

ORDINANCE NO. 2017-43

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING ORDINANCE NO. 2017-29, THE "HIGHLAND GROVE" PLANNED DEVELOPMENT DISTRICT CONCEPT PLAN, BY REMOVING 11.64 ACRES FROM "HIGHLAND GROVE" PLANNED DEVELOPMENT DISTRICT (HGPD) AND REZONE THE 11.64 ACRES AND 38.1 ACRES OUT OF THE WILLIAM H. PATE SURVEY, ABSTRACT NO. 259 AND R. XIMENEZ SURVEY, ABSTRACT NO. 347, GUADALUPE COUNTY, TEXAS, FROM "R-1A-6.6" SINGLE FAMILY DISTRICT TO "HIGHLAND GARDENS" PLANNED DEVELOPMENT DISTRICT (HGARDPD), ADOPTING A CONCEPT PLAN AND ASSOCIATED DEVELOPMENT STANDARDS; 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 "PD" 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 "Highland Grove" Planned Development District Concept Plan, by removing 11.64 acres from "Highland Grove" Planned Development District and rezone the 11.64 acres from "Highland Grove" Planned Development District and 38.1 acres out of the William H. Pate Survey, Abstract No. 259 and R. Ximenez Survey, Abstract No. 347, Guadalupe County, Texas, from "R-1A-6.6" Single Family District to "Highland Gardens" Planned Development District (HGARDPD), adopting a Concept Plan and associated Development Standards; now, therefore,

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

SECTION 1

THAT the "Highland Grove" Planned Development District Concept Plan adopted March 13, 2017, Ordinance Number 2017-29, is hereby amended by adopting the following described Concept Plan:

"Being approximately 211.10 acres as delineated on Exhibit 'A, being the Concept Plan".

SECTION 2

THAT Exhibit 'B' remain the effective "Highland Grove" Planned Development District Development Standards.

SECTION 3

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 tracts of land from "Highland Grove" Planned Development District and "R-1A-6.6" Single-Family District to "Highland Gardens" Planned Development District:

"Being approximately 11.64 acres out of the J. Thompson Survey, Abstract No. 608, Guadalupe County, Texas, approximately 21.46 acres out of the William H. Pate Survey, Abstract No. 259, and approximately 16.61 acres out of the R. Ximenez Survey, abstract No. 347, located on FM 1044, as delineated on Exhibit 'C,' being the "Highland Gardens" Planned Development District Concept Plan and adopting the Highland Gardens Development Standards as stated in Exhibit 'D'.

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

EFFECTIVE DATE AND PUBLICATION:

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

SECTION 8

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

PASSED AND APPROVED: First Reading this the 22nd day of May, 2017.

PASSED AND APPROVED: Second and Final Reading this the 26th day of June, 2017.

CITY OF NEW BRAUNFELS

BARRON CASTEEL, Mayor

ATTEST:

PATRICK ATEN, City Secretary

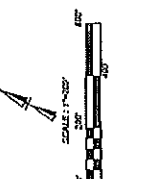
APPROVED AS TO FORM:

