleted: If the last digit of the address ends in 0 or 1, the irrigation day is Monday. If the last digit of the address ends in 2 or 3, the irrigation day is Tuesday.¶
If the last digit of the address ends in 4 or 5, the irrigation day is Wednesday. If the last digit of the address ends in 6 or 7, the irrigation day is Thursday.¶
If the last digit of the address ends in 8 or 9, the irrigation day is Friday.¶

- (2) For stage II, landscape watering for residential and commercial properties will be limited to one day per week, according to the street address as follows:

<u>Last number of address</u>	<u>Watering day</u>
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<u>0, 1</u>	<u>Monday</u>
<u>2, 3</u>	<u>Tuesday</u>
<u>4, 5</u>	<u>Wednesday</u>
<u>6, 7</u>	<u>Thursday</u>
<u>8, 9</u>	<u>Friday</u>

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

- (3) For stage III, landscape watering for residential and commercial properties will be limited to one day per week every other week, beginning on the second Monday after the stage III has been declared according to the street address as follows:

<u>Last number of address</u>	<u>Watering day</u>
<u>0, 1</u>	<u>Monday</u>
<u>2, 3</u>	<u>Tuesday</u>
<u>4, 5</u>	<u>Wednesday</u>
<u>6, 7</u>	<u>Thursday</u>
<u>8, 9</u>	<u>Friday</u>

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

- (4) For stage I, II and III the following associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the days specified.
- (5) For stage I landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day at any time.
- (6) For stage II and III landscape irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day.

Note: Vehicle washing at home is limited to designated landscape sprinkling watering days and times, but use of a commercial facility is permitted any day for all drought stages.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-226.- Implementation of additional water use reduction measures, ("aquifer risk").

- (a) Implementation of additional water use reduction measures, such as declaring Stage IV in periods of exceptional drought conditions, need not be based on the trigger levels set forth in section 130-224 but may instead be based on consideration of aquifer water quality or on other aquifer, seasonal or weather conditions not based on water levels in J-17.
- (b) Whenever aquifer quality measures 30 percent TDS above historical average and above the maximum TDS value for any public supply water well, the Mayor of the City of New Braunfels, in consultation with NBU, shall declare additional measures to protect the aquifer and shall be implemented by the city council as necessary.

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If the last digit of the address ends in 0 or 1, the irrigation day is Monday. If the last digit of the address ends in 2 or 3, the irrigation day is Tuesday.¶
If the last digit of the address ends in 4 or 5, the irrigation day is Wednesday. If the last digit of the address ends in 6 or 7, the irrigation day is Thursday.¶
If the last digit of the address ends in 8 or 9, the irrigation day is Friday.¶

Deleted: If the last digit of the address ends in 0 or 1, the irrigation day is Monday. If the last digit of the address ends in 2 or 3, the irrigation day is Tuesday.¶
If the last digit of the address ends in 4 or 5, the irrigation day is Wednesday. If the last digit of the address ends in 6 or 7, the irrigation day is Thursday.¶
If the last digit of the address ends in 8 or 9, the irrigation day is Friday.¶

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(c) Regardless of consideration of aquifer quality, whenever the Mayor of the City of New Braunfels in consultation with NBU may determine that the NBU water supply, or other aquifer, seasonal, or weather conditions not based on water levels in J-17 warrant, the Mayor may also impose additional restrictions for all water uses

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(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-227.- Termination of water use reduction measures, stages.

The Mayor of the City of New Braunfels, in consultation with NBU, may declare the termination of water use reduction measures and stages as scheduled in Sec. 130-224. Notice of the termination of the water use reduction measures and each of its various stages, as appropriate, shall be publicly announced in local media for a minimum of one day. Termination of the measures and each of its stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-228.- Specific water use reduction measures.

Specific water use reduction measures, their corresponding stages and scope are set out in the table, below:

Measures for	Stages	Scope of Restrictions
Essential Services	I, II, III	Fire-fighting & medical uses — no restrictions.
	I	Reduction in fire hydrant; sewer line flushing recommended.
	II, III	Hydrant flushing & sewer line flushing — only on emergency basis.
Water Purveyor Use	I, II, III	Water purveyors are encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.
Power Production	I, II, III	Water used for power production shall be voluntarily reduced.
Agricultural	I	Reduction of water use by any means available is encouraged.
	II, III	The escape of irrigation tail water, as that term is commonly used in the agricultural community, is prohibited. Water loss through percolation in transmission canals is prohibited.
	III	Additional reductions may be imposed by the City Council if conditions warrant.
Livestock Use	I, II, III	Reduction of water use by any means available is encouraged.

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Industrial, Commercial, and Other	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures is required for those uses in the outdoor category, including landscape watering, swimming pools, hot tubs and similar facilities, golf courses, aesthetic uses such as fountains; such restrictions specifically include industrial users, as well as all others. Use of gray water, treated wastewater or reuse water is a defense to prosecution.
	III	Additional reductions may be imposed by the Mayor if conditions warrant. Use of treated wastewater or recycled water is a defense to prosecution.
Restaurants, or other Eating Establishments	Year Round	NBU strongly encourages that water be served to guests only upon request.
Household	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures shall be achieved for those uses in the outdoor category, such as landscape watering, swimming pools, hot tubs, and similar facilities.
Swimming Pools, Hot Tubs, etc.	I, II, III	NBU strongly encourages that all swimming pools, other than public swimming pools, be covered with an effective evaporation cover or screen or evaporation shields covering at least 25% of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen, or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed.
Replenishing Pool, Hot Tubs, etc. water levels	I, II, III	Replenishing to maintenance level permitted within watering hours.
New Pools, Filling New Pools, Hot Tubs etc.	I, II	Construction, installation, and filling of new pools will be allowed.
	III	Construction, installation, and filling of new pools will not be allowed. If a building permit has already been issued for pool construction, before the drought management stage was declared, construction, installation, and filling of new pools is allowed. Property owners, prior to construction, installation, or filling of pools should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new pool is to be installed, the date of installation, and copy of the approved building permit in order to receive an approval letter from NBU.
Draining Pools, Hot Tubs, etc.	I, II, III	Draining permitted only onto pervious surface, or onto pool deck where the water is transmitted directly to a previous surface, only if:

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		<p>(1) Draining excess water from pool due to rain in order to lower water to maintenance level;</p> <p>(1) Repairing, maintaining or replacing pool component that has become hazardous; or</p> <p>(2) Repairing pool leak</p> <p>(3) Refilling of public swimming pool permitted only if pool has been drained for the repairs, maintenance or replacement set out in items 2 or 3 above</p> <p>It is prohibited to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. It is considered water waste to drain a pool and allow the water to leave the property in which the pool is located.</p>
Aesthetics (fountains, waterfalls, etc.)	I, II, III	<p>Outside prohibited. The one hundred (100) percent use of treated wastewater, condensate, or cooling tower blow down is defense to prosecution under this paragraph. Alternate on-site reclaimed sources may be approved through variance on a case-by-case basis.</p> <p>If one hundred (100) percent use of gray water, treated wastewater or reuse water, condensate water, cooling tower blow will be used, signs identifying this property as using recycled or reclaimed water source must be posted on site at a location for the general public view.</p>
Ornamental lakes and ponds, etc.	I, II, III	<p>Re-filling of ornamental lakes or ponds is prohibited; except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance.</p> <p>A user may file, in writing, with NBU a request for an Aquatic Life Variance. The request must include:</p> <p>(1) a statement indicating compelling reasons why the users aquatic life qualifies as significant value; and</p> <p>(2) the amount of time the aquatic life have been present in the said lake/pond; and</p> <p>(3) a management plan for the aquatic life.</p>
Foundation Watering	I, II, III	<p>Foundations may be watered up to two hours on any day, during watering times, by handheld hose; or using a soaker hose or drip system placed within 24 inches of the foundation that does not produce a spray of water above the ground.</p>
Other Outdoor Uses	I, II, III, II, III	<p>Waste is prohibited. No person may allow irrigation tail water to escape from that person's land. Non-commercial washing of vehicles and mobile equipment (e.g., washing vehicle at a residence) is permitted only on assigned residential landscape sprinkling watering days and times</p>

PART II - CODE OF ORDINANCES
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		(see Sec. 130-225) with hand-held hose (with automatic shut-off nozzle) or bucket of five (5) gallons or less, but is prohibited between the hours of 11:00 a.m. and 7:00 p.m. every day. Use of commercial vehicle wash facility permitted any day. Citizens are encouraged to wash their cars no more than twice a month. Use of gray water, treated wastewater or recycled water is a defense to prosecution.
Pressure Washing	I, II, III	<p>Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare.</p> <p>Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;</p> <p>A variance from NBU must be obtained for any pressure washing performed during drought stage.</p>
Landscape Irrigation: Established Plants	I	<p>Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include:</p> <p>(1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and</p> <p>(2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage I.</p> <p>NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.</p>

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	II, III	<p>Landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file, in writing, with NBU a request for an exception to the designated days and times. The request must include:</p> <p>(1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and</p> <p>(2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage II or III.</p> <p>NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.</p>
Landscape Irrigation: New Landscaping Plants	I	<p>Landscape watering permitted with variance confirmation letter to maintain adequate growth until established, generally three (3) weeks. Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted at any time. The use of gray water, treated wastewater or reuse water is a defense to prosecution.</p>
	II	<p>New Landscape installation restricted: during stage II drought restrictions, variance requests must be approved prior to new landscape installation.</p> <p>Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name and address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a</p>

Deleted:

PART II - CODE OF ORDINANCES
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		<p>confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged</p> <p>Once variance letter has been received , Landscape watering permitted, to maintain adequate growth until established, generally three (3) weeks.</p>
	III	<p>New Landscape installation restricted: during stage III drought restrictions variances requests must be approved prior to new landscape installation.</p> <p>Installation of new landscapes is permitted only if not more than fifty percent (50%) of the available landscape area is planted with turf and If proper horticultural practices are followed, including use of mulch and zonal irrigation systems if a permanent irrigation system is installed. A user may file with NBU a request to install more than fifty percent (50%) turf. The request must include:</p> <p>(1) a statement or plan describing the landscaping plan; and</p> <p>(2) a statement indicating how the landscaping plan will achieve the goals of this chapter. Upon the approval of the alternate landscaping plan as set forth herein, the user may be granted an exception. Landscape renovation is allowed only if proper horticultural practices are followed, including use of mulch. Additionally, if the newly renovated landscaped area is watered with an irrigation system, then a zonal irrigation system must be installed.</p> <p>Prior to installation, property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed, receipt reflecting the type of landscaping installed, and the date of installation in order to receive a confirmation letter from NBU. Thereafter,</p>

New Braunfels, Texas, Code of Ordinances

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		<p>landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged</p> <p>Once variance letter has been received, Landscape watering permitted, to maintain adequate growth until established, generally three (3) weeks.</p>
Parks/Athletic Fields	I, II, III	<p>Park and athletic field owner/operators shall be required to submit a water conservation plan and shall be defined as "conforming" or "non-conforming". An athletic field or park will be deemed "conforming" if there is a CCIS in place and the owner/operator is utilizing the system to achieve maximum conservation and the goals of this division. Conforming facilities should have a conservation plan approved and on file with NBU. A park or athletic field that is not conforming is deemed "non-conforming" for the purposes of this division. Owners/operators of athletic fields or parks shall reduce water usage under the following terms:</p>
	I, II, III	<p>Use of gray water, treated wastewater or recycled water is a defense to prosecution.</p>
	I	<p>A. A conforming park/athletic fields shall implement a ten percent (10%) reduction in the replacement of daily evapotranspiration rate ("ET rate") or daily soil-holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals.</p> <p>B. A non-conforming park/athletic fields shall not use more than 1.8 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.</p>

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	II	A. A conforming park/athletic field shall implement a twenty percent (20%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.6 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
	III	A. A conforming park/athletic field shall implement a thirty percent (30%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.4 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
Construction	I, II, III	Construction operations receiving water from a construction meter, fire hydrant meter or water truck shall not use water unnecessarily for any purpose other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation requirements set forth herein.
Hotels, Motels, Bed and Breakfasts	I, II	Hotels, motels and B&B's must offer and clearly notify guests of a "no linen/towel change" program.
	III	Hotels, motels, B&B's must limit linen/towel changes to once every three (3) nights or for the entire stay, whichever is shorter, except for health and safety.
Leaks	Year Round	Repair all water leaks within seventy-two (72) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.
	I, II	Repair all leaks within forty-eight (48) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.
	III	Repair all water leaks within twenty-four (24) hours of notification from NBU unless other arrangements are made with the Conservation Coordinator.

(Ord. No. 2008-50, § I, 7-28-08)

Secs. 130-229, 130-230.- Reserved.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. C)

Presenter

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

SUBJECT:

Discuss and consider an appeal of the Non-Residential and Multifamily Design Standards, Exterior Building Material requirements for a proposed expansion to the Comal County Landa Building in the "C-2" General Business District addressed at 199 Main Plaza.

BACKGROUND / RATIONALE:

Case No.: CS-19-003

Council District: 5

Applicant/Agent: Robert Cline
1001 Fannin Suite 525
Houston, TX 77002
robert.cline@hdrinc.com

Property Owner: Comal County
150 N. Seguin Ave.
New Braunfels. TX 78130
(830) 608-2090
rabthh@co.comal.tx.us

Staff Contact: Katherine Crowe, Planning Technician
(830) 221-4086
kcrowe@nbtexas.org

The subject property comprises approximately 1.85 acres, currently addressed at 199 Main Plaza. The post-modern brick building, constructed in the 1970's as a bank or savings and loan, sits on or very near the site of the former Landa Mansion, and is known as the Landa Building or the Commissioners Court Building. It is located in the Downtown Historic District, but is considered a non-historic age building that is a non-contributing structure to the historic district.

The County is expanding and renovating the structure and has received approval of a Certificate of Alteration from the Historic Landmark Commission (see detail in the Committee Recommendation section below). The applicant is proposing some alternatives to the City's commercial and multifamily building design standards, which must be considered by City Council.

New Braunfels' building design standards are intended to improve the quality and aesthetics of the

built environment, to help provide human scale to buildings, and to create more interesting façades. Expansions over 10,000 square feet may be exempt from the building design standards when the expansion is no more than 20% of the existing building area. The existing area of the subject structure is 42,217 square feet; the proposed expansion is 20,548 square feet equating to 48.67% of the existing structure, thereby triggering compliance.

Two building design standards are pertinent to the applicant's proposal:

1. 80% of facades, excluding doors and windows, are to be clad in "primary materials". Primary materials for this requirement include masonry, glass, tile, stucco, textured concrete materials, or fiber cement.
2. The lower four feet of all walls are to be clad in either brick, stone, cast stone, rock, marble, granite, split-face concrete block, pour-in-place concrete or tilt-wall concrete.

Regarding number 1 above, based on the applicant's calculations, the building façade of the proposed expansion area would consist of 63% primary finish (brick and glass), and 37% secondary materials (metal panels). Regarding number 2, the applicant is proposing the bottom four feet of the walls be clad in a variation of either brick or metal panels.

