



City of San Marcos

Work Session Agenda - Final

City Council

Tuesday, October 20, 2020

3:00 PM

Virtual Meeting

Due to COVID-19, and as long as the State Disaster Declaration is in effect, this will be a virtual meeting. To view the meeting please go to www.sanmarcostx.gov/videos or watch on Grande channel 16 or Spectrum channel 10.

I. Call To Order

II. Roll Call

PRESENTATIONS

1. Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding the review and evaluation of the effectiveness of financial incentives as it relates to residential development (Resolution 2015-165R).
2. Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding potential Development Code and City Code amendments to address concerns with developers requesting Texas Pollutant Discharge Elimination System (TPDES) permits, also commonly known as package treatment plants, from the Texas Commission on Environmental Quality (TCEQ) in lieu of connecting to City of San Marcos utility infrastructure.

EXECUTIVE SESSION

3. Executive Session in accordance with:
 - A. Section §551.074 of the Texas Government Code: Personnel Matters - To discuss the duties and responsibilities of the City Manager, pertaining to the Police Chief Selection Process
 - B. Section §551.071 of the Texas Government Code: Consultation with Attorney - to receive advice of legal counsel regarding acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction
 - C. Section §551.072 of the Texas Government Code: Real Property - To receive a staff briefing and deliberations regarding the acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction
 - D. Section §551.072 of the Texas Government Code: Real Property - to receive a staff briefing and deliberations regarding acquisition of property in Downtown San Marcos for public use.

III. Adjournment.

POSTED ON TUESDAY, OCTOBER 13, 2020 @ 4:00 P.M.

TAMMY K. COOK, INTERIM CITY CLERK

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov



Legislation Text

File #: ID#20-741, **Version:** 1

AGENDA CAPTION:

Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding the review and evaluation of the effectiveness of financial incentives as it relates to residential development (Resolution 2015-165R).

Meeting date: October 20, 2020

Department: Planning & Development Services

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: On November 17, 2015, the City Council passed a resolution (#2015-165R) that put a moratorium on any further financial incentives for future residential development.

City Council Strategic Initiative: [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Direct Growth, Compatible with Surrounding Uses
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

In 2015, the City Council passed a resolution (#2015-165R) that put a moratorium on any further financial incentives for future residential development to allow the City to see how the market responded to the influx of new units. The resolution was to be in effect for five years and is set to expire next month. This purpose of this work session is for staff to provide you with an analysis of how the market has absorbed the housing units, as well as to seek guidance from the City Council on how they would like to proceed.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

In the shorter-term (next 1-2 years), allow the moratorium to expire and evaluate projects on a case-by-case basis.

In the longer-term (beyond 2 years), use the newly adopted Comprehensive Plan to develop an incentive policy that addresses the use of financial incentives based on the vision, goals, objectives, and policies identified in the Comprehensive Plan. For example, specific types like workforce housing, or specific locations.

City of San Marcos

City Council Work Session

October 20, 2020

Presentation Item 1

Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding the review and evaluation of the effectiveness of financial incentives as it relates to residential development (Resolution 2015-165R).

Resolution No. 2015-165R (11/17/2015)

- City approved or facilitated financial incentives for residential projects:
 - Blanco Vista
 - Kissing Tree (Paso Robles)
 - Trace (Highpointe)
 - La Cima
 - Whisper
- An estimated 9,800 units are to be constructed within these developments
- Moratorium was placed on any further financial incentives for future residential development to allow the City to see how the market responds.
- Resolution expires 11/17/2020 – Even though it expires at this time, the City Council still has to approve new incentives.

Residential Units Per Subdivision

Subdivision	Units
Blanco Vista	1,800
Kissing Tree (Paso Robles)	3,400
Trace (Highpointe)	1,300
La Cima	2,800
Whisper	500
TOTAL	9,800

Not All Financial Incentives Are Created Equal

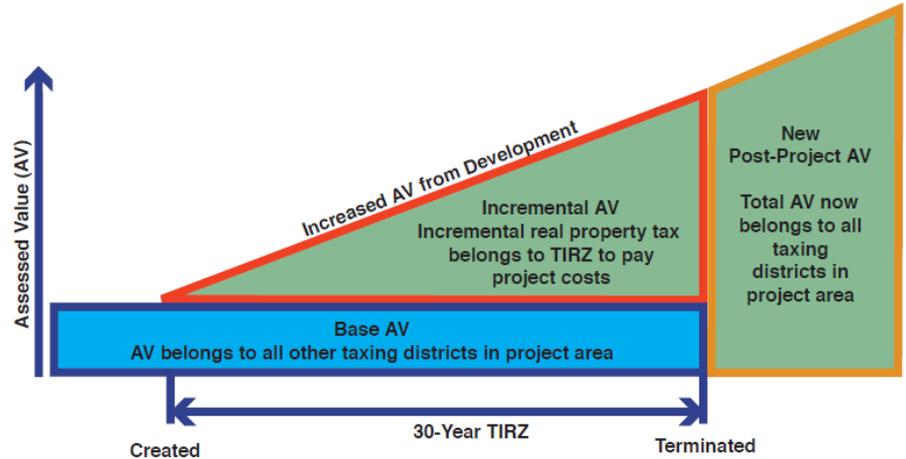
- **Public Improvement District (PID)**
 - Created to levy and collect special assessments on property within a district.
- **Tax Increment Reinvestment Zone (TIRZ)**
 - Captures the increase in tax revenue that is created by development within an area and reinvests those funds into public improvements and development projects that benefit the zone.
- **Chapter 380**
 - Provides grants/loans at little or no cost to promote economic development.

Public Improvement Districts (PID)

- **Assessment levied on property within the District (no impact on taxpayers outside of District)**
- **City keeps 100% of current and future tax revenue**
- **PID Bonds can be issued early in the process, allowing developers to install significant infrastructure upfront**
- **City Council serves as the de facto “Board” of the PID**
- **PID Bonds are limited obligations payable solely from the pledged revenues**

Tax Increment Reinvestment Zones (TIRZ)

“It should be noted that all taxing entities are shielded from risk in that the developer provides the initial funding for the proposed infrastructure projects and only receives reimbursement from the TIRZ when and if increment is created by the project. The sole source of reimbursement to the developer is the new real property tax revenue (increment) generated by the development itself.” - Blanco Vista TIRZ Project and Financing Plan



Kissing Tree (Paso Robles)

