City of San Antonio
Cliff Morton Development and Business Services Center
1901 South Alamo Street
San Antonio, Texas 78204

# PLANNING COMMISSION AGENDA
# January 8, 2014
# 2:00 P.M.

Roberto R. Rodriguez, *Chair*
Marcello Diego Martinez, *Vice Chair*
Andrea Rodriguez, *Chair Pro Tem*

Jody R. Sherrill
George Peck
Michael Garcia Jr.
Kevin Love
Zachary Harris
Angela Rinehart

*Citizens may appear before the Planning Commission to speak for or against any item on this agenda, in accordance with procedural rules governing Planning Commission meetings. Questions relating to these rules may be directed to the Development Services Department at (210) 207-1111. Please note that citizen comments are limited up to three (3) minutes per person and may change as needed. Please plan to attend the meeting fifteen (15) minutes prior to the scheduled time.*

***DISABILITY ACCESS STATEMENT*** *- This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary aids and services, including Deaf interpreters, must be requested forty-eight (48) hours prior to the meeting. For assistance, please call (210) 207-1111 or 711 (Texas Relay Service for the Deaf).*

***DECLARACIÓN DE ACCESIBILIDAD*** *- El lugar de reunión cuenta con el acceso disponible y estacionamiento para personas discapacitadas. También incluye servicios especiales e interpretes para personas con problemas auditivos. Este servicio debe ser solicitado cuarenta y ocho (48) horas antes del día programado para la reunión. Para más información favor comunicarse al (210) 207-1111 o al 711 (Servicio para personas con problemas auditivos Texas Relay)*

*For additional information on any item on this agenda, please call (210) 207-1111.*

**1. 1:30 P.M. -** Work Session, Tobin Room

A. Agenda items may be discussed (Development Services Department)

At any time during the meeting, the Planning Commission may meet in executive session for consultation concerning attorney-client matters under Chapter 551 of the Texas Government Code

**2. 2:00 P.M. -** Call to Order, Board Room

**3.** Roll Call

**4.** Citizens to be heard

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR PLANNING COMMISSION MEETING:**

*Public Hearing and Consideration of the following Plats, Variances, Planned Unit Development (PUD) plans, Street Rename, Appeals, Land Transactions, Adoption and Amendments of the Neighborhood, Community and Sector Plans as Components of the Master Plan, and other items as identified below.*

**Plats**

5. **130111:** Request by SLF IV/Legacy NWSA, LP., for approval of a major plat to subdivide a 6.584-acre tract of land to establish the **Steubing Farm – JV Bacon Pkwy** Subdivision, generally located at the southeast corner of Steubing Parkway and J.V. Bacon Parkway. **Staff recommends approval.** (Luz M. Gonzales, Planner, (210) 207-7898, luz.gonzales@sanantonio.gov, Development Services Department)

**Variances**

6. **FPV# a. 14-001, b. 14-003 & c. 14-004:** Request by Rio Perla Properties, LP for a variance to the Unified Development Code Appendix F, Subdivision C, Sections 35-F124 (f) (20) for 1% annual chance floodplain reclamation where floodplain storage is lost due to fill must be offset by comparable excavation. 35-F125 (a) (6) floodplain reclamation is not allowed where flood depths are greater than 3 feet. And 35-F133 (c) (3) and (4), excluding capital improvement projects managed by a public agency, no construction activity in the FEMA 100-year floodplain is allowed prior to a CLOMR being approved by FEMA. The site is located along the east bank of the San Antonio River between US Hwy 281 and IH-35. **Staff recommends approval.** (Daniel Aguilar, PE, CFM, Senior Engineer, (210) 207-0335, daniel.aguilar@sanantonio.gov, Department of Public Works, Planning & Engineering)

**Comprehensive Master Plan Amendments**

7. **MTPA 13002:** (Continued from December 18, 2013 meeting) Consideration of a request to amend the **Major Thoroughfare Plan**, a component of the City of San Antonio Master Plan, by: (1) Realigning a proposed segment of the North/South Connector, a Secondary Arterial Type A requiring 86 feet of right-of-way, between Potranco Road and Marbach Road on the Major Thoroughfare Plan; and (2) Realigning a proposed segment of Marbach Road, a Secondary Arterial Type A requiring 86 feet of right-of-way, on the Major Thoroughfare Plan between Grosenbacher Road and Highway 211, generally located in west Bexar County. **Staff recommends approval.** (Rebecca Pacini, AICP, Senior Planner, (210) 207-7816, rebecca.pacini@sanantonio.gov, Department of Planning & Community Development)

8. **PA 14016:** A request by Charles Turner, for approval of a resolution to amend the future land use plan contained in the Westfort Neighborhood Plan, a component of the Comprehensive Master Plan of the City, to include "IDZ" Infill Development Zone as a related zoning district for all residential land use classifications in the Plan. **Staff recommends approval.** (Robert C. Acosta, Planner, (210) 207-0157, racosta@sanantonio.gov, Development Services Department)

9. **PA 14017:** A request by Roberto Kenigstein, for approval of a resolution to amend the future land use plan contained in the North Sector Plan, a component of the Comprehensive Master Plan of the City, by changing the future land use of approximately 7.101 acres of land out NCB 34732, located at the southern corner of Aue Road and Dominion Drive, from "Rural Estate Tier" to "General Urban Tier", in City Council District 8. **Staff recommends is approval.** (Robert C. Acosta, Planner, (210) 207-0157, racosta@sanantonio.gov, Development Service Department)

**10. PA 14018:** A request by Nelia Hillman, for approval of a resolution to amend the future land use plan contained in the San Antonio International Airport Vicinity Land Use Plan, a component of the Comprehensive Master Plan of the City, by changing the future land use of approximately 0.68 of an acre out NCB 12100, located at 2719 Nacogdoches Road, from "Low Density Residential" to "Neighborhood Commercial", in City Council District 10. **Staff recommends approval.** (Robert C. Acosta, Planner, (210) 207-0157, racosta@sanantonio.gov, Development Service Department)

**11.** (Continued from December 18, 2013 Meeting) Public hearing and consideration of a resolution **recommending Development Agreements** for properties in the proposed Limited Purpose Annexation Area guaranteeing continued extraterritorial status of properties which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years. (Nina Nixon-Mendez, Planning Manager (210) 207-2744, nina.nixon-mendez@sanantonio.gov, Department of Planning and Community Development)

**12.** Public hearing and consideration of a resolution **Recommending to Approve Development Agreements** between the City of San Antonio and various property owners with exceptional circumstances to guarantee continued extraterritorial status of properties appraised for ad valorem tax purposes as agricultural, wildlife management or timber use. (Nina Nixon-Mendez, Planning Manager (210) 207-2744, nina.nixon-mendez@sanantonio.gov, Department of Planning and Community Development)

**Other Items**

**13.** Discussion and possible action to convene the Planning Commission Subcommittee to review the Technical Advisory Committee bylaws (Melissa Ramirez and Christopher Looney, Development Services Department).

**14.** Approval of the minutes for the December 18, 2013 Planning Commission meeting.

**15.** Director's report **-** City Council Action Update (Planning Commission items sent to Council).

**16.** Adjournment.

*Camp Bullis Notification

# CITY OF SAN ANTONIO

**DEVELOPMENT SERVICES DEPARTMENT**

**LAND ENTITLEMENTS SECTION**

**STAFF REPORT** **AGENDA ITEM NO. 5**

**Public Hearing:**
Planning Commission
January 8, 2014

**Application/Case Number:**
130111

**Project Name:**
Steubing Farm – JV Bacon Pkwy

**Applicant:**
Steve Saxon

**Representative:**
Pape-Dawson Engineers, Inc., c/o
WR. Wood, P.E.

**Owner:**
SLF IV/Legacy NWSA, L.P. a Texas
Limited Partnership

**Staff Coordinator:**
Luz M. Gonzales, Planner
(210) 207-7898
luz.gonzales@sanantonio.gov

**Property Address/Location:**
Southeast corner of Steubing
Parkway and J.V. Bacon Parkway

**MAPSCO Map Grid (Ferguson):**
548 A-1

**Tract Size:**
6.584 acres

**Council District:**
8

**Notification:**
Internet Agenda posting January 3,
2014

## REQUEST

Approval of a major plat to subdivide a 6.584-acre tract of land to establish **Steubing Farm – JV Bacon Pkwy** Subdivision

## APPLICATION TYPE

Subdivision

## RECOMMENDED ACTION

**Approval**

## DATE FILED WITH PLANNING COMMISSION

November 18, 2013

## I. ANALYSIS

### A. Proposed Use

The proposed plat will consist of approximately one thousand eight hundred twenty eight (**1, 828**) linear feet of public streets.

### B. Zoning

"C-2" Commercial
"R-5 and R-6" Residential Single-Family District

### C. Services Available

SAWS Water and Sewer

### D. Inter-jurisdictional Review

Letters of Certification (LOCs) were issued from all reviewing agencies on August 1, 2013.

### E. Interdepartmental Review

LOCs were issued from all reviewing agencies on December 12, 2013.

## II. SUPPLEMENTAL INFORMATION

### A. Associated Application

MDP 021B-06, Steubing/Babcock Rd. Subdivision, accepted on April 23, 2013

## II. RECOMMENDATION

Approval of the proposed **Steubing Farm – JV Bacon Pkwy** Subdivision.

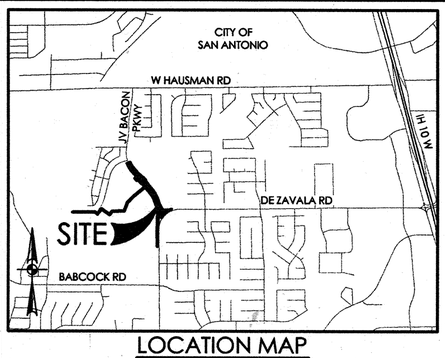
## III. ATTACHMENT

1. Proposed plat

# PLAT NUMBER 130111

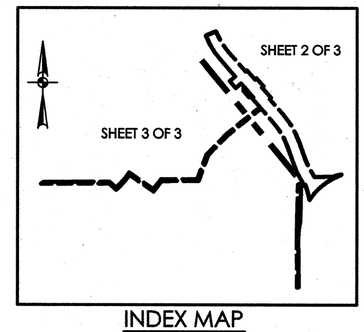
## SUBDIVISION PLAT OF STEUBING FARM - JV BACON PKWY

A 6.584 ACRE TRACT OF LAND OUT OF A 173.017 ACRE TRACT (MASTER TRACT) OF LAND CONVEYED TO SLF IV/LEGACY NWSA, L.P., A TEXAS LIMITED PARTNERSHIP IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 15746, PAGES 719-735 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, SAID 173.017 ACRE TRACT INCLUDING 0.264 ACRES OUT OF THAT 3.001 ACRE TRACT IN DEED RECORDED IN VOLUME 16465, PAGES 1723-1728 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, AND 0.044 ACRES OF THAT 1.039 ACRE TRACT CONVEYED TO SLF IV/LEGACY NWSA, L.P., A TEXAS LIMITED PARTNERSHIP IN DEED RECORDS IN VOLUME 16465, PAGES 1729-1734 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, AND INCLUDING 0.039 ACRES OUT OF LOT 901 OF THE STEUBING/ BABCOCK ROAD UNIT 1 SUBDIVISION RECORDED IN VOLUME 9592, PAGES 188-189 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS, AND OUT OF A 27.435 ACRE TRACT OF LAND CONVEYED TO MERITAGE HOMES OF TEXAS, LLC IN SPECIAL WARRANTY DEED IN VOLUME 16182, PAGES 208-220 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, OUT OF THE ANSELMO PRU SURVEY NO. 20, ABSTRACT 574, COUNTY BLOCK 4766, NOW ALL IN NEW CITY BLOCK 14861, OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.




## LOCATION MAP

MAPSCO MAP GRID: 548A1
NOT-TO-SCALE




## INDEX MAP

SCALE: 1"= 1000'

## LEGEND

| | | | |
|---|---|---|---|
| AC | ACRE(S) | VOL | VOLUME |
| BLK | BLOCK | PG | PAGE(S) |
| DPR | DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS | ROW | RIGHT-OF-WAY |
| | | TA | TURNAROUND |
| ESMT | EASEMENT | SS | SANITARY SEWER |
| GETCTV | GAS, ELECTRIC, TELEPHONE AND CABLE TELEVISION | o (SURVEYOR) | FOUND 1/2" IRON ROD (UNLESS NOTED OTHERWISE) |
| OPR | OFFICIAL PUBLIC RECORDS (OFFICIAL PUBLIC RECORDS OF REAL PROPERTY) OF BEXAR COUNTY, TEXAS | ● | SET 1/2" IRON ROD (PD) |

—1140— EXISTING CONTOURS
——1140—— PROPOSED CONTOURS
EFFECTIVE (EXISTING) FEMA 1% ANNUAL CHANCE (100-YR) FLOODPLAIN
1% ANNUAL CHANCE (100-YR) FUTURE CONDITIONS (REGULATORY) FLOODPLAIN

(1) 14' GAS, ELECTRIC, TELEPHONE AND CABLE TV EASEMENT
(10) 10' WATER EASEMENT
(1) 14' GAS, ELECTRIC, TELEPHONE AND CABLE TV EASEMENT (STEUBING FARM MULTI-FAMILY PLAT NO. 130224)
(2) VARIABLE WIDTH DRAINAGE EASEMENT (STEUBING FARM MULTI-FAMILY PLAT NO. 130224)
(4) 20' DRAINAGE EASEMENT (STEUBING FARM MULTI-FAMILY PLAT NO. 130224)

## SURVEYOR'S NOTES:

1. PROPERTY CORNERS ARE MONUMENTED WITH CAP OR DISK MARKED "PAPE-DAWSON" UNLESS NOTED OTHERWISE.
2. COORDINATES SHOWN ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996) FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE DISPLAYED IN GRID VALUES DERIVED FROM THE NGS COOPERATIVE CORS NETWORK.
3. DIMENSIONS SHOWN ARE SURFACE.
4. BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE.

## EDU NOTE:

THE NUMBER OF EQUIVALENT DWELLING UNITS (EDUs) PAID FOR THIS SUBDIVISION PLAT ARE KEPT ON FILE AT THE SAN ANTONIO WATER SYSTEM UNDER THE PLAT NUMBER ISSUED BY THE DEVELOPMENT SERVICES DEPARTMENT.

## IMPACT FEE PAYMENT NOTE:

WATER AND/OR WASTEWATER IMPACT FEES WERE NOT PAID AT THE TIME OF PLATTING FOR THIS PLAT. ALL IMPACT FEES MUST BE PAID PRIOR TO WATER METER SET AND/OR WASTEWATER SERVICE CONNECTION.

## SAWS DEDICATION NOTE:

THE DEVELOPER DEDICATES THE SANITARY SEWER AND/OR WATER MAINS TO THE SAN ANTONIO WATER SYSTEM UPON COMPLETION BY THE DEVELOPER AND ACCEPTANCE BY THE SAN ANTONIO WATER SYSTEM. THE SAN ANTONIO WATER SYSTEM WILL OWN AND MAINTAIN SAID SANITARY SEWER AND/OR WATER MAINS WHICH ARE LOCATED WITHIN THIS PARTICULAR PLAT.

## MAINTENANCE NOTE:

THE MAINTENANCE OF ALL DRAINAGE EASEMENTS, GREENBELTS, AND OPEN PERMEABLE SPACES SHOWN HEREON SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER OR HOMEOWNERS' ASSOCIATION AND THEIR SUCCESSORS OR ASSIGNEES AND NOT THE RESPONSIBILITY OF THE CITY OF SAN ANTONIO AND/OR BEXAR COUNTY.

## FINISHED FLOOR NOTE:

FINISHED FLOOR ELEVATIONS MUST BE A MINIMUM OF 8" ABOVE FINISHED ADJACENT GRADE.

## FIRE FLOW NOTE:

IN AN EFFORT TO MEET THE CITY OF SAN ANTONIO'S FIRE FLOW REQUIREMENTS FOR THE PROPOSED RESIDENTIAL DEVELOPMENT, THE PUBLIC WATER MAIN SYSTEM HAS BEEN DESIGNED FOR A MINIMUM FIRE FLOW DEMAND OF 1500 GPM AT 25 PSI RESIDUAL PRESSURE. THE FIRE FLOW REQUIREMENTS FOR INDIVIDUAL STRUCTURES WILL BE REVIEWED DURING THE BUILDING PERMIT PROCESS IN ACCORDANCE WITH THE PROCEDURES SET FORTH BY THE CITY OF SAN ANTONIO DIRECTOR OF DEVELOPMENT SERVICES DEPARTMENT AND THE SAN ANTONIO FIRE DEPARTMENT FIRE MARSHAL.

## FEMA NOTE:

A PORTION OF THIS PLAT LIES WITHIN THE FEMA 1% ANNUAL CHANCE (100 YEAR) FLOODPLAIN AS DEPICTED ON THE FEMA FLOOD INSURANCE RATE MAP OF BEXAR COUNTY, TEXAS, MAP NO. 48029C0230G, DATED SEPTEMBER 29, 2010. A FEMA CLOMR FLOODPLAIN STUDY HAS BEEN PREPARED BY PAPE-DAWSON ENGINEERS AND WAS APPROVED BY THE CITY OF SAN ANTONIO, BEXAR COUNTY AND FEMA. (NOTE: THE VERBIAGE OF THIS NOTE DOES NOT CONSTITUTE APPROVAL OF THE FLOOD STUDY AT THIS TIME. COMMENTS REGARDING THE FLOOD STUDY WILL BE SUBMITTED UNDER SEPARATE LETTER).

## DRAINAGE EASEMENT NOTE:

NO STRUCTURE, FENCES, WALLS OR OTHER OBSTRUCTIONS THAT IMPEDE DRAINAGE SHALL BE PLACED WITHIN THE LIMITS OF THE DRAINAGE EASEMENTS SHOWN ON THIS PLAT. NO LANDSCAPING OR OTHER TYPE OF MODIFICATIONS WHICH ALTER THE CROSS-SECTIONS OF THE DRAINAGE EASEMENTS, AS APPROVED, SHALL BE ALLOWED WITHOUT THE APPROVAL OF THE DIRECTOR OF PUBLIC WORKS. THE CITY OF SAN ANTONIO AND BEXAR COUNTY SHALL HAVE THE RIGHT TO INGRESS AND EGRESS OVER THE GRANTOR'S ADJACENT PROPERTY TO REMOVE ANY IMPEDING OBSTRUCTIONS PLACED WITHIN THE LIMITS OF SAID DRAINAGE EASEMENTS AND TO MAKE ANY MODIFICATIONS OR IMPROVEMENTS WITHIN SAID DRAINAGE EASEMENTS.

## WATER QUALITY BASIN NOTE:

THE MAINTENANCE OF THE DETENTION POND/OR WATER QUALITY BASIN AND OUTLET STRUCTURE SHALL BE THE RESPONSIBILITY OF THE LOT OWNERS OR HOMEOWNERS' ASSOCIATION AND THEIR SUCCESSORS OR ASSIGNEES AND NOT THE RESPONSIBILITY OF THE CITY OF SAN ANTONIO AND/OR BEXAR COUNTY. LOT 902, BLK 37, NCB 14861 (0.132 AC).

## OPEN SPACE NOTE:

LOT 902, BLOCK 37, NCB 14861 IS DESIGNATED AS OPEN SPACE AND AS A DRAINAGE, SEWER, WATER, ELECTRIC, GAS, TELEPHONE AND CABLE TV EASEMENT.

## C.P.S. ENERGY NOTES:

1. THE CITY OF SAN ANTONIO AS PART OF ITS ELECTRIC AND GAS SYSTEM (CITY PUBLIC SERVICE BOARD) IS HEREBY DEDICATED THE EASEMENTS AND RIGHTS-OF-WAY FOR ELECTRIC DISTRIBUTION AND SERVICE FACILITIES IN THE AREAS DESIGNATED ON THIS PLAT AS "ELECTRIC EASEMENT," "ANCHOR EASEMENT," "SERVICE EASEMENT," "OVERHANG EASEMENT," "UTILITY EASEMENT," "GAS EASEMENT," AND "TRANSFORMER EASEMENT" FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, RECONSTRUCTING, MAINTAINING, REMOVING, INSPECTING, PATROLLING, AND ERECTING POLES, HANGING OR BURYING WIRES, CABLES, CONDUITS, PIPELINES OR TRANSFORMERS, EACH WITH ITS NECESSARY APPURTENANCES TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER GRANTOR'S ADJACENT LAND, THE RIGHT TO RELOCATE SAID FACILITIES WITHIN SAID EASEMENT AND RIGHT-OF-WAY AREAS, AND THE RIGHT TO REMOVE FROM SAID LANDS ALL TREES OR PARTS THEREOF, OR OTHER OBSTRUCTIONS WHICH ENDANGER OR MAY INTERFERE WITH THE EFFICIENCY OF SAID LINES OR APPURTENANCES THERETO. IT IS AGREED AND UNDERSTOOD THAT NO BUILDINGS, CONCRETE SLABS, OR WALLS WILL BE PLACED WITHIN SAID EASEMENT AREA.
2. ANY CPS MONETARY LOSS RESULTING FROM MODIFICATIONS REQUIRED OF CPS EQUIPMENT, LOCATED WITHIN SAID EASEMENT, DUE TO GRADE CHANGES OR GROUND ELEVATION ALTERATIONS SHALL BE CHARGED TO THE PERSON OR PERSONS DEEMED RESPONSIBLE FOR SAID GRADE CHANGES OR GROUND ELEVATION ALTERATION.
3. THIS PLAT DOES NOT AMEND, ALTER, RELEASE OR OTHERWISE AFFECT ANY EXISTING ELECTRIC, GAS, WATER, SEWER, DRAINAGE, TELEPHONE, CABLE EASEMENTS OR ANY OTHER EASEMENTS FOR UTILITIES UNLESS THE CHANGES TO SUCH EASEMENTS ARE DESCRIBED HEREON.

STATE OF TEXAS
COUNTY OF BEXAR

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: JEREMY FLACH
MERITAGE HOMES OF TEXAS, LLC
3512 PAESANOS PARKWAY, SUITE 300
SAN ANTONIO, TX 78231
(210) 293-4922

STATE OF TEXAS
COUNTY OF BEXAR

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED JEREMY FLACH KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 9 DAY OF December, A.D. 2013.

NOTARY PUBLIC, BEXAR COUNTY, TEXAS

CHRISTINA MICHELLE MEEKER
Notary Public, State of Texas
My Commission Expires
February 25, 2017

STATE OF TEXAS
W.R. WOOD
65364
LICENSED
PROFESSIONAL ENGINEER

STATE OF TEXAS
COUNTY OF BEXAR

I HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT TO THE MATTERS OF STREETS, LOTS AND DRAINAGE LAYOUT. TO THE BEST OF MY KNOWLEDGE THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE, EXCEPT FOR THOSE VARIANCES GRANTED BY THE SAN ANTONIO PLANNING COMMISSION.

LICENSED PROFESSIONAL ENGINEER

STATE OF TEXAS
COUNTY OF BEXAR

I HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND BY: PAPE-DAWSON ENGINEERS, INC.

STATE OF TEXAS
REGISTERED
JOHN NOEL NICHOLLS
5402
PROFESSIONAL
LAND SURVEYOR

REGISTERED PROFESSIONAL LAND SURVEYOR

### LINE TABLE

| LINE # | BEARING | LENGTH |
|---|---|---|
| L1 | N68°06'49"E | 100.00' |
| L2 | N48°53'07"E | 17.00' |
| L3 | N48°53'07"E | 19.00' |
| L4 | S41°06'53"E | 100.00' |
| L5 | S48°53'07"W | 19.00' |
| L6 | S44°02'10"W | 17.06' |
| L7 | S41°06'53"E | 199.75' |
| L8 | N81°33'24"E | 42.41' |
| L9 | S65°32'39"W | 43.19' |
| L10 | S01°09'21"W | 2.18' |
| L11 | S88°15'04"W | 14.00' |
| L12 | N01°09'21"E | 133.14' |
| L13 | N65°32'39"E | 46.90' |
| L14 | N41°06'53"W | 189.73' |
| L15 | S44°02'10"W | 11.38' |
| L16 | S44°48'30"W | 47.76' |
| L17 | N48°59'52"W | 91.25' |
| L18 | N54°29'02"E | 27.78' |
| L19 | S48°59'52"E | 82.32' |
| L20 | N44°48'30"E | 32.79' |
| L21 | N44°02'10"E | 11.72' |
| L22 | N41°06'53"W | 106.49' |
| L23 | N48°53'07"E | 14.00' |
| L24 | S48°53'07"W | 66.31' |
| L25 | N41°06'53"W | 87.00' |
| L26 | N48°53'07"E | 66.31' |
| L27 | N86°06'53"W | 43.01' |
| L28 | N41°06'53"W | 75.55' |
| L29 | N03°53'07"E | 43.01' |
| L30 | N41°06'53"W | 37.10' |
| L31 | N41°06'53"W | 108.09' |
| L32 | N86°06'53"W | 28.87' |
| L33 | S41°06'53"E | 67.26' |
| L34 | S03°53'07"W | 28.87' |

### CURVE TABLE

| CURVE # | RADIUS | DELTA | CHORD BEARING | CHORD | LENGTH |
|---|---|---|---|---|---|
| C1 | 770.48' | 17°13'17" | S32°00'46"E | 230.71' | 231.58' |
| C2 | 759.00' | 22°01'21" | S30°06'13"E | 289.94' | 291.73' |
| C3 | 691.00' | 15°57'14" | S27°04'09"E | 191.79' | 192.41' |
| C4 | 631.01' | 1°40'47" | N62°46'09"E | 18.50' | 18.50' |
| C5 | 62.00' | 17°56'52" | N72°34'58"E | 19.34' | 19.42' |
| C6 | 619.42' | 35°41'19" | S51°25'50"W | 379.62' | 385.83' |
| C7 | 588.00' | 14°25'00" | N15°53'40"W | 147.56' | 147.95' |
| C8 | 619.42' | 13°53'35" | S06°24'51"W | 149.83' | 150.20' |
| C9 | 574.00' | 4°31'15" | N28°07'32"W | 45.28' | 45.29' |
| C10 | 809.00' | 11°17'37" | N24°44'21"W | 159.21' | 159.46' |
| C11 | 641.00' | 22°01'21" | N30°06'13"W | 244.86' | 246.38' |
| C12 | 846.00' | 9°27'58" | S40°04'31"W | 139.61' | 139.77' |
| C13 | 830.00' | 10°33'37" | N39°31'42"E | 152.76' | 152.98' |
| C14 | 729.38' | 20°54'39" | N31°05'32"W | 264.72' | 266.20' |
| C15 | 784.48' | 17°15'11" | S32°00'05"E | 235.33' | 236.22' |
| C16 | 745.00' | 22°01'21" | S30°06'13"E | 284.59' | 286.35' |
| C17 | 705.00' | 20°04'34" | S29°07'49"E | 245.77' | 247.03' |
| C18 | 188.00' | 17°00'10" | N64°49'24"E | 55.59' | 55.79' |
| C19 | 631.01' | 7°17'13" | N59°57'56"E | 80.20' | 80.25' |
| C20 | 588.00' | 21°41'59" | N19°32'10"W | 221.37' | 222.69' |
| C21 | 795.00' | 11°17'37" | N24°44'21"W | 156.45' | 156.70' |
| C22 | 655.00' | 22°01'21" | N30°06'13"W | 250.21' | 251.76' |
| C23 | 633.42' | 1°41'50" | N00°18'58"E | 18.76' | 18.76' |

PAPE-DAWSON ENGINEERS
TBPE, FIRM REGISTRATION # 470
555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010

DATE OF PRINT: December 9, 2013

STATE OF TEXAS
COUNTY OF Dallas

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: STEVE SAXON
SLF IV/LEGACY NWSA, L.P., A TEXAS LIMITED PARTNERSHIP
5910 NORTH CENTRAL EXPRESSWAY, SUITE 1250
DALLAS, TEXAS 75206
(214) 361-5000

STATE OF TEXAS
COUNTY OF Dallas

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED STEVE SAXON KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 10th DAY OF December, A.D. 2013.