The applicant states that with their proposed design, they are attempting to continue with brick on the new additions. They explain that numerous brick vendors were contacted, visited the site, and submitted samples of both different brick medleys and finishes in an effort to match the brick. Due to the existing brick façade's exposure to the elements for almost 50 years, when placed side by side with new brick samples none of the submitted samples were acceptable. The applicant is proposing an alternative material for areas of the building that would provide a visual buffer between the existing brick and new brick. They state this will allow the existing and new brick to be in proximity but not directly adjacent, mitigating the differentiation. They describe the proposed alternate material chosen to provide separation as bronze metal panels complementary to the existing and new brick, and complementary to other metal used Downtown as decorative accents.

Surrounding Zoning and Land Use:

North: C-2 / Office

South: Across Main Plaza, C-2 / Commercial, office

East: C-2 / Commercial

West: C-2 / Comal County offices

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

City Plan/Council Priority: Envision New Braunfels Comprehensive Plan	Action 2.8: Establish or expand architectural standards for quality of design across the city. Action 3.4: Revitalize the core of New Braunfels to ensure balanced development. Action 5.30: Ensure public projects are built as demonstration projects that set the example for private developers.
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FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

As the subject structure lies in a historic district, the Historic Landmark Commission (HLC) had to consider a Certificate of Alteration (C-of-A). The HLC approved the applicant's C-of-A application on November 9, 2018, noting:

1. The proposed changes require minimal alteration to the historic district and are of an appropriate size and scale so as to not detract from the character of the district.
2. The current non-historic structure is not architecturally or historically significant and does not contribute to the district.
3. The proposed design is compatible with the district.
4. Since the building does not contribute to the district, any additions to the building are not predicted to contribute to the district. Thus, the existing building/additions could be removed without compromising the district's integrity.

Staff informed HLC and the applicant that should the proposed expansion not meet the building design standards, the applicant would need to seek approval from City Council, or return to HLC with revisions.

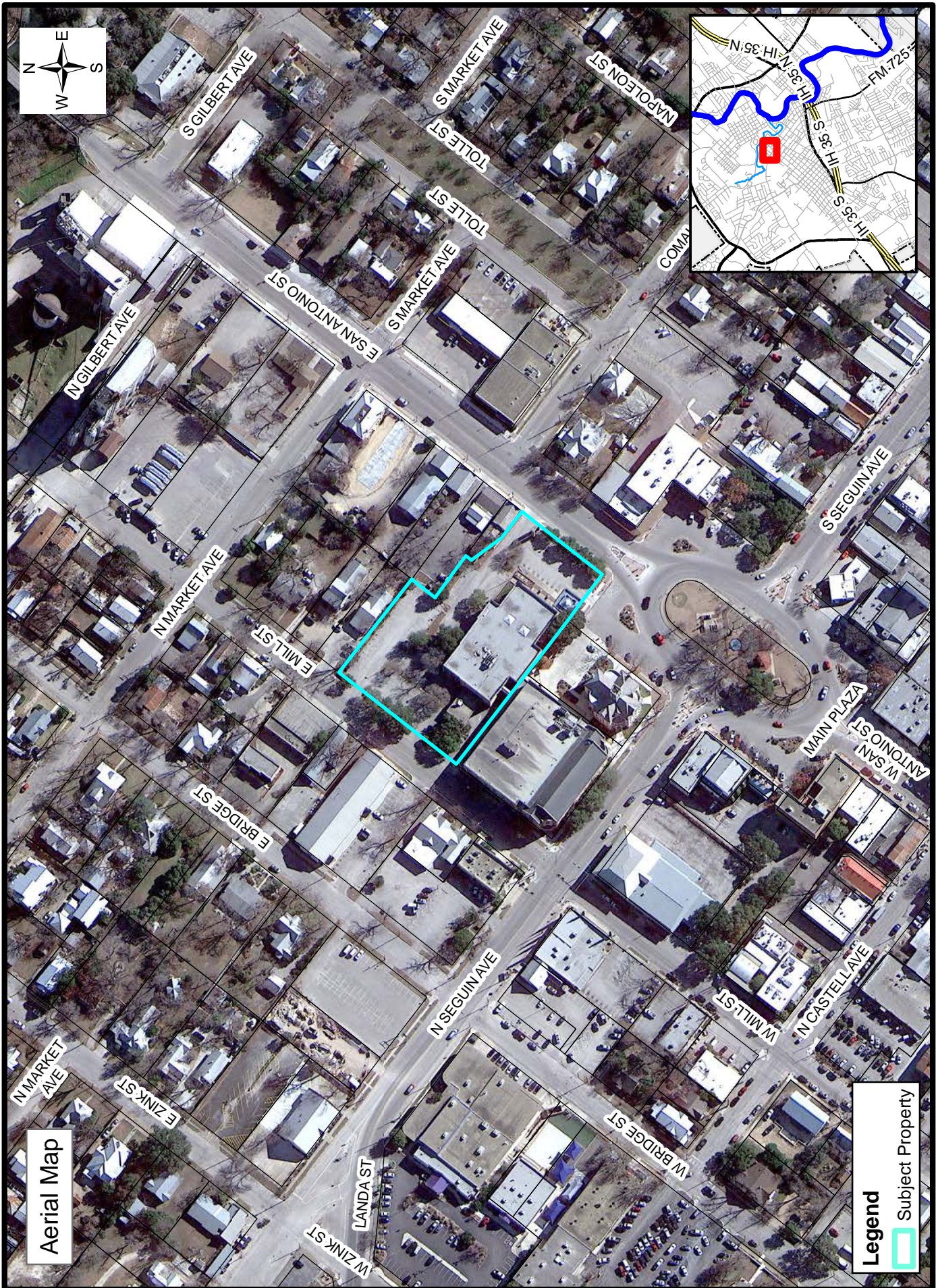
STAFF RECOMMENDATION:

The subject site is in a highly visible location on Main Plaza. Downtown is presently dominated by structures with masonry and wood facades with some metal accents. Some new structures are including metal components as the variety of metal materials available is increasing. While exempting expansions in their entirety from the non-residential design standards is not routine, staff does recognize the predicament presented by the weathered brick. Staff also appreciates the applicant proposing a mix of materials to blend the architectural façade in a way that would improve the existing aesthetics overall.

Staff recommends approval as requested, however if City Council would prefer to consider an alternative, one option might be to include decreasing the amount of secondary materials (closer to the 20% maximum rather than the proposed 37%) while still allowing for separation of the new and old brick. For example, add more "store-front windows", or maybe more brick to the north facing side.

Attachments:

1. Aerial Map
2. Application
3. Site Plan
4. Future and current images
5. Metal Specifications
6. Section 5.22-4 Exterior Building Materials





APPEAL OF BUILDING DESIGN STANDARDS

Planning and Community Development
550 Landa Street, New Braunfels TX 78130
Phone: (830) 221-4050
Email: planning@nbtexas.org

PLANNING

Fee: \$515

(\$500 application fee + \$15 technology fee (3%))

1. Property Owner(s):

Name: Comal County

Mailing Address: 150 N. Sequin, New Braunfels, TX 78130

Email: rabthh@co.comal.tx.us

Telephone: 830.608.2090

Mobile: _____

2. Agent: (If the applicant is not the owner, a letter of authorization must be furnished from the owner(s) at the time the application is submitted.)

Name: Robert Cline

Mailing Address: HDR, Inc., 1001 Fannin, Suite 525, Houston, TX 77002

Email: robert.cline@hdrinc.com

Telephone: _____

Mobile: _____

3. Property Address/Location: 199 Main Plaza, New Braunfels, TX 78130

4. Detailed description of design standard(s) not in compliance with Sec. 5.22 Non-Residential and Multifamily Design Standards (use additional sheet if necessary): Refer to the attached sheets

5. Reason for request (use additional sheet if necessary): Refer to the attached sheets

6. Attachments: The following items must be submitted with the application:

☒ Completed application.

☒ Details of construction materials.

☒ Façade elevation drawing.

☒ Site plan.

☒ \$515 fee (\$500 application fee + \$15 technology fee (3%)).

The undersigned hereby requests City Council to consider an appeal to the Building Design Standards for the location(s) stated above.

Robert Cline, Agent

Print Name of Owner/Agent

Signature of Owner/Agent

Feb. 15, 2019

Date

FOR OFFICE USE ONLY:

Received by: KC Date Received: FEB. 21, 2019 Receipt No.: 223616

Council Meeting Date: MARCH 11, 2019 Case No.: CS-19-003

Planning Division, Planning and Community Development Department

RE: CP2018-1548
(199 Main Plaza)
Comal County Landa Annex

2. Clarification is required regarding the exterior material described as "Insul. Comp. Back Up Panel, MP 2 07 42 15":

The existing Landa Building was constructed in the 1970s. In an attempt to satisfy the County's desire to continue with the brick on the new additions, numerous brick vendors were contacted, visited the site, and submitted samples of both different brick medleys and finishes that they could provide in an effort to match the brick. The brick façade has withstood the effects of the weather for almost 50 years. When placed side-by-side with the existing brick, none of the submitted samples were acceptable; placed side by side the new brick and the older, aged brick are just far enough off to look like a bad mistake.

It was proposed and accepted that we would use an alternate material for areas of the building that would provide a visual buffer between the existing brick and new brick. This would allow the existing and new bricks to be in proximity but not adjacent to one another. When separated in this manner, the visual effect of the differentiation will be mitigated and the separated portions of new brick will look like it is a good match. The alternate material chosen to provide separation between these brick portions of the building is metal panels in a bronze color complementary to the existing and new brick. Metal in similar tones is used throughout the downtown historic core as decorative accents. The Historic Commission has unanimously approved the project as designed.

The current building vertical walls as designed are 63% primary materials (brick and glass) and 37% secondary materials (metal panels). Your consideration for the use of this material to this extent will be appreciated.

HDR

DATE: 01/11/2017
PROJECT: LANDA BUILDING RENOVATION & ADDITION
SHEET: C-102

COMAL COUNTY

HMT

WJW

BCC Building Code Consultants, Inc.