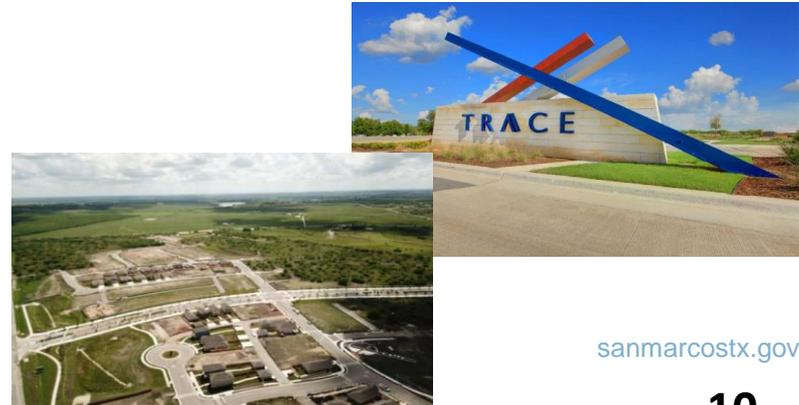
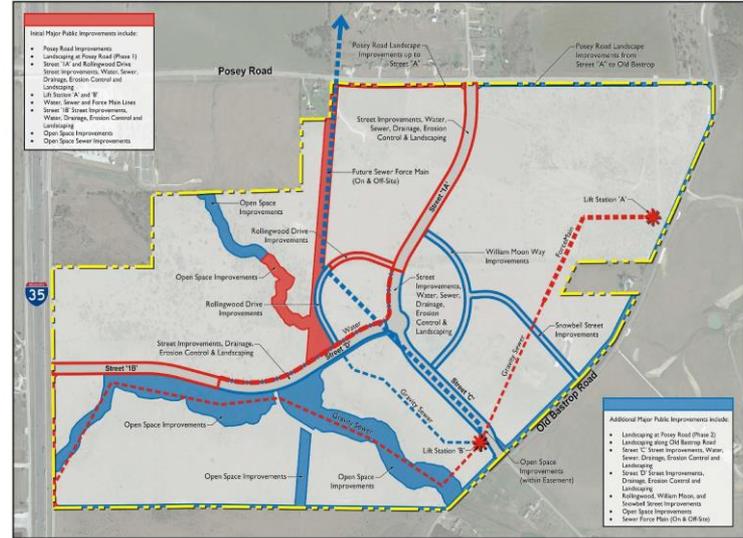
- Tax Increment Investment Zone No. 4 created in 2011
- Developer paid upfront for the costs to construct the regional improvements
- Developer reimbursed for actual costs, plus interest, with TIRZ revenue up to \$20.0 million, plus interest costs
 - County 10% TIRZ participation (~ \$3.3 million)
 - City 40% TIRZ participation (~ \$16.7 million)
 - Total reimbursement to developer capped at \$20 million, but split between City/County will vary based on adopted tax rates

ITEM	PROJECTS	ESTIMATED ZONE NO. 4 PROJECT COSTS	ESTIMATED NON-ZONE NO. 4 PROJECT COSTS
WATER			
1	Hunter Road Water Lines	\$ 2,088,180	----
2	Soyars Tank Upgrades	\$ 2,303,910	----
3	Trunk Hill Tank	\$ 862,500	----
4	Trunk Hill Pumps	\$ 345,000	----
5	McCarty Tank Pumps	\$ 800,000	----
6	Regional Water Line Infrastructure	\$ 3,249,870	----
WASTEWATER			
1	Regional Offsite Improvements	\$ 1,837,000	----
ROADS/DRAINAGE			
1	Centerpoint Extension	\$ 7,828,540	----
2	Hunter Road Intersection Improvements	\$ 500,000	----
3	Hunter Road Right-Of-Way 2.1 acres South of Centerpoint Road, East side of Hunter Road	\$ 183,000	----
4	Entry Feature	----	\$ 1,425,000.00
5	Bridge	----	\$ 2,500,000.00
6	Bridge Element	----	\$ 50,000.00
7	Golf Cart Tunnel	----	\$ 250,000.00
8	TxDOT Signals, Striping	----	\$ 500,000.00
9	Major Boulevard	----	\$15,055,977.98
10	Landscaping	----	\$ 7,539,718.00
11	Consulting Fees	----	\$ 4,098,104.40
RECLAIMED WATER LINE			
1	Reclaimed Water Line	\$ 2,185,000	----
LOT DEVELOPMENT			
1	Lot Development	----	\$39,729,010.88
2	Consulting Fees	----	\$ 5,959,351.63
TOTAL ESTIMATED PROJECT COSTS:		\$ 22,183,000*	\$77,107,162.89

* The total reimbursable amount to the Developer through TIRZ No. 4 tax increment revenues will be limited to \$20,000,000 for all Zone No. 4 Projects including any interest costs related to any listed Zone No. 4 Project.

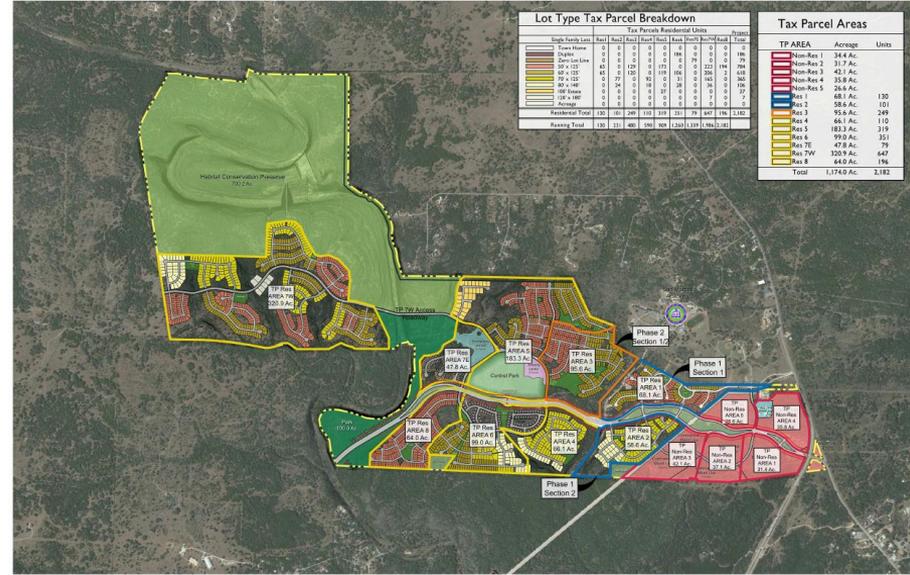
Trace (Highpoint)

- Trace Public Improvement District
- \$11,885,000 PID Bonds issued January 2019
- \$10,115,000 Reimbursement Obligation to developer (RO to be refunded with future PID Bonds)
- Homeowners pay an average equivalent tax rate of approximately \$0.34 per \$100/assessed value
- Average annual installment for homeowners of approximately \$650 - \$900 per year



La Cima

- La Cima Public Improvement District (Hays County)
- \$19,200,000 PID Bonds issued August 2015
- \$9,345,000 PID Bonds expected to be issued November 2020
- Upon completion of project, an estimated \$86.7 million of PID bonds will be issued
- Average annual installment for homeowners of approximately \$1,600 - \$2,750 per year



Whisper

- Whisper Public Improvement District
- \$14,300,000 PID Bonds issued June 2020
- Property owners pay an average equivalent tax rate of ~ \$0.16 per \$100/assessed value
- Average annual installment for homeowners of approximately \$375 per year



VIGIL & ASSOC.
PUBLIC UTILITIES DIVISION
P.O. BOX 801144, AUSTIN, TEXAS 78780-1144
TEL: (512) 315-0059

sanmarcostx.gov

Residential Units and Value Per Year by Subdivision

(as of end of 2019)

	Units in Subdivision	Remaining Units (Capacity)	Subdivision Value
Blanco Vista	1,800	705	\$172,005,245
Kissing Tree (Paso Robles)	3,400	3,041	\$84,520,970
Trace (Highpointe)	1,300	1,153	\$21,554,380
La Cima	2,800	2,714	\$17,678,687
Whisper	500	500	\$0
TOTAL	9,800	8,113	\$295,759,282