Valeria M. Acevedo
VALERIA M. ACEVEDO, City Attorney



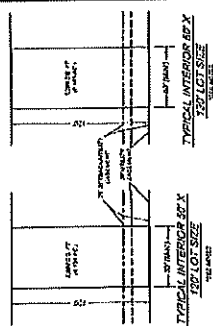
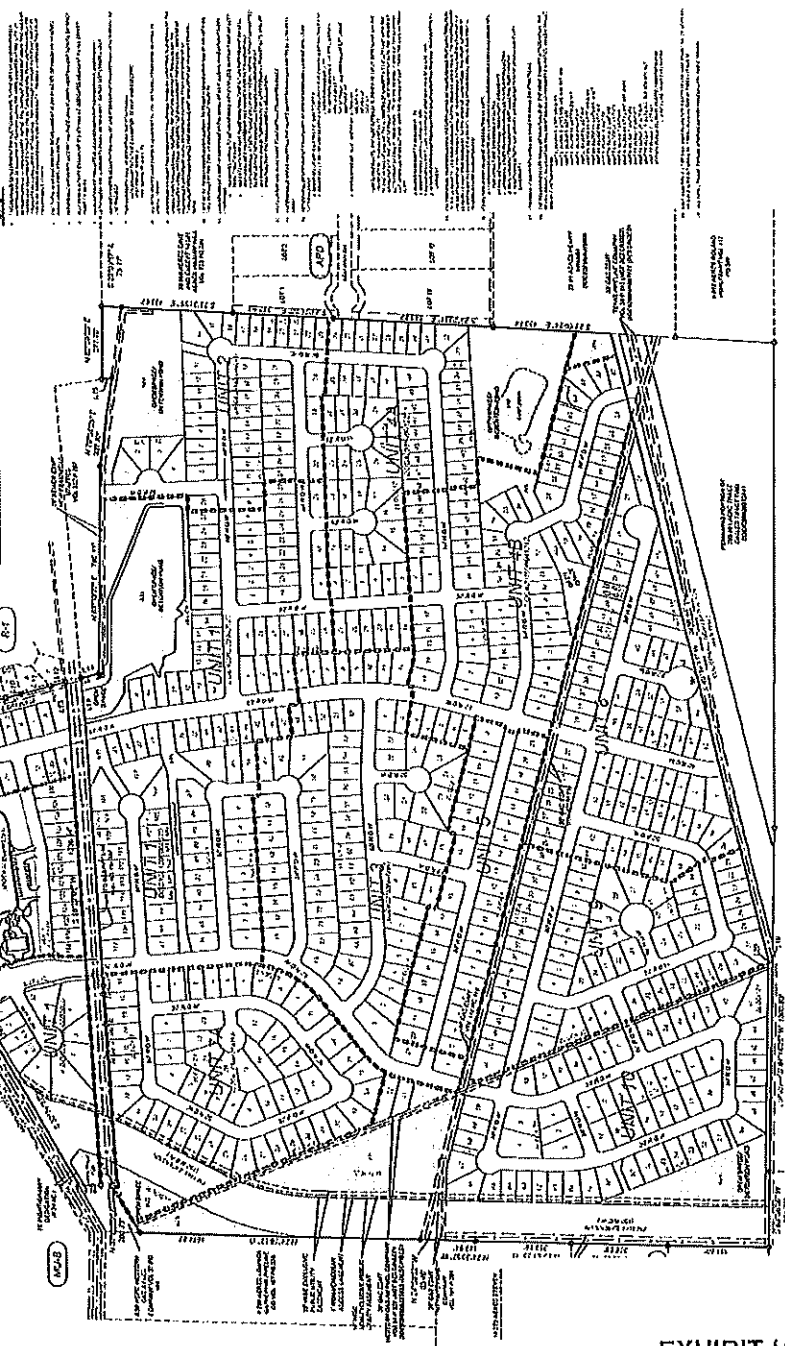
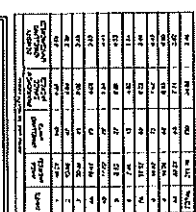
TYPICAL STREET SECTION - SC P.O.W.

TYPICAL STREET SECTION - SD' R.O.W.

[illegible][illegible]

LOCATION MAP
NOT-TO-SCALE

NOTES
 ACTIVITIES DURING MEETING DELAYED
 DUE TO A TECHNICAL PROBLEM ONLY
 AND ARE NOT BASED ON FIELD LOCATIONS

[illegible]

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the work.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources and timeline needed to complete them.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress regularly to ensure that the project is on track.

5. The final step is to evaluate the results of the project. This involves assessing the outcomes against the objectives and goals, identifying any lessons learned, and determining the next steps for future projects.

EXHIBIT 'A'

Highland Grove Planned Development District Development Standards

1. This planned development project conforms to the City of New Braunfels comprehensive development plan based on the maps located at the City of New Braunfels, Comal County, Texas. The current zoning map shows this area as Planned Development District and the Future Land Use Plan distinguishes the property as Low Density Residential. This project is proposed to be 3.45 lots per acre which is considered to be low density. The base zoning district for this project is R-1A.
2. The total acreage for this development is 228.685 acres of which 228.685 acres being single family residential.
3. Reference property lies within the Comal County Independent School District.
4. A 20' public utility easement (PUE) will be dedicated adjacent to all street right of ways.
5. No portion of this site is located with the 100-yr FEMA flood plain as designated on Community Panel 48091c0445 f, dated: September 2, 2009.
6. A Homeowner's Association will be created during engineering design phase of the project.
7. This property will be served by the following:
 - New Braunfels Utilities - water, sewer, and electric
 - AT&T phone service
 - Time Warner Cable TV

