



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



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

MONDAY, JUNE 14, 2021 at 6:00 PM

Rusty Brockman, Mayor	Lawrence Spradley, Councilmember (District 4)
Shane Hines, Councilmember (District 1)	Jason E. Hurta, Councilmember (District 5)
Justin Meadows, Mayor Pro Tem (District 2)	James Blakey, Councilmember (District 6)
Harry Bowers, Councilmember (District 3)	Robert Camareno, City Manager

**Please click the link below to join the webinar:
<https://us02web.zoom.us/j/83369443180> or call:
(833) 926-2300 Webinar ID: 833 6944 3180**

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 - AMENDED

CALL TO ORDER

CALL OF ROLL: CITY SECRETARY

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

INVOCATION: COUNCILMEMBER BLAKEY

PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG

PROCLAMATIONS:

- | | |
|--------------------------------------|------------------------|
| A) Pride Month | 21-594 |
| B) Juneteenth Proclamation | 21-478 |
| C) Parental Alienation Awareness Day | 21-548 |

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.

PRESENTATIONS:

- | | |
|--|------------------------|
| A) Presentation of Gateway Sign maintenance check from | 21-589 |
|--|------------------------|

the New Braunfels Community Foundation as part of the
175th Anniversary to the City of New Braunfels

Michael Meek, Greater New Braunfels Chamber of Commerce and Brit King, New Braunfels
Community Foundation

- B) Presentation and discussion of Mayfair Development [21-576](#)
Agreement and associated agreements
Jeff Jewell, Economic and Community Development Director

1. **MINUTES**

- A) Discuss and consider approval of the minutes of the City [21-551](#)
Council Meeting of May 24, 2021.
Caitlin Krobot, City Secretary

2. **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. Citizens requesting items to be pulled must be present.

Resolutions & Action Items

- A) Approval of a contract with Cartegraph Systems LLC for [21-475](#)
a three-year software license agreement.
Tony Gonzalez, Director of Information Technology
- B) Approval of a resolution regarding an interlocal [21-499](#)
agreement between Texas Parks and Wildlife
Department and the New Braunfels Fire Department for
prescribed fire training.
Patrick O'Connell, Fire Chief
- C) Approval of a purchase through GTS Technology [21-523](#)
Solutions, Inc for the acquisition of networking equipment
for buildings being constructed as part of the 2019 Bond
Program.
Tony Gonzalez - Director of Information Technology
- D) Approval for City Manager to enter a professional service [21-482](#)
agreement (PSA) with Kimley-Horn for the completion of
the design plans, specifications and cost estimates for
improved traffic signalization at the County Line
Road/Walnut, County Line Road/Dove Crossing and
Hanz Dr/Gruene Rd intersections in the amount of

\$97,410.

Garry Ford, Assistant Public Works Director

- E) Approval for City Manager to enter a professional service [21-491](#) agreement (PSA) with Pape-Dawson for the completion of the design plans, specifications, and cost estimates for additional traffic lanes at FM 1101 and Barbarosa in the amount of \$196,053.50.

Garry Ford, Assistant Public Works Director

- F) Approval of a resolution accepting approximately 105 [21-474](#) acres out of the W. J. Ragsdale A-268 Survey and the A. M. Esnaurizar A-20 Survey, into the City of New Braunfels extraterritorial jurisdiction (ETJ), located near the intersection of FM 758 and SH 123 North.

Christopher J. Looney, AICP; Planning and Development Services Director

- G) Approval of a contract with DBT Transportation Services, [21-557](#) LLC for upgrade to the Voice Communication Control System for the Control Tower at the New Braunfels Regional Airport in the amount of \$128,213.

Dr. Robert Lee, Airport Director

- H) Approval of a resolution recommended by the New [21-534](#) Braunfels Economic Development Corporation approving a project expenditure of up to \$140,000 to the Spark Small Business Center to assist with the operation of an economic development program, an eligible project expenditure related to the operation of an economic development program in accordance with Local Government Code Section 505.102

Jeff Jewell, Economic and Community Development Director

- I) Approval of the appointment of Jennifer Guerra to the [21-543](#) Building Standards Commission for unexpired terms ending 10/26/2022.

Caitlin Krobot, City Secretary

- J) Approval of a resolution recommended by the New [21-535](#) Braunfels Economic Development Corporation approving a project expenditure of up to \$375,000 to the City of New Braunfels for a professional services agreement with Bain Medina Bain, Inc. for final design of a portion of the Dry Comal Creek Hike and Bike Trail, an eligible

project expenditure related to recreational or community facilities in accordance with Local Government Code Section 505.152; and approval for the City Manager to enter into a Reimbursement Agreement with Union Pacific Railroad for preliminary design approval of a pedestrian underpass at an estimated cost of \$15,000 as part of the Dry Comal Trail Project.

Garry Ford, Assistant Public Works Director/City Engineer

- K) Approval of a contract with Acme Bridge Company for [21-549](#) construction of a stormwater treatment basin adjacent to the Elizabeth Ave Realignment project as part of the Edwards Aquifer Habitat Conservation Plan.

Garry Ford, Assistant Public Works Director

Ordinances

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

- L) Approval of the second and final reading of an ordinance [21-533](#) by the City Council of the City of New Braunfels, Texas incorporating the recently adopted charter amendments into a singular form.

Caitlin Krobot, City Secretary

- M) Approval of the second and final reading of an ordinance [21-565](#) regarding Youth Programs Standards of Care for the Parks and Recreation Department.

Stacey Dicke, Parks and Recreation Director

- N) Approval of the second and final reading of an ordinance [21-566](#) regarding a proposed rezoning to apply a Special Use Permit to allow residential use in the M-2 Heavy Industrial District and short term rental of a single-family residence on approximately 0.15 acres out of the AM Esnaurizar A-1 Survey No. 1, addressed at 747 Oasis Street.

Christopher J. Looney, AICP; Planning and Development Services Director

- O) Approval of the second and final reading of an ordinance [21-532](#) regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family dwelling in the "C-3" Commercial District, addressed at 306 E. Faust Street.

Christopher J. Looney, AICP, Planning and Development Services Director

- P) Approval of the first reading of an ordinance providing [21-555](#) the right to New Braunfels Utilities Board of Trustees Members to waive annual compensation and to revoke such waiver and reinstate annual compensation at any time.

Ian Taylor, Chief Executive Officer, New Braunfels Utilities (NBU)

- Q) Approval of the first reading of an ordinance establishing [21-585](#) the number of positions in each classification in the New Braunfels Fire Department and Police Department pursuant to Local Government Code, Chapter 143 as well as an increase to FY 2021 Adopted Budget authorized position listing.

Robert Camareno, City Manager

3. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Discuss and consider approval of the second and final [21-539](#) reading of an ordinance regarding a proposed rezoning of approximately 48 acres out of the O. Russell A-485 Survey 2, located in the 2200 block of FM 1102, from "M-1A" Light Industrial District to "MU-B" High Intensity Mixed Use District.

Christopher J. Looney, AICP, Planning and Development Services Director

- B) Public hearing and first reading of an ordinance [21-540](#) regarding a proposed rezoning to apply a Special Use Permit to allow a variety of residential and non-residential development on approximately 49.5 acres out of the A-103, Sarah Dewitt Survey, addressed at 614 & 720 W. Zipp Road, from "R-1A-6.6" Single Family District to allow uses allowed in the following zoning districts: "MU-B" High Intensity Mixed Use, "R-1A-4" Single-Family Small Lot Residential, "ZH-A" Zero Lot Line Home and "R-2A" Single and Two-Family Residential.

Christopher J. Looney, AICP, Planning and Development Services Director

- C) Discuss and consider approval of an ordinance [21-506](#) authorizing the issuance of "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021, pledging the net revenues of the City's

Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the sale and issuance of said Bonds to authorized City and Systems officials and providing an effective date.

Dawn Schriewer, Chief Financial Officer, New Braunfels Utilities (NBU)

- D) Discuss and consider approval of the appointment of a [21-567](#) Councilmember to the City Council Finance and Audit Committee.

Jared Werner, Chief Financial Officer

- E) Discuss and consider approval of the appointment of one [21-546](#) individual to the Construction Board of Appeals for an unexpired terms ending 2/24/2023.

Caitlin Krobot, City Secretary

- F) Public hearing and possible direction to staff regarding [21-560](#) the U.S. Department of Housing and Urban Development Community Development Block Grant Annual Action Plan and its associated funding recommendations for Program Year 2021.

Jennifer Gates, Grants Coordinator

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).

ADJOURNMENT

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall.

Caitlin Krobot, 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 Council Agenda Item Report

550 Landa Street
New Braunfels, TX

6/14/2021

Agenda Item No. A)

PRESENTER:

SUBJECT:

[Enter Text Here]

DEPARTMENT: [Enter Text Here]

COUNCIL DISTRICTS IMPACTED: [Enter Text Here]

BACKGROUND INFORMATION:

[Enter Text Here]

ISSUE:

[Enter Text Here]

FISCAL IMPACT:

[Enter Text Here]

RECOMMENDATION:

[Enter Text Here]



Proclamation

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

WHEREAS, the month of June was designated Pride Month to commemorate the Stonewall riots which occurred in June of 1969 and are generally recognized as the catalyst of the LGBT Rights Movement; and

WHEREAS, every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, color, religion, sex, age, or mental or physical disability; and

WHEREAS, the long and ongoing struggle of transgender, lesbian, gay, bisexual, and other sexual minorities for basic civil and human rights continues to provide inspiration to all; and

WHEREAS, the Centers for Disease Control (CDC) recognizes that LGBTQ+ teens are at higher risk of being the victims of violence and have increased suicide rates; and

WHEREAS, it is imperative that young people in the community, regardless of sexual orientation or gender identity, feel valued, safe, empowered, and supported by their peers, educators, and community leaders; and

WHEREAS, New Braunfels celebrates the history and diversity of our City's lesbian, gay, bisexual, and transgender community and promotes a society in which all residents can live free from discrimination; and

WHEREAS, Pride Month is an opportunity to celebrate this harmony in which we coexist.

NOW, THEREFORE, I, RUSTY BROCKMAN, Mayor of the City of New Braunfels, do hereby proclaim the month of June 2021 as

LGBTQ PRIDE MONTH

and encourage everyone to eliminate prejudice everywhere it exists, to respect the rights of all people, and to celebrate the great diversity of our City.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed on this the 14th day of June 2021.



CITY OF NEW BRAUNFELS

Rusty Brockman
RUSTY BROCKMAN, MAYOR



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

6/14/2021

Agenda Item No. B)



Proclamation

THE STATE OF TEXAS §

COUNTY OF COMAL §

CITY OF NEW BRAUNFELS §

WHEREAS, Juneteenth is a day traditionally set aside in Texas to commemorate the abolition of slavery; and

WHEREAS, Juneteenth traces its origins back to Galveston, Texas, where on June 19, 1865, Union soldiers, led by Major General Gordon Granger arrived in the city with the news that the Civil War had ended and slaves were now free; and

WHEREAS, the day is celebrated in African-American communities as a time to remember the struggle for equal rights; and

WHEREAS, our country is at its best when everyone is treated fairly and has the chance to build the future they seek for themselves and their family; and

WHEREAS, together we can help our nation live up to its immense promise, so let us continue their journey toward a more just, more equal, and more perfect Union.

NOW, THEREFORE, I, Rusty Brockman, Mayor of the City of New Braunfels, Texas, proclaim June 19, 2021 as

JUNETEENTH

in New Braunfels, and I encourage everyone to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 14th day of June, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, MAYOR

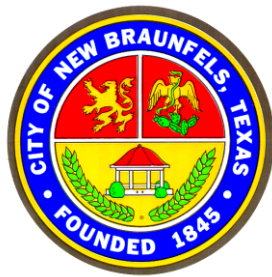


City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

6/14/2021

Agenda Item No. C)



Proclamation

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

WHEREAS, the VictimTOHero.com community will observe the 16th annual International Parental Alienation Awareness Day and host their virtual Boundless Love event on April 25th, 2021; and

WHEREAS, behaviors such as speaking negatively about a parent to, or in front of, a child can destroy the bond between a loving parent and child; and

WHEREAS, parental alienation deprives children of the right to love and be loved by their whole family, resulting in a psychological impact on children, and as such, it is considered a form of child abuse; and

WHEREAS, VictimToHero.com is a platform by Sparkle Media that provides education and resources to a worldwide community of parents and children who are affected by parental alienation, and promotes public awareness about parental alienation; and

WHEREAS, Boundless Love is an event where parents and extended family members are empowered to celebrate their love for their children and post videos and photos on various social media platforms; and

NOW, THEREFORE, I, RUSTY BROCKMAN, Mayor of The City of New Braunfels, in recognition thereof, do hereby proclaim April 25th to be “International Parental Alienation Awareness Day”.

“Parental Alienation Day April 25, 2021”

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed this the 14th day of June 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, MAYOR



City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

6/14/2021

Agenda Item No. A)

PRESENTER:

Michael Meek, Greater New Braunfels Chamber of Commerce and Brit King, New Braunfels Community Foundation

SUBJECT:

Presentation of Gateway Sign maintenance check from the New Braunfels Community Foundation as part of the 175th Anniversary to the City of New Braunfels

6/14/2021

Agenda Item No. B)

PRESENTER:

Jeff Jewell, Economic and Community Development Director

SUBJECT:

Presentation and discussion of Mayfair Development Agreement and associated agreements

DEPARTMENT: Economic and Community Development**COUNCIL DISTRICTS IMPACTED:** N/A**BACKGROUND INFORMATION:**

In 2019, the Texas General Land Office (GLO) solicited proposals for the sale and development of approximately 2,400 acres owned by the state agency. This property is located just north of the city limits of New Braunfels along both the east and west sides of IH 35, within the city's extra territorial jurisdiction (ETJ). In 2020, Southstar Communities, a New Braunfels based developer, began discussions with the City. They sought to negotiate an agreement outlining roles and responsibilities of both the City and the development project. This agreement defines what regulations will govern the development, and how the City will review the project and grant approvals to new developments within the property boundaries. This development agreement covers just under 1,900 acres of the original 2,400, and proposes a mix of residential, commercial and public uses.

Given that the project is within the ETJ, the City's ability to regulate development is limited. Development located within the City's ETJ would not typically have zoning, landscaping requirements, building permit reviews or building safety inspections, and only development regulations associated with platting property would apply. While there are some requirements for projects to meet county fire code, residential projects are not required to obtain building permits to certify adequate construction, provide drainage mitigation, park land, or a host of other reviews developments in the city currently receive. However, the creation of a special district authorized by the City Council provides for an opportunity to exercise governance and impose regulatory requirements on the project not allowed otherwise.

SouthStar Communities proposes to create a Water Improvement District (WID). The enabling legislation requires the WID to enter a development agreement with New Braunfels prior to its creation. The legislation provides the WID with the authority to impose an assessment to pay for drainage, roads, water and sewer utilities, parks and other items appropriate by law. The assessment's purpose is to provide a reimbursement process to developers for the construction of a variety of public facilities. The Development Agreement authorizes the City to exercise some level of governance over the project on a long-term basis. As a regulatory and legal document, the Development Agreement provides for specific project requirements and processes, to include:

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-
- ☐ document definitions;
 - ☐ entitlement and permitting processes;
 - ☐ land uses residential unit limits (6,000);
 - ☐ conditions for when the project must be reviewed by City Council or Planning Commission;
 - ☐ traffic and roadway impacts and reviews;
 - ☐ park commitments and delivery schedules;
 - ☐ bond issuance limits and procedures;
 - ☐ annexation;
 - ☐ deed restrictions; and
 - ☐ utility commitments.
 - ☐ The proposed developed will include the following:
 - ☐ NBU utility service
 - ☐ 300 acres of public parkland and open space
 - ☐ Over 13 miles of trails
 - ☐ Sites for up to four new Comal ISD schools
 - ☐ 160-acre Employment Center along IH 35
 - ☐ Up to 6,000 residential units
 - ☐ Diversity score to encourage a variety of housing types
 - ☐ Connectivity score
 - ☐ 17 miles of shared paths and 3 miles of separate bike lanes
 - ☐ East-west IH 35 Underpass
 - ☐ Improved and New roadways
 - ☐ Vegetative stream buffers

ISSUE:

FISCAL IMPACT:

N/A

RECOMMENDATION:

N/A

6/14/2021

Agenda Item No. A)

PRESENTER:

Caitlin Krobot, City Secretary

SUBJECT:

Discuss and consider approval of the minutes of the City Council Meeting of May 24, 2021.

DEPARTMENT: City Secretary

City of New Braunfels, Texas

550 LANDA STREET

Minutes

Monday, May 24, 2021

6:00 PM

Item 3C has been pulled from consideration

City Council

Rusty Brockman, Mayor-present

Shane Hines, Councilmember (District 1)-absent

Justin Meadows, Mayor Pro Tem (District 2)-present

Harry Bowers, Councilmember (District 3)-present

Matthew E. Hoyt, Councilmember (District 4)-present

Jason Hurta, Councilmember (District)-present

James Blakey, Councilmember (District 6)-present

The meeting was called to order by Mayor Brockman at 6:00 p.m. *Council resumed their pre-COVID-19 seating arrangement on the dais.* Councilmember Hoyt gave the invocation and Mayor Brockman led the Pledge of Allegiance and Salute to the Texas Flag.

ANNUAL ELECTION ACTIONS

- A) Complete and issue Certificates of Election to the Councilmember - incumbent Harry Bower and Councilmember – elect Lawrence Spradley.

Caitlin Krobot presented this item. Caitlin Krobot stated the certificates of election had been completed and issued to Councilmember incumbent, Harry Bowers and Councilmember elect, Lawrence Spradley before the council meeting began.

Councilmember Hoyt moved to affirm the certificates of election had been completed and issued to Councilmember incumbent, Harry Bowers and Councilmember elect, Lawrence Spradley. Councilmember Hurta seconded the motion which was unanimous via roll call vote.

- B) Administer the oath of office to District 3 Councilmember Harry Bowers-incumbent and District 4 Councilmember-elect Lawrence Spradley.

Judge Deborah Wigington came forward to administer the oath of office to Councilmember incumbent, Harry Bowers who was joined by his family. Councilmember Bowers was given a copy of his oath of office.

Retired Justice of the Peace, Wayne Dubose, came forward to administer the oath of office to Councilmember elect, Lawrence Spradley who was joined by his wife. Councilmember Spradley was given a copy of his oath of office.

Caitlin Krobot placed newly elected Councilmember Lawrence Spradley's name plate on the dais.

- C) Presentation and recognition of the public service rendered by Matthew Hoyt as District Councilmember four of the City of New Braunfels.

Mayor Rusty Brockman gave a moving speech recognizing Councilmember Hoyt's contributions as a member of city council, various boards, and his service to our community as a whole. Councilmember Hoyt's family was also recognized for their unselfish sacrifice made during Councilmember Hoyt's term on council. A gift of appreciation was presented to Councilmember Hoyt from the City of New Braunfels.

Councilmember Hoyt congratulated newly elected Councilmember Lawrence Spradley, offered his help to him and all of council. Councilmember Hoyt gave a moving speech thanking the City, all staff for their leadership and help, and district four for giving him the opportunity to serve. Councilmember Hoyt also thanked his family for their selfless support while he served on council.

- D) Discuss and consider the election of a Mayor Pro Tem.

Caitlin Krobot presented this item.

Councilmember Bowers moved to select Councilmember Justin Meadows as Mayor Pro Tem for the next year. Councilmember Hurta seconded the motion which passed unanimously via roll call vote.

PROCLAMATIONS:

- A) Building Safety Month Proclamation.

Mayor Brockman presented this proclamation.

- B) Community Action Month Proclamation.

Mayor Brockman presented this proclamation.

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.

The following individuals spoke at this time: Daniel Rath, Pam Kraft, William Rogers, David Gonzales, Justin Coleman, Thor Thornhill, Nicole Lawson, Timothy Davis, Kevin Robles, Dottie Collins, Alice Jewell, Mr. Edwards, Loree Shrank, Steven Brockman, Tiffanie Mendoza, and Ryan Garcia.

1. MINUTES

- A) Discuss and consider approval of the minutes of the Executive Session Meeting of May 10, 2021 and the City Council Meeting of May 10, 2021.

Mayor Brockman read the aforementioned caption.

Councilmember Hurta moved to approve this item. Councilmember Bowers seconded the motion which passed unanimously via roll call.

2. 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 of The City of New Braunfels, Texas, Approving The Solms Landing Public Improvement District Reimbursement Agreement (Improvement Area #1 And Improvement Area #2) Between The City And Solms Landing Development, LLC.
- B) Approval of a Resolution of The City of New Braunfels, Texas, Approving The First Amendment To Agreement Regarding The Dissolution of The Solms Landing Public Improvement District Between The City And Solms Landing Development, LLC And The Jerome W. Timmermann Family Trust.

- C) Confirmation of the appointment of Brian Martinez to the Civil Service Commission for an unexpired term ending August 10, 2022.

Ordinances

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

- D) Approval of the second and final reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise the effective time of Parking by Permit Areas A and B and amending Section 126-368 (m) of the City of New Braunfels Code of Ordinances to revise the reference to parking by permit areas in existing water recreation loading zones.

Mayor Brockman stated Consent agenda items A and B were pulled for individual consideration.

Mayor Brockman read the aforementioned captions, Consent agenda items C and D.

Councilmember Hurta moved to approve Consent agenda item C and D. Council member Bowers seconded the motion which passed unanimously via roll call.

Mayor Brockman took a break at 7:28 p.m. and reconvened at 7:42 p.m.

3. INDIVIDUAL ITEMS FOR CONSIDERATION

- A) Approval of a Resolution of The City of New Braunfels, Texas, Approving Solms Landing Public Improvement District Reimbursement Agreement (Improvement Area #1 And Improvement Area #2) Between The City And Solms Landing Development, LLC.

Mayor Brockman read the aforementioned Consent agenda item A into record.

Jared Werner presented this item.

The following individuals spoke to this item: William Rogers, Nicole Lawson, and Mr. Mahan.

Mayor Pro Tem Meadows moved to approve the item. Councilmember Hurta seconded the motion which was approved unanimously via roll call vote.

- B) Approval of a Resolution of The City of New Braunfels, Texas, Approving The First Amendment To Agreement Regarding The Dissolution of The Solms Landing Public Improvement District Between The City And Solms Landing Development, LLC And the Jerome W. Timmermann Family Trust.

Mayor Brockman read the aforementioned Consent agenda item B into record.

Jared Werner presented this item.

The following individuals spoke to this item: William Rogers and Mr. Mahan.

Councilmember Hurta moved to approve this item. Councilmember Blakey seconded the motion which passed unanimously via roll call vote.

Mayor Pro Tem Meadows requested Individual item 3F be moved to the beginning of the Individual Items for Consideration order.

Mayor Brockman stated Item 3C was pulled from consideration by staff.

Mayor Brockman addresses Item 3E and 3F at the beginning of Individual Items for Consideration.

- A) Public Hearing and first reading of an ordinance by the City Council of the City of New Braunfels, Texas incorporating the recently adopted charter amendments into a singular form.

Mayor Brockman read the aforementioned item into record.

Caitlin Krobot presented this item.

Councilmember Hurta moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously via roll call vote.

- B) Discuss and consider the appointment of 1 individual for a term ending April 18, 2024 to the Watershed Advisory Committee.

Mayor Brockman read the aforementioned item into record.

Caitlin Krobot presented this item.

The following individual spoke to this item: Larry Johnson.

Councilmember Bowers moved to appoint Ron Reaves to the Watershed Advisory Committee. Councilmember Hurta seconded the motion which passed unanimously via roll call vote.

- C) Discuss and consider approval of the appointment of 2 regular members and 2 alternate members for terms ending May 31, 2023, and 1 alternate member for an unexpired term ending May 31, 2022 to the Zoning Board of Adjustment.

Mayor read the aforementioned item into record and stated this item was pulled by staff.

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

Mayor Brockman read the aforementioned item into record.

Geronimo Aguirre presented this item.

Councilmember Blakey moved to approve the item. Councilmember Hurta seconded the item which passed unanimously via roll call vote.

- E) Discuss and consider approval of the second and final reading of an ordinance Regarding proposed rezoning of approximately 48 acres out of the O. Russell A-485 Survey 2, located in the 2200 block of FM 1102, from "M-1A" Light Industrial District To "MU-B" High Intensity Mixed Use District.

Mayor Brockman read the aforementioned into record.

Christopher Looney presented this item.

The following individuals spoke on this item: Thor Thornhill, Timothy Davis, David Gonzalez, Nicole Lawson, Tiffany Mendoza, and Ryan Garcia.

Mayor Pro Tem Meadows moved to postpone the item to June 14, 2021. (Mayor Pro Tem made note that in the past if a developer requests to postpone an item in the spirit of working with people in the area, Council has honored their request). Councilmember Hurta seconded the motion which passed 5-1 with Councilmember Spradley in opposition.

- F) Public hearing and first reading of an ordinance regarding a proposed rezoning to apply Special Use Permit to allow a variety of residential and non-residential development on approximately 49.5 acres out of the A-103, Sarah Dewitt Survey, addressed at 614 & 720 W. Zipp Road, from "R-1A-6.6" Single Family District to allow uses allowed in the following zoning districts: "MU-B" High Intensity Mixed Use, "R-1A-4" Single-Family Small Lot Residential, "ZH-A" Zero Lot Line Home and "R-2A" Single and Two-Family Residential.

Mayor Brockman read the aforementioned into record.

Christopher Looney presented this item.

The following individuals spoke on this item: Timothy Davis, Caren Williams Mirch, Thor Thornhill, Matt Harrison, and Nicole Lawson.

Mayor Pro Tem Meadows moved to postpone the item to June 14, 2021. Councilmember Bowers seconded the motion which passed unanimously via roll call vote.

- G) Public hearing and consideration of a variance request to allow a proposed business, addressed at 494 North Seguin Avenue, to provide alcohol sales (wine and beer, on premises consumption) within 300 feet of a church.

Mayor Brockman read the aforementioned into record.

Christopher Looney presented this item.

The following individual spoke to this item: Rashmi Bhat.

Councilmember Hurta moved to approve the item. Councilmember Spradley seconded the motion which passed unanimously via roll call vote.

- H) Public hearing and first reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow residential use in the M-2 Heavy Industrial District and short term rental of a single-family residence on approximately 0.15 acres out of the AM Esnaurizar A-1 Survey No. 1, addressed at 747 Oasis Street.

Mayor Brockman read the aforementioned into record.

Christopher Looney presented this item.

Councilmember Hurta moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously via roll call vote.

- I) Public hearing and first reading of an ordinance regarding a proposed rezoning to apply A Special Use Permit to allow short term rental of a single-family dwelling in the "C-3" Commercial District, addressed at 306 E. Faust Street.

Mayor Brockman read the aforementioned into record.

Christopher Looney presented this item.

The following individual spoke on this item: Jeff Coultas.

Councilmember Spradley moved to approve the item. Councilmember Hurta seconded The motion which passed unanimously via roll call vote.

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).

ADJOURNMENT

Mayor Brockman adjourned the meeting at 9:07 p.m.

Rusty Brockman, Mayor

Caitlin Krobot, City Secretary

DRAFT

6/14/2021

Agenda Item No. A)

PRESENTER:

Tony Gonzalez, Director of Information Technology

SUBJECT:

Approval of a contract with Cartegraph Systems LLC for a three-year software license agreement.

DEPARTMENT: Information Technology

COUNCIL DISTRICTS IMPACTED: N/A

BACKGROUND INFORMATION:

In FY 2017, the City purchased Cartegraph as a pavement management system. In FY 2019, the City expanded our utilization of the software by entering into a license agreement with Cartegraph LLC for its asset management module. This agreement has provided the City increased licensing, enabling flexibility in increasing the use of Cartegraph by City Staff. The licensed software allows City users to capture asset location and condition, ability to submit requests, track work orders, provide scenario budgeting tools and provide asset-based reports.

Since implementing the license agreement, Cartegraph has become an important tool for many functions within the City's organization. The City's asset management program has expanded from Public Works to include Parks and Recreation, Engineering, Facilities Management and Finance.

The City has defined the Cartegraph asset management platform and technology as a sole source procurement due to the City's long-term investment and standardization in the system as well as cross-platform integration with the City's ESRI GIS platform. Staff is recommending the continued use of the Cartegraph asset management platform and technology for a term of three (3) years at a cost of \$68,000 per year, for a total cost of \$204,000.

ISSUE:

City Plan/Council Priority: Maintain an ongoing program for improving customer service Maintain fiscal stability of City Operations.

FISCAL IMPACT:

Funding for this service has been incorporated into the FY 2021 Information Technology Operating Budget. Therefore, sufficient funds are available to support the contract as described above.

RECOMMENDATION:

Staff recommends approval of a contract with Cartegraph Systems LLC for a three-year software license agreement.

INTEROFFICE MEMORANDUM

MEMO TO: Barbara Coleman, Purchasing Manager

DATE: May 24, 2021

FROM: Tony Gonzalez, Director of Information Technology

SUBJECT: Sole/Single Source Justification for Cartegraph Inc.

In accordance with the City of New Braunfels Purchasing Procedures, unless justified and documented for business reasons, all City of New Braunfels procurements exceeding \$3,000 should be competed between two or more eligible suppliers. Separate, sequential or component purchase request to avoid this threshold is prohibited. Consequently, every contracting action for which competition does not occur must have a sole/single-source justification document in the contract file. This applies to all requests/requirements, not just "new" requirements. The fundamental issue is whether the procurement is competed or not. If not, a written document must be developed and filed in the contract file, which justifies or explains why it was not competed. This procurement cannot reasonably be competed because:

Check all applicable blocks and completely explain.

- ☐ 1. Only one supplier (include the supplier name) produces or can produce this product or service.
- ☐ 2. Urgency of need limits the capability to compete the requirement.
Please explain the urgency and negative impact if timeline is extended to compete this requirement.
- ☒ 3. Standardization with existing products or services must be maintained. Use of any other type, brand, or service process would be incompatible or too costly to modify.
Explanation required:
Cartegraph is used in conjunction with the City's ESRI GIS platform for many asset management tracking functions across multiple departments. Migrating to a new system is unfeasible and carries a steep cost.
- ☒ 4. Continuity with current or existing processes or services is necessary.
Change to another supplier is not possible for the following reasons:
Cartegraph is currently being used by multiple departments as an enterprise solution for asset management, task and work order tracking, and financial cost tracking of assets.
- ☐ 5. Statutory or regulatory requirements limit competition **for the following reasons:**
- ☐ 6. Other reasons why competition for this **requirement must be limited:**

Signed: _____

Position/Title: Director of Information Technology

6/14/2021

Agenda Item No. B)

PRESENTER:

Patrick O'Connell, Fire Chief

SUBJECT:

Approval of a resolution renewing an interlocal agreement between Texas Parks and Wildlife Department (TPWD) and the New Braunfels Fire Department for prescribed live-fire training.

DEPARTMENT: Fire Department

COUNCIL DISTRICTS IMPACTED: City-wide

BACKGROUND INFORMATION:

The purpose of this agreement is to provide New Braunfels Fire Department members who hold Texas Commission on Fire Protection Wildland Firefighter certifications the opportunity to participate in live-fire prescribed burn training with Texas Parks and Wildlife at TPWD managed lands as part of its normal land management activities within the State of Texas.

ISSUE:

This interlocal agreement requires City Council approval.

FISCAL IMPACT:

No fiscal impact.

RECOMMENDATION:

Staff recommends approval of this resolution.

RESOLUTION 2021-R 3 7

A RESOLUTION OF THE CITY COUNCIL OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH TEXAS PARKS AND WILDLIFE DEPARTMENT TO PROVIDE PRESCRIBED FIRE TRAINING FOR THE NEW BRAUNFELS FIRE DEPARTMENT.

WHEREAS, The City of New Braunfels and Texas Parks and Wildlife Department wish to provide opportunities to the New Braunfels Fire Department to capitalize on prescribed fire training; and

WHEREAS, the Texas Parks and Wildlife Department makes prescribed fire training available to the New Braunfels Fire Department through its prescribed fire operations; and

WHEREAS, the City of New Braunfels and Texas Parks and Wildlife Department mutually benefit from having qualified New Braunfels Fire Department personnel assist with prescribed fires on TPWD managed properties.

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

THAT, the City of New Braunfels City Council authorizes its City Manager to enter into an interlocal Agreement, attached hereto as Exhibit A, with Texas Parks and Wildlife Department for the purpose of providing opportunities to the New Braunfels Fire Department to participate in prescribed fires on TPWD managed properties.

ADOPTED AND APPROVED on this the 14th day of June 2021.

CITY OF NEW BRAUNFELS, TEXAS

Rusty Brockman, Mayor

ATTEST

Caitlin Krobot, City Secretary

INTERLOCAL COOPERATION CONTRACT
between
TEXAS PARKS AND WILDLIFE DEPARTMENT
and
NEW BRAUNFELS FIRE DEPARTMENT
for
PRESCRIBED FIRE TRAINING

This Contract is entered into by and between the Texas Parks and Wildlife Department, hereinafter referred to as "TPWD", and New Braunfels Fire Department, hereinafter referred to as "NBFD", pursuant to the authority granted by and in compliance with the provisions of the Interlocal Cooperation Act, Chapter 791, Texas Government Code. TPWD and NBFD may be referred to herein collectively as "Agencies" and separately as "Agency."

I. PURPOSE

The purpose of this Contract is to provide opportunities to capitalize on prescribed fire training, which is available to NBFD through the implementation of TPWD's prescribed fire operations. TPWD will mutually benefit by having additional qualified labor available to implement prescribed fires on TPWD managed properties.

The provisions of this Contract delineate each Agency's responsibilities and procedures when conducting cooperative prescribed fire operations ("BURN") performed under the management of TPWD as a part of its normal land management activities within the State of Texas.

II. RESPONSIBILITIES

A. TPWD shall:

1. Provide a primary point of contact to NBFD for the purpose of notifications for each BURN.
2. Provide coordination among and between Agencies.
3. Manage, organize, and provide personnel management of each BURN, according to guidelines and requirements prescribed by TPWD policy.
4. Notify NBFD of BURN opportunities and request specific equipment and personnel resources if needed.
5. Assist NBFD in documenting the participation of NBFD's employees in each BURN for training file purposes.

B. NBFD shall:

1. Provide a primary point of contact to TPWD for the purpose of notifications for each BURN.
2. Allow TPWD to have operational control of personnel, equipment, and resources being used, unless otherwise agreed.
3. Assure that all NBFD employees participating in BURN must:
 - a) Be physically capable of performing assigned duties;
 - b) Maintain certifications, knowledge, skills, and abilities necessary to operate safely and effectively in the assigned position;
 - c) Maintain support of employer for participation in activities; and
 - d) Hold appropriate National Wildfire Coordinating Group (NWCG) certification(s) or taskbooks for trainee positions.
4. Maintain a roster with qualification and fitness levels of all its employees who will be participating in the BURN and provide the roster to TPWD before each BURN.
5. Provide all tools and Personal Protective Equipment (PPE) to its employees necessary to complete performance under this Contract. All PPE must meet or exceed National Fire Protection Association (NFPA) 1977 Standard on Protective Clothing and Equipment for Firefighters (current edition).

III. ADMINISTRATIVE, FINANCIAL, AND PERSONNEL MANAGEMENT

- A. Reimbursement: TPWD will **NOT** reimburse NBFD for any costs associated with its participation in the BURN, including wages, travel, per-diem, supplies or equipment. Each Agency to this Contract will be responsible for its own expenses, including but not limited to those items listed above.
- B. Funding: Any expenditure of resources must be from current revenues available to the paying Agency.
- C. Medical Care for Injury or Illness: If NBFD's employee incurs an injury or illness during the performance of this Contract, TPWD will cooperate logistically with NBFD to ensure NBFD's employee is properly treated and medically evaluated. In the absence of NBFD's management, TPWD will investigate the incident and make a determination as to whether, in its opinion, the injury or illness was work related and will notify NBFD of its findings for proper processing of a Workers Compensation claim.
- D. Liability: Pursuant to Government Code §791.006(a-1), the Agencies agree to assign the liability as follows, in a manner different than that specified in §791.006(a):
1. Each Agency will be responsible for its actions, and the actions of its employees.
 2. The activities performed under this Contract shall be performed entirely at each Agency's own risk.
 3. To the extent allowed by law, each Agency releases the other Agency from the actions of its own employees.
 4. To the extent allowed by law, each Agency waives all claims against the other Agency to this Contract for compensation from any loss, damage, personal injury, or death occurring as a consequence of the performance of this Contract.
 5. TPWD certifies that it will meet all applicable insurance requirements under Section 11.355 of the Texas Parks and Wildlife Code.
- E. Compliance with Laws: All burn activities must be conducted in accordance with applicable law, including Texas Parks and Wildlife Code Chapter 11, Subchapter M, and associated TPWD regulations, and the "General Plan for Burning on TPWD Lands" document, which apply to burn activities conducted on TPWD land.

IV. POINTS OF CONTACT

TPWD Project Coordinator(s):

Jeff Sparks
State Parks Fire Program Manager
12016 FM 848
Tyler, Texas 75707
903-566-5698 office
jeff.sparks@tpwd.texas.gov

Kevin Ferguson
State Parks Fire Specialist
100 Park Road 71
Mineral Wells, Texas 76067
512-413-6808 office
kevin.ferguson@tpwd.texas.gov

Mike Lloyd
State Parks Fire Specialist
SP-R3 West HQ
7690 HWY 46 West
Pipe Creek, Texas 78063
830-535-4733 office
mike.lloyd@tpwd.texas.gov

NBFD Project Coordinator(s):

Tyler Hindman, Captain - Fire Station 6
209 Stone Gate Dr
New Braunfels, Texas 78130
806-683-1659
chindman@nbtexas.org

Patrick O'Connell, Fire Chief
209 Stone Gate Dr
New Braunfels, Texas 78130
806-683-1659
(no email provided)

TPWD Contract Coordinator:

Jennifer O'Leary, CTCM, CTCD
Contract Specialist
4200 Smith School Road
Austin, Texas 78744
512-389-4779 office
tpwdcontracting@tpwd.texas.gov

NBFD Contract Coordinator:

Tyler Hindman, Captain - Fire Station 6
209 Stone Gate Dr
New Braunfels, Texas 78130
806-683-1659
chindman@nbtexas.org

V. GENERAL PROVISIONS

- A. Amendments: This Contract may be amended by mutual agreement of the Agencies. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Agencies.
- B. Dispute Resolution: Any disputes arising from this Contract shall be resolved using Chapter 2260 of the Texas Government Code.
- C. Public Disclosure: Information, documentation and other material in connection with this Contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code ("the Public Information Act"). To the extent allowed by law, no public disclosures or news releases pertaining to this Contract shall be made without prior written approval of TPWD.
- D. Termination: This Contract shall terminate upon expiration of the term, unless otherwise extended or renewed as provided in accordance with the Contract terms and conditions. Either Agency may terminate this Contract upon a thirty (30) day written notice.
- E. Termination for Default: TPWD may, by written notice of default to NBFD, terminate this Contract in whole or in part for cause if NBFD fails to perform in full compliance with the Contract requirements, through no fault of TPWD. TPWD will provide a thirty (30) day written notice of termination to NBFD of intent to terminate, and TPWD will provide NBFD with an opportunity for consultation with TPWD prior to termination.

VI. PERIOD OF PERFORMANCE

This Contract shall commence on the date of the last signature and shall continue for a period of five (5) years, unless terminated earlier in accordance with other provisions of this Contract.

This Contract may be extended upon written approval by both Agencies.

CITY OF NEW BRAUNFELS

TEXAS PARKS AND WILDLIFE DEPARTMENT

By: _____
Authorized Signature

By: _____
Tammy Dunham, CTCM, CTPM
Purchasing and Contracting Director

Date: _____

Date: _____

6/14/2021

Agenda Item No. C)

PRESENTER:

Tony Gonzalez - Director of Information Technology

SUBJECT:

Approval of a purchase through GTS Technology Solutions, Inc for the acquisition of networking equipment for buildings being constructed as part of the 2019 Bond Program.

DEPARTMENT: Information Technology**COUNCIL DISTRICTS IMPACTED:** All**BACKGROUND INFORMATION:**

The 2019 Bond Program included the construction of Fire Station 2, Fire Station 3 (both replacements) and a Police Headquarters. As these buildings are currently under construction, staff requests council consideration to purchase the networking equipment required to make these buildings functional in regard to technology needs.

Given current lead times in the industry, the timing of this purchase will insure we do not experience delays in opening these new buildings as a result of networking equipment not being on hand.

This purchase is being made on two State of Texas DIR contracts (DIR-TSO-3763-R, DIR-TSO-4160), thereby satisfying all competitive procurement requirements. The total cost of this purchase is \$283,046. The breakdown of the costs by each building is provided below:

Police Station - \$250,859
Fire Station 2 - \$16,093.50
Fire Station 3 - \$16,093.50

ISSUE:

[Enter Text Here]

FISCAL IMPACT:

Funding for these costs have been incorporated into the project budgets within the 2019 bond program. Therefore, sufficient funds are available to approve the purchase as described above.

RECOMMENDATION:

Staff recommends approval of this purchase.

6/14/2021

Agenda Item No. D)

PRESENTER:

Garry Ford, Assistant Public Works Director

SUBJECT:

Approval for City Manager to enter a professional service agreement (PSA) with Kimley-Horn for the completion of the design plans, specifications and cost estimates for improved traffic signalization at the County Line Road/Walnut, County Line Road/Dove Crossing and Hanz Dr/Gruene Rd intersections in the amount of \$97,410.

DEPARTMENT: Engineering/Capital Programs**COUNCIL DISTRICTS IMPACTED:** Districts 2 & 4**BACKGROUND INFORMATION:**

Summer 2020, Engineering staff submitted applications to TXDOT Highway Safety Improvement Program (HSIP) call for projects and have been awarded funding for improved traffic management at various intersections. As part of the award, the City will be responsible for 100% of the design costs, State plan review, subsidiary direct State costs and any overruns during construction.

The improvement locations are as follows:

County Line Road at Walnut will include upgrades to the exiting traffic signal radar detection and push button components along with improvements and additions to the school zone signage; County Line Road at Dove Crossing will include a new traffic signal and push button components to replace the existing ALL-STOP 4-way intersection at the Fischer Park entrance; Hanz Dr at Gruene Rd will include advanced warning signals and signage for the current ALL-STOP 4-way intersection.

Historic information has shown that there is an increased number of traffic incidents and/or traffic accidents at each of these intersections. Once the projects have been closed, the City will continue ownership and maintenance of the improvements.

ISSUE:

No issue. Continue an ongoing program of infrastructure, construction, and maintenance

FISCAL IMPACT:

Sufficient funds are available from the Roadway Impact Fees Fund to support the agreement described above.

RECOMMENDATION:

Staff recommends approval for City Manager to enter a professional service agreement (PSA) with Kimley-Horn for the completion of the design plans, specifications and cost estimates for improved traffic signalization at the County Line Road/Walnut, County Line Road/Dove Crossing and Hanz Dr/Gruene Rd intersections in the amount of \$97,410.

6/14/2021

Agenda Item No. E)

PRESENTER:

Garry Ford, Assistant Public Works Director

SUBJECT:

Approval for City Manager to enter a professional service agreement (PSA) with Pape-Dawson for the completion of the design plans, specifications, and cost estimates for additional traffic lanes at FM 1101 and Barbarosa in the amount of \$196,053.50.

DEPARTMENT: Engineering/Capital Programs

COUNCIL DISTRICTS IMPACTED: District 5

BACKGROUND INFORMATION:

In Summer 2020, Engineering staff submitted applications to TXDOT Highway Safety Improvement Plan (HSIP) call for projects and have been awarded funding for improved traffic management at various intersections in the City. As part of the award, the City will be responsible for 100% of the design costs and State plan review.

The improvement will take south Barbarosa Rd from a two-lane to a four-lane divided road to match the existing Creekside Crossing on the north side of FM 1101.

ISSUE:

No issue. Continue an ongoing program of infrastructure, construction, and maintenance.

FISCAL IMPACT:

Sufficient funds are available in the Roadway Impact Fees Fund to support the agreement described above.

RECOMMENDATION:

Staff recommends approval for City Manager to enter a professional service agreement (PSA) with Pape-Dawson for the completion of the design plans, specifications, and cost estimates for additional traffic lanes at FM 1101 and Barbarosa in the amount of \$196,053.50

6/14/2021

Agenda Item No. F)

PRESENTER:

Christopher J. Looney, AICP; Planning and Development Services Director

SUBJECT:

Approval of a resolution accepting approximately 105 acres out of the W. J. Ragsdale A-268 Survey and the A. M. Esnaurizar A-20 Survey, into the City of New Braunfels extraterritorial jurisdiction (ETJ), located near the intersection of FM 758 and SH 123 North.

DEPARTMENT: Planning and Development Services

COUNCIL DISTRICTS IMPACTED: Outside City Limits

BACKGROUND INFORMATION:

Case #: CS21-0128

Owner/Applicant: Dennis J. Wilkerson
18 Augusta Pines Drive #210C
Spring, TX 77389
(281) 932-9997
dennis@tour18inc.com

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

ISSUE:

The subject property is located just outside the current City of New Braunfels ETJ boundary. In 2018, the cities of New Braunfels and Seguin executed an Interlocal Cooperation Agreement identifying areas of land that would pass from Seguin's ETJ to that of New Braunfels upon a request from the property owner.

Mr. Wilkerson's 105 acres are located within this "secondary acceptance" area and he is hereby requesting the entire property be added to the City of New Braunfels ETJ. This will allow his proposed residential subdivision to be reviewed by the City of New Braunfels along with the adjacent Jaroszewski property, simplifying the development review process (so they don't have to be reviewed by two different jurisdictions).

FISCAL IMPACT:

Cost of staff time to review subdivision plats and infrastructure construction documents is recovered through development application fees.

RECOMMENDATION:**Commission Recommendation:**

The Planning Commission held a public hearing on May 4, 2021 and recommended acceptance of the property (8-0-0 with Commissioner Gibson absent).

Staff Recommendation:

Acceptance of the property to facilitate streamlined development services for the property owners.

Attachments:

1. Location Map
2. Request Letter and Seguin Release
3. Resolution

Exhibit C

Date:

City of New Braunfels
Planning and Community Development Department
550 Landa Street
New Braunfels, TX 78130

With a copy to:

City of Seguin
Planning and Codes
205 N. River Street
Seguin TX 78155

Re: Inclusion in New Braunfels Extraterritorial Jurisdiction

Dear Mr. Looney and Mrs. Centeno,

My property, described below, is included in the "secondary swap" noted in the Interlocal Cooperation Agreement Setting Boundary and Extraterritorial Jurisdiction agreement between the City of New Braunfels and the City of Seguin, approved by both the New Braunfels and Seguin City Counsel's, and recorded on December 6, 2018 in Document # 201899027552 in Guadalupe County Property records.

I write to formally request the City of Seguin release my property from Seguin's ETJ and the Development Agreement identified by document number 12-20454 in the Guadalupe County Property Records and for the City of New Braunfels to immediately extend their extraterritorial jurisdiction boundary to include my property.

Tour Partners LTD., 109.7460 acres

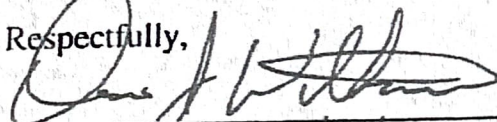
Property ID: 68997

Legal Description: ABS: 268 SUR: W J RAGSDALE (69.746AC) & ABS: 20 SUR: A M ESNAURIZAR (40AC) TOTAL 109.7460 ACS.

Geographic ID: 2G0268-0000-00200-0-00

Thank you in advanced.

Respectfully,



Dennis J. Wilkerson
President

**PLANNING & CODES**

March 15, 2021

City of New Braunfels
555 Landa St.
New Braunfels, TX 78130

To Whom it May Concern:

The Seguin City Council entered into an Interlocal Cooperation Agreement with the City of New Braunfels in December 2018 to define a portion of the boundary of the Extraterritorial Jurisdiction (ETJ) between the two cities. As part of the agreement, a "Secondary Release Area" was established in which properties would be automatically released to New Braunfels at such time that the properties can be included within the City of New Braunfels' ETJ.

The property owner of property within the "Secondary Release Area" has formally requested voluntary inclusion into the New Braunfels ETJ. The property is as follows:

109.746 ACRES:

Property ID: 68997; Geographic ID: 2G0268-0000-00200

Legal Description: ABS: 268 SUR: W J Ragsdale (69.746AC) & ABS: 20 SUR: A M Esnaurizar (40AC); Total 109.746 ACS.

Upon the request of the property owner the City of Seguin formally releases this property from its ETJ automatically and immediately upon the City of New Braunfels' acceptance of the properties into their ETJ. The portion of the property identified as 69.746 acres located within Abstract 268 in the WJ Ragsdale Survey is subject to a Development Agreement identified by document number 12-20454 and recorded within the Guadalupe County Deed Records. Per the Interlocal Cooperation Agreement with the City of New Braunfels, the City of Seguin shall assign the Development Agreement to the City of New Braunfels when the area becomes part of the New Braunfels ETJ.

No further action from the Seguin City Council is required.

Sincerely,

A handwritten signature in blue ink that reads "P. Centeno".

Pamela Centeno
Director of Planning & Codes
City of Seguin

RESOLUTION NO. 2021-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS ACCEPTING 109.746 ACRES OF LAND OUT OF THE W. J. RAGSDALE A-268 SURVEY AND THE A. M. ESNAURIZAR A-20 SURVEY, LOCATED NEAR THE INTERSECTION OF FM 758 AND SH 123 NORTH, INTO THE CITY OF NEW BRAUNFELS EXTRATERRITORIAL JURISDICTION; PROVIDING FOR NOTICE; PROVIDING OPEN MEETINGS AND OTHER RELATED MATTERS.

WHEREAS, Dennis J. Wilkerson (herein the “petitioner”), being the owner of certain property located within Guadalupe County, Texas, has petitioned the City of New Braunfels, Texas (herein the “City”) a home-rule municipality, for acceptance of said property into the Extraterritorial Jurisdiction (herein the “ETJ”); and

WHEREAS, the subject property is adjacent to the existing City of New Braunfels ETJ boundary; and

WHEREAS, the subject property is located within the “Secondary Release Area” established by the City of New Braunfels and the City of Seguin in the Interlocal Cooperation Agreement of December, 2018; and

WHEREAS, the City has the authority under Section 42.022 of the Texas Local Government Code to accept property into the ETJ at the property owner’s request;

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

SECTION 1

Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2

The City Council of New Braunfels, Texas, hereby accepts the property being approximately 110 acres of land out of the A.M. Esnaurizar A-20 Survey, located near the intersection of FM 758 and SH 123 North, more fully described in the attached Exhibit “A”, into the New Braunfels ETJ.

SECTION 3

Open Meetings. It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chap. 551, Tex. Gov’t. Code.

PASSED, APPROVED AND EFFECTIVE this the 14th day of June, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

EXHIBIT "A"



METES AND BOUNDS DESCRIPTION FOR A 105.198 ACRE TRACT OF LAND

BEING a 105.198 acre tract of land situated in the John Jones Survey, Abstract No. 189, and the W.J. Ragsdale Survey, Abstract No. 268, in Guadalupe County, Texas, being a portion of the remaining portion of a called 170.699 acre tract of land, as conveyed to Tour Partners, Ltd., and recorded in Document No. 201999000803, of the Official Public Records of Guadalupe County, Texas, and being a portion of a called 40.00 acre tract of land, as conveyed to Tour Partners, Ltd., and recorded in Document No. 201999028005, of the Official Public Records of Guadalupe County, Texas, and said 105.198 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a fence corner post found in the Northerly Right-of-Way (R.O.W.) line of F.M. Highway 758 (an 80' wide R.O.W.), being the Southeast corner of said 40.00 acre tract of land, same being the Southwest corner of the remaining portion of said 170.699 acre tract of land, and being a Southerly corner of this herein described tract of land;

THENCE with the Northerly R.O.W. line of said F.M. Highway 758, and with the Southerly line of said 40.00 acre tract of land, S 89° 15' 18" W, a distance of 450.94 feet to a point in the Northerly R.O.W. line of said F.M. Highway 758, being the Southeast corner of a called 60.743 acre tract of land, as conveyed to NB Dean 32, LLC, and recorded in Document No. 202099038349, of the Official Public Records of Guadalupe County, Texas, and being the Southwest corner of said 40.00 acre tract of land and this herein described tract of land;

THENCE departing the Northerly R.O.W. line of said F.M. Highway 758, and with the common line between said 40.00 acre tract of land and said 60.743 acre tract of land, N 01° 42' 55" W, at a distance of 3,775.36 feet passing the Northeast corner of said 60.743 acre tract of land, same being a Northeasterly corner of the remaining portion of a called 123.11 acre tract of land, as conveyed to Barry Jaroszewski, and recorded in Volume 1006, Page 147, of the Official Public Records of Guadalupe County, Texas, and continuing with the common line between said 40.00 acre tract of land and the remaining portion of said 123.11 feet, for a total distance of 3,860.37 feet to a point for the most Northeasterly corner of the remaining portion of said 123.11 acre tract of land, being the Northwest corner of said 40.00 acre tract of land, being in the Southerly line of a called 144.804 acre tract of land, as conveyed to David McCampbell, and recorded in Document No. 201899014062, of the Official Public Records of Guadalupe County, Texas, and being the Northwest corner of this herein described tract of land;

THENCE with the common line between said 40.00 acre tract of land and said 144.804 acre tract of land, N 89° 07' 44" E, a distance of 451.33 feet to a point for the Southeast corner of said 144.804 acre tract of land, being the Northeast corner of said 40.00 acre tract of land, being in the Westerly line of the remaining portion of said 170.699 acre tract of land, and being a Northwesterly interior corner of this herein described tract of land;

THENCE departing the Northeast corner of said 40.00 acre tract of land, and with the common line between the remaining portion of said 170.699 acre tract of land and said 144.804 acre tract of land, N 01° 42' 34" W, a distance of 502.43 feet to a point in the common line between the remaining portion of said 170.699 acre tract of land and said 144.804 acre tract of land, and being a Northwesterly corner of this herein described tract of land;

THENCE departing the common line between the remaining portion of said 170.699 acre tract of land and said 144.804 acre tract of land, and across and through the remaining portion of said 170.699 acre tract of land, N 88° 23' 17" E, a distance of 99.02 feet to a point for the Northwest corner of a called 17.78 acre tract of land, as conveyed to Barry Jaroszewski, and recorded in Document No. 201999028006, of the Official Public Records of Guadalupe County, Texas, being in a Westerly line of the remaining portion of said 170.699 acre tract of land, and being the most Northerly corner of this herein described tract of land;

THENCE with the common line between the remaining portion of said 170.699 acre tract of land and said 17.78 acre tract of land, S 01° 50' 47" E, a distance of 637.18 feet to a point for the Southwest corner of said 17.78 acre tract of land, being a Westerly interior corner of the remaining portion of said 170.699 acre tract of land, and being a Northerly interior corner of this herein described tract of land;

THENCE continuing with the common line between the remaining portion of said 170.699 acre tract of land and said 17.78 acre tract of land, the following courses:

S 66° 10' 17" E, a distance of 753.73 feet to a point for a Northeasterly corner;

N 61° 26' 56" E, a distance of 119.46 feet to a point for a Northeasterly corner;

THENCE continuing with the common line between the remaining portion of said 170.699 acre tract of land and said 17.78 acre tract of land, S 42° 00' 09" E, a distance of 87.99 feet to a point in the Westerly R.O.W. line of State Highway 123 (S.H. 123) (a variable width R.O.W.), being the most Southeasterly corner of said 17.78 acre tract of land, same being a Northeasterly corner of the remaining portion of said 170.699 acre tract of land, being at the beginning of a curve to the left, and being the most Easterly Northeast corner of this herein described tract of land;

THENCE departing the Southeasterly corner of said 17.78 acre tract of land, with the Westerly R.O.W. line of said S.H. 123, same being the Easterly line of the remaining portion of said 170.699 acre tract of land, and with said curve to the left, having an arc length of 974.33 feet, a radius of 2,904.80 feet, a delta angle of 19° 13' 05", a tangent length of 491.78 feet, and a chord bearing and distance of S 07° 10' 46" W, 969.77 feet to a point in the Westerly R.O.W. line of said S.H. 123, and being an Easterly corner of the remaining portion of said 170.699 acre tract of land and this herein described tract of land;

THENCE continuing with the Westerly R.O.W. line of said S.H. 123, and with the Easterly line of the remaining portion of said 170.699 acre tract of land, S 01° 04' 05" E, a distance of 2,120.80 feet to a point in the Westerly R.O.W. line of said S.H. 123, being the Northeast corner of a called 2.044 acre tract of land, as conveyed to 758 Property, LLC, and recorded in Document No. 202099020581, of the Official Public Records of Guadalupe County, Texas, and being the most Easterly Southeast corner of the remaining portion of said 170.699 acre tract of land and this herein described tract of land;

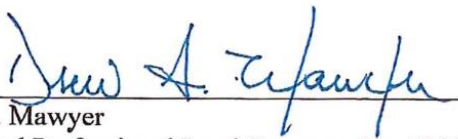
THENCE departing the Westerly R.O.W. line of said S.H. 123, and with the common line between the remaining portion of said 170.699 acre tract of land and said 2.044 acre tract of land, N 89° 42' 25" W, a distance of 279.85 feet to a point for the Northwest corner of said 2.044 acre tract of land, and being a Southeasterly interior corner of the remaining portion of said 170.699 acre tract of land and this herein described tract of land;

THENCE continuing with the common line between the remaining portion of said 170.699 acre tract of land and said 2.044 acre tract of land, S 01° 03' 22" E, a distance of 327.53 feet to a point in the Northerly R.O.W. line of said F.M. Highway 758, being the Southwest corner of said 2.044 acre tract of land, and being the most Southerly Southeast corner of the remaining portion of said 170.699 acre tract of land and this herein described tract of land;

THENCE with the Northerly R.O.W. line of said F.M. Highway 758, and with the Southerly line of the remaining portion of said 170.699 acre tract of land, S 89° 15' 18" W, a distance of 487.20 feet to the POINT OF BEGINNING, and containing 105.198 acres of land, more or less.

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

Bearings based on the Texas State Plane Coordinate System, South Central Zone (4204), North American Datum 1983.



Drew A. Mawyer
Registered Professional Land Surveyor No. 5348
TBPLS Firm Registration #10191500
5151 W. SH 46, NEW BRAUNFELS, TX 78132
MOE441- ZONING 105.198 AC- 042721



OWNER/DEVELOPER:
H&B DCAM, LLC
1208 RIVIER RD
NEW BRUNSWICK, NJ 08901

ENGINEERSURVEYOR
INK CML
JAMES INCALLS, P.E. - ENGINEER
2021 OH 40W, STE 105
NEW BRAUNFELS, TX 78132
(800) 358-7197

D.A. MAWYER LAND SURVEYING, INC.
DREW MAWYER, R.P.L.S. - SURVEYOR
5151 5th AVE
NEW BRAUNFELS, TEXAS 78102
(713) 324-0858

THIS DOCUMENT IS NOT TO BE RELEASED FOR THE PROTECTION OF NATIONAL DEFENSE UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652, APRIL 15, 1964, OR ANY OTHER EXECUTIVE ORDER.