NOTARY PUBLIC, Dallas COUNTY, TEXAS

NOTARY PUBLIC
STATE OF TEXAS
MELISSA L. LONG
My Commission Expires
March 17, 2014

THIS PLAT OF STEUBING FARM - JV BACON PKWY HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO, TEXAS, IS HEREBY APPROVED BY SUCH COMMISSION IN ACCORDANCE WITH STATE OR LOCAL LAWS AND REGULATIONS; AND/OR WHERE ADMINISTRATIVE EXCEPTION(S) AND/OR VARIANCE(S) HAVE BEEN GRANTED.

DATED THIS _____ DAY OF _____, A.D. 20_____.

BY: _____
CHAIRMAN

BY: _____
SECRETARY

STATE OF TEXAS
COUNTY OF BEXAR

I, _____, COUNTY CLERK OF BEXAR COUNTY, DO HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE, ON THE _____ DAY OF _____, A.D. 20____ AT _____M. AND DULY RECORDED THE _____ DAY OF _____, A.D. 20____ AT _____M. IN THE DEED AND PLAT RECORDS OF BEXAR COUNTY, IN BOOK/ VOLUME _____ ON PAGE _____ IN TESTIMONY WHEREOF, WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE, THIS _____ DAY OF _____, A.D. 20_____.

COUNTY CLERK, BEXAR COUNTY, TEXAS

BY: _____, DEPUTY

PLAT NOTES APPLY TO EVERY PAGE OF THIS MULTIPLE PAGE PLAT

SHEET 1 OF 3

STEUBING FARM - JV BACON PKWY

Civil Job No. 6362-50; Survey Job No. 6362-20

Date: Dec 09, 2013, 11:20am User ID: KSteubing
File: P:\63\62\50\Design\Civil\Plat\PLat6362500.dwg

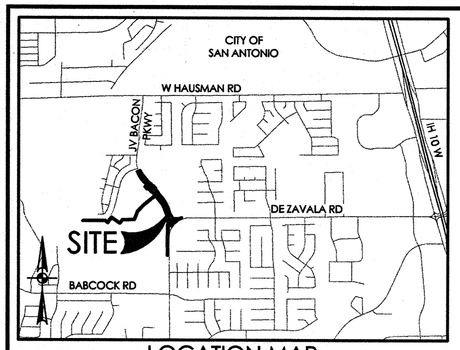
# PLAT NUMBER 130111

## SUBDIVISION PLAT OF STEUBING FARM - JV BACON PKWY

A 6.584 ACRE TRACT OF LAND OUT OF A 173.017 ACRE TRACT (MASTER TRACT) OF LAND CONVEYED TO SLF IV/LEGACY NWSA, L.P., A TEXAS LIMITED PARTNERSHIP IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 15746, PAGES 719-735 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, SAID 173.017 ACRE TRACT INCLUDING 0.264 ACRES OUT OF THAT 3.001 ACRE TRACT IN DEED RECORDED IN VOLUME 16465, PAGES 1723-1728 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, AND 0.044 ACRES OF THAT 1.039 ACRE TRACT CONVEYED TO SLF IV/LEGACY NWSA, L.P., A TEXAS LIMITED PARTNERSHIP IN DEED RECORDS IN VOLUME 16465, PAGES 1729-1734 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, AND INCLUDING 0.039 ACRES OUT OF LOT 901 OF THE STEUBING/ BABCOCK ROAD UNIT 1 SUBDIVISION RECORDED IN VOLUME 9592, PAGES 188-189 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS, AND OUT OF A 27.435 ACRE TRACT OF LAND CONVEYED TO MERITAGE HOMES OF TEXAS, LLC IN SPECIAL WARRANTY DEED IN VOLUME 16182, PAGES 208-220 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS, OUT OF THE ANSELMO PRU SURVEY NO. 20, ABSTRACT 574, COUNTY BLOCK 4766, NOW ALL IN NEW CITY BLOCK 14861, OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

**PAPE-DAWSON ENGINEERS**
TBPE, FIRM REGISTRATION # 470
555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010

DATE OF PRINT: December 9, 2013




LOCATION MAP
MAPSCO MAP GRID: 548A1
NOT-TO-SCALE

### C.P.S. ENERGY NOTES:

1. THE CITY OF SAN ANTONIO AS PART OF ITS ELECTRIC AND GAS SYSTEM (CITY PUBLIC SERVICE BOARD) IS HEREBY DEDICATED THE EASEMENTS AND RIGHTS-OF-WAY FOR ELECTRIC DISTRIBUTION AND SERVICE FACILITIES IN THE AREAS DESIGNATED ON THIS PLAT AS "ELECTRIC EASEMENT," "ANCHOR EASEMENT," "SERVICE EASEMENT," "OVERHANG EASEMENT," "UTILITY EASEMENT," "GAS EASEMENT," AND "TRANSFORMER EASEMENT" FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, RECONSTRUCTING, MAINTAINING, REMOVING, INSPECTING, PATROLLING, AND ERECTING POLES, HANGING OR BURYING WIRES, CABLES, CONDUITS, PIPELINES OR TRANSFORMERS, EACH WITH ITS NECESSARY APPURTENANCES TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER GRANTOR'S ADJACENT LAND. THE RIGHT TO RELOCATE SAID FACILITIES WITHIN SAID EASEMENT AND RIGHT-OF-WAY AREAS, AND THE RIGHT TO REMOVE FROM SAID LANDS ALL TREES OR PARTS THEREOF, OR OTHER OBSTRUCTIONS WHICH ENDANGER OR MAY INTERFERE WITH THE EFFICIENCY OF SAID LINES OR APPURTENANCES THERETO. IT IS AGREED AND UNDERSTOOD THAT NO BUILDINGS, CONCRETE SLABS, OR WALLS WILL BE PLACED WITHIN SAID EASEMENT AREA.
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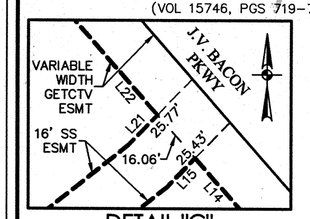
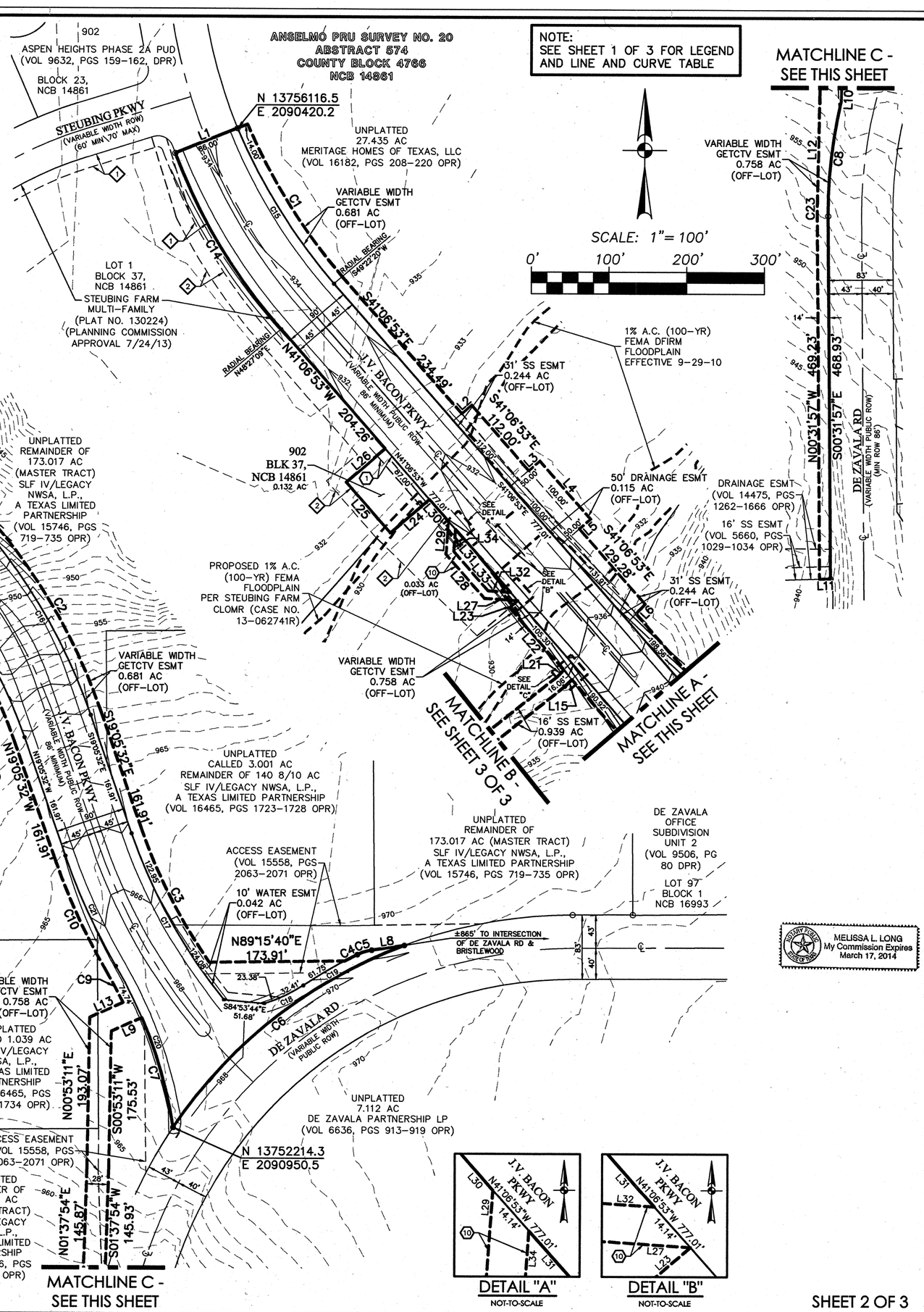



DETAIL "C"
NOT-TO-SCALE







DETAIL "A"
NOT-TO-SCALE




DETAIL "B"
NOT-TO-SCALE

STATE OF TEXAS
COUNTY OF BEXAR

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: JEREMY FLACH
MERITAGE HOMES OF TEXAS, LLC
3512 PAESANOS PARKWAY, SUITE 300
SAN ANTONIO, TX 78231
(210) 293-4922

STATE OF TEXAS
COUNTY OF BEXAR

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED JEREMY FLACH KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 9 DAY OF December, A.D. 2013.

NOTARY PUBLIC, BEXAR COUNTY, TEXAS

CHRISTINA MICHELLE MEEKER
Notary Public, State of Texas
My Commission Expires
February 25, 2017

STATE OF TEXAS
COUNTY OF BEXAR

I HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT TO THE MATTERS OF STREETS, LOTS AND DRAINAGE LAYOUT. TO THE BEST OF MY KNOWLEDGE THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE, EXCEPT FOR THOSE VARIANCES GRANTED BY THE SAN ANTONIO PLANNING COMMISSION.

LICENSED PROFESSIONAL ENGINEER

STATE OF TEXAS
W.R. WOOD
65364
LICENSED
PROFESSIONAL ENGINEER

STATE OF TEXAS
COUNTY OF BEXAR

I HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND BY: PAPE-DAWSON ENGINEERS, INC.

REGISTERED PROFESSIONAL LAND SURVEYOR

STATE OF TEXAS
REGISTERED
JOHN NOEL NICHOLLS
4402
PROFESSIONAL
LAND SURVEYOR

STATE OF TEXAS
COUNTY OF DALLAS

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE OR PART OF AN ENCLAVE OR PLANNED UNIT DEVELOPMENT, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER/DEVELOPER: STEVE SAXON
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(214) 361-5000

STATE OF TEXAS
COUNTY OF Dallas

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MELISSA L. LONG
My Commission Expires
March 17, 2014

NOTARY PUBLIC, Dallas COUNTY, TEXAS

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DATED THIS _____ DAY OF _____, A.D. 20____.

BY: _____
CHAIRMAN

BY: _____
SECRETARY

STATE OF TEXAS
COUNTY OF BEXAR

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COUNTY CLERK, BEXAR COUNTY, TEXAS

BY: _____, DEPUTY

SHEET 2 OF 3

STEUBING FARM - JV BACON PKWY

Civil Job No. 6362-50; Survey Job No. 6362-20

Date: Dec 09, 2013, 11:20am User ID: KStebding
File: P:\6362\50\Design\Civil Plat\6362050.dwg

# PLAT NUMBER 130111

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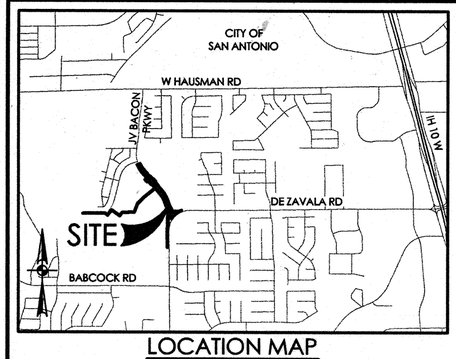
PAPE-DAWSON ENGINEERS
TBPE, FIRM REGISTRATION # 470
555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010


DATE OF PRINT: December 9, 2013

NOTE:
SEE SHEET 1 OF 3 FOR LEGEND AND LINE AND CURVE TABLE

SCALE: 1"= 100'
0' 100' 200' 300'

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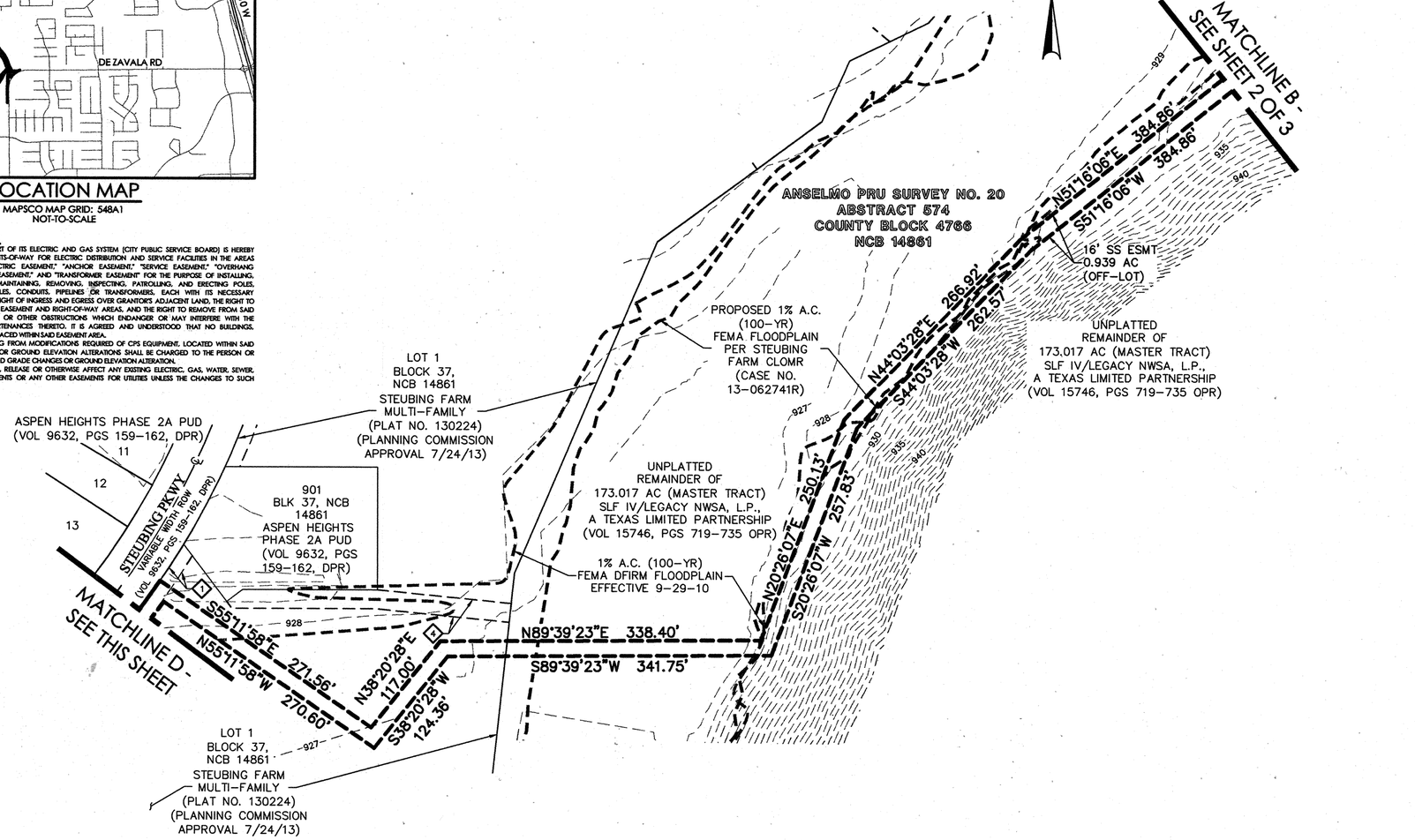


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COUNTY OF DALLAS

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(214) 361-5000

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COUNTY OF Dallas

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MELISSA L. LONG
My Commission Expires
March 17, 2014

NOTARY PUBLIC, Dallas COUNTY, TEXAS

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DATED THIS _____ DAY OF _____, A.D. 20____.

BY: _____
CHAIRMAN

BY: _____
SECRETARY

STATE OF TEXAS
COUNTY OF BEXAR

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COUNTY CLERK, BEXAR COUNTY, TEXAS

BY: _____, DEPUTY

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OWNER/DEVELOPER: JEREMY FLACH
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SAN ANTONIO, TX 78231
(210) 293-4922

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CHRISTINA MICHELLE MEEKER
Notary Public, State of Texas
My Commission Expires
February 25, 2017

NOTARY PUBLIC, BEXAR COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF BEXAR

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STATE OF TEXAS
W.R. WOOD
65364
LICENSED
PROFESSIONAL ENGINEER

LICENSED PROFESSIONAL ENGINEER

STATE OF TEXAS
COUNTY OF BEXAR

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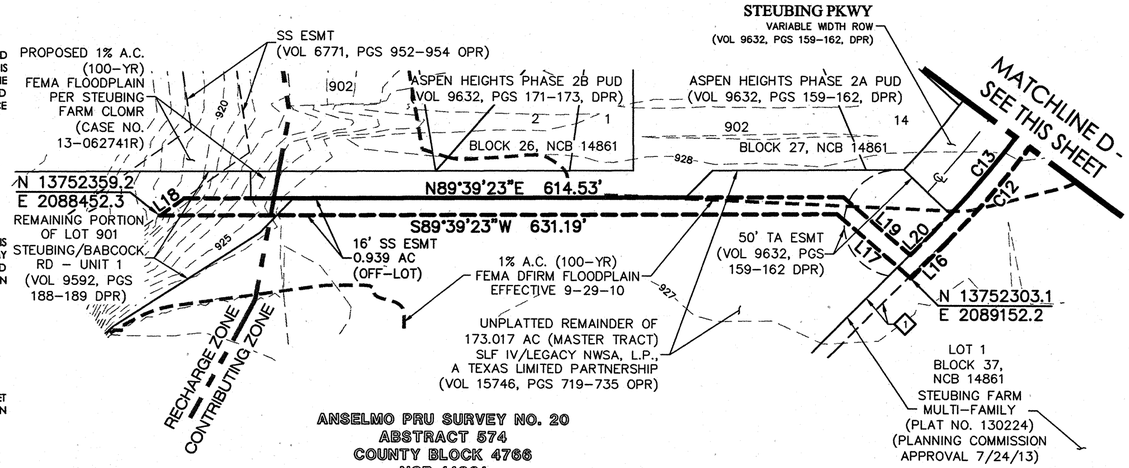
STATE OF TEXAS
REGISTERED
JOHN NOEL NICHOLLS
4402
PROFESSIONAL
LAND SURVEYOR

REGISTERED PROFESSIONAL LAND SURVEYOR




SHEET 3 OF 3

STEUBING FARM - JV BACON PKWY

Civil Job No. 6362-50; Survey Job No. 6362-20

Date: Dec 09, 2013, 11:20am User ID: KSteubing
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# CITY OF SAN ANTONIO

**DEPARTMENT OF PUBLIC WORKS**

**PLANNING & ENGINEERING/STORM WATER ENGINEERING**

**STAFF REPORT** **AGENDA ITEM NO. 6**

**Public Hearing:**
Planning Commission
January 8, 2014

**Application/Case Number:**
FPV 14-001, 14-003, & 14-004

**Applicant:**
William Shown
Rio Perla Properties, LP

**Representative:**
Tom Carter, P.E.

**Owner:**
Rio Perla Properties, LP

**Staff Coordinator:**
Sabrina Santiago, EIT, CFM
Senior Engineering Associate
(210)207-0182
Sabrina.santiago@sanantonio.gov

**Property Address/Location:**
312 Pearl Pkwy, Buildings 4 & 5

**MAPSCO Map Grid (Ferguson)**
617 A-2

**Tract Size:**
Tract is approximately 3.129 acres

**Council District(s):**
1

**Notification:**
Internet Agenda Posting January 4, 2014

## REQUEST

1) A request for approval of a floodplain variance **FPV 14-001, 14-003 & FPV 14-004 t**o Section 35-F124 (f) (20), 35-F125 (a) (6) 35-F133 (c) (3) and Section 35-F133 (c) (4) of the Unified Development Code (UDC), respectively, regarding allowable development within the regulatory floodplain for the **Cellars at the Pearl Conditional Letter of Map Revision (CLOMR),** a 3.129 acre tract of land within the San Antonio River watershed.

## APPLICATION TYPE:

Floodplain Variance

## RECOMMENDED ACTION

**Approval** of the proposed variance to Appendix F, Section 35-F124 (f) (20), Section 35-F125 (a) (6), and Section 35-F133 (c) (3) and ( c) (4).

## ALTERNATIVE ACTIONS

1) Approval of request
2) Denial of request
3) Continuance for additional information

## DATE FILED

September 26, 2013

## I. SYNOPSIS OF ANALYSIS

The applicant has submitted a Conditional Letter of Map Revision (CLOMR) and applied for a Floodplain Development Permit (FPDP) for reclamation of land from the 1% annual chance floodplain for the construction of new multi-family development with an associated parking garage structure. The application was reviewed by Planning & Engineering staff who determined that the proposed development was located within an identified floodplain of the City of San Antonio. Subsequently, the FPDP (Attachment 1) was recommended for disapproval as the proposed improvements do not meet the UDC requirements per Appendix F, Subdivision C, Section 35-F124 (f) (20) which states that 1% annual chance floodplain reclamation in areas of ineffective flow where floodplain storage volume lost to reclamation is offset by comparable excavation within the same creek floodplain. Section 35-F125 (a) (6) which states that 1% annual chance floodplain reclamation in over bank areas that are subject to flood depths greater than 3 (three) feet.

Section 35-F133 (c) (3) Which states that excluding capital improvement projects managed by a public agency, no construction that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being approved by FEMA. Moreover, a letter from the Public Works Department (Attachment 2) was addressed to the applicant regarding the review of the CLOMR associated with this development not in compliance with the current floodplain ordinance (No. 57969) of the City of San Antonio, and the requirement to submit a variance to the aforementioned section(s) of the UDC prior to Public Works approval of the CLOMR, issuance of the Federal Emergency Management Agency (FEMA) MT-2 Form, and issuance of the FPDP.

## III. RECOMMENDATION

The Director of Public Works recommends approval of the floodplain variance (Attachment 4) with the following conditions:

- The engineer of record has demonstrated that the proposed fill within the 1% A.C. floodplain will not cause an increase in water surface elevations upstream or downstream of the subject site.
- The engineer of record has verified that the proposed multi-family development will be one foot above the 100-year ultimate water surface elevation.
- The engineer of record has indicated that the fill to be placed within the 1% A.C. floodplain, cannot be offset with excavation due to the San Antonio River (SAR) Improvements done by the San Antonio River Authority (SARA). In addition, the concrete U-channel which makes up the SAR throughout the extents of the subject site will have to be disturbed to compensate for the lost storage due to fill. It is not feasible to disturb the improvements as well as the concrete U-channel to compensate for the amount of fill within the floodplain
- The engineer and developer have proven that this development will bring a high quality project to the Riverwalk and help meet the SA 2020 goals for downtown development and growth along the Riverwalk corridor.
- Construction activities associated with the project that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain shall not commence prior to a CLOMR being submitted to FEMA, performance bond for the CLOMR and LOMR submitted to the Public Works/Storm Water Engineering Division, and the issuance of a FPDP by the Public Works/Storm Water Engineering Division.
- The Certificate of Occupancy for any building permits associated with this project shall remain on hold until a LOMR and a final elevation certification is submitted to Public Works/Storm Water Engineering Division.

## IV. ATTACHMENTS

1. Flood Plain Development Permit
2. Flood plain Variance to applicant
3. Variance Request
4. Variance Response

Attachment 1

# CITY OF SAN ANTONIO

## FLOOD PLAIN DEVELOPMENT PERMIT

**Application Number** 14-041 **Date** 12/9/2013 **Permit Number** 2014041

**1. APPLICANT DATA (Owner)**

Company Name Rio Perla Properties, LP

First Name William MI Last Shown

Address: Number 303 Street Pearl Pkwy, Ste 300 City San Antonio

State TX Zip Code 78215 Phone (210) 930-1251

**THE ABOVE PERMITTEE HAS APPLIED FOR A FLOODPLAIN DEVELOPMENT PERMIT. THE APPLICATION HAS BEEN REVIEWED BY THE FLOOD PLAIN ADMINISTRATOR AND IT IS HIS DETERMINATION THAT THE PROPOSED DEVELOPMENT IS LOCATED WITHIN AN IDENTIFIED FLOOD PLAIN OF THE CITY OF SAN ANTONIO OR E.T.J.**

**THE FLOOD PLAIN ADMINISTRATOR HAS REVIEWED PLANS AND SPECIFICATIONS OF THE PROPOSED DEVELOPMENT FOR CONFORMANCE WITH THE FLOOD PLAIN ORDINANCE NO. 57969 OF THE CITY OF SAN ANTONIO, TEXAS.**

**YOU ARE HEREBY AUTHORIZED TO PROCEED WITH THE FOLLOWING PROPOSED CONSTRUCTION:**

**2. TYPE OF PROPOSED DEVELOPMENT**

Proposed use: Other*

*If non-residential or other selected complete the following:

Type of use proposed: Proposed multi-family development with parking garage structure

Occupant Name Rio Perla Properties, LP Phone

**3. DESCRIPTION OF CONSTRUCTION - NOTE: Applicant shall provide two sets of plans of the proposed construction or development.**

Type: Fill-Permanent Other (Describe): Proposed floodplain reclamation within the 100-year floodplain of the San Antonio River.

**ON THE FOLLOWING DESCRIBED PROPERTY:**

**4. LOCATION**

Subdivision Number Lot Number 1 Block NCB 12160 Tract

Location Description: 312 Pearl Pkwy, Bldgs 4 & 5

**Permitee Print Name**

**Permittee Signature** **Date** 12/9/13

**RECOMMEND FOR DISAPPROVAL** **Date** 12/9/13

**FLOOD PLAIN ADMINISTRATOR (DIR. OF PUBLIC WORKS)** **Date**

**(Conditions and provisions on next page)**

# CITY OF SAN ANTONIO

## FLOOD PLAIN DEVELOPMENT PERMIT

**FOR OFFICE USE ONLY**

**Application Number** 14-041 **Date** 12/9/2013 **Permit** 2014041

**TO MAINTAIN COMPLIANCE WITH THE FLOOD PLAIN ORDINANCE REGULATIONS AND TO ELIMINATE OR MINIMIZE FLOOD DAMAGE POTENTIAL TO THE PROPOSED DEVELOPMENT, YOU ARE HEREBY DIRECTED TO CONSTRUCT YOUR PROPOSED DEVELOPMENT IN ACCORDANCE WITH THE FOLLOWING SPECIAL PROVISIONS:**

- ☐ **For residential structures, the lowest floor (including basement) must be elevated to _____ feet mean sea level.**
- ☐ **For non-residential structures, the lowest floor (including basement) must be elevated or floodproofed to _____ feet mean sea level.**
- ☐ **Permittee must submit an elevation certificate from a registered professional engineer or surveyor that the finished floor level of each structure has been constructed at the specified elevation.**
- ☐ **For non-residential floodproofing, a registered professional engineer or architect must certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.**
- ☑ **Other provisions:**

This permit is good for only 12 months after 12 months this permit will become null and void.

