

## Legislation Text

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File #: 17-750, Version: 1

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Presenter

*Christopher J. Looney, Planning & Community Development Director  
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**SUBJECT:**

Public hearing and consideration of the first reading of an ordinance amending Ordinance No. 2016-36, the "Avery Park" Planned Development District Detail Plan, by removing 5.57 acres (Lots 43 & 44, Block A, Avery Park, Unit 1) from the "Avery Park" Planned Development District (APPD) and rezone the 5.57 acres and 21.80 acres out of the Antonio M. Esnaurizar Survey, Abstract No. 20, Guadalupe County, Texas, from "APD" Agricultural Pre-development and "C-3" Commercial District to "Avery Park 13" Planned Development District (AP13PD), adopting a Concept Plan and associated Development Standards, located north of the intersection of Avery Park Drive and State Highway 46 South.

**BACKGROUND / RATIONALE:**

**Case No.:** PZ-17-040 and PZ-17-043

**Council District:** 2

**Owners:** N.B. Avery Park Homeowners Association, Inc.  
c/o Goodwin Management Inc.,  
P.O. Box 203310  
Austin, TX 78720

Barbara P. Whites  
2163 Hwy 46 S.  
New Braunfels, TX 78132

**Applicant:** DR Horton (Ryan Day)  
210 W. Hutchison Street  
San Marcus, TX 78666  
(512) 805-3617

**Agent:** HMT Engineering & Surveying  
Chris Van Heerde, P.E.  
410 N. Seguin Ave.  
San Antonio, TX 78210  
(830) 625-8555

**Staff Contact:** Matthew Simmont, Planner  
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The approximately 228-acre Avery Park subdivision is located north and east of the intersection of Avery Parkway and State Highway 46 South and is zoned “Avery Park” Planned Development District (APPD). The property was rezoned to APPD from APD and C-3 in 2005. A master plan for the subdivision was approved in 2004 and plats for all 12 Units have been approved and recorded. Home construction is complete or underway for most of the recorded units.

The applicant is proposing to amend the APPD by removing 5.57 acres of open/green space/drainage/utilities (Lots 43 & 44, Block A, Avery Park Unit 1 - Attachment 4) and incorporate it into a proposed new adjacent PD “Avery Park 13.” When the APPD was originally created in 2005, the developer did not identify open space/park areas in their development standards as required amenities.

The applicant proposes to combine the two open/green space lots (5.57 acres) with the 21.8 acres situated immediately to the north and create a new development as an extension of Avery Park, but to be zoned “Avery Park 13” Planned Development District (AP13PD) with up to 90 residential lots. AP13PD is proposed to take access from Avery Parkway through the existing Avery Park Subdivision, and a future extension of an internal local street into the adjacent undeveloped property further to the north. The proposed concept plan does not illustrate an internal local and collector street network (Attachment 3); but, the applicant has provided an exhibit (Attachment 4) that shows internal streets. The applicant has, however, indicated this exhibit is for illustrative purposes only and does not want it included as part of the ordinance adopting the PD. The applicant has indicated AP13PD would not have direct access to State Highway 46. (Attachment 7)

The base zoning for the proposed AP13PD is “R-1A6.6” Single Family District. The proposed development standards of AP13PD are similar to the existing APPD, but with smaller lots and reduced setbacks. A comparison between the R-1-A-6.6, APPD, and the proposed AP13PD is provided in the table below:

Standard	AP13PD	APPD	R-1A-6.6
Permitted Uses	Single Family Residential	Single Family Residential	Single Family Residential
Min. Lot Area	5,000 sf	6,000 sf	6,600 sf
Min. Lot Depth	100 ft	120 ft	100 ft
Min. Lot Width (interior)	50 ft interior; 60 ft corner	50 ft interior; 60 ft corner	60 ft interior; 70 ft corner
Min. Front Setback	20 ft	20 ft	25 ft
Min. Rear Setback	10 ft	20 ft	20 ft
Min. Side Setback	5 ft interior; 15 ft or 20ft corner	6 ft interior; 15 ft or 20 corner	5 ft interior; 15 ft or 25 corner
Max Building Height	35 ft	35 ft	35 ft
Min. Parking	4 spaces, including garage	2 spaces	2 spaces

