



MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
October 17, 2023

HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS
1400 SCHERTZ PARKWAY BUILDING #4
SCHERTZ, TEXAS 78154

CITY OF SCHERTZ CORE VALUES
Do the right thing
Do the best you can
Treat others the way you want to be treated
Work cooperatively as a team

AGENDA
TUESDAY, OCTOBER 17, 2023 at 6:00 p.m.

Call to Order

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas.
(Councilmember Davis)

Proclamations

Hill Country Night Sky Month-October 2023-Ms. Michelle Molina (Councilmember Heyward)

Memorial Service Detachment Proclamation (Mayor Ralph Gutierrez)

Presentations

Milestone Service Pin Presentation (S. Williams)

Recognition of outgoing Schertz Economic Development Corporation Board Member Roy W. Richard, Jr. (B. James/S. Wayman)

Presentation of the TML Municipal Excellence Award (S. Williams/S. Gonzalez)

City Events and Announcements

- Announcements of upcoming City Events (B. James/S. Gonzalez)
- Announcements and recognitions by the City Manager (S. Williams)
- Announcements and recognitions by the Mayor (R. Gutierrez)

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Discussion by the Council of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

1. **Minutes** - Approval of the minutes from the regular meeting of October 10, 2023 (S.Edmondson/S.Courney)
2. **Resolution 23-R-104** - Authorizing an amendment to the Services Agreement with Vanguard Cleaning Systems increasing the maximum expenditures to \$204,179.28 during the 2023-24 fiscal year. (B. James, D. Hardin-Trussel/C. Lonsberry)
3. **Resolution 23-R-109** - Authorizing a Schertz/Seguin Local Government Corporation (SSLGC) Budget Amendment for Fiscal Year 2022-23. (B. James/L. Busch)
4. **Ordinance 23-S-25** - Approving a request to rezone approximately 14.3 acres from General Business (GB) to Single-Family Residential District (R-2), located approximately 483 feet from the intersection of Green Valley Road and Eckhardt Road, also known as a portion of 4600 Eckhardt Road and 7263 Green Valley Road, Schertz, Guadalupe County, Texas.
Final Reading (B. James/L. Wood/ D. Marquez)

5. **Ordinance 23-S-27** - Approving amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 4, Section 21.4.12 Variances and Article 9 Section 21.9.7 Landscaping and Section 21.9.9 Tree Mitigation. *Final Reading* (B. James/ L. Wood/ S. Haas)
6. **Resolution 23-R-103** - Authorizing the City Manager to sign an Advanced Funding Agreement with the Texas Department of Transportation for Local Government Contributions to a Transportation Improvement Project to provide for Schertz Parkway Bridge Signage. (B.James/S.Wayman)

Discussion and Action Items

7. **Ordinance 23-M-28** - Amending the Code of Conduct and Procedures on Videoconferencing and Hearing of Residents:Written Statements. *First Reading* (S.Edmondson)
8. **Resolution No. 23-R-102** – Approving a bond resolution previously adopted by the board of directors of the Schertz/Seguin Local Government Corporation authorizing the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023”; acknowledging that these bonds will be sold pursuant to the provisions of a purchase contract; ratifying, reconfirming, and readopting the provisions of a regional water supply contract executed between the City of Schertz, Texas, the City of Seguin, Texas, and the Schertz/Seguin Local Government Corporation; authorizing the Mayor, the City Manager, and the City Secretary of the City of Schertz, Texas to execute on behalf of the City of Schertz, Texas all documents in connection with this transaction; and other matters in connection therewith. (S. Williams/ B. James/J. Walters/M. McLiney/A. Friedman)

Public Hearings

9. **Ordinance 23-S-24**– Conduct a public hearing and consider a request to rezone approximately 2.1 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD), known as Guadalupe County Parcel ID 31970, 31971, 31972, 31973, 31980, 31981, 31982, 31983, generally located northwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas. *First Reading* (B. James/S. Haas)
10. **Ordinance 23-S-78** - Conduct a public hearing and consider amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 5, Section 21.5.4 Zoning Change/Zoning Map Amendment. *First Reading* (B. James, L. Wood, S. Haas)

Closed Session

11. The City Council will meet in closed session under Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations; Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect.
- Project: E-91
 - Project: E-92
 - Project: E-88

Reconvene into Regular Session

Discussion and Action Items

12. Take any action based on discussions held in Closed Session under Agenda Item #11.

Information available in City Council Packets - NO DISCUSSION TO OCCUR

Requests and Announcements

- Requests by Mayor and Councilmembers for updates or information from Staff
- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda
- Announcements and City Events attended by Councilmembers

Adjournment

CERTIFICATION

I, SHEILA EDMONDSON, CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AGENDA WAS PREPARED AND POSTED ON THE OFFICIAL BULLETIN BOARDS ON THIS THE 13th DAY OF OCTOBER, 2023 AT 7:45 P.M., WHICH IS A PLACE READILY ACCESSIBLE TO THE PUBLIC AT ALL TIMES AND THAT SAID NOTICE WAS POSTED IN ACCORDANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

SHEILA EDMONDSON

I CERTIFY THAT THE ATTACHED NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE CITY COUNCIL WAS REMOVED BY ME FROM THE OFFICIAL BULLETIN BOARD ON ____ DAY OF _____, 2023. TITLE: _____

This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 210-619-1030.

The City Council for the City of Schertz reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.

Closed Sessions Authorized: This agenda has been reviewed and approved by the City’s legal counsel and the presence of any subject in any Closed Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS

<p>Mayor Gutierrez Audit Committee Board of Adjustments Investment Advisory Committee Main Street Committee Senior Center Advisory Board-Alternate</p>	<p>Councilmember Davis– Place 1 Interview Committee for Boards and Commissions Main Street Committee - Chair Parks & Recreation Advisory Board Schertz Housing Authority Board Transportation Safety Advisory Commission TIRZ II Board</p>
<p>Councilmember Watson-Place 2 Audit Committee Library Advisory Board Senior Center Advisory Board Interview Committee for Boards and Commissions Cibolo Valley Local Government Corporation-Alternate</p>	<p>Councilmember Whittaker – Place 3 Historical Preservation Committee Interview Committee for Boards and Commissions-Chair TIRZ II Board</p>
<p>Councilmember Dahle – Place 4 Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions Planning & Zoning Commission TIRZ II Board</p>	<p>Councilmember Scagliola – Place 5 Animal Advisory Commission - Alternate Hal Baldwin Scholarship Committee Schertz-Seguin Local Government Corporation</p>
<p>Councilmember Heyward – Place 6 Animal Advisory Commission Audit Committee Building and Standards Commission Economic Development Corporation - Alternate Investment Advisory Committee Main Street Committee Interview Committee for Boards and Commissions-Alternate Senior Center Advisory Board</p>	<p>Councilmember Brown – Place 7 Economic Development Corporation Main Street Committee Schertz-Seguin Local Government Corporation - Alternate</p>

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: City Secretary
Subject: Hill Country Night Sky Month-October 2023-Ms. Michelle Molina
(Councilmember Heyward)

Agenda No.

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023

Department: City Secretary

Subject: Memorial Service Detachment Proclamation (Mayor Ralph Gutierrez)

CITY COUNCIL MEMORANDUM

City Council Meeting: **October 17, 2023**
Department: **Executive Team**
Subject: **Milestone Service Pin Presentation (S.Williams)**

BACKGROUND

The City of Schertz recognizes employees with service pins at quarterly department-level ceremonies at 1 year and then increments of 5 years. Employees are recognized and presented their milestone service pin at City Council beginning at 20 years of service.

Congratulations to Police Patrol Sergeant Michael McGuire for 20 Years of Service. Michael joined the City of Schertz Team on July 24, 2003.

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: City Secretary
Subject: Recognition of outgoing Schertz Economic Development Corporation Board Member Roy W. Richard, Jr. (B.James/S.Wayman)

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Executive Team
Subject: Presentation of the TML Municipal Excellence Award (S. Williams/S. Gonzalez)

BACKGROUND

During the 2023 Texas Municipal League (TML) Annual Conference and Exhibition in Dallas, the City of Schertz received a 2023 Municipal Excellence Award in public safety for cities over 25,000 in population. The award recognized the City for its EMS Yellow Dot program. Schertz EMS launched the Yellow Dot Program to help those who may not be able to communicate their needs when involved in a traffic incident. By placing a yellow dot decal in the vehicle's rear window, first responders are alerted to check the glove compartment for information to ensure proper medical attention is given.

TML's Municipal Excellence Awards recognize and encourage the achievements of Texas cities in meeting the challenge of municipal governance. Innovative problem-solving, excellence in management, increasing citizen participation, and reaching higher service levels are all daily occurrences in Texas cities. This awards program seeks out the best of these programs to honor. Awards are given in two population categories (under 25,000 and over 25,000) and five areas (management innovations, communication programs, city spirit, public safety, and public works).

The 2023 TML Annual Conference and Exhibition was held at the Kay Bailey Hutchison Convention Center in Dallas on October 4-6 and attracted more than 3,000 city officials, who learned ways to govern more effectively, discussed critical issues, and shared best practices and solutions. TML is a voluntary association of 1,175 Texas cities. Guided by its purpose statement—Empowering Texas cities to serve their cities—the League provides support and services to city governments. The City of Schertz is a member of TML.

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023

Department: Executive Team

Subject: Presentation of Scenic City Award Designation (B. James/S. Wayman)

BACKGROUND

The City of Schertz has been awarded Platinum status under the Texas' Scenic City program. Scenic Texas was inspired by the visionary leadership of Texas former first lady Lady Bird Johnson. She began the scenic movement during her husband's presidency and was instrumental in the Highway Beautification Act creation and passage. The First Lady's vision was to make America the Beautiful a reality. The mission of the Scenic City Certification Program is to support and recognize Texas municipalities that implement high-quality scenic standards for public spaces. The Scenic City Certification Program provides a proven, highly-regarded tool to Texas cities for assessment, evaluation, and recognition of infrastructure standards.

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: City Secretary
Subject: Minutes - Approval of the minutes from the regular meeting of October 10, 2023 (S.Edmondson/S.Courney)

Attachments

10-10-2023 Minutes DRAFT

DRAFT

MINUTES REGULAR MEETING October 10, 2023

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on October 10, 2023, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Michelle Watson; Councilmember Mark Davis; Councilmember Jill Whittaker; Councilmember Michael Dahle; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

Staff present: City Manager Steve Williams; Assistant City Manager Sarah Gonzalez; City Attorney Daniel Santee; City Secretary Sheila Edmondson; Deputy City Secretary Sheree Courney

Call to Order

Mayor Gutierrez called the meeting to order at 6:00 p.m.

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Councilmember Brown)

Mayor Gutierrez recognized Councilmember Brown who provided the opening prayer and led the Pledges of Allegiance to the Flags of the United States and the State of Texas.

Proclamations

DVAM-Domestic Violence Awareness Month Proclamation-October 2023

Mayor Gutierrez recognized Councilmember Brown who presented the Domestic Violence Awareness Month Proclamation - 2023 to Ms. Reagan Thibadoux, Community Engagement Specialist for the Thriving Hearts Crisis Center formerly Guadalupe Valley Family Violence Shelter; Ms. Krista Chandler, Crime Victim Liaison for the Schertz Police Department; and Ms. Ashton Story.

Planning Month-October 2023

Mayor Gutierrez recognized Councilmember Heyward who presented the Planning Month - October 2023 Proclamation to Ms. Emily Delgado, Planning Manager; Mr. Samuel Haas, Senior Planner; Ms. Daisy Marquez, Planner; and Ms. Ameriz Gamez, Planner.

Manufacturing Day Oct 6, 2023

Mayor Gutierrez recognized Councilmember Dahle who presented the Manufacturing Day - October 6, 2023 Proclamation to Mr. Scott Wayman, Economic Development Corporation (EDC) Director, and Ms. Ashley Ritchey, EDC Business Engagement Manager.

Fire Prevention Week Proclamation

Mayor Gutierrez recognized Councilmember Heyward who presented the Fire Prevention Week Proclamation to Schertz Fire Chief Greg Rodgers and members of the Schertz Fire Department.

Employee Introductions

Mayor Gutierrez recognized City Department Heads who introduced new staff:

- Civic Center: Kasha Ennis-Events Attendant
- EMS: Cooper Woodward-Paramedic
- Engineering: Samuel Lopez-Engineering Inspector
- Fire Dept: Melissa Rodriguez-Administrative Assistant; Phillip Moore-Firefighter
- Inspections: Michelle Cherry-Permit Technician; Christina Timke-Permit Technician
- Library: Nichole Badraun-Programming Specialist; Jessica Wheless-Library Assistant
- Police Dept: Hank Fahnert-Police Officer; Andrew England-Police Officer; Rashad Beecham-Police Cadet;
- Police Communications-Taiya Connell-Communications Officer
- Public Affairs: Jenna Kock-Marketing & Communications Specialist

Presentations

Recognition of 2023 Emerging Leaders Class (S.Williams/S.Gonzalez/J.Kurz)

Mayor Gutierrez recognized Assistant City Manager Sarah Gonzalez who gave a brief presentation on the Emerging Leaders Class and then recognized members of the graduating class:

Ms. Korrin Bond - Administrative Assistant, IT

Ms. Devan Christensen - Communications Manager, Public Affairs

Ms. Tiffany Danhof - Administrative Assistant, Planning and Community Development

Sgt. Shawn Ceeko - Patrol Sergeant, Police Department

Mr. Robert Dobratz - Parks Maintenance Crew Supervisor, Parks & Recreation Department

Ms. Dana Kellum - Fire Apparatus Operator, Fire Department

Ms. Charis Lawry - Utility Billing Clerk, Utility Billing

Sgt. Sean McKenna - Patrol Sergeant, Police Department

Ms. Erin Noah - Building Inspector, Inspections Development

Mr. Marc Yamazi - Code Enforcement Officer, Neighborhood Services

City Events and Announcements

- Announcements of upcoming City Events (B. James/S. Gonzalez)
Mayor Gutierrez recognized Assistant City Manager Sarah Gonzalez who provided the following:

Tuesday, October 17

Next Regularly Scheduled City Council Meeting
Council Chambers
6:00 p.m.

Election Information - The City of Schertz will be holding its General Election on November 7, 2023, for the purpose of electing Council Members for Place 3, Place 4, and Place 5 for three year terms. Early voting starts October 23, 2023, and ends November 3, 2023. Check County websites for voting locations and hours.

- Announcements and recognitions by the City Manager (S. Williams)
Mayor Gutierrez recognized City Manager Steve Williams who provided the following:

City Staff Promotions:

Jim Bruce from Planning Examiner to Chief Building Official
Felicia Canales from Administrative Assistant to Fire Prevention Specialist
Shawn Ceeko from Patrol Officer to Sergeant
Sean McKenna from Patrol Officer to Sergeant
Dallas Hopper from Patrol Officer to Sergeant
Christopher Martinez from Patrol Officer to Sergeant

September 23, 2023

Fall Love Where You Live event

The mission of Love Where You Live is to demonstrate the love of Jesus Christ to our neighbors in need by connecting volunteers from local churches and other community organizations, including the Schertz Neighborhood Services Department and other city staff members, to assist with the maintenance and repairs of neighborhood homes. There were 415 volunteers who assisted 68 residents with yard work and home repair projects. More information on this event can be found at <https://lwylschertz.com>.

Community Car Seat Check

Volunteers assisted Child Passenger Safety Technicians in checking 26 car seats.

October 3, 2023

National Night Out

National Night Out is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie. The City of Schertz had 7 groups of representatives comprised of the Schertz Police Department, Fire Department, Council members, and other city staff that visited 28 neighborhoods that had signed up for the event.

October 10, 2023

Kenneth Greenwald Water Treatment Plant Building Dedication. Mr. Greenwald served on the Schertz City Council from 1983 to 2005 and was instrumental in the creation of the Schertz-Seguin Local Government Corporation (SSLGC) in 1998 and served as the City Council representative on the initial Board of Directors. He continued his service with the SSLGC from 2006 to 2008 and from 2010 to 2021.

- **Announcements and recognitions by the Mayor (R. Gutierrez)**

Mayor Gutierrez reiterated the importance of the volunteer projects that take place on a regular basis in the City of Schertz adding that the community involvement inspires others to help. He thanked all the volunteers for helping their neighbors.

Mayor Gutierrez congratulated Councilmember Allison Heyward for being selected to serve as the Texas Municipal League's (TML) President-Elect for 2024 at the recent TML conference held in Dallas. There were representatives from several hundred cities and towns in attendance at this annual event.

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than **3** minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Mayor Pro-Tem Watson recognized the following residents:

Maggie Titterington, 1730 Schertz Parkway, who shared the following information for The Chamber:

- Skyline Balloon Festival was very successful. Balloons were able to go up on Saturday treating individuals traveling on I-35 between Cibolo and Selma and some individuals were able to do tethered balloon rides. She estimated participation was over 13,000 for the two-day event. She thanked Mayor Pro-Tem Watson for opening statements and the Schertz Police Department for their participation and great display.
- This past week, welcomed two new members to The Chamber last week, Primero Texas Landscaping and Savannah Smiles Dental.
- October 14 - HRK Safety Consultants working with the Fire Departments of Schertz, Cibolo, and Selma are giving away free smoke from 10:00 a.m. - 11:00 a.m. at 1730 Schertz Parkway.
- October 18 - Ribbon cutting for Lonestar Home Realty
- October 21 - HYPER hosted Shred Day, from 9:00 a.m. to 12:00 noon, at 1730 Schertz Parkway. Up to five boxes - free. Donations will be accepted to support a couple of families for Thanksgiving and Christmas dinners and providing Christmas gifts for the children.

- October 23 - Ribbon cutting for Strahler Dental
- October 26 - Ribbon cutting for Schertz EDC welcoming new board members

Colby Binford, Attorney for Adam Sharp family, who oppose Ordinance 23-S-26. It doesn't comply with the City's Comprehensive Master Plan, the City's zoning ordinance, or the City's subdivision ordinance. There is no access to this property, no roads on the master transportation plan.

Mark Penshorn, 8320 Trainer Hale Rd., stated he lives on several hundred acres of agricultural land that have been in his family since 1852. Dr. Penshorn's land is part of an ETJ for which an agreement with Schertz had been reached whereby it would not be annexed. The agreement had been extended for 10 years, which is now reaching its termination date. He is asking Council to consider another extension of the agreement, and not annex the ETJ. He loves Schertz, but doesn't need the additional taxes and is not interested in running for Council.

Rodolfo Estrada, 11401 Lower Seguin Rd., is concerned with the 90 degree turn in front of his home. They have lived on this property for 22 years. When the road was repaved a few years ago, it was raised causing a number of accidents. Four incidents involving damage to his property were paid for by insurance companies, but the last two were hit and run events for which he had to pay for the repairs out of pocket. He is requesting a street light be installed on this curve to increase visibility, rumble strips to warn of the approaching curve, or a barrier on the curve itself. There is a speed limit sign but it is not heeded. He is asking Council for assistance with a resolution.

Paul Macaluso, 845 Water Oak, introduced himself as a candidate for City Council Place 3. Mr. Macaluso has been a resident of Schertz for 12 years. He has been a volunteer since moving here. First, as a youth coach for BBYA, then 8 years ago he was selected to serve as a member of the Schertz Economic Development Corporation Board of Directors, the last 5 as the Board President.

Nicholas Brumgard, 2305 Hawthorne Pass, lived here since the late 1990's. He is opposed to Ordinance 23-S-26. In late 2022, he was part of a rezoning effort for 22 acres off of Dean Road that was zoned as SF1 and they were requesting SF4. The application for rezoning was denied due to flooding down the hill and road wear, also stated that SF4 was too high volume. That property is 1,200-1,800 feet south of the subject property for this rezoning request. Already downhill and noted on the FEMA maps as flood zone. Asked Council to consider this when voting on this ordinance.

Andrew Friedman, SAMCO Capital Markets, who serve as the financial advisor to the city provided an information packet for Council regarding SSLGC bond issuance request that will be brought forth at the next meeting. This debt has been incorporated into the utility rates for the city already. Plan if the City approves parameter sales at the next meeting is to market the bonds on October 24th, locking in the interest rate. Funds will be delivered approximately 30 days following.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

1. **Minutes** - Approval of the regular meeting minutes of September 19, 2023. (S.Edmondson/S.Courney)
2. **Resolution 23-R-98** - Approving a Resolution authorizing the City Manager to enter into an Interlocal Agreement with Guadalupe County for Library Services. (S. Gonzalez/M. Uhlhorn)
3. **Resolution 23-R-101** - Accepting the semi-annual report on the progress of the Capital Recovery Capital Improvements Plan (B. James/K. Woodlee)
4. **Resolution 23-R-106** – Authorizing the City Manager to enter into an agreement with Halff Associates, Inc., for design, bid, and construction phase engineering services for the IH 35 NEX-North Water and Wastewater Utility Relocation Project. (B. James/K. Woodlee/E. Schulze)
5. **Resolution 23-R-111** – Authorizing Expenditures in an amount not to exceed \$2,731,724.00 with Axon Enterprise, Inc., for the purchase of Body-worn, In-Car Cameras and Taser Replacements. (S.Williams/J.Lowery/H.Murphy)

Item was pulled from Consent for Council Discussion at request of Councilmember Scagliola who stated that this item meets the spirit and intent of Consent Agenda Items, but felt it needed to be addressed separately due to the dollar amount. Additionally, he wanted to reiterate that the City of Schertz backs the blue. He stated he was proud that the City of Schertz is listed as one of the top 10 safest cities in Texas. He attributes this to the men and women in blue working in cooperation with residents, business owners, and civic leaders. Councilmember Scagliola ended the discussion with the following: 'we back the blue and that should be said more often. This agenda item addresses that and adds validity to our words, it shows commitment to backing the blue'.

Moved by Councilmember David Scagliola, seconded by Councilmember Allison Heyward

AYE: Mayor Pro-Tem Michelle Watson, Councilmember Mark Davis,
Councilmember Jill Whittaker, Councilmember Michael Dahle,
Councilmember David Scagliola, Councilmember Allison Heyward,
Councilmember Tim Brown

Passed

6. **Resolution 23-R-105** – Authorizing the purchase of property and easements along IH-35 for the Riata Lift Station (B.James/K.Woodlee/E.Schulze)

Mayor asked Council if any item needed to be removed from Consent for discussion. Item #5 - Resolution 23-R-111 was removed. Mayor asked Council for a motion to approve Consent Agenda items #1-4 and Consent Agenda item #6.

Moved by Councilmember David Scagliola, seconded by Councilmember Michael Dahle

AYE: Councilmember Allison Heyward, Councilmember Mark Davis, Mayor Pro-Tem Michelle Watson, Councilmember Jill Whittaker, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Tim Brown

Passed

Discussion and Action Items

7. **Resolution 23-R-96** - Nominations for the Guadalupe Appraisal Board of Directors for a term from 2023-2025.

Mayor Gutierrez recognized City Secretary Sheila Edmondson who provided Council with information received from the Guadalupe Appraisal District Board of Directors regarding upcoming elections. She listed the names of current nominees and asked Council if they had any names to put forth. No nominations were made. No action was taken.

Public Hearings

8. **Ordinance 23-S-27** - Conduct a public hearing and consider amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 4, Section 21.4.12 Variances and Article 9 Section 21.9.7 Landscaping and Section 21.9.9 Tree Mitigation. **First Reading** (B. James, L. Wood, S. Haas)

Mayor Gutierrez recognized Sr. Planner Samuel Haas provided a briefing outlining the proposed changes being put forth with Ordinance 23-S-27. He stated that the amendments would help the UDC align more closely with the Local Government Code, adding clarity for applicants and staff. The Planning and Zoning Commission recommended approval with a 7-0 vote at their September 13, 2023, meeting.

Mayor Gutierrez opened the Public Hearing.

Maggie Titterington, 1730 Schertz Parkway, Chamber of Commerce, thanked staff for the clarifications stating that some of the businesses are going to like the tree mitigation changes as it may lead to cost savings for them. Some of the items in the

UDC have created a hardship for some of the businesses coming into Schertz, so these clarifications will help a lot.

No other public spoke. Mayor Gutierrez closed the Public Hearing and opened the floor to Council for discussion.

Mayor Gutierrez recognized Councilmember Scagliola who questioned how the tree mitigation changes benefited the community. Mr. Haas explained that changing the UDC to match the Local Government Code would prevent providing businesses with mandatory mitigation credits. Intent is to clarify the UDC and make it consistent with the Local Government Code.

Mayor Gutierrez added that having the UDC match the Local Government Code would make it easier for developers to plan.

Mayor Gutierrez asked for a motion to approve Ordinance 23-S-27.

Moved by Councilmember Mark Davis, seconded by Councilmember Allison Heyward

AYE: Mayor Pro-Tem Michelle Watson, Councilmember Mark Davis, Councilmember Jill Whittaker, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

9. **Ordinance 23-S-26** – Conduct a public hearing and consider a request to rezone approximately 21 acres of land from General Business District (GB) and Single-Family Residential / Agricultural District (R-A) to Apartment / Multi-Family Residential District (R-4), generally located approximately 3,000 feet east of the intersection of IH 35 access road and Cibolo Valley Drive, also known as Guadalupe County Property Identification Numbers: 68315, 68316, 68296, 68295, 68294. ***First Reading*** (B. James, L. Wood, E. Delgado)

Mayor Gutierrez recognized Planning Manager Emily Delgado who provided the location of the subject property, the public hearing notices sent August 30, 2023, public hearing notice published in the San Antonio Express News on September 20, 2023, and the responses received (10-in favor; 9-opposed; 0 neutral).

If a proposed zoning change is protested in writing and signed by the owners of at least twenty percent of the area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the City Council according to Local Government Code Section 211.006 (d). As of October 10, 2023, the total percentage of the protested parcel acreage is 31.11%, therefore, the 3/4 vote has been triggered for this zone change request.

Zoning change from RA single family agricultural district to R4 for multifamily residential district. Ms. Delgado provided 8 items for consideration then recommended approval of the proposal. The Planning and Zoning Commission met on September 13, 2023, and recommended approval with a 7-0 vote.

Ashley Farrimond, Attorney for the Developer, presented the applicant's planned development. Applicant's project will need to work with the existing master thoroughfare plan. There are infrastructure and access requirements, so these roadways will be built as the development comes. Development triggers the need to build infrastructure. She provided a conceptual site plan showing city's parking and landscaping requirements, no variances are being requested. It will be a gated community.

Mayor Gutierrez opened the Public Hearing.

The following residents spoke in opposition to Ordinance 23-S-26:

Harold Densberger, 2229 Den-Ott Hill - no issue with developing the apartments but has an issue with the developer trying to take the private road for their development without discussion with the owners. Doesn't think they should approve the rezoning without proper egress and ingress for the development.

Colby Binford representing Gloria Densberger, 2229 Den-Ott Hill - one of the issues is that staff is relying on language that is for areas proposed to utilize a traditional neighborhood design for single family residential use that may include a mix of residential uses, as well as, limited commercial development to support the daily activities of the development. It's not a mixed use of residential uses; it is limited to commercial development and residential uses. Zoning for this area was changed to single family residential by Ordinance 17-S-20. It stated that not only did this designation allow for the single family residences, it allowed for limited commercial development along the corridor of FM 1103 and Wiederstein Rd. This development does not comply with the UDC Section 21.5.5(e) that states multifamily development should not be located in areas where they would increase traffic in single residential neighborhoods and should be adjacent to arterial streets with sufficient capacity to carry the increased traffic. Infrastructure has not been built and is required by the UDC.

Sandra Ott, 18780 IH 35N #3, owns #5 as well - stated reasons for opposing Ordinance 23-S-26 include the use of the private road, lack of egress/ingress access points and an 8-foot wall with 250–300 apartments behind it. She has had no communication with the buyer, seller, or broker of this property. She believes multifamily will bring a devaluation of existing homes, increased crime rates, and a lack of privacy with the potential three-story apartments facing their front yards. She stated that the City of Schertz has no concern for their safety or welfare.

Adam Sharp, 2233 Den-Ott Hill, stated his concerns with the lack of egress/ingress access.

Mark Tudyk, 18940 Old Wiederstein, stated his agreement with the opposition. He believes the development is rushed and poorly planned. He stated there is no benefit or use to the long-established residents of Schertz who will be most greatly affected by it.

Jesus Aguayo, 1212 Spicewood - is opposed to the multifamily development with the amount of traffic already in this area and doesn't want apartments right in front of his home.

Nichole Sharp, 2233 Den-Ott Hill - stated agreement with opposition previously voiced and asked if all single family residential zoning will be subject to rezoning to multifamily.

Christopher Ruggiero, 2429 Melville Lane - nothing material to add to the argument, but believes the utilization of Den-Ott Road is dubious at best for this project. Feels the project is rushed and feels there are numerous parcels of land in Schertz available for this development that are better suited.

Mayor Gutierrez closed the public hearing and opened the floor to council for discussion.

There was much discussion amongst Council members regarding the use of the private road, access points to the subject property, and the ownership. The subject property is landlocked. Councilmembers questioned the use, size and ownership of the private road. Ms. Farrimond responded that the private road crosses over into two properties. Dual ownership of the road will require all owners to be in agreement.

Some Councilmembers reiterated that the issue at hand is only the rezoning of the subject property not the infrastructure or use of a private road, additionally, a reminder was provided that there will be further requirements the developer will have to meet in order to move forward. If the developer can't meet the UDC requirements for infrastructure, egress/ingress, etc., at that time, then the development will not be built.

Mayor Gutierrez reminded Council that a 3/4 vote has been triggered and asked for a motion to approve Ordinance 23-S-26.

Moved by Councilmember Michael Dahle, seconded by Councilmember Jill Whittaker

AYE: Mayor Pro-Tem Michelle Watson, Councilmember Jill Whittaker, Councilmember Michael Dahle, Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Councilmember Mark Davis, Councilmember David Scagliola

Failed

10. **Ordinance 23-S-25** - Conduct a public hearing and consider a request to rezone approximately 14.3 acres from General Business (GB) to Single-Family Residential District (R-2), located approximately 483 feet from the intersection of Green Valley Road and Eckhardt Road, also known as a portion of 4600 Eckhardt Road and 7263 Green Valley Road, Schertz, Guadalupe County, Texas. *First Reading* (B. James/L. Wood/ D. Marquez)

Mayor Gutierrez recognized Planner Daisy Marquez who provided the location of the subject property, nine public hearing notices sent August 28, 2023, public hearing notice published in the San Antonio Express News on September 20, 2023, and the responses received as of October 10, 2023 (0-in favor; 0-opposed; 1-neutral).

Per Letter of Intent, applicant wishes to rezone the remaining portion of the property to match the already zoned R-2 on the northern portion of the property. The intent for the property is to build single family homes.

Staff recommends approval of the proposed zone change from General Business to Single-Family Residential due to its consistency with existing land uses and compatibility with the Comprehensive Plan. The Planning and Zoning Commission recommended approval at their September 13, 2023, meeting with a 7-0 vote.

Mayor Gutierrez opened the Public Hearing. No one spoke.

Mayor Gutierrez closed the Public Hearing and opened the floor to Council for discussion. No discussion occurred.

Mayor Gutierrez called for a motion to approve Ordinance 23-S-25.

Moved by Councilmember David Scagliola, seconded by Councilmember Allison Heyward

AYE: Mayor Pro-Tem Michelle Watson, Councilmember Mark Davis, Councilmember Jill Whittaker, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Workshop

11. Discussion regarding the status of City's electronic marquee sign

Mayor Gutierrez recognized Internal Services Director with Facilities Services provided the following information:

- Sign has been struggling for approximately 2 years and is now inoperable
- Current sign is in the GVEC right-of-way. Replacement sign cannot be placed

in this location.

- Potential redesigned sign was shown
- Cost to demolish and install a new sign will be \$84,638 to \$91,271 based on the size of the sign
- Proposed sign placement is in the first two parking spots in front of the Council Chambers

Item will come back to Council for approval once a vendor has been determined.

Information available in City Council Packets - NO DISCUSSION TO OCCUR

12. Monthly Update - Major Projects In Progress/CIP (B.James/K.Woodlee)

Requests and Announcements

- Requests by Mayor and Councilmembers for updates or information from Staff

Councilmember David Scagliola asked for update on the status of the development agreements for the properties south of FM 78.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda

None at this time.

- Announcements and City Events attended by Councilmembers

Mayor Pro-Tem Watson-attended National Night Out events in several neighborhoods and attended the Texas Municipal League Annual Conference held in Dallas, TX

Councilmember Mark Davis-attended the Texas Municipal League Annual Conference held in Dallas, TX

Councilmember Jill Whittaker-attended National Night Out events in several neighborhoods

Councilmember Michael Dahle- attended National Night Out events in several neighborhoods

Councilmember David Scagliola-attended the REMAX VIP at the Skylight Balloon Festival, National Night Out events in several neighborhoods, Texas Municipal League Annual Conference in Dallas, TX., Mr. Ken Greenwald's Dedication at SSLGC and received a Chamber coin from President Maggie Titterington

Councilmember Allison Heyward-attended the ATAC Pedestrian and Bike Mobility Meeting, Schertz Animal Advisory Committee Meeting, Texas Municipal League Annual Conference in Dallas, TX and Dunkin' for Pumpkins

Councilmember Tim Brown-attended the Skylight Ballon Festival and National Night Out events in several neighborhoods

Adjournment

Mayor Gutierrez adjourned the meeting at 9:02 p.m.

ATTEST:

Ralph Gutierrez, Mayor

Sheila Edmondson, City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Facility & Fleet
Subject: Resolution 23-R-104 - Authorizing an amendment to the Services Agreement with Vanguard Cleaning Systems increasing the maximum expenditures to \$204,179.28 during the 2023-24 fiscal year. (B. James, D. Hardin-Trussel/C. Lonsberry)

BACKGROUND

The cleaning contract with Vanguard Cleaning Systems was approved September 10, 2019 (reference Resolution 19-R-122). Facility Services worked with the Purchasing Division on the final renewal option.

With this amendment frequency of cleaning of the Police Department ins increasing from 5-7 days a week; keeping 7 days a week of cleaning at the library but increasing the services that are being provided; increasing cleaning in a number of other buildings from 3 to 5 days a week. The current services cost is \$12,407.31 monthly. The increase in services will cost \$17,014.94 monthly. This will be funded through Facility Services contractual service budget.

Vanguard will be cleaning the Police Department (7 days a week), Fire Department Admin Bldg (5 days a week), EMS Billing/Purchasing Bldg (5 days a week), EMS Bldg (5 days a week), Fleet Bldg (5 days a week), Engineering Bldg (5 days a week), Council Chambers (3 days a week), Parks (5 days a week), Community Center Conference Room (5 days a week), Library (7 days a week), Administration Building (5 days a week), Public Works Bldg (5 days a week), Animal Services (5 days a week), and City Hall (5 days a week). The total annual cost of the contract is \$204,179.28.

GOAL

To obtain authorization from City Council to approve the increase cleaning services and the final renewal of the current contract.

COMMUNITY BENEFIT

To maintain clean buildings for city staff and citizens to conduct business in.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that Council authorizes City Manager to enter into the final renewal that increases services with Vanguard Cleaning Systems.

FISCAL IMPACT

The resolution authorizes the City to spend up to \$204,179.48 in FY 2023-24 with Vanguard as part of entering into the amended service agreement. Funding has been provided in the FY 2023-24 City Budget. The cost of services is an increase of just over \$55,000 from the prior year and is the result of increasing the frequency of cleaning of a number of buildings - in particular public safety buildings that are staffed 7 days per week.

RECOMMENDATION

Approval of Resolution 23-R-104.

Attachments

Res 23 R 104 w exhibit

RESOLUTION NO. 23-R-104

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN AMENDED SERVICE AGREEMENT WITH BRETT SYSTEMS, INC. DBA VANGUARD CLEANING SYSTEMS FOR CLEANING SERVICES DURING FY 23-24 AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz (the “City”) requires cleaning of its occupied buildings to meet typical cleaning needs; and

WHEREAS, City staff is entering into the fourth and final renewal of the current contract and increasing services due to an increase in demand and staff; and

WHEREAS, City staff has recommended the City accept Vanguard Cleaning Systems contract renewal for cleaning services in the amount of \$204,179.28; and

WHEREAS, the City Council authorizes City staff to enter into a final renewal contractual relationship with Vanguard Cleaning Services for cleaning services for the Fiscal Year 2023-2024.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver the contract with Brett Systems, Inc. DBA Vanguard Cleaning Services for cleaning services during the FY 2023-2024 generally as attached in Exhibit “A” with a not to exceed amount of \$204, 179.28.

Section 2. The recitals contained in the preamble hereof are hereby 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 City Council.

Section 3. 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 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. 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 City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. 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 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

Exhibit "A"

Amended Service Agreement

AMENDMENT ONE

This Amendment is made to the Service Agreement previously executed by and between the CITY OF SCHERTZ, TEXAS ("City") and Vanguard Cleaning Systems ("Contractor") in September 2019, with the fourth and final renewal option ending September 30, 2024.

It is mutually understood and agreed by and between the undersigned contracting parties to amend the previously executed agreement as follows:

Replace the following sections of the original agreement with the rescoped services, attached hereto:

- Exhibit A – Scope of Work
- #1 Building Locations
- #2 Building Cleaning Schedule

Exhibit B – Pricing Schedule

RESCOPED SERVICES

<i>Area / Label</i>	<i>Service Type</i>	<i>Frequency</i>	<i>Monthly Price</i>
Police Department B6	Evening Cleaning	Seven Times Per Week	\$3,431.40
Fire Department B8	Evening Cleaning	Five Times Per Week	\$817.00
EMS/Purchasing B9	Evening Cleaning	Five Times Per Week	\$613.00
EMS Department B7	Evening Cleaning	Five Times Per Week	\$613.00
Fleet Bid 27	Evening Cleaning	Five Times Per Week	\$817.00
Engineering Department	Evening Cleaning	Five Times Per Week	\$613.00
Council Chamber	Evening Cleaning	Three Times Per Week	\$465.00
Parks Department	Evening Cleaning	Five Times Per Week	\$817.00
Community Conference Room	Evening Cleaning	Five Times Per Week	\$230.00
Library	Evening Cleaning	Seven Times Per Week	\$5,142.03
Administrative Offices	Evening Cleaning	Five Times Per Week	\$840.56
Public Works	Evening Cleaning	Five Times Per Week	\$653.88
Animal Service	Evening Cleaning	Five Times Per Week	\$713.95
City Hall	Evening Cleaning	Five Times Per Week	\$1,248.12

Your monthly price for all services will be adjusted as follows:

<i>Current Services</i>	/	<i>Rescoped Services</i>
\$12,407.31		\$17,014.94

Library Services Breakdown:

- 8 hours – General Services
- 12 minutes (daily) – Interior Glass Cleaning
- 1 hour – Bookshelf Cleaning

All other requirements, terms, and conditions that are not hereby amended are to remain in full force and effect.

EXECUTED on this the _____ day of _____, 2023.

CITY:

CONTRACTOR:

By: _____
Name: Steve Williams
Title: City Manager

By: _____
Name: _____
Title: _____

ADDRESS FOR NOTICE:

CITY:

City of Schertz
Attn: Steve Williams, City Manager
1400 Schertz Parkway
Schertz, Texas 78154

CONTRACTOR:

Vanguard Cleaning Systems
1638 Lockhill Selma Rd
San Antonio, Texas 78213

Vanguard Cleaning Systems Additional Service
Services and Pricing Summary

The Cleaning Services described in the preceding Service Schedule are bid on the estimated time it will take our team to deliver all cleaning services defined during our sales / assessment period. This proposal is for services in addition to your current services being provided in your facility.

Custom Pricing Prepared for **City of Schertz**

The additional Areas / Services are broken down as follows:

Area / Label	Service Type	Frequency	Monthly Price
Police Department B6	Evening Cleaning	Seven Times Per Week	\$3,431.40
Fire Department B8	Evening Cleaning	Five Times Per Week	\$817.00
EMS/Purchasing B9	Evening Cleaning	Five Times Per Week	\$613.00
EMS Department B7	Evening Cleaning	Five Times Per Week	\$613.00
Fleet Bld 27	Evening Cleaning	Five Times Per Week	\$817.00
Engineering Department	Evening Cleaning	Five Times Per Week	\$613.00
Council Chamber	Evening Cleaning	Three Times Per Week	\$465.00
Parks Department	Evening Cleaning	Five Times Per Week	\$817.00
Community Conference Room	Evening Cleaning	Five Times Per Week	\$230.00
Library	Evening Cleaning	Seven Times Per Week	\$5,142.03
Administrative Offices	Evening Cleaning	Five Times Per Week	\$840.56
Public Works	Evening Cleaning	Five Times Per Week	\$653.88
Animal Service	Evening Cleaning	Five Times Per Week	\$713.95
City Hall	Evening Cleaning	Five Times Per Week	\$1,248.12

Your monthly price for all services will be adjusted as follows:

Current Services

\$12,407.31

Rescoped Services

\$17,014.94

To start services outlined in this Service Schedule, please proceed to the next page to review and sign our Service Agreement Addendum.

Please submit signed agreements to:

(pdf) dramirez@vanguard365.com



(mail) 1638 Lockhill Selma Rd, San Antonio, Texas 78213
VANGUARD CLEANING SYSTEMS OF SAN ANTONIO | SERVICE AGREEMENT ADDENDUM

This document is in reference to a SERVICE AGREEMENT dated (5/2019), between the parties named below.

Be it known that the undersigned parties, for good consideration, agree to make the changes and/or additions outlined

The undersigned Client hereby accepts this addendum of Vanguard Cleaning Systems for janitorial services for Client's premises located at:

1400 Schertz Parkway, Schertz, Texas 78154

With the following terms:

1. Beginning _____ Vanguard Cleaning Systems of San Antonio ("Company") will arrange for the delivery of the professional commercial cleaning services (priced monthly) described on the preceding "Service Schedule" as follows (please initial):

Added / Additional Services:

<i>Area / Label</i>	<i>Service Type</i>	<i>Frequency</i>	<i>Monthly Price</i>
Police Department B6	Evening Cleaning	Seven Times Per Week	\$3,431.40
Fire Department B8	Evening Cleaning	Five Times Per Week	\$817.00
EMS/Purchasing B9	Evening Cleaning	Five Times Per Week	\$613.00
EMS Department B7	Evening Cleaning	Five Times Per Week	\$613.00
Fleet Bld 27	Evening Cleaning	Five Times Per Week	\$817.00
Engineering Department	Evening Cleaning	Five Times Per Week	\$613.00
Council Chamber	Evening Cleaning	Three Times Per Week	\$465.00
Parks Department	Evening Cleaning	Five Times Per Week	\$817.00
Community Conference Room	Evening Cleaning	Five Times Per Week	\$230.00
Administrative Offices	Evening Cleaning	Five Times Per Week	\$840.56
Public Works	Evening Cleaning	Five Times Per Week	\$653.88
Animal Service	Evening Cleaning	Five Times Per Week	\$713.95
Library	Evening Cleaning	Seven Times Per Week	\$5,142.03
City Hall	Evening Cleaning	Five Times Per Week	\$1,248.12

2. The monthly price for the entire contact will adjust as follows based on the changes or additions above:

Current Monthly Price of Services: \$12,407.31

New / Prevailing Monthly Price of Services: \$17,014.94

3. No other terms or conditions of the agreement are negated or changed as a result of this addendum.

4. Monthly invoices will be adjusted / prorated according to new services added above.



Library services breakdown:

8hrs- general services

12 minutes (daily) - interior glass cleaning

1hr- bookshelf cleaning

ACCEPTED:

City of Schertz

Vanguard Cleaning Systems of San Antonio

Title

Title

Date Signed

Date Signed

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Public Works
Subject: Resolution 23-R-109 - Authorizing a Schertz/Seguin Local Government Corporation (SSLGC) Budget Amendment for Fiscal Year 2022-23. (B. James/L. Busch)

BACKGROUND

This budget amendment is an end of year budget amendment. There are a few projects that were budgeted in the Operating Fund but will not be completed by the end of the fiscal year. These funds will be transferred to the Future Development Fund and to the Repair/Replacement Fund to continue these projects into Fiscal Year 2024. In addition, a CIP update was budgeted in the Operating Fund for the current fiscal year. These funds are more appropriately funded out of the Impact Fee Fund. Finally, two projects that were started in prior fiscal years have a few more expenses related to those projects. The projects include Cathodic Protection project as well as the Fiber Installation project. The projects are being funded from Retained Earnings in the Repair/Replacement Fund.

The SSLGC Board approved this action at their regularly scheduled board meeting on September 21, 2023.

GOAL

Approve the SSLGC end of year FY2022-2023 Budget Amendment.

COMMUNITY BENEFIT

The City of Schertz is a member of the SSLGC. It is through the SSLGC that the City provides water to its citizens. Approval of the budget amendment will ensure that the citizens of Schertz will continue to receive this vital resource and service.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of the Resolution for the Budget Amendment to the FY2022-2023 Annual Budget.

FISCAL IMPACT

This budget amendment is based on reallocated SSLGC funds.

RECOMMENDATION

Staff recommends approval of Resolution 23-R-109.

Attachments

Resolution 23-R-109

RESOLUTION NO. 23-R-109

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE SCHERTZ SEGUIN LOCAL GOVERNMENT CORPORATION (SSLGC) END OF YEAR BUDGET AMENDMENT FOR FISCAL YEAR 2022-2023.

WHEREAS, the Schertz Seguin Local Government Corporation (SSLGC) is a corporation for the provision of and transportation of water wholly owned by both the City of Schertz and the City of Seguin; and

WHEREAS, SSLGC by-laws require that the corporation establish an annual budget and said annual budget must be approved by the SSLGC Board of Directors and both the City of Schertz and the City of Seguin; and

WHEREAS, the SSLGC's FY2022-2023 Annual Budget was approved by City Council; and

WHEREAS, the proposed budget amendment for FY 2022-2023 has been approved by the SSLGC Board of Directors at their regularly scheduled Board Meeting on September 21, 2023 as depicted in Exhibit A (“Resolution # SSLGC R23-13”) and attached hereto; and

WHEREAS, the City staff of the City of Schertz (the "City") recommends that the City approve the Schertz Seguin Local Government Corporation Fiscal Year 2022-2023 Budget Amendment; and

WHEREAS, the City Council has determined that it is in the best interest of the City to approve the budget amendment to ensure that the citizens and businesses of Schertz continue to receive excellent and vital water service.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the approval of the Schertz Seguin Local Government Corporation Fiscal Year 2022-2023 Amended Annual Budget as per Exhibit “A”.

Section 2. The recitals contained in the preamble hereof are hereby 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 City Council.

Section 3. 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 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. 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 City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. 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 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this _____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

Exhibit A
Resolution # SSLGC 23-13

A RESOLUTION AMENDING THE FISCAL YEAR 2023 SCHERTZ SEGUIN LOCAL GOVERNMENT CORPORATION BUDGET.

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL YEAR 2023 SCHERTZ SEGUIN LOCAL GOVERNMENT CORPORATION BUDGET IS AMENDED AS FOLLOWS:

Schertz-Seguin Local Government Corporation Operating Fund

Amount	Decrease:	Increase:
\$ 50,000	SSLGC-Operating Fund Professional Services Professional Services 058-5500-320500	SSLGC-Operating Fund Non-Departmental Transfers to Repair/Replacement Fd 058-5500-826100
\$ 45,000	SSLGC-Operating Fund Professional Services Professional Services 058-5500-320500	SSLGC-Operating Fund Non-Departmental Transfers to Future Development Fd 058-5500-826200
Reason Requested:	To transfer unspent funds for projects included in the budget but will not be used until FY24.	

Schertz-Seguin Local Government Corporation Repair/Replacement Fund

Amount	Increase:	Increase:
\$ 50,000	SSLGC-Repair/Replacement Fund Intragovernmental Transfers Transfers from Operating Fund 061-391063	SSLGC-Repair/Replacement Fund Professional Services Asset Management 061-9000-320500
Reason requested:	To transfer funds from the Operating Fund for the Asset Management Project that has not yet been used but will be used in FY24.	

Amount	Increase:	Increase:
\$ 55,000	SSLGC-Repair/Replacement Fund Improvements other than Buildings Cathodic Protection Project 061-9000-703000	SSLGC-Repair/Replacement Fund Non-Departmental Use of Retained Earnings 061-9800-960000
Reason requested:	To increase appropriation for the Cathodic Protection Project for final invoices remaining on the task order but were not budgeted for.	

Amount	Increase:	Increase:
\$ 50,000	SSLGC-Repair/Replacement Fund Improvements other than Buildings Fiber Installation 061-9000-703000	SSLGC-Repair/Replacement Fund Non-Departmental Use of Retained Earnings 061-9800-960000
Reason requested:	To appropriate funds in the Repair/Replacement Fund that was budgeted in the Operating Fund in FY22, but not started until FY23.	

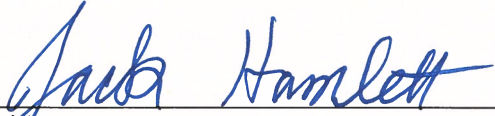
Schertz-Seguin Local Government Corporation Future Development Fund

Amount	Increase:	Increase:
\$ 45,000	SSLGC-Future Development Fund Intragovernmental Transfers Transfers from Operating Fund 062-391063	SSLGC-Future Development Fund Professional Services Water Models 062-9000-320500
Reason requested:	To transfer funds from the Operating Fund for the Water Model Project that has not yet been used but will be used in FY24.	