If the work does not commence within 6 months a new permit will be required.

No material of any kind will be allowed to be deposited or stock piled overnight within the floodplain or drainage right-of-way.

Within five (5) working days of a storm event: The property owner is responsible for both (1) repairing any damage that may occur and (2) removing any materials that may be deposited downstream of the subject site as a result of the proposed construction.

This Floodplain Development Permit (FPDP) is NOT a construction (/ building) permit. The contractor shall coordinate with the City of San Antonio Development Services Division regarding additional building permit requirements.

This FPDP is for a disapproval as the proposed improvements within the 1% annual chance floodplain do not meet the UDC requirements per Sec 35-F124 (f)(20), 35-F125 (a) (6) & section 35-F133 ( c) (3) & (4) which states that excluding

capital improvement projects managed by a public agency no construction activity in the floodplain is allowed prior to a CLOMR being approved by FEMA and a LOMR being approved by FEMA

to release the C of O of any building permits.

Once a variance is approved by Planning Commission an approved FPDP will be issued.

Is Additional Information Required? No

Are other Federal, State, or Local Permits required? No

Permit Application - Reviewed By: Sabrina Santiago, EIT, CFM

**WARNING:**

**The flood hazard boundary maps and other flood data used by the Flood Plain Administrator in evaluating flood hazards to proposed developments are considered reasonable and accurate for regulatory purposes and are based on the best available scientific and engineering data. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. Issuance of this permit does not imply that land outside the areas of special flood hazards or that the uses permitted within such areas will be free from flooding or flood damages due to local conditions. Construction standards required by this permit are the minimum standards deemed necessary to minimize or eliminate flood damage, but reliance on these minimum standards shall not create liability on the part of the City, the Flood Plain Administrator or any officer or employee of the City of San Antonio in the event flooding or flood damage does occur.**

_____

**Permittee Initial**

Attachment 2

# CITY OF SAN ANTONIO

P.O. BOX 839966
SAN ANTONIO, TEXAS 78283-3966

December 09, 2013

Bill Shown
Rio Perla Properties, LP
303 Pearl Pkwy, Suite 300
San Antonio, TX 78215

**Re: Floodplain Variance-SWE# 25280 Cellars at the Pearl CLOMR**
**FPV# 14-001, FPV# 14-003, & FPV# 14-004**

Dear Mr. Shown;

The Public Works/Storm Water Engineering Division has been in review of the Conditional Letter of Map Revision (CLOMR) associated with the proposed improvements related to the Cellars at the Pearl Development. The proposed development is not in compliance with the current City of San Antonio Unified Development Code (UDC) Appendix F "Floodplains" as follows:

1. The proposed development does not meet the following UDC requirements:

    - Appendix F, Subdivision C, Section 35-F124 (f) (20) which states that 1% annual chance floodplain reclamation in areas of ineffective flow where floodplain storage volume lost to reclamation is offset by comparable exavation within the same creek floodplain.
    - Appendix F, Subdivision C, Section 35-F125 (a) (6) which states that 1% annual chance floodplain reclamation in over bank areas that are subject to flood depths greater than 3 (three) feet.
    - Appendix F, Subdivision C, Section 35-F133 (c) (3) & (c ) (4) which states that excluding capital improvement projects managed by a public agency, no construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being approved by FEMA. In addition, no construction activity, to include building permits, that requires a revision to a FEMA designated floodplain to meet the provisions of these floodplain ordinances is allowed prior to EITHER:

        - A letter of map revision (LOMR) being approved by FEMA

        OR

        - A LOMR being submitted to FEMA AND a performance agreement being accepted by the city in accordance with subsection 35-F134.

2. A variance to the above UDC requirements will be required prior to Public Works/Storm Water Engineering Division approval of the CLOMR, issuance of the FEMA MT-2 Form, and issuance of the Floodplain Development Permit (FPDP).

3. The engineer of record has provided the following information to assist with the review of the variance to the above UDC requirements:

    - The engineer of record has demonstrated that the proposed fill within the 1% A.C. floodplain will not cause an increase in water surface elevations upstream or downstream of the subject site.
    - The engineer of record has verified that the proposed multi-family development will be one foot above the 100-year ultimate water surface elevation.
    - The engineer of record has indicated that the fill to be placed within the 1% A.C. floodplain, cannot be offset with exacavation due to the San Antonio River (SAR) Improvements done by the San Antonio River Authority (SARA). In addition, the concrete U-channel which makes up the SAR throughout the extents of the subject site will have to be disturbed to compensate for the lost storage due to fill. It is not feasible to disturb the improvements as well as the concrete U-channel to compensate for the amount of fill within the floodplain
    - The engineer and developer have proven that this development will bring a high quality project to the Riverwalk and help meet the SA 2020 goals for downtown development and growth along the riverwalk corridor.

4. Public Works will support a variance to the above UDC requirements with the following conditions:

    - Construction activities associated with the project that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain shall not commence prior to a CLOMR being submitted to FEMA, performance bond for the CLOMR and LOMR submitted to the Public Works/Storm Water Engineering Division, and the issuance of a FPDP by the Public Works/Storm Water Engineering Division.
    - The Certificate of Occupancy for any building permits associated with this project shall remain on hold until a LOMR and a final elevation certification is submitted to Public Works/Storm Water Engineering Division.

If the Variance is approved by the Planning Commission, Public Works/Storm Water Engineering Division will issue a floodplain development permit once the above conditions are met. If you have further questions or require any further assistance and/or information, please contact Sabrina Santiago at (210) 207-0182 or via email (sabrina.santiago@sanantonio.gov).

Sincerely,

Arthur E. Reinhardt IV, PE, CFM
Assistant Director, Planning & Engineering
Department of Public Works

Attm(s): Exhibit 1-Vicinity Map
cc: Tom Carter, P.E., Pape-Dawson Engineers, Inc.
City of San Antonio, Planning Commission

PAPE-DAWSON ENGINEERS

LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

November 12, 2013

Variance Request
Mr. Rod Sanchez
Director of Development Services
City of San Antonio
114 W. Commerce, 6th Floor
San Antonio, TX 78205

Re: The Cellars at Pearl CLOMR
Variance Request
UDC Sections 35-F125(a)(6), 35-F124(f)(20) and 35-F133(c)(3)

Dear Mr. Sanchez:

Please consider this letter as a formal request for a Variance Request to UDC Sections 35-F124(f)(20) "Allowable Development Within the Regulatory Floodplain", 35-F125(a)(6) "Prohibited Development Within the Regulatory Floodplain", and 35-F133(c)(3) "Permit Evaluation".

The Cellars at Pearl is a proposed multi-family development that consists of one tract. The site is located in central San Antonio, Texas wholly within the city of San Antonio's limits. The tract is located immediately north of IH-35 and west of US Highway 281 between Newell Avenue and E. Grayson Street as shown in Exhibit 1.

The source of flooding for this site is the San Antonio River. Portions of the site lay within the 1% AC floodplain as shown on FEMA's Flood Insurance Rate Map (FIRM) Panel No. 48029C0405G, which is shown in Exhibit 2. As part of the development, the floodplain on the property will be reclaimed by filling and raising the site above the 1% Ultimate Development water surface elevations. Per UDC Section 35-F124 (f)(20) the *"1% annual chance floodplain reclamation in areas of ineffective flow where floodplain storage volume lost to reclamation is offset by comparable excavation within the same creek floodplain"*, the reclamation of this ineffective flow area is acceptable.

The effective FEMA floodplain reflects the recently constructed San Antonio River Museum Reach (LOMR Case No. 11-06-0604P Effective Date: March 12, 2012). The effective hydraulic model has been updated to reflect site specific topography to create a corrected effective hydraulic model. Exhibit 3 shows locations where the developer of this site proposes the reclamation of the ineffective flow areas on the east bank of the San Antonio River. Flood depths in this overbank area vary from 0 to ±14-feet. The proposed grading and corresponding proposed 1% AC floodplain is provided as Exhibit 4.

The reclamation associated with this project would require a compensating volume of 1.29 acre feet; however, an equal or greater volume within the San Antonio River along this property is not practical since the San Antonio River is channelized and fully developed on the east side with these improvements. There has been an amphitheater recently constructed, which has increased the floodplain volume in this area by 0.94 acre feet just north of The Cellars and within the property limits. This volume provides approximately 73% of the 1.29 acre feet of floodplain volume lost. There is no other area available to compensate for the remaining floodplain volume lost.

The Cellars vertical construction is scheduled to begin in the first quarter of 2014. Our experience has been that FEMA CLOMR submittals take between 3 to 6 months for approval. Per UDC Section 35F-133(c)(3), *"Excluding capital improvement projects managed by a public agency, no construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being approved by FEMA.*". However, waiting 3 to 6 months is too long of a time period to delay construction.

We are requesting three variances. The first variance request is: (1) to allow development within the floodplain overbank that is subject to floods greater than 3-feet per UDC 35-F125(a)(6), (2) to exempt the provision of the compensating floodplain volume within the same creek floodplain as required by UDC Section 35-F124 (f)(20) since the majority of the compensating floodplain volume has been met, and (3) to allow for construction prior to FEMA approval of the CLOMR which does not adhere to UDC Section 35F-133 (c)(3).

1. If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his or her property.
   *(1) Since the flooding is greater than 3-feet in the overbank no reasonable use of the property can be achieved and still meet code.*
   *(2) The provision of compensating floodplain storage within the San Antonio River is not possible without major disturbance to recent Riverwalk improvements. Without the reclamation of floodplain, this area of the site will not allow the applicant to make reasonable use of his property due to existing topography and will significantly alter the layout of the proposed site plan.*
   *(3) Allowing for the construction to commence prior to FEMA approval of the CLOMR is essential to begin construction by the first quarter of 2014.*

2. The hardship relates to the applicant's land, rather than personal circumstance.
   *(1) The existing topography is creating a flood depth of greater than 3 feet.*
   *(2) The proximity to the San Antonio Riverwalk improvements prevents this property owner from providing the required compensating fill in a practical and economical manner.*
   *(3) The property's location to the San Antonio River has resulted in the floodplain encroachment on the subject property. The necessary FEMA approval is therefore a result of the land rather than personal circumstance.*

3. The hardship is unique, or nearly so, rather than one shared by many surrounding property owners.
*(1, 2 & 3) A majority of the site has already been developed or is under construction and there are few known similar hardships in the area.*

4. The hardship is not the result of the applicant's own actions.
*(1, 2 & 3) The hardship is not the result of the applicant's actions but the floodplain, existing topography and relative proximity to the San Antonio Riverwalk improvements.*

5. The granting of the variance will not be injurious to other property and will not prevent the orderly subdivision of other property in accordance with these regulations.
*(1, 2 & 3) The proposed variance requests will not be injurious to other properties. By filling the ineffective flow along the left overbank of the property, there are negligible adverse impacts to upstream or downstream property owners (refer to comparison water surface elevation Table 2).*

6. The variance is the minimum necessary, considering flood hazard, to afford relief.
*(1 & 2) The variance is the minimum necessary given the existing and proposed constraints.*
*(3) The variance requested is necessary to meet the construction schedule for the project.*

7. There is good and sufficient cause.
*(1& 2) There is good and sufficient cause to granting these variances since it would allow for a high quality project along the river and compliment the Riverwalk improvements recently constructed. It will also help meet the SA 2020 goals for downtown development and stimulate further growth in the downtown riverwalk corridor.*
*(3) Allowing for the start of construction prior to CLOMR approval would allow project construction to coincide with SARA's yearly down time of the San Antonio River and economically benefit the surrounding community sooner.*

8. Failure to grant the variance will result in exceptional hardship to the applicant.
*(1) Failure to grant the variance would result in significant site plan changes to the project and not allow valuable private property to be developed along the San Antonio River.*
*(2) Failure to grant the variance will result in extensive coordination with the SARA and the City of San Antonio to find a location that would provide the compensating floodplain volume needed for this project. To accomplish this task would be expensive, time consuming and delay the project even further.*
*(3) Failure to allow for the start of construction prior to the FEMA CLOMR approval will result in delaying construction, adding cost to the project and limiting the positive economic impact the project will provide to the surrounding community.*

9. The variance will not result in increased flood heights, cause an additional threat to public safety, result in extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.
*(1, 2 & 3) The variance will have a negligible increase (0.01 feet) in flood height from a pre and post project 1% AC storm event and not cause additional threat to public safety.*

*The granting of the variance will not create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances.*

In our professional opinion, these Variance Requests remain in harmony with the spirit and intent of the UDC, as it will not adversely affect the health, safety, or welfare of the public.

If you have questions or require any additional information, please do not hesitate to contact our office at your earliest convenience.

Sincerely,
Pape-Dawson Engineers, Inc.
Texas Board of Professional Engineers, Firm Registration #470

11/12/13

STATE OF TEXAS
THOMAS MATTHEW CARTER
79272
LICENSED
PROFESSIONAL ENGINEER

Thomas M. Carter, P.E.
Vice President

Attachments

P:\55\76\72\Word\Letters\131002a1-AEVR.docx

**For Office Use Only:** AEVR #: _____ Date Received: _____

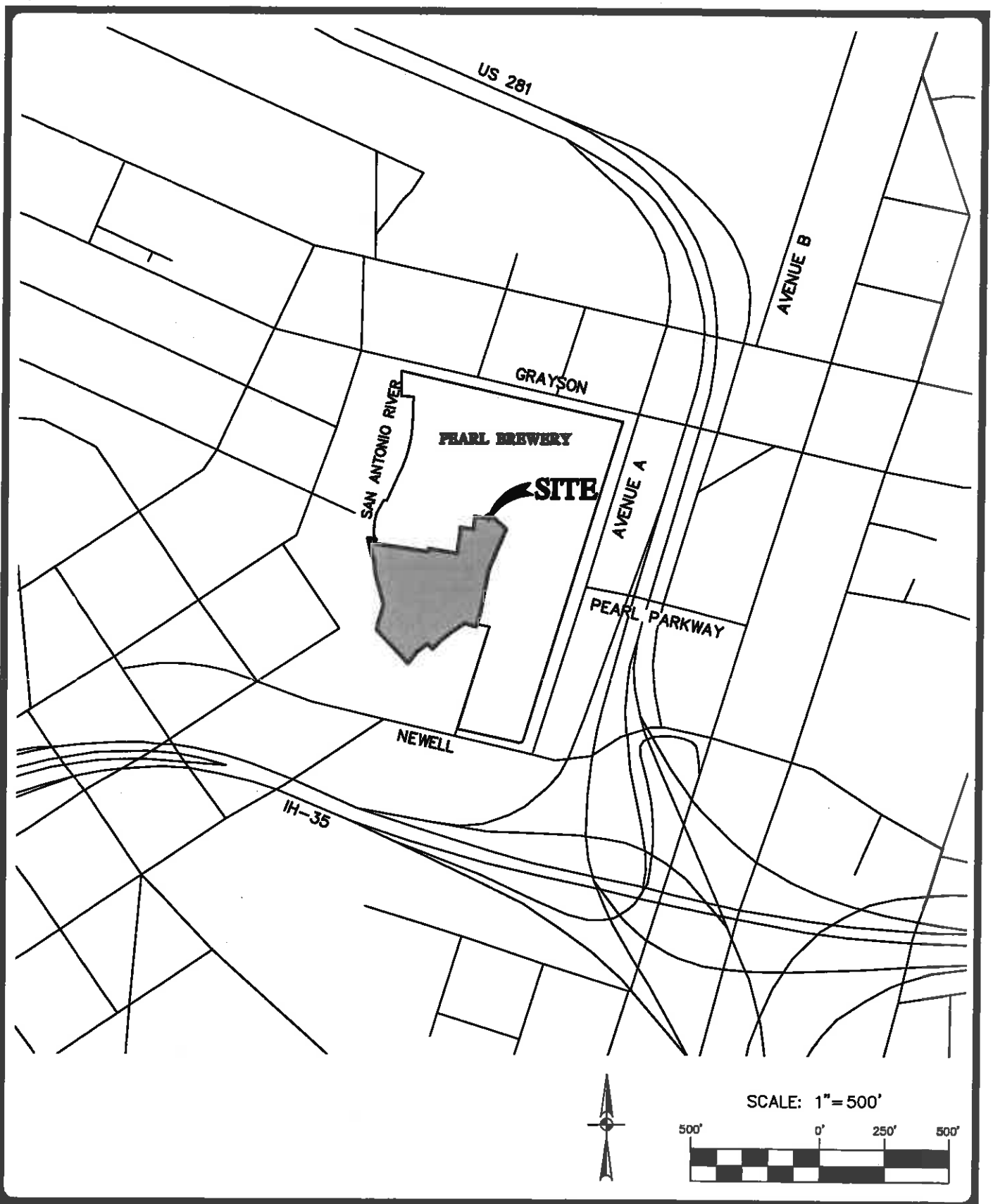
**DSD – Director Official Action:**

☐ APPROVED ☐ APPROVED W/ COMMENTS ☐ DENIED

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Comments: _____




JOB NO. 5576-72
DATE OCTOBER 2013
DESIGNER BT
CHECKED BT DRAWN CBS
SHEET EX 1

# CELLARS AT PEARL

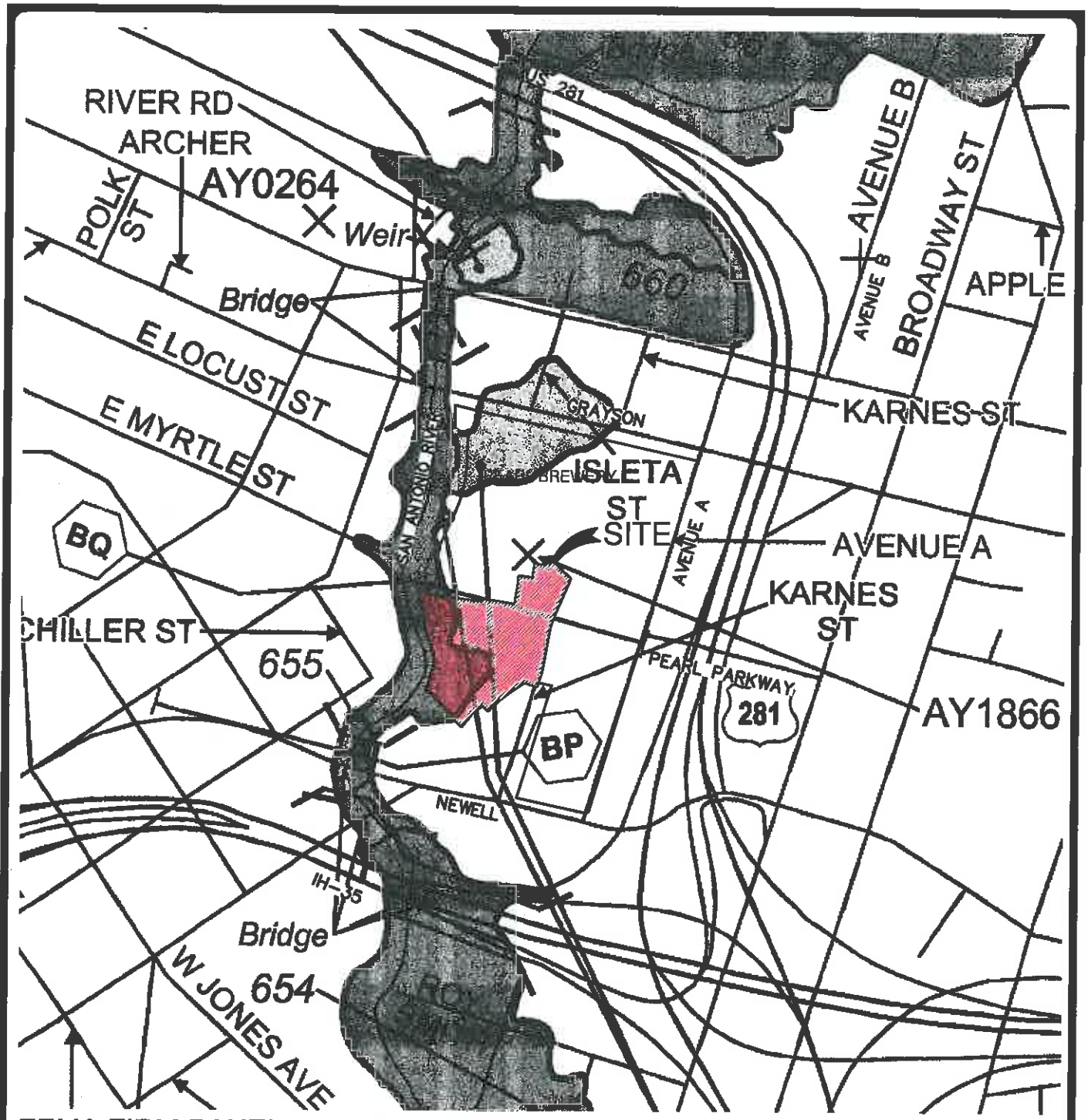
## SAN ANTONIO, TEXAS

## SITE LOCATION MAP

PAPE-DAWSON ENGINEERS
555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010
TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470

Date: Oct 29, 2013, 4:00pm User ID: cstevenson
File: P:\53\76\72\Design\Exhibits\131029 - SW MANAGEMENT\557872 - LOCATION MAP.dwg

THIS DOCUMENT HAS BEEN PRODUCED FROM MATERIAL THAT WAS STORED AND/OR TRANSMITTED ELECTRONICALLY AND MAY HAVE BEEN INADVERTENTLY ALTERED. RELY ONLY ON FINAL HARDCOPY MATERIALS BEARING THE CONSULTANT'S ORIGINAL SIGNATURE AND SEAL.




FEMA FIRM PANEL 48029C0405G

SCALE: 1"= 500'

500' 0' 250' 500'

JOB NO. 5576-72
DATE OCTOBER 2013
DESIGNER BT
CHECKED BT DRAWN CBS
SHEET EX 2

# CELLARS AT PEARL

## SAN ANTONIO, TEXAS

## FEMA MAP

PAPE-DAWSON ENGINEERS
555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010
TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470

Date: Nov 06, 2013, 11:58am User ID: KDavis
File: P:\55\76\72\Design\Exhibits\131028 - SW MANAGEMENT\EX557672-FEMA MAP.dwg

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LEGEND:

EXISTING 100-YR FLOODPLAIN

PROPOSED 100-YR ULTIMATE DEVELOPMENT FLOODPLAIN

PORTION BEING RECLAIMED

SCALE: 1"= 200'

200' 0' 100' 200'

JOB NO. 5576-72
DATE NOVEMBER 2013
DESIGNER KRD
CHECKED ET DRAWN KRD
SHEET EX 3

# CELLARS AT PEARL

## SAN ANTONIO, TEXAS

## FLOODPLAIN RECLAMATION

PAPE-DAWSON ENGINEERS

555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.9000 FAX: 210.375.9010

TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470

Date: Nov 06, 2013, 11:44am User ID: KDavis
File: P:\55\76\72\Design\Exhibits\131029 - SW MANAGEMENT\EX5576-72-RECLAMATION MAP.dwg

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Attachment 4

# CITY OF SAN ANTONIO
## PUBLIC WORKS
### Interdepartmental Correspondence

**TO:** **Robert Rodriguez, Chair**
**City of San Antonio Planning Commission**

**FROM:** **Arthur E. Reinhardt IV, PE, CFM, Assitant Director, Planning & Engineering**

**COPIES TO:** **Tom Carter, P.E., Pape-Dawson Engieeners, Inc.**

**SUBJECT:** **Floodplain Variance FPV# 14-001, 14-003 , and 14-004**
**SWE# 25280 Cellars at the Pearl CLOMR**

**DATE:** **December 9, 2013**

---

The Department of Public Works Storm Water Engineering has reviewed the Conditional Letter of Map Revision (CLOMR) for the Cellars at the Pearl Development.

The proposed development does not meet the following City of San Antonio Unified Development Code (UDC) requirements:

- Appendix F, Subdivision C, Section 35-F124 (f) (20) which states that 1% annual chance floodplain reclamation in areas of ineffective flow where floodplain storage volume lost to reclamation is offset by comparable exavation within the same creek floodplain.
- Appendix F, Subdivision C, Section 35-F125 (a) (6) which states that 1% annual chance floodplain reclamation in over bank areas that are subject to flood depths greater than 3 (three) feet.
- Appendix F, Subdivision C, Section 35-F133 (c) (3) & (c ) (4) which states that excluding capital improvement projects managed by a public agency, no construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being approved by FEMA. In addition, no construction activity, to include building permits, that requires a revision to a FEMA designated floodplain to meet the provisions of these floodplain ordinances is allowed prior to EITHER:
    - A letter of map revision (LOMR) being approved by FEMA

    OR

    - A LOMR being submitted to FEMA AND a performance agreement being accepted by the city in accordance with subsection 35-F134.

The engineer of record has provided the following information to assist with the review of the variance to the above UDC requirements:

- The engineer of record has demonstrated that the proposed fill within the 1% A.C. floodplain will not cause an increase in water surface elevations upstream or downstream of the subject site.

- The engineer of record has verified that the proposed multi-family development will be one foot above the 100-year ultimate water surface elevation.
- The engineer of record has indicated that the fill to be placed within the 1% A.C. floodplain, cannot be offset with exacavation due to the San Antonio River (SAR) Improvements done by the San Antonio River Authority (SARA). In addition, the concrete U-channel which makes up the SAR throughout the extents of the subject site will have to be disturbed to compensate for the lost storage due to fill. It is not feasible to disturb the improvements as well as the concrete U-channel to compensate for the amount of fill within the floodplain
- The engineer and developer have proven that this development will bring a high quality project to the Riverwalk and help meet the SA 2020 goals for downtown development and growth along the riverwalk corridor.

Public Works will support a variance to the above UDC requirements with the following conditions:

- Construction activities associated with the project that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain shall not commence prior to a CLOMR being submitted to FEMA, performance bond for the CLOMR and LOMR submitted to the Public Works/Storm Water Engineering Division, and the issuance of a FPDP by the Public Works/Storm Water Engineering Division.
- The Certificate of Occupancy for any building permits associated with this project shall remain on hold until a LOMR and a final elevation certification is submitted to Public Works/Storm Water Engineering Division.

If the Variance is approved by the Planning Commission, Public Works Department/Storm Water Engineering Division will issue a floodplain development permit for work associated with this project once the above conditions are met.

If you have additional questions, please contact Sabrina Santiago (210) 207-0182 or via email at sabrina.santiago@sanantonio.gov.

Attm(s) #: Exhibit 1-Vicinity Map

# CITY OF SAN ANTONIO

**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**

**TRANSPORTATION PLANNING**

**STAFF REPORT** **AGENDA ITEM NO** 7

**Public Hearing:**
January 8, 2013

**Application/Case Number:**
MTPA 13002

**Applicant:**
KFW Engineers
c/o Blaine Lopez

**Representative:**
Brown & Ortiz, PC
c/o Ken Brown

**Owner:**
CTMGT Rancho del Lago, LLC

**Staff Coordinator:**
Rebecca Pacini, AICP, Senior Planner
(210) 207-7816
rebecca.pacini@sanantonio.gov

**Location:**
A proposed segment of the North/South Connector, a Secondary Arterial Type A, between Potranco Road and Marbach Road on the Major Thoroughfare Plan, and a proposed segment of Marbach Road, a Secondary Arterial Type A, on the Major Thoroughfare Plan between Grosenbacher Road and Highway 211 generally located in west Bexar County

**Council District(s):**
None, City of San Antonio ETJ

**Notification:**
Published in Daily Commercial Recorder 11/15/2013
Notices Mailed 11/21/2013

- 10 to property owners within 200 feet
- No registered neighborhood association within 200 feet

## SUBJECT

Consideration of a request to amend the Major Thoroughfare Plan, a component of the City of San Antonio Master Plan, by:

1) Realigning a proposed segment of the North/South Connector, a Secondary Arterial Type A requiring 86 feet of right-of-way, between Potranco Road and Marbach Road on the Major Thoroughfare Plan, and
2) Realigning a proposed segment of Marbach Road, a Secondary Arterial Type A requiring 86 feet of right-of-way, on the Major Thoroughfare Plan between Grosenbacher Road and Highway 211 generally located in west Bexar County.

## STAFF RECOMMENDATION

**Approval** of the request as presented

## ALTERNATIVE ACTIONS

A. Denial of both parts of the request;
B. Denial of the first part of the request and approval of the second part; or
C. Approval of the first part of the request and denial of the second part.

