

Legislation Text

File #: 24-321, **Version:** 2

PRESENTER:

Jean Drew, AICP, CNU-A, Planning and Development Services Assistant Director

SUBJECT:

Approval of a resolution to consent to the creation of the Park Place Municipal Utility District (MUD) of Guadalupe County, consisting of 70.817 acres, and including approval of a resolution to consent to the annexation of an additional 22.681 acres into the MUD following the District's creation, organization, and confirmation; and approval authorizing the City Manager to approve a development agreement between the City of New Braunfels and Century Land Holdings II, LLC.

DEPARTMENT: Planning and Development Services

COUNCIL DISTRICTS IMPACTED: Outside City Limits

BACKGROUND INFORMATION:

Case #s: CS24-0012 & CS24-0081

Applicant/Owner: Century Land Holdings II, LLC
Rudy Munoz, Vice President of Land
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San Antonio, TX 78248
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The Texas Water Code (Chapter 54) and the Texas Local Government Code (Chapter 42, Section 42.042) (see resource links) outline the procedures for the creation of Municipal Utility Districts (MUDs). A MUD is a political subdivision of the State: it is one of several types of special districts that function as independent, limited governments of its own. The purpose of a MUD is to provide a developer an alternate method of financing infrastructure such as water, sewer, drainage, and roads. Managed by a board of directors elected by the property owners within the MUD, the MUD can levy its own taxes and fees on the future property owners within the development to repay the developer for their up-front costs and maintenance. MUDs are generally desired by developers when the subject properties lie beyond the physical reach of utility providers and/or outside utility company Certificates of Convenience and Necessity (CCNs).

When a proposed MUD lies within the boundaries of a city's Extraterritorial Jurisdiction (ETJ), state statute indicates that the respective city must give its consent before the MUD may be established. Consent by the municipality allows the developer to initiate proceedings to create the MUD through the Texas Commission on Environmental Quality (TCEQ). State statute further states:

If the city fails or refuses to give its consent for the creation of the MUD on mutually agreeable terms within 90 days after the date the City Council receives a written request for the consent, a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision may petition the City Council to make available to the area

the water, sanitary sewer services, or both that would be provided by the political subdivision. If, within 120 days after the date the City Council receives the petition, the City Council fails to make a contract with a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed MUD to provide the services, that failure constitutes the governing body's consent to the creation of the proposed political subdivision.

The petition to consent to the creation of Park Place MUD was delivered to the City on March 7, 2024. The 90-day period for which the City may consent or object to the creation of the proposed MUD expires June 5, 2024. Should the City Council deny the petitioner's request, their appeal relief is via TCEQ.

The petitioner has indicated the general intention of the MUD is to establish a governmental entity that will maintain the roadways and drainage infrastructure within the boundaries of the MUD to ensure the safety and welfare of the community.

Location and Features

The subject property is comprised of approximately 71 acres of unplatted land in the master planned Park Place Subdivision and approximately 22 acres platted as Park Place, Unit 1B, south of the future extension of West Zipp Road and the Zipp Family Sports Park, west of the South Point 1 Subdivision and east of Long Creek (see Location Map).

A Master Plan for the Park Place Subdivision (196 acres total) was approved in July of 2022, with an amending Master Plan subsequently approved in February of 2023 (see Master Plan). Units 1A, 1B and 5A of the subdivision have been recorded. A small portion of Unit 1A is located within the city limits, with the remainder of the subdivision located in the ETJ in Guadalupe County. The property was formerly utilized for agricultural purposes and is currently being developed as a single-family residential subdivision. Portions of Long Creek and its associated floodway and 100-year floodplain boundaries are located within the subject property.

Utilities

The subject property is located within Green Valley Special Utility District's (GVSUD) water CCN and is the intended water provider. The subject property is located within Guadalupe-Blanco River Authority's (GBRA) wastewater CCN and is the intended wastewater provider.

Petition to Consent to the Creation of the MUD

The consent petition includes a request to create the initial MUD with the inclusion of approximately 71 acres within the subdivision that have not yet been developed. The petition also includes a request to consent to the future addition of 22 acres into the MUD following its creation, organization, and confirmation (see Location Map). This portion of the subdivision has already been platted and developed; TCEQ requires signatures of the owners prior to final approval of their inclusion into the MUD.

