

# Ordinance 24-S-22

## 894 Acre Zoning to Agricultural District (AD)

EMILY DELGADO | PLANNING MANAGER

**SCHERTZ**  
COMMUNITY. SERVICE. OPPORTUNITY.

# Background

In 2010 and 2011 the City of Schertz entered into Delayed Annexation Development Agreements with property owners based on Texas Local Government Code Section 43.035 (b)(1) and 212.172 in order to (i) guarantee the continuation of the extraterritorial status of the Land for the term of the agreement and (ii) authorize the enforcement of all regulations and planning authority of the City that did not interfere with the use of the land for agriculture or wildlife manage or as timber land. Per the agreements that were signed and executed, specifically Section 5. Term; Annexation at End of Term, stipulates that ten (10) years after the effective date of the agreement the property is to be annexed into the City of Schertz.

In 2020 and 2021 the City of Schertz City Council authorized the City Manager and Staff to offer Development Agreement Extensions based on the nationwide and statewide declaration of public health emergency in relation to COVID -19 in addition to the Development Agreement Extensions would allow City staff to complete the Comprehensive Land Use Plan update which would be utilized when zoning the annexed properties. These extensions would provide the same rights as previously established in the original agreements but would delay the annexation of the properties to a later date. The prohibition on annexation would be in effect until January 1, 2024, at which time the City of Schertz would begin annexation proceedings and conclude them no later than December 31, 2024.

# Background Continued

- At this time, the first date identified in the agreement (January 1, 2024) has passed. Additionally, the approval of Ordinance 24-S-06, the Comprehensive Land Use Plan has officially been adopted and can be utilized for zoning cases moving forward. Per the Development Agreement Extensions, City Staff have started the annexation and zoning process in accordance with the extensions. At the April 16, 2024 City Council meeting, Resolution 24-R-41 was approved, accepting the petitions for voluntary annexation.
- Ordinance 24-S-22 is the next step in the annexation process, specifically in relation to establishing zoning for the approximately 894 acres within Comal and Guadalupe County.

# Public Hearing Notice

- On April 25, 2024 one hundred- thirty seven (137) public hearing notices were mailed to the surrounding property owners within a 200-foot notification boundary of the subject parcels.
- Additionally, property owners of parcels included within the zoning boundary were notified per Texas Local Government Code (LGC) Section 211.006. Comal Independent School District was also notified of the proposed zoning.
- As of May 30, 2024 at 1:00PM, twelve (12) responses in favor, one (1) response neutral, and one-hundred and seventeen (117) responses in opposition have been received.
- A public hearing notice was published in the "San Antonio Express" on May 15, 2024. Additionally, forty-three (43) public hearing notice signs were placed on April 26, 2024.