## CASE HISTORY

This is the third public hearing.

Application received, 5/21/2013

MTP Committee meetings, 06/11/2013 and 09/05/2013

Public information meeting, 08/29/2013

Planning Commission Technical Advisory Committee meeting, 11/08/2013

Planning Commission public hearing, 12/04/2013 and12/18/2013.

## I. BACKGROUND

The Major Thoroughfare Plan (MTP) adopted as a component of the City's Comprehensive Master Plan generally identifies the location for major roads within San Antonio and its extra-territorial jurisdiction (ETJ). The MTP assures an adequate transportation network that works to move people, goods, and services in an optimal and efficient manner through right-of-way dedication for future roads. The MTP was adopted by City Council through Ordinance No. 49818 on September 21, 1978. The MTP has been amended several times through the years to calibrate and realign the thoroughfares along with development of the greater San Antonio metropolitan area. The MTP is generally built as development occurs.

In 1985, the City of San Antonio amended the Major Thoroughfare Plan through Ordinance No. 6132 to designate the segment of Marbach from Loop 1604 to the Bexar County line.

In 2006, the City of San Antonio amended the Major Thoroughfare Plan through Ordinance No. 2006-03-23-398 to designate the segment of the North/South Connector between Potranco Road and Marbach Road as a Secondary Arterial Type A requiring 86 feet of right-of-way.

## II. ISSUES

The applicant represents a proposed 691 acre development known as Arcadia Ridge that would consist of residential development, commercial development, a school site, and park/open space. The development is required to accommodate two proposed major thoroughfares, North/South Connector and Marbach Road, designated in the Major Thoroughfare Plan (MTP).

The first part of the applicant's request is to realign the North/South Connector with Stevens Parkway. Stevens Parkway was identified in Stevens Ranch, Master Development Plan (MDP) 777, accepted in 2004, as accommodating the MTP right-of-way dedication for the North/South Connector. Plat 050366 was approved and recorded with the right-of-way dedication for Stevens Parkway in accordance with the approved MDP 777 in 2007. Plats related to MDP 777 and subsequent amendments to the MDP were approved without amending the MTP.

The current alignment of the North/South Connector as adopted does not recognize the developed portion of Stevens Parkway as the North/South Connector. Therefore, the alignment south of Potranco Road must be amended to recognize the shift of the thoroughfare alignment as Stevens Parkway. The current alignment for the North/South Connector traverses several platted and developed areas north of Potranco Road. To best provide connectivity from Stevens Parkway to the proposed Marbach Road alignment, the applicant proposes to shift the alignment of the North/South Connector to align with Stevens Parkway along the western boundary of the applicant's property. The alignment as adopted through the proposed development crosses a natural storm water low area. Placing the right-of-way through this area may create additional concern for addressing storm water management. Additionally, neighboring property owners have expressed concern that with the construction of Stevens Parkway to the north it was anticipated that future dedication of the North/South Connector would align with Stevens Parkway to Marbach Road.

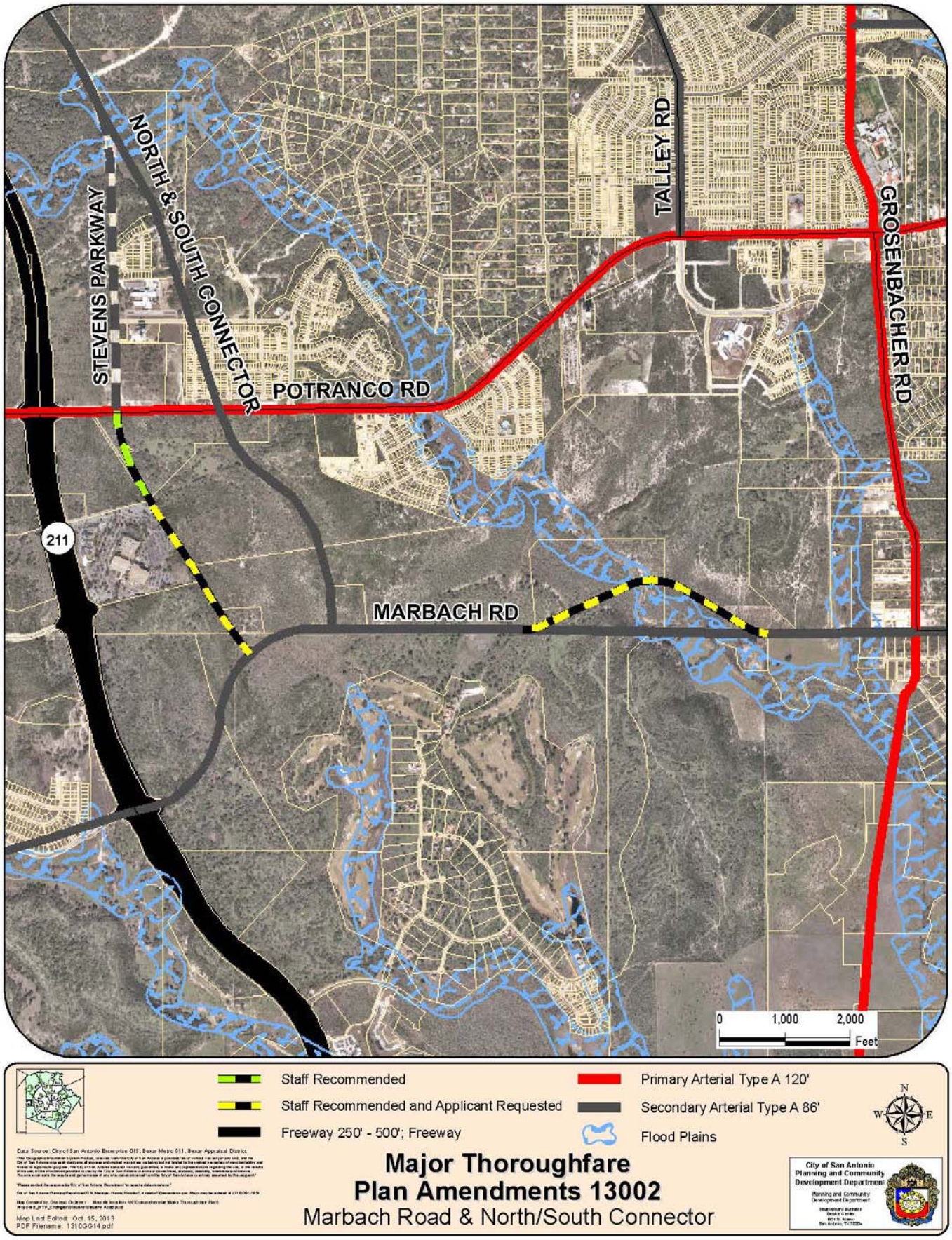
The second part of the applicant's request is to realign a proposed portion of Marbach Road currently proposed along the southern boundary of the applicant's property in order to minimize costs and to accommodate environmental constraints. The applicant proposes to shift the alignment onto his property in order to design and construct a roadway which takes into consideration and preserves the natural topography. The current alignment as adopted is not cost effective due to the steep topography and the geometry of Potranca Creek which would require a large amount of earthwork.

## III. RECOMMENDATION

The Department recommends **approval** as presented. The Planning Commission Technical Advisory Committee recommended approval on November 8, 2013.

## IV. Attachments

1. Area map


STEVENS PARKWAY
NORTH & SOUTH CONNECTOR
POTRANCO RD
TALLEY RD
GROSENBACHER RD
211
MARBACH RD
0
1,000
2,000
Feet
Staff Recommended
Staff Recommended and Applicant Requested
Freeway 250' - 500'; Freeway
Primary Arterial Type A 120'
Secondary Arterial Type A 86'
Flood Plains
N
W
E
S
Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District
Map Last Edited: Oct. 15, 2013
PDF Filename: 13100G014.pdf
Major Thoroughfare
Plan Amendments 13002
Marbach Road & North/South Connector
City of San Antonio
Planning and Community
Development Department
Planning and Community
Development Department

# RESOLUTION NO.

**RECOMMENDING TO APPROVE AN AMENDMENT TO THE MAJOR THOROUGHFARE PLAN, A COMPONENT OF THE CITY OF SAN ANTONIO MASTER PLAN BY REALIGNING A PROPOSED SEGMENT OF THE NORTH/SOUTH CONNECTOR, A SECONDARY ARTERIAL TYPE A REQUIRING 86 FEET OF RIGHT-OF-WAY, BETWEEN POTRANCO ROAD AND MARBACH ROAD ON THE MAJOR THOROUGHFARE PLAN, AND REALIGNING A PROPOSED SEGMENT OF MARBACH ROAD, A SECONDARY ARTERIAL TYPE A REQUIRING 86 FEET OF RIGHT-OF-WAY, ON THE MAJOR THOROUGHFARE PLAN BETWEEN GROSENBACHER ROAD AND HIGHWAY 211, GENERALLY LOCATED IN WEST BEXAR COUNTY.**

DRAFT

**WHEREAS,** the Planning Commission is charged by the City Charter with the responsibility to make, amend, extend, and add to the City of San Antonio Master Plan for the physical growth and development of the City; and

**WHEREAS,** the City of San Antonio Major Thoroughfare Plan was adopted on September 21, 1978 by City Council as a component of the City of San Antonio Master Plan; and

**WHEREAS,** the Planning Commission held public hearings on December 4 and 18, 2013 and January 8, 2014, allowing all interested citizens to be heard.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

SECTION 1: The amendment to the Major Thoroughfare Plan, a component of the Master Plan of the City, to realign a proposed segment of the North/South Connector, a Secondary Arterial Type A requiring 86 feet of right-of-way, between Potranco Road and Marbach Road on the Major Thoroughfare Plan, and to realign a proposed segment of Marbach Road, a Secondary Arterial Type A requiring 86 feet of right-of-way, on the Major Thoroughfare Plan between Grosenbacher Road and Highway 211, generally located in west Bexar County, is herein approved and recommended to the City Council for adoption. The Amendment is more particularly described in **Attachment "I,"** attached hereto and incorporated herein for all purposes.

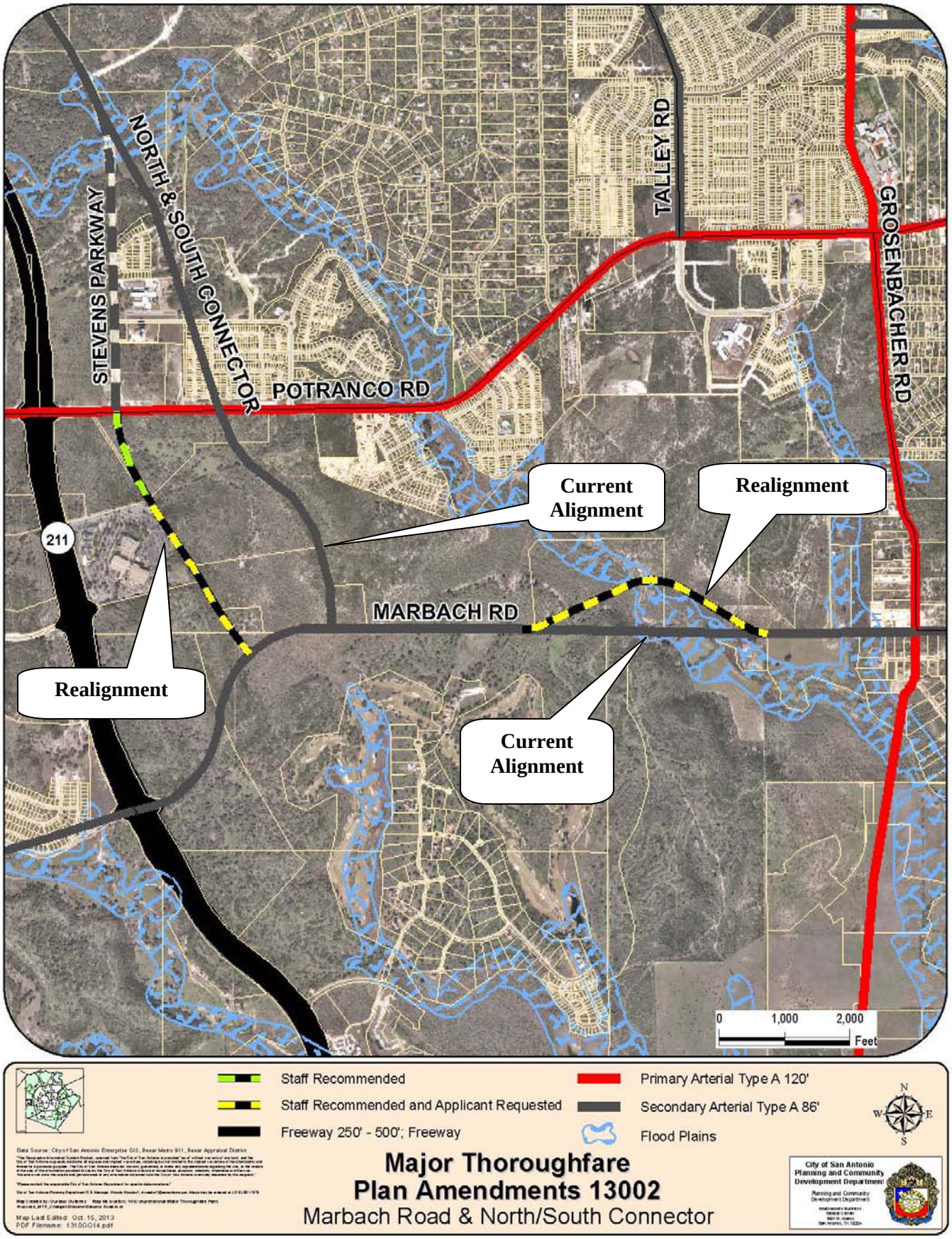
PASSED AND APPROVED ON THIS 8th DAY OF JANUARY 2014.

Approved:

_____
Roberto R. Rodriguez, Chair
San Antonio Planning Commission

Attest:

_____
Executive Secretary
San Antonio Planning Commission




**ATTACHMENT I**

# Stevens Ranch
# San Antonio, Texas

November 27, 2013

Mr. Roderick J. Sanchez, Director
Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, TX 78204

Re: Major Thoroughfare Plan to Stevens Ranch Parkway and
Arcadia Proposed Master Development Plan

Dear Mr. Sanchez:

As I did on September 4, I am writing again to express our opposition to the proposed Major Thoroughfare Plan realignments through the proposed Arcadia Master Development Plan and to oppose approval of the proposed Arcadia Master Development Plan.

As a brief history, we are the developers of the 2000-acre Stevens Ranch development to the north of Potranco Road. As part of this development, we have taken on the responsibility of building Stevens Ranch Parkway at a cost of over $16 million, of which $7.2 million has already been spent.

In addition, we have voluntarily created a Public Improvement District (PID) on our property along with 1,000 additional acres to provide the funding of pre-construction costs of Potranco Road from Loop 1604 to State Highway 211 and for State Highway 211 from Potranco Road to FM 471 (Culebra Road). As part of the PID, our project is responsible for supplementing a Bexar County Pass-Through Program with $15 million for right-of-way, environmental approval, and design of these two major infrastructure projects, as well as the financing cost on the bonds that will be sold to build this infrastructure. We accepted these burdens in reliance upon the City's Major Thoroughfare Plan. The City now, quite arbitrarily, is considering a major change in that Major Thoroughfare Plan which, if approved, would substantially harm our 2,000 acre project. We find it unacceptable that we and our future homeowners took on on this Thoroughfare Plan-reliant burden, and now, after we have spent many millions of dollars in reliance upon that Thoroughfare Plan, the city would even consider, much less approve, a revised master plan to the south that chooses to manipulate the Major Thorough Plan and the rules of proportionality.

As a landowner and developer, we support the concept of proportionality, but approving the Arcadia Master Development Plan will make a mockery of the City's Major Thoroughfare Plan and good transportation planning on the west side of San Antonio. The Arcadia developer has decided to place the southern extension of the Stevens Ranch Major Thoroughfare on their west

property line so their only obligation will be to dedicate the right of way. Their proposed plan revisions will eliminate their current obligation to build the road.

They are proposing a new, major enhanced north-south collector to be located east of the required alignment. They have unilaterally decided the north-south collector should be moved east in order to enhance the value of their commercial parcels at that more easterly location along Potranco Road. If the city would simply require them to adhere to the current Thoroughfare Plan, upon which we have relied through many years of work and many dollars spent, thereby building the Stevens Ranch Parkway as shown on the Major Thoroughfare Plan as their north-south collector, there would be no additional cost to them, the Arcadia development, and the intent of the Major Thoroughfare Plan would be met.

Our development has already contributed tens of millions of dollars to west side infrastructure, with plans to continue that investment program. We encourage you to adhere to the Major Thoroughfare upon which we have relied for many years, and thereby require the Arcadia development to be planned in the way that continues to enhance transportation on the west side of Bexar County. Again, we support the concept of proportionality, but we oppose bad planning on the part of the city and the developer.

Sincerely,

Chip Field
Stevens Ranch

cc: Rebecca Paskos

# SR HOLDINGS, LP

November 27, 2013

Mr. Roderick J. Sanchez, Director
Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, TX 78204

Re: Approval of Arcadia Proposed Master Development Plan

Dear Mr. Sanchez:

As a developer of Bella Vista located north of the proposed Arcadia Master Development Plan on Potranco Road, we are writing to express our opposition to this Master Development Plan and the revisions to the Major Thoroughfare Plan.

If the Arcadia Master Development Plan is approved as submitted with Stevens Ranch Parkway being along the west property line and not a part of the internal circulation system of the Arcadia development, the Stevens Ranch Parkway will not be built until the public can build this road in the future. As a result, all north-south traffic will be forced through Bella Vista Subdivision by Vista Place, creating a long-term burden on our homeowners.

Vista Place was not designed to be an arterial carrying north-south traffic. Shifting this transportation burden to our project after the fact is not acceptable.

The Arcadia Master Development Plan and resulting Major Thoroughfare Plan should incorporate the extension of Stevens Ranch Parkway to the south for their internal circulation. This can be accomplished without adding any additional cost to their development and within the limits of proportionality.

I have looked at purchasing the Arcadia property several times in the past, along with dozens of other builders and developers. Every preliminary master plan contemplated on this property in the past has included the construction of Stevens Ranch Parkway through the property. In fact, my files indicate the engineering reports for the Utility Service Agreements show the attached master plan.

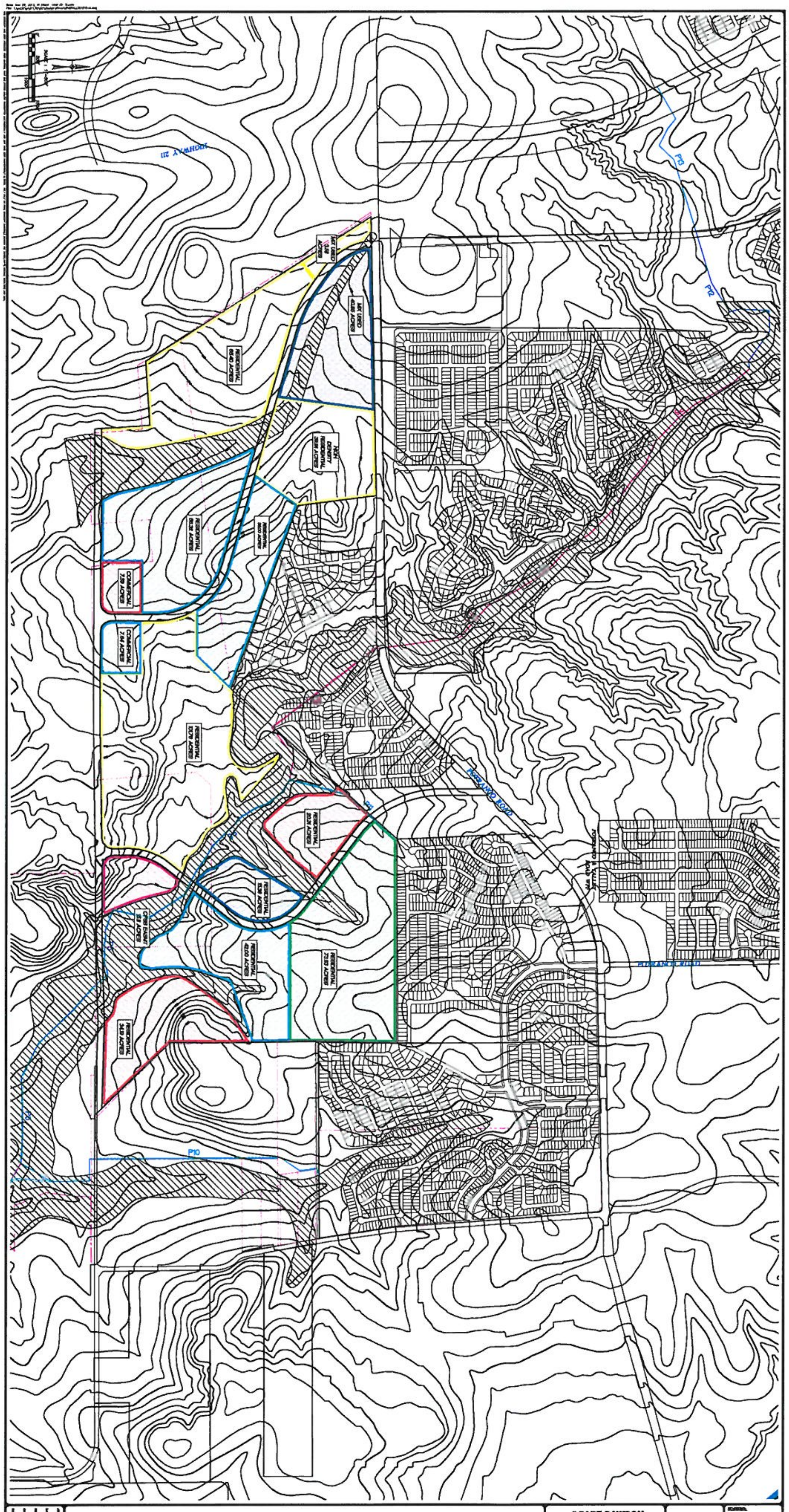
We encourage you to require the Arcadia developer to submit a responsible Master Development Plan and not shift the cost and impacts of transportation to their neighbor.

Sincerely,
SR Holdings, LP

John Cork

cc: Rebecca Paskos

8655 S. Priest Dr.
Tempe, Arizona 85284



RINCO OF TEXAS

MARCH 2005 EXHIBIT

PAPE-DAWSON ENGINEERS

**WEINGARTEN REALTY**

2600 Citadel Plaza Drive, Suite 125
Houston, TX 77008
713.866.6000 Main
713.866.6049 Fax
www.weingarten.com

December 2, 2013

Ms. Trish Wallace, Transportation Planning Manager
Department of Planning & Community Development
City of San Antonio

Mr. Roderick Sanchez, Director
Development Services Department
City of San Antonio

VIA Electronic Mail Rod.Sanchez@sanantonio.gov and Patricia.Wallace@sanantonio.gov

Re: Proposed Amendment to the City's Major Thoroughfare Plan City File MTPA 13002
Proposed Arcadia Ridge Master Development Plan

Dear Ms. Wallace and Mr. Sanchez:

Cumberland Potranco Joint Venture, owner of 200 acres located on the north side of Potranco Road at Stevens Parkway, hereby submits this letter of opposition to the Amendment of the City's Major Thoroughfare Plan ("MTPA") to re-designate and realign the North/South Collector south of Potranco Road, known as Stevens Parkway, and the Arcadia Ridge Master Development Plan ("MDP").

The MTPA and the MDP negatively impact the entire commercial district at Potranco and the existing Stevens Parkway. Based on the applicant's MDP, the proposed changes to the Major Thoroughfare Plan are the same as the applicant's original request, which was a deletion of the North/South Connector, not realignment. We understood the North/South Connector was to provide a connection from the Stevens Ranch development north of Potranco Road to the properties south of Potranco Road.

The Developer has reworked their spine road, a 140' Collector Roadway, through the middle of their development, east of Stevens Parkway. Their plan moves the extension of Stevens Parkway to the western edge of their property. Additionally, we understand they are merely dedicating right-of-way and are not required to build the roadway. Prior to approval of the MTPA, we strongly believe there should be a funding mechanism in place to build the roadway per the City of San Antonio Unified Development Code.

From a regional planning standpoint, the developers of the 2,000-acre Stevens Ranch development to the north of Potranco Road constructed Stevens Parkway north of Potranco Road at a cost of $7.2 million and have commitment to spend $16 million to complete the construction. This is proof that the City and the property owners in the area have committed to the planning and construction of Stevens Parkway. At this point in the planning and construction process, to not require the last portion of Stevens Parkway be constructed by the



Weingarten Realty is the trade name of Weingarten Realty Investors (the "trust") which is an unincorporated trust organized under the Texas Real Estate Investment Trust Act. Neither the shareholders of the trust, nor its trust managers, officers, employees or other agents are personally, corporately or individually liable for any debt, act, omission, or obligation of the trust, and all persons having claims of any kind against the trust must look solely to the property of the trust for the enforcement of their rights.

Developer is not only unfair, it destroys the overall plan to provide regional north and south connectivity for this area of San Antonio.

Since there continues to be strong opposition by impacted property owners that own thousands of acres, we request the City conduct public meetings with the impacted property owners and the applicant to discuss this important issue prior to the Planning Commission and City Council public hearings for the consideration of the MTPA.

Thank you for your consideration.

CUMBERLAND POTRANCO JOINT VENTURE
a Texas joint venture

By: WRI Cumberland LP,
a Texas limited partnership,
Its Manager

By: WRI Cumberland GP, LLC,
a Texas limited liability company,
General Partner

By: J. Victoria Brown

## Rebecca Pacini (DPCD)

**From:** Wes Free [wfree@lusardi.com]
**Sent:** Thursday, November 07, 2013 4:09 PM
**To:** Rebecca Paskos (DPCD)
**Cc:** kyledenning@hotmail.com; Elaine Regan
**Subject:** RE: Planning Commission Technical Advisory Committee Agenda November 8, 2013

Rebecca,

Thank you for allowing us the opportunity to write this letter on behalf of Mr. Lusardi and Mr. Denning who are adjoining property owners regarding the proposed Rancho Del Lago Major Thoroughfare Plan Amendments 13002 at Stevens Parkway and Potranco Rd. The original Thoroughfare plan was designed with Stevens Parkway as the primary North and South Connector between Potranco Road and Marbach road. The Rancho Del Lago proposed amendment provides for a new major connector road through the development between Marbach and Potranco. We believe Stevens Parkway should remain the primary North and South connector with access into the future development for circulation purposes. In the event Rancho Del Lago's proposal is approved, we request they be held responsible for their portion of the cost to improve Stevens Parkway along their property boundary. In the event Stevens parkway is not required to be improved concurrently with the Rancho Del Lago development, then Rancho Del Lago should be required to bond for their share of the cost of improvements. The bottom line is without adequate funding, Stevens Parkway will never be built. This also applies to Rancho Del Lago's frontage along Marbach road in the event it also is not improved at the time of the Rancho Del Lago Development.

Please allow these comments to be heard in tomorrow's meeting either verbally or by providing copies to the meeting participants.

Thank you and please let me know if you have any questions,

**Wes Free**
**LUSARDI LAND COMPANY**
**1570 Linda Vista Drive**
**San Marcos, CA 92078**
760.744.3133 x1264 Office
760.471.4892 Fax
Lic# 01938175

Northside Independent School District

**Leroy San Miguel**
Assistant Superintendent for Facilities & Operations

December 15, 2013

Ms. Rebecca Paskos, Senior Planner
City of San Antonio
Planning & Community Development Department

RE: Amendment to the City's Major Thoroughfare Plan
File MTPA 13002

Dear Ms. Paskos:

Northside Independent School District (NISD) is in the process of acquiring a site in the Arcadia Ridge residential development. As an integral part of this development NISD would like to express support for the proposed applicant's request to amend the City of San Antonio's Major Thoroughfare Plan that was unanimously approved by the Technical Advisory Committee on November 8, 2013.

We look forward to the continued support as this request moves to the Planning and Zoning Commission on December 4 and City council on December 5, 2013.