LANDA BUILDING
RENOVATION & ADDITION
175 S. 1st St.
San Antonio, TX 78201



COMAL COUNTY

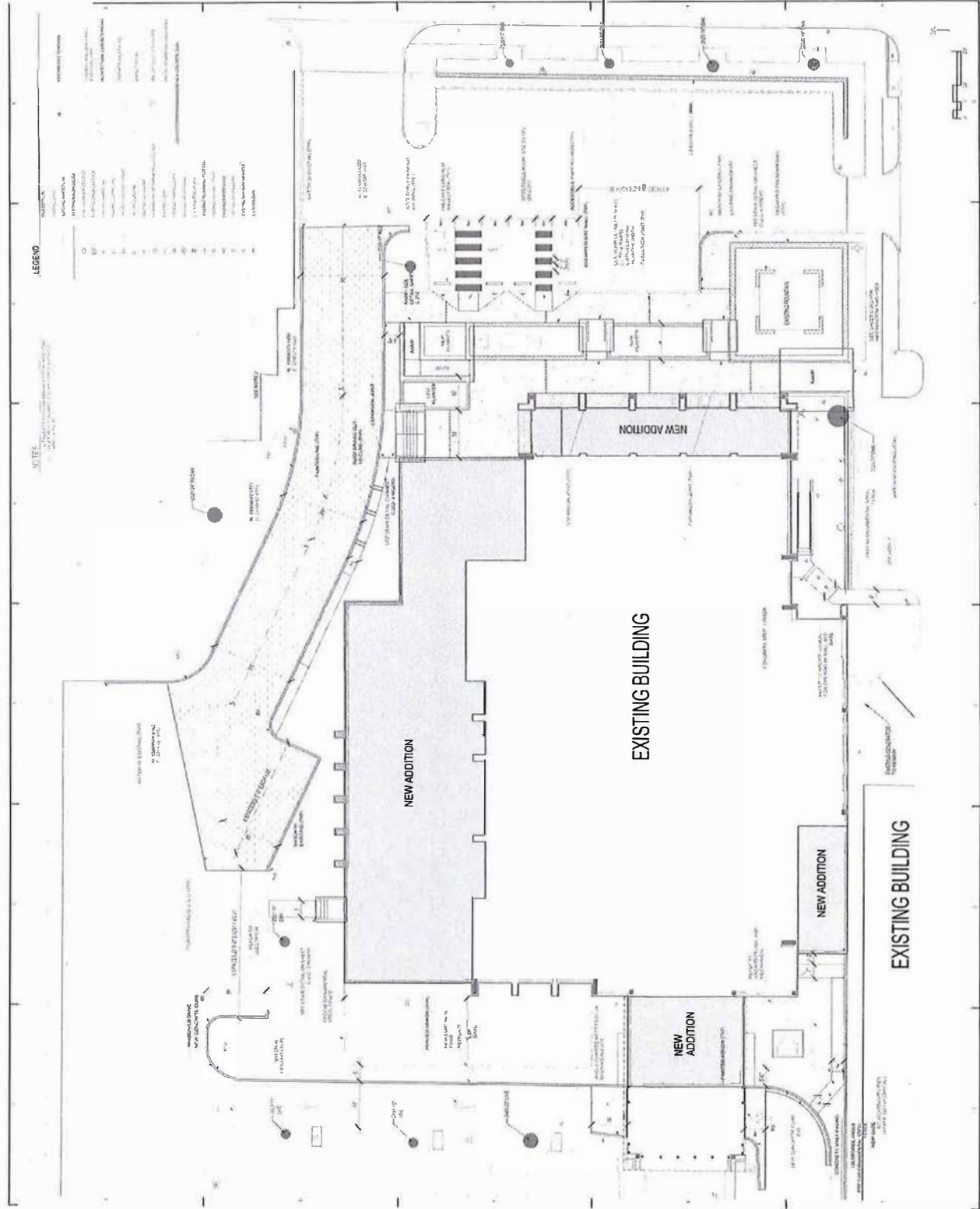
CONSTRUCTION
DOCUMENTS



SITE LAYOUT
AND PAVEMENTS
PLAN

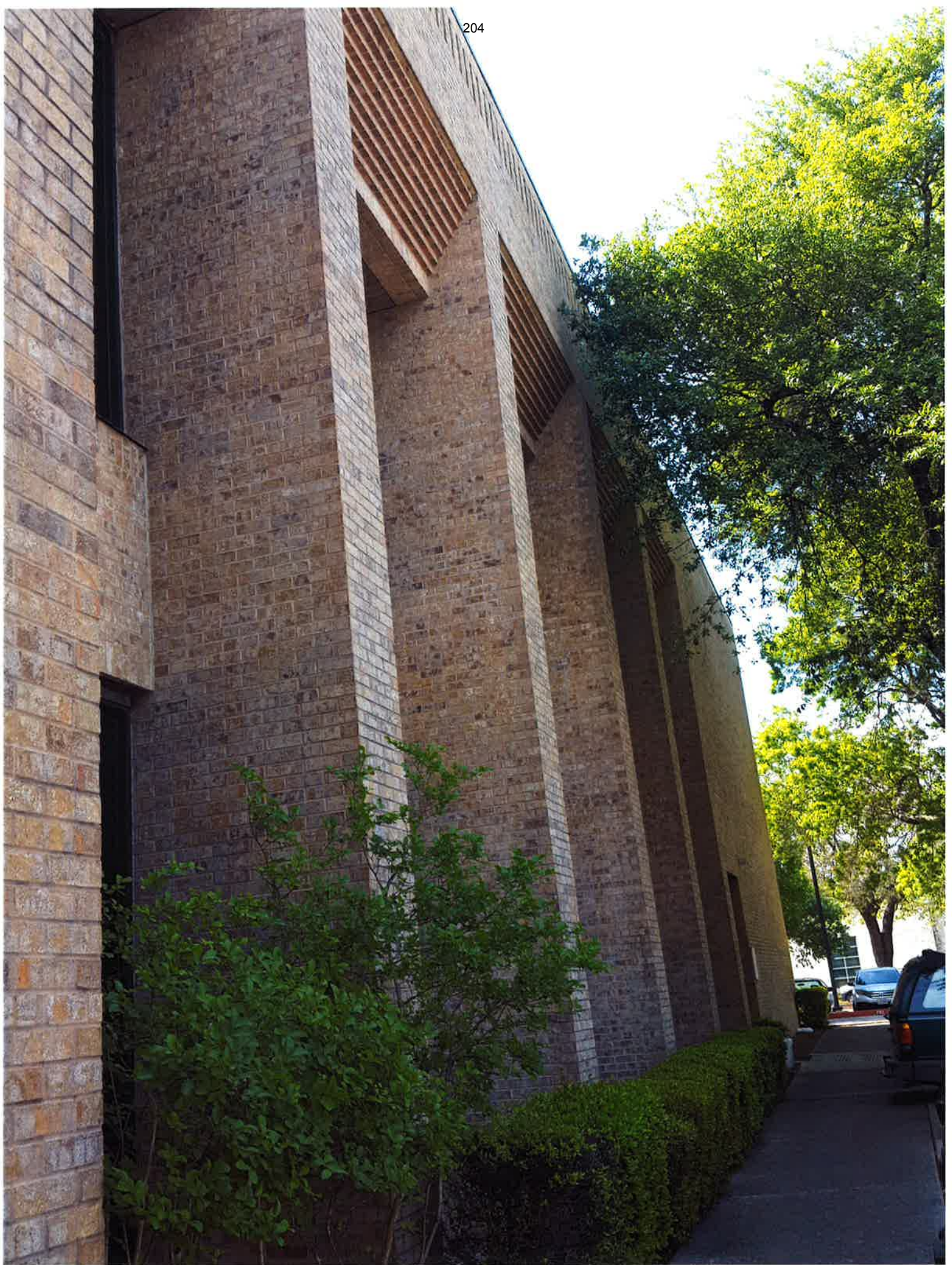
C-102

CONSTRUCTION DOCUMENTS



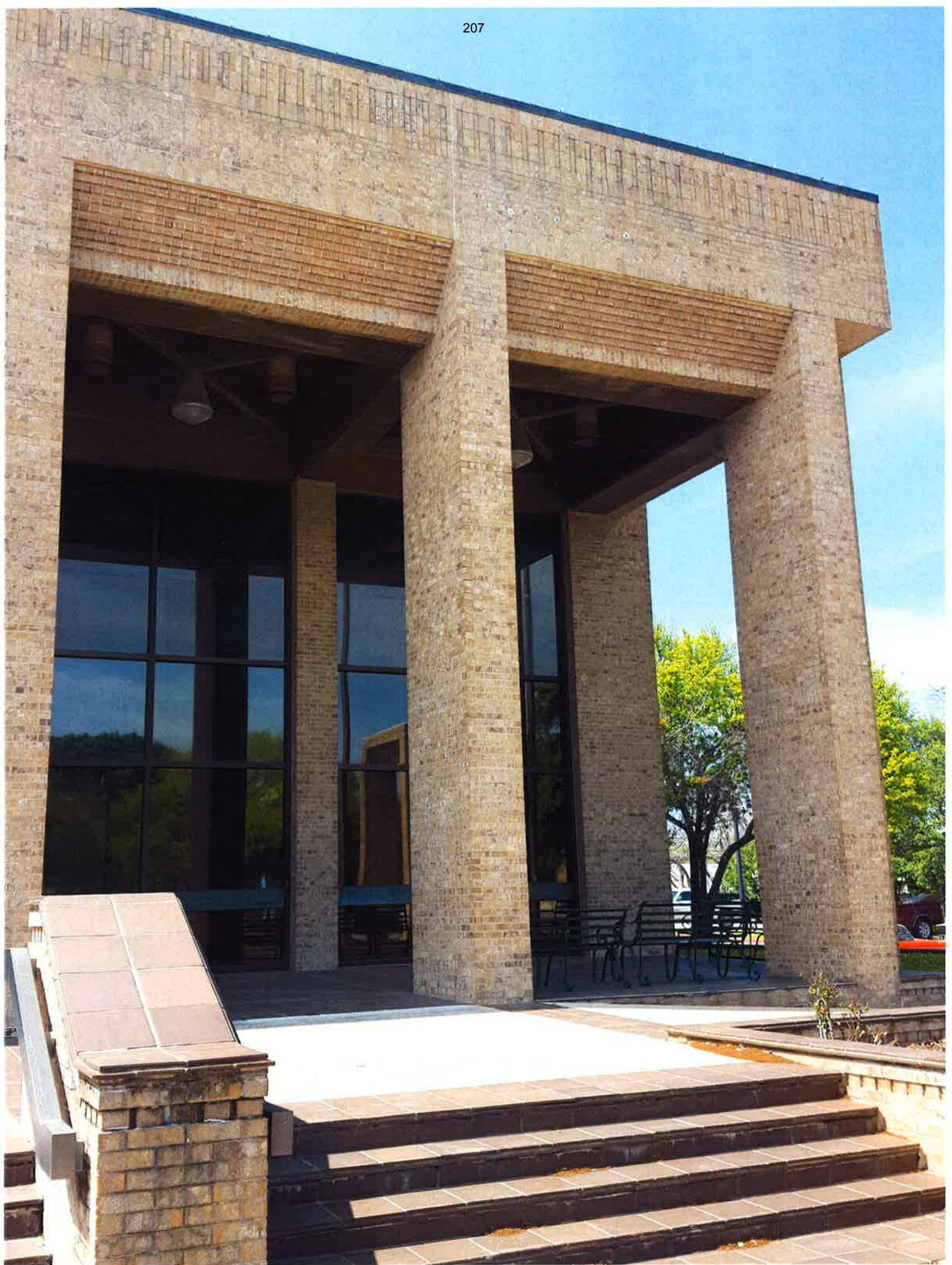
















Berridge HS-8 and HS-12 Panels



The Berridge HS-8 and HS-12 metal wall panels are designed for horizontal and vertical wall applications. Both panels interlock with each other and with the Berridge HR-16 wall panels to provide endless design opportunities. The panels provide a wide rib appearance and can be used on open framing or solid sheathing applications.

Materials

24 and 22 Gauge Steel
0.032 and 0.040 Aluminum

Specifications

Uses: Wall, Soffit, Ceiling, Fascia, Screen Wall, Berridge Fencing System

Coverage: HS-8 • 8"

HS-12 • 12"

Finishes: Standard stucco embossing, optional smooth*

Fasteners: Concealed

Applications: Vertical on Fencing, horizontal or vertical over open framing or solid sheathing for other uses

Pattern: HS-8 • $\frac{1}{4}$ " height and $5\frac{5}{8}$ " rib with 2" reveal

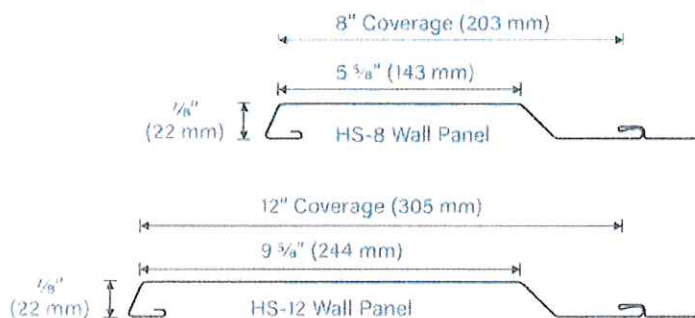
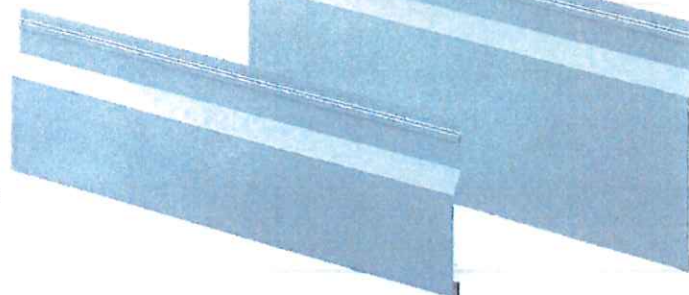
HS-12 • $\frac{1}{8}$ " height and $9\frac{5}{8}$ " rib with 2" reveal

Installation

- Panel is available from the factory in continuous lengths to a maximum of 30' for embossed panels
- Interlocks with each other or HR-16
- Use siding starter strip to start panel at bottom of soffit or sill
- Use channel closure at inside and outside corners with or without rubber closures
- Use standard channel at jambs without rubber closures
- Use special channel at jambs without rubber closures
- Use HS rubber closures against air infiltration

All information subject to change without notice. See website for details, specifications and Watertightness Warranty requirements.

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* Contact BMC for limited material availability.
Smooth finish is not available for all applications.



Detail of HS-12 & HS-8 panel interlock

Pictured Above:
Project: Lone Star College Creekside Center
Architect: PBK Architecture
General Contractor: Durotech
Installing Contractor: Pyramid Waterproofing Co.
Color: Zinc Grey

BERRIDGE HS-8 AND HS-12 PANEL TESTING AND CERTIFICATION SUMMARY CHART

CATEGORY	CHARACTERISTIC	TEST METHOD	PURPOSE	RESULT
PERFORMANCE	☐ Uplift Resistance	ASTM E-1592	Test method to determine uplift resistance of open framing systems	See Load Chart on Berridge website
AIR AND MOISTURE	☐ Water Penetration	ASTM E-331**	Test method for water penetration of metal roofs by uniform static air pressure difference	No Leakage at 15.0 PSF Pressure Differential
	☐ Air Leakage	ASTM E-283**	Test method for rate of air leakage through exterior metal roofs	Less than 0.01 CFM at 6.24 PSF Pressure Differential
ROOF LISTINGS	☐ Florida Product Approval	TAS 125	Local and state approval of products and systems for compliance with the structural requirements of the Florida Building Code	HS-8: FL# 14669.2 (24 or 22 GA-Girts) FL# 172174 (0.032 or 0.040 AL-Girts) FL# 174374 (0.032 or 0.040 AL-Girts) HS-12: FL# 14669.3 (24 or 22 GA-Girts) FL# 172175 (0.032 or 0.040 AL-Girts) FL# 174373 (0.032 or 0.040 AL-Girts)
	☐ FDI Listed	ASTM E-1592	Texas Department of Insurance Listing for wind capacities	HS-8: EC-85 (0.032 or 0.040 AL-Girts) HS-12: EC-86 (0.032 or 0.040 AL-Girts) HS-12: EC-87 (24 or 22 GA-Girts)

■ - Steel only ☐ - Steel and Aluminum

For further details please visit www.berridge.com

** See HR-16 Panel for test results on ASTM E-331 and ASTM E-283 with similar panel seams



CORPORATE HEADQUARTERS

2610 Harry Wurzbach Road
San Antonio, TX 78209
(800) 669-0009
www.Berridge.com

5.22-4 Exterior Building Materials.

Exterior Finish Requirement. At least 80 percent of the vertical walls of all buildings (excluding doors and windows) to which these standards apply, shall be finished in one or more primary materials. In every instance, the lower four feet of the vertical walls of all buildings must be finished in one or more of the primary materials.

(a) Primary Materials:

- (1) Brick, stone, cast stone, rock, marble, granite;
- (2) Glass block, tile;
- (3) Stucco or plaster;
- (4) Glass with less than 20 percent reflectance (however, only a maximum of 50 percent of a building may be constructed in glass);
- (5) Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics to enhance the façade on at least ten percent of each façade.
- (6) Fiber cement, such as James Hardie brand products or equivalent.

(b) **Masonry.** In every instance, the lower four feet of the vertical walls of all buildings must be finished in one or more of the primary materials noted in subsection (a)(1) or (a)(5) above.

(c) **Secondary Materials.** The remaining 20 percent of the exterior finish is discretionary and may include, but is not limited to, Exterior Insulation and Finish System (EIFS), wood, metal (including stamped, embossed, or coated panels) or other non-reflective materials.

(d) Additions to existing structures with vertical walls made of wood, including shingles and siding, may utilize wood in an amount consistent with the percentage of wood on the original structure.

5.22-5. *Consistent Façade Standard.*

- (a) All façades or sides of a building shall be designed with architectural style and building materials consistent with the front facade.
- (b) Side or rear facing facades, not on a public roadway, are not required to meet the articulation standards in Section 5.22-3.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. D)

Presenter/Contact

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

SUBJECT:

Discuss and consider approval of the first reading of an ordinance amending Code of Ordinances Chapter 126 Traffic and Vehicles to prohibit shared mobility services using motor-assisted scooter and electric bicycles.

BACKGROUND / RATIONALE:

Shared mobility services, including dockless scooters and bicycles, are increasingly being deployed onto sidewalks in cities across the country. In most instances, cities have few or no safety regulations for shared mobility services. In January 2019, dockless scooters were placed on sidewalks in the right of way in downtown New Braunfels without any discussion or coordination with city officials. A 90-day temporary ban on shared mobility services was enacted by the Chief of Police on January 30, 2019, in the immediate interest of the public safety of motorists and pedestrians. The temporary regulation is in place for 90 days, or until City Council adopts an ordinance regulating the services if adopted before the expiration of the temporary regulation.

Shared mobility services mean any service that displays, offers or places for rent on a public right of way or property one or more motor-assisted scooter, electric bicycle, or other similar transportation device. It does not apply to personal devices.

Surrounding cities, such as Austin and San Antonio, have regulations governing the implementation and use of these shared mobility services to ensure the safety of pedestrians as well as the users of these services. The City of San Antonio has recently placed a moratorium on new scooter permits until its six-month pilot regulation program ends in April. The City of Frisco enacted a temporary ban on all types of shared mobility services in December 2018 until their City Council adopts a new ordinance governing shared mobility services. The City of Fredericksburg recently banned motor-assisted scooters on any sidewalk, street or highway within the city and surrounding cities, including Leon Valley, Kirby, Terrell Hills and Alamo Heights are looking to regulate shared mobility services.