# Public Hearing Notice Continued

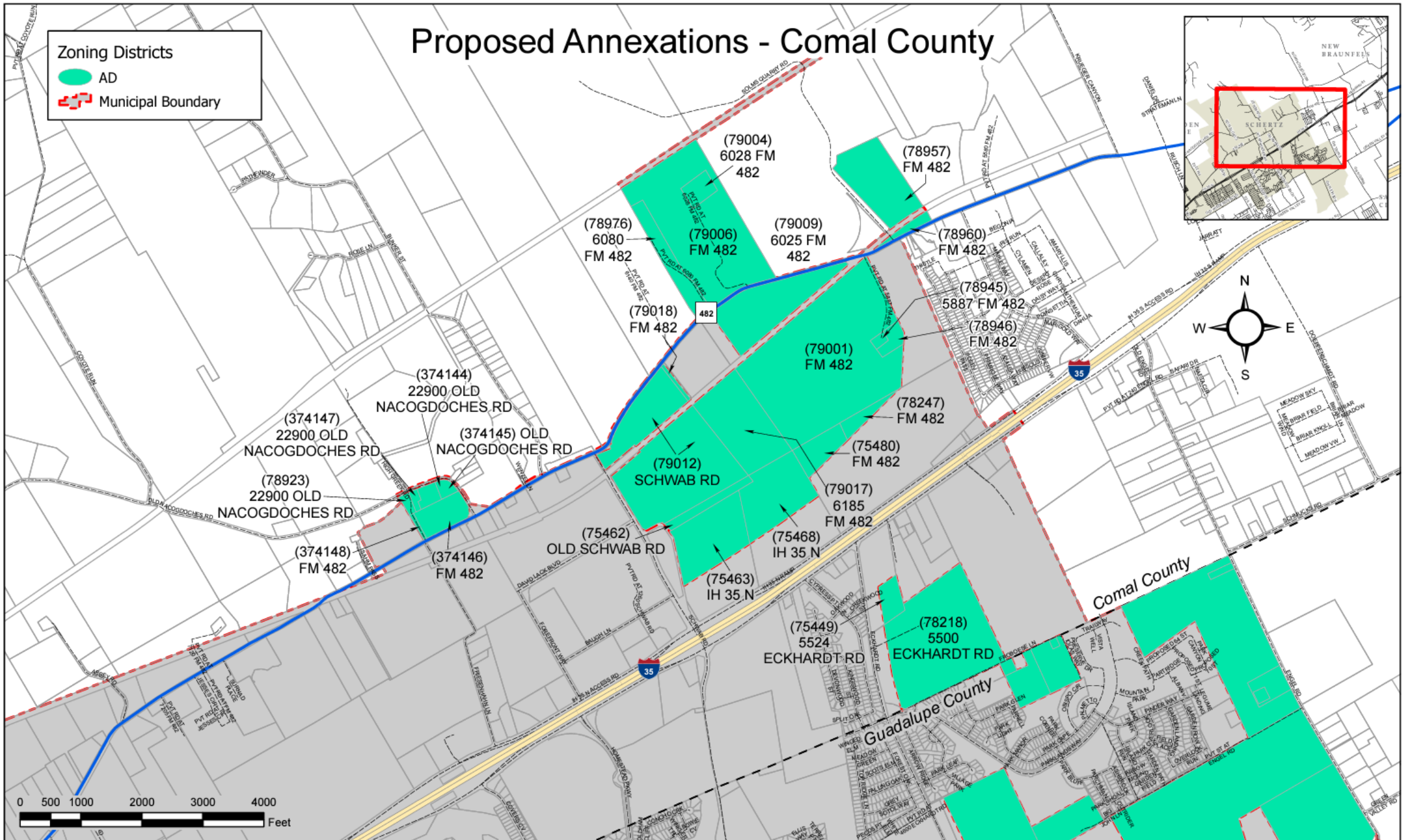
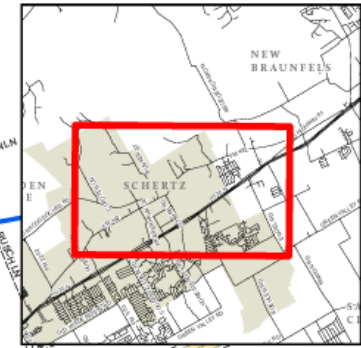
- If a proposed zone change is protested in writing and signed by the owners of at least twenty percent (20%) of the area of the lots or land covered by the proposed zoning change or zoning map amendment or if at least twenty percent (20%) of the area of the lots or land immediately adjoining the area 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 (3/4) of all members of the City Council according to LGC, Local Government Code §211.006(d).
- At the time of this staff report, the total percentage of the protested parcel acreage is 22.95% of the area of the lots or land covered by the proposed zoning change or zoning map amendment. At the time of this staff report, the total percentage of the protested parcel acreage is 1.62% 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.
- **Based on the 22.95% of the area of the lots or land covered by the proposed zoning change, the 3/4 vote has been triggered for the City Council.**