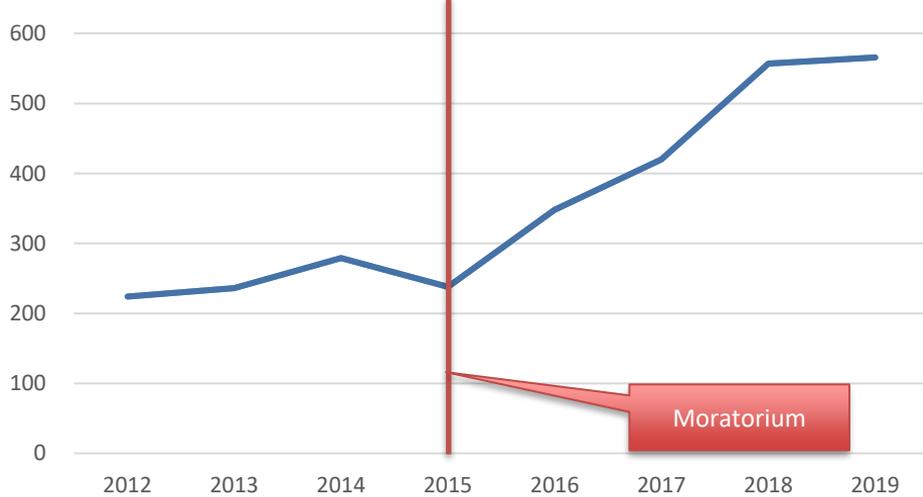
Residential Units and Value Per Year Overall (as of end of 2019)

	2012-2015	2016-2019	Difference
Units Built Per Year (Single-Family)	244	473	229
Construction Value Per Year (Single-Family)	\$35,922,653	\$81,020,865	\$45,098,212
Units Built Per Year (Multi-Family)*	879	286	-593
Construction Value Per Year (Multi-Family)	\$56,946,260	\$34,100,571	-\$22,845,690
Units Built Per Year (Total)	1,123	759	-365
Construction Value Per Year (Total)	\$92,868,913	\$115,121,435	\$22,252,522

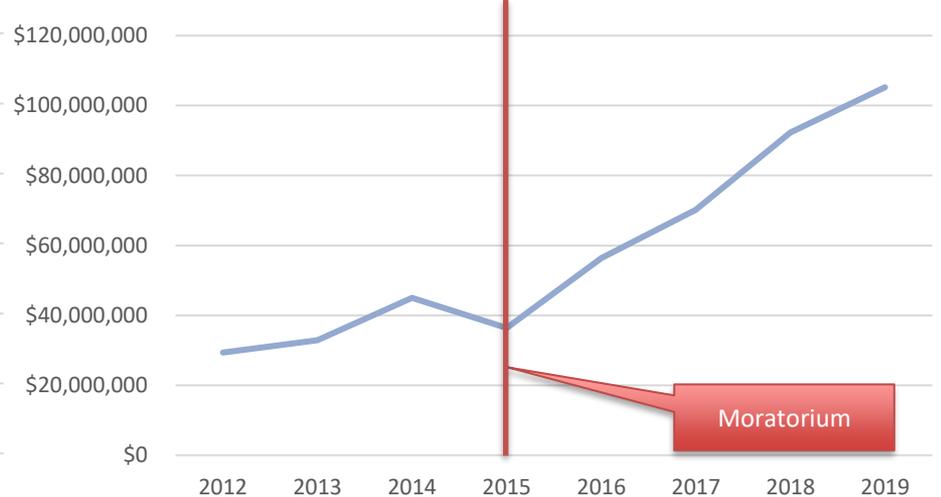
* 3,376 multi-family units are either under construction or slated for future development.

Residential Units and Value Per Year Overall (as of end of 2019)

Units Per Year (Single Family)



Construction Value Per Year (Single Family)



Population

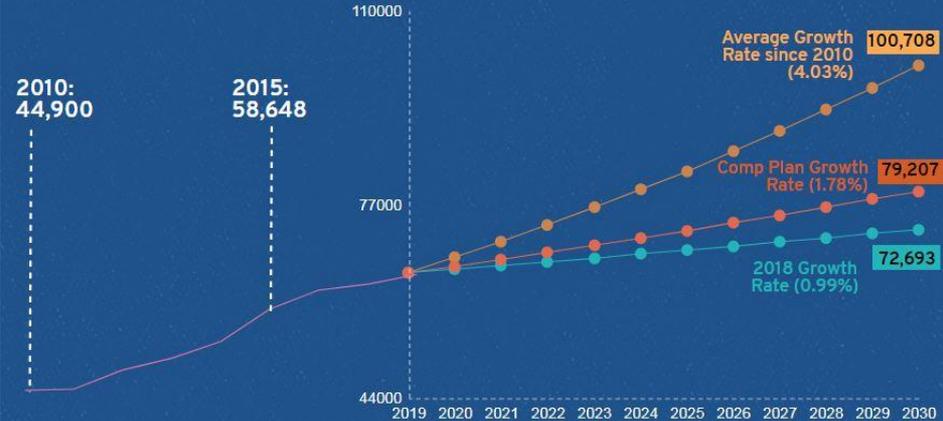
Population Growth



Source: City of San Marcos, US Census Data

Future Population Estimates

2030 Population Projections



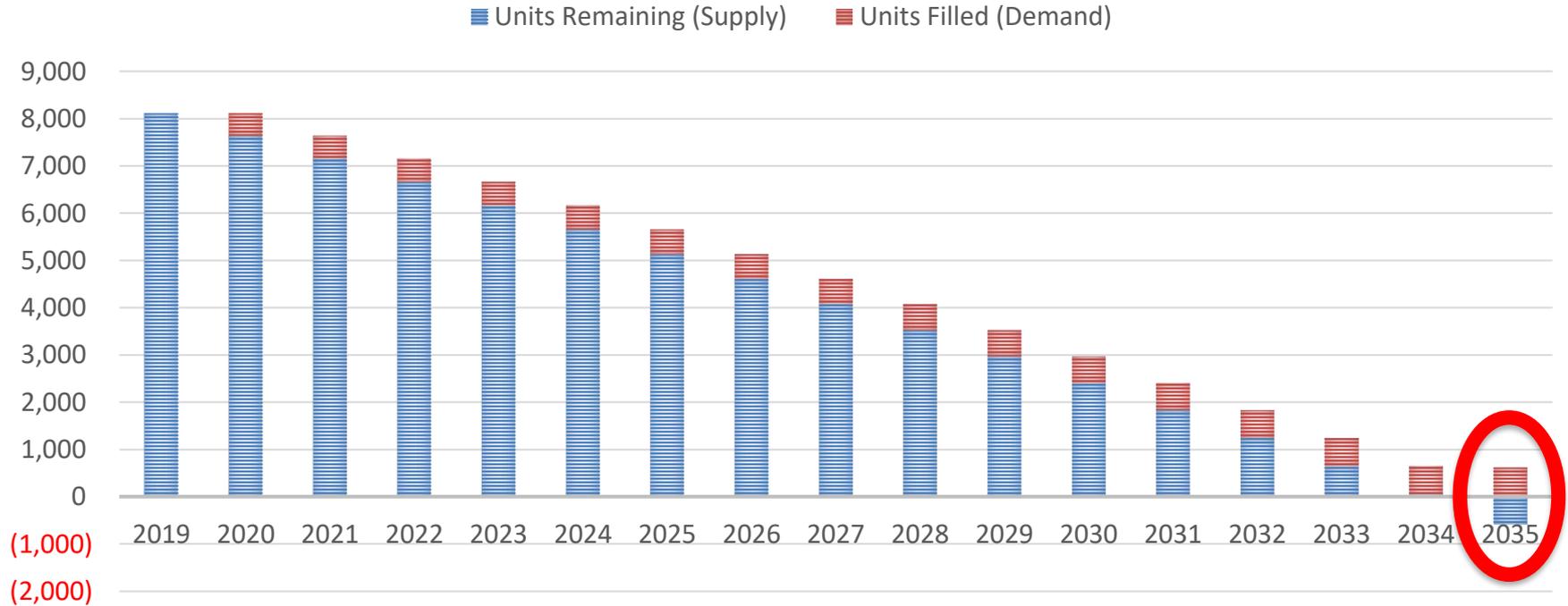
Source: City of San Marcos Population Estimates (Conducted 2019)

Summary of Capacity

- An additional 229 single family units were constructed per year for the years 2016-2019 (mainly after incentivized developments), versus for the years 2012-2015 (mainly prior to incentivized developments).
- Of the 9,800 units that have been approved through the residential incentives, 1,687 units have been constructed, leaving 8,113 units still available.
- 8,113 units multiplied by the average household size of 2.43, equates to room for an additional 19,715 people within the city, within these five developments.
- Current population is 64,776.
- Comprehensive Plan projected growth rate by 2030 is 79,207 or 1.78% per year.
- Based on the Comprehensive Plan growth rate of 1.78% per year, these five developments would have enough capacity for over 10 years.