Development Agreement

New Braunfels' development rules do not apply outside the city limits in the ETJ in Guadalupe County. Without a MUD, development can still occur, simply in compliance with Guadalupe County development rules. Land use and other development standards are not enforceable in the ETJ unless such regulations are agreed upon through the execution of a development agreement between the developer and the City. To ensure development within the proposed MUD is of a caliber that is a benefit and an asset, rather than a detriment to the residents and taxpayers of New Braunfels, and to assure water and wastewater infrastructure, service, and long-term maintenance are addressed, staff recommends the City and the developer enter into a development agreement under the authority of Chapter 212 of the Local Government Code. The proposed Development Agreement identifies the development standards that would help ensure the development is at least of similar

quality to development within the city limits of New Braunfels and implements the City's comprehensive plan, Envision New Braunfels.

ISSUE:

The proposed development agreement (attached) includes minimum development standards regarding housing diversity, landscaping, lighting, historical and archeological protection/remediation, riparian buffer zones, voluntary annexation request upon dissolution of the MUD*, and the requirement to obtain building permits and inspections from the City.

The proposed MUD with the associated development agreement would be in keeping with adopted guidelines in Envision New Braunfels:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 2.1: Sustain community livability for all ages and economic backgrounds.
- Action 3.30: Encourage and incentivize workforce/affordable housing to attract new workforce entrants and young families.
- Action 5.2: Discourage development in Edwards Aquifer Recharge and contributing zones, stream zones, flood-prone areas, steep slopes, or other ecologically constrained areas. Where development in these areas must occur, require that it be environmentally sound using tools such as but not limited to low impact development (LID).
- Action 6.5: Utilize public/private partnerships to guide growth and investment.
- Action 7.14: Increase tree canopy for increased shade to encourage walking.
- Regional Planning
 - Balance resources in an equitable manner that does not lead to disinvestment in existing New Braunfels.
 - Assure the long-term fiscal health of New Braunfels, and that policy decisions do not create any undue financial burden on the City or others.
 - Ensure that the policy provides guidance for decisions made by utility providers, so they can aid in achieving Envision New Braunfels.

The subject property lies within the Walnut Springs Sub Area. At the heart of this area is Fischer Park presenting a variety of recreational opportunities. Its proximity to IH-35, retail at key nodes with opportunities for new centers and corridor retail, and neighboring communities like McQueeney makes this area highly desirable and accessible. The rolling Blackland Prairie landscape results in wide open spaces and scenic views to the rural areas east and to the historic downtown to the west.

FISCAL IMPACT:

If the City were to annex the property within a MUD prior to the MUD's expiration, the City would assume any remaining debt of the MUD.

If the City were to annex the property within a MUD after the expiration of the MUD, the City would assume roadway and public infrastructure maintenance, and provide City services to the new City residents.

If approved by City Council, the development agreement will require building permit fees and inspection fees to be collected for development within the MUD to cover the cost of providing those services.

RECOMMENDATION:

Approval. As proposed, the development agreement would require development within the MUD to be

consistent with Envision New Braunfels, resulting in a development pattern in the ETJ consistent with development within the city limits.

*Note: pursuant to state law, a city may not condition its consent to a MUD on a requirement that the developer agree to annexation, as such, this recommendation is not based, in any way, on the developer agreeing or not agreeing to annexation provisions within the proposed development agreement.

Resource Links:

- Chapter 54 of the Texas Water Code:
[WATER CODE CHAPTER 54. MUNICIPAL UTILITY DISTRICTS \(texas.gov\)](https://statutes.capitol.texas.gov/Docs/WA/htm/WA.54.htm)
<<https://statutes.capitol.texas.gov/Docs/WA/htm/WA.54.htm>>
- Chapter 42 of the Texas Local Government Code:
[LOCAL GOVERNMENT CODE CHAPTER 42. EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES \(texas.gov\)](https://statutes.capitol.texas.gov/docs/lg/htm/lg.42.htm) <<https://statutes.capitol.texas.gov/docs/lg/htm/lg.42.htm>>
- Section 118-4 Development Agreements, of the City of New Braunfels Code of Ordinances:
<https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?>