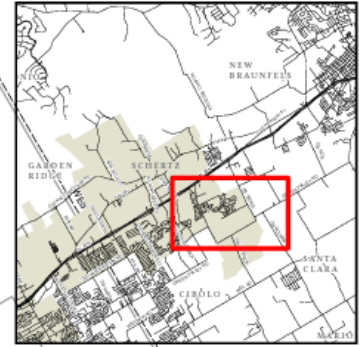
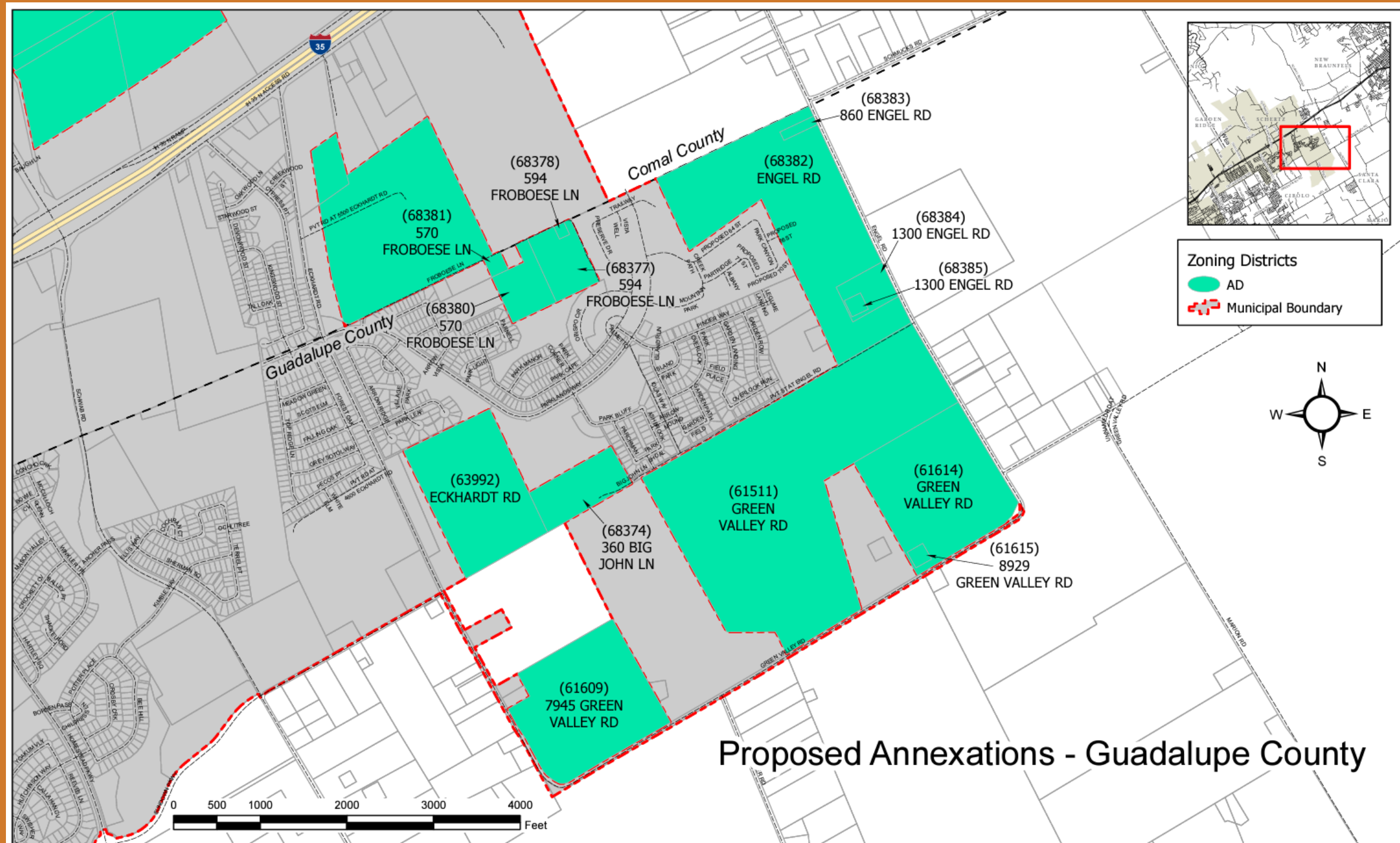
# Background Continued

- When the zoning for these subject properties was presented to the Planning and Zoning Commission on May 8, 2024 staff presented a proposed zoning for approximately 498.2 acres as Single Family Residential District (R-2), approximately 132.6 acres as General Business District (GB) and approximately 262.9 acres as Manufacturing Light District (M-1), consistent with the agenda item language and the public hearing notices.
- However, based on the extensive public hearing that occurred and the discussion with the Planning and Zoning Commission at the May 8th meeting, Staff is now recommending all properties identified to be zoned Agricultural District (AD). This recommendation from staff is consistent with the recommendation that the Planning and Zoning Commission provided with a 4-2 vote to recommend City Council zone all properties identified as Agricultural District (AD).