Min. Landscaping	2 shade trees	N/A	N/A
Min. Fence	Cap & rail fencing and masonry columns adjacent to Avery Parkway & SH-46	N/A	N/A

**General Information:**

*PDs:*

A planned development district is a free-standing zoning district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a City Council approved plan that may vary from the established regulations of other zoning districts. The purpose for such a district is to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.

*Size:*

Amending APPD = 227.8 acres; containing 861 lots  
Proposed AP13PD = Approximately 27.4 acres

*Surrounding Zoning and Land Use for AP13PD:*

North - APD/ Agricultural  
East - APPD/ single family subdivision  
South - R-2A and Outside City Limits/ Agricultural  
West - Across SH 46, C-3 Commercial/ single family residence and vacant storage building (part of the Elley Lane Master Plan)

*Comprehensive Plan/ Future Land Use Designation:*

Low Density Residential and Commercial. If the proposed rezoning is approved, Staff recommends a concurrent Future Land Use Plan amendment to change the Commercial future land use designation to Residential Low Density.

*Floodplain:*

No portion of the property is located within the 1% annual chance flood zone.

*Regional Transportation Plan:*

Avery Ranch Drive is designated as a 60-foot wide Minor Collector on the City's Regional Transportation Plan and there is a current right-of-way width of 50 feet. The development is not required to dedicate any further right-of-way for Avery Ranch Drive under the current approved master plan; however, should there be any significant future revisions to the master plan, the master plan would be considered a new application and must comply with the Regional Transportation Plan which will require an additional 10 feet of right-of-way dedication.

*Hike and Bike Trails Plan:*

The proposed PD Concept Plan is in compliance with the City's Hike and Bike Trails Plan as there are no existing or proposed trails on or adjacent to the property.

*Parkland Dedication:*

APPD was not subject to the Parkland Dedication and Development Ordinance as the master plan was approved prior to adoption of the ordinance. Therefore, APPD did not include specific park or

open space requirements.

The proposed AP13PD is subject to the current Parkland Dedication and Development ordinance which requires land dedication and park land fee requirements. The proposed AP13PD land use table includes drainage, open space and park as one use, but does not identify any specific areas for parkland dedication or improvements or how much of this general land use category will be encumbered with drainage improvements.

The project narrative identifies a pavilion and proposed dog park which as currently proposed do not satisfy the ordinance requirements for credit. Open space for drainage is not an acceptable form of park land dedication unless it includes a specific park improvement such as a 10-foot to 12-foot wide concrete trail or other acceptable form approved by the Parks and Recreation Department.

Based on the maximum proposed dwelling units (90) the ordinance requires 0.6 acres, but the City cannot accept less than two (2) acres for a park land credit. Therefore, to meet or exceed the ordinance requirements, the developer must set aside at least 2 acres of park land, build four (4) park improvements, and invest an amount equal to the park development fees. The best option to satisfy the park land requirements might be for the developer to pay fees-in-lieu ( $\$100 * 90 = \$9,000$ ) in addition to the development fees ( $\$500 * 90 = \$45,000$ ) for a total of \$54,000. They would need to satisfy the ordinance requirements prior to recording any final plat.

*Improvement(s):*

Avery Park is improved with single family dwellings and is approximately 80% built out. The proposed AP13PD property includes an existing NBU lift station, a single-family dwelling, agricultural buildings, agricultural land and an earthen drainage channel.