Many cities are concerned with safety, liability, blocking of sidewalks and other pedestrian pathways, and devices cluttered on sidewalks, streets and private property. Proponents of the devices see it as an alternate transportation option and business opportunity like Uber and Lyft ride-share services. There are many articles and opinions expressed on the shared mobility services throughout the country.

The City of San Antonio is currently in a six-month pilot program for dockless vehicles that begun in October 2018. The pilot program includes the following regulations:

- Operation

- Must be 16 years or older
- Allowed on sidewalks
- Helmets encouraged, but not required
- Must follow traffic laws
- Parking
 - 3 feet clearance for pedestrians
 - May not block curb ramps
 - 8 feet from business entrances and driveways
 - 15 feet buffer from bus stops
- Prohibited Areas
 - River walk, park trails, creek ways, and in parks and plazas
 - Parking and deployment is also prohibited in these areas
- Permitting
 - Permits valid for six months
 - \$500 application fee and \$10 permit fee per vehicle

Issues were identified and amendments to the program were made in February 2019. Some of the issues include:

- Riding, parking and deployment in prohibited areas
- Underage and multiple people riding
- Crashes with higher rate between 11 p.m. and 4 a.m.
- Blocking sidewalks and ramps
- Adverse impacts to events
- Vehicles not picked up at night

The mid-point amendments to the program include:

- Impose hour of operation from 6 a.m. to 11 p.m.
- Grant staff authority to identify areas where scooters must be removed such as special events and construction areas
- Vehicles parked in prohibited areas may be collected without warning
- Moratorium on new permits
- Encourage the use of designated parking zones

This item was initially introduced to the Transportation and Traffic Advisory Board on January 10, 2019. With the deployment of scooters and temporary ban by the Chief of Police soon thereafter, the Board discussed and recommended to prohibit shared mobility services at their meeting on February 21, 2019. Factors discussed at the meeting included safety concerns, events and river activities, need for such devices, lack of infrastructure, and staff resources.

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

Strategy 7: Connect All: Action 7.22: Adopt a Complete Streets policy to ensure ease of access for all people and all transportation modes.

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

The Transportation and Traffic Advisory Board unanimously voted to recommend a permanent ban on shared mobility services in the City of New Braunfels at their meeting on February 21, 2019.

STAFF RECOMMENDATION:

Development and implementation of an ordinance to regulate shared mobility services will require additional staff resources. Additional research is necessary to determine the resources required, but resources will be required to permit, regulate, enforce and respond to crashes and complaints.

ORDINANCE NO. 2019-_____

**AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS
AMENDING CHAPTER 126, RENUMBERING ARTICLE 'XI'-
ENFORCEMENT TO 'XII'; ADDING A NEW ARTICLE 'XI' ENTITLED
'SHARED MOBILITY SERVICES'.**

WHEREAS, the Texas Transportation Code authorizes the governing body of a municipality to regulate and enforce other standards of operation which may be particular to its unique situation; and

WHEREAS, cities around the state and country have seen the rapid introduction and implementation of such shared mobility services and operators, and these cities have found it necessary to pass ordinances prohibiting any shared mobility service operator from operating within their jurisdictions due to safety concerns that the widespread use of shared scooters and bicycles creates without permitting and oversight by local governments.

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

I.

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.

II.

THAT Chapter 126, Article XI, of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

ARTICLE XI. SHARED MOBILITY SERVICES

Sec. 126-501. Definitions. These terms shall have the following meanings:

Electric bicycle means a bicycle that:

- a. Is designed to be propelled by an electric motor, exclusively or in combination with the application of human power;
- b. Cannot attain a speed of more than twenty (20) miles per hour without the application of human power; and
- c. Does not exceed a weight of one hundred (100) pounds.

Motor-assisted scooter means a self-propelled device, not including a pocket bike or mini-motorbike with:

- a. At least two (2) wheels in contact with the ground during operation;

- b. A braking system capable of stopping the device under typical operation conditions;
- c. A gas or electric motor not exceeding forty (40) cubic centimeters;
- d. A deck designed to allow a person to stand or sit while operating the device; and
- e. The ability to be propelled by human power alone.

Shared mobility services mean any service that displays, offers or places for rent on a public way or public property one or more motor-assisted scooters, electric bicycles, bicycles, or other similar personal transportation devices equipped with GPS that may be locked and unlocked with or without a docking station.

Sec. 126-502. Prohibition on shared mobility services.

A prohibition on shared mobility services that provide the use of motor-assisted scooters, electric bicycles, and bicycles, equipped with global positioning systems (GPS) on any public sidewalk or public rights-of-way within the city limits. Included in this prohibition is the operation of any personal transportation device listed in this ordinance that was acquired through a shared mobility service upon public sidewalks and public rights-of-way within the city limits.

Sec. 126-503. Penalties.

Any person who shall violate any provision of this article or fail to comply with any of the provisions herein, shall be guilty of a class C misdemeanor, and upon conviction shall be fined a sum not exceeding \$500.00. Each day any violation of this ordinance continues shall constitute a separate and distinct offense.

III.

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

IV.

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

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

3/11/2019

Agenda Item No. E)

Presenter

Amy McWhorter, Historic Preservation Officer
amcwhorter@nbtexas.org

SUBJECT:

Discuss and consider approval of the first reading of an ordinance granting the extension of rehabilitation tax relief for a second five-year period to the property addressed as 455 S. Academy Avenue, a Local Historic Landmark known as the Schaeffer-Brewer House.

BACKGROUND / RATIONALE:

Case No.: HLC-19-005

Council District: 6

Owner/Applicant: Jesse W. "Jay" and Susan Brewer
475 S. Academy Avenue
New Braunfels, TX 78130
(830) 832-0679

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

On August 24, 2015 the City Council approved rehabilitation tax relief for a five-year period beginning with the 2015 tax assessment of the subject property. The owners had completed substantial rehabilitation and improvements to the property as required in Chapter 66 of the City's Code of Ordinances to qualify for such relief. This tax relief makes the property eligible to apply for a freeze in the appraised value of the property, used for calculating the City's ad valorem tax. This freeze holds the taxable value of the property to pre-improvement levels and is only applicable to the City's taxes as no other taxing entities participate in this program.

Per the adopted ordinance, the applicant may request an extension of this relief for an additional five years (through 2024). The City Code specifies that the maximum amount of time any single property may be eligible for tax relief is 10 years, or two five-year periods. However, those two periods do not have to be contiguous.

Determination Factors:

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

- Whether the subject property has been designated as a local historic landmark: *This property is a designated local historic landmark.*
- Whether the improvement(s), renovation(s) or restoration(s) to the structure total at least ten

percent of the property value reflected on the appraisal district tax rolls. *The original renovation exceeded the 10 percent requirement.*

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

City Plan/Council Priority: Envision New Braunfels Comprehensive Plan	Action 2.25 Increase resources for historic preservation. Action 8.8 Collaborate with property owners to preserve historic structures.
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FISCAL IMPACT:

Approval would extend the appraised value “freeze” for City ad valorem tax collection for an additional five years. Therefore, exact value of the fiscal impact is contingent upon future, undetermined appraised values.

COMMITTEE RECOMMENDATION:

The Historic Landmark Commission held a public hearing on February 12, 2019 and recommended approval of the request (7-0-0, Commissioners Totmann and Hoffmann absent).

STAFF RECOMMENDATION:

Staff recommends approval as the property meets all requirements for such relief as specified in the City’s Code of Ordinances, Article III, Section 66-57.1. Additionally, the owners have maintained the subject property in good repair and in accordance with the rules set forth in Chapter 66 of the City’s Code of Ordinances regarding alterations to landmarked properties. This tax relief tool continues to provide an incentive for property owners to rehabilitate, designate and protect historic structures which maintains the heritage of our community.

Attachments:

1. Application
2. Location Map
3. Photos
4. Ordinance 2015-42
5. Excerpt from the February 12, 2019 Historic Landmark Commission minutes
6. Ordinance





Subject property before rehabilitation, camera facing north



Subject property before rehabilitation, camera facing northwest



Former canopy and accessory structure, camera facing north



Detail of west façade before rehabilitation, camera facing northeast

224
455 So Academy



Facade view after rehabilitation, camera facing north



Detail view from rear after rehabilitation, camera facing south

225
455 So Academy



Detail view of west facade after rehabilitation, camera facing northeast



Detail view of east facade after rehabilitation, camera facing northwest

ORDINANCE NO. 2015- 42

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING A TAX RELIEF TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 455 S. ACADEMY AVENUE, KNOWN AS THE SCHAEFFER-BREWER HOUSE, FOR A PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and areas of historical and cultural importance and significance and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and areas having historical and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels and

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels;

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

SECTION 1

THAT the property owner of the designated historic property located at 455 S. Academy Avenue, known as the Schaeffer-Brewer House, be granted the five year tax relief as outlined in Section 66-57.1, Incentives, Historic Landmark Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

Excerpt from the draft minutes of the February 12, 2019 Historic Landmark Commission Regular Meeting Minutes

Discuss and consider case HLC-19-005, a request for the extension of Rehabilitation Tax Relief for the property currently addressed as 455 S. Academy Avenue, also known as the Schaeffer-Brewer House, a local Historic Landmark, for a second five-year period.

Mrs. McWhorter presented the Staff report and recommended approval.

The Commission invited the applicant to speak.

Jesse W. Brewer, 475 S. Academy Avenue, stated he was the applicant. He provided a brief history of the rehabilitation project and described the use of the project since its rehabilitation.

Chair Davis thanked the applicant for his work to preserve the structure.

Motion by Commissioner Leitch, seconded by Commissioner Poss, to approve a request for the extension of Rehabilitation Tax Relief for the property currently addressed as 455 S. Academy Avenue, also known as the Schaeffer-Brewer House, a local Historic Landmark, for a second five-year period. (Motion carried 7-0-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING AN EXTENSION OF TAX RELIEF FOR A SECOND FIVE YEAR PERIOD TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 455 SOUTH ACADEMY AVENUE ALSO BEING CITY BLOCK 1015, LOT 19R, KNOWN AS THE SCHAEFFER-BREWER HOUSE, FOR A PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and areas of historical and cultural importance and significance and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and areas having historical and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels and

WHEREAS, the City Council, on August 24, 2015, adopted an ordinance granting rehabilitation tax relief to the subject property for an initial five-year period and

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels;

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

SECTION 1

THAT the property owner of the designated historic landmark located at 455 South

Academy Avenue, also being City Block 1015, Lot 19R, known as the Schaeffer-Brewer House, be granted the five year extension of tax relief as outlined in Section 66-57.1, Incentives, Historic Landmark Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

SECTION 2

THAT should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.

SECTION 3

THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

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

PASSED AND APPROVED: First reading this the 11th day of March 2019.

PASSED AND APPROVED: Second reading this the 25th day of March 2019.

CITY OF NEW BRAUNFELS

BY: _____
Barron Casteel, Mayor

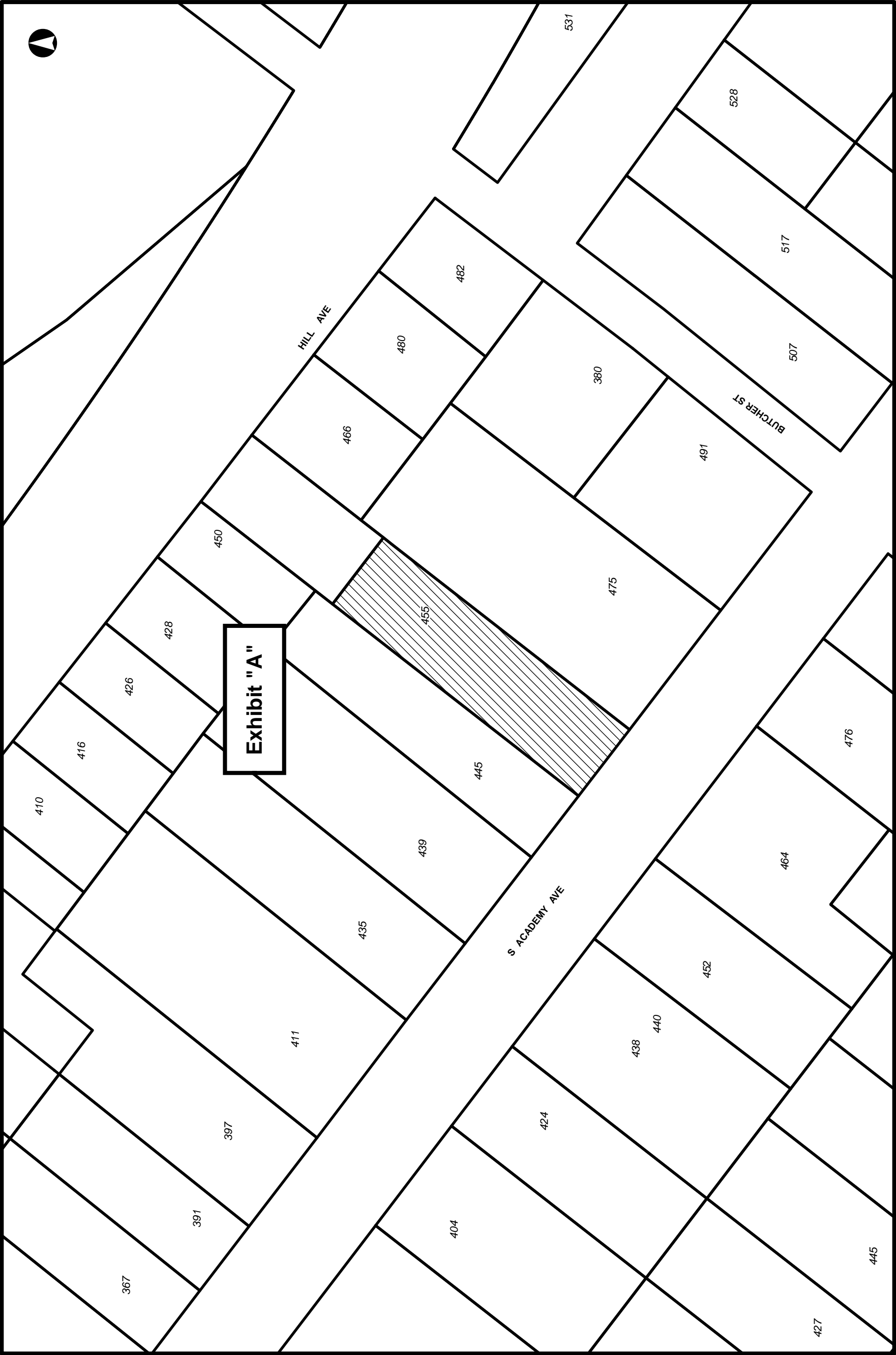
ATTEST:

Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

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City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. F)

Presenter

Amy McWhorter, Historic Preservation Officer
amcwhorter@nbtexas.org

SUBJECT:

Discuss and consider approval of the first reading of an ordinance granting the extension of rehabilitation tax relief for a second five-year period to the property addressed as 586 W. Mill Street, a Local Historic Landmark known as the Froehlich-Stein House.