Water Impact Fund

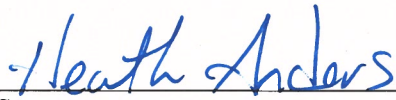
Amount	Increase:	Increase:
\$ 35,000	SSLGC-Impact Fund Professional Services CIP Updates 065-9000-320500	SSLGC-Impact Fund Non-Departmental Use of Retained Earnings 065-9800-960000
Reason requested:	To appropriate funds for the 5-year Capital Improvement Update Project. This project was originally budgeted in the Operating Fund in FY23, but has not yet been started.	

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ-SEGUIN LOCAL GOVERNMENT CORPORATION, on this the 21st day of September, 2023.



President
Schertz-Seguin Local Government Corporation

ATTEST:



Secretary

Or

Assistant Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Planning & Community Development
Subject: Ordinance 23-S-25 - Approving a request to rezone approximately 14.3 acres from General Business (GB) to Single-Family Residential District (R-2), located approximately 483 feet from the intersection of Green Valley Road and Eckhardt Road, also known as a portion of 4600 Eckhardt Road and 7263 Green Valley Road, Schertz, Guadalupe County, Texas. *Final Reading* (B. James/L. Wood/ D. Marquez)

BACKGROUND

The applicant is proposing to rezone approximately 14.3 acres of land, a portion of 4600 Eckhardt Road and 7263 Green Valley Road, to Single-Family Residential District (R-2). The subject property is currently zoned General Business District (GB), and is currently undeveloped.

The City Council conducted a public hearing on October 10, 2023, where the Council voted to approve Ordinance 23-S-25 which passed with a 7-0 vote.

Nine (9) public hearing notices were mailed to surrounding property owners within two hundred (200) feet of the subject property on August 28, 2023. A public hearing notice was published in the "San Antonio Express" on September 20, 2023. At the time of this report, Staff has received (0) responses in favor, (0) opposed, and (1) response neutral to the proposed request. Additionally, two (2) Public Hearing Notice signs were placed on the property on September 1, 2023. The Planning and Zoning Commission conducted a public hearing on this item at the September 13, 2023, meeting.

GOAL

The proposed zoning is for approximately 14.3 acres of land from General Business District (GB) to Single-Family Residential District (R-2). Per the letter of intent submitted with the application, the applicant desires to rezone 7263 Green Valley Road and the southern portion of 4600 Eckhardt Road to be cohesive with the northern portion that is already Single-Family Residential District (R-2) for the development of single-family detached homes.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

The Comprehensive Land Use Plan (CLUP) designates this subject property as Single Family Residential. The Single Family Residential land use designation is intended to encourage the development of a mix of residential that includes detached dwelling units which may include limited commercial development to support daily activities. The current General Business District (GB) zoning of the subject property is not in conformance with the Single Family Residential land use designation of the Comprehensive Plan. The proposed zone change to Single-Family Residential District (R-2) is in

conformance with the intended Single-Family Residential land use designation. The subject property is currently adjacent to existing single family residences, vacant land, Eckhardt Road right-of-way, and Green Valley Road right-of-way.

The proposed Single-Family Residential District (R-2) is consistent with the existing surrounding land uses and surrounding properties.

The proposed zone change to Single-Family Residential District (R-2) is for a portion of the subject property 4600 Eckhardt Road and subject property 7263 Green Valley Road, which are both currently zoned General Business District (GB). The intent of the zone change is to match the existing Single-Family Residential District (R-2) of the northern portion of 4600 Eckhardt Road that was rezoned from General Business District (GB) with Ordinance Number 22-S-42 in December 2022.

RECOMMENDATION

The Planning and Zoning Commission conducted a public hearing on September 13, 2023, where the Commission made a recommendation of approval which passed with a 7-0 vote.

Due to the proposed zone change to Single-Family Residential District (R-2) meeting the intent of the Comprehensive Plan, being compatible with adjacent land uses, and matching the remaining portion of 4600 Eckhardt Road, Staff recommends approval of the proposed zone change from General Business District (GB) to Single-Family Residential District (R-2) at the subject properties.

Attachments

Ordinance 23-S-25

Aerial Exhibit

Public Hearing Notice Map

Public Hearing Responses

City Council Presentation Slides

ORDINANCE NO. 23-S-25

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 14.3 ACRES OF LAND FROM GENERAL BUSINESS DISTRICT (GB) TO SINGLE-FAMILY RESIDENTIAL DISTRICT (R-2), LOCATED APPROXIMATELY 483 FEET FROM THE INTERSECTION OF GREEN VALLEY ROAD AND ECKHARDT ROAD, ALSO KNOWN AS A PORTION OF 4600 ECKHARDT ROAD AND 7263 GREEN VALLEY ROAD, SCHERTZ, GUADALUPE COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 14.3 acres of land from General Business District (GB) to Single-Family Residential District (R-2), located approximately 483 feet from the intersection of Green Valley Road and Eckhardt Road, and more specifically described in the Exhibit A and Exhibit B attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

WHEREAS, on September 13, 2023, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the requested rezoning to Single-Family Residential District (R-2); and

WHEREAS, on October 10, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The Property as shown and more particularly described in the attached Exhibit A and Exhibit B, is hereby zoned Single-Family Residential District (R-2)

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

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

Section 4. All ordinances and codes, 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 resolved herein.

Section 5. This Ordinance 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 Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. 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 Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

PASSED ON FIRST READING, the _____ of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the _____ of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"
Property Description- Metes and Bounds

**METES AND BOUNDS DESCRIPTION
FOR
A PROPOSED 14.23 ACRE TRACT**

A **14.23 acre** tract of land, situated in the Emanuela De Los Santos Coy Survey Abstract No. Tate2, in the City of Schertz, Guadalupe County, Texas and being a portion of the 44.332 acre tract of land as conveyed to Mustang Oaks, LLC of record in Document Number 99000734 of the Official Public Records of Guadalupe County, Texas (OPR) and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the Northwest right-of-way line of Green Valley Road (a variable width right-of-way), for a corner of the 44.332 acre tract and the south corner of a 5.503 acre tract of land conveyed to Kathy Adams and Jason Lund of record in Volume 2416, Page 26 of the Official Public Records of Guadalupe County, Texas, and a corner of the herein described tract;

THENCE: S 60°17'00" W, with the Northwest right-of-way line of Green Valley Road and the southeast line of the 44.332 acre tract, a distance of **973.47 feet**, for the East corner of a called Tract One as conveyed to Schwab Credit Trust of record in Volume 4176, Page 767 of the Official Public Records of Guadalupe County, Texas, for the South corner of the herein described tract;

THENCE: N 25°24'38" W, along and with the Northeast line of said Tract One and the Southwest line of said 44.332 acre tract, a distance of **451.63 feet**, for a West corner of the herein described tract;

THENCE: over and across said 44.332 acre tract, the following five (5) courses:

1. **N 54°42'09" E**, a distance of **139.45 feet** to a point, for an angle point of the herein described tract,
2. **N 48°10'58" E**, a distance of **365.37 feet** to a point, for an angle point of the herein described tract,
3. **N 48°21'21" E**, a distance of **342.93 feet** to a point, for an angle point of the herein described tract,
4. **N 43°37'52" E**, a distance of **337.09 feet** to a point, for an angle point of the herein described tract,
5. **N 31°00'21" E**, a distance of **342.29 feet** to a point in the Southwest line of Eckhardt Road (a variable width right-of-way), for the North corner of the herein described tract;

THENCE: S 24°28'50" E, with the Southwest line of Eckhardt Road and the East line of said 44.332 acre tract, a distance of **330.14 feet**, for an East corner of the herein described tract;

THENCE: Along and with the common line between said 5.503 acre tract, and the 44.332 acre tract, the following three (3) courses:

1. **S 59°25'28" W**, a distance of **461.11 feet** to a point, for an angle point of the herein described tract,
2. **S 34°06'14" E**, a distance of **141.77 feet** to a point, for an angle point of the herein described tract;
3. **S 24°57'12" E**, a distance of **399.72 feet** to the **POINT OF BEGINNING** and containing **14.23 acres** more or less, in the City of Schertz, Guadalupe County, Texas and being described in accordance with an exhibit prepared by KFW Surveying.

Exhibit "A": Property Description - Metes and Bounds

"This document was prepared under 22TAC663.21, 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."




Saul V. Castillo

07/10/2023
Date

Job No.: 21-232
Prepared by: KFW Surveying
Date: July 10, 2023
File: S:\Draw 2021\21-232 Eckhardt Rd\DOCS\FN 14.23 AC.docx

Exhibit "B"
Zone Change Exhibit

Exhibit "B": Zone Change Exhibit

4.99 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61591
 (DOC # 161659)
 OWNER: DAKE COLLEEN J
 7208 GREEN VALLEY RD
 CIBOLO, TX 78108

4.99 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61628
 (VOL. PG. 1)
 OWNER: GROVER E. & BA WRIGHT
 7260 GREEN VALLEY RD
 CIBOLO, TX 78108

0.75 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61626
 (VOL. 477, PG. 698 O.P.R.)
 OWNER: BARBARA ANN WRIGHT
 7260 GREEN VALLEY RD
 CIBOLO, TX 78108

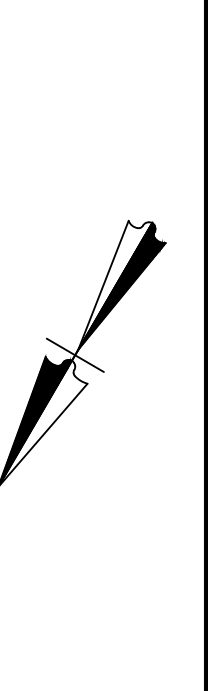
23.63 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61592
 (VOL. 2780, PG. 1073 O.P.R.)
 OWNER: BARBARA WRIGHT
 7260 GREEN VALLEY RD
 CIBOLO, TX 78108

11.682 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61525
 (VOL. 669, PG. 102 O.P.R.)
 OWNER: HAROLD M. KLAERNER
 7470 GREEN VALLEY RD
 NEW BRAUNFELS, TX 78132

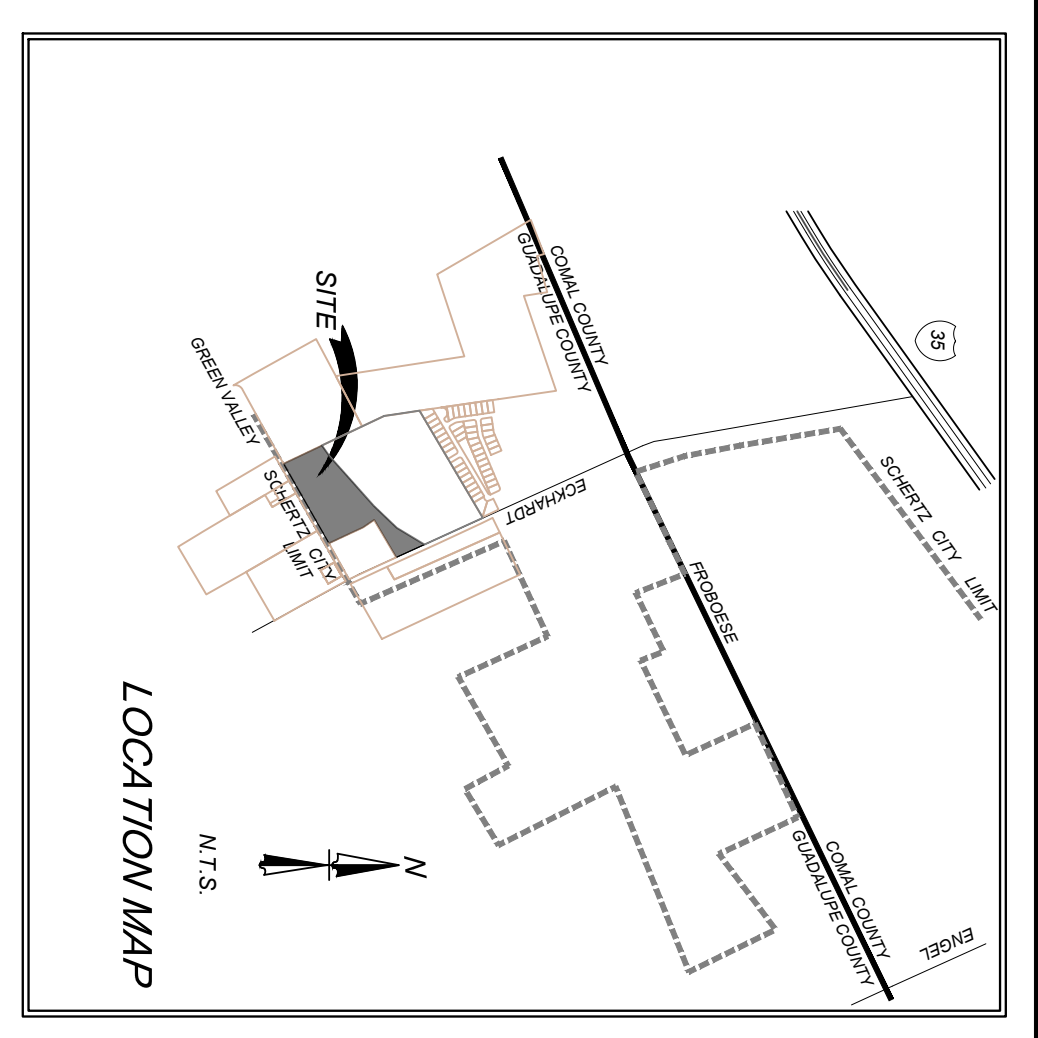
0.630 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: (GUADALUPE COUNTY)
 PROPERTY ID: 61526
 (VOL. 669, PG. 102 O.P.R.)
 OWNER: HAROLD M. KLAERNER
 7470 GREEN VALLEY RD
 NEW BRAUNFELS, TX 78132

NOTE
 REFERENCED PROPERTY IS IN STATE AERIALS DETERMINED
 TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AS
 SCALE FROM FEMA FLOOD MAP #9 OF 480 COMMUNITY
 PANEL NO. 4818700096 DATED NOVEMBER 2, 2007

ZONING TABLE		
TOTAL ACREAGE	EXISTING ZONING	PROPOSED ZONING
14.23 ACRES	GB	R-2



- LEGEND**
- GB = GENERAL BUSINESS
 - R-2 = SINGLE FAMILY - 2
 - R-6 = SINGLE FAMILY - 6
 - R.O.W. = RIGHT OF WAY
 - O.P.R. = OFFICIAL PUBLIC RECORDS
 - = SCHERTZ CITY LIMITS
 - = BOUNDARY
 - = EXISTING CONTOURS
 - = 200' NOTIFICATION BOUNDARY



OWNER/APPLICANT:
 MUSTANG OAKS LLC
 4630 N LOOP 1604 WEST STE 514
 SAN ANTONIO, TX 78249
 (210) 415-0697
 ENGINEER:
 KFW ENGINEERS & SURVEYING
 162 W MILL ST., NEW BRAUNFELS, TX 78130
 PHONE: (830) 220-6042
 FAX: (830) 627-9097

18.461 ACRE TRACT
 LAND USE: SINGLE FAMILY RESIDENTIAL
 ZONING: R6
 CYPRESS POINT, UNIT 4
 (VOL. 8, PGS. 729-730 M.P.R.)

30.13 ACRES
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: R-2
 PROPERTY ID: 63998
 (DOC # 20239900734 O.P.R.)
 OWNER: MUSTANG OAKS LLC
 4630 N LOOP 1604 WEST STE 514
 SAN ANTONIO, TX 78249

43.50 ACRE TRACT
 OWNER: MUSTANG OAKS LLC
 (DOC # 20239900734 O.P.R.)

22.14 ACRE TRACT
 LAND USE: AGRICULTURE
 ZONING: GB
 PROPERTY ID: 64006
 (VOL. 4176, PG. 767 O.P.R.)
 OWNER: SCHWAB CREDIT TRUST
 RUBY F SCHWAB - TRUSTEE
 1288 N BUSINESS 35
 NEW BRAUNFELS, TX 78130

96.34 ACRE TRACT
 LAND USE: AGRICULTURE
 ZONING: GB
 PROPERTY ID: 63994
 (VOL. 1654, PG. 902 O.P.R.)
 OWNER: RBVZ LIMITED PARTNERSHIP
 8809 CARRIAGE DR
 SAN ANTONIO, TX 78217

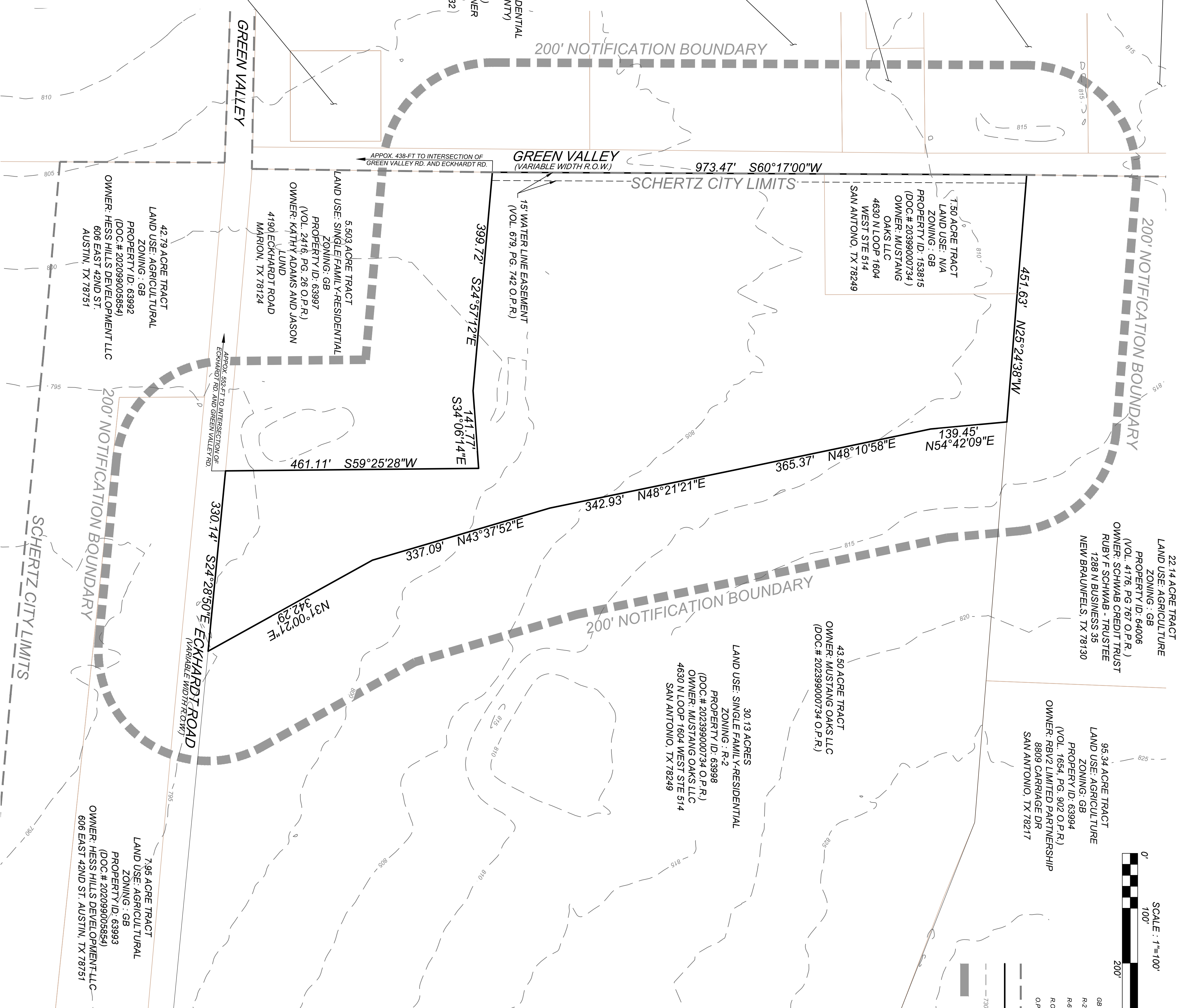
GREEN VALLEY
 (VARIABLE WIDTH R.O.W.)

15' WATER LINE EASEMENT
 (VOL. 679, PG. 742 O.P.R.)

5.503 ACRE TRACT
 LAND USE: SINGLE FAMILY-RESIDENTIAL
 ZONING: GB
 PROPERTY ID: 63997
 (VOL. 2416, PG. 26 O.P.R.)
 OWNER: KATHY ADAMS AND JASON MARION
 4190 ECKHARDT ROAD
 MARION, TX 78124

42.79 ACRE TRACT
 LAND USE: AGRICULTURAL
 ZONING: GB
 PROPERTY ID: 63992
 (DOC # 202099005854)
 OWNER: HESS HILLS DEVELOPMENT LLC
 606 EAST 42ND ST.
 AUSTIN, TX 78751

7.95 ACRE TRACT
 LAND USE: AGRICULTURAL
 ZONING: GB
 PROPERTY ID: 63993
 (DOC # 202099005854)
 OWNER: HESS HILLS DEVELOPMENT LLC
 606 EAST 42ND ST. AUSTIN, TX 78751



ACKERMANN SUBDIVISION ZONING EXHIBIT

SCHERTZ, TEXAS
 GUADALUPE COUNTY



1620 North Loop West, Suite 1017, New Braunfels, TX 78130
 Phone #: (830) 220-6042 • Fax #: (830) 627-9097
 Email: info@kfw.com • Website: www.kfw.com
 1987 E. Farm to Market # 659 • New Braunfels, TX 78130

LEGAL DESCRIPTION:
 A 14.23 ACRE TRACT OF LAND, OUT OF THE GARROL M. GAHAGAN JR. SURVEY NO. 298,
 ABSTRACT NO. 142, THE EMANUELA DE LOS SANTOS COY SURVEY ABSTRACT NO. 93,
 BEING OUT OF THE 44.36 ACRE TRACT OF LAND AS CONVEYED TO MUSTANG OAKS LLC
 OF RECORD IN DOCUMENT NUMBER 20239900734 OF THE OFFICIAL PUBLIC RECORDS
 OF GUADALUPE COUNTY, TEXAS AND SITUATED IN THE CITY OF SCHERTZ, GUADALUPE
 COUNTY, TEXAS.

PREPARED : JULY, 2023

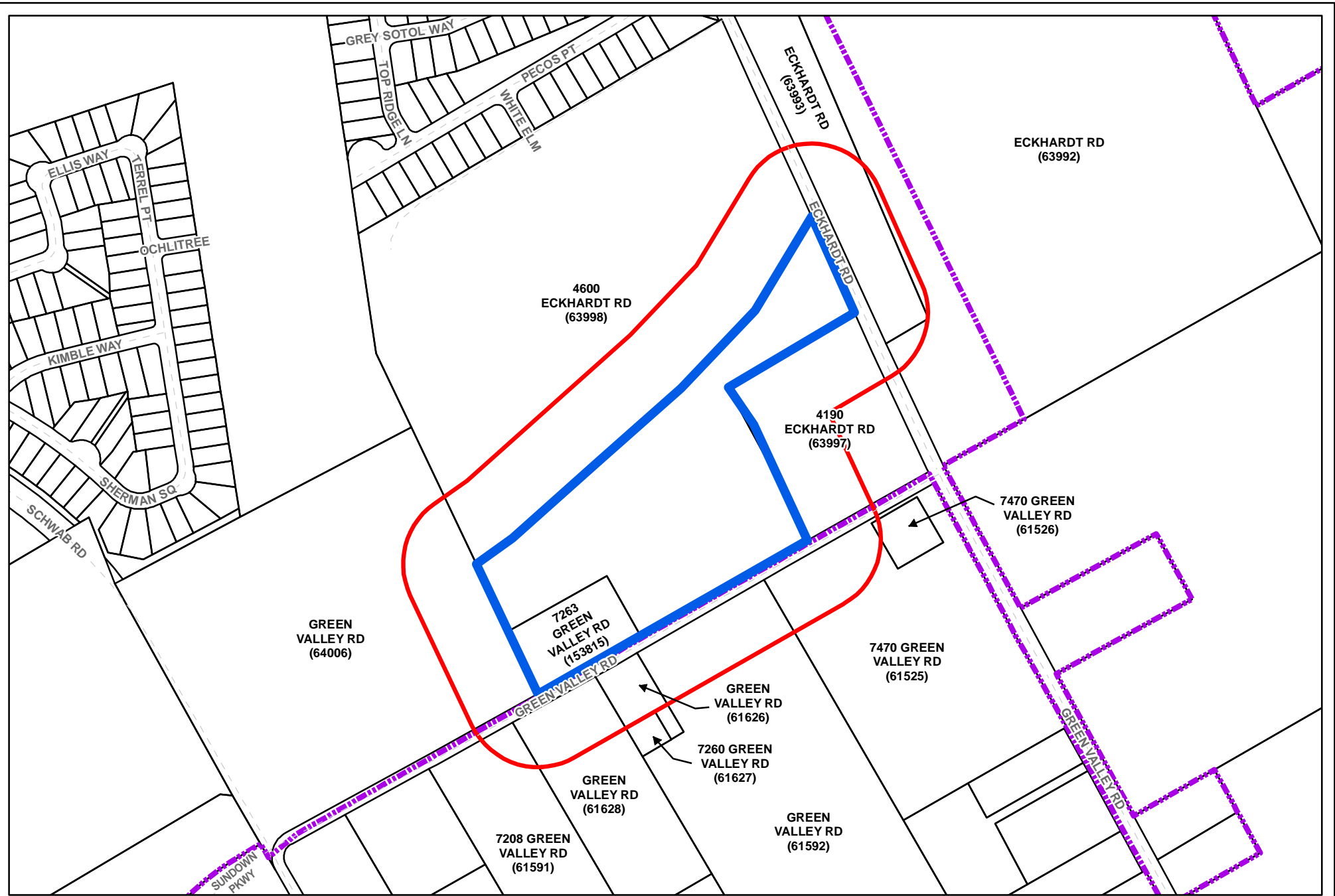


Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

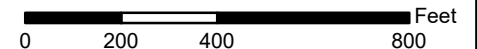


**ACKERMANN TRACT
ZONE CHANGE
(PLZC20230170)**





**City of Schertz
ACKERMANN TRACT
ZONE CHANGE
(PLZC20230170)**



NOTICE OF PUBLIC HEARING

August 28, 2023

To whom it may concern,

The City of Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, September 13th, 2023 at 6:00 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and act upon the following item:

PLZC20230170 - Hold a public hearing, consider, and make a recommendation on a request to rezone approximately 14.3 acres from General Business District (GB) to Single-Family Residential District (R-2), located approximately 483 feet from the intersection of Green Valley Road and Eckhardt Road, also known as a portion of 4600 Eckhardt Rd, Schertz, Guadalupe County, also known as Guadalupe County Property Identification Number 63998 and 7263 Green Valley Road, Schertz, Guadalupe County, also known as Guadalupe County Property Identification Number 153815.

Because you own property within 200 feet of the subject property, the Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. If you would like to express how you feel, please complete the bottom portion of this letter and return before the public hearing date by mail or personal delivery to Daisy Marquez, Planner 1400 Schertz Parkway, Bldg. 1, Schertz, Texas 78154, or by e-mail planning@schertz.com. If you have any questions, please feel free to call Daisy Marquez, Planner directly at (210) 619-1782.

Sincerely,

[Handwritten signature of Daisy Marquez]

Daisy Marquez
Planner

Reply Form

I am: in favor of [] opposed to [] neutral to [X] the request for PLZC20230170

COMMENTS: Have Questions on why the change? Future development?

NAME: Chris Brown (PLEASE PRINT) SIGNATURE: [Handwritten signature]

STREET ADDRESS: 11839 Parliament st. Apt #1014 San Antonio, TX 78216

DATE: 11/8/23

Ord. 23-S-25

Zone Change for A portion of 4600 Eckhardt Rd
& 7263 Green Valley Road (14.3 acres)

Daisy Marquez | PLANNER

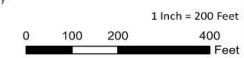


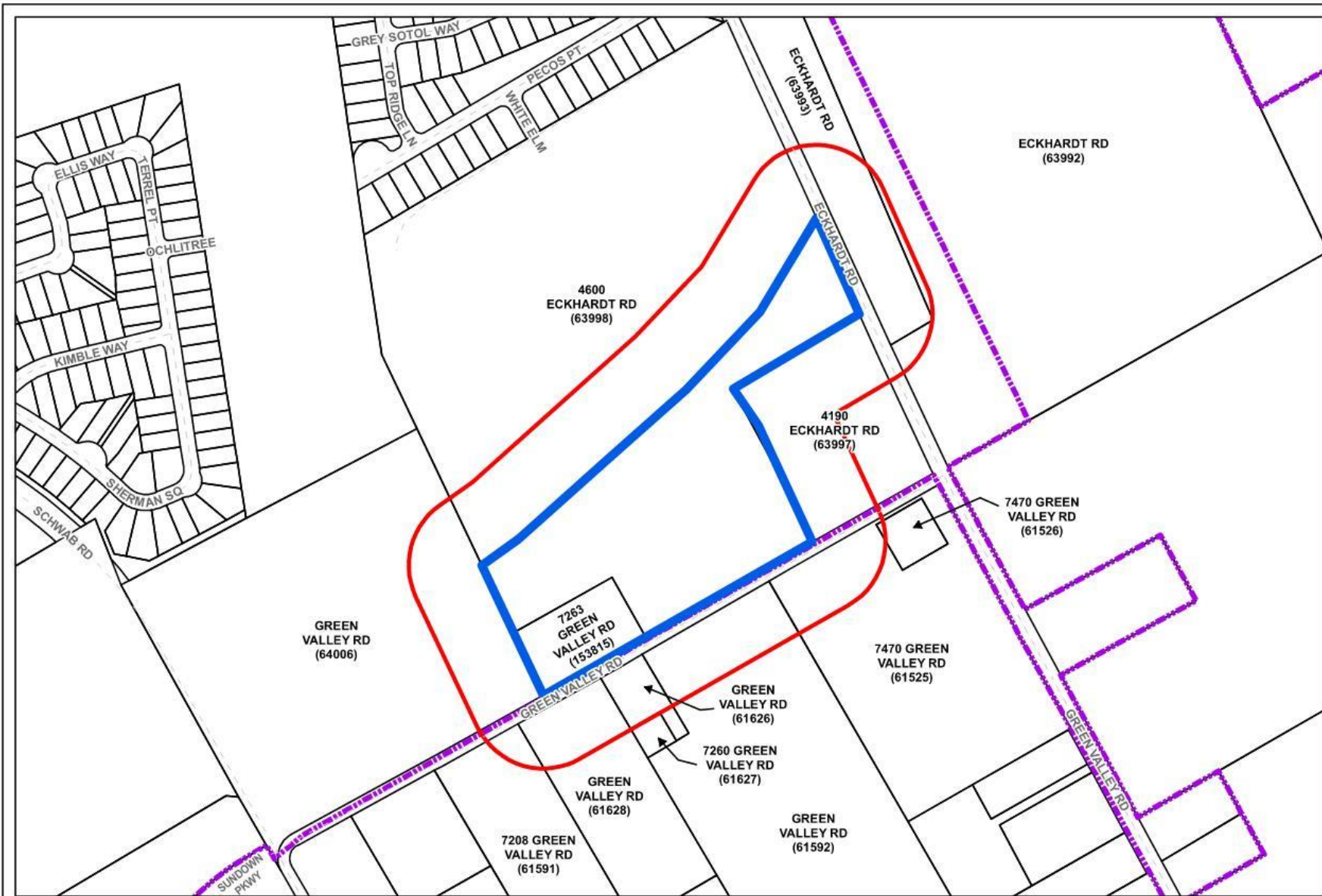
**ACKERMANN TRACT
ZONE CHANGE
(PLZC20230170)**

<ul style="list-style-type: none"> <all other values> Highways Major Roads Minor Roads Other Cities 	<ul style="list-style-type: none"> <all other values> Freeway Principal Arterial Planned Principal Arterial Secondary Arterial 	<ul style="list-style-type: none"> Planned Secondary Arterial Secondary Rural Arterial Planned Secondary Rural Arterial Planned Residential Collector 	<ul style="list-style-type: none"> Commercial Collector B Planned Commercial Collector B Commercial Collector A Planned Commercial Collector A 	<ul style="list-style-type: none"> 1" - 6" 8" - 10" 12" - 18" 20" - 24" 30" - 36" 48" - 60" 	<ul style="list-style-type: none"> Schieritz Gravity Schieritz Pressure Neighboring Gravity Private Pressure 	<ul style="list-style-type: none"> Hydrant Water Storage Facility Manholes Schieritz Treatment Plant 	<ul style="list-style-type: none"> CCMA Treatment Plant Schieritz Lift Station Private Lift Station CCMA Lift Station 	<ul style="list-style-type: none"> 200' Buffer Schieritz Municipal Boundary Schieritz ETJ Boundary County Boundaries
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Source: Sor. M. Alan, GeoPyr, Bartlett Geographics, ENR/Airbus DS, USDA, USGS, Core 5000, TMI, and the GIS User Community

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Last Update: July 17, 2023
City of Schertz, GIS Department, gis@schertztx.com
The City of Schertz is not liable for any errors or omissions in this map. The City of Schertz is not liable for any damages or injury resulting from the use of this map. The City of Schertz is not liable for any damages or injury resulting from the use of this map. The City of Schertz is not liable for any damages or injury resulting from the use of this map.

**City of Schertz
ACKERMANN TRACT
ZONE CHANGE
(PLZC20230170)**

200' Buffer City Limit Boundary
 Project Area



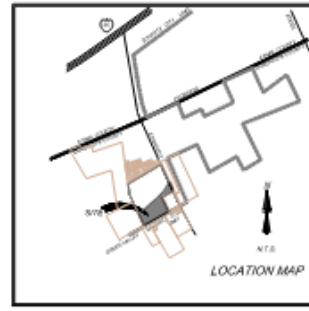
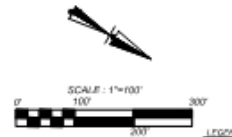
0 200 400 800 Feet

- August 28: 9 public hearing notices mailed.
- Published in the San Antonio Express on September 20, 2023
-
- Responses Received:
0- Opposition
0- In Favor
1- Neutral

SCHIERTZ
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NOTE: UNDEVELOPED PROPERTY IS IN ZONE V. AREAS DETERMINED TO BE EXCLUDED FROM ZONING CHANGES ARE SHOWN IN RED. FOR MORE INFORMATION, CONTACT THE CITY ENGINEER, PUBLIC WORKS DEPARTMENT, 1000 W. GREEN VALLEY RD., SCHERTZ, TEXAS 78152.

ZONING TABLE		
TOTAL ACRES	BASE ZONING	PROPOSED ZONING
14.73 ACRES	GB	R-2



4.39 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: (GUADALUPE COUNTY)
PROPERTY ID: 61541
(VOL. 15155)
OWNER: DAKE COLLEEN J
7208 GREEN VALLEY RD
CIBOLO, TX 78108

4.99 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: (GUADALUPE COUNTY)
PROPERTY ID: 61628
(VOL. 15155)
OWNER: GROVER E & BA WRIGHT
7260 GREEN VALLEY RD
CIBOLO, TX 78108

0.75 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: (GUADALUPE COUNTY)
PROPERTY ID: 61636
(VOL. 477 PG. 698 O.P.R.)
OWNER: BARBARA ANN WRIGHT
7700 GREEN VALLEY RD
CIBOLO, TX 78108

22.63 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: (GUADALUPE COUNTY)
PROPERTY ID: 61692
(VOL. 2780 PG. 1073 O.P.R.)
OWNER: BARBARA WRIGHT
7260 GREEN VALLEY RD
CIBOLO, TX 78108

11.683 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: (GUADALUPE COUNTY)
PROPERTY ID: 61535
(VOL. 889 PG. 100 O.P.R.)
OWNER: HAROLD W KLASNER
7470 GREEN VALLEY RD
NEW BRAUNFELS, TX 78130

0.633 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
PROPERTY ID: 61526
ZONING: (GUADALUPE COUNTY)
(VOL. 999 PG. 102 O.P.R.)
OWNER: HAROLD W KLASNER
7470 GREEN VALLEY RD
NEW BRAUNFELS, TX 78130

1.730 ACRE TRACT
LAND USE: AGRICULTURE
ZONING: GB
PROPERTY ID: 612815
(DOC # 20239900734)
OWNER: MUSTANG
OAKS LLC
4530 N LOOP 1604
WEST STE 514
SAN ANTONIO, TX 78249

32.14 ACRE TRACT
LAND USE: AGRICULTURE
ZONING: GB
PROPERTY ID: 64556
(VOL. 4176 PG. 703 O.P.R.)
OWNER: SCHWAB CREDIT TRUST
RUBY F SCHWAB - TRUSTEE
1288 N BUSINESS 35
NEW BRAUNFELS, TX 78130

93.34 ACRE TRACT
LAND USE: AGRICULTURE
ZONING: GB
PROPERTY ID: 63394
(VOL. 1654 PG. 902 O.P.R.)
OWNER: RWU LIMITED PARTNERSHIP
8508 CARWAGUE DR
SAN ANTONIO, TX 78217

43.50 ACRE TRACT
OWNER: MUSTANG OAKS LLC
(DOC # 20239900734 O.P.R.)

20.12 ACRES
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: R-2
PROPERTY ID: 62068
(DOC # 20239900734 O.P.R.)
OWNER: MUSTANG OAKS LLC
4030 N LOOP 1604 WEST STE 514
SAN ANTONIO, TX 78249

18.491 ACRE TRACT
LAND USE: SINGLE-FAMILY RESIDENTIAL
ZONING: R6
CYPRESS POINT, UNIT 4
(VOL. & PGS. 729-730 M.P.R.)

5.552 ACRE TRACT
LAND USE: SINGLE FAMILY-RESIDENTIAL
ZONING: GB
PROPERTY ID: 63097
(VOL. 2415 PG. 26 O.P.R.)
OWNER: KATY ADAMS AND JASON
LAND
4160 EDWARD ROAD
MAYNOR, TX 78124

42.79 ACRE TRACT
LAND USE: AGRICULTURAL
ZONING: GB
PROPERTY ID: 63992
(DOC # 202399005854)
OWNER: HESS HILLS DEVELOPMENT LLC
606 EAST 42ND ST
AUSTIN, TX 78751

785 ACRE TRACT
LAND USE: AGRICULTURAL
ZONING: GB
PROPERTY ID: 63995
(DOC # 202399005854)
OWNER: HESS HILLS DEVELOPMENT LLC
606 EAST 42ND ST, AUSTIN, TX 78751



**ACKERMANN SUBDIVISION
ZONING EXHIBIT**
SCHERTZ, TEXAS
GUADALUPE COUNTY

LEGAL DESCRIPTION:
A 14.73 ACRES TRACT OF LAND, OUT OF THE CARROLL M. GAGHAN, JR. SURVEY NO. 250, ABSTRACT NO. 142, THE BRANBURA OR LOS SANTOS CO. SURVEY ABSTRACT NO. 99 BEING OUT OF THE 44.36 ACRE TRACT OF LAND AS CONVEYED TO MUSTANG OAKS, LLC BY RECORDS IN DOCUMENT NUMBER 20239900734 OF THE OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS, AND SITUATED IN THE CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.

PREPARED: JULY, 2023

SCHERTZ
COMMUNITY. SERVICE. OPPORTUNITY.

THIS DOCUMENT HAS BEEN PREPARED FROM ORIGINAL PLATS AND RECORDS AND IS TRANSMITTED ELECTRONICALLY AND MAY HAVE DIFFERENCES FROM THE ORIGINAL RECORDS. THE CITY ENGINEER, PUBLIC WORKS DEPARTMENT, 1000 W. GREEN VALLEY RD., SCHERTZ, TEXAS 78152.



•Portion of 4600 Eckhardt Rd and 7263 Green Valley Road are zoned General Business (GB)

	Existing Zoning	Land Use
North	Single-Family Residential (R-6) & Single-Family Residential (R-2)	Single-Family Residences
South	Right-of-Way	Green Valley Road
East	General Business District (GB) & Right of Way	Undeveloped & Eckhardt Rd
West	General Business District (GB)	Agriculture/ Undeveloped

Proposed Rezone



- **Current Zoning is General Business District (GB).**
- **Proposed Zoning is Single-Family Residential District (R-2).**
- **Per Letter of Intent- Applicant wishes to rezone the remaining portion of the property to match the already zoned (R-2) on the northern portion of the property. The intent for the property is to build single-family homes.**

Staff Analysis

- **Comprehensive Plan Conformance:**

The current Comprehensive Land Use Plan identifies this property as Single-Family Residential. Single-Family Residential is meant for a mix of residential uses to include detached dwelling units and may include limited commercial development to support daily activities.

The proposed zone change to Single-Family Residential (R-2) would be in conformance with the intention of the Single-Family Residential Land Use Designation.

Staff Analysis

- The proposed rezoning to Single-Family District (R-2) would be consistent with the existing surrounding uses.
- The northern portion of the property was rezoned in December 2022 to Single-Family Residential (R-2) with Ordinance Number 22-S-42.
- The proposed rezone to Single-Family District (R-2) is compatible with adjacent land uses, will match the current zoning of the rest of the property, and aligns with the intent of the Comprehensive Land Use Plan.

Recommendation

Staff Recommendation:

- Staff recommends approval of the proposed zone change from General Business District (GB) to Single-Family Residential (R-2) due to its consistency with existing land uses and compatibility with the Comprehensive Plan.

Planning and Zoning Commission Recommendation:

- The Schertz Planning and Zoning Commission met on September 13, 2023, and voted to recommend that the City Council approve the proposed zone change as presented with a 7-0 vote.

City Council Vote:

- The Schertz City Council met on October 10, 2023, and voted to approve Ordinance 23-S-25 with a 7-0 vote.

COMMENTS & QUESTIONS

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Planning & Community Development
Subject: Ordinance 23-S-27 - Approving amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 4, Section 21.4.12 Variances and Article 9 Section 21.9.7 Landscaping and Section 21.9.9 Tree Mitigation. *Final Reading* (B. James/ L. Wood/ S. Haas)

BACKGROUND

As stated in the Unified Development Code (UDC), City Council from time to time, on its own motion, or at the recommendation of City staff amend, change, or modify text in any portion of the UDC to establish and maintain stable and desirable development. It is generally considered good practice to periodically review and update the development regulations due to changing conditions, community goals, and/or State and Federal regulations.

Staff is proposing to make the city's Unified Development Code align more closely with the State of Texas Local Government Code (LGC). Ordinance 23-S-27 will accomplish this by amending Article 4 - Variances, and two sections of Article 9 in relation to tree caliper planting requirements.

A Public Hearing notice was published in the San Antonio Express News on September 20, 2023. On September 13th, 2023, the Planning & Zoning Commission conducted a public hearing and made a recommendation of approval as presented.

Proposed Amendments:

Staff is proposing to add language to Article 4, Section 21.4.12 Variances for clarification. Specifically, section 21.4.12.1.A states the following: "A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this UDC to other parcels of land in the district." The Local Government Code has slightly more nuanced criteria in regards to the "economic gain or loss" than the UDC, and may be considered when granting variances as it pertains to structures. The Board of Adjustment has not denied nor has staff recommended denial for any variance within this regard. This proposed UDC amendment is an effort to be proactive and add clarity for staff, residents, and applicants.

In this section of the UDC, staff is proposing to add verbatim language from the Local Government Code Section 211.009 (b-1) to the end of Section 21.4.12 as follows:

In considering a variance as applied to a structure, the board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- **The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;**
- **Compliance would result in a loss to the lot on which the structure is located of at least 25**

- percent of the area on which development may physically occur;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality considers the structure to be a nonconforming structure

For Article 9, staff is proposing to reduce Schertz's UDC planting requirement to two inches (2") to match the LGC minimum with relation to tree mitigation. This requires amendments in UDC Section 21.9.9 - Tree Mitigation. In LGC Section 212.905, the State has a minimum tree planting requirement of 2" inches. All trees planted above this requirement are eligible for mitigation credits. While the City of Schertz's current minimum of 2.5" inches is technically still permitted, the UDC has effectively built-in a credit process that may add complexity and confusion to the process.

Staff is also proposing to make the UDC more consistent and have the minimum planting requirements lowered in UDC Section 21.9.7 - Landscaping. The City of Schertz is permitted to have the current minimum of 2.5" inches however, in order to avoid confusion staff is recommending to lower the tree planting minimum in this section as well to make all planting requirements match in the UDC and be more in line with the LGC. Making the UDC consistent will help staff and applicants by making the development process easier to understand.

Proposed UDC Amendments to Tree Caliper Min. Requirements		
UDC Section	Current	Proposed (<i>match LGC</i>)
21.9.7 - Landscaping	2.5 inches	2 inches
21.9.9 - Tree Mitigation	2.5 inches	2 inches

Finally, staff is proposing to include clarifying language that such tree calipers are measured at 4.5 feet above the ground, an industry term known as Diameter at Breast Height (DBH). Currently, the UDC has language that states 4-foot measurement requirements and 4.5-foot measurement requirements. These proposed amendments will make the UDC more consistent and just use the industry standard of 4.5 feet DBH.

GOAL

To amend the UDC to review and update the development regulations due to changing conditions and community goals in order to establish and maintain sound, stable and desirable development.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

The proposed amendments would help align the Schertz UDC with the State law, and make the development process easier for applicants and staff. These amendments have been reviewed by our legal team with no objection.

On September 13th, 2023, the Planning & Zoning Commission conducted a public hearing and made a unanimous recommendation of approval as presented.

On October 10th, 2023, City Council conducted a public hearing and made a unanimous vote to approve Ord. 23-S-27 as presented.

RECOMMENDATION

The proposed amendments would add clarity for staff, residents, and applicants. Therefore, staff recommends approval of Ordinance 23-S-27.

Attachments

Ord. 23-S-27

UDC Section 21.4.12 Variances - (redlines)

UDC Section 21.9.7. Landscaping - (redlines)

UDC Section 21.9.9. Tree Preservation and Mitigation - (redlines)

City Council Presentation Slides

ORDINANCE NO. 23-S-27

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 4 SUBSECTION 21.4.12 VARIANCES & ARTICLE 9 SUBSECTION 21.9.7 LANDSCAPING & SUBSECTION 21.9.9 TREE MITIGATION.

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on September 13, 2023, the Planning and Zoning Commission conducted public hearings and, thereafter recommended approval; and

WHEREAS, on October 10, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:

Section 1. The current UDC is hereby amended as set forth on Exhibit A and Exhibit B hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, 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 resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. 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 Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"

Unified Development Code (UDC) Amendments

Article 4 Section 21.4.12 – Variances

Sec. 21.4.12. Variances.

A. *Applicability.*

1. The BOA shall have the ability to authorize, in specific cases, a variance from the zoning regulations of this UDC if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this UDC would result in unnecessary hardship, so that the spirit of this UDC is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this UDC to other parcels of land in the district.
2. Approval of a variance authorizes a property owner to submit subsequent development applications consistent with the approved variance.

B. *Application Requirements.* Any request for a variance shall be accompanied by an application prepared in accordance with the Development Manual.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a variance shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other appropriate City department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the BOA for consideration.
2. *Notification requirements.* An application for a variance requires the following notification in accordance with section 21.4.3:
 - a. Written notice; and
 - b. Published notice.
3. *Decision by the BOA.*
 - a. The BOA shall receive the recommendation of the City Manager or his/her designee and shall hold a public hearing in accordance with section 21.4.4. The Board may vote to approve, approve with conditions, or deny the variance.
 - b. The Board may, on its own motion or by request of the property owner, postpone consideration of the variance to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 - c. The approval shall be effective for a period of 180 days after the date of such approval. If no application for building permit is submitted within that time, the variance shall become null and void.
 - d. The disapproval of a variance shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by staff.

D. *Criteria for approval.* In order to make a finding of hardship and grant a variance from the zoning regulations of this UDC, the Board must determine the following:

1. The requested variance does not violate the intent of this UDC or its amendments;

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2. Special conditions of restricted area, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district;
 3. The hardship is in no way the result of the applicant's own actions; and
 4. The interpretation of the provisions in this UDC or any amendments thereto would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.
 5. In considering a variance as applied to a structure, the Board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:
 - a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
 - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - c. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - e. The municipality considers the structure to be a nonconforming structure.
- E. *Appeals of BOA Decisions.* Any person or persons aggrieved by any decision of the BOA, or any taxpayer or any officer, department, board of the City may appeal a decision of the BOA regarding any variance request in accordance with section 21.3.4 of this UDC.
- F. *Finding of fact.* The board shall complete a finding of fact for Variance or appeal to support its conclusion for each variance or appeal presented to it.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Exhibit "B"

Unified Development Code (UDC) Amendments

Article 9 Section 21.9.7. – Landscaping

&

Article 9 Section 21.9.9 – Tree Mitigation

Sec. 21.9.7. Landscaping.