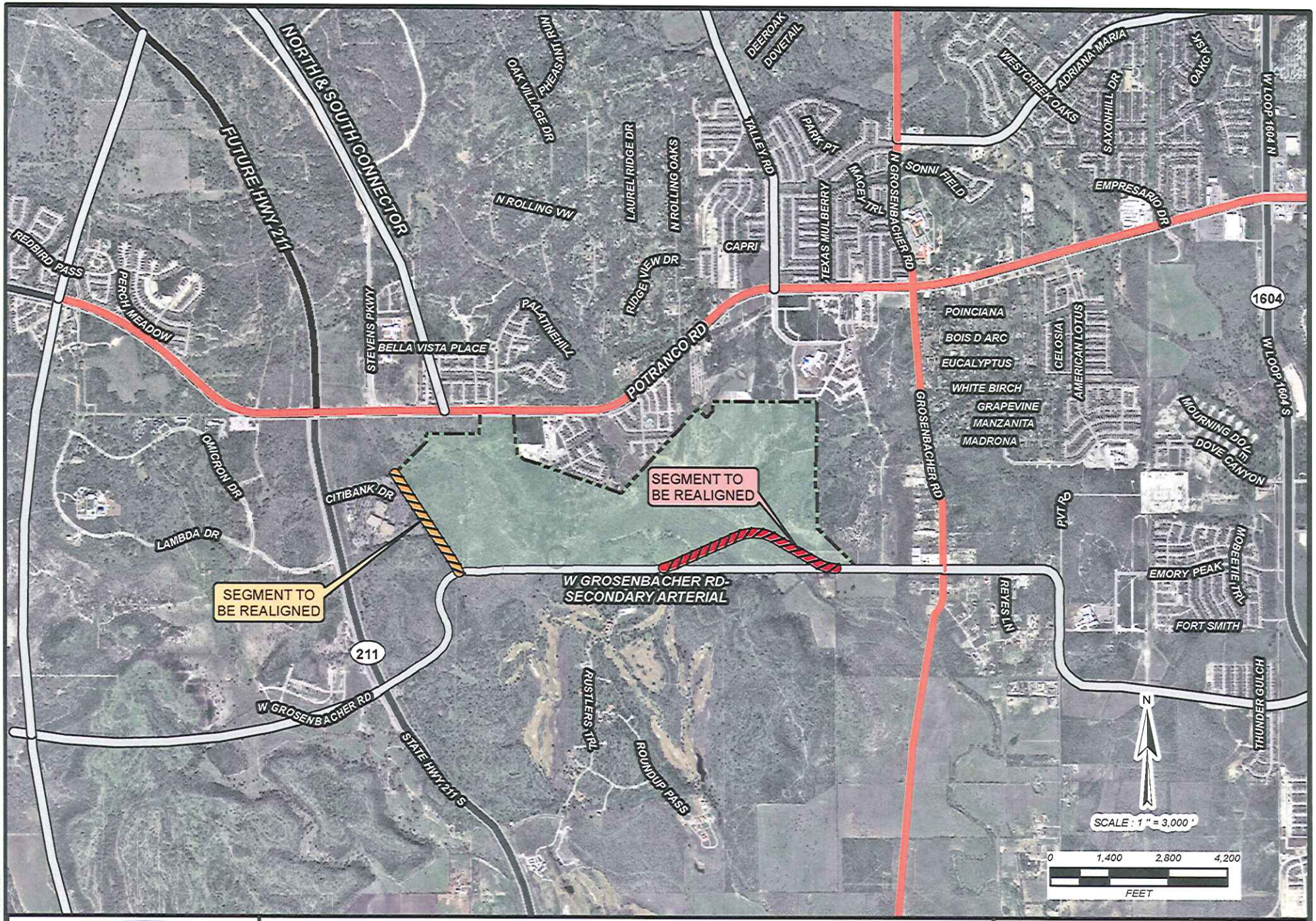
Thank you for your time regarding this important matter.

Sincerely,

Mr. Leroy San Miguel
Assistant Superintendent for Facilities & Operations

5900 Evers Road
San Antonio, Texas
78238-1606
**Tel:** 210.397.1215
**Fax:** 210.257.1212
www.nisd.net

TEXAS EDUCATION AGENCY RECOGNIZED




KFW
ENGINEERS & SURVEYING
FIRM# 9513

14603 HUEBNER RD., BLDG. 40
SAN ANTONIO, TEXAS 78230

PHONE (210) 979-8444
FAX (210) 979-8441

# ARCADIA RIDGE

## MAJOR THOROUGHFARE PLAN PROPOSED AMENDMENT

| REVISIONS: | ISSUE DATE: |
|---|---|
| JOB NO. 251-04-00 | |
| DATE: October 2013 | DESIGNER: |
| DRAWN: S.G. | CHECKED: B.L. |

SHEET: 1 OF 1

THIS DOCUMENT HAS BEEN PRODUCED FROM MATERIAL THAT WAS STORED AND/OR TRANSMITTED ELECTRONICALLY AND MAY HAVE BEEN INADVERTENTLY ALTERED. RELY ONLY ON FINAL HARDCOPY MATERIALS BEARING THE CONSULTANT'S ORIGINAL SIGNATURE AND SEAL

# CITY OF SAN ANTONIO
## DEVELOPMENT SERVICES DEPARTMENT
## LAND DEVELOPMENT DIVISION

**STAFF REPORT** **AGENDA ITEM NO 8**

**Public Hearing:**
Planning Commission
January 8, 2014

**Case Number:**
PA 14016

**Applicant:**
Charles Turner, K/T TX Holdings L.L.C.

**Representative:**
Charles Turner

**Owner:**
K/T TX Holdings, L.L.C.
.

**Staff Coordinator:**
Robert C. Acosta, Planner
(210) 207-0157
racosta@sanantonio.gov

**Property Address/Location:**
Approximately 1.43 acres of land out of NCB 3857 located at the northwest corner of Cunningham Avenue and Haywood Avenue.

**Legal Description/Location:**
1.43 acres out of lots 5, 6, 8 and 9 in NCB 3857

**Tract Size:**
1.43 acres

**Council District(s):**
District 2

**Notification:**
Published in Daily Commercial Recorder 12/20/2013
Notices Mailed 12/20/2013
- 1 to applicant
- 1 to registered neighborhood association within 200 feet
- 14 to planning team members

Internet Agenda Posting 6/8/2012

## REQUEST

The Applicant requests a Comprehensive Master Plan Text Amendment to change the Westfort Neighborhood Plan future land use classification to include IDZ as a related zoning district to all residential land use classifications, to include Urban Single Family Residential, Medium Density Residential, and Compact Multi-Family Residential.

## RECOMMENDED ACTION

**Approval of the proposed amendment** to the Westfort Alliance Neighborhood Plan to change the future land use classification to include IDZ as a related zoning district to all residential land use classifications, to include Urban Single Family Residential, Medium Density Residential and Compact Multi-Family Residential.

## ALTERNATIVE ACTIONS

1. Recommend denial of the proposed amendment to the Westford Alliance Neighborhood Plan, as presented above.
2. Make an alternate recommendation.
3. Continue to a future date.

## SYNOPSIS OF ANALYSIS

**Land Use:**

This type of development and the requested plan amendment is consistent with the goals of the Neighborhood Plan that promotes residential development that preserves the character of the neighborhood and promotes economic development of the plan area.

**Transportation:**

The requested land use change could generate more traffic and impact the existing transportation infrastructure; however, the traffic impact analysis will be evaluated further during the permitting process.

**Community Facilities:**

The requested land use change could create an additional demand for community facilities.

## CASE HISTORY

This is the first public hearing of this case.

## I. ANALYSIS

| Comprehensive Plan | |
|---|---|
| **Comprehensive Plan Component:** Westfort Alliance Neighborhood Plan | |
| **Plan Adoption Date:** September 25, 1997 | **Update History:** May 29, 20023 |
| **-To preserve and enhance the residential character of the neighborhood, while recognizing the diverse, multi-cultural nature oft he residents and the architectural quality of the housing stock.**<br>**- As an inner city urban area with a clear identity, we seek to improve the quality of life in our neighborhood in concert with the dynamic revival of the central city.**<br>**-To promulgate land use and zoning policy for the plan area which both preserves the character of the neighborhood, promotes the economic development of the plan area and contiguous areas and is consistent with city programs and goals.**<br>**-Westfort Alliance Neighborhood Plan , Land Use Update, May 2003** | |

| Comprehensive Land Use Categories | Example Zoning Districts |
|---|---|
| **Urban Single Family Residential:** Urban Single Family Residential supports the principles of concentrating urban growth, reinforcing existing neighborhoods, and supporting residential growth within walking distance of neighborhood commercial centers and schools. This development should be oriented toward the center of the neighborhoods and away from traffic arterials. Urban Single Family Residential areas are composed mainly of single-family dwellings on small, individual lots with a density of 5 to 10 dwelling units per acre.* Detached accessory dwelling units such as granny flats, "echo" homes (elder cottage housing opportunity), and garage apartments are allowed when an accessory use is located on the same lot as the principal residence. Only one accessory dwelling less than 800 square feet in size is permitted per lot, and should reflect the appearance of the main structure. It is desired that single-family houses that have been divided into apartments and multiple living units be restored to single-family use.<br><br>* The Urban Single Family Residential category is a sub-classification of Low Density Residential created to address small lot single-family development. | R-6, R-5, R-4 |
| **Medium Density Residential** Medium Density Residential includes small lot single-family development, duplexes, small apartments with up to 6 units, and townhomes. The neighborhood recognizes and appreciates the varying residential densities found within its residential areas and would like to see new apartments built as multiple, small, neighborhood-sized buildings that fit the character of the surrounding properties with a density of 9 to 17 dwellings per acre.<br>. | RM-6, RM-5, Rm-4 |

| | |
|---|---|
| **Compact Multi-Family Residential:** Compact Multifamily Residential provides for compact development consisting of the full spectrum of residential unit types. This classification includes apartments and condominiums with a density generally greater than 17 units per acre and it is desired that they be no more than 3 stories in height. All residential uses can be found within this classification. Compact Multifamily Residential is typically located along or in the vicinity of major arterials or collectors, often in close proximity to commercial and transportation facilities. This classification may be used as a transition between Single Family or Medium Density Residential uses and nonresidential uses. Appropriate buffering should be required between Compact Multifamily Residential uses and other residential uses. Compact Multifamily Residential uses should be located in a manner that does not route traffic through other residential uses. | RM-4, RM-5, RM-6, MF-25 (Density higher than 25 units per acre is not desired) |

| **Land Use Overview** | | |
|---|---|---|
| | **Future Land Use Classification** | **Current Use** |
| Subject Property | Compact Multi-Family Residential | Vacant lot |
| North | Medium Density Residential | Single-Family Homes and Multi-Family Homes |
| East | Medium Density Residential | Single-Family Homes and Multi-Family Homes |
| South | Military Use | Fort Sam Houston |
| West | Compact Multi-Family Residential | Commercial uses |

**Land Use:** The subject property is located at the intersection of Brahan Boulevard and Haywood Avenue just east of the intersection of Brahan Boulevard and Broadway Street within the Westfort Alliance Neighborhood Plan. The subject property consists of a vacant lot, and has single and multi-family residences to the north and east, a portion of a military base to the south and storage facility to the west. The Westfort Neighborhood Plan classifies the subject property as Compact Multi-Family Residential, the area to the north and east as Medium Density Residential, the area to the south as Military Use and the area to the west as Compact Multi-Family Residential and Mixed Use. The applicant is not requesting to change the land use but to request the addition of IDZ as a related zoning district in the Compact Multi-Family Residential land use classification.

The applicant is seeking this plan amendment to develop approximately 1.43 acres with 23 single-family residences on individual lots. This development corresponds to approximately 16 dwellings units per acre density with lots smaller than 3,000 square feet. In order to accommodate this development the applicant requires “IDZ” Infill Development Zone district which provides some design flexibility, to include setback and parking requirements. The purpose of the IDZ is to encourage and facilitate development on vacant, bypassed lands, or the redevelopment of underutilized buildings or structures within existing built-up areas.

This type of development and the requested plan amendment is consistent with the goals of the Neighborhood Plan that promotes residential development that preserves the character of the neighborhood and promotes economic development of the plan area. This amendment will not only contribute to development on this vacant lot but will be available to assist in the similar infill residential developments that are defined in Urban Single–Family Residential, Medium Density Residential and Compact Multi-Family Residential land use classifications of the Westfort Alliance Neighborhood Plan Update.

**Transportation:** The City's Major Thoroughfare Plan identified Broadway as Primary Arterial Type B. Alamo Street, Brahan Boulevard and Cunningham Avenue are collector streets. Haywood Avenue is a local street. The neighboring area includes sidewalks which allow for pedestrian access to and from adjacent residential and commercial areas. There is a VIA bus stop on Broadway and Cunningham Avenue. The requested land use change could generate more traffic and impact the existing transportation infrastructure; however, the traffic impact analysis will be evaluated further during the permitting process.

**Community Facilities:** Brackenridge Park and Golf Course, Witte Museum, San Antonio Zoo, San Antonio Botanical Gardens, Lamar Elementary School, Circle School and Pershing Elementary School are in close proximity. The requested land use change could create an additional demand for community facilities.

**SUPPLEMENTAL INFORMATION**

**Current Zoning:** "PUD MF-25 NCD-9 RIO-1 AHOD", "C-2 NCD-9 RIO-1 AHOD" and "I-1 NCD-9 RIO-1 AHOD"
**Proposed Zoning:** "IDZ RIO-1 AHOD" with Single Family Residential uses not to exceed 17 units per acre
**Corresponding Zoning Case:** Z2013191
**Zoning Commission Public Hearing Date:** January 21, 2014

## III. RECOMMENDATION

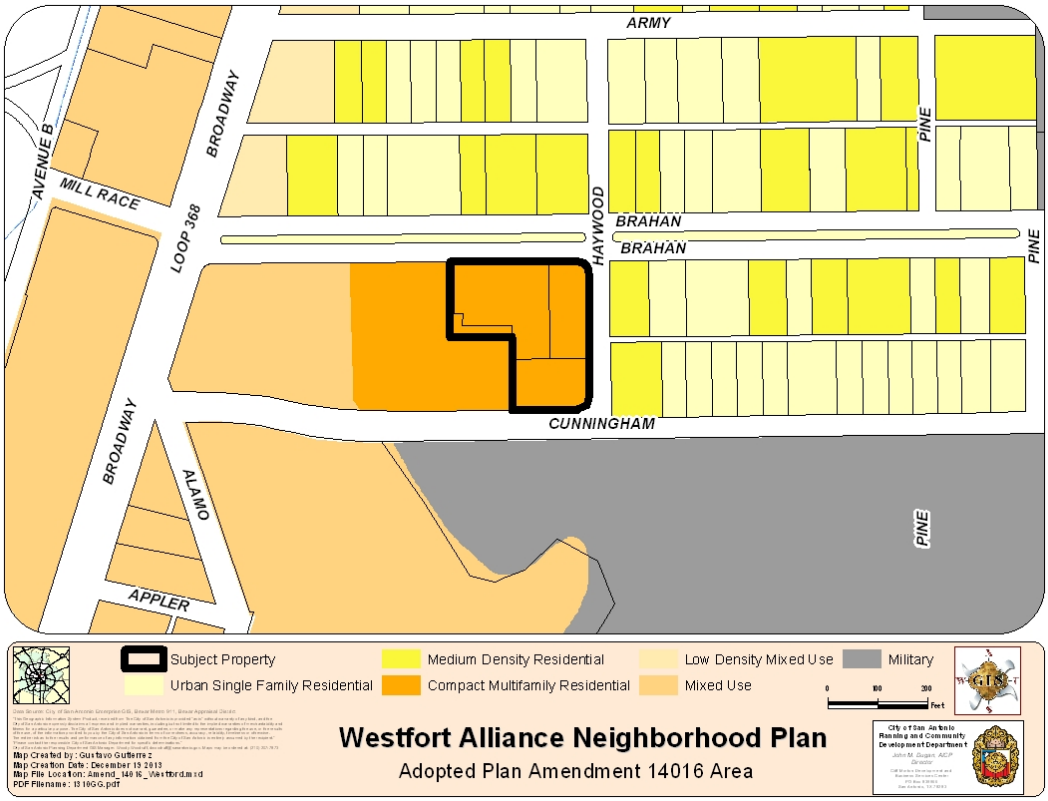
This type of development and the requested plan amendment is consistent with the goals of the Neighborhood Plan that promotes residential development that preserves the character of the neighborhood and promotes economic development of the plan area. This amendment will not only contribute to development on this vacant lot but will be available to assist in the similar infill residential developments that are defined in Urban Single–Family Residential, Medium Density Residential and Compact Multi-Family Residential land use classifications of the Westfort Alliance Neighborhood Plan Update.

## IV. ATTACHMENTS

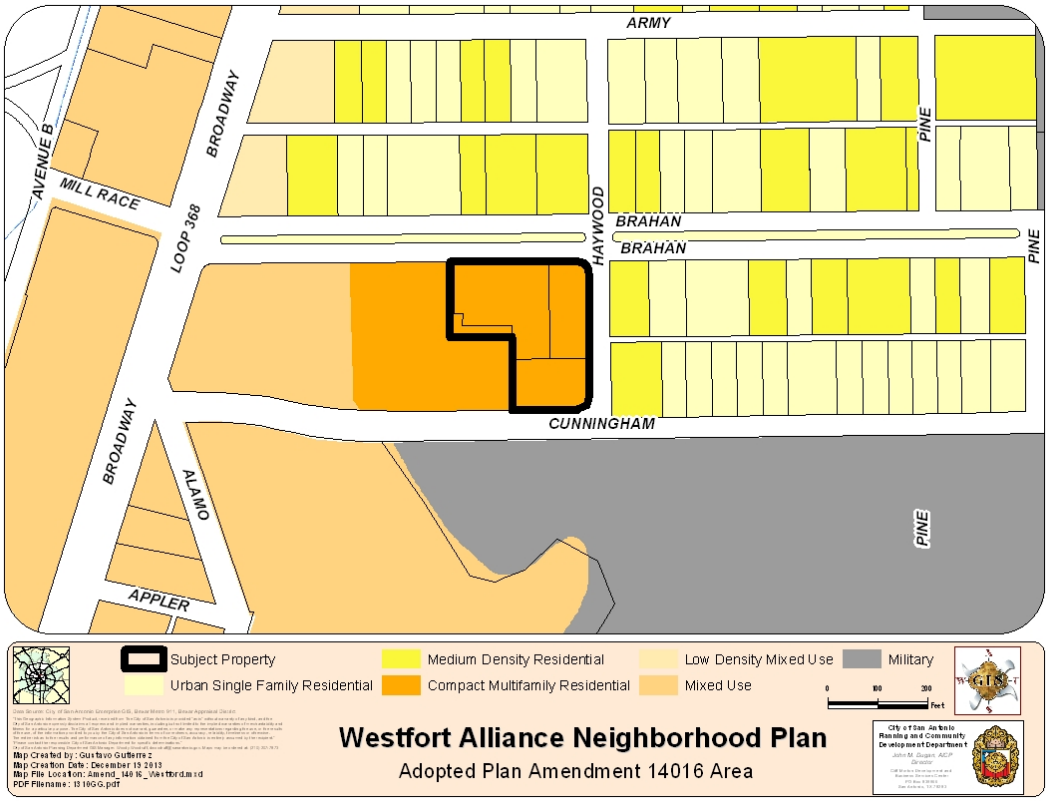
A. Plan Amendment Maps
B. Aerial Map

**Attachment 1**

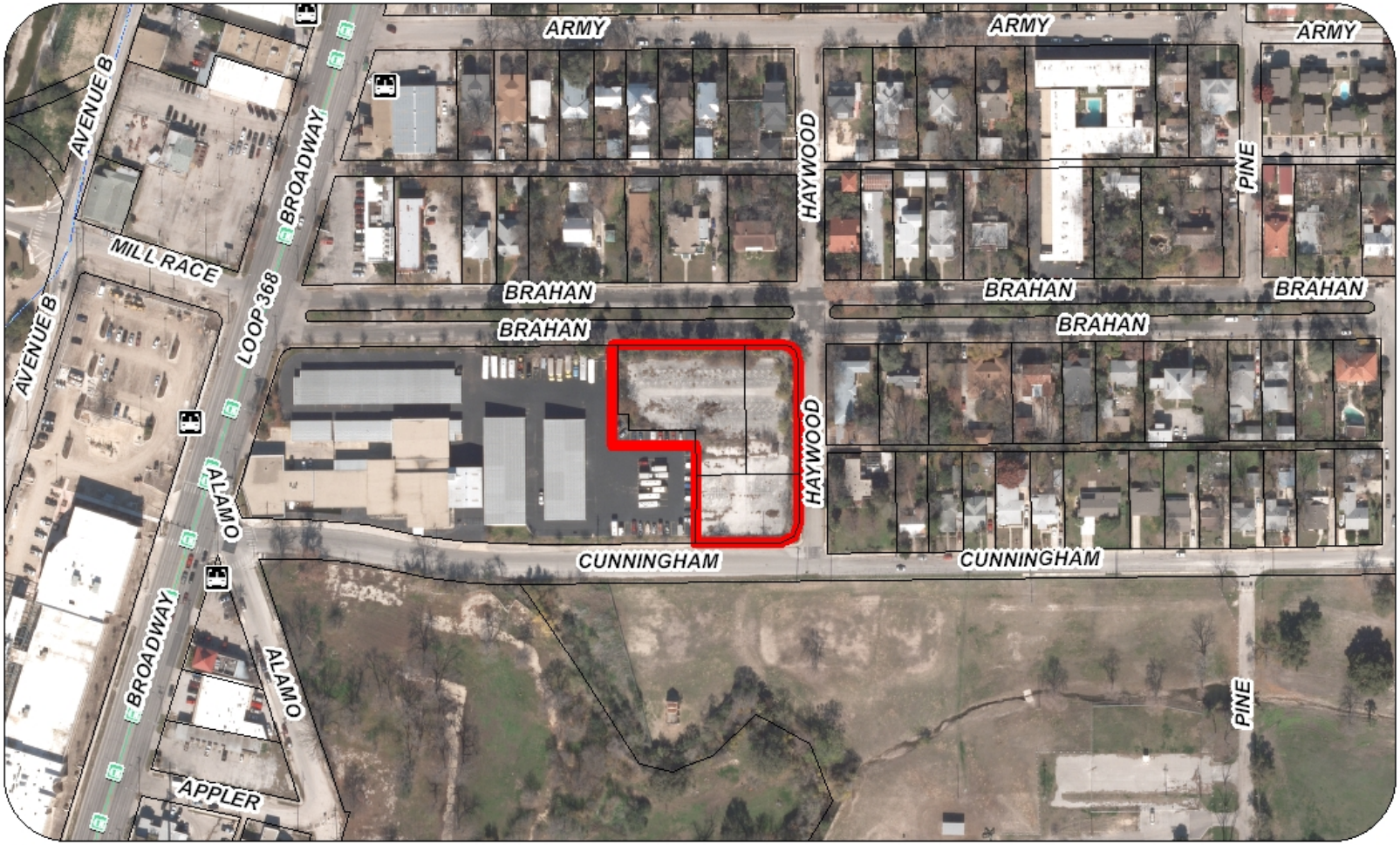
## Land Use Plan as adopted:




## Proposed Amendment: NO CHANGE TO LAND USE



**Attachment 2**




2012 Aerial

Subject Property

VIA Bus Stops

VIA Bus Routes

0 100 200 Feet

Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District

Map Created by : Gustavo Gutierrez
Map Creation Date : December 13 2013
Map File Location: Amend_14016_Westford.mxd
PDF Filename : 1310GG.pdf

# Westford Alliance Community Plan

## Proposed Plan Amendment 14016 Area

City of San Antonio
Planning and Community Development Department
John M. Dugan, AICP
Director

# RESOLUTION NO.

**RECOMMENDING TO APPROVE THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE WESTFORT NEIGHBORHOOD PLAN, A COMPONENT OF THE COMPREHENSIVE MASTER PLAN OF THE CITY, BY CHANGING THE FUTURE LAND USE CLASSIFICATIONS TO INCLUDE IDZ AS A RELATED ZONING DISTRICT TO ALL RESIDENTIAL LAND USE CLASSIFICATIONS, TO INCLUDE URBAN SINGLE-FAMILY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL AND COMPACT MULTI-FAMILY RESIDENTIAL.**

**WHEREAS,** City Council approved the Westfort Neighborhood Plan as an addendum to the Comprehensive Master Plan on September 25, 1997 and Updated on May 29, 2003; and

**WHEREAS,** the May 3, 2001 Unified Development Code requires consistency between zoning and the Comprehensive Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

**WHEREAS,** Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

**WHEREAS**, the San Antonio Planning Commission held a public hearing on January 8, 2014 and **APPROVED** the amendment on January 8, 2014; and

**WHEREAS,** the San Antonio Planning Commission has considered the effect of this amendment to the Comprehensive Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

SECTION 1: The amendment to the Westfort Neighborhood Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL as** an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 8th DAY OF JANUARY 2014.

| | |
|---|---|
| Attest: | Approved: |
| _____ | _____ |
| Executive Secretary<br>San Antonio Planning Commission | Roberto R. Rodriguez, Chair<br>San Antonio Planning Commission |

# CITY OF SAN ANTONIO

**DEVELOPMENT SERVICES DEPARTMENT**
**LAND DEVELOPMENT DIVISION**

**STAFF REPORT** **AGENDA ITEM NO 9**

**Public Hearing:**
Planning Commission
January 8, 2014

**Case Number:**
PA 14017

**Applicant:**
Roberto Kenigstein

**Representative:**
Roberto Kenigstein

**Owner:**
GKH Development Ltd.

**Staff Coordinator:**
Robert C. Acosta, Planner
(210) 207-0157
racosta@sanantonio.gov

**Property Address/Location:**
Approximately 7.101 acres of land out NCB 34732 located at the southern corner of Aue Road and Dominion Drive

**Legal Description/Location:**
Approximately 7.101 acres of land out NCB 34732 located at the southern corner of Aue Road and Dominion Drive

**Tract Size:**
7.101 acres

**Council District(s):**
District 8

**Notification:**
Published in Daily Commercial Recorder 12/20/2013
Notices Mailed 12/20/2013
- 17 to property owners within 200 feet
- No registered neighborhood association within 200 feet
- 38 to planning team members

Internet Agenda Posting 1/3/2014

## REQUEST

The Applicant requests a Comprehensive Master Plan Amendment to change the North Sector Plan future land use classification for the property subject to this application from Rural Estate Tier to General Urban Tier.

## RECOMMENDED ACTION

**Approval of the proposed amendment** to the North Sector Plan to change the future land use classification of the subject property from Rural Estate Tier to General Urban Tier.

## ALTERNATIVE ACTIONS

1. Recommend denial of the proposed amendment to the North Sector Plan, as presented above.
2. Make an alternate recommendation.
3. Continue to a future date.

## SYNOPSIS OF ANALYSIS

**Land Use:**

The subject property is sandwiched between two areas classified as Suburban Tier. Although, the subject property is vacant undeveloped land its location would have made it appropriate for more intense residential and commercial development that is consistent with adjacent Suburban Tiers rather than Rural Estate Tier . Therefore, the change to General Urban Tier will not significantly alter the land use pattern or character of the immediate area as the existing Suburban Tier classification allows for development that is compatible with the proposed General Urban Tier.

**Transportation:**

The requested land use change could generate more traffic and impact the existing transportation infrastructure; however, the traffic impact analysis will be evaluated further during the permitting process.

**Community Facilities:**

The existing community facilities could support any additional demand generated by the requested future land use change

## CASE HISTORY

This is the first public hearing of this case.