NB DEAN, LLC
1266 RIVER RD
NEW BRAUNFELS, TX 78130

SURVEY EXHIBIT

DATE: 6/1/2021

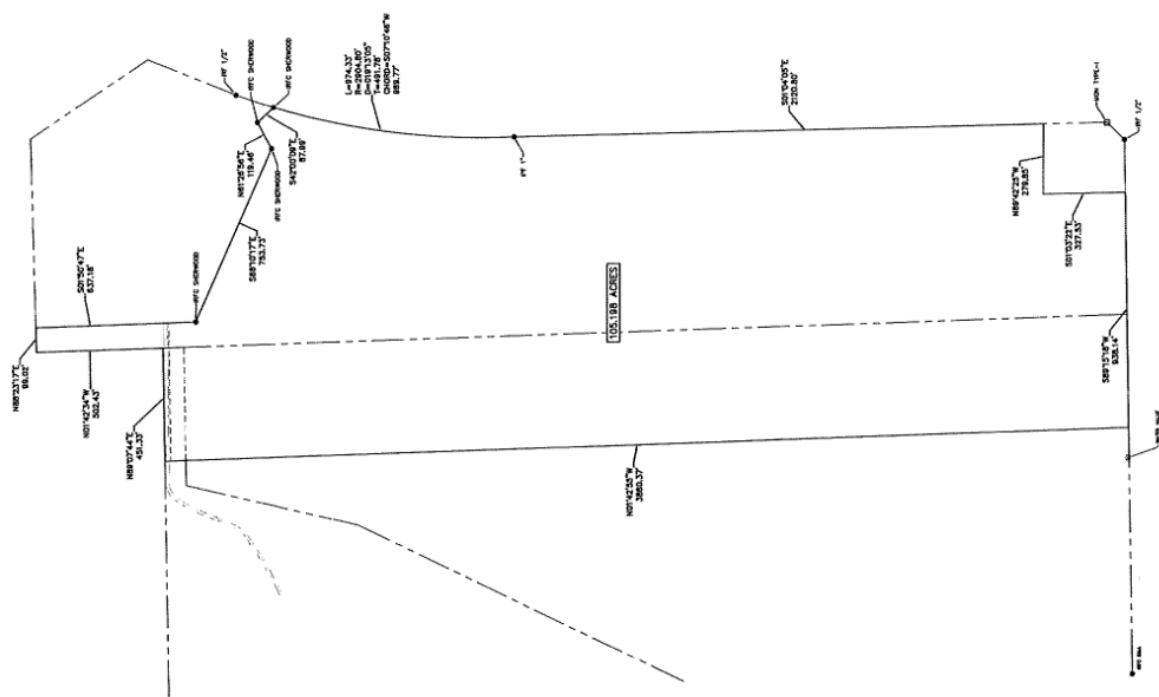
ETJ ACCEPTANCE

EX-1 or EX-1

NO	DATE	ISSUES AND REVISIONS
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2021 W SH46, STE 105
NEW BRAUNFELS, TX, 78132
PH: 830-358-7127 ink-civil.com
T&PE FIRM F-13351



6/14/2021

Agenda Item No. G)

PRESENTER:

Dr. Robert Lee, Airport Director

SUBJECT:

Approval of a contract with DBT Transportation Services, LLC for upgrade to the Voice Communication Control System for the Control Tower at the New Braunfels Regional Airport in the amount of \$128,213.

DEPARTMENT: Airport**COUNCIL DISTRICTS IMPACTED:** [Enter Text Here]**BACKGROUND INFORMATION:**

New Braunfels Regional Airport (NBRA) is a Class D controlled airfield. Silver State Helicopters (SS) constructed the Air Traffic Control Tower (ATCT) in 2007 for its training operations, and the City acquired the facility upon SS's bankruptcy in 2008.

The voice communication control system is the original equipment installed in 2007 and has reached obsolescence. The equipment is subject to increasing need for repairs and maintenance with the risk of having a complete system failure likely in the near future. Ongoing maintenance and repairs are hampered by the lack of parts availability due to the age of the equipment. The voice communication control system (VCCS) requires upgrading the existing Liberty Star system to avoid a total replacement, (hardware, software, displays, wiring, infrastructure) of the entire VCCS throughout the Control Tower. A total replacement would result in a much more costly alternative and severely impact ATCT operations. Replacing the VCCS will update the ATCT to state-of-the-art equipment with a parts inventory capable of sustaining the functionality of the ATCT into the next decade.

The VCCS Processors, hardware and software of existing system can only be upgraded by Harris ATC. Harris ATC is the only source for approved compatible parts for the VCCS and DBT Transportation Services is Harris ATC's only certified distributor and installer which qualifies this purchase is a sole source purchase. The total cost of the upgrade, installation and support services is \$128,213.

ISSUE:

[Enter Text Here]

FISCAL IMPACT:

The total cost of the upgrade, installation and support services is \$128,213. In the FY 2021 Adopted Budget, the 2011 Certificates of Obligation Fund includes funding for Airport Improvements. Within that project budget, there is sufficient funding to support the purchase as described above.

RECOMMENDATION:

Staff recommends approval of the purchase.

6/14/2021

Agenda Item No. H)

PRESENTER:

Jeff Jewell, Economic and Community Development Director

SUBJECT:

Approval of a resolution recommended by the New Braunfels Economic Development Corporation approving a project expenditure of up to \$140,000 to the Spark Small Business Center to assist with the operation of an economic development program, an eligible project expenditure related to the operation of an economic development program in accordance with Local Government Code Section 505.102

DEPARTMENT: Economic and Community Development**COUNCIL DISTRICTS IMPACTED:** All**BACKGROUND INFORMATION:**

This expenditure will allow the Spark Small Business Center (SBC) to renew its contract with UTSA to operate the Small Business Development Center (SBDC) in New Braunfels for part of fiscal year 2021-2022. Since approximately 2011, SBC, formally known as the Center for Entrepreneurship, has facilitated and overseen a partnership with the New Braunfels and Seguin economic development corporations to provide local assistance to business owners and access to programs and services offered by SBDCs. Traditionally, Seguin and New Braunfels funded 1/3 and 2/3 of the total program costs annually. SBC supports the entrepreneurial and small business environment in New Braunfels by providing free services targeted to existing businesses and aspiring entrepreneurs. SBC primarily focuses on counseling sessions, expanding access to capital, business planning, training, contracting and procurement opportunities, and exporting initiatives.

In the spring of 2020, the SBC received an additional \$40,000 above its normal funding levels from the NBEDC to provide additional resources and assistance to businesses affected by the pandemic. They used these resources to fund an additional counselor on a part-time basis and increased the counselor offerings in their 2020-2021 contract with these additional funds. Throughout 2020, the SBDC satellite center assisted local businesses with the Paycheck Protection Program, Economic Injury Disaster Loans (EIDL), Disaster Recovery and Assistance from FEMA and SBA Resources due to damages from the winter storm in February, as well as with access to additional grants/loans for particular sectors of the population to include veterans, women and minority-owned businesses. Between April 2020 and March 2021, the center facilitated the origination of nearly \$1,600,000 in loans and retained 36 jobs. The center provided almost 1,800 counseling hours with 139 of these hours provided to new clients. They also provide ongoing counseling to existing clients that have utilized SBDC services in the past.

In its contract with the SBDC, SBC is responsible for financing SBDC's costs, as well as the direct and indirect costs of running the center on West San Antonio Street. In total, this has cost approximately \$163,000 for SBDC's costs and another \$47,000 in rent, utilities, and other expenses for a total annual budget of approximately \$210,000 (typically funded by \$70,000 from Seguin EDC and \$140,000 from NBEDC).

In late 2020, the Seguin EDC left the partnership with NBEDC after the SBC signed a year-long commitment with SBDC from October 2020-September 2021. With an approximate \$17,500 contribution in FY 2020-2021 from Seguin EDC, the SBC faces an approximate \$52,500 deficit (25% of budgeted costs) if it is to fulfill its commitment through the end of the contract period in September. When Seguin EDC left the partnership, the development was presented in a briefing to the EDC and the board was made aware that an additional expenditure would be likely if they were interested in keeping the SBDC operations functioning in New Braunfels. They approved an additional project expenditure on May 20, 2021 of \$140,000.

The SBC maintains a 60-day cancellation notice requirement to the SBDC and a 90-day notice to cancel the lease. Functionally, this means the SBC needs an additional 90 days of cash on hand after the decision is made to not renew the lease. The board plans to take up an extension renewal discussion in the summer/fall of 2021 with a planned execution date of October 1, 2021. If approved, the additional \$140,000 will close the approximate \$53,000 funding shortfall to keep the SBC open through the end of September 2021 and another approximate \$87,000 for expenses for five months of operations through approximately the end of February 2022.

If the SBC board is considering the renewal of the contract with SBDC for another year starting October 1, 2021, they will likely ask the NBEDC to consider a prorated amount to fulfill the 2021-2022 contract with SBDC.

ISSUE:

None

FISCAL IMPACT:

Up to \$140,000 to SBC. The NBEDC has adequate funding for this project expenditure.

RECOMMENDATION:

Staff recommends approval of the resolution.

RESOLUTION NO. 2021-R 35

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

WHEREAS, the City of New Braunfels Economic Development Corporation (“EDC”) Board of Directors met on May 20, 2021 to consider a request from the Spark Small Business Center (“SPARK”) for a grant in an amount not to exceed \$140,000 to continue operating a Small Business Development Center (“SBDC”) satellite center to the University of Texas at San Antonio’s (“UTSA”) SBDC in New Braunfels; and

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

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

WHEREAS, the total budgeted cost for staffing and operating the satellite center in New Braunfels during 2020-2021 was anticipated to be \$210,000; and

WHEREAS, traditional funding partnerships between the EDC and Seguin Economic Development Corporation did not materialize for all of the 2020-2021 commitment and the EDC determined that keeping the SBDC operating was in the community’s best interest; and

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

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

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

SECTION 1: That the recommendation of the New Braunfels Economic Development Corporation to renew a contract with the SPARK Small Business Center

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

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

PASSED, ADOPTED AND APPROVED this 14th day of June 2021.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Rusty Brockman, Mayor

ATTEST:

Caitlin Krobot, City Secretary

**CONTRACT BETWEEN THE NEW BRAUNFELS ECONOMIC DEVELOPMENT
CORPORATION AND SPARK SMALL BUSINESS CENTER**

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF COMAL §

THIS CONTRACTUAL AGREEMENT, is made and entered into by and between the New Braunfels Economic Development Corporation, a Non-Profit Corporation of the State of Texas, hereinafter called "EDC", acting by and through its duly authorized officers, and Spark Small Business Center, formerly known as the Center for Entrepreneurship, a Non-Profit Corporation of the State of Texas, hereinafter called "SPARK", acting by and through its officers:

W I T N E S S E T H:

I.

WHEREAS, Texas Local Government Code §501.054 provides the EDC with the powers of non-profit corporations incorporated under the Texas Non-Profit Corporation Act, as amended, and Section Seven of the Bylaws of the EDC allows for the President and Secretary of the EDC to execute any contract which the Board has approved and authorized to be executed; and

II.

WHEREAS, upon the recommendation of the EDC at its meeting on May 20, 2021, and the City Council of New Braunfels, Texas on June 14, 2021, by Resolution _____, approved the EDC's determination that the following funds be allocated to SPARK to participate in a funding arrangement to continue operation of a Small Business Development Center ("SBDC") satellite center to the University of Texas at San Antonio's SBDC in New Braunfels:

- (1) A grant in an amount up to \$140,000 to SPARK for the costs to continue the operation of a Small Business Development Center satellite office to February 2022;
- (2) The grant funds, or parts thereof, shall be distributed to SPARK within thirty (30) days after receiving a request(s) from SPARK with attached invoice from SPARK for operation of the satellite center;
- (3) SPARK shall at all times comply with the ordinances of City of New Braunfels and the laws of the State of Texas;
- (4) All funds received by SPARK from EDC as herein provided shall be expended solely for the purposes stated herein and as attached as Exhibit A with regard to the costs of establishing and operating the satellite center in New Braunfels. Any proven breach of this covenant shall be cause for immediate termination of the distribution of funds.

III.

Any breach of the terms and conditions of this grant by SPARK will result in the repayment of the grant unless EDC and SPARK agree, in writing, to modify the terms of the grant.

IV.

In the performance of this contract, SPARK shall not discriminate against any user, performer, or customer of the SPARK because of his/her race, color, religion, national origin, sex, disability or ancestry. Proven breach of this covenant may be regarded as a material breach of the contract causing its termination.

V.

Employment of Undocumented Workers. During the term of this Agreement, SPARK agrees not to knowingly employ an undocumented worker and if convicted of a violation of 8 U.S.C. Sec. 1324a(f), the SPARK shall repay the amount of the Grant and any other funds received by the SPARK from the EDC as of the date of such violation within sixty (60) days after the date the SPARK is notified by the EDC of such violation, plus interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the EDC) as its prime or base commercial lending rate, from the date of such notice until paid.

VI.

All communications between EDC and SPARK shall be addressed to the President of the New Braunfels Economic Development Corporation, c/o City of New Braunfels, 550 Landa Street, New Braunfels, Texas 78130. Any communication to SPARK shall be addressed to the President, The Spark Small Business Center, 800 W. San Antonio, St. New Braunfels, TX 78130.

VII.

It is understood and agreed that in the event any provision of this contract is inconsistent with requirements of law, the requirements of law will control and the parties shall revert to their respective positions, which would otherwise be enjoyed or occupied by the respective parties for the terms of this contract.

VIII.

The foregoing instrument in writing between the parties herein, constitutes the entire agreement between the parties, relative to the funds made the basis hereof, and any other written or oral agreement with the EDC being expressly waived by SPARK.

IN WITNESS WHEREOF, the parties hereto execute this agreement in duplicate originals on this ____ day of _____, 2021.

CITY OF NEW BRAUNFELS ECONOMIC
DEVELOPMENT CORPORATION

By: _____
Kathy Meurin, *President*

ATTEST:

Jim Poage, *Corporate Secretary*

APPROVED AS TO FORM:

Valeria Acevedo, *City Attorney*

Spark Small Business Center

By: _____
_____, *President*

ATTEST:

_____, _____

6/14/2021

Agenda Item No. I)

PRESENTER:

Caitlin Krobot, City Secretary

SUBJECT:

Approval of the appointment of Jennifer Guerra to the Building Standards Commission for unexpired terms ending 10/26/2022.

DEPARTMENT: City Secretary's Office**COUNCIL DISTRICTS IMPACTED:** City-wide**BACKGROUND INFORMATION:**

The Building Standards Commission reviews structures inside the city limits to determine if they are substandard; and can order the repair of buildings found to be in violation of City codes. This Commission is comprised of 5 regular members serving two-year staggered terms, who are residents from one of the following areas:

1. Real Estate Profession
2. Home Building Profession
3. Development Profession
4. Legal Profession
5. One member at large

Additionally, there are 2 alternate members selected from the public at-large.

The Building Standards Commission currently has vacancies in the Development Profession category and the Home Building Profession category.

The City Secretary's Office received one qualified applicant to fill the Home Building category:

- Jennifer Guerra

ISSUE:

Building Standards Commission appointments require City Council approval.

FISCAL IMPACT:

No fiscal impact.

RECOMMENDATION:

Staff recommends appointment of one individual to the Building Standards Commission for unexpired terms ending 10/26/2022.

6/14/2021

Agenda Item No. J)

PRESENTER:

Garry Ford, Assistant Public Works Director/City Engineer

SUBJECT:

Approval of a resolution recommended by the New Braunfels Economic Development Corporation approving a project expenditure of up to \$375,000 to the City of New Braunfels for a professional services agreement with Bain Medina Bain, Inc. for final design of a portion of the Dry Comal Creek Hike and Bike Trail, an eligible project expenditure related to recreational or community facilities in accordance with Local Government Code Section 505.152; and approval for the City Manager to enter into a Reimbursement Agreement with Union Pacific Railroad for preliminary design approval of a pedestrian underpass at an estimated cost of \$15,000 as part of the Dry Comal Trail Project.

DEPARTMENT: Public Works**COUNCIL DISTRICTS IMPACTED:** 1,3,5**BACKGROUND INFORMATION:**

Staff recommends Bain Medina Bain to complete all plans, specifications and estimates for a 1 mile section of Dry Comal Trail following the creek beginning at the Walnut Ave bridge to the Knights of Columbus, then under the Landa Street bridge then onto Landa Park Drive ending at Elizabeth Street. The EDC Board held a public hearing and approved funding of the final design documents at its May 20, 2021 meeting.

Regarding the UPRR reimbursement agreement, a portion of this trail alignment is proposed to be installed under an existing UPRR bridge. Part of Bain Medina Bain's scope will be to design a structure to be set under the bridge to protect pedestrians from falling debris. UPRR will require the City to enter into this agreement for the reimbursement of UPRR and/or its agents for 100% of all design review and expenses associated with the protective structure per their bridge standard guidelines. The agreement does not guarantee that the protective structure will be approved, only that UPRR will review the preliminary design and will then decide to approve or deny at any time during the preliminary process.

UPRR will submit monthly expenses to the City for reimbursement up to \$15,000, plus any overages if needed. If the protective structure is approved, staff expects this cost to increase for additional review expenses.

ISSUE:

None

FISCAL IMPACT:

\$375,000 from the EDC, which has adequate funds for this project expense and up to \$15,000 from the City of

New Braunfels, which will be supported by the General Fund.

RECOMMENDATION:

Staff recommends approval of a resolution for a project expenditure of up to \$375,000 to the City of New Braunfels for a professional services agreement with Bain Medina Bain, Inc. for final design of a portion of the Dry Comal Creek Hike and Bike Trail, an eligible project expenditure related to recreational or community facilities in accordance with Local Government Code Section 505.152; and approval for the City Manager to enter into a Reimbursement Agreement with Union Pacific Railroad for preliminary design approval of a proposed pedestrian underpass at an estimated total of \$15,000 as part of the Dry Comal Trail Project.

RESOLUTION NO. 2021-R 36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS ECONOMIC DEVELOPMENT CORPORATION TO MAKE A PROJECT EXPENDITURE OF UP TO \$375,000 TO THE CITY OF NEW BRAUNFELS FOR A PROFESSIONAL SERVICES AGREEMENT WITH BAIN MEDINA BAIN, INC. FOR FINAL DESIGN OF A PORTION OF THE DRY COMAL HIKE AND BIKE TRAIL; AND APPROVAL FOR THE CITY MANAGER TO ENTER A REIMBURSEMENT AGREEMENT WITH UNION PACIFIC RAILROAD FOR PRELIMINARY DESIGN APPROVAL OF A PROPOSED PROTECTIVE STRUCTURE AT AN ESTIMATED TOTAL OF \$15,000 AS PART OF THE PROJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Economic Development Corporation (“EDC”) Board of Directors met on May 20, 2021 to consider a request from the City of New Braunfels (“City”) for up to \$375,000 for final design of a portion of the Dry Comal Creek Hike and Bike Trail (“DCT”) between Walnut Avenue and Landa Park; and

WHEREAS, the City completed preliminary design of this portion of the DCT and submitted it to the Metropolitan Planning Organization’s (“MPO”) Call for Projects in 2021; and

WHEREAS, the completion of the Dry Comal Creek Trail was ranked as a strategic priority for the EDC and would be an asset owned and maintained by the City’s Parks and Recreation Department; and

WHEREAS, the EDC is an economic development corporation formed by the City of New Braunfels pursuant to the Local Government Code, Chapters 501-505 that is authorized by Chapter 505.152 to undertake a project for public park purposes and park facilities and related improvements; and

WHEREAS, the estimated total cost of the EDC’s financial contribution is \$375,000; and

WHEREAS, the EDC Board of Directors held a public hearing on May 20, 2021, to solicit public comment about the City’s funding request; and

WHEREAS, the EDC Board of Directors, after discussing the request, voted to approve a grant in an amount of up to \$375,000 for the City of New Braunfels to fund the final design of a portion of the DCT; and

WHEREAS, the DCT traverses Union Pacific Railroad’s (“UPRR”) Right of Way and will require the City reimburse UPRR or its agents for design review and expenses for a protective structure at a cost not to exceed \$15,000; and

WHEREAS, the City will fund this design review expense incurred by UPRR or its agents; and

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

SECTION 1: That the recommendation of the New Braunfels Economic Development Corporation to provide a grant to the City of New Braunfels in an amount up to \$375,000 for funding the final design of this portion of the DCT is hereby approved.

SECTION 2: That a contract between the EDC and City will be executed to fulfill the terms and conditions of the grant and the City Manager is authorized to execute the Agreement on behalf of the City.

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

PASSED, ADOPTED AND APPROVED this 14th day of June 2021.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Rusty Brockman, Mayor

ATTEST:

Caitlin Krobot, City Secretary

**CONTRACT BETWEEN THE NEW BRAUNFELS ECONOMIC DEVELOPMENT
CORPORATION AND THE CITY OF NEW BRAUNFELS, TEXAS**

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF COMAL §

THIS CONTRACTUAL AGREEMENT (the "Agreement") is made and entered into by and between the New Braunfels Economic Development Corporation, a Non-Profit Corporation of the State of Texas, hereinafter called "EDC", acting by and through its duly authorized officers, and the City of New Braunfels, Texas, a Texas municipal corporation, hereinafter called "CITY," acting by and through its officers:

W I T N E S S E T H:

I.

WHEREAS, Texas Local Government Code §501.054 provides the EDC with the powers of non-profit corporations incorporated under the Texas Non-Profit Corporation Act, as amended, and Section Seven of the Bylaws of the EDC allows for the President and Secretary of the EDC to execute any contract which the Board has approved and authorized to be executed; and

II.

NOW THEREFORE, under the authority granted to the EDC by §501.101 of the Texas Local Government Code and upon the recommendation of the EDC which occurred on _____, 2021, the City Council of New Braunfels, Texas on _____, 2021, approved the EDC's determination that an amount up to \$375,000 be allocated to the CITY for costs associated with a project to prepare final design documents for the Dry Comal Creek Trail. Said funds shall be provided by EDC to the City under the following conditions:

- (1) Up to \$375,000 of the funds shall be allocated from sales tax funds by the EDC to CITY to pay a portion of the costs associated with the final design of the Dry Comal Creek Hike and Bike Trail;

- (2) The total of \$375,000 of EDC funds, or parts thereof, shall be distributed to CITY within thirty (30) days after receiving an invoice;
- (3) CITY shall at all times comply with the ordinances of City of New Braunfels and the laws of the State of Texas; and
- (4) All funds received by CITY from EDC as herein provided shall be expended solely for the purposes stated herein.

III.

In the performance of this contract, CITY shall not discriminate against any person because of his/her race, color, religion, national origin, sex, disability or ancestry. Breach of this covenant may be regarded as a material breach of the contract causing its termination.

IV.

It is expressed and understood and agreed by both parties hereto that each acts independently of each other, and neither has the authority to bind the other or to hold out to a third party that it is the authority for the other. The parties hereto understand and agree that the City shall not be liable for any claims, which may be asserted by any third party occurring in connection with the performance of the EDC.

Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of employer-employee, principal agent, joint ventures or any other similar such relationships, between the parties hereto.

V.

Employment of Undocumented Workers. During the term of this Agreement, CITY agrees not to knowingly employ an undocumented worker and if convicted of a violation of 8 U.S.C. Sec. 1324a(f), the CITY shall repay the amount of the Grant and any other funds received by the CITY from the EDC as of the date of such violation within sixty (60) days after the date the CITY is notified by the EDC of such violation, plus interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the EDC) as its prime or base commercial lending rate, from the date of such notice until paid.

VI.

All communications between EDC and CITY shall be addressed to the President of the New Braunfels Economic Development Corporation, c/o City of New Braunfels, 550 Landa Street, New Braunfels, Texas 78130 with a copy being sent to the President of the EDC at his/her residential or business address. Any communication to the CITY shall be addressed to the City Manager, 550 Landa Street, New Braunfels, Texas 78130.

VII.

It is understood and agreed that in the event any provision of this contract is inconsistent with requirements of law, the requirements of law will control and the parties shall revert to their respective positions, which would otherwise be enjoyed or occupied by the respective parties for the terms of this contract.

VIII.

The foregoing instrument in writing between the parties herein, constitutes the entire agreement between the parties relative to the funds made the basis hereof, and any other written or oral agreement with the EDC being expressly waived by CITY.

IN WITNESS WHEREOF, the parties hereto execute this agreement in duplicate originals on this ____ day of ____, 2021.

CITY OF NEW BRAUNFELS
ECONOMIC DEVELOPMENT CORPORATION

By: _____

Kathy Meurin, *President*

550 Landa Street

New Braunfels, Texas 78130

James Poage, *Corporate Secretary*

CITY OF NEW BRAUNFELS, TEXAS

By: _____

Robert Camareno, *City Manager*

ATTEST:

Caitlin Krobot, *City Secretary*

APPROVED AS TO FORM:

Valeria Acevedo, *City Attorney*

6/14/2021

Agenda Item No. K)

PRESENTER:

Garry Ford, Assistant Public Works Director

SUBJECT:

Approval of a contract with Acme Bridge Company for construction of a stormwater treatment basin adjacent to the Elizabeth Ave Realignment project as part of the Edwards Aquifer Habitat Conservation Plan.

DEPARTMENT: Public Works, Capital Programs**COUNCIL DISTRICTS IMPACTED:** 3**BACKGROUND INFORMATION:**

The City of New Braunfels' 2020 and 2021 Edwards Aquifer Habitat Conservation Plan (EAHCP) Workplan includes engineering design for a stormwater treatment basin to be constructed as part of the City's Elizabeth Avenue Realignment project. This project is intended to help fulfill the water quality protection requirements set forth in the EAHCP. Funding for the design of the stormwater treatment facility has been approved by the EAHCP Implementing Committee and is available to the City to cover costs associated with engineering design in 2020 and 2021. Funding has also been approved by the EAHCP Implementing Committee to cover construction costs for the stormwater treatment basin in 2021.

The City issued Task Order 20-021 on August 26, 2020 to request Statement of Qualifications from firms included on the Indefinite Delivery and Indefinite Quantity (IDIQ) list under the Stormwater Engineering and Civil Engineering categories to perform engineering design work for the project. Doucet and Associates was selected to perform engineering design services for the project based upon relevant work experience and qualifications and was awarded a contract/ Professional Service Agreement in October 2020 in the amount of \$24,800.

On March 8, 2021 City Council approved a contract amendment with Doucet and Associates for an additional \$6,000 for re-design work due to constraints relating to existing utility layouts and revisions to the adjacent Elizabeth Ave Realignment project. The amendment makes the contract with Doucet & Associates \$30,800.

City staff issued an invitation for a Competitive Sealed Proposal (CSP) on April 27, 2021 and received two proposals on May 7, 2021. Upon review of the proposals Acme Bridge Company was selected as the best value contractor for the project in the amount of \$101,439.

ISSUE:

Strategic Priorities: Continue an ongoing program of infrastructure construction and maintenance.

FISCAL IMPACT:

Funding has been approved through the EAHCP program to cover construction costs for the stormwater treatment basin. Therefore, sufficient funds are available to award the contract as described above.

RECOMMENDATION:

Approval of a contract with Acme Bridge Company for construction of a stormwater treatment basin adjacent to the Elizabeth Ave Realignment project.

6/14/2021

Agenda Item No. L)

PRESENTER:

Caitlin Krobot, City Secretary

SUBJECT:

Approval of the second and final reading of an ordinance by the City Council of the City of New Braunfels, Texas incorporating the recently adopted charter amendments into a singular form.

DEPARTMENT: City Secretary

COUNCIL DISTRICTS IMPACTED: All districts impacted.

BACKGROUND INFORMATION:

The City Council of the City of New Braunfels officially declared that the election was duly and properly ordered, that proper legal notice of such election was duly given in the English language and the Spanish language, that proper election officers were duly appointed prior to the election, that the election was duly and legally held, that all required preclearance submissions were made and that no objections were interposed; that all qualified voters of the City were permitted to vote at the election, that due returns of the results of the election have been made and delivered, and that the City Council of the City has duly canvassed such returns, all in accordance with the laws of the State of Texas and of the United States of America and the order calling the election.

As soon as practical after the election, the Mayor must certify a copy of the charter with the amendments that passed, fully integrated into a final form. In order to certify the charter, the City Council must adopt the ordinance with the fully integrated charter.

The first reading of this ordinance was approved on May 24, 2021.

ISSUE:

Whether to approve the ordinance that incorporates the recently adopted charter amendments into a singular form.

FISCAL IMPACT:

No fiscal impact.

RECOMMENDATION:

Staff recommends the approval.

ORDINANCE NO. 2021-42

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS INCORPORATING THE RECENTLY ADOPTED CHARTER AMENDMENTS INTO A SINGULAR FORM.

WHEREAS, Chapter 9 of the Texas Local Government Code governs the adoption or amendment of a Home-Rule Charter as authorized by Article XI, Section 5 of the Texas Constitution; and

WHEREAS, pursuant to Section 9.003 of the Texas Local Government Code, on May 1, 2021 the proposed city charter amendments for the City of New Braunfels, Texas were submitted to the voters of New Braunfels in a special election; and

WHEREAS, on May 1, 2021, the voters of the City of New Braunfels voted to adopt each the proposed city charter amendments; and

WHEREAS, the City Council has reviewed and investigated all matters pertaining to this election, including the ordering, notices, election officers, holding, and returns thereof; and

WHEREAS, the City Council canvassed the returns of this election on Monday, May 10, 2021, wherein City Council adopted the charter amendments and said amendments became effective immediately; and

WHEREAS, the City Council of the City of New Braunfels desires to have a single, incorporated form of the Charter for its citizens and the public.

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

SECTION 1. The City Council of the City of New Braunfels officially declared that the election was duly and properly ordered, that proper legal notice of such election was duly given in the English language and the Spanish language, that proper election officers were duly appointed prior to the election, that the election was duly and legally held, that all required preclearance submissions were made and that no objections were interposed; that all qualified voters of the City were permitted to vote at the election, that due returns of the results of the election have been made and delivered, and that the City Council of the City has duly canvassed such returns, all in accordance with the laws of the State of Texas and of the United States of America and the order calling the election.

SECTION 2. A majority of the qualified voters of the City of New Braunfels, Texas, voting in the election voted FOR the adoption of the listed Charter Amendments.

SECTION 3. The Mayor of the City was authorized to perform any and all acts necessary to implement the provisions of this canvass in the manner prescribed by law. The Mayor caused

this ordinance, as an appropriate order regarding the charter to be entered into the records of the municipality declaring the charter amendments adopted as prescribed by Section 9.005(b) of the Texas Local Government Code and such shall constitute an authenticated copy of the incorporated charter amendments.

SECTION 4. The City Council of the City of New Braunfels hereby adopts Exhibit A, incorporated herein to this ordinance, as the fully incorporated charter amendments into the City's home-rule charter.

DULY PASSED ON FIRST READING, on the 24th day of May, 2021 at a regular meeting of the City Council of the City of New Braunfels, Texas, which was held in compliance with the Texas Open Meetings Act, codified in the Texas Government Sections 551.001 *et seq.*, at which meeting a quorum was present and voting.

DULY PASSED AND APPROVED, on the 14th day of June, 2021 at a regular meeting of the City Council of the City of New Braunfels, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, *et. Seq.* at which meeting a quorum was present and voting.

CITY OF NEW BRAUNFELS, TEXAS

Rusty Brockman, Mayor

ATTEST:

Caitlin Krobot, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

PART I - HOME RULE CHARTER¹¹

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Preamble.

All the inhabitants of the City of New Braunfels, Comal County, Texas, residing within the boundaries and limits of said City as are herein established or may hereafter be established, shall be a political subdivision of the State of Texas, incorporated under and to be known by the name and style of the "City of New Braunfels" with such powers, rights and duties as provided in this Home Rule Charter in accordance with the statutes of the State of Texas. Within this charter, a word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. Words used in the present or past tense include the future as well as the present or past.

Sec. 1.02. - Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the statutes of this state, and this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State constitution or the statutes of the State.

Sec. 1.03. - The boundaries.

The boundaries of the City of New Braunfels are hereby established by the official map which is on file in the office of the City Secretary.

The boundaries of the city have been extended by Charter amendment on August 25, 1947, by ordinance granting a petition to annex on September 24, 1951, and by ordinances extending the limits of the city under authority of Art. I, § 3, of the 1944 Charter on December 6, 1954, June 13, 1955, September 19, 1955, January 30, 1956, February 6, 1956, February 27, 1956, June 20, 1960, and October 31, 1960. For the official and original legal description the user is directed to the official ordinance books of the city and to the Book of City Charters and amendments in the office of the Secretary of State in the City of Austin, where certified copies are recorded.

Sec. 1.04. - Extension of boundaries.

The City Council shall have the power by ordinance to fix the boundaries of the City of New Braunfels. Without limiting the previous sentence, this power includes the ability to annex and to disannex territory, when permitted, to the extent, in the manner, and subject to any restrictions or limitations, provided by the constitution and laws of the State of Texas.

Sec. 1.05. - Reserved.

ARTICLE II. - POWERS OF THE CITY

Sec. 2.01. - General.

The City shall have all powers possible for a home rule city to have under the constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this charter.

Sec. 2.02. - Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power granted in this article.

Sec. 2.03. - Eminent domain.

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The City may exercise the power of eminent domain of any manner authorized or permitted by the constitution and laws of this State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.

The legislative and governing body of the City shall consist of seven (7) Councilpersons and shall be known as the "Council of the City of New Braunfels," and who shall each serve a term of three (3) years.

The City of New Braunfels shall by ordinance be divided into six (6) districts. Each district shall to the extent reasonably possible be equally populated and the City Council shall maintain such equality of population, as from time to time deemed necessary, by ordinance. The districts shall be designated Number 1, 2, 3, 4, 5 and 6. The qualified voters of each district shall elect one (1) Councilmember for each of the six (6) districts. The six (6) Councilmembers so elected from each district shall have been a resident of the district from which the Councilmember is elected for no less than six (6) months prior to filing for office and must continue to reside in said district for his or her entire term of office.

The Mayor of the City of New Braunfels shall be elected by the qualified voters of the City at large and elections for the Mayor shall be held pursuant to Article IV, Elections, of the City Charter of New Braunfels, Texas.

Each Councilperson shall hold office until his or her successor is elected and qualified. Candidates elected at the municipal election shall take office at the regular City Council meeting,

the same being at the first regular meeting held after the meeting in which the election returns are canvassed and the result of the election is officially declared.

No elected official shall serve more than three (3) consecutive three (3) year terms of office and no more than three (3) terms during lifetime. However, years or time of service that an elected official may serve in filling an unexpired term or a partial term of office shall not be counted toward the above limitations.

Sec. 3.02. - Qualifications.

Each member of the City Council shall be a resident citizen of the City of New Braunfels, shall be a qualified voter of the State of Texas, shall have been such resident citizen of the City of New Braunfels for a period of not less than twelve (12) months immediately prior to election day, and shall not be indebted to the City of New Braunfels; provided, however, that any person with the above qualifications, except as to residence, who shall have been a resident for a period of not less than twelve (12) months immediately preceding his or her election of any of the territory not formerly within the corporate limits of said city, but which is annexed under the provisions of section 1.04 of this charter, shall be eligible for said office. An elected officer must continue to reside in the City of New Braunfels for his or her entire term. If any elected officer fails to maintain the foregoing qualifications, or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, the City Council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this charter.

Sec. 3.03. - Council to be judge of election, qualification.

The City Council shall be the judge of the election and qualification of its own members.

Sec. 3.04. - Compensation.

Each Councilmember shall be paid fifty dollars (\$50.00) per meeting, and the Councilmember serving as mayor shall be paid seventy-five dollars (\$75.00) per meeting. In addition, each Councilmember shall be entitled to reimbursement for his/her actual and necessary expenses incurred in the performance of his/her specific official duties of office. Said expenses shall be subject to the approval of the council.

Sec. 3.05. - Mayor and Mayor Pro Tem.

- (a) *Election of Mayor.* The Mayor of the City of New Braunfels shall be elected in accordance with Article III, Section 3.01 and Article IV, Section 4.05 of the Charter of the City of New Braunfels, Texas. The Mayor shall preside at meetings of the City Council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties.
- (b) *Election of Mayor Pro Tem.* At its first regular meeting following the meeting at which the official election returns are canvassed and the results are declared of each year, the City Council shall elect from among its members a Mayor Pro Tem who shall serve at the pleasure of the City Council, and he/she shall perform all the duties of Mayor in the absence or disability of the Mayor. Mayor Pro Tem shall have the duty to implement, coordinate, and strive for completion of the annual evaluations of the City Manager, City Attorney, and

Municipal Court Judge unless directed otherwise by resolution. The City Council may, by resolution, provide standards, procedures, and instruction on such annual evaluations.

- (c) *Emergency powers of Mayor.* Whenever the Mayor shall deem it necessary in order to enforce the laws of the City, or to avert danger, or to protect life or property, in case of riot, outbreak, calamity or public disturbance, or when he/she has reason to fear any serious violation of law or order, outbreak, or any other danger to the City of New Braunfels or the inhabitants thereof, he/she shall proclaim the emergency and shall utilize such powers and authorizations as permitted by local, state, and federal law needed to keep the peace and respond to such emergency. During such emergency, the police department of the City of New Braunfels, and such other keepers of the peace and emergency responders as shall be appointed, deputized, or enlisted by the Mayor shall be subject to the orders of the Mayor, and shall perform such duties as he/she may require, and shall have the same power while on duty as the regular police of the City of New Braunfels. The Mayor shall have authority during the continuance of such emergency to make and enforce such rules, regulations, and orders as are necessary to preserve the public health, safety, and welfare from the threatened danger. During such emergency, such rules, regulations and orders shall have the force and effect of law.

The Mayor shall have authority in case of riot or other unlawful assemblage, to order and enforce the closing of any theater, picture show, or other place of public amusement or entertainment, ballroom, barroom, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence any of the penal laws of the State, or any ordinances of the City; and he shall perform such other duties and possess and exercise such other power and authority as may be prescribed by law or by ordinance.

Sec. 3.06. - Vacancies.

All vacancies on City Council, regardless of cause, with unexpired terms more than twelve (12) months shall be filled by special election pursuant to state law. All vacancies with unexpired terms of twelve (12) months or less may be filled, at the discretion of City Council, by appointment of the City Council upon a majority vote, may be left vacant for the remainder of the unexpired term or filled by a special election pursuant to state law. An office holder who has forfeited the office under this Charter is ineligible to be appointed to fill an unexpired term created by such forfeiture.

Sec. 3.07. - Powers of the City Council.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the City Council.

Sec. 3.08. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Councilperson shall hold any other City office or employment by the City during the term for which he/she was elected to the City Council, and no former Councilperson shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he/she was elected to the City Council.
- (b) *Appointments and removals.* Neither the City Council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees

whom the City Manager or any of his/her subordinates are empowered to appoint, unless otherwise provided in this Charter, but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

- (c) *Interference with administration.* Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter or as authorized in writing by the City Manager prior to action, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.
- (d) *Admission of liability.* Neither the City Council nor any of its members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

Sec. 3.09. - City Council meetings and procedure.

- (a) *Meetings.* City Council meetings shall be held at the city hall, or at any other public place designated by the City Council, and the City Council shall meet regularly at least once in every month at such time as the City Council may prescribe by rule. Special meetings may be held on the call of the Mayor or four (4) members and, whenever practicable, upon not less than twelve (12) hours notice to each member; provided, however, that all meetings shall be open to the public except for closed and/or executive meetings and sessions as provided and authorized by the statutes of the State of Texas, as now or hereafter amended, and written public notice thereof of all meetings shall be given as required by the statutes of Texas, as now or hereafter amended.
- (b) *Minutes and rules.* The City Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a public record.
- (c) *Voting.* Voting on final readings of ordinances shall be by roll call and the ayes and nays shall be recorded in the minutes. All other voting may be by voice without the need for a roll call. Five (5) members of the City Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Council. No action of the City Council, except as otherwise provided in the preceding sentence and in Section 3.02, shall be valid or binding unless adopted by the affirmative vote of a majority of the entire City Council.
- (d) In the event that a legal quorum of the elected City Council cannot be convened due to a disaster resulting in multiple injuries, deaths, or incapacity of officers, the surviving City Council members and the chairs and vice-chairs, or president and vice-president of the following boards, shall constitute an interim City Council for purposes of meeting in numbers sufficient to constitute an interim City Council quorum, within fifteen (15) days of such disaster, or as provided in the Texas Election Code, and shall call for an election to fill vacant City Council positions. Such constituted interim City Council shall serve until the requested election occurs and shall possess all powers possessed by the elected City Council. Such qualifying boards, in order of succession, shall be the (1) New Braunfels Economic Development Corporation, (2) Planning Commission, (3) Transportation and Traffic Advisory

Board, (4) Zoning Board of Adjustment, and (5) Parks and Recreation Advisory Board. The elected City Council may pass, by ordinance, such succession procedures and authorizations as it deems necessary.

Sec. 3.10. - Ordinances in general.

The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, before any ordinance shall be adopted.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, but general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. Unless authorized for single reading by this charter, all ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption only except that one (1) member of the council may require a complete reading of any ordinance upon first reading thereof. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect immediately upon final passage thereof. An ordinance imposing any criminal penalty for any violation of its provisions shall take effect ten (10) days after publication. Any ordinance necessary to protect the public's peace, health, safety and general welfare, may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members at said reading. Further, any ordinance calling or canvassing an election, ordinances required by state law to approve a contract, annexation ordinances where such annexation first requires at least two (2) public hearings, ordinances setting tax rate as required by state law, and ordinances adopting a budget if at least two (2) budget workshops or public hearings have occurred to discuss the pending budget may be passed and become effective upon one (1) reading of the City Council.

The City Attorney shall approve each ordinance in writing or shall file with the City Secretary his/her written legal objections thereto. Every ordinance enacted by the City Council shall be signed by the Mayor, Mayor Pro Tem, or by two (2) council members, and shall be filed with and recorded by the City Secretary before the same shall become effective.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every penal ordinance and of every other ordinance required by law or this Charter to be published, by causing the descriptive title or caption and summary of the penalty of the same to be published at least one time within ten (10) days after final passage thereof in some newspaper of general circulation in the City or to be submitted to City's publisher for codified ordinances. The City Secretary shall note on every ordinance and on the record thereof, the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Sec. 3.11. - Official bonds for City employees.

The City Manager and the City Secretary and such other City officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the City of New Braunfels and conditioned upon a faithful discharge of the duties of such persons and upon a faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business

under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of New Braunfels, and such bonds must be acceptable to the City Council.

Sec. 3.12. - Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provision of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00) and/or cancellation of a faithful performance bond.

Sec. 3.13. - Audit and examination of City books and accounts.

The City Council shall cause an annual audit to be made of the books and accounts of each and every department of the City. A complete audit shall be made at the end of each fiscal year, and at such other times as may be necessary, by an Independent Certified Public Accountant who shall be selected by the City Council. The audit report shall be filed with the City Council and shall be available for public inspection and a summary thereof shall be published in a newspaper in the City of New Braunfels. The auditor selected shall not maintain or keep any of the City accounts or records.

ARTICLE IV. - ELECTIONS

Sec. 4.01. - Elections.

Regular City elections shall be held annually on the uniform election date in May of each year as determined by future legislatures of the State of Texas, at which time officers will be elected to fill those offices which become vacant that year. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election. Notice of the election shall be published in a newspaper published in the City of New Braunfels, such publication to be not earlier than the thirtieth (30th) day nor later than the tenth (10th) day before the election date or otherwise as provided by law. The same notice shall be published on the City Website. In the order, ordinance or resolution of the City Council calling any election at which a Councilperson shall be elected, the City Council shall, in calling such election, designate the place on the ballot for each vacancy to be filled at such election. A regular election is defined as an election other than a primary election that regularly occurs at fixed dates. A special election is defined as an election that is not a regular election or a primary election.

Sec. 4.02. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections. The City Council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance.

Sec. 4.03. - Filing for office.

Any person having the qualifications set forth for Councilmember under Section 3.02 of this Charter shall have the right to file an application to have his/her name placed on the official ballot as a candidate for any elective office, and such application in writing signed by such candidate and accompanied by his/her loyalty affidavit as prescribed by the Election Code of the Revised Civil Statutes of the State of Texas, filed with the City Secretary no later than 5:00 o'clock p.m. of the forty-fifth (45th) day before the election day. An application may not be filed earlier than the thirtieth (30th) day before the date of the filing deadline. Timely filing [of] such application shall entitle such applicant to a place on the official ballot. Each such person filing his/her application to have his/her name placed on the official ballot shall, in his/her application, specify the place for which he/she desires to become a candidate.

Sec. 4.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots for designated place without party designations in the order determined in a drawing of lots (for each position) conducted by the City Secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

Sec. 4.05. - Election by majority.

At any regular or special municipal election the candidates in each of the six (6) districts on the ballot as required in Section 3.01, who shall have received the majority of votes cast in such election for such district shall be declared elected. In the event no such candidate for a designated district on the City Council receives a majority of the votes cast for that district in the regular or special election, a runoff election shall be held between the two (2) candidates who received the greatest number of votes for such district. Such runoff election shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections. At any regular or special municipal election for the election of the Mayor at large pursuant to Section 3.01, the candidate on the ballot who shall have received the most number of votes cast in such election shall be declared elected. In the event of a tie between or among any of the candidates for Mayor receiving the most votes, then a runoff election shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections, except such vote shall be by plurality.

Sec. 4.06. - Conducting and canvassing elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary. The City Council shall comply with state law regarding the conducting and canvassing of elections. Candidates elected at the municipal election shall take office at the regular City Council meeting, the same being at the first regular meeting held after the meeting in which the election returns are canvassed and the result of the election is officially declared.

Sec. 4.07. - Oath of office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Secretary.

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of (Councilmember/Mayor) of the City of New Braunfels of the State of Texas,

and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

ARTICLE V. - RECALL OF OFFICERS

Sec. 5.01. - Scope of recall.

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct of [or] malfeasance in office.

Sec. 5.02. - Petitions for recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such questions to be so submitted shall first be filed with the person performing the duties of City Secretary. As to the Councilpersons elected at large, said petition shall be signed by qualified voters of the city equal in number to at least thirty (30) percent of the number of votes cast in the last regular city-wide municipal election of the City, but in no event less than four hundred (400) such petitioners. As to the Councilpersons elected by District, said petition shall be signed by qualified voters in such District equal in number to at least thirty (30) percent of the number of votes cast in the last regular district council municipal election in such District, excluding any special elections or run-off elections, but in no event less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his signature his printed name, his place of residence, giving name of street and number, his county of residence, his voter registration number, and shall also write thereon the day, the month and year his signature was affixed. A separate petition shall be circulated with respect to each elected City official whose removal is sought.

Sec. 5.03. - Form of recall petition.

The recall petition mentioned above must be addressed to the City Council of the City of New Braunfels, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated. If there be more than one (1) ground, such as for incompetency, misconduct or malfeasance in office, the petition shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he/she is charged. The signature shall be verified by oath in the following form:

"State of Texas) (County of Comal)

I, _____, being first duly sworn, on oath depose and say that I am one (1) of the signers of the above petition and that the statements made therein are true and each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for Comal County, Texas."

Sec. 5.04. - Various papers constituting petition.

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereon may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one (1) or more petitioners; and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary [and,] on the same day, the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his New Braunfels address.

Sec. 5.05. - Presentation of petition to City Council.

Within twenty (20) days after the date of filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of New Braunfels at a special meeting called for this purpose.

Sec. 5.06. - Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing to be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Sec. 5.07. - Election to be called.

If an officer whose removal is sought does not resign, then it shall become the duty of the City Council to order a special election and fix a date for holding such recall election, the date of which election shall be on the next available uniform election date prescribed by State Law that is not less than sixty (60) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held. If the election pertains to a Councilmember elected at large, the election shall take place on a city-wide basis. If the election to be called pertains to a Councilmember elected from a district, the election shall be held within that particular district.

Sec. 5.08. - Ballots in recall election.

Ballots used at recall elections shall conform to the following requirements:

- (a) With respect to each person whose removal is sought, the question shall be submitted:

"Shall (Name of Person) be removed from the office of (Name of Office) by recall?"

- (b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

"YES"

"NO"

Sec. 5.09. - Result of recall election.

If the majority of the votes cast at a recall election shall be "NO[.]" that is[,] against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES[.]" that is[,] for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.06 of this Charter.

Sec. 5.10. - Recall restrictions thereon.

No recall petition shall be filed against any officer of the City of New Braunfels within six (6) months after his election, nor within six (6) months after an election for such officer's recall. Nothing herein shall prevent impeachment of an officer of the City of New Braunfels nor removal for other causes as provided for herein.

ARTICLE VI. - LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

Sec. 6.01. - General power.

The qualified voters of the City of New Braunfels, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by initiative and referendum.

Sec. 6.02. - Initiative.

Qualified voters of the City of New Braunfels may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to five (5) percent of the number of registered voters in the City. Each copy of the petition shall have attached to it a copy of the proposed legislation in ordinance form. The petition shall be signed in the same manner as recall petitions are signed, as provided in Section 5.02 of this Charter, and shall be verified by oath in the manner and form provided by recall petitions in Section 5.03 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in Section 5.04 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of the City Secretary shall present such petition and proposed ordinance to the City Council at a special meeting called for this purpose. Upon presentation of the petition and draft of the proposed ordinance, it shall become the duty of the City Council, within ten (10) business days after the receipt thereof, to pass and adopt such ordinance without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date prescribed by State Law which is no less than sixty (60) days after the date at which the election is called, at which the

qualified voters of the City of New Braunfels shall vote on the question of adopting or rejecting the proposed legislation.

Sec. 6.03. - Referendum.

Qualified voters of the City of New Braunfels may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, or appropriating money, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ninety (90) days after final passage of said ordinance or resolution, or within ninety (90) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 6.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.02 of this Charter. Until such ordinance or resolution is approved by the voters as herein provided, the ordinance or resolution specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect.

Sec. 6.04. - Voluntary submission of legislation by the City Council.

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

Sec. 6.05. - Form of ballots.

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR the ORDINANCE," and

"AGAINST the ORDINANCE," or

"FOR the RESOLUTION," and

"AGAINST the RESOLUTION."

Sec. 6.06. - Publication of proposed and referred ordinances.

The person performing the duties of City Secretary shall publish at least once in a newspaper in the City the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

Sec. 6.07. - Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the City Council.

Sec. 6.08. - Inconsistent ordinances.

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest total number of votes "FOR" and "AGAINST" shall prevail.

Sec. 6.09. - Ordinances passed by popular vote, repeal or amendment.

An ordinance passed by the City Council as a result of popular vote under the provision of this article may be repealed or amended at any time after the expiration of two years by initiative under section 6.02 of this Article. A referred ordinance that is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

Sec. 6.10. - Franchise ordinances.

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article XI of this Charter, pertaining to ordinances granting franchises when valuable rights have accrued thereunder.

ARTICLE VII. - ADMINISTRATIVE SERVICES

Sec. 7.01. - City Manager.

- (a) *Appointment and qualifications.* The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. He/She shall be chosen by the City Council solely on the basis of his/her executive and administrative training, experience, ability, and character, and need not when appointed, be a resident of the City of New Braunfels; however, the City Manager must be a resident of the City within one hundred twenty (120) days of his/her appointment and shall have his/her principal residence in the City continuously while holding that office. No member of the City Council shall during the time of which he/she is elected and for one (1) year thereafter, be appointed City Manager.
- (b) *Terms and salary.* The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. In case of the absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive such compensation as may be fixed by the City.
- (c) *Powers and duties.* The powers herein conferred upon the City Manager by the City Council shall be the following:

- (1) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or the Charter.
 - (2) Prepare and submit the annual budget and a five (5) year capital improvement program to the City Council.
 - (3) Submit to the City Council monthly a report on the finances and administrative activities of the City and a complete report as of the end of each fiscal year.
 - (4) To perform such other duties as may be prescribed by this Charter or required of him/her by the City Council, not inconsistent with the provisions of this Charter.
- (d) The City Manager shall prepare and submit annually to the City Council a five (5) year financial forecast and a five (5) year capital improvement program with appropriate timing ahead of the submission of the “proposed budget” to Council as referenced in Section 9.02.

Sec. 7.02. - City Secretary.

The City Secretary shall also be the City Clerk, and the City Secretary and such assistant secretaries as the City Council shall deem advisable, shall be appointed by the City Manager, and may be removed from office by the City Manager.

The City Secretary, or Assistant City Secretary, shall give notice of City Council meetings, keep the minutes of the proceedings of such meetings, and shall perform such other duties as the City Manager shall assign to the City Secretary, and those elsewhere provided for in this Charter.

Sec. 7.03. - Department of Police.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

- (a) *Chief of Police.* The Chief of Police shall be the Chief Administrative Officer of the Department of Police. The Police Chief shall be appointed by the City Manager, and he/she may be removed from office by the City Manager.
- (b) *Special Police.* No person except as otherwise provided by general law or the Charter or the ordinances passed pursuant thereto shall act as Special Police or Special Detective.

Sec. 7.04. - Fire Department.

There shall be established and maintained a Fire Department to provide means for protection against conflagrations and other disaster services and for the establishment, maintenance, support, and regulations of a Fire Department and for the guarding against fires.

- (a) *Fire Chief.* The Fire Chief shall be the Chief Administrative Officer of the Fire Department. The Fire Chief shall be appointed by the City Manager and may be removed from office by the City Manager.
- (b) *Volunteer Fire Department.* Authority is hereby granted to establish a Volunteer Fire Department.

Secs. 7.05—7.08. - Reserved.

ARTICLE VIII. - LEGAL AND JUDICIAL SERVICES

Sec. 8.01. - Municipal Court.

There shall be established and maintained a court designated as the Municipal Court of the City of New Braunfels for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to municipal courts.

Sec. 8.02. - Judge of the Municipal Court.

- (a) The City Council shall appoint a presiding judge for the Municipal Court. The Presiding Judge of the Municipal Court shall be a licensed attorney appointed for a term set by ordinance, but for not less than two years. Any municipal court judge must reside within the City of New Braunfels, or becomes a resident within one hundred twenty (120) days of his/her appointment. All judges shall receive such compensation as may be fixed by the City Council.
- (b) The presiding judge may appoint a temporary judge in case of absence. The City Council may, by ordinance, adopt authorizations and procedures for the appointment, compensation, and qualifications of any associate judges.
- (c) Removal of the Judge. The City Council shall have authority to remove the presiding judge and any associate judges. All judges may be removed with or without cause. The City Council may, by ordinance, provide for procedures pertaining to any removal.

Sec. 8.03. - Clerk of the Municipal Court.

The City Manager shall appoint the Clerk of the Municipal Court. The clerk of said court and his or her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the clerk of the court in issuing process of said court and conducting the business thereof.

Sec. 8.04. - City Attorney.

The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. He/She shall receive for his/her services such compensation as may be fixed by the City Council for regular and special duties and shall hold his/her office at the pleasure of the City Council. The City Attorney or such other attorney selected by him/her with the approval of the City Council shall represent the City in all litigations and prosecutions in Municipal Court. There may be such Assistant City Attorneys as may be authorized by the City Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney, including representing the City in all litigations and prosecutions in Municipal Court. The City Attorney

shall reside within the City Limits of the City of New Braunfels or become a resident of the City within one hundred twenty (120) days of his/her appointment.

Sec. 8.05. - Reserved.

ARTICLE IX. - MUNICIPAL FINANCE

Sec. 9.01. - Fiscal year.

The fiscal year of the City of New Braunfels shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

Sec. 9.02. - Preparation and submission of budget.

The City Manager, at least forty-five (45) days prior to the beginning of each fiscal year, shall submit to the City Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- (c) An analysis of property valuations.
- (d) An analysis of property tax rate.
- (e) Tax levies and tax collections by years for the last five (5) years.
- (f) General fund resources in detail.
- (g) Special fund resources in detail.
- (h) Summary of proposed expenditures by fund, function, department, and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support summary (h) above.
- (j) A statement of expenditures of the proceeds of all bond issues.
- (k) A description of all bond issues outstanding, showing rate of interest[,], date of issue, maturity date, amount authorized, amount issued, and the amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds.
- (m) The appropriate ordinance.
- (n) The tax levying ordinance.
- (o) A provision for financing the current capital improvement program.

Sec. 9.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

Sec. 9.04. - Proposed expenditures compared with other years.

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

Sec. 9.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council and shall be a public record. The City Manager shall provide copies for distribution to all interested persons requesting same.

Sec. 9.06. - Notice of public hearing on budget.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in a newspaper in the City of New Braunfels and on the City's website a summary of the proposed budget and a notice of the hearing setting forth the time and place thereof at least ten (10) days before the date of such hearing, which hearing shall be set not later than thirty (30) days prior to the beginning of the next fiscal year.

Sec. 9.07. - Public hearing on budget.

At any time and place set forth in the notice required by Section 9.06, or any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

Sec. 9.08. - Proceedings on budget after public hearing.

After the conclusion of such public hearing, the City Council may increase or decrease the items of the budget as a result of such hearings, except items in proposed expenditures fixed by law. If the City Council increases the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

Sec. 9.09. - Adoption of budget.

The budget shall be adopted by the favorable vote of a majority of all the members of the City Council.

Sec. 9.10. - Date of final adoption [of budget].

The budget shall be finally adopted not later than ten (10) days prior to the beginning of the fiscal year, and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

Sec. 9.11. - Effective date of budget, certification, copies made available.

Upon final adoption, the budget shall be in effect for the next ensuing fiscal year. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Comal County. The final budget shall be reproduced so that such copies shall be permanent copies, and the copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations. A digital copy of the final budget shall be made available on the City's website.

Sec. 9.12. - Budget establishes amount to be raised by taxation.

From the effective date of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount of levy for the purposes of the City in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

Sec. 9.13. - Reserved.

Sec. 9.14. - Emergency appropriations.

In the event it is necessary to meet a public emergency affecting life, health, property or the public peace, the City Council may make emergency appropriations by emergency ordinance in accordance with the provisions hereinafter provided. To the extent that there are no available unappropriated revenues to meet such appropriations, the City Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the next fiscal year after the emergency appropriation was made.

Sec. 9.15. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective revenue plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the American Institute of Certified Public Accountants.

Sec. 9.16. - Budget amendments.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council. Funds within a given department may be reallocated within that department by the City Manager.

Sec. 9.17. - Purchases, Sales and Contracts.

All purchases made, and contracts entered into, by the City, and all sales, exchanges or other dispositions of property of any kind or character owned by the City, shall be accomplished pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and

laws. The City Manager shall have the authority to contract for expenditures without further approval of the City Council for all budgeted items that do not equal or exceed the minimum amount required for mandatory competitive bidding/purchasing set by state law. At the time this charter provision was amended, state law defined such minimum as any amount over fifty thousand dollars (\$50,000.00).

Sec. 9.18.- Repealed.

Sec. 9.19. - Power to tax.

The City Council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the City, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and general laws of the State of Texas.

Sec. 9.20. - Implementation of Power to Tax.

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

Secs. 9.21—9.24. - Reserved.

Sec. 9.25. - Taxes, when due and payable.

All taxes due to the City of New Braunfels shall be payable at a location designated by the City Council of the City of New Braunfels. Taxes shall be due and shall become delinquent as provided in the Texas Tax Code, as amended, which code further provides for delinquent taxes, interest, penalty and procedures for the collection of taxes.

Sec. 9.26. - Tax liens.

The City shall have all the rights granted by State Law to collect taxes and to enforce collection by lien foreclosures and other procedures set forth by State Law pertaining to Real and Personal property.

Sec. 9.27. - General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

Sec. 9.28. - Revenue bonds.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income therefrom,

or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 9.29. - [Reserved.]

ARTICLE X. - PLANNING AND DEVELOPMENT^[2]

Sec. 10.01. - Planning Commission.

There shall be a City Planning Commission and it shall consist of nine (9) members, of which at least seven (7) members shall be citizens of the City of New Braunfels and of which not more than two (2) members may live in the Extraterritorial Jurisdiction of the City of New Braunfels. The members of said commission shall be appointed by the City Council for a term of three (3) years.

Sec. 10.02. - Platting of property.

Every tract of land situated within the corporate limits of the City of New Braunfels and its Extraterritorial Jurisdiction shall be platted pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws.

Sec. 10.03. - Development of property.

The City Council shall cooperate in every manner possible with persons interested in the development of property within or beyond the City limits. No expenditure of public funds, however, shall be authorized for the development of privately-owned subdivisions within or beyond the corporate limits of the City, except for the extension of utilities or services to such areas.

Sec. 10.04. - Comprehensive City Plan.

The Comprehensive City Plan for the physical development of the City of New Braunfels shall contain the [Planning] Commission's recommendations for growth, development and beautification of the City. A copy of the Comprehensive City Plan, or any part thereof, shall be forwarded to the City Manager who shall thereupon submit such Plan, or part thereof, to the City Council with his recommendations thereon. The City Council may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least one (1) public hearing on the proposed action. The City Council shall act on such Plan, or part thereof, within sixty (60) days following its submission by the City Manager. If such Plan, or part thereof, should be rejected by the City Council, the Planning Commission may modify such Plan, or part thereof, and again forward it to the City Manager for submission to the City Council. All amendments to the Comprehensive City Plan recommended by the Planning Commission shall be submitted in the same manner as that outlined above to the City Council for approval, and all recommendations to the City Council from any City department affecting the Comprehensive City Plan must be accompanied by a recommendation from the Planning Commission. Any Comprehensive City Plan approved by City Council shall be reviewed by the Planning Commission every five (5) years and any recommended

changes shall be submitted in the same manner as that outlined above to the City Council for approval.

Sec. 10.05. - Legal effect of Comprehensive City Plan.