- A. *Purpose.* The purpose of this section is to establish landscaping requirements to enhance the community's ecological, environmental, and beautification efforts as well as its aesthetic qualities. It is the intent of this section to reduce the negative effects of glare, noise, erosion, and sedimentation caused by expanses of impervious and un-vegetated surfaces within the urban environment. It is the intent of this section to preserve and improve the natural and urban environment by recognizing that the use of landscaping elements can contribute to the processes of air purification, oxygen, regeneration, groundwater recharge, noise abatement, glare and heat, provision of habitats for wildlife, and enhance the overall beauty of the City.
- B. *Enforcement.* If at any time after the issuance of a Certificate of Occupancy, the approved landscaping is found to be in nonconformance with standards and criteria of this section, notice by the City may be issued to the owner, citing the violation and describing what action is required to comply with this section. The owner, tenant or agent shall have forty-five (45) days after the date of said notice to restore landscaping as required. The City may extend the time of compliance based on weather conditions. If the landscaping is not restored within the allotted time, such person shall be in violation of this UDC.
- C. *Single Family and Duplex Residential*
Installation and Maintenance.
1. Prior to issuance of a Certificate of Occupancy sod shall be in place in full front and rear yards, except for landscape beds and gardens. On property containing a minimum of one-half (½) acre or greater, sod in front and rear yards shall be planted adjacent to the slab for a distance of fifty feet (50') and for a distance of twenty feet (20') in side yards.
 2. All landscaped areas shall be irrigated with an approved automatic underground irrigation system unless the landscaped area has been designed utilizing xeriscaping methods. All irrigation systems shall be designed and sealed in accordance with the Texas Commission on Environmental Quality (TCEQ) and shall be professionally installed. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
 3. Vegetation other than grasses or ground cover under six inches (6") in height is prohibited in any City right-of-way unless specifically authorized in writing by the City Manager or his/her designee.
 4. Landscape planting shall not be erected or installed in such a manner as to interfere with traffic view or impose a safety hazard.
 5. New landscaped areas shall be prepared so as to achieve a soil depth of at least two inches (2").
 6. Every single family residential lot shall provide a minimum of two (2) shade trees having a DBH (diameter at breast height) measured four and one half feet (4.5') above existing ground level which are a minimum of two inches (2") caliper at the time of planting.
- D. *Nonresidential and Multi-Family.* The provisions of this section apply to new construction except public water and wastewater facilities for which only subsections 14 and 16 below apply.

Existing developments where all structures are not being demolished, do not have to comply with all of these requirements. Rather they cannot decrease compliance with an individual requirement to the point that they no longer comply with that individual requirement.

Installation and Maintenance.

1. Prior to issuance of a Certificate of Occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan approved as part of the Site Plan.

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2. In any case in which a Certificate of Occupancy is sought at a season of the year in which the City determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, a Temporary Certificate of Occupancy may be issued for up to four (4) months.
 3. All landscaped areas shall be irrigated with an approved automatic underground irrigation system unless the landscaped area has been designed utilizing xeriscaping methods. All irrigation systems shall be designed and sealed in accordance with the Texas Commission on Environmental Quality (TCEQ) and shall be professionally installed. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
 4. Vegetation other than approved grasses or ground cover under six inches (6") in height is prohibited in any City right-of-way unless specifically authorized in writing by the City Manager or his/her designee, after consultation with the Director of Public Works or his/her designee.
 5. Trees planted having a DBH (diameter at breast height) measured four and one half feet (4.5') above existing ground level shall be a minimum of two inches (2") caliper at the time of planting. All trees planted to meet the minimum landscaping, requirements of this section shall be planted so as to provide for no impervious material within the drip line of the tree. For the purposes of determining the drip line to meet the requirements of this section, the drip line radius shall be measured as being ten (10) times the caliper of the tree. For example, a two inch (2") tree will have a twenty inch (20") radius or forty inch (40") diameter. Tree wells or tree grates may be utilized to meet the requirements of this section. The City may, at its option, require certification by a registered arborist that adequate space has been provided for pervious cover beneath the drip line of a tree.
 6. New landscaped areas shall be prepared so as to achieve a soil depth of at least two inches (2").
 7. The use of architectural planters in nonresidential districts may be permitted in fulfillment of landscape requirements subject to approval of the Planning and Zoning Commission at the time of Site Plan approval.
 8. Landscape planting shall not be erected or installed in such a manner as to interfere with traffic view or impose a safety hazard.
 9. A minimum twenty foot (20') wide landscape buffer shall be provided adjacent to any public right-of-way. Trees shall be planted at an average density of one (1) tree per twenty linear feet (20') of street frontage except for public schools. The landscape buffer shall require an irrigation system and shall be maintained by the property owner. The requirements of this section are not applicable to properties zoned Main Street Mixed-Use - New Development (MSMU-ND).
 10. A minimum of twenty percent (20%) of the total land area of any proposed multifamily or nonresidential development shall be landscaped and shall be comprised of trees, shrubs, sod or other ground cover. In the event of the construction of a phased development, the minimum twenty percent (20%) requirement shall apply to each phase as it is developed.
 11. All commercial and multi-family properties shall provide shade trees at a ratio of nine (9) trees per acre. Industrial property shall provide shade trees at a ratio of six (6) trees per acre. Public schools shall provide shade trees at a ratio of at least four (4) trees per acre. Existing trees may be counted toward meeting the requirements of this section.
 12. Interior Landscaping. A minimum of ten percent (10%) of the gross parking areas shall be devoted to living landscaping which includes grass, ground covers, plants, shrubs and trees. Gross parking area is to be measured from the edge of the parking and/or driveway and sidewalks. Interior landscaping requirements do not apply to public water and wastewater facilities if an eight feet (8') masonry fence is provide[d] at or near the property boundary.

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13. Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Planter islands must be located no further apart than every twenty (20) parking spaces and at the terminus of all rows of parking. Such islands shall be a minimum of 162 square feet or nine feet by eighteen feet (9' x 18') in size. Planter islands shall contain a combination of trees, shrubs, lawn, ground cover and other appropriate materials provided such landscaping does not cause visual interference within the parking area. This subsection does not apply to public schools.
 14. Perimeter Landscape Area - Where a nonresidential or multifamily use adjacent to a nonresidential or multifamily use that is zoned for nonresidential or multifamily uses shall provide a minimum five-foot (5') landscape buffer adjacent to those uses except where the building extends into that five foot (5') landscape buffer. A minimum of one (1) shade tree shall be planted for each one-hundred linear feet (100') of landscape buffer except where the entire five-foot (5') wide landscape buffer is encumbered by an easement that does not allow the planting of trees. A nonresidential or multifamily use adjacent to a single family or duplex residential use or single family or duplex residentially zoned property shall provide a minimum twenty-foot (20') landscape buffer adjacent to the proper line of the residential use or residentially zoned property. A minimum of one (1) shade tree [s]hall be planted for each thirty (30) linear feet of landscape buffer. The landscape buffer shall be covered with grass or another solid vegetative cover. The landscape buffer shall include a masonry wall which shall be eight feet (8') in height. The requirement of this subsection doe[s] not apply to public water and wastewater facilities if an eight foot (8') masonry wall is provided at or near the property boundary.
- F. *Landscape Plan Required.* A landscape plan shall be submitted to the City for approval. The landscape plan may be submitted as a part of the Site Plan. The landscape plan shall contain the following information:
1. location of all existing trees with indication as to those to be preserved;
 2. location of all plants and landscaping material to be used including paving, benches, screens, fountains, statues, or other landscaping features;
 3. species of all plant material to be used;
 4. size of all plant material to be used;
 5. spacing of plant material where appropriate;
 6. type of watering system and location of watering source, irrigation, sprinkler, or water system, including placement of water sources;
 7. description of maintenance provisions of the landscaping plan; and
 8. persons responsible for the preparation of the landscape plan.

(Ord. No. 16-S-27 , §§ 3, 4, 8-30-2016; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018; Ord. No. 18-S-24 , § 1(Exh. A), 8-7-2018; Ord. No. 21-S-26 , § 1(Exh. A), 7-6-2021; Ord. No. 23-S-07 , § 1(Exh. A), 3-14-2023)

Sec. 21.9.9. Tree Preservation and Mitigation.

A. *Purpose and Intent.*

1. The purpose of this section is to conserve, protect and enhance existing healthy trees and natural landscape. It is recognized that the preservation of existing trees contributes to the overall quality and environment of the City. Trees can and do contribute to the processes of purification, oxygenation, regeneration, groundwater recharge, reduction of pollution and contaminants in aquifers, erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement property values. Indiscriminate clearing or stripping of natural vegetation on any parcel is prohibited.
2. It is hereby declared the intent of the City to encourage the preservation of all trees within the City limits. While the layout of a property with respect to the placement of buildings, parking facilities and other site requirements is at the discretion of the developer of the property, it is the policy of the City to promote site layout and design in a manner which preserves the maximum amount of Protected Class and Heritage Class trees possible.

B. *Applicability and Exemptions.*

1. The provisions of this section are applicable to the following:
 - a. all new residential and nonresidential development within the City except public schools;
 - b. redevelopment of any residential or nonresidential property within the City that results in an increase in the building footprint or the total destruction and reconstruction except public schools;
 - c. any grading, filling or clearing of land in the City limits; and
 - d. any selective or individual removal of any Protected Class or Heritage Class Tree in the City limits.
2. The following definitions shall be applicable to the provisions of this section:
 - a. *Protected Class Trees.* Trees having a DBH (diameter at breast height measured four and one half feet above existing ground level) between eight inches (8") and less than twenty-four inches (24") are designated as "Protected Class Trees".
 - b. *Heritage Class Trees.* Trees having a DBH greater than or equal to twenty-four inches (24") are designated as "Heritage Class Trees".
 - c. *Damage.* Damage shall be considered any injury to a tree including, but not limited to:
 - i. uprooting;
 - ii. severance of the root system or main trunk;
 - iii. storage of topsoil, construction materials, debris or chemicals within the drip line area;
 - iv. compaction of soil within the drip line area;
 - v. a substantial change in the natural grade above a root system or within the drip line area;
 - vi. pruning or removal of more than twenty-five percent (25%) of the living tissue; or
 - vii. Paving with concrete, asphalt or other impervious material within the drip line area. Tree grates or tree wells may be provided to preserve pervious surface within the drip line area.
3. The following are exempt from the preservation, mitigation and permitting requirements of this section:

- a. Protected Class Trees located within the area of a proposed on-site sewage facility (OSSF) (A waiver to mitigation for Heritage Class trees may be requested) ;
- b. Protected Class and Heritage Class Trees located within a right-of-way to be dedicated to and maintained by the City and shown on the City's Master Thoroughfare Plan;
- c. Protected Class Trees located within any utility easement, Heritage Class Trees located within any utility easement are exempt from preservation requirements only (A waiver to mitigation for Heritage Class trees may be requested);
- d. Protected Class and Heritage Class trees damaged or destroyed by floods, fire, wind or other natural causes;
- e. Dangerous, diseased, damaged, dead or dying Protected Class or Heritage Class trees as determined by a tree survey and a letter from a certified Texas Arborist; provided, notwithstanding the title of this section; and
- f. Protected Class trees from the Undesirable Trees list in UDC Table 21.9.7F. (A waiver to mitigation for Heritage Class trees may be requested)
- g. Protected Class and Heritage Class trees located on property that has an existing one family or two-family dwelling that is occupied.
- h. Protected Class and Heritage Class trees of the following exempted tree species:

Table 21.9.9 Exempted Trees	
Common Name	Scientific Name
Hackberry	Celtis occidentalis
Eastern Red Cedar	Juniperus virginiana
Common Ashe Juniper	Juniperis ashei
Chinaberry	Melia azedarach
Mesquite	Prosopis spp.
Ligustrum	Ligustrum spp.

- C. *Tree Preservation.* The existing natural landscape character, especially native oaks, elms, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. Except as otherwise exempted in section 21.9.9.B.3. above, a tree removal permit is required for the removal of any tree with a DBH greater than eight inches.
 - 1. *Protected Trees.* Any Protected Trees not exempt from preservation in section B.3. above may be removed upon approval of a Tree Removal Permit by the Director of Parks, Recreation and Community Services Any decision of the Director of Parks, Recreation and Community Services regarding a tree removal permit may be appealed to the Planning and Zoning Commission in accordance with section 21.4.14 of this UDC.
 - 2. *Heritage Trees.* Any Heritage Trees to be removed may be removed upon approval of a Tree Removal Permit by the Director of Parks, Recreation and Community Services. Any decision by the Director of Parks, Recreation and Community Services regarding a tree removal permit may be appealed to the Planning and Zoning Commission in accordance with section 21.4.14 of this UDC. All Heritage Trees shall be required to meet the mitigation requirements of this section.
 - 3. *Minimum Preservation.* In the development of any site, at least twenty-five percent (25%) of all mitigatable Protected Class and Heritage Class trees must be preserved. (A waiver to the 25% preservation requirement may be requested)

D. *Tree Mitigation.* Any trees that are removed or damaged as a result of the approval of a Tree Removal Permit shall be mitigated for on the same site as the proposed development. The species of trees planted for mitigation purposes may not include those listed as exempt in subsection 21.9.9.B.3. above nor any of the undesirable trees identified in table 21.9.7F. All trees planted for mitigation purposes must be a species of shade tree identified in table 21.9.7.A. In the event that mitigation is not feasible on the same site as the proposed development, an applicant may request to donate trees, meeting the mitigation requirements of this section, to be planted at public parks, schools, or other approved public facilities throughout the City or provide a fee-in-lieu of payment which will be used to place trees at public parks, schools, or other approved public facilities throughout the City. Tree mitigation funds may also be utilized to install irrigation, to repair or remove damaged or destroyed trees, to preserve and protect existing Protected Class and Heritage Class trees and to purchase equipment for the preservation or protection of existing trees. Mitigation requirements are:

1. *Protected Class Trees.* Protected trees shall be mitigated at a one-to-one (1:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two inches (2").
2. *Heritage Class Trees.* Heritage Class trees shall be mitigated at a three-to-one (3:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two inches (2").
3. *Damaged Trees.* Any trees that are designated for preservation and are damaged during the construction process or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for in accordance with subsection 21.9.9.D.1. and D.2. above.
4. *Mitigated Trees.* Trees planted and counted towards the necessary mitigation requirements that are damaged after planting or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for at a one-to-one (1:1) DBH inch ratio for every tree damaged or that dies.
5. The amount of tree mitigation per acre is capped at 100 inches per acre. For properties where the trees are generally clustered, staff has the discretion to define the acreage of the property as an area extending 20' beyond the tree canopy of the cluster in determining the acreage.

E. *Tree Protection Standards.*

1. All trees to be preserved on site shall be protected from damage caused by site excavation or construction in accordance with the following:
 - a. All trees shall be protected by a fence, frame or box constructed around the drip line of the preserved tree. Protection measures may not be removed until construction is complete.
 - b. A minimum of three inches (3") of mulch or compost shall be spread beneath the drip line of the preserved tree.
 - c. No person shall excavate any ditches, tunnels, or trenches, place any paving material or place any drive or parking area within the drip line of any Protected Class or Heritage Class Tree without prior written approval of the City Manager or his/her designee at the time of Site Plan approval.
 - d. No person shall attach any rope, wire, nails, advertising posters or other contrivance to any Protected Class or Heritage Class Tree.
2. It is the intent of the City to control and prevent the spread of Oak Wilt.
 - a. If any oak tree is wounded by intentional damage or pruning or as a result of natural causes, the damaged area shall be immediately treated with tree wound dressing.
 - b. All necessary and reasonable efforts shall be given during the permitted removal of any trees to utilize best known practices to prevent the spread of Oak Wilt disease to any other surrounding trees.

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- F. *Tree Preservation Credits—Nonresidential and Multifamily Developments.* To encourage the preservation of existing Protected Class or Heritage Class Trees contained within a proposed development, tree preservation credits may be requested to reduce the amount of new trees required on nonresidential and multifamily sites. Tree preservation credits can be issued for landscape buffer requirements when the tree being preserved is located within the buffer. Tree preservation credits can be issued to satisfy total trees per acre requirements of UDC Sec.21.9.7.E.2. The following minimum tree preservation credits may be requested:
1. Protected Class Trees shall receive a credit against the minimum required landscaping or mitigation standards at a one-to-one (1:1) caliper inch ratio;
 2. Heritage Class Trees shall receive a credit against the minimum required landscaping or mitigation standards at a three-to-one (3:1) caliper inch ratio;
- G. *Tree Survey Required.* Every application for a final plat for residential development or Site Plan for nonresidential and multifamily development shall be accompanied by a tree survey that includes the following information:
1. total number of DBH caliper inches of Protected Class and Heritage Class on the site;
 2. total number of DBH caliper inches of Protected Class and Heritage Class to be removed; and
 3. total number of DBH caliper inches of Protected Class and Heritage Class to be preserved.
- H. *Tree Removal Permit.* A tree removal permit is required for the removal of any Protected Class or Heritage Class trees not exempt in section 21.9.9.B.2. above. The permit must be accompanied by an appropriate application and shall contain a tree preservation plan showing the following:
1. existing/proposed topography;
 2. location of property lines, easement, rights-of-ways, setbacks, parking areas and sidewalks;
 3. location, species and size (in DBH) of each Protected Class and Heritage Class Tree, except those trees exempted by section 21.9.9.B.2.f. above;
 4. a tree inventory that summarizes the following:
 - a. total number of DBH caliper inches on the site;
 - b. total number of DBH caliper inches to be removed;
 - c. total number of DBH caliper inches to be preserved;
 - d. location of any proposed tree mitigation;
 - e. any proposed tree preservation credits; and
 5. a summary of the tree protection methods to be utilized.
- I. *Waiver.*
1. *General.* The City Manager or his/her designee may authorize waivers from the provisions of this Article when, in their opinion, undue hardship will result from requiring strict compliance. Waivers may be granted only to items specifically stated in this section. Waivers must meet one of the following eligibility requirements:
 - a. The tree is proposed for removal in order for the property to achieve compliance with other applicable City requirements and standards (i.e. site design or storm water management); or
 - b. The tree is proposed for removal because it is within a future public utility location.
 2. *Criteria for approval.* Waivers shall be evaluated using the following criteria:

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- a. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or windbreaks;
 - b. The requested waiver does not violate the intent of this section or the UDC;
 - c. Strict interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other nearby properties in the same zoning district or with the same land use that would comply with the same provisions;
 - d. A reasonable effort to preserve the tree has been made and reasonable alternatives have been evaluated and determined to not be feasible.
3. Any decision of the City Manager or his/her designee regarding waivers to the provisions of this section may be appealed to the Planning and Zoning Commission. When considering an appeal, the Planning and Zoning Commission shall consider the same standards as the City Manager or his/her designee as outlined above.

(Ord. No. 16-S-27 , § 6, 8-30-2016; Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-08 , § 1(Exh. A), 2-27-2018; Ord. No. 18-S-24 , § 1(Exh. A), 8-7-2018; Ord. No. 22-S-18 , § 1(Exh. A), 4-26-2022)

Sec. 21.4.12. Variances.

A. *Applicability.*

1. The BOA shall have the ability to authorize, in specific cases, a variance from the zoning regulations of this UDC if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this UDC would result in unnecessary hardship, so that the spirit of this UDC is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this UDC to other parcels of land in the district.
2. Approval of a variance authorizes a property owner to submit subsequent development applications consistent with the approved variance.

B. *Application Requirements.* Any request for a variance shall be accompanied by an application prepared in accordance with the Development Manual.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a variance shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other appropriate City department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the BOA for consideration.
2. *Notification requirements.* An application for a variance requires the following notification in accordance with section 21.4.3:
 - a. Written notice; and
 - b. Published notice.
3. *Decision by the BOA.*
 - a. The BOA shall receive the recommendation of the City Manager or his/her designee and shall hold a public hearing in accordance with section 21.4.4. The Board may vote to approve, approve with conditions, or deny the variance.
 - b. The Board may, on its own motion or by request of the property owner, postpone consideration of the variance to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 - c. The approval shall be effective for a period of 180 days after the date of such approval. If no application for building permit is submitted within that time, the variance shall become null and void.
 - d. The disapproval of a variance shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by staff.

D. *Criteria for approval.* In order to make a finding of hardship and grant a variance from the zoning regulations of this UDC, the Board must determine the following:

1. The requested variance does not violate the intent of this UDC or its amendments;

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2. Special conditions of restricted area, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district;
 3. The hardship is in no way the result of the applicant's own actions; and
 4. The interpretation of the provisions in this UDC or any amendments thereto would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

5. In considering a variance as applied to a structure, the Board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
 - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - c. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - e. The municipality considers the structure to be a nonconforming structure.
- E. *Appeals of BOA Decisions.* Any person or persons aggrieved by any decision of the BOA, or any taxpayer or any officer, department, board of the City may appeal a decision of the BOA regarding any variance request in accordance with section 21.3.4 of this UDC.
- F. *Finding of fact.* The board shall complete a finding of fact for Variance or appeal to support its conclusion for each variance or appeal presented to it.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

PROPOSED REDLINES

Sec. 21.9.7. Landscaping.

- A. *Purpose.* The purpose of this section is to establish landscaping requirements to enhance the community's ecological, environmental, and beautification efforts as well as its aesthetic qualities. It is the intent of this section to reduce the negative effects of glare, noise, erosion, and sedimentation caused by expanses of impervious and un-vegetated surfaces within the urban environment. It is the intent of this section to preserve and improve the natural and urban environment by recognizing that the use of landscaping elements can contribute to the processes of air purification, oxygen, regeneration, groundwater recharge, noise abatement, glare and heat, provision of habitats for wildlife, and enhance the overall beauty of the City.
- B. *Enforcement.* If at any time after the issuance of a Certificate of Occupancy, the approved landscaping is found to be in nonconformance with standards and criteria of this section, notice by the City may be issued to the owner, citing the violation and describing what action is required to comply with this section. The owner, tenant or agent shall have forty-five (45) days after the date of said notice to restore landscaping as required. The City may extend the time of compliance based on weather conditions. If the landscaping is not restored within the allotted time, such person shall be in violation of this UDC.
- C. *Single Family and Duplex Residential*
Installation and Maintenance.
1. Prior to issuance of a Certificate of Occupancy sod shall be in place in full front and rear yards, except for landscape beds and gardens. On property containing a minimum of one-half (½) acre or greater, sod in front and rear yards shall be planted adjacent to the slab for a distance of fifty feet (50') and for a distance of twenty feet (20') in side yards.
 2. All landscaped areas shall be irrigated with an approved automatic underground irrigation system unless the landscaped area has been designed utilizing xeriscaping methods. All irrigation systems shall be designed and sealed in accordance with the Texas Commission on Environmental Quality (TCEQ) and shall be professionally installed. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
 3. Vegetation other than grasses or ground cover under six inches (6") in height is prohibited in any City right-of-way unless specifically authorized in writing by the City Manager or his/her designee.
 4. Landscape planting shall not be erected or installed in such a manner as to interfere with traffic view or impose a safety hazard.
 5. New landscaped areas shall be prepared so as to achieve a soil depth of at least two inches (2").
 6. Every single family residential lot shall provide a minimum of two (2) shade trees having a DBH (diameter at breast height) measured four and one half feet (4.5') above existing ground level which are a minimum of two ~~and one half inches (2.5")~~ caliper ~~measured at four feet (4') above ground level~~ at the time of planting.
- D. *Nonresidential and Multi-Family.* The provisions of this section apply to new construction except public water and wastewater facilities for which only subsections 14 and 16 below apply.

Existing developments where all structures are not being demolished, do not have to comply with all of these requirements. Rather they cannot decrease compliance with an individual requirement to the point that they no longer comply with that individual requirement.

Installation and Maintenance.

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1. Prior to issuance of a Certificate of Occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan approved as part of the Site Plan.
 2. In any case in which a Certificate of Occupancy is sought at a season of the year in which the City determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, a Temporary Certificate of Occupancy may be issued for up to four (4) months.
 3. All landscaped areas shall be irrigated with an approved automatic underground irrigation system unless the landscaped area has been designed utilizing xeriscaping methods. All irrigation systems shall be designed and sealed in accordance with the Texas Commission on Environmental Quality (TCEQ) and shall be professionally installed. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
 4. Vegetation other than approved grasses or ground cover under six inches (6") in height is prohibited in any City right-of-way unless specifically authorized in writing by the City Manager or his/her designee, after consultation with the Director of Public Works or his/her designee.
 5. Trees planted having a DBH (diameter at breast height) measured four and one half feet (4.5') above existing ground level shall be a minimum of two ~~and one half inches (2.5")~~ caliper ~~measured at four feet (4') above ground level~~ at the time of planting. All trees planted to meet the minimum landscaping requirements of this section shall be planted so as to provide for no impervious material within the drip line of the tree. For the purposes of determining the drip line to meet the requirements of this section, the drip line radius shall be measured as being ten (10) times the caliper of the tree. For example, a two ~~and one half inch (2.5")~~ tree will have a ~~twenty-five inch (205")~~ radius or ~~fiftyfour inch (540")~~ diameter. Tree wells or tree grates may be utilized to meet the requirements of this section. The City may, at its option, require certification by a registered arborist that adequate space has been provided for pervious cover beneath the drip line of a tree.
 6. New landscaped areas shall be prepared so as to achieve a soil depth of at least two inches (2").
 7. The use of architectural planters in nonresidential districts may be permitted in fulfillment of landscape requirements subject to approval of the Planning and Zoning Commission at the time of Site Plan approval.
 8. Landscape planting shall not be erected or installed in such a manner as to interfere with traffic view or impose a safety hazard.
 9. A minimum twenty foot (20') wide landscape buffer shall be provided adjacent to any public right-of-way. Trees shall be planted at an average density of one (1) tree per twenty linear feet (20') of street frontage except for public schools. The landscape buffer shall require an irrigation system and shall be maintained by the property owner. The requirements of this section are not applicable to properties zoned Main Street Mixed-Use - New Development (MSMU-ND).
 10. A minimum of twenty percent (20%) of the total land area of any proposed multifamily or nonresidential development shall be landscaped and shall be comprised of trees, shrubs, sod or other ground cover. In the event of the construction of a phased development, the minimum twenty percent (20%) requirement shall apply to each phase as it is developed.
 11. All commercial and multi-family properties shall provide shade trees at a ratio of nine (9) trees per acre. Industrial property shall provide shade trees at a ratio of six (6) trees per acre. Public schools shall provide shade trees at a ratio of at least four (4) trees per acre. Existing trees may be counted toward meeting the requirements of this section.
 12. Interior Landscaping. A minimum of ten percent (10%) of the gross parking areas shall be devoted to living landscaping which includes grass, ground covers, plants, shrubs and trees. Gross parking area is to be measured from the edge of the parking and/or driveway and sidewalks. Interior landscaping

requirements do not apply to public water and wastewater facilities if an eight feet (8') masonry fence is provide[d] at or near the property boundary.

13. Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Planter islands must be located no further apart than every twenty (20) parking spaces and at the terminus of all rows of parking. Such islands shall be a minimum of 162 square feet or nine feet by eighteen feet (9' x 18') in size. Planter islands shall contain a combination of trees, shrubs, lawn, ground cover and other appropriate materials provided such landscaping does not cause visual interference within the parking area. This subsection does not apply to public schools.
14. Perimeter Landscape Area - Where a nonresidential or multifamily use adjacent to a nonresidential or multifamily use that is zoned for nonresidential or multifamily uses shall provide a minimum five-foot (5') landscape buffer adjacent to those uses except where the building extends into that five foot (5') landscape buffer. A minimum of one (1) shade tree shall be planted for each one-hundred linear feet (100') of landscape buffer except where the entire five-foot (5') wide landscape buffer is encumbered by an easement that does not allow the planting of trees. A nonresidential or multifamily use adjacent to a single family or duplex residential use or single family or duplex residentially zoned property shall provide a minimum twenty-foot (20') landscape buffer adjacent to the proper line of the residential use or residentially zoned property. A minimum of one (1) shade tree [s]hall be planted for each thirty (30) linear feet of landscape buffer. The landscape buffer shall be covered with grass or another solid vegetative cover. The landscape buffer shall include a masonry wall which shall be eight feet (8') in height. The requirement of this subsection doe[s] not apply to public water and wastewater facilities if an eight foot (8') masonry wall is provided at or near the property boundary.

F. *Landscape Plan Required.* A landscape plan shall be submitted to the City for approval. The landscape plan may be submitted as a part of the Site Plan. The landscape plan shall contain the following information:

1. location of all existing trees with indication as to those to be preserved;
2. location of all plants and landscaping material to be used including paving, benches, screens, fountains, statues, or other landscaping features;
3. species of all plant material to be used;
4. size of all plant material to be used;
5. spacing of plant material where appropriate;
6. type of watering system and location of watering source, irrigation, sprinkler, or water system, including placement of water sources;
7. description of maintenance provisions of the landscaping plan; and
8. persons responsible for the preparation of the landscape plan.

(Ord. No. 16-S-27 , §§ 3, 4, 8-30-2016; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018; Ord. No. 18-S-24 , § 1(Exh. A), 8-7-2018; Ord. No. 21-S-26 , § 1(Exh. A), 7-6-2021; Ord. No. 23-S-07 , § 1(Exh. A), 3-14-2023)

Sec. 21.9.9. Tree Preservation and Mitigation.

A. *Purpose and Intent.*

1. The purpose of this section is to conserve, protect and enhance existing healthy trees and natural landscape. It is recognized that the preservation of existing trees contributes to the overall quality and environment of the City. Trees can and do contribute to the processes of purification, oxygenation, regeneration, groundwater recharge, reduction of pollution and contaminants in aquifers, erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement property values. Indiscriminate clearing or stripping of natural vegetation on any parcel is prohibited.
2. It is hereby declared the intent of the City to encourage the preservation of all trees within the City limits. While the layout of a property with respect to the placement of buildings, parking facilities and other site requirements is at the discretion of the developer of the property, it is the policy of the City to promote site layout and design in a manner which preserves the maximum amount of Protected Class and Heritage Class trees possible.

B. *Applicability and Exemptions.*

1. The provisions of this section are applicable to the following:
 - a. all new residential and nonresidential development within the City except public schools;
 - b. redevelopment of any residential or nonresidential property within the City that results in an increase in the building footprint or the total destruction and reconstruction except public schools;
 - c. any grading, filling or clearing of land in the City limits; and
 - d. any selective or individual removal of any Protected Class or Heritage Class Tree in the City limits.
2. The following definitions shall be applicable to the provisions of this section:
 - a. *Protected Class Trees.* Trees having a DBH (diameter at breast height measured four and one half feet above existing ground level) between eight inches (8") and less than twenty-four inches (24") are designated as "Protected Class Trees".
 - b. *Heritage Class Trees.* Trees having a DBH greater than or equal to twenty-four inches (24") are designated as "Heritage Class Trees".
 - c. *Damage.* Damage shall be considered any injury to a tree including, but not limited to:
 - i. uprooting;
 - ii. severance of the root system or main trunk;
 - iii. storage of topsoil, construction materials, debris or chemicals within the drip line area;
 - iv. compaction of soil within the drip line area;
 - v. a substantial change in the natural grade above a root system or within the drip line area;
 - vi. pruning or removal of more than twenty-five percent (25%) of the living tissue; or
 - vii. Paving with concrete, asphalt or other impervious material within the drip line area. Tree grates or tree wells may be provided to preserve pervious surface within the drip line area.
3. The following are exempt from the preservation, mitigation and permitting requirements of this section:

- a. Protected Class Trees located within the area of a proposed on-site sewage facility (OSSF) (A waiver to mitigation for Heritage Class trees may be requested) ;
- b. Protected Class and Heritage Class Trees located within a right-of-way to be dedicated to and maintained by the City and shown on the City's Master Thoroughfare Plan;
- c. Protected Class Trees located within any utility easement, Heritage Class Trees located within any utility easement are exempt from preservation requirements only (A waiver to mitigation for Heritage Class trees may be requested);
- d. Protected Class and Heritage Class trees damaged or destroyed by floods, fire, wind or other natural causes;
- e. Dangerous, diseased, damaged, dead or dying Protected Class or Heritage Class trees as determined by a tree survey and a letter from a certified Texas Arborist; provided, notwithstanding the title of this section; and
- f. Protected Class trees from the Undesirable Trees list in UDC Table 21.9.7F. (A waiver to mitigation for Heritage Class trees may be requested)
- g. Protected Class and Heritage Class trees located on property that has an existing one family or two-family dwelling that is occupied.
- h. Protected Class and Heritage Class trees of the following exempted tree species:

Table 21.9.9 Exempted Trees	
Common Name	Scientific Name
Hackberry	Celtis occidentalis
Eastern Red Cedar	Juniperus virginiana
Common Ashe Juniper	Juniperis ashei
Chinaberry	Melia azedarach
Mesquite	Prosopis spp.
Ligustrum	Ligustrum spp.

- C. *Tree Preservation.* The existing natural landscape character, especially native oaks, elms, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. Except as otherwise exempted in section 21.9.9.B.3. above, a tree removal permit is required for the removal of any tree with a DBH greater than eight inches.
 - 1. *Protected Trees.* Any Protected Trees not exempt from preservation in section B.3. above may be removed upon approval of a Tree Removal Permit by the Director of Parks, Recreation and Community Services Any decision of the Director of Parks, Recreation and Community Services regarding a tree removal permit may be appealed to the Planning and Zoning Commission in accordance with section 21.4.14 of this UDC.
 - 2. *Heritage Trees.* Any Heritage Trees to be removed may be removed upon approval of a Tree Removal Permit by the Director of Parks, Recreation and Community Services. Any decision by the Director of Parks, Recreation and Community Services regarding a tree removal permit may be appealed to the Planning and Zoning Commission in accordance with section 21.4.14 of this UDC. All Heritage Trees shall be required to meet the mitigation requirements of this section.
 - 3. *Minimum Preservation.* In the development of any site, at least twenty-five percent (25%) of all mitigatable Protected Class and Heritage Class trees must be preserved. (A waiver to the 25% preservation requirement may be requested)

D. *Tree Mitigation.* Any trees that are removed or damaged as a result of the approval of a Tree Removal Permit shall be mitigated for on the same site as the proposed development. The species of trees planted for mitigation purposes may not include those listed as exempt in subsection 21.9.9.B.3. above nor any of the undesirable trees identified in table 21.9.7F. All trees planted for mitigation purposes must be a species of shade tree identified in table 21.9.7.A. In the event that mitigation is not feasible on the same site as the proposed development, an applicant may request to donate trees, meeting the mitigation requirements of this section, to be planted at public parks, schools, or other approved public facilities throughout the City or provide a fee-in-lieu of payment which will be used to place trees at public parks, schools, or other approved public facilities throughout the City. Tree mitigation funds may also be utilized to install irrigation, to repair or remove damaged or destroyed trees, to preserve and protect existing Protected Class and Heritage Class trees and to purchase equipment for the preservation or protection of existing trees. Mitigation requirements are:

1. *Protected Class Trees.* Protected trees shall be mitigated at a one-to-one (1:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two ~~and one half~~ inches (2.5").
2. *Heritage Class Trees.* Heritage Class trees shall be mitigated at a three-to-one (3:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two ~~and one half~~ inches (2.5").
3. *Damaged Trees.* Any trees that are designated for preservation and are damaged during the construction process or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for in accordance with subsection 21.9.9.D.1. and D.2. above.
4. *Mitigated Trees.* Trees planted and counted towards the necessary mitigation requirements that are damaged after planting or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for at a one-to-one (1:1) DBH inch ratio for every tree damaged or that dies.
5. The amount of tree mitigation per acre is capped at 100 inches per acre. For properties where the trees are generally clustered, staff has the discretion to define the acreage of the property as an area extending 20' beyond the tree canopy of the cluster in determining the acreage.

E. *Tree Protection Standards.*

1. All trees to be preserved on site shall be protected from damage caused by site excavation or construction in accordance with the following:
 - a. All trees shall be protected by a fence, frame or box constructed around the drip line of the preserved tree. Protection measures may not be removed until construction is complete.
 - b. A minimum of three inches (3") of mulch or compost shall be spread beneath the drip line of the preserved tree.
 - c. No person shall excavate any ditches, tunnels, or trenches, place any paving material or place any drive or parking area within the drip line of any Protected Class or Heritage Class Tree without prior written approval of the City Manager or his/her designee at the time of Site Plan approval.
 - d. No person shall attach any rope, wire, nails, advertising posters or other contrivance to any Protected Class or Heritage Class Tree.
2. It is the intent of the City to control and prevent the spread of Oak Wilt.
 - a. If any oak tree is wounded by intentional damage or pruning or as a result of natural causes, the damaged area shall be immediately treated with tree wound dressing.
 - b. All necessary and reasonable efforts shall be given during the permitted removal of any trees to utilize best known practices to prevent the spread of Oak Wilt disease to any other surrounding trees.

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- F. *Tree Preservation Credits—Nonresidential and Multifamily Developments.* To encourage the preservation of existing Protected Class or Heritage Class Trees contained within a proposed development, tree preservation credits may be requested to reduce the amount of new trees required on nonresidential and multifamily sites. Tree preservation credits can be issued for landscape buffer requirements when the tree being preserved is located within the buffer. Tree preservation credits can be issued to satisfy total trees per acre requirements of UDC Sec.21.9.7.E.2. The following minimum tree preservation credits may be requested:
1. Protected Class Trees shall receive a credit against the minimum required landscaping or mitigation standards at a one-to-one (1:1) caliper inch ratio;
 2. Heritage Class Trees shall receive a credit against the minimum required landscaping or mitigation standards at a three-to-one (3:1) caliper inch ratio;
- G. *Tree Survey Required.* Every application for a final plat for residential development or Site Plan for nonresidential and multifamily development shall be accompanied by a tree survey that includes the following information:
1. total number of DBH caliper inches of Protected Class and Heritage Class on the site;
 2. total number of DBH caliper inches of Protected Class and Heritage Class to be removed; and
 3. total number of DBH caliper inches of Protected Class and Heritage Class to be preserved.
- H. *Tree Removal Permit.* A tree removal permit is required for the removal of any Protected Class or Heritage Class trees not exempt in section 21.9.9.B.2. above. The permit must be accompanied by an appropriate application and shall contain a tree preservation plan showing the following:
1. existing/proposed topography;
 2. location of property lines, easement, rights-of-ways, setbacks, parking areas and sidewalks;
 3. location, species and size (in DBH) of each Protected Class and Heritage Class Tree, except those trees exempted by section 21.9.9.B.2.f. above;
 4. a tree inventory that summarizes the following:
 - a. total number of DBH caliper inches on the site;
 - b. total number of DBH caliper inches to be removed;
 - c. total number of DBH caliper inches to be preserved;
 - d. location of any proposed tree mitigation;
 - e. any proposed tree preservation credits; and
 5. a summary of the tree protection methods to be utilized.
- I. *Waiver.*
1. *General.* The City Manager or his/her designee may authorize waivers from the provisions of this Article when, in their opinion, undue hardship will result from requiring strict compliance. Waivers may be granted only to items specifically stated in this section. Waivers must meet one of the following eligibility requirements:
 - a. The tree is proposed for removal in order for the property to achieve compliance with other applicable City requirements and standards (i.e. site design or storm water management); or
 - b. The tree is proposed for removal because it is within a future public utility location.
 2. *Criteria for approval.* Waivers shall be evaluated using the following criteria:

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- a. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or windbreaks;
 - b. The requested waiver does not violate the intent of this section or the UDC;
 - c. Strict interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other nearby properties in the same zoning district or with the same land use that would comply with the same provisions;
 - d. A reasonable effort to preserve the tree has been made and reasonable alternatives have been evaluated and determined to not be feasible.
3. Any decision of the City Manager or his/her designee regarding waivers to the provisions of this section may be appealed to the Planning and Zoning Commission. When considering an appeal, the Planning and Zoning Commission shall consider the same standards as the City Manager or his/her designee as outlined above.

(Ord. No. 16-S-27 , § 6, 8-30-2016; Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-08 , § 1(Exh. A), 2-27-2018; Ord. No. 18-S-24 , § 1(Exh. A), 8-7-2018; Ord. No. 22-S-18 , § 1(Exh. A), 4-26-2022)

Ord. 23-S-27

UDC Amendments to Article 4 – Variances
& Article 9 – Landscaping and Tree
Mitigation

Samuel Haas | SENIOR PLANNER

Article 4 – Variances

Proposed Amendments

UDC Section 21.4.12.A.:

"A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this UDC to other parcels of land in the district."

Article 4 – Variances

Proposed Amendments

Local Government Code 211.009(b-1):

In considering a variance as applied to a structure, the board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- a) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;*
- b) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;*
- c) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;*
- d) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or*
- e) The municipality considers the structure to be a nonconforming structure*

Article 4 – Variances

Proposed Amendments

UDC Section 21.4.12.D. *Criteria for approval:*

2. Special conditions of restricted area, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district;
3. The hardship is in no way the result of the applicant's own actions; and
4. The interpretation of the provisions in this UDC or any amendments thereto would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.
5. In considering a variance as applied to a structure, the Board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:
 - a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
 - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - c. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - e. The municipality considers the structure to be a nonconforming structure.

Article 9 – Min. Tree Caliper Proposed Amendments

In the Local Government Code Section 212.905, the State has a minimum tree planting requirement of 2" inches.

All trees planted above this requirement are eligible for mitigation credits.

Tree Mitigation - UDC Section 21.9.9.D:

1. Protected Class Trees. Protected trees shall be mitigated at a one-to-one (1:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two and one half inches (2.5").
2. Heritage Class Trees. Heritage Class trees shall be mitigated at a three-to-one (3:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of two and one half inches (2.5").

Article 9 – Min. Tree Caliper Proposed Amendments

Residential Landscaping - UDC Section 21.9.7.C.6:

Every single family residential lot shall provide a minimum of two (2) shade trees which are a minimum of two and one-half inches (2.5") caliper measured at four feet (4') above ground level at the time of planting.

Nonresidential Landscaping - UDC Section 21.9.7.D.5:

Trees planted shall be a minimum of two and one-half inches (2.5") caliper measured at four feet (4') above ground level at the time of planting.....

Article 9 – Min. Tree Caliper Proposed Amendments

Staff is proposing to lower all minimum Tree Caliper Requirements to 2" in conformance with LGC requirements and to make the UDC more consistent and easier to apply.

Additionally, trees are measured by Diameter at Breast Height (DBH) which is an industry standard of 4.5 feet above the ground. Staff is also proposing to amend the UDC to include this.

Ord. 23-S-27

Proposed Amendments

Article 4 – Variances

- Adding LGC language to 21.4.12.D: *Criteria for approval*

Article 9 – Tree Min. Caliper

- 21.9.9 - Tree Mitigation
 - Min. replacement tree caliper size
- 21.9.7 - Landscaping
 - Min. tree planting size (Res. & Non-res.)
 - Changing height of measurement from 4 feet to 4.5 feet
 - *Industry standard practice*

Staff Recommendation

- **The amendments would help the UDC align more closely with the LGC. Would also provide added clarity for applicants and staff**
- **The Planning & Zoning Commission recommended approval with a 7-0 vote at the September 13th, 2023, meeting.**
- **Therefore, staff recommends approval of the amendments to the Unified Development Code (UDC) as proposed and discussed.**

City Council Action

- At the October 10, 2023 meeting City Council conducted a public hearing in relation to Ordinance 23-S-27.
- The City Council approved Ordinance 23-S-27 as presented for first reading with a 7-0 vote at the October 10, 2023 meeting.

COMMENTS & QUESTIONS

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Executive Team
Subject: Resolution 23-R-103 - Authorizing the City Manager to sign an Advanced Funding Agreement with the Texas Department of Transportation for Local Government Contributions to a Transportation Improvement Project to provide for Schertz Parkway Bridge Signage. (B.James/S.Wayman)

BACKGROUND

In December 2022, when anticipating the 2023 budget, this item was brought to the SEDC Board for discussion. The SEDC has provided discussion that they would like to look at this project, and the item was budgeted in the marketing fund for \$40,000.

The attached supporting information shows, however, that the cost of the project is much more than anticipated. There was much discussion at Staff Level about the options for which to choose. As a result, the Recessed Letters in Raised Concrete Portions at the Rail is the option chosen by staff. There are several similar samples on IH 35 in Kyle area and staff really liked the appearance of that example. In addition, TXDOT estimates 10% for the cost of lane closure.

This will be a third-party contractor who will be selected by TXDOT and this amount will be finalized at the time of the project. SEDC staff are asking for an amount not to exceed \$145,000 and this funding will come from the SEDC Marketing and Promotional Account. This account has \$254,000 existing and is only 24% spent.

GOAL

Provide signage for Schertz Parkway as part of the IH-35 NEX project.

COMMUNITY BENEFIT

Provides for an attractive community.

SUMMARY OF RECOMMENDED ACTION

This resolution authorizes the City Manager to enter into an agreement with TxDOT for the installation of signage

FISCAL IMPACT

The cost of this project is \$145,000 and will be paid by Schertz EDC. In August of 2023, the Schertz Economic Development Corporation approved Resolution 2023-06 authorizing the funding for this project. The City will be responsible for any ongoing maintenance costs.

RECOMMENDATION

Approval of Resolution 23-R-103.

RESOLUTION NO. 23-R-103

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, AUTHORIZING THE CITY MANAGER TO SIGN AN ADVANCED FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR LOCAL GOVERNMENT CONTRIBUTIONS TO A TRANSPORTATION IMPROVEMENT PROJECT TO PROVIDE FOR SCHERTZ PARKWAY BRIDGE SIGNAGE

WHEREAS, the Texas Department of Transportation (TxDOT) is undertaking the IH 35 NEX project to expand capacity on IH 35 within the city of Schertz; and

WHEREAS, the City of Schertz, Texas and the Schertz Economic Development Corporation desires to increase the visibility of the City on local signage at highly visible locations; and

WHEREAS, the Board of Directors of the Schertz Economic Development Corporation took action at its regular meeting on August the 24th, 2023 approving SEDC Resolution 2023-06 to authorize the funding of the signage at a cost not to exceed ONE HUNDRED AND FORTY FIVE THOUSAND DOLLARS (\$145,000); and

WHEREAS, City Staff has recommended that the City enter into the Advanced Funding Agreement with the Texas Department of Transportation for the Schertz Economic Development project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council of the City of Schertz, Texas authorizes the Schertz City Manager to enter into the Advanced Funding Agreement for the Transportation Improvement Project to provide for Schertz Parkway Bridge Signage. attached hereto as Exhibit "A".

Section 2. The recitals contained in the preamble hereof are hereby 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 judgement and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provisions 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 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of the 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 City Council hereby declares that this Resolution would have been enacted without such invalid provisions.

Section 6. 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 7. This Resolution shall be in force and effective from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this ____ day of _____2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

ATTACHMENT A

CSJ#	0016-06-047 & 0016-07-113
District# SAT(15)	 AFA ID Z00008566
Code Chart 64 #	38440
Project Name	135 NEX City of Schertz Branding

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY
LOCAL GOVERNMENT CONTRIBUTIONS
TO TRANSPORTATION IMPROVEMENT PROJECTS
WITH NO REQUIRED MATCH
ON-SYSTEM**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the "State", and the City of Schertz, acting by and through its duly authorized officials, called the "Local Government". The State and Local Government shall be collectively referred to as "the parties" hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, Transportation Code, Chapters 201 and 221, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115291, 115550, 115814** authorizing the State to undertake and complete a highway improvement generally described as expand from 8 lane to 14 lane expressway; add 6 new express lanes including 2 HOV special use lanes.

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as 135 NEX City of Schertz Branding; and

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the state;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

CSJ#	0016-06-047 & 0016-07-113
District# [SAT(15) [AFA ID / Z00008566	
Code Chart 64 #	38440
Project Name	135 NEX City of Schertz Branding

AGREEMENT

1. **Period of the Agreement**

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in full force and effect until the Project has been completed and accepted by all parties or unless terminated as provided below.

2. **Project Funding and Work Responsibilities**

- A. The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities (Attachment A) which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.
- B. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its financial share for the State's estimated construction oversight and construction costs.
- C. In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- D. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.

3. **Right of Access**

If the local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

4. **Adjustments Outside the Project Site**

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

5. **Responsibilities of the Parties**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

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6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

9. Increased Costs

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased cost to the department for a highway improvement project, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

10. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

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11. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in Attachment A or existing maintenance agreements with the Local Government.

12. Termination

- A. This agreement may be terminated in the following manner:
 - 1. By mutual written agreement and consent of both parties;
 - 2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
 - 3. By the State if it determines that the performance of the Project is not in the best interest of the State.
- B. If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.
- C. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

13. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	State:
City of Schertz ATTN: City Manager 1400 Schertz Parkway Schertz, TX 78154	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

14. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

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15. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

16. Amendments

By mutual written consent of the parties, this agreement may be amended in writing prior to its expiration.

17. State Auditor

Pursuant to Texas Government Code § 2262.154, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

18. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government.

THE STATE OF TEXAS

Signature

Kenneth Stewart

Typed or Printed Name

Director of Contract Services
Texas Department of Transportation

Typed or Printed Title

Date

THE LOCAL GOVERNMENT

Signature

Steve Williams

Typed or Printed Name

City Manager
City of Schertz

Typed or Printed Title

Date

CSJ #	0016-06-047 & 0016-07-113		
District #	SAT(15)	AFA ID	200008566
Code Chart 64 #	38440		
Project Name	135 NEX City of Schertz Branding		

ATTACHMENT A PAYMENT PROVISION AND WORK RESPONSIBILITIES

The Local Government shall provide \$145,000 to the State on or before 30 days after execution of this agreement for work consisting of constructing raised concrete lettering on the outside face of the bridge rail of the turn around bridges at Schertz Parkway. The State will be responsible for overruns.

WORK RESPONSIBILITIES:

1. Construction Responsibilities

The State will be responsible for the construction as stated below:

TxDOT will be constructing raised concrete lettering on the outside face of the bridge rail of the turn around bridges at Schertz Parkway. The lettering will read "**SCHERTZ PARKWAY**". The lettering will be displayed above the IH 35 Northbound Main Lane direction on the north to south turnaround bridge and one set above the IH 35 Southbound Main Lane direction on the south to north turnaround bridge. Once the lettering is completed and painted, the City of Schertz will be responsible for maintaining the lettering. This will include restoration of the lettering and traffic control needed to perform the restoration, including lane closures on the IH 35 main lanes, IH 35 elevated lanes, and on Schertz Parkway. Restoration will include repairing damaged concrete on the lettering itself, repairing any concrete damage or spalling to the rail immediately above or below the lettering, refreshment of the lettering, refreshment of the paint on the rail immediately above, below, and within the lettering area. Horizontally, this translates to one foot on each side of the lettering.