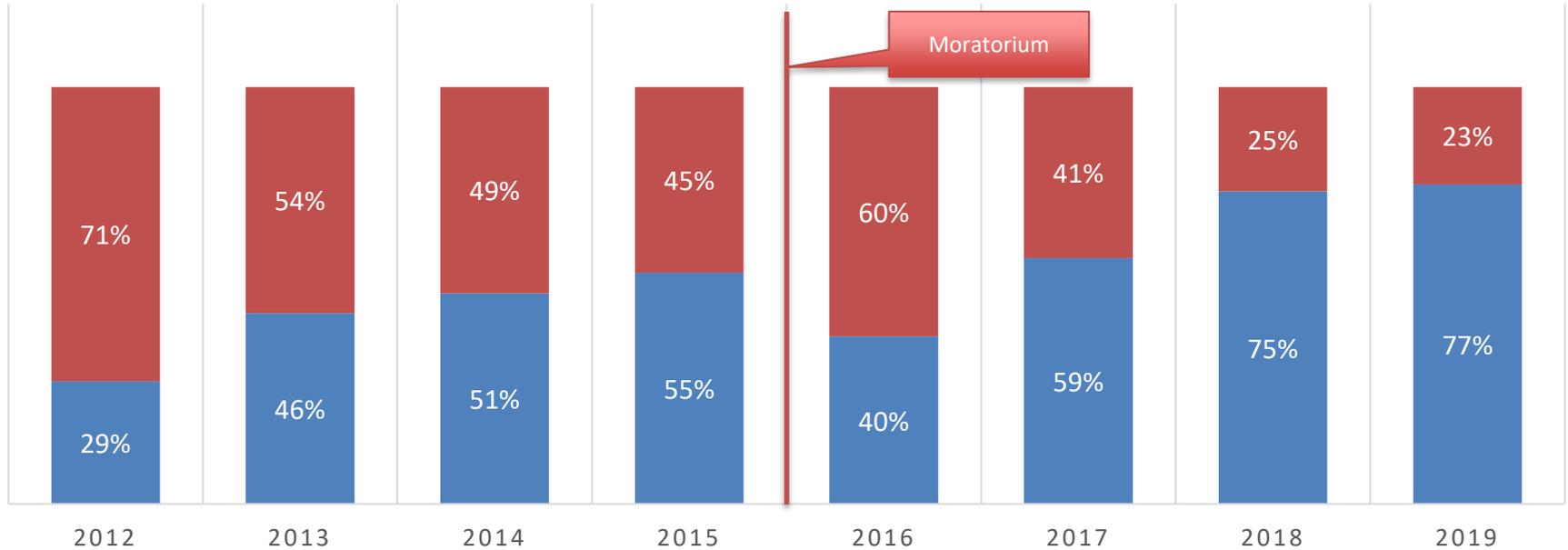
– $64,776 + 19,715 = 84,491$ (supply) vs. 79,207 (demand)

UNITS AVAILABLE WITHIN THE FIVE NOTED DEVELOPMENTS



PERCENTAGE OF UNITS DEVELOPED

■ Inside of Incentivized Subdivisions ■ Outside of Incentivized Subdivisions



Potential Options

- 1. Extend the moratorium on incentives for residential developments for a certain period of time.**
- 2. Allow the moratorium to expire and evaluate projects on a case-by-case basis.**
- 3. Allow the Comprehensive Plan to drive decision-making on future developments and requests for incentives.**
- 4. Other options?**

Staff Recommendation

- **In the shorter-term (next 1-2 years), allow the moratorium to expire and evaluate projects on a case-by-case basis.**
- **In the longer-term (beyond 2 years), use the newly adopted Comprehensive Plan to develop an incentive policy that addresses the use of financial incentives based on the vision, goals, objectives, and policies identified in the Comprehensive Plan.**
 - For example, specific types like workforce housing, or specific locations.

City Council Direction Sought

RESOLUTION NO. 2015-165R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ESTABLISHING A FIVE YEAR REVIEW PERIOD TO EVALUATE THE EFFECTIVENESS OF FINANCIAL INCENTIVES PREVIOUSLY GRANTED TO STIMULATE RESIDENTIAL DEVELOPMENT IN SAN MARCOS AND DETERMINE IF THERE IS A NEED TO OFFER ADDITIONAL INCENTIVES INCLUDING PUBLIC IMPROVEMENT DISTRICTS, TAX INCREMENT REINVESTMENT ZONES, AND CHAPTER 380 ECONOMIC DEVELOPMENT GRANTS; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. Various provisions of the Texas Local Government Code make available financial incentives for single-family and multi-family residential development, including Public Improvement Districts, Tax Increment Reinvestment Zones, Chapter 380 Economic Development Grants and similar financial incentives.

2. In recent years the City has approved or facilitated financial incentives for such residential projects as Blanco Vista, Highpointe/Trace, La Cima, Paso Robles and Whisper Texas.

3. Over 7,900 residential dwelling units are estimated to be constructed within these previously incentivized residential developments.

4. The City of San Marcos has been fastest growing city in the country for the past three years and is home to the fourth largest university in the state that continues to see increased enrollment.

5. While the City Council continues to welcome private sector investment in the development and construction of additional residential housing in San Marcos, the city's financial advisors have recommended that the city monitor the rate at which the market absorbs the already incentivized housing units, establish a baseline from which to evaluate the effectiveness of the approved incentives, and determine if any additional residential incentives are necessary to attract more residential development.

6. For these reasons, the City Council wishes to temporarily suspend its consideration of financial incentives for future residential development.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The Council hereby directs the city staff to not accept any applications for financial incentives for residential development, including Public Improvement Districts, Tax Increment Reinvestment Zones, Chapter 380 Economic Development Grants or similar financial

incentives for a period of five years from the date of this resolution or until otherwise directed.

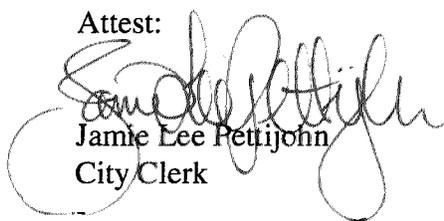
PART 2. The restriction in Part 1 shall not apply to residential developments for which financial incentives have already been approved by the City Council.

PART 3. This Resolution shall be in full force and effect from and after its passage.

ADOPTED on November 17, 2015.