The Comprehensive City Plan adopted by the City Council shall be used as a guide by the City Council to establish codes and ordinances determined to be essential in providing for the public health, safety, and welfare of the citizens of new Braunfels, Texas, and by the Planning Commission to facilitate development and master plans that the City deems necessary and appropriate for systemic growth and development. The Comprehensive City Plan shall not be nor be considered a zoning map nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The depiction of thoroughfare alignments in the Comprehensive City Plan is subject to modification by the Planning Commission and City Council to fit local conditions and is subject to refinement as development occurs.

Sec. 10.06. - [Reserved.]

ARTICLE XI. - FRANCHISE AND PUBLIC UTILITIES^[3]

Sec. 11.01. - Powers of the City.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the city shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

Sec. 11.02. - Franchise, power of council.

The City Council shall have power by ordinance to grant, amend, renew and extend, all franchise of all public utilities of every character operating within the City of New Braunfels. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in a newspaper in the City of New Braunfels, and the expense of such publication shall be born [borne] by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the City Council expressed by ordinance.

Sec. 11.03. - Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the City of New Braunfels under this Charter in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

Sec. 11.04. - Right of regulation.

All grants, removals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of New Braunfels:

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the Charter of the City of New Braunfels, any applicable statute of the State of Texas or the rule of any applicable governmental body,
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency,
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates,
- (d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the City of New Braunfels; and shall have the power to prescribe the accounts and accounting system to be used by a public utility,
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public,
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas,
- (g) To require a utility to repair at its expense public property, streets, and ways which are destroyed or damaged in the process of laying or maintaining their lines.

Sec. 11.05. - Grant not to be exclusive.

No grant or franchise to construct, maintain or operate a public utility and/or renewal or extension of such grant shall be exclusive.

Sec. 11.06. - Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

Sec. 11.07. - Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 11.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 11.08. - Other conditions.

All franchises heretofore granted are recognized as contracts between the City of New Braunfels and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City of New Braunfels to exercise the right to eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for, to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and in the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the City Council or voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

Sec. 11.09. - Public utilities board.

So far as not inconsistent with the terms and provisions of any existing encumbrance, or the general laws of the State of Texas, the City Council shall have the power and may at any time create by ordinance to such effect, a public utilities board, for the purpose of managing, controlling, and operating any or all of any such system or systems or properties at any time acquired or owned or held by said City, and which shall be known as the public utilities board of said City, and consist of five (5) freeholders of said City, one of whom shall be the mayor of said City, and the compensation of the members of such board, their terms of office, the powers and duties of such board and the members thereof, the manner of exercising same, the appointment or election of their successors, and all matters pertaining to their organization and duties, shall be as prescribed by the City Council in the ordinance creating such board; all as the City Council may deem best; and such City Council may thereafter at any time by ordinance to such effect, amend, modify, or change the terms and provisions of any such ordinance creating any such board, and may abolish such board or modify or change the duties of such board or of the members thereof, all as the City Council may deem best.

Sec. 11.10. - Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus, also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show actual capital cost to the City of each public utility owned, also the costs of all extensions, additions, and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any City government department. The City Council shall cause an annual audit report to be made by a Certified Public Accountant and shall publish a summary of such report showing the financial results of such City ownership and operation, giving the information specified in this section and such other data as the City Council shall deem expedient.

Sec. 11.11. - Sales of electricity, water and sewer services.

- (a) The City Council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person, firm or

corporation outside the limits of the City of New Braunfels, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City.

- (b) The City Council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City of New Braunfels where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

Sec. 11.12. - Regulation of rates and service.

The City Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the city, provided that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rate, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the City Council until such franchise holder has filed a motion for rehearing with the City Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the City Council, and until the City Council shall have acted upon such motion. The City of New Braunfels shall [have the] power to employ at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee.

ARTICLE XII. - GENERAL PROVISIONS

Sec. 12.01. - Availability of Records.

The public records of the City shall be available to the public subject to the procedures and exceptions of the Texas Open Records Act. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Act.

Sec. 12.02. - Personal Interest.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding personal, financial or conflicting interests in transactions with the City, including but not limited to Chapter 171 of the Texas Local Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

Sec. 12.03. - Prohibitions.

(a) *Activities prohibited.*

- (1) In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations, color, national origin, age, disability, veteran status, genetic information, or any other protected classification which state or federal law prohibits as a basis for such appointment or removal.

- (2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
 - (3) No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.
 - (4) No person who holds any compensated City position shall participate in political campaigning or related activities during work hours, while otherwise representing the City or their position. The City will not generally restrict or regulate employees off-duty political participation, unless the City Manager believes such participation will cause an unreasonable disruption to the City's operations. The City Council may adopt ordinances consistent with this section.
 - (5) Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of New Braunfels, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.
 - (6) No member of the City Council may knowingly or intentionally attempt to circumvent an adopted term limited by resigning or forfeiting their position in order to avoid the established term limit of three (3) year terms.
- (b) *Penalties.* Any person who by himself or with others violates any of the provisions of paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person who by himself or with others violates any of the provisions of paragraphs (4) through (6) of the preceding subsection (a) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 12.04. - Nepotism.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding nepotism, including but not limited to Chapter 573 of the Texas Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

Sec. 12.05. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property

it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment or any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

Sec. 12.06. - City not required to give security or execute bond.

It shall not be necessary in any action, suit, or proceeding in which the City of New Braunfels is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Sec. 12.07. - Special provisions covering damage suits.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give notice to the City in the manner and within the time frame prescribed by City ordinance. No action at law for damages shall be brought against the City for personal injury or damage to property unless timely notice has been given to the City prior to the filing of a lawsuit in the manner prescribed by the applicable ordinance. Nothing herein contained shall be construed to mean that the City of New Braunfels waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and the general laws of the State of Texas.

Sec. 12.08. - Welfare and/or pension plan for City employees.

The City Council shall have the power exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper to create, operate, amend, and contract for a welfare and/or pension plan for any or all City employees.

Sec. 12.09. - Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holdings shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 12.10. - Effect of Charter on existing law.

All ordinances, resolutions, rules, regulations and contracts now in force under the city government to New Braunfels and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended, or repealed by the City Council after this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of any amendment of this Charter, shall be preserved in full force and effect.

Sec. 12.11. - Interim municipal government.

- (a) Upon the adoption of this Charter the seven (7) Councilmen elected shall take office on January 1, 1967. Those Councilmen elected to places 1, 2, and 3 will serve as Councilmen through October 31, 1969; those Councilmen elected to places 4 and 5 will serve as Councilmen through October 31, 1968; and those Councilmen elected to places 6 and 7 will serve as Councilmen through October 31, 1967. Thereafter, the City Council shall be elected as provided in Section 3.01 of this Charter.
- (b) During such interim, persons who on the date this Charter is adopted are employed or filling appointive positions with the City of New Braunfels which are retained under this Charter, may continue to fill these positions for the term for which they were employed or appointed.
- (c) All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.
- (d) The budget in effect immediately preceding the adoption of this Charter shall remain in effect for the balance of the fiscal year and until such time as a new budget is adopted for the next succeeding year.

Sec. 12.12. - Applicability of general laws.

The Constitution of the State of Texas, the statutes of said State applicable to home ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of New Braunfels. The City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town, or village, not contrary to the provisions of said home-rule statutes, Charter, and ordinances. The exercise of any such powers by the City of New Braunfels shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns, or villages unless and until by ordinance it adopts same.

Sec. 12.13. - Amending the Charter.

This Charter may be amended by any method permitted by general state law regarding the amendment of charters of home rule municipalities, including but not limited to Chapter 9 of the Local Government Code. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of this Charter. In order to preserve coherency, the City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of the Charter, or any amendments thereto, create and adjust a table of contents, or to correct minor grammar or spelling errors, and upon the passage of any such ordinance, a copy thereof, certified by the City Manager, shall be forwarded to the Secretary of State for filing.

Sec. 12.14. - Construction of Charter.

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of New Braunfels in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for

the people of the City of New Braunfels to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Sec. 12.15. - Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Adoption Date	Approval Date	Section	Section this Charter
	11-22-66(Ord.)	11-28-66	1.01—12.15	1.01—12.15
71-19 Amd. 2	10- 4-71	11- 9-71	1	3.01
71-19 Amds. 3, 4	10- 4-71	11- 9-71	1	3.05
71-19 Amd. 5	10- 4-71	11- 9-71	1	3.09, 3.10
71-19 Amd. 7	10- 4-71	11- 9-71	1	7.03
71-19 Amd. 8	10- 4-71	11- 9-71	1	9.17
74-17 Amd. 5	5-28-74	7- 9-74	1	3.09, 3.10
74-17 Amd. 7	5-28-74	7- 9-74	1	7.02
74-17 Amd. 8	5-28-74	7- 9-74	1	8.01—8.03
74-17 Amd. 11	5-28-74	7- 9-74	1	8.05
74-17 Amd. 12	5-28-74	7- 9-74	1	9.02
74-17 Amd. 13	5-28-74	7- 9-74	1	9.06
74-17 Amd. 14	5-28-74	7- 9-74	1	9.10
74-17 Amd. 15	5-28-74	7- 9-74	1	9.17

80-4 Amd. 2		8- 9-80	2	3.05
80-24 Amd. 1		8- 9-80	1	3.06
80-24 Amd. 2		8- 9-80	2	3.01
				4.01
80-24 Amd. 3		8- 9-80	3, 4	4.05, 4.06
80-24 Amd. 5	8- 9-80	8-11-80	5	7.05
83-4 Amd. 1	2-14-83	4- 2-83		3.01
				4.01
83-4 Amd. 2	2-14-83	4- 2-83		3.06
83-4 Amd. 3	2-14-83	4- 2-83		9.17
87-11 Amd. 1	2- 9-87	4- 4-87		4.01
87-11 Amd. 2	2- 9-87	4- 4-87		4.06
87-11 Amds. 3, 4	2- 9-87	4- 4-87		3.05
93-22 Amds. 1—3		5- 3-93		3.01
93-22 Amd. 5		5- 3-93		3.04
93-22 Amd. 6		5- 3-93		4.01
93-22 Amd. 7		5- 3-93		4.03
93-22 Amd. 8		5- 3-93		4.06, 4.07
93-22 Amd. 10		5- 3-93		5.02
93-22 Amd. 11		5- 3-93		5.07

93-22 Amd. 12		5- 3-93		6.02
93-22 Amd. 13		5- 3-93		7.05
93-22 Amd. 14		5- 3-93		7.07
93-22 Amd. 15		5- 3-93		9.11
93-22 Amd. 18		5- 3-93		12.07
95-6 Amd. 1	2-13-95	5- 6-95		3.01
				3.05
				4.05
95-6 Amd. 2	2-13-95	5- 6-95		3.02
95-6 Amd. 3	2-13-95	5- 6-95		9.20
05-45 Amd. 1	5- 7-05	5-16-05	I	1.04
05-45 Amd. 1	5- 7-05	5-16-05	I Rpld	1.05
05-45 Amd. 2	5- 7-05	5-16-05	I	2.01
05-45 Amd. 3	5- 7-05	5-16-05	I	2.02
05-45 Amd. 4	5- 7-05	5-16-05	I	3.01
05-45 Amd. 6	5- 7-05	5-16-05	I	3.02
05-45 Amd. 7	5- 7-05	5-16-05	I	3.04
05-45 Amd. 8	5- 7-05	5-16-05	I	3.09(c)
05-45 Amd. 9	5- 7-05	5-16-05	I	3.10
05-45 Amd. 10	5- 7-05	5-16-05	I	4.04

05-45 Amd. 11	5- 7-05	5-16-05	I	4.06
05-45 Amds. 12—14	5- 7-05	5-16-05	I	6.02
05-45 Amd. 15	5- 7-05	5-16-05	I	6.09
05-45 Amds. 16, 17	5- 7-05	5-16-05	I	7.02
05-45 Amd. 18	5- 7-05	5-16-05	I	7.03(a)
05-45 Amd. 19	5- 7-05	5-16-05	I	7.04(a)
05-45 Amd. 20	5- 7-05	5-16-05	I Rpld	7.05—7.08
05-45 Amd. 21	5- 7-05	5-16-05	I	8.02
05-45 Amd. 23	5- 7-05	5-16-05	I	8.04
05-45 Amd. 24	5- 7-05	5-16-05	I	9.01
05-45 Amd. 25	5- 7-05	5-16-05	I Rpld	9.13
05-45 Amd. 26	5- 7-05	5-16-05	I	9.17
05-45 Amd. 27	5- 7-05	5-16-05	I	9.19
05-45 Amd. 28	5- 7-05	5-16-05	I	9.20
05-45 Amd. 29	5- 7-05	5-16-05	I	9.25
05-45 Amd. 30	5- 7-05	5-16-05	I	9.26
05-45 Amd. 31	5- 7-05	5-16-05	I	10.01
05-45 Amd. 32	5- 7-05	5-16-05	I	10.02
05-45 Amd. 33	5- 7-05	5-16-05	I	10.04
05-45 Amd. 34	5- 7-05	5-16-05	I	10.05

05-45 Amd. 35	5- 7-05	5-16-05	I	12.01
05-45 Amd. 36	5- 7-05	5-16-05	I	12.02
05-45 Amd. 37	5- 7-05	5-16-05	I Added	12.03(a)(5)
05-45 Amd. 38	5- 7-05	5-16-05	I	12.04
05-45 Amd. 39	5- 7-05	5-16-05	I	12.13

6/14/2021

Agenda Item No. M)

PRESENTER:

Stacey Dicke, Parks and Recreation Director

SUBJECT:

Approval of the second and final reading of an ordinance regarding Youth Programs Standards of Care for the Parks and Recreation Department.

DEPARTMENT: Parks and Recreation**COUNCIL DISTRICTS IMPACTED:** All**BACKGROUND INFORMATION:**

The Parks and Recreation Department plans to offer elementary-age day camp programs for children ages 5-13, as has been done for many years. The Texas Legislature requires municipal day camp programs for these ages to meet day care licensing requirements or file for an exemption (Section 42.041 (b) (14) of the Human Resources Code). To receive exempt status, a municipality must submit a copy of program standards, a notice of a public hearing for the program and a copy of the ordinance adopting the standards.

Youth Programs Standards of Care will provide basic childcare regulations for day camp activities operated by the New Braunfels Parks and Recreation Department. This will allow the department to qualify as exempt from requirements of the Texas Human Resources Code.

The Standards of Care will include:

Staff ratios

Minimum staff qualifications

Minimum facility, health, and safety standards

Mechanisms for monitoring and enforcing the adopted local standards

Provide notice to parents that the day camp program is not licensed by the state

The Standards of Care will apply to all locations where programs are offered including Das Rec, Landa Recreation Center, and Fischer Park Nature Center.

City Council unanimously approved the first reading of the ordinance on May 24, 2021.

ISSUE:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of the second reading of an ordinance regarding Youth Program Standards of Care.

ORDINANCE NO. 2021 - ____
AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS,
ADOPTING DAY CARE STANDARDS FOR 2019; PROVIDING A
SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE
DATE.

WHEREAS, the State of Texas Human Resources Code, Chapter 42 requires elementary age (5-13 years) recreation programs operated by a municipality annually adopt standards of care by ordinance after a public hearing in order to be exempt from childcare licensing;

WHEREAS, the City Council of the City of New Braunfels has determined that Youth Programs Standards of Care will be beneficial to the City of New Braunfels and should be modified as recommended by Staff; and

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

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

The following standards of care are adopted by ordinance

Youth Programs Standards of Care

I. GENERAL INFORMATION/ADMINISTRATION

- A. Purpose: To provide basic childcare regulations for recreation activities operated by the New Braunfels Parks and Recreation Department. This will allow the department to qualify as exempt from requirements of the Texas Human Resources Code.
- B. Implementation: Program will be the responsibility of the New Braunfels Parks and Recreation Department, with Programs Supervisors and Coordinators supervising the overall program and Assistant Recreation Supervisors, Camp Coordinator, Assistant Coordinator, Recreation Instructors, KinderCare Leads and Kinder Care Attendants administering the program on-site.
- C. Programs: Regulations apply to on-going recreational programs:
 - Holiday Adventure Camp
 - Spring Break Camp
 - Summer Day Camp
 - Day Off Day Camp
 - Nature Camps
 - Partial Sports, Nature and Hobby Camps
 - KinderCare- Das Rec
- D. Other: Each site will make available for the public and staff a current copy of the

Standards of Care. Standards of Care will also be made available on the Parks and Recreation Website at www.nbtexas.org/parks.

E. Program Sites:

Fischer Park Nature Education Center	1946 Monarch Way
Landa Aquatic Complex	350 Aquatic Circle
Landa Rec Center	164 Landa Park Drive
Landa Park	110 Golf Course Road
Das Rec, New Braunfels Recreation Center	345 Landa Street

F. Day Camp Objectives

1. To offer a program wide in scope and varied in activities of different recreational activities: sports, games, arts and crafts, nature education and discovery, etc.
2. To provide a pleasant and memorable experience in an engaging atmosphere.
3. To provide a safe environment always promoting good health and welfare for all.
4. To teach children how to spend their leisure time wisely, in an effort to meet several needs: emotional, physical and social.

G. Exemption Status: Once an exempt status is established, the Licensing Division will not monitor the recreational program. The Licensing Division will be responsible for investigating complaints of unlicensed childcare and for referring other complaints to the municipal authorities or, in the case of abuse/neglect allegation, to the local police authorities.

H. Standards of Care Review: Standards will be reviewed annually and approved by the City Council after a public hearing is held to pass an ordinance regarding section 42.041(b)(14) of the Human Resources Code.

I. Child Care Licensing will not regulate these programs nor be involved in any complaint investigation related to the program.

J. Any parent, visitor or staff may register a complaint by calling New Braunfels Parks and Recreation Administration Offices at 830-221-4350, Monday through Friday, 8:00 a.m. to 5:00 p.m.

II. STAFFING

A. **Day Camp Coordinator**-Job Descriptions and Essential Job Functions

Essential Job Functions:

1. Directs and supervises a day camp program for elementary aged children under the Supervision of the Programs Supervisor.
2. Develops and implements a daily camp curriculum under Parks and Recreation guidelines.
3. Responsible for ensuring camp activities are conducted in a safe, cost-efficient, professional manner.
4. Responsible for procurement of camp supplies, equipment and food items.
5. Responsible for all camp related record keeping.

6. Schedules all day camp counselors at appropriate levels to maintain established camper to staff ratios.
7. Interacts with parents, children and program staff to resolve disciplinary issues; evaluates and determines the enforcement of discipline guidelines; documents counseling sessions and prepares related reports.
8. Communicates daily with Programs Supervisor and holds weekly meetings with camp staff to monitor program during summer.
9. Supervises a staff of 4 -11-day camp leaders.
10. Is assisted by Assistant Camp Coordinator.

Qualifications:

1. Required knowledge of operational characteristics, services and activities of summer day camp management and program planning and coordination and principles and practices of customer service.
2. Must possess a high school diploma or GED equivalent; AND one (1) year experience working with children required, with supervisory experience in a school or camp environment; one-year college preferred.
3. Must possess a valid Texas Driver's License.
4. Must be able to successfully complete within two (2) weeks of employment: First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) training.
5. Must possess skill in:
 - a. Interpreting customer and facility needs and solving customer service and public relations issues.
 - b. Demonstrating the ability to make sound decisions regarding the enforcement of disciplinary guidelines.
 - c. Analyzing problems, providing alternatives, and identifying solutions in support of established goals.
 - d. Responding to emergencies and determining corrective actions using available resources.

B. Day Camp Counselor-Job Descriptions and Essential Job Functions

Essential Job Functions:

1. Implements and monitors a day camp program for elementary aged children under the Supervisor of the Day Camp Coordinator and Assistant Coordinator.
2. Supervises and interacts with camp participants in a wide variety of recreational activities.
3. Responsible for ensuring daily camp activities are conducted in a safe, professional manner.
4. Responsible for communicating camp needs (equipment, supplies) to camp supervisor.
5. Responsible for interacting with camp participants, parents and supervisors to provide a high-quality program.
6. Responsible for maintaining facility appearance during and after camp activities.
7. Responsible for reporting any camp incidents to camp supervisor.

Minimum Qualifications:

1. Must be mature, responsible and able to complete duties with minimal supervision.
2. Must be able to communicate well with the public, and skilled at interacting with children.
3. Must be sixteen (16) years of age AND one (1) year customer service/public interaction experience and experience working with children preferred.
4. Must have First Aid and CPR certification within two weeks of employment.
5. Must complete departmental day camp staff training.
6. Must pass city criminal background check prior to hiring.
7. Knowledge of recreational games, crafts and activities.
8. Prefer completion of at least 1 year of college.

C. Recreation Instructor- Job Descriptions and Essential Job Functions

Essential Job Functions

1. Assists in ensuring the delivery of high quality and consistent recreation programs and services.
2. Develops, plans, organizes, promotes, facilitates, and instructs programs as approved by the Supervisor to meet community needs; coordinated in alignment with the City's strategic objectives, policies and procedures, and State and Federal laws.
3. Maintains attendance and class records, including but not limited to program and participant surveys, accident and incident reports and league rosters; monitors course enrollment and reports deficiencies in inventory of supplies to supervisor for ordering.
4. Answers incoming calls and provides program information in person and via the telephone; greets facility and program guests and provides prompt, courteous and friendly customer services to the public, in order to maintain positive customer relations.
5. When necessary, handles minor disciplinary issues or rules interpretation at City facilitated programs and venues according to Parks and Recreation Department policies and procedures.
6. Assists in promoting and coordinating city-wide special events, including event setup and tear down.
7. Assists in managing a variety of administrative activities including computer records and cash management; operate computer registration/reservation system.
8. Facilitates and manages use of park amenities and facilities such as kayaks/paddle boats, trails, ponds, picnic facilities and miniature golf.
9. Maintains facility cleanliness and is active in presenting a clean, comfortable and safe environment; responsible for reporting potential and existing safety issues or concerns to supervisors to ensure patron safety.
10. Performs other duties as assigned or required

Minimum Qualifications:

1. High school diploma or GED equivalent; AND one (1) year customer service/public interaction experience required, with recreation, nature education or athletic instruction experience preferred.

2. Must possess a valid Texas Driver's License.
3. Must possess or be able to obtain within six months of employment: Community First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) certification.
4. Operational characteristics, services and activities of nature education, recreation and athletic facilities.
5. Principles and practices of recreation, nature education and athletic program and/or league and special event planning and coordination.
6. Principles and practices of customer service.
7. Federal and State safety laws and regulations.

D. Attendant (Seasonal)- Job Descriptions and Essential Job Functions

Essential Job Functions:

1. Assists in ensuring the delivery of high quality and consistent programs and services to the community.
2. Facilitates nature programs, activities and special events for park guests and program participants.
3. Acts as a sales assistant and cashier in the Nature Education Center gift shop and manages cash transactions.
4. Prepares and assists in maintaining facilities at Fischer Park and the Nature Education Center including the boathouse, ponds, gardens and trails, etc. to ensure safe conditions and to meet community needs; must be in compliance with the City's strategic objectives, policies and procedures, and State and Federal laws.
5. Assists staff with special events programming and crowd control measures.
6. Assists in promoting recreation programs, City facilities and city-wide special events coordination and setup including guest party facilitation.
7. Performs basic administrative activities including accident/injury and work activity reports.
8. Monitors facility and equipment use by the public.
9. Performs basic grounds keeping and janitorial tasks.
10. Performs other duties as assigned or required.

Minimum Qualifications:

1. Must be sixteen (16) years of age AND one (1) year customer service/public interaction experience preferred.
2. Must possess or be able to obtain within two (2) weeks of employment: Community First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) certification.
3. Required Knowledge of:
 - Principles and practices of customer service.
 - Federal and State safety laws and regulations.

E. KinderCare Lead – Job Description and Essential Job Functions

Essential Job Functions:

1. Assists in ensuring the delivery of high quality and consistent programs and services to the community.
2. Assists in managing a variety of administrative activities including computer records, employee scheduling, accident/injury reports and work activity reports.

3. Assists in supervising Kinder Care area tasks.
4. Serving as a liaison between the Kinder Care staff and the Guest Services and Marketing Supervisor (report any problems).
5. Assisting with training and orientation of new staff and leading staff meetings.
6. Responsibilities of Kinder Care Attendants are also expected of Kinder Care Leads.
7. Maintains order and organization of facility's child care operations, programs, and processes.
8. Prepares and assists in maintaining facilities including but not limited to DAS REC, New Braunfels Recreation Center to ensure a safe condition and to meet community needs; must be in compliance with the City's strategic objectives, policies and procedures, and State and Federal laws.
9. Ensure safety and hygienic environment in the child care facility.
10. Be responsive to parents to fulfill their child care service needs.
11. Plan, organize and lead children in a range of interesting and enjoyable activities and games.
12. Set up and "clean as you go" during activity sessions to create a pleasant, attractive and sanitary environment for participants.
13. Assists with training and evaluating assigned staff; developing staff skills; meets regularly with staff to discuss and resolve workload and technical issues; reviews the work of assigned staff to assure the quality of assigned duties and responsibilities.
14. Assists with the development of procedures, forms, guidelines, and training programs for all assigned staff members
15. Develops, maintains and trains staff on records, systems, and procedures.
16. Monitors inventory of equipment and supplies and innates orders when needed.
17. Performs basic administrative activities including accident/injury and work activity reports.
18. Monitors facility and equipment use by the public.
19. Performs basic janitorial tasks.
20. Performs other duties as assigned or required.

Minimum Qualifications:

1. Must be at least sixteen (16) years of age AND one (1) year customer service/public interaction experience preferred. Must have one (1) year experience working with children in a childcare setting.
2. Must possess or be able to obtain within two (2) weeks of employment: Community First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) certification.
3. Required skill in principles and practices of customer service.
4. Required skill in Federal and State safety laws and regulations.
5. Required skill in interpreting customer and facility needs and solving customer service and public relations issues.
6. Required skill in analyzing problems, providing alternatives, and identifying solutions in support of established goals.
7. Required skill in responding to emergencies and determining corrective actions using available resources.
8. Required skill in establishing and maintaining cooperative and effective working relationships with City employees, facility lessees and guests, event sponsors and vendors, and the general public.

9. Required skill in effective, clear and concise communication, both verbally and in writing.

F. KinderCare Attendant – Job Description and Essential Job Functions

Essential Job Functions:

1. Assists in ensuring the delivery of high quality and consistent programs and services to the community.
2. Maintains order and organization of facility's child care operations, programs, and processes.
3. Prepares and assists in maintaining facilities including but not limited to DAS REC, New Braunfels Recreation Center to ensure a safe condition and to meet community needs; must be in compliance with the City's strategic objectives, policies and procedures, and State and Federal laws.
4. Ensure safety and hygienic environment in the child care facility.
5. Be responsive to parents to fulfill their child care service needs.
6. Plan, organize and lead children in a range of interesting and enjoyable activities and games.
7. Set up and "clean as you go" during activity sessions to create a pleasant, attractive and sanitary environment for participants.
8. Assists in promoting recreation programs, City facilities and city-wide special events coordination and setup.
9. Performs basic administrative activities including accident/injury and work activity reports.
10. Monitors facility and equipment use by the public.
11. Performs basic janitorial tasks.
12. Performs other duties as assigned or required.

Minimum Qualifications:

10. Must be at least sixteen (16) years of age AND one (1) year customer service/public interaction experience preferred.
11. Required Licenses or Certifications:
12. Must possess or be able to obtain within two (2) weeks of employment: Community First Aid and Safety/Cardiopulmonary Resuscitation (CPR) / Automated External Defibrillator (AED) certification.
13. Required skill in principles and practices of customer service.
14. Required skill in Federal and State safety laws and regulations.
15. Required skill in interpreting customer and facility needs and solving customer service and public relations issues.
16. Required skill in analyzing problems, providing alternatives, and identifying solutions in support of established goals.
17. Required skill in responding to emergencies and determining corrective actions using available resources.
18. Required skill in establishing and maintaining cooperative and effective working relationships with City employees, facility lessees and guests, event sponsors and vendors, and the general public.
19. Required skill in effective, clear and concise communication, both verbally and in writing.

G. Other Requirements

1. Staff must complete the mandatory training program of at least 12 hours, in addition to planning hours with site staff prior to the start of camp. This training

includes a departmental orientation, customer service, behavioral issues and discipline, as well as practical skills on activities for children in games, songs and crafts.

2. Staff must exhibit competency, good judgment and self-control throughout the duration of the camp.
3. Staff should relate to the children and parents with courtesy, respect, acceptance and patience.
4. Staff will be evaluated at least once during the summer, and visited with before program is over, to discuss any areas that should be addressed to insure employment in a following camp.
5. Staff shall not abuse or neglect children.

H. **Criminal Background Checks and Drug Testing:** Criminal background checks will be conducted on prospective employees. Applicants may be disqualified if they have a job related criminal conviction. A prospective employee will be subject to a drug test prior to hiring.

I. Before being hired, applicants must successfully complete a qualifying interview, clear a criminal history background check and pass a drug test.

J. **Staffing Ratios:**

Youth Programs:

The number of children may not exceed staff by a minimum ratio of 1 staff per 15 children, ages 5-13.

The number of children may not exceed staff by a minimum ratio of 1 staff per 10 children, ages 3-4.

Kinder Care:

The number of children may not exceed staff by a minimum ratio of 1 staff per 10 children, ages 1-10.

The number of children may not exceed staff by a minimum ratio of 1 staff per 3 children, ages 6-12 months.

III. FACILITY STANDARDS

- A. Emergency evacuation and relocation plans will be posted at each facility.
- B. Program employees will inspect sites frequently for any sanitation or safety concerns. Those concerns should be passed on to the Programs Supervisor immediately.
- C. Each camp must have a fully stocked first aid kit. This shall be checked and stocked on a weekly basis by the Camp Coordinator.
- D. In a situation where evacuation is necessary, the first priority of staff is to make sure all participants are in a safe location.
- E. Program sites will be inspected annually by the Fire Marshall. Each Facility Coordinator is responsible for compliance with Fire Marshall's directives.

- F. The recommended number of fire extinguishers shall be inspected quarterly and available for use.
- G. Fire drills should be conducted once a month during the summer camp.
- H. Medication will only be administered with written parental consent. Prescription medications shall be left with staff in their original container, labeled with the child's name, date, directions and physician's name. Medication shall be dispensed only as stated on the bottle, and not past the expiration date.
- I. Non-prescription medicine with the child's name and date on the medication may be brought if in the original container. Non-prescription medication will only be administered with written parental consent.
- J. Each site shall have adequate toilets and sinks located such that children can use them independently and program staff can supervise as needed.
- K. All participants must wear tennis shoes daily. Sandals will not be allowed.

IV. SERVICE STANDARDS-Day Camp Staff

This information will be provided to each staff as a part of the day camp manual:

- A. Camp staff shirts, shorts and tennis shoes are to be worn at all times.
- B. City issued employee identification should be worn and clearly visible.
- C. Camp participants and parents will be treated with respect at all times.
- D. Camp staff will take it upon themselves to resolve complaints. Do not refer customer to another staff person. If you are unable to resolve the complaint on the spot, take the customer's name and phone number, investigate complaint resolution and then follow up with the customer. A Customer Comment Form should be filled out whenever a complaint or compliment is received.
- E. Camp staff will keep parents continuously informed of camp activities. A daily schedule of activities will be available and kept with the sign in log.
- F. Camp staff will note details of behavior of campers (accomplishments, discipline problems, general activities, etc.) and update parents as much as possible.
- G. Camp staff will monitor the sign in/out log at all times.
- H. Camp staffs will clean rooms and activity areas daily.
- I. Camp staff will spend 100% of their time actively involved with campers and/or parents.

V. OPERATIONAL ISSUES

- A. Emergency Phone numbers are kept at the front desk of the facilities. Those numbers include fire, police, and ambulance services as well as participant guardian contact numbers.
- B. All staff will stay in contact at all times with the front desk and other camp staff through wireless, 2-way radios and cell phones.
- C. A Day Camp Manual is given to every staff member, which outlines the following:
 - 1. Discipline Issues
 - 2. City Rules and Regulations
 - 3. Forms that must be filled out
 - 4. Service Standards
 - 5. Game/activity leadership
 - 6. Ways to interact with children
- D. Sign in-sign out sheets will be used every day. Only adults listed on sign-in/out release will be allowed to pick up children. An authorized person must enter the building and sign the sheet in order for staff to release the child.
- E. Emergency evacuation and relocation plans will be posted at each facility.
- F. Enrollment information will be kept and maintained on each child and shall include:
 - 1. Child's name, birth date, home address, home telephone number and phone numbers where parents may be reached during the day.
 - 2. Names and telephone numbers of persons to whom the child can be released.
 - To be verified by the showing of photo ID upon pickup.
 - 3. Liability waiver and photo release.
 - 4. Parental consent to administer medication, medical information and release on participant.
- G. Staff shall immediately notify the parent or other person authorized by the parent when the child is injured or has been involved in any situation that placed the child at risk.
- H. Staff shall notify parents or authorized persons of children in the facility when there is an outbreak of a communicable disease in the facility that is required to be reported to the County Department of Health. Parents will also be notified of an occurrence of head lice.
- I. Discipline:
 - 1. Discipline and guidance of children must be consistent and based on an understanding of individual needs and development.
 - 2. There shall be no harsh, cruel, or unusual treatment.
 - a. Corporal punishment in any form will not be tolerated.
 - b. Children shall not be shaken, bit, hit, or have anything put in or on their mouth as punishment.
 - c. Children shall not be humiliated, yelled at or rejected.

- d. Children shall not be subjected to abusive or profane language.
- e. Punishment shall not be associated with food.
- f. Staff may use brief, supervised separation from the group if necessary, but staff shall not place children in a locked room or in a dark room with the door closed.
- 3. Incident reports will be filled out on any disciplinary cases, and information is to be shared with parents when picking up the child or sooner, when extreme cases occur.
- 4. Children who show patterns of endangerment to themselves, other participants or staff will be asked to leave the program.

J. Illness or Injury

- 1. Parents shall be notified in cases of illness or injury.
- 2. An ill child will not be allowed to participate if the child is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until medical evaluation indicates that the child can be included in the activities. In the event an injury cannot be administered through basic first aid, staff will call 911.
- 3. When an injury occurs, an incident report shall be filled out immediately. The form shall be filled out completely with the original sent to the Programs Supervisor and forwarded to the Recreation Manager and a copy kept in the Day Camp files.

VI. CAMP RULES

The rules of camp are designed to help create a positive and safe environment for both campers and staff. The rules are presented to campers in a positive way and focus on what campers should do rather than what they should not do. Camp rules are used to help teach our campers to make good, positive choices.

- 1. Be Respectful
- 2. Be a Good Friend
- 3. Be Polite
- 4. Be a Good Listener
- 5. Be Kind
- 6. Be a Good Follower of Directions
- 7. Be Helpful
- 8. Be Responsible

Passive and active camp activities are planned according to the participants' ages, interests and abilities. The activities should be flexible and promote social and educational advancement.

VII. MONITORING AND ENFORCEMENT

Standards of care established by the City of New Braunfels will be monitored and enforced by city departments responsible for their respective areas as identified:

- A. Health and safety standards will be monitored and enforced by the City's Police, Fire, Health and Code Enforcement Departments.
- B. Staff and program issues will be monitored and enforced by the New Braunfels Parks and Recreation Department. The Recreation Manager shall visit each site on a bi-monthly basis. Programs Supervisors are responsible for visually checking the camp activities on a daily basis. When this staff is not available, another full-time staff person is responsible for the daily check.

SECTION 2: SEVERABILITY.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. EFFECTIVE DATE:

This Ordinance shall become adopted and effective upon its second reading and compliance with the City Charter.

PASSED AND APPROVED: First reading this 24th day of May, 2021.

PASSED AND APPROVED: Second reading this 14th day of June, 2021.

CITY OF NEW BRAUNFELS, TEXAS

Rusty Brockman, Mayor

ATTEST:

Caitlin Krobot, City Secretary

APPROVED AS TO LEGAL FORM:

Valeria M. Acevedo, City Attorney

6/14/2021

Agenda Item No. N)

PRESENTER:

Christopher J. Looney, AICP; Planning and Development Services Director

SUBJECT:

Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow residential use in the M-2 Heavy Industrial District and short term rental of a single-family residence on approximately 0.15 acres out of the AM Esnaurizar A-1 Survey No. 1, addressed at 747 Oasis Street.

DEPARTMENT: Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Council District 5**BACKGROUND INFORMATION:**

Applicant: Kathleen Lund
256 Bristol Road
Buda, TX 78610
(512) 775-0152 freestyliskat@gmail.com

Owner: Holly Jaynes Gardner
747 Oasis Street
New Braunfels, TX 78130

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

City Council held a public hearing on May 24, 2021 and unanimously approved the first reading of the applicant's requested rezoning ordinance (6-0-0 with Councilmember Hines absent).

The subject property is located in the Old Mill neighborhood, just behind the Marketplace shopping center. The existing single-family residence was constructed in the late 1920s and the current zoning is M-2 Heavy Industrial. The applicant is requesting approval of a Special Use Permit (SUP) to allow short term rental (STR) of the property.

Residential Use

As a pre-1987 "cumulative" zoning district, residential uses were allowed in M-2 when this neighborhood was developed. In 2019, City Council approved amendments to the Zoning Ordinance removing residential as an allowed use in all industrial zoning districts. This action preserved land for industrial development and mitigated compatibility concerns for both residential and industrial property owners.

Existing residential uses in M-2 are now non-conforming, and City Council directed staff to facilitate the rezoning of such residential neighborhoods as appropriate. This will be accomplished on a large scale with

neighborhood-wide rezoning cases, potentially following sub-area, community or neighborhood plans adopted as part of implementing Envision New Braunfels our Comprehensive Plan. In the meantime, properties that want to pursue alterations, reconstruction, or expansion of use will be brought into compliance through the rezoning/SUP process at no application cost to the property owner.

Short Term Rental

The house has three bedrooms and two bathrooms. Per the Zoning Ordinance, maximum occupancy of the STR is eight occupants and the minimum off-street parking requirement is three spaces. A site plan provided by the applicant indicates a driveway to accommodate at least three vehicles.

Historically, most homes in this neighborhood did not have actual driveways. The applicant will need to construct a new driveway to meet ordinance requirements, and those improvements will be reviewed and approved through the building permit process.

Surrounding Zoning and Land Use:

North - M-2/ Single-family residence

South - Across Oasis Street, M-2/ Commercial shopping center

East - M-2/ Single-family residence

West - M-2/ Single-family residence

ISSUE:

With the addition of off-street parking, the proposed SUP meets all Zoning Ordinance requirements for a short-term rental, and is consistent with the following actions from Envision New Braunfels:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 1.14: Ensure regulations do not unintentionally inhibit the provisions of a variety of flexible and innovative lodging options and attractions.
- Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly.

The property is situated within the New Braunfels Sub-Area, in close proximity to Market and Employment Centers and the Recreational River Corridor.

The site is centrally located inside Loop 337, within a short drive to many visitor attractions, and in a transitional area around the Old Mill that contains a mix of residential and commercial uses. There are no other STR residences in the immediate area.

Short term rental standards in the Zoning Ordinance help to ensure proper measures are in place to protect public health, safety and neighboring properties, and preserve the neighborhood character and tranquility. If this SUP is approved, short-term rental registration and online payment of hotel occupancy taxes are also required.

FISCAL IMPACT:

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

RECOMMENDATION:

Commission Recommendation

The Planning Commission held a public hearing on May 4, 2021 and voted to recommend approval (8-0-0) with Commissioner Gibson absent.

Staff Recommendation

Staff recommends approval with the following conditions:

1. Provide off-street parking for at least 3 vehicles in accordance with City standards.
2. The residential character of the property must be maintained.
3. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.
4. Occupancy of the short term rental is limited to a maximum of 8 guests.
5. The applicant will register the short-term rental and create an account for online payment of hotel occupancy taxes.
6. All other standards of the Zoning Ordinance will also be met.

Notification as required by state statute:

Public hearing notices were sent to 14 owners of property within 200 feet of the request. To date, the City has received one response in favor (#13) and none in objection.

Resource Links:

- Chapter 144, Sec. 3.3-12 (M-2) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIIIZODI_S144-3.3ZODIREPRZOPRJU221987
- Chapter 144, Sec. 3.6 (SUP) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTIIIZODI_S144-3.6SPUSPE
- Chapter 144, Sec. 5.17 (Short-term Rental) of the City's Code of Ordinances:
https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_C H144ZO_ARTVDEST_S144-5.17SHTEREOC

Attachments:

1. Aerial Map
2. Application, Site Plan and Floor Plan
3. Land Use Maps (Zoning, Existing, Future Land Use)
4. Notification & Response
5. Photograph
6. Ordinance



SUP21-115

SUP to allow Residential use and Short Term Rental in M-2

0 60 120
Feet





**Planning & Community Development Department
Planning Division**

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

CC/Cash/Check No. 119

Case No. SUPAT-115

Amount Recd. \$ 1,804.00

Receipt No. 31342

Submittal date – office use only

3/29/21

Special Use Permit for Short Term Rental Application

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

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.

Name: Kathleen Lund

Mailing Address: 256 Bristol Rd. Buda TX 78610

Telephone: 512-775-0152 Fax: _____ Mobile: 512 775 0152

Email: freestylistkat@gmail.com

2. Property Address/Location: 747 Oasis St.

3. Legal Description:

Name of Subdivision: Milltown, (A-1 Sor-1 AMESnaurizar)

Lot(s): _____ Block(s): _____ Acreage: .152

4. Existing Use of Property: Vacant

5. Current Zoning: M2

*Please note Short Term Rentals are **prohibited** in the following residential districts, & a Special Use Permit could **not** be requested:

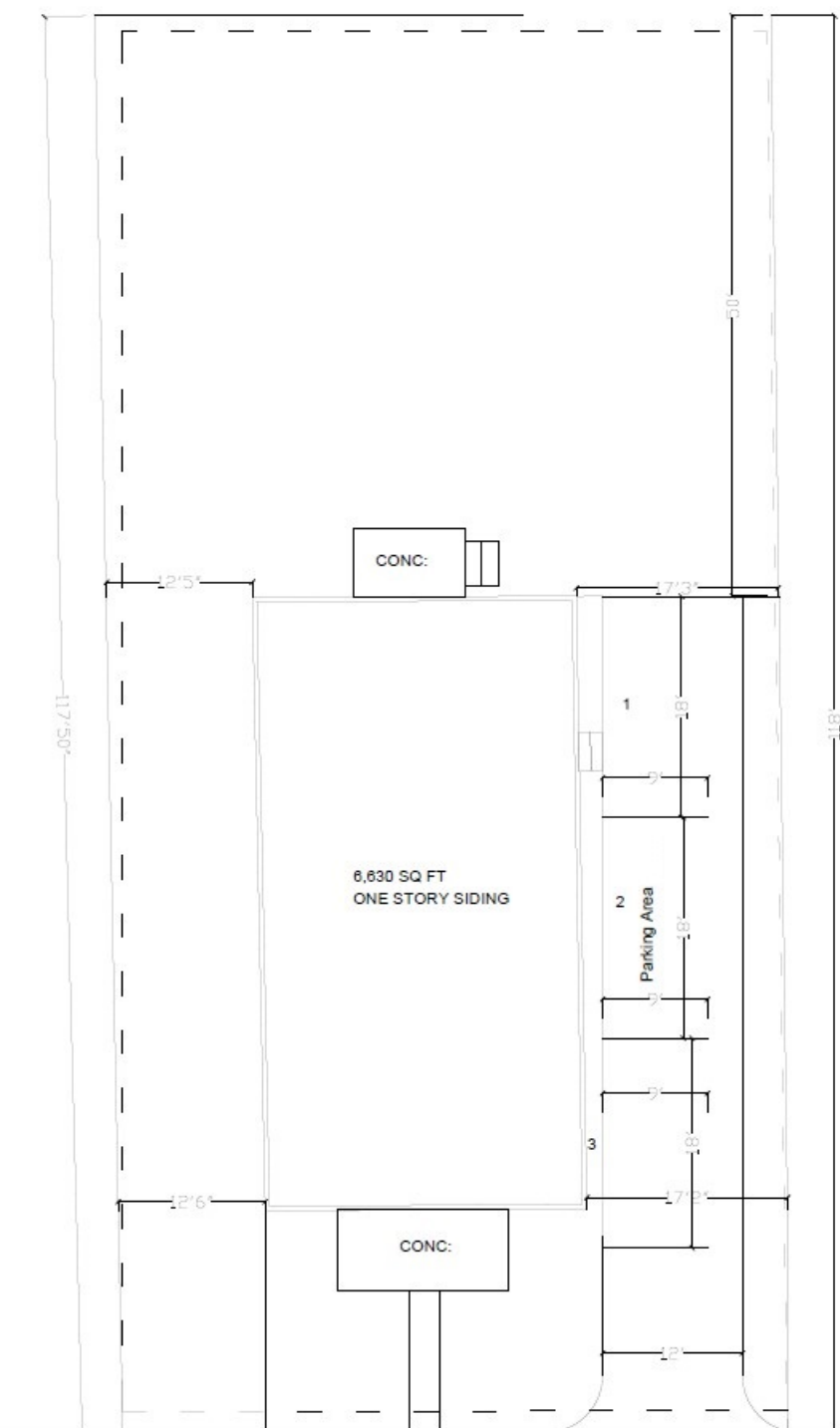
- R-1 • ZH • TH • R-1A-43.5 • R-1A-8 • R-2A • B-1B
- R-2 • ZH-A • B-1 • R-1A-12 • R-1A-6.6 • B-1A • TH-A

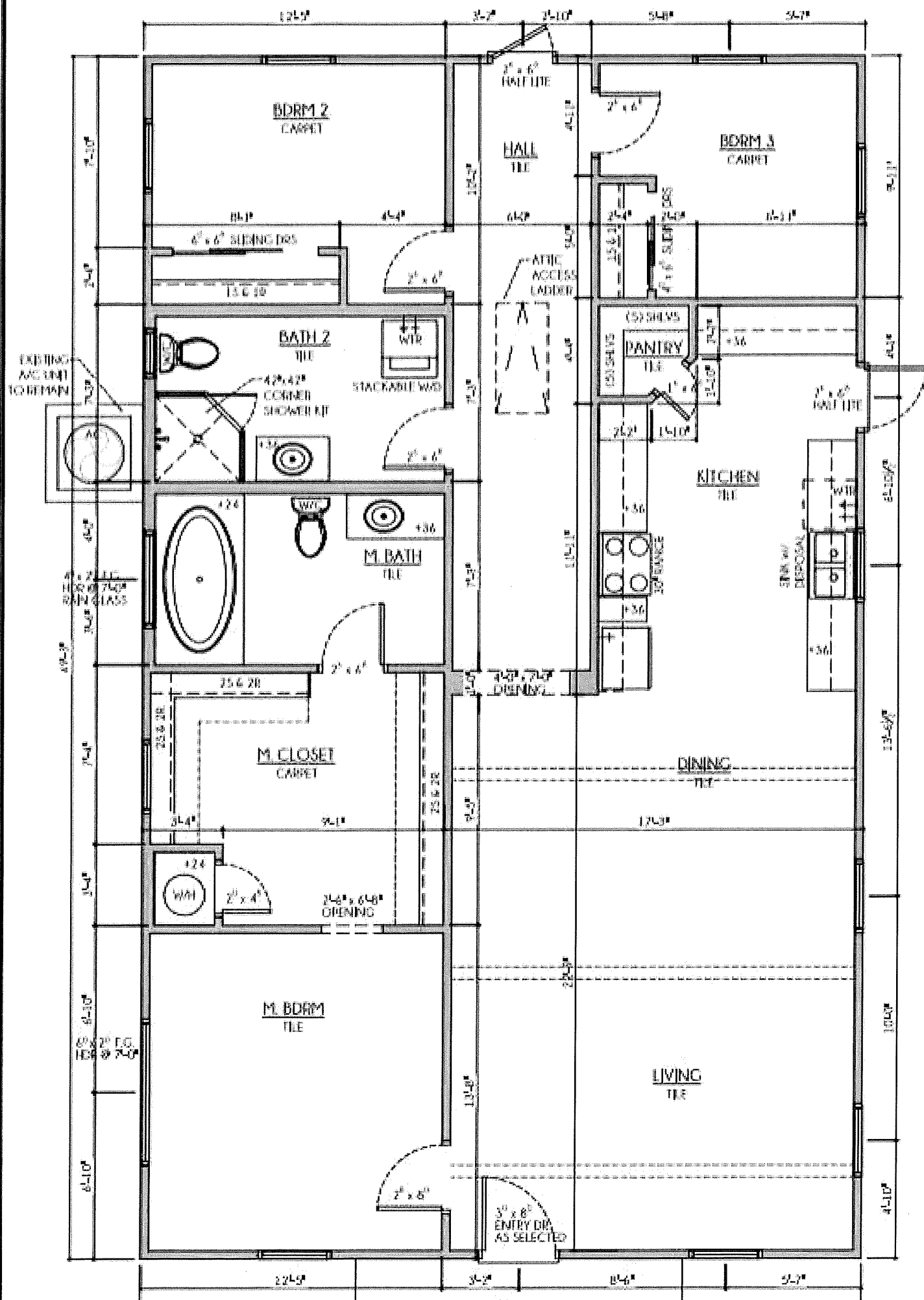
6. Proposed Special Use Permit*: Type 1 _____ OR Type 2 ☒

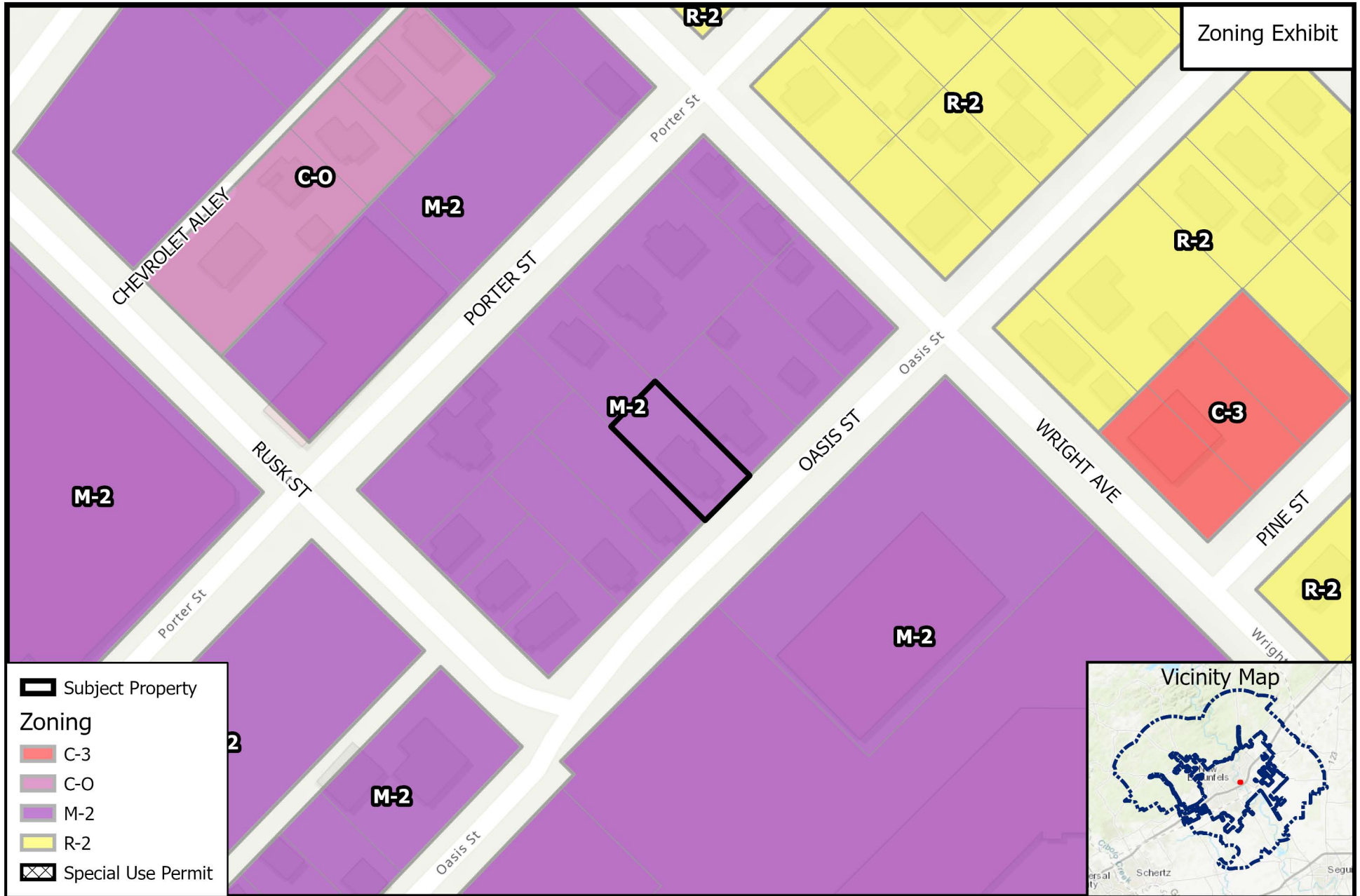
*see page 4 for information regarding Type 1 and Type 2 Special Use Permits

7. Explain how the proposed Short-Term Rental use will be well suited for the neighborhood

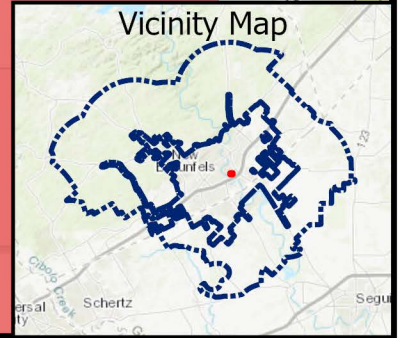
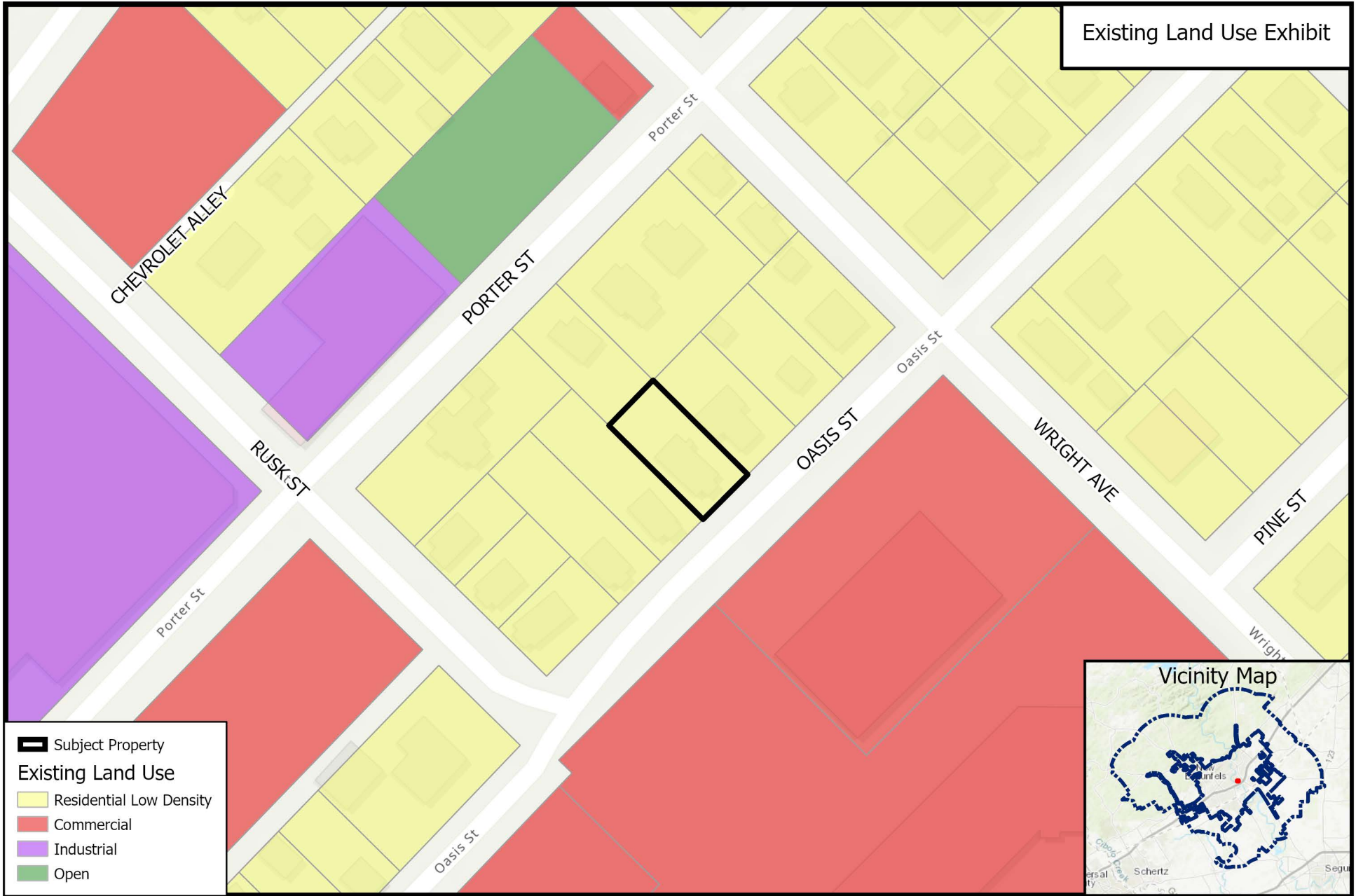
(attach additional or supporting information if necessary): Short term rental
two blocks from the river, close to shopping,
an event venue and the famous Faust St. bridge.
Also requesting residential use in M2
zoning.







SUP21-115
SUP to allow Residential use and Short Term Rental in M-2



SUP21-115
SUP to allow Residential use and Short Term Rental in M-2



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.



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.