2. Right of Way and Real Property

The State will be responsible for the acquisition of Right of Way and Real Property.

3. Utilities

The State will be responsible for the adjustment, removal, or relocation of utility facilities.

4. Architectural and Engineering Services

The State will be responsible for the performance of architectural and engineering services.

5. Environmental Assessment and Mitigation

The State will be responsible for the Environmental Assessment and Mitigation

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Project Name	135 NEX City of Schertz Branding		

6. Maintenance

The LG will be responsible for maintaining the lettering. This will include restoration of the lettering and traffic control needed to perform the restoration, including lane closures on the IH 35 main lanes, IH 35 elevated lanes, and on Schertz Parkway. Restoration will include repairing damaged concrete on the lettering itself, repairing any concrete damage or spalling to the rail immediately above or below the lettering, refreshment of the lettering, refreshment of the paint on the rail immediately above, below, and within the lettering area. Horizontally, this translates to one foot on each side of the lettering.

Certificate Of Completion

Envelope Id: 59F33DE700A949ED9A39AA5F8A3D333C
Subject: Please DocuSign AFAID 200008566 with City of Schertz
Source Envelope:

Status: Sent

Document Pages: 9
Certificate Pages: 5
AutoNav: Enabled
Envelope Stamping: Enabled

Signatures: 0
Initials: 0

Envelope Originator:
Bryan Watson
125 E. 11th Street
Austin, TX 78701

Time Zone: (UTC-06:00) Central Time (US & Canada)

Bryan.Watson@txdot.gov
IP Address: 209.112.106.2

Record Tracking

Status: Original
9/25/2023 1:46:56 PM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Bryan Watson
Bryan.Watson@txdot.gov
Pool: StateLocal
Pool: Texas Department of Transportation

Location: OocuSign
Location: DocuSign

Signer Events

Steve Williams
steve.williams@schertz.com
Security Level: Email, Account Authentication (Optional)

Electronic Record and Signature Disclosure:
Accepted: 9/25/2023 4:53:38 PM
ID: 8c3e0a09-df36-42fd-bfc9-3a392eae20ff

Kenneth Stewart
kenneth.stewart@txdot.gov
Security Level: Email, Account Authentication (Optional)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Signature

Timestamp

Sent: 9/25/2023 1:48:59 PM
Viewed: 9/25/2023 4:53:38 PM

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Barbara Gault
Barbara.Gault@txdot.gov
Texas Department of Transportation
Security Level: Email, Account Authentication (Optional)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

COPIED

Sent: 9/25/2023 1:48:59 PM

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Summary Events

Envelope Sent

Status

Hashed/Encrypted

Timestamps

9/25/2023 1:48:59 PM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Texas Department of Transportation (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Texas Department of Transportation:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kevin.setoda@txdot.gov

To advise Texas Department of Transportation of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at kevin.setoda@txdot.gov and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Texas Department of Transportation

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to kevin.setoda@txdot.gov and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Texas Department of Transportation

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: City Secretary
Subject: Ordinance 23-M-28 - Amending the Code of Conduct and Procedures on Videoconferencing and Hearing of Residents:Written Statements. *First Reading* (S.Edmondson)

BACKGROUND

At the September 19, 2023, City Council meeting under the Workshop agenda item, (A) Videoconferencing and (B) Hearing of Residents-Written Communications was discussed.

(A) Videoconferencing: Councilmember Allison Heyward asked for this item to be on the agenda for discussion. Videoconferencing is not mandated by the State, but if you allow it, you must follow certain guidelines. Several Councilmembers expressed difficulty participating in a Council meeting via videoconferencing. After much discussion, Council decided that videoconferencing would not be allowed and the Councilmember who cannot attend the City Council meetings in person because of work or illness would have an excused absence.

(B) Hearing of Residents-Written Communication: Councilmember Jill Whittaker asked for this to be added to the agenda for discussion. Councilmember Heyward referenced Ordinance 21-M-28 which reflects the City Council's Rules and Procedures does not say that written communications will be read but rather distributed to Council. State law does not require resident statements to be read by staff during City Council meetings. Council decided that written communications received from residents as part of the Hearing of Residents will only be provided to Council and not read at the Council meeting.

Attachments

Ordinance 23-M-28

ORDINANCE NO. 23-M-28

AN ORDINANCE BY THE CITY OF SCHERTZ AUTHORIZING AND AMENDING CITY COUNCIL RULES OF CONDUCT AND PROCEDURE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Schertz has previously adopted Rules of Conduct and Procedure for the conduct of meetings of the City Council 21-M-28; and

WHEREAS, the City Council discussed the following changes at their meeting of September 19, 2023; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend, update, and clarify the Rules of Conduct and Procedure as they relate to the placement of Ordinances on final reading.

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

Section 1. That the City Council's Rules of Conduct and Procedure are amended as follows:

Article 2 General Rules

2.2 Attendance. Councilmembers shall attend all meetings of the Council. Absence of a Councilmember from a meeting shall be managed in accordance with 2.2 B.

A. Quorum. Four members of the Council, not including the Mayor, shall constitute a quorum. In the absence of the Mayor, the Mayor Pro Tem or other presiding officer shall be counted for purpose of determining the existence of a quorum. If a quorum is not present, those in attendance will be named, and they may recess to a later time as permitted by State law or may hear business before them, taking no official action.

B. Absences. In the event a Councilmember is unable to attend a meeting of the Council, the Councilmember shall notify either the Mayor or the City Secretary as soon as they become aware that they will be unable to attend. Notification may be accomplished via e-mail or telephone and must include the reason for the absence.

Absences from meetings of the City Council that are due to occupational or business demands, personal or family illness or absence from the city shall be approved by the Council as excused.

The City Secretary shall annotate the Councilmember's absence and the reason therefore in the minutes of the meeting from which the Councilmember is absent. Council approval of the subject minutes shall ratify the absence and the reason given therefore and thus excuse the absence. If a Councilmember raises an objection to the absence or the reason given therefore at the time the minutes are to be approved, the matter may be place on a future agenda for debate, discussion and further consideration.

C. Due to the challenges of connectivity, audio quality and equipment standards required, videoconferencing will not be permitted.

Article 12 Citizens Rights

12.5 Written Communications. Interested persons, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at any time by direct mail or by addressing the City Secretary, who shall, on the request of the writer, distribute copies to the Councilmembers. **Written statements will not be read or made part of the official meeting record.**

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, 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 resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. 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 Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

APPROVED ON FIRST READING the _____ day of _____, 2023.

PASSED, APPROVED AND ADOPTED ON FINAL READING, the _____ day of _____, 2023.

City of Schertz

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

CITY OF SCHERTZ

CITY COUNCIL

RULES OF CONDUCT AND PROCEDURE

These Rules of Conduct and Procedure (these “Rules”) are intended to provide an understandable and workable structure for City Council meetings.

These Rules shall serve to aid the conduct of public business at Council meetings, to facilitate communication at Council meetings among Councilmembers and between Councilmembers and City staff and members of the public, and to promote confidence in the citizens that their government is performing its duties with the highest of ethical standards and with a genuine interest in the well-being of the community.

These Rules are in all events subject to the City Charter and applicable provisions of State law, including the Texas Open Meetings Act.

As a part of these Rules, the Council has established the following Code of Conduct for the Mayor and all Councilmembers:

- Address the merits of the issues — no personal attacks.
- Focus on representing the interests of all citizens.
- Attempt to resolve personal conflicts among Councilmembers internally before speaking publicly.
- Assume positive intentions — don’t look for hidden agendas.
- Observe the City’s written Rules of Conduct and Procedure.
- When others are speaking, listen with an open mind.
- Recognize that inappropriate public disclosure of confidential information can be detrimental to the City and its citizens.
- Understand that “majority rules”. Once a vote is taken, if you were in the minority agree to disagree and move on. Recognize that a majority view, when expressed in a vote, becomes an expression of City policy.
- Coordinate all requests of the City staff through the City Manager.

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**ARTICLE 1.
AUTHORITY**

- 1.1 City Charter. Section 4.09 (d) of the City Charter provides that the Council shall, by ordinance, determine its own rules and order of business.
- 1.2 Effective Date; Amendment. These Rules shall be in effect upon their adoption by the Council and until such time as they are amended, or new rules are adopted. In the event of a conflict between these Rules and the Charter, the Charter shall govern over these Rules. In the event of a conflict between these Rules and State law, State law shall take precedence.

**ARTICLE 2.
GENERAL RULES**

- 2.1 Meetings to be Public. All meetings of the Council and all meetings of committees composed of a quorum of the Council shall be open to the public as provided by State law, except when State law allows closed or Closed sessions for certain limited topics.
- 2.2 Attendance. Councilmembers shall attend all meetings of the Council. Absence of a Councilmember from a meeting shall be managed in accordance with 2.2 B.

A. Quorum. Four members of the Council, not including the Mayor, shall constitute a quorum. In the absence of the Mayor, the Mayor Pro Tem or other presiding officer shall be counted for purpose of determining the existence of a quorum. If a quorum is not present, those in attendance will be named, and they may recess to a later time as permitted by State law or may hear business before them, taking no official action.

B. Absences. In the event a Councilmember is unable to attend a meeting of the Council, the Councilmember shall notify either the Mayor or the City Secretary as soon as they become aware that they will be unable to attend. Notification may be accomplished via e-mail or telephone and must include the reason for the absence.

Absences from meetings of the City Council that are due to occupational or business demands, personal or family illness or absence from the city shall be approved by the Council as excused.

The City Secretary shall annotate the Councilmember's absence and the reason therefore in the minutes of the meeting from which the Councilmember is absent. Council approval of the subject minutes shall ratify the absence and the reason given therefore and thus excuse the absence. If a Councilmember raises an objection to the absence or the reason given therefore at the time the minutes are to be approved, the matter may be place on a future agenda for debate, discussion and further consideration.

C. Due to the challenges of connectivity, audio quality and equipment standards required, videoconferencing will not be permitted.

- 2.3 Minutes of Meetings. An account of all proceedings of the Council shall be kept by the City Secretary and shall constitute the official record of the Council. Such minutes, after being approved by the Council (except any closed or closed session portion), shall be open to public inspection. The City Secretary shall provide an index showing the action
- of the Council in regard to all matters before to it at both regular and special meetings. A recording or “certified agenda” of each closed or closed session shall be made and maintained as required by State law.
- 2.4 Questions to Contain One Subject. All questions submitted for a vote shall contain only one subject. If two or more subjects are involved, any Councilmember may require a division, if the subjects can be reasonably divided.
- 2.5 Right to the Floor. Subject to Section 8.5, any Councilmember or member of City staff desiring to speak shall be recognized by the Mayor (or the presiding officer in the Mayor’s absence) at an appropriate time and shall confine his/her remarks to the subject under consideration or to be considered.
- 2.6 City Manager. The City Manager or the Acting City Manager shall attend all meetings of the Council unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in all discussions of the Council but shall have no vote. The City Manager shall be notified of all special meetings of the Council.
- 2.7 City Attorney. The City Attorney shall attend all meetings of the Council as required by the Council or as requested by the City Manager, and shall, upon request of the Council or the City Manager, give an opinion, either written or oral, on questions of law.
- 2.8 City Secretary. The City Secretary or the Deputy City Secretary shall attend all meetings of the Council, unless excused, and shall keep the official minutes.
- 2.9 Officers and Employees. Any officer or employee of the City, when requested by the City Manager, shall attend meetings of the Council. If requested to do so by the City Manager, they shall present information relating to matters before the Council.
- 2.10 Rules of Order. Part 8 of these Rules shall govern the proceedings of the Council.
- 2.11 Suspension of Rules. Any provision of these Rules not required by the Charter or State law may be temporarily suspended by a majority vote of the Councilmembers who are present. The vote of each person on any such suspension shall be entered in the minutes.
- 2.12 Amendment to Rules. These Rules may be amended, or new rules adopted, by a duly adopted ordinance.
- 2.13 Matters Not Addressed by Rules. Issues of the conduct or procedure of public meetings not addressed by these Rules, the Charter, or State law shall be determined by the Mayor (or the presiding officer in the Mayor’s absence).

ARTICLE 3.
TYPES OF MEETINGS

- 3.1 Regular Meetings. The Council shall hold regularly scheduled meetings as provided by the Code of Ordinances, Part II, Section 2-2. The Council may also hold regularly scheduled meetings which may be designated by the Council as “workshop” sessions.
- 3.2 Special Meetings. Special meetings may be called by the Mayor, the City Manager, or any three (3) members of the Council. The call for a special meeting shall be filed with the City Secretary in written form, except that announcement of a special meeting during any regular meeting at which all members are present shall be sufficient notice of such special meeting. The call for a special meeting shall specify the day, hour, and place of the special meeting and shall identify the subject or subjects to be considered.
- 3.3 Recessed Meetings. Subject to State law, any meeting of the Council may be recessed to a later time, provided that no recess shall be for a longer period than until the next regular meeting.
- 3.4 Adjourned Meetings. Any meeting of the Council that has been adjourned may not be reconvened except by a motion to reconsider prior to any Councilmember’s departure from the Council chamber. See Sections 9.3 and 9.4.
- 3.5. Closed Sessions. Closed sessions may only be held in accordance with state law.
- 3.6 Emergency Meetings. In case of emergency or urgent public necessity, an emergency meeting may be called as a special meeting as set forth in Section 3.2, however, an emergency meeting may not be held unless authorized by, and notice is given in accordance, with State law.

ARTICLE 4.
PRESIDING OFFICER AND DUTIES

- 4.1 Mayor. The Mayor, if present, shall preside as Mayor at all meetings of the Council. In the absence of the Mayor, the Mayor Pro-Tem shall preside. In the absence of both the Mayor and the Mayor Pro-Tem, the most senior Councilmember (by time of service on the Council) present shall be the chairperson.
- 4.2 Call to Order. Each meeting of the Council shall be called to order by the Mayor, or in the Mayor’s absence, by the Mayor Pro-Tem. In the absence of both the Mayor and the Mayor Pro-Tem, the meeting shall be called to order by the most senior Councilmember (by time of service on the Council) present.
- 4.3 Preservation of Order. The presiding officer shall preserve order and decorum, prevent personalities from becoming involved during debate or the impugning of members’ motives, and confine Councilmembers in debate to the question under discussion.

- 4.4 Rulings by Presiding Officer. The presiding officer shall rule on points of privilege, points of procedure or order, and withdrawals of motions, subject to the right of any member to appeal to the Council as set forth in Article 9 of these Rules. See Sections 9.3, 9.4, 9.5, 9.6, and 9.8.
- 4.5 Questions to be Stated. The presiding officer shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken on all votes.
- 4.6 Substitution of Mayor. In the event the Mayor must relinquish the chair, the Mayor shall call upon the Mayor Pro-Tem to preside if the Mayor Pro-Tem is present. If the Mayor Pro-Tem is not present, the Mayor may call upon the most senior Councilmember (by time of service on the Council) present to preside, but such substitution shall not continue beyond adjournment of that meeting.

ARTICLE 5. APPOINTMENT PROCEDURES

Article 5 Section 5.1 Appointment Procedure for the Mayor Pro Tem.

- (a) The Council will discuss, and with a majority vote, appoint the Councilmember to serve as the Mayor Pro Tem for the City.
- (b) The appointed Mayor Pro Tem must be a Councilmember and must meet the qualifications of Section 4.02 of the City Charter. In addition, to be appointed to the position of Mayor Pro Tem, a Councilmember must be an elected member of Council and a member in good standing.
- (c) Term dates for the Mayor Pro Tem position will begin in February and August of each year (the election dates offset by three (3) months). Terms will sequentially rotate according to Councilmember place.
- (d) If the Councilmember place that is up for appointment as Mayor Pro Tem is vacant or is held by a Councilmember who is not qualified to serve as Mayor Pro Tem, the Mayor Pro Tem appointment will go to the next qualified Councilmember.
- (e) The position will have a term of office of six (6) months.
- (f) The appointed Mayor Pro Tem may be removed by Council by a two-thirds (2/3) majority vote of the members of Council at any time during his or her term.
- (g) Council reserves the right to alter this procedure at any time by resolution or rule.

5.1 Appointment Procedure for a Councilmember.

- (a) The Council may appoint a Councilmember to a vacant seat as authorized by Section 4.06 of the City Charter.

- (b) The Council will announce and advertise on the City’s website and in the City’s newspaper of record that applications are being accepted for a vacant position on Council.
- (c) A due date for applications to be submitted will be set.
- (d) Applicants must meet the qualifications for a Councilmember set forth in Section 4.02 of the City Charter.
- (e) Applications will be received by the City Secretary’s office and distributed to all Councilmembers.
- (f) An interview date will be set and posted for a public meeting.
- (g) Interviews of prospective candidates will be held in a public forum by a quorum of Councilmembers.
- (h) Councilmembers will discuss, and appoint by majority vote, the new member of Council at either the same meeting as the interviews or at a subsequent Council meeting.
- (i) The Council is the final judge of whether a candidate is qualified to serve as a Councilmember as set forth in Section 4.03 of the City Charter.
- (j) Council reserves the right to alter this procedure at any time by resolution or rule.

**ARTICLE 6.
ORDER OF BUSINESS**

6.1 Agenda. The City Manager and the City Secretary shall prepare an agenda for each meeting of the Council. Items may be placed on the agenda by the City Manager (or in his absence any Assistant City Manager), the Mayor, or any Councilmember, except that a Councilmember directing that an item or items be placed on an agenda must do so in open session, during a properly posted meeting of the Council. Items placed on the agenda by the City Manager (or in his absence any Assistant City Manager) may be removed only by the City Manager (or any Assistant City Manager) and he/she may do so at any time that permits the agenda for the Council meeting to be properly posted by the City Secretary’s Office under the Texas Open Meetings Act. Items placed on an agenda by the Mayor may be removed only by the Mayor, and he/she may do so at any time that permits the agenda for the Council meeting to be properly posted by the City Secretary’s Office under the Texas Open Meetings Act. Items placed on the agenda by a Councilmember may be removed only by that specific Councilmember, and he/she may do so at any time that permits the agenda for the Council meeting to be properly posted by the City Secretary’s Office under the Texas Open Meetings Act.

- (a) Information Required. Any item to be on the agenda must be provided to the City Manager pursuant to a procedure established and modified by the City Manager

from time to time. Each item on the agenda must contain sufficient information so that full disclosure of the item to be addressed is present so as to alert the Council and the public of the topic to be considered.

- (b) Order of Listing Items; Sponsor and Responsible Staff. The agenda shall list all items for consideration in a format recommended by the City Manager. The name of the person or persons placing an item on the agenda and the name of any expected staff presenter shall be stated on the agenda.
- (c) Copy Provided to Mayor and Council Members. The City Secretary shall furnish the Mayor and each Councilmember a copy of the agenda, including the proposed ordinances, resolutions, petitions, notices, or other materials as required. Copies of attachments and background material will generally be provided for the initial presentation only and should be retained by the Mayor and the Councilmembers until such time as the item is finalized.
- (d) Copy Available to Public. A copy of the agenda, with or without attachments as determined by the City Manager, shall be made available to the public at City Hall prior to the meeting. Copies of the agenda shall be available to the public at the meeting.
- (e) Order; Exception. The ordinances, resolutions, and other proposed actions shall be taken up and disposed of by the Council in the order listed in the agenda, subject to the right of the presiding officer to take up matters in a different order.
- (f) Chair Shall Not Entertain Objections. An agenda item properly placed on a future agenda by a member of Council during open session shall not be subject to objection by another member.

6.2 Communication to Mayor and Council. The City Manager shall provide the Council with a copy of each ordinance or resolution and appropriate analysis of items proposed to be acted upon by the Council at a meeting. These communications shall be delivered to the Mayor and Councilmembers along with the agenda. This information should also be retained by the Mayor and Councilmembers until such time as the item is finalized. Staff members, in making presentations to Council at a meeting of the Council, should endeavor to restrict their presentations to five (5) minutes, excluding responses to questions by the Mayor and/or Councilmembers.

6.3 Approval of Minutes. Minutes may be approved without public reading if the City Secretary has previously furnished the Mayor and each Councilmember with a copy thereof.

6.4 Presentations by Members of Council. The agenda shall provide a time when the Mayor and each Councilmember may bring before the Council any business that person believes should be brought up during the “Requests by Mayor and Councilmembers” and “Announcements by Mayor and Councilmembers” portions of the agenda. These matters need not be specifically listed on the agenda unless the person desiring to make a comment knows prior to posting of the agenda that he/she will make such comment. In

response to an unposted comment, there (1) may only be a statement of factual information in response, (2) a recitation of existing City policy, or (3) discussion regarding a proposal to place the subject on the agenda for a subsequent meeting.

- 6.5 Consent Agenda. At the direction of the City Manager (or in his absence an Assistant City Manager) with respect to items believed to be non-controversial, the City Secretary shall place multiple items on a “Consent Agenda” portion of the agenda, subject to the right of the Mayor or any Councilmember to request at the meeting that any one or more of such items be removed from the Consent Agenda for individual consideration. First readings of ordinances shall in all events be posted for individual consideration and shall not be included on the Consent Agenda.

ARTICLE 7. CONSIDERATION OF ORDINANCES, RESOLUTIONS, AND MOTIONS

- 7.1 Printed, Typewritten, or Electronic Form. All ordinances and resolutions shall be presented to the Council only in printed, typewritten, or electronic form.
- 7.2 City Manager Review. All ordinances and resolutions shall be reviewed by the City Manager or his designee.
- 7.3 City Attorney to Approve. All ordinances and resolutions shall be approved as to form and legal content by the City Attorney, when requested by the Mayor or the City Manager.
- 7.4 Funding. All actions authorizing an expenditure of money shall include the exact source of the funds to be expended.
- 7.5 Reading of Caption Only. Upon being introduced, each proposed ordinance or resolution shall be read by caption only.
- 7.6 Ordinances—Two Readings; Emergencies. Ordinances introduced at a Council meeting shall not be finally acted upon until at least the next regular meeting, except that immediate action may be taken upon an emergency as determined by the Council in accordance the Charter or State law. Ordinances that do not receive a unanimous vote on first reading shall (a) be placed on the consent portion of the next agenda or (b) be placed on the discussion portion of the next agenda.
- 7.7 Recording of Votes. The ayes and nays shall be taken upon the consideration of all ordinances and resolutions and shall be entered in the minutes of the Council.
- 7.8 Vote Required. Approval of every ordinance, resolution, or motion, unless otherwise required by these Rules, the Charter, or State law, shall require the affirmative vote of four (4) Councilmembers who are present and eligible to vote.
- 7.9 Tie Vote. In the event of a tie in votes on any motion, the Mayor shall cast the decisive vote in accordance with Section 4.05 of the Charter. Other Councilmembers acting as presiding officer shall not be restricted to voting only in the event of a tie.

7.10 Numbering Ordinances and Resolutions. After approval of a resolution or an ordinance on second reading or on a single reading as an emergency, the City Secretary shall assign a number to each ordinance or resolution within the records of the City.

7.11 Ordinance Passage Procedure. After passage, an ordinance shall be signed by the presiding officer and shall be attested by the City Secretary or Deputy City Secretary, and it shall be filed and thereafter preserved in the office of the City Secretary.

ARTICLE 8. RULES OF DECORUM

8.1 Recognition by presiding officer. Subject to Section 8.5, No person shall address the Council without first being recognized by the presiding officer.

8.2 Order. While the Council is in session, the Councilmembers must preserve the order and decorum of the meeting, and a Councilmember shall neither, by statement or otherwise, delay or interrupt the proceedings or the peace of the Council or disturb any other Councilmember while speaking or refuse to obey the orders of the presiding officer. Councilmembers are expected to remain on the dais during a Council meeting unless they have good cause to vacate.

8.3 Presiding Officer. The Mayor or the Mayor Pro-Tem or such other member of the Council who is serving as the presiding officer may participate in debate, subject only to such limitations of debate as are the rights and privileges of a Councilmember by reason of such Councilmember acting as the presiding officer. If the presiding officer is engaged in debate and is, at the insistence of four (4) Council members, abusing the position of the presiding officer, the presiding officer must relinquish the chair to the Mayor Pro-Tem, or in his/her absence, to the next most senior Councilmember (by time of service on the Council) present. The Mayor Pro-Tem or such other member, other than the Mayor, who is serving as presiding officer may move, second, and debate from the chair, subject only to such limitations of debate as are the rights and privileges of a Councilmember by reason of the member acting as the presiding officer.

8.4 Improper References to be Avoided. When a Councilmember has the floor pursuant to Section 2.5 or 8.5, he/she shall avoid all references to personalities and indecorous language.

8.5 Interruptions. A Councilmember, once recognized, shall not be interrupted by the Mayor or another Councilmember when speaking unless it is to raise a point of privilege (Section 9.4) or a point of procedure or order (Section 9.5), or to enter a motion to withdraw a previously-stated motion (Section 9.8), or as otherwise provided in these Rules. If a Councilmember, while speaking, is interrupted as set forth herein, the Councilmember so interrupted should cease speaking until the question is determined.

ARTICLE 9. MOTIONS AND MEETING PROCEDURES

9.1 Motions. A Councilmember, after he/she obtains the floor, or the Mayor may make a motion on the particular subject of discussion or a procedural point as permitted. A “Second” to the motion, if required, must be made by a Councilmember who did not make the motion within a reasonable but brief time period. The Mayor may not “Second” a motion. A motion or a “Second” merely implies that the maker of the motion and the person who “Seconds” agree that the motion should come before the meeting and not that he/she necessarily favors the motion. Without a “Second”, if required, the motion dies.

9.2 Debate. Debate, if permitted, must be limited to the merits of the issue under discussion as stated by the presiding officer.

9.3 Motion Procedures. There are twelve (12) types of motions in three (3) categories: Meeting Conduct Motions (4 types), Disposition Motions (7 types), and Main Motions (1 type)¹. When any motion is pending, any motion listed above it on the chart below is in order; those below it are out of order.

Motion	May Interrupt Speaker	Second Required	Debatable	Amendable	Resolved by Chair No Vote	Affirmative Vote by 4 Councilmembers	2/3 Vote
A. Meeting Conduct Motions							
1. point of privilege	yes	no	no	no	yes	no	no
2. point of procedure or order	yes	no	no	no	yes	no	no
3. to appeal a ruling	no	yes	yes	no	no	yes	no
4. to recess	no	yes	yes	yes	no	yes	no
B. Disposition Motions							
5. to withdraw	yes	no	no	no	yes	no	no
6. to postpone	no	yes	yes	yes	no	yes	no
7. to refer	no	yes	yes	yes	no	yes	no
8. to amend	no	yes	yes	yes	no	yes	no

¹ Sections 9.3 through 9.14 are included by permission of Donald A. Tortorice, The Modern Rules of Order, ABA Publishing, 2nd Edition.

9. to limit or close debate or "call the question"	no	yes	yes	yes	no	no	yes
10. to extend debate	no	yes	yes	yes	no	yes	no
11. to count the vote	no	yes	no	no	no**	no	no
C. Main Motions							
12. to reconsider	yes	yes	if original motion was debatable	no	no	yes	no
13. to rescind	no	yes	yes	yes	no	no	yes
14. to take action	no	yes	yes	yes	no	Yes***	no

² Mandatory if seconded; no vote required.

*** Unless a greater vote is required by the Charter or State Law

9.4 Point of Privilege. A point of privilege, sometimes called a point of personal privilege, is a communication from a Councilmember to the presiding officer, drawing urgent attention to a need for personal accommodation. For example, the point may relate to an inability to see or hear, a matter of comfort, a matter of requested convenience, or an overlooked right of privilege that should have been accorded to the Councilmember(s). In essence, it is a call to the presiding officer for the purpose of assuring a Councilmember's convenient and appropriate participation in the meeting. Because of its urgent nature, a point of privilege can interrupt a speaker. Because it is addressed to the attention of and action by the presiding officer, it cannot be debated or amended, and no vote is required.

9.5 Point of Procedure or Order. A point of procedure, sometimes called a point of order, is a question addressed to the presiding officer, no seconding is required, and either inquiring into the manner of conducting business or raising a question about the propriety of a particular procedure. It is simply an inquiry and is resolved by correction or clarification by the presiding officer. A point of procedure can interrupt a speaker. Because it is addressed to the attention of and action by the presiding officer, a second is not required, and it cannot be debated or amended, and no vote is taken.

9.6 To Appeal a Ruling. Decisions or rulings of the presiding officer are final on questions of procedure, except that any ruling by the presiding officer's ruling can be appealed to a vote of the Council. Whenever a Councilmember questions the appropriateness or essential fairness of the presiding officer, that member can appeal the ruling to a vote of

²Mandatory if seconded; no vote required.

the meeting. If, however, a motion is out of order as a matter of law (not a proper subject of the meeting, improper notice given, etc.), the presiding officer's ruling cannot be appealed. A motion to appeal cannot interrupt a speaker. To prevent frivolous appeals, a second is required. The motion is subject to debate (which should be brief) and, by its nature, is not amendable. To overrule a procedural decision of the presiding officer, an affirmative vote of four (4) Councilmembers is required.

9.7 To Recess. A motion to recess requests a brief interruption of the meeting's business, usually so that an ancillary matter can be addressed, or simply to provide a needed break. Unless stated in the motion, the period of recess is decided by the presiding officer. If necessary, a recess can extend the meeting from one day to another, subject to State law. The motion cannot interrupt a speaker, and a second is required. It is debatable, it can be amended, and an affirmative vote of four (4) Councilmembers is required.

9.8 To Withdraw. Only the maker of the motion can make a motion to withdraw it. It is essentially a communication to the presiding officer that the maker is withdrawing his/her proposal. This is the maker's privilege; thus, it does not require a second. Because the withdrawal motion obviates discussion, it can interrupt a speaker. In addition, because another Councilmember later can make a similar motion, a withdrawal motion is not subject to debate, amendment, or vote. The presiding officer should simply state that the motion is withdrawn, and the meeting should proceed with a new treatment of the issue at hand—or a new issue.

9.9 To Postpone or Extend. These motions may arise from a need for further information, a matter of convenience, or for any other reason that will enable the Council to deal with the issue more effectively during the same meeting or at a later time. Unless otherwise specifically provided in the motion itself, a postponed or extension motion can be renewed at a later appropriate time during the meeting or, if properly posted, at a later meeting. This motion cannot interrupt a speaker. It requires a second, it is debatable, and it is amendable (particularly as to postponement, timing), and an affirmative vote of four (4) Councilmembers is required.

9.10 To Refer. A motion to refer is typically used to submit an issue to a committee, usually for study leading to a subsequent recommendation. Because it ordinarily disposes the motion for purposes of the current meeting, a motion to refer is subject to the same rules that apply to a main motion. (See Section 9.14). This motion cannot interrupt a speaker, and a second is required. It is debatable and amendable, and an affirmative vote of four (4) Councilmembers is required.

9.11 To Amend. A motion to amend proposes a change in the wording of a motion then under consideration. When a motion to amend is pending and an amendment to the amendment is proposed, the presiding officer should focus discussion on the latest amendment, resolve that question, then proceed to the first amendment before continuing discussion on the main motion. Votes on amendments are thus in reverse order of the sequence in which they are proposed. A motion to amend cannot interrupt a speaker. It requires a second, and it is debatable and amendable. An affirmative vote of four (4)

Councilmembers is required for approval of the amendment. Note that State law may restrict amendments to proposals that are required to be set forth in the notice of the meeting.

9.12 To Limit or Close Debate or “Call the Question”. Because the extent to which an issue is discussed rests primarily with discretion of the presiding officer, it is the presiding officer who carries the burden of ensuring that adequate time and discussion are given to differing points of view. A motion to limit or close debate is therefore an overruling of the presiding officer’s determination. A motion to close debate is the same as a motion to “call the question”. Because this motion affects the most fundamental right of any Councilmember, the right to speak one’s views, it is the only procedural motion that requires an affirmative vote of two-thirds of participants voting.

9.13 To Count the Vote. A motion to count the vote should be limited to those circumstances where the convenient hearing of “yeas” and “nays” cannot clearly resolve the issue. It represents the right of a Councilmember to have a vote demonstrated by count. That count can be directed by the presiding officer either as a showing of hands or a standing of voting members while the vote is recorded. Upon completion of the count, the presiding officer announces the result—and final disposition of the issue voted upon. This motion cannot interrupt a speaker. It requires a second; it is neither debatable nor amendable; and, because of the importance of the matter, it should be considered mandatory; thus, no vote is required.

9.14 Motion to Reconsider. Allows a main motion to be brought back before the City Council for consideration. May be made only at the meeting at which the vote to be reconsidered was taken. It may be made by any member of City Council. Any City Council member may second it. It can be made while any other question is pending, even if another member has the floor. It requires a majority vote to pass. A motion may only be reconsidered twice. If the reconsideration is moved while another subject is before the City Council, it cannot interrupt the pending business, but, as soon as the pending business has been disposed of the motion has the preference over all other main motions

and general business of the agenda. In such a case the Mayor does not state the question on the reconsideration until the immediately pending business is completed.

9.15 Motion to Rescind. The motion to rescind is a main motion without any privilege, may only be made when there is nothing else before the City Council and must be made at the same meeting at which the subject matter of the motion was considered, and it requires a two-thirds vote of the City Council members. It cannot be made if a motion to reconsider has been previously made. The motion to rescind can be applied to votes on all main motions with the following exceptions: votes cannot be rescinded after something has been done as a result of that vote that the City Council cannot undo; or, where a resignation has been acted upon, or one has been appointed to, or expelled from, a committee or office, and was present or was officially notified. In the case of expulsion, the only way to reverse the action afterwards is to restore the person to the committee or office, which requires the same preliminary steps and vote as is required for the original appointment.

9.16 To Take Action; Main Motions. Main motions state proposed policy or action on a substantive issue being considered by the Council. As such, the motion is an initial call to take particular action. Although lowest in precedence among all motions, main motions are clearly the most important: through their content, the business decisions of the Council are determined. A main motion can be made only when a prior main motion has been disposed of. It cannot interrupt a speaker; a second is required; it is debatable and amendable; and an affirmative vote of four (4) Councilmembers is required unless a greater vote is prescribed by the Charter or State law.

9.17 Effect of Abstentions; action on required Abstentions; Effect of non-required Abstentions. The following rules shall apply when a Council Member abstains from voting on an item:

When the Council Member is Legally Obligated to Abstain.

When a Council Member is legally obligated to abstain from voting pursuant to Texas Local Government Code Chapter 171, a local ordinance or the City Charter then the Council Member shall leave the dais and exit City Council Chambers until such time as the debate and vote on the item has been concluded. The City Secretary shall record that the Council Member left the room and abstained from the vote in the official minutes and there shall be no other effect.

When the Council Member as no Legal Obligation to Abstain from Voting.

When a Council Member has no legal obligation to abstain from voting then an abstention shall be recorded in the minutes as an abstention and shall procedurally be treated as a “no” vote.

**ARTICLE 10.
ENFORCEMENT OF DECORUM**

10.1 Warning. All persons other than a recognized speaker shall, at the request of the presiding officer, be silent. If, after receiving a warning from the presiding officer, a

person persists in disturbing the meeting, the presiding officer may order the person to leave the meeting. The Chief of Police, or such member or members of the Police Department or other persons as the presiding officer may designate, shall be sergeant-at-arms of the Council meetings. If the person so requested does not leave the meeting, the presiding officer may order the sergeant-at-arms to remove such person.

10.2 Removal. Any designated sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the presiding officer, it shall be the duty of the sergeant-at-arms to remove from the meeting any person who intentionally disturbs the proceedings of the Council (or successor provision of law).

10.3 Resisting Removal. Any person who resists removal by the sergeant-at-arms shall be charged with violating Section 42.05 (a) of the Texas Penal Code.

10.4 Motions to Enforce. Any Council member may move to require the presiding officer to enforce these Rules and the affirmative vote of a majority of the Councilmembers present and eligible to vote shall require the presiding officer to do so.

10.5 Adjournment. In the event that any meeting is willfully disturbed by a person or groups of persons so as to render the orderly conduct of such meeting unfeasible and when order cannot be restored by the removal of the individuals who are creating the disturbance, the meeting may be adjourned and the remaining business considered at the next regular or a special meeting or, subject to State law, may be recessed to a set time and date.

ARTICLE 11. CREATION OF COMMITTEES, BOARDS, AND COMMISSIONS

11.1 Standing Committees. The Council may create committees, boards and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify not inconsistent with the Charter, the Code of Ordinances, or State law. Membership and selection of members shall be as determined by the Council if not specified by the Charter, the Code of Ordinances, or State law. No person may concurrently serve on more than one Board unless, by virtue of his/her position on the Council, he/she also holds a position on another Board. Persons related within the second degree by affinity or consanguinity to the Mayor or any member of the Council shall not be eligible to serve on a standing committee. No standing committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the Charter, the Code of Ordinances, or State law.

11.2 Special Committees. The Council may, as the need arises, authorize the appointment of “ad hoc” Council committees. Except where otherwise specifically provided by the Charter, the Mayor and the City Council shall appoint the members of the special committees. Any committee so created shall be given a “mission statement” directing its activities. Any special committee shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Councilmembers present and entitled to vote.

ARTICLE 12. CITIZENS RIGHTS

12.1 Addressing the Council. Any person desiring to address the Council by oral communication shall first secure the permission of the presiding officer.

12.2 Manner of Addressing the Council – Time Limit. Each person addressing the Council shall speak at the podium into the microphone (or at another designated location), shall give his/her name and address in an audible tone of voice for the record, and, unless further time is granted by the Council, shall, subject to Section 12.4 below, limit his/her remarks to three (3) minutes or less. A person who addresses the Council through a translator will limit his/her remarks to six (6) minutes or less. All remarks shall be addressed to the Council as a body, and not to any individual member thereof. No person, other than members of the Council or City staff (when requested by the presiding officer) and the

person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council, unless requested or approved by the presiding officer. No questions shall be asked the Councilmembers, except through the presiding officer. Responses to questions may be limited as required by State law.

12.3 Personal and Slanderous Remarks. Any person making personal, impertinent, or slanderous remarks, or who shall become boisterous, either while addressing the Council or otherwise while in attendance at a Council meeting, may be requested to leave the meeting, pursuant to Article 10 of these Rules, and may be removed from the meeting if necessary for the conduct of the remainder of the meeting. This is not intended to prohibit public criticism of the Council, including criticism of any act, omission, policy, procedure, program, or service unless such is otherwise prohibited by law.

12.4 Public Hearings. After being recognized by the presiding officer, interested persons, or their authorized representatives, may address the Council with respect to the subject matter of a public hearing being conducted. The presiding officer may establish procedures at a public hearing to limit the amount of time (which, unless modified by the presiding officer, shall be as set forth in Section 12.2 above) interested persons may speak, subject to the Councilmembers' right to appeal the presiding officer's ruling pursuant to Section 9.6. Subject to modification by the presiding officer, and subject to the Councilmembers' right of appeal pursuant to Section 9.6, the normal order of a public hearing is as follows: (i) the opening of the hearing and the establishment, if any, of a modified public hearing procedure by the presiding officer; (ii) address to the Council by any interested person(s); (iii) discussion by the Mayor and Councilmembers, including requests for information from City staff or any person(s) who addressed the Council; and (iv) action by the Council, if any is posted on the agenda relating to the hearing.

12.5 Written Communications. Interested persons, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at any time by direct mail or by addressing the City Secretary, who shall, on the request of the writer, distribute copies to the Councilmembers. **Written statements will not be read or made part of the official meeting record.**

12.6 Hearing of Residents. There shall be included on the agenda of each City Council meeting, prior to any items listed on the agenda for action to be taken, an item labeled "Hearing of Residents". After being recognized by the presiding officer, members of the public (giving precedence to residents of the City) may address the Council on items on or not on the agenda at that time, providing they have completed the "Hearing of Residents" form, unless authorized by the presiding officer. The form shall be made available to persons wishing to address the Council prior to the calling of the meeting to order and such completed form shall be made available to the presiding officer prior to the calling of the meeting to order. The persons signed up for "Hearing of Residents" must speak during the "Hearing of Residents" portion of the meeting. Councilmembers and members of City staff may not discuss unpasted items nor take any action thereon

other than to (1) make a statement of factual information, (2) make a statement of existing City policy, or (3) discuss placing the item on a future agenda. Persons speaking shall be subject to the time limits set forth in Section 12.2, unless otherwise authorized by the presiding officer.

ARTICLE 13. COUNCIL AND STAFF RELATIONS

13.1 City Manager to Provide Information. The City Manager is directly responsible for providing information to all the Councilmembers concerning any inquiries by a specific Councilmember. If the City Manager or his staff's time is being dominated or misdirected by a Councilmember, it is his responsibility to inform the Mayor or the Council as a whole.

13.2 City Manager's Responses to Requests. The City Manager is expected to respond in a timely manner to the Council and Councilmember's requests. When information is requested, the City Manager will estimate a reasonable time frame for collecting the requested information.

- (a) If the City Manager disagrees with the request, he should say so and explain his position.
- (b) If the City Manager disagrees with individual directives, he should initiate clarification of the Council's will with regard to the individual Councilmember's request.
- (c) The City Manager may delegate responsibility for the response as necessary and appropriate, but the City Manager will be responsible for its receipt by the Council in a timely manner.
- (d) The City Manager should maintain a checklist and timetable for requests and other directives of the Council.
- (e) All Councilmembers will be provided the same written information when any matter under consideration may be of general concern to the Council. There will be no preferential dissemination of information by the City Manager or his staff.

13.3 Directions to City Manager. During meetings of the Council, unless a vote is taken, a consensus of the Councilmembers present will be required to direct the City Manager to take any action.

13.4 City Manager's Duty to Inform. The City Manager is responsible for keeping the Council informed. The Council should be provided weekly reports outlining progress on outstanding issues as well as information on new issues and opportunities. Additionally, the Council should be informed of City news prior to release of such information to the community, newspaper(s), or other governmental entities, etc.

13.5 Customer Concerns. It is the responsibility of the City Manager to establish procedures for handling customer concerns in all departments with prompt feedback to citizens and Councilmembers.

13.6 City Manager/Council Relations. The City Manager should strive to maintain positive relations with the Council by following these guidelines:

- (a) Work to establish mutual trust with the Council.
- (b) Maintain open lines of communication with the Council and keep Council informed.
- (c) Inform all Councilmembers of educational opportunities, recognizing that an educated Council is in the City's best interest.
- (d) Include the Council in City-sponsored employee social events.
- (e) Conduct orientation sessions for new Councilmembers, including a tour of City buildings and introductions to staff.

* * *

Amended: November 14, 2023

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023

Department: Executive Team

Subject: Resolution No. 23-R-102 – Approving a bond resolution previously adopted by the board of directors of the Schertz/Seguin Local Government Corporation authorizing the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023”; acknowledging that these bonds will be sold pursuant to the provisions of a purchase contract; ratifying, reconfirming, and readopting the provisions of a regional water supply contract executed between the City of Schertz, Texas, the City of Seguin, Texas, and the Schertz/Seguin Local Government Corporation; authorizing the Mayor, the City Manager, and the City Secretary of the City of Schertz, Texas to execute on behalf of the City of Schertz, Texas all documents in connection with this transaction; and other matters in connection therewith. (S. Williams/ B. James/J. Walters/M. McLiney/A. Friedman)

BACKGROUND

The Schertz/Seguin Local Government Corporation (the “SSLGC” or the “Corporation”) was created on December 23, 1998 on behalf of the City of Schertz and Seguin to assist in acquiring water outside of the Edwards Aquifer. The Corporation was created by the Cities to operate a wholesale water system for the benefit of the two City’s Utility Systems. The Corporation has financed the construction of well fields and cross-country pipelines and today provides a reliable, drought-resistant water source. The Bonds are supported by Contracts between the Cities and the Corporation, and the liability is evenly split between the two Cities. Currently, the Corporation has \$129,710,000 of Bonds outstanding that are supported by the two Cities.

The proposed \$5,000,000 financing is intended to pay for the following projects: 1. Gonzales well improvements, 2. Gonzales WTP Pressure Filter Rehab, 3. Pipeline Condition Assessment; 4. Nockenut Site Erosion Control, and 5. Pipeline Survey and Appraisals. The annual debt service related to the financing has been incorporated into the future rate structure as determined by the Corporation’s rate consultant, Willdan, and included in the Corporation’s rate study.

SAMCO Capital Markets, the City’s and the Corporation’s Financial Advisor, proposes to sell the financing on October 24, 2023. To complete the transaction, the SSLGC Board will need to approve proceedings and then each City will need to ratify the SSLGC Board action. The SSLGC executive committee acted to begin proceeding with the financing at their September 5, 2023 meeting. The SSLGC Board authorized the parameter sale on September 21, 2023. The City of Seguin is authorizing the parameter sale resolution related to the financing on October 17, 2023. The City of Schertz will consider and act on a parameter sale resolution authorizing the Corporation to sell Bonds at their October 17, 2023 Council meeting. Only after both Cities approve the Resolutions can SSLGC proceed to a bond sale.

GOAL

Approve the sale of bonds for the needed improvements to the SSLGC system.

COMMUNITY BENEFIT

The City of Schertz is a member of the SSLGC. It is through the SSLGC that the City provides water to its citizens. Approval of this funding application will ensure the future water needs of the city are met.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of Resolution 23-R-102 as provided by bond counsel.

FISCAL IMPACT

The action and issuance of \$5,000,000 of SSLGC debt will have a fiscal impact on the City of Schertz by increasing wholesale water rates the City pays to the Corporation by about \$200,000 annually.

As mentioned this increase in cost was included in the rate studies conducted by SSLGC and the City and will not result in additional rate increases outside those recently approved. These rate increases are necessary to continue to provide the water that will be needed in the future

RECOMMENDATION

Approval of Resolution 23-R-102.

Wording of Motion:

I MOVE THAT THE CITY COUNCIL APPROVE A RESOLUTION APPROVING A BOND RESOLUTION PREVIOUSLY ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION AUTHORIZING THE ISSUANCE OF BONDS DESIGNATED AS “SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION CONTRACT REVENUE IMPROVEMENT BONDS, NEW SERIES 2023”

Attachments

Resolution 23 R 102
City Secretary's Certificate
Certificate Tax Exemption
General Certificate

RESOLUTION NO. _____

APPROVING A RESOLUTION BY THE SCHERTZ CITY COUNCIL APPROVING A BOND RESOLUTION PREVIOUSLY ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION AUTHORIZING THE ISSUANCE OF OBLIGATIONS DESIGNATED AS “SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION CONTRACT REVENUE IMPROVEMENT BONDS, NEW SERIES 2023”; ACKNOWLEDGING THAT THESE BONDS WILL BE SOLD PURSUANT TO THE PROVISIONS OF A PURCHASE CONTRACT; RATIFYING, RECONFIRMING, AND READOPTING THE PROVISIONS OF A REGIONAL WATER SUPPLY CONTRACT EXECUTED BETWEEN THE CITY OF SCHERTZ, TEXAS, THE CITY OF SEGUIN, TEXAS, AND THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION; AUTHORIZING THE MAYOR, THE CITY MANAGER, AND THE CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS TO EXECUTE ON BEHALF OF THE CITY OF SCHERTZ, TEXAS ALL DOCUMENTS IN CONNECTION WITH THIS TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council of the City of Schertz, Texas (the “City”) has reviewed and hereby approves (i) the Bond Resolution as to form and content, including the factual findings contained therein and all documents referenced therein, adopted by the Board of Directors of the Schertz/Seguin Local Government Corporation (the “Corporation”) relating to the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023” (the “Bonds”), (ii) the Bonds that will be sold to Estrada Hinojosa & Company, Inc. (the “Underwriters”), (iii) the Regional Water Supply Contract, including the factual findings contained therein, previously approved and executed among the City of Schertz, Texas, the City of Seguin, Texas (collectively, the “Cities”), and the Schertz/Seguin Local Government Corporation (the “Contract”) which provides certain security for the payment of these obligations, (iv) the bond purchase contract (the “Purchase Contract”) authorizing the sale of the Bonds to the Underwriters, (v) the Sale and Offering Documents (as defined in the Contract), including, but not limited to, the City’s annual continuing disclosure requirements in accordance with the Rule (as defined in the Contract), and (vi) the City’s obligations under the Contract and acknowledges that the payment of principal of and interest on such Bonds is payable, in whole or in part, from the Annual Payments to be made by the Cities to the Corporation under and pursuant to the Contract. The Mayor, the City Manager, and the City Secretary of the City (each, an “Authorized Official”) are hereby authorized to execute on behalf of the City, the Purchase Contract, and any and all documents in connection with this transaction. This resolution may be relied upon by the appropriate representatives of the parties to this transaction and the Texas Attorney General in his review and approval of this transaction.

Section 2. The City Council recognizes that Section 53 of the Bond Resolution contains covenants of the City relating to the Bonds. Since certain financial information, financial status, operating data, and annual audits of the City’s utility system will be entirely within the control and

disposition of the City, and the Preliminary Official Statement and the Final Official Statement prepared in connection with the issuance of the Bonds (together, the “Official Statement”), describe a continuing disclosure undertaking agreement (the “Undertaking”) of the City, the City Council specifically adopts the covenants hereinafter described, which comprise the Undertaking, and shall comply therewith for so long as all or any portion of the Annual Payments made by the City under the Contract act as security for or a source of repayment of the Bonds.

A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

EMMA means the MSRB’s Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.

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 defined in the Securities Exchange Act of 1934, as amended) 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.

SEC means the United States Securities and Exchange Commission.

Undertaking means the City’s continuing disclosure undertaking, described in Paragraphs B through F below, hereunder accepted and entered into by the City for the purpose of compliance with the Rule.