Design Regulations

8. All residences immediately adjacent to the Vista Hills Subdivision shall be single story.
9. A minimum six foot tall masonry wall/fence shall be constructed adjacent the single family residences abutting the future FM 1044 extension, or, the developer shall provide adequate set-back and/or other sound abatement measures for future noise mitigation per the Texas Department of Transportation Guidelines for Analysis and Abatement of Highway Traffic Noise.
10. Tree Note: Developer/Bullder agrees to plant a minimum of one (1) front yard tree per lot at the time of building construction.

11. Conditions of care of drainage areas shall be as follows and in addition to City ordinance:
 - a. All grass areas to be maintained at 12" or less in height and no less than twice a year.
 - b. All detention ponds to be maintained at 12" growth height or less and shall be evaluated by an engineer for silt build-up and performance at least once every five years with a report submitted to the City of New Braunfels engineering department.
 - c. All drainage and detention areas located on separate lots will be maintained by the Homeowner's Association.
12. No cluster mail boxes are to be installed on Vista Place.
13. The drainage areas abutting the homes on Vista Parkway are to be concrete lined.
14. Residential development standards as per New Braunfels Municipal Code Section 3.5-5(f):
 - a. Minimum lot area = 6,000 s.f. and 7,200 s.f.
 - b. Minimum lot width and depth = 50' (width) x 120' (depth) & 60' (width) x 120' (depth) - regular lots
35' (width) x average of 120' (depth) - irregular lots
*At setback, all irregular lots have width of 50' minimum
 - c. Minimum front, side, and rear setbacks:
Front = 25'
Rear = 20'
Side = 5'; For corner lots, the side setback is either 15' or 25' depending on the orientation of adjacent lots*.
*If the rear lot line of the corner lot shares a side lot line with the adjacent lot, the side setback shall be consistent with the adjacent lots front setback, therefore, 25'. If the rear lot line of the corner lot shares a rear lot line with the adjacent lot, then the side setback is 15'.
 - d. Maximum height of buildings: 35'
 - e. Maximum building coverage: 50%
 - f. Maximum floor to area ratios for non-residential use: n/a
 - g. Minimum parking standards for each general land use: residential - 2 cars/lot
15. The individual homebuilder/developer shall be responsible for construction of a 4-foot concrete sidewalk adjacent to the back of curb inside the right-of-way. The developer of this project shall be responsible for construction of a 4' concrete sidewalk adjacent to the back of curb inside the right-of-way at common areas,

drainage easements, and all other areas where sidewalk is required to be constructed.

16. Items which may require a reduction of lots:
- Coordination with gas companies regarding crossing requirements for street and drainage facilities.
 - Final sizing of drainage and utility easements.
 - Drainage study regarding final detention pond sizing.
 - Final ground topography versus aerial topography.
 - Additional utility easements or modification of drainage/utility easements.

Drainage Related

17. Drainage easements shall be free from all obstructions.
18. The following lots shall be maintained by the Homeowner's Association. The Homeowner's Association will maintain all community facilities, green spaces, and detention areas:
- Unit 1, Block 1, Lots 919 & 920
 - Unit 1, Block 3, Lots 913, 915, 916, 917, 918
 - Unit 1, Block 5, Lot 901
 - Unit 1, Block 11, Lots 902 & 903
 - Unit 1, Block 20, Lot 926
 - Unit 2, Block 15, Lot 904
 - Unit 4A, Block 15, Lots 905 & 906
 - Unit 4B, Block 15, Lots 906 & 907
 - Unit 4B, Block 14, Lot 908
 - Unit 6, Block 3, Lot 131
 - Unit 7A, Block 2, Lot 916
 - Unit 7A, Block 20, Lot 925
 - Unit 8, Block 7, Lot 936
 - Unit 8, Block 14, Lots 910, 911, & 912
 - Unit 9, Block 7, Lots 913 & 920
 - Unit 10, Block 21, Lots 923, 924, 926, & 927
 - Unit 10, Block 20, Lot 928
 - Unit 10, Block 7, Lot 920
 - Unit 11, Block 15, Lots 909 & 929
 - Unit 11, Block 14, Lot 928
 - Unit 11, Block 8, Lot 927
 - Unit 11, Block 18, Lots 931, 932, & 933
 - Unit 11, Block 19, Lots 930 & 935
 - Unit 11, Block 22, Lot 934
19. Unit 1 – Block 1, Lots 5 & 6; Unit 7A – Block 1, Lots 18 – 26; Unit 10 – Block 21, Lots 59 – 66, 923, 924, & 927 shall not have access to F.M. 1044 extension.