SUP21-115 SUP for STR

0 370 740 Feet
1:9,049



PLANNING COMMISSION – APRIL 20, 2021 – 6:00PM

Zoom Meeting

Applicant/Owner: Kathleen Lund

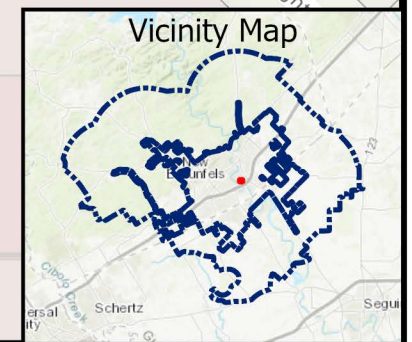
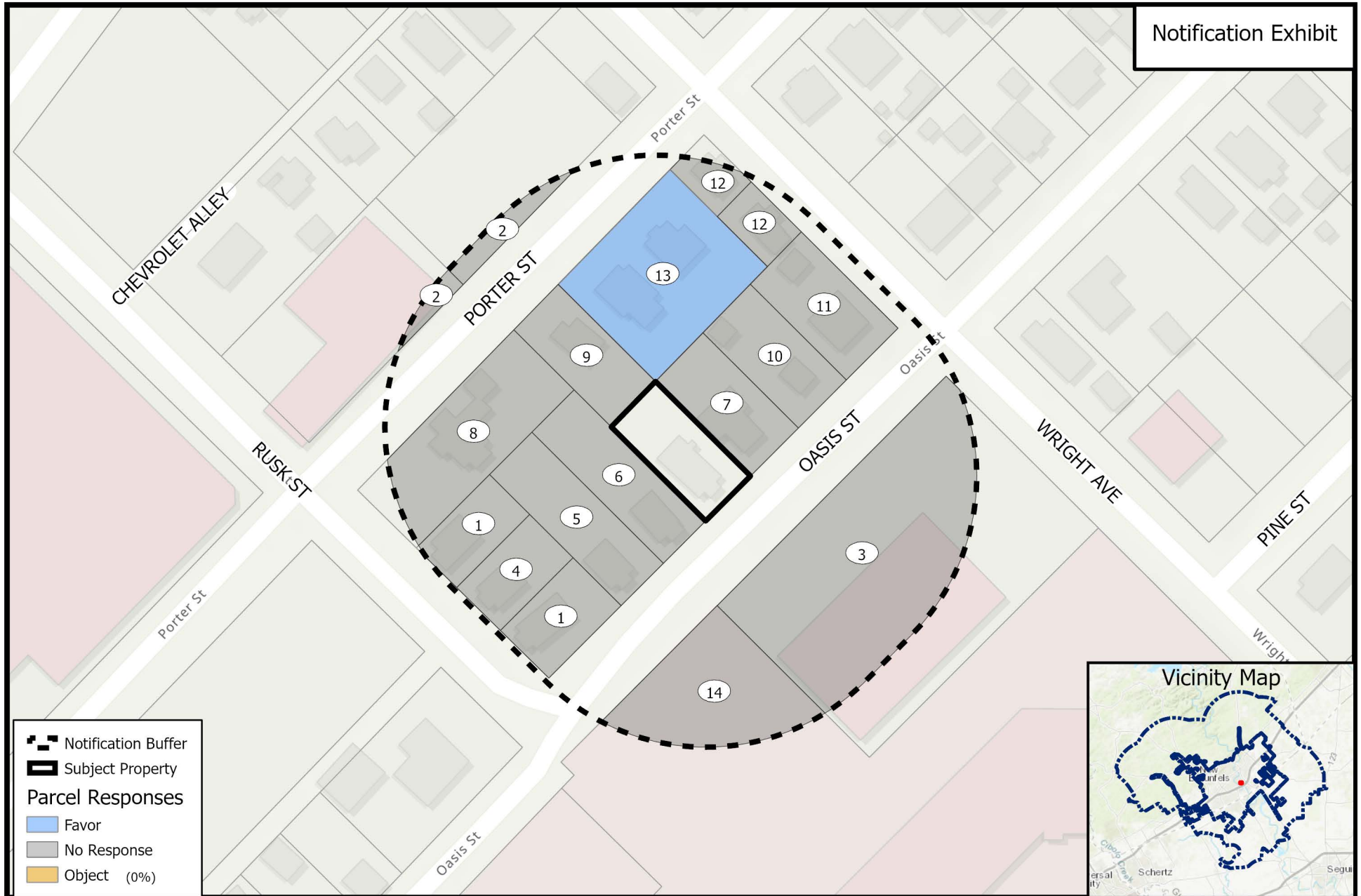
Address/Location: 747 Oasis St

PROPOSED SPECIAL USE PERMIT – CASE #SUP21-115

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. ROSS LARRY & HOLLY | 8. MOORE ROLF E |
| 2. SPECKMAN FAMILY LTD & STADT CORP | 9. MOORE ROLF EDWARD |
| 3. B & C WILLIAMS PROPERTIES LTD ET AL | 10. MARTINEZ RODOLFO E & JOSEFA |
| 4. ROSS LARRY E & HOLLY R | 11. URIAS FRANCISCO JR |
| 5. REGER CHARLES W | 12. DORRANCE CRAIG R & LINDA |
| 6. BRUSH JOHN P | 13. SPECKMAN FAMILY LTD |
| 7. ACRELONG INVESTMENTS LTD CO | 14. N B MARKETPLACE LP |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP21-115 Lund (hm)

Name: Luke SpeckmanAddress: 49 Hunters Club NBProperty number on map: 13I favor: ☒

I object: _____ (State reason for objection)

Comments: (Use additional sheets if necessary)

Signature: Speckman



Current photograph of Subject Property

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS GRANTING A SPECIAL USE PERMIT TO ALLOW RESIDENTIAL USE IN THE “M2-“ HEAVY INDUSTRIAL DISTRICT AND THE SHORT TERM RENTAL OF A SINGLE-FAMILY DWELLING, ON APPROXIMATELY 0.15 ACRES OUT OF THE A M ESNAURIZAR A-1 SURVEY NO. 1, ADDRESSED AT 747 OASIS STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

WHEREAS, the City 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 compatible 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 residential use and short term rentals; and

WHEREAS, the requested rezoning is in accordance with Envision New Braunfels, the City's Comprehensive Plan; and

WHEREAS, the City Council desires to grant a Special Use Permit at 747 Oasis Street, to allow residential use and short term rental of a single-family dwelling in the “M-2” Heavy Industrial District; **now, therefore;**

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

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following tract of land as a “Special Use Permit” for the uses and conditions herein described:

Being approximately 0.15 acres out of the A M Esnaurizar A-1 Survey No. 1, addressed at 747 Oasis Street, as described in Exhibit “A” and depicted in Exhibit “B” attached, to allow residential use and short term rental in the “M-2” Heavy Industrial District.

SECTION 2

THAT the Special Use Permit be subject to the following conditions:

1. Provide off-street parking for at least 3 vehicles in accordance with City standards.
2. The residential character of the property must be maintained.
3. The property will remain in compliance with the approved site plan illustrated in Exhibit "C". Any significant changes to the site plan will require a revision to the SUP.
4. Occupancy of the short term rental is limited to eight (8) guests.
5. The applicant will register the short term rental and create an account for online payment of hotel occupancy taxes.
6. All other standards of the Zoning Ordinance will be met.

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 24th day of May, 2021.

PASSED AND APPROVED: Second reading this 14th day of June, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

EXHIBIT "A"

METES AND BOUNDS

Being 0.152 acres of land, more or less, situated in the AM Esnaurizar Survey Number 1, Abstract 1, Comal County, Texas, being that same tract of land conveyed by General Warranty Deed recorded in Document Number 201706036594, Official Public Records, Comal County, Texas, said 0.152 acres being more particularly described by metes and bounds as follows:

BEGINNING at 1/2 inch iron rod found for the lower southeast corner of this 0.152 acres, same being on the northwest Right-of-Way line of Oasis Street and the upper southeast corner of Lot 5, Oasis Heights (Volume 8, Page 337), same also being the POINT OF BEGINNING;

THENCE along the line common to this 0.152 acres and said Lot 5, North 45 degrees 43 minutes 39 seconds West (called North 45 degrees 05 minutes West), a distance of 117 .50 feet to a point for the lower northwest corner of this 0.152 acres, same being on the northeast line of said Lot 5 and the lower southeast corner of the Rolf Edward Moore tract (Document Number 200106036242);

THENCE along the line common to this 0.152 acres and said Moore tract, North 44 degrees 29 minutes 54 seconds East (called North 44 degrees 25 minutes East), a distance of 56.30 feet (called 56.1 feet) to a point for the upper northwest corner of this 0.152 acres, same being the upper southeast corner of said Moore tract and on the southwest line of Lot 3, Milltown Extension One (Volume 4, Page 29);

THENCE along the line common to this 0.152 acres and said Lot 3, South 45 degrees 43 minutes 59 seconds East (called South 45 degrees 05 minutes East), a distance of 118.00 feet to a 1/2 inch iron rod found for the upper southeast corner of this 0.152 acres, same being the lower southeast corner of said Lot 3 and on the northwest Right-of-Way line of said Oasis Street;

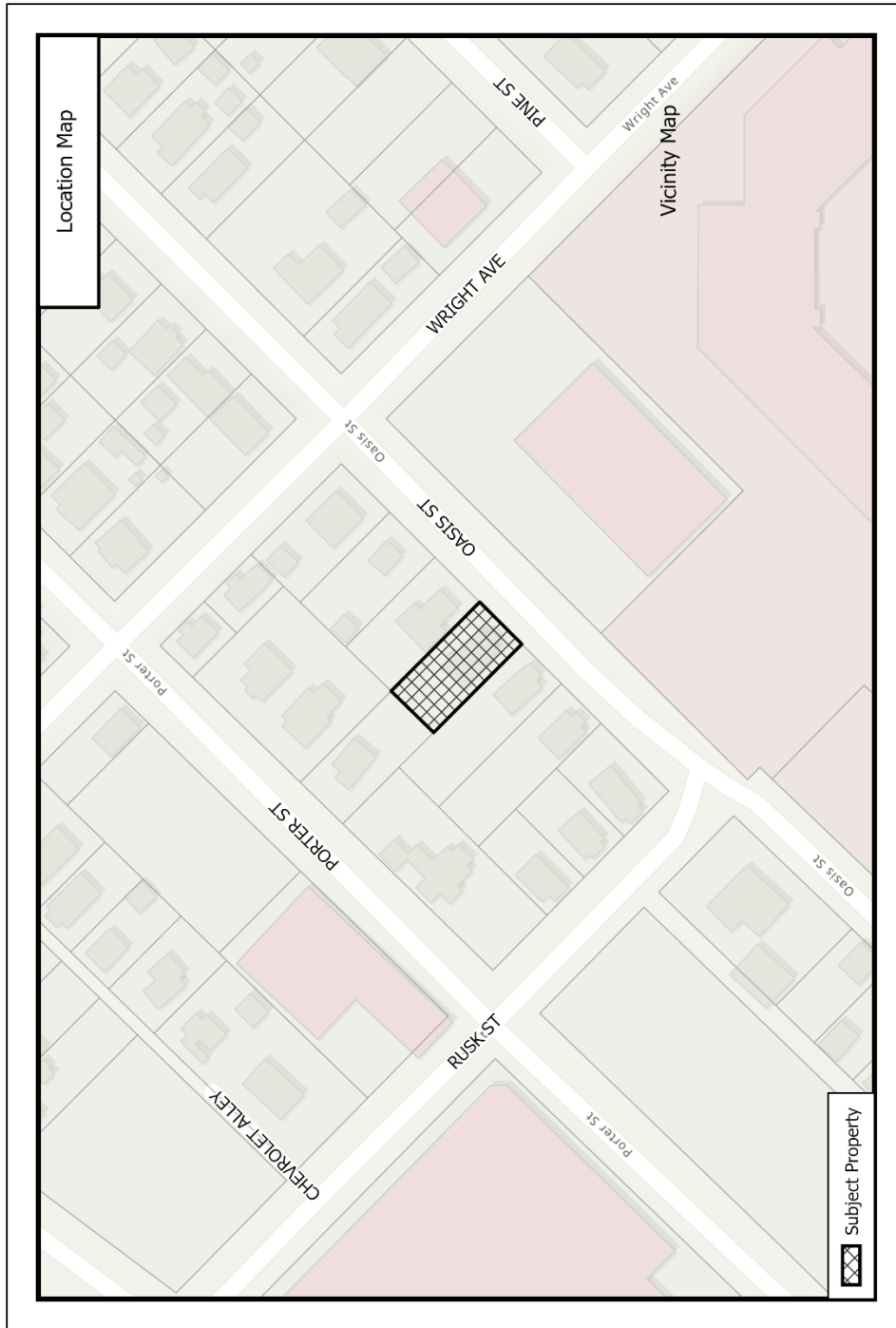
THENCE along the northwest Right-of-Way line of said Oasis Street, South 45 degrees 00 minutes 26 seconds West (called South 45 degrees 17 minutes West), a distance of 56.31 feet (called 56.1 feet) to the POINT OF BEGINNING, and containing 0.152 acres of land, more or less.

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



Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
August 2, 2017

EXHIBIT "B"





SUP21-115
SUP to allow Residential use and Short Term Rental in M-2

Source: City of New Braunfels Planning
Date: 4/28/2021

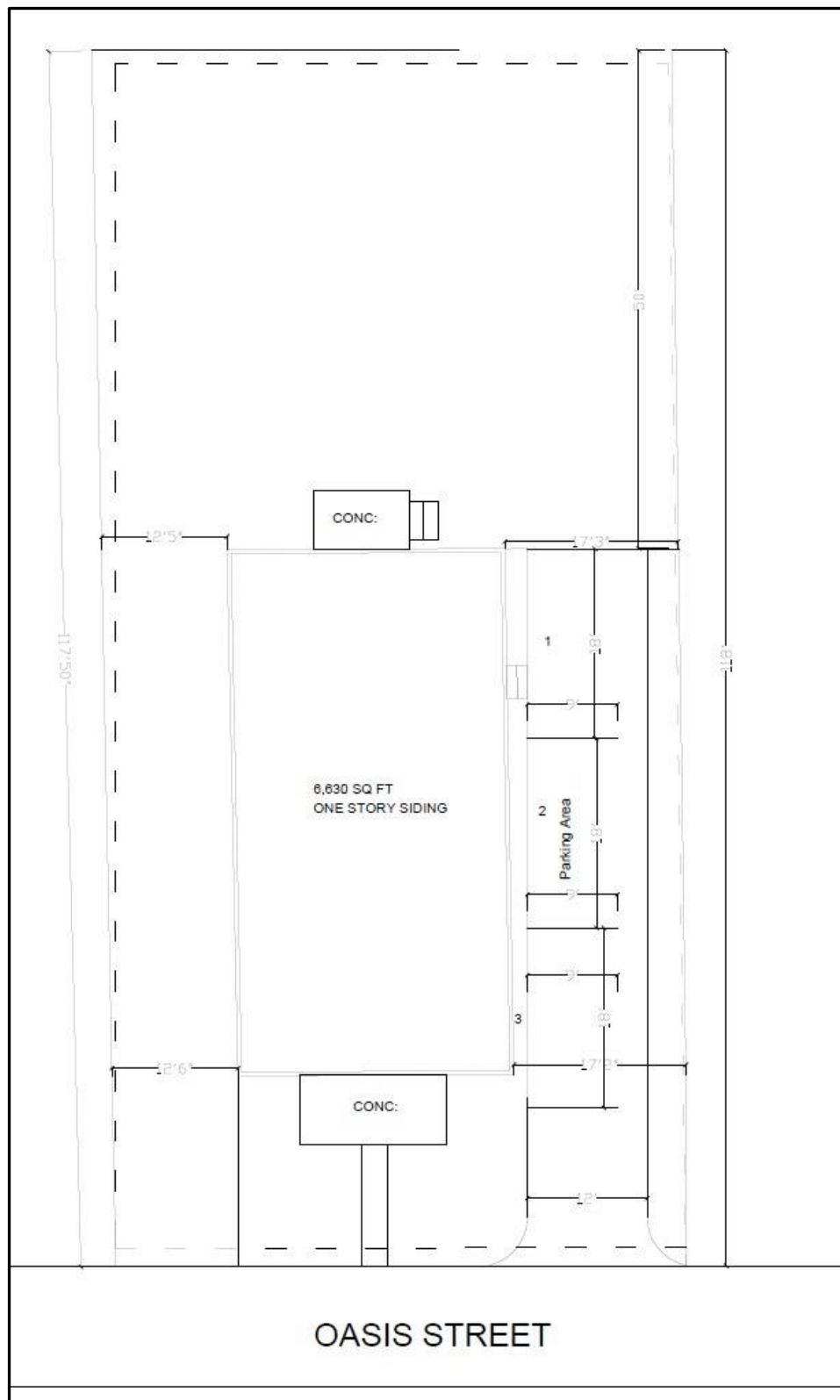
Path: Y:\ZoneChange-SUP-Repairs\2021\SUP21-115 - 747 Oasis St - Lund\NPH\SUP21-115.aprx

DISCLAIMER: This map and information contained in it were developed exclusively for the use of the City of New Braunfels and are not intended for any other use. The City of New Braunfels is not responsible for any errors, omissions, or inaccuracies in this map or information. The City of New Braunfels officials or employees for any discrepancies, errors, or variances which may exist.

0 60 120 Feet

N

EXHIBIT "C"



Site Plan

6/14/2021

Agenda Item No. O)

PRESENTER:

Christopher J. Looney, AICP, Planning and Development Services Director

SUBJECT:

Approval of the second and final reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family dwelling in the “C-3” Commercial District, addressed at 306 E. Faust Street.

DEPARTMENT: Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Council District 5**BACKGROUND INFORMATION:**

Applicant/Owner: Jeffrey A. Coultas
306 E. Faust St.
New Braunfels, TX 78130

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

City Council held a public hearing on May 24, 2021 and unanimously approved the first reading of the applicant’s requested rezoning ordinance (6-0-0, with Council Member Hines absent).

The subject property is located on the southeast corner of the intersection of East Faust Street and Kuehler Avenue, and is zoned “C-3” Commercial District. It is occupied by a 1,286 square-foot single-family residence constructed in 1931 with a detached carport. The entire subject neighborhood is zoned the cumulative C-3 District, therefore the area is developed with a mix of commercial and residential uses. However, the subject block is mostly residential.

The applicant is requesting a Special Use Permit (SUP) to allow short term rental (STR) of the property. The house has 2 bedrooms and 1 bath. Per the Zoning Ordinance, maximum occupancy of an STR with one bathroom is limited to 5 occupants. The minimum off-street parking requirement for this proposed STR is 2 spaces, or one per sleeping room. The existing paved driveway can accommodate two parked vehicles.

Short-term rental standards in the Zoning Ordinance help to ensure proper measures are in place to protect public health, safety and neighboring properties, and preserve the neighborhood character and tranquility. If this SUP is approved, short-term rental registration and online payment of hotel occupancy taxes are also required.

Surrounding Zoning and Land Use:

North - Across E. Faust St., C-3 / Two-family detached dwellings

South - C-3 / Barber shop and single-family residence

East - C-3 / Single-family residence

West - Across Kuehler Ave., C-3 / Single-family residence

ISSUE:

Short term rental would be consistent with the following actions in the Comprehensive Plan:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 1.14: Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.
- Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly.

The property lies within the New Braunfels Sub Area and an existing Market Center. It is also in close proximity to Recreational River, Scenic River and Transitional Mixed-Use Corridors.

FISCAL IMPACT:

If approved, short term rental of the property will be subject to local and state hotel occupancy tax.

RECOMMENDATION:

The Planning Commission held a public hearing on May 4, 2021 and unanimously recommended approval with staff recommendations (8-0-0, with Commissioner Gibson absent).

While this would be the first introduction of lodging facilities in this block, there is another short-term rental on the same street a block away, and an SUP approved for another in the same neighborhood. A short-term rental on this property, following all the standards of the Zoning Ordinance to protect the neighborhood, would complement the overall mix of uses in this area. The location would allow easy access to main thoroughfares and visitor destinations. Staff recommends approval in accordance with the Zoning Ordinance requirements, including the following conditions:

1. The residential character of the property must be maintained.
2. The property will remain in compliance with the approved site plan. Any significant changes to the site plan will require a revision to the SUP.
3. Occupancy is limited to a maximum of 5 guests.
4. The applicant will register the short-term rental and create an account for online payment of hotel occupancy taxes.
5. All other standards of the Zoning Ordinance will also be met.

Notification as required by state statute:

Public hearing notices were sent to 15 owners of property within 200 feet of the request. Three responses have been received in favor from owners of numbers 3, 16 and 17; and 2 opposed from owners of numbers 12 & 13 on the map.

Resource Links:

- Chapter 144, Sec. 3.3-9 “C-3” Commercial District of the City’s Code of Ordinances:

[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

- Chapter 144, Sec. 3.6 Special Use Permits of the City's Code of Ordinances:

[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

- Chapter 144, Sec. 5.17 Short-Term Rental of the City's Code of Ordinances:

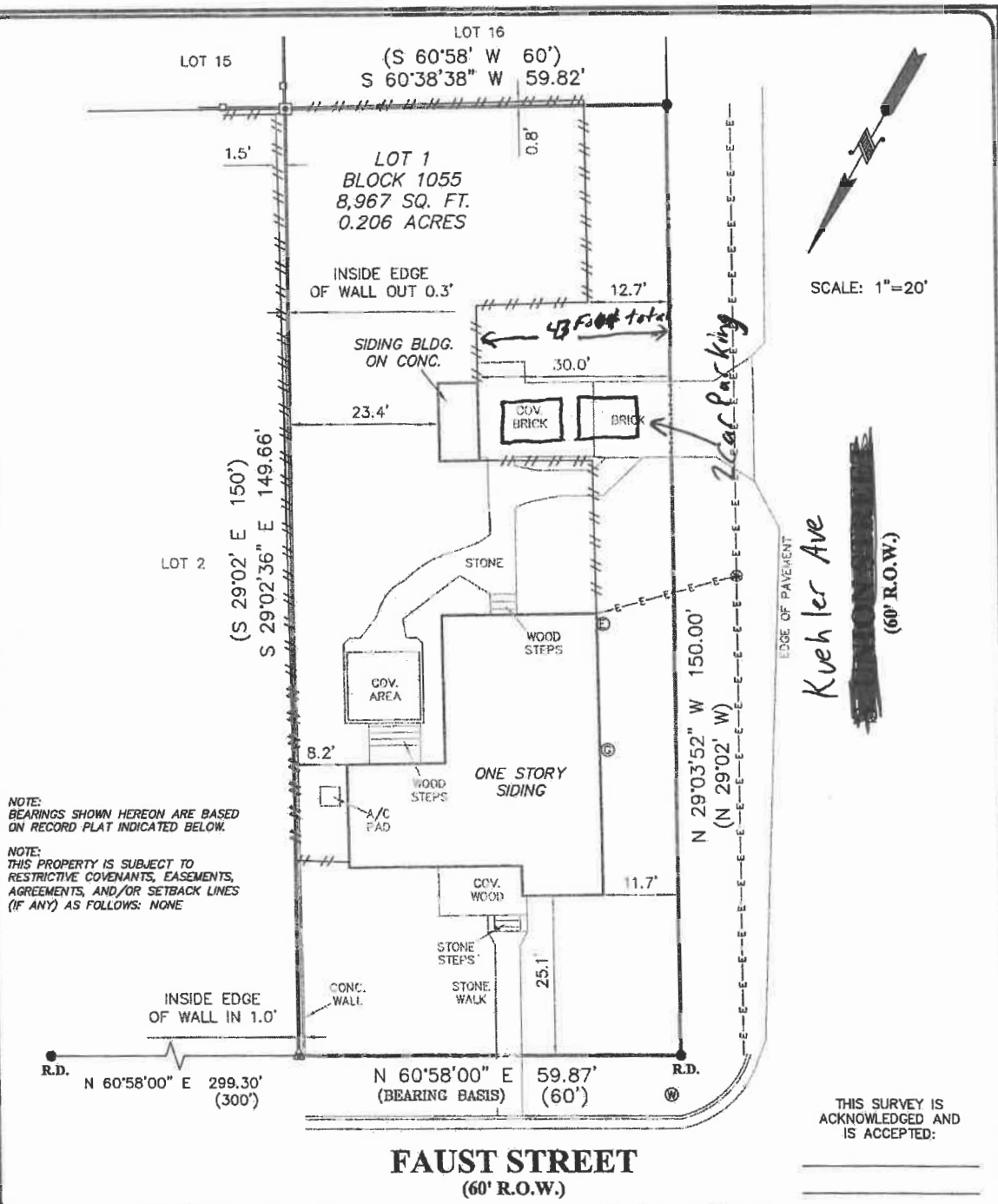
[https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?)

Attachments:

- Aerial Map
- Site Plan
- Floor Plan
- Lane Use Maps (Zoning, Existing, Future Lane Use, Short Term Rental)
- Notification List, Map and Responses
- Photographs
- Excerpt of Minutes from the May 4, 2021 Planning Commission Regular Meeting
- Ordinance



SITE PLAN



FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 48091C, Panel No. 0455 F, which is Dated 09/02/2009. By scaling from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) X. Because this is a boundary survey, the survey did not take any actions to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THIS SURVEYOR DOES NOT CERTIFY THE ACCURACY OF THIS INTERPRETATION OF THE FLOOD ZONES, which may not agree with the interpretations of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <https://msc.fema.gov/portal>.



Property Address:
306 E. FAUST STREET

Property Description:
LOT 1, BLOCK 1055, KUEHLER ADDITION, AN ADDITION TO THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 46, PAGES 430-431, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS.

Owner:
JEFFREY ALLEN COULTAS

FIRM REGISTRATION NO.
10111700

Westar Alamo

LAND SURVEYORS, L.L.C.

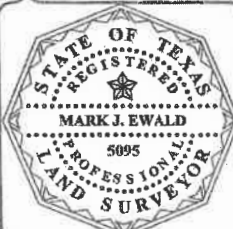
P.O. BOX 1645 BOERNE, TEXAS 78006

PHONE (210) 372-9500 FAX (210) 372-9999

LEGEND

- = FND 60D NAIL
- = FND 1/2" IRON ROD
- = FND MAG NAIL IN POST
- = RECORD INFORMATION
- B.S. = BUILDING SETBACK
- R.D. = RECORD DIGNITY MONUMENT
- ⊙ = POWER POLE
- E— = OVERHEAD ELECTRIC
- W— = WOOD FENCE
- ⊙ = WATER METER
- ⊙ = ELECTRIC METER
- ⊙ = GAS METER

DRAWN BY: TS



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

Mark J. Ewald

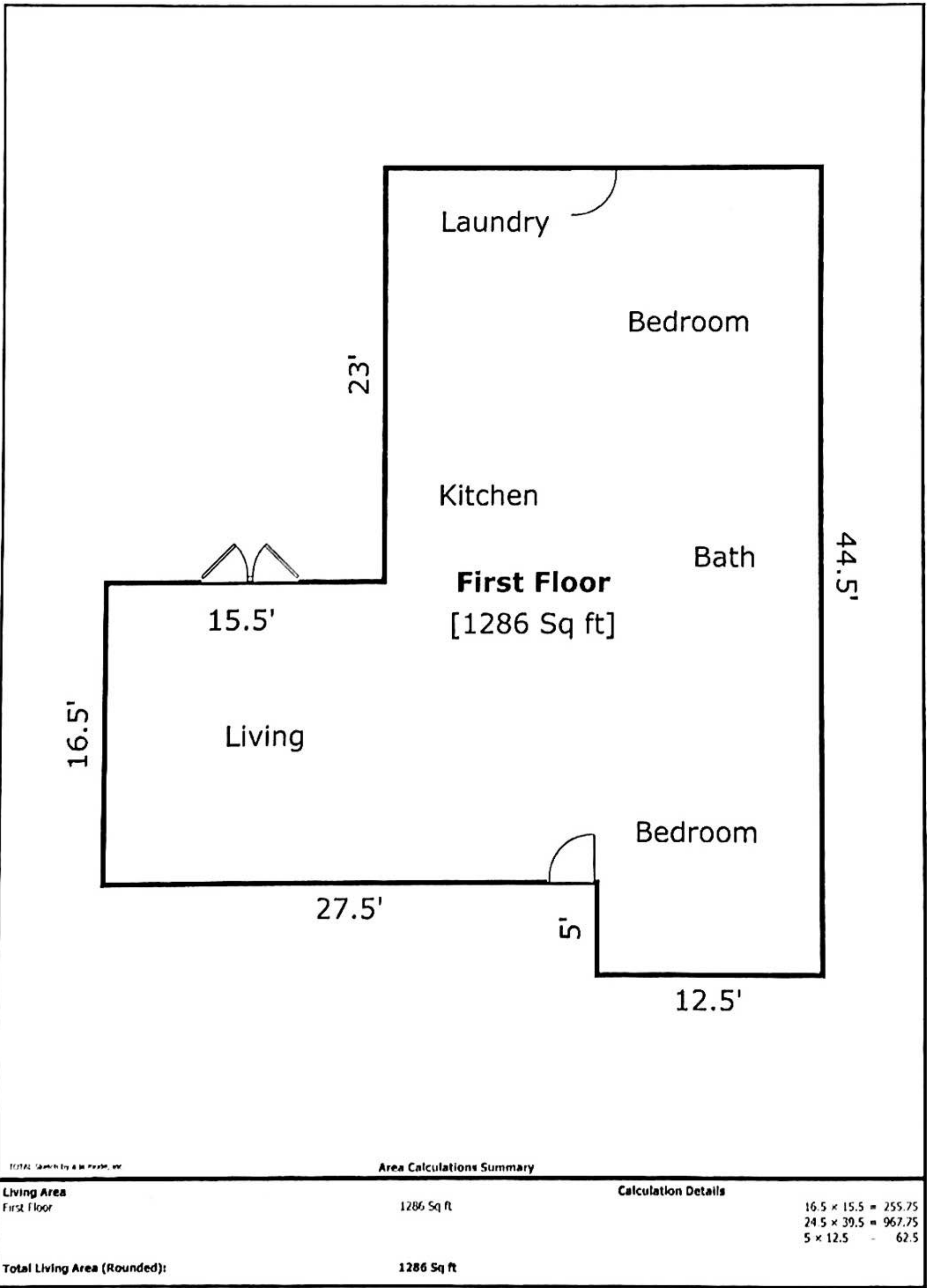
MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

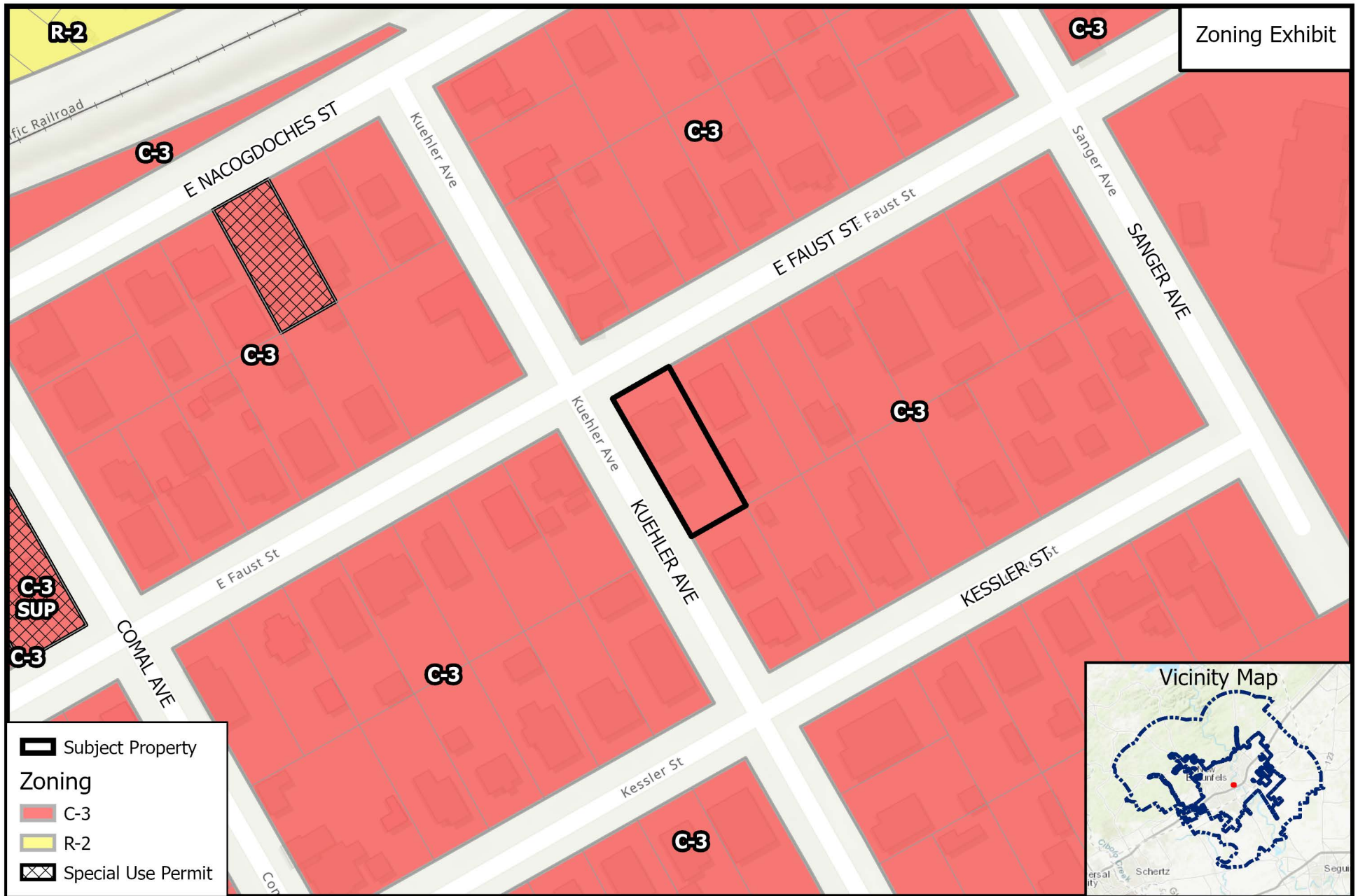
G.F. NO. SAT-14-4000142000572-SH JOB NO. 98928 TITLE COMPANY: ALAMO TITLE DATE: 07/01/2020

Building Sketch

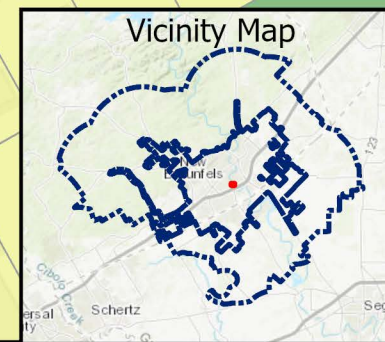
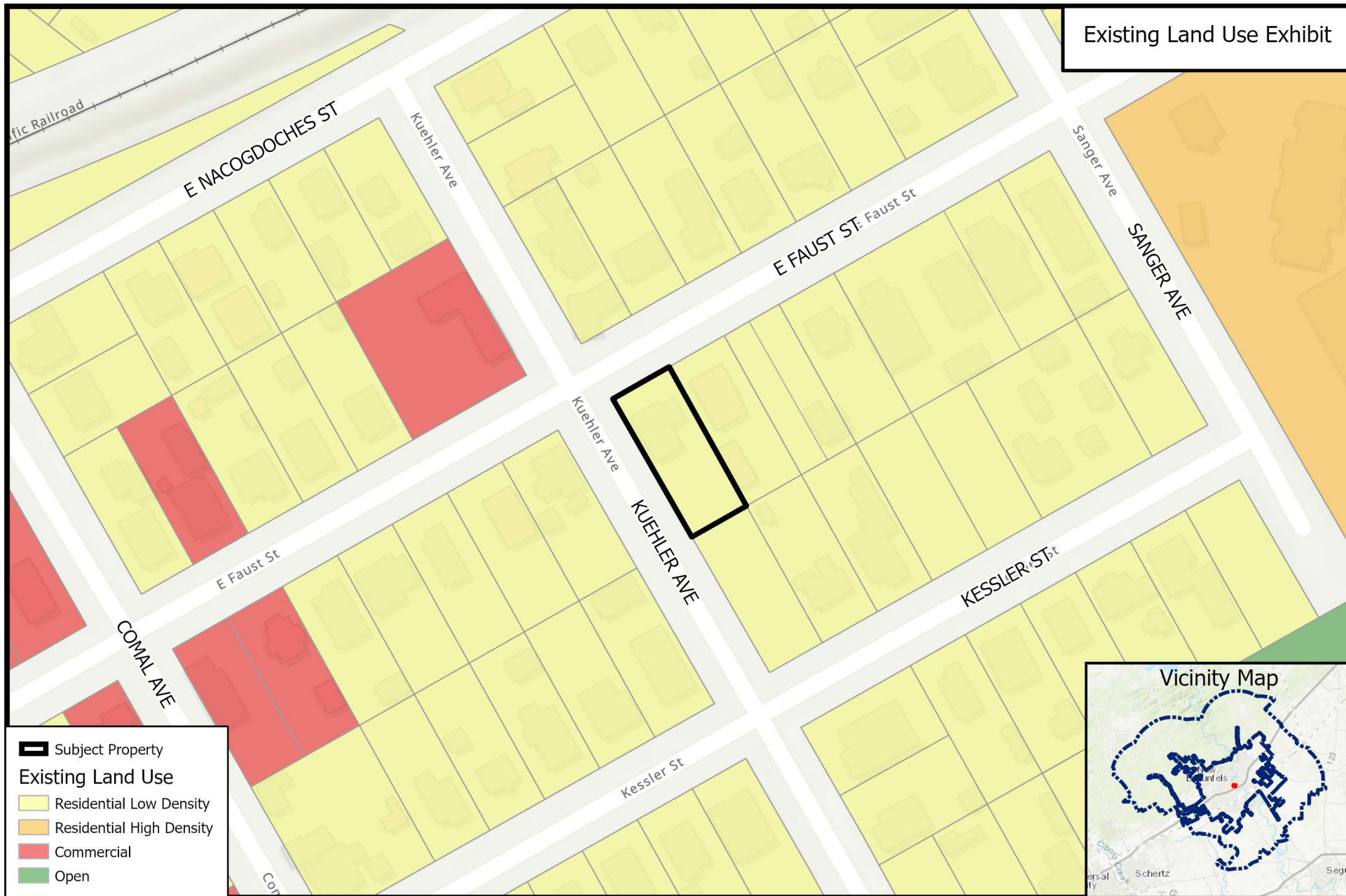
Borrower/Client				
Property Address 306 E Faust St				
City	New Braunfels	County	State TX	Zip Code 78130
Lender				

FLOOR PLAN





SUP21-122 SUP for Short Term Rental in C-3



SUP21-122
SUP for Short Term Rental in C-3

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

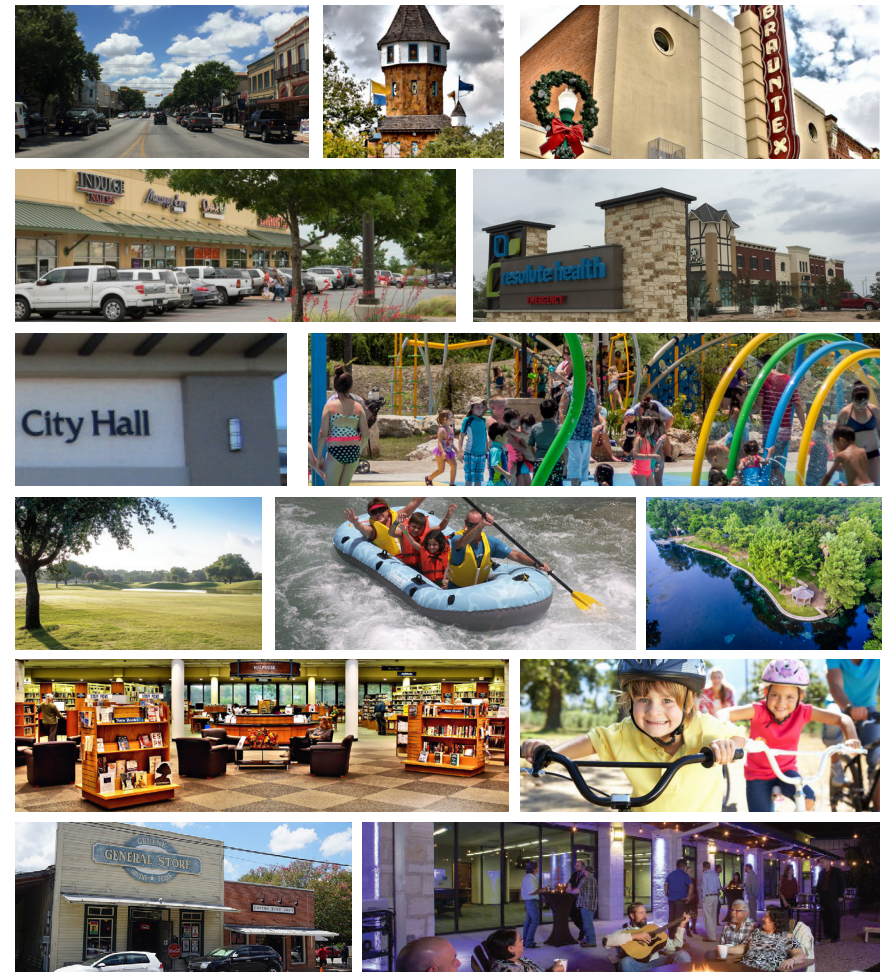
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

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.



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

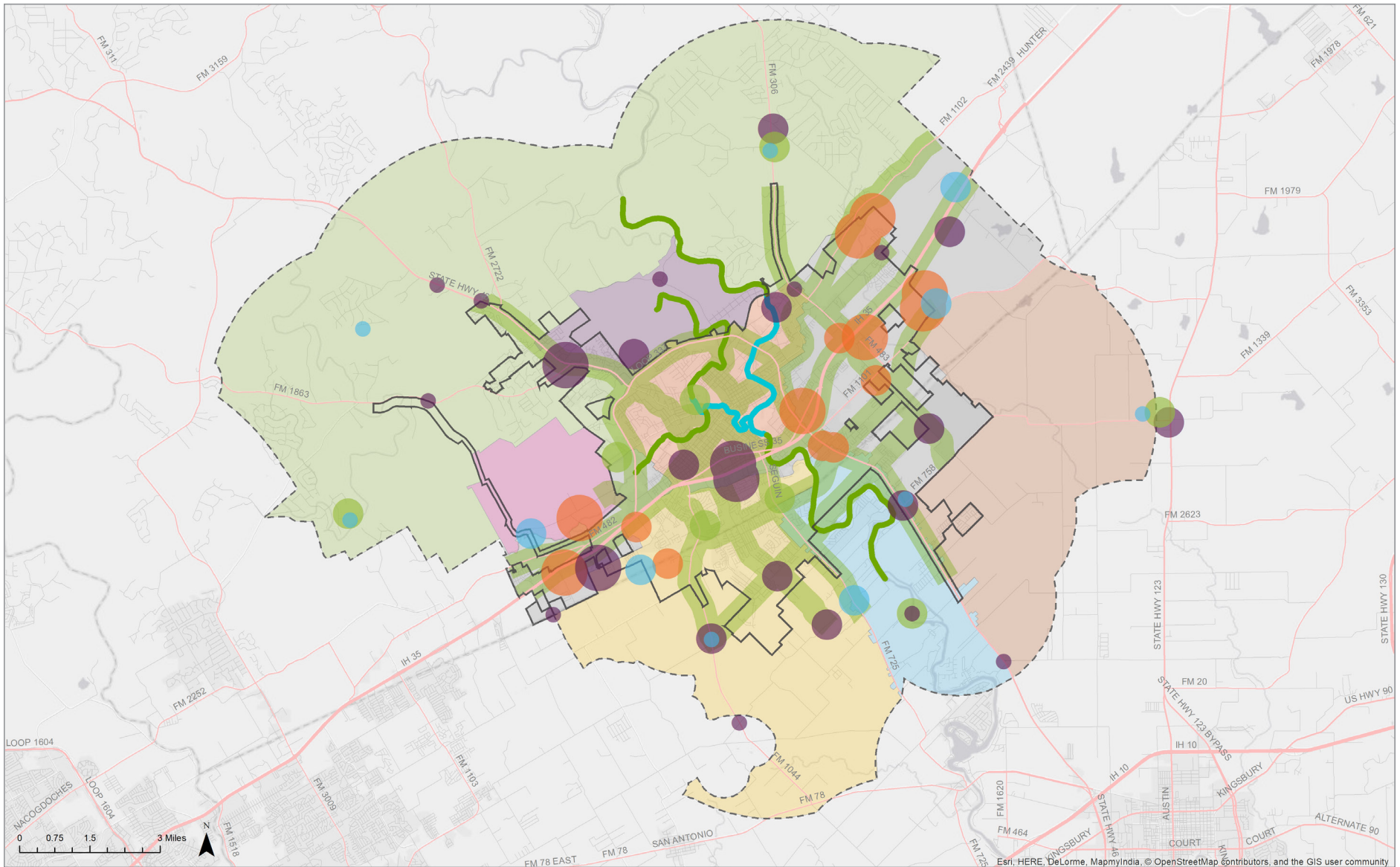
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

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

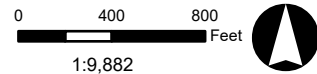
This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.



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](#).



Approved Special Use Permits for Short-Term Rental of Bed & Breakfast Use



PLANNING COMMISSION – APRIL 20, 2021 – 6:00PM

Zoom Meeting

Applicant/Owner: Jeff Coultas

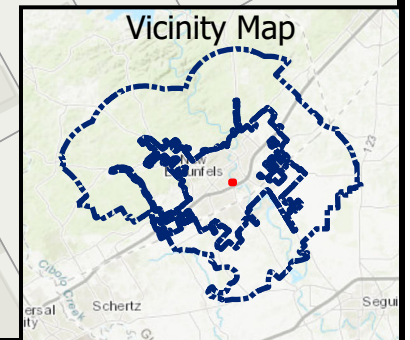
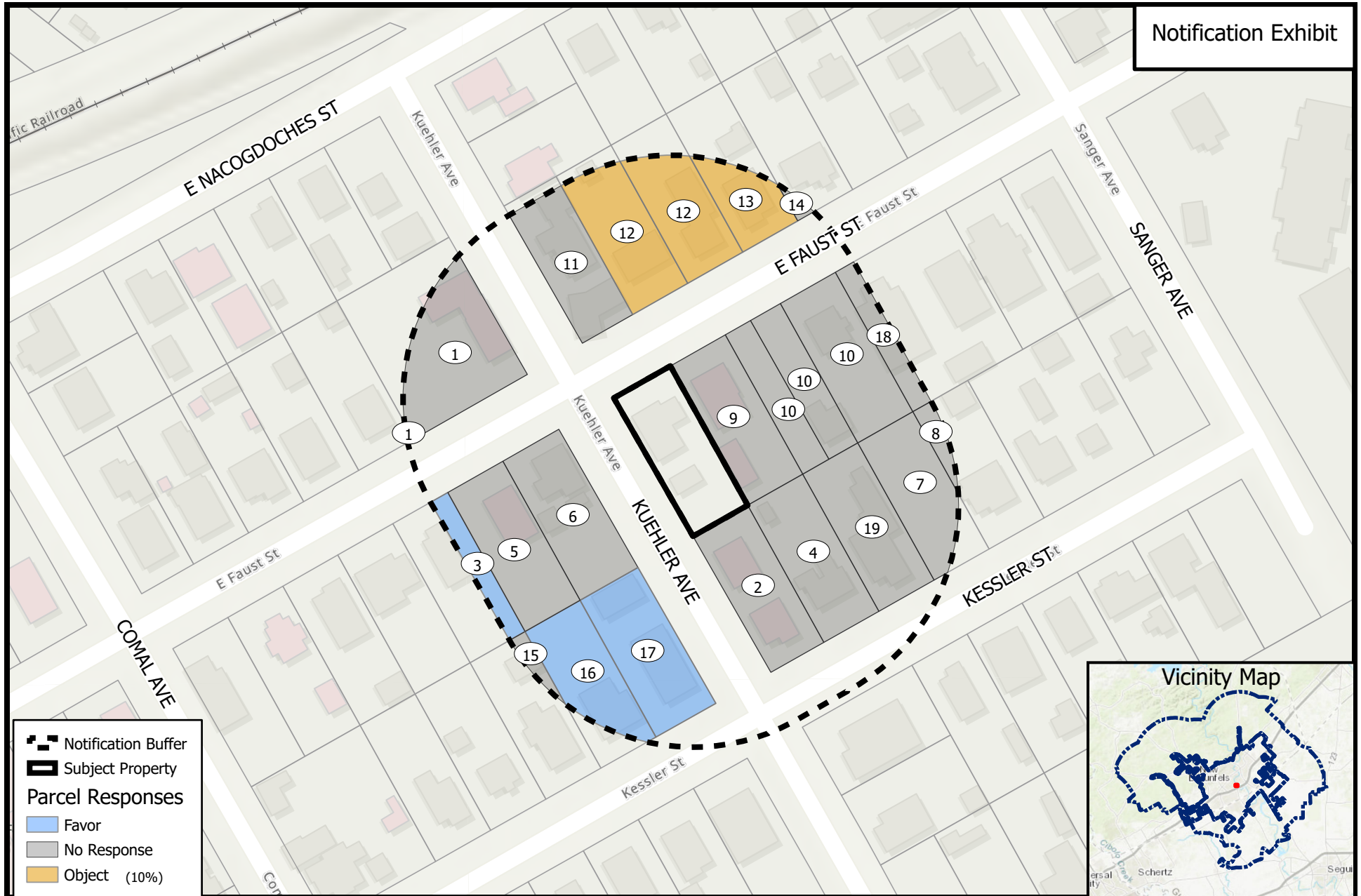
Address/Location: 306 E Faust St

PROPOSED SPECIAL USE PERMIT – CASE #SUP21-122

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. DOYLE FRANCIS W & MARGARET J RVCBL LVNG TRST | 10. PAWLIK DEBORAH K |
| 2. KOEHLER LUCILLE HANZ | 11. GRIMM DORIS M |
| 3. NAUMANN ROBERT W & DINAH L LOVEJOY-
NAUMANN | 12. WUNDERLICH PROPERTIES LLC |
| 4. SMILEY CYNTHIA A | 13. NOWAK JUDY |
| 5. BLINDER LARRY & JENNIFER | 14. GARRISON CLYDE A & KAREN S |
| 6. 296 E FAUST AP LAND TRUST | 15. FISHER SHANE B |
| 7. NUCKELS RICHARD JOHN JR | 16. MILLER ANNE L & DOUGLAS R II |
| 8. MAXWELL SYLVIA J | 17. COULTAS JEFFREY A & LAURA A |
| 9. ALVAREZ KARINA | 18. CAST PROPERTIES LLC |
| | 19. NUCKELS RICHARD JOHN JR & MARY KATHERINE |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP21-122 mg

Name: Robert & Dinah Naumann

Address: 264 E. Faust Street

Property number on map: 3

I favor: X

I object: _____ (State reason for objection)

Comments: (Use additional sheets if necessary)

MAY 04 2021

Signature: Dinah Naumann

From: [Douglas Miller II](#)
To: [Matt Greene](#)
Subject: Special Use Permit-SUP21-122
Date: Monday, May 3, 2021 6:27:38 PM
Importance: High

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Greene,

I am in favor of SUP21-122 at 306 E. Faust Street being approved. I feel that this will improve the mixed use of the area. This is a commercial zoned area that allows this type of use and it will enrich the overall appeal. I am property #16 on the map.

Thank you,



Douglas Miller II
Miller & Miller Insurance Agency
400 W. San Antonio Street
New Braunfels, TX 78130



O – 830.625.3000
F – 830.625.3299

<https://miller-miller.epaypolicy.com/> - use this link to make payment to our agency by credit/debit card or electronic check. Do not use this link to make payments to an insurance company or to a finance company - only payments payable to Miller & Miller Insurance.

Your feedback is important to us. [Complete this short 5 question survey](#) to tell us how well we served you.

P.S. Did you realize you could win [Gift Cards](#) simply by telling others about **Miller & Miller! Just ask your friends and neighbors to contact us for an insurance quote and you'll receive a "THANKS!" gift from us and we'll automatically enter your name into our monthly drawing for a \$50.00 restaurant gift card! Visit [Miller & Miller Referrals](#) to get started - what are you waiting for?**

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YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP21-122 mg

Name:

Laura Coultas

I favor:

X

MAY 04 2021

Address:

295 Kessler St, 78130

I object:

(State reason for objection)

Property number on map:

#17

Comments: (Use additional sheets if necessary)

I'm in favor for the SUP because it will add to the mixed use of the area. I also feel it will help support the commerce of the small, locally owned business establishments within the neighborhood.

Signature:

Laura Coultas

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP21-122 mg

Name: Kenneth W. Wunderlich

I favor: _____

MAY 08 2021

Address: 608 ACORN, New Braunfels, TX

I object: X (State reason for objection)

Property number on map: #12

78130

Comments: (Use additional sheets if necessary)

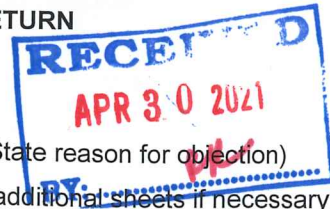
Reduces the quality of residential living & subsequently the value of ~~my~~ property as a residence for families.

Signature: Kenneth W. Wunderlich

Wunderlich Properties LLC,
Chair

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP21-122 mg



Name: Judy Nowak

I favor: _____

Address: 357 E Faust

I object: ☒ (State reason for objection)

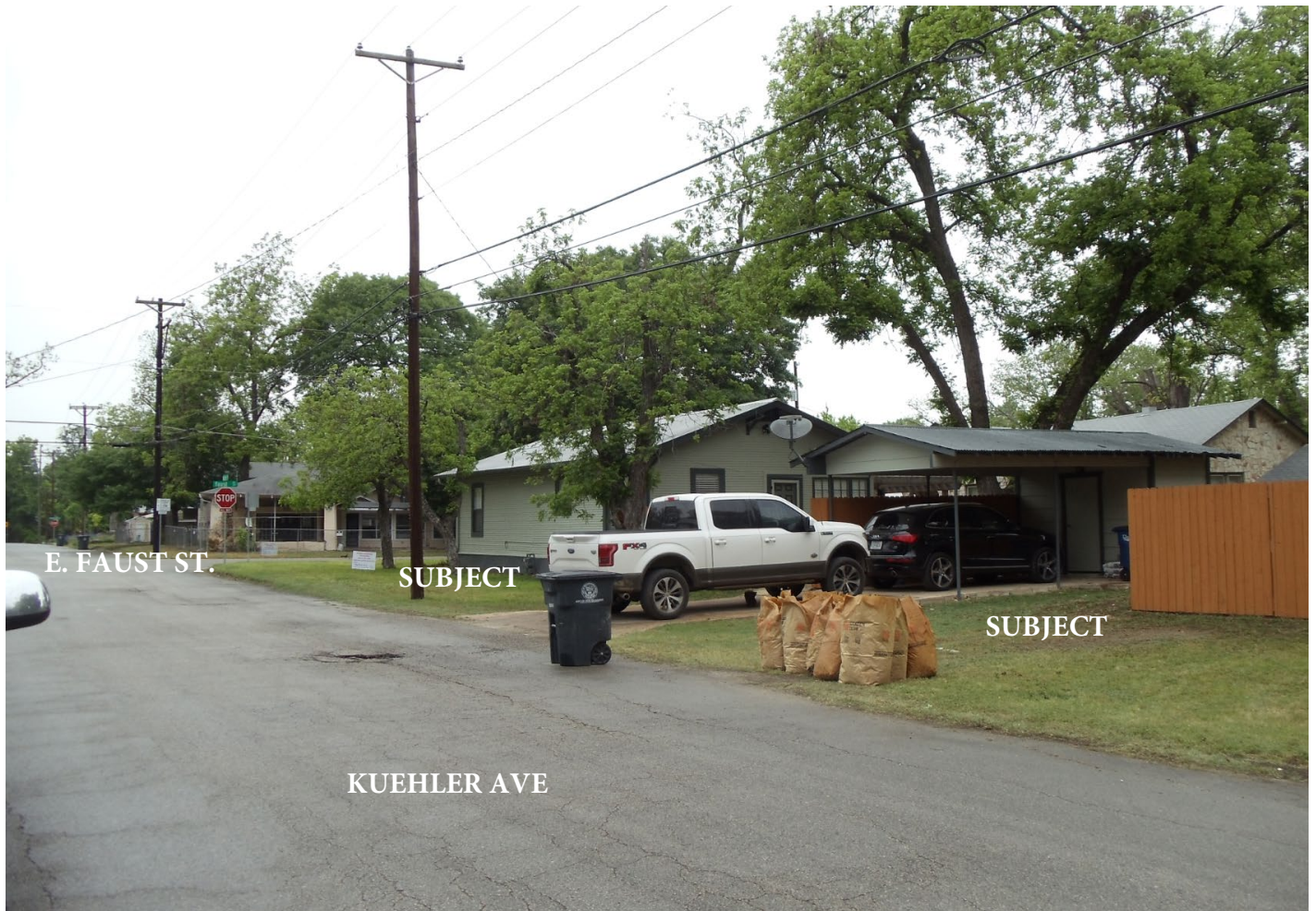
Property number on map: 13

Comments: (Use additional sheets if necessary)

with short term rental, we do not know our neighbors (as we do now). Most properties are long term rental or privately owned.

We have enough strangers in our neighborhood due to volume of people at river below Faust St. bridge.

Signature: Judy Nowak





SUBJECT

E. FAUST ST.

Draft Minutes for the May 4, 2021 Planning Commission Regular Meeting

D) SUP21-122 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family dwelling in the “C-3” Commercial District, addressed at 306 E. Faust Street. Applicant/Owner: Jeffrey A Coultas; Case Manager: Matt Greene.

Mr. Greene presented and recommended approval with conditions as listed in the staff report.

Chair Edwards asked if there were any questions for staff.

Discussion followed for clarification of the request.

Chair Edwards asked if the applicant would like to speak.

Jeff Coultas, 306 E Faust, provided intent and context behind the request.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

Douglas Miller, 1735 Canyon Way, stated he is the property owner of number 16 and cited support for the request.

William Rodgers, 16 La Mesa, asked for clarification of the request and asked about ADA compliance.

Discussion followed on ADA standards.

Darrel Panozzo, 219 E Faust, stated he is in favor of the request in line with prior comments.

Chair Edwards closed the public hearing.

Chair Edwards asked if there were any further questions or a motion.

Motion by Commissioner Reaves, seconded by Commissioner Meyer, to recommend approval to City Council of the proposed rezoning to apply a Special Use Permit to allow short term rental of a single-family dwelling in the “C-3” Commercial District, addressed at 306 E. Faust Street. Motion carried (8-0-0).

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW SHORT TERM RENTAL OF A SINGLE FAMILY DWELLING IN THE “C-3” COMMERCIAL DISTRICT ON LOT 1, CITY BLOCK 1055, ADDRESSED AT 306 EAST FAUST STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of a Special Use Permit, the City Council has given due consideration to all components of said permit; and

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

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

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

WHEREAS, the City Council desires to grant a Type 2 Special Use Permit for Lot 1, City Block 1055, currently addressed at 306 East Faust Street, to allow the short-term rental of single-family dwelling in the “C-3” Commercial District; **now, therefore;**

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

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by adding the following described tract of land as a “Special Use Permit” for the uses and conditions herein described:

Lot 1, City Block 1055, currently addressed at 306 East Faust Street, as delineated in Exhibit “A”.

SECTION 2

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

1. The residential character of the property must be maintained.
2. The property will remain in compliance with the approved site plan (Exhibit 'B', attached). Any significant changes to the site plan will require a revision to the SUP.
3. Occupancy is limited to a maximum of 5 guests
4. The applicant will register the short-term rental and create an account for online payment of hotel occupancy taxes
5. All standards of the Zoning Ordinance will be met.

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 24th day of May, 2021.

PASSED AND APPROVED: Second reading this 14th day of June, 2021.

CITY OF NEW BRAUNFELS

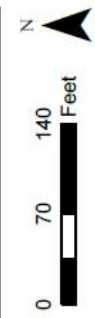
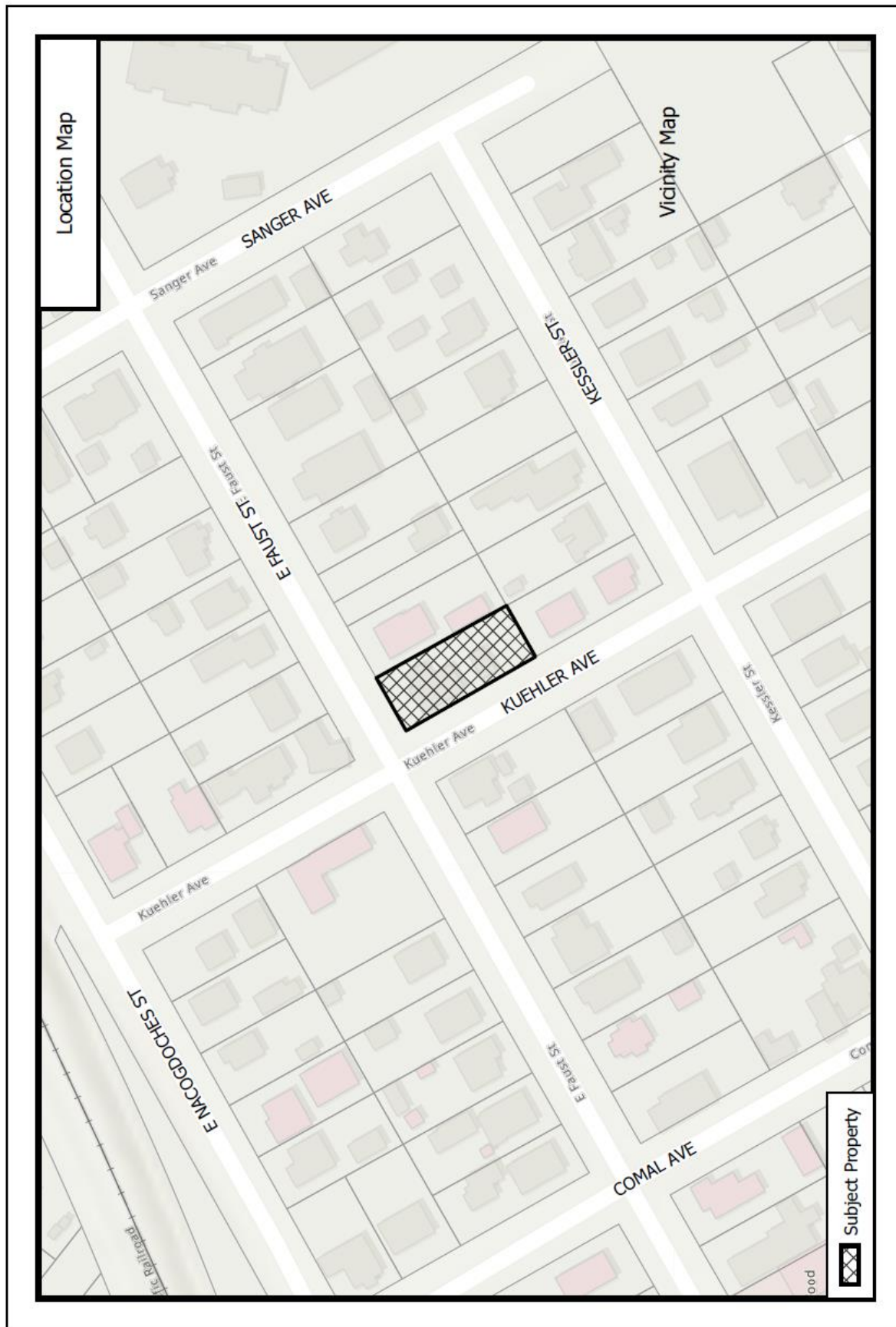
RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney



DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of New Braunfels. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of New Braunfels, its officials or employees for any discrepancies, errors, or variances which may exist.