BACKGROUND / RATIONALE:

Case No.: HLC-19-006

Council District: 1

Owner/Applicant: Tom and Steffanie Jones
586 W. Mill Street
New Braunfels, TX 78130
(210) 454-1665 (210) 792-2149
sjones@satx.rr.com terrier@satx.rr.com

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

On April 14, 2014 the City Council approved rehabilitation tax relief for a five-year period beginning with the 2014 tax assessment of the subject property. The owners had completed substantial rehabilitation and improvements to the property as required in Chapter 66 of the City's Code of Ordinances to qualify for such relief. This tax relief makes the property eligible to apply for a freeze in the appraised value of the property, used for calculating the City's ad valorem tax. This freeze holds the taxable value of the property to pre-improvement levels and is only applicable to the City's taxes as no other taxing entities participate in this program.

Per the adopted ordinance, the applicant may request an extension of this relief for an additional five years (through 2024). The City Code specifies that the maximum amount of time any single property may be eligible for tax relief is 10 years, or two five-year periods. However; those two periods do not have to be contiguous.

Determination Factors:

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

- Whether the subject property has been designated as a local historic landmark: *This property is a designated local historic landmark.*

- Whether the improvement(s), renovation(s) or restoration(s) to the structure total at least ten percent of the property value reflected on the appraisal district tax rolls: *The original renovation exceeded the 10 percent requirement.*

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

City Plan/Council Priority: Envision New Braunfels Comprehensive Plan	Action 2.25 Increase resources for historic preservation. Action 8.8 Collaborate with property owners to preserve historic structures.
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FISCAL IMPACT:

Approval would extend the appraised value “freeze” for City ad valorem tax collection for an additional five years. Therefore, exact value of the fiscal impact is contingent upon future, undetermined appraised values.

COMMITTEE RECOMMENDATION:

The Historic Landmark Commission held a public hearing on February 12, 2019 and recommended approval of the request (7-0-0, Commissioners Totmann and Hoffmann absent).

STAFF RECOMMENDATION:

Staff recommends approval as the property meets all requirements for relief as specified in the City's Code of Ordinances, Article III, Section 66-57.1. Additionally, the owners have maintained the subject property in good repair and in accordance with the rules set forth in Chapter 66 of the City's Code of Ordinances regarding alterations to landmarked properties. This tax relief tool continues to provide an incentive for property owners to rehabilitate, designate and protect historic structures which maintains the heritage of our community.

Attachments:

1. Location Map
2. Photos
3. Ordinance 2014-26
4. Excerpt from the February 12, 2019 Historic Landmark Commission minutes
5. Ordinance



HLC-19-006
Extension of Rehabilitation Tax Relief
586 W. Mill Street



586 W. Mill, after rehabilitation



586 W. Mill Street, after rehabilitation

SECTION 2

THAT should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.

SECTION 3

THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

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

PASSED AND APPROVED: First reading this the 24th day of March, 2014.

PASSED AND APPROVED: Second reading this the 14th day of April 2014.

CITY OF NEW BRAUNFELS

BY: *Gale Pospisil*
Gale Pospisil, Mayor

ATTEST:

Patrick Aten
Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo
Valeria M. Acevedo, City Attorney



Excerpt from the draft minutes of the February 12, 2019 Historic Landmark Commission Regular Meeting Minutes

Discuss and consider case HLC-19-006, a request for the extension of Rehabilitation Tax Relief for the property currently addressed as 586 W. Mill Street, also known as the Froehlich-Stein House, a local Historic Landmark, for a second five-year period.

Mrs. McWhorter presented the Staff report and recommended approval.

The Commission invited the applicant to speak.

Tom Jones, 586 W. Mill Street, stated he and Steffanie Jones, 586 W. Mill Street were the applicants. They provided a brief history of the rehabilitation project and described the use of the project since its rehabilitation.

Chair Davis thanked the applicant for his work to preserve the structure.

Motion by Commissioner Sonier, seconded by Commissioner Poss, to approve a request for the extension of Rehabilitation Tax Relief for the property currently addressed as 586 W. Mill Street, also known as the Froehlich-Stein House, a local Historic Landmark, for a second five-year period. (Motion carried 7-0-0).

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, GRANTING AN EXTENSION OF TAX RELIEF FOR A SECOND FIVE YEAR PERIOD TO THE OWNER OF THE DESIGNATED HISTORIC LANDMARK LOCATED AT 586 W. MILL STREET, ALSO BEING CITY BLOCK 3019, LOT B, KNOWN AS THE FROEHLICH-STEIN HOUSE, FOR A PERIOD OF FIVE YEARS; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the State of Texas has enacted legislation empowering municipalities to preserve and protect historic places, structures, buildings, and areas of historical and cultural importance and significance and

WHEREAS, the City Council is aware of the numerous places, structures, buildings and areas having historical and cultural importance and significance which reflect the heritage of the City, State and its people, and is committed to promote and protect the heritage of New Braunfels for the future and

WHEREAS, the City Council, on September 14, 1998, adopted an ordinance to provide a tax relief/incentive for the stabilization, rehabilitation and renovation of properties and/or structures designated as historic landmarks, by the City of New Braunfels and

WHEREAS, the City Council, on April 14, 2014 adopted an ordinance granting rehabilitation tax relief to the subject property for an initial five-year period and

WHEREAS, the property owner has met all the requirements set forth in the ordinance adopted September 14, 1998, and the application has been approved by the Historic Landmark Commission of the City of New Braunfels;

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

SECTION 1

THAT the property owner of the designated historic landmark located at 586 W. Mill

Street also being City Block 3019, Lot B, known as the Froehlich-Stein House, be granted the five year extension of tax relief as outlined in Section 66-57.1, Incentives, Historic Landmark Preservation, of the New Braunfels Code of Ordinances, City of New Braunfels, Texas.

SECTION 2

THAT should any paragraph, sentence, clause, phrase or word of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of this ordinance, and any portions in conflict are hereby repealed.

SECTION 3

THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

SECTION 4

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

PASSED AND APPROVED: First reading this the 11th day of March 2019.

PASSED AND APPROVED: Second reading this the 25th day of March 2019.

CITY OF NEW BRAUNFELS

BY: _____
Barron Casteel, Mayor

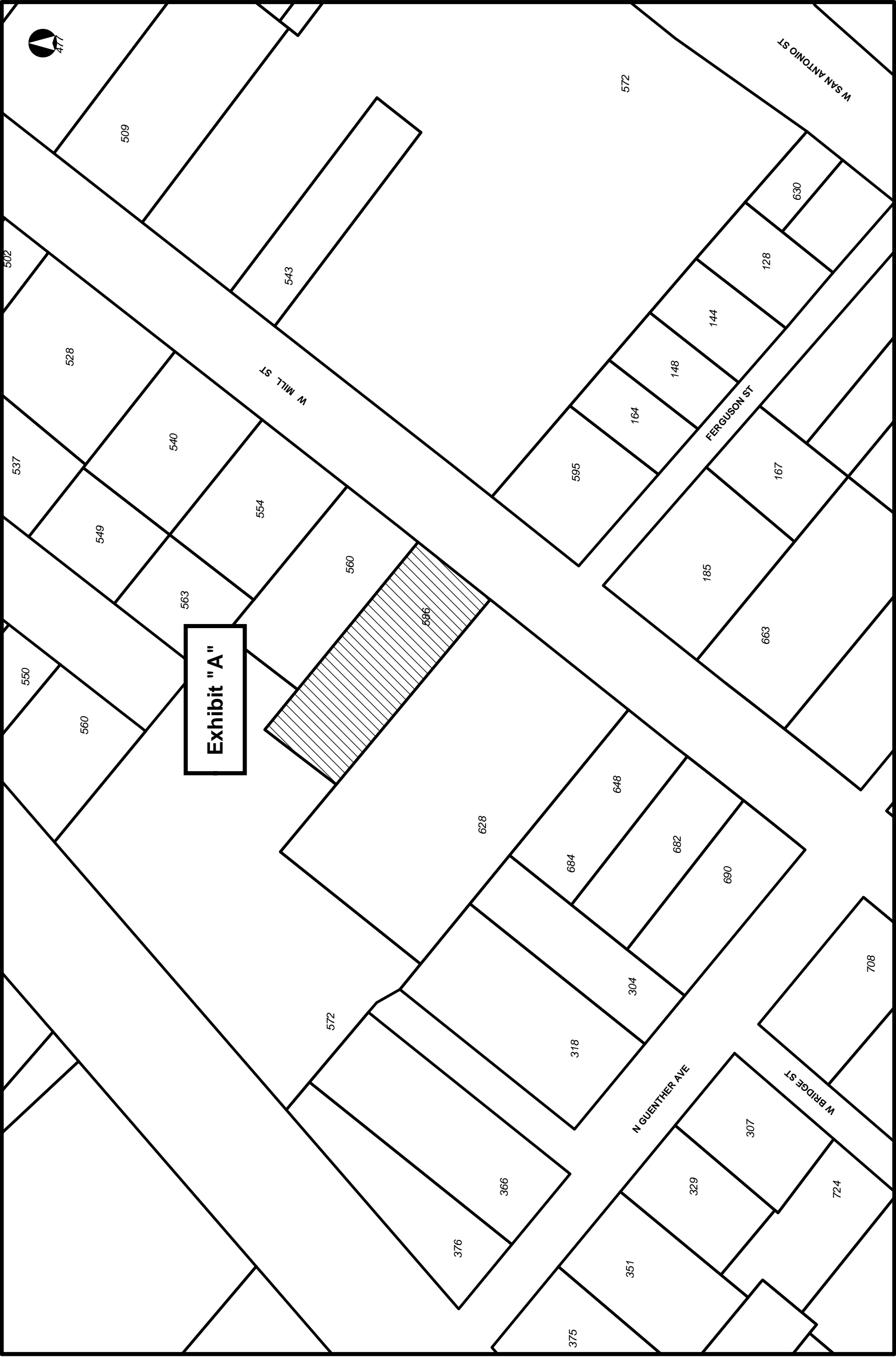
ATTEST:

Patrick Aten, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

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HLC-19-006
586 W. Mill Street
Extension of Rehabilitation Tax Relief





City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. G)

Presenter

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

SUBJECT:

Discuss and consider a request for a conditional sign permit to allow a pole sign that would be taller and with a larger sign cabinet than allowed by ordinance, for TexStar Bank, presently addressed at 954 Loop 337.

BACKGROUND / RATIONALE:

Case No.: CS-18-033

Council District: 4

Applicant: Denise Childers, Comet Signs
235 W. Turbo Drive
San Antonio, TX 78216
(210) 812-2238
denise.childers@cometsigns.com

Owner: TexStar Bank
600 Pat Booker Road
Universal City, Texas 78148

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

The subject property is 0.72 of an acre at the northeast corner of Loop 337 and Common Street, and is zoned C-1 (Local Business District). A TexStar Bank branch is currently under construction on the site.

New Braunfels' Sign Ordinance allows sign types and sizes based on zoning and specific street frontage:

- The C-1 zoning district allows **either**:
 - One monument sign up to 8 feet in height and 32 square feet in area (including monument structure), with a 10-foot minimum setback; **or**
 - One low-profile pole sign up to 6 feet in height and 20 square feet in area, with a 10-foot minimum setback.
- With 100 feet of Loop 337 frontage, the property is also allowed:

- An additional monument sign up to 10 feet in height and 60 square feet in area (including the monument structure), with a 5-foot minimum setback.
- **Alternatively**, properties on Loop 337 may have a 28-foot tall, 200 square-foot sign containing an electronic message face (digital sign) up to 100 square feet in area; **however, no other free-standing signs are allowed on a property if it has an electronic message sign.**

The conditional sign permit process is intended to:

1. allow an applicant flexibility in creating alternative signage designs to complement a development's unique characteristics;
2. increased sign area and/or height in lieu of multiple signs they would otherwise be allowed; and/or
3. allow additional signage due to unusual constraints associated with the property.

Through this process, City Council can consider such requests within the context of a specific location.

The applicant is requesting approval of a pole sign for the bank that would:

- be 32 feet tall, exceeding the maximum pole sign height limitation by 26 feet; **and**
- have a 12-foot by 24-foot (288 square feet) sign face, exceeding maximum sign area for a pole sign by 268 square feet.

The applicant has already erected a pole; they applied for and received a permit for installation of the base due to sequencing and installation of their underground water filtration system and parking lot. The pole and base are all one piece. The applicant has assured the City they will lower the height of the pole if necessary to the height authorized by City Council. An off-premise sign (billboard) appears to have previously been on the subject site (see attached aerial photo), but appears to have recently been moved to the property next door.

The proposed sign would be internally illuminated with a dark background. Opaque backgrounds result in less light pollution, with only the lettering emitting bright light; as opposed to signs with dark letters on white fields/backgrounds.

There is approximately 100 feet of right-of-way between the property line and Loop 337. The applicant states traffic at this intersection is such that visibility of a conforming low-profile pole sign (six feet in height) would be minimal or non-existent. If approved, the applicant is agreeable to making this the only free-standing sign on the property (with the exception of small parking lot directional signs/drive-thru signage).

Nearby Sign Heights

Below is a table of nearby taller signs and their approximate height. Most of these signs were erected before New Braunfels had rules or permitting requirements for signs. Therefore, staff conducted field measurements to obtain the approximate height calculations.

Sign Location	Sign Type	Approx. Height
Black's Barbeque (former Rudy's)	Pole	40 feet
Gennaro's (former Johnny Carino's)	Pole	40 feet
Common Market	Multi-tenant	34 feet
Los Cucos	Pole	40 feet

Buffalo Wings & Rings	Pole	28 feet
El Nopalito	Pole	14 feet
Cooper's	Pole	38 feet
Harley-Davidson	Pole	40 feet
D & D	Electronic Message	28 feet
Cube Smart Storage Facility	Pole	24 feet
Crisis Pregnancy Center of NB	Monument	10 feet

***City Council Approved Conditional Sign Permit - 2014**

Square Footage

As noted above, many of these signs were constructed before standards were adopted or permits were required. Therefore, square footage for many of these signs is not known. However, below are a few visible, known signs for comparison purposes:

- D&D Outfitters' sign includes two components (a sign cabinet at 85 square feet, plus an LED digital display at 77 square feet) equating to 162 square feet
- Amish Oak/The Jumpy Place is 100 square feet
- Rudy's new sign is 136.5 square feet
- Black's BBQ's new sign cabinet is smaller than Rudy's old one was. It calculates to 84 square feet.

Surrounding Zoning and Land Use:

North - C-1/ Church

South - Across Common Street, C-1B/ Commercial (restaurants)

East - R-1/ Church parking lot

West - Across Loop 337, C-1/ Commercial (convenience store with gasoline sales)

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

City Plan/Council Priority: Envision New Braunfels Comprehensive Plan	Action 7.8: Enhance pedestrian quality of the City by limiting the realm of the automobile.
--	--

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

While the Loop 337 right-of-way is unusually wide at this location, there do not appear to be significant topographic features or hardships associated with the subject property. And, while there are tall signs nearby, many if not all were erected prior to the City having rules for signs.