B. Annual Reports.

The City shall file annually with the MSRB, (1) within six months after the end of each fiscal year of the City ending in or after 2023, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 35 of the Bond Resolution, being the information described in Exhibit E thereto, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit E thereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall file unaudited financial statements within such period and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such financial statements becomes available. Under current Texas law, including, but not limited to, Chapter 103, as amended, Texas Local Government Code, the City must have its records and accounts audited annually and shall have an annual financial

statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within one hundred eighty (180) days after the last day of the City's fiscal year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

If the City changes its fiscal year, it will file notice of such change (and of the date of the new fiscal year end) with the MSRB prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

C. Notice of Certain Events.

The City shall file 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 paying agent/registrar or the change of name of a paying agent/registrar, 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) and the definition of Financial Obligation in this Section have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall file notice with the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by this Section.

D. Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, 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 notice of any deposit that causes the Bonds to be no longer Outstanding.

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 WITH 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 the Bond Resolution for purposes of any other provision of the Bond Resolution.

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.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise 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 the Bond Resolution 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 City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, the City shall include with any amended financial information or operating data next provided in accordance with 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.

E. Information Format – Incorporation by Reference.

The City information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

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 (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

F. General Policies and Procedures Concerning Compliance with the Rule.

Because the issuance of the Bonds is subject to the provisions of the Rule and because the potential “underwriters” in a negotiated sale of the Bonds or the initial purchasers in a competitive sale of the Bonds may be subject to MSRB rules and regulations with respect to such sale (including certain due diligence and suitability requirements, among others), the City hereby adopts the General Policies and Procedures Concerning Compliance with the Rule (the *Policies and Procedures*), attached hereto as Exhibit A, with which the City shall follow to assure compliance with the Undertaking. The City has developed these Policies and Procedures for the purpose of meeting its requirements of the Undertaking and, in connection therewith, has sought the guidance from its internal staff charged with administering the City’s financial affairs, its municipal or financial advisors, its legal counsel (including its Bond Counsel), and its independent accountants (to the extent determined to be necessary or advisable). The Policies and Procedures can be amended at the sole discretion of the City and any such amendment will not be deemed to be an amendment to the Undertaking. Each Authorized Official is hereby authorized to amend the Policies and Procedures as a result of a change in law, a future issuance of indebtedness subject to the Rule, or another purpose determined by the Authorized Official to be necessary or desirable for or with respect to future compliance with the Undertaking.

Section 3. Authorized Officials of the City will review and approve the Official Statement. Information appearing in the Official Statement concerning the City (including, particularly, the description of the Undertaking and Appendices C and E thereto), as of its date, were and are true and correct in all material respects. Insofar as the City and its affairs, including its financial affairs, are concerned, such Official Statement did not and does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Insofar as the descriptions and statements, including financial data, of or pertaining to entities, other than the City, and their activities contained in such Official Statement are concerned, such statements and data have been obtained from sources which the City believes to be reliable, and the City has no reason to believe that they are untrue in any material respect.

Section 4. The recitals contained in the preamble hereof are hereby 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 City Council.

Section 5. All ordinances and 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 6. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. 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 City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 8. 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, as amended, Texas Government Code.

Section 9. This Resolution shall be in force and effect from and after the date of its adoption, and it is so resolved.

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APPROVED THIS THE 17th day of October, 2023.

ATTEST:

City Secretary

Mayor

(SEAL)

EXHIBIT A

General Policies and Procedures Concerning Compliance with Federal Securities Laws

I. Capitalized terms used in this Exhibit have the meanings ascribed thereto in Section 2 of the Resolution. “Bonds” refers to the Bonds that are the subject of the Resolution to which this Exhibit is attached.

II. As a capital markets participant, the City is aware of its continuing disclosure requirements and obligations existing under the Rule prior to February 27, 2019, the effective date of the most recent amendment to the Rule (the “Effective Date”), and has implemented and maintained internal policies, processes, and procedures to ensure compliance therewith. Adherence to these internal policies, processes, and procedures has enabled underwriters in non-exempt negotiated sales and initial purchasers in non-exempt competitive sales to comply with their obligations arising under various MSRB rules and regulations concerning due diligence and findings of suitability, among other matters, regarding the City’s compliance with the Rule.

III. The City is aware that the Rule was amended as of the Effective Date (the *Rule Amendment*) and has accommodated this amendment by adding subparagraphs (15) and (16) to Section 53C of the Resolution, which provisions are a part of the Undertaking.

IV. The City is aware that “participating underwriters” (as such term is defined in the Rule) of the Bonds must make inquiry and reasonably believe that the City is likely to comply with the Undertaking and that the standards for determining compliance have increased over time as a result of, among others, the United States Securities and Exchange Commission’s Municipalities Continuing Disclosure Cooperation Initiative and regulatory commentary relating to the effectiveness of the Rule Amendment.

V. The City now establishes the following general policies and procedures (the “Policies and Procedures”) for satisfying its obligations pursuant to the Undertaking, which policies and procedures have been developed based on the City’s informal policies, procedures, and processes utilized prior to the Effective Date for compliance with the City’s obligations under the Rule, the advice from and discussions with the City’s internal senior staff (including staff charged with administering the City’s financial affairs), its municipal or financial advisors, its legal counsel (including Bond Counsel), and its independent accountants, to the extent determined to be necessary or advisable (collectively, the “Compliance Team”):

1. the City Manager and the Director of Finance (each, a “Compliance Officer”) shall be responsible for satisfying the City’s obligations pursuant to the Undertaking through adherence to these Policies and Procedures;
2. the Compliance Officer shall establish reminder or “tickler” systems to identify and timely report to the MSRB, in the format thereby prescribed from time to time, the City’s information of the type described in Section 53B of the Resolution;
3. the Compliance Officer shall promptly determine the occurrence of any of the events described in Section 53C of the Resolution;

4. the Compliance Officer shall work with external consultants of the City, as and to the extent necessary, to timely prepare and file with the MSRB the annual information of the City and notice of the occurrence of any of the events referenced in Clauses 2 and 3 above, respectively, the foregoing being required to satisfy the terms of the Undertaking;
5. the Compliance Officer shall establish a system for identifying and monitoring any Financial Obligations, whether now existing or hereafter entered into by the City, and (upon identification) determining if such Financial Obligation has the potential to materially impact the security or source of repayment of the Bonds;
6. upon identification of any Financial Obligation meeting the materiality standard identified in Clause 5 above, the Compliance Officer shall establish a process for identifying and monitoring any City agreement to covenants, events of default, remedies, priority rights, or other similar terms under such Financial Obligation;
7. the Compliance Officer shall establish a process for identifying the occurrence of any default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation, the occurrence of any of which reflect financial difficulties of the City; and

VI. the Compliance Officer shall annually review these Policies and Procedures with the remainder of the Compliance Team, make any modifications on an internal document retained by the Compliance Officer and available to any “participating underwriter” (as defined in the Rule), if requested, and on the basis of this annual review (to the extent determined to be necessary or desirable), seek additional training for herself or himself, as well as other members of the City’s internal staff identified by the Compliance Officer to assist with the City’s satisfaction of the terms and provisions of the Undertaking.

was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the Resolution, a motion was made by Councilmember _____ that the Resolution be finally passed and adopted as an emergency measure in accordance with the City's Home Rule Charter. The motion was seconded by Councilmember _____ and carried by the following vote:

___ voted "For" ___ voted "Against" ___ abstained

all as shown in the official Minutes of the Council for the Meeting.

2. The attached Resolution 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 Council on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

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IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 17th day of October, 2023.

City Secretary

(SEAL)

CERTIFICATE AS TO TAX EXEMPTION

The undersigned, being the duly chosen and qualified President, Board of Directors of the Schertz/Seguin Local Government Corporation (the *Corporation*), and the property authorized officials or officers of the Cities of Seguin and Schertz, Texas (the *Cities*) hereby certify with respect to the Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023 in the aggregate principal amount of \$ __, __, __.00 (the *Bonds*) as follows:

A. General.

1. For all purposes of this certificate, unless otherwise defined, all defined terms herein shall have the same meaning given to them in the Resolution and the Regulations (each as defined below).

2. Pursuant to state law and the Resolution authorizing the issuance of the Bonds, we, along with other officers of the Corporation, are charged with the responsibility for issuing the Bonds.

3. This certificate is made pursuant to Treasury Regulations Sections 1.148 through 1.150 (the *Regulations*), and sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended to the date hereof (the *Code*).

4. This certificate is based on the facts and estimates described herein in existence on the Closing Date, which is the date of delivery of the Bonds to and payment for the Bonds by the initial purchasers thereof, and, on the basis of such facts and estimates, the Corporation expects that the future events described herein will occur. To the best knowledge and belief of the undersigned, there are no other facts, estimates, or circumstances which would materially change the following statements, and the expectations hereinafter set forth are reasonable. The Corporation covenants not to take any intentional acts or actions after the Closing Date of the Bonds to earn a Yield upon the investment of the proceeds materially higher than the Yield on the Bonds, except as provided herein, or take any other action or omit to take any action which would change the expectations of the Corporation set forth herein.

5. Terms used and not defined herein have the same meanings given to them in the Resolution of the Corporation adopted on September 21, 2023 (the *Resolution*) authorizing the issuance of the Bonds or in the Regulations.

6. The Corporation's employer identification number is 74-2902229.

B. Purpose and Size.

1. The Bonds are being issued pursuant to the Resolution to provide funds to (i) constructing, acquiring, purchasing, renovating, enlarging, and improving the utility system, (ii) purchasing materials, supplies, equipment, machinery, land, and rights-of-way for authorized needs and purposes relating to the utility system improvements, (iii) the payment of professional services related to the design, construction, project management, and financing of the

aforementioned projects, and (iv) and to pay the costs and expenses of issuing the Bonds (the *Project*).

2. The Corporation has entered into a Regional Water Supply Contract, dated as of November 15, 1999, as amended (the *Contract*), with the Cities. Each City is a political subdivision of the State of Texas with significant powers of eminent domain, taxation and/or police. The debt service on the Bonds is payable solely from payments made by the Cities under the Contract, and the Corporation hereby allocates those payments allocated to the Bonds to debt service on the Bonds. The payments under the Contract are based exclusively on the amounts necessary to pay the Priority Bonds (as defined in the Resolution), the Previously Issued New Series Bonds (as defined in the Resolution), and the Bonds, to establish certain reserve and contingency funds, and to maintain and operate the Project.

3. The Corporation and the Cities have and will, at all times prior to the last Stated Maturity of the Bonds,

(a) exclusively own, operate, and possess all property acquired, refinanced, constructed, or improved with Gross Proceeds of Bonds and not use or permit the use of any property acquired, refinanced, constructed, or improved with Gross Proceeds of the Bonds in any activity carried on by any person or entity (other than a state or local government), *unless* such use is merely as a member of the general public, or by governmental entities such as the Cities, or is pursuant to a contract or agreement whose terms comply with Revenue Procedure 97-13 or Revenue Procedure 2016-44, as applicable.

(b) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of the Bonds or any property acquired, refinanced, constructed, or improved with Gross Proceeds of the Bonds, other than a charge or other payment merely as a member of the general public or by governmental entities such as the Cities or interest earned on Investments acquired with Gross Proceeds of the Bonds pending application for their intended purposes.

4. Specifically, the property financed or referenced with the Bonds is not expected to be used (directly or indirectly) in any “private business use” (within the meaning of Section 141 of the Code), *i.e.*, a use of facilities in the trade or business of a person, other than a governmental unit or instrumentality thereof. For this purpose a “use” includes use by such person as an owner, lessee, purchaser of output of facilities under a “take and pay” or “take or pay” contract, or manager or independent contractor under certain management or service contracts. Use of the property financed or refinanced by Bonds by the general public is not considered a “use” by nongovernmental persons in trades or businesses. Use of financed or refinanced property by nongovernmental persons in their trades or businesses is treated as general public use only if the property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not engaged in a trade or business. In general, use under an arrangement that conveys priority rights or other preferential benefits is not use on the same basis as the general public. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights

or other preferential benefits. For this purpose, rates may be treated as generally applicable and uniformly applied even if -

(a) different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or

(b) a specially negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates.

5. We have been advised that use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if -

(a) the term of the use under the arrangement, including all renewal options, is not longer than three years for output facilities and 50 days for all other facilities;

(b) the arrangement is a negotiated, arm's length arrangement that provides for compensation at fair market value or is based on generally applicable and uniformly applied rates; and

(c) the property is not financed for a principal purpose of providing that property for use by that nongovernmental person.

6. We have been further advised that use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if the contract is a contract with a person who will not resell the output and

(a) the obligations of purchaser to make payments is contingent upon the requirements of a single user; and

(b) do not obligate the purchaser to make payments that are not contingent on the requirements of the purchaser or obligates the purchaser to have requirements, or require the purchaser not to cease operations.

Contract provisions that require the purchaser to pay reasonable and customary damages (including liquidated damages) in the event of default or to pay a specified amount to terminate the contract while the purchaser has requirements, in each case, provided the payment is reasonably related to the purchaser's obligations to buy requirements that is discharged by the payment.

7. We have been advised that a wholesale requirements contract will not result in private business use if

(a) the term of the contract, including renewal options, does not exceed the lesser of five years or 30% of the term of the Bonds, or

(b) the amount of output to be purchased under the contract does not exceed five percent of the available output of the facilities financed by the Bonds.

8. We have been further advised that under Revenue Procedure 97-13 and Revenue Procedure 2016-44, as applicable, the Internal Revenue Service (the Service) has published guidelines relating to when a favorable ruling will usually be issued with respect to the lack of private trade or business use where a governmental unit which owns a bond-financed facility enters into a management or service contract with private for-profit persons. Under these guidelines (the Service Contract Guidelines), a ruling will usually be given to the effect that there is no trade or business use in the situations described in such Revenue Procedure. All present and future management or service contracts relating to the facilities financed or refinanced with the Bonds entered into between the Cities or the Corporation and private persons (i.e., persons other than a governmental unit) will comply with the requirements of the Service Contract Guidelines or successor guidelines applicable to the Bonds, unless a written opinion of Norton Rose Fulbright US LLP, or other nationally recognized bond counsel is received to the effect that noncompliance of such management contracts with the Service Contract Guidelines will not cause the loss of the exclusion from gross income provided under Section 103(a) of the Code for interest on the Bonds or the treatment of interest on the Bonds as a preference item under Section 57 of the Code.

9. The Cities and the Corporation, as appropriate, will not use Gross Proceeds of the Bonds to make or finance or refinance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed, or improved with 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 Gross Proceeds or any property acquired, constructed, or improved with Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

10. The Project will be owned, operated, and maintained by the Corporation or another state or local government; and the Corporation has not contracted with any firm, company, or other person or entity other than a state or local government to operate and/or maintain the Project for and on behalf of the Corporation. The Corporation does not expect to enter into any contract for the operation, maintenance or management of the Project unless with another state or local government entity.

11. There is not as of the date hereof and the Corporation does not anticipate entering into any lease, contract, or other understanding or arrangement with any person other than a state or local governmental unit, pursuant to which the Corporation expects that proceeds of the Bonds or the Project will be used in the trade or business of such person (including all activities of such person who are individuals).

12. The amounts received from the sale of the Bonds, when added to available funds on hand and amounts expected to be received from the investment of such proceeds, do not exceed the amounts required to pay (i) the cost of the Project and (ii) the costs of offering and issuing the Bonds.

13. No receipts from the sale of the Bonds or amounts received from the investment thereof will be used to pay the principal of or interest on any currently outstanding issue of bonds or other obligations of the Corporation other than the Bonds.

14. The Corporation has been created pursuant to and in accordance with and is authorized by the provisions of the Texas Transportation Act, Texas Transportation Code §431.000 *et. seq.* The Corporation and the Bonds have a public purpose of constructing and operating facilities for purposes of furnishing water to the citizens of the Cities. As provided by Section (c) of Article XVII of the Articles of Incorporation, all the assets of the Corporation shall be transferred and delivered to each of the Cities, on an equal basis, after payment of all debts and claims of the Corporation. The Corporation is a political subdivision of the State of Texas with the significant power of eminent domain.

15. The Corporation will not use Gross Proceeds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if property acquired, constructed, or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, 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 indirect benefits, or burdens and benefits of ownership, of Gross Proceeds or any property acquired, constructed, or improved with Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan

C. Original Proceeds.

1. The Bonds are being issued and delivered to the _____ (the *Purchaser*). The Purchaser purchased the Bonds for \$_____ (representing par plus a [net] reoffering premium of \$_____, less the underwriters discount of \$_____), with no accrued interest.

2. The Corporation has caused the deposit of the Sale Proceeds of the Bonds this day as follows:

<u>Disposition</u>	<u>Amount</u>
Deposit to Construction Fund	\$ __, __, __.00
Deposit to Bond Fund for Capitalized Interest	_____
Insurance Premium (defined below)	_____
Costs of Issuance of the Bonds (including Purchasers’ Discount and contingency)	_____
TOTAL	\$ _____

3. Of the proceeds of the Bonds received by the Corporation from the Purchaser, approximately \$_____ will be used to pay the costs of issuance (including underwriter’s discount and contingency) relating to the Bonds, _____ will be used to pay the Insurance Premium, and \$_____ will be deposited in a separate checking account of the Corporation (the *Construction Account or Fund*) to pay costs of the Project. \$_____ representing the capitalized interest will be

deposited in the Bond Fund (hereinafter defined) and will be used to pay the first payment of interest due on the Bonds on August 1, 2024.

4. The Corporation estimates that it will receive \$_____ in income or profit from the investment of the amounts deposited to the Construction Fund pending the disbursement of such amounts for the governmental purposes for which the Bonds are being issued. Such amount will be used to pay additional costs of the Project or deposited in the “Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023 Interest and Sinking Fund” (the *Bond Fund*) to pay principal of or interest on the Bonds within one year from the date of receipt.

D. Temporary Periods and Time for Expenditures.

1. The amount disbursed or set aside to pay costs of issuance of the Bonds will be so used within thirty (30) days from the date hereof, and may be invested without restriction as to Yield until expended as described herein.

2. Within six months from the date hereof, the Corporation will have incurred binding obligations or commitments in the amount of at least five percent of the principal amount of the Bonds for the Project by entering into contracts for construction, architectural services, engineering services, land acquisition, site development, construction materials, or the purchase of equipment. The Corporation will account for the allocation of the Bond proceeds to an expenditure not later than 18 months after the later of the date the expenditure is paid or the date the Project is placed in service; but in all events 60 days after the earlier of the fifth anniversary of the date of this certificate or the retirement of the Bonds.

3. After entering into said contracts, work on the construction or acquisition of the Project will proceed with due diligence to completion, which is expected to occur on, and the proceeds from the sale of the Bonds and investment earnings thereon are expected to be expended by _____, 20__.

4. Based on the foregoing, the Corporation may invest Gross Proceeds held in the Construction Fund without restriction as to Yield until November 15, 2026. Thereafter, the Corporation will restrict the Yield on investments of Gross Proceeds held in the Construction Fund to the Yield on the Bonds.

E. Bond Fund.

1. The Bonds are payable from the deposit of the Bond Payment portion of the Annual Payments as provided in the Resolution and the Contract. All Bond Payment portions of the Annual Payments collected for and on account of the Bonds are to be deposited into the Bond Fund.

2. Except for that portion of the Bond Fund, if any, consisting of deposits made to defease in whole or in part the Bonds, the Bond Fund (i) was created primarily to achieve a proper matching of revenues and debt service with respect to the Bonds within each bond year, beginning on the Closing Date and ending on the anniversary of the Closing Date thereafter until the Bonds are no longer Outstanding and (ii) will be depleted at least once a year except possibly for a carry-

over amount not greater than the larger of the preceding bond year's earnings from the investment thereof or one-twelfth of the annual debt service paid during the preceding bond year on the Bonds. All amounts deposited to the Bond Fund will be spent within 13 months of deposit, and all amounts received from investment of such fund will be deposited therein and will be expended within twelve months of receipt. Any amounts held in the Bond Fund during such periods are expected to be invested by the Corporation without regard as to restriction of Yield. Any amounts held in the Bond Fund in excess of such periods will be invested at a Yield not to exceed the lesser of the Yield on the Bonds, taking into account any yield reduction payments.

3. All money deposited in the Bond Fund will be used solely to pay the principal of, and interest on, the Bonds as the same becomes due and payable, and there will be no other funds that will be so used or pledged or otherwise restricted so as to be available with reasonable certainty to be so used.

F. Yield, Rebate and Miscellaneous.

1. In the Issue Price Certificate with respect to the Bonds attached hereto as Exhibit A (the Issue Price Certificate), the Purchasers provided certification as to the first price at which at least 10% of each of the General Rule Maturities (as defined in the Issue Price Certificate) was sold to the public and (2) to establish compliance with the requirements of the "hold-the-offering-price rule" under Section 1.148-1 (f)(2)(ii) of the Regulations for each of the Hold-the-Offering-Price Maturities (as defined in the Issue Price Certificate). The Corporation hereby identifies Section 1.148-1 (f)(2)(i) of the Regulations as the rule that applies to determine the issue price of the General Rule Maturities and Section 1.148-1 (f)(2)(ii) of the Regulations as the rule that applies to determine the issue price of the Hold-the-Offering-Price Maturities.

2. The Yield on the Bonds is _____ percent, calculated on the basis of the information provided by the Corporation's financial advisors.

3. The Corporation has covenanted to account for the Gross Proceeds of the Bonds separately and apart from all other funds of the Corporation from the date hereof.

4. The weighted average maturity of the Bonds is _____ years, which is less than 120% of the reasonably expected economic life of the assets acquired or constructed with the proceeds of the Bonds, calculated pursuant to section 147 of the Code.

5. The Corporation does not expect that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of section 148 of the Code.

6. No other obligations payable from the same revenues of the Corporation were issued within 15 days of the sale date of the Bonds.

7. The Corporation reasonably expects that at least 75% of the Available Construction Proceeds (defined herein), including reasonably expected future earnings, of the Bonds will be used for Construction Expenditures. For purposes of this paragraph, "Available Construction Proceeds" means the issue price of the Bonds, increased by earnings on such issue price and earnings on such earnings, reduced by the issuance costs financed by the issue. "Construction

Expenditures” means capital expenditures that are allocable to the cost of (i) real property other than acquisitions of interest in land or other existing real property, (ii) certain constructed personal property as defined in Regulation Section 1.148-7(g)(3), or (iii) specially developed computer software as defined in Regulation Section 1.148-7(g)(4), which software is functionally related and subordinate to real property or constructed personal property. The Corporation does not elect to use actual facts under Regulation 1.148-7(f)(2), but based on estimated earnings set forth in Section C.4 hereof.

8. Unless the Corporation has qualified for an exception to rebate pursuant to section 148(f)(4) of the Code, not less frequently than each Computation Date, the Corporation has covenanted in the Resolution to calculate or cause to be calculated by a nationally recognized accounting, financial advisory firm or financial institution, in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder, the Rebate Amount. The Corporation has covenanted in the Resolution to maintain such calculations with the official transcript of the proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

9. The Corporation has covenanted in the Resolution to pay to the United States the amount described in the preceding paragraph of this Section, at the times, in the installments, to the place, in the manner, and accompanied by such forms or other information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

10. The Corporation does not expect that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of section 148 of the Code.

G. No Abusive Arbitrage Device.

1. In connection with the issuance of the Bonds, the Corporation has not employed any action which has the effect of overburdening the market for tax-exempt obligations by issuing more bonds, issuing bonds earlier, or allowing bonds to remain outstanding longer than is reasonably necessary to accomplish the governmental purposes of the Bonds.

2. In connection with the issuance of the Bonds, the Corporation has not employed any action which has the effect of enabling the Corporation to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage.

H. Qualified Guarantee.

1. The Issuer has paid on the date hereof to _____, _____, _____ (the Guarantor) an amount equal to \$_____ (the *Insurance Premium*) to insure the payment of principal of and interest on the Bonds.

2. Neither the Guarantor nor any party related to the Guarantor will use more than 10% of the proceeds of the Bonds.

3. Under the contract between the Guarantor and the Issuer, the Guarantor is secondarily liable, and has unconditional credit risk, to pay all or a portion of the principal of or interest on the Bonds.

4. The Issuer reasonably expects that the Guarantor will not be called upon to pay the principal of or interest on the Bonds. The Guarantor is entitled to be immediately and full reimbursed for any payment of principal of or interest on the Bonds.

5. The Insurance Premium paid to the Guarantor represents a payments solely for the transfer of credit risk for the payment of principal of and interest on the Bonds and not for any other service, cost or expense. The Insurance Premium does not exceed a reasonable charge for the transfer of such credit risk.

6. The Guarantor has represented to the Issuer that the present value (determined using as the discount rate the yield-to-maturity on the Bonds with regard to the Insurance Premium) of the Insurance Premium paid to the Guarantor with respect to the Bonds is less than the present value (determined using the same discount rate) of the interest savings with respect to the Bonds resulting from the insurance by the Guarantor.

7. The Insurance Premium has been allocated among the Bonds in a manner that properly reflects the proportionate credit risk for which the Guarantor has been compensated.

I. Written Procedures. This certificate shall constitute written procedures and processes that require the Corporation to insure that, after the Closing Date, the Corporation is in compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds and for a period of three (3) years after the Bonds are paid in full will maintain records that show compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds. The Corporation designates the following officer(s) to have primary responsibility for maintaining post-issuance compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds:

General Manager

and the following officer(s) shall maintain the records related thereto:

General Manager

Such officers may assign and delegate responsibilities to others as they deem necessary or appropriate.

J. Remedial Action/Voluntary Closing Agreement Program. If the Corporation in complying with the terms and provisions the policies or guidelines set forth herein and the Code and Regulations related to the Bonds determines that the requirements of these policies and guidelines or the Code and Regulations related to the Bonds may have been violated, the Corporation will make final determinations, if necessary with the assistance of its bond and tax counsel and financial advisors, and take appropriate actions related to such noncompliance including, if appropriate, any remedial action described under applicable Regulations or through the Tax Exempt Bonds Voluntary Closing Agreement Program.

[The remainder of this page intentionally left blank.]

EXECUTED AND DELIVERED this _____.

SCHERTZ/SEGUIN LOCAL GOVERNMENT
CORPORATION

By: _____
President, Board of Directors

CITY OF SCHERTZ, TEXAS

By: _____
Name: Steve Williams
Title: City Manager

CITY OF SEGUIN, TEXAS

By: _____
Name: Steve Parker
Title: City Manager

EXHIBIT A

Issue Price Certificate

See Tab No. __

of the City Manager appearing hereon is his genuine signature and by his signature hereon, the City Manager certifies that the signature of the Mayor appearing hereon is his genuine signature.

9. Capitalized terms not defined in this certificate shall have the meanings ascribed to them in the Resolution passed and adopted by the Schertz/Seguin Local Government Corporation on the 21st day of September, 2023 (the *Resolution*).

10. As Authorized Representatives (authorized to act in the City Manager's absence) pursuant to the terms of the Contract, the Resolution and the Sale and Offering Documents (as defined in the Contract) comply with the Contract.

11. This certificate is made for the benefit of the persons involved in this transaction and the Attorney General of The State of Texas in connection with his examination into and the approval of the Bonds.

Authorization of Attorney General to Date Certificate

12. This certificate is submitted pursuant to 1 TAC §53.247. Upon the approval of the Bonds and the Contract by the Attorney General of the State of Texas, he is authorized to date this certificate as of the date of such approval. If any litigation should develop, or if any other event should occur which should make this certificate inaccurate before the Attorney General's approval of the Bonds and the Contract, we will notify the Attorney General at once by both telephone and facsimile transmission. With this assurance, the Attorney General is entitled to rely on the accuracy of this certificate at the time of approval of the Bonds and the Contract unless we advise him otherwise.

[The remainder of this page intentionally left blank.]

WITNESS OUR HANDS AND THE SEAL OF THE CITY OF SCHERTZ, TEXAS, this
17th day of October, 2023.

CITY OF SCHERTZ, TEXAS

Mayor

City Manager

(CITY SEAL)

EXHIBIT A

**CURRENTLY OUTSTANDING INDEBTEDNESS
PAYABLE FROM UTILITY SYSTEM REVENUES**

<u>Description</u>	<u>Amount</u>
None	

Additionally, the City has covenanted in the Contract to establish, assess, and collect rates sufficient to make the Annual Payments (as defined in the Contract), including an amount sufficient to pay the principal and interest payments on the Bonds and the currently outstanding Priority Bonds and the currently outstanding New Series Bonds designated as (i) Schertz/Schertz Local Government Corporation Contract Revenue Bonds, Series 2001”, dated February 1, 2001, issued in the aggregate original principal amount of \$41,040,000, (ii) Schertz/Seguin Local Government Corporation Contract Revenue Bonds, New Series 2016 (Texas Water Development Board SWIRFT Project Financing), dated August 1, 2016, issued in the aggregate original principal amount of \$43,670,000, (iii) Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, New Series 2018, dated November 15, 2018, issued in the aggregate principal amount of \$19,045,000 (iv) Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, Taxable New Series 2022, dated January 15, 2022, issued in the aggregate principal amount of \$39,150,000, and (v) Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2022A, dated September 1, 2022, issued in the aggregate principal amount of \$4,500,000.

EXHIBIT B

UTILITY RATES

Water Rates

New Rates (Effective as of October 1, 2021)
Inside City Limits
Residential and Small Commercial (Based on 5/8 meter)

	Gallons	
First	6,000	\$24.61(Min) + \$3.04/M
Next	6,000	42.85 + 3.40/M
Next	6,000	63.25 + 3.98/M
Next	6,000	87.13 + 4.86/M
Over	30,000	145.45 + 6.17/M

Outside City Limits
Residential and Small Commercial (Based on 5/8 meter)

	Gallons	
First	6,000	\$24.61(Min) + \$3.04/M
Next	6,000	42.85 + 3.40/M
Next	6,000	63.25 + 3.98/M
Next	6,000	87.13 + 4.86/M
Over	30,000	145.45 + 6.17/M

Wastewater Rates

New Rates (Effective as of November 1, 2021)
Residential Rates
Base Rate - \$14.43

\$4.75 per 1,000 gallons up to 12,000 gallons
\$10.79 over 12,000 gallons.

Business and Multi-Family Rates
Base Rate - \$18.15*

\$4.87 per 1,000 gallons up to 12,000 gallons
\$10.89 over 12,000 gallons.

* The Base rate shall be assessed in terms of connection equivalents which shall be as follows: the customer's previous 12 month water consumption as determined at the annual re-rating in February divided by 365, with results of such division then divided by 245 gallons. The figure arrived at by the second division shall be the customer's "connection equivalent". Each business shall be assessed a base rate.

YMCA
\$3.20 per 1,000 gallons

EXHIBIT C

OPERATING SCHEDULE

CITY WATERWORKS AND SEWER SYSTEM OPERATING STATEMENT

TABLE 13

The following condensed statements have been compiled using accounting principles customarily employed in the determination of net revenues available for debt service, and in all instances exclude depreciation, transfers, bad debt, debt service payments and expenditures identified as capital.

	<u>9/30/2022</u>	<u>9/30/2021</u>	<u>9/30/2020</u>	<u>9/30/2019</u>	<u>9/30/2018</u>
Revenues	\$ 31,184,046	\$ 28,394,433	\$ 30,284,539	\$ 28,311,467	\$ 28,016,064
Expenditures	<u>24,362,098</u>	<u>18,323,015</u>	<u>21,190,967</u>	<u>22,620,644</u>	<u>20,802,263</u>
Schertz/Seguin LGC Payment	<u>3,913,110</u>	<u>3,908,231</u>	<u>3,892,799</u>	<u>2,906,068</u>	<u>2,906,068</u>
Net Revenues Available					
Available for Debt Service	<u>\$ 2,908,838</u>	<u>\$ 6,163,187</u>	<u>\$ 5,200,773</u>	<u>\$ 2,784,755</u>	<u>\$ 4,307,733</u>

EXHIBIT D

ANNUAL DEBT SERVICE REQUIREMENTS

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023

Department: Planning & Community Development

Subject: Ordinance 23-S-24— Conduct a public hearing and consider a request to rezone approximately 2.1 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD), known as Guadalupe County Parcel ID 31970, 31971, 31972, 31973, 31980, 31981, 31982, 31983, generally located northwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas. *First Reading* (B. James/S. Haas)

BACKGROUND

The applicant is requesting to rezone approximately 2.1 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD).

On September 15, 2023, five (5) public hearing notices were mailed to the surrounding property owners within a 200-foot boundary of the subject property. At the time of this staff report, two (2) responses in favor, zero (0) neutral, and zero (0) opposed have been received. A public hearing notice was published in the "San Antonio Express" on September 29, 2023.

GOAL

The goal is to rezone approximately 2.1 acres of land, generally located northwest of the intersection between Schertz Parkway and Wiederstein Road to a Planned Development District (PDD) known as Heritage Oaks II. This PDD will conform to the Heritage Oaks PDD development and design standards that were previously approved by Ordinance 21-S-15 on May 11, 2021.

The intent of the Heritage Oaks PDD is to develop the western portion of the Live Oak Hills Subdivision off of Schertz Parkway and Weiderstein Road. The existing Live Oak Hills Subdivision was platted and individual lots were sold in 1963 without the necessary infrastructure improvements, such as water lines, sewer lines, and roads, which left hundreds of lots to remain undeveloped. These undeveloped lots in Live Oak Hills collectively formed what is commonly referred to as a 'paper subdivision', or a subdivision that is recognizable on paper, but not in the real world. This situation poses numerous development challenges; from various land ownership parties to cost-prohibitive infrastructure requirements for individual lot development, 'paper subdivisions' can often remain vacant for decades, as is the situation with most of the Live Oak Hills Subdivision.

The Heritage Oaks PDD is designed to redevelop 45 acres of the existing Live Oak Hills subdivision plat along with an additional 21 acre tract into a 66 acre single-family residential subdivision.

The proposed Heritage Oaks II PDD will incorporate Lot 13 Block 41 of the original Live Oak Hills subdivision that was not in the original Ordinance 21-S-15; this lot has since been acquired by the Heritage Oaks developer. Per UDC section 21.5.10.B.4.(a) the applicant must rezone a minimum of 2 acres for a PDD.

Key features of Ord. 21-S-15 (Heritage Oaks):

Base Zoning: Single-Family Residential District (R-1)

Coving Plan: the Heritage Oaks PDD is designed through a coving plan. Contrary to traditional urban grid patterns, the coving plan is characterized by winding roads, extended block lengths, cul-de-sacs, and meandering setbacks that result in less impervious coverage.

Parkland, Open Space, and Trails: Enhanced open space, parkland dedication, and 10-foot & 30-foot concrete trails.

Landscaping and Tree Mitigation Features: 3 trees on each lot with a minimum of 15" inches caliper for the lot, and Preservation of 50% of Heritage Trees

The Heritage Oaks II PDD will in no way alter the design standards of the original Heritage Oaks PDD otherwise known as Ordinance 21-S-15.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

The Comprehensive Plan identifies the subject properties under the Single-Family Residential land use designation. Areas classified under the Single-Family Residential land use designation are intended to utilize a mix of residential uses, including detached single-family residential, as well as limited commercial development to support the daily activities of the development. The proposed zone change meets the goals and objectives of the Single-Family Residential future land use designation, and is therefore in conformance with the Comprehensive Land Use Plan.

Adding Block 41 Lot 13 will make the proposed subdivision more contiguous and more consistent. UDC Section 21.5.10.B.4.(a) stipulates that single-family Planned Development Districts must be a minimum of 2 acres. As a result, the applicant is rezoning the adjacent 2 acres around said lot to comply with the minimum acreage for a PDD established in the UDC.

RECOMMENDATION**Staff Recommendation:**

Based on the compatibility with the Comprehensive Land Use Plan, surrounding uses, and by incorporating the additional property into the proposed Heritage Oaks Development, staff recommends approval of the proposed zone change of approximately 2.1 acres from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD) as proposed.

Planning and Zoning Commission Recommendation:

The Schertz Planning and Zoning Commission met on September 27, 2023, in which they held a public hearing on the item. The Planning and Zoning Commission made a recommendation of approval with a 7-0 vote.

Attachments

Ord 23 S 24 with exhibits

Aerial Exhibit

Public Hearing Notice Map

Public Hearing Responses

Ord. 21-S-15 Heritage Oaks PDD

ORDINANCE NO. 23-S-24

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 2.1 ACRES OF LAND FROM NEIGHBORHOOD SERVICES DISTRICT (NS) AND PLANNED DEVELOPMENT DISTRICT (PDD) TO PLANNED DEVELOPMENT DISTRICT (PDD), KNOWN AS GUADALUPE COUNTY PARCEL ID 31970, 31971, 31972, 31973, 31980, 31981, 31982, 31983, GENERALLY LOCATED NORTHWEST OF THE INTERSECTION BETWEEN SCHERTZ PARKWAY AND WIEDERSTEIN ROAD, CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 2.1 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD) located northwest of the intersection between Schertz Parkway and Wiederstein Road, and more specifically described in the Exhibit A attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

WHEREAS, on September 27, 2023, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the requested rezoning Planned Development District (PDD) in accordance with the development standards set forth in Exhibit B attached herein; and

WHEREAS, on October 17, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The Property as shown and more particularly described in the attached Exhibit A, is hereby zoned Planned Development District (PDD) as described in the attached Exhibit B.

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

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

Section 4. All ordinances and codes, 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 resolved herein.

Section 5. This Ordinance 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 Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. 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 Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

PASSED ON FIRST READING, the _____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____ 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

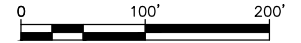
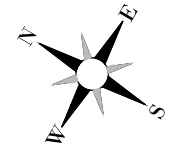
ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit A
The Property

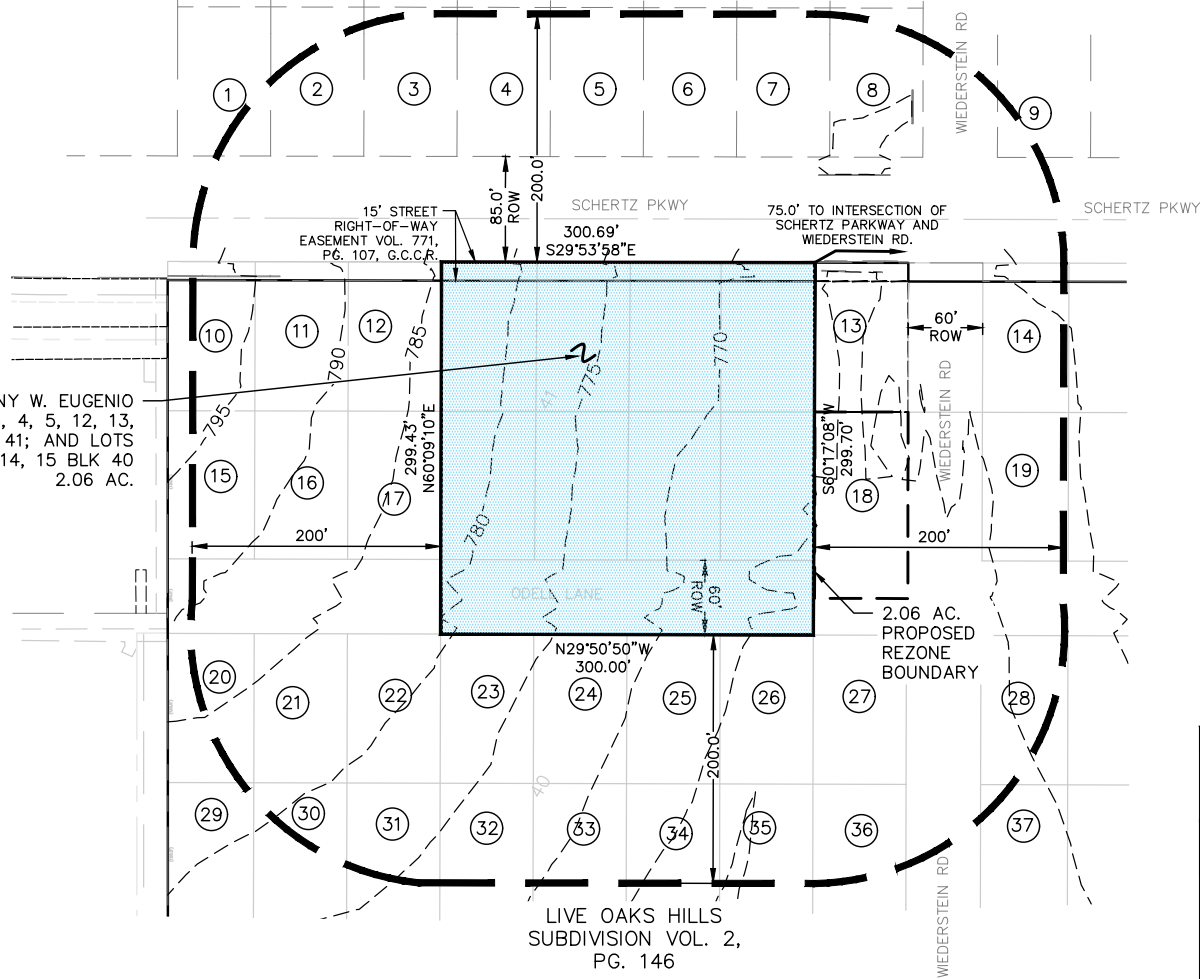
NOTE:
NO 100-YR FLOODPLAIN EXIST ON THE PROPERTY







SCALE: 1" = 100'

LIVE OAK HILL SUBDIVISION
(VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED
ZONED: NS

ANTHONY W. EUGENIO
LOTS 2, 3, 4, 5, 12, 13,
14, 15, BLK 41; AND LOTS
12, 13, 14, 15 BLK 40
2.06 AC.



Legend

-  PROJECT BOUNDARY
-  200' NOTIFICATION BOUNDARY
-  PLANNED DEVELOPMENT DISTRICT
-  ADJACENT PROPERTY OWNERS

PDD - REZONING 2.06 AC.

Binkley & Barfield

DCCM

Binkley & Barfield, Inc.
TxEng F-257
190 S Seguin Ave
New Braunfels, TX 78130
830-606-3913
BinkleyBarfield.com

Exhibit B

Heritage Oaks II Planned Development District (PDD)



PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS II
SCHERTZ, TEXAS

May 15, 2023 (revised 7/19/23; 09/1523)

PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS II

Prepared By and For:

Anthony W. Eugenio

334 N Park Drive

San Antonio, TX 78216

(210) 826-9000

Date: May 15, 2023

(revised 7/19/23; 09/15/23)

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FIGURES

FIGURE 1.0: EXCERPT FROM LIVE OAK HILLS SUBDIVISION PLAT

EXHIBITS

EXHIBIT 1: PROPERTY DESCRIPTION

EXHIBIT 2: ZONING EXHIBIT

1) MAP

2) LIST- NEIGHBORS < 200'

HERITAGE OAKS II

A PLANNED DEVELOPMENT DISTRICT

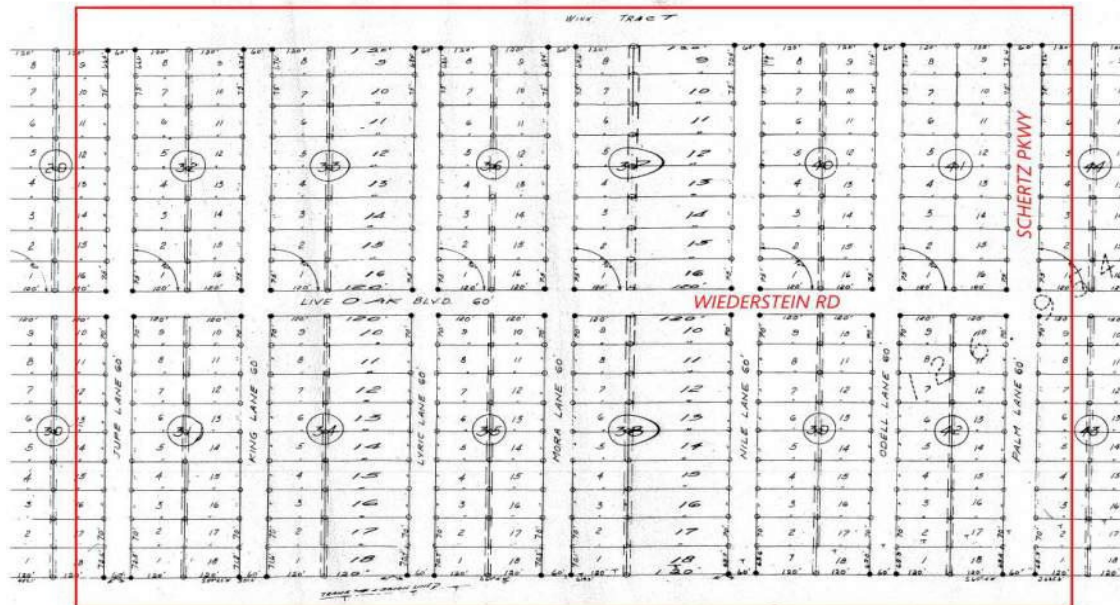
SCHERTZ, TEXAS

I. PROPERTY

The proposed rezoning of Lots 2, 3, 4, 5, 12, 13, 14, and 15, Block 41 and the portion of Lots 12, 13, 14, and 15, Block 40 located in the 60' ROW , Live Oak Hills Subdivision, City of Schertz, Guadalupe County, Texas (the “**Lots**”) from Neighborhood Services (NS) to PDD and PDD to PDD. If rezoned, the Lots will be the Heritage Oaks II PDD (“**Heritage II PDD**”) in conformance with the adjacent Heritage Oaks Neighborhood Planned Development District (the “**Heritage PDD**”) which is located 0.5 mile to the southeast of IH 35 off Schertz Parkway within the corporate limits of the City of Schertz. Refer to **Exhibit “1”** for the legal description of the Lots.

It is the intent of this PDD rezoning that this Lots rezoning be in conformance and comply with the provisions of the Heritage PDD approved May 11, 2021 as Ordinance No. 21-S-15. The rezoning of these Lots shall cause no modification to the Heritage PDD.

Figure 1: Excerpt from Live Oak Hills Subdivision Plat



Source: Live Oak Hills Subdivision; Vol. 2, Pg. 146-147, M.P.R.

Schertz Parkway, is located on the East side of the Lot, and the Heritage Oaks Neighborhood is zoned as the Heritage PDD and is on the North, West and South of the Lots.

Per the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), No. 48187C0210F, Effective Date November 2, 2007, none of the Lots is located within an area which is identified by FEMA as a special flood hazard area subject to inundation by the 1% annual chance flood (100-year flood) with Base Flood Elevations (BFEs) determined.

II. AFFECTED UDC ARTICLES/SECTIONS

A Planned Development District (PDD) allows for flexibility in planning, design and development standards while complying with the intent of the Unified Development Code (UDC). The article and section amendments proposed with the PDD for the Lots are as follows:

A. ARTICLE 5. – ZONING DISTRICTS

Sec. 21.5.7. – Dimensional and Development Standards

The Lots are presently zoned Neighborhood Services (NS) and PDD. Proposed with the PDD for Heritage Oaks II is a base zoning Single-Family Residential District-1 (R-1). The Lots are to be an absolute minimum of 6,000 square feet, variable width, 120 feet minimum depth (at the midplane of the lot) with minimum front and side yard setbacks of 20 feet and 5 feet, respectively. No permanent structures or heating, ventilation, and air conditioning equipment will be allowed in side yards less than 10 feet. Side yard fencing between homes shall be limited to no more than 20 feet from the rear corner of the home.

Minimum lot size and dimensions, maximum density, as well as maximum impervious cover proposed for the Lot with Heritage II PDD are a Planned Development District with a base zoning Single-Family Residential District -1 (R-1) are provided with **Table 1**.

Table 1 – The Lot for Heritage Oaks II, a Planned Development District (PDD)

Zoning District	Minimum Lot Size/Dimensions			Minimum Yard Setback				Maximum Density		Misc	
	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Lots	Lots Per Acre	Max Height Ft	Max Imperv Cover
Planned Development District (PDD)	6,000	50	120**	20	5*	20	2	215	3.25	35	50%

*Rectangular shaped lots shall have minimum 6-foot side yard setback.

* Corner lot shall have minimum 10-foot side yard setback from street right-of-way.

**Minimum depth shall be taken at the midplane of the lot

B. ARTICLE 9 – SITE DESIGN STANDARDS

Sec. 21.9.3. – Lots

Large non-uniform lots with variable frontage and setbacks are proposed with Heritage Oaks II. Lot sizes and dimensions, as well as setbacks, shall be shown on all plats and shall conform to the minimum requirements recognized in the Dimension and Development Standards of this PDD. In addition, the following modified requirements to UDC Sec. 21.9.3 will apply:

- I. Lot lines are not required to be perpendicular to the local streets within Heritage Oaks
- II. The larger non-uniform lots, characteristic of a coving subdivision, provide more open space and tree preservation.

Sec. 21.9.7. – Landscaping

E.3.a Every single-family dwelling shall have a minimum of three shade trees with at least one in the front yard and one in the back yard. Each single family dwelling shall have a minimum of fifteen inches (15”) DBH of shade trees on the entire lot, including existing trees.

Sec. 21.9.9. – Tree Preservation and Mitigation

Trees with a 24" DBH (diameter at breast height-4 1/2 feet above existing ground level) are designated "**Heritage Trees**".

Trees with an 8" DBH (diameter at breast height-4 1/2 feet above existing ground level) are designated "**Protected Trees**".

C. Tree Preservation

1. Single Family Residential Development:

- a. Heritage Trees. A minimum of fifty percent (50%) of the total Heritage Trees in Heritage Oaks II must be preserved.
 - i. Exemptions. Heritage Trees located within proposed right-of-way, utility easements, and drainage right-of-way/easements shall be exempt from the 50% tree save requirement.