Daniel Guerrero
Mayor

Attest:

Jamie Lee Pettijohn
City Clerk



Legislation Text

File #: ID#20-649, **Version:** 1

AGENDA CAPTION:

Receive a Staff presentation, hold discussion, and receive direction from the City Council regarding potential Development Code and City Code amendments to address concerns with developers requesting Texas Pollutant Discharge Elimination System (TPDES) permits, also commonly known as package treatment plants, from the Texas Commission on Environmental Quality (TCEQ) in lieu of connecting to City of San Marcos utility infrastructure.

Meeting date: October 20, 2020

Department: Public Services / Planning & Development Services

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: N/A

City Council Strategic Initiative: [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

Economic Development - Choose an item.

Environment & Resource Protection - Public & Private Sector Partnership to Protect Water Quality & proper development in San Marcos and Blanco Rivers

Land Use - Direct Growth, Compatible with Surrounding Uses

Neighborhoods & Housing - Choose an item.

Parks, Public Spaces & Facilities - Choose an item.

Transportation - Choose an item.

- Core Services
- Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Recently, a number of developers of property in the San Marcos extraterritorial jurisdiction (ETJ) have stated that they are seeking TCEQ approval of package wastewater treatment plants in lieu of connecting to City services to avoid compliance with the requirements of the City's Development Code. During its September 1, 2020 Executive Session, Council received legal advice from the City Attorney regarding the City's requirements for connection or extension of utilities to property located outside the city limits of San Marcos which entail annexation, zoning and the application of land development code requirements.

At this time, staff is providing a history of how we got to where we are today and is seeking direction from City Council on which amendments, if any, they would like staff to analyze and process to address concerns raised by developers with the current process and rules.

The attached memo provides details about TPDES applications in process, potential revenue loss, and Code sections developers indicate they are unable to comply with.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Staff seeks direction on the potential solutions to the concerns raised in the discussion above and provides the following decision points to the Council for consideration. Staff recommends a combination of the following, in the order provided:

- 1) Amend Chapter 86 of the City Code of Ordinances to make the annexation language more flexible, allowing the developer the potential to negotiate the timing of annexation through the OCU approval or Development Agreement process.
- 2) Amend Table 4.1 in the San Marcos Development Code to indicate conventional residential zoning districts such as SF-6 and SF-4.5 as “P” or preferred in areas of Low Intensity.
- 3) Restore the ability for developers to seek financial incentives, such as Public Improvement Districts (PID), as an incentive to negotiate development agreements or annex into the City. The current moratorium resolution for residential incentives expires in November, 2020 and will be discussed at an upcoming Council Work Session.

Should Council wish, consideration may be given to amending the San Marcos Development Code, either city-wide or only for ETJ developments to remove some standards which developers indicate as barriers to successful development



PLANNING AND DEVELOPMENT SERVICES
PUBLIC SERVICES

TO: Honorable Mayor and City Council

FROM: Shannon Mattingly, Director, Planning & Development Services
Tom Taggart, Director, Public Services

DATE: October 13, 2020

RE: **POTENTIAL DEVELOPMENT CODE AND CITY CODE AMENDMENTS TO ADDRESS CONCERNS WITH DEVELOPERS REQUESTING TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMITS FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) IN LIEU OF CONNECTING TO CITY OF SAN MARCOS UTILITY INFRASTRUCTURE.**

Recently, a number of developers of property in the San Marcos extraterritorial jurisdiction (ETJ) have stated that they are seeking TCEQ approval of package wastewater treatment plants in lieu of connecting to City services to avoid compliance with the requirements of the City's Development Code. During its September 1, 2020 Executive Session, Council received legal advice from the City Attorney regarding the City's requirements for connection or extension of utilities to property located outside the city limits of San Marcos which entail annexation, zoning and the application of land development code requirements.

At this time, staff is providing a history of how we got to where we are today and is seeking direction from City Council on which amendments, if any, they would like staff to analyze and process to address concerns raised by developers with the current process and rules.

The staff presentation will consist of the following topics:

- PROPOSED DEVELOPMENTS WITH ACTIVE TPDES APPLICATIONS
- CITY OPPOSITION TO TPDES APPLICATIONS
- POTENTIAL CONNECTIONS AND ESTIMATED REVENUE
- RELEVANT CODE SECTIONS
- PROCESS AND POTENTIAL SOLUTIONS
- CITY COUNCIL DIRECTION REQUESTED

PROPOSED DEVELOPMENTS WITH ACTIVE TPDES APPLICATIONS

The following is a list of proposed developments, which can be found on the attached map, with active TPDES applications for package wastewater treatment plant permits submitted to the TCEQ. This list includes a status of the development process to date.

- Independence Trail
 - Concept Plat in review.
 - Development Agreement offered.

- The Mayan (River Bridge Ranch)*
 - 2008 Annexed into City Limits.
 - September 1, 2020 – The developer, in coordination with the Riverbend Ranch/Riley’s Point developer, submitted a petition to create a Public Improvement District (PID) to finance the infrastructure
 - September 15, 2020 - Zoning approved by City Council.
 - October 7, 2020 - The developer submitted a new petition to create a PID only for the Mayan property, to finance the infrastructure.
 - Settlement Agreement and PID to be considered for approval by City Council at an upcoming meeting.

- Riverbend Ranch / Riley’s Point*
 - Draft Development Agreement awaiting a response from the developer on how they wish to proceed with future annexation and zoning.
 - April 28, 2020 – Planning & Zoning Commission recommended approval of a Preferred Scenario Amendment (put on hold by developer).
 - Developer withdrew their participation in the PID with the Mayan prior to October 7, 2020 City Council meeting.

- Fleming Farms
 - Preliminary Plat & Watershed Protection Plan (WPP) in review.
 - Development Agreement offered.

- Jackovich (El Cerrito Ranch)
 - 2017 – Plat, Watershed Protection Plan (WPP), & Public Improvement Construction Plans (PICP) approved for one acre lots with septic systems. In 2020, an application was filed with TCEQ.

*Note: The Mayan, Riverbend Ranch, and Riley’s Point have submitted only one TPDES application for proposed service of the three areas. The Mayan will not be party to this application following approval of the settlement agreement.

The TPDES applications are submitted by the Crystal Clear Special Utility District (Crystal Clear SUD) as the ultimate provider of wastewater service. Crystal Clear SUD currently provides wastewater service to only one subdivision, with a small package plant, on Hunter Road.

CITY OPPOSITION TO TPDES APPLICATIONS

The City has protested issuance of TPDES permits in accordance with Section 70.052(a)(10) of the City's Code of Ordinances which states: "The city discourages the use of sewer package treatment plants." The protests are for the following additional and related reasons:

- Protection of our environment and rivers.
- Support of State legislative direction for regionalization of wastewater services.
- Impacts on quality of life in subdivisions served and neighboring properties. (odors, discharge flows)
- Loss of City utility and general fund revenues and prevention of customer rate base growth.
- Loss of centralized reuse of the wastewater processed at the package plants potentially limiting future reuse system expansion.
- Potential failures at unstaffed package plants could create health threats.
- Certificate of Convenience and Necessity (CCN) coverage of our ETJ which would limit expansion of our utility systems into our preferred growth areas East of I-35.
- Stranding invested City money in system capacities already installed.
- Establishing a precedent for all ETJ developers.