# Proposed Annexations - Comal County

Zoning Districts  
AD  
Municipal Boundary





# UDC SECTION 21.5.4.D Criteria for Approval

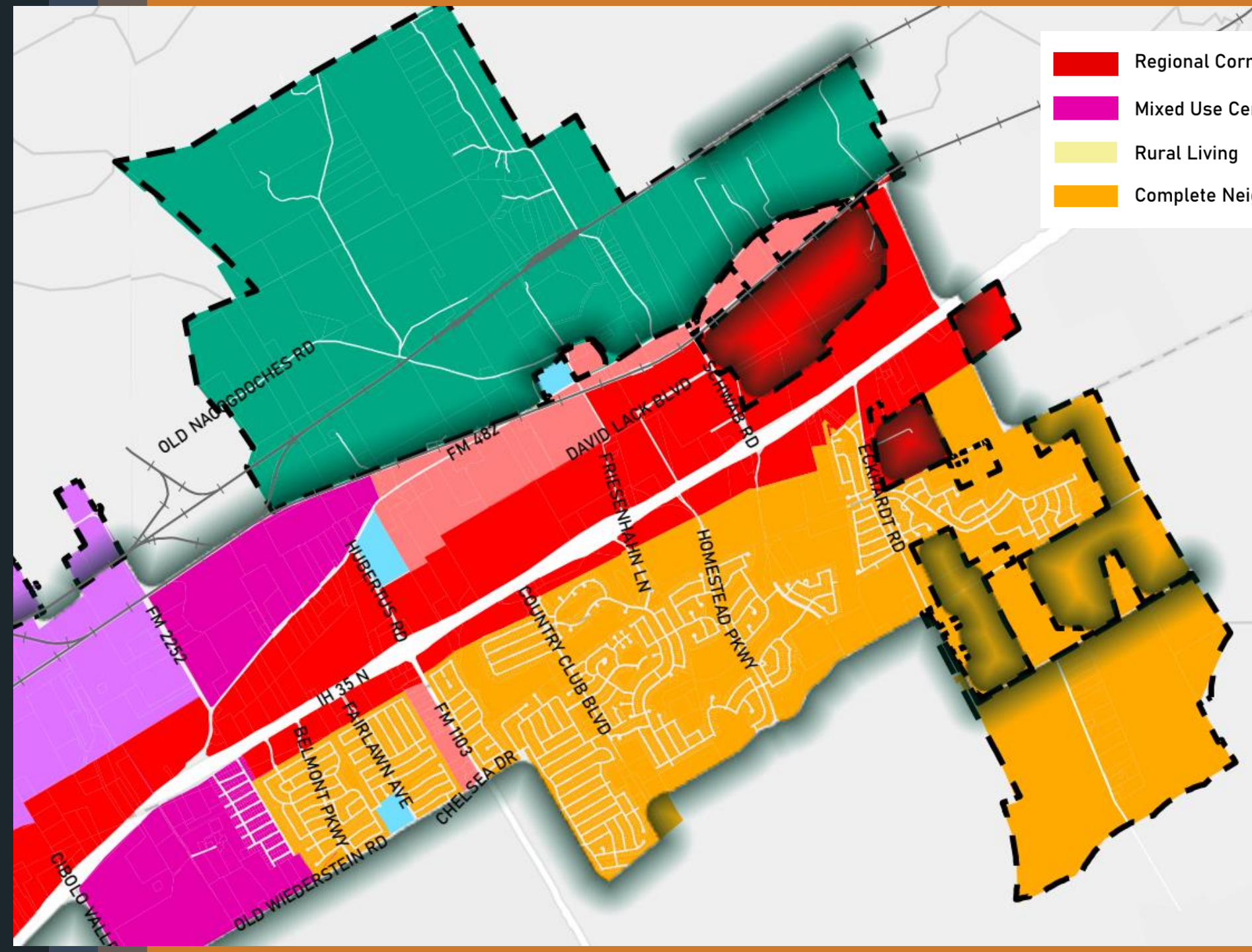
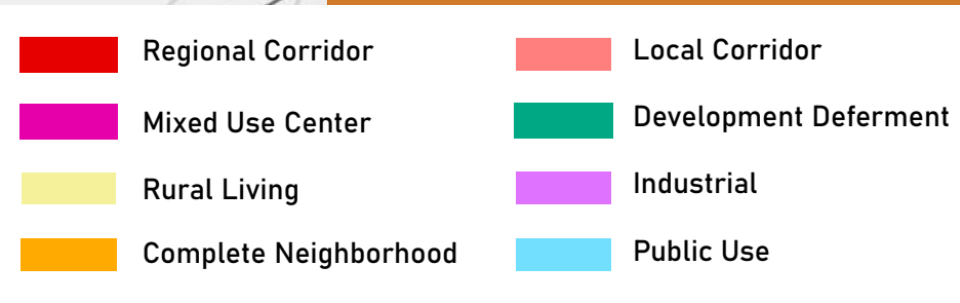
1. Whether the proposed zone change or zoning map amendment implements the policies of the adopted Comprehensive Land Plan, including the land use classification of the property on the Future Land Use Map.
  - Ordinance 24-S-22 proposes to zone all subject properties (approximately 894 acres) as Agricultural District (AD) based on the subject property's existing land uses, the property's location, and the designation on the Future Land Use Map as adopted by Ordinance 24-S-06.
  - Guadalupe County Property Identification Numbers 68374, 61615, 68384, 68385, 68383, 61511, 61609, 68381, 68378, 68382, 68380, 68377, 61614, 63992 are identified as Complete Neighborhood on the Comprehensive Land Use Plan- Future Land Use Map, which is typically areas characterized by a mixture of housing options with supporting land uses.
  - Comal County Property Identification Numbers 79004, 79006, 78976, 78960, and 78957 are identified as Development Deferment, which is typically utilized for large tracts that house heavy industrial.