SUP21-122
SUP for Short Term Rental in C-3
306 E. Faust St.

Source: City of New Braunfels Planning
 Date: 5/4/2021



Path: \\CHFS-1\Departments\Planning\ZoneChange-SUP-Rep\2021\SUP21-122 - 306 E Faust -

EXHIBIT 'A'

LOT 1
BLOCK 1055
8,967 SQ. FT.
0.206 ACRES

INSIDE EDGE OF WALL OUT 0.3'

SIDING BLDG. ON CONC.

CONC. BRICK

BRICK

STONE

WOOD STEPS

ONE STORY SIDING

WOOD STEPS

A/C PAD

CONC. WOOD

STONE STEPS

STONE WALK

CONC. WALL

FAUST STREET
(60' R.O.W.)

Kuehler Ave
(60' R.O.W.)

SCALE: 1"=20'

NOTE:
BEARINGS SHOWN HEREON ARE BASED
ON RECORD PLAT INDICATED BELOW.

NOTE:
THIS PROPERTY IS SUBJECT TO
RESTRICTIVE COVENANTS, EASEMENTS,
AGREEMENTS, AND/OR SETBACK LINES
(IF ANY) AS FOLLOWS: NONE

FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 45091E, Panel No. 45091E, which is dated 08/01/2005. By referring from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) X. Because this is a secondary survey, the survey did not take any action to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THIS SURVEYOR DOES NOT CONFIRM THE ACCURACY OF THIS INTERPRETATION OF THE FLOOD ZONES, which may not agree with the interpretations of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <http://www.fema.gov/flood>.

Property Address:
306 E. FAUST STREET
Property Description:
LOT 1, BLOCK 1055, KUEHLER ADDITION, AN ADDITION TO THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 46, PAGES 430-431, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS.

Owner:
JEFFREY ALLEN COULTAS

LEGEND

- FND 800 MAIL
- FND 1/2" IRON ROD
- FND 3/4" IRON POST
- RECORD INFORMATION
- BUILDING SETBACK
- RECORD DIGNITY MONUMENT
- POWER POLE
- OVERHEAD ELECTRIC
- WOOD FENCE
- WATER METER
- ELECTRIC METER
- GAS METER

DRAWN BY: TS

STATE OF TEXAS
REGISTERED
MARK J. EWALD
5095
PROFESSIONAL LAND SURVEYOR

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

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

G.F. NO. SAT-14-4000142000572-SH JOB NO. 88928 TITLE COMPANY: ALAMO TITLE DATE: 07/01/2020

6/14/2021

Agenda Item No. P)

PRESENTER:

Ian Taylor, Chief Executive Officer, New Braunfels Utilities (NBU)

SUBJECT:

Approval of the first reading of an ordinance providing the right to New Braunfels Utilities Board of Trustees Members to waive annual compensation and to revoke such waiver and reinstate annual compensation at any time.

DEPARTMENT: New Braunfels Utilities (NBU)

COUNCIL DISTRICTS IMPACTED: All districts impacted.

BACKGROUND INFORMATION:

Chapter 130, Article II, Section 130-30 of the New Braunfels Code of Ordinances (“Code of Ordinances”) requires that members of the New Braunfels Utilities (“NBU”) Board of Trustees, excluding the Mayor, receive an annual compensation of not less than \$1,200. From time to time, NBU Board members have requested NBU staff to waive the \$1,200 Board compensation required in Section 130-30 of the Code of Ordinances. In order to accommodate this request, NBU staff proposes modifying Section 130-30 of the Code of Ordinances to provide the right to NBU Board members to waive their annual compensation by written request to the CEO and to revoke such waiver and reinstate the Board member’s compensation at any time.

The proposed amended ordinance and board resolution are attached. The second reading of the proposed ordinance is scheduled for June 28, and, if approved, the proposed amendment becomes effective on June 28, 2021.

PROPOSED CODE OF ORDINANCE CHANGES

NBU staff has included in the City Council backup materials a redline version of Section 130-30 of the Code of Ordinances relating to board member compensation.

ISSUE:

No issue at this time.

FISCAL IMPACT:

No Fiscal impact.

Board/Commission Recommendation:

The New Braunfels Utilities Board of Trustees adopted a resolution on May 25, 2021, recommending the proposed amendment to Chapter 130, Article II, Section 130-30 of the Code of Ordinances relating to NBU Board member compensation.

RECOMMENDATION:

NBU Staff recommends approval of the ordinance.

A RESOLUTION BY THE BOARD OF TRUSTEES OF NEW BRAUNFELS UTILITIES (I) APPROVING A PROPOSED AMENDMENT TO CHAPTER 130, ARTICLE II, SECTION 130-30, CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS (I) PROVIDING THE RIGHT TO BOARD MEMBERS TO WAIVE ANNUAL COMPENSATION AND TO REVOKE SUCH WAIVER AND REINSTATE ANNUAL COMPENSATION AT ANY TIME AND (II) AUTHORIZING PRESENTATION OF SAME TO THE CITY COUNCIL OF NEW BRAUNFELS FOR ITS CONSIDERATION AND PASSAGE

WHEREAS, the City Council of the City of New Braunfels (the “City Council”) has established an ordinance designating the complete management and control of New Braunfels Utilities (“NBU”) to a Board of Trustees to manage its electric, water, and wastewater systems;

WHEREAS, Chapter 130, Article II, Section 130-30 of the City’s Code of Ordinances provides that NBU board members, excluding the mayor, shall receive an annual compensation of not less than \$1,200;

WHEREAS, the Board of Trustees of NBU is of the opinion that it is now necessary and advisable that Chapter 130, Article II, Section 130-30 of the Code of Ordinances relating to board member compensation be amended; and

WHEREAS, the Board of Trustees has reviewed the proposed amendment and is of the opinion that the same should be approved and submitted to the City Council for its consideration and passage.

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

SECTION 1. The Board of Trustees hereby approves the proposed amendment to Chapter 130, Article II, Section 130-30 of the City’s Code of Ordinances as set forth in attached Exhibit A to allow a member of the Board of Trustees the right to (i) waive his or her annual compensation at any time by providing written notice of such waiver to the CEO and (ii) revoke such waiver and reinstate annual compensation at any time by providing written notice of such reinstatement to the CEO.

SECTION 2. The Board of Trustees hereby recommends approval of such amendment to the City Council and authorizes and directs the CEO of NBU to present the proposed ordinance amendment in ordinance form to the City Council for its consideration and passage as provided by law.

SECTION 3. The recitals contained in the preamble hereof are found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board of Trustees.

SECTION 4. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

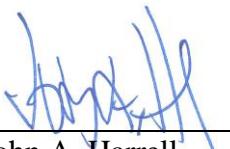
SECTION 5. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 6. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board of Trustees hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 7. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

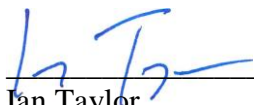
SECTION 8. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, AND ADOPTED, this the 25th day of May, 2021.



John A. Harrell
President, Board of Trustees
New Braunfels Utilities

ATTEST:



Ian Taylor
Secretary to the Board
New Braunfels Utilities

Exhibit A

ORDINANCE NO. 2021-_____

AN ORDINANCE AMENDING CHAPTER 130, ARTICLE II, SECTION 130-30, CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS PROVIDING THE RIGHT TO NEW BRAUNFELS UTILITIES BOARD OF TRUSTEES MEMBERS TO WAIVE ANNUAL COMPENSATION AND TO REVOKE SUCH WAIVER AND REINSTATE ANNUAL COMPENSATION AT ANY TIME; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of New Braunfels, Texas (the “City”), owns and operates by and through New Braunfels Utilities its own electric, water, and wastewater system in accordance with the laws of the State of Texas and the charter of said City; and

WHEREAS, the City Council has established an ordinance providing for the complete management and control of New Braunfels Utilities through a board of trustees, which ordinance has been codified as Chapter 130, Article II of the Code of Ordinances of the City; and

WHEREAS, the City Council has also established an ordinance providing for the compensation of the board of trustees, which ordinance has been codified as Chapter 130, Article II, Section 130-30, Code of Ordinances of the City; and

WHEREAS, Section 130-30 of the Code of Ordinances of the City does not currently allow members of the board of trustees to waive their annual compensation; and

WHEREAS, pursuant to a resolution adopted on May 25, 2021, the New Braunfels Utilities Board of Trustees recommends that the board compensation be modified to allow board members to waive their annual compensation; and

WHEREAS, in order to change the board member compensation, it is now necessary and advisable that Section 130-30, Article II, Chapter 130 of the Code of Ordinances, as heretofore established by ordinance, be amended; and

WHEREAS, the City Council retains the power to consider a modification to the board member compensation at any time.

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

SECTION 1.

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

SECTION 2.

THAT, Section 130-30, Chapter 130, Article II of the Code of Ordinances, City of New Braunfels, Texas, as heretofore established by ordinance, be and hereby is amended to allow a member of the board of trustees of New Braunfels Utilities the right to (i) waive his or her annual compensation at any time by providing written notice of such waiver to the CEO and (ii) revoke such waiver and reinstate his or her annual compensation at any time by providing written notice of such reinstatement to the CEO.

SECTION 3.

THAT, Section 130-30, Article II, Chapter 130 of the Code of Ordinances, City of New Braunfels, Texas, is hereby amended in the following section with new language signified by underlined font below:

Sec. 130-30. Compensation of members; exception.

The members of the board of trustees, excluding the mayor, shall receive an annual compensation of not less than \$1,200.00, and such compensation may be increased from time to time by the city council as it is deemed advisable, subject to the limitations set out in the Charter of the city. A member of the board of trustees may waive receipt of this compensation by providing written notice of such waiver to the CEO. If a member of the board of trustees chooses to waive his or her annual compensation, the member may revoke the waiver and reinstate the member's annual compensation at any time by providing written notice of such reinstatement to the CEO. After revocation of the waiver, a member is entitled to a prorated amount of the compensation for the remainder of the fiscal year.

SECTION 4.

THAT, this Ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to board member compensation, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict

with the provisions of this ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

SECTION 5.

THAT, if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 6.

THAT, this ordinance shall be effective on _____, 2021.

SECTION 7.

PASSED AND APPROVED: First Reading this _____ day of _____, 2021.

PASSED AND APPROVED: Second Reading this _____ day of _____, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA ACEVEDO, City Attorney

Sec. 130-30. Compensation of members; exception.

The members of the board of trustees, excluding the mayor, shall receive an annual compensation of not less than \$1,200.00, and such compensation may be increased from time to time by the city council as it is deemed advisable, subject to the limitations set out in the Charter of the city. A member of the board of trustees may waive receipt of this compensation by providing written notice of such waiver to the CEO. If a member of the board of trustees chooses to waive his or her annual compensation, the member may revoke the waiver and reinstate the member's annual compensation at any time by providing written notice of such reinstatement to the CEO. After revocation of the waiver, a member is entitled to a prorated amount of the compensation for the remainder of the fiscal year.

Sec. 130-30. Compensation of members; exception.

The members of the board of trustees, excluding the mayor, shall receive an annual compensation of not less than \$1,200.00, and such compensation may be increased from time to time by the city council as it is deemed advisable, subject to the limitations set out in the Charter of the city. A member of the board of trustees may waive receipt of this compensation by providing written notice of such waiver to the CEO. If a member of the board of trustees chooses to waive his or her annual compensation, the member may revoke the waiver and reinstate the member's annual compensation at any time by providing written notice of such reinstatement to the CEO. After revocation of the waiver, a member is entitled to a prorated amount of the compensation for the remainder of the fiscal year.

6/14/2021

Agenda Item No. Q)

Presenter/Contact

Robert Camareno, City Manager
(830) 221-4280 - rcamareno@nbtexas.org

SUBJECT:

Approval of the first reading of an ordinance establishing the number of positions in each classification in the New Braunfels Fire Department and Police Department pursuant to Local Government Code, Chapter 143 as well as an increase to FY 2021 Adopted Budget authorized position listing.

BACKGROUND / RATIONALE:

With the Completion of the analysis by the Center for Public Safety Management, it was recommended that an additional shift be added to patrol during the time of day with the heaviest call load. Dubbed the “power shift,” it requires 16 additional Police Officers and 2 Sergeants. The City Council initially adopted a four-year implementation strategy to complete the power shift. Prior to FY 2021, the City has added 8 Officers and 1 Sergeant. The FY 2021 Adopted Budget did not include any additional positions in anticipation and preparation of potential negative fiscal impacts from COVID-19.

As discussed during the January retreat, the budgetary impact from COVID-19 has been far less severe than initially projected. Therefore, it is recommended for Council consideration to increase the number of authorized Officers that were scheduled to be added in FY 2021. The Police Department has a test scheduled for later this fiscal year, authorizing the positions now allows them the opportunity to fill those spots significantly quicker in comparison to waiting for the FY 2022 Budget process. If approved, 4 Police Officers and 1 Sergeant would still be needed to fully implement the power shift.

Strength of Force Ordinance - The total number of authorized positions in the Police Department in the attached ordinance has been amended to include the additional four positions referenced above.

Authorized Positions Listing - The additional four Police Officers will increase the total number of FTE in the FY 2021 Police Department from 174 to 178 (includes uniform and non-uniform positions).

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

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FISCAL IMPACT:

Given the timing that the additional positions would be onboarding, it is not expected that the additional positions will materially impact the FY 2021 Budget from an employee expenditure perspective. However, a budget amendment may be needed later in the fiscal year based on the

timing of equipment acquisition for these positions (vehicles, uniforms, etc.).

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the ordinance and adjustment to the authorized position listing.

ORDINANCE 2021-

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

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

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

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

WHEREAS, this ordinance modifies the authorized number of positions in each rank consistent with the FY 20-21 Adopted Budget, including new positions and reclassifications.

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

I.

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

<u>Classification</u>	<u>Effective 10/01/20</u>	<u>Effective 06/14/21</u>
1. Assistant Fire Chief	2	2
2. Battalion Chief	4	4
3. Captain	9	9
4. Lieutenant	22	22
5. Engineer	40	40
6. Firefighter	57	57
Totals	134	134

The classification of Assistant Fire Chief is the rank/classification immediately below the Fire Chief/Department Head. As such, those positions are established by the City Council and will remain positions to which the Department Head may appoint the occupants, in accordance with §143.014 of the Texas Local Government Code. The Fire Chief/Department Head position is not included in the positions listed above.

II.

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

<u>Classification</u>	<u>Effective</u> <u>10/1/20</u>	<u>Effective</u> <u>06/14/21</u>
1. Assistant Police Chief	1	1
2. Captain	3	3
3. Lieutenant	5	5
4. Sergeant	18	18
5. Detective	16	16
6. Police Officer	96	100
Totals	139	143

The classification of Assistant Police Chief is the rank/classification immediately below the Police Chief/Department Head. As such, that position is established by the City Council and will remain a position to which the Department Head may appoint the occupant, in accordance with §143.014 of the Texas Local Government Code. The Police Chief/Department Head position is not included in the positions listed above.

III.

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

IV.

Repealer: All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

V.

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

VI.

This ordinance shall take effect upon the second and final reading, signatures required by City Charter, and filing with the City Secretary's Office.

PASSED AND APPROVED: First reading this 14th day of September, 2020.

PASSED AND APPROVED: Second reading this 28th day of September, 2020.

CITY OF NEW BRAUNFELS, TEXAS

Rusty Brockman, Mayor

ATTEST:

Caitlin Krobot, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

6/14/2021

Agenda Item No. A)

PRESENTER:

Christopher J. Looney, AICP, Planning and Development Services Director

SUBJECT:

Discuss and consider approval of the second and final reading of an ordinance regarding a proposed rezoning of approximately 48 acres out of the O. Russell A-485 Survey 2, located in the 2200 block of FM 1102, from "M-1A" Light Industrial District to "MU-B" High Intensity Mixed Use District.

DEPARTMENT: Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Council District 4**BACKGROUND INFORMATION:**

Applicant: HMT Engineering & Surveying (Chris Van Heerde, P.E.)
290 S. Castell Avenue
New Braunfels, TX 78130
(830) 625-8555
plats@hmtnb.com

Owner: Mary Ann Hollmig
112 Texas Avenue
New Braunfels, TX 78130

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

City Council held a public hearing on April 26, 2021 and approved the first reading of the property owner's requested rezoning ordinance (6-1-0) with a request to clarify text in the agenda memo regarding highlights in the use comparison chart. The second reading was postponed from the May 10, 2021 and the May 24, 2021 City Council meetings at the request of the applicant.

The subject property is located on FM 1102 approximately 1,500 feet northeast of the intersection with FM 306. The property is between FM 1102 and the Union Pacific Railroad tracks, on the edge of the City limits.

The applicant is requesting a zoning change of the base zoning district from "M-1A" Light Industrial to "MU-B" High Intensity Mixed Use District, retaining the "AH" Airport Hazard Overlay District. A district comparison chart (attached) shows the allowed uses are similar between the two districts. **MU-B allows most of the light industrial uses with a few exceptions marked on the chart in gray, while making other use opportunities available. Uses not currently allowed in M-1A that would be allowed with the zoning change are highlighted in yellow.**

Surrounding Zoning and Land Use:

North - Outside city limits / Undeveloped

South - M-1 / Light industrial

East - M-1A / Railroad, undeveloped

West - Across FM 1102, M-1A/ Undeveloped

ISSUE:

The current M-1A zoning district is intended for light manufacturing and assembly, warehousing, research and development, and other operations that do not typically depend on frequent customer visits, but do have medium to large truck traffic for equipment deliveries or product shipping. Therefore, these uses generally require access to major thoroughfares or rail transportation. For these reasons, it was common up until the middle of the last century for cities to zone property along or near rail lines for industrial or manufacturing.

The proposed MU-B district provides for (but does not require) a mix of retail, office and industrial uses in close proximity to enable people to live, work and shop in close proximity, often within biking or walking distance. This district also allows for multifamily development and other uses with a “residential” component such as assisted living and RV parks.

MU-B at this location would be consistent with Envision New Braunfels. The subject property is in close proximity to Future Employment and Market Centers, and lies along FM 1102 which is identified as a Transitional Mixed Use Corridor. These factors support the proposed mixed-use zoning. While the existing M-1A zoning is not inconsistent with the Future Land Use Plan, the proposed MU-B zoning maintains most of the M-1A industrial uses that would be appropriate for this area, while providing opportunities for the community’s desired mixed-use.

FISCAL IMPACT:

N/A

RECOMMENDATION:

The Planning Commission held a public hearing on April 6, 2021 and voted to recommend approval (6-0-0) with Commissioners Tubb, Mathis and Sonier absent.

Staff Recommendation:

Approval.

Notification as required by state statute:

Public hearing notices were sent to owners of 6 properties within 200 feet of the request. To date, no responses have been received from within the notification area. The City received one objection from outside (approximately 4,000 feet away).

Resource Links:

Chapter 144, Sec. 3.4-11 MU-B High Intensity Mixed Use District

[Sec. 144-3.4. - Zoning districts and regulations | Code of Ordinances | New Braunfels](#)

https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH144ZO_ARTIIIZODI_S144-3.4ZODIREPRZOSUJU221987

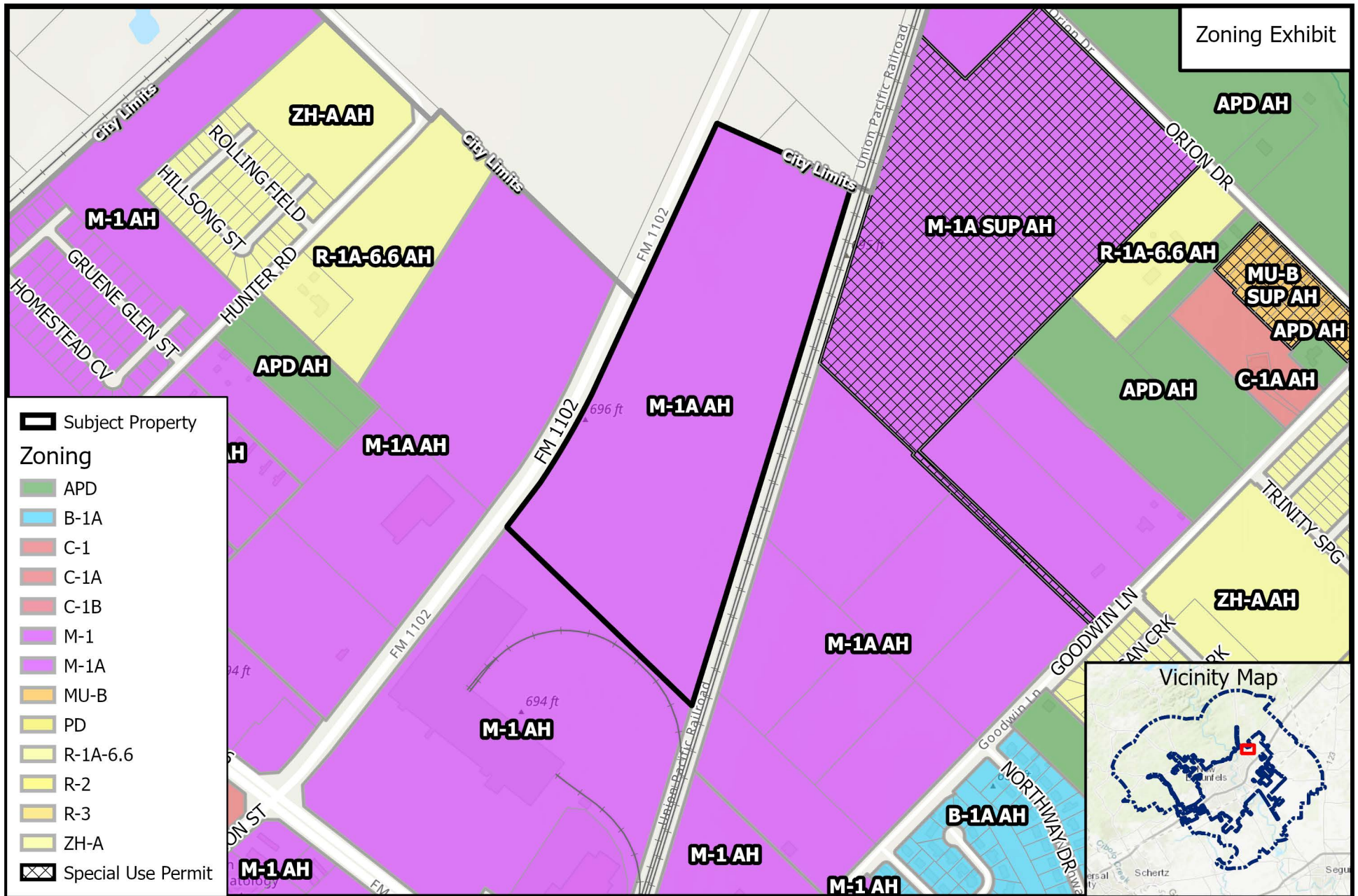
Attachments:

-
1. Aerial Map
 2. Land Use Maps (Zoning, Existing, Future Land Use)
 3. District Comparison Chart
 4. Notification Map
 5. Photograph
 6. Ordinance



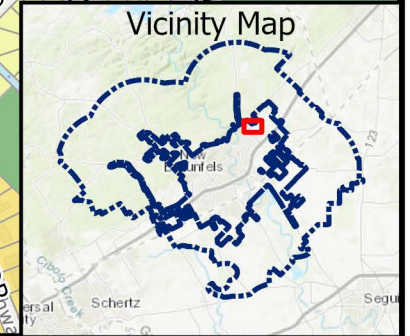
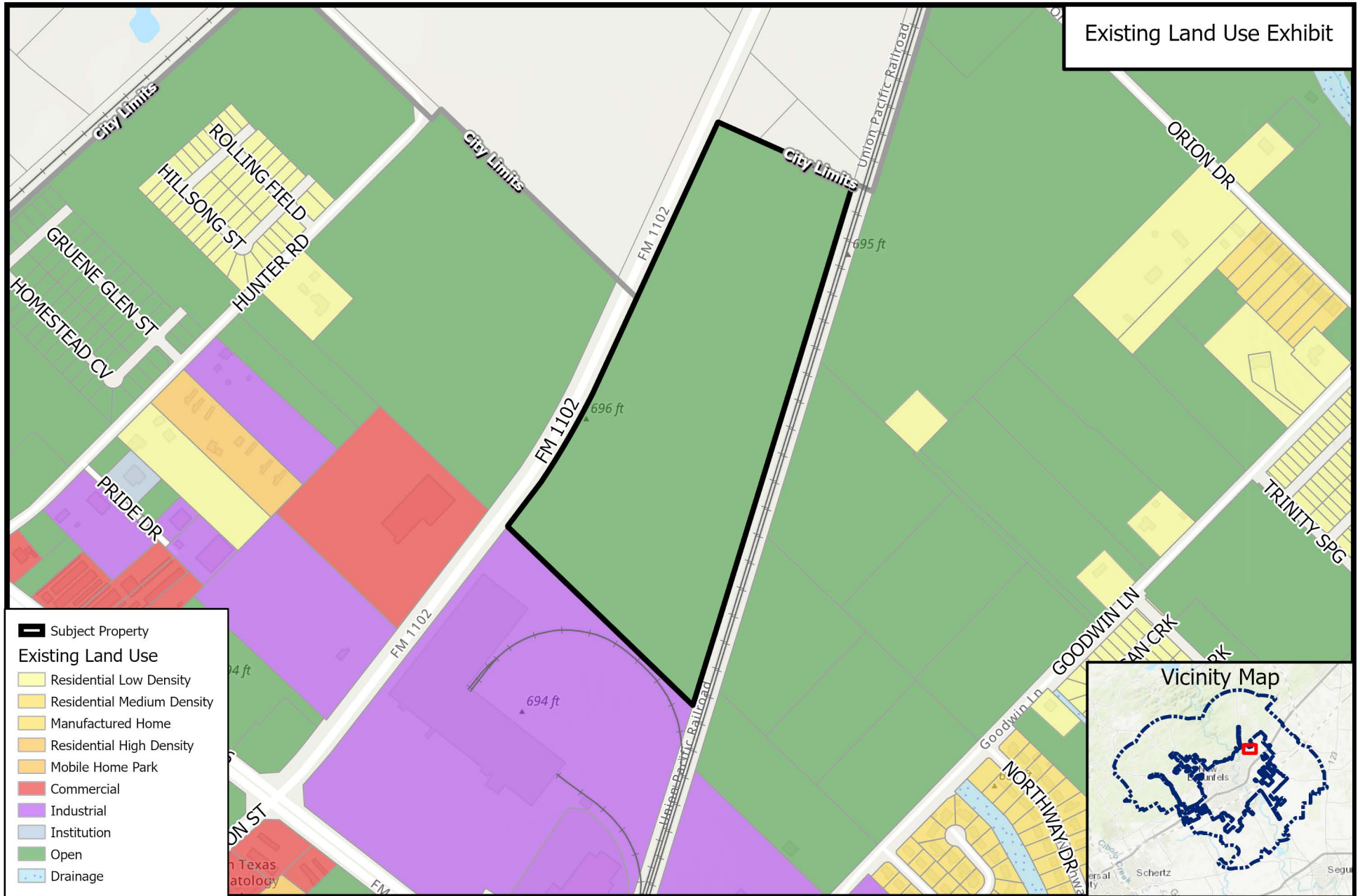
PZ21-0082
Rezoning from M-1A to MU-B





PZ21-0082
Rezoning from M-1A to MU-B





PZ21-0082
Rezoning from M-1A to MU-B



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

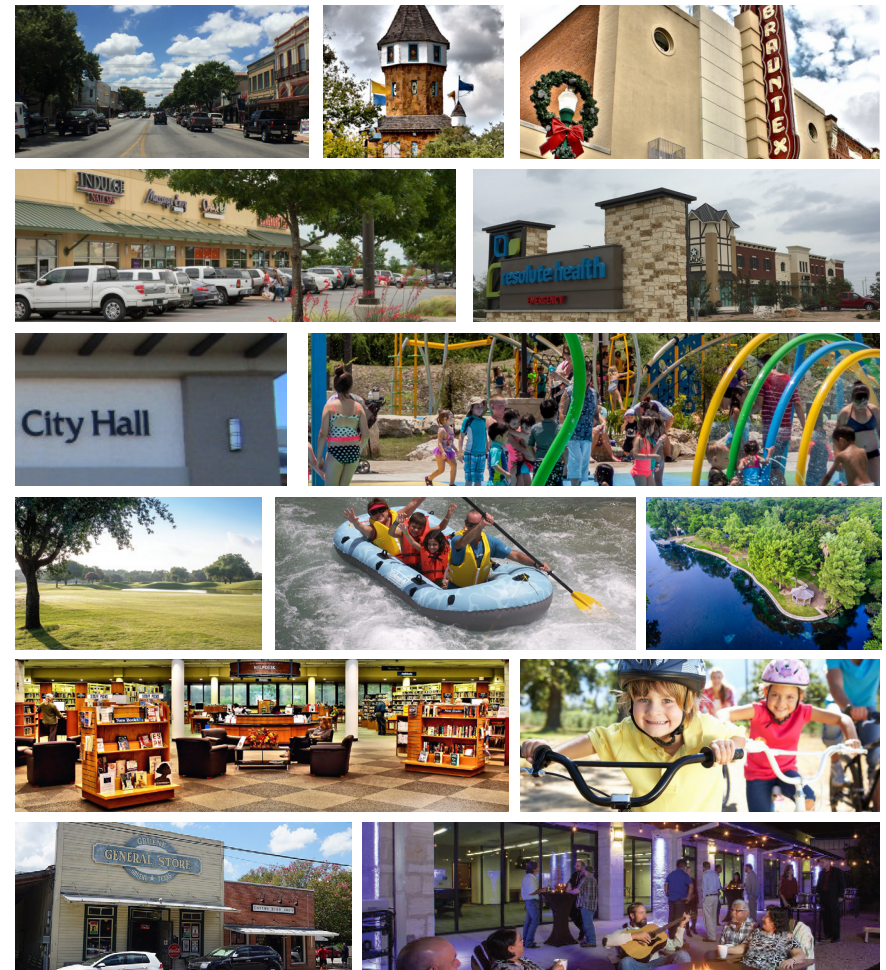
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

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.



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.

	Existing	Proposed
	M-1A	MU-B
Accessory building/structure (see section 144-5.4)		P
Accounting, auditing, bookkeeping, and tax preparations	P	P
Adult day care (no overnight stay)		P
Adult day care (with overnight stay)		P
Aircraft support and related services	P	P
Airport	P	P
All-terrain vehicle (ATV) dealer/sales	P	P
Ambulance service (private)	P	P
Amphitheaters (outdoor live performances)	P	P
Amusement devices/arcade (four or more devices)	P	P
Amusement services or venues (indoors) (see section 144-5.13)	P	P
Amusement services or venues (outdoors)	P	P
Animal grooming shop	P	P
Answering and message services	P	P
Antique shop	P	P
Appliance repair	P	P
Archery range	P	P
Armed services recruiting center	P	P
Art dealer/gallery	P	P
Artist or artisans studio	P	P
Assembly/exhibition hall or areas	P	P
Assisted living facility/retirement home		P
Athletic fields	P	P
Auction sales (non-vehicle)	P	P
Auto body repair, garages (see section 144-5.11)	P	P
Auto glass repair/tinting (see section 144-5.11)	P	P
Auto interior shop/upholstery (see section 144-5.11)	P	P
Auto leasing	P	P
Auto muffler shop (see section 144-5.11)	P	P
Auto or trailer sales rooms or yards (see section 144-5.12)	P	P
Auto or truck sales rooms or yard - Primarily New	P	P
Auto paint shop	P	P
Auto repair as an accessory use to retail sales	P	P
Auto repair garage (general) (see section 144-5.11)	P	P
Auto supply store for new and factory rebuilt parts	P	P
Auto tire repair/sales (indoor)	P	P
Automobile driving school (including defensive driving)	P	P
Bakery (retail)	P	P
Bank, savings and loan, or credit union	P	P
Bar/tavern (no outdoor music)	P	P
Bar/tavern	P	P
Barber/beauty college (barber or cosmetology school or college)	P	P
Barber/beauty shop, haircutting (non-college)	P	P
Barns and farm equipment storage (related to agricultural uses)	P	P
Battery charging station	P	P

Bed and breakfast inn (see section 144-5.6)		P
Bicycle sales and/or repair	P	P
Billiard/pool facility	P	P
Bingo facility	P	P
Bio-medical facilities	P	P
Blacksmith or wagon shops	P	P
Boarding house/lodging house		P
Book binding	P	P
Book store	P	P
Bottling or distribution plants (milk)	P	P
Bottling works	P	P
Bowling alley/center (see section 144-5.13)	P	P
Broadcast station (with tower) (see section 144-5.7)	P	P
Bus barns or lots	P	P
Bus passenger stations	P	P
Cafeteria/cafe/delicatessen	P	P
Campers' supplies	P	P
Car wash (self-service; automated)	P	P
Car wash, full service (detail shop)	P	P
Carpenter, cabinet, or pattern shops	P	P
Carpet cleaning establishments	P	P
Caterer	P	P
Cemetery and/or mausoleum	P	P
Check cashing service	P	P
Chemical laboratories (not producing noxious fumes or odors)	P	P
Child day care/children's nursery (business)		P
Church/place of religious assembly	P	P
Civic/conference center and facilities	P	P
Cleaning, pressing and dyeing (non-explosive fluids used)	P	P
Clinic (dental)	P	P
Clinic (emergency care)	P	P
Clinic (medical)	P	P
Club (private)	P	P
Coffee shop	P	P
Cold storage plant	P	P
Commercial amusement concessions and facilities	P	P
Communication equipment—Installation and/or repair	P	P
Community building (associated with residential uses)	P	
Community home (see definition)		P
Computer and electronic sales	P	P
Computer repair	P	P
Confectionery store (retail)	P	P
Consignment shop	P	P
Contractor's office/sales, with outside storage including vehicles	P	P
Contractor's temporary on-site construction office	P	P
Convenience store with gas sales	P	P
Convenience store without gas sales	P	P

Country club (private)	P	P
Credit agency	P	P
Crematorium	P	
Curio shops	P	P
Custom work shops	P	P
Dance hall/dancing facility (see section 144-5.13)	P	P
Day camp	P	P
Department store	P	P
Dormitory (in which individual rooms are for rental)		P
Drapery shop/blind shop	P	P
Driving range	P	P
Drug store/pharmacy	P	P
Electrical repair shop	P	P
Electrical substation	P	P
Electronic assembly/high tech manufacturing	P	P
Electroplating works	P	P
Engine repair/motor manufacturing re-manufacturing and/or repair	P	P
Exterminator service	P	P
Fairground	P	P
Farmers market (produce market—wholesale)	P	P
Farms, general (crops) (see chapter 6 and section 144-5.9)	P	P
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9)	P	P
Feed and grain store	P	P
Filling station (gasoline tanks must be below the ground)	P	P
Florist	P	P
Food or grocery store with gasoline sales	P	P
Food or grocery store without gasoline sales	P	P
Food processing (no outside public consumption)	P	P
Forge (hand)	P	P
Forge (power)	P	P
Fraternal organization/civic club (private club)	P	P
Freight terminal, rail/truck (outside storage of freight)	P	P
Freight terminal, truck (all storage of freight in an enclosed building)	P	P
Frozen food storage for individual or family use	P	P
Funeral home/mortuary	P	P
Furniture manufacture	P	P
Furniture sales (indoor)	P	P
Galvanizing works	P	P
Garden shops and greenhouses	P	P
Golf course (public or private)	P	P
Golf course (miniature)	P	P
Government building or use with no outside storage	P	P
Greenhouse (commercial)	P	P
Handicraft shop	P	P
Hardware store	P	P
Health club (physical fitness; indoors only)	P	P
Heating and air-conditioning sales/services	P	P

Heavy load (farm) vehicle sales/repair (see section 144-5.14)	P	P
Heliport	P	P
Home occupation (see section 144-5.5)		P
Home repair and yard equipment retail and rental outlets	P	P
Hospice		P
Hospital, general (acute care/chronic care)	P	P
Hospital, rehabilitation	P	P
Hotel/motel	P	P
Hotels/motels—Extended stay (residence hotels)		P
Ice delivery stations (for storage and sale of ice at retail only)	P	P
Ice plants	P	P
Industrial laundries	P	P
Kiosk (providing a retail service)	P	P
Laboratory equipment manufacturing	P	P
Laundromat and laundry pickup stations	P	P
Laundry, commercial (without self-serve)	P	P
Laundry/dry cleaning (drop off/pick up)	P	P
Laundry/washateria (self-serve)	P	P
Lawnmower sales and/or repair	P	P
Leather products manufacturing	P	P
Light manufacturing	P	P
Limousine/taxi service	P	P
Locksmith	P	P
Lumberyard (see section 144-5.15)	P	P
Lumberyard or building material sales (see section 144-5.15)	P	P
Machine shop	P	P
Maintenance/janitorial service	P	P
Major appliance sales (indoor)	P	P
Manufactured home sales	P	P
Manufacturing and processes	P	P
Manufacturing processes not listed	P	
Market (public, flea)	P	P
Martial arts school	P	P
Medical supplies and equipment	P	P
Metal fabrication shop	P	P
Micro brewery (onsite mfg. and/or sales)	P	P
Mini-warehouse/self-storage units (no boat and RV storage permitted)	P	P
Mini-warehouse/self-storage units with outside boat and RV storage	P	P
Motion picture studio, commercial film	P	P
Motion picture theater (indoors)	P	P
Motion picture theater (outdoors, drive-in)	P	P
Motorcycle dealer (primarily new/repair)	P	P
Moving storage company	P	P
Moving, transfer, or storage plant	P	P
Multifamily (apartments/condominiums)		P
Museum	P	P
Needlework shop	P	P

Nonbulk storage of gasoline, petroleum products and LP	P	P
Nursing/convalescent home/sanitarium		P
Offices, brokerage services	P	P
Offices, business or professional	P	P
Offices, computer programming and data processing	P	P
Offices, consulting	P	P
Offices, engineering, architecture, surveying or similar	P	P
Offices, health services	P	P
Offices, insurance agency	P	P
Offices, legal services, including court reporting	P	P
Offices, medical offices	P	P
Offices, real estate	P	P
Offices, commodity brokers, dealers, exchanges and financial services	P	P
Outside storage (as primary use)	P	P
Park and/or playground (private and public)	P	P
Parking lots (for passenger car only) (not as incidental to the main use)	P	P
Parking structure/public garage	P	P
Pawn shop	P	P
Personal watercraft sales (primarily new/repair)	P	P
Pet shop/supplies (less than 10,000 sq. ft.)	P	P
Pet store (over 10,000 sq. ft.)	P	P
Photo engraving plant	P	P
Photographic printing/duplicating/copy shop or printing shop	P	P
Photographic studio (no sale of cameras or supplies)	P	P
Photographic supply	P	P
Plant nursery (no retail sales on site)	P	P
Plant nursery (retail sales/outdoor storage)	P	P
Plastic products molding/reshaping	P	P
Plumbing shop	P	P
Portable building sales	P	P
Propane sales (retail)	P	P
Public recreation/services building for public park/playground areas	P	P
Publishing/printing company (e.g., newspaper)	P	P
Quick lube/oil change/minor inspection	P	P
Radio/television shop, electronics, computer repair	P	P
Rappelling facilities	P	P
Recreation buildings (private)	P	P
Recreation buildings (public)	P	P
Recycling kiosk	P	P
Refreshment/beverage stand	P	P
Rental or occupancy for less than one month (see section 144-5.17)		P
Research lab (non-hazardous)	P	P
Residential use in buildings with permitted non-residential uses	P	P
Restaurant/prepared food sales	P	P
Restaurant with drive-through service	P	P
Retail store/shopping center no drive-through service (<50,000 sq. ft.)	P	P

Retail store/shopping center with drive-through service (<50,000 sq. ft.)	P	P
Retail store and shopping center (more than 50,000 sq. ft. bldg.)	P	P
Retirement home/home for the aged		P
Rodeo grounds	P	P
RV park		P
RV/travel trailer sales	P	P
School, K-12 public or private	P	P
School, vocational (business/commercial trade)	P	P
Security monitoring company (no outside storage or installation)	P	P
Security systems installation company	P	P
Sheet metal shop	P	P
Shoe repair shops	P	P
Shooting gallery—Indoor (see section 144-5.13)	P	P
Shopping center	P	P
Sign manufacturing/painting plant	P	P
Specialty shops in support of project guests and tourists	P	P
Stone/clay/glass manufacturing	P	
Storage—Exterior storage for boats and recreational vehicles	P	P
Storage in bulk	P	P
Studio for radio or television, without tower	P	P
Studios (art, dance, music, drama, photo, interior decorating, etc.)	P	P
Tailor shop (see home occupation)	P	P
Tattoo or body piercing studio	P	P
Taxidermist	P	P
Telemarketing agency	P	P
Telephone exchange buildings (office only)	P	P
Tennis court (commercial)	P	P
Theater (non-motion picture; live drama)	P	P
Tire sales (outdoors)	P	P
Tool rental	P	P
Transfer station (refuse/pick-up)	P	P
Travel agency	P	P
Truck or transit terminal	P	P
University or college (public or private)	P	P
Upholstery shop (non-auto)	P	P
Used or second hand merchandise/furniture store	P	P
Vacuum cleaner sales and repair	P	P
Veterinary hospital (no outside animal runs or kennels)	P	P
Veterinary hospital (with outdoor animal runs or kennels that may not be used between the hours of 9:00 p.m. and 7:00 a.m.)	P	P
Video rental/sales	P	P
Warehouse/office and storage/distribution center	P	P
Waterfront amusement facilities—Berthing facilities sales and rentals	P	P
Waterfront amusement facilities—Boat fuel storage/dispensing facilities	P	P
Waterfront amusement facilities—Boat landing piers/launching ramps	P	P
Waterfront amusement facilities—Swimming/wading pools/bathhouses	P	P

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system	P	P
Welding shop	P	P
Wholesale sales offices and sample rooms	P	P
Woodworking shop (ornamental)	P	P

PLANNING COMMISSION – APRIL 6, 2021 – 6:00PM

Zoom Meeting

Applicant/Owner: HMT Engineering & Surveying, Chris Van Heerde

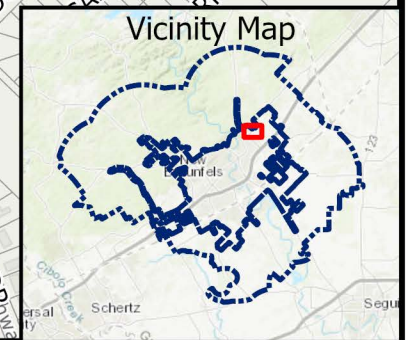
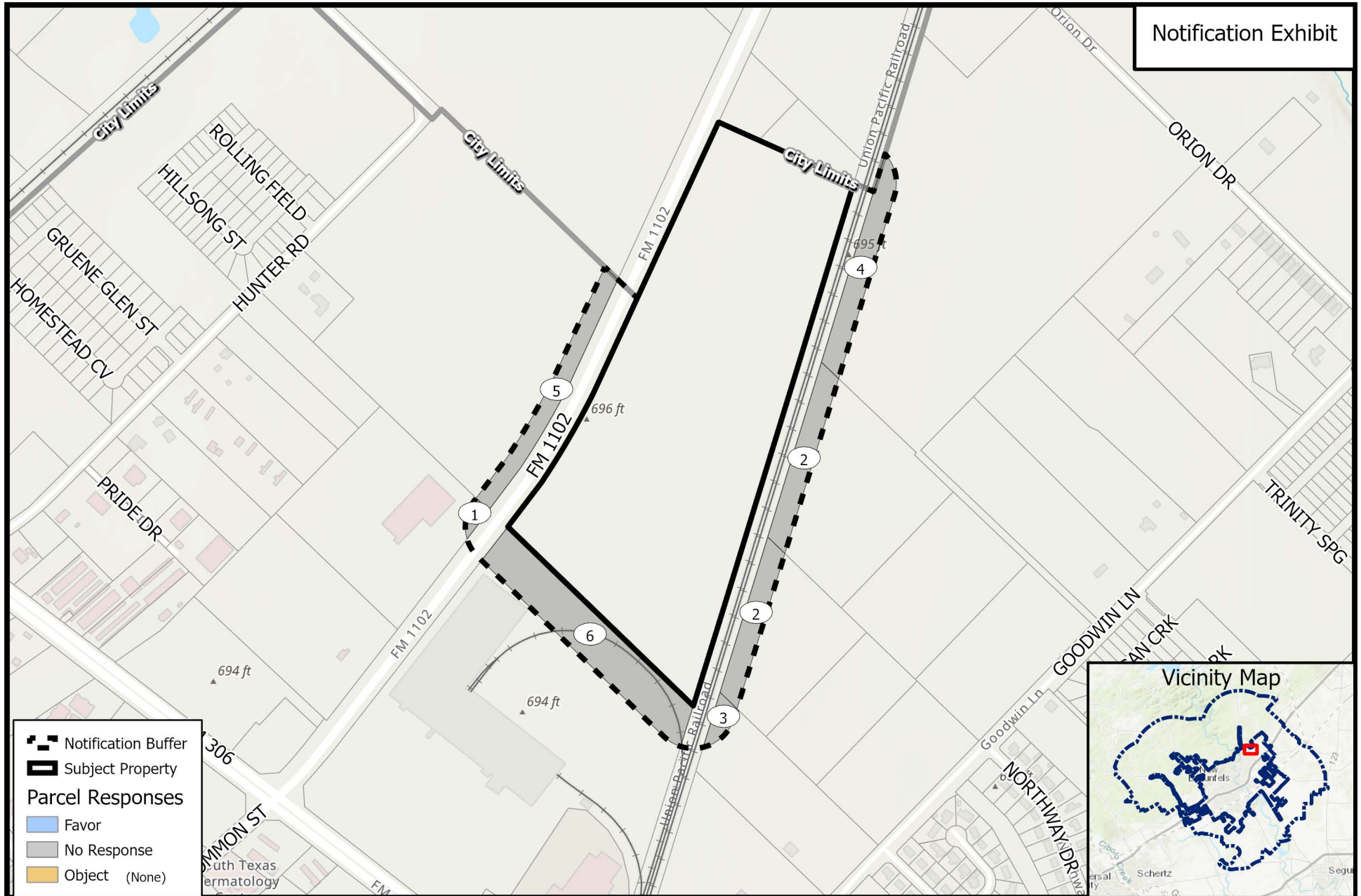
Address/Location: 48 acres in the 2200 block of FM 1102

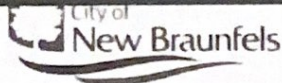
PROPOSED ZONE CHANGE – CASE #PZ21-0082

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. CENTURION INDUSTRIES INC
2. KOONTZ MCCOMBS 1 LTD
3. 2577 GOODWIN LANE LLC
4. YES ACQUISITIONS LLC
5. HOUSE GEORGE W JR
6. COLEMAN COMPANY INC

SEE MAP





(Department of Planning and Development Services)

View details here
nbtexas.org/PublicNotice

The New Braunfels Planning Commission will hold a public hearing at the request of **HMT Engineering & Surveying, agent for Mary Ann Hollmig** to consider a recommendation to City Council on the following rezoning request:

Property: Approx. 48 acres out of the O. Russell A-485 Survey 2, in the 2200 block of FM 1102

Rezoning: From "M-1A" Light Industrial District to "MU-B" High Intensity Mixed Use District
Additional information can be found at the following website:
nbtexas.org/PublicNotice

Because your property is located within 200 feet of the request, State law requires that we notify you of the public hearing. **However, the zoning of your property will not be changed.** The public hearing process allows an opportunity for you to provide comments on the request. This aids the Commission in making a recommendation to City Council.

Public hearing for this request is scheduled before the Planning Commission on **Tuesday, April 6, 2021**, at 6:00 p.m. virtually via **Zoom Meeting**. Information on how to join the meeting is included with this notice. The Planning Commission's recommendation will be considered by City Council in another public hearing, tentatively scheduled for **Monday, April 26, 2021**. Both meetings are open to the public. All interested persons are invited to join these meetings.

To submit written comments, please complete ALL of the information below and return to:

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

Email: hmullins@nbtexas.org

If you have questions, please call Holly Mullins at (830) 221-4054

Holly Mullins

Holly Mullins, AICP
Development Planning Division

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #PZ21-0082 (HM)

Name: JARED + KIMBERLY SATTER

Address: 318 ORION DR

Property number on map: _____

Comments: (Use additional sheets if necessary)

I favor: _____

I object: ☒

(State reason for objection)

Signature: *Jared Satter*

Comments: THE CITY NEEDS TO DEVELOP THE PROPER INFRASTRUCTURE TO ACCOMMODATE THIS AMOUNT OF AN INCREASE OF POPULATION. WE AS A COMMUNITY CAN NOT KEEP TRYING TO PLAY CATCH UP WITH THE CURRENT RATE OF DEVELOPMENT.



Subject Property from FM 1102

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING APPROXIMATELY 47.7 ACRES OUT OF THE O. RUSSELL A-185 SURVEY 2, COMAL COUNTY, TEXAS, LOCATED IN THE 2200 BLOCK OF FM 1102, FROM “M-1A” LIGHT INDUSTRIAL DISTRICT TO “MU-B” HIGH INTENSITY MIXED USE DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, in keeping with the spirit and objectives of the “MU-B” High Intensity Mixed-Use District, the City Council has given due consideration to all components of said district; and

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

WHEREAS, the requested rezoning is in accordance with Envision New Braunfels, the City’s Comprehensive Plan; and

WHEREAS, the City Council desires to amend the Zoning Map by rezoning approximately 47.7 acres out of the O. Russell A-185 Survey 2, located in the 2200 block of FM 1102, from “M-1A” Light Industrial District to “MU-B” High Intensity Mixed-Use District, **now, therefore**;

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

SECTION 1

THAT pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by rezoning the following described tract of land from “M-1A” Light Industrial District to “MU-B” High Intensity Mixed-Use District:

Approximately 47.78 acres out of the O. Russell A-485 Survey 2, Comal County, Texas, located in the 2200 block of FM 1102, as described in Exhibit “A” and delineated in Exhibit “B” attached.

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

PASSED AND APPROVED: First reading this 26th day of April, 2021.

PASSED AND APPROVED: Second reading this 24th day of May, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

METES AND BOUNDS DESCRIPTION

FOR TRACT 2

A 47.708 ACRE TRACT OF LAND

Being a 47.708 acre tract of land out of the Orilla Russell League No. 2, Abstract No. 485, Comal County, Texas, and being a portion of a 89.655 acre tract of land recorded in Volume 293, Page 94, of the Deed Records of Comal County, Texas, said 47.708 acre tract of land being more particularly described as follows:

Beginning At a 1/2" iron pin found in the Southeasterly right-of-way line of F.M. 1102, for the North corner of a 1.254 acre tract of land recorded in Volume 662, Pg. 18, Official Public Records, Comal County, Texas, for the North Corner and Point of Beginning of this herein described 47.708 acre tract of land;

Thence, departing the Easterly right-of-way line of F.M. 1102, along the Northerly line of said 1.254 acre tract, and along the Southerly line of a 1.769 acre tract of land recorded in Doc. #200506019928, Official Public Records, Comal County, Texas, S 64°18'49" Ea distance of 695.75 feet to a 1/2" iron pin found in the Westerly right-of-way line of the Missouri Pacific Rail Road, for the Southerly corner of said 1.769 acre tract, for the Northeasterly corner of this herein described 47.708 acre tract of land;

Thence, along the Westerly line of said Missouri Pacific Rail Road, S 17°00'55" W a distance of 2587.00 feet to a 1/2" iron pin found for the Easterly corner of Lot 1, Coleman Industrial Park, Unit Two, recorded in Volume 10, Pg. 42, Map and Plat Records, Comal County, Texas, for the Southerly corner of said 89.655 acre tract of land, for the Southerly corner of this herein described 47.708 acre tract of land;

Thence, along the common Line of said Lot 1, and this herein described 47.708 acre tract of land,

N 46°20'50" W a distance of 1212.56 feet to a 1/2" iron pin stamped "HMT PROP. COR." set in the Southeasterly right-of-way line of F.M. 1102, for the Northerly corner of said Lot 1, for the Westerly corner of this herein described 47.708 acre tract of land;

Thence, along the Southeasterly right-of-way line of F.M. 1102, the following calls:

N 37°34'30" Ea distance of 133.77 feet to a Tx. Dot. Type I monument found for a corner;

N 35°22'30" Ea distance of 217.11 feet to a Tx. Dot. Type II monument found for a corner;

N 31°16'05" Ea distance of 217.02 feet to a Tx. Dot. Type II monument found for a corner;

N 26°51'01" Ea distance of 216.74 feet to a Tx. Dot. Type I monument found for a corner;

N a distance of 1405.97 to to the Point of and containing 47.708 acres of land.

Bearings are based on the Texas State Plane Coordinate System, South Central Zone (4204), North American Datum 1983.

EXHIBIT "A"



PZ21-0082
FM 1102
M-1A to MU-B

EXHIBIT "B"

EXHIBIT "B"

6/14/2021

Agenda Item No. B)

PRESENTER:

Christopher J. Looney, AICP, Planning and Development Services Director

SUBJECT:

Public hearing and first reading of an ordinance regarding a proposed rezoning to apply a Special Use Permit to allow a variety of residential and non-residential development on approximately 49.5 acres out of the A-103, Sarah Dewitt Survey, addressed at 614 & 720 W. Zipp Road, from "R-1A-6.6" Single Family District to allow uses allowed in the following zoning districts: "MU-B" High Intensity Mixed Use, "R-1A-4" Single-Family Small Lot Residential, "ZH-A" Zero Lot Line Home and "R-2A" Single and Two-Family Residential.

DEPARTMENT: Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** Council District 2**BACKGROUND INFORMATION:**

Owner &

Applicant: HMT Engineering & Surveying (Thor Thornhill)
290 S. Castell Avenue, Suite 100
New Braunfels, TX 78130
(830) 625-8555 plats@hmtnb.com

Owner: Gregory Family Revocable Trust (Rosemarie L. Gregory)
436 Lakeview Boulevard
New Braunfels, TX 78130

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

City Council postponed the first reading of this requested rezoning (6-0) upon request from the applicant to allow them to have additional communication with the surrounding property owners.

The approximately 50-acre tract is located south of the intersection of South Walnut Avenue and West Klein Road. The subject property is approximately 871 feet wide and extends southeast to West Zipp Road. A portion of the property is currently improved with two single-family residences with most of the property being undeveloped.

ISSUE:

The subject property is currently zoned R-1A-6.6; a zoning district that is intended for development of primarily detached, single-family residences and accessory uses on lots of at least 6,600 square feet. The zoning districts that are included in the applicant's proposal would allow for a mix of uses to include the following:

- *R-1A-4* - single family residences and accessory structures on lots of at least 4,000 square feet in size.
- *R-2A* - single-family residences and accessory structures on lots of at least 6,600 square feet in size, and duplexes and accessory structures on lots of at least 8,000 square feet in size.
- *ZH-A* - single-family residences and accessory structures on lots of at least 4,000 square feet, and

allowing the homes to either 1) be built on one side property line creating a larger side yard on the other side (garden/patio homes), or 2) be built with the more traditional five-foot setbacks on both sides.

- *MU-B* - provides for a mix of residential (apartments or condominiums), retail, service, office, and industrial uses in close proximity to each other or in the same buildings, to enable people to live, work and shop in a single, closer location discouraging urban sprawl.

The applicant's proposed Type 2 Special Use Permit (SUP) would allow for a variety of residential and non-residential development on the property, subject to proposed development standards, conditions and site plan restrictions. An SUP is a zoning overlay that allows certain uses that are not allowed by right in a specific zoning district, but through certain conditions may be found by City Council to be compatible at a specific location.

The applicant has indicated this request will bring together an assortment of compatible commercial and residential uses to take advantage of the arterial intersection of Walnut Avenue and Klein Road. The developer's plans include the extension of South Walnut Avenue, a Principal Arterial on the City's thoroughfare plan (up to 120 feet of right-of-way width), from Klein Road to Zipp Road.

Surrounding Zoning and Land Use:

North - Across W. Klein Rd., C-1B & APD / Single-family residence and undeveloped

South - Across W. Zipp Rd., Outside City Limits / Single family residences

East - APD / Single family residences

West - R-1A-6.6 / Ridgemont Subdivision - single family residences

The proposed Special Use Permit is consistent with the following actions from Envision New Braunfels:

- *Action 1.3*: Encourage balanced and fiscally responsible land use patterns.
- *Action 3.13*: 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.
- *Action 3.22*: Encourage venues within walking distance of neighborhoods and schools.

The property is situated in the Walnut Springs Sub-Area, at an intersection of two Transitional Mixed-Use Corridors, is within an Existing Employment Center, near an Existing Education Center, and within a Future Market Center.

FISCAL IMPACT:

N/A

RECOMMENDATION:

The Planning Commission held a public hearing on May 4, 2021 and recommended approval (7-1) with Commissioner Tubb objecting and with the following conditions:

1. The 125-foot-wide area restricted to R-1A-4, ZH-A and R-2A zoning is extended to the north corner of Lot 6, Block 4, Ridgemont Unit 1.
2. A drainage facility is to be located adjacent to Unit 1 of the Ridgemont Subdivision and W. Klein Road.
3. No windows or balconies on the second story of residences abutting Ridgemont, Units 1, 2B and 4 are permitted to face Ridgemont, Units 1, 2B and 4.

Staff recommends approval as proposed by the applicant, with a condition that:

- during the design phase of the extension of Walnut Avenue, if it is determined that the developer is to

install landscaped medians, the medians will include code- and city spec-compliant irrigation for the City's long-term maintenance.

The applicant's proposal to create a mixed-use development with a variety of residential opportunities is consistent with ongoing development in the area and is supported and encouraged by Envision New Braunfels.

Use of the identified zoning districts is intended to provide flexibility with the type and variety of uses allowed on the property. It will encourage an integrated mix of uses that are beneficial to the neighborhood and Existing Education and Employment Centers, and will assist with buildout of the Future Market Center to serve the neighborhood. The proposed development standards and site plan help to ensure that the type and scale of development is appropriate with existing and future adjacent land uses, along with the added flexibility of having multiple land uses available creating opportunities for walkable scale development which is consistent with current trends as well as Envision New Braunfels. In addition, the development standards will serve to increase pedestrian mobility and enhance the streetscape along the extension of Walnut Avenue.

Notification as required by state statute:

Public hearing notices were sent to owners of 46 properties within 200 feet of the request. Per state statute, ownership information was gathered from the Appraisal District records. The City has received one neutral response and eight responses in objection (#2, 10-13, 24, 37 & 39) to the re-notification of the request. Responses received from outside of the notification area with the original version of the SUP request are included in Attachment 4.