- b. Protected Trees. No Protected Trees in Heritage Oaks II must be preserved, however any preserved shall be credited toward the minimum builder requirement of 15” DBH.

D. Tree Mitigation. There are no tree mitigation requirements for Protected and Heritage Class Trees in Heritage Oaks II.

III. PLANNED DEVELOPMENT DISTRICT (PDD) AMENDMENTS

Any significant future changes from the established Dimensional Requirements for the approved PDD, which alter the concept of the PDD or increase the density, will cause the plan to be resubmitted for approval by the Planning & Zoning Commission and the City Council, including a new public hearing with applicable fees. Minor changes which do not change the concept or intent of the development shall be approved or denied administratively.

EXHIBITS

EXHIBIT 1

PROPERTY DESCRIPTION

Lots 2, 3, 4, 5, 12, 13, 14, and 15, Block 41 and the portion of Lots 12, 13, 14, and 15, Block 40 located in the 60' ROW , Live Oak Hills Subdivision, City of Schertz, Guadalupe County, Texas, according to a Plat thereof recorded in Volume 2, Pages 146-147, Map and Plat Records, Guadalupe County, Texas

EXHIBIT 2

ZONING EXHIBIT

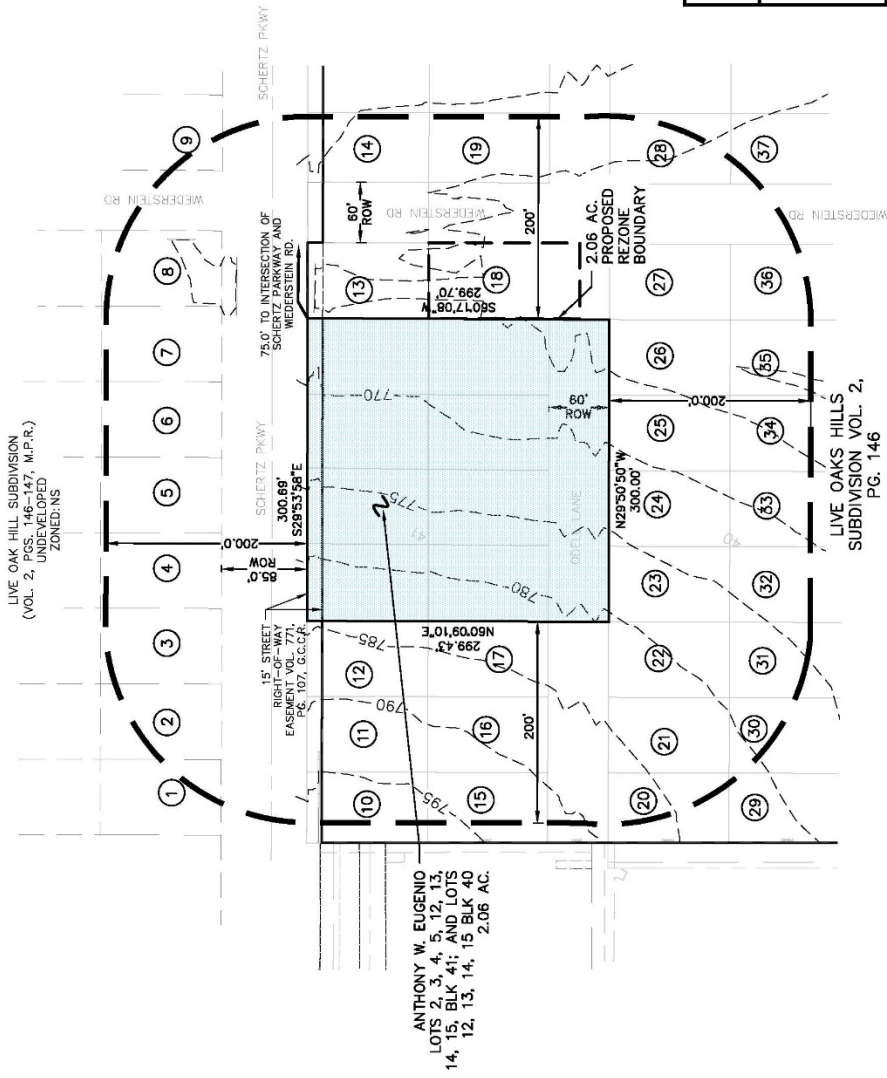
- 1) 200' zoning exhibit
- 2) List of Neighbors within 200'



Legend

- PROJECT BOUNDARY
- - - 200' NOTIFICATION BOUNDARY
- - - PLANNED DEVELOPMENT DISTRICT
- ① ADJACENT PROPERTY OWNERS

NOTE:
NO 100-YR FLOODPLAIN EXIST ON THE PROPERTY



PDD - REZONING 2.06 AC.

Binkley & Barfield
 Binkley & Barfield, Inc.
 1409 F-257 Ave
 New Braunfels, TX 78130
 830-606-3913
 BinkleyBarfield.com

DCCM

DRAWN BY: BOM
 CHECKED BY: JM
 DATE: 2023
 JOB NO.: 2108.13

PAGE: 1 OF 4

LIVE OAKS HILLS
 SUBDIVISION VOL. 2,
 PG. 146

ANTHONY W. EUGENIO
 LOTS 2, 3, 4, 5, 12, 13,
 14, 15, BLK 41, AND LOTS
 12, 13, 14, 15, BLK 40
 2.06 AC.

PROPERTY OWNERS

- ② SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER, STEVE PRESLEY--TRUSTEE
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 32027
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ③ SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER, STEVE PRESLEY--TRUSTEE
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 32026
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ④ CITY OF SCHERTZ
 1400 SCHERTZ PKWY SCHERTZ, TX 78154
 PROPERTY ID: 32025
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ⑤ CITY OF SCHERTZ
 1400 SCHERTZ PKWY SCHERTZ, TX 78154
 PROPERTY ID: 32024
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ⑥ HERNANDEZ JESUS LOPEZ & DORIS REBECCA PRATHER
 814 CIBOLO TRAIL UNIVERSAL CITY TX 78148
 PROPERTY ID: 32023
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ⑦ SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER, STEVE PRESLEY--TRUSTEE
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 32022
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ⑧ CITY OF SCHERTZ
 1400 SCHERTZ PKWY SCHERTZ, TX 78154
 PROPERTY ID: 32021
 LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
 UNDEVELOPED; ZONED: NS
- ⑱ CITY OF SCHERTZ
 1400 SCHERTZ PKWY SCHERTZ, TX 78154
 PROPERTY ID: 31969
 LIVE OAK HILL SUBDIVISION (VOL. 776, PG. 948)
 UNDEVELOPED; ZONED: NS
- ⑬ EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31984
 LIVE OAK HILL SUBDIVISION (VOL. 2997, PG. 0588)
 UNDEVELOPED; ZONED: PDD

PDD - REZONING 2.06 AC.



Binkley & Barfield, Inc.
 TxEng F-257
 190 S Seguin Ave
 New Braunfels, TX 78130
 830-606-3913
 BinkleyBarfield.com

DRAWN BY: BGM
 CHECKED BY: JM

DATE: 2023
 JOB NO.: 2106.13

PROPERTY OWNERS

11
24
14
34
 EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31965, 31971, 31972, 31973, 31978, 31980, 31983, 31994, 31955
37
 LIVE OAK HILL SUBDIVISION (VOL. 1719, PG. 0732)
 UNDEVELOPED; ZONED: PDD

12
 EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31979
 LIVE OAK HILL SUBDIVISION (VOL. 3141, PG. 0502)
 UNDEVELOPED; ZONED: PDD

16
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32
 EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31964, 31967, 31974, 39175, 31961, 31962, 31960, 31959, 31957, 31956,
 31954, 31968, 31944
 LIVE OAK HILL SUBDIVISION (VOL. 1719, PG. 0734)
 UNDEVELOPED; ZONED: PDD
28

25
 EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31966
 LIVE OAK HILL SUBDIVISION (DOC.#2015012203)
 UNDEVELOPED; ZONED: PDD

22
 EUGENIO ANTHONY W
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 31963
 LIVE OAK HILL SUBDIVISION (VOL. 3027, PG. 0574)
 UNDEVELOPED; ZONED: PDD

1
 CITY OF SCHERTZ
 1400 SCHERTZ PKWY SCHERTZ, TX 78154
 PROPERTY ID: 32028
 LIVE OAK HILL SUBDIVISION, DOC#202399003490
 UNDEVELOPED; ZONED: NS

9
 SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER
 STEVE PRESLEY-TRUSTEE
 334 N. PARK DRIVE, SAN ANTONIO TX 78216
 PROPERTY ID: 32011
 LIVE OAK HILL SUBDIVISION, DOC#201899007549
 UNDEVELOPED; ZONED: NS

PDD - REZONING 2.06 AC.



Binkley & Barfield, Inc.
 TxEng F-257
 190 S Seguin Ave
 New Braunfels, TX 78130
 830-606-3913
 BinkleyBarfield.com

DRAWN BY: BGM

DATE: 2023

CHECKED BY: JM

JOB NO.: 2106.13

PROPERTY OWNERS

- ①9 EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31993
LIVE OAK HILL SUBDIVISION (VOL. 2749, PG. 0283)
UNDEVELOPED; ZONED: PDD

- ⑩ EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31977
LIVE OAK HILL SUBDIVISION (VOL. 3157, PG. 0384)
UNDEVELOPED; ZONED: PDD

- ⑮ EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31976
LIVE OAK HILL SUBDIVISION (VOL. 4075, PG. 0490)
UNDEVELOPED; ZONED: PDD

- ③1 EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31958
LIVE OAK HILL SUBDIVISION (VOL. 4163, PG. 0398)
UNDEVELOPED; ZONED: PDD

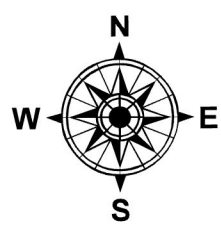
- ③6 EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31953
LIVE OAK HILL SUBDIVISION
UNDEVELOPED; ZONED: PDD

PDD - REZONING 2.06 AC.

Binkley & Barfield

DCCM

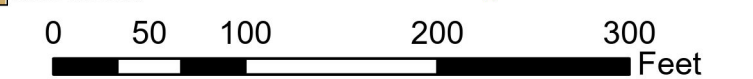
Binkley & Barfield, Inc.
TxEng F-257
190 S Seguin Ave
New Braunfels, TX 78130
830-606-3913
BinkleyBarfield.com



SCHERTZ
COMMUNITY • SERVICE • OPPORTUNITY

HERITAGE OAKS
(PLPDD20230127)



<ul style="list-style-type: none"> Highways Major Roads Minor Roads 	<ul style="list-style-type: none"> Freeway Principal Arterial Planned Principal Arterial Secondary Arterial Planned Secondary Arterial Secondary Rural Arterial 	<ul style="list-style-type: none"> Planned Secondary Rural Arterial Residential Collector Planned Residential Collector Planned Commercial Collector B Commercial Collector A Planned Commercial Collector A 	<ul style="list-style-type: none"> 1" 2" 3" 4" 6" 8" 10" 12" 16" 18" Unknown 	<ul style="list-style-type: none"> Schertz Gravity Schertz Pressure Neighboring Gravity Private Pressure 	<ul style="list-style-type: none"> Hydrant Manholes CCMA Lift Station Private Lift Station Schertz Lift Station CCMA Treatment Plant Schertz Treatment Plant Project Boundary County Boundaries Schertz Municipal Boundary ETJ
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City of Schertz

HERITAGE OAKS (PLPDD20230127)

 Project Area
 200' Buffer

 City Limit Boundary



rec 9/18/23

NOTICE OF PUBLIC HEARING

September 15, 2023

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, September 27, 2023 at 6:30 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make a recommendation on the following item:

PLPDD20230127 - A request to rezone approximately 2 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD), known as Guadalupe County Parcel ID 31970, 31971, 31972, 31973, 31980, 31981, 31982, 31983, generally located northwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. This form is used to calculate the percentage of landowners that support and oppose the request. You may return the reply form below prior to the first public hearing date by mail or personal delivery to Samuel Haas, Senior Planner, 1400 Schertz Parkway, Schertz, Texas 78154, or by e-mail: planning@schertz.com. If you have any questions, please feel free to call Samuel Haas, Senior Planner at (210) 619-1783.

Sincerely,

[Handwritten signature of Samuel Haas]

Samuel Haas
Senior Planner

Reply Form

I am in favor of [checked] opposed to [] neutral to [] the request for PLPDD20230127

COMMENTS: Schaefer, Nancy Non Est Exempt Trust FBO Jane Schaefer

NAME: Jane Schaefer SIGNATURE Jane Schaefer (PLEASE PRINT)

STREET ADDRESS: 334 N. Park Drive, San Antonio, TX 78216

DATE: 9/19/2023 (See attached list)

See all James lts

PROPERTY OWNERS

✗

② SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER, STEVE PRESLEY-TRUSTEE
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 32027
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

✗

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PROPERTY ID: 32026
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UNDEVELOPED; ZONED: NS

④ CITY OF SCHERTZ
1400 SCHERTZ PKWY SCHERTZ, TX 78154
PROPERTY ID: 32025
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

⑤ CITY OF SCHERTZ
1400 SCHERTZ PKWY SCHERTZ, TX 78154
PROPERTY ID: 32024
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

⑥ HERNANDEZ JESUS LOPEZ & DORIS REBECCA PRATHER
814 CIBOLO TRAIL UNIVERSAL CITY TX 78148
PROPERTY ID: 32023
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

✗

⑦ SCHAEFER NANCY NON GST EXEMPT TRUST FBO JANE SCHAEFER, STEVE PRESLEY-TRUSTEE
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 32022
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

⑧ CITY OF SCHERTZ
1400 SCHERTZ PKWY SCHERTZ, TX 78154
PROPERTY ID: 32021
LIVE OAK HILL SUBDIVISION (VOL. 2, PGS. 146-147, M.P.R.)
UNDEVELOPED; ZONED: NS

⑱ CITY OF SCHERTZ
1400 SCHERTZ PKWY SCHERTZ, TX 78154
PROPERTY ID: 31969
LIVE OAK HILL SUBDIVISION (VOL. 776, PG. 948)
UNDEVELOPED; ZONED: NS

⑬ EUGENIO ANTHONY W
334 N. PARK DRIVE, SAN ANTONIO TX 78216
PROPERTY ID: 31984
LIVE OAK HILL SUBDIVISION (VOL. 2997, PG. 0588)
UNDEVELOPED; ZONED: PDD

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9/14/2023 7:58 AM

PDD - REZONING 2.06 AC.

Binkley & Barfield

DCCM

Binkley & Barfield, Inc.
TxEng F-257
190 S Seguin Ave
New Braunfels, TX 78130
830-606-3913
BinkleyBarfield.com

Samuel Haas

From: Steve Presley <txpharmacy@gmail.com>
Sent: Tuesday, September 19, 2023 2:21 PM
To: Melissa Mahula
Cc: planning@schertz.com; Jane Schaefer Eugenio; Tony Eugenio
Subject: Re: Notice of Public Hearing 09.27.23 reply form signed by Jane Schaefer 09.19.23
Attachments: image003.jpg

As Trustee of the Nancy Schaefer Exempt Trust, I am in favor of the zoning change as presented by Jane Schaefer Eugenio. Thank you, Steve Presley, Trustee
903-731-3007 cell

On Tue, Sep 19, 2023 at 1:14 PM Melissa Mahula <mmahula@presidio-sa.com> wrote:

To Planning Department (City of Schertz),

Please find attached Notice of Public Hearing 09.27.23 reply form signed by Jane Schaefer 09.19.23.

Steve, please reply all to this email “that you are in favor”, too for the PDD zoning change – since you are the trustee of the Nancy Schaefer Non GST Trust FBO Jane Schaefer, Steve Presley – Trustee. Jane has already signed.

Thanks, Melissa

PLEASE NOTE OUR NEW OFFICE ADDRESS EFFECTIVE 4/20/23

Melissa Mahula, Office Manager

and Licensed Sales Agent

Presidio Group, LLC

334 N. Park Drive

San Antonio, Texas 78216

ORDINANCE NO. 21-S-15

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 66 ACRES OF LAND TO PLANNED DEVELOPMENT DISTRICT (PDD), GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION BETWEEN SCHERTZ PARKWAY AND WIEDERSTEIN ROAD, CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 66 acres of land generally located southwest of the intersection between Schertz Parkway and Wiederstein road, and more specifically described in the Exhibit A and Exhibit B attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

WHEREAS, on April 14, 2021, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to disapprove the requested rezoning according to the development standards set forth in Exhibit C attached herein (the “Development Standards”); and

WHEREAS, on May 4, 2021, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:
THAT:**

Section 1. The Property as shown and more particularly described in the attached Exhibit A and Exhibit B, is hereby zoned Planned Development District (PDD)

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

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

Section 4. All ordinances and codes, 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 resolved herein.

Section 5. This Ordinance 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 Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.


Section 7. 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 Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 4th day of May, 2021.

PASSED, APPROVED AND ADOPTED on final reading the 11th day of May, 2021.



Ralph Gutierrez, Mayor

ATTEST:



Brenda Dennis, City Secretary

(SEAL OF THE CITY)



Westwood

County of Guadalupe
State of Texas

66.162 acres

Heritage Oaks
May 8, 2020

METES AND BOUNDS DESCRIPTION of a 66.162 acre tract of land situated in the Toribio Herrera Survey No. 68, Abstract No. 153, City of Schertz, Guadalupe County, Texas and being all of the following lands:

45.952 acres being Lots 10-18, Block 31, Lots 9-16, Block 32, Lots 1-17, Block 34, all of Blocks 35-38, Lots 1-17, Block 39, all of Block 40, Lots 2-8, and the remaining portions of 9-12 and 14-16, Block 41, and Lots 2-9, and the remaining portions of 10-16, Block 42 and the proposed vacated right-of-ways platted as King Lane, Lyric Lane, Mora Lane, Nile Lane, Odell Lane and that 1,607 foot section of Live Oak Blvd contained herein and as shown by plat of Live Oak Hills Subdivision recorded in Volume 2, Pages 146-147, Guadalupe County Plat Records,

AND, 20.210 acres out of the remaining portion of a 23.811 acre tract described by warranty deed recorded in Volume 2142, Page 582, Guadalupe County Official Public Records;

In all, said 66.162 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found on the southwest line of Schertz Parkway (a 86' width right of way) recorded in Volume 5, Page 73B, Guadalupe County Plat Records at the common southeast corner of Lot 4, Block 2, as shown by plat of Legacy at Forest Ridge Subdivision recorded in Volume 8, Pages 428, said Plat Records and the north corner of the remaining portion of said Lot 9, Block 41 and the north corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, 297.30 feet to a ½" iron rod set (WESTWOOD),

THENCE, departing the southwest line of Schertz Pkwy and circumnavigating Lot 13, Block 41 of said Live Oak Hills, the following courses:

South 60° 21' 20" West, 105.00 feet to a ½" iron rod set (WESTWOOD),
South 29° 53' 42" East, 75.00 feet a ½" iron rod set (WESTWOOD), and
North 60° 21' 20" East, 105.00 feet a ½" iron rod set (WESTWOOD) returning to the southwest line of said Schertz Pkwy;

THENCE, South 29° 53' 42" West, at 223.81 feet pass the north corner of the vacating portion of said Live Oak Blvd., at 283.81 feet pass the east corner of the same, in all, a total of 773.77 feet to a ½" iron rod set (WESTWOOD) at the north corner of the remaining portion of Lot 17, Block 42 of said Live Oak Hills, for the southeast corner of the herein and described tract of land;

THENCE, departing southwest line of Schertz Pkwy and across said Live Oak Hills and along the north and west lines of said Lot 17, South 60° 32' 29" West, 107.04 feet to a ½" iron rod set

Westwood

(WESTWOOD), South 29° 48' 49" West, 70.00 feet to a ½" iron rod found (CEC) at the north corner of Lot 1, Block 42;

THENCE, continuing across said Live Oak Hills, South 60° 08' 07" West, at 120.02 feet passing a ½" iron rod (CEC), at 180.02 feet pass a ½" iron rod found (CEC), in all, a total distance of 300.27 feet to a ½" iron rod set (WESTWOOD) at the west corner of Lot 18, Block 39 of said Live Oak Hills and South 29° 48' 49" East, 69.67 feet to a ½" iron rod set (WESTWOOD) on the common northwest line of Carolina Crossing Subdivision Unit 8 recorded in Volume 6, Page 219, said Plat Records and the south line of said Live Oak Hills for a corner of the herein described tract of land;

THENCE, South 60° 04' 52" West, 120.05 feet passing a ½" iron rod, in all, a total distance of 179.91 feet to a ½" iron rod found and South 60° 00' 52" West, 5.16 feet to a ½" iron rod set (WESTWOOD) at the common northwest corner of said Carolina Crossing Unit 8, the north corner of said 23.811 acre tract and a reentrant corner of the herein described tract of land;

THENCE, along the southwest line of said Unit 8, the northeast line of said 23.811 acre tract, South 30° 01' 02" East, 1172.99 feet to a ½" iron rod found (CEC) on the northwest line of Carolina Crossing Subdivision Unit 7 recorded in Volume 6, Page 219, said Plat Records at the common south corner of said Carolina Crossing Unit 8 and the southeast corner of said 23.811 acre tract and the herein described tract of land;

THENCE, along the common northwest line of said Carolina Crossing Unit 7, the southeast line of said 23.811 acre tract, the following courses:

South 60° 01' 14" West, 232.61 feet to a ½" iron rod set (WESTWOOD),
South 59° 56' 11" West, 464.59 feet to ½" iron rod set (WESTWOOD), and
South 58° 45' 36" West, 53.53 feet to ½" iron rod found (CEC) for the common west corner of said Carolina Crossing Unit 7 and the northeast corner of Unit 1 P.U.D., Kensington Ranch Estates Subdivision recorded in Volume 8, Page 2 Guadalupe County Official Public Records, for a southeast corner of the herein described tract,

THENCE, continuing with the southeast line of said 23.811 acre tract and along the common northwest line said Kensington Ranch Estates, South 59° 50' 40" West, 175.30 feet to ½" iron rod set (WESTWOOD) at the east corner of 1.192 acre tract conveyed unto the City of Schertz by warranty deed recorded in Volume 2742, Page 269, said Official Public Records, for the south corner of the herein described tract of land;

THENCE, along the northeast line said 1.192 acre tract, and across the 23.811 acre tract, North 73° 37' 50" West, 207.43 feet to a ½" iron rod found at the beginning of a non-tangent curve to the right;

THENCE, along the arc of said curve with an arc length of 159.85 feet, a radius 275.52 feet, a delta of 33° 14' 33", and a chord bearing and distance of South 57° 00' 34" East, 157.62 feet to a ½" iron rod set at common north corner of said 1.192 acre tract and an east corner of those City of Schertz tracts recorded in Volume 2708, Page 726, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, North 22° 29' 23" West, 385.88 feet to ½" iron rod set (WESTWOOD) at the south corner of a 9.167 acre tract conveyed unto Guadalupe Valley Electric Cooperative recorded in

Westwood

Volume 1145, Page 543, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, along the common lines of said 9.167 acre tract and said 23.811 acre tract, North 59° 51' 25" East, 795.12 feet to a ½" iron rod set (WESTWOOD), and North 30° 04' 31" West, 500.00 feet to a ½" iron rod found on the southeast line of said Live Oak Hills coincident with the common northeast corner of said 9.167 acre tract for a reentrant corner of the herein described tract of land;

THENCE, along the northwest line of said 9.167 acre tract, South 60° 00' 52" West, 299.69 feet to a ½" iron rod found (CEC), at the east corner of Lot 18, Block 34 of said Live Oak Hills;

THENCE, circumnavigating said Lot 18, of same Block, the following courses:

North 29° 49' 32" West, 71.80 feet to a ½" iron rod set (WESTWOOD),
South 59° 57' 05" West, 120.00 feet to a ½" iron rod set (WESTWOOD), and
South 30° 14' 08" East, 72.11 feet to a ½" iron rod set (WESTWOOD) returning to the northwest line of said 9.167 acre tract for a corner of the herein described tract of land;

THENCE, South 59° 45' 52" West, 300.51 feet to a ½" iron rod set (WESTWOOD) on the east line of said City of Schertz tract for a west corner of the herein described tract of land;

THENCE, across said Block 31, North 29° 50' 00" West, 633.07 feet passing a ½" iron rod found, in all, for a total distance of 1284.52 feet to a ½" iron rod set (WESTWOOD) on the southeast line of Lot 1, Block 1, Chelsea Mixed-Use Subdivision recorded in Volume 7, Pages 530-531, said Plat Records for the west corner of the herein described tract of land;

THENCE, North 59° 58' 25" East, at 961.45 feet pass a ½" iron rod at the southwest corner of Lot 6, Block 2, Legacy at Forest Ridge recorded in Volume 8, Page 428, said Plat Records, in all, a total of 1,606.37 feet to the **POINT OF BEGINNING**.

Containing in all, 2,882,049 square feet, or 66.162 acres of land, more or less.

The above description and area specifically excludes Lot 1, Block 41, said Live Oak Hills Subdivision, said Lot 1 being more particularly described as follows:

COMMENCING at a ½" iron rod found on the southwest line of said Schertz Parkway at the common southeast corner of said Lot 4, Block 2, Legacy at Forest Ridge Subdivision, and the north corner of said remaining portion of said Lot 9, Block 41;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, at 297.30 feet passing the north corner of said Lot 13, Block 41, at 372.30 feet the east corner of the same, and continuing in all a total distance of 596.11 feet to the intersection of the southwest line of Schertz Pkwy and the northwest line of said Live Oak Blvd.;

THENCE, along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 105.00 feet to the east corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, continuing along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 120.00 feet to the intersection of the northwest line of said Live Oak Blvd. and the northeast

Westwood

line of Odell Lane, a 60-foot right-of-way, proposed to be vacated, as shown by plat of said Live Oak Hills Subdivision;

THENCE, along the northeast line of said Odell Lane, North 29° 53' 42" West, 75.00 feet to the west corner of the herein described tract of land;

THENCE, departing the right-of-way of said Odell Lane, North 60° 08' 45" East, 120.00 feet to the north corner of the herein described tract of land;

THENCE, South 29° 53' 42" East, 75.00 feet to the **POINT OF BEGINNING**.

Containing in all, 9,005 square feet, or 0.207 acres of land, more or less.

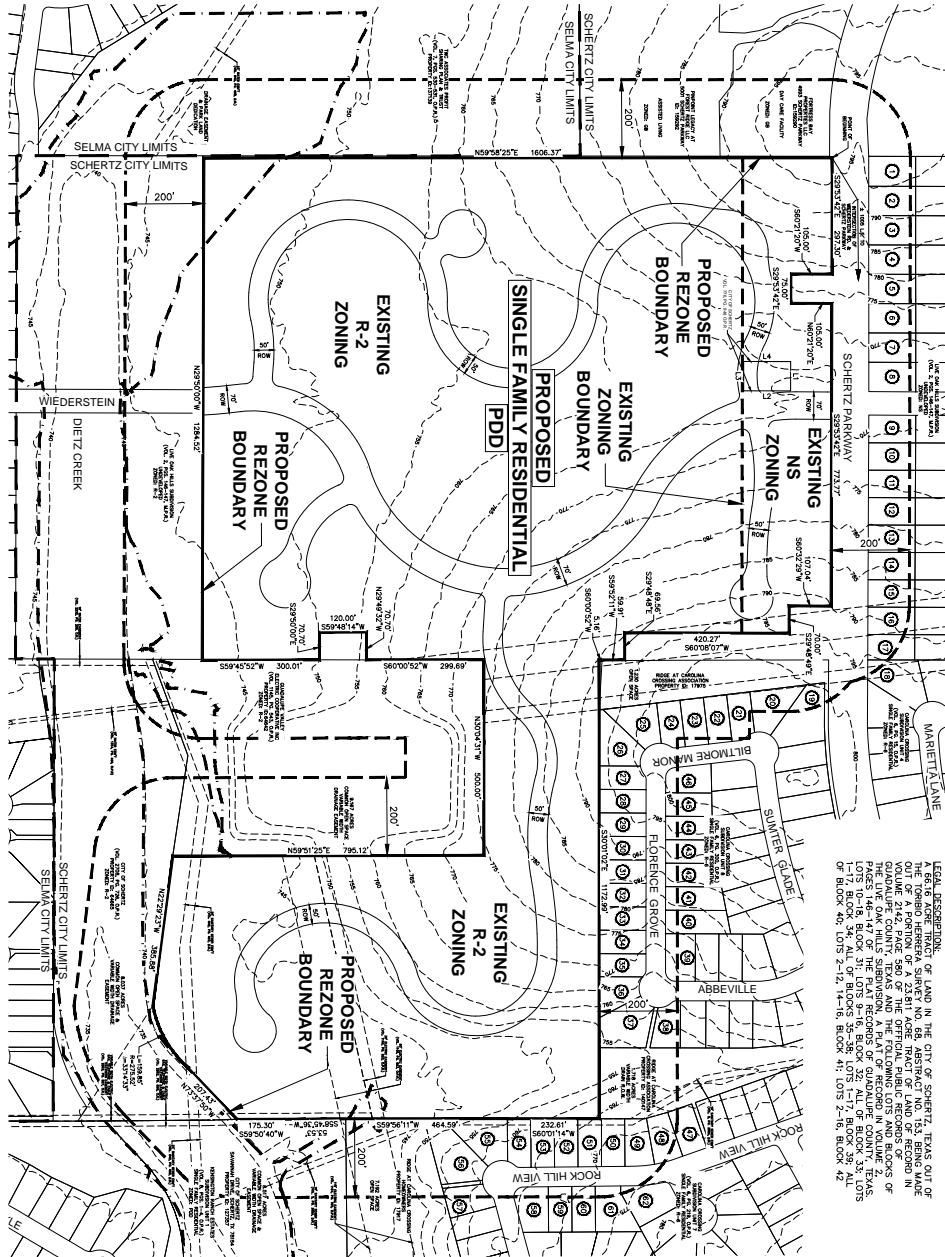
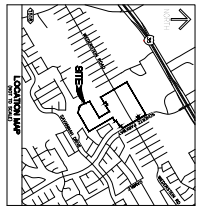
Bearings are based on Texas State Plane coordinates for the South Central Zone, 4204 (NAD83, 2011 adjustment).

This metes and bounds description of a 66.162 acre tract is for zoning and planning purposes only. This document of project number, 24313.00 and date, May 8, 2020, was prepared by Westwood Professional Services and shall not be used for conveyance nor construction purposes.



A handwritten signature in blue ink, appearing to read "Jason R. Gabriel", written over a light blue horizontal line.

File No. 1008333811 Permit Boundary Only Package Date: PDD-1.dwg

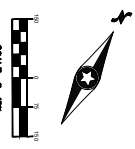


LINE TABLE		
LINE	LENGTH	BEARING
L1	75.00'	S29°53'42"E
L2	120.00'	S60°06'18"W
L3	75.00'	N29°53'42"W
L4	120.00'	N60°06'45"E

HERITAGE OAKS NEIGHBORHOOD

66.16 ACRES ~ TOTAL TRACT AREA

LEGAL DESCRIPTION:
 A 66.16 ACRE TRACT OF LAND IN THE CITY OF SCHERTZ, TEXAS, CUT OUT OF A PORTION OF A 23.811 ACRE TRACT OF LAND OF RECORD IN QUADRAULE COUNTY, TEXAS AND THE FOLLOWING LOTS AND BLOCKS OF THE LIVE OAK HILLS SUBDIVISION, A PART OF RECORD IN VOLUME 12, LOTS 10-18, BLOCK 31; LOTS 9-16, BLOCK 32; ALL OF BLOCK 33; LOTS 17 OF BLOCK 34; LOTS 1-14, BLOCK 35; LOTS 15-24, BLOCK 36; LOTS 25-34, BLOCK 37; LOTS 1-14, BLOCK 38; LOTS 15-24, BLOCK 39; LOTS 25-34, BLOCK 40.



- LEGEND**
- 200' PROPOSED BOUNDARY
 - 500' PROPOSED BOUNDARY FROM PAVEMENT CENTERLINE
 - 500' EXISTING BOUNDARY
 - PDD
 - PLANNED DEVELOPMENT DISTRICT
 - NS
 - R-2
 - SINGLE FAMILY RESIDENTIAL
 - NEIGHBORHOOD SERVICES
 - SEE SHEET PDD-21 OVERSHEET

- GENERAL NOTES**
1. THE DIMENSIONAL DIMENSIONS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT SET THE FINAL PLYING. A SURVEY IS BEING RUN TO FINAL.
 2. ALL OPEN SPACE, COMMON AREAS, GREENBELTS, LANDSCAPE, AND OTHER OPEN SPACE ARE TO BE PROVIDED BY THE OWNER'S SUCCESSORS AND/OR ASSIGNS.
 3. ACCORDING TO FLOOD INSURANCE RATE MAP, PART OF THE TRACT IS IN A 100-YEAR FLOODPLAIN.
 4. CONTOURS ARE FROM SAN ANTONIO RIVER AUTHORITY LEAD.
 5. AN ELEVATION CERTIFICATE WILL BE REQUIRED FOR ALL LOTS WITHIN 100' OF THE 100-YEAR FLOOD.
 6. UTILITY SERVICE PROVIDED BY THE FOLLOWING ENTITIES:
 WATER SERVICE - CITY OF SCHERTZ
 SEWER SERVICE - CITY OF SCHERTZ
 GAS & TELEPHONE - SPECTRUM

HERITAGE OAKS ZONING TABLE		
CONDITION	ZONING	AREA (AC.)
EXISTING	NS	5.81
EXISTING	R-2	60.35
PROPOSED	PDD	66.16

ENGINEER / APPLICANT:
 WESTWOOD PROFESSIONAL SERVICES, INC.
 1718 DRY CREEK WAY, SUITE 110
 SAN ANTONIO, TEXAS 78258
 TEL: (210) 265-8300
 FAX: (210) 265-8300

SURVEYOR:
 JOHN R. WATSON, SURVEYOR
 1000 WEST 20TH STREET, SUITE 110
 SAN ANTONIO, TEXAS 78258
 TEL: (210) 265-8300
 FAX: (210) 265-8300

OWNER / DEVELOPER:
 HERITAGE OAKS DEVELOPMENT, LLC
 1718 DRY CREEK WAY, SUITE 110
 SAN ANTONIO, TEXAS 78258
 TEL: (210) 265-8300
 FAX: (210) 265-8300

TITLE SHEET
 DATE: JANUARY 2020
 DRAWN: JAW
 CHECKED: JAW
 SHEET: PDD-1

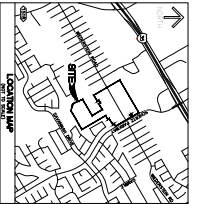
HERITAGE OAKS NEIGHBORHOOD PLANNED DEVELOPMENT DISTRICT ZONING EXHIBIT SCHERTZ, TEXAS

Westwood

Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
 (888) 937-5150 San Antonio, TX 78259
 www.westwoodps.com

Westwood Professional Services, Inc.
 TPLS FIRM NO. 10190664 - TQPE FIRM NO. F-11756

NO.	DATE	REVISIONS	BY



HERITAGE OAKS NEIGHBORHOOD

66.16 ACRES ~ TOTAL TRACT AREA

ADJACENT PROPERTY OWNERSHIP

1. LUE OAKS HILLS SUBDIVISION
2. SCHERTZ-ORLO-UNIVERSAL CITY ISD
3. SCHERTZ PARKWAY, SCHERTZ, TX 78154
4. MANCO SCHAEFER NON-EST EXEMPT TRUST FBO JANE SCHAEFER
5. SCHERTZ PARKWAY, SCHERTZ, TX 78154
6. MANCO SCHAEFER NON-EST EXEMPT TRUST FBO JANE SCHAEFER
7. SCHERTZ PARKWAY, SCHERTZ, TX 78154
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9. SCHERTZ PARKWAY, SCHERTZ, TX 78154
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13. SCHERTZ PARKWAY, SCHERTZ, TX 78154
14. SCHERTZ PARKWAY, SCHERTZ, TX 78154
15. SCHERTZ PARKWAY, SCHERTZ, TX 78154
16. SCHERTZ PARKWAY, SCHERTZ, TX 78154
17. SCHERTZ PARKWAY, SCHERTZ, TX 78154

18. CROQUINA, CROSSING SUBDIVISION, UNIT 4
19. GUNN R. & SANDRA K. BREITZ
20. 3740 MARBETTA LANE, SCHERTZ, TX 78154
21. PROPERTY ID: 17878
22. CROQUINA, CROSSING SUBDIVISION, UNIT 6
23. OSOAR & AMBERLY PAUREZ
24. 3800 SWEET BRASS SCHERTZ, TX 78154
25. MARK D. & SANDRA MASON
26. PROPERTY ID: 17880
27. TRAVIS G. & TAMM MCKINSTER ROBERTS
28. PROPERTY ID: 17881
29. 3412 BILNORE MANOR, SCHERTZ, TX 78154
30. 3408 BILNORE MANOR, SCHERTZ, TX 78154
31. PROPERTY ID: 17882
32. 3412 BILNORE MANOR, A. ANDERSON
33. 3408 BILNORE MANOR, SCHERTZ, TX 78154
34. JEFF R. & MARGI W. P. NONGMAI
35. 3416 BILNORE MANOR, SCHERTZ, TX 78154
36. NORA & MARK HEDALGO
37. 3420 BILNORE MANOR, SCHERTZ, TX 78154
38. MARIE & PAUL J. SAINT HILL
39. PROPERTY ID: 17885
40. STEVE A. & CATHY CHANDLER
41. PROPERTY ID: 17887
42. 3712 FLORENCE GROVE, SCHERTZ, TX 78154
43. 3712 FLORENCE GROVE, SCHERTZ, TX 78154
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60. 3712 FLORENCE GROVE, SCHERTZ, TX 78154
61. 3712 FLORENCE GROVE, SCHERTZ, TX 78154

32. MICHELLE L. & ERINA R. VEERY
33. 3716 FLORENCE GROVE, SCHERTZ, TX 78154
34. YVONIA VANESSA & PAUL BRADDO BRADDO
35. 3716 FLORENCE GROVE, SCHERTZ, TX 78154
36. GEORGE SULLOBERGROVE, SCHERTZ, TX 78154
37. PROPERTY ID: 17884
38. JIM E. & KESSALONG SONG
39. 3700 FLORENCE GROVE, SCHERTZ, TX 78154
40. 3700 FLORENCE GROVE, SCHERTZ, TX 78154
41. 3700 FLORENCE GROVE, SCHERTZ, TX 78154
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47. DOROTHY L. HAVITT & TROY H. POCHER
48. 3443 ROCK HILL, NEW SCHERTZ, TX 78154
49. SALLY & JOHN D. BOULS
50. 3448 ROCK HILL, NEW SCHERTZ, TX 78154
51. JAMES P. WURRAY JR.
52. 3453 ROCK HILL, NEW SCHERTZ, TX 78154
53. GERALD A. PETERSON
54. PROPERTY ID: 17912
55. ROBERT R. & MALDEN A. GONZALEZ
56. PROPERTY ID: 17911
57. 3472 ROCK HILL, NEW SCHERTZ, TX 78154
58. 3472 ROCK HILL, NEW SCHERTZ, TX 78154
59. PROPERTY ID: 17910
60. 3448 ROCK HILL, NEW SCHERTZ, TX 78154
61. UNKNOWN
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81. 3448 ROCK HILL, NEW SCHERTZ, TX 78154

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OWNER / DEVELOPER:
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NO.	DATE	REVISIONS	BY

Westwood
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www.westwoodps.com
 Westwood Professional Services, Inc. Member P.E.B. No. 11756
 TSPS License No. 10196564 - TSPS Form No. F-11756

HERITAGE OAKS NEIGHBORHOOD PLANNED DEVELOPMENT DISTRICT ZONING EXHIBIT SCHERTZ, TEXAS

DATE:	DATE:
BY:	BY:
APPROVED:	APPROVED:
DATE:	DATE:
BY:	BY:
APPROVED:	APPROVED:
DATE:	DATE:
BY:	BY:



PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS NEIGHBORHOOD
SCHERTZ, TEXAS

MAY 5, 2021

PREPARED BY:

Westwood

Westwood

PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS NEIGHBORHOOD

Prepared For:

Presidio Group, LLC
18618 Tuscany Stone
San Antonio, TX 78258
(210) 826-9000

Prepared By:

Westwood Professional Services
1718 Dry Creek Way, Suite 110
San Antonio, TX 78259
(210) 265-8300

Project Number: R0024313.00

Date: May 5, 2021

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FIGURE 1.0: EXCERPT FROM LIVE OAK HILLS SUBDIVISION PLAT

FIGURE 2.0: COVING PROPOSED W/ HERITAGE OAKS NEIGHBORHOOD

FIGURE 3.0: HERITAGE OAKS NEIGHBORHOOD BLOCK LENGTHS

FIGURE 4.0: HERITAGE OAKS NEIGHBORHOOD CUL-DE-SAC LENGTHS

FIGURE 5.0: PROPOSED WILDENSTEIN ROAD, A RESIDENTIAL COLLECTOR

EXHIBITS

EXHIBIT 1: METES AND BOUNDS

EXHIBIT 2: CONCEPTUAL COVING PLAN

EXHIBIT 3: DRIVEWAY DETAIL

EXHIBIT 4: WIEDERSTEIN AND WEST DIETZ CREEK TRAIL PLAN

EXHIBIT 5: ZONING EXHIBIT

HERITAGE OAKS NEIGHBORHOOD

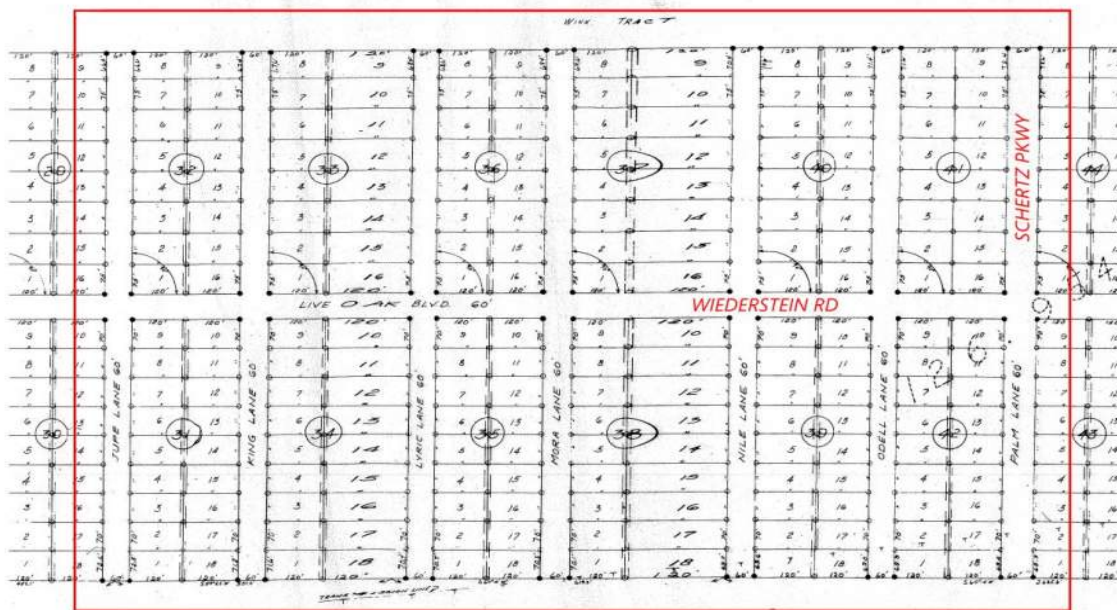
A PLANNED DEVELOPMENT DISTRICT

SCHERTZ, TEXAS

I. PROPERTY

The proposed 65.97 acre Heritage Oaks Neighborhood (the “Heritage Oaks Neighborhood”) is located 0.5 mile to the southeast of IH 35 off Schertz Parkway within the corporate limits of the City of Schertz. Approximately 45.76 acres lies within the Live Oak Hills Subdivision, a Plat of Record in Volume 2, Pages 146-147 of the Map and Plat Records of Guadalupe County, Texas recorded on May 31, 1963. Refer to Exhibit “1” for the Metes & Bounds of the proposed tract.

Figure 1: Excerpt from Live Oak Hills Subdivision Plat



Source: Live Oak Hills Subdivision; Vol. 2, Pg. 146-147, M.P.R.

Wiederstein Road, which traverses Heritage Oaks Neighborhood east to west from Schertz Parkway, is a Residential Collector per the City of Schertz Master Thoroughfare Plan Update (2017). The posted speed limit is 20 mph and the pavement is presently in poor condition, 20-21 feet in width.

An approximate 5.5 acres adjacent to Schertz Parkway is zoned Neighborhood Services (NS) with the remainder of the tract being zoned Single-Family Residential District-2 (R-2). To the north lies an undeveloped tract within the corporate limits of the City of Selma and Legacy at Forest Ridge which is zoned General Business (GB). Dietz Creek runs along the western property line. And open space within the Kensington Ranch Estates, a PDD, lies at the southern corner of the

tract with Carolina Crossing, zoned Single-Family Residential District-6 (R-6), on the south/southeast property line.

An approximate 200 acres upstream of Schertz Parkway discharges onto the tract directly north of the Schertz Parkway/Wiederstein Road intersection. No defined channel exists with runoff sheet flowing across the property to Dietz Creek. Existing contours indicate an approximate 60 foot change in elevation from the most northern corner of the tract to the most southern corner of the tract with grades of 5-6% adjacent to Schertz Parkway and the Carolina Crossing Subdivision to the east and grades of approximately 1% adjacent to Dietz Creek to the west. Per the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), No. 48187C0210F, Effective Date November 2, 2007, Dietz Creek is located within Zone "AE" (Shaded) which is identified by FEMA as a special flood hazard area subject to inundation by the 1% annual chance flood (100-year flood) with Base Flood Elevations (BFEs) determined.

II. COVING PLAN

In lieu of the conventional urban grid, coving is proposed with Heritage Oaks Neighborhood. A method of urban planning, coving was pioneered by Minneapolis-based urban designer Rick Harrison. Characterized by winding roads and meandering setbacks, coving results in less impervious area, more open space, tree preservation and a reduction in costs attributed to the non-uniform lots, placement of homes and reduction in pavement.

Figure 2: Coving Proposed w/ Heritage Oaks Neighborhood



Source: Rick Harrison Design Studio & Neighborhood Innovations, LLC

Rather than clearing the site and proceeding with 70'x120' lot minimums required by the Single-Family Residential District-2 (R-2) zoning, the intention with Heritage Oaks Neighborhood is to maximize the density while preserving trees. To this end, both realignment of and fronting lots off Wiederstein Road is proposed. The realignment and curvature of Wiederstein Road will serve to reduce speeds, and coupled with the meandering building setbacks, will create a corridor more pleasing than the typical straightaway with parallel fencing at the right-of-way limits. With regards to safety, "T" turnarounds for the driveways off of Wiederstein Road are proposed with the realignment. Rather than reversing onto the road, the turn arounds will allow cars to enter Wiederstein Road in drive. Refer to **Exhibit "2"** for the proposed Heritage Oaks Neighborhood Conceptual Coving Plan.

III. AFFECTED UDC ARTICLES/SECTIONS

A Planned Development District (PDD) allows for flexibility in planning, design and development standards while complying with the intent of the Unified Development Code (UDC). The article and section amendments proposed with the PDD for Heritage Oaks Neighborhood are as follows:

A. ARTICLE 5. – ZONING DISTRICTS

Sec. 21.5.7. – Dimensional and Development Standards

The tract is presently zoned Single-Family Residential District-2 (R-2) except for an approximate 5.5 acres adjacent to Schertz Parkway that is zoned Neighborhood Services (NS). Proposed with the PDD for Heritage Oaks Neighborhood is a base zoning Single-Family Residential District-1 (R-1). Lots are to be an absolute minimum of 6,000 square feet, variable width, 120 foot minimum depth (at the midplane of the lot) with minimum front and side yard setbacks of 20 foot and 5 foot, respectively. No permanent structures or heating, ventilation, and air conditioning equipment will be allowed in side yards less than 10 feet. Side yard fencing between homes shall be limited to no more than 20 feet from the rear corner of the home. The average lot size in the Heritage Oaks Neighborhood shall be an absolute minimum of 8,400 square feet. With the current layout, the average lot size for the tract is 9,020 square feet, while the median lot size is 8,432 square feet. The maximum impervious cover is to be 50 percent. Dimensional requirements for the existing zoning districts (residential/non-residential) are provided with **Tables 1 & 2**, respectively.

Table 1 – Existing Dimensional Requirements, Residential Zoning Districts

Zoning District	Minimum Lot Size/Dimensions			Minimum Yard Setback				Misc	
	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Max Height Ft	Max Imperv Cover
Single-Family Residential District-2 (R-2)	8,400	70	120	25	10	20	2	35	50%

Table 2 – Existing Dimensional Requirements, Non-Residential Zoning Districts

Zoning District	Minimum Lot Size/Dimensions			Minimum Yard Setback (Ft)					Misc	
	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Rear Adj. Non-Res Zone	Rear Adj. Res Zone	Side Adj. Non-Res Zone	Side Adj. Res Zone	Max Height Ft	Max Imperv Cover
Neighborhood Services (NS)	10,000	100	100	25	0	25	0	25	35	80%

Minimum lot size and dimensions, maximum density, as well as maximum impervious cover proposed with the Heritage Oaks Neighborhood, a Planned Development District (PDD) with a base zoning Single-Family Residential District-1 (R-1) are provided with **Table 3**.