# UDC SECTION 21.5.4.D Criteria for Approval

1. Whether the proposed zone 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.
  - Comal County Property Identification Numbers 79018, 78923, 374148, 374146, 374145, 374144, 374147, 79009, and a portion of 79012 are identified in the Comprehensive Land Use Plan- Future Land Use Map as Local Corridor which is described as locally oriented commercial and entertainment areas typically situated along medium- to high-volume collector roads.
  - Comal County Property Identification Numbers 75449 and 78218, 79001, 78945, 78946, 75480, 78247, 79017, 75468, 75462, 75463, and a portion of 79012 are identified in the Comprehensive Land Use Plan- Future Land Use Map as Regional Corridor which is described as commercial and entertainment areas along major thoroughfares that serve populations within the City and the broader region.

# UDC SECTION 21.5.4.D Criteria for Approval

1. **Whether the proposed zone 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.**
  - Although the subject parcels have differing Comprehensive Land Use Plan- Future Land Use Map designations the proposed Agricultural District (AD) is consistent with the Comprehensive Land Use designations.
  - The Future Land Use Map within the Comprehensive Land Use Plan is a guiding document for determining appropriate land uses and development types for the future vision of Schertz. However, the existing conditions and existing land uses need to be considered when reviewing zoning applications.
  - The proposed zoning is not based on a proposed development, but strictly due to expiring delayed annexation development agreements.
  - If the subject properties were proposed to be developed in the future, the zoning designation will also need to be reviewed in conjunction with the Comprehensive Land Use Plan and Future Land Use Map.



# UDC SECTION 21.5.4.D Criteria for Approval

**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.**

		Minimum Lot Size And Dimensions			Minimum Yard Setback (Ft)				Miscellaneous Lot Requirements	
Code	Zoning District	Area Sq. Ft.	Width Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.	Minimum Off-Street Parking Spaces	Max Height Ft.	Max Imperv Cover
AD	Agricultural District	217,800	100	100	25	25	25	2	35	30%

# UDC SECTION 21.5.4.D Criteria for Approval

## 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.

- As part of promoting health, safety, and welfare, the City should encourage development compatible with surrounding uses utilizing standards and transitional uses to alleviate negative impacts.
- Agricultural District (AD) is intended to provide as a base zoning district for agricultural and residential land uses. Residences in this District are intended to be on a minimum lot size of 217,800 square feet (five acres). Clustering of up to two homes may be allowed on the same lot subject to setback requirements. This District is suitable for areas where development is premature due to lack of utilities, capacity or service, and for areas that are unsuitable for development because of physical restraints or potential health or safety hazards.
- The proposed zoning district designations are compatible with the surrounding land uses and existing zoning designations of the surrounding properties.
- The majority of the subject properties are existing residential / agricultural operations or are undeveloped. The proposed Agricultural District (AD) would allow for the residential and agricultural operations land uses to remain in a conforming status.
- Additionally, per UDC Article 7 Section 21.7.3, A non-conforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.
- This means that the subject properties can continue to be utilized for their existing land uses in conformance with UDC Article 7.