## I. ANALYSIS

| Comprehensive Plan | |
|---|---|
| **Comprehensive Plan Component: North Sector Plan** | |
| **Plan Adoption Date:** August 5, 2010 | **Update History:** None |
| **Strategy HOU-1.2 Encourage compatible growth patterns and transitions of higher density residential along principal arterials and transit corridors that fit in with the existing residential character of the North Sector.**<br>**LU-1 Compatible land use pattern promoted so that natural resources are preserved and the local economy remains viable.** | |

| Comprehensive Land Use Categories | Example Zoning Districts |
|---|---|
| **Rural Estate Tier:** The Rural Estate Tier accommodates low density residential estate development as well as non-residential, neighborhood scaled commercial uses. **Residential** uses typically include large tract detached single family housing located on lots of half an acre or more. The **Non-Residential** commercial uses intended for the Rural Estate Tier are intended for outlying areas where detached and limited retail services such as convenience stores, service stations, professional offices, restaurants, bed and breakfasts, and other small businesses are appropriate. Commercial uses to serve these low density rural estate neighborhoods are appropriately located at the intersection of arterials, collectors, and/or rural roads. | RP, RE, R-20, NC, C-1, RD |
| **Suburban Tier:** Suburban Tier land use includes both residential and non-residential uses**. Residential** uses are typically low to medium densities. They are generally attached and detached single family; multi-family housing (duplex, triplex, quadplex), townhomes, garden homes, and condominiums. **Non-residential** uses are typically in neighborhood and community commercial intensity. Detached retail services such as service stations, professional offices, bakeries, restaurants, bookstores, supermarkets, clinics, hotels, and other retail stores are appropriate. Commercial uses in Suburban areas serve both neighborhood and community scale markets. Neighborhood commercial is appropriate at the intersection of residential streets and collectors, and should not encroach into residential areas. Neighborhood uses should be accessible by pedestrians. Community commercial should be located at the intersections of arterials and/or collectors. The intensity of the commercial use should not interfere with the character and density of nearby residential uses and adequate buffers should be maintained. Community commercial uses should be accessible by car and bike, and the commercial areas should be pedestrian friendly. | NP-15, NP-10, NP-8, R-6, R-5, R-4, R-3, RM-6, RM- 5, RM-4, MF-18, O-1, 0-1.5, NC, C-1, C-2, C-2P,RD |
| **General Urban Tier:** General Urban Tier uses include both residential and non-residential uses. **Residential** uses are typically medium to high densities. They are generally small tract detached multi-family housing including apartments, quadplexes, triplexes, duplexes, and townhomes (condominiums). **Non-Residential** uses are typically are community commercial intensity. Generally: Urbanized areas where frequent and/or attached walkable retail services such as convenience retail stores, live/work units, cafes, grocery stores, hotels, clinics and other small businesses are appropriate. Community commercial uses in the General Urban Tier, which serve medium and high | R-4, R-3, RM-6 RM-5, RM-4, MF-18, MF-25, MF-33, O-1.5, C-1, C-2, C-2P, UD |

| |
|---|
| density residential uses, should be located at the intersections of arterials and/or collectors. Serving both a local and wider community, these commercial areas should be accessible by walking from nearby residents, biking within the vicinity, and cars from a broader range. Parking for both cars and bikes should be located as to not interfere with pedestrian circulation. |

| Land Use Overview | | |
|---|---|---|
| | **Future Land Use Classification** | **Current Use** |
| Subject Property | Rural Estate Tier | Undeveloped land |
| North | Rural Estate Tier | Single-Family Homes and Commercial uses |
| East | Suburban Tier and Rural Estate Tier | Single-Family Homes and Undeveloped land |
| South | Rural Estate Tier | Undeveloped land |
| West | Rural Estate Tier and Suburban Tier l | Creek, Right-of-Way and Commercial uses |

**Land Use:**
**Sector Plan Criteria for review:**
**The recommended land use pattern identified in the North Sector Land Use Plan inadequately provides appropriate optional sites for the land use change proposed in the amendment.**
The proposed amendment is consistent with the North Sector Plan and its promotion of the preservation of natural resources, enhancement of the housing stock within the planning area, and contribution of employment opportunities to the area. The entire IH-10 corridor north of Loop 1604 has experienced strong and rapid growth. This area of IH-10 is being rapidly developed for commercial, mixed use and higher density residential uses. The subject property is located in an area that has seen rather extensive development, while the subject property has remained largely undeveloped. The subject property is at the northern tip of a large area that is classified as Rural Estate Tier. A good portion of the area classified as Rural Estate Tier to the south of the subject property consists of undeveloped land in a flood zone. The subject property is sandwiched between two areas classified as Suburban Tier. Although, the subject property is vacant undeveloped land its location would have made it appropriate for more intense residential and commercial development that is consistent with adjacent Suburban Tiers rather than Rural Estate Tier. Therefore, the change to General Urban Tier will not significantly alter the land use pattern or character of the immediate area as the existing Suburban Tier classification allows for development that is compatible with the proposed General Urban Tier.

The development of the subject property at the General Urban Tier would contribute toward the plan's vision of environmental preservation and compatibility by not significantly altering the existing development pattern. The purpose of this plan amendment request is to accommodate for a moderately higher density assisted living facility that is compatible with the already-existing intense residential area to the east and commercial uses to the west of the subject property.

**The amendment must constitute an overall improvement to the Sector Plan and will not solely benefit a particular landowner or owners at a particular point in time.**
The change to General Urban Tier will not significantly alter the land use pattern or character of the immediate area as the existing Suburban Tier classification allows for development that is compatible with the proposed General Urban Tier. The proposed plan amendment is compatible with adjacent commercial and residential development. The proposed amendment would provide additional housing opportunities for individuals wishing to live in close proximity to the IH-10 corridor. The area

surrounding the subject property is transitioning away from previous rural uses to more intense urban development. The General Urban Tier is appropriate for this corridor.

**The amendment must uphold the vision for the future of the North Sector Plan.**
The North Sector Plan Vision calls for the preservation of natural resources, enhancement and diversification of housing opportunities in the planning area, and development of a compatible land use pattern. The subject property's location, in close proximity to Camp Bullis, and the "GC-1" Hill Country Gateway Corridor District imposes development standards meant to protect the area's natural resources, the Military's training mission, and to ensure development consistent with the character of the surrounding area. These standards and requirements will be reviewed at the platting, plan review, and building permit stages of the project. The proposed land use classification accommodates an array a moderately higher density multi-family residential use and an array of community-scaled commercial uses that are compatible with the already-existing surrounding area. The General Urban Tier classification would provide opportunity for future development that would be compatible with adjacent uses.

**The amendment will not adversely impact a portion of, or the entire Planning Area by;**

a. **Significantly altering acceptable existing land use patterns, especially in established neighborhoods.**

b. **Affecting the existing character (i.e. visual, physical, and functional) of the immediate area.**

c. **Creating activities that are not compatible with adjacent neighboring uses, and, particularly, the mission of Camp Bullis.**

d. **Significantly alter recreational amenities such as open space, parks, and trails.**

The applicant requests this plan amendment and associated zoning change in order to allow the development of the property as an assisted living facility. The subject property is located in an area that has experienced extensive development. Its location at the intersection of two collector streets, and the general surrounding conditions, which include its close proximity to an intense residential area, a mix of commercial uses and its close proximity to IH-10, make it appropriate for the General Urban Tier classification. The change to General Urban Tier will not significantly alter the land use pattern or character of the immediate area as the existing Suburban Tier classification allows for development that is compatible with the proposed General Urban Tier. The General Urban Tier land use classification would support the goals of the North Sector of protecting natural resources, the existing residential neighborhoods and discouraging developments of incompatible uses and provide opportunity for future commercial development that would be compatible with adjacent uses.

Due to its close proximity to Camp Bullis, the subject property is within the Military Lighting Overlay (MLOD) Districts. A significant portion of the property is also located within the "GC-1" Hill Country Gateway Corridor District and will be subject to the applicable design, landscaping and signage requirements of the district. Adherence will be evaluated as this project moves through the development process.

**Transportation:** The City's Major Thoroughfare Plan identified Aue Road and Dominion Drive as collector streets. IH-10 is classified as freeway. Old Fredericksburg Road and Gregory Road are classified as local**.** The neighboring area does not have sidewalks or mass transit service. The requested land use change could generate more traffic and impact the existing transportation infrastructure; however, the traffic impact analysis will be evaluated further during the permitting process.

**Community Facilities:** Leon Springs Volunteer Fire Station is within walking distance. Leon Springs Elementary School and Camp Bullis are within close proximity. The existing community facilities could support any additional demand generated by the requested future land use change

## II. SUPPLEMENTAL INFORMATION

**Current Zoning:** R-6 PUD MLOD, and R-6 PUD MLOD GC-1
**Proposed Zoning:** MF 25 PUD MLOD
**Corresponding Zoning Case:** Applicant has not applied
**Zoning Commission Public Hearing Date:** TBA

## III. RECOMMENDATION

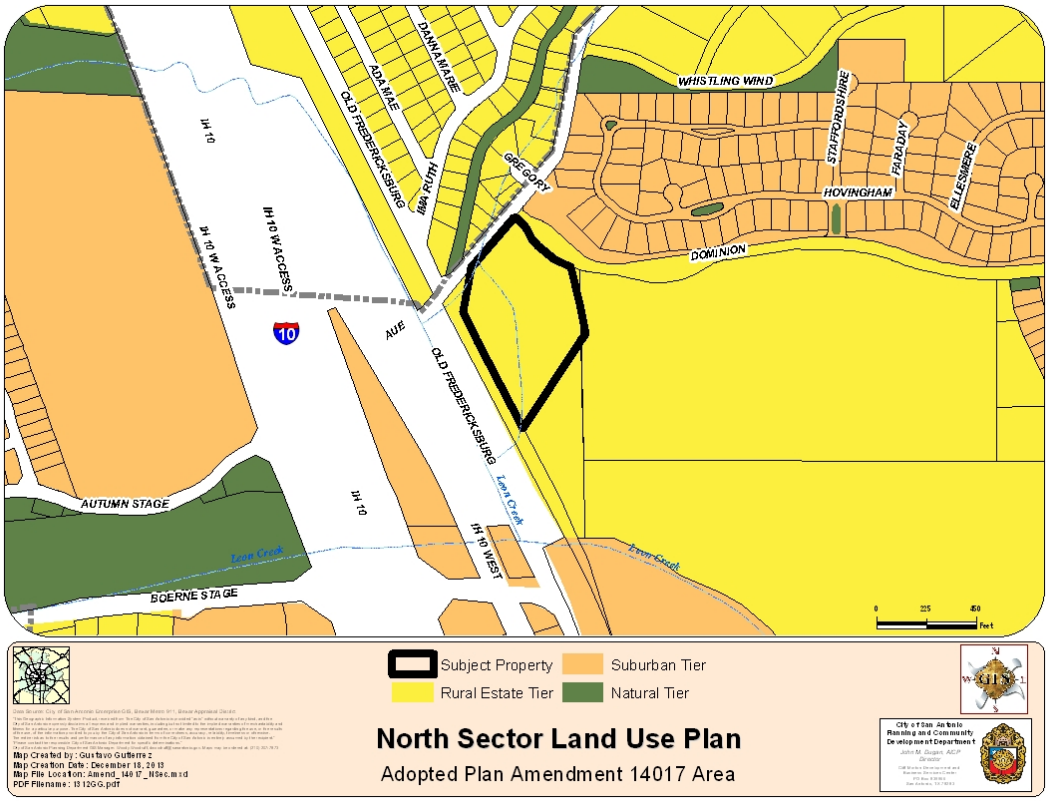
The subject property's location and surrounding conditions are appropriate for the General Urban Tier classification. The change to General Urban Tier will not significantly alter the land use pattern or character of the immediate area as the existing Suburban Tier classification allows for development that is compatible with the proposed General Urban Tier. The General Urban Tier land use classification would support the goals of the North Sector of protecting natural resources, existing residential neighborhoods, discouraging developments of incompatible uses and provide opportunity for future commercial development that would be compatible with adjacent uses.

## IV. ATTACHMENTS

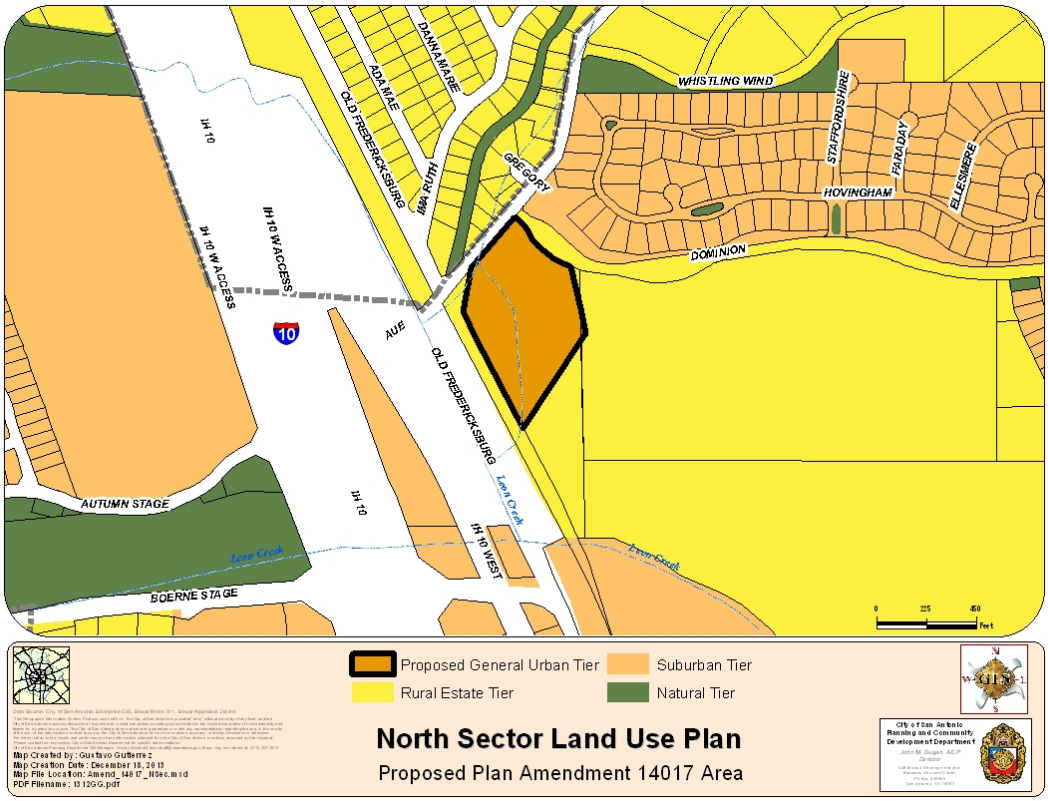
A. Plan Amendment Maps
B. Aerial Map

**Attachment 1**

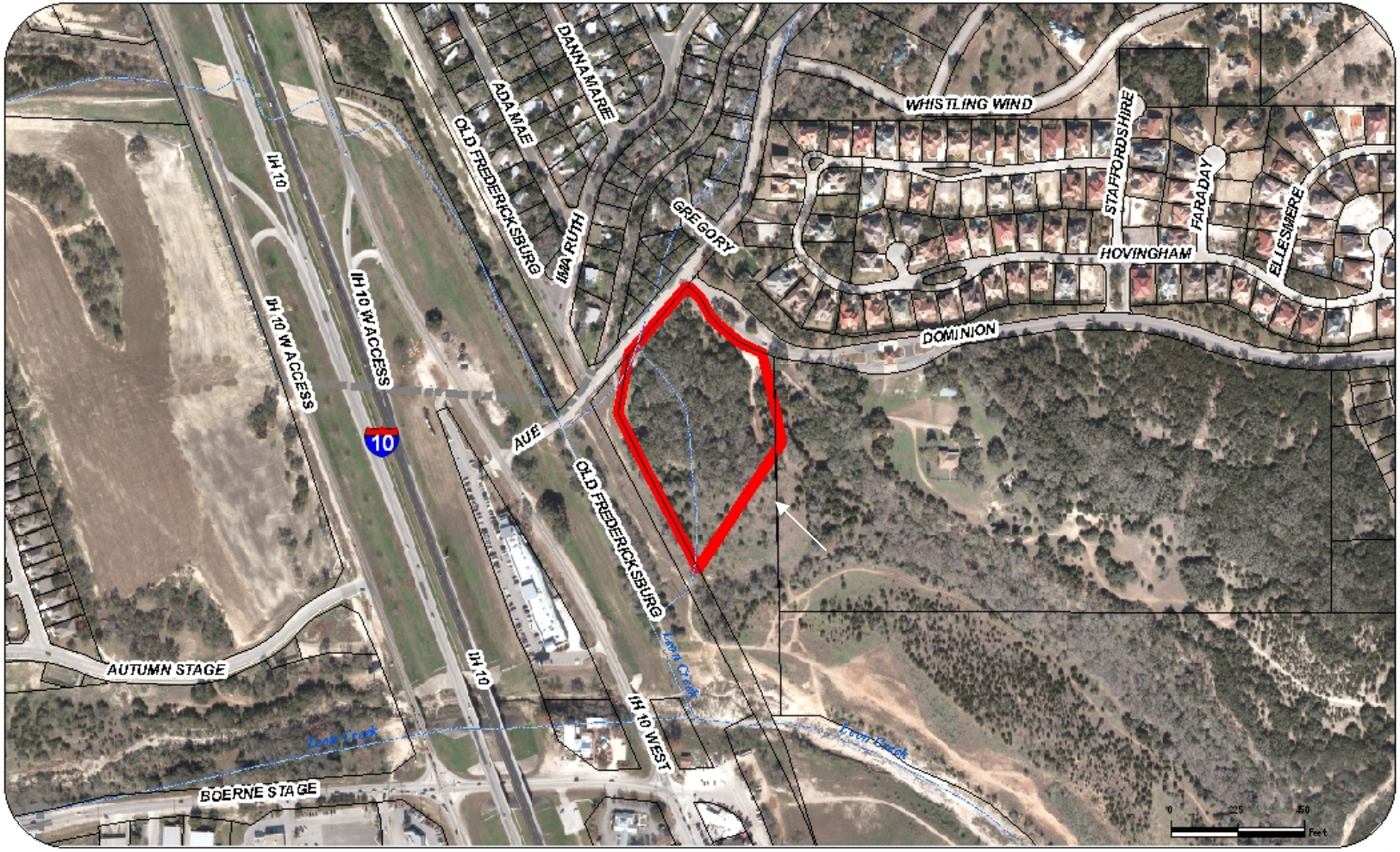
## Land Use Plan as adopted:




## Proposed Amendment:



**Attachment 2**




2012 Aerial

Subject Property

Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District

Map Created by: Gustavo Gutierrez
Map Creation Date: December 18, 2013
Map File Location: Amend_14017_NSec.mxd
PDF Filename: 1312GG.pdf

# North Sector Land Use Plan

## Proposed Plan Amendment 14017 Area

City of San Antonio
Planning and Community
Development Department
John M. Dugan, AICP
Director

# RESOLUTION NO.

**RECOMMENDING TO APPROVE THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE NORTH SECTOR PLAN, A COMPONENT OF THE COMPREHENSIVE MASTER PLAN OF THE CITY, BY CHANGING THE USE FROM RURAL ESTATE TIER TO GENERAL URBAN TIER FOR AN AREA OF APPROXIMATELY 7.101 ACRES OF LAND OUT OF NCB 34732 LOCATED AT THE SOUTHERN CORNER OF AUE ROAD AND DOMINION DRIVE.**

**WHEREAS,** City Council approved the North Sector Plan as an addendum to the Comprehensive Master Plan on August 5, 2010; and

**WHEREAS,** the May 3, 2001 Unified Development Code requires consistency between zoning and the Comprehensive Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

**WHEREAS,** Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

**WHEREAS**, the San Antonio Planning Commission held a public hearing on January 8, 2014 and **APPROVED** the amendment on January 8, 2014; and

**WHEREAS,** the San Antonio Planning Commission has considered the effect of this amendment to the Comprehensive Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT** with City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

SECTION 1: The amendment to the North Sector Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL** as an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 8th DAY OF JANUARY 2014.

| Attest: | Approved: |
|---|---|
| _____ | _____ |
| Executive Secretary<br>San Antonio Planning Commission | Roberto R. Rodriguez, Chair<br>San Antonio Planning Commission |

# CITY OF SAN ANTONIO

**DEVELOPMENT SERVICES DEPARTMENT**
**LAND DEVELOPMENT DIVISION**

**STAFF REPORT** **AGENDA ITEM NO 10**

**Public Hearing:**
Planning Commission
January 8, 2014

**Case Number:**
PA 14 018

**Applicant**
Nelia Hillman

**Owner:**
Telecom Staffing, LLC

**Staff Coordinator:**
Robert C. Acosta, Planner
(210) 207-0157
racosta@sanantonio.gov

**Property Address/Location:**
2719 Nacogdoches Road

**Legal Description:**
Parcel 118 (also known as Lot 3), Block 2, NCB 12100

**Tract Size:**
0.68 acres

**Council District(s):**
District 10

**Notification:**
Published in Daily Commercial Recorder 12/20/2013
Notices Mailed 12/20/2013
- 35 to property owners within 200 feet
- 1 to registered neighborhood association within 200 feet
- 1 to applicant

Internet Agenda Posting 1/3/2014

## REQUEST

The Applicant requests a Comprehensive Master Plan Amendment to change the San Antonio International Airport Vicinity Land Use Plan future land use classification for the property subject to this application from Low Density Residential to Neighborhood Commercial.

## RECOMMENDED ACTION

**Approval of the proposed amendment** to the San Antonio International Airport Vicinity Land Use Plan to change the future land use classification of the subject property from Low Density Residential to Neighborhood Commercial.

## ALTERNATIVE ACTIONS

1. Recommend denial of the proposed amendment to the San Antonio International Airport Vicinity Land Use Plan, as presented above.
2. Make an alternate recommendation.
3. Continue to a future date.

## SYNOPSIS OF ANALYSIS

**Land Use:**

The proposed amendment to Neighborhood Commercial classification will provide support to Goal 1, Objective 1 and 1.2 of the San Antonio International Airport Vicinity Land Use Plan goal of promoting compatibility and appropriateness between uses, and protecting airport operations from incompatible uses. The proposed use will have minimal impact on adjacent properties.

**Transportation:**

The existing transportation infrastructure could support any additional demand generated by the requested future land use change.

**Community Facilities:**

The existing community facilities could support any additional demand generated by the requested future land use change.

## CASE HISTORY

This is the first public hearing of this case.

## I. ANALYSIS

| Comprehensive Plan | |
|---|---|
| **Comprehensive Plan Component:** San Antonio International Airport Vicinity Land Use Plan | |
| **Plan Adoption Date:** May 20, 2010 | **Update History:** None |
| **Goal l, Objective 1: Protect integrity of exiting residential neighborhoods and prevent excessive noise pollution and other airport hazards**<br>**Goal 1, Objective 1.2: Discourage developments of incompatible uses in the airport environs and noise exposure contours.** | |
| **Comprehensive Land Use Categories** | **Example Zoning Districts** |
| **Low Density Residential:** Single family homes and accessory dwellings on a single lot. Ideally within walking distance of schools and neighborhood commercial uses. Certain lower impact community oriented uses such as churches, parks or community centers are appropriate. | R-4,R-5,R-6, R-20, NP-8,NP-10 |
| **Neighborhood Commercial:** Low intensity commercial uses such as small scale retail or offices, professional services, convenience retail, and shop front retail that serve a market equivalent to a neighborhood.<br>Should be located at intersection of collector streets and higher order streets within walking distance of neighborhood residential areas, or along arterials where an existing commercial area is already established. Examples are flower shops, small restaurants, lawyer's offices, coffee shops, hairstylist or barber shops, book stores, copy service, dry cleaning, or convenience stores without gasoline. | NC, C-1, O-1 |

| Land Use Overview | | |
|---|---|---|
| | **Future Land Use Classification** | **Current Use** |
| Subject Property | Low Density Residential | Vacant |
| North | Neighborhood Commercial and Low Density Residential | Commercial uses and Single-Family Homes |
| East | Mixed Use | Multi- Family Homes and Commercial Uses |
| South | Low Density Residential and Community Commercial | Single-Family Homes and Commercial Uses |
| West | Low Density Residential | Single-Family Homes |

**Land Use:** The subject property is located along the eastside of Nacogdoches Road near the intersection of Haverford Drive and Nacogdoches Road, within the San Antonio International Airport Vicinity Land Use Plan. The subject property consists of a vacant residence and has commercial uses and single-family homes to the north, multi-family homes and commercial uses to the east, single-family homes and commercial uses to the south, and single-family homes to the west. The San Antonio International Airport Vicinity Land Use Plan classifies the subject property as Low Density Residential and the area to the north as Neighborhood Commercial and Low Density Residential, the area to east as Mixed Use, the area to the south as Low Density Residential and Community Commercial and the area to west as Low

Density Residential. The applicant requests to change the future land use from Low Density Residential to Neighborhood Commercial.

The applicant requests this plan amendment and associated zoning change in order to allow for the development of the subject property as an office. The subject property's location along a major roadway, and the general surrounding conditions, which include an existing neighborhood commercial node to the north, as well as, community-scale commercial uses to the east and south make it appropriate for the Neighborhood Commercial classification. The proposed amendment to Neighborhood Commercial classification will provide support to Goal 1, Objective 1 and 1.2 of the San Antonio International Airport Vicinity Land Use Plan goal of promoting compatibility and appropriateness between uses, and protecting airport operations from incompatible uses. The proposed use will have minimal impact on adjacent properties.

**Transportation:** The City's Major Thoroughfare Plan identified Nacogdoches Road as Secondary Arterial Type A and Loop 410 as freeway. Haverford and Middlebury are classified as local streets**.** The neighboring area includes sidewalks which allow for pedestrian access to and from adjacent residential and commercial areas. There is a VIA bus stop on Nacogdoches Road along side the subject property. The existing transportation infrastructure could support any additional demand generated by the requested future land use change.

**Community Facilities:** MacArthur Park Lutheran School, MacArthur High School and Lady Bird Johnson Park are within close proximity. The existing community facilities could support any additional demand generated by the requested future land use change.

## II. SUPPLEMENTAL INFORMATION

**Current Zoning:** R-6 AHOD
**Proposed Zoning:** C-1 AHOD
**Corresponding Zoning Case:** Z2014054
**Zoning Commission Public Hearing Date:** January 21, 2014

## III. RECOMMENDATION

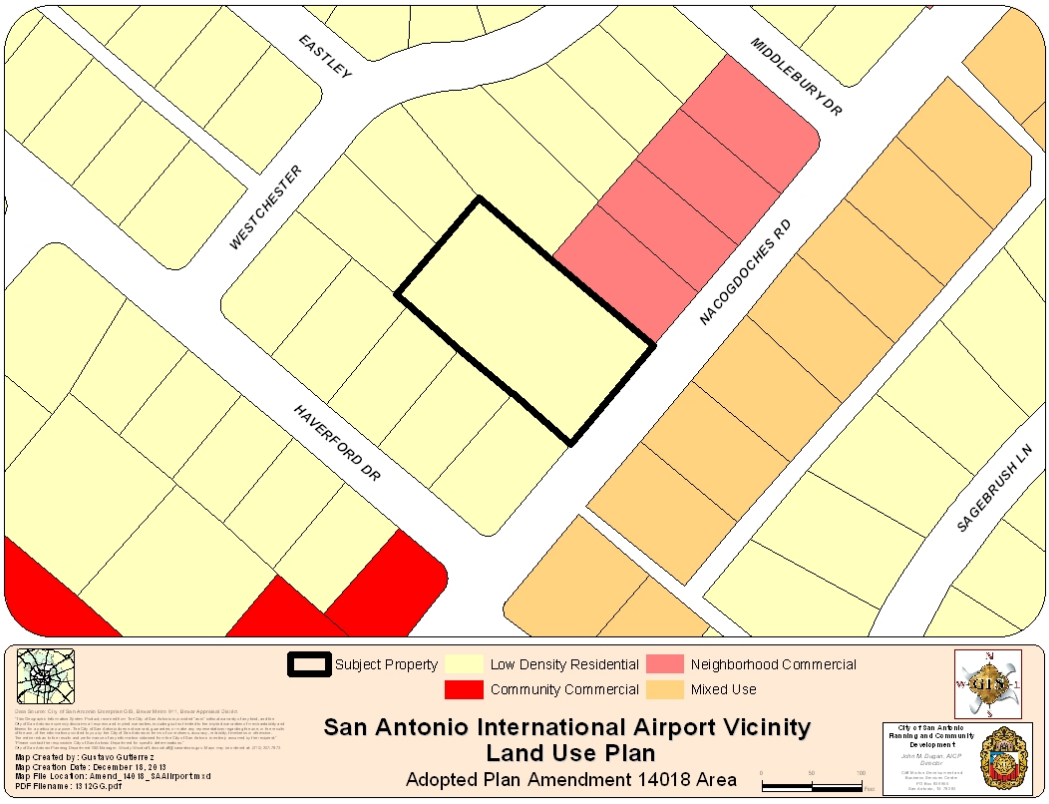
The subject property's location along a major roadway, and the general surrounding conditions, which include an existing neighborhood commercial node to the north, as well as, community-scale commercial uses to the east and south make it appropriate for the Neighborhood Commercial classification. The proposed amendment to Neighborhood Commercial classification will provide support to Goal 1, Objective 1 and 1.2 of the San Antonio International Airport Vicinity Land Use Plan goal of promoting compatibility and appropriateness between uses, and protecting airport operations from incompatible uses. The proposed use will have minimal impact on adjacent properties.