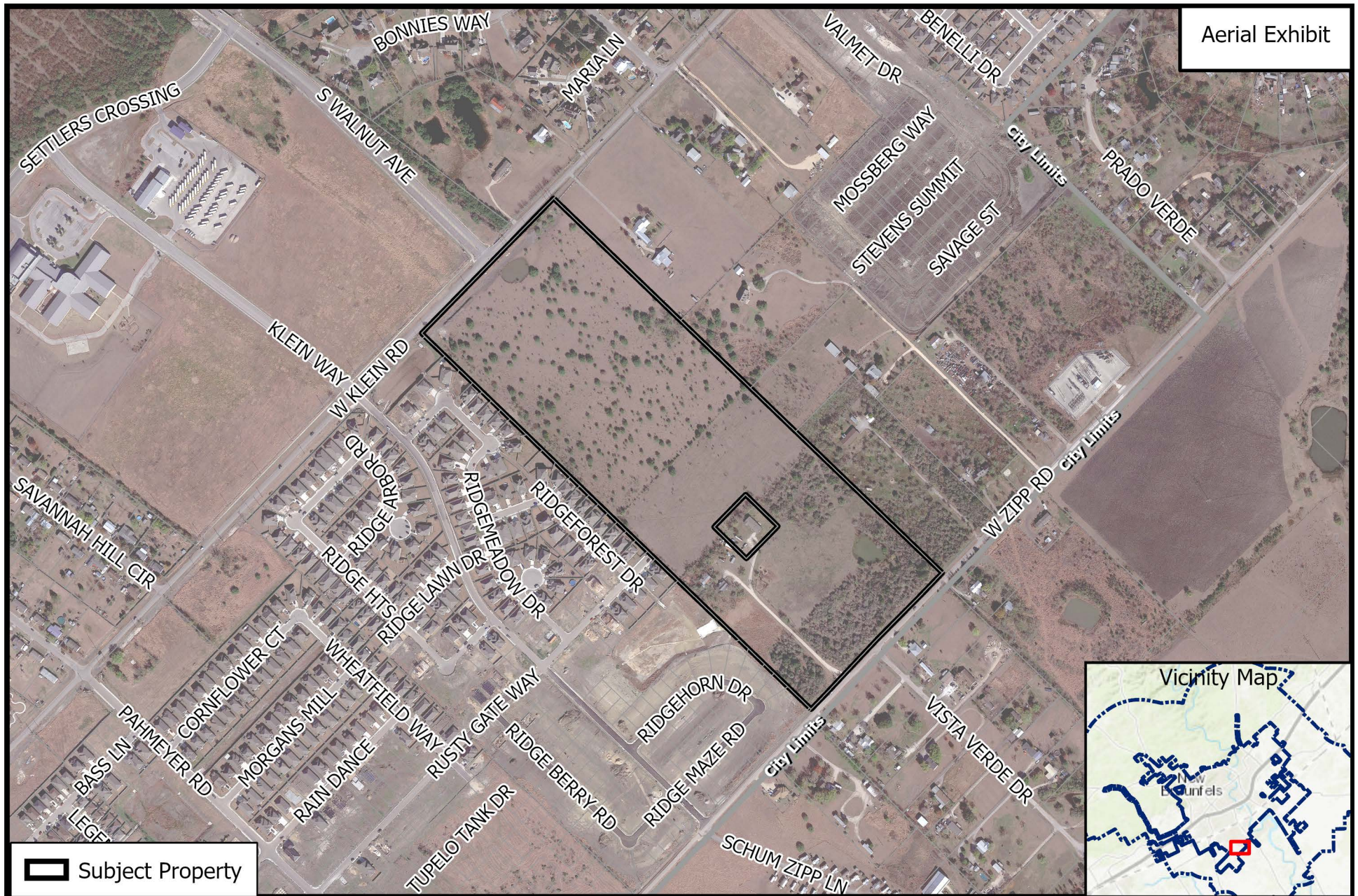
Resource Links:

- Chapter 144, Section 3.4-2. "*R-1A-4*" *Single-Family Small Lot Residential District* of the City's Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOR_CH144ZO_ARTIIIIZODI_S144-3.4ZODIREPRZOSUJU221987>
- Chapter 144, Section 3.4-3. "*R-2A*" *Single-Family and Two-Family District* of the City's Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOR_CH144ZO_ARTIIIIZODI_S144-3.4ZODIREPRZOSUJU221987>
- Chapter 144, Section 3.4-9. "*ZH-A*" *Zero Lot Line Home District* of the City's Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOR_CH144ZO_ARTIIIIZODI_S144-3.4ZODIREPRZOSUJU221987>
- Chapter 144, Section 3.4-11. "*MU-B*" *High Intensity Mixed Use District* of the City's Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOR_CH144ZO_ARTIIIIZODI_S144-3.4ZODIREPRZOSUJU221987>
- Chapter 144, Section 3.6 (SUP) of the City's Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOR_CH144ZO_ARTIIIIZODI_S144-3.6SPUSPE>

Attachments:

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Districts Comparison Chart
4. Proposed Development Standards and Site Plan

-
5. Notification List, Map and Responses
 6. Draft Planning Commission Meeting Minutes from May 4, 2021
 7. Draft Ordinance



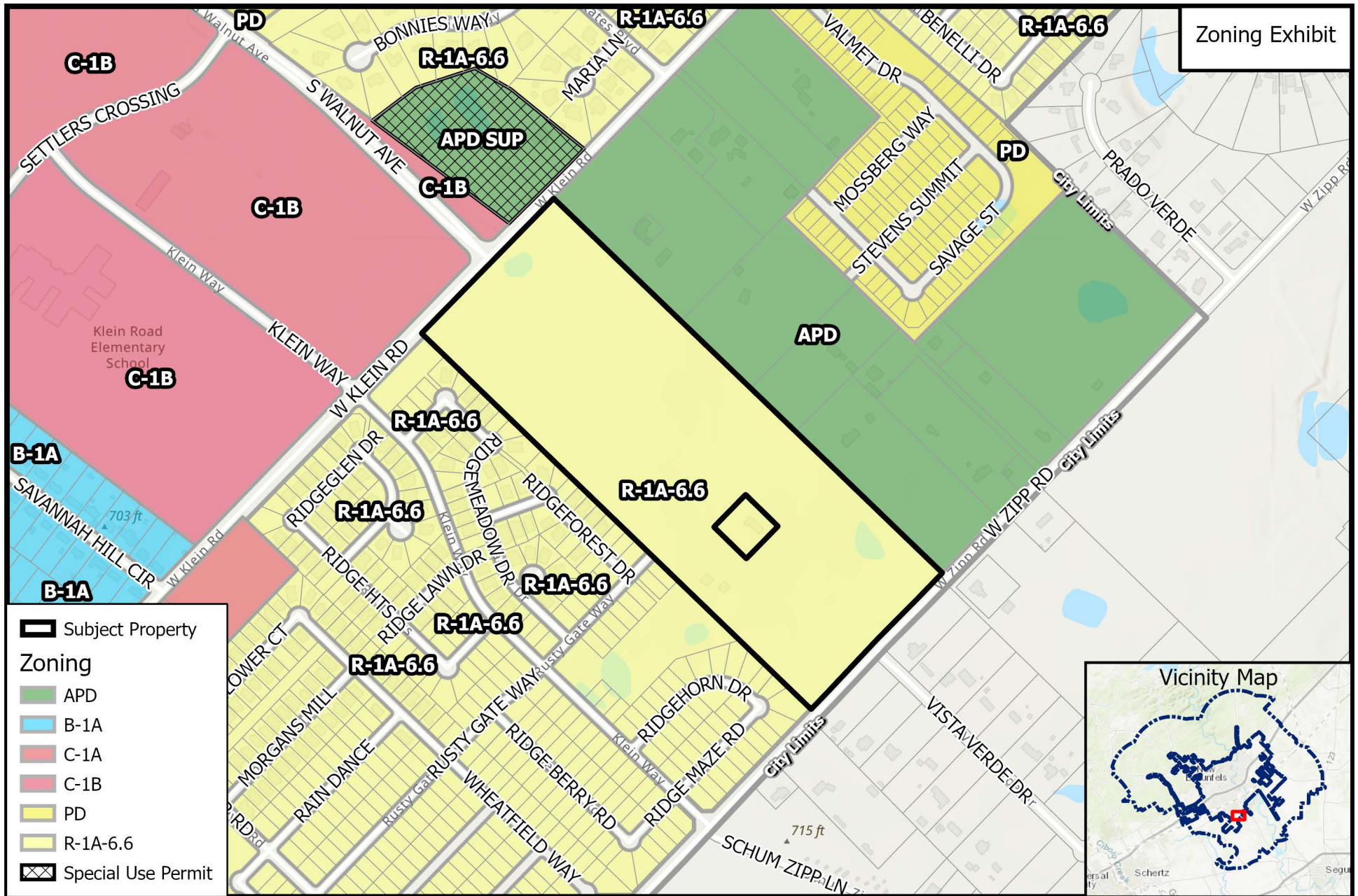
SUP20-267

SUP to allow mixed-use and residential development



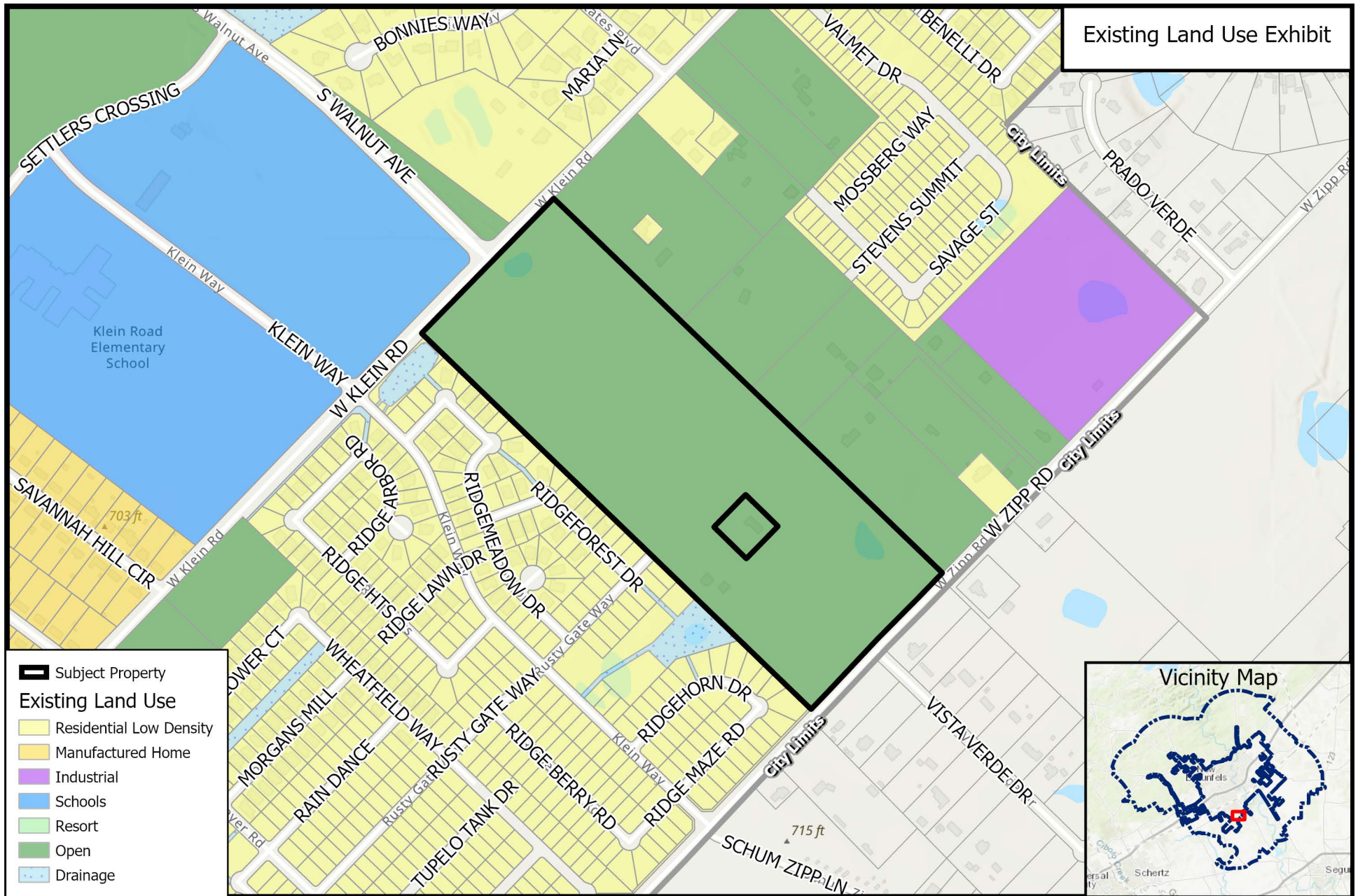
Source: City of New Braunfels Planning
Date: 4/23/2021

DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of New Braunfels. Any use or reliance on this map by anyone other than the City of New Braunfels is at that party's risk and without liability to the City of New Braunfels. The City of New Braunfels and its officials or employees for any discrepancies, errors, or variances which may exist.



SUP20-267

SUP to allow mixed-use and residential development



SUP20-267

SUP to allow mixed-use and residential development

0 350 700 Feet



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

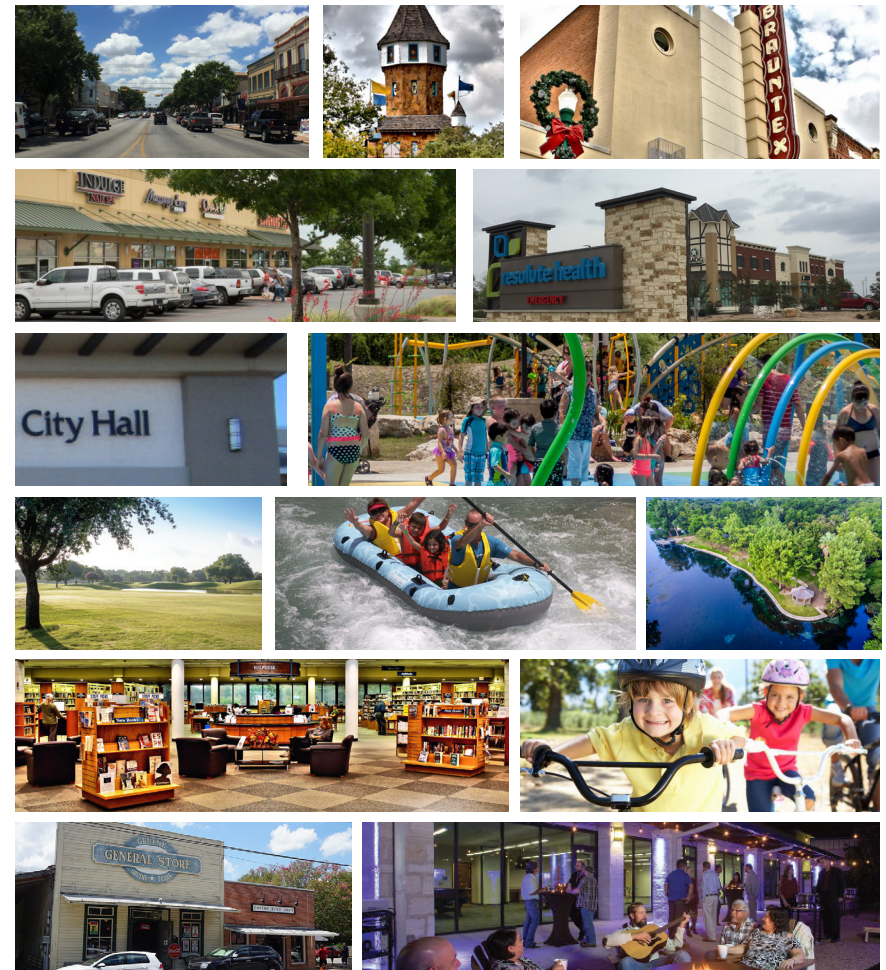
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

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.



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

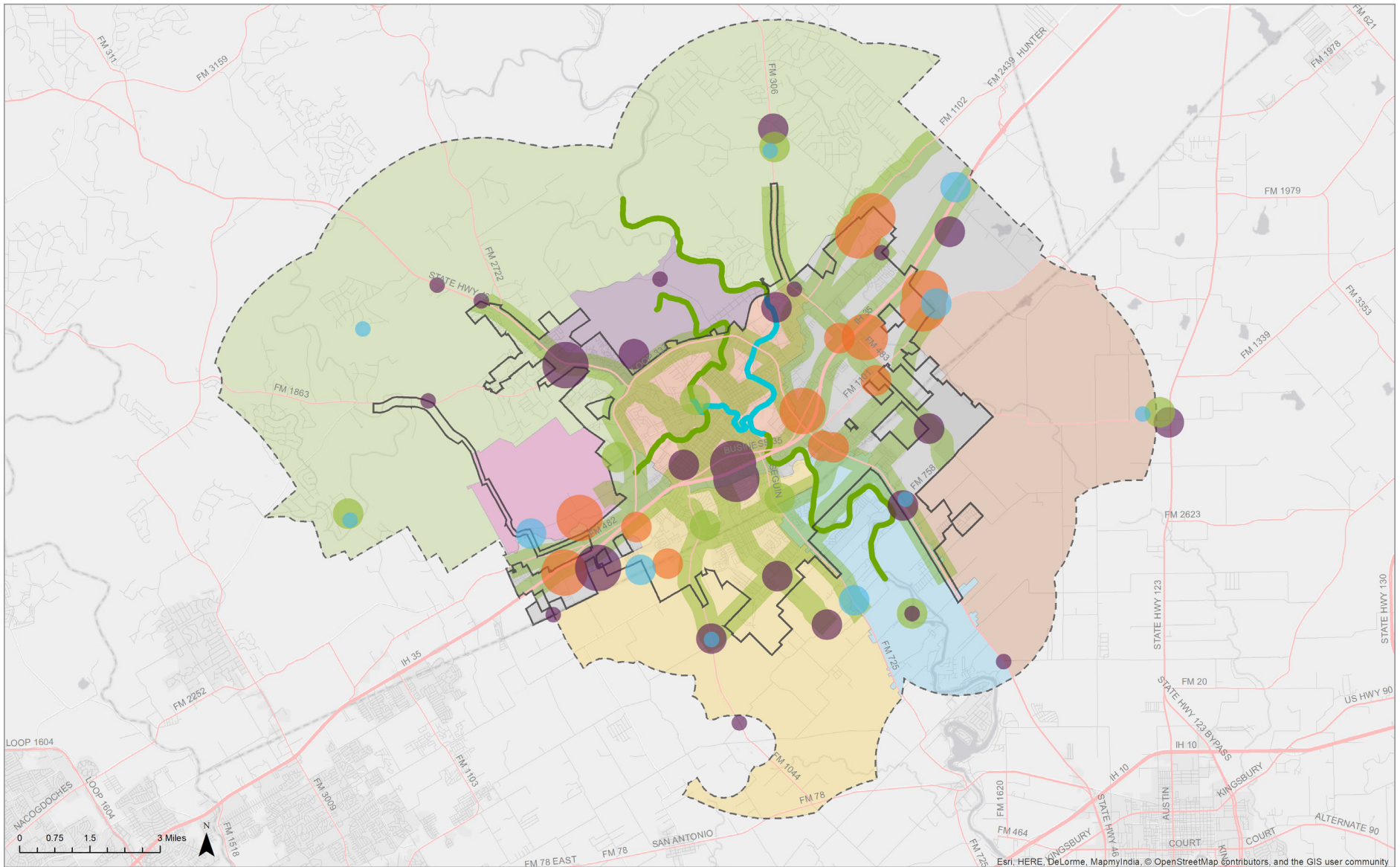
Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

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](#).

P = Permitted Use	Existing	Proposed	Proposed	Proposed	Proposed
	R-1A-6.6	R-1A-4	R-2A	ZH-A	MU-B
Accessory building/structure (see section 144-5.4)	P	P	P	P	P
Accessory dwelling (one accessory dwelling per lot, no kitchen)	P	P	P	P	
Accounting, auditing, bookkeeping, and tax preparations					P
Acid manufacture					
Adult day care (no overnight stay)					P
Adult day care (with overnight stay)					P
Aircraft support and related services					
Airport					
All-terrain vehicle (ATV) dealer/sales					
Ambulance service (private)					P
Amphitheaters (outdoor live performances)					
Amusement devices/arcade (four or more devices)					P
Amusement services or venues (indoors) (see section 144-5.13)					P
Amusement services or venues (outdoors)					P
Animal grooming shop					P
Answering and message services					P
Antique shop					P
Appliance repair					P
Archery range					
Armed services recruiting center					P
Art dealer/gallery					P
Artist or artisans studio					P
Assembly/exhibition hall or areas					P
Assisted living facility/retirement home					P
Athletic fields					
Auction sales (non-vehicle)					P
Auto body repair, garages (see section 144-5.11)					
Auto glass repair/tinting (see section 144-5.11)					
Auto interior shop/upholstery (see section 144-5.11)					
Auto leasing					P
Auto muffler shop (see section 144-5.11)					
Auto or trailer sales rooms or yards (see section 144-5.12)					
Auto or truck sales rooms or yards—Primarily new (see section 144-5.12)					
Auto paint shop					
Auto repair as an accessory use to retail sales					P
Auto repair garage (general) (see section 144-5.11)					
Auto supply store for new and factory rebuilt parts					P
Auto tire repair/sales (indoor)					P
Auto wrecking yards					
Automobile driving school (including defensive driving)					P
Bakery (retail)					P
Bank, savings and loan, or credit union					P
Bar/tavern (no outdoor music)					P
Bar/tavern					P

Barber/beauty college (barber or cosmetology school or college)					P
Barber/beauty shop, haircutting (non-college)					P
Barns and farm equipment storage (related to agricultural uses)	P	P	P	P	P
Battery charging station					P
Bed and breakfast inn (see section 144-5.6)					P
Bicycle sales and/or repair					P
Billiard/pool facility					P
Bingo facility					P
Bio-medical facilities					P
Blacksmith or wagon shops					P
Blooming or rolling mills					
Boarding house/lodging house					P
Book binding					P
Book store					P
Bottling or distribution plants (milk)					
Bottling works					
Bowling alley/center (see section 144-5.13)					
Breweries/distilleries and manufacture of alcohol and alcoholic beverages					
Broadcast station (with tower) (see section 144-5.7)					
Bulk storage of gasoline, petroleum products, liquefied petroleum and flammable liquids (see section 5.27)					
Bus barns or lots					
Bus passenger stations					
Cabin or cottage (rental)					
Cabin or cottage (rental for more than 30 days)					
Cafeteria/cafe/delicatessen					P
Campers' supplies					P
Campgrounds					
Canning/preserving factories					
Car wash (self-service; automated)					P
Car wash, full service (detail shop)					P
Carpenter, cabinet, or pattern shops					P
Carpet cleaning establishments					P
Caterer					P
Cement, lime, gypsum or plaster of Paris manufacture					
Cemetery and/or mausoleum			P		P
Check cashing service					P
Chemical laboratories (e.g., ammonia, bleaching powder)					
Chemical laboratories (not producing noxious fumes or odors)					P
Child day care/children's nursery (business)					P
Church/place of religious assembly	P	P	P	P	P
Cider mills					
Civic/conference center and facilities					P
Cleaning, pressing and dyeing (non-explosive fluids used)					P
Clinic (dental)					P
Clinic (emergency care)					P
Clinic (medical)					P

Club (private)					P
Coffee shop					P
Cold storage plant					P
Commercial amusement concessions and facilities					
Communication equipment—Installation and/or repair					P
Community building (associated with residential uses)	P	P	P	P	
Community home (see definition)	P	P	P	P	P
Computer and electronic sales					P
Computer repair					P
Concrete or asphalt mixing plants—Permanent					
Concrete or asphalt mixing plants—Temporary					
Confectionery store (retail)					P
Consignment shop					P
Contractor's office/sales, with outside storage including vehicles					
Contractor's temporary on-site construction office	P	P	P	P	P
Convenience store with gas sales					P
Convenience store without gas sales					P
Cotton ginning or baling works					
Country club (private)					P
Credit agency					P
Crematorium					
Curio shops					P
Custom work shops					P
Dance hall/dancing facility (see section 144-5.13)					
Day camp					P
Department store					P
Distillation of bones					
Dormitory (in which individual rooms are for rental)					P
Drapery shop/blind shop					P
Driving range					
Drug store/pharmacy					P
Duplex/two-family/duplex condominiums			P		
Electrical generating plant					
Electrical repair shop					P
Electrical substation					P
Electronic assembly/high tech manufacturing					
Electroplating works					
Enameling works					
Engine repair/motor manufacturing re-manufacturing and/or repair					
Explosives manufacture or storage					
Exterminator service					P
Fairground					
Family home adult care	P	P	P	P	
Family home child care	P	P	P	P	
Farmers market (produce market—wholesale)					P
Farms, general (crops) (see chapter 6 and section 144-5.9)	P	P	P	P	P

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9)	P	p	P	p	P
Feed and grain store					P
Fertilizer manufacture and storage					
Filling station (gasoline tanks must be below the ground)					P
Florist					P
Flour mills, feed mills, and grain processing					
Food or grocery store with gasoline sales					P
Food or grocery store without gasoline sales					P
Food processing (no outside public consumption)					P
Forge (hand)					
Forge (power)					
Fraternal organization/civic club (private club)					P
Freight terminal, rail/truck (when any storage of freight is wholly outside an enclosed building)					
Freight terminal, truck (all storage of freight in an enclosed building)					
Frozen food storage for individual or family use					P
Funeral home/mortuary					P
Furniture manufacture					
Furniture sales (indoor)					P
Galvanizing works					
Garbage, offal or dead animal reduction or dumping					
Garden shops and greenhouses					P
Gas manufacture					
Gas or oil wells					
Golf course (public or private)	P	P	P	P	
Golf course (miniature)					
Government building or use with no outside storage (outside storage allowed in M-2 and M-2A)	P	P	P	P	P
Grain elevator					
Greenhouse (commercial)					P
Handicraft shop					P
Hardware store					P
Hay, grain, and/or feed sales (wholesale)					
Health club (physical fitness; indoors only)					P
Heating and air-conditioning sales/services					P
Heavy load (farm) vehicle sales/repair (see section 144-5.14)					
Heavy manufacturing					
Heliport					
Hides/skins (tanning)					
Home occupation (see section 144-5.5)	P	P	P	P	P
Home repair and yard equipment retail and rental outlets					
Hospice					P
Hospital, general (acute care/chronic care)					P
Hospital, rehabilitation					P
Hotel/motel					P
Hotels/motels—Extended stay (residence hotels)					P
Ice delivery stations (for storage and sale of ice at retail only)					P

Ice plants					P
Indoor or covered sports facility					
Industrial laundries					
Iron and steel manufacture					
Junkyards, including storage, sorting, baling or processing of rags					
Kiosk (providing a retail service)					P
Laboratory equipment manufacturing					
Laundromat and laundry pickup stations					P
Laundry, commercial (without self-serve)					P
Laundry/dry cleaning (drop off/pick up)					P
Laundry/washateria (self-serve)					P
Lawnmower sales and/or repair					P
Leather products manufacturing					
Light manufacturing					
Limousine/taxi service					P
Livestock sales/auction					
Locksmith					P
Lumber mill					
Lumberyard (see section 144-5.15)					
Lumberyard or building material sales (see section 144-5.15)					
Machine shop					
Maintenance/janitorial service					P
Major appliance sales (indoor)					P
Manufacture of carbon batteries					
Manufacture of paint, lacquer, oil, turpentine, varnish, enamel, etc.					
Manufacture of rubber, glucose, or dextrin					
Manufactured home—HUD Code compliant (see Texas Occupations Code ch. 1201)					
Manufactured home park—HUD Code compliant (see Texas Occupations Code ch. 1201)					
Manufactured home subdivision—HUD Code compliant (see Texas Occupations Code ch. 1201)					
Manufactured home sales					
Manufacturing and processes					
Manufacturing processes not listed					
Market (public, flea)					P
Martial arts school					P
Meat or fish packing/storage plants					
Medical supplies and equipment					P
Metal fabrication shop					
Micro brewery (onsite mfg. and/or sales)					P
Mini-warehouse/self-storage units (no boat and RV storage permitted)					P
Mini-warehouse/self-storage units with outside boat and RV storage					P
Monument, gravestone, or marble works (manufacture)					
Motion picture studio, commercial film					P
Motion picture theater (indoors)					P
Motion picture theater (outdoors, drive-in)					P

Motorcycle dealer (primarily new/repair)					
Moving storage company					P
Moving, transfer, or storage plant					
Multifamily (apartments/condominiums)					P
Museum					P
Natural resource extraction and mining					
Needlework shop					P
Nonbulk storage of gasoline, petroleum products and liquefied petroleum					P
Nursing/convalescent home/sanitarium					P
Offices, brokerage services					P
Offices, business or professional					P
Offices, computer programming and data processing					P
Offices, consulting					P
Offices, engineering, architecture, surveying or similar					P
Offices, health services					P
Offices, insurance agency					P
Offices, legal services, including court reporting					P
Offices, medical offices					P
Offices, real estate					P
Offices, security/commodity brokers, dealers, exchanges and financial services					P
Oil compounding and barreling plants					
One-family dwelling, detached	P	P	P		
Outside storage (as primary use)					
Paint manufacturing					
Paper or pulp manufacture					
Park and/or playground (private and public)	P	P	P	P	P
Parking lots (for passenger car only) (not as incidental to the main use)					P
Parking structure/public garage					P
Pawn shop					P
Personal watercraft sales (primarily new/repair)					P
Pet shop/supplies (less than 10,000 sq. ft.)					P
Pet store (over 10,000 sq. ft.)					P
Petroleum or its products (refining of)					
Photo engraving plant					P
Photographic printing/duplicating/copy shop or printing shop					P
Photographic studio (no sale of cameras or supplies)					P
Photographic supply					P
Plant nursery (no retail sales on site)					P
Plant nursery (retail sales/outdoor storage)					P
Plastic products molding/reshaping					P
Plumbing shop					P
Portable building sales					
Poultry killing or dressing for commercial purposes					
Propane sales (retail)					P
Public recreation/services building for public park/playground areas	P	P	P		P

Publishing/printing company (e.g., newspaper)					P
Quick lube/oil change/minor inspection					P
Radio/television shop, electronics, computer repair					P
Railroad roundhouses or shops					
Rappelling facilities					
Recreation buildings (private)					P
Recreation buildings (public)	P	P	P	P	P
Recycling kiosk					P
Refreshment/beverage stand					P
Rental or occupancy for less than one month (see section 144-5.17)					P
Research lab (non-hazardous)					P
Residential use in buildings with non-residential uses permitted in the district					P
Restaurant/prepared food sales					P
Restaurant with drive-through service					P
Retail store and shopping center without drive-through service (50,000 sq. ft. bldg. or less)					P
Retail store and shopping center with drive-through service (50,000 sq. ft. bldg. or less)					P
Retail store and shopping center (more than 50,000 sq. ft. bldg.)					P
Retirement home/home for the aged					P
Rock crushers and rock quarries					
Rodeo grounds					P
RV park					
RV/travel trailer sales					
Sand/gravel sales (storage or sales)					
School, K-12 public or private	P	P	P	P	P
School, vocational (business/commercial trade)					P
Security monitoring company (no outside storage or installation)					P
Security systems installation company					P
Sexually oriented business (see chapter 18)					
Sheet metal shop					
Shoe repair shops					P
Shooting gallery—Indoor (see section 144-5.13)					
Shooting range—Outdoor (see section 144-5.13)					
Shopping center					P
Sign manufacturing/painting plant					
Single-family industrialized home (see section 144-5.8)	P	P	P	P	
Smelting of tin, copper, zinc or iron ores					
Specialty shops in support of project guests and tourists					P
Stables (as a business) (see chapter 6)					
Stables (private, accessory use) (see chapter 6)					
Steel furnaces					
Stockyards or slaughtering					
Stone/clay/glass manufacturing					
Storage—Exterior storage for boats and recreational vehicles					
Storage in bulk					
Structural iron or pipe works					

Studio for radio or television, without tower (see zoning district for tower authorization)					
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)					P
Sugar refineries					
Tailor shop (see home occupation)					P
Tar distillation or manufacture					
Tattoo or body piercing studio					P
Taxidermist					P
Telecommunications towers/antennas (see section 144-5.7)					
Telemarketing agency					P
Telephone exchange buildings (office only)					P
Tennis court (commercial)					P
Theater (non-motion picture; live drama)					P
Tire sales (outdoors)					
Tool rental					P
Townhouse (attached)					P
Transfer station (refuse/pick-up)					P
Travel agency					P
Truck or transit terminal					
Truck stop					
Tuber entrance and takeout facilities (see section 144-5.13)					
University or college (public or private)					P
Upholstery shop (non-auto)					P
Used or second hand merchandise/furniture store					
Vacuum cleaner sales and repair					P
Vehicle storage facility					
Veterinary hospital (no outside animal runs or kennels)					P
Veterinary hospital (with outdoor animal runs or kennels that may not be used between the hours of 9:00 p.m. and 7:00 a.m.)					
Video rental/sales					P
Warehouse/office and storage/distribution center					
Waterfront amusement facilities—Berthing facilities sales and rentals					P
Waterfront amusement facilities—Boat fuel storage/dispensing facilities					P
Waterfront amusement facilities—Boat landing piers/launching ramps					P
Waterfront amusement facilities—Swimming/wading pools/bathhouses					P
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system	P	P	P	P	P
Welding shop					
Wholesale sales offices and sample rooms					
Wire or rod mills					
Wood distillation plants (charcoal, tar, turpentine, etc.)					
Woodworking shop (ornamental)					P
Wool scouring					
Zero lot line/patio homes				P	

Special Use Permit Conditions / Development Standards

1. A master plan of the subject property shall include the location and extent of the base zoning district areas for its entirety.
2. The maximum building height within the “MU-B” High Intensity Mixed Use zoning district shall be 60 feet for non-residential and multifamily use.
3. A sidewalk that is at least 10 feet in width is required on the southwest side of Walnut Avenue. The sidewalk is to be separated from the roadway by a landscaping area of at least 7 feet in width (furnishing zone).
4. Street trees (1, minimum 3-inch diameter for every 40 feet of roadway frontage) are required to be planted in the furnishing zone. If street trees are not permitted within the furnishing zone due to utility easement restrictions, they must be planted no more than 10 feet from the edge of the required sidewalk. The street trees requirement fulfills the landscaping requirements under Section 144-5.3-1(b)(7)(i)(2), City of New Braunfels Code of Ordinances – *Street Frontage Trees and Shrubs*.
5. During the design phase of the extension of Walnut Avenue, if it is determined that the developer is to install landscaped medians, the medians will include code- and city spec-compliant irrigation for the City’s long-term maintenance.
6. No balconies will be allowed to face Ridgemont, Units 1, 2B or 4 on the second story of any structure located on property abutting Ridgemont, Units 1, 2B or 4.
7. Only translucent or clerestory window types will be allowed to face Ridgemont, Units 1, 2B or 4 on the second story of any structure located on property abutting Ridgemont, Units 1, 2B or 4.
8. All other zoning standards and requirements in Chapter 144, City of New Braunfels Code of Ordinances shall apply independently to each base zoning district.
9. The following list of uses, normally allowed in the “MU-B” High Intensity Mixed Use District, are removed from the base zoning district “MU-B” High Intensity Mixed Use:

Aircraft support and related services	manufacturing and/or repair
Airport	Fairground
All terrain vehicle (ATV) dealer/sales	Forge (hand)
Amphitheater	Forge (power)
Archery range	Freight terminal, rail/truck
Athletic fields	Freight terminal, truck
Auto body repair, garages	Furniture manufacture
Auto glass repair/tinting	Galvanizing works
Auto interior shop / upholstery	Golf course (public, private or miniature)
Auto muffler shop	Heavy load (farm) vehicle sales/repair
Auto or trailer sales rooms or yards	Heliport
Auto or truck sales rooms or yards – new	Home repair and yard equipment retail and rental outlets
Auto paint shop	Industrial laundries
Auto repair garage (general)	Laboratory equipment manufacturing
Bottling or distribution plants (milk)	Leather products manufacturing
Bottling works	Light manufacturing
Bowling alley/center	Lumberyard
Broadcast station (with tower)	Lumberyard or building material sales
Bus barns or lots	Machine shop
Bus passenger stations	Manufactured home sales
Commercial amusement concessions and facilities	Manufacturing and processes
Contractor’s office/sales, with outside storage including vehicles	Metal fabrication shop
Dance hall / dancing facility (not to include a dancing studio for students)	Motorcycle dealer (primarily new/repair)
Driving range	Moving, transfer, or storage plant
Electronic assembly / high tech manufacturing	Outside storage (as primary use)
Electroplating works	Portable building sales
Engine repair/motor manufacturing re-	Rappelling facilities
	Rodeo grounds
	RV park

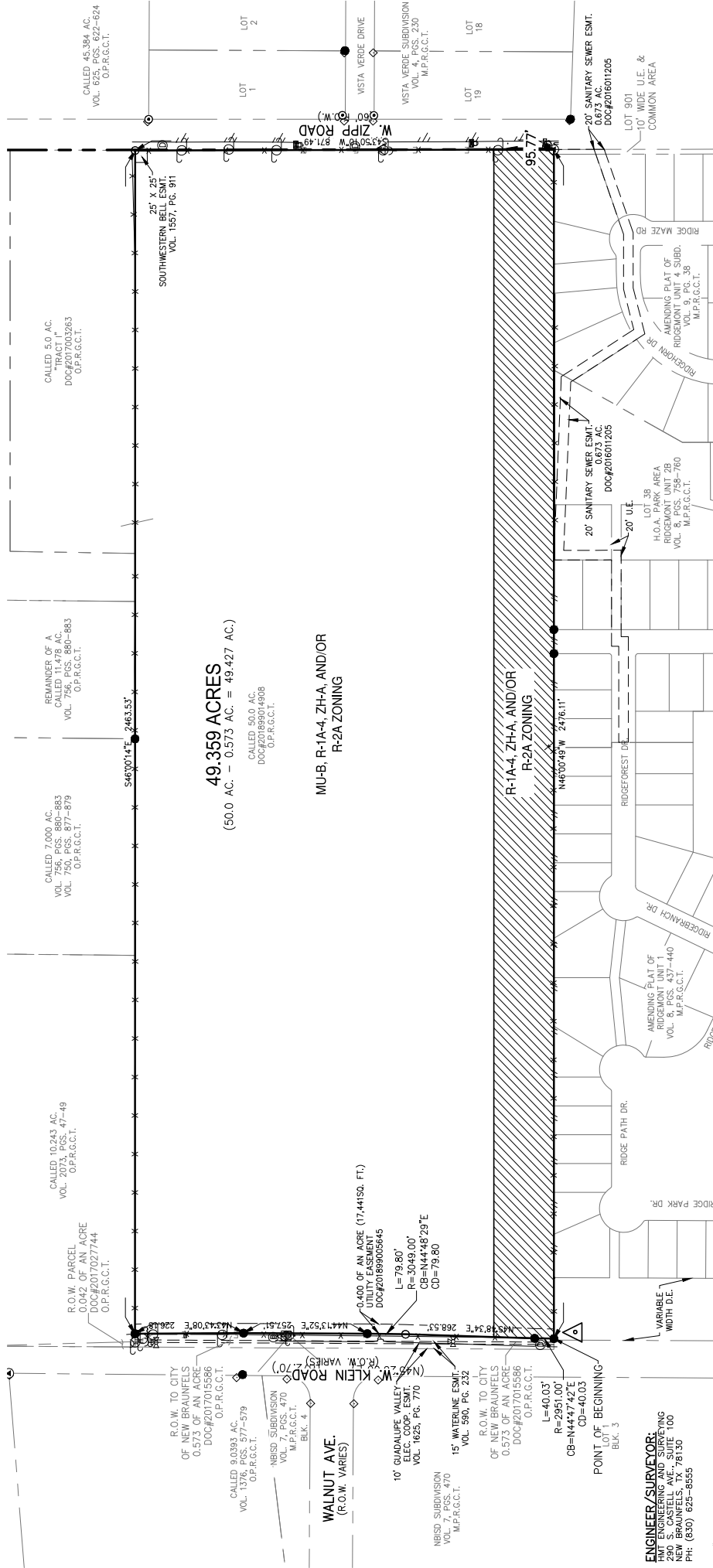
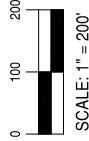
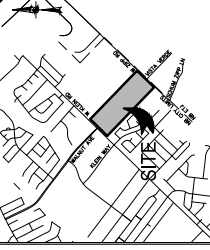
RV/travel trailer sales
Sheet metal shop
Shooting gallery - Indoor
Sign manufacturing/painting plant
Storage – Exterior storage for boats and recreational vehicles
Storage in bulk
Studio for radio or television (with tower)
Tire sales (outdoors)

Truck or transit terminal (with outside storage)
Used or second hand merchandise/furniture store
Veterinary hospital with outside animal runs or kennels
Warehouse/office and storage/distribution center
Welding shop
Wholesale sales offices and sample room

LEGEND

- = FND 1/2" IRON PIN W/ CAP "RPLS 4907"
- = UNLESS OTHERWISE NOTED
- = SET 1/2" IRON PIN W/ CAP STAMPED "HMT"
- = FND. NAIL
- = FND. 1" PIPE
- B.L. = BUILDING SETBACK LINE
- U.E. = UTILITY EASEMENT
- D.E. = DRAINAGE EASEMENT
- R.O.W. = RIGHT-OF-WAY
- () = RECORD CALLS
- E — = OVERHEAD ELECTRIC
- W — = WIRE FENCE
- X — = WOOD FENCE
- / — = EDGE OF ASPHALT
- = CONCRETE
- = GRAVEL
- ⊠ = TRANSFORMER
- ⊠ = TELEPHONE PEDESTAL
- ⊠ = CABLE PEDESTAL
- ⊠ = POWER POLE W/ CONDUIT
- ⊠ = POWER POLE
- ⊠ = GUY ANCHOR
- ⊠ = FIRE HYDRANT
- ⊠ = STORM DRAIN MANHOLE
- ⊠ = MAILBOX
- ⊠ = OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS
- ⊠ = MAP & PLAT RECORDS OF GUADALUPE COUNTY, TEXAS

TYPE 2 SUP SITE PLAN



ENGINEER/SURVEYOR:
HMT
 HMT ENGINEERING AND SURVEYING
 290 S. CASTELL AVE., SUITE 100
 NEW BRAUNFELS, TX 78130
 PHONE: (830) 625-8555
 TBP# F-10961
 TBP# F-10961
 TBP# F-10961

PLANNING COMMISSION – MAY 4, 2021 – 6:00PM

Zoom Meeting

Applicant/Owner: Thor Thornhill

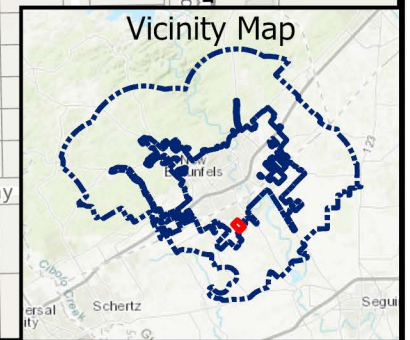
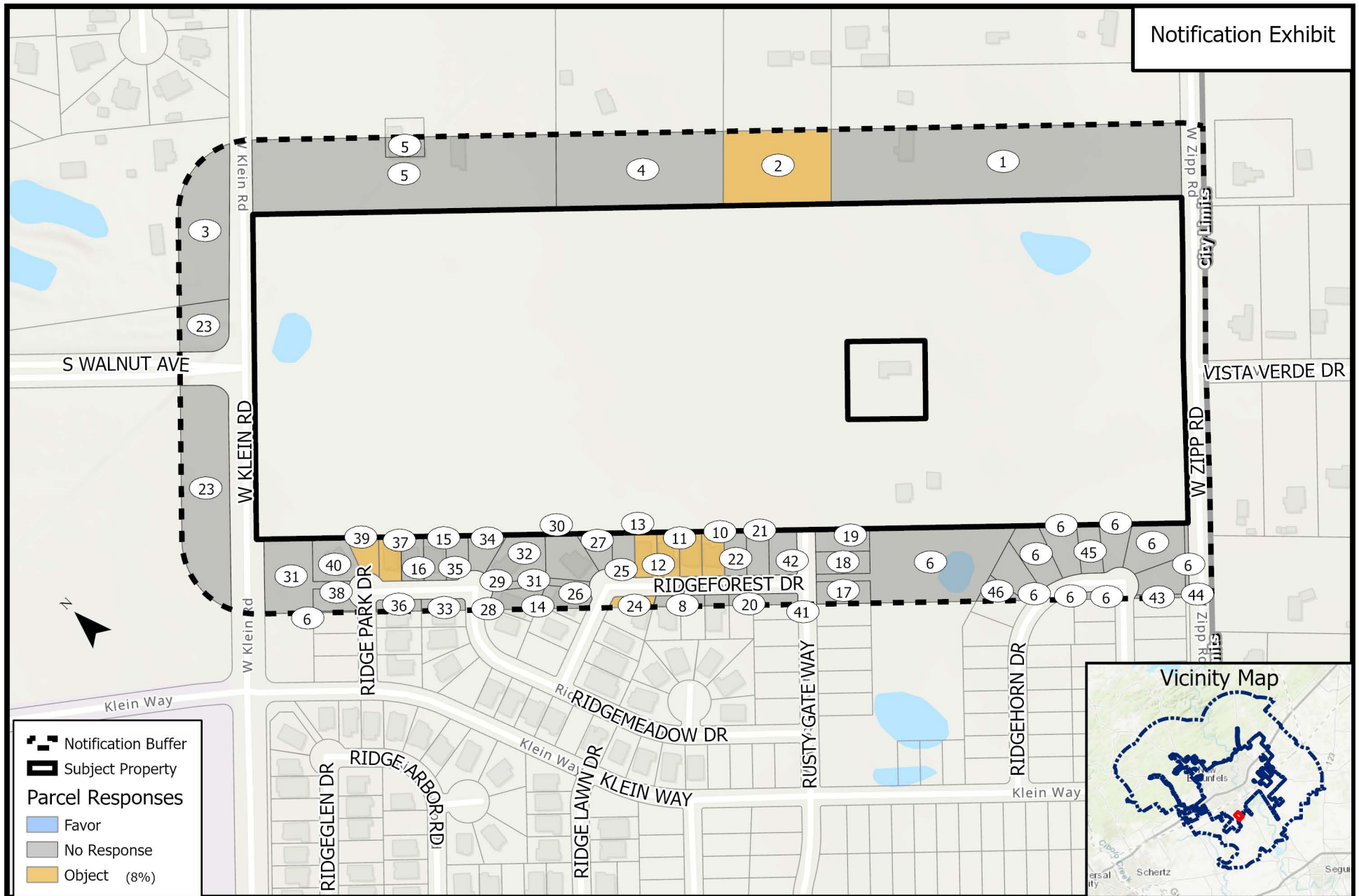
Address/Location: 614 & 720 W Zipp Rd

PROPOSED SPECIAL USE PERMIT – CASE #SUP20-267

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. ELLIS BRENDA | 24. KOKKEBY SEAN & STEPHANIE |
| 2. KRETZMEIER PAUL H | 25. PROFFITT ROBERT S & JENNIFER M |
| 3. SCRIBNER TERI | 26. CAVAZOS JESUS ELI & MELISSA DENISE |
| 4. ZAVALA JUAN F & LINDA S | 27. KLEIN JANET WALL |
| 5. HAMBRICK GRACE | 28. GUILLEN KRISTEN |
| 6. PULTE HOMES OF TEXAS LP | 29. HAHN AARON |
| 7. SCHOENHERR DUANE & GLORIA | 30. MARES EILEEN R |
| 8. WILLIAMS JASON & DANNALYN | 31. RIDGEMONT HOME OWNERS ASSOCIATION INC |
| 9. MASON JERMAINE S & TONYA S | 32. ROBLES TOM R & PAULA MERRILL ROBLES |
| 10. YANEZ ROBERT JR & KELLI-ANNE P BARROW | 33. GUERRA-TREVINO NORMA & RUBEN TREVINO |
| 11. AMESCUA KRISTIN M & CODY J YORK | 34. SCOTT RANDY J & LISA M |
| 12. HARRISON MATTHEW T & SANDRA V | 35. BRAY DEBORAH E |
| 13. YOUNG GLEN & JAMIE | 36. PRIORITY RELOCATION COMPANY LLC |
| 14. CRISSY ANGELA G & JOANN M HOLLIDAY | 37. CANTON CHRISTOPHER MICHAEL & JYOTI KAY CANTON |
| 15. WOLF ANDREW S & DALLAS | 38. ESCOBAR DANIEL SANTOS |
| 16. PROPERTY OWNER | 39. STEVENSON RICHARD ROY & LAUREN MAE |
| 17. GERELL-STILES APRIL R & GREGORY E STILES | 40. STONE GREG |
| 18. BUSHBY FRANCIS RUSSELL & SYLVIA LEA | 41. GUNN BARBARA |
| 19. MOORE ROBERT EUGENE & MONICA C | 42. RITSON BARBARA S & GREGG E |
| 20. WARD LEE ALAN & KIMBERLEY MARIE | 43. RODRIGUEZ ROBERT LEE & NAISHCA MARIE MOODY |
| 21. MELVIN LISA D | 44. RUNDELL BRENDON M & LOURDES |
| 22. SOLIS HECTOR JR & CLAUDIA R | 45. RAYGOZA BRENDAN C |
| 23. NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT | 46. DAVIS MEGAN L & TEXAS J |

SEE MAP



YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP20-267 ms

Name: Paul H. Kretzmeier

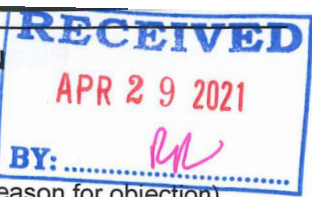
Address: 546 W. Zipp Rd.

Property number on map: # 2

I favor: _____

I object: ☒ (State reason for objection)

Comments: (Use additional sheets if necessary)



Remove 2H-A then I would
be for it.

Signature: Paul H. Kretzmeier

#2

#10

From: [Kelli-Anne Barrow](#)
To: [Matthew W. Simmont](#)
Subject: Notice of Public Hearing - 614 & 720 W. Zipp Road
Date: Thursday, May 6, 2021 4:25:59 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Name: Kelli-Anne Barrow
Address: 2761 Ridgeforest Drive
Property number on map: 10

I object to the development of this property. I do not want apartments to be constructed on this land. We bought here for the peace and quiet and if apartments are built it will disrupt what we currently enjoy which is a beautiful view and quiet. In addition, I don't want restaurants or a strip mall. It makes no sense to build restaurants in the middle of a community. There are residential homes all around. They would look so out of place. Not sure if this is true but had to object if they are thinking about constructing restaurants.

Thank you for your time and consideration.

Sent from my iPhone

From: [Kristin York](#)
To: [Planning Division](#); [Justin Meadows](#); [Matthew W. Simmont](#)
Subject: SUP20-267- Notice of Public Hearing
Date: Monday, April 26, 2021 10:32:14 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All,

I am still in **objection** to the proposed mixed-use between walnut, Klein, and Zipp. I have many concerns as to what this can do to our neighborhood.

My first concern is HMT Engineering not listing to Planning and Zoning suggestions to meet with our community to hear our objections/concerns. This has not been done. We have requested this and will again from Justin Meadows.

My second concern: We used to have an easement room behind our home between our fence and theirs (10 feet or more). That then disappeared and there wasn't any fence for a while. Now there is a fence, but again very close to ours. What happened to our 10 feet behind the fence that is supposed to be our property. Where are the boundaries and are they being crossed? We need a barrier and should have that 10 feet back no matter what.

My third concern: The infrastructure can not withstand the new apartment complex at 725 that was approved or these new mixed-use requests. Some cities are able to complete the water, electricity, etc prior to the overload. It seems in New Braunfels the city wants these buyers to add that into their costs at the expense of those that live here. The traffic in the last 5 years since I have lived in this house has tripled. 725 Needs to be larger and Klein to help us get around prior to this being approved. Wireless antennas need to be added to help with the lack of service we already have issues with prior to approval. With three schools right here the traffic is a nightmare. The risk for more accidents through our fences could allow someone hurt or killed. The kids walking home or bus stop at Kelin, again, can allow for someone to get hurt with all the traffic. Now we want to add to that? We want to add an apartment complex, gas station, or Labor ready to create more congestion?

Can someone answer my questions and help us all understand to possibly come to some kind of agreement?

Sincerely,
Kristin York
210-843-7953
2757 Ridgeforest Drive

My previous objections are below.

We were told when we purchased this home that the landowner behind us was not planning to ever sell that plot of land. That is what drew us to this area. We wanted to be away from the

hustle of the city, but close enough if we needed anything. This area is already very congested with three schools and we are about to add another. Then a sports complex and possibly a market, library, gas stations, along with labor centers. How can this current infrastructure and emergency services handle the new capacity of people/traffic? The roads even though being improved will not be enough, water drainage is always an issue, and more lights are needed. The current road improvements always have huge holes and bumps.

We already have communication issues for phones, the internet, and cable. We have been told a tower was going to be installed close, but four years later end it's still an issue.

Some neighbors find some objections could be the following: families moving out of the neighborhood, lower home values, homes being on the market for an extended time, the traffic congestion being increased, raised crime, less security, resident population, school crowdedness, additional traffic issues, utility issues, impacts of communication structure, parking, services interrupted, sunlight reduced, privacy concerns, light from new area, obstructed views, noise, rain runoff issues, damage to roads, construction for a few years, interference with emergency services for our area, and the environmental impact to the animals that are still in this area.

What analysis has been done for traffic, congestion, communication, emergency, and environmental?

Some neighbors feel the city will do what they want and their vision, not what the community wants or needs. How do we know our voices will be heard and matter?

We are all for New Braunfels growing, but not in our backyard. Not affecting our life's hard work to reflect in our property value. Please help us!

Sincerely,
Kristin York
210-843-7953
2757 Ridgeforest Drive

From: [Matt Harrison](#)
To: [Matthew W. Simmont](#)
Subject: Re: Case SUP20-267 May 4 2021
Date: Tuesday, May 4, 2021 1:15:09 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Still in opposition to this rezoning. Developer was encouraged to work with residents to come to an agreement for both parties. Developer did not make any attempt to do so which tells me they do not care about our thoughts. More should be done by developer to protect residents.

Thank you.

Matt Harrison
2753 Ridge Forest Dr

Sent from my iPhone

On Jan 28, 2021, at 10:24 AM, Matthew W. Simmont <MSimmont@nbtexas.org> wrote:

Good morning Mr. Harrison,

Thank you for your input. I will provide your email to the Planning Commission for consideration.

Thank you,

<EmailLogo-Small_c6d86cff-0062-47bb-89b0-351933562e2d.png> Matthew W. Simmont, AICP
Planner | Planning and Development Services
550 Landa St | New Braunfels, TX 78130
830-221-4058 | MSimmont@nbtexas.org | www.nbtexas.org/planning

#OneCityOneTeam

<facebook_e078b806-932a-4345-a222-52843c4a2a78.png>

<twitter_18db307e-2a37-41c2-b4fd-1376bcb3dfd4.png>

<instagram_59f46ed4-523c-47da-a034-86de8a4782fc.png>

Do you have a question about a permit? Check out the [Citizen Portal](#).
We encourage you to keep up with the progress on our new comprehensive plan by visiting www.envisionnewbraunfels.org and liking our [facebook page](#).

This email, plus any attachments, may constitute a public record of the City of New Braunfels and may be subject to public disclosure under the [Texas Public Information Act](#).

Please take a moment to complete the City of New Braunfels [Customer Satisfaction Survey](#).

From: Matt Harrison <matt.t.harrison@gmail.com>
Sent: Wednesday, January 27, 2021 8:58 PM
To: Matthew W. Simmont <MSimmont@nbtexas.org>
Subject: Case SUP20-267 Feb 2 CC. Feb 22

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening, please let this email serve as my objection to the zoning change for the above case. My residence is #11 on the notification map. My opposition to this zoning change is the reduction of residential property resale values that occur with a MU-B zoning change along with safety / security and noise concerns for all newly built residential properties in the surrounding area. I feel that this property if developed should remain as a R-1A 6.6 to fit with the current developments in the surrounding the property and the area.

Matt Harrison
2753 Ridge Forest Dr
New Braunfels Tx 78130

Case: #SUP20-267 ms

Name: Jamie YoungAddress: 2749 Ridge Forest Dr.Property number on map: 13

I favor: _____

MAY - 3 2021

I object: X (State reason for objection)

Comments: (Use additional sheets if necessary)

Please see previous objections and letter submitted via email, as this is now the third time we have had to submit objections for the same request.

Signature: Jamie Young

#13

New Braunfels Planning Commission;

I am writing in response to the special use permit request for the 49.5 acres addressed at 614 & 720 W. Zipp Road. My family lives in the adjacent neighborhood, Ridgemont, with our backyard directly bordering the subject property.

When my family was deciding on a lot to build our house on, one of the main selling points for us was the large field behind our lot and the serenity of the neighborhood and its surrounding areas. We were told by our builder that the person who owned the field behind our house had no intention of selling their land.

Fast forward four years and now there are almost 30 homeowners surrounding the subject property who are being confronted by the reality that we could have apartments or commercial buildings staring in at us over our back fences. After talking to many of my neighbors, I can confidently say that many of us would not have bought homes in this neighborhood if we would've had knowledge of this special use permit. For us, apartment or commercial buildings on the other side of our fence means increased noise, bright streetlights, and smelly dumpsters. It means that we can no longer enjoy the privacy of our homes or our backyards. It means that, for years, we will have to tolerate the noise and pollution of excavators, plumbers, electricians, and roofers in our own backyards. Then, once completed, the proposed apartments, shopping centers or convenience market will bring traffic and noise at all hours of the day and night.

The negative impact of apartments or commercial buildings on the subject property will reach further than just the homeowners directly surrounding the property. The traffic impact analysis for this project estimates that the daily trips in this area will increase by over 10,000. Walnut Avenue and Highway 725 are already incredibly congested. Even with the widening of Klein Road, the infrastructure in this area cannot support a new middle school, a new sports complex, *and* the 10,000 additional daily trips that the proposal for the subject property will bring. In addition, increased traffic and transient neighbors will likely increase crime levels in this area.

A study performed by the University of Nebraska shows a decrease in selling price of single-family dwellings with increasing numbers of surrounding apartment complexes. If my neighbors' feelings on having an apartment complex or commercial building behind them is any indication of the feelings of the general public, I see no scenario where our home values won't suffer if this permit is approved. Without a doubt, other people won't want to buy houses in this neighborhood if those who are already living here are wanting to leave.

I would like to ask the Planning Commission to put themselves in the shoes of the residents of the Ridgemont and other surrounding neighborhoods. Picture your own backyard for a moment. If an apartment complex, gas station or convenience market was erected 57 feet, less than 20 yards, from your fence line, would you be happy?

I believe that the city of New Braunfels cares about their residents and I appreciate being given the opportunity to submit written comment on this matter. The notice of public hearing that I received said "Your opinion matters" and I hope that's true.

Thank you,

Jamie Young
(Last 4 digits of phone number – 0845)

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP20-267 ms

RECEIVED

Name: Stephanie Kokkeby

I favor: _____

Address: 2750 Ridgeforest DriveI object: X (State reason for objection)

MAY - 3 2021

Property number on map: 24

Comments: (Use additional sheets if necessary)

Please do not rezone our area for apartments, low income housing, gas stations, or any other development that will bring unwanted riff raff to our neighborhood.

Signature: S. Kokkeby

Thank you for your time. God Bless.

#24

Christopher & Jyoti Canton
2713 Ridge Path Drive
New Braunfels, Texas
Parcel 37

April 27, 2021

To the New Braunfels Planning Commission:

Thank you for taking the time to read this objection to the plans that HMT Engineering & Surveying submitted for the 49.5 acres addressed at 614 & 720 W. Zipp Road.

First off, I want to reiterate from our last objection that HMT Engineering needs to be more transparent about what is going to be placed within these zones. When we bought this property, it was zoned agricultural and the fact that there could be commercial property and potentially 4-5 story apartment overlooking our backyards is very unfair. We'll object every time until there is more transparency.