# UDC SECTION 21.5.4.D Criteria for Approval

## 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;

- The subject parcels are currently undeveloped, utilized for agricultural purposes, or utilized for residential. The proposed zoning designation of Agricultural District (AD) is appropriate in the immediate area of the land to be annexed and zoned. Since the proposed zoning designations are based on conformance with the Comprehensive Land Use Plan- Future Land Use Map and with the existing land uses on the subject properties the majority of the properties' land uses will be in conformance with the proposed zoning designation of Agricultural District (AD).
- However, there may be properties with existing land uses that will be considered nonconforming based on the proposed zoning, if approved. Upon annexation and zoning, the properties would be subject to the City of Schertz Unified Development Code, including UDC Article 7 Nonconforming Uses, Lots and Structures. In accordance with UDC Article 7 Section 21.7.3 A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

The proposed zoning designation is appropriate in the immediate area of the land to be zoned.

# UDC SECTION 21.5.4.D Criteria for Approval

## 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;

- A public hearing notice was mailed to Comal Independent School District to notify them of the proposed zoning. The City of Schertz Police, Fire and EMS Departments have indicated they do not have any concerns regarding the proposed rezoning requests or their ability to provide services.

With the annexation and proposed zoning of the properties, the City is better able to guide future development to ensure conformance with the Master Thoroughfare Plan, the Master Water Plan and Master Sewer Plan for the City.

- Additionally, the annexation and associated zoning would ensure that any future developments will meet City standards to ensure cohesive development across the City of Schertz which ultimately will ensure the safe, orderly, and efficient development of the City. Although no development plans are currently proposed for the properties being zoned as this is a City initiated zoning, if development was to occur the water, sewer, and roadways would be evaluated during the development process.

# UDC SECTION 21.5.4.D Criteria for Approval

## 5. Whether there have been environmental and/or economical changes which warrant the requested change;

- No, there have been no environmental or economical changes that warrant the requested zone change. The subject properties are currently within the City of Schertz Extra-Territorial Jurisdiction (ETJ) and under delayed annexation agreements. A zoning designation has not previously been established for the subject properties. However, based on the expiration of the Delayed Annexation Agreement Extensions, the properties are subject to annexation and, as part of that process, are subject to zoning.

## 6. Whether there is an error in the original zoning of the property for which the change is requested;

- The subject properties have no existing zoning as the properties are in the Extra-Territorial Jurisdiction (ETJ) and under delayed annexation agreements.

# UDC SECTION 21.5.4.D Criteria for Approval

## **7. Whether all of the applicant's back taxes owed to the City have been paid in full;**

- The subject properties are currently not within the City of Schertz. No back taxes are owed to the City of Schertz. This does not impact the Planning and Zoning Commission recommendation to City Council.

## **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.**

- Staff has ensured all UDC requirements have been met for the proposed zone change, and at this time have not received any special consideration from the Planning and Zoning Commission or the City Council.

# P&Z and Staff Recommendation

Due to the properties having Delayed Annexation Development Agreements and Extensions that are expiring and are subject to voluntary annexation, it is appropriate to zone these properties at the same time. Per the agreements "Upon annexation the property shall be zoned in accordance with the uses and procedures set forth in the City's Comprehensive Land Plan and Unified Development Code". The proposed zoning designations are in conformance with the recently adopted Comprehensive Land Use Plan- Future Land Use Map and is consistent with the existing land uses that are actively occurring on the subject properties. Staff recommends approval of Ordinance 24-S-22.

At the May 8, 2024, Planning and Zoning Commission meeting a public hearing was held. There was extensive commentary and discussion on the existing land uses occurring on the subject properties, the current property owners desires for their land, and how the originally proposed zoning designations would have made the majority of the properties nonconforming if the zoning was approved. Based on the comments provided during the public hearing and the discussion between the Planning and Zoning Commissioners and City Staff, the Planning and Zoning Commission ultimately voted to recommend that City Council approve Agricultural District (AD) for all properties identified in the zoning case. The vote was 4-2 with Chairman Outlaw and Commissioner Braud with the nay votes.

# COMMENTS AND QUESTIONS

# Proposed Annexations - Comal County

Zoning Districts  
 ● AD  
 ■ Municipal Boundary