The TCEQ process is advancing toward permit issuance with draft permits proposed by the Executive Director. The following is a status of the applications in process:

- Independence Trail
 - City has been granted standing and the State Office of Administrative Hearings (SOAH) has scheduled a hearing for December 18-23, 2020.
- The Mayan / Riverbend Ranch / Riley's Point*
 - Seeking resolution through the approval of the Mayan settlement agreement. TCEQ has held a public meeting at the request of Rep. Zwiener for the HK properties permit application and a draft permit issued, now pending response and SOAH hearings.
 - The Mayan will not be party to this application following approval of the settlement agreement.
- Fleming Farms
 - TCEQ hearing to determine standing status, and if SOAH should hear the protest, is scheduled for October 7, 2020.
 - City is working to secure pipeline easement options which could aid connection if the developer drops pursuit of a package plant.
- Jackovich (El Cerrito Ranch)
 - TCEQ plant application filed and under technical review by TCEQ.

POTENTIAL CONNECTIONS AND ESTIMATED REVENUE

The following table and calculation indicate the number of anticipated connections per development and the estimated utility revenue that could be realized by the City based on the average monthly residential usage of 5,500 gallons. Riley’s Point is the only development that would connect to both city water and wastewater, if they were restored to our CCN.

Existing Connections	Water	Wastewater
Existing	13,188	11,417
Potential Connections	Water	Wastewater
Riley’s Point	1,680	1,680
Mayan		1,100
River Bend Ranch		2,070
Fleming Farms		329
Independence Trail		400
Total	1,680	5,579

The financial benefits of adding these developments are very significant, nearing \$6 million annually. If standalone systems are the new pattern of growth in the ETJ, it will be a much higher revenue amount lost annually.

Annual Additional Revenue:

Water	\$1,238,760
<u>Wastewater</u>	<u>\$4,545,612</u>
Total	\$5,784,372

The City charges an 8% franchise fee on utility revenue credited to the General Fund = \$462,750

RELEVANT CODE SECTIONS

Chapter 86 of the City’s Code of Ordinances allows extensions and connections of City utilities to property located within the ETJ. However, in exchange for the benefit of connecting to City utilities, the City’s ordinances require that developers making such a request consent to annexation of the property being served. Developers have expressed opposition to being annexed due to the increased costs associated with development standards in the San Marcos Development Code, including standards for blocks, lots, and access; alley requirements, garage placement, parking location; and porches. Consequently, developers have indicated their preference for package plants over being annexed.

The following pages summarize the Code Sections in question.

Chapter 86 Utilities – Out of City Utility (OCU) Requests

[Section 86.003](#) of the City Code of Ordinances provides standards for extensions and connections to city water or wastewater outside of the city limits. At this time, the Code states that requests must be accompanied by a written request for annexation of the applicant’s property, and for those properties not adjacent to our city limits, a strip that is 15 feet in width is required to create contiguity.

In previous years, staff would hold on to the annexation consent forms until the annexation plan was updated and annex these areas in bulk. With the change in the annexation laws, this practice is not as feasible. Staff now recommends that developments be annexed and zoned at the beginning of the development process or that annexation be deferred to the time of platting through a negotiated development agreement.

San Marcos Development Code Alley Requirement

Alley requirements and Garage requirements work together to move vehicular access to the rear of lots. This allows the streetscape to favor the pedestrian by reducing the number of driveways crossing the sidewalk and allows homes to be closer to the street with front windows that encourage interaction and puts more ‘eyes on the street’ in residential areas. When a developer does not want to meet one of these requirements, they likely need a waiver to both.

[Section 3.64.2.D.2](#). All lots forty (40) feet or less in width platted after the effective date of this Development Code are required to take vehicular access from an alley. The Responsible Official may waive this requirement for minor subdivisions platted under Section 3.2.4.1.

- This provision applies in all zoning districts, except that SF districts do not allow lots smaller than 50 feet in width.
- Minor Subdivisions are four (4) lots or less that meet certain requirements.

[Section 4.4.3.3](#) & [Section 4.4.3.4](#) All lots 45 feet or less in width shall take vehicular access from a rear alley except Cottage Courts / Courtyard Housing.

- This provision applies only to CD-3 and CD-4 Zoning Districts.

Relief Procedure: If a developer does not wish to comply with the alley requirement they may seek an Alternative Compliance from the Planning and Zoning Commission.

- To date we have not received any alternative compliance requests for this standard.
- The following ETJ developments have indicated that they do not wish to comply with this standard: Riverbend Ranch, Riley’s Point, Fleming Farms, Independence Trail.

San Marcos Development Code Garage Requirement

The “Residential Garage Parking Requirements” or “Parking Location / Garage” were prepared with many considerations in mind, including Trace Planned Development District (PDD) negotiations regarding ‘snout houses’ and staff heard from Blanco Vista that their alley loaded products were very successful. In addition, the Police Department has indicated concerns with the style of home design where the garage protrusion creates an exterior hallway at the front door. Their concerns are with their inability to approach the door from multiple angles or to retreat, when necessary.

The requirements are applicable to all zoning districts except Conventional Residential (FD, AR, SF-R, SF-6, SF-4.5), and CD-1 & CD-2.

[Section 7.1.4.1.C](#) Where Residential Garage Parking Requirements are applicable, garage placement must match one of the following:

- Semi-Flush – 5 feet behind the front wall plane of the house and not extending more than 40% of the width of the house. Garage door may not exceed 12 feet.
- Recessed – 20 feet behind the front wall plane of the house with no garage door size limit.
- Side-Loaded – 3 feet behind the front wall plane of the house and oriented perpendicular to the street.
- Detached – entirely behind the house.
- Alley Loaded – accessed through an alley with doors facing the alley. If parking is provided outside of the garage, there is a 20 ft. setback from the alley.

San Marcos Development Code Surface Parking Requirement

Similar to Garage Requirements, surface parking is also not permitted in the first layer for all zoning districts except Conventional Residential and CD-1 & CD-2. This means that driveways for single family residential only count as required parking when located behind the front façade of the building.

Relief Procedure: If a developer does not wish to comply with the garage or surface parking requirement, they may seek an Alternative Compliance from the Planning and Zoning Commission.

- To date we have received one request for alternative compliance for the garage requirement (Redwood / Highbranch). The request was denied by the Planning and Zoning Commission and approved on appeal to City Council. The developer negotiated with staff to reach a middle ground that, in summary, does not allow garages to protrude beyond the house or porch, requires the front door be flush with the façade, requires porches on 50% of homes, allows the garage to be 55% of the front of the home, and requires additional architectural treatments.
- The following ETJ developments have indicated that they do not wish to comply with the garage standard: Riverbend Ranch, Riley’s Point, Fleming Farms, Independence Trail.

San Marcos Development Code Porch Requirement

In [Chapter 4, Division 6](#) the Development Code provides a table for Building Elements Allowed for each Building Type. Front Porch, Stoop, and Balcony are the elements allowed for residential building types.

[Section 4.3.5.10](#) the Building Elements Table provides standards for these elements. When a building element is provided, it must meet the requirements. However, if a building element listed is not provided, the standards would not apply.

- Front Porch – at least 6 ft. deep and 50% of the façade. May be roofed and screened, but not enclosed. May extend up to 9 ft. into the required front setback.
- Stoop – No more than 6 ft. deep and 6 ft. wide. May be covered but not enclosed. May extend into the front setback, but not into the right of way.
- Balcony – 9 ft. clear height above the sidewalk. May be covered but not enclosed. May extend into a setback and encroach up to 2 ft. into the right of way.

Relief Procedure: If a developer does not wish to comply with the building elements requirements, they may elect not to include the specific elements in their building design or they may seek an Alternative Compliance from the Planning and Zoning Commission.

- To date we have not received any alternative compliance requests for this standard.
- The following ETJ developments have indicated that they do not wish to comply with this standard: Fleming Farms.

San Marcos Development Code Block Standards

A design representative of Riverbend Ranch / Riley's Point reached out to staff in reference to [Section 3.6.2.1.B](#) which does not allow residential lots to back onto anything except other lots or vacant land. Staff has worked with other developments on meeting this standard, however the developer has not shown flexibility in working with staff.

Relief Procedure: If a developer does not wish to comply with the block standards requirement, they may seek an Alternative Compliance from the Planning and Zoning Commission.

- To date we have not received any alternative compliance requests for this standard.

San Marcos Development Code Table 4.1 Comprehensive Plan / District Translation

Many of the standards opposed by developers are limited to the new character districts established by the Development Code in 2018 and not are applicable in conventional residential zoning districts such as SF-6 Single Family District and SF-4.5 Single Family District. Developers may have interest, therefore, in developing under the standards for conventional residential zoning districts. All of the developments at issue are located within Low Intensity Areas on the Preferred Scenario Map. Although these conventional single-family residential zoning districts are low intensity in nature, Table 4.1 may discourage developers from seeking these zoning designations because conventional residential zoning districts are indicated as “NP” or not preferred within Low Intensity Areas on the Preferred Scenario Map. While NP does not mean approval of a conventional residential zoning district is prohibited, such a request requires additional scrutiny as compared to “C” or considered in areas of Low Intensity. Whether “NP” or “C” in Low Intensity on Table 4.1, the timing for consideration of a zoning change request does not change. Either scenario requires one public hearing at Planning and Zoning Commission and one public hearing at City Council, with reconsideration of the zoning ordinance at the following meeting.

PROCESS AND POTENTIAL SOLUTIONS

Current Process:

When a development requires city water or wastewater service, staff provides two options to developers:

- 1) Development Agreements - these agreements are beneficial when developments are not adjacent to city limits, developments are large and will be phased, or where a developer wishes to negotiate standards for the development with a Council Committee.
 - In the past, some of these negotiations have been successful in providing the developer the flexibility they desire, while providing a benefit to the City. Other negotiations have been unsuccessful and have resulted in developers filing permit applications with the TCEQ for package sewer treatment plants. Unfortunately, at this time, developers do not seem inclined to negotiate to provide a benefit to the City and only wish to waive standards and / or receive incentives from the City. See attached "Development Comparison Table."
- 2) Annexation & Zoning – specifically when adjacent to city limits, staff recommends bringing properties into city limits to ensure compliance with city code in exchange for offering services.
 - Developments within city limits have the relief procedures available above if waivers to Code standards are desired.

Potential Solutions:

- Although immediate annexation is not mandated under the current provisions of Chapter 86 of the City Code of Ordinances, amend Chapter 86 to provide the potential for the developer to negotiate a deferral of annexation with the City Council's approval of an OCU request or through a development agreement.
- Amend Table 4.1 to make conventional residential zoning districts preferred in areas of Low Intensity.
- Restore the ability for developers to seek financial incentives, such as Public Improvement Districts (PID), as an incentive to negotiate development agreements providing for annexation at the time of platting, or agree to immediately annex their property into the City if it is contiguous to the existing city limits. The current moratorium resolution for residential incentives expires in November, 2020.
- Amend the San Marcos Development Code, either city-wide or only for ETJ developments, to remove some standards which developers indicate as barriers to successful development.

Any combination of these, or other, solutions can be considered by City Council.

CITY COUNCIL DIRECTION REQUESTED

The decision facing City Council is comparing the relative benefit of the specific relevant Code sections discussed above to the benefits of extension of City utilities. Developers represent that the development standards and requirements for annexation are unacceptable to them and only a waiver of these requirements would prevent package treatment plants from being constructed. There are many reasons that package plants are not desirable, not the least of which is the estimated revenue loss and potential negative environmental impacts.

Staff seeks direction on the potential solutions to the concerns raised in the discussion above and provides the following decision points to the Council for consideration. Staff recommends a combination of the following, in the order provided:

- 1) Amend Chapter 86 of the City Code of Ordinances to make the annexation language more flexible, allowing the developer the potential to negotiate the timing of annexation through the OCU approval or Development Agreement process.
- 2) Amend Table 4.1 to indicate conventional residential zoning districts such as SF-6 and SF-4.5 as “P” or preferred in areas of Low Intensity.
- 3) Restore the ability for developers to seek financial incentives, such as Public Improvement Districts (PID), as an incentive to negotiate development agreements or annex into the City. The current moratorium resolution for residential incentives expires in November, 2020 and will be discussed at an upcoming Council Work Session.

Should Council wish, consideration may be given to amending the City Code of Ordinances or San Marcos Development Code, either city-wide or only for ETJ developments to remove some standards which developers indicate as barriers to successful development.



Receive a presentation from staff, discuss, and provide direction on potential Development Code and City Code amendments to address concerns with developers requesting Texas Pollutant Discharge Elimination System (TPDES) permits, also commonly known as package treatment plants, from the Texas Commission on Environmental Quality (TCEQ) in lieu of connecting to City of San Marcos utility infrastructure.



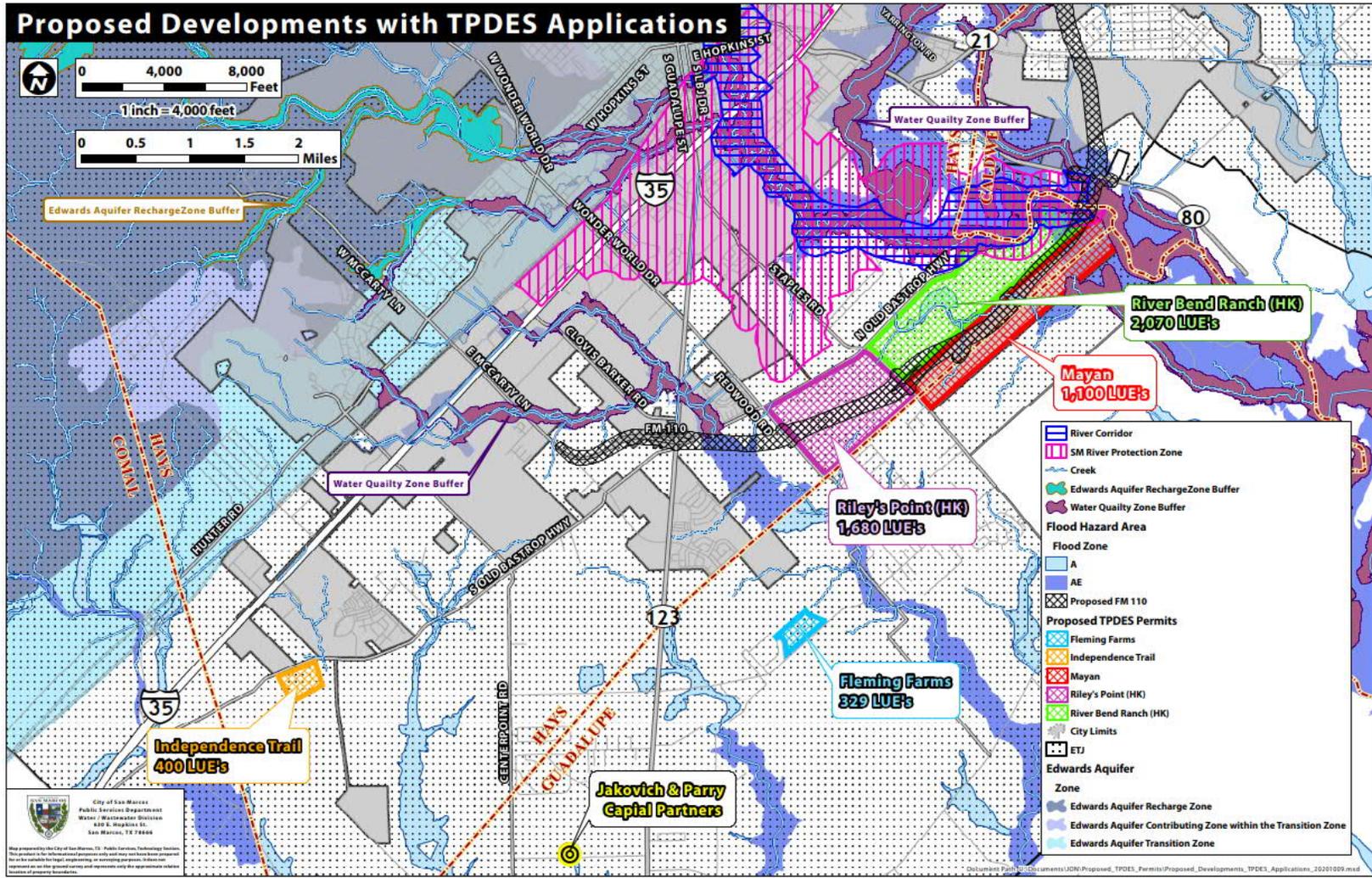
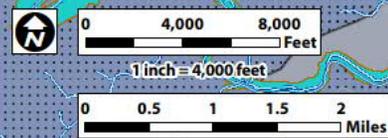


Discussion Topics

- Proposed Developments with active TPDES applications.
- City Opposition to TPDES applications
- Potential Connections and Estimated Revenue.
- Relevant Code Sections.
- Process & Potential Solutions.
- City Council Direction Requested.



Proposed Developments with TPDES Applications



- River Corridor
- 5M River Protection Zone
- Creek
- Edwards Aquifer Recharge Zone Buffer
- Water Quality Zone Buffer
- Flood Hazard Area**
- Flood Zone A
- Flood Zone AE
- Proposed FM 110
- Proposed TPDES Permits**
- Fleming Farms
- Independence Trail
- Mayan
- Riley's Point (HK)
- River Bend Ranch (HK)
- City Limits
- ETJ
- Edwards Aquifer Zone**
- Edwards Aquifer Recharge Zone
- Edwards Aquifer Contributing Zone within the Transition Zone
- Edwards Aquifer Transition Zone

City of San Marcos
Public Service Department
Water / Wastewater Division
320 S. Hopkins St.
San Marcos, TX 78666

Map prepared by the City of San Marcos, TX. Public Services Technology Institute. This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or planning purposes. Information represents an opinion based on current data and represents only the opinion and not the responsibility of the provider.

SAN MARCOS City Opposition to TPDES Applications

- City Ordinances 70.052(a)(10): “the city discourages...package treatment plants”
- Protection of our environment and rivers
- Support of State legislative direction for regionalization of treatment services
- Impacts on quality of life (odors, discharge flows)
- Loss of City utility and general fund revenues
- Loss of centralized reuse of the wastewater processed at the package plants.
- Potential plant failures at unstaffed package plants could create health threats
- Limited expansion of utility systems into our preferred growth areas East of I-35
- Stranding invested City money in system capacities already installed
- Establishing a precedent for all ETJ developers

SAN MARCOS Potential Connections and Estimated Revenue

Existing Connections	Water	Wastewater
Existing	13,188	11,417
Potential Connections	Water	Wastewater
Riley's Point	1,680	1,680
Mayan		1,100
River Bend Ranch		2,070
Fleming Farms		329
Independence Trail		400
Total	1,680	5,579

Annual Additional Revenue*

Water	\$1,238,760
Wastewater	<u>\$4,545,612</u>
Total	\$5,784,372

8% Franchise Fee credited to General Fund annually = \$462,750

*based on average monthly residential usage of 5,500 gallons

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Chapter 86 Utilities

- A petition for annexation is required for out of city utility connections or extensions.
- Developers indicate an unwillingness to annex and comply with City development regulations described in this presentation.

Sec. 86.003. - Extensions and connections to city water or wastewater system outside the city limits.

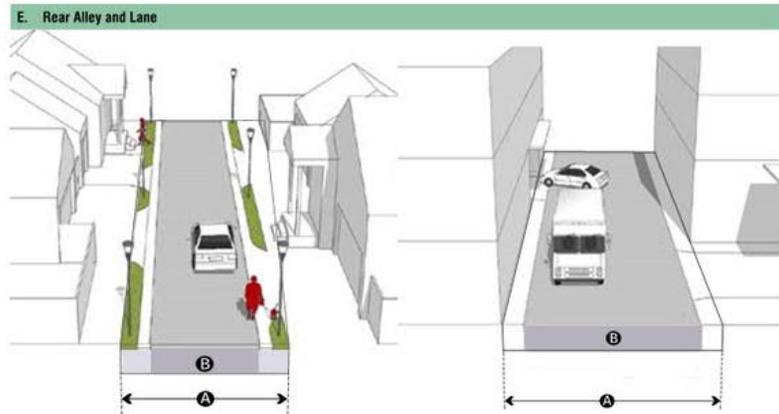
(a) Applications for service connections ... will be granted only with the approval of the city manager. Each such application must be accompanied by a written request for annexation of the applicant's property.

(b) Applications for extension of city water or wastewater lines ... will be granted only with the approval of the city council. An application for approval of such an extension must be accompanied by a written request for annexation of the applicant's property. ...

SAN MARCOS Relevant Development Code Sections

All lots forty (40) feet or less in width platted after the effective date of this Development Code are required to take vehicular access from an alley. The Responsible Official may waive this requirement for minor subdivisions platted under Section 3.2.4.1.

All lots 45 feet or less in width shall take vehicular access from a rear alley except Cottage Courts.



Alley Requirements

- Alleys are required for all lots under 40 ft. wide and in some instances, lots under 45 ft. wide.
- Developers indicate that alleys are too expensive and do not provide a benefit.
- Alternative Compliance is available as a relief procedure.

Garage Requirements

- Standards are provided to dictate the location standards for residential garages.
- If alleys are provided, alley loaded products meet code.
- Developers indicate the builders do not have affordable products that comply.
- Alternative Compliance is available as a relief procedure.

FIGURE 7.1 SEMI-FLUSH GARAGE

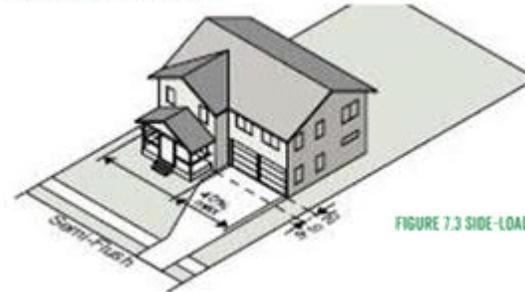
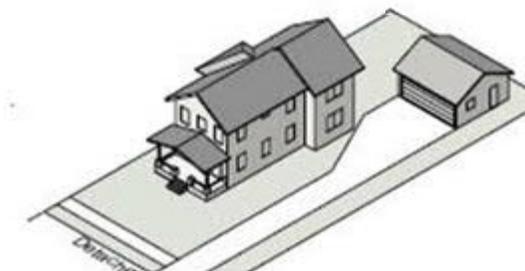