My wife and I **OBJECT** to the proposal to rezone the land behind our property for a variety of reasons:

1. At the last Planning Commission meeting:
 - A. The Planning Commission urged HMT Engineering to schedule a town hall, Zoom Meeting, or any type of forum to have a dialogue with the the Ridgemont neighborhood. NO EFFORTS were made on their part to reach out to any of us.
 - B. The Planning Commission urged HMT Engineering to provide enough information in advance so that we could have at least 2 weeks notice on these potential grand sweeping changes to our neighborhood. We received the notice of a Public Hearing plus the new, barely proposed changes ONLY 9 DAYS BEFORE THE MEETING.
2. Once again there is a pattern of HMT Engineering trying to ram something through without talking to any of us. Our home values are subject to plummet based upon these vague and hardly disclosed, zoning changes. Their refusal to communicate with us is really disappointing. When we bought the property it was zoned agricultural, and to make such a quick proposed change with very little notification is not fair to tax-paying residents of New Braunfels. More transparency is needed before moving forward on anything!
3. We do not need a bunch of commercial businesses off a street that is purely residential, and is essentially a street with essentially no outlet beyond Zipp Road! This property should NOT be used for any commercial businesses.
4. 125 feet is way too close to our homes, and is barely enough room for another neighborhood.
5. I think having a mix of residential homes and condominiums makes a lot more sense in the grand scheme of things, when looking at the make-up of all the properties in between Klein Road and Zipp Road. And I think it would be something that many of the residents of the Ridgemont neighborhood and other adjacent properties can get behind. Why tweak the schematics of these neighborhoods just because HMT Engineering had some neat idea to bring in a couple commercial tenants? Please remove the **"MU-B" High Intensity Mixed Zoning from the proposal**. That is the most controversial piece in this whole proposal.
6. If this was the intent to bring in some more affordable housing/apartments to the area, make it housing alone, then don't saddle them next to a gas station or another mini-mart of which New Braunfels has enough.
7. Please keep the power lines out of our backyards and keep them near the newly extended Walnut Road, in between Klein & Zipp Road

Please take these objections to heart. We understand that the agricultural zone behind us won't stay that way forever as our wonderful city is growing so rapidly. But rather than radically changing the complexion of our neighborhoods and throwing up a couple of commercial properties that are unwanted and truly not needed on Klein, Walnut & Zipp, reject the usage of **"MU-B" High intensity Mixed Use Zoning** and allow this property to be a solution to what is so desperately needed in New Braunfels as you noted in a previous planning meeting: quality housing.

Sincerely,

Christopher & Jyoti Canton

YOUR OPINION MATTERS - DETACH AND RETURN

Case: #SUP20-267 ms

Name: Christopher & Jyoti Canton

Address: 2713 Ridge Path Drive, NB TX 78130

Property number on map: 37

I favor: _____

I object: X (State reason for objection) ee

Comments: (Use additional sheets if necessary)

Please read Comments on Attached sheet of paper

Signature: [Signature]

RECEIVED

APR 30 2021

From: [Lauren Stevenson](#)
To: [Matthew W. Simmont](#)
Subject: Objection to Klien and zip road rezone
Date: Tuesday, May 4, 2021 5:40:29 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I reside at 2709 Ridge Path Dr, New Braunfels, TX 78130p with my husband Richard Stevenson. We had a death in the family this weekend and have not been able to send our objection in for the rezone for the lot near the Ridgemont subdivision. We are objecting to this new SUP due to the fact that the 125 foot buffer does not continue to Klein and leaves the back of our fence exposed to the the high intensity mixed use zone. We understand that walnut will be extended to zip and it need to have commercial front so we could get behind the deal IF the buffer extended behind our fence to Klein. It's very strange that this buffer left out two homes in the new proposal. We would also like to have the buffer extended to allow two rows of homes to be built in this buffer area. One hundred and twenty five feet is barely enough room for one row of houses.

Thank you,

Lauren Stevenson

From: GRITSON@satx.rr.com
To: Matthew W. Simmont
Cc: ["britson@satx.rr.com"](mailto:britson@satx.rr.com)
Subject: Public Hearing SUP20-267 614 & 720 W. Zipp Road
Date: Friday, April 30, 2021 9:23:07 AM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Day Mr. Simmont,

We do not oppose the current SUP20-267 as proposed where the 125 feet along the Ridgemont subdivision would be zoned for R-1A-4, ZH-A, R-2A housing. We would oppose the change if the area is changed to add MU-B housing in the 125 feet zone.

We still have concerns that even having the change to MU-B in this area would affect our home values and along with country fell of this area.

Thank you.

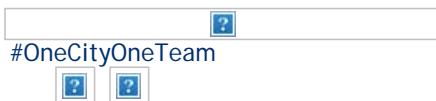
v/r Gregg & Barb Ritson
2773 Ridge Forest Drive
Map Property Number 42
210-542-4825

From: "Matthew W. Simmont"R
To: "GRITSON@satx.rr.com"
Cc: "britson@satx.rr.com"
Sent: Tuesday April 27 2021 10:19:00AM
Subject: RE: Public Hearing SUP20-267 614 & 720 W. Zipp Road

Good morning,

Thank you for your questions. You are correct. If approved as requested, the area shown as hatched would not allow the MU-B zoning district (which does include apartments as an allowed use). Only the single-family or two-family zoning districts could be allowed in that area adjacent to your property.

Thank you,



Matthew W. Simmont, AICP
Planner | Planning and Development Services
550 Landa St | New Braunfels, TX 78130
830-221-4058 | MSimmont@nbtexas.org | www.nbtexas.org

Do you have a question about a permit? Check out the [Citizen Portal](#).
We encourage you to keep up with the progress on our new comprehensive plan by visiting www.envisionnewbraunfels.org.

This email, plus any attachments, may constitute a public record of the City of New Braunfels and may be subject to public disclosure under the [Texas Public Information Act](#).

Please take a moment to complete the City of New Braunfels [Customer Satisfaction Survey](#).

From: GRITSON@satx.rr.com <GRITSON@satx.rr.com>
Sent: Monday, April 26, 2021 8:17 PM
To: Matthew W. Simmont <MSimmont@nbtexas.org>
Cc: 'britson@satx.rr.com' <britson@satx.rr.com>
Subject: Public Hearing SUP20-267 614 & 720 W. Zipp Road

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Day Mr. Simmont,

We received the latest announcement for Public Hearing for 614&720 W. Zipp Road.

We were looking at the Type 2 SUP Site Plan. There is a 125' Proposed R1A-4, ZH-A, and R-2A Zoning along the fence line of our house (Spot 42).

Does this mean that the developer can only place R1A-4, ZH-A, and R-2A housing in that area? No MU-B apartments can go in that area?

Wanted to know prior to submitting comments for the meeting scheduled for 4 May 2021.

Thank you,

Gregg and Barb Ritson
2773 Ridge Forest Drive

From: "Matthew W. Simmont"
To: "GRITSON@satx.rr.com"
Cc: "britson@satx.rr.com"
Sent: Thursday January 28 2021 11:21:58AM
Subject: RE: Public Hearing SUP20-267 614 & 720 W. Zipp Road

Mr. Ritson,

Thank you for your input. I will provide your email to the Planning Commission for consideration.

Thank you,



Matthew W. Simmont, AICP
Planner | Planning and Development Services
550 Landa St | New Braunfels, TX 78130
830-221-4058 | MSimmont@nbtexas.org | www.nbtexas.org/planning

[Citizen Portal](#).

We encourage you to keep up with the progress on our new comprehensive plan by visiting www.envisionnewbraunfels.org and liking our [facebook page](#).

This email, plus any attachments, may constitute a public record of the City of New Braunfels and may be subject to public disclosure under the [Texas Public Information Act](#).

Please take a moment to complete the City of New Braunfels [Customer Satisfaction Survey](#).

From: GRITSON@satx.rr.com <GRITSON@satx.rr.com>
Sent: Wednesday, January 27, 2021 5:52 PM
To: Matthew W. Simmont <MSimmont@nbtexas.org>
Cc: 'britson@satx.rr.com' <britson@satx.rr.com>
Subject: Public Hearing SUP20-267 614 & 720 W. Zipp Road

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Mr. Simmont,

My name is Gregg Ritson. I live at 2773 Ridgforest Forest Drive, in the Ridgemont Subdivision our property number is 42 Ritson Barbara S. & Gregg E. in the reference notice sent out.

In response to the Notice of Public Hearing for address 614 & 720 W Zipp Road we object to the change request.

We have read the latest Notice of Public Hearing SUP20-267, while we applaud the owners for addressing concerns and eliminating categories under MU-B High Intensity Mixed Use District, we still object to allowing non residential and residential multifamily heights that reach 60 feet. These type facilities would lead to a decrease in our home values. Also the added traffic on Zipp would make that road almost unusable. Currently the road is pretty much a county road with asphalt. Since the work on Klein our subdivision in the other subdivisions on East side of Klein have used this road more often. Additionally the Bella Vista and Armadillo subdivision next us also added an exit road to Zipp Road adding traffic to this road.

We have moved to this area in 2018 to have a more of country feel to living not to have a high intensity business/industrial next door to us.

Thank you for your time and consideration.

v/r Gregg and Barb Ritson

gritson@satx.rr.com

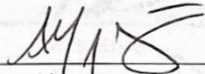
CP210-542-4825

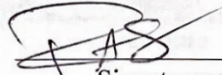
The following petition and responses were received as a result of the original SUP request and are located outside of the 200 foot notification area.

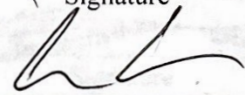
Dear Elected City Council:

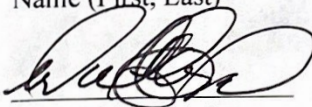
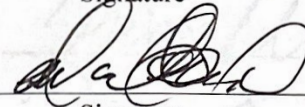
This is to inform you that residence of the Ridgemont and Legend Pong Community strongly oppose a zoning change hearing for SUP 20-267 as we DO NOT need another CONVENIENCE/MARKET STORE WITH GAS PUMPS on Klein Rd. We have serious concerns regarding the potential C-Store allowing for alcohol /tobacco product of such within distance of Klein Road Elementary. Enclosed here is a list of concern parents/residence that strongly OPPOSE SUP 20-267. Please take our input into consideration when making the decision, it affect our children!

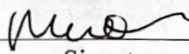
If you are opposed to the location selling tobacco and alcohol, please let us know. We represent parties interested in preventing tobacco and alcohol sales near your school. Below are the signatures of families who DO NOT want a C-store/Gas station allowing the sale of tobacco and alcohol.

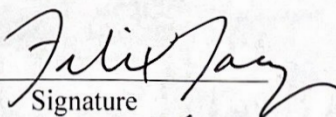
Alfred Soto Cuora	729 Rain Dance	
Name (First, Last)	Address	Signature

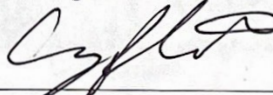
Russell A Sosa	3834 Legend Hill	
Name (First, Last)	Address	Signature

Charles Cochran	3934 Legend Woods	
Name (First, Last)	Address	Signature

	2450 Dimmitt Dr.	
Name (First, Last)	Address	Signature

DAVID COOPER Michelle Salazar	3945 Legend Pond	
Name (First, Last)	Address	Signature

Felix Tamez	2743 Wheatfield Way	
Name (First, Last)	Address	Signature

Cesar Pansiel	2838 Silo Turn	
Name (First, Last)	Address	Signature

Sean Lalley
Name (First, Last)

162 Meadow Path
Address

[Signature]
Signature

Josh Reynolds
Name (First, Last)

3925 Legend Hill
Address

[Signature]
Signature

Joe Ramos
Name (First, Last)

4632 Klein Meadows
Address

[Signature]
Signature

Steven Kurfels
Name (First, Last)

3930 Legend Woods
Address

[Signature]
Signature

Adrianna Ioya
Name (First, Last)

4632 Klein Meadows
Address

[Signature]
Signature

Denise Mills
Name (First, Last)

4062 Legend Pond
Address

[Signature]
Signature

GABRIEL LOERA
Name (First, Last)

135 BASS LAKE
Address

[Signature]
Signature

Blake Bochmann
Name (First, Last)

2458 McCrae
Address

[Signature]
Signature

Tammi Herbert
Name (First, Last)

3912 Gentle meadow
Address

[Signature]
Signature

Levi Daniel
Name (First, Last)

4531 Legend Trl
Address

[Signature]
Signature

Jason Wooten
Name (First, Last)

2578 MCKEE
Address

[Signature]
Signature

Joshua Stewart
Name (First, Last)

3830 Legend Hill
Address

[Signature]
Signature

Augie Olmos
Name (First, Last)

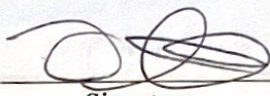
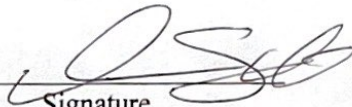
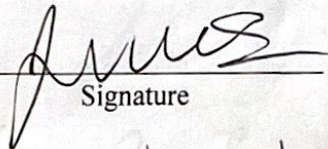
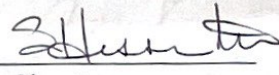

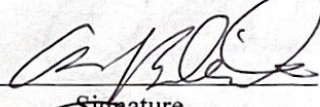
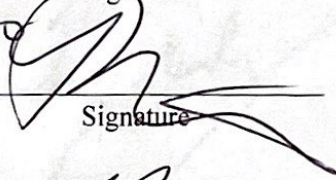
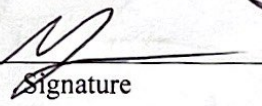
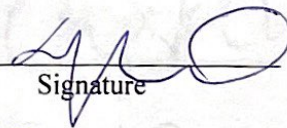


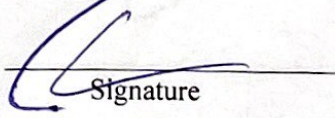
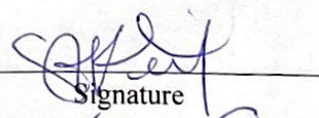
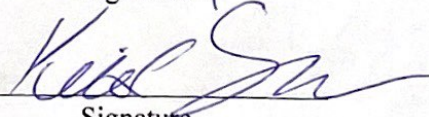
3932 GENTLE MEADOW
Address

[Signature]
Signature

Holly Andersen
Name (First, Last)

3941 Legend Meadows
Address

[Signature]
Signature

Lauren Anderson	3947 Legend Meadows	
Name (First, Last)	Address	Signature
Isaiah Soto	1841 Sunspur Rd.	
Name (First, Last)	Address New Braunfels, TX 78130	Signature
JOSH MAKIN	3838 LEGEND HILL	
Name (First, Last)	Address ND TX 78130	Signature
April Hesselthaler	3960 Legend Rock	
Name (First, Last)	Address New Braunfels TX 78130	Signature
Eric Pawlak	2826 Ridge Berry Rd	
Name (First, Last)	Address NB, TX 78130	Signature
Ana Belisle	3996 Gentle Meadows	
Name (First, Last)	Address	Signature
Pratay Chatter	3988 Legend Meadows	
Name (First, Last)	Address 78130	Signature
Scotty ybarra	111 Landing Lane	
Name (First, Last)	Address	Signature
Jared Pinson	Loussome Creek	
Name (First, Last)	Address	Signature
Jocelyn Pankas	Bulverde Rd	
Name (First, Last)	Address	Signature
Luis Martinez	Corona Ridge	
Name (First, Last)	Address	Signature
Anthony Santora	3993 Legend Pond	
Name (First, Last)	Address	Signature
Stephanie Stewart	3830 Legend HL	
Name (First, Last)	Address	Signature
Keith Schwaerke	2457 Arctic Warbler	
Name (First, Last)	Address	Signature

Alexandria Schwoerke 2457 Arctic Warbler Ali Sue
Name (First, Last) Address Signature

Lillian White 2619 Savannah Hill Lillian White
Name (First, Last) Address Signature

Jerome Davis 2619 Savannah Hill Jerome Davis
Name (First, Last) Address Signature

Green David 2709 Ridgeberry David Green
Name (First, Last) Address Signature

Alecia Fite 1754 Rain Dance Alecia Fite
Name (First, Last) Address Signature

Josh Anderson 2162 N Ranch Estate Blvd Josh Anderson
Name (First, Last) Address Signature

Samuel Gonzalez 3926 Legends Pond Samuel Gonzalez
Name (First, Last) Address Signature

Brandon Crim 1955 Jamie Ln Brandon Crim
Name (First, Last) Address Signature

Crystal Wooler 2678 Lonesome Creek Trl. Crystal Wooler
Name (First, Last) Address Signature

ROBERT NORIEGA 103 Landing Ln. Robert Noriega
Name (First, Last) Address Signature

Daniel Keresky 2676 Pohmeyer Rd. Daniel Keresky
Name (First, Last) Address Signature

Name (First, Last) Address Signature

Name (First, Last) Address Signature

Name (First, Last) Address Signature

From: [Sindy Alvarado](#)
To: [Matthew W. Simmont](#)
Subject: Klein and Walnut
Date: Monday, February 1, 2021 9:37:44 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

It is with great concern that I write this email. I am opposed to YET another convenience store at Klein and Walnut. I am also opposed to multiple dwelling homes such as apartments, condos etc. As it is, our new subdivision deals with non residents using our subdivision as a short cut to pick up students from the schools. Once the sporting complex is built, we will have heavier traffic. As my city counsel member, I ask that you vote AGAINST this zoning.

Sincerely
Senaída Alvarado
3814 Legend Hill
830-358-0429

From: [Planning Division](#)
To: [Matthew W. Simmont](#)
Subject: FW: SUP20-267
Date: Monday, February 1, 2021 10:02:18 AM

Please see below.

From: Connie Doerr <cgdoerr@sbcglobal.net>
Sent: Sunday, January 31, 2021 7:34 PM
To: Planning Division <Planning@nbtexas.org>
Subject: SUP20-267

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Although we do not live within 200 ft of this proposed project we do live in the Ridgemont subdivision close to this project and will be affected by it. We are an older couple that are long term residents of New Braunfels, and moved out here to support the area and the economy and infrastructure of New Braunfels. We have some concerns about what the SUP-267 will do to this area.

1. How will the developer of project access the project to build it? Will construction traffic access the property by a direct extension of Walnut across Klein Rd.? If not by direct extension of Walnut, I trust that you will not allow construction traffic to use Klein Way to Rusty Gate as the access route. That would be unacceptable to Ridgemont residents as the school uses Klein Way to pick up and return numbers of students twice a day. Our neighborhood pool amenity is also on that intersection. Klein Way is now being used by cut thru traffic from Zipp Rd. and beyond, I believe as an example, when the Veramendi Project began, the developer was only allowed to use Oak Run Parkway as an entry route to start construction of the Veramendi elementary school.

2. In looking at the on-line zoning of New Braunfels, there appears to be very few MU-B districts in New Braunfels. It seems a shame to allow one right next to the Ridgemont Subdivision in an area that is heavily residential.

We trust that you will give our concerns serious consideration and not approve this project as the developer currently requests. Thank you for your consideration.

Sincerely,
Kermit and Connie Doerr 830-837-4184
644 Ridgemoor Drive,
New Braunfels, TX. 78130

From: [amanda garza](#)
To: [Matthew W. Simmont](#)
Subject: Opposition
Date: Monday, February 1, 2021 8:35:32 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

My family moved out to the area off of Klein Road to move away from the noise and congestion of downtown, the traffic, trains and etc.... We are strongly opposed to having a third gas station built on our main road behind our house. Having the Shell Station at the end of Klein Road and the Select Stop Station halfway down Klein is sufficient enough for the area. There is absolutely not a dire need for a third gas station.

Please rethink this plan as most families in our neighborhoods chose to live in the area to get away from all the “gas station at every corner” type of life. My family, neighbors and I appreciate your time and efforts in considering the thoughts of all the families surrounding the S. Walnut and Klein Road area.

Respectfully,
Amanda Garza

Sent from my iPhone

From: [Shelly Hillesheim](#)
To: [Matthew W. Simmont](#)
Subject: Opposition to Zoning Change for SUP 20-267
Date: Tuesday, February 2, 2021 9:57:36 AM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Matthew,

I am emailing to object to the proposed zoning change near the intersection of S. Walnut Avenue and W. Klein Road.

Please let me know if you have any questions or concerns.

Thank you,

Shelly Hillesheim
775.340.2694

From: [Jessica Hillesheim](#)
To: [Matthew W. Simmont](#)
Subject: Objection to Zone Change SUP 20-267
Date: Tuesday, February 2, 2021 11:09:10 AM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I object to the proposed zoning change near South Walnut and West Klein Road.

Thank you,
Jessica Hillesheim

From: [Morgan Lakinske](#)
To: [Matthew W. Simmont](#); [Planning Division](#)
Subject: #SUP20-267
Date: Wednesday, January 27, 2021 10:57:25 AM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is Morgan Lakinske and I live at 632 Ridge Maze rd, new braunfels tx, 78130. We recently moved in and have not received the notice by mail yet so thought we would make contact here. My household would like to submit our objection for the rezoning case# SUP20-267. We believe that this area should continue to be single family homes and ranches/land. The roads surrounding are not suitable to be adding apartments or businesses. also the klein road is currently being redone and a new construction on this road will damage what improvements are already underway.

Thank you,
Morgan Lakinske

From: [Albert Martinez](#)
To: [Matthew W. Simmont](#)
Subject: Proposal of gas station on Walnut/Klein
Date: Monday, February 1, 2021 8:34:37 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I oppose this proposal, so many other options, the community doesn't need a third gas station.

From: [ricky.minjares](#)
To: [Matthew W. Simmont](#)
Subject: Rezoning of SUP20-267
Date: Monday, February 1, 2021 7:09:53 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Concerning the rezoning, I am the owner of 2848 Klein way, in the ridgemont community. And object to have construction of an apartment community next door. With concerns of traffic, light pollution, and possible future builds, does not fit will with the area. And I do not want this to have an impact on my property.

From: [Krissy Mora](#)
To: [Matthew W. Simmont](#)
Subject: Objection for Re-Zoning
Date: Monday, February 1, 2021 9:25:46 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Evening Mr. Simmont,

My family and I were referred to you by Morgan Renaud regarding the re-zoning of the land on the corner of Klein and Walnut. We are absolutely against the re-zoning and happy to help with whatever we can to ensure that this does not go through. Please let me know how we can help. Thank you.

Warm Regards,
Kristine Morales

144 Bass Lane
New Braunfels, TX 78130

(201) 208-5721

[Sent from Yahoo Mail for iPhone](#)

From: [Molly Peterson](#)
To: [Matthew W. Simmont](#)
Subject: Convenience Store
Date: Monday, February 1, 2021 8:56:44 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening,

I live in Preston Estates and oppose the building of another convenience store. Klein has to much traffic as it is.

Thank you,
Molly Peterson

From: [Lindsey Purchase](#)
To: [Matthew W. Simmont](#)
Subject: Lot proposal
Date: Monday, February 1, 2021 7:25:22 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The Purchase Family of 2766 Ridgeforest Drive (Ridgemont Development)

I object to the the proposed lot rezoning SUP20-267 due to the decrease in home value it would cause, the distribution of an apartment complex type of lifestyle, cars driving in and out all times during the day, increased traffic around our quiet area, school crowdedness, security, construction for a few years, and the lack of knowing if the environment will be safe and secure for our son. We didn't want to live by apartments which is why we bought in this quiet area.

Thank you for your time,

The Purchases

From: [John Robertson](#)
To: [Matthew W. Simmont](#)
Subject: OPPOSE SUP 20-267
Date: Monday, February 1, 2021 10:13:53 AM
Attachments: OPPOSE 20-267.pdf

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Sir,

I wanted to email you to let you know that communities and both Ridemont and Legend Pond are strongly OPPOSE SUP 20-267 to allow another C-store on Klein Rd. This is a major blow to our community and to the safety of our children that attend Klein Road Elementary. We have spoken to the School principal, school board members, and other levels of management to ensure the school understands the immediate concerns we have with this SUP 20-267. They oppose it as well! Enclosed are signatures of FAMILIES that DO NOT WANT ANOTHER C-STORE NEAR OUR KIDS SCHOOL!!

Hope you take your citizens' feedback in making your decision. This impacts our families and well being of our children.

JR.

From: [Jessi Smallwood](#)
To: [Matthew W. Simmont](#); [Planning Division](#); [Justin Meadows](#)
Subject: Objection to Case: #SUP20-267 ms
Date: Saturday, January 30, 2021 1:23:21 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Case: #SUP20-267 ms

Name: Jessi Smallwood
Address: 2804 Klein Way, New Braunfels, TX 78130

I OBJECT to this proposal for the following reasons: The negative impact it would have on our community's safety, property values, peace, privacy, schools, and traffic flow.

There is no need for 3 gas stations on the same road within .5 mile of eachother. It is a breech of privacy and it will have a negative impact on our property values for multi-level housing to overlook our backyards in a \$300,000+ neighborhood, and our community pool area. A small 6 foot wall would not even remotely bring privacy our property value security to our homeowners. It is also incredibly dangerous and disruptive to have so much more traffic in this area, especially considering the conditions of our small roads, and all of the school children walking and riding the bus to/from school. All surrounding roads (S Walnut, Klein, Zipp, etc.) are very small, and they in horrible shape as it is. Our schools in this area are BUSTING AT THE SEAMS! Children are being transferred to other schools because there is no room for them at their zoned schools. Just call and ask anyone at NBISD. It is a mess, and has been for some time now.

The list truly goes on and on. This proposal does not benefit anyone living or working in this area, and we really hope you listen to the people and all of our rightful concerns.

Thank you,
Jessi Smallwood
Ridgemont Homeowner

From: [Daycon Smallwood](#)
To: [Matthew W. Simmont](#)
Subject: Case: #SUP20-267 ms
Date: Monday, February 1, 2021 7:24:28 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Case: #SUP20-267 ms

Name: Daycon Smallwood
Address: 2804 Klein Way, New Braunfels, TX 78130

I OBJECT to this proposal for the following reasons: The negative impact it would have on our community's safety, lower property values, peace, privacy concerns, traffic flow, families moving out of the neighborhood, homes being on the market for extended time, raised crime, less security, resident population, school crowdedness, additional traffic issues, utility issues, impacts of communication structure, parking, services interrupted, sunlight reduced, light from new area, obstructed views, noise, rain runoff issues, damage to roads, construction for a few years, interference with emergency services for our area, and the environment impact to the animals that are still in this area.

This proposal does not benefit anyone living or working in this area, and we really hope you listen to the people and our concerns.

Thank you,
Daycon Smallwood
Ridgemont Homeowner

From: [Tracy Sparks](#)
To: [Matthew W. Simmont](#)
Subject: SUP 20-267
Date: Monday, February 1, 2021 8:38:35 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I, Tracy Sparks, home owner at 3932 Gentle Meadow am opposition to the zoning change for SUP 20-267.

If you have an questions please feel free to contact me.

Thank you,
Tracy Sparks

From: [Christopher Tuch](#)
To: [Matthew W. Simmont](#)
Subject: Walnut/Klein Rezoning
Date: Monday, February 1, 2021 9:47:22 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, I'm writing you to voice my objection to the rezoning plans for the land where Walnut St and Klein Rd meet. As someone who was born and raised in New Braunfels, I have seen my home town grow exponentially without the proper amount of land set aside for parks and green spaces. For a city this size, there should be far more parks and undeveloped areas. Also, as a resident of the neighboring Ridgemont neighborhood, I'm concerned about the type and amount of businesses and houses that may go up. This will only add to the amount of overcrowding our city already experiences.

Chris Tuch
647 Ridgehorn Dr
NB 78130

From: [Matthew Vestal](#)
To: [Matthew W. Simmont](#)
Subject: SUP 20-267 Zoning Change Support
Date: Monday, February 1, 2021 9:18:38 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Matthew Vestal, I live at 132 Bass Lane, and I support the above mentioned Special Use Permit. The owner of the Valero directly behind my house is trying to gather neighborhood support to oppose this zoning change, but I support it. The current gas station has a full monopoly for Legend Point, The Silos, Highland Ridge, South Point, Park Place, Walnut Grove, etc. if other gas stations are not allowed to come in and develop. I support this zoning change to bring more opportunity to the area.

Thank you.

Draft Minutes for the May 4, 2021 Planning Commission Regular Meeting

B) SUP20-267 Public hearing and recommendation to City Council regarding a proposed rezoning to apply a Special Use Permit to allow a variety of residential and non-residential development on approximately 49.5 acres out of the A-103, Sarah Dewitt Survey, addressed at 514 & 720 W. Zipp Road, from “R-1A-6.6” Single Family District to allow uses allowed in the following zoning districts: “MU-B” High Intensity Mixed Use, “R-1A-4” Single-Family Small Lot Residential, “ZH-A” Zero Lot Line Home and “R-2A” Single and Two-Family Residential. Applicant: Thor Thornhill, HMT Engineering & Surveying; Owner: Gregory Family Revocable Trust, Rosemarie L Gregory; Case Manager: Matthew Simmont.

Mr. Simmont presented and recommended approval.

Chair Edwards asked if there were any questions for staff.

Discussion followed on additional information provided prior to the meeting.

Chair Edwards asked if the applicant would like to speak.

Caren Williams-Murch, 144 Sage Meadows, provided clarification on the project to address concerns from surrounding residents and the city.

Discussion followed on two story structures, the type of housing allowed, and proposed Walnut alignment.

Chair Edwards opened the public hearing and asked if anyone wished to speak.

Chris Canton, 2713 Ridge Path Dr, stated opposition to the request citing transportation, land use.

William Rodgers, 16 La Mesa Dr, stated opposition to the request in line with prior comments.

Jyoti Canton, 2713 Ridge Path Dr, stated opposition to the request in line with prior comments.

Lauren Stevenson, 2709 Ridge Path Dr, stated they are not opposed to the request so long as the residential buffer is maintained and cited concerns with the development.

Kristen York, 2757 Ridgeforest Dr, asked about a pre-existing easement along the rear of the residential development.

Glen Young, 2749 Ridgeforest, stated opposition to the request citing surrounding neighborhood context and in line with prior comments.

Robert & Kelly Yanez, 2761 Ridgeforest Dr, stated opposition in line with prior comments.

Chair Edwards closed the public hearing.

Discussion followed on the difference between a Planned Development District and SUP and further clarification on lot dimensions and easements.

Chair Edwards asked if there were any further questions or a motion.

Motion by Vice Chair Laskowski, seconded by Commissioner Meyer, to recommend approval to City Council of the proposed rezoning to apply a Special Use Permit to allow a variety of residential and non-residential development on approximately 49.5 acres out of the A-103, Sarah Dewitt Survey, addressed at 514 & 720 W. Zipp Road, from “R-1A-6.6” Single Family District to allow uses allowed in the following zoning districts: “MU-B” High Intensity Mixed Use, “R-1A-4” Single-Family Small Lot Residential, “ZH-A” Zero Lot Line Home and “R-2A” Single and Two-Family Residential with conditions to extend the 125-foot wide R-

1A-4, ZH-A, and R-2A residential to the North East corner of 2705 Ridge Path Dr, and include a detention pond adjacent to the Ridgemont Subdivision and W Klein Rd, and to not allow windows or balconies on second story residences facing the Ridgemont subdivision. Motion carried (7-0-1) with Commissioner Tubb in opposition.

DRAFT

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS GRANTING A TYPE 2 SPECIAL USE PERMIT TO ALLOW A VARIETY OF RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT ON APPROXIMATELY 49.5 ACRES OUT OF THE A-103, SARAH DEWITT SURVEY, ADDRESSED AT 614 & 720 WEST ZIPP ROAD; 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 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 compatible 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 a variety of residential and non-residential development; and

WHEREAS, the requested rezoning is in accordance with Envision New Braunfels, the City's Comprehensive Plan; and

WHEREAS, the City Council desires to grant a Special Use Permit at 614 & 720 W. Zipp Road, to allow uses allowed in the following zoning districts: "MU-B" High Intensity Mixed Use. "R-1A-4" Single-Family Small Lot Residential, "ZH-A" Zero Lot Line Home and "R-2A" Single and Two-Family Residential; **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 tract of land as a "Special Use Permit" for the uses and conditions herein described:

Approximately 49.5 acres out of the A-103 Sarah Dewitt Survey, addressed at 614 & 720 West Zipp Road, as delineated on Exhibit "A" and described in Exhibit "B", attached.

SECTION 2

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

1. A master plan of the subject property shall include the location and extent of the base zoning district areas for its entirety.
2. The maximum building height within the “MU-B” High Intensity Mixed Use zoning district shall be 60 feet for non-residential and multifamily use.
3. A sidewalk that is at least 10 feet in width is required on the southwest side of Walnut Avenue. The sidewalk is to be separated from the roadway by a landscaping area of at least 7 feet in width (furnishing zone).
4. Street trees (1, minimum 3-inch diameter for every 40 feet of roadway frontage) are required to be planted in the furnishing zone. If street trees are not permitted within the furnishing zone due to utility easement restrictions, they must be planted no more than 10 feet from the edge of the required sidewalk. The street trees requirement fulfills the landscaping requirements under Section 144-5.3-1(b)(7)(i)(2), City of New Braunfels Code of Ordinances – *Street Frontage Trees and Shrubs*.
5. During the design phase of the extension of Walnut Avenue, if it is determined that the developer is to install landscaped medians, the medians will include code- and city spec-compliant irrigation for the City's long-term maintenance.
6. No balconies will be allowed to face Ridgemoor, Units 1, 2B or 4 on the second story of any structure located on property abutting Ridgemoor, Units 1, 2B or 4.
7. Only translucent or clerestory window types will be allowed to face Ridgemoor, Units 1, 2B or 4 on the second story of any structure located on property abutting Ridgemoor, Units 1, 2B or 4.
8. Development is to be allowed in compliance with the approved site plan, Exhibit “C”. All other zoning standards and requirements in Chapter 144, City of New Braunfels Code of Ordinances shall apply independently to each base zoning district.
9. The following list of uses, normally allowed in the “MU-B” High Intensity Mixed Use District, are removed from the base zoning district “MU-B” High Intensity Mixed Use:

Aircraft support and related services
Airport
All terrain vehicle (ATV) dealer/sales
Amphitheater
Archery range
Athletic fields
Auto body repair, garages
Auto glass repair/tinting
Auto interior shop / upholstery
Auto muffler shop
Auto or trailer sales rooms or yards
Auto or truck sales rooms or yards – new
Auto paint shop
Auto repair garage (general)
Bottling or distribution plants (milk)
Bottling works
Bowling alley/center
Broadcast station (with tower)
Bus barns or lots
Bus passenger stations
Commercial amusement concessions and facilities
Contractor's office/sales, with outside storage including vehicles

Dance hall / dancing facility (not to include a dancing studio for students)
Driving range
Electronic assembly / high tech manufacturing
Electroplating works
Engine repair/motor manufacturing re-manufacturing and/or repair
Fairground
Forge (hand)
Forge (power)
Freight terminal, rail/truck
Freight terminal, truck
Furniture manufacture
Galvanizing works
Golf course (public, private or miniature)
Heavy load (farm) vehicle sales/repair
Heliport
Home repair and yard equipment retail and rental outlets
Industrial laundries
Laboratory equipment manufacturing
Leather products manufacturing
Light manufacturing
Lumberyard

Lumberyard or building material sales
Machine shop
Manufactured home sales
Manufacturing and processes
Metal fabrication shop
Motorcycle dealer (primarily new/repair)
Moving, transfer, or storage plant
Outside storage (as primary use)
Portable building sales
Rappelling facilities
Rodeo grounds
RV park
RV/travel trailer sales
Sheet metal shop

Shooting gallery - Indoor
Sign manufacturing/painting plant
Storage – Exterior storage for boats and recreational vehicles
Storage in bulk
Studio for radio or television (with tower)
Tire sales (outdoors)
Truck or transit terminal (with outside storage)
Used or second hand merchandise/furniture store
Veterinary hospital with outside animal runs or kennels
Warehouse/office and storage/distribution center
Welding shop
Wholesale sales offices and sample room

SECTION 3

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

SECTION 4

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

SECTION 5

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

PASSED AND APPROVED: First reading this 14th day of June, 2021.

PASSED AND APPROVED: Second reading this 28th day of June, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

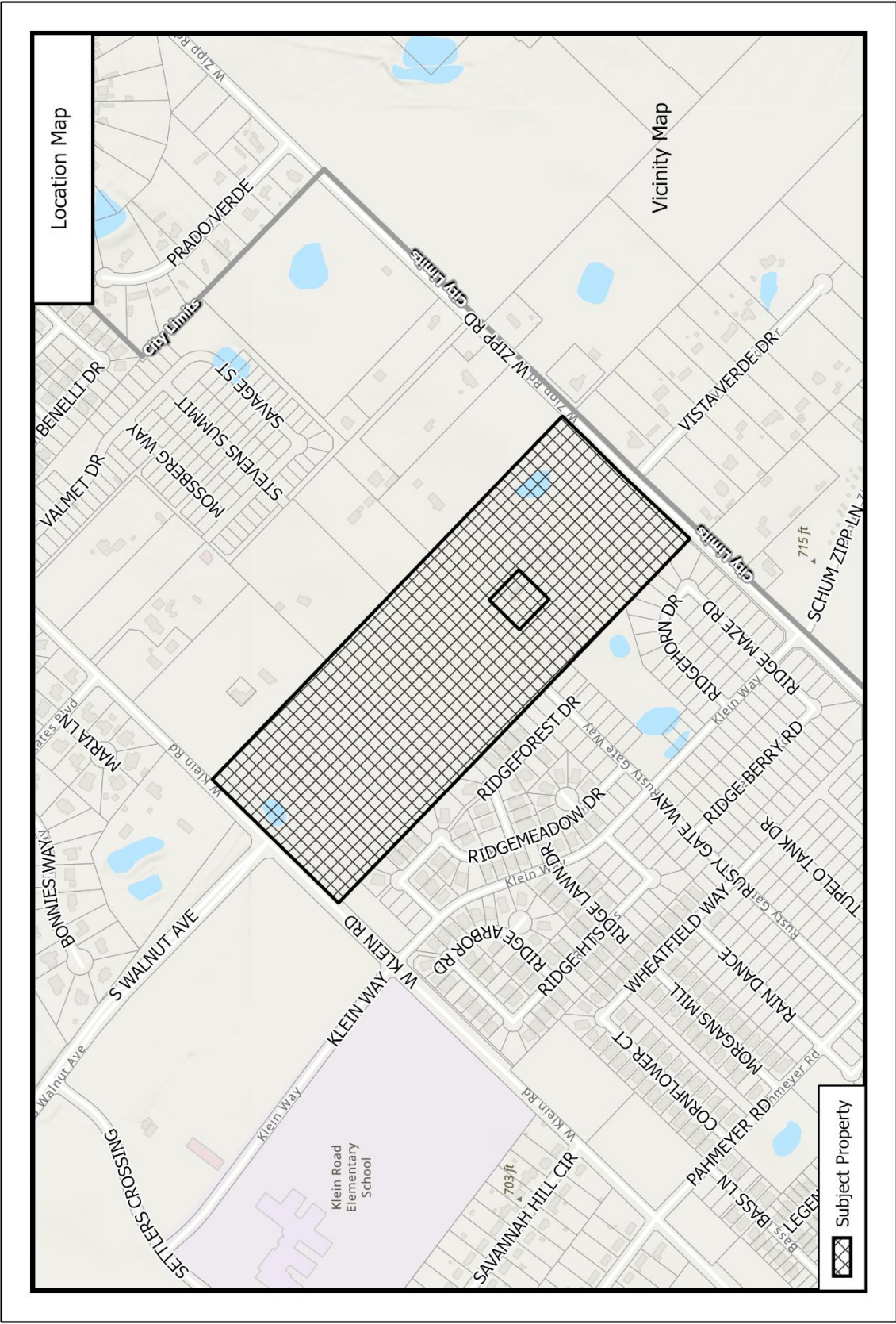
ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

EXHIBIT "A"



SUP20-267

SUP to allow mixed-use and residential development

Source: City of New Braunfels Planning
Date: 5/7/2021

DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of New Braunfels. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of New Braunfels, its officials or employees for any discrepancies, errors, or variances which may exist.



Path: \\chfs-1\Departments\Planning\ZoneChange-SUP-Replats\2020\SUP20-267 - 614 & 720 W

EXHIBIT "B"



290 S. Castell Avenue, Ste. 100
New Braunfels, TX 78130
(830) 625-8555
TBPE-FIRM F-10961
TBPLS FIRM 10153600

METES AND BOUNDS DESCRIPTION FOR A 49.359 ACRE TRACT OF LAND

Being a 49.359 acre tract of land located in the Sarah DeWitt Survey No. 48, Abstract No. 103, Guadalupe County, Texas, being the residue of a called 50.00 acre tract, recorded in Document No. 201899014908, Official Public Records, Guadalupe County, Texas, said 49.359 acre tract of land being more particularly described as follows:

BEGINNING at a found 1/2" iron pin with cap stamped "RPLS 4907" in the Southeast right of way line of W. Klein Road, for the Southernmost corner of a called 0.573 of an acre right of way tract to the city of New Braunfels, recorded in Document No. 2017015586 Official Public Records of Guadalupe County, Texas, same point lying in the Northeast line of Lot 1, Amending Plat of Ridgemont Unit 1, recorded in Volume 8, Pages 437-440, Map and Plat Records, Guadalupe County, Texas, and the Southwestern line of said 50.00 acre tract;

THENCE departing the Northeast line of Lot 1, Amending Plat of Ridgemont Unit 1, with the Southeastern line of said 0.573 of an acre tract and the Southeast right of way line of W. Klein Road, the following five (5) calls:

1. Along the arc of a curve to the right, having a radius of 2951.00 feet, an arc length of 40.03 feet and a chord bearing of N 44°47'42" E, a distance of 40.03 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
2. N 45°48'34" E, a distance of 268.53 feet to a set 1/2" iron pin with cap stamped "HMT" for a corner, and the beginning of a curve;
3. Along the arc of a curve to the left, having a radius of 3049.00 feet, an arc length of 79.80 feet and a chord bearing of N 44°48'29" E, a distance of 79.80 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
4. N 44°13'52" E, a distance of 257.51 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" for a corner;
5. N 43°43'08" E, a distance of 226.18 feet to a found 1/2" iron pin with cap stamped "RPLS 4907" in the Southeast right of way line of W. Klein Road, same point lying in the Southwest line of a called 10.243 acre tract, recorded in Volume 2073, Pages 47-49, Official Public Records, Guadalupe County, Texas, same point being the Northeastern corner of the aforementioned 0.573 of an acre tract, and the Northernmost corner of the herein described tract;

THENCE departing the Southeast right of way line of W. Klein Road, with the Southwest line of said 10.243 acre tract, continuing with the Southwest lines of a called 7.00 acre tract recorded in Volume 756, Pages 880-883, and in Volume 750, Pages 877-879, Official Public Records, Guadalupe County, Texas, the remainder of a called 11.478 acre tract recorded in Volume 756, Pages 880-883, Official Public Records, Guadalupe County, Texas, a called 2.84 acre tract, known as "Tract II", recorded in Document No. 2017003263, Official Public Records, Comal County, Texas, and a called 5.0 acre tract, known as "Tract I", recorded in Document No. 2017003263, Official Public Records, Comal County, Texas, S 46°00'14" E, passing a found 1/2" iron pin (no cap) at 1238.50, continuing a total distance of 2463.53 feet to a found 1" iron pipe in the Northwest right of way line of W. Zipp Road for the Southernmost corner of said 5.0 acre tract, and the Easternmost corner of the herein described tract;

EXHIBIT "B"



290 S. Castell Avenue, Ste. 100
New Braunfels, TX 78130
(830) 625-8555
TBPE-FIRM F-10961
TBPLS FIRM 10153600


THENCE with the Northwest right of way line of W. Zipp Road, S 43°50'10" W, a distance of 871.49 feet to a found 60D nail for an Eastern corner of Lot 901, Amending Plat of Ridgemont Unit 4, recorded in Volume 9, Page 38, Map and Plat Records, Guadalupe County, Texas, same point being the Southernmost corner of the herein described tract;

THENCE departing the Northwest right of way line of W. Zipp Road, with the Northeast line of the said Amending Plat of Ridgemont Unit 4, continuing with the Northeast line of Ridgemont Unit 2B, recorded in Volume 8, Pages 758-760, Map and Plat Records, Guadalupe County, Texas, and the Northeast line of the aforementioned Amending Plat of Ridgemont Unit 1, recorded in Volume 8, Pages 437-440, Map and Plat Records, Guadalupe County, Texas, N 46°00'49" W, a distance of 2476.11 feet to the POINT OF BEGINNING, containing 49.539 acres of land in Guadalupe County, Texas.

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

Written October 22, 2020.

Reference survey of said 49.359 acre tract of land prepared this same date.



Dorothy J. Taylor

Registered Professional Land Surveyor No. 6295

S:\Projects\Title Surveys\Gregory Tract\20-1068 BNDY - 614 W Zipp Road\20-1068 BNDY\M&B\49.539 AC..docx

10-22-20



7



6/14/2021

Agenda Item No. C)

PRESENTER:

Dawn Schriewer, Chief Financial Officer, New Braunfels Utilities (NBU)

SUBJECT:

Discuss and consider approval of an ordinance authorizing the issuance of “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021, pledging the net revenues of the City’s Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the sale and issuance of said Bonds to authorized City and Systems officials and providing an effective date.

DEPARTMENT: New Braunfels Utilities (NBU)

COUNCIL DISTRICTS IMPACTED: All districts

BACKGROUND INFORMATION:

The New Braunfels Utilities (“NBU”) Board of Trustees, in its June 25, 2020 Board Meeting, reviewed and approved NBU’s Fiscal Year 2021 Budget and Five Year Financial and Operating Plan through Fiscal Year 2025. At the joint NBU and City Council workshop on October 5, 2020, NBU staff reviewed and discussed this plan with the City Council. In order to accomplish the operating and capital goals set out in the plan, it required a comprehensive strategy of obtaining appropriate (i) rates and (iii) short-term and/or long-term financings. The first goal of obtaining the necessary rates was accomplished on October 26, 2020 when the City Council approved a three-year rate plan for water, wastewater, and electric services. This agenda item is in regard to the second part of this comprehensive strategy - the bond financing requirements necessary to complete the capital projects included in the plan.

The Series 2021 bond issuance includes the refunding of up to \$74.75 million in commercial paper notes. NBU staff has determined that refunding the outstanding commercial paper notes will provide the necessary capacity to fund the planned capital expenditures. The refunding of the outstanding commercial paper notes adheres to NBU’s Financial Policy, which states that NBU will refund the outstanding commercial paper notes with long-term debt once the authorized commercial paper amount is fully utilized or if it is determined that market conditions are no longer favorable for the issuance and remarketing of commercial paper notes. The refunding of the commercial paper notes will allow NBU to again utilize the \$75 million in commercial paper capacity and to continue to benefit from access to funds at the usually lower short-term interest repayment rates associated with a commercial paper program.

The NBU Board of Trustees, at its May 25, 2021 Board Meeting, authorized NBU staff, financial advisor and bond counsel to begin the bond offering process and preparation of documents relating to the issuance of up to \$74.75 million in revenue refunding bonds.

The City is a qualified issuer under Government Code Chapter 1371 which allows the delegation of the authority by the City Council to finalize the bond transaction within certain parameters. Section 1207.007 of the Government Code allows for the parameter delegation of the refunding component of the bond issue. The approval to issue bonds under these authorities would set certain parameters, such as (i) the maximum original principal amount of \$74,750,000, (ii) a maximum maturity date that would not exceed July 1, 2051, and (iii) a coupon interest rate that would not exceed 6%. If all of these parameters are met, then the ultimate final approval of pricing would be delegated to certain appointed officials, such as the City Manager and CEO of NBU. This process eliminates the strict deadline (timeline) of having to coordinate pricing to the date of a City Council meeting. This gives the City and NBU the flexibility to time its actions in the market by adjusting the pricing in response to potential positive market developments or to avoid adverse market developments. The City Manager would be fully advised once the financing is completed. This approach also has the advantage of not requiring an additional separate City Council meeting to approve the bond issue. This parameter bond process has been successfully utilized in prior NBU bond offerings and provides flexibility and the opportunity to achieve the best pricing of the bonds.

ISSUE:

N/A

FISCAL IMPACT:

There is no direct impact to the City of New Braunfels from the issuance of the bonds described above.

RECOMMENDATION:

NBU staff recommend approval of the ordinance.

THE STATE OF TEXAS	\$
	\$
COUNTIES OF COMAL AND GUADALUPE	\$
	\$
CITY OF NEW BRAUNFELS	\$

1. On the 14th day of June, 2021, a regular meeting of the City Council of the City of New Braunfels, Texas was held at a meeting place within the City; the duly constituted members of the Council being as follows:

and all of said persons were present at said meeting, except the following: _____.
Among other business considered at said meeting, the attached ordinance entitled:

AN ORDINANCE authorizing the issuance of “CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2021”; pledging the net revenues of the City’s Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security, sale and delivery of said Bonds; establishing procedures for the sale and delivery of said Bonds; delegating matters relating to the sale and issuance of said Bonds to authorized City and Systems officials and providing an effective date”

all as shown in the official Minutes of the Council for the meeting held on the aforesaid date.

2. The attached ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the City Council of said City on the date of the aforesaid meeting are those persons shown above and, according to the records of my office, advance notice of the time, place and purpose of the meeting was given to each member of the Council; and that said meeting, and the deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the above entitled ordinance, was posted and given in advance thereof in compliance with the provisions of Texas Government Code, Chapter 551, as amended.

IN WITNESS WHEREOF, I have hereunto signed my name officially and affixed the seal of said City, this the 14^h day of June, 2021.

City Secretary, City of New Braunfels, Texas

(City Seal)

CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

I, the undersigned, _____, Certified Public Accountant, DO
HEREBY CERTIFY AND REPRESENT:

1. The gross revenues, maintenance and operating expenses and net earnings of the Waterworks, Sanitary Sewer and Electric Light and Power System (the "System") of the City of New Braunfels, Texas, for the fiscal year ending July 31, 2020, according to the books and records of the City, are as follows:

<u>Gross Revenues</u>	<u>Operation and Maintenance Expenses</u>	<u>Net Earnings</u>
\$ _____	\$ _____	\$ _____

2. The Net Earnings of the System (all income and revenues derived from the operation and ownership of the System for such period, including income and earnings from the investment of moneys in any special fund created for the payment and security of the bonds hereinafter identified, less maintenance and operating expenses, but not deducting depreciation or other expenditures which under generally accepted accounting principles, should be charged to capital expenditures) for the fiscal year ending July 31, 2020 are equal to at least 1.40 times the average annual requirement for the payment of principal of and interest on the outstanding "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE BONDS, SERIES 2004," dated January 15, 2004, "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE BONDS, SERIES 2015," dated January 15, 2015, "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE AND REFUNDING BONDS, SERIES 2016," dated March 1, 2016, "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE BONDS, SERIES 2018," dated April 1, 2018, "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2020," dated May 1, 2020 and the proposed "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2021," dated July 1, 2021.

Dated: _____, 2021

Certified Public Accountant

GENERAL CERTIFICATE

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

We, the undersigned, City Secretary of the City of New Braunfels, Texas, and Chief Executive Officer of New Braunfels Utilities, DO HEREBY CERTIFY, with respect to the "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021" dated July 1, 2021 (the "Bonds"), as follows:

1. Relative to Nonencumbrance. Save and except for the pledge of the income and revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of (i) the principal of and interest to become due with respect to the outstanding (a) "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2004," dated January 15, 2004, (b) "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2015," dated January 15, 2015, (c) "City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2016," dated March 1, 2016, (d) "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2018," dated April 1, 2018, (e) "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019A" and "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019B" in the maximum principal amount of \$75,000,000, (f) "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2020," dated May 1, 2020, (g) "City of New Braunfels, Texas, Utility System Program Notes, Taxable Series 2021" in the maximum principal amount of \$100,000,000 (hereinafter collectively referred to as the "Outstanding Obligations") and (h) the proposed Bonds, and (ii) various contracts for the purchase of electric power, said income and revenues of said Systems have not been pledged or hypothecated in any other manner or for any other purpose; and the Outstanding Obligations, the Bonds and the contracts mentioned above evidence the only liens, encumbrances or indebtedness of said Systems or against the income and revenues of such Systems.

2. Relative to No-Default.

(a) The City is not now in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems, and

(b) All payments into all special funds or accounts created and established solely for the payment and security of any outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems have been duly made and the amounts on deposit in such special funds or accounts are the amounts now required to be deposited therein.

3. Relative to Utility Properties. The City secures its water from eleven (11) wells and the Guadalupe River and purchases its electric power from various providers. As of the date hereof, no question is pending and no proceedings of any nature have been instituted in any manner questioning the City's right and title to its utility properties or its authority to operate the same.

4. Relative to Rates and Charges. The current monthly rates and charges for services provided by the City's Waterworks, Sanitary Sewer and Electric Light and Power

Systems are as shown in **Exhibit A**, which is incorporated herein by reference and made a part of this certificate for all purposes.

5. Relative to Income and Revenues. The following is a schedule of the gross receipts, operating expenses and net revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems for the years stated:

<u>Fiscal Year Ending 7/31</u>	<u>Gross Receipts (\$)</u>	<u>Operating Expenses (\$)</u>	<u>Net Revenues (\$)</u>
2016	142,381,282	107,170,849	35,210,433
2017	142,201,382	104,323,542	37,877,840
2018	154,625,115	117,386,777	37,238,338
2019	159,495,987	119,313,358	40,182,629
2020			

6. Relative to Debt Service Requirements. That a debt service requirement schedule for the City's indebtedness payable from the net revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems, is attached hereto as **Exhibit B** and made a part of this certificate for all purposes.

7. Relative to City Officials. Certain duly qualified and acting officials of the City are as follows:

RUSTY BROCKMAN	MAYOR
JUSTIN MEADOWS	MAYOR PRO TEM
ROBERT CAMARENO	CITY MANAGER
CAITLIN KROBO	CITY SECRETARY
VALERIA ACEVEDO	CITY ATTORNEY

8. Relative to Incorporation. The City is incorporated under the general laws of the State of Texas, and is operating under the Home Rule Amendment to the Texas Constitution, Section 5, Section XI, as amended in 1912; pursuant to a City Charter adopted at an election held on November 22, 1966. The City Charter has not been amended in any respect since the amendment(s) adopted at the election held on May 7, 2005.

9. Relative to Incumbency of Utility Board. The duly appointed, qualified and acting members and officers of the Board of Trustees of New Braunfels Utilities and administrators of the City's said Systems are as follows:

Board of Trustees:

JOHN A. HARRELL	PRESIDENT
DR. JUDITH DYKES-HOFFMANN	VICE PRESIDENT
WAYNE PETERS	TRUSTEE
BOB GRAY	TRUSTEE
RUSTY BROCKMAN	TRUSTEE

Officers (not on the Board of Trustees):

IAN TAYLOR	CHIEF EXECUTIVE OFFICER
DAWN SCHRIEWER	CHIEF FINANCIAL OFFICER

10. Relative to Execution of Contracts. Prior to the execution of certain contracts related to the issuance of the Bonds, if required by the provisions of Texas Government Code, Section 2252.908, the City received a completed disclosure of interested parties form and certification of filing (collectively a "Form 1295") from the business entity contracting with the City pursuant to the requirements of Texas Government Code Section 2252.908 and rules promulgated thereunder by the Texas Ethics Commission (the "TEC"). If required, not later than the 30th day after the date the contract for which a Form 1295 was received by the City, the City has or will notify the TEC, in an electronic format prescribed by the TEC, of the receipt of such Form 1295.

11. Relative to Refunded Commercial Paper Notes. \$[] (consisting of \$[] of proceeds of the Bonds and \$[] of other lawfully available funds of New Braunfels Utilities) shall be used to pay the principal of and interest on the \$[] principal amount of the "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019A" and \$[] principal amount of the "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019B" being refunded by the Bonds.

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WITNESS OUR HANDS AND THE SEAL OF THE CITY OF NEW BRAUNFELS,
TEXAS, this _____.

City Secretary, City of New Braunfels, Texas

Chief Executive Officer, New Braunfels Utilities

(City Seal)

EXHIBIT A

Current Rates and Charges of New Braunfels Utilities

EXHIBIT B

Debt Service Schedule for New Braunfels Utilities Outstanding Debt and the Bonds

ORDINANCE NO. _____

AN ORDINANCE authorizing the issuance of "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2021"; pledging the net revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security, sale and delivery of said Bonds; establishing procedures for the sale and delivery of said Bonds; delegating matters relating to the sale and issuance of said Bonds to authorized City and Systems officials and providing an effective date.

WHEREAS, the City Council of the City of New Braunfels, Texas (the "City") has heretofore authorized by ordinance and provided for the issuance of "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019A" and "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019B" (collectively, the "Commercial Paper Notes"); and

WHEREAS, the Council hereby finds and determines that the Commercial Paper Notes in the aggregate principal amount set forth in the Pricing Certificate should be refunded and refinanced into long term obligations at this time (such Commercial Paper Notes to be refunded being hereinafter collectively referred to as the "Refunded CP Notes") for the purpose of replacing such Refunded CP Notes with long-term fixed rate debt, and further finds and determines that the issuance of the bonds herein authorized is in the best interests of the City and that the manner in which the refunding of the Refunded CP Notes is being executed does not make it practicable to make the determination required by Texas Government Code, Section 1207.008(a)(2) in connection with the Refunded CP Notes; and

WHEREAS, pursuant to the provisions of Texas Government Code, Chapter 1207, as amended, the City Council is authorized to issue refunding bonds and deposit the proceeds of sale directly with the place of payment for the Refunded CP Notes, as appropriate, or other authorized depository, and such deposits, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded CP Notes; and

WHEREAS, the City shall by this Ordinance, in accordance with the provisions of Texas Government Code, Section 1207.007, as amended, delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount and certain other specified terms of the Bonds to be issued by the execution of a pricing certificate (the "Pricing Certificate"), negotiate the terms of sale thereof and determine the principal amount of Refunded CP Notes to be refunded; and

WHEREAS, the City Council hereby further finds and determines that all of such revenue bonds can and should be issued on a parity with the outstanding and unpaid revenue bonds of the City (hereinafter called and defined as "Previously Issued Bonds") payable from and secured by a parity lien on and pledge of the Net Revenues of the System in that (i) the Chief Executive Officer of the System (as hereinafter defined) will execute a certificate stating (a) that, to the best of his knowledge and belief, the City is not now in default as to any covenant, obligation or

agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System and (b) payments into all special funds or accounts created and established for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been made and the amounts on deposit in such special funds or accounts are the amounts now required to be on deposit therein; (ii) the bonds herein authorized shall be scheduled to mature as to principal on July 1 in each year; (iii) the City has secured or can secure a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the "Net Earnings" of the System, for the last completed Fiscal Year, are at least equal to 1.40 times the average annual requirement for the payment of principal of and interest on all outstanding "Bonds Similarly Secured" (hereinafter defined) after giving effect to the issuance of the bonds herein being issued and (iv) this ordinance shall provide for (a) additional amounts to be deposited in the "Bond Fund" to pay principal and interest on the bonds herein authorized and (b) the amount to be accumulated in the Reserve Fund to be equal to not less than the average annual requirement for the payment of principal of and interest on all "Bonds Similarly Secured" to be outstanding after the issuance of the bonds herein authorized and any additional amount to be maintained therein shall be accumulated within 60 months from the date of the bonds herein authorized are delivered; now, therefore,

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

SECTION 1: Authorization - Designation- Principal Amount-Purpose. Revenue refunding bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount set forth in the Pricing Certificate, to be designated and bear the title "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2021" (hereinafter referred to as the "Bonds"), for the purpose of providing funds for (i) the discharge and final payment of certain outstanding obligations of the City (identified in the preamble hereof and finally identified in the Pricing Certificate and referred to as the "Refunded CP Notes"), and (ii) paying costs of issuance, in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapters 1207 and 1371 and Section 1502.051(c), as amended.

SECTION 2: Fully Registered Obligations - Bond Date - Authorized Denominations - Stated Maturities - Interest Rate(s). The Bonds shall be issued as fully registered obligations only, shall be dated as provided in the Pricing Certificate (the "Bond Date"), shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on July 1 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the details set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date(s) specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on January 1 and July 1 in each year, commencing on the date set forth in the Pricing Certificate, until maturity or earlier redemption.

SECTION 3: Delegation of Authority to Pricing Officers. (a) As authorized by Chapters 1207 and 1371, Texas Government Code, as amended, the City Manager of the City and the Chief Executive Officer or the Chief Financial Officer of the System (any two, jointly, the "Pricing

Officer”) is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining the aggregate principal amount of the Commercial Paper Notes to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Bonds will accrue, the interest payment dates, the record date, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the designation of an escrow agent satisfying the requirements of Chapter 1207, if any, the terms of any bond insurance applicable to the Bonds, including any modification of the continuing disclosure undertaking contained in Section 48 hereof as may be required by the purchasers of the Bonds in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

- (i) the aggregate original principal amount of the Bonds shall not exceed \$74,750,000;
- (ii) the maximum interest rate for the Bonds shall not exceed 6.00%; and
- (iii) the maximum maturity date of the Bonds shall not exceed July 1, 2051.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to make the selection of the municipal bond insurance company for the Bonds (the “Insurer”) and to obtain from the Insurer a municipal bond insurance policy in support of the Bonds. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to effect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date hereof. The Bonds shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the “Purchasers”), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the “Holders”) appearing on the registration and transfer books maintained by the Paying

Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas to serve as the initial Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement (the "Paying Agent/Registrar Agreement"), substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The President of the Board of Trustees and Secretary to the Board of Trustees or the City Manager, the Chief Executive Officer of the System or the Chief Financial Officer of the System are each hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or the redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar initially in Salt Lake City, Utah or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose name appears in the Security Register at the close of business on the Record Date (the 15th day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 5: Registration - Transfer - Exchange of Bonds-Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every owner of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond(s) authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued in any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class, postage prepaid to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 32 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6: Book-Entry Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry Only" securities clearance, settlement and transfer system provided by The Depository Trust Company (DTC), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation, by and between the City and DTC (the "Depository Agreement").