## IV. ATTACHMENTS

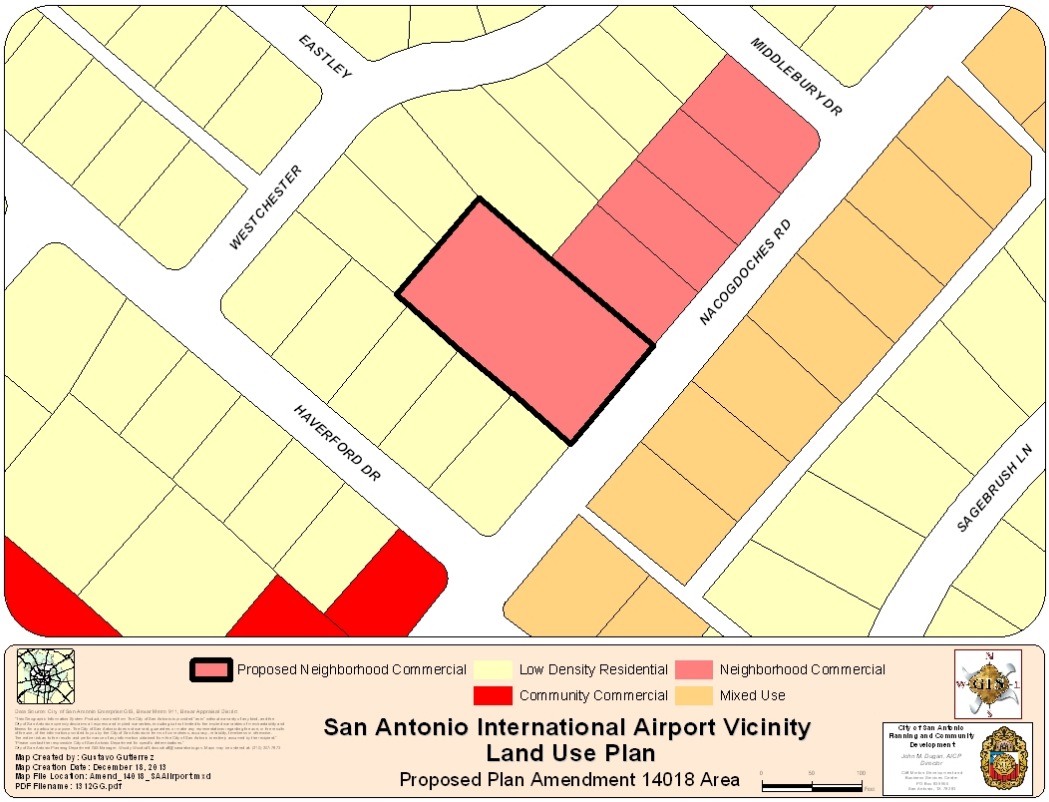
A. Plan Amendment Maps
B. Aerial Map

## Attachment 1

## Land Use Plan as adopted:




## Proposed Amendment:



**Attachment 2**

Subject Property VIA Bus Stops VIA Bus Routes

Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District

"This Geographic Information System Product, received from The City of San Antonio is provided "As Is" without any warranty of any kind, and the City of San Antonio expressly disclaims all express and implied warranties, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The City of San Antonio does not warrant, guarantee, or make any representations regarding the use, or the results of the use, of the information provided to you by the City of San Antonio in terms of correctness, accuracy, reliability, timeliness or otherwise. The entire risk as to the results and performance of any information obtained from the City of San Antonio is entirely assumed by the recipient." "Please contact the copyright owner City of San Antonio Department for specific data restrictions."

City of San Antonio Planning Department GIS Manager: Wendy Grossnickle, wendy.grossnickle@sanantonio.gov. Maps may be ordered at: (210) 207-7873

Map Created by: Gustavo Gutierrez
Map Creation Date: December 18, 2013
Map File Location: Amend_14018_SAAIrport.mxd
PDF Filename: 1312GG.pdf

# San Antonio International Airport Vicinity Land Use Plan

## Proposed Plan Amendment 14018 Area

0 50 100 Feet

City of San Antonio
Planning and Community Development
John M. Dugan, AICP
Director
Cliff Morton Development and Business Services Center
PO Box 839966
San Antonio, TX 78283

# RESOLUTION NO.

**RECOMMENDING TO APPROVE THE AMENDMENT OF THE LAND USE PLAN CONTAINED IN THE SAN ANTONIO INTERNATIONAL AIRPORT VICINITY LAND USE PLAN, A COMPONENT OF THE COMPREHENSIVE MASTER PLAN OF THE CITY, BY CHANGING THE USE FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL FOR AN AREA OF APPROXIMATELY 0.68 ACRES OF LAND OUT OF NCB 12100 LOCATED AT 2719 NACOGDOCHES ROAD.**

**WHEREAS,** City Council approved the San Antonio International Airport Vicinity Land Use Plan as an addendum to the Comprehensive Master Plan on May 20, 2010; and

**WHEREAS,** the May 3, 2001 Unified Development Code requires consistency between zoning and the Comprehensive Master Plan as specified in Sections 35-105, 35-420 (h), and 35-421 (d) (3); and

**WHEREAS,** Chapter 213.003 of the Texas Local Government Code provides that the Master Plan may be amended by ordinance following a public hearing and review by the Planning Commission; and

**WHEREAS**, the San Antonio Planning Commission held a public hearing on January 8, 2014 and **APPROVED** the amendment on January 8, 2014; and

**WHEREAS,** the San Antonio Planning Commission has considered the effect of this amendment to the Comprehensive Master Plan as it pertains to land use intensity, compatibility, community facilities, and the transportation network and found the amended plan to be **CONSISTENT with** City policies, plans and regulations and in conformance with the *Unified Development Code*, Section 35-420, therefore meeting all requirements; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

SECTION 1: The amendment to the San Antonio International Airport Vicinity Land Use Plan attached hereto and incorporated herein by reference is recommended to the City Council with this Commission's recommendation for **APPROVAL as** an amendment to the City's Comprehensive Master Plan.

PASSED AND APPROVED ON THIS 8th DAY OF JANUARY 2014.

| Attest: | Approved: |
|---|---|
| _____ | _____ |
| Executive Secretary<br>San Antonio Planning Commission | Roberto R. Rodriguez, Chair<br>San Antonio Planning Commission |

# CITY OF SAN ANTONIO

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

**COMPREHENSIVE PLANNING DIVISION**

**STAFF REPORT** **AGENDA ITEM NO.** 11

**Public Hearing:**
Planning Commission
January 8, 2014

**Applicant:**
City of San Antonio

**Owners:**
Multiple

**Property Address/Location:**
Multiple in South San Antonio Limited Purpose Annexation boundary area

**Tract Size:**
257 tracts totaling 11,793 acres were offered development agreements

**Council District(s):**
Not applicable, ETJ

**Staff Coordinator:**
Nina Nixon-Mendez
Planning Manager
(210) 207-2744
nina.nixon-mendez@sanantonio.gov

## REQUEST

Development Agreements guaranteeing the continued extraterritorial status of properties which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners within the South San Antonio Limited Purpose Annexation boundaries.

## RECOMMENDED ACTION

Staff recommends approval authorizing Development Agreements guaranteeing the continued extraterritorial status of properties which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners within the South San Antonio Limited Purpose Annexation boundaries.

## ALTERNATIVE ACTIONS

1. One alternative is to not consent to the development agreement for these areas; however, this is required for annexation by the Texas Local Government Code 43.036 and 212.172.
2. Make an alternate recommendation.
3. Continue to a future date.

## SYNOPSIS OF ANALYSIS

When an area is proposed for annexation the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter. A city may not annex an area, unless the city offers to make an agreement with the land owner to continue the extraterritorial status of the area. Section 43.035 authorizes the development agreement to extend regulations and planning authority of the city that do not interfere with the use of the area for agriculture, wildlife management or timber use. If the landowner declines to make the agreement the City may annex the property.

## CASE HISTORY

This is a continuance from December 18, 2013.

## I. ANALYSIS

The primary tenets of the development agreement are:
1) owners agree to consensual annexation at the end of the 10 year term or have an option to extend the agreement, by mutual consent in writing, and with City Council approval;
2) the agreement allows the continuation of agriculture as an industry which supports local markets;
3) the City can extend its boundaries beyond the development agreement as an area adjacent to one of these agreements is considered to be contiguous to the city;
4) the development agreement does not create vested rights;
5) the agreement automatically terminates with the filing of a subdivision plat or related development document, or if the use is changed to a non-agricultural use, regardless of how the area is appraised for ad valorem tax purposes; and
6) should the agreement terminate the City can proceed with annexation and zoning using the procedures for consensual annexation.

The proposed agreement is consistent with the City's Annexation Policy, which states that in considering non-annexation agreements the City should:

- Shall be offered to property owners, within a proposed Municipal Annexation Plan, that have Agricultural Exemptions, in accordance with state law;
- Include a statement that the property owner consents to future voluntary annexation and a negotiated annexation schedule;
- Consider revenue sharing option in areas that have taxing authority;
- Consider services in lieu of annexation to extend the city's regulations and requirements in anticipation of annexation at some point in the future;
- Shall be placed in the City's annexation program for future consideration;
- Be reviewed by the Director of Planning and Community Development for adherence to these policies.

## II. SUPPLEMENTAL INFORMATION

On November 13, 2013, the Planning Commission held a public hearing and recommended annexation for limited purposes for Area 1; Area 2; and Area 3 within current CSMA boundaries. Two public hearings were held before City Council, on the proposed South San Antonio Limited Purpose Annexation on December 4 and December 5, 2013. City Council consideration for Limited Purpose Annexation is scheduled for January 9, 2014 with Full Purpose Annexation in December 2016. Those properties where owners have consented to a non-annexation agreement will be removed from the Limited Purpose Annexation. Those properties where owners decline or do not respond to the City's offer will be included in the Limited Purpose Annexation proposal.

## III. RECOMMENDATION

Staff recommends approval, to comply with the Texas Local Government Code, Section 43.035.

# RESOLUTION NO.

**RECOMMENDATION APPROVING DEVELOPMENT AGREEMENTS FOR PROPERTIES IN THE PROPOSED LIMITED PURPOSE ANNEXATION AREA GUARANTEEING CONTINUED EXTRATERRITORIAL STATUS OF PROPERTIES WHICH ARE APPRAISED FOR AD VALOREM TAX PURPOSES AS AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER USE FOR A PERIOD OF 10 YEARS.**

**WHEREAS,** the City of San Antonio is considering a proposed South San Antonio Limited Purpose Annexation; and

**WHEREAS,** the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property in the proposed area that is appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

**WHEREAS**, the properties that meet the qualifications to be offered a development agreement are designated as agriculture or wildlife management use or as timber land and depicted in the map as Exhibit 1 and the individual properties are identified in Exhibit 2. Exhibit 1 and Exhibit 2 are attached and incorporated herein for all purposes; and

**WHEREAS,** Section 123A of the Charter of the City of San Antonio requires that the Planning Commission shall make a recommendation to City Council on proposed annexation; and

**WHEREAS**, the San Antonio Planning Commission held public hearings on December 18, 2013, and January 8, 2014 regarding the Development Agreement, attached as Exhibit 3 and incorporated herein for all purposes, guaranteeing the continued extraterritorial status of such property; and

**WHEREAS,** the San Antonio Planning Commission has considered the effect of this agreement to the Master Plan and found the agreement to be consistent with City policies, plans and regulations; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

**SECTION 1**: The San Antonio Planning Commission recommends to City Council approval of the Development Agreement guaranteeing the continued extraterritorial status of the properties that are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners eligible to receive a development agreement for non-annexation.

**PASSED AND APPROVED ON THIS 8th DAY OF January 2014.**

Attest: Approved:

Executive Secretary
San Antonio Planning Commission

Robert R. Rodriguez, Chair
San Antonio Planning Commission

# Exhibit 3

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE REAL PROPERTY RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

## DEVELOPMENT AGREEMENT
## TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172

**THIS AGREEMENT** is made and effective this ____ day of _____, 2013, by and between the City of San Antonio, Texas, a home rule municipal corporation of the State of Texas located within Bexar County, Texas (hereinafter referred to as "City") and _____ hereinafter called "the Owner", whether one or more natural persons or other legal entities, and is as follows:

**WHEREAS,** the Owner's property, hereinafter called "the Property", is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

**WHEREAS,** the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;

**WHEREAS,** the Texas Local Government Code § 43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

**WHEREAS,** the City has notified the Owner of its intent to annex the Property and has offered to enter into an agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

**WHEREAS,** the City desires that any development of the property be in conformance with the City's Comprehensive plan; and

**WHEREAS,** the Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property:

**NOW THEREFORE**, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

**1. Identification of the Property.** The Property is described as the property owned by the Owner within the boundaries of the area, more particularly described as _____ which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

**2. Continuation of Extraterritorial Status.** The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this agreement is effective, the Property is not subdivided, the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas

Tax Code, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this agreement. This provision does not prohibit annexation with the consent of the Owner.

**3. Annexation Upon Subdivision or Change of Use.** This agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and/or subdivides or develops the Property in any manner that would require a plat of the subdivision or a related development document to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such as garages and carports where the total combined floor area of all accessory structures does not exceed 2500 feet, and an accessory dwelling (either attached or detached) that does not exceed 1200 square feet in living area.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property as described in this section, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner.

**4. Term.** This Agreement shall terminate 10 years after the effective date of this Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the Texas Local Government Code, whichever comes first. Upon termination the City may annex the Property, either in whole or in part or for full or limited purposes, and such annexation shall be deemed to be with the consent of the Owner.

City and owner may extend the term of this agreement by mutual consent, in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance.

**5. Agreement a Covenant Running With the Land.** This Agreement shall be recorded in the Real Property Records of the applicable county and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

**6. Notice of Sale of the Property.** Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

**7. Form and Delivery of Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:

John Dugan, Planning Director
City of San Antonio
PO Box 839966
San Antonio, Texas 78283-3966
Facsimile Number: 210-207-5480

OWNER:

Print Name:

_____

Address: _____
City/State/Zip Code: _____
Facsimile Number: _____

**8. Enforcement.** This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

**9. Provisions Severable.** If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

**10. Governmental Powers.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

**11. Captions.** Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

**12. Modification of Agreement.** This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.

**13. Governing Law and Venue.** Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

**IN WITNESS WHEREOF**, the parties have signed and executed this Agreement effective as of the date first set forth above.

| **CITY OF SAN ANTONIO** | **The Owner** |
|---|---|
| By: _____ | By: _____ |
| Name: John Dugan | Print Name: _____ |

Title: Planning Director

**State of Texas**
**County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, 2013, by John Dugan, Planning Director of the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

_____
Notary Public, State of Texas
Personalized Seal)

_____
(Print Name of Notary Public here)

My commission expires the ____ day of ____, _____.

Title:_____

**State of Texas**
**County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, the Owner within the District.

_____
Notary Public, State of Texas
Personalized Seal)

_____
(Print Name of Notary Public here)

My commission expires the ____ day of ____, _____.

After Recording Return to:
Nina Nixon-Méndez, Planning Manager
City of San Antonio
Department of Planning and Community Development
PO Box 839966
San Antonio, TX 78283-3966

# Development Agreement guaranteeing continued ETJ status of property appraised for ad valorem tax purposes as agricultural, wildlife management or timber use

**San Antonio Planning Commission**

**Agenda Item #** 11

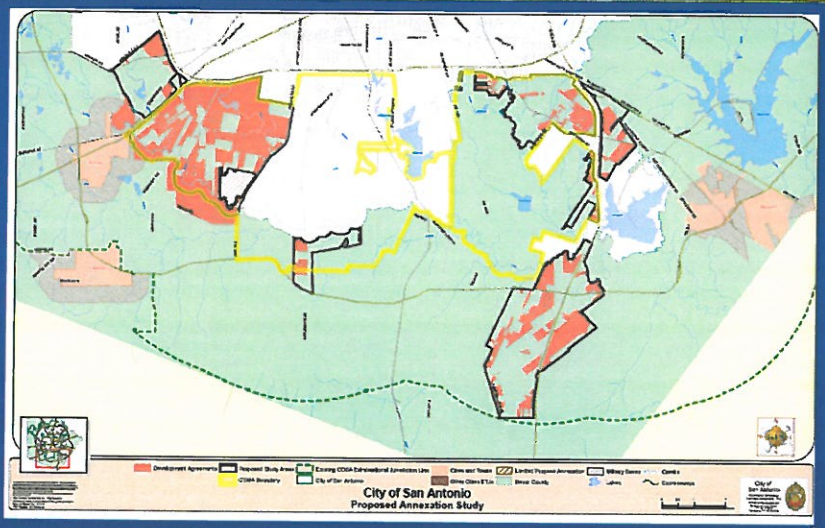
**January 8, 2014**



## Properties Subject to Development Agreement

- When an area is proposed for annexation the *Texas Local Government Code*, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter.
- South San Antonio Limited Purpose Annexation proposal triggers this requirement

# Properties Subject to Development Agreement Offer






# Properties Subject to Development Agreement Offer

- 257tracts totaling 11,793 acres
- Notification and contracts sent by certified mail November 14 – December 6, 2013
- Deadlines
  - Postmarked by Wednesday, December 30, 2013
  - Hand delivered to 1400 S. Flores by 4:30 p.m. on Monday, January 2, 2014

## Non-Annexation Agreement

- Owners agree to consensual annexation at the end of the 10 year term or have an option to extend the agreement, by mutual consent in writing, and with City Council approval
- Allows the continuation of agriculture as an industry which supports local markets
- City can extend its boundaries beyond the development agreement as an area adjacent to one of these agreements is considered to be contiguous to the city
- Development agreement does not create vested rights



## Agreement Requirements for Non-Annexation

- Automatically terminates with the filing of a subdivision plat or related development document, or if the use is changed to a non-agricultural use, regardless of how the area is appraised for ad valorem tax purposes
- Should the agreement terminate the City can proceed with annexation and zoning using the procedures for consensual annexation
- Agreement runs with the land

# Recommendation

- **Staff recommends approval**

  to comply with the Texas Local Government Code, Section 43.035.

Next Steps: City Council hearing scheduled for January 9, 2014

Staff contact: Nina Nixon-Mendez, Planning Manager, 207-2744, nina.nixon-mendez@sanantonio.gov

# CITY OF SAN ANTONIO

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

**COMPREHENSIVE PLANNING DIVISION**

**STAFF REPORT** **AGENDA ITEM NO.** 12

**Public Hearing:**
Planning Commission
January 8, 2014

**Applicant:**
City of San Antonio

**Owners:**
Multiple

**Property Address/Location/Tract Size:**
3015 Ranch Trail Road - 137 acre property;
4717 Noyes Road - consisting of two parcels of 268.838 acres and 80.083 acres

**Council District(s):**
Not applicable, ETJ

**Staff Coordinator:**
Nina Nixon-Mendez
Planning Manager
(210) 207-2744
nina.nixon-mendez@sanantonio.gov

## REQUEST

Development Agreements guaranteeing the continued extraterritorial status of properties with exceptional circumstances which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners within the South San Antonio Limited Purpose Annexation boundaries.

## RECOMMENDED ACTION

Staff recommends approval authorizing the Development Agreements guaranteeing the continued extraterritorial status of properties with exceptional circumstances which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners within the South San Antonio Limited Purpose Annexation boundaries.

## ALTERNATIVE ACTIONS

1. One alternative is to not consent to the development agreement for these areas; however, this is required for annexation by the Texas Local Government Code 43.036 and 212.172.
2. Make an alternate recommendation.
3. Continue to a future date.

## SYNOPSIS OF ANALYSIS

When an area is proposed for annexation the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter. A city may not annex an area, unless the city offers to make an agreement with the land owner to continue the extraterritorial status of the area. Section 43.035 authorizes the development agreement to extend regulations and planning authority of the city that do not interfere with the use of the area for agriculture, wildlife management or timber use. If the landowner declines to make the agreement the City may annex the property.

## CASE HISTORY

This is the first public hearing.

## I. ANALYSIS

The primary tenets of the development agreement are:
1) owners agree to consensual annexation at the end of the 10 year term or have an option to extend the agreement, by mutual consent in writing, and with City Council approval;
2) the agreement allows the continuation of agriculture as an industry which supports local markets;
3) the City can extend its boundaries beyond the development agreement as an area adjacent to one of these agreements is considered to be contiguous to the city;
4) the development agreement does not create vested rights;
5) the agreement automatically terminates with the filing of a subdivision plat or related development document, or if the use is changed to a non-agricultural use, regardless of how the area is appraised for ad valorem tax purposes; and
6) should the agreement terminate the City can proceed with annexation and zoning using the procedures for consensual annexation.

Two owners of properties with exceptional circumstances have requested additional language in their agreements:

- Cross Timbers Rental Properties, LTD, located on 3015 Ranch Trail Road, is requesting the ability to construct 2 residences on the 137 acre property; the current residence is being use as a barn to store hay. Two family members intend to live on the property and oversee agriculture operations.
- Estate of Billy Mitchell, located on 4717 Noyes Road, consisting of two parcels of 268.838 acres and 80.083 acres, is requesting contract language clarifying the phrase "subdivides or develops the Property in any manner" by inserting the language "that would require a plat of the subdivision" or a related development document to be filed with any governmental entity having jurisdiction over the Property. This is requested because the property may be assigned to two family members by deed.

The proposed agreements are <u>consistent</u> with the City's Annexation Policy, which states that in considering non-annexation agreements the City should:

- Shall be offered to property owners, within a proposed Municipal Annexation Plan, that have Agricultural Exemptions, in accordance with state law;
- Include a statement that the property owner consents to future voluntary annexation and a negotiated annexation schedule;
- Consider revenue sharing option in areas that have taxing authority;
- Consider services in lieu of annexation to extend the city's regulations and requirements in anticipation of annexation at some point in the future;
- Shall be placed in the City's annexation program for future consideration;
- Be reviewed by the Director of Planning and Community Development for adherence to these policies.

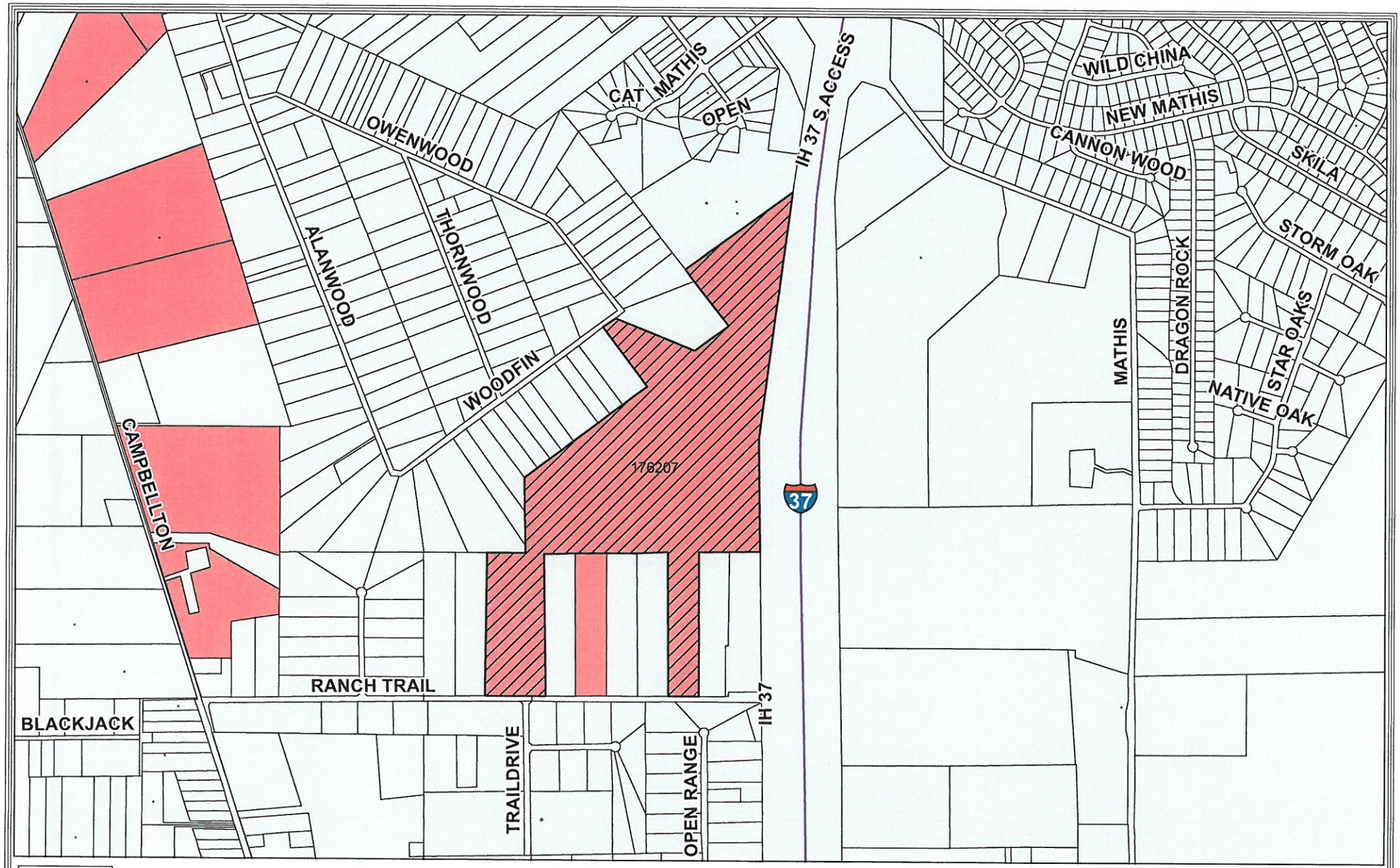
## II. SUPPLEMENTAL INFORMATION

On November 13, 2013, the Planning Commission held a public hearing and recommended annexation for limited purposes for Area 1; Area 2; and Area 3 within current CSMA boundaries. Two public hearings were held before City Council, on the proposed South San Antonio Limited Purpose Annexation on December 4 and December 5, 2013. City Council consideration for Limited Purpose Annexation is scheduled for January 9, 2014 with Full Purpose Annexation in December 2016. Those properties where owners have consented to a non-annexation agreement will be removed from the Limited Purpose Annexation. Those

properties where owners decline or do not respond to the City's offer will be included in the Limited Purpose Annexation proposal.

## III. RECOMMENDATION

Staff recommends approval, to comply with the Texas Local Government Code, Section 43.035.