**Determination Factors:**

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*There will be no changes in the current uses permitted in the APPD and the uses proposed in the AP13PD are similar to those of Avery Park.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed PD amendment and new PD should not conflict with the existing and proposed streets, water supply, sanitary sewer and other utilities in the area. The adequacy of public facilities and utilities to serve the additional demand is evaluated by each provider. CISD and utility providers have been notified of the proposal.*);
- How other areas designated for similar development will be affected (*Continued suburban style single-family detached residential development of the large vacant tracts along State Highway 46 will contribute to utility demands and increased traffic as future residents travel to goods and services. The new comprehensive plan will need to revisit the large areas currently designated for low density residential.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will substantially affect the public health, safety, morals, or general welfare. Drainage, utility and traffic impact issues will be reviewed and addressed through the platting process.*); and
- Whether the request is consistent with the Comprehensive Plan (*The proposed zoning is consistent with the Future Land Use Plan designation of Low Density Residential and with*

several objectives of the Comprehensive Plan, except for the portion of the proposed AP13PD currently designated as "Commercial" adjacent to SH 46.)

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

	Yes	<p><b>City Plan/Council Priority:</b>                  2006 Comprehensive Plan  <i>Pros and Cons Based on Policies Plan</i></p>	<p><b>Pros:</b> <b>Objective 1A:</b> Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The subject properties are in an area being developed with single family residences. <b>Goal 1C:</b> Consider rezoning, as necessary, to ensure existing and future land use compatibility. The proposed APPD amendment and AP13PD are compatible with the existing development and PD development standards. <b>Cons:</b> <b>Goal 2:</b> Encourage the mixing of land uses to create a sense of community in the neighborhoods. <b>Objective 2B:</b> Enable residents to live within walking or a short commuting distance from their work, school, and shopping. Approximately 14 acres of the land within the proposed AP13PD is located outside the drainage area and identified as Commercial on the Future Land Use Plan. Part of the subject property could be utilized to provide neighborhood goods and services; thereby, reducing congestion. <b>Objective 1A:</b> Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. Excessive residential without corresponding nodes of commercial is contributing to traffic congestion along the Hwy 46 corridor as residents maneuver the area seeking out goods and services.</p>
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on November 7, 2017 and recommended approval of the requested rezoning (5-0-0), with Commissioners Laskowski, Sonier and Tubb absent.

**STAFF RECOMMENDATION:**

Approval of:

The amendment to APPD to remove and rezone Lots 43 & 44, Block A, Avery Park Unit 1, to AP13PD.

Approval of:

The rezoning of 27.4 acres from C-3 and APD to AP13PD with the following conditions:

1. No access to SH 46 (further conditioned upon number 2 below);

2. Incorporate an internal street layout into the PD that illustrates a second connection (stub-out) to vacant property to the north;
3. Meet the parkland ordinance requirements as stated in the specific section above; and
4. Include a Future Land Use Plan amendment from “Commercial to “Residential Low Density”, which would occur with the second reading of the rezoning ordinance. While neighborhood commercial internal to the development would provide community amenities and reduce traffic, this amendment would make the proposed use consistent with the plan, and would offer opportunities for staggered commercial development at nodes along SH 46 as opposed to strip commercialization as currently depicted on the Future Land Use Plan.

*Notification:*

Public hearing notices were sent to 706 owners of property within 200 feet of both rezoning cases.

**PZ-17-040 (Avery Park 13 PD):**

Staff has received no responses in favor or opposed.

**PZ-17-043 (Avery Park PD Detail Plan Amendment):**

Staff has received 9 responses from within the subdivision opposed and 5 in favor.

*Attachments:*

1. Aerial, Regional Transportation Plan and Floodplain Map
2. Applications
3. Proposed Avery Park 13 PD Concept Plan and Development Standards
4. Proposed Avery Park 13 Exhibit Map
5. Informational Maps
6. Notification Responses
7. Supporting Ordinances (Avery Park, R-1A-6.6, Planned Development Districts)
8. Excerpt of the Planning Commission Meeting Minutes from November 7, 2017
9. Ordinance