In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount shown in the Pricing Certificate with principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1

and upward (hereinafter called the "Initial Bond(s)") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond(s) shall be printed, lithographed, or engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bond.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2021

Bond Date:

Interest Rate:
_____ %

Stated Maturity:
July 1, 20 _____

CUSIP NO.

Registered Owner:

Principal Amount:

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and political subdivision in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the [Bond Date][date of the initial delivery of the Bonds] at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on January 1 and July 1 in each year, commencing _____ 1, _____ until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the 15th day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds"), for the purpose of providing funds for (i) the discharge and final payment of a portion of the City's outstanding commercial paper notes (the "Refunded CP Notes") and (ii) costs of issuance, in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapters 1207 and 1371 and Section 1502.051(c), as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Bond Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds due July 1, 20__		Term Bonds due July 1, 20__	
<u>Redemption Date</u>	<u>Principal Amount</u>	<u>Redemption Date</u>	<u>Principal Amount</u>

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.】

The Bonds maturing on and after July 1, 20__, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on July 1, 20__, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of the Bonds to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such

limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are special obligations of the City payable solely from, and, together with outstanding Previously Issued Bonds (identified and defined in the Ordinance), equally and ratably secured by a first lien on and pledge of the Net Revenues (as defined in the Ordinance) of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems (the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Net Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from, and, together with the Bonds and Previously Issued Bonds, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the payment of the Bonds; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Net Revenues of the System as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF NEW BRAUNFELS, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER ()
OF PUBLIC ACCOUNTS () REGISTER NO. _____
THE STATE OF TEXAS ()

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(Seal)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in Salt Lake City, Utah is the Designated Payment/Transfer Office for this Bond.

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
Houston, Texas, as Paying Agent/Registrar

By: _____
Authorized Signature
Amegy Bank Division

Registration Date:

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)

(Social Security or other identifying number _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2021

Bond Date:

Registered Owner:

Principal Amount:

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, from the revenues hereinafter identified, the Principal Amount hereinabove stated on July 1 in each of the years and in principal installments in accordance with the following schedule:

Year of
Stated Maturity

Principal
Amount

Interest
Rates

(Information to be inserted from the Pricing Certificate).

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid Principal Amount hereof from the [Bond Date][date of the initial delivery of the Bonds] at the per annum rates of interest specified above computed on the basis of a 360-

day year of twelve 30-day months; such interest being payable on January 1 and July 1 in each year, commencing _____ until maturity or prior redemption. Principal installments of this Bond are payable in the year of maturity or on a redemption date to the registered owner hereof by _____, _____, Texas (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated office initially in _____, _____ or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the 15th day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10: Definitions. For all purposes of this Ordinance and in particular for clarity with respect to the issuance of the Bonds herein authorized and the pledge and appropriation of revenues to the payment of the Bonds, the following definitions are provided:

(a) The term "Additional Bonds" shall mean the additional parity revenue obligations the City reserves the right to issue in accordance with the terms and conditions prescribed in Section 22 hereof.

(b) The term "Board of Trustees" shall mean the "Board of Trustees of the New Braunfels Utilities" which, pursuant to Texas Government Code, Section 1502.070, et seq., the Charter of the City of New Braunfels, the ordinances authorizing the issuance of the Previously Issued Bonds and this Ordinance, is responsible for the complete management and control of the System.

(c) The term "Bonds" shall mean the "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021", dated as provided in the Pricing Certificate and authorized by this Ordinance.

(d) The term "Bonds Similarly Secured" shall mean the Previously Issued Bonds, the Bonds and Additional Bonds.

(e) The term "Commercial Paper Notes" shall mean collectively the "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019A" and "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019B" in the aggregate principal amount of not to exceed \$75,000,000.

(f) The term "Fiscal Year" shall mean the twelve-month financial accounting period used for the operations of the System now ending on July 31 of each year; provided, however,

the City Council, by passage of an ordinance, may change the Fiscal Year to another period of not less than twelve (12) calendar months.

(g) Unless otherwise provided in the Pricing Certificate, the term "Government Obligations" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

(h) The term "Program Notes" shall mean the "City of New Braunfels, Texas, Utility System Program Notes, Taxable Series 2021" in the principal amount not to exceed \$100,000,000.

(i) The term "Net Revenues" shall mean the gross revenues of the System, less current expenses of operation and maintenance, including all salaries, labor, materials, repairs and extensions necessary to render efficient service, provided, however, that only such repairs and extensions as in the judgment of the Board of Trustees, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any bonds payable from and secured by a lien on the Net Revenues of the System shall be deducted in determining "Net Revenues". Payments pursuant to contracts for the purchase of power and energy, supply of water and other materials, goods or services for the System to the extent authorized by law and the provisions of such contracts are also included and defined as operating and maintenance expenses of the System.

(j) The term "Outstanding" shall mean when used in this Ordinance with respect to Bonds or Bonds Similarly Secured means, as of the date of determination, all Bonds theretofore issued and delivered, except:

(1) those Bonds or Bonds Similarly Secured cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds or Bonds Similarly Secured paid or deemed to be paid in accordance with the provisions of Section 30 hereof; and

(3) those Bonds or Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 32 hereof or similar provisions with respect to Bonds Similarly Secured.

(k) The term “Previously Issued Bonds” shall mean the outstanding and unpaid bonds of the following series:

(1) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2004”, dated January 15, 2004, and issued in the original principal amount of \$10,337,595.90,

(2) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2015,” dated January 15, 2015, and issued in the original principal amount of \$26,870,000,

(3) “City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2016,” dated March 1, 2016, and issued in the original principal amount of \$62,235,000,

(4) “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2018,” dated April 1, 2018, and issued in the original principal amount of \$45,200,000, and

(5) “City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2020,” dated May 1, 2020, and issued in the original principal amount of \$88,100,000.

(l) The term “System” shall mean the City’s Waterworks, Sanitary Sewer and Electric Light and Power Systems, and shall be construed to mean all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City of New Braunfels through purchase, construction or otherwise, and used in connection with said System, and in any wise appertaining thereto, whether situated within or without the limits of said City.

SECTION 11: Pledge. The City hereby covenants and agrees that the Net Revenues of the System, with the exception of those in excess of the amounts required for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged, equally and ratably, to the payment and security of the Previously Issued Bonds, the Bonds, and Additional Bonds, if issued, including the establishment and maintenance of the special funds created and established for the payment and security thereof, all as hereinafter provided, and it is hereby ordained that the Bonds Similarly Secured, and the interest thereon, shall constitute a first lien on the Net Revenues of the System in accordance with the terms and provisions hereof and be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act; all as provided in Chapter 1208 of the Texas Government Code.

Texas Government Code, Section 1208, as amended, applies to the issuance of the Bonds and the pledge of the Net Revenues of the System granted by the City under this Section 11, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Net Revenues of the System granted by the City under this Section 11 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 12: Rates and Charges. For the benefit of the Holders of the Bonds and in addition to all provisions and covenants in the laws of the State of Texas and in this Ordinance, the City Council and Board of Trustees agree and covenant, while any of the Bonds are outstanding, to establish and maintain rates and charges for facilities and services afforded by the System that are reasonably expected on the basis of available information and experience and with due allowance for contingencies to provide revenues in each Fiscal Year sufficient to pay:

(a) all operating, maintenance, depreciation, replacement, betterment and interest charges and other costs incurred in the maintenance and operation of the System as referenced in Section 10(h) or required by statute to be a first claim on and charge against the revenues of the System, and

(b) the principal of and interest on the Previously Issued Bonds and the Bonds and make all required payments to the special funds created for the payment and security of the Bonds Similarly Secured.

SECTION 13: Special Fund Designations. The City acting through the Board of Trustees covenants and agrees that the following special funds or accounts heretofore created for the payment and security of Bonds Similarly Secured are hereby reaffirmed and shall continue to be maintained while the Bonds are Outstanding, to wit:

(a) Special Utility System Revenue Bond Interest and Sinking Fund, hereinafter called the "Bond Fund", which Fund is and shall continue to be maintained at an official depository bank of the City selected by the Board of Trustees, and moneys deposited in this Fund shall be used to pay principal of and interest on the Bonds Similarly Secured when and as the same becomes due and payable.

(b) Special Utility System Revenue Bond Reserve Fund, hereinafter called "Reserve Fund", which Fund is and shall continue to be maintained at an official depository bank of the City selected by the Board of Trustees, and moneys deposited in this Fund shall be used to pay principal of and/or interest on the Bonds Similarly Secured falling due at any time when moneys in the Bond Fund are insufficient for such purpose and to retire the last of the Bonds Similarly Secured that are outstanding.

SECTION 14: Utility System Fund. The City hereby covenants and agrees that all revenues of every nature derived from the operation and ownership of the System shall be kept separate and apart from other funds of the City, and, in accordance with the ordinances authorizing the issuance of the Previously Issued Bonds, all such revenues of the System, as collected and received by the Board of Trustees, shall be deposited into an account designated the "Utility System Fund" (heretofore created and established and hereinafter called "System Fund"), which account is and shall continue to be kept and maintained at an official depository bank of the City and the Board. All revenues in the System Fund shall be pledged and appropriated to the extent required for the following uses and in the order of precedence shown:

FIRST: To the payment of all necessary and reasonable maintenance and operation expenses of the System, as referenced in Section 10(g) hereof or required by statute to be a first charge on and claim against the revenues of the System.

SECOND: To the payment of the amounts required to be deposited in the special Funds created and maintained for the payment and security of the Bonds Similarly Secured, including the establishment and maintenance of the Required Reserve (hereinafter defined in Section 16 hereof) in accordance with the provisions of the ordinances authorizing the issuance of Bonds Similarly Secured.

THIRD: To the payment of other obligations or indebtedness payable from and secured by a lien on and pledge of the Net Revenues of the System that is junior and subordinate to the lien and pledge securing the payment of the Bonds Similarly Secured.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used by the Board of Trustees for any purpose now or hereafter permitted by law, including a transfer to the City's general fund as permitted by Texas Government Code, Section 1502.058, as amended.

SECTION 15: Bond Fund. In addition to the deposits to the Bond Fund for the payment of the Previously Issued Bonds, the City hereby covenants and agrees, and the Board of Trustees is hereby directed, to deposit into the Bond Fund prior to each principal and interest payment date for the Bonds from the Net Revenues of the System a sum equal to one hundred percent (100%) of the amount required to fully pay the interest on and principal of the Bonds then falling due, such deposits to pay maturing principal and accrued interest on the Bonds to be made in substantially equal monthly amounts on or before the last day of the month beginning the month the Bonds are delivered to the initial purchasers.

The monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made until such time as (i) the total amount on deposit in the Bond Fund and Reserve Fund is equal to the amount required to pay all outstanding Bonds Similarly Secured or (ii) the Bonds are no longer Outstanding.

Accrued interest, if any, received from the purchaser of the Bonds shall be deposited in the Bond Fund, and may be taken into consideration and reduce the amount which would otherwise be required to be deposited in the Bond Fund from the Net Revenues of the System.

SECTION 16: Reserve Fund. The City hereby covenants and agrees, and the Board of Trustees is hereby directed, to accumulate, and, when accumulated, to continuously maintain in the Reserve Fund an amount equal to at least the average annual principal and interest requirements of the Bonds Similarly Secured (calculated on a Fiscal Year basis as of the date the last series of Bonds Similarly Secured outstanding were delivered), which amount is hereby referred to as the "Required Reserve".

In accordance with the provisions of the ordinances authorizing the issuance of the Previously Issued Bonds, by reason of the issuance of the Bonds, the total amount required to be accumulated and maintained in the Reserve Fund shall be as provided in the Pricing Certificate, which amount shall be equal to not less than the Required Reserve. Any amount due to the Reserve Fund by reason of the issuance of the Bonds may be deposited to the Reserve Fund as provided in the Pricing Certificate, including the accumulation of the Required Reserve amount over a period of not to exceed sixty months from the date of the Pricing Certificate.

Subject to the provisions of the preceding paragraph, so long as the money and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but when and if the Reserve Fund at any time contains less than the Required Reserve (after giving effect to the accumulation of the Required Reserve as provided in the Pricing Certificate), the City covenants and agrees, and the Board of Trustees is hereby directed, to cure the deficiency in the Required Reserve within twelve months from the date the deficiency in funds occurred with available Net Revenues of the System pledged to the payment of the Bonds, and the City, acting through the Board of Trustees, hereby covenants and agrees that, subject to the required payments to the Bond Fund for Bonds Similarly Secured, the Net Revenues of the System remaining in the System Fund shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amount, as required by the terms of this Ordinance and any other ordinance pertaining to Bonds Similarly Secured.

The City, acting through the Board of Trustees, may, at its option, withdraw all surplus in the Reserve Fund in excess of the Required Reserve and deposit the same in the System Fund.

To the extent permitted by law, the City expressly reserves the right at any time to satisfy all or any part of the Required Reserve by obtaining for the benefit of the Reserve Fund one or more Reserve Fund Surety Policies (a "Reserve Fund Surety Policy"). In the event the City elects to substitute a Reserve Fund Surety Policy for any funded amounts in the Reserve Fund, it may apply any bond proceeds thereby released, to the greatest extent permitted by law, to any of the purposes for which such funds may lawfully be applied, including the payment of debt service on the Bonds Similarly Secured. A Reserve Fund Surety Policy shall be an insurance policy or other similar guarantee in a principal amount equal to the portion of the Required Reserve to be satisfied which is issued by a financial institution or insurance company or other entity that is rated either for the long term unsecured debt of the issuer of such surety bond or for obligations insured, secured or guaranteed by such issuer have a rating in the highest letter category by one or more major municipal securities rating or evaluation services. The premium for any such policy may be paid from bond proceeds or other funds of the City lawfully available for such purpose. Any reimbursement of amounts drawn against a Reserve Fund Surety Policy shall be limited to the amounts actually paid under such policy, and such right to reimbursement shall never constitute a separate obligation independent of the Bonds.

SECTION 17: Payment of Bonds. While any of the Bonds are Outstanding, the Board of Trustees shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Bond Fund and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity, such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the business day next preceding the date of payment for the Bonds. The Paying Agent/Registrar shall cancel or destroy all paid Bonds, and furnish the Board of Trustees with an appropriate certificate of cancellation or destruction.

SECTION 18: Investment of Funds. Moneys in any Fund required to be maintained pursuant to this Ordinance may, at the option of the Board of Trustees, be placed in time deposits or certificates of deposit secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type authorized by the laws of the State of Texas for the security of public funds insofar as the System Fund is concerned and by obligations of the type hereinafter described insofar as the Bond Fund and Reserve Fund are concerned, or be invested, in direct obligations of the United States of America, obligations guaranteed or insured by the United

States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Farmers Home Administration, Federal Home Loan Mortgage Association, Small Business Administration, or Federal Housing Association or such other investments as are permitted by the investment policies of the Board of Trustees; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times. Such investments shall be valued in terms of current market value as of a certain date within 60 days of the close of the Fiscal Year. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the Bond Fund. When the Required Reserve is fully established, all interest and interest income derived from deposits and investments in the Reserve Fund immediately shall be credited and deposited in the System Fund as the same are received, otherwise such interest and interest income shall remain in the Reserve Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds Similarly Secured.

SECTION 19: Deficiencies in Funds. If in any month the City acting through the Board of Trustees shall, for any reason, fail to pay into the Bond Fund and Reserve Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into said Funds from the first available and unallocated Net Revenues of the System in the following month or months and such payments shall be in addition to the amounts hereinabove provided to be otherwise paid into said Funds during such month or months.

SECTION 20: Excess Revenues. Any Net Revenues of the System in excess of those required to fully establish and maintain the special funds created for the payment and security of the Bonds Similarly Secured may be used for the redemption of the Bonds Similarly Secured, or may be appropriated and used by the Board of Trustees for any purpose now or hereafter permitted by law, including a transfer to the City's general fund as permitted by Texas Government Code, Section 1502.058, as amended; provided, such transfer of money to the general fund of the City does not impair the ability of the Board of Trustees to make subsequent deposits to the special Funds created for the payment and security of the Bonds Similarly Secured.

SECTION 21: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds and as otherwise prescribed herein.

SECTION 22: Issuance of Additional Parity Bonds. The City hereby reserves the right hereafter to issue additional parity obligations (herein called "Additional Bonds") payable from and, together with the Previously Issued Bonds and the Bonds, equally secured by a parity first lien on and pledge of the Net Revenues of the System, and the Previously Issued Bonds, the Bonds and Additional Bonds shall be in all respects of equal dignity. The Additional Bonds may be issued in one or more installments; provided, however, that none shall be issued unless and until the following conditions have been met:

(a) The Chief Executive Officer (or other official having primary responsibility for the fiscal affairs of the System) shall have executed a certificate stating (i) that the City is not then in default as to any covenant, obligation or agreement contained in any ordinance or other

proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System and (ii) payments into all special funds or accounts created and established solely for the payment and security of any outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been duly made and that the amounts on deposit in such special funds or accounts are the amounts then required to be deposited therein.

(b) The Additional Bonds shall be scheduled to mature or be payable as to principal on July 1 or January 1 (or both) in each year the same are to be outstanding or during the term thereof.

(c) The City has secured from a Certified Public Accountant a certificate or opinion to the effect that, according to the books and records of the City, the Net Earnings of the System for the preceding Fiscal Year or for any 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the Additional Bonds is adopted are at least equal to one and forty hundredths (1.40) times the average annual requirement for the payment of principal of and interest on all outstanding Bonds Similarly Secured after giving effect to the Additional Bonds then proposed. The term "Net Earnings" as used herein, shall mean all income and revenues derived from the operation and ownership of the System (including income and earnings from the investment of moneys in any special fund created for the payment and security of the Bonds Similarly Secured) less expenses for the maintenance and operation thereof, but not deducting depreciation or other expenditures which, under generally accepted accounting principles, should be charged to capital expenditures.

(d) The ordinance authorizing the issuance of the Additional Bonds provides for deposits to be made to the Bond Fund in amounts sufficient to pay the principal of and interest on such Additional Bonds as same mature.

(e) The ordinance authorizing the issuance of the Additional Bonds provides that the amount to be accumulated and maintained in the Reserve Fund shall be in an amount equal to not less than the average annual requirement for the payment of principal of and interest on all Bonds Similarly Secured then to be outstanding after giving effect to the issuance of the proposed Additional Bonds, and provides that any additional amount to be maintained in the Reserve Fund shall be accumulated within sixty (60) months from the date the Additional Bonds are delivered.

Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the governing body of the City may deem to be in the best interest of the City and its inhabitants, and if less than all such outstanding revenue bonds are refunded the proposed refunding bonds shall be considered as "Additional Bonds" under the provisions of this Section and the Accountant's certificate or opinion required in subdivision (c) shall give effect to the issuance of the proposed refunding bonds (and shall not give effect to the bonds being refunded following their cancellation or provision being made for their payment).

SECTION 23: Issuance of Inferior Lien Obligations. The City retains the right to create and issue obligations payable from and secured by a lien on the pledge of the Net Revenues of the System junior and subordinate to the lien and pledge securing the payment of the Bonds Similarly Secured.

SECTION 24: Management and Control of System. Pursuant to authority contained in Texas Government Code, Section 1502.051, et seq, and by the Charter of the City of New Braunfels, Texas, the complete management and control of the System, during such time the Net

Revenues of the System may be encumbered pursuant to this Ordinance and the ordinances authorizing the Previously Issued Bonds, shall be in the hands of a Board of Trustees to consist of five freeholders of the City of New Braunfels, one of whom shall be the Mayor of the City, to be known as the "Board of Trustees of the New Braunfels Utilities", in which name said Board of Trustees shall act and transact business, hereinafter referred to as the "Board of Trustees".

All members of the Board of Trustees shall be appointed by the governing body of the City of New Braunfels, Texas, to serve for five (5) year terms of office; provided, vacancies in office for any reason other than the expiration of a trustee's term of office, shall be filled only for the unexpired term of the office vacant. Furthermore, any member of the Board of Trustees whose term of office has expired shall continue to serve as a member of the Board until his successor in office has been appointed or elected. Appointments to the Board of Trustees resulting from the expiration of a member's term of office shall be made by the governing body of the City of New Braunfels at its first regular meeting in October each year in which the term of office to be filled shall expire or as soon as possible thereafter.

The members of the Board of Trustees shall continue to organize their body by the election of one of its members as President and another as Vice President; the Board shall also appoint a Secretary who may or may not be a member of said Board, as said Board may elect. The Board of Trustees may make such resolutions and by-laws for the orderly handling of its affairs and the governing of its own procedure, and shall thereafter manage and operate the Systems with the same freedom and in the same manner ordinarily as enjoyed and followed by the Board of Directors of a private corporation operating properties of a similar nature; provided, however, that nothing in this Section shall be construed to take away from the City Council of the City of New Braunfels the exercise of any duty imposed upon said governing body under the provisions of the other Sections of this Ordinance and/or the Charter of the City of New Braunfels. A majority of the Trustees shall constitute a quorum for the transaction of business at any meeting.

The Board of Trustees shall obtain and keep continually in force an employee's fidelity and indemnity bond of the so-called blanket type, written by a solvent and recognized indemnity company, and covering losses to the amount of not less than \$5,000.00 per person. The premiums of such bonds shall be paid from the System's Revenues and shall constitute operating expenses of the System.

The Board of Trustees shall elect and appoint a Chief Executive Officer and an attorney or attorneys. The Chief Executive Officer shall appoint all employees. The members of the Board, other than the Mayor of the City, shall receive an annual compensation of not less than Twelve Hundred Dollars (\$1,200.00) and such compensation may be increased from time to time by the City Council as it is deemed advisable, provided the total compensation paid to the members of the Board shall never exceed in any one year five percent (5%) of the gross receipts of the System in such year. The members of the Board of Trustees, either singly or collectively, shall not be personally liable for any act or omission not willfully fraudulent or mala fide. Any member of the Board of Trustees, other than the Mayor of the City, who shall be continuously absent from all meetings of the Board for a period of four consecutive months shall, unless he shall have been granted a leave of absence by the unanimous vote of the remaining members of the Board, be considered to have vacated his office. Any member of the Board of Trustees, other than the Mayor of the City, may be removed only by action of the governing body of the City for adequate cause.

Subject to the provisions and restrictions contained in this Ordinance and the City Charter, all of the provisions and covenants of which shall be binding upon the Board of Trustees in like

manner as they would have been binding on the City Council of the City of New Braunfels, had management and control of the System been retained by the City Council, the Board of Trustees shall have complete authority and control of the management and operation of the System; and among the powers that may be exercised by the said Board of Trustees, but not limited thereto, the same are hereby enumerated for greater certainty:

(a) To take, have and exercise exclusive possession and control of the System and all additions thereto, and to collect, and enforce the collection of all funds and revenues that may be or become owing or that may arise out of the operation of the System, and to disburse the same in accordance with the provisions of this Ordinance and Sections 1502.070 and 1502.071, Texas Government Code, as amended;

(b) To maintain, improve, enlarge and extend the Waterworks, Sanitary Sewer and Electric Light and Power Systems;

(c) To fix, alter and amend all rates for all services to be furnished by said System, subject to approval and confirmation of the City Council;

(d) To employ and pay the compensation of a Chief Executive Officer and attorneys, engineers and other professional or technical aides as said Board of Trustees may deem necessary in the proper conduct of the business of the System;

(e) To adopt, alter, amend and enforce all such rules and regulations governing the conduct of the business of the System as said Board of Trustees may deem necessary or proper; and

(f) To do any and all things necessary in reference to the installing and maintaining of a complete system of records and accounts pertaining to the operations of the System and to provide Net Revenues for the payment of the Bonds Similarly Secured and other special obligations of the System in the manner provided by Texas Government Code, Section 1502.057, as amended, and other applicable laws and in accordance with the provisions of any ordinance authorizing the issuance of Bonds Similarly Secured.

SECTION 25: Maintenance and Operation - Insurance. The City hereby covenants and agrees that through the Board of Trustees the System shall be maintained in good condition and operated in an efficient manner and at reasonable cost. So long as any of the Bonds are outstanding, the City agrees to maintain insurance for the benefit of the Holders of the Bonds on the System of a kind and in an amount which usually would be carried by municipal corporations of the State of Texas engaged in a similar type of business. Nothing in this Ordinance shall be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the City from doing so.

SECTION 26: Records - Accounts - Accounting Reports. The City hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Board of Trustees will keep and maintain a proper and complete system of records and accounts pertaining to the operation of the System separate and apart from all other records and accounts in accordance with generally accepted accounting principles prescribed for municipal corporations, and complete and correct entries shall be made of all transactions relating to said System, as provided by Texas Government Code, Section 1502.057, as amended, and other applicable laws. The Holder of any Bonds, or any duly authorized agent or agents of such Holders, shall have the right at all

reasonable times to inspect all such records, accounts and data relating thereto and to inspect the System and all properties comprising same. The City acting through the Board of Trustees further agrees that, as soon as possible following the close of each Fiscal Year, an audit of such books and accounts shall be made by an independent firm of Certified Public Accountants or Licensed Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the Accountant, shall particularly include the following:

- (a) A detailed statement of the income and expenditures of the System for such Fiscal Year;
- (b) A balance sheet as of the end of such Fiscal Year;
- (c) The Accountant's comments regarding the manner in which the Board of Trustees has carried out the requirements of this Ordinance and his recommendations for any changes, or improvements in the operation, records and accounts of the System;
- (d) A list of the insurance policies in force at the end of the Fiscal Year on the System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer and the policy's expiration date; and
- (e) A list of securities, if any, in which the Bond Fund and Reserve Fund has been invested, and a statement of the manner in which money in the System Fund, Bond Fund and Reserve Fund has been secured in such Fiscal Year;

Expenses incurred in making the audits above referred to are to be regarded as maintenance and operation expenses of the System and paid as such. Copies of the aforesaid annual audit shall be immediately furnished to the Executive Director of the Municipal Advisory Council of Texas at his or her office in Austin, Texas, and upon written request, to the original purchaser, and any subsequent Holder of twenty-five percent (25%) in principal amount of the Bonds Outstanding.

SECTION 27: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Bond Fund or Reserve Fund as required by this Ordinance, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the Holder of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 28: Special Covenants. The City hereby further covenants as follows:

- (a) It has the lawful power to pledge the revenues supporting this issue of Bonds and has lawfully exercised said power under the Constitution and laws of the State of Texas, including Texas Government Code, Section 1502.070, as amended; that the Previously Issued Bonds, the

Bonds issued hereunder, and the Additional Bonds, when issued, shall be ratably secured under said pledge of income in such manner that one bond shall have no preference over any other bond of said issues;

(b) Other than for the payment of the Previously Issued Bonds and the Bonds, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System, except that, on a basis subordinate to that for the Bonds Similarly Secured, Net Revenues of the System have been pledged to the Commercial Paper Notes and the Program Notes;

(c) While any of the Bonds or any interest thereon remain Outstanding, the City will not sell or encumber the System or any substantial part thereof; provided, that this covenant shall not be construed to prohibit the sale of such machinery or other properties or equipment by the Board of Trustees which has become obsolete or otherwise unsuited to the efficient operation of the System; and, further, with the exception of the Additional Bonds expressly permitted by this Ordinance to be issued in Section 22 hereof, it will not encumber the Net Revenues of the System unless such encumbrance is made junior and subordinate to all of the provisions of this Ordinance;

(d) No free service will be allowed to any customer of the System, including the City and its various departments; and

(e) To the extent that it legally may, the City further covenants and agrees that, so long as any of the Bonds are Outstanding, no franchise shall be granted for the installation or operation of any competing waterworks, sanitary sewer or electric light and power system other than those owned by the City and the operation of such systems by anyone other than the City is hereby prohibited.

SECTION 29: Bonds are Special Obligations. The Bonds are special obligations of the City payable from the pledged Net Revenues and the Holders thereof shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

SECTION 30: Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance and the Pricing Certificate, then the pledge of the Net Revenues of the System under this Ordinance and all other obligations of the City to the Holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting or consulting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying

Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 31: Ordinance a Contract - Amendments.

(a) This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section. The City, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein.

In addition, the City, with the written consent of holders of Bonds aggregating in principal amount more than 50% of the aggregate principal amount of then Outstanding Bonds, shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City, provided, however, that without the consent of the registered owners of all of the Bonds then outstanding, no such amendment, addition, or rescission may (i) change the date specified as the date on which the principal of, or any installment of interest on any Bond is due and payable, reduce the principal amount of the Bonds, or the rate of interest thereon, change the coin or currency in which any Bond or interest thereon is payable, or in any other way modify the terms of payment of the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of the Bonds required to be held by Holders for consent to any amendment, addition, or waiver.

(b) If at any time the City shall desire to amend this Ordinance under this Section, the City shall cause notice of the proposed amendment to be sent by United States Mail, first class postage prepaid, to the Holders of Bonds at the address appearing in the Security Register. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the paying agent for inspection by all holders of the Bonds Similarly Secured.

(c) Whenever at any time the City shall receive an instrument or instruments executed by the holders of more than 50% in aggregate principal amount of all Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the

copy thereof on file with the paying agent, the governing body of the City may pass an amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the City and the holders of then outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the holder of a bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of such consent and shall be conclusive and binding upon all future holders of the same bond during such period. After the applicable period of time a consent is irrevocable has expired, the holder who gave consent, or a successor in title, may revoke such consent by filing notice thereof with the paying agent and the City, but such revocation shall not be effective if the holders of more than 50% in aggregate principal amount of the then Outstanding Bonds have, prior to the attempted revocation, consented to and approved the amendment.

(f) For the purpose of this Section, the fact of the holding of bonds by any holder and the amount and numbers of such bonds and the date of their holding same, may be proved by the Security Register maintained by the Paying Agent/Registrar or by affidavit of the person claiming to be such holder, or by a certificate executed by any trust company, bank, banker or any other depository wherever situated showing that at the date therein mentioned such person had on deposit with such trust company, bank, banker or other depository, the Bonds described in such certificate. The City may conclusively assume that such ownership continues until written notice to the contrary is served upon the City.

SECTION 32: Mutilated-Destroyed-Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 33: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

“Closing Date” means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“Computation Date” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Gross Proceeds” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“Investment” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

“Rebate Amount” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Regulations” means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“Yield” of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City and the Board of Trustees shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City and the Board of Trustees shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or

indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds, or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City and the Board of Trustees shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts,

expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City and the Board of Trustees may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City and the Board of Trustees shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City and the Board of Trustees shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the construction fund, or other appropriate fund, or if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Bond Fund the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City and the Board of Trustees shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, City Manager, President of the Board of Trustees, Chief Executive Officer or Chief Financial Officer of the

System, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(k) Bonds Not Hedge Bonds. (1) At the time the original obligations refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Current Refunding. The Bonds are a current refunding of the Refunded CP Notes in that the Bonds will be issued less than 90 days before the redemption of the Refunded CP Notes.

SECTION 34: Sale of Bonds - Official Statement Approval. The Bonds authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City, as the act and deed of this Council, and to make a determination as to whether the terms are in the City's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Bonds;
2. The details of any public offering of the Bonds by the Purchasers, if any;
3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12 compliance, if applicable;
4. A security deposit for the Bonds, if any;
5. The representations and warranties of the City to the Purchasers;
6. The details of the delivery of, and payment for, the Bonds;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the City under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the City;

11. The survival of representations made in the Purchase Contract;
12. The payment of any expenses relating to the Purchase Contract;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Mayor and City Secretary of the City and the President and Secretary of the Board of Trustees are further authorized and directed to deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 35: Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records relating to the Bonds, including the Initial Bond(s) and the definitive Bonds, pending the approval of the Bonds by the Attorney General of Texas, the registration of the Initial Bond(s) by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, City Secretary, City Manager, President of the Board of Trustees, Secretary to the Board of Trustees and the Chief Executive Officer or Chief Financial Officer of the System, individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including certifications as to facts, estimates, circumstances and reasonable expectations pertaining to the use, expenditure and investment of the proceeds of the Bonds, as may be necessary for the approval of the Attorney General, the registration by the Comptroller of Public Accounts and the delivery of the Bonds to the Purchasers, and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Purchasers and the initial exchange thereof for definitive Bonds.

SECTION 36: *[Reserved.]*

SECTION 37: *[Reserved.]*

SECTION 38: Proceeds of Sale. Immediately following the delivery of the Bonds, proceeds of sale shall be deposited with the paying agent for the Refunded CP Notes or used to pay costs of issuance and any accrued interest shall be deposited to the credit of the Bond Fund, all as provided in the Pricing Certificate. Any proceeds of sale remaining after payment of the costs of issuance for the Bonds shall be deposited in the Bond Fund for the Bonds. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Bond Fund as shall be determined by the appropriate authorized officials of the City. All surplus proceeds of sale of the Bonds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Bond Fund.

Additionally, on or immediately prior to the date of the delivery of the Bonds to the Purchasers, the Chief Financial Officer of the System is authorized to transfer from moneys of the System necessary, if any, to accomplish the refunding as provided in the Pricing Certificate.

SECTION 39: Legal Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart thereof shall accompany the global Bonds deposited with The Depository Trust Company.

SECTION 40: Notices to Holders-Waiver. Wherever this Ordinance provides for notice to the Holders of Bonds of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder as it appears in the Security Register.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders of Bonds shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 41: Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 42: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 43: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders of the Bonds.

SECTION 44: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 45: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 46: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 47: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 48: Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

“SEC” means the United States Securities and Exchange Commission.

(a) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the City of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate and (2) within twelve months after the end of each fiscal year ending in and after the year specified in the Pricing Certificate, audited financial statements of the City. If the audit of such financial statements is not complete within twelve months after any such fiscal year end, the City shall file unaudited financial statements within such twelve month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(b) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph 12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in

possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City and (b) the City intends the words used in the immediately preceding paragraphs 15 and 16 in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(c) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(d) Limitations, Disclaimers and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or

type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 49: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, or City Manager of the City or the President of the Board of Trustees, Chief Executive Officer or Chief Financial Officer of the System are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem or City Manager of the City or President of the Board of Trustees, Chief Executive Officer or Chief Financial Officer of the System or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance, including the Pricing Certificate: (i) in order to cure any ambiguity, formal defect or omission in this Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of this Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 50: Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

SECTION 51: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 52: Effective Date. This Ordinance shall take effect and be in force immediately from and after its passage on the date shown below as provided in Texas Government Code, Section 1201.028, as amended.

[remainder of page left blank intentionally]

PASSED AND APPROVED, this June 14, 2021.

CITY OF NEW BRAUNFELS, TEXAS

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

(City Seal)

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of _____, 2021 (this "Agreement"), by and between Zions Bancorporation, National Association, Amegy Bank Division, a national banking association organized and existing under the laws of the United States of America and authorized to transact business in the State of Texas (the "Bank") and the City of New Braunfels, Texas, acting by and through New Braunfels Utilities (the "Issuer").

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021" (the "Securities"), such Securities scheduled to be delivered to the initial purchasers thereof on or about July 14, 2021; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01 Appointment. The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the "Authorizing Document".

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

Section 1.02 Compensation. As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Annex A attached hereto; provided however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall be less than the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of

the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO DEFINITIONS

Section 2.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to

whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

Section 2.02 Other Definitions. The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

ARTICLE THREE PAYING AGENT

Section 3.01 Duties of Paying Agent. As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date, or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class, postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder’s risk and expense.

Section 3.02 Payment Dates. The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

ARTICLE FOUR REGISTRAR

Section 4.01 Security Register – Transfers and Exchanges. The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office and at the Bank’s office shown on the signature page hereof books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be

reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank, and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02 Securities. The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 4.03 Form of Security Register. The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.04 List of Security Holders. The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register, provided the Bank is not prohibited from providing such notice.

Section 4.05 Return of Cancelled Securities. The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities. The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost or stolen.

Section 4.07 Transaction Information to Issuer. The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

ARTICLE FIVE THE BANK

Section 5.01 Duties of Bank. The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 5.02 Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality

of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

Section 5.03 Recitals of Issuer. The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

Section 5.04 May Hold Securities. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization. A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

Section 5.06 Indemnification. To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 5.07 Interpleader. The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

Section 5.08 DTC Services. It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for “Depository Trust Company” services or equivalent depository trust services by other organizations, and in the event the Bank has the capability to comply with the “Operational Arrangements”, which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls, the Bank will comply with the “Operational Arrangements”.

ARTICLE SIX MISCELLANEOUS PROVISIONS

Section 6.01 Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03 Notices. Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature pages hereof.

Section 6.04 Effect of Headings. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 6.05 Successors and Assigns. All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 6.06 Severability. In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07 Merger, Conversion, Consolidation, or Succession. Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

Section 6.08 Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.09 Entire Agreement. This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

Section 6.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 6.11 Termination. This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.12 Iran, Sudan or Foreign Terrorist Organizations. The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Section 6.13 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

_____ BANK

By: _____

Title: _____

Address: _____

[signature page to Paying Agent/Registrar Agreement]

CITY OF NEW BRAUNFELS, TEXAS
(acting by and through New Braunfels Utilities)

By: _____
Chief Executive Officer

Address: 263 Main Plaza
New Braunfels, Texas 78130

[signature page to Paying Agent/Registrar Agreement]

PRICING CERTIFICATE

Dated: June 17, 2021

We, the undersigned, City Manager of the City of New Braunfels, Texas (the "City") and the Chief Executive Officer of New Braunfels Utilities, jointly acting as the Pricing Officer pursuant to the authority granted to us by Ordinance No. 2021-__ adopted by the City Council of the City on June 14, 2021 (the "Ordinance"), relating to the issuance of the "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2021" (the "Bonds"), do hereby make the following determinations, findings, approvals and designations relating to the Bonds:

1. Capitalized terms not otherwise defined herein have the meanings assigned in the Ordinance.
2. The Bonds are hereby designated as the "City of New Braunfels, Texas, Utility System Revenue Refunding Bonds, Series 2021".
3. The aggregate principal amount of Commercial Paper Notes to be refunded by the Bonds is as follows: \$[] principal amount of the "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019A" and \$[] principal amount of the "City of New Braunfels, Texas, Utility System Commercial Paper Notes, Series 2019B" (collectively referred to as the "Refunded CP Notes").
4. The Bond Date of the Bonds shall be July 1, 2021.
5. The original principal amount of the Bonds shall be \$[].
6. The Bonds shall become due and payable on July 1 in each of the years and bear interest at the per annum rates as follows:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2039		
2040		
2041		
2042		
2043		
2044		
2045		
2046		
2047		
2048		
2049		
2050		
2051		

7. Interest on the Bonds shall accrue from the Bond Date and shall be payable on semiannually on January 1 and July 1 in each year commencing January 1, 2022, until maturity or prior redemption.

8. (a) Optional Redemption. The Bonds having Stated Maturities on and after July 1, 20[] shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on July 1, 20[] or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

At least forty-five (45) days prior to an optional redemption date for the Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the City.

[(b) Mandatory Redemption. The Bonds having Stated Maturities of July 1 in each of the years of 20[] and 20[] (collectively, the "Term Bonds") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

<u>Term Bonds due July 1, 20[]</u>		<u>Term Bonds due July 1, 20[]</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>	<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__ (maturity)		July 1, 20__ (maturity)	

Approximately forty-five (45) days prior to each mandatory redemption date for the Term Bonds, the Paying Agent/Registrar shall select by lot the numbers of the Term Bonds within the applicable Stated Maturity to be redeemed on the next following July 1 from moneys set aside for that purpose in the Bond Fund (as defined in the Ordinance). Any Term Bond not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like Stated Maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph(a) of this Section and not theretofore credited against a mandatory redemption requirement.]

(c) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bonds by \$5,000 and shall select the Bonds to be redeemed within such Stated Maturity by lot.

(d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given as herein provided or waived, such Bond (or the principal amount thereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(e) Conditional Notice of Redemption With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance and this Pricing Certificate have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisite set forth in such notice of redemption; and, if a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

9. The Bonds authorized and approved by the Ordinance are hereby sold by the City to [____], [____] and [____] (herein referred to collectively as the "Purchasers") in accordance with the Purchase Contract (the "Purchase Contract"), dated June 17, 2021, attached hereto as **Exhibit A** and incorporated herein by reference as a part of this Pricing Certificate for all purposes. The Pricing Officer, as authorized and directed in the Ordinance to determine the terms and provisions in accordance with the Ordinance, such terms being in the best interests of the City, and to execute said Purchase Contract for and on behalf of the City and as the act and deed of the City Council, has so executed such Purchase Contract as the City Council's act and deed. The representations, warranties and agreements of the City contained therein are true and correct in all material respects and shall be honored and performed by the City.

Furthermore, the use of the Preliminary Official Statement by the Purchaser in connection with the public offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects. The final Official Statement, being a modification and amendment of the Preliminary Official Statement to reflect the terms of sale (together with such changes approved by the Mayor and City Secretary, either or both of said officials), shall be and is hereby in all respects approved, and the Purchaser may and shall use and distribute said final Official Statement, dated June 17, 2021 in the reoffering, sale and delivery of the Bonds to the public.

10. The form of the Bonds, including the Initial Bond(s), shall be as set forth in **Exhibit B** attached hereto and incorporated herein by reference as a part hereof for all purposes.

11. The financial information and operating data with respect to the City to be provided annually in accordance with Section 48 of the Ordinance is the financial and operating data of the general type included in the Official Statement and included in Appendix A of the Official Statement under the headings "UTILITY SYSTEM INDEBTEDNESS," "UTILITY SYSTEM REVENUE BONDS CONSOLIDATED DEBT REQUIREMENT SCHEDULE," "THE NEW BRAUNFELS UTILITIES – 'The Electric System,' 'The Water System,' 'The Sewer System,'" "HISTORICAL OPERATING RESULTS" and in Appendix C of the Official Statement for the most recently concluded fiscal year, beginning with the fiscal year ending in 2021, to the extent such information is customarily prepared by the City and is publicly available (currently information that is customarily prepared by the City and is publicly available consists of the City's annual audited financial statements and annual property tax reports). If audited financial statements are not available by the required time, the City will provide unaudited financial information of the type described above by the required time, and audited financial statements when and if such audited financial statements become available. The accounting principles referred to in such Section with respect to the City are the accounting principles described in the notes to the financial statement appearing in Appendix C to the Official Statement.

12. The amount currently on deposit in the Reserve Fund is \$[_____] (the "Current Reserve"). By reason of the issuance of the Bonds, the Required Reserve in the Reserve Fund shall be \$[_____] , which is more than the Current Reserve. \$[_____] of Bond proceeds will be deposited to the Reserve Fund on the date of the initial delivery of the Bonds.

13. Proceeds of sale of the Bonds in the amount of \$[_____] shall be deposited with the issuing and paying agent for the Refunded CP Notes and \$[_____] shall be deposited to the Reserve Fund pursuant to paragraph 13 above. Accrued interest in the amount of \$[_____] and additional Bond proceeds in the amount of \$[_____] shall be deposited into the Bond Fund and the remaining proceeds of the Bonds are designated to pay

costs of issuance. No Bond proceeds will be issued for capital improvements to the City's waterworks, sewer and electric light and power systems and facilities.

14. The findings and determinations of the City Council contained in the preamble recitals of the Ordinance are hereby incorporated by reference and made a part of the Ordinance for all purposes as if the same were restated in full in the Ordinance.

15. Section 10(g) of the Ordinance is hereby modified to read:

The term "Government Obligations" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

[Remainder of page left blank intentionally]

APPROVED, as of the date first above written.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
City Manager and Pricing Officer

NEW BRAUNFELS UTILITIES

By: _____
Chief Executive Officer and Pricing Officer

[signature page to Pricing Certificate]

EXHIBIT A
PURCHASE CONTRACT

EXHIBIT B

FORM OF BONDS

(a) Form of Bonds.

REGISTERED
NO. _____

PRINCIPAL AMOUNT
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2021

Bond Date:
July 1, 2021

Interest Rate:
_____ %

Stated Maturity:
July 1, 20____

CUSIP NO.

Registered Owner:

Principal Amount:

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and political subdivision in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the Bond Date at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on January 1 and July 1 in each year, commencing January 1, 2022, until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the 15th day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking

institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$[] (herein referred to as the "Bonds"), for the purpose of providing funds for (i) the discharge and final payment of certain outstanding obligations of the City, (ii) the deposit to any required Reserve Fund and (iii) costs of issuance, in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1207, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[] The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Bond Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

<u>Term Bonds due July 1, 20[]</u>		<u>Term Bonds due July 1, 20[]</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>	<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__		July 1, 20__	
July 1, 20__ (maturity)		July 1, 20__ (maturity)	

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Bonds maturing on and after July 1, 20[], may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on July 1, 20[], or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of the Bonds to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are special obligations of the City payable solely from, and, together with outstanding Previously Issued Bonds (identified and defined in the Ordinance), equally and ratably secured by a first lien on and pledge of the Net Revenues (as defined in the Ordinance) of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems (the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Net Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from, and, together with the Bonds and Previously Issued Bonds, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the payment of the Bonds; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Net Revenues of the System as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF NEW BRAUNFELS, TEXAS

Mayor

COUNTERSIGNED:

City Secretary

(City Seal)

(b) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
)
OF PUBLIC ACCOUNTS)
)
THE STATE OF TEXAS)

REGISTER NO. _____

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

(SEAL)

Comptroller of Public Accounts
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered in the name of the registered owner shown above under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Salt Lake City, Utah is the designated payment/transfer Office for this Bond.

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
Houston, Texas, as Paying Agent/Registrar

Registered this date:

By: _____

Authorized Signature
Amegy Bank Division

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto
(Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number: _____

_____) the within Bond and all rights thereunder, and hereby
irrevocably constitutes and appoints _____

attorney to transfer the within Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Signature guaranteed:

NOTICE: The signature on this assignment
must correspond with the name of the
registered owner as it appears on the face of
the within Bond in every particular.

(e) The Initial Bond(s) shall be in the form set forth in subsection (a) of this Section,
except that the form of a single fully registered Initial Bond shall be modified as follows:

Heading and paragraph one shall be amended to read as follows:

REGISTERED
NO. T-1

REGISTERED
\$[_____]

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2021

Bond Date: July 1, 2021

Registered Owner: [_____]

Principal Amount: []

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the registered owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on July 1 in each of the years and in principal amounts and bearing interest at per annum interest rates in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>INTEREST RATE (%)</u>
-------------	----------------------------------	------------------------------

(Information to be inserted from paragraph 6 of the Pricing Certificate).

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid Principal Amount hereof from the Bond Date at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on July 1 and January 1 of each year, commencing January 1, 2022, until maturity or prior redemption. Principal of this Bond shall be payable to the registered owner hereof, upon presentation and surrender to Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas (the "Paying Agent/Registrar"), at its designated offices, initially in Salt Lake City, Utah, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest shall be payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THE STATE OF TEXAS §
COUNTIES OF COMAL AND GUADALUPE §

(1) The Bonds have been duly and officially executed by the undersigned Mayor and City Secretary with their manual or facsimile signature in the same manner appearing hereon, and the undersigned Mayor and City Secretary hereby adopt and ratify their respective signatures in the manner appearing on each of the Bonds whether in manual or facsimile form, as the case may be, as their true, genuine and official signatures.

(3) The legally adopted proper and official seal of the Issuer is impressed, imprinted or lithographed on all of the Bonds.

(5) The Pricing Certificate dated June 17, 2021, as authorized by the Bond Ordinance of the City Council of the Issuer adopted June 14, 2021, has been duly and officially approved and executed by two authorized Pricing Officers, and such signatures of the authorized Pricing Officers are their true, genuine and official signatures.

(7) No authority or proceeding for the issuance, sale or delivery of the Bonds, passed and adopted by the governing body of the Issuer, including the Pricing Certificate, has been amended, repealed, revoked, rescinded or otherwise modified since the date of passage thereof, and all such proceedings and authority relating to the issuance and sale of the Bonds remain in full force and effect as of the date of this certificate.

358

DELIVERED this _____.

SIGNATURE

OFFICIAL TITLE

Mayor
City of New Braunfels, Texas

City Manager
City of New Braunfels, Texas

City Secretary
City of New Braunfels, Texas

THE STATE OF TEXAS
COUNTY OF COMAL

§
§

The undersigned, a Notary Public, hereby represents and certifies each of the signatures of Rusty Brockman, Robert Camareno and Caitlin Krobo, the Mayor, City Manager and City Secretary, respectively, of the City of New Braunfels, Texas appearing above is genuine.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 2021.

Notary Public, State of Texas

(Notary Seal)

[signature page to Signature and No-Litigation Certificate – signatures continue on next page]

SIGNATURE

OFFICIAL TITLE

Chief Executive Officer, New Braunfels Utilities

Chief Financial Officer, New Braunfels Utilities

THE STATE OF TEXAS
COUNTY OF COMAL

§
§

The undersigned, a Notary Public, hereby represents and certifies each of the signatures of Ian Taylor and Dawn Schriewer, Chief Executive Officer and Chief Financial Officer, respectively, of New Braunfels Utilities appearing above is genuine.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 2021.

Notary Public, State of Texas

(Notary Seal)

[signature page to Signature and No-Litigation Certificate]

6/14/2021

Agenda Item No. D)

PRESENTER:

Jared Werner, Chief Financial Officer

SUBJECT:

Discuss and consider approval of the appointment of a Councilmember to the City Council Finance and Audit Committee.

DEPARTMENT: Finance Department

COUNCIL DISTRICTS IMPACTED: City-wide

BACKGROUND INFORMATION:

To formalize involvement and increase governmental transparency, the Finance and Audit Committee was created in 2019. The Committee serves in an advisory capacity to the City Council and is comprised of the Mayor, Mayor Pro Tem, and a City Councilmember.

The Committee scope includes regular updates on the completion of the Comprehensive Annual Financial Report, presentation and discussion on the organizations financial reporting/analysis, investment strategies, long term financial planning efforts, budget development and other important financial policy issues. The Committee supports the City's mission to increase transparency and maintain fiscal stability of all City operations.

ISSUE:

City Council must select a member of City Council to serve on the Committee for a term aligned with term in office.

FISCAL IMPACT:

No fiscal impact.

RECOMMENDATION:

Staff recommends the appointment of a Councilmember to the City Council Finance and Audit Committee.

6/14/2021

Agenda Item No. E)

PRESENTER:

Caitlin Krobot, City Secretary

SUBJECT:

Discuss and consider approval of the appointment of one individual to the Construction Board of Appeals for an unexpired terms ending 2/24/2023.

DEPARTMENT: City Secretary's Office**COUNCIL DISTRICTS IMPACTED:** City-wide**BACKGROUND INFORMATION:**

The Construction Board of Appeals hears and decides appeals of orders, decisions or determinations made by the Building Official relative to the application of the International Building Codes inside the city limits. This board consists of 7 regular members and 4 alternate members, one from each of the following professions or disciplines:

- (1) A registered design professional with architectural experience or a builder or superintendent of building construction.
- (2) A registered design professional with engineering experience.
- (3) A registered mechanical contractor.
- (4) A registered electrical contractor.
- (5) A registered plumbing contractor.
- (6) Two registered general contractors.
- (7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.
- (8) Or, the council may appoint an interim board with the persons of qualification determined by the council.

The Board currently has vacancies in categories 2, 4, and 5 as listed above. The vacancies were advertised until filled.

The City Secretary's Office received two qualified applicants for consideration in the design professional with engineering experience:

-
- Craig Wilson
 - Ronald Skarbowski

ISSUE:

Construction Board of Appeals appointments require City Council approval.

FISCAL IMPACT:

No fiscal impact.

RECOMMENDATION:

Staff recommends the appointment of one individuals to the Construction Board of Appeals for unexpired terms ending 2/24/2023.

6/14/2021

Agenda Item No. F)

PRESENTER:

Jennifer Gates, Grants Coordinator

SUBJECT:

Public hearing and possible direction to staff regarding the U.S. Department of Housing and Urban Development Community Development Block Grant Annual Action Plan and its associated funding recommendations for Program Year 2021.

DEPARTMENT: Finance**COUNCIL DISTRICTS IMPACTED:** Citywide**BACKGROUND INFORMATION:**

The City of New Braunfels has been fortunate to receive annual grants from the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Entitlement Program since 1994. The annual funding amount varies each year as it is determined on a formula basis and then provided to entitled cities, counties, and states to help develop viable urban communities. Funds are distributed by the City throughout the community to provide eligible subrecipients with grant funding that can be used to revitalize neighborhoods, support affordable housing, provide economic opportunities, and improve community facilities and services intended for low- and moderate-income (LMI) residents. Of the total annual funding amount, specific percentages of the funding are eligible to be allocated to CDBG program administration (20% cap), public service activities (15% cap), and housing and public facility projects (65% minimum, 100% maximum). Any additional funds, including from previous Program Years, are held in reserve in the U.S. Treasury to be utilized by the City for housing/public facilities projects at a future date in accordance with timeliness requirements and project/program eligibility.

In accordance with Federal requirements for CDBG funding, the City is preparing to submit its Annual Action Plan to HUD. The Annual Action Plan, developed according to the City's Citizen Participation Plan, outlines the projects and programs the City will support with CDBG funds during the upcoming Program Year, thereby furthering the goals of the HUD-approved Consolidated Plan, a five-year strategic planning document. After submission of the Annual Action Plan to HUD for the agency's review, projects and programs are implemented in accordance with the HUD-approved one-year budget and activities

The City's allocation for Program Year 2021 (PY21) is \$430,279 and will begin October 1, 2021. Of the total funding amount, up to 15 percent (\$64,541.85) can be allocated for public service activities, up to 20 percent (\$86,055.80) is eligible for program administration, and a minimum of 65 percent (\$279,681.35) must be used for other activities such as housing and public facilities projects as per HUD CDBG requirements.

Consistent with the City's standard practice to distribute funding provided by HUD, a competitive Request for

Application (RFA) was available to nonprofit agencies and other eligible entities from February 10, 2021 to March 10, 2021. Applications were available for 3 categories: Public Services, Public Facilities, and Housing. The City subsequently received applications from 10 local non-profit organizations for a variety of activities for a total of \$364,454.28 within the Public Services category, and \$493,917 within the Public Facilities (\$369,667) and Housing (\$124,250) categories.

Due to being significantly oversubscribed for the competitive categories, it is the recommendation that all unallocated funds from PY20 (\$56,460.30; eligible for public facilities and housing projects only) be added to the PY21 grant award. In addition, to support the agency projects at a higher level, it is also recommended that the administration costs be absorbed into the General Fund in FY 2021, which allows the housing and public facilities and housing allocation to increase by \$86,055.80. Supporting the administrative costs in FY 2022 is a one-time initiative. Future consideration of this is dependent upon the applications received and financial capacity in the General Fund to support the administrative costs. By adding the unallocated funds from FY 20 as well as including the for a total of \$486,739.30 to be distributed to the applicants.

In support of the City's standard process, the Community Development Advisory Committee (CDAC) is composed of nine citizens of New Braunfels who have applied and been approved by City Council to serve in an advisory capacity on matters relating to the CDBG Program. CDAC's responsibilities include reviewing the competitive applications for funding, hosting agency presentations, and making recommendations for funding allocations to be considered and approved by City Council. Funding allocations are subsequently included in the City's Annual Action Plan.

After prior extensive review and discussion, the CDAC members met on May 5 to publicly rank the applications and consider funding allocations for CDBG Program Year 2021. Recommendations for funding were based upon factors such as how the program/project will benefit low to middle income residents, availability of funding, past/current performance for organizations who had previously received funding, and the experience and capacity of the agency in managing the proposed program/activity, consideration of other available funding sources for the agency, and direct support of the City's recently adopted CDBG 2020-2024 Consolidation Plan.

The following allocations are being recommended by CDAC; it is the recommendation for PY21 that \$64,541.85 be awarded to activities for Public Services and \$422,197.45 be awarded to Public Facilities and Housing projects.

As mentioned earlier, if recommendations are approved by City Council, CDBG Program Administration costs will be paid by the General Fund in FY 2022. If City Council would prefer all or a portion of CDBG Program Administration costs to be funded by CDBG, it is the request of CDAC that the awarded Administration amount be reduced from the recommended award (\$241,667) for NB Housing Partners to be utilized in opening an emergency homeless shelter.

U.S. Department of Housing and Urban Development (HUD)
Community Development Block Grant (CDBG): Entitlement Program

PY 2021 TOTAL GRANT AMOUNT: \$430,279

Recommendations for Funding Distribution provided on May 5, 2021 and confirmed on June 2, 2021 by CDAC

PUBLIC SERVICES (15% Cap): \$64,541.85			
Name of Organization	Average CDAC Score (max: 100)	Funding Requested	Recommended Funding
Big Brothers Big Sisters of South Texas <i>BBBS Mentoring in New Braunfels</i>	86	\$ 4,576.00	\$ 4,576.00
CASA of Central Texas, Inc. <i>Court-Appointed Advocacy for New Braunfels Children</i>	86	\$ 50,000.00	\$ 12,000.00
Family Life Center <i>Benevolent Program</i>	83	\$ 15,000.00	\$ 8,128.00
Hope Hospice <i>COVID/Suicide Related Grief Support and Camp HavenHeart Grief Camps</i>	77	\$ 42,953.28	\$ 8,384.85
NB Housing Partners <i>Public Services application: First Footing Shelter</i>	79	\$ 56,076.00	\$ 8,337.00
River City Advocacy, Inc. <i>Community Counseling Program</i>	74	\$ 20,000.00	\$ 6,500.00
The Salvation Army Braunfels Corps <i>Sheltering Sheep Haus Program</i>	55	\$ 160,849.00	\$ 7,616.00
San Antonio Food Bank <i>New Braunfels Food Bank Distribution Program</i>	88	\$ 15,000.00	\$ 9,000.00
		\$ 364,454.28	\$ 64,541.85
HOUSING / PUBLIC FACILITIES: \$422,197.45			
Name of Organization	Average CDAC Score (max: 100)	Funding Requested	Recommended Funding
The Crisis Center of Comal County <i>Purchase and Development of a Building to Provide Transitional Housing for Survivors of Domestic and Sexual Violence and Women and Children Experiencing Houselessness</i>	87	\$ 128,000.00	\$ 105,310.00
* NB Housing Partners <i>Public Facilities application: First Footing Shelter and Coordinate Entry</i> NOTE: Funding recommendation is subject to change.	92	\$ 241,667.00	\$ 241,667.00
Comal County Habitat for Humanity <i>Home Program: Down Payment and Closing Cost Assistance</i>	88	\$ 19,500.00	\$ 13,434.38
Comal County Habitat for Humanity <i>Home Repair Program</i>	87	\$ 104,750.00	\$ 61,786.07
		\$ 493,917.00	\$ 422,197.45

HUD requires a 30-day comment period, and two public hearings prior to submission, allowing for citizens to comment on the information proposed in the Annual Action Plan. The comment period for CDBG Program Year 2021 is June 7 to July 6; a full draft of the Annual Action Plan is available for review at the City Secretary's Office and the New Braunfels Public Library, and information is also available on the City's Community Development - CDBG Program website during this timeframe. The first public hearing is on June 14 during the regular City Council meeting; the second public hearing is on June 28 during the regular City Council meeting. It is anticipated that the finalized Annual Action Plan will be presented to City Council for approval on July 12 and delivered to HUD no later than August 16, 2021.

ISSUE:

Not applicable.

FISCAL IMPACT:

There is no direct fiscal impact to the City for the CDBG-funded recommended awards as this is an allocation of federal funding. Costs associated with the administration of the CDBG PY21 Program will be incorporated into the City's FY 2022 Budget and will be paid from the General Fund.

RECOMMENDATION:

There is no Council action required as this is a public hearing for the U.S. Department of Housing and Urban Development Community Development Block Grant Program Year 2021 (PY21) Annual Action Plan. However, action is requested if Council should decide to redistribute PY21 funding recommendations as proposed by staff and CDAC.