Cross Timbers Rental Properties, LTD

Proposed Development Agreements

Bexar County

Major Roads

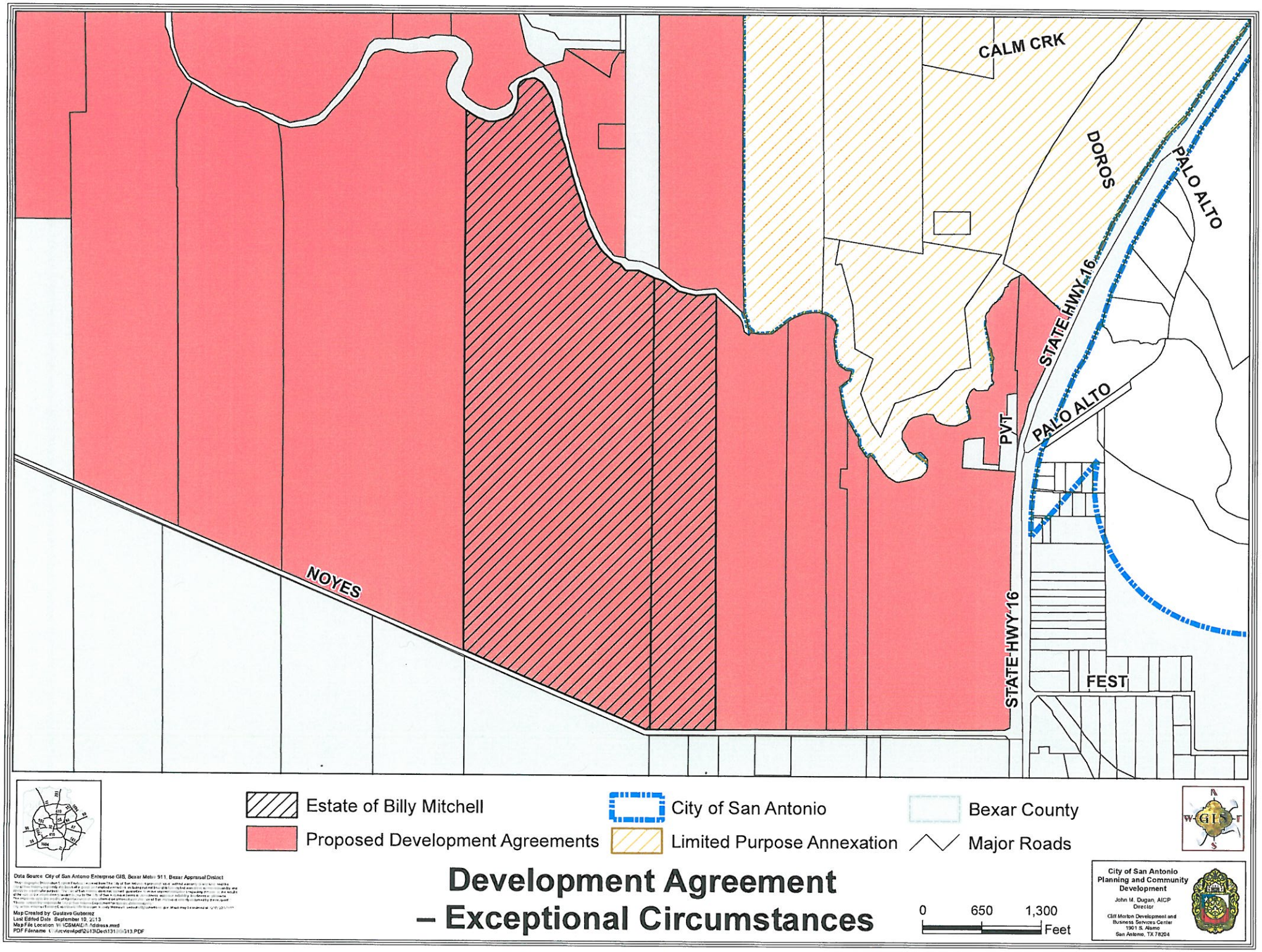
Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District

Map Created by: Gustavo Gutierrez
Last Edited Date: September 10, 2013
Map File Location: v:\CI\MADA Address.mxd
PDF Filename: C:\Arcview\pdf\2013\Dec\1312GG12.PDF

# Development Agreement – Exceptional Circumstances

0 650 1,300 Feet

City of San Antonio
Planning and Community Development
John M. Dugan, AICP
Director
Cliff Morton Development and Business Services Center
1901 S. Alamo
San Antonio, TX 78204


CALM CRK
DOROS
PALO ALTO
STATE HWY 16
PALO ALTO
PVT
NOYES
STATE HWY 16
FEST
Estate of Billy Mitchell
Proposed Development Agreements
City of San Antonio
Limited Purpose Annexation
Bexar County
Major Roads
Data Source: City of San Antonio Enterprise GIS, Bexar Metro 911, Bexar Appraisal District
Map Created by: Gustavo Gutierrez
Last Edited Date: September 10, 2013
Map File Location: \\CSMAIDS\Address.mxd
PDF Filename: C:\Arcview\pdf\2013\Dec\131\G13.PDF
Development Agreement
– Exceptional Circumstances
0
650
1,300
Feet
City of San Antonio
Planning and Community
Development
John M. Dugan, AICP
Director
Cliff Morton Development and
Business Services Center
1901 S. Alamo
San Antonio, TX 78204

# RESOLUTION NO.

**RECOMMENDATION APPROVING DEVELOPMENT AGREEMENTS FOR PROPERTIES IN THE PROPOSED LIMITED PURPOSE ANNEXATION AREA GUARANTEEING CONTINUED EXTRATERRITORIAL STATUS OF PROPERTIES WITH EXCEPTIONAL CIRCUMSTANCES WHICH ARE APPRAISED FOR AD VALOREM TAX PURPOSES AS AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER USE FOR A PERIOD OF 10 YEARS.**

**WHEREAS,** the City of San Antonio is considering a proposed South San Antonio Limited Purpose Annexation; and

**WHEREAS,** the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property in the proposed area that is appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

**WHEREAS**, the properties that meet the qualifications to be offered a development agreement are designated as agriculture or wildlife management use or as timber land; and

**WHEREAS**, two owners with properties with exceptional circumstances are requesting specific language related to their circumstances, and

**WHEREAS**, Cross Timbers Rental Properties, LTD, located on 3015 Ranch Trail Road, is requesting the ability to construct 2 residences on the 137 acre property; the current residence is being use as a barn to store hay, and two family members intend to live on the property and oversee agriculture operations, and the agreement is depicted in Exhibit 1, and

**WHEREAS**, the Estate of Billy Mitchell, located on 4717 Noyes Road, consisting of two parcels of 268.838 acres and 80.083 acres, is requesting contract language clarifying the phrase "subdivides or develops the Property in any manner" by inserting the language "that would require a plat of the subdivision" or a related development document to be filed with any governmental entity having jurisdiction over the Property, and the request is being made because the property may be assigned to two family members by deed, and the agreement is depicted in Exhibit 2, and

**WHEREAS,** Section 123A of the Charter of the City of San Antonio requires that the Planning Commission shall make a recommendation to City Council on proposed annexation; and

**WHEREAS**, the San Antonio Planning Commission held a public hearing on January 8, 2014, regarding the Development Agreement, attached as Exhibit 3 and incorporated herein for all purposes, guaranteeing the continued extraterritorial status of such property; and

**WHEREAS,** the San Antonio Planning Commission has considered the effect of this agreement to the Master Plan and found the agreement to be consistent with City policies, plans and regulations; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

**SECTION 1**: The San Antonio Planning Commission recommends to City Council approval of the Development Agreement guaranteeing the continued extraterritorial status of the properties with exceptional circumstances that are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners eligible to receive a development agreement for non-annexation, attached herein and depicted as Exhibits 1 and 2.

**PASSED AND APPROVED ON THIS 8th DAY OF January 2014.**

| | |
|---|---|
| Attest: | Approved: |
| _____ | _____ |
| Executive Secretary<br>San Antonio Planning Commission | Robert R. Rodriguez, Chair<br>San Antonio Planning Commission |

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

# DEVELOPMENT AGREEMENT
# TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172

**THIS AGREEMENT** is made and effective this _____ day of _____, 2013, by and between the CITY OF SAN ANTONIO, TEXAS, a home rule municipal corporation of the State of Texas located within Bexar County, Texas (hereinafter referred to as "City") and CROSS TIMBERS RENTAL PROPERTIES, LTD. hereinafter called "the Owner," whether one or more natural persons or other legal entities, and is as follows:

**WHEREAS,** the Owner's property, consists of 137.889 acres, more or less and is described on the attached Exhibit "A" and incorporated herein by reference as if set forth in full, hereinafter called "the Property," is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

**WHEREAS,** the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, TEXAS TAX CODE, or as timber land under Subchapter E of that chapter;

**WHEREAS,** the TEXAS LOCAL GOVERNMENT CODE §43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

**WHEREAS,** the City has notified the Owner of its intent to annex the Property and has offered to enter into this Development Agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided upon the annexation of the Property; and

**WHEREAS,** the City desires that any development of the Property be in conformance with the City's Comprehensive plan; and

**WHEREAS,** the Owner desires to enter into this Development Agreement to secure and guarantee the continued extraterritorial status of the Property:

**NOW THEREFORE,** in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **Identification of the Property.** The Property consists of 137.889 acres and is the same property as described in the Special Warranty Deed to Cross Timbers Rental Properties, Ltd. recorded at Volume 7258, Page 1348, Official Real Property Records of Bexar County, Texas and described by metes and bounds on the attached **Exhibit A**,

incorporated herein by reference as if set forth in full and described as the property owned by the Owner within the boundaries of the area, more particularly described as CB 4126 P-10, P-12A CB 4128 P-1, P-lA, P-1J CB 4130 P-2 CB 5570A LOT 126 which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

2. **Continuation of Extraterritorial Status.** The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this Development Agreement is in effect, the Property is not subdivided (meaning that the Property is divided in any manner that would require a plat of the subdivision or a related development document to be filed with any governmental entity having jurisdiction over the Property), the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, TEXAS TAX CODE, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this Development Agreement. This provision does not prohibit annexation with the written consent of the Owner.

3. **Annexation Upon Subdivision or Change of Use.** This Development Agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and subdivides or develops the Property in any manner that would require a plat of the subdivision or a related development document to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such as garages and carports where the total combined floor area of all accessory structures does not exceed 2,500 feet, and an accessory dwelling (either attached or detached) that does not exceed 1,200 square feet in living area. Notwithstanding the foregoing, the Owner is permitted for its use to construct new buildings such as barns, sheds and auxiliary buildings. Owner shall also be permitted to construct no more than two (2) single-family residential dwellings on the Property without losing the agricultural, wildlife management or timber use.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property as described in this section, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner.

TEN (10) RLW, Jr. DEC 17, 2018

4. **Term.** This Agreement shall terminate ~~fifteen (15)~~ years after the effective date of this Development Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the TEXAS LOCAL GOVERNMENT CODE, or upon the City's decision not to annex the Property in any manner whichever comes first; however, if the City decides not to annex the Property, then this Agreement shall be null and void. Upon termination of the Agreement, the City may attempt to annex the Property, either in whole or in part or for full or limited purposes.

So long as the Property remains either under annex or has been annexed and appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, TEXAS TAX CODE, or as timber land under

Subchapter E of that chapter or no development of the Property has begun or is planned, the Owner may extend the term of this Development Agreement by requesting such extension in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance, which ordinance shall not be unreasonably withheld or delayed.

**5. Agreement a Covenant Running With the Land.** This Agreement shall be recorded in the Real Property Records of Bexar County, Texas and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

**6. Notice of Sale of the Property.** Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

**7. Form and Delivery of Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:

John Dugan, Planning Director
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
Facsimile Number: (210) 207-5480

---

OWNER:

CROSS TIMBERS RENTAL PROPERTIES, LTD.
By and through its General Partner
TEXAS BOWIE COMPANY, LLC
P. O. Box 311794
New Braunfels, Texas 78131

**8. Enforcement.** This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

9. **Provisions Severable.** If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

10. **Governmental Powers.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

11. **Captions.** Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

12. **Modification of Agreement.** This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.

13. **Governing Law and Venue.** Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

14. **Successors and Assigns.** This Agreement shall inure to the benefit and shall be binding on the successors and assigns of the Property.

**IN WITNESS WHEREOF,** the parties have signed and executed this Agreement effective as of the date first set forth above.

CITY OF SAN ANTONIO, TEXAS

By: _____
John Dugan, Planning Director

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on the _____ day of _____, 2013, by John Dugan, Planning Director of the City of San Antonio, Texas, and on behalf of the municipality.

_____
NOTARY PUBLIC, STATE OF TEXAS

OWNER:

CROSS TIMBERS RENTAL PROPERTIES, LTD.
by and through its General Partner
TEXAS BOWIE COMPANY, LLC

By: Robert L. Worley, Jr.
Robert L. Worley, Jr. Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 18th day of December, 2013, by Robert L. Worley, Jr., Manager of TEXAS BOWIE COMPANY, LLC the General Partner of CROSS TIMBERS RENTAL PROPERTIES, LTD. on behalf of said entity.

Patricia A Welch
NOTARY PUBLIC, STATE OF TEXAS

PATRICIA A WELCH
Notary Public, State of Texas
My Commission Expires 12-08-17

AFTER RECORDING RETURN TO:

Nina Nixon-Mendez, Planning Manager
CITY OF SAN ANTONIO
Department of Planning and Community Development
PO Box 839966
San Antonio, Texas 78283-3966

EXHIBIT "A"

BEING 109.767 acres consisting of four tracts in Bexar County, Texas, and more particularly described as follows, to-wit:

Tract 1: (6.160 acres)

BEING all of Tract 176 Crestwood Acres Subdivision as recorded in Volume 5500, page 254, Deed and Plat Records of Bexar County, Texas.

TRACT 2: (15.692 acres)

BEING 15.692 acres out of the WILLIAM LEE original 43-acre tract recorded in Volume 5631, Pages 44-45, Deed Records of Bexar County, Texas, and being out of the William Body Survey No. 20 1/2, Abstract No. 921, County Block 4130, and more particularly described as follows, to-wit:
BEGINNING at a point where the Westerly R.O.W. line of I.H. 37 intersects the Northwest line of original 43-acre tract for the Northerly corner of this described tract, said point being South 08 deg. 10 min. 45 sec. West 1451.83 feet from the Southerly cut-off line of Mathis Road;
THENCE along the Westerly R.O.W. line of I.H. 37, South 08 deg. 10 min. 45 sec. West 902.53 feet to its intersection with the Southeast line of said 43-acre tract for the Easterly corner;
THENCE along the Southeast line of 43-acre tract, South 54 deg. 23 min. West 614.10 feet to the Southerly corner, same being the Southerly corner of 43-acre tract;
THENCE along the Southwest line of 43-acre tract, North 37 deg. 20 min. West 700.57 feet to the Westerly corner;
THENCE along the Northwest line of 43-acre tract, North 54 deg. 20 min. 30 sec. East 1315.32 feet to the place of beginning.

TRACT 3: (17.900 acres)

BEING 17.900 acres, consisting of 2.538 acres out of the G. H. Hime Survey, Abstract No. 1203, County Block 4126, and 15.362 acres out of 27.188 acres out of the S. T. Priest Survey No. 4, Abstract No. 1212, County Block 4126, and more particularly described as follows, to-wit:
BEGINNING at the intersection of the Westerly R.O.W. line of I.H. 37 with the Northerly line of the G. H. Hime Survey, Abstract No. 1203, for the Northeasterly corner of this described tract, said point being South 08 deg. 10 min. 45 sec. West 2434.36 feet from the Southerly cut-off line of Mathis Road;
THENCE along the Westerly R.O.W. line of the I.H. 37, South 08 deg. 10 min. 45 sec. West 1368.45 feet to an angle point, and South 08 deg. 12 min. 38 sec. West 1223.98 feet to the Southeast corner;
THENCE South 89 deg. 59 min. 46 sec. West 272.72 feet to the Southwest corner;
THENCE North 08 deg. 23 min. West 2,225.05 feet to the Northwest corner;
THENCE North 54 deg. 23 min. East 601.60 feet to the place of beginning.

EXHIBIT "A",

TRACT 4: (70.015 acres)

BEING 70.015 acres out of 170.816 acres, out of the J. C. Adams Survey No. 7, Abstract No. 949, County Block 4128, and more particularly described as follows, to-wit:
BEGINNING at the most West Northwest corner of said J. C. Adams Survey;
THENCE along a North line of said Survey, South 89 deg. 59 min. 46 sec. East 1004.61 feet;
THENCE North 00 deg. 00 min. 50 sec. West 737.74 feet to the most North Northwest corner of said J. C. Adams Survey;
THENCE along the Northerly line of said J. C. Adams Survey, North 54 deg. 00 min. 56 sec. East 2496.94 feet to its Northeast corner, same being the Northeast corner of this tract;
THENCE along the East line of said J. C. Adams Survey, South 00 deg. 23 min. East 2225.05 feet to the Southeast corner of this tract;
THENCE North 89 deg. 59 min. 46 sec. West 3039.72 feet to a point on the West line of said J. C. Adams Survey for a corner;
THENCE along the West line of said J. C. Adams Survey, North 00 deg. 09 min. 47 sec. West 20.0 feet to the place of beginning.

TOGETHER WITH THE FOLLOWING NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT: (1.635 acres)
BEING out of 63.767 acres as recorded in Volume 7643, Page 61, Deed Records of Bexar County, Texas, and being out of the W. B. Hooker Survey No. 5, Abstract No. 1081, County Block 4142, and more particularly described as follows, to-wit:
BEGINNING at the Northeast corner of said W. B. Hooker Survey No. 5, same being the most West Northwest corner of above described tract of 70.015 acres;
THENCE South 00 deg. 09 min. 47 sec. East 20.0 feet;
THENCE North 89 deg. 07 min. 16 sec. West 1374.92 feet;
THENCE South 01 deg. 13 min. 14 sec. West 1432.64 feet;
THENCE North 89 deg. 32 min. 10 sec. West 770.92 feet to a point on the Easterly line of Campbelton Road for a corner;
THENCE along the Easterly line of Campbelton Road, North 16 deg. 40 min. 03 sec. West 20.93 feet;
THENCE South 89 deg. 32 min. 10 sec. East 757.34 feet;
THENCE North 01 deg. 13 min. 14 sec. East 1432.78 feet;
THENCE South 89 deg. 07 min. 16 sec. East 1394.44 feet to the place of beginning.

EXHIBIT "A"

BEING 10.000 acres out of that 170.814 acre tract recorded in Volume 4901, Page 104, Deed Records of Bexar County, and being out of the J.C. Adams Survey No. 7, Abstract No. 949, County Block 4123, in Bexar County, Texas, and being more particularly described as follows to wit:

Beginning at a point on the south line of a 30 foot access easement for the southeast corner of 170.814 acre tract, same being the southeast corner of J.C. Adams Survey No. 7, and being north 89 deg. 13 min., west, 292.76 feet from where the south line of 30 foot access easement intersects the west R.O.W. line of Interstate Highway 37 South;

THENCE along the south line of 170.814 acre tract, south line of J.C. Adams Survey No. 7, and south line of access easement, north 89 deg. 13 min. west 324.56 feet;

THENCE across access easement north 00 deg. 47 min. east, 30.00 feet to an iron stake on the north line of access easement for the southeast corner and place of beginning of this described 10.000 acre tract;

THENCE along the north line of access easement, north 89 deg. 13 min. west, 305.88 feet to an iron stake for the southwest corner;

THENCE north 00 deg. 47 min. east 1422.58 feet to an iron stake for the northwest corner of this tract;

THENCE south 89 deg. 46 min. 26 sec. east 305.89 feet to an iron stake for the northeast corner;

THENCE south 00 deg. 47 min west, 1425.55 feet to the place of beginning.

EXHIBIT "A"

BEING 8.124 acres out of 170.814 acres as recorded in volume 4901, page 104, Deed Records of Bexar County and being out of the J.C. Adams Survey No. 7, Abstract No. 947, County Block 4128, in Bexar County, Texas and being more particularly described as follows, to-wit:

Beginning at the southwest corner of 170.814 acre tract, same being the southwest corner of J.C. Adams Survey No. 7; thence along the south line of 170.814 acre tract and south line of J.C. Adams Survey No. 7, south 89 deg. 13 min. east, 931.01 feet; thence across a 30 foot access easement, north 00 deg. 47 min. east, 30.00 feet to an iron stake on the north line of access easement for the southwest corner and place of beginning of this described 8.124 acre tract;

THENCE north 00 deg. 47 min. east, 1408.17 feet to an iron stake for the northwest corner of this tract;

THENCE south 89 deg. 46 min. 26 sec. east, 251.11 feet to an iron stake for the northeast corner;

THENCE south 00 deg. 47 min. west, 1410.62 feet to an iron stake on the north line of 30 foot access easement for the southeast corner;

THENCE along the north line of access easement, north 89 deg. 13 min. west, 251.10 feet to the place of beginning.

EXHIBIT "A"

BEING 10.000 acres out of 170.814 acres as recorded in Volume 4901, Page 104, Deed Records of Bexar County, and being out of the J.C. Adams Survey No. 7, Abstract No. 949, County Block 4128, in Bexar County, Texas and being more particularly described as follows, to-wit:

Beginning at the southwest corner of said 170.814 acre tract, same being the southwest corner of J.C. Adams Survey No. 7;

THENCE along the south line of 170.814 acre tract and south line of J.C. Adams Survey No. 7, South 89 deg. 13 min. east 621.34 feet;

THENCE across a 30 foot access easement, north 00 deg. 47 min. east, 30.00 feet to an iron stake for the southwest corner and place of beginning of this described 10.000 acre tract;

THENCE north 00 deg. 47 min. east, 1405.16 feet to an iron stake for the northwest corner of this tract;

THENCE south 89 deg. 46 min. 26 sec. east, 309.68 feet to an iron stake for the northeast corner;

THENCE south 00 deg. 47 min. west 1403.17 feet to an iron stake on the north line of 30 foot access easement for the southeast corner;

THENCE along the north line of 30 foot access easement, north 89 deg. 13 min. west 309.67 feet to the place of beginning.

# Exhibit 2

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE REAL PROPERTY RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

## DEVELOPMENT AGREEMENT
## TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172

**THIS AGREEMENT** is made and effective this ____ day of _____, 2014, by and between the City of San Antonio, Texas, a home rule municipal corporation of the State of Texas located within Bexar County, Texas (hereinafter referred to as "City") and Estate of Billy Mitchell hereinafter called "the Owner", whether one or more natural persons or other legal entities, and is as follows:

**WHEREAS,** the Owner's property, hereinafter called "the Property", is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

**WHEREAS,** the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;

**WHEREAS,** the Texas Local Government Code § 43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

**WHEREAS,** the City has notified the Owner of its intent to annex the Property and has offered to enter into an agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

**WHEREAS,** the City desires that any development of the property be in conformance with the City's Comprehensive plan; and

**WHEREAS,** the Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property:

**NOW THEREFORE**, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

**1. Identification of the Property.** The Property is described as the property owned by the Owner within the boundaries of the area, more particularly described as CB 4202 P-1 ABS 613,CB 4203 P-2 ABS 188 268.838 which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

**2. Continuation of Extraterritorial Status.** The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this agreement is effective, the Property is not developed in a manner that would require a plat of the subdivision or a related development document to be filed with any governmental entity having jurisdiction over the

Property, and the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this agreement. This provision does not prohibit annexation with the consent of the Owner.

**3. Annexation Upon Subdivision or Change of Use.** This agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and/or subdivides or develops the Property in any manner that would require a plat of the subdivision or a related development document to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such as garages and carports where the total combined floor area of all accessory structures does not exceed 2500 feet, and an accessory dwelling (either attached or detached) that does not exceed 1200 square feet in living area.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property as described in this section, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner.

**4. Term.** This Agreement shall terminate 10 years after the effective date of this Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the Texas Local Government Code, whichever comes first. Upon termination the City may annex the Property, either in whole or in part or for full or limited purposes, and such annexation shall be deemed to be with the consent of the Owner.

City and owner may extend the term of this agreement by mutual consent, in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance.

**5. Agreement a Covenant Running With the Land.** This Agreement shall be recorded in the Real Property Records of the applicable county and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

**6. Notice of Sale of the Property.** Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

**7. Form and Delivery of Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:

John Dugan, Planning Director
City of San Antonio
PO Box 839966
San Antonio, Texas 78283-3966
Facsimile Number: 210-207-5480

OWNER:

Print Name:

_____

Address: _____

City/State/Zip Code: _____

Facsimile Number: _____

**8. Enforcement.** This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

**9. Provisions Severable.** If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

**10. Governmental Powers.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

**11. Captions.** Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

**12. Modification of Agreement.** This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.

**13. Governing Law and Venue.** Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

**IN WITNESS WHEREOF**, the parties have signed and executed this Agreement effective as of the date first set forth above.

| **CITY OF SAN ANTONIO** | **The Owner** |
|---|---|
| By: _____ | By: _____ |
| Name: John Dugan | Print Name: _____ |

Title: Planning Director

**State of Texas**
**County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, 2013, by John Dugan, Planning Director of the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

_____
Notary Public, State of Texas
Personalized Seal)

_____
(Print Name of Notary Public here)

My commission expires the ____ day of ____, _____.

Title:_____

**State of Texas**
**County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, the Owner within the District.

_____
Notary Public, State of Texas
Personalized Seal)

_____
(Print Name of Notary Public here)

My commission expires the ____ day of ____, _____.

After Recording Return to:
Nina Nixon-Méndez, Planning Manager
City of San Antonio
Department of Planning and Community Development
PO Box 839966
San Antonio, TX 78283-3966

# Development Agreement guaranteeing continued ETJ status of properties appraised for ad valorem tax purposes as agricultural, wildlife management or timber use with exceptional circumstances

**San Antonio Planning Commission**

**Agenda Item # 12**

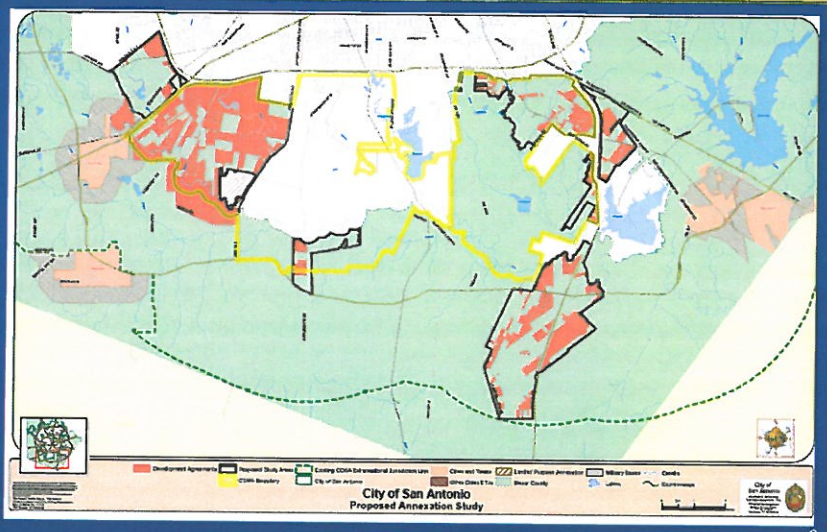
**January 8, 2014**



## Properties Subject to Development Agreement

- When an area is proposed for annexation the *Texas Local Government Code*, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter.
- South San Antonio Limited Purpose Annexation proposal triggers this requirement

# Properties Subject to Development Agreement Offer






# Properties Subject to Development Agreement Offer

- 257tracts totaling 11,793 acres
- Notification and contracts sent by certified mail November 14 – December 6, 2013
- Deadlines
  - Postmarked by Wednesday, December 30, 2013
  - Hand delivered to 1400 S. Flores by 4:30 p.m. on Monday, January 2, 2014

## Non-Annexation Agreement

- Owners agree to consensual annexation at the end of the 10 year term or have an option to extend the agreement, by mutual consent in writing, and with City Council approval
- Allows the continuation of agriculture as an industry which supports local markets
- City can extend its boundaries beyond the development agreement as an area adjacent to one of these agreements is considered to be contiguous to the city
- Development agreement does not create vested rights



## Agreement Requirements for Non-Annexation

- Automatically terminates with the filing of a subdivision plat or related development document, or if the use is changed to a non-agricultural use, regardless of how the area is appraised for ad valorem tax purposes
- Should the agreement terminate the City can proceed with annexation and zoning using the procedures for consensual annexation
- Agreement runs with the land

## Exceptional Circumstances

- Cross Timbers Rental Properties, LTD, located on 3015 Ranch Trail Road, requests ability to construct 2 residences on the 137 acre property; the current residence is being used as a barn to store hay, and two family members intend to live on the property and oversee agriculture operations



## Exceptional Circumstances

- Estate of Billy Mitchell, located on 4717 Noyes Road, consisting of two parcels of 268.838 acres and 80.083 acres
- Requests contract language clarifying the phrase "subdivides or develops the Property in any manner" by inserting the language "that would require a plat of the subdivision" or a related development document to be filed with any governmental entity having jurisdiction over the Property, and the request is being made because the property may be assigned to two family members by deed.

# Recommendation

- **Staff recommends approval**

  to comply with the Texas Local Government Code, Section 43.035.

Next Steps: City Council hearing scheduled for January 9, 2014

Staff contact: Nina Nixon-Mendez, Planning Manager, 207-2744, nina.nixon-mendez@sanantonio.gov