The subject property is zoned C-1, a neighborhood business zoning district. Lesser neighborhood impact is achieved in C-1 through shorter/smaller signs, as well as lower use intensities, maintaining the human scale of the built environment. The next more intense commercial district, C-1B, allows

pole signs to be slightly taller at 10 feet but still at a maximum of 20 square feet. The subject location, on Loop 337, does afford the site some additional signage options though, including an additional monument sign, or a digital sign in lieu of all other signs.

Staff recommends denial as requested. The proposed height and square footage appears better suited for signs along expressways where motorists need to see the business from greater distances. Signs at intersections of major roadways can be shorter so as to be in the field of vision of motorists at a stop light or travelling at slower speeds.

Staff recognizes some height would be necessary at busy intersections so motorists can see the bank's location, over the tops of other automobiles, ahead of the bank's entrance. And, staff does note the applicant would accept the proposed sign in lieu of the 200 square foot electronic message center sign, and the 60 square foot monument that are otherwise allowed at this location. Therefore, should City Council be inclined to approve the applicant's request, staff recommends some alternatives and conditions for consideration:

1. A shorter height, perhaps consistent with one of the nearby signs (El Nopalito or Buffalo Wings & Rings).
2. Smaller square footage, perhaps consistent with Rudy's BBQ or D&D Texas Outfitters.
3. That no other freestanding signs, other than parking lot directional signs, be permitted on the property; and
4. That the sign be designed with an opaque, dark background, as proposed.

ATTACHMENTS:

1. Aerial Map
2. Application
3. Proposed Sign Details
4. Site Plan
5. Photographs



CS-18-033
Conditional Sign Permit
TexStar Bank





APPLICATION FOR CONDITIONAL SIGN PERMIT

Planning and Community Development
550 Landa Street, New Braunfels, TX 78130
Phone: (830) 221-4050
Case No. CS-18-033

PLANNING

1. Applicant - If business owner or coordinator of special event, so state. If agent or other relationship, a letter of authorization must be furnished from owner when application is submitted.

Name: Denise Childers

Mailing Address: 235 W Turbo Dr, San Antonio, TX 78216

Email Address: denise.childers@cometsigns.com

Telephone: 210-812-2238

Mobile: _____

2. Property Address/Location: 954 N Loop 337

3. Existing signs on property: None

4. Number of requested signs: Two

5. Dimension & height of sign(s): Wall sign - 4'-4" x 7'-6" illuminated single face sign.

Freestand sign - 32' OAH with illuminated double faced 12' x 24' cabinet.

6. Business or event to be advertised: TEXSTAR BANK

7. Reason for request (please explain in detail and attach additional pages if needed): Distance from property to Loop 337 is approximately 100'. Many other businesses on Loop 337 in this area have freestanding signs 20-40' OAH: Wells Fargo, Exxon, Fred's, Tractor Supply... Also the traffic during Summer vacations, Wurstfest, County Fair, Christmas at Schlitterbahn, etc. is such that the visibility of a 10' tall sign at the intersection of Loop 337 and Common Street would be minimal if non-existent.

8. ATTACHMENTS: (The following items must be submitted with the application)

☒

A \$772 fee. (\$750 application fee + \$22 technology fee (3%))

☒

A scaled site plan showing the proposed location of the sign(s) on the property.

☒

A map showing the distance from sign(s) to business or event if signs are off-premise.

☒

A sketch showing the contents, dimensions and construction materials of the sign(s).

☒

Photographs of the property where the sign(s) will be located.

☒

Agent letter (if applicable).

The undersigned hereby requests a conditional sign permit for the location(s) described above.

Denise A. Childers
Signature of Owner(s)/Agent

11-13-18
Date

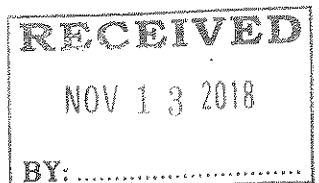
For Office Use Only

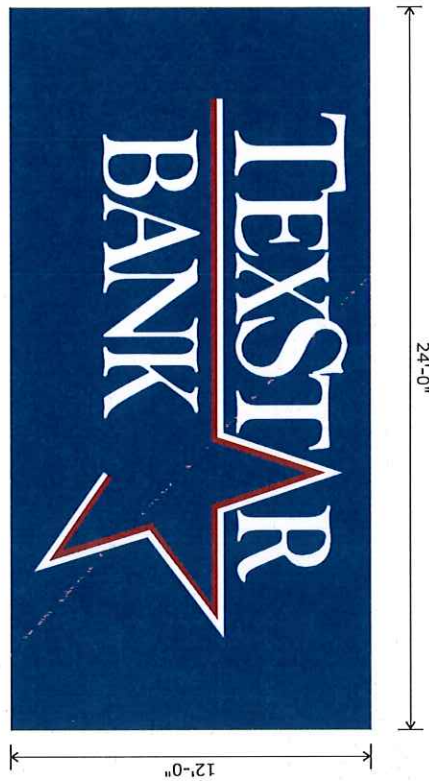
Fee Received By: MO Amount: \$772.00 Receipt No.: 3230201

Date Received: 11/13/18 Cash/Check Number: 3101

Council Meeting Date: January 14th, 2019

\\chfs-1\departments\planning\applications\conditional sign permit.docx





24'-0"

12'-0"

PYLON

B/R7
QTY: ONE (1)

Sq. Ft. 288

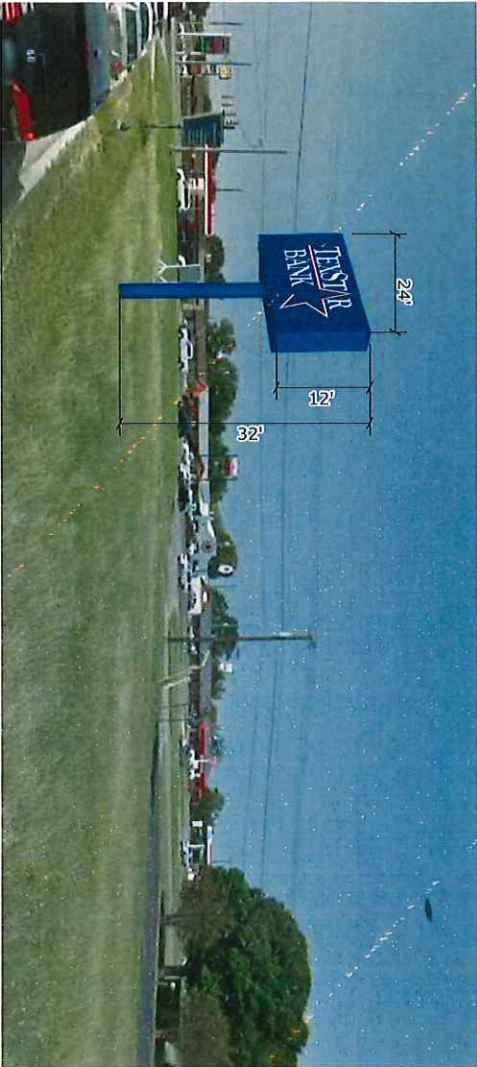
Scale: 1/4"=1'-0"

SCOPE OF WORK:
Manufacture & install one (1) 32' OAH D/F, Internally-Illuminated Flex-Face Cabinet.

- Install new Illuminated D/F cabinet, with flex faces.
- Digitally printed graphic on flex face.
- Retainers, returns, & filler PTM PMS 288C Blue.
- New pole PTM PMS 288C Blue.
- Electrical to be supplied by others.

COLORS:

- 3M 3630-157, PMS 288C
- 3M 3630-53, PMS 1807C
- White



© 2017 Comet Signs

Job Name:



New Braunfels, TX
☒ Proposal Drawing
☐ Final Drawing

Client: Textstar Bank

Location: New Braunfels, TX

Salesperson: Pete Sitterle

Prl. Mgr.: Denise Childers

Date: 4/25/18

Designer: Morgan P.

File Name: 18-3536 Textstar

R11

Protocol #: 39844

Job #: 18-3536

Revisions

Note:
 R1: 18-3536-1807C Sign A & C - Blue R.G.
 R2: 18-3536-1807C Sign C & Site Plan add
 R3: 18-3536-1807C Sign C increased
 R4: 18-3536-1807C Sign B changed
 R5: 18-3536-1807C Sign B increased
 R6: 18-3536-1807C Sign B increased
 R7: 18-3536-1807C Sign B increased
 R8: 18-3536-1807C Sign B increased
 R9: 18-3536-1807C Sign B increased
 R10: 18-3536-1807C Sign B increased
 R11: 18-3536-1807C Sign B increased
 R12: 18-3536-1807C Sign B increased
 R13: 18-3536-1807C Sign B increased
 R14: 18-3536-1807C Sign B increased
 R15: 18-3536-1807C Sign B increased
 R16: 18-3536-1807C Sign B increased
 R17: 18-3536-1807C Sign B increased
 R18: 18-3536-1807C Sign B increased
 R19: 18-3536-1807C Sign B increased
 R20: 18-3536-1807C Sign B increased
 R21: 18-3536-1807C Sign B increased
 R22: 18-3536-1807C Sign B increased
 R23: 18-3536-1807C Sign B increased
 R24: 18-3536-1807C Sign B increased
 R25: 18-3536-1807C Sign B increased
 R26: 18-3536-1807C Sign B increased
 R27: 18-3536-1807C Sign B increased
 R28: 18-3536-1807C Sign B increased
 R29: 18-3536-1807C Sign B increased
 R30: 18-3536-1807C Sign B increased
 R31: 18-3536-1807C Sign B increased
 R32: 18-3536-1807C Sign B increased
 R33: 18-3536-1807C Sign B increased
 R34: 18-3536-1807C Sign B increased
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 R92: 18-3536-1807C Sign B increased
 R93: 18-3536-1807C Sign B increased
 R94: 18-3536-1807C Sign B increased
 R95: 18-3536-1807C Sign B increased
 R96: 18-3536-1807C Sign B increased
 R97: 18-3536-1807C Sign B increased
 R98: 18-3536-1807C Sign B increased
 R99: 18-3536-1807C Sign B increased
 R100: 18-3536-1807C Sign B increased



License #: 18010

Corporate Office

San Antonio, TX 78216

Ph: (210) 847-7244

Fax: (210) 847-7244

Houston Branch

Houston, TX 77064

Ph: (281) 588-5581

Austin Branch

Austin, TX 78705

Ph: (512) 872-8800



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 SIGNS, LLC.

Job Name:



New Braunfels, TX

☒ Proposal Drawing
☐ Final Drawing

Client: Texstar Bank
 Location: New Braunfels, TX
 Salesperson: Pete Sitterle
 Pri. Mgr.: Denise Childers
 Date: 4/25/18
 Designer: Morgan P.
 File Name: 18-3536 Texstar
 R11
 Proposal #: 39844
 Job #: 18-3536

Revisions

Notes:
 R1/10.16.18/70: Sign A & C - Blue B.G.
 R2/5-31-18/10: Sign C & Site Plan add
 R3/5-31-18/10: Sign C increased
 R4/6-11-18/10: Sign C increased
 R5/11-2-18/AS: Chg Men to pylon sign B
 R6/11.6.18/AS: Chg pylon sign B face to
 white
 R7/12-18-18/18: Added new sign set
 back.
 R11/1-2-20-18/18: added new sign set
 back.
 R11/1-2-20-18/18: added footing



License #: 18010

Corporate Office

225 West Turbo
 Suite 100
 New Braunfels, TX 78130
 PH: (281) 341-7854

Dallas / Ft. Worth Branch

2703 W. Mecklenburg Ln. #100
 Dallas, TX 75235
 PH: (972) 570-1864

Houston Branch

2808 G. G. Road
 Houston, TX 77084
 PH: (281) 492-6551

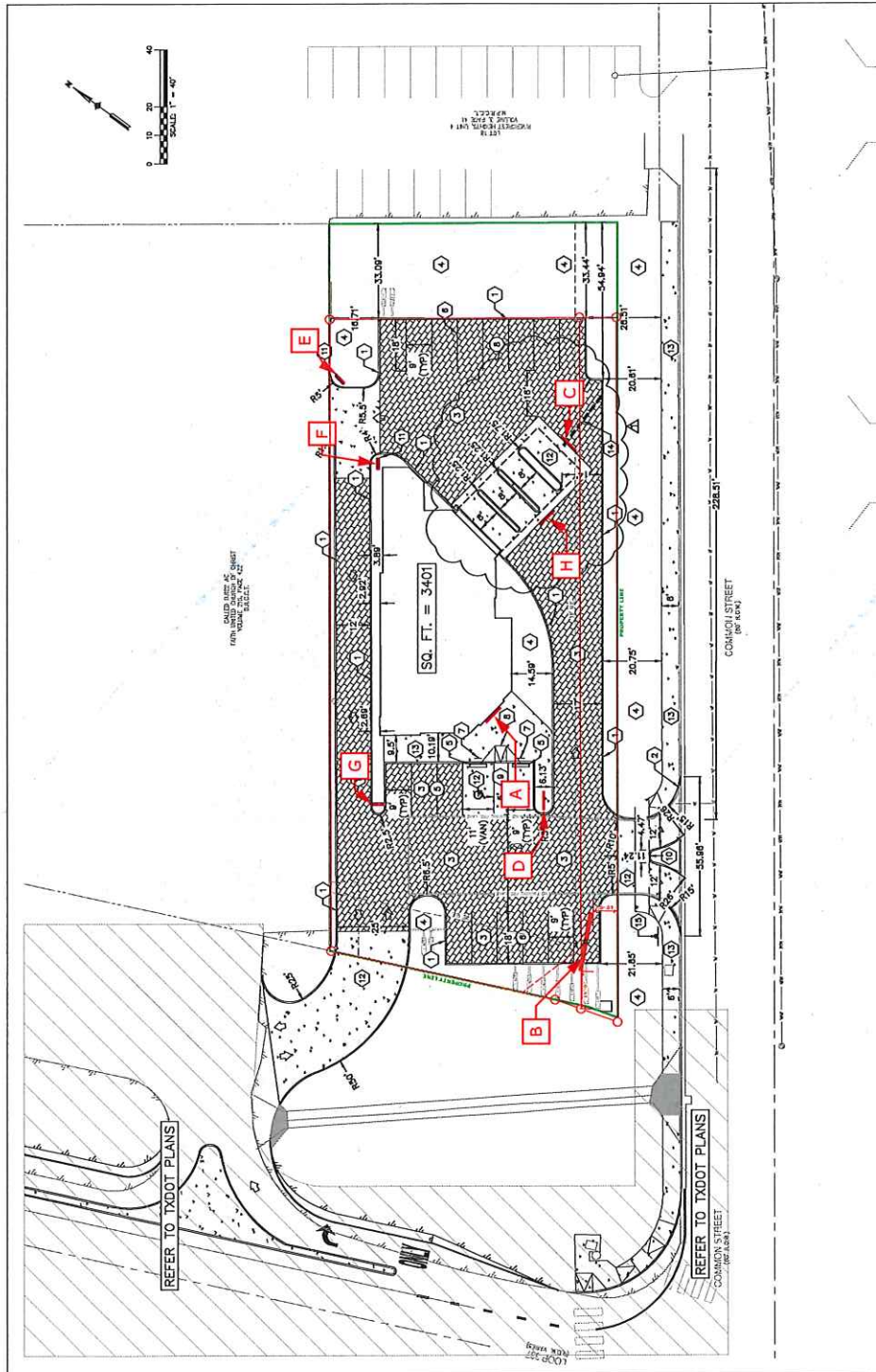
Austin Branch

2450 S. Lamar
 Austin, TX 78746
 PH: (512) 872-2800



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Page 1 of 10



Site Plan

SITE

Scale: 1"=40'





TexStar Bank currently under construction



Existing pole signs across Common Street from subject property



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. H)

Presenter

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

SUBJECT:

Discuss and consider a request for a conditional sign permit for a subdivision entry sign for the Heather Glen Subdivision addressed at 445 Nissan Way.