Table 3 – Heritage Oaks Neighborhood, a Planned Development District (PDD)

Zoning District	Minimum Lot Size/Dimensions			Minimum Yard Setback				Maximum Density		Misc	
	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Lots	Lots Per Acre	Max Height Ft	Max Imperv Cover
Planned Development District (PDD)	6,000	50	120**	20	5*	20	2	215	3.25	35	50%

*Rectangular shaped lots shall have minimum 6-foot side yard setback.

* Corner lot shall have minimum 10-foot side yard setback from street right-of-way.

**Minimum depth shall be taken at the midplane of the lot

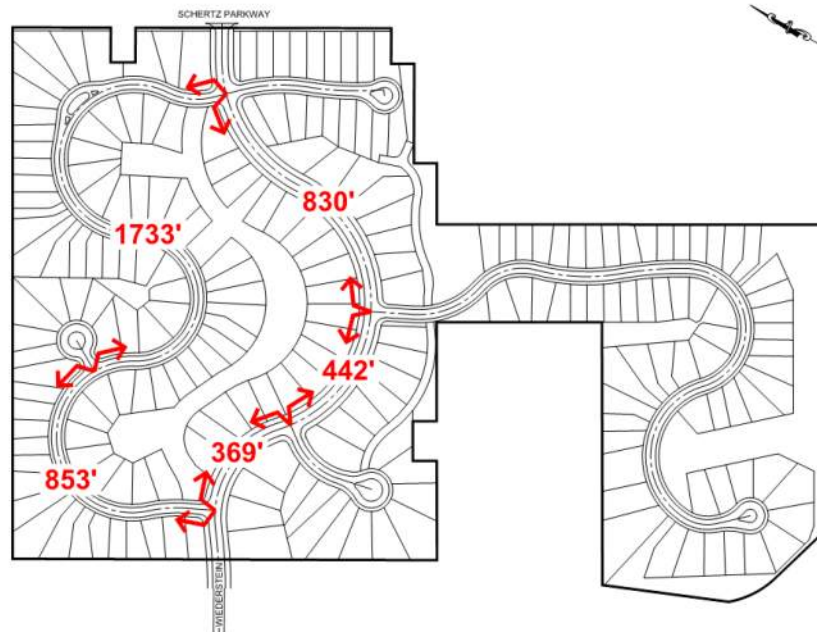
B. ARTICLE 9 – SITE DESIGN STANDARDS

Sec. 21.9.2 – Blocks

Coving allows for the preservation of trees through the reduction in pavement, larger lots and more green space. The length, width and shape of the blocks are dictated by the winding streets, non-uniform lots and variable setbacks.

D. A maximum block length of one thousand seven hundred and thirty-three feet (1,733') is proposed with the Heritage Oaks Neighborhood.

Figure 3: Heritage Oaks Neighborhood Block Lengths



Sec. 21.9.3. – Lots

Large non-uniform lots with variable frontage and setbacks are proposed with Heritage Oaks Neighborhood. Lot sizes and dimensions, as well as setbacks, shall be shown on all plats and shall conform to the minimum requirements recognized in the Dimension and Development Standards of this PDD. In addition, the following modified requirements to UDC Sec. 21.9.3 will apply:

H. Residential lots may front Wiederstein Road, a residential collector. Driveways for all residential lots fronting Wiederstein Road, without alley access, will have a “T” turnaround eliminating the need for vehicles to back onto the road. Dimensional requirements for proposed “T” turnarounds are provided with **Exhibit “3”**.

I. Lot lines are not required to be perpendicular to the local streets within the Heritage Oaks Neighborhood. The larger non-uniform lots, characteristic of a coving subdivision, provide more open space and tree preservation.

Sec. 21.9.7. – Landscaping

E.3.a Every single family dwelling shall have a minimum of three shade trees with at least one in the front yard and one in the back yard. Each single family dwelling shall have a minimum of fifteen inches (15”) DBH of shade trees on the entire lot, including existing trees.

Sec. 21.9.9. – Tree Preservation and Mitigation

Trees with a 24" DBH (diameter at breast height-4 ½ feet above existing ground level) are designated "**Heritage Trees**".

Trees with an 8" DBH (diameter at breast height-4 ½ feet above existing ground level) are designated "**Protected Trees**".

C. Tree Preservation

1. Single Family Residential Development:

- a. Heritage Trees. A minimum of fifty percent (50%) of the total Heritage Trees in the Heritage Oaks Neighborhood must be preserved.
 - i. Exemptions. Heritage Trees located within proposed right-of-way, utility easements, and drainage right-of-way/easements shall be exempt from the 50% tree save requirement.
- b. Protected Trees. No Protected Trees in the Heritage Oaks Neighborhood must be preserved, however any preserved shall be credited toward the minimum builder requirement of 15" DBH.

D. Tree Mitigation. There are no tree mitigation requirements for Protected and Heritage Class Trees in the Heritage Oaks Neighborhood.

Sec. 21.9.10. – Park and Open Space Dedication Requirements

Park and Open Space Dedications requirements and fees will not apply to the Heritage Oaks Neighborhood. Open space within the Heritage Oaks Neighborhood is to be owned and maintained by the Homeowners Association (HOA). A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek as shown on **Exhibit "4"** (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department. The trail shall be construction by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. Additionally, the developer shall transplant trees from the Neighborhood to the West Dietz Creek linear park and trail area.

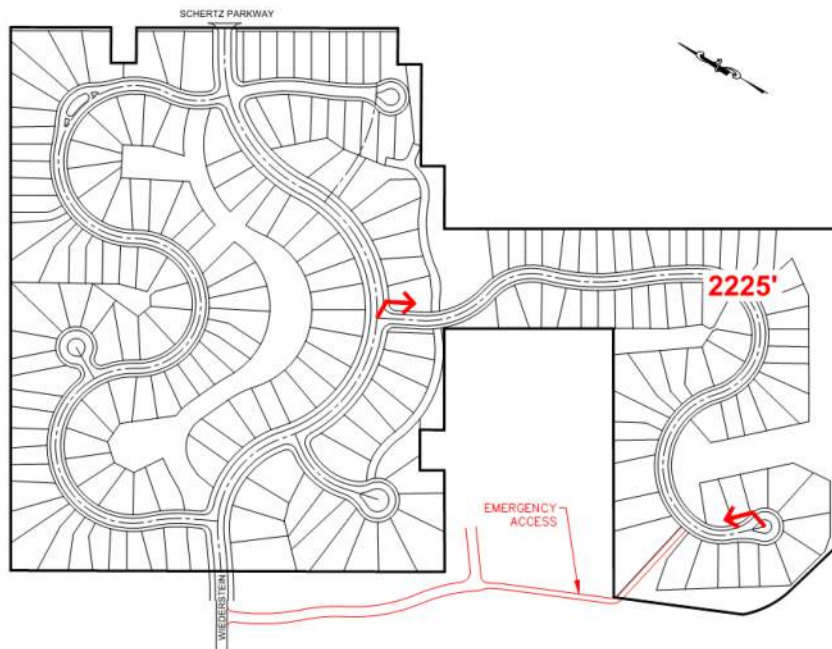
C. ARTICLE 14 – TRANSPORTATION

Sec. 21.14.1. – Streets

E. Dead-End Streets and Cul-De-Sacs

2. Cul-de-sac streets shall not exceed 500 feet in length and shall have a turnaround of not less than 120 feet in diameter of ROW in single-family residential areas. This provision may be modified upon approval of the Fire Chief and City Engineer. The length of the cul-de-sac south of Wiederstein Road in excess of 2,225 feet shall be allowed and is attributed to physical barriers, property ownership and adjacent existing subdivisions. A variable width emergency access drive is being provided back to Wiederstein Road given the length of the cul-de-sac.

Figure 4: Heritage Oaks Neighborhood Cul-De-Sac Lengths



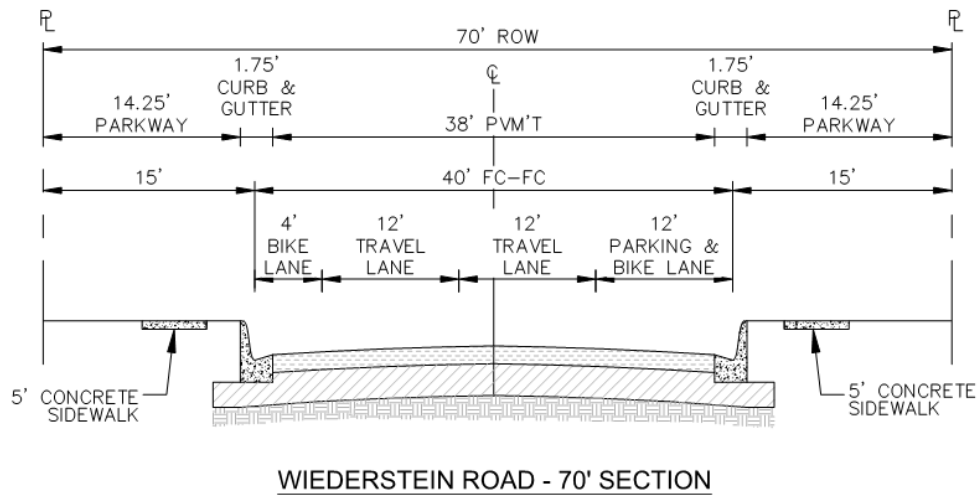
F. Alignment

Local streets within the Heritage Oaks Neighborhood will adhere to the minimum curvature allowed by the city, however the collector street running through the tract will provide a minimum radius of 300'. Each street section will utilize reverse curves rather than the required tangent length of 150'.

P. Street Improvements

1. The Wiederstein Road street section running through the Heritage Oaks Neighborhood has been designated as a 70' ROW by the City of Schertz Master Thoroughfare Plan. This collector street section will consist of a 38' pavement section, curb and gutter, with 5' sidewalks on each side of the street. The 40' street section from face of curb to face of curb will consist of (2) 12' travel lanes, (1) 12' parking and bike lane, and (1) 4' bike lane, or as approved by the Parks, Department, Engineering Department, and Planning Division.

Figure 5: Proposed Wiederstein Road, a Residential Collector



Sec. 21.14.4 - Alleys

D. Dead End Alleys.

Although alleys are not designed for emergency access, on rare occasions they may be used. Alleys with only one access point will be designed to provide a “60-foot Y” turnaround at the dead end as defined by the International Fire Code, or other alternative accepted by the City of Schertz Fire Department.

H. PDD Zoning Districts.

Alleys will be provide rear ingress/egress on the south side of Wiederstein Road for certain lots within Blocks 3 & 4 as seen in **Exhibit “2”** (Conceptual Coving Plan). Alleys shall be allowed on the north side of Wiederstein, if approved by the Engineering and Planning Departments, as part of the master development plan process. The alleys will consist of a twenty foot (20’) asphalt paved section with header curbs bordering both sides.

Sec. 21.14.5 - Driveways

D. “T-Turnaround” Driveways

Lots that front Wiederstein Road, and are not accessed by alleys, are required to have T-Turnaround Driveways, as shown on Figure 5. The turnarounds will allow cars to enter Wiederstein Road in drive rather than reversing onto the road. Dimensional requirements for proposed “T” turnarounds are provided with Exhibit “3”.

Sec. 21.14.6 – Sidewalks and Hike and Bike Trails

H. Hike and Bike Trails.

A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek, and continue along West Dietz Creek as shown in Exhibit “4” (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department. The hike and bike trail shall be constructed by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. The trail shall be 10 foot (10’) in width and paved with concrete, or alternative material as approved by the Parks Department.

IV. PLANNED DEVELOPMENT DISTRICT (PDD) AMENDMENTS

Any significant future changes from the established Dimensional Requirements for the approved PDD, which alter the concept of the PDD or increase the density, will cause the plan to be resubmitted for approval by the Planning & Zoning Commission and the City Council, including a new public hearing with applicable fees. Minor changes which do not change the concept or intent of the development shall be approved or denied administratively.

EXHIBITS

EXHIBIT 1
METES AND BOUNDS

METES AND BOUNDS DESCRIPTION of a 65.9707 acre tract of land situated in the Toribio Herrera Survey No. 68, Abstract No. 153, City of Schertz, Guadalupe County, Texas and being all of the following lands:

45.7603 acres being Lots 10-18, Block 31, Lots 9-16, Block 32, Lots 1-17, Block 34, all of Blocks 35-38, Lots 2-17, Block 39, all of Block 40, Lots 2-8, and the remaining portions of 9-12 and 14-16, Block 41, and Lots 2-9, and the remaining portions of 10-16, Block 42 and the proposed vacated right-of-ways platted as King Lane, Lyric Lane, Mora Lane, Nile Lane, Odell Lane and that 1,607 foot section of Live Oak Blvd contained herein and as shown by plat of Live Oak Hills Subdivision recorded in Volume 2, Pages 146-147, Guadalupe County Plat Records,

AND, 20.210 acres out of the remaining portion of a 23.811 acre tract described by warranty deed recorded in Volume 2142, Page 582, Guadalupe County Official Public Records;

In all, said 65.9707 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found on the southwest line of Schertz Parkway (a 86' width right of way) recorded in Volume 5, Page 73B, Guadalupe County Plat Records at the common southeast corner of Lot 4, Block 2, as shown by plat of Legacy at Forest Ridge Subdivision recorded in Volume 8, Pages 428, said Plat Records and the north corner of the remaining portion of said Lot 9, Block 41 and the north corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, 297.30 feet to a ½" iron rod set (WESTWOOD),

THENCE, departing the southwest line of Schertz Pkwy and circumnavigating Lot 13, Block 41 of said Live Oak Hills, the following courses:

South 60° 21' 20" West, 105.00 feet to a ½" iron rod set (WESTWOOD),
South 29° 53' 42" East, 75.00 feet a ½" iron rod set (WESTWOOD), and
North 60° 21' 20" East, 105.00 feet a ½" iron rod set (WESTWOOD) returning to the southwest line of said Schertz Pkwy;

THENCE, South 29° 53' 42" West, at 223.81 feet pass the north corner of the vacating portion of said Live Oak Blvd., at 283.81 feet pass the east corner of the same, in all, a total of 773.77 feet to a ½" iron rod set (WESTWOOD) at the north corner of the remaining portion of Lot 17, Block 42 of said Live Oak Hills, for the southeast corner of the herein and described tract of land;

THENCE, departing southwest line of Schertz Pkwy and across said Live Oak Hills and along the north and west lines of said Lot 17, South 60° 32' 29" West, 107.04 feet to a ½" iron rod set

Westwood

(WESTWOOD), South 29° 48' 49" West, 70.00 feet to a ½" iron rod found (CEC) at the north corner of Lot 1, Block 42;

THENCE, continuing across said Live Oak Hills, South 60° 08' 07" West, at 120.02 feet passing a ½" iron rod (CEC), at 180.02 feet pass a ½" iron rod found (CEC), in all, a total distance of 420.27 feet to a ½" iron rod set (WESTWOOD) at the west corner of Lot 1, Block 39 of said Live Oak Hills and South 29° 48' 49" East, 69.78 feet to a ½" iron rod found (DAM) on the common northwest line of Carolina Crossing Subdivision Unit 8 recorded in Volume 6, Page 219, said Plat Records and the south line of said Live Oak Hills for a corner of the herein described tract of land;

THENCE, South 60° 04' 52" West, 59.91 feet to a ½" iron rod found and South 60° 00' 52" West, 5.16 feet to a ½" iron rod set (WESTWOOD) at the common northwest corner of said Carolina Crossing Unit 8, the north corner of said 23.811 acre tract and a reentrant corner of the herein described tract of land;

THENCE, along the southwest line of said Unit 8, the northeast line of said 23.811 acre tract, South 30° 01' 02" East, 1,172.99 feet to a ½" iron rod found (CEC) on the northwest line of Carolina Crossing Subdivision Unit 7 recorded in Volume 6, Page 219, said Plat Records at the common south corner of said Carolina Crossing Unit 8 and the southeast corner of said 23.811 acre tract and the herein described tract of land;

THENCE, along the common northwest line of said Carolina Crossing Unit 7, the southeast line of said 23.811 acre tract, the following courses:

South 60° 01' 14" West, 232.61 feet to a ½" iron rod set (WESTWOOD),
South 59° 56' 11" West, 464.59 feet to ½" iron rod set (WESTWOOD), and
South 58° 45' 36" West, 53.53 feet to ½" iron rod found (CEC) for the common west corner of said Carolina Crossing Unit 7 and the northeast corner of Unit 1 P.U.D., Kensington Ranch Estates Subdivision recorded in Volume 8, Page 2 Guadalupe County Official Public Records, for a southeast corner of the herein described tract,

THENCE, continuing with the southeast line of said 23.811 acre tract and along the common northwest line said Kensington Ranch Estates, South 59° 50' 40" West, 175.30 feet to ½" iron rod set (WESTWOOD) at the east corner of 1.192 acre tract conveyed unto the City of Schertz by warranty deed recorded in Volume 2742, Page 269, said Official Public Records, for the south corner of the herein described tract of land;

THENCE, along the northeast line said 1.192 acre tract, and across the 23.811 acre tract, North 73° 37' 50" West, 207.43 feet to a ½" iron rod found at the beginning of a non-tangent curve to the right;

THENCE, along the arc of said curve with an arc length of 159.85 feet, a radius 275.52 feet, a delta of 33° 14' 33", and a chord bearing and distance of South 57° 00' 34" East, 157.62 feet to a ½" iron rod set at common north corner of said 1.192 acre tract and an east corner of those City of Schertz tracts recorded in Volume 2708, Page 726, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, North 22° 29' 23" West, 385.88 feet to ½" iron rod set (WESTWOOD) at the south corner of a 9.167 acre tract conveyed unto Guadalupe Valley Electric Cooperative recorded in

Westwood

Volume 1145, Page 543, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, along the common lines of said 9.167 acre tract and said 23.811 acre tract, North 59° 51' 25" East, 795.12 feet to a ½" iron rod set (WESTWOOD), and North 30° 04' 31" West, 500.00 feet to a ½" iron rod found on the southeast line of said Live Oak Hills coincident with the common northeast corner of said 9.167 acre tract for a reentrant corner of the herein described tract of land;

THENCE, along the northwest line of said 9.167 acre tract, South 60° 00' 52" West, 299.69 feet to a ½" iron rod found (CEC), at the east corner of Lot 18, Block 34 of said Live Oak Hills;

THENCE, circumnavigating said Lot 18, of same Block, the following courses:

North 29° 49' 32" West, 71.80 feet to a ½" iron rod set (WESTWOOD),
South 59° 57' 05" West, 120.00 feet to a ½" iron rod set (WESTWOOD), and
South 30° 14' 08" East, 72.11 feet to a ½" iron rod set (WESTWOOD) returning to the northwest line of said 9.167 acre tract for a corner of the herein described tract of land;

THENCE, South 59° 45' 52" West, 300.51 feet to a ½" iron rod set (WESTWOOD) on the east line of said City of Schertz tract for a west corner of the herein described tract of land;

THENCE, across said Block 31, North 29° 50' 00" West, 633.07 feet passing a ½" iron rod found, in all, for a total distance of 1284.52 feet to a ½" iron rod set (WESTWOOD) on the southeast line of Lot 1, Block 1, Chelsea Mixed-Use Subdivision recorded in Volume 7, Pages 530-531, said Plat Records for the west corner of the herein described tract of land;

THENCE, North 59° 58' 25" East, at 961.45 feet pass a ½" iron rod at the southwest corner of Lot 6, Block 2, Legacy at Forest Ridge recorded in Volume 8, Page 428, said Plat Records, in all, a total of 1,606.37 feet to the **POINT OF BEGINNING**.

Containing in all, 2,873,682 square feet, or 65.9707 acres of land, more or less.

The above description and area specifically excludes Lot 1, Block 41, said Live Oak Hills Subdivision, said Lot 1 being more particularly described as follows:

COMMENCING at a ½" iron rod found on the southwest line of said Schertz Parkway at the common southeast corner of said Lot 4, Block 2, Legacy at Forest Ridge Subdivision, and the north corner of said remaining portion of said Lot 9, Block 41;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, at 297.30 feet passing the north corner of said Lot 13, Block 41, at 372.30 feet the east corner of the same, and continuing in all a total distance of 596.11 feet to the intersection of the southwest line of Schertz Pkwy and the northwest line of said Live Oak Blvd.;

THENCE, along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 105.00 feet to the east corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, continuing along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 120.00 feet to the intersection of the northwest line of said Live Oak Blvd. and the northeast

Westwood

line of Odell Lane, a 60-foot right-of-way, proposed to be vacated, as shown by plat of said Live Oak Hills Subdivision;

THENCE, along the northeast line of said Odell Lane, North 29° 53' 42" West, 75.00 feet to the west corner of the herein described tract of land;

THENCE, departing the right-of-way of said Odell Lane, North 60° 08' 45" East, 120.00 feet to the north corner of the herein described tract of land;

THENCE, South 29° 53' 42" East, 75.00 feet to the **POINT OF BEGINNING**.

Containing in all, 9,005 square feet, or 0.2067 acres of land, more or less.

Bearings are based on Texas State Plane coordinates for the South Central Zone, 4204 (NAD83, 2011 adjustment).

This metes and bounds description of a 65.9707 acre tract is for zoning and planning purposes only. This document of project number, 24313.00 and date, May 8, 2020, was prepared by Westwood Professional Services and shall not be used for conveyance nor construction purposes. – REVISED APRIL 29, 2021 due to updated title information excluding Lot 1, Block 39 from Subject Parcel.



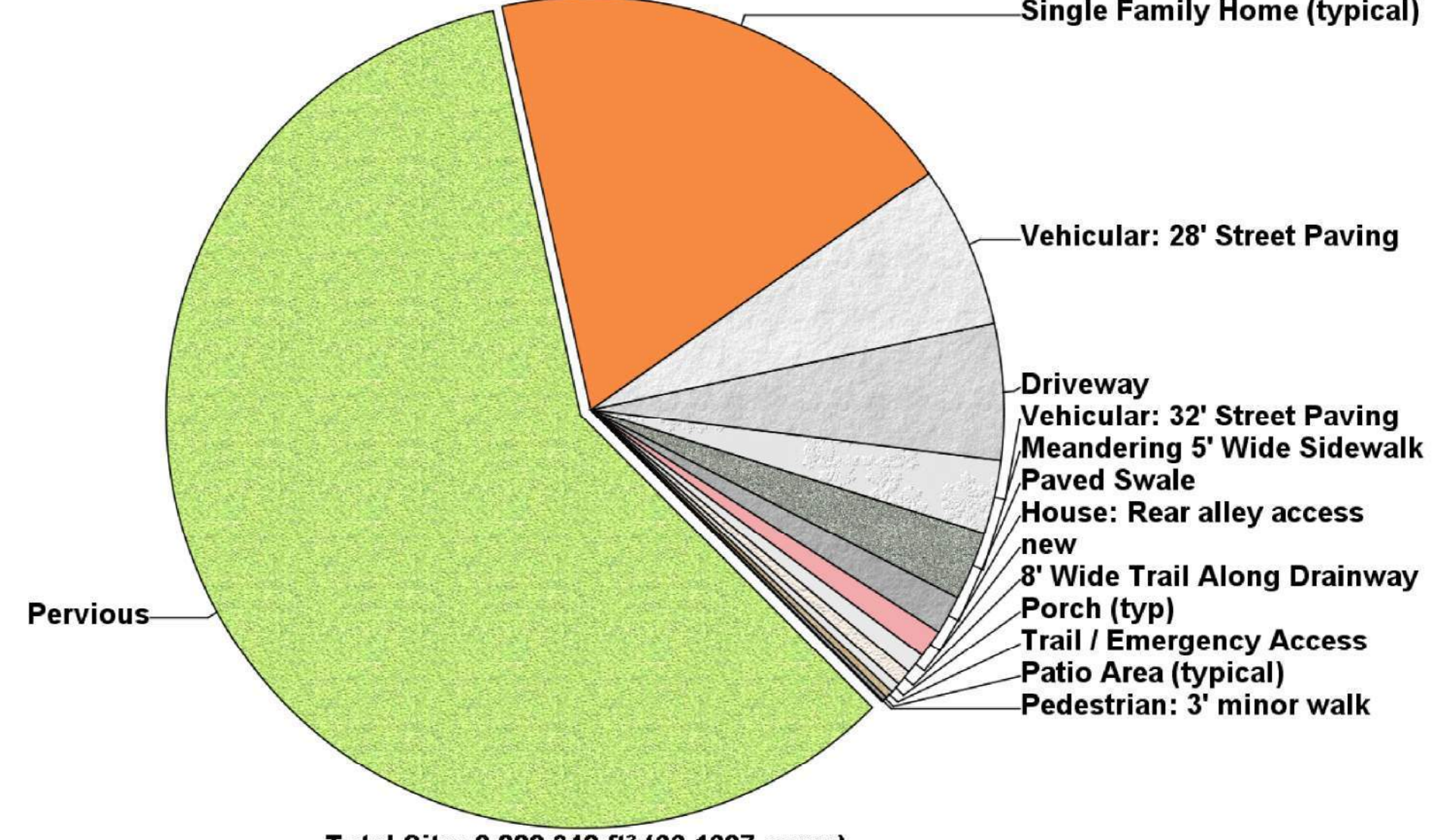
A handwritten signature in blue ink, appearing to read "Jason R. Gabriel".

EXHIBIT 2
CONCEPTUAL COVING PLAN

1" = 80 feet



Environmental Density - Man-made Impacts (40.9%)



Heritage Oaks Neighborhood Of Schertz, Texas

By: AWE Development Co., LLC.
14502 Brook Hollow Boulevard
San Antonio, Texas 78232

Westwood
Multi-Disciplined
Surveying & Engineering

LandMentor Rick Harrison Site Design Studio

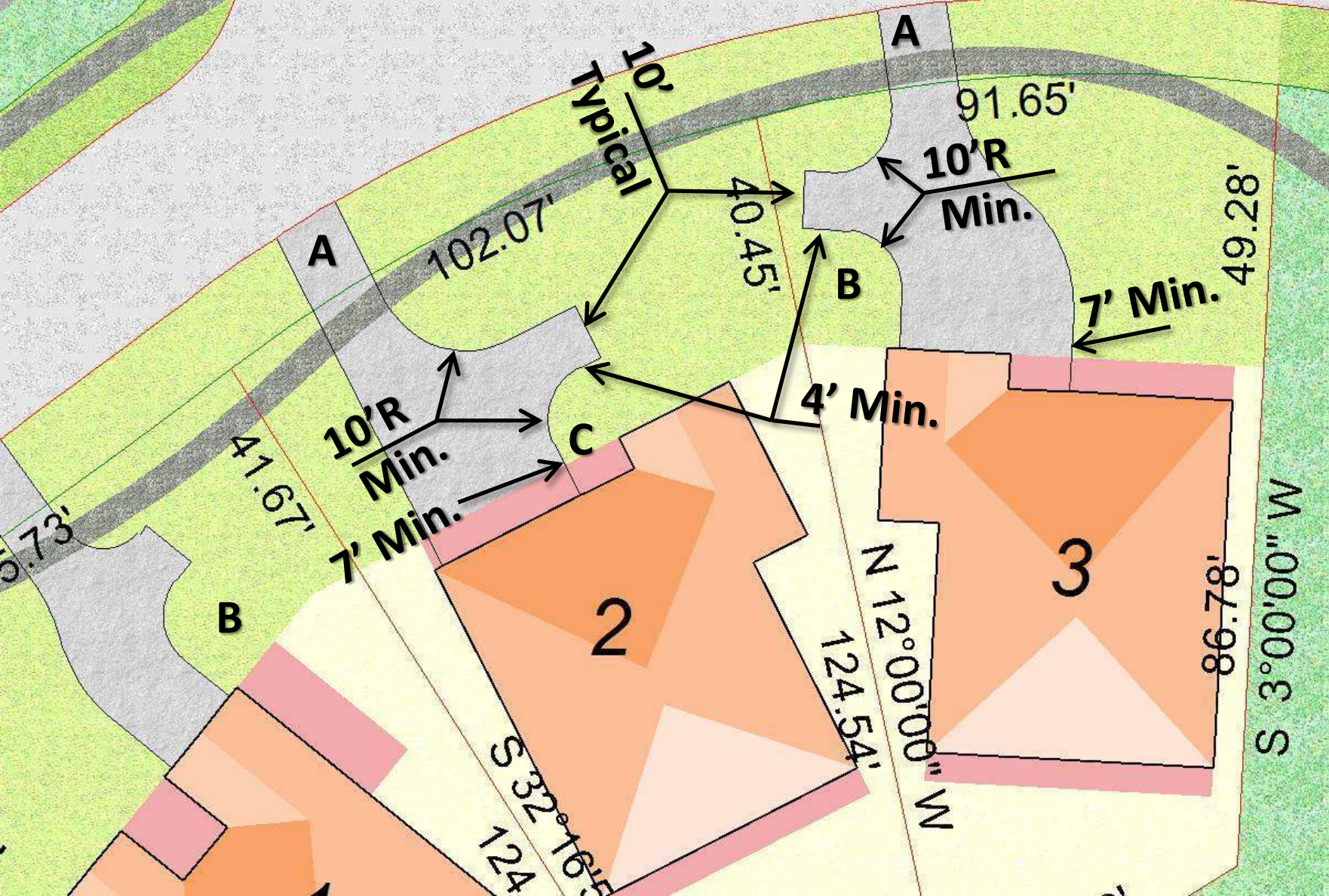
Information:

Total Site Area:	66.162 Acres
Total Number of Lots:	207
Lots 60' Wide @ front Setback (10,866.6 sq.ft. average lot size)	50
Lots 50' Wide @ front Setback (8,432.2 sq.ft. average lot size)	157
Linear feet of Street	7,735.9'
Linear feet of Alley	1,163.3'
Total Area Meandering Front Yard (Front Setback to Curb)	13.7008 Acres
Park/Commons	12.163 Acres

Notes:
The homes shown are for graphical purposes only. They show the opportunities for builders to take advantage of wider pads where they allow expansion in front or rear of the lots and allow homeowners to provide for future expansion.
For more complete information in video format see www.rhsdplanning.com/uploads/Schertz.mp4

Total Site: 2,882,048 ft ² (66.1627 acres)			
■ Pedestrian: 3' minor walk...	0.0%	1,300 ft ²	(0.0298 acres)
■ Trail / Emergency Access...	0.3%	7,651 ft ²	(0.1756 acres)
■ 8' Wide Trail Along Drainway	0.6%	16,988 ft ²	(0.3900 acres)
■ House: Rear alley access...	1.1%	31,582 ft ²	(0.7250 acres)
■ Meandering 5' Wide Sidewalk	2.7%	77,887 ft ²	(1.7880 acres)
■ Driveway	5.3%	153,918 ft ²	(3.5335 acres)
■ Single Family Home (typical)	18.7%	539,035 ft ²	(12.3745 acres)
■ Vehicular: 32' Street Paving	2.9%	82,513 ft ²	(1.8942 acres)
■ Vehicular: 28' Street Paving	6.3%	182,292 ft ²	(4.1848 acres)
■ Pervious	59.1%	1,703,376 ft ²	(39.1041 acres)
■ Patio Area (typical)	0.2%	5,856 ft ²	(0.1344 acres)
■ Porch (typ)	0.4%	12,552 ft ²	(0.2882 acres)
■ new	0.8%	22,974 ft ²	(0.5274 acres)
■ Paved Swale	1.5%	44,124 ft ²	(1.0129 acres)

EXHIBIT 3
DRIVEWAY DETAIL



Notes:

A:

Driveway width at the street should be a minimum 10' wide to a maximum of 16' wide.

B:

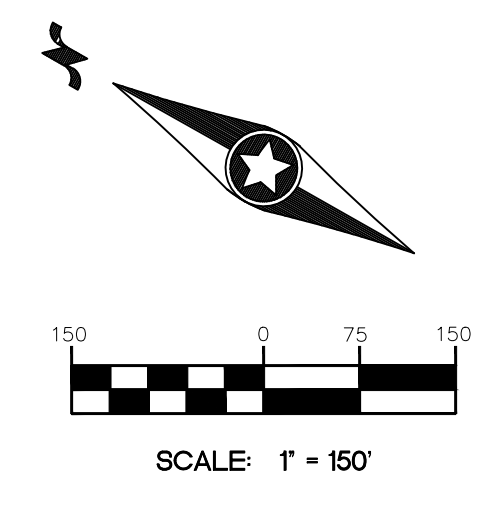
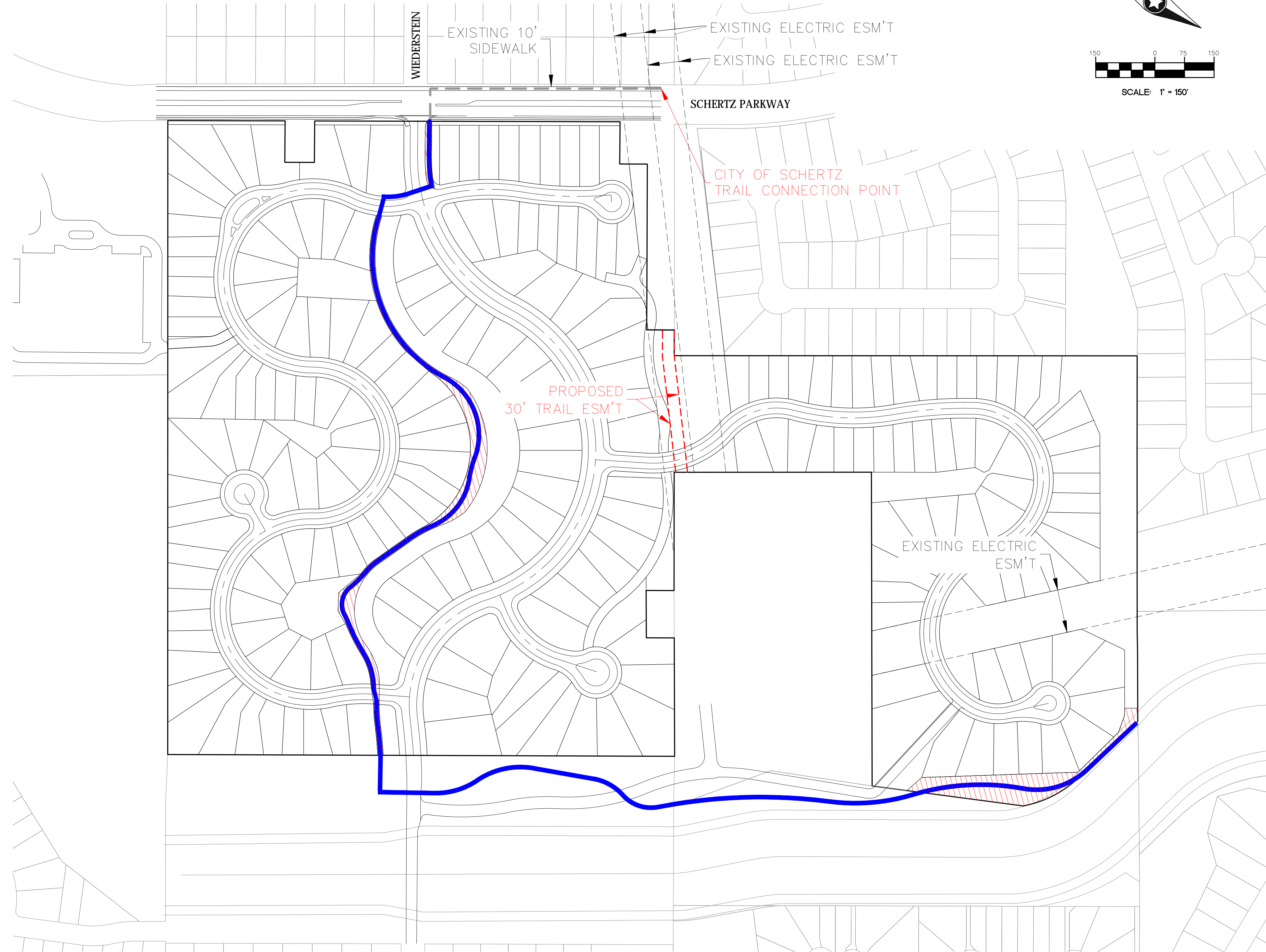
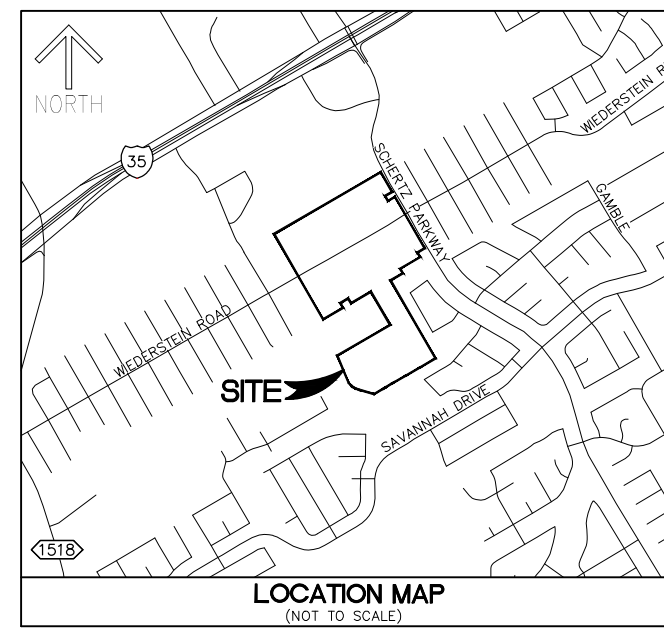
If the offset and angle of the garage to the side lot line allows the 'T' to be located towards the side yard instead of the front of the home, the 'T' should be located in the side instead of the front.

C:

On lots with extra deep setback, the 7' minimum can be increased.

Driveway Detail

EXHIBIT 4
WIEDERSTEIN AND WEST DIETZ CREEK
TRAIL PLAN



LEGEND

	PARK AREA DEDICATED TO CITY OF SCHERTZ
	TRAIL CONSTRUCTED BY DEVELOPER

HERITAGE OAKS NEIGHBORHOOD
65.97 ACRES ~ TOTAL TRACT AREA

ENGINEER / APPLICANT:
 WESTWOOD PROFESSIONAL SERVICES
 1718 DRY CREEK WAY, SUITE 110
 SAN ANTONIO, TEXAS 78259
 TEL: (210) 265-8300

SURVEYOR
 WESTWOOD PROFESSIONAL SERVICES
 1718 DRY CREEK WAY, SUITE 110
 SAN ANTONIO, TEXAS 78259
 TEL: (210) 265-8300

OWNER / DEVELOPER
 PRESIDIO GROUP, LLC
 18618 TUSCANY STONE, SUITE 200
 SAN ANTONIO, TEXAS 78258
 TEL: (210) 826-9000

BY	
REVISIONS	
NO.	DATE

Westwood
 Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
 Toll Free (888) 937-5150 San Antonio, TX 78259
 westwoodps.com
 Westwood Professional Services, Inc.
 TBPLS FIRM NO. 10194064 - TBPE FIRM NO. F-11756

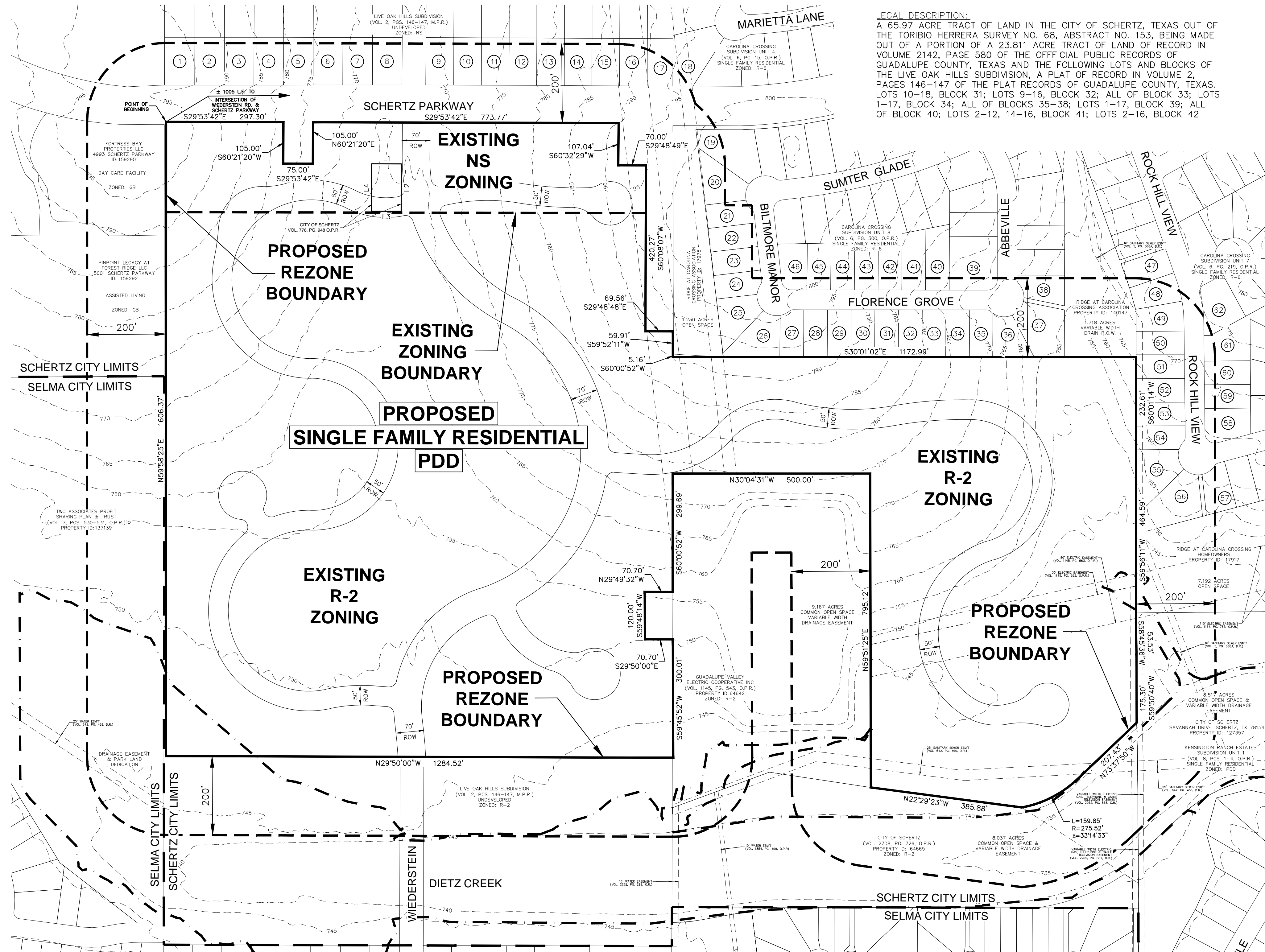
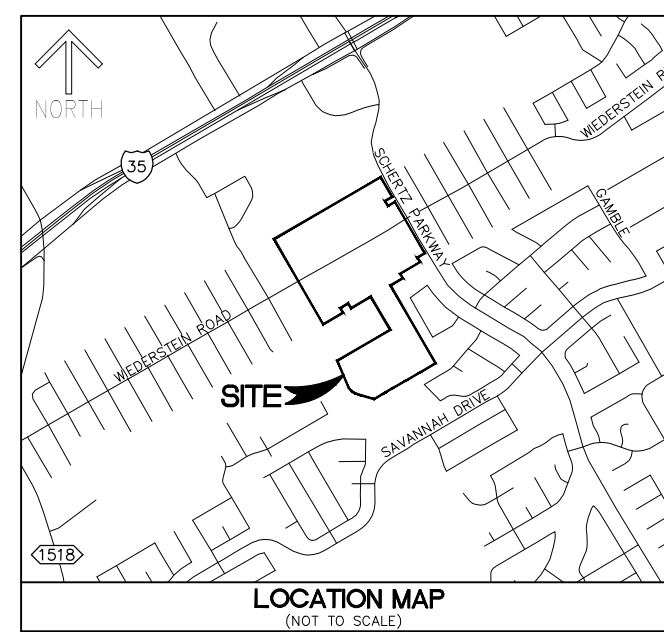
HERITAGE OAKS NEIGHBORHOOD
WIEDERSTEIN AND WEST DIETZ CREEK
TRAIL PLAN

JOB NO.:	24313.00
DATE:	DECEMBER 2020
DESIGN:	
DRAWN:	DAD
CHECKED:	

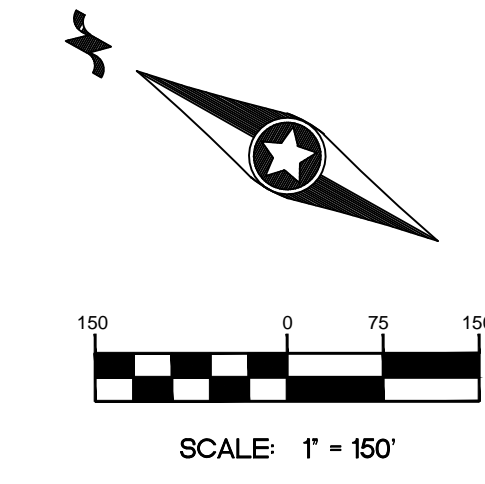
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EXHIBIT

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EXHIBIT 5
ZONING EXHIBIT



LEGAL DESCRIPTION:
 A 65.97 ACRE TRACT OF LAND IN THE CITY OF SCHERTZ, TEXAS OUT OF THE TORIBIO HERRERA SURVEY NO. 68, ABSTRACT NO. 153, BEING MADE OUT OF A PORTION OF A 23.811 ACRE TRACT OF LAND OF RECORD IN VOLUME 2142, PAGE 580 OF THE OFFICIAL PUBLIC RECORDS OF GUADALUPE COUNTY, TEXAS AND THE FOLLOWING LOTS AND BLOCKS OF THE LIVE OAK HILLS SUBDIVISION, A PLAT OF RECORD IN VOLUME 2, PAGES 146-147 OF THE PLAT RECORDS OF GUADALUPE COUNTY, TEXAS. LOTS 10-18, BLOCK 31; LOTS 9-16, BLOCK 32; ALL OF BLOCK 33; LOTS 1-17, BLOCK 34; ALL OF BLOCKS 35-38; LOTS 1-17, BLOCK 39; ALL OF BLOCK 40; LOTS 2-12, 14-16, BLOCK 41; LOTS 2-16, BLOCK 42



LEGEND

	PROJECT BOUNDARY
	200' NOTIFICATION BOUNDARY
	100YR FLOODPLAIN FIRM PANEL NO. 48029C0095F
	EXISTING CONTOURS
	PDD PLANNED DEVELOPMENT DISTRICT
	NS NEIGHBORHOOD SERVICES
	R-2 SINGLE FAMILY RESIDENTIAL
	ADJACENT PROPERTY OWNERSHIP SEE SHEET PDD-2

- GENERAL NOTES**
- THE THOROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT SET THE ALIGNMENT. ALIGNMENT IS DETERMINED AT TIME OF FINAL PLATTING.
 - ALL OPEN SPACE, COMMON AREAS, GREENBELTS, LANDSCAPE, DRAINAGE EASEMENT OR OTHER AREAS IDENTIFIED AS PRIVATE SHALL BE THE RESPONSIBILITY OF THE OWNER OR OWNER'S SUCCESSORS AND/OR ASSIGNS.
 - ACCORDING TO FLOOD INSURANCE RATE MAP, PANEL 48187C0210F DATED NOV. 2, 2007, SITE IS WITHIN THE 100-YEAR FLOODPLAIN.
 - CONTOURS ARE FROM SAN ANTONIO RIVER AUTHORITY LIDAR.
 - AN ELEVATION CERTIFICATE WILL BE REQUIRED FOR ALL LOTS WITHIN 100' OF THE 100 YEAR FLOOD.
 - UTILITY SERVICE PROVIDED BY THE FOLLOWING ENTITIES:
 WATER SERVICE - CITY OF SCHERTZ
 SEWER SERVICE - CITY OF SCHERTZ
 TELEPHONE SERVICE - AT&T
 CABLE TELEVISION - SPECTRUM
 GAS & ELECTRIC - GVEC

HERITAGE OAKS ZONING TABLE

CONDITION	ZONING	AREA (AC.)
EXISTING	NS	5.81
EXISTING	R-2	60.16
PROPOSED	PDD	65.97

LINE TABLE

LINE	LENGTH	BEARING
L1	75.00'	S29° 53' 42"E
L2	120.00'	S60° 06' 18"W
L3	75.09'	N29° 53' 42"W
L4	120.00'	N60° 08' 45"E

HERITAGE OAKS NEIGHBORHOOD

65.97 ACRES ~ TOTAL TRACT AREA

ENGINEER / APPLICANT:
 WESTWOOD PROFESSIONAL SERVICES
 1718 DRY CREEK WAY, SUITE 110
 SAN ANTONIO, TEXAS 78259
 TEL: (210) 265-8300

SURVEYOR
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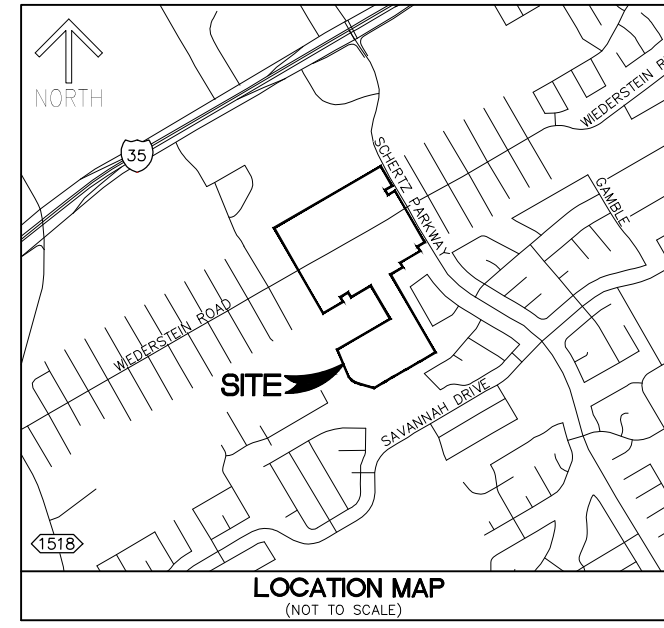
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 SAN ANTONIO, TEXAS 78258
 TEL: (210) 826-9000