Transportation Related

20. All streets are typical 50' right-of-way unless otherwise shown.
21. In lieu of construction of County Line Road, the estimated costs of such construction may instead be applied to offsite improvements, as determined at the completion of the TIA and under the construction and financing guidelines applicable to such offsite improvements, through a development agreement approved by City Council before approval of final plat.

Performance Guarantee

The purpose for this Performance Guarantee is to ensure that drainage facilities for the Highland Grove Subdivision are constructed in accordance with the approved design criteria (as detailed in the approved drainage report) and all applicable City of New Braunfels ("City") rules and regulations in effect at the time the Highland Grove Planned Development District Concept Plan (the "Concept Plan") is approved by City Council.

Terms:

1. All drainage facilities required to be constructed within the Highland Grove Subdivision shall operate to meet or exceed the approved design criteria for their respective Coverage Periods (defined below), provided, however, any drainage ponds and appurtenances for each Drainage Area (as defined on the attached Drainage Area map) may not fully meet the approved design criteria until all streets within that Drainage Area are fully constructed. In the event the City determines that drainage facilities are not required for any Drainage Area, this section of the Development Standards shall be considered null and void in regard to such Drainage Area (or in the whole if drainage facilities are not required for any Drainage Area).
2. As used herein, the term "Coverage Period" shall mean a two (2)-year period of time commencing upon the date that forty percent (40%) of the homes within a given Drainage Area, as illustrated in the attached Drainage Area Map, have been issued certificates of occupancy and one-hundred percent (100%) of the streets and drainage infrastructure has been constructed to service those homes making-up the forty percent (40%) within the Drainage Area (the "Commencement Date"), and ending on the second annual anniversary of such Commencement Date. Each drainage facility within the Highland Grove Subdivision shall be subject to separate Coverage Periods and shall require separate Cash Sureties as described below.
3. In order to provide financial security for the obligation described in Paragraph "1" above, Applicant (as listed on the approved Concept Plan), or his successors and assigns, shall post with the City Cash Surety (as defined below) within thirty (30) calendar days of the Commencement Date for each Coverage Period in the amount of ten percent (10%) of the cost of drainage improvements for that particular Drainage Area. A

statement of construction value shall be provided to the City Engineer to support the Cash Surety Amount.

4. As used herein, the term "Cash Surety" shall mean one of the following, which the Applicant may chose at its own discretion:
 - a. Cash, or its equivalent, delivered to the City and to be held by the City in a separate, interest-bearing account with all interest thereon belonging to the Applicant;
 - b. An irrevocable letter of credit issued by a financial institution reasonably acceptable to the City; or
 - c. A performance bond issued in the name of the City on terms reasonably acceptable to the City.
5. If, during the Coverage Period, the City Engineer, or a third party engineer selected by the City, sends a written notice to Applicant stating in that notice that the drainage improvements for any Drainage Area within the Highland Grove Subdivision is not operating to meet the design criteria specified in the approved design documents (and specifying in such notice the specific deficiencies in such operation), within thirty (30) days thereafter Applicant shall do one of the following: (a) notify the City in writing that the Applicant shall rectify the problems specified by the City Engineer or City's third party engineer, or (b) notify the City in writing that Applicant disagrees with the conclusion of the City Engineer or City's third party engineer. In the event that Applicant fails to send either of the two written notices specified above within such thirty (30)-day period, Applicant shall be deemed to have selected option (a) above.
6. In the event that Applicant notifies the City that Applicant will rectify the problems specified by the City Engineer or City's third party engineer as contemplated in Paragraph "5" above, Applicant shall be required to complete such necessary work in a reasonably expeditious manner, not to exceed ninety (90) days from the date Applicant provides such notice (or, if any permit is required to begin such work, ninety (90) days from the date of issuance of such permit), subject to force majeure and/or any action by the City causing delay.
7. In the event that Applicant notifies the City that Applicant disagrees with the conclusion of the City Engineer or City's third party engineer, the City and Applicant shall agree on another independent third party engineer within fifteen (15) days of the City's receipt of Applicant's written notice. In the event that the City and Applicant fail to agree on the designation of such independent third party engineer within such fifteen (15)-day period, the City shall select such independent third party engineer. The