BACKGROUND / RATIONALE:

Case No.: CS-19-001

Council District: 5

Applicant/Owner: DR Horton (Chris Mastin)
210 W. Hutchinson St.
San Marcos, TX 78666
(512) 805-3619
(737) 221-1224
JCMastin@drhorton.com

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

New Braunfels' Sign Ordinance allows subdivision entry signs, but limits them to monument signage, or a sign affixed to a screening/decorative wall. They can be no larger than 40 square feet per sign face with a maximum height of six feet. Where a sign consists of individual letters, words or symbols the sign area is the area of the smallest geometrical shape that completely encompasses each letter, word or symbol. Signs must be constructed of masonry, stone, brick, wood, or other material compatible with surrounding development, and include a landscaped area twice the size of the sign face.

The conditional sign permit process is intended to:

1. allow an applicant flexibility in creating alternative signage designs to complement a development's unique characteristics;
2. increased sign area and/or height in lieu of multiple signs they would otherwise be allowed; and/or
3. allow additional signage due to unusual constraints associated with the property.

Through this process, City Council can consider such requests within the context of a specific location.

A new single family residential subdivision is being developed with two points of access: Nissan Way via the IH 35 access road, and Kowald Lane at Post Road. The applicant is proposing a multifaceted subdivision entry gateway to identify their name for the neighborhood "Heather Glen". This entry feature is proposed to be located at the subdivision's Nissan Way entrance.

The entry sign is proposed to consist of several freestanding features (see Attachment 3). These structures will be reviewed through the building permit process for compliance with height and setback requirements.

The sign face with the neighborhood name is proposed to be mounted onto two masonry columns with separation between the bottom of the sign and a low wall/the ground. This configuration is considered a "pole sign" type of design, which technically is not allowed as a subdivision entry sign. (The columns will also function as flag bases and will be located behind the low wall). As only monument type signs are allowed for subdivision entry signs, the applicant is requesting this Conditional Sign Permit.

The gateway feature, landscaping and signage will be owned and maintained by the subdivision's homeowners' association. The intent in the design is to identify the community and to complement the design of the amenity center.

Surrounding Zoning and Land Use:

North - Across Nissan Way, M-1A / Undeveloped
 South - "Heather Glen" PD / Single Family Residences
 East - Across Heather Glen Drive, "Heather Glen" PD / Single Family Residences
 West - "Heather Glen" PD / Site for the Subdivision's Amenity Center

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

City Plan/Council Priority: Envision New Braunfels Comprehensive Plan	Strategy 2: Activate Neighborhoods
--	---

FISCAL IMPACT:

N/A

COMMITTEE RECOMMENDATION:

N/A

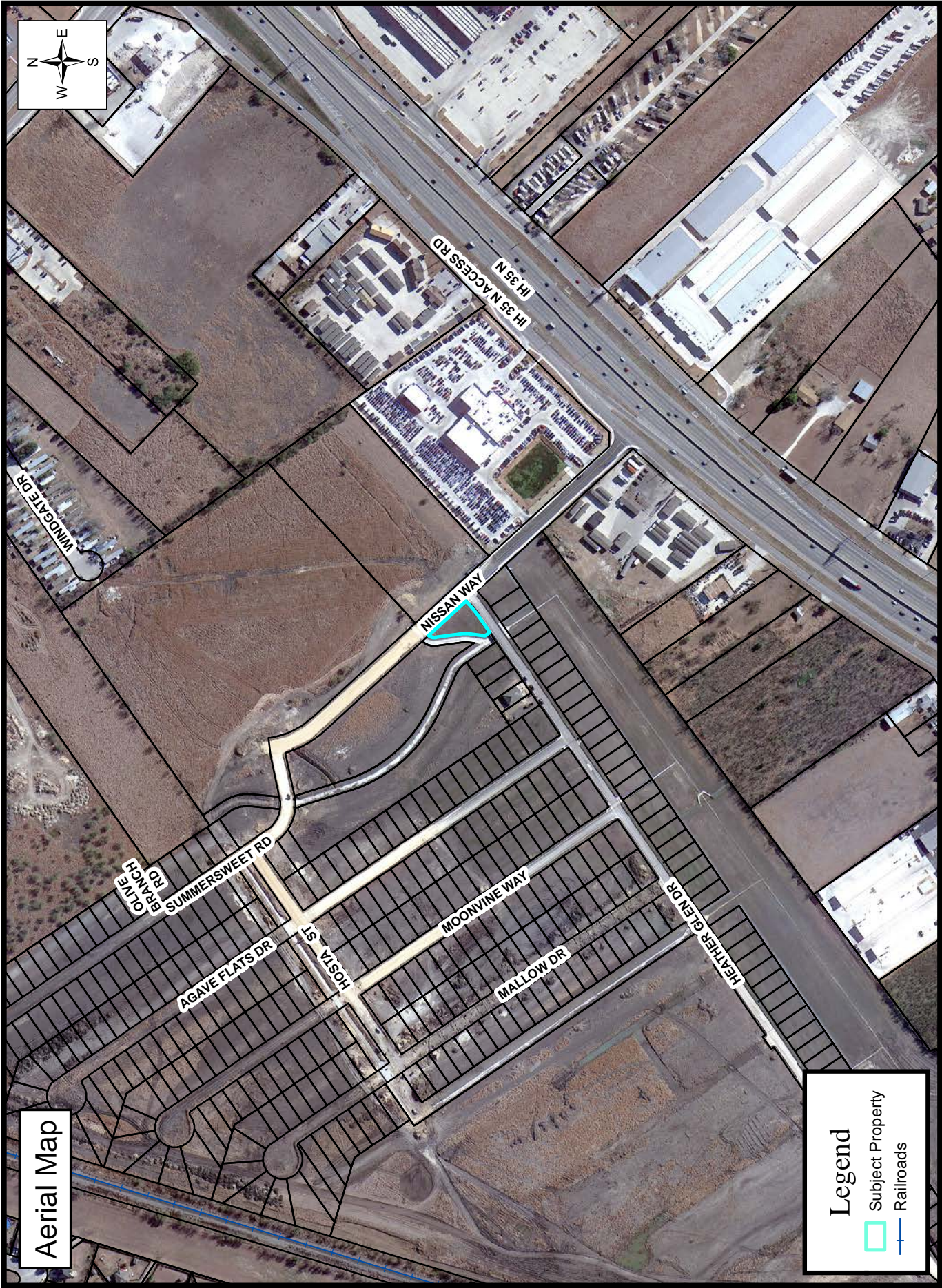
STAFF RECOMMENDATION:

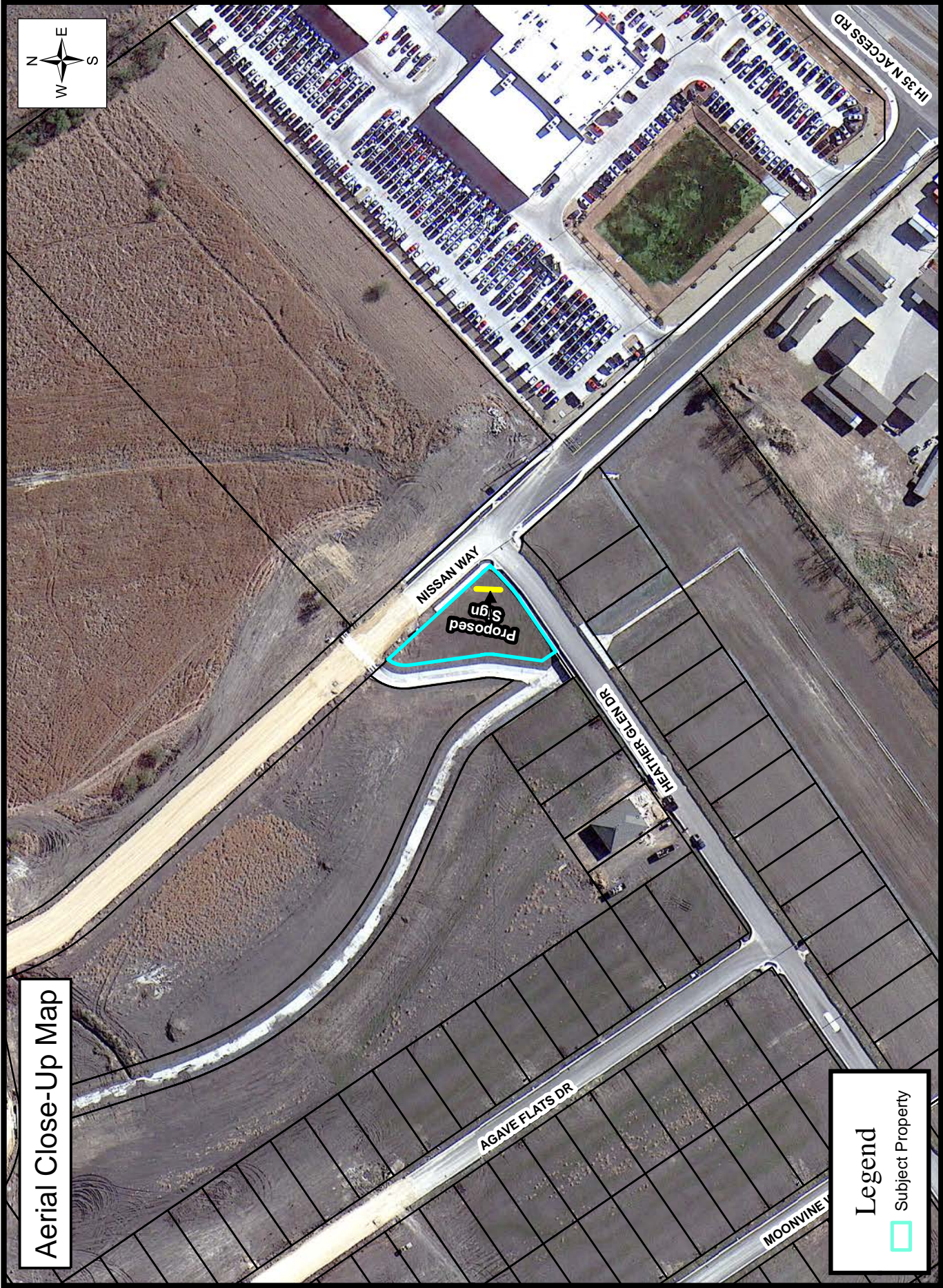
There does not appear to be a unique characteristic or constraint of the property that would necessitate a deviation from the Sign Ordinance. However, the overall design with the identified placement of the sign face gives the illusion that the sign is a monument type of sign, achieving the intent of the code; therefore, Staff recommends approval.

Attachments:

1. Aerial Map
2. Proposed Site Plan
3. Proposed Sign Elevation Plan


-
4. Photographs of Site
 5. Section 106-14.2h from the Sign Ordinance



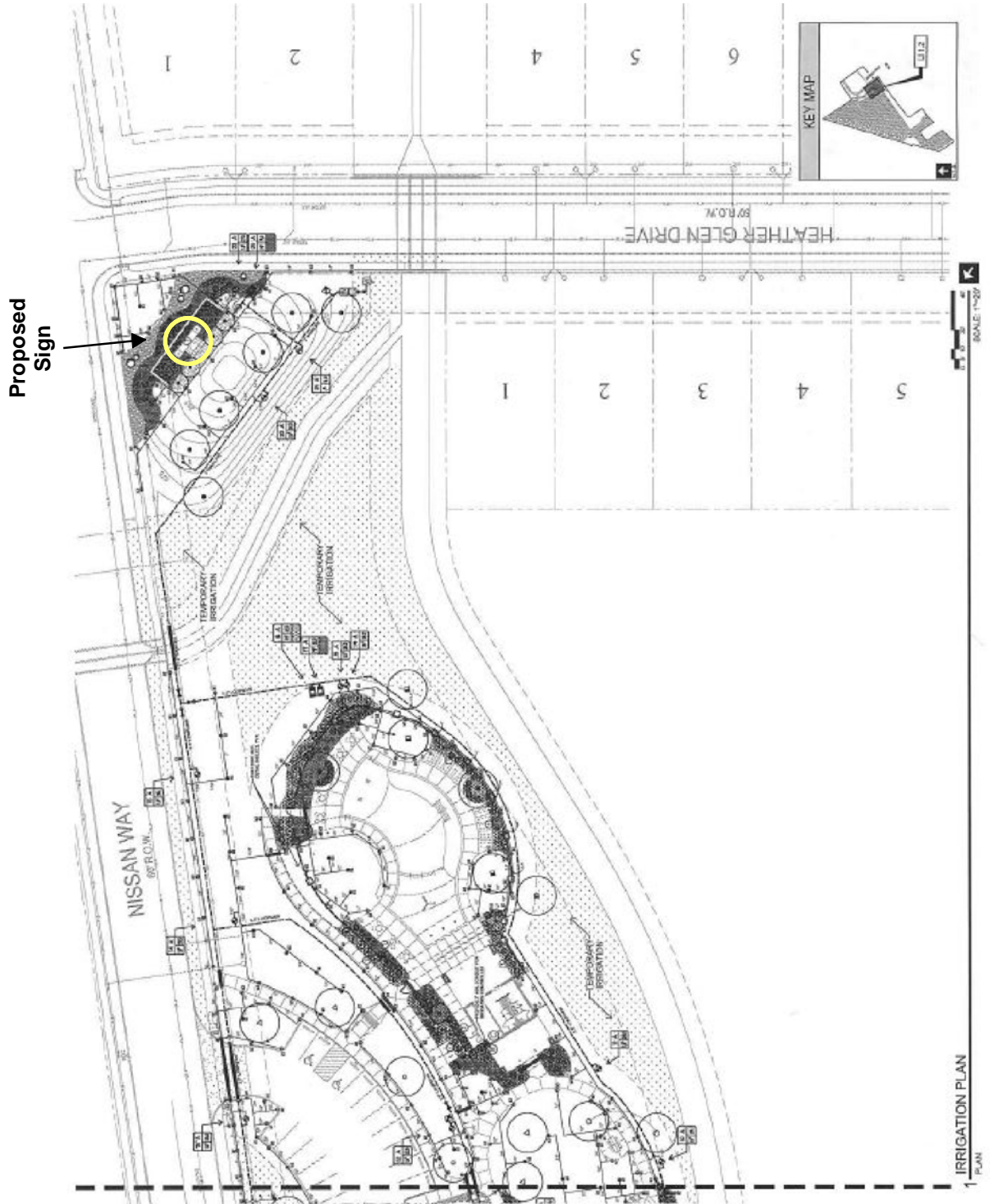


Aerial Close-Up Map

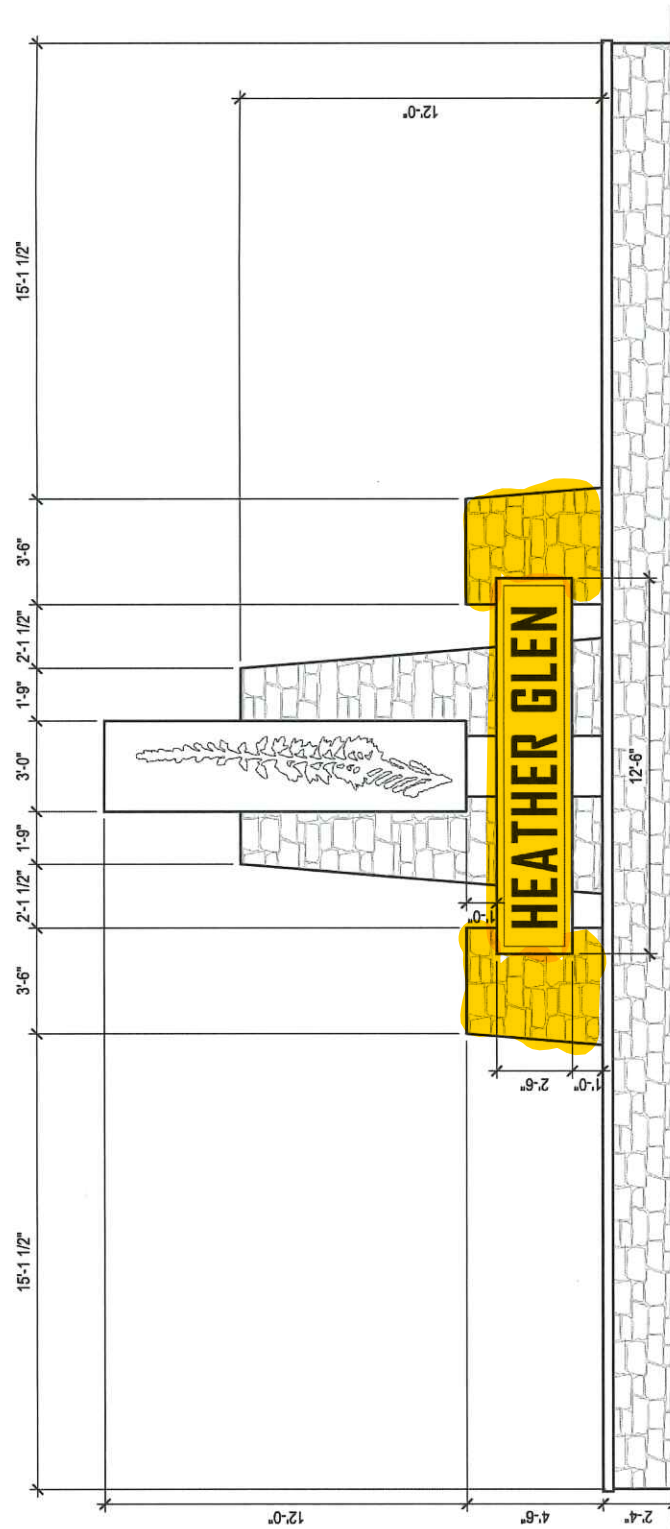
Legend

 Subject Property

Site Plan

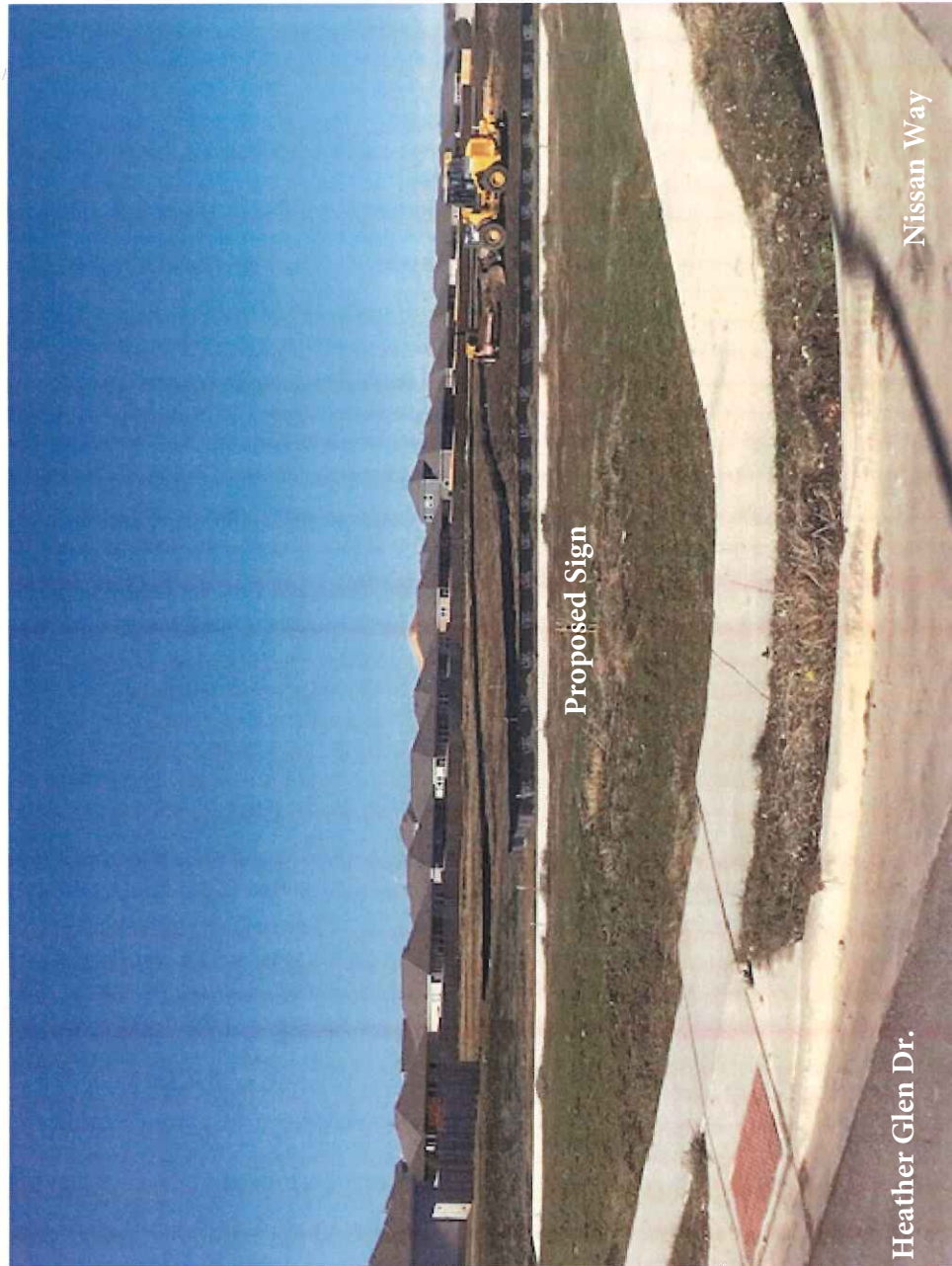


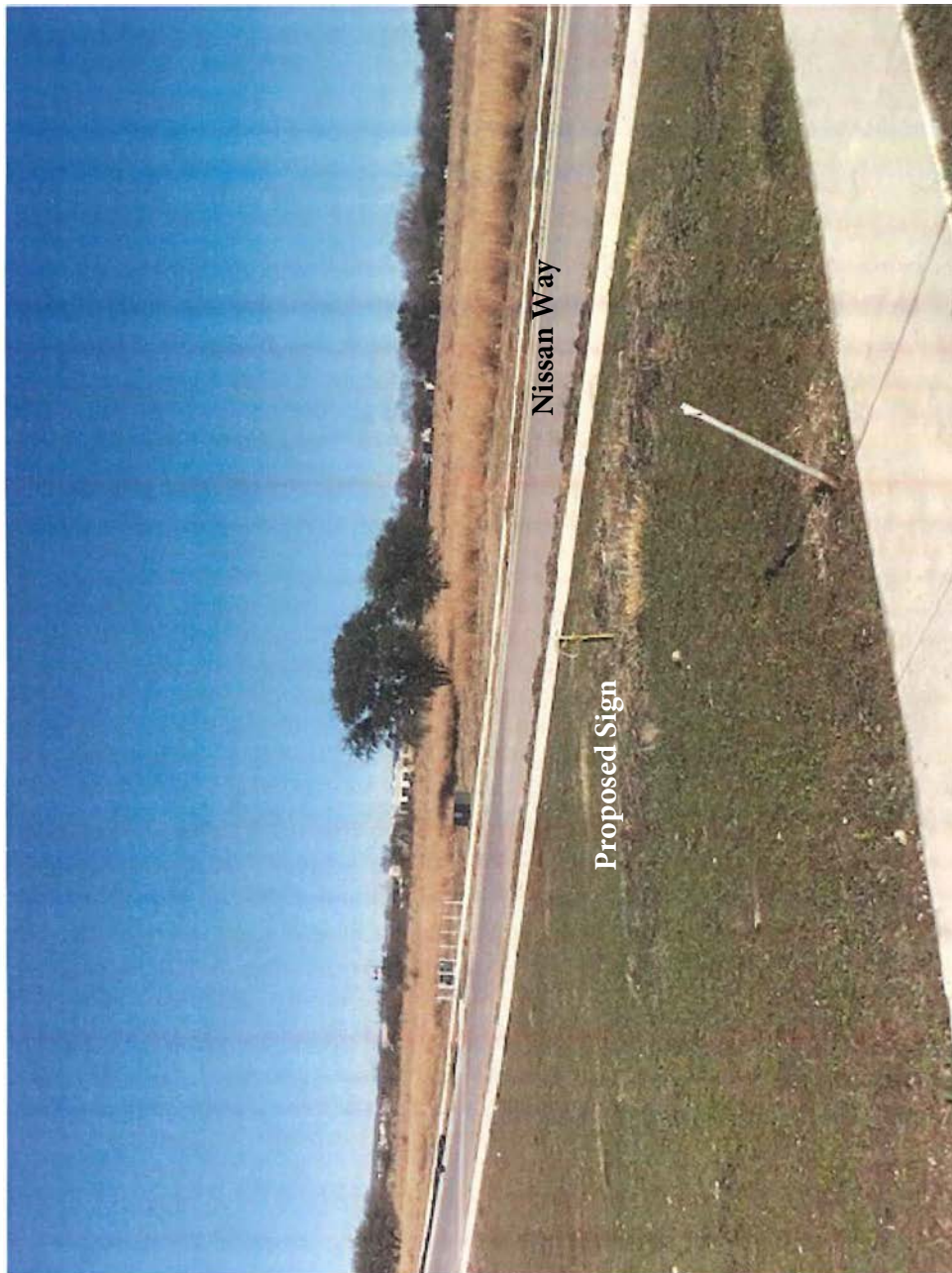
CS-19-001
Heather Glen Subdivision
Conditional Sign Permit



ALTERNATE SIGN CONCEPT

FEBRUARY 15, 2017







Heather Glen Dr.

Proposed Sign

Section 106-14.2h.

h. *Subdivision Entry Signs.*

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

1. Subdivision entry signs must be a monument sign, or a sign on a screening or decorative wall, subject to the definition of this Code, and may contain a maximum of 40 square feet per sign face with a maximum height of six feet;
2. Subdivision entry signs must be constructed of masonry, stone, brick, wood or other material(s) compatible with surrounding development.
3. Subdivision entry signs must be setback a minimum of five feet from the property line outside of the required sight triangle and located outside of any drainage easement and not in public or private right-of-way.
4. Subdivision entry signs must provide a landscaped area equal to twice the area of the sign face, providing one, five-gallon shrub for every 10 square feet of landscaped area.
 - a) One of the following irrigation methods shall be used to ensure the survival of the required plant material in the landscaped areas.
 - i. Conventional system: An automatic or underground irrigation system that may be a conventional spray or bubbler type heads.
 - ii. Drip or leaky-pipe system: An automatic or underground irrigation system in conjunction with a water- saving system such as a drip or a leaky-pipe system.
 - iii. Temporary and above-ground watering: Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above ground system, and shall be required to provide irrigation for the first three growing seasons.
 - iv. No irrigation shall be required for undisturbed natural areas or undisturbed trees.
 - b) The owners of the landscaped property shall be responsible for the maintenance of the landscaped area.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

Agenda Item No. I)

Presenter/Contact

Amy Niles, River Operations Manager
(830) 221-4628 - aniles@nbtexas.org

SUBJECT:

Discuss and consider approval of walkway improvements around the City Tube Chute.

BACKGROUND / RATIONALE:

The walkways around the City Tube Chute have been a high accident area for many years. They are slick and are a safety concern for our visitors and staff. In the upcoming final reports on the Comal River Improvements Study by Freese and Nichols, and the Safety Study by Counsilman-Hunsaker, both consultants have identified these areas as safety issues for the City to address.

When Das Rec opened, the pool deck was slippery but was rectified by etching in the concrete by Diamond Safety Concepts. The solution has proven successful. Therefore, staff would like to pursue the same solution here. Staff proposed to the River Advisory Committee the sidewalk etching for the sidewalks and landings around the Tube Chute and down to Stinky Falls. The cost for this work is \$3.95 per square foot plus four travel days at \$500 per day. Staff provided the River Advisory Committee with two options to consider:

Option 1:

The sidewalk from the bottom of the stairs by the Tube Chute to Stinky Falls is approximately 2,500 square feet which would cost \$9,875 plus \$2,000 in travel. This is the highest priority area.

Option 2:

Includes all areas of Option 1, with the addition of all sidewalks and landings around the Tube Chute. This would be approximately 5,000 square feet with total cost of \$19,750 plus \$2,000 in travel. This option would make a path from the river exit before the Tube Chute, all the way to Stinky Falls where a patron would reenter.

Diamond Safety is not able to use their machinery on the stairways. Staff is exploring alternative options for the stairs.

If approved, work would be completed in late March and would take approximately 3-5 days.

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

--	--	--	--

FISCAL IMPACT:

This expense is within the City Manager's spending authority. However, because of the high-profile

nature of the work and the location, we wanted to bring to the City Council for consideration. If approved, the cost of the project would be billed to the River Activities Fund as an unbudgeted expenditure.

COMMITTEE RECOMMENDATION:

On February 21, the River Advisory Committee unanimously recommended Option 2.

STAFF RECOMMENDATION:

Staff recommends for 5,000 square-feet of walkways around the City Tube Chute to be improved by Diamond Safety Concepts.



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/11/2019

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