NO.	DATE	REVISIONS

Westwood
 Phone (210) 265-8300
 Toll Free (888) 937-5150
 1718 Dry Creek Way, Suite 110
 San Antonio, TX 78259
 westwoodps.com
 Westwood Professional Services, Inc.
 TBPUS FIRM NO. 10194064 - TBPPE FIRM NO. F-11756

HERITAGE OAKS NEIGHBORHOOD
 PLANNED DEVELOPMENT DISTRICT
 ZONING EXHIBIT
 SCHERTZ, TEXAS

JOB NO.:	24313.00
DATE:	JANUARY 2020
DESIGN:	
DRAWN:	DAD
CHECKED:	



HERITAGE OAKS NEIGHBORHOOD

66.16 ACRES ~ TOTAL TRACT AREA

ENGINEER / APPLICANT:

WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

SURVEYOR

WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

OWNER / DEVELOPER

RESIDIO GROUP, LLC
18618 TUSCANY STONE, SUITE 200
SAN ANTONIO, TEXAS 78258
TEL: (210) 826-9000

ADJACENT PROPERTY OWNERSHIP

LIVE OAKS HILLS SUBDIVISION

1. SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32028
2. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32027
3. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32026
4. SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32025
5. SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32024
6. JESUS LOPEZ & DORIS REBECCA HERNANDEZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32023
7. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32022
8. CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32021
9. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32011
10. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32010
11. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32009
12. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32008
13. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32007
14. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32006
15. NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32005
16. CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32004
17. CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32003

CAROLINA CROSSING SUBDIVISION UNIT 4

18. GLENN R & SANDRA K BRETZKE
3740 MARIETTA LANE, SCHERTZ, TX 78154
PROPERTY ID: 17678

CAROLINA CROSSING SUBDIVISION UNIT 8

19. OSCAR & KIMBERLY RAMIREZ
3500 SUMTER GLADE, SCHERTZ, TX 78154
PROPERTY ID: 17949
20. MARK D & SANDRA MASON
3400 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17950
21. TRAVIS C & DAWN DUPLANTIER ROBINETTE
3404 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17951
22. KAREN SHELTON BRITTSCH
3408 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17952
23. EDWARD M JR & DESSA A ANDERSON
3412 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17953
24. JEFF R & MARILYN P INGRAM
3416 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17954
25. NORMA & MARK HIDALGO
3420 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17955
26. MARKE & PAULA J SAINT HILL
3740 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17956
27. STEVE A & CATIA CHANDLER
3736 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17957
28. DONALD J & KERRY BROWN
3732 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17958
29. JAVIER PALACIOS & DIANA ANDREA
3728 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17959
30. TIMOTHY K & KIMBERLY A CARROLL
3724 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17960
31. CINDY L FOLLETTE
3720 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17961

32. MICHELLE L & ERWIN R IVERY
3716 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17962
33. YADIRA VANESSA & RAUL PRADO TIRADO
3712 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17963
34. GEORGE SHILOBOO
3708 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17964
35. JOHN E & JESSICA LEESANG
3704 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17965
36. ADRIAN CORNEJO
3700 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17966
37. JUSTIN L & AMANDA E WILLMANN
3429 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17967
38. DOUGLAS A & KRISTIN K PACK
3425 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17968
39. STEVE B & HOLLY A NAGY
3416 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17923
40. MICHAEL CRISTOPHER MULLEN
3711 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17924
41. TIMOTHY B & EMILY M PAULSEN
3715 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17925
42. FRANK & DIANE E ADAMS
3719 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17926
43. JASON M & COURTNEY L WILLIAMS
3723 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17927
44. JOHN D JR & YOVANNY C HULSEY
3727 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17928
45. ROBERT & SHARON ST CLAIR
3731 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17929
46. MICHELLE & DONNIE L ST JOHN
3735 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17930

CAROLINA CROSSING SUBDIVISION UNIT 7

47. DOROTHY L HYATT & TROY H POCHER
3493 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17915
48. SALLY L & JOHN D RIOJAS
3489 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17914
49. JAMES P MURRAY JR
3485 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17913
50. GERDA A PETERSON
3481 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17912
51. ROBERT J & MALLORY A DUNCAN
3477 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17911
52. BENJAMIN JOSEPH & ELIZABETH MASSIE PYRC
3473 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17910
53. MATTHEW P MANGINI
3469 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17909
54. UNKNOWN
3465 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17908
55. RACHEL LEIGH JACKSON
3461 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17907
56. KENNETH R & NORMA Y MIESS
3457 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17906
57. RALPH E & GREER E HORRELL
3420 DARTMOUTH COVE, SCHERTZ, TX 78154
PROPERTY ID: 17905
58. ROBERT J & NANCY S SCHRADER
3464 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17875
59. UNKNOWN
3468 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17876
60. HEATHER SHERMAN & VICTOR ISRAEL LEAL
3472 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17877
61. ROBERT J WILLIS JR
3476 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17878

Westwood

Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
 Toll Free (888) 937-5750 San Antonio, TX 78259
 westwoodps.com
 Westwood Professional Services, Inc.
 TBP, LS FIRM NO. 10194044 - TBP FIRM NO. F-11756

HERITAGE OAKS NEIGHBORHOOD
 PLANNED DEVELOPMENT DISTRICT
 ZONING EXHIBIT
 SCHERTZ, TEXAS

JOB NO:	24313.00
DATE:	JANUARY 2020
DESIGN:	
DRAWN:	DAD
CHECKED:	

Ord. 23-S-24

Request to rezone approx. 2.1 acres from Neighborhood Services District (NS) & Planned Development District (PDD) to Planned Development District (PDD)

Samuel Haas | SENIOR PLANNER



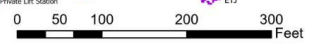
- Subject Property Outlined in Green
- Approximately 2.1 acres of land
- Currently undeveloped



SCHERTZ
COMMUNITY • SERVICE • OPPORTUNITY

HERITAGE OAKS
(PLPDD20230127)

<ul style="list-style-type: none"> Highways Major Roads Minor Roads 	<ul style="list-style-type: none"> Freeway Principal Arterial Planned Principal Arterial Secondary Arterial Planned Secondary Arterial Secondary Rural Arterial 	<ul style="list-style-type: none"> Planned Secondary Rural Arterial Residential Collector Planned Residential Collector Planned Commercial Collector B Commercial Collector A Planned Commercial Collector A 	<ul style="list-style-type: none"> 1" 2" 3" 4" 6" 	<ul style="list-style-type: none"> 8" 10" 12" 16" 18" 	<ul style="list-style-type: none"> 20" 24" 30" 36" Unknown 	<ul style="list-style-type: none"> Schertz Gravity Schertz Pressure Neighboring Gravity Private Pressure 	<ul style="list-style-type: none"> Hydrant Manholes CCMA Lift Station Private Lift Station 	<ul style="list-style-type: none"> Schertz Lift Station CCMA Treatment Plant Schertz Treatment Plant ET3 	<ul style="list-style-type: none"> Project Boundary County Boundaries Schertz Municipal Boundary
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SCHERTZ
COMMUNITY. SERVICE. OPPORTUNITY.

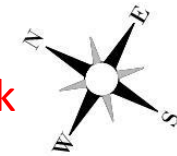


- September 15:
5 public hearing notices mailed
- Responses Received:
2- In Favor
- 1 Sign was posted
- A notice was published in the "SA Express" on September 29th.

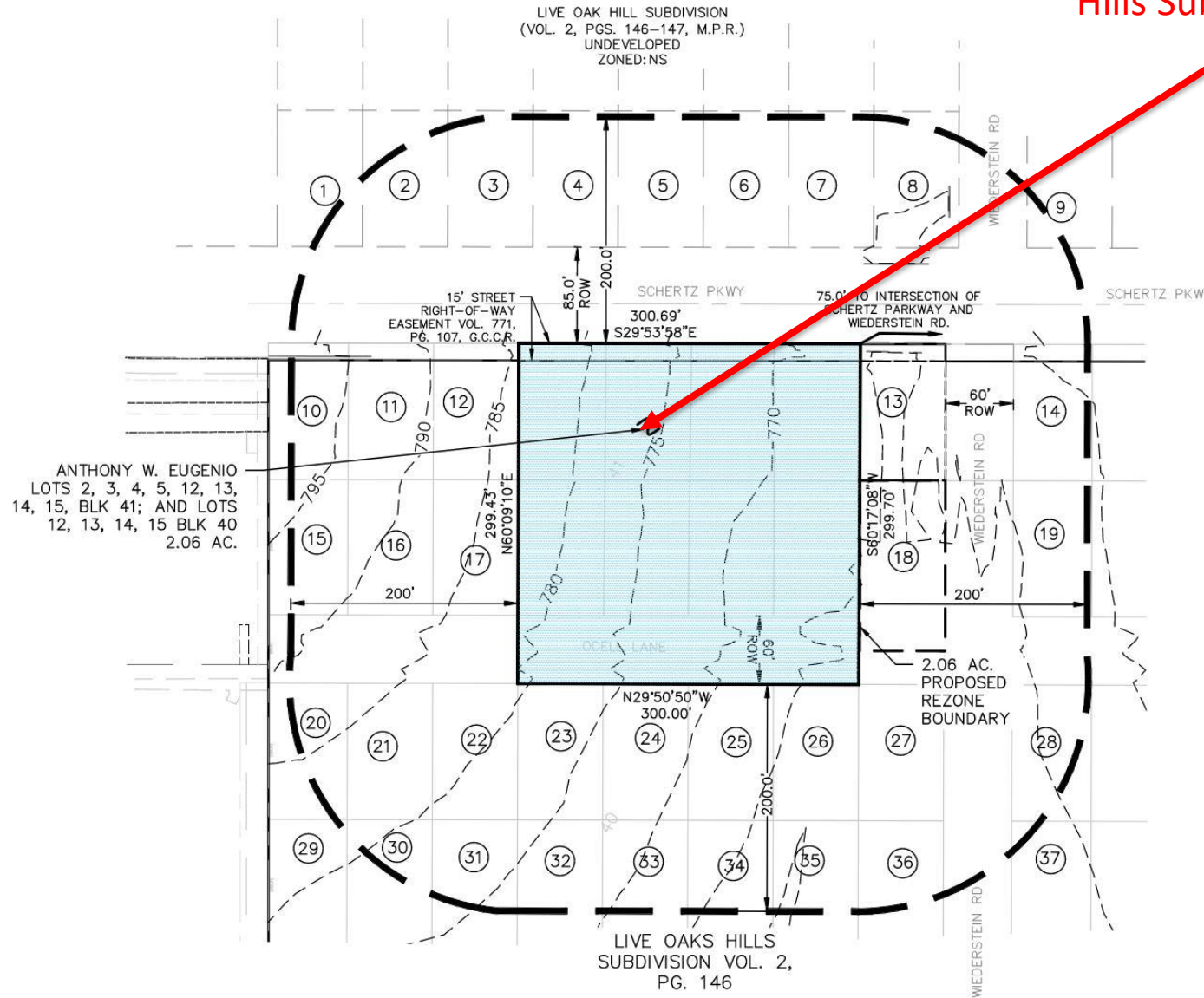


NOTE:
NO 100-YR FLOODPLAIN EXIST ON THE PROPERTY

Block 41 Lot 13, Live Oak Hills Subdivision



SCALE: 1" = 100'



Legend

- PROJECT BOUNDARY
- 200' NOTIFICATION BOUNDARY
- PLANNED DEVELOPMENT DISTRICT
- ADJACENT PROPERTY OWNERS

ANTHONY W. EUGENIO
LOTS 2, 3, 4, 5, 12, 13,
14, 15, BLK 41; AND LOTS
12, 13, 14, 15 BLK 40
2.06 AC.

PDD - REZONING 2.06 AC.

Binkley & Barfield

DCCM

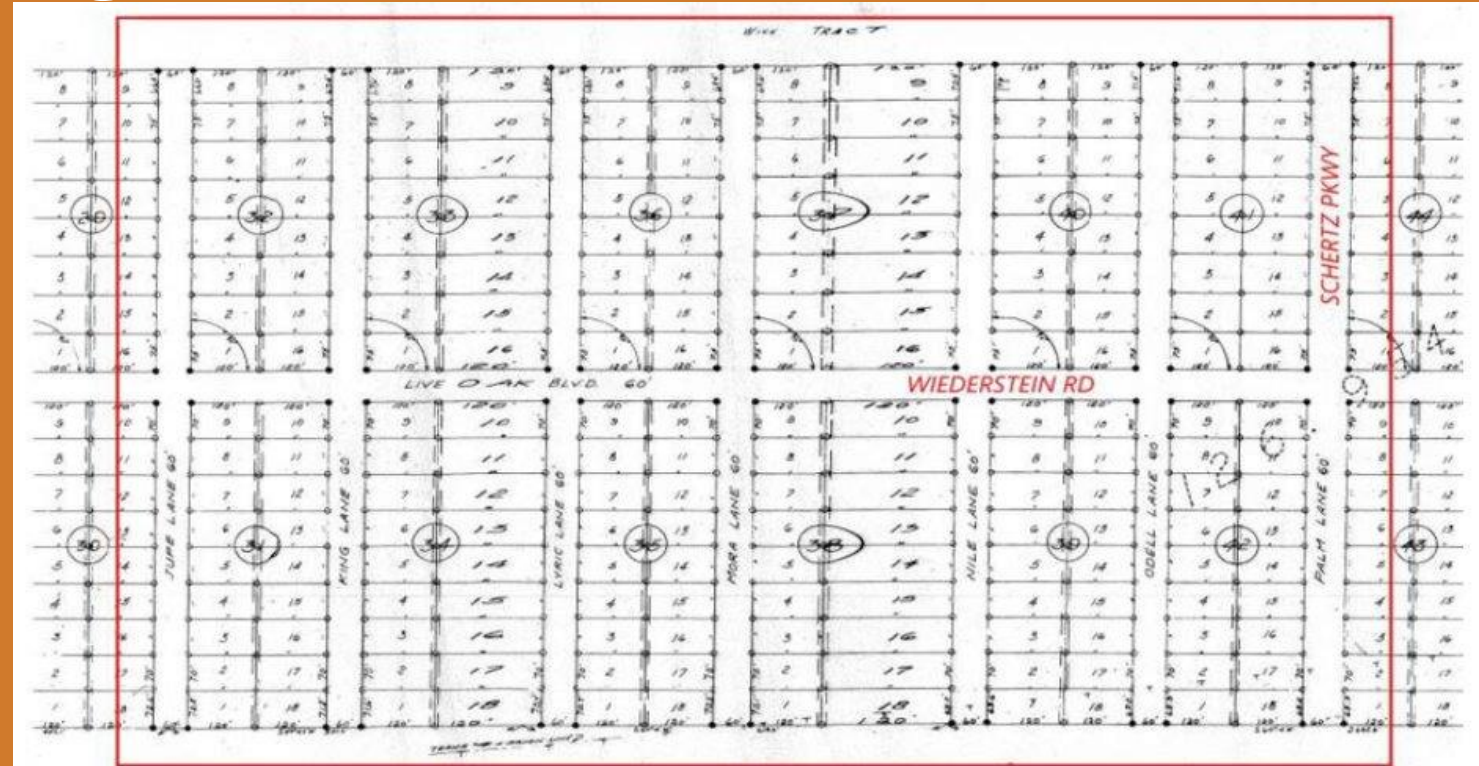
Binkley & Barfield, Inc.
TxEng F-257
190 S Seguin Ave
New Braunfels, TX 78130
830-606-3913
BinkleyBarfield.com

Proposal

- **Heritage Oaks II PDD**
- **Approx. 2.1 acres**
- **In conformance with the Heritage Oaks PDD**
 - **Ord. 21-S-15**
 - **Approved May 11th, 2021**

Heritage Oaks PDD

Background: Live Oak Hills Subdivision



- Recorded in 1963
- No infrastructure
- Paper subdivision

Heritage Oaks PDD

Key Features:

- **Coving Plan**
 - **Curvilinear streets**
 - **Cul-de-sac revisions**
 - **Extended block lengths**
- **Base zoning of Single-Family Residential (R-1)**
- **Maximum # of Lots - 215**
- **Parkland dedication**
- **Hike and bike trails**
- **Min 3 trees per lot for a total 15" caliper per lot.**
- **50% Heritage Tree (24"+) preservation**

Heritage Oaks PDD

Table 3 – Heritage Oaks Neighborhood, a Planned Development District (PDD)

Zoning District	Minimum Lot Size/Dimensions			Minimum Yard Setback				Maximum Density		Misc	
	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Lots	Lots Per Acre	Max Height Ft	Max Imperv Cover
Planned Development District (PDD)	6,000	50	120**	20	5*	20	2	215	3.25	35	50%

*Rectangular shaped lots shall have minimum 6-foot side yard setback.

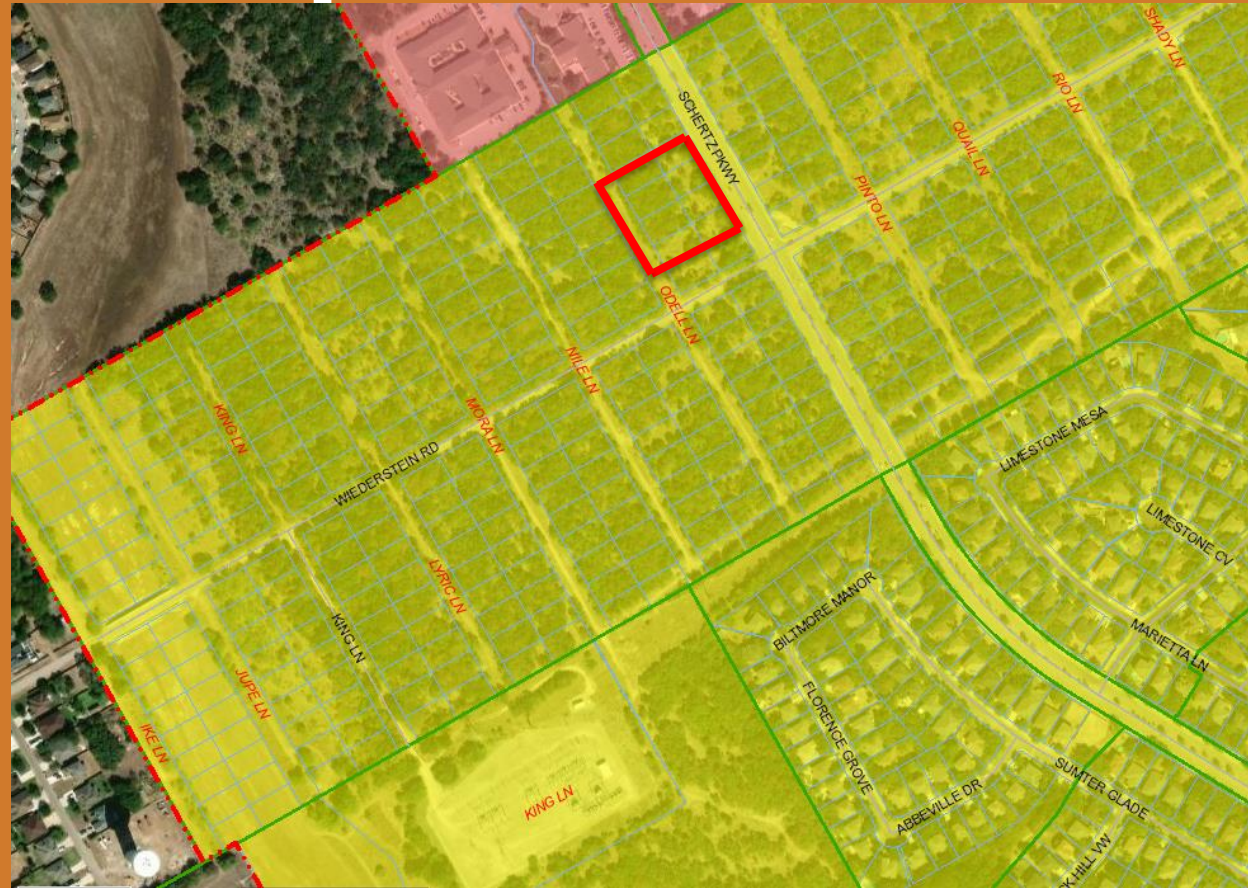
* Corner lot shall have minimum 10-foot side yard setback from street right-of-way.

**Minimum depth shall be taken at the midplane of the lot

Heritage Oaks PDD



Comp Plan Conformance



- Base zoning of Single-Family Residential (R-1)



Single Family Residential. Conventional detached dwellings. For areas proposed to utilize a traditional neighborhood design the Single Family Residential use may include a mix of residential uses as well as limited commercial development to support the daily activities of the development. In all Single Family Residential use areas, public and semi-public development such as schools and churches are encouraged as neighborhood focal points.

Staff Analysis & Recommendation

- Not changing requirements, standards, or features of original Heritage Oaks PDD (Ord. 21-S-15).
- Block 41 Lot 13 is being incorporated into the subdivision, providing more consistency. UDC requires min. 2 acres for PDD.
- Proposed PDD Zoning conforms with the Comprehensive Plan and is consistent with the surrounding land uses.
- Staff recommends approval of Ord. 23-S-24 as presented and discussed.
- The Planning and Zoning Commission made a recommendation at the September 27, 2023, regular meeting to approve the rezone request 7-0.

COMMENTS & QUESTIONS

CITY COUNCIL MEMORANDUM

City Council Meeting: October 17, 2023
Department: Planning & Community Development
Subject: Ordinance 23-S-78 - Conduct a public hearing and consider amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 5, Section 21.5.4 Zoning Change/Zoning Map Amendment. *First Reading* (B. James, L. Wood, S. Haas)

BACKGROUND

As stated in the Unified Development Code (UDC), City Council from time to time, on its own motion, or at the recommendation of City staff amend, change, or modify text in any portion of the UDC to establish and maintain stable and desirable development. It is generally considered good practice to periodically review and update the development regulations due to changing conditions, community goals, and/or State and Federal regulations.

Currently, the zone change process begins when the city or an applicant requests a zone change for a property. The City of Schertz UDC Section 21.5.4.C, in conformance with the State of Texas Local Government Code (LGC) then requires a public hearing. The City of Schertz UDC stipulates that the first public hearing is heard by the Planning and Zoning Commission where a recommendation is made to City Council. City Council then has two readings on the zone change request with the first reading being a public hearing as well. The final reading is not a public hearing, but in the event the action on the first reading was not unanimous, it could be a discussion item.

Before the public hearing is scheduled for a Planning and Zoning Commission meeting, State law requires that public hearing notifications be sent to property owners within 200-feet of a proposed zone change. UDC section 21.5.4.C.2.a calls these notifications "Written Notices". These notices are mailed to said property owners at least 10 days before the Planning and Zoning Commission hearing. On these public hearing notices there are options to vote "in favor of", "neutral to", or "opposed to" the zone change request. Then the property owners may return these notices either by mail, e-mail, or in-person to have their votes counted.

The votes that are "opposed to" are considered protest votes. These votes are critically important for the City Council readings as the LGC has a threshold that, once crossed, requires a 3/4 majority vote to approve the zone change. This rule is often called the "super-majority" rule. UDC Section 21.5.4.E.1. states the following:

- 1. If a proposed zoning change or zoning map amendment is protested in accordance with this section, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The protest must be written and signed by the owners of at least twenty percent (20%) of either:
 - a. The area of the lots or land covered by the proposed zoning change or zoning map amendment; or**
 - b. The area of the lots or land immediately adjoining the area covered by the proposed****

zoning change or zoning map amendment and extending 200 feet from that area.

The UDC follows the specific requirements laid out in the LGC when counting votes. However, neither the LGC nor the UDC has stipulations for cut-off dates. In practice, this means that these notices can be turned in all the way up to the point of the meeting. Also, with three separate readings in regard to the zone change, property owners have the opportunity to change their vote in-between these meetings. This can potentially create a difficult situation for staff, citizens, and applicants to keep track of protest votes and more importantly, to properly account for the super-majority threshold.

Lastly, there is often confusion around rental properties, and properties that have recently been sold. Rental tenants may receive a mailed notice, but the LGC explicitly states that only the surrounding property owners (not tenants) votes are counted. Also, the LGC states that the "most recently approved municipal tax roll", is used to determine property ownership. In practice, the city uses the County Appraisal District to determine mailing addresses and in consultation with the city attorney, this is an acceptable practice.

Proposed Amendments:

Staff is proposing amendments to UDC Section 21.5.4.E. by adding two subsections to the end of this section in order to help with these potential issues. The first portion of these proposed amendments will be Section 21.5.4.E.3. In this subsection staff is proposing to explicitly state the process in which property ownership is determined, what happens in the event there are discrepancies in the ownership, and clearly stating that tenants and lessees are not counted per state law. The language proposed is as followed:

3. In determining property ownership under section 21.5.4.E.1 above, the property owner shall be the owner as indicated on the most recently approved municipal tax roll, unless the property has been bought or sold since the last approved municipal tax roll. The City Manager or his/her designee determines property ownership in the above-mentioned municipal tax roll from the County Appraisal District.

a. If a property has recently been purchased and the County Appraisal District has not updated their public records to reflect the now current property owner, the new property owner must submit proof of ownership with their written protest to demonstrate ownership for the protest to be counted under section 21.5.4.E.1.

b. In the event of a conflict in property ownership, the City Manager or his/her designee shall determine who the owner of the property is for the purposes of calculating written protest.

c. The written protest will only be counted if signed by the owner of the property. Written protests from tenants or lessees will not be counted toward the written protest calculations under section 21.5.4.E.1

The next proposed subsection to UDC 21.5.4.E. will establish deadlines for returning Written Protest. The new deadlines will stipulate that these protest votes must be turned in by noon the Friday before the first reading of City Council. This gives staff time to account for the protest votes to determine if the super-majority threshold has been reached, and to prepare the necessary reports. Staff is then proposing a second deadline of noon the Friday before the second reading as well. This gives more time for the surrounding owners to submit their votes on the request; this also provides an opportunity for a property owner to change their vote if they so decide. Staff also mentions that only the most recent returned vote is counted and what happens in the event of a holiday. The proposed language is as follows:

4. The following deadlines apply to the receipt and calculation of written protest:

a. *First Reading.* Written protest must be received before noon (12pm) on the Friday before

the first reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.

***b. Second Reading.* Written protest must be received before noon (12pm) on the Friday before the second reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.**

c. Written protest received prior to the First Reading deadline will also be included in the Second Reading written protest calculation.

d. In calculating the written protest described by section 21.5.4.E.1., only the most recent written protest received prior to the deadline above will be counted per property.

e. In the event a federal, state, or local holiday prevents staff from receiving votes on the Friday before the City Council reading, the deadline will be extended to noon (12pm) on the next business day.

GOAL

To amend the UDC to review and update the development regulations due to changing conditions and community goals in order to establish and maintain sound, stable and desirable development.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of Ordinance 23-S-78, amendments to the Unified Development Code (UDC) as proposed and discussed.

The Planning and Zoning Commission met on September 27, 2023, in which they held a public hearing on this item. After discussion on the item the Planning and Zoning commission requested two modifications. One modification was for added clarity as to what is being determined from the "municipal tax roll". As a result, staff added language in the last line of the proposed 21.5.4.E.3 stating that "property ownership" is determined. Also, the Commission wanted to include a provision for how the deadlines are affected by holidays, for which staff included a line in the proposed 21.5.4.E.4.e.

The Planning and Zoning Commission recommended approval with these added modifications with a 7-0 vote.

RECOMMENDATION

Approval of Ordinance 23-S-78

Attachments

Ord. 23-S-78 with Exhibits

UDC Section 21.5.4. Zoning Map Amendment - (redlines)

City Council Presentation Slides

ORDINANCE NO. 23-S-78

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 5 ZONING DISTRICTS, SUBSECTION 21.5.4 ZONING CHANGE/ZONING MAP AMENDMENT.

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on September 27, 2023, the Planning and Zoning Commission conducted public hearings and, thereafter recommended approval; and

WHEREAS, on October 17, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The current UDC is hereby amended as set forth in Exhibit A hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, 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 resolved herein..

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. 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 Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit A

Unified Development Code (UDC) Amendments

Article 5 Section 21.5.4 – Zoning Change/Zoning Map Amendment

Sec. 21.5.4. Zoning Change/Zoning Map Amendment.

A. *Applicability.*

1. The City Council may, from time to time, on its own motion, by request of the City Manager or his/her designee, or by application from a property owner, establish or amend the boundaries shown on the Official Zoning Map of the City. A zoning change or zoning map amendment is required to establish the use of land and the development associated with the proposed zoning classification for the purpose of establishing and maintaining sound, stable and desirable development within the City.
2. Approval of a zoning change or zoning map amendment authorizes a property owner to submit subsequent development applications consistent with the amendment.

B. *Application Requirements.*

1. *Application Required.* Any request for a zoning change or zoning map amendment shall be accompanied by an application and zoning exhibit prepared in accordance with the Development Manual.
2. *Accompanying Applications.* A request for a zoning change or zoning map amendment may be accompanied by an application for amendment of the Future Land Use Map or by a Subdivision Master Plan. Approval of a zoning change or zoning map amendment shall require all subsequent development applications to be consistent with the approved amendments.
3. *Tax Certificate Required.* All applications made as a request for a zoning change or zoning map amendment shall be accompanied by a copy of a Tax Certificate.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a zoning change or zoning map amendment shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other City Department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the Planning and Zoning Commission for consideration.
2. *Notification Requirements.* An application for a zoning change or zoning map amendment requires the following notification in accordance with section 21.4.3:
 - a. written notice prior to consideration by the Planning and Zoning Commission; and
 - b. published notice prior to consideration by the City Council.
 - c. posted notice prior to consideration by the Planning and Zoning Commission and prior to consideration by the City Council.
3. *Commission Recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 and make a written recommendation regarding a proposed zoning change or zoning map amendment to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the amendment. The Planning and Zoning Commission may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the recommendation to the City Council.

-
4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed zoning change or zoning map amendment and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4. The City Council may vote to approve, approve with conditions, or deny the amendment. The City Council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 5. *Consideration of Previously Denied Amendments.* A request for a zoning change or zoning map amendment for a tract of land shall not be considered by the Planning and Zoning Commission or the City Council within six (6) months after the Council's decision to deny the request unless the request is to a different zoning classification or there has been a substantial change in the conditions surrounding the parcel since the initial request. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties. The City Manager or his/her designee shall have the authority to determine whether the request is substantially different from the initial request.
- D. *Criteria for Approval.* The Planning and Zoning Commission, in making its recommendation, and the City Council, in considering final action on a zoning change or zoning map amendment, should consider the following criteria:
1. Whether the proposed zoning change or zoning map amendment implements the policies of the adopted Comprehensive Land Plan, including the land use classification of the property on the Future Land Use Map;
 2. Whether the proposed zoning change or zoning map amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 3. Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
 4. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;
 5. Whether there have been environmental and/or economical changes which warrant the requested change;
 6. Whether there is an error in the original zoning of the property for which a change is requested;
 7. Whether all of the applicant's back taxes owed to the City have been paid in full (no application will receive final approval until all back taxes are paid in full); and,
 8. Whether other criteria are met, which, at the discretion of the Planning and Zoning Commission and the City Council, are deemed relevant and important in the consideration of the amendment.
- E. *Protests.*
1. If a proposed zoning change or zoning map amendment is protested in accordance with this section, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The protest must be written and signed by the owners of at least twenty percent (20%) of either:
 - a. The area of the lots or land covered by the proposed zoning change or zoning map amendment;
 - or

-
- b. The area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area.
 2. In computing the percentage of land area under section 21.5.4.E.1 above, the area of streets and alleys shall be included.
 3. In determining property ownership under section 21.5.4.E.1 above, the property owner shall be the owner as indicated on the most recently approved municipal tax roll, unless the property has been bought or sold since the last approved municipal tax roll. The City Manager or his/her designee determines property ownership in the above-mentioned municipal tax roll from the County Appraisal District.
 - a. If a property has recently been purchased and the County Appraisal District has not updated their public records to reflect the now current property owner, the new property owner must submit proof of ownership with their written protest to demonstrate ownership for the protest to be counted under section 21.5.4.E.1.
 - b. In the event of a conflict in property ownership, the City Manager or his/her designee shall determine who the owner of the property is for the purposes of calculating written protest.
 - c. The written protest will only be counted if signed by the owner of the property. Written protests from tenants or lessees will not be counted toward the written protest calculations under section 21.5.4.E.1.
 4. The following deadlines apply to the receipt and calculation of written protest:
 - a. *First Reading.* Written protest must be received before noon (12pm) on the Friday before the first reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - b. *Second Reading.* Written protest must be received before noon (12pm) on the Friday before the second reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - c. Written protest received prior to the First Reading deadline will also be included in the Second Reading written protest calculation.
 - d. In calculating the written protest described by section 21.5.4.E.1., only the most recent written protest received prior to the deadline above will be counted per property.
 - e. In the event a federal, state, or local holiday prevents staff from receiving votes on the Friday before the City Council reading, the deadline will be extended to noon (12pm) on the next business day.

(Ord. No. 17-S-42 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Sec. 21.5.4. Zoning Change/Zoning Map Amendment.

A. *Applicability.*

1. The City Council may, from time to time, on its own motion, by request of the City Manager or his/her designee, or by application from a property owner, establish or amend the boundaries shown on the Official Zoning Map of the City. A zoning change or zoning map amendment is required to establish the use of land and the development associated with the proposed zoning classification for the purpose of establishing and maintaining sound, stable and desirable development within the City.
2. Approval of a zoning change or zoning map amendment authorizes a property owner to submit subsequent development applications consistent with the amendment.

B. *Application Requirements.*

1. *Application Required.* Any request for a zoning change or zoning map amendment shall be accompanied by an application and zoning exhibit prepared in accordance with the Development Manual.
2. *Accompanying Applications.* A request for a zoning change or zoning map amendment may be accompanied by an application for amendment of the Future Land Use Map or by a Subdivision Master Plan. Approval of a zoning change or zoning map amendment shall require all subsequent development applications to be consistent with the approved amendments.
3. *Tax Certificate Required.* All applications made as a request for a zoning change or zoning map amendment shall be accompanied by a copy of a Tax Certificate.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a zoning change or zoning map amendment shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other City Department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the Planning and Zoning Commission for consideration.
2. *Notification Requirements.* An application for a zoning change or zoning map amendment requires the following notification in accordance with section 21.4.3:
 - a. written notice prior to consideration by the Planning and Zoning Commission; and
 - b. published notice prior to consideration by the City Council.
 - c. posted notice prior to consideration by the Planning and Zoning Commission and prior to consideration by the City Council.
3. *Commission Recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 and make a written recommendation regarding a proposed zoning change or zoning map amendment to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the amendment. The Planning and Zoning Commission may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the recommendation to the City Council.

4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed zoning change or zoning map amendment and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4. The City Council may vote to approve, approve with conditions, or deny the amendment. The City Council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 5. *Consideration of Previously Denied Amendments.* A request for a zoning change or zoning map amendment for a tract of land shall not be considered by the Planning and Zoning Commission or the City Council within six (6) months after the Council's decision to deny the request unless the request is to a different zoning classification or there has been a substantial change in the conditions surrounding the parcel since the initial request. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties. The City Manager or his/her designee shall have the authority to determine whether the request is substantially different from the initial request.
- D. *Criteria for Approval.* The Planning and Zoning Commission, in making its recommendation, and the City Council, in considering final action on a zoning change or zoning map amendment, should consider the following criteria:
1. Whether the proposed zoning change or zoning map amendment implements the policies of the adopted Comprehensive Land Plan, including the land use classification of the property on the Future Land Use Map;
 2. Whether the proposed zoning change or zoning map amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 3. Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
 4. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;
 5. Whether there have been environmental and/or economical changes which warrant the requested change;
 6. Whether there is an error in the original zoning of the property for which a change is requested;
 7. Whether all of the applicant's back taxes owed to the City have been paid in full (no application will receive final approval until all back taxes are paid in full); and,
 8. Whether other criteria are met, which, at the discretion of the Planning and Zoning Commission and the City Council, are deemed relevant and important in the consideration of the amendment.
- E. *Protests.*
1. If a proposed zoning change or zoning map amendment is protested in accordance with this section, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The protest must be written and signed by the owners of at least twenty percent (20%) of either:
 - a. The area of the lots or land covered by the proposed zoning change or zoning map amendment;
 - or

- b. The area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area.
- 2. In computing the percentage of land area under section 21.5.4.E.1 above, the area of streets and alleys shall be included.
- 3. In determining property ownership under section 21.5.4.E.1 above, the property owner shall be the owner as indicated on the most recently approved municipal tax roll, unless the property has been bought or sold since the last approved municipal tax roll. The City Manager or his/her designee determines property ownership in the above-mentioned municipal tax roll from the County Appraisal District.
 - a. If a property has recently been purchased and the County Appraisal District has not updated their public records to reflect the now current property owner, the new property owner must submit proof of ownership with their written protest to demonstrate ownership for the protest to be counted under section 21.5.4.E.1.
 - b. In the event of a conflict in property ownership, the City Manager or his/her designee shall determine who the owner of the property is for the purposes of calculating written protest.
 - c. The written protest will only be counted if signed by the owner of the property. Written protests from tenants or lessees will not be counted toward the written protest calculations under section 21.5.4.E.1.
- 4. The following deadlines apply to the receipt and calculation of written protest:
 - a. First Reading. Written protest must be received before noon (12pm) on the Friday before the first reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - b. Second Reading. Written protest must be received before noon (12pm) on the Friday before the second reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - c. Written protest received prior to the First Reading deadline will also be included in the Second Reading written protest calculation.
 - d. In calculating the written protest described by section 21.5.4.E.1., only the most recent written protest received prior to the deadline above will be counted per property.
 - e. In the event a federal, state, or local holiday prevents staff from receiving votes on the Friday before the City Council reading, the deadline will be extended to noon (12pm) on the next business day.

(Ord. No. 17-S-42 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Ord. 23-S-78

**Amendments to UDC Article 5, Section 21.5.4 Zone
Change/Zoning Map Amendment**

Samuel Haas | SENIOR PLANNER

Background

Zone Change Process:

- Applicant or City request for zone change
- Staff review
 - Set Planning and Zoning Commission Public Hearing date
- Written Notice of Public Hearing
 - Mailed to surrounding property owners
 - Within 200 feet
 - Min. 10 days before the meeting date
 - In conformance with LGC 211.007
- Planning and Zoning Public Hearing (recommendation)
- Newspaper Notification
 - Min 15 days before first City Council reading
 - In conformance with LGC 211.006
- City Council Public Hearing (first reading)
- City Council second reading

Written Notice



PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

September 15, 2023

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, September 27, 2023 at 6:30 p.m.**, located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make a recommendation on the following item:

PLPDD20230127 – A request to rezone approximately 2 acres of land from Neighborhood Services District (NS) and Planned Development District (PDD) to Planned Development District (PDD), known as Guadalupe County Parcel ID 31970, 31971, 31972, 31973, 31980, 31981, 31982, 31983, generally located northwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. *This form is used to calculate the percentage of landowners that support and oppose the request.* You may return the reply form below prior to the first public hearing date by mail or personal delivery to Samuel Haas, Senior Planner, 1400 Schertz Parkway, Schertz, Texas 78154, or by e-mail: planning@schertz.com. If you have any questions, please feel free to call Samuel Haas, Senior Planner at (210) 619-1783.

Sincerely,

Samuel Haas
Senior Planner

Reply Form

I am: in favor of opposed to neutral to the request for PLPDD20230127

COMMENTS: _____

NAME: _____ SIGNATURE _____
(PLEASE PRINT)

STREET ADDRESS: _____

DATE: _____

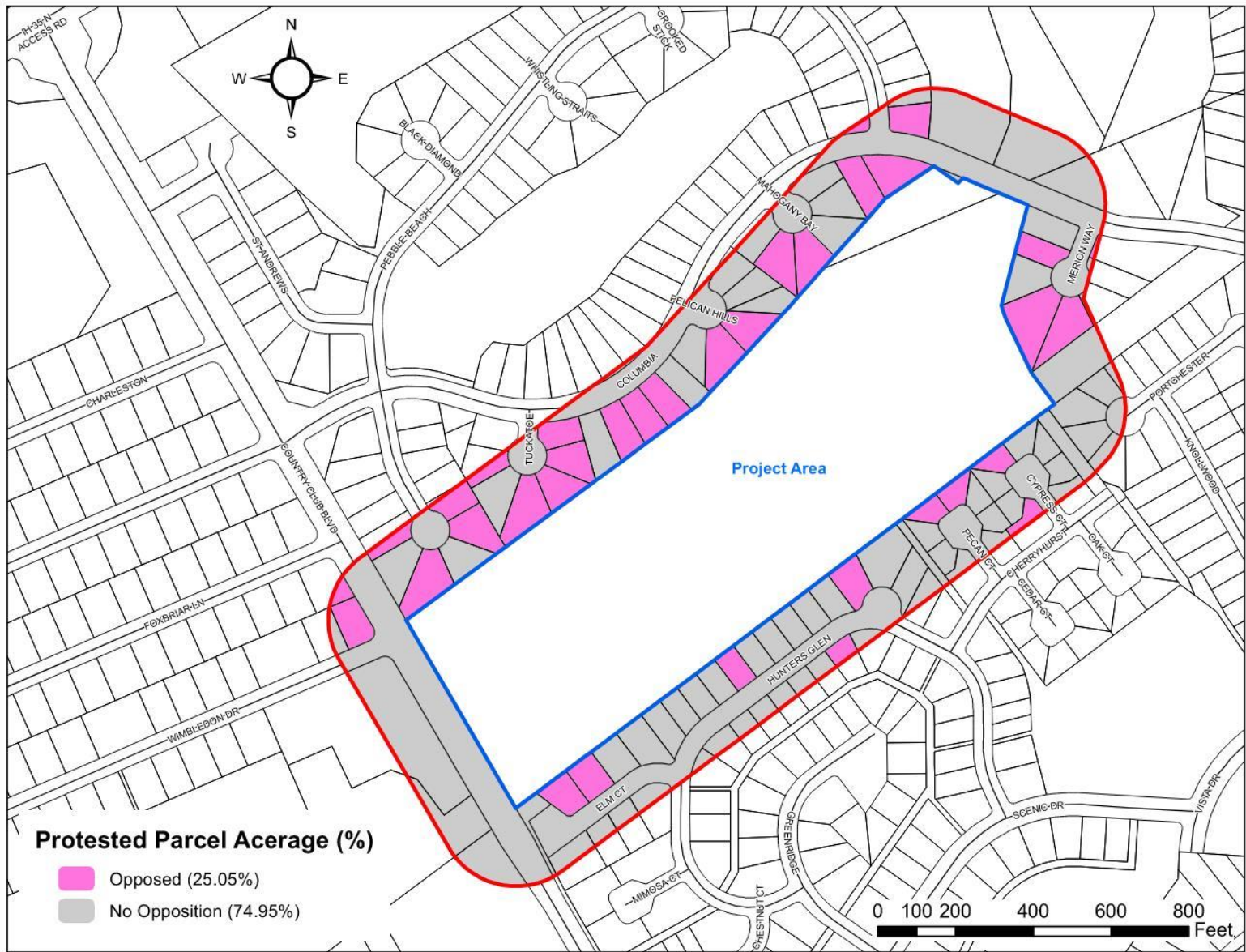
Written Notice

UDC 21.5.4.E.1:

- 1. If a proposed zoning change or zoning map amendment is protested in accordance with this section, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The protest must be written and signed by the owners of at least twenty percent (20%) of either*
- a. The area of the lots or land covered by the proposed zoning change or zoning map amendment; or
 - b. The area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area

Referred to as the “super-majority” rule

Super Majority



In Practice...

- **No deadline for returning Written Notice**
 - **Can be returned up to the point of public hearing**
 - **Makes staff's job more difficult to accurately account for "super majority".**
- **How do we determine ownership?**
 - **County Appraisal District**
 - **"recently approved municipal tax roll" - LGC language**
- **Do renters count?**
 - **Not according to the LGC (state law)**
- **What happens if notified property has recently been sold?**

Current UDC is unclear or does not address these issues.

Proposal

- **New deadline(s) for returning Written Notice**
 - **First City Council Reading – 12pm (noon) the Friday before**
 - **Second City Council Reading – 12pm (noon) the Friday before**

This deadline was chosen so staff can compile and verify protest votes to send out with the posted agenda.

- **Most recent written protest counted**
 - **Only one per property**
 - **May change vote in-between readings**
- **Explicitly state:**
 - **County Appraisal District is how we determine “recently approved municipal tax roll”**
 - **Tenants and lessee protests are not counted**
 - **If notified property recently sold, and it is not reflected on County Appraisal District – burden of proof is on new property owner for protest to be counted**

P&Z Requests

- **At the September 27, 2023, Planning and Zoning Commission Meeting, the Commission requested the following items:**
- **Clarify what is being determined from the “municipal tax roll”**
 - **Staff added language that explicitly states that “property ownership” is determined from the municipal tax roll.**
- **Include provision for deadlines that fall on holiday**
 - **Staff provided a deadline extension for “next business day” in the event of a holiday and Written Notice deadline falling on the same day.**

Proposal

3. In determining property ownership under section 21.5.4.E.1 above, the property owner shall be the owner as indicated on the most recently approved municipal tax roll, unless the property has been bought or sold since the last approved municipal tax roll. The City Manager or his/her designee determines property ownership in the above-mentioned municipal tax roll from the County Appraisal District.

 - a. If a property has recently been purchased and the County Appraisal District has not updated their public records to reflect the now current property owner, the new property owner must submit proof of ownership with their written protest to demonstrate ownership for the protest to be counted under section 21.5.4.E.1.
 - b. In the event of a conflict in property ownership, the City Manager or his/her designee shall determine who the owner of the property is for the purposes of calculating written protest.
 - c. The written protest will only be counted if signed by the owner of the property. Written protests from tenants or lessees will not be counted toward the written protest calculations under section 21.5.4.E.1.
4. The following deadlines apply to the receipt and calculation of written protest:

 - a. *First Reading.* Written protest must be received before noon (12pm) on the Friday before the first reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - b. *Second Reading.* Written protest must be received before noon (12pm) on the Friday before the second reading of the proposed zoning change or zoning map amendment ordinance by the City Council, in order to be included in the calculation of written protest described by section 21.5.4.E.1.
 - c. Written protest received prior to the First Reading deadline will also be included in the Second Reading written protest calculation.
 - d. In calculating the written protest described by section 21.5.4.E.1, only the most recent written protest received prior to the deadline above will be counted per property.
 - e. In the event a federal, state, or local holiday prevents staff from receiving votes on the Friday before the City Council reading, the deadline will be extended to noon (12pm) on the next business day.

Proposal



PROPOSED DRAFT

PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

Month Day, 2023

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, Month Day, 2023** at **6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make a recommendation on the following item:

PLZC20240001 – A request to rezone approximately 53 acres of land from Public Use District (PUB) to General Business District (GB), known as Guadalupe County Parcel ID 148758, generally located east of the intersection of Schertz Parkway and Pecan Drive, City of Schertz, Guadalupe County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. You may return the reply form below by mail or personal delivery to Samuel Haas, Senior Planner, 1400 Schertz Parkway, Schertz, Texas 78154, or by e-mail: planning@schertz.com. If you have any questions, please feel free to call Samuel Haas, Senior Planner at (210) 619-1783.

Sincerely,

Samuel Haas
Senior Planner

Reply Form:

*City Council will have two readings on the request after the recommendation from the Planning and Zoning Commission. This form is used to calculate the protest in accordance with LGC, Local Government Code 211.006(d). **The written protest must be received by City no later than noon on the Friday before each reading by the City Council.** If the name of the person signing this form does not match the name listed as the owner on the appraisal district website, proof of ownership is required in order for this to count towards the protest.*

I am: in favor of opposed to neutral to the request for **PLZC20240001**

COMMENTS: _____

NAME: _____ SIGNATURE _____
(PLEASE PRINT)

STREET ADDRESS: _____

DATE: _____

Staff Use Only – Received Date:

Staff Signature:

Proposal

Reply Form:

*City Council will have two readings on the request after the recommendation from the Planning and Zoning Commission. This form is used to calculate the protest in accordance with LGC, Local Government Code 211.006(d). **The written protest must be received by City no later than noon on the Friday before each reading by the City Council.** If the name of the person signing this form does not match the name listed as the owner on the appraisal district website, proof of ownership is required in order for this to count towards the protest.*

I am: in favor of opposed to neutral to the request for **PLZC20240001**

COMMENTS: _____

NAME: _____ SIGNATURE _____
(PLEASE PRINT)

STREET ADDRESS: _____

DATE: _____

Staff Use Only – Received Date:

Staff Signature:

Staff Recommendation

- The amendments would help clarify the Protest process in the UDC by explicitly stating how the process works.
- The amendments would help staff calculate the Protest votes to better inform citizens and Council Members
- Staff recommends approval of the amendments to the Unified Development Code (UDC) as proposed and discussed.
- The Planning and Zoning Commission made a recommendation of approval (with included requests) at the September 27, 2023 meeting with a 7-0 vote

COMMENTS & QUESTIONS