Independent third party engineer shall determine if the drainage improvements for the Drainage Area in question are operating to meet the design criteria in the approved design documents, and the conclusion of the independent third party engineer in that regard shall be binding on the Applicant, its successors and assigns, and the City; provided, however, nothing is intended to modify or reduce Applicant's obligations pursuant to State law (regulatory or common law) with respect to drainage from the Highland Grove Subdivision onto adjoining properties. In the event that the independent third party engineer specifies in a written notice to Applicant that the drainage improvements for the Drainage Area in question are not operating to meet the design criteria in the approved design documents (and specifying in such notice the specific deficiencies in such operation), Applicant shall be required to complete such necessary work in a reasonably expeditious manner, not to exceed ninety (90) days, subject to force majeure or City action causing delay, from the receipt by Applicant of the written notice from the independent third party engineer. Applicant shall be responsible for paying the inspection costs of such independent third party engineer, not to exceed \$3,000.

8. In the event that Applicant fails to rectify the specified problems in the drainage improvements for the Drainage Area in question within the ninety (90)-day period, subject to force majeure or City action causing delay, under either Paragraph "6" or "7" above, the City shall have the right to utilize the Cash Surety to rectify the specified problems in the drainage improvements for that Drainage Area. The City shall be required to notify Applicant in writing of the City's election to utilize the Cash Surety for this purpose.
9. Within 30 days following the expiration of each Coverage Period, the City shall return to Applicant any unused Cash Surety.

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HIGHLAND GARDENS PLANNED DEVELOPMENT DISTRICT (HGARDPD) DEVELOPMENT STANDARDS

The general development standards are as follows:

Land Use:	Single family residential
Base Zoning:	R-1A-6.6
Minimum Lot Width:	50 ft. interior; 60 ft. corner
Minimum Lot Depth:	120 ft.
Minimum Lot Area:	6,000sq. ft.
Minimum Front Setback	25ft.
Minimum Rear Setback	20ft.
Minimum Side Setbacks	5 ft. interior; The minimum side setback adjacent to the street for corner lots where the rear lines of the corner lot coincides with the rear lot line of the adjacent lot is 15 feet. The minimum side setback adjacent to the street for corner lots where the rear line of the corner lot coincides with the side lot line of the adjacent lot is 25 feet. Otherwise, the internal side setback for corner lots is 5 feet.
Maximum Building Height	35 ft.
Minimum Parking	2 spaces
Trees:	A minimum of one (1) front yard tree per lot
Minimum Landscaping:	Full sod or xeriscape (front & back)

Minimum Fencing:

- 6 ft. masonry wall/fence adjacent to single family residences abutting future FM 1044 extensions are required.
- Installation of a solid screening fence or wall is required to be installed by the developer along open spaces and by the developer and/or home builder along residential lots where adjacent APD zoned properties.

Airstrip Buffer:

- The 150-foot airstrip buffer will be required to be labeled as an avigation easement on the Highland Gardens Master Plan, Final Plats and Detail Plan(s).
- An avigation easement note shall be provided on the Master Plan, Final Plats and Detail Plan(s) stating "no dwelling units or habitable structures will be constructed within an approximate offset of 75 feet both sides of the existing airstrip centerline."

Drainage:

- The Highland Gardens detention pond closest to FM 1044 will be designed to reduce the peak storm water discharge flow rate, for the 2 yr, 5yr, 10yr, 25 yr, 50 yr and 100 yr storm events, by greater than or equal to 10% below the calculated existing peak storm water flow rate, based on the rainfall intensities in the current City of New Braunfels Drainage and Erosion Control Design Manual at the time of the approval of this PDD.

*All remaining standards not listed above will be based on R-1A-6.6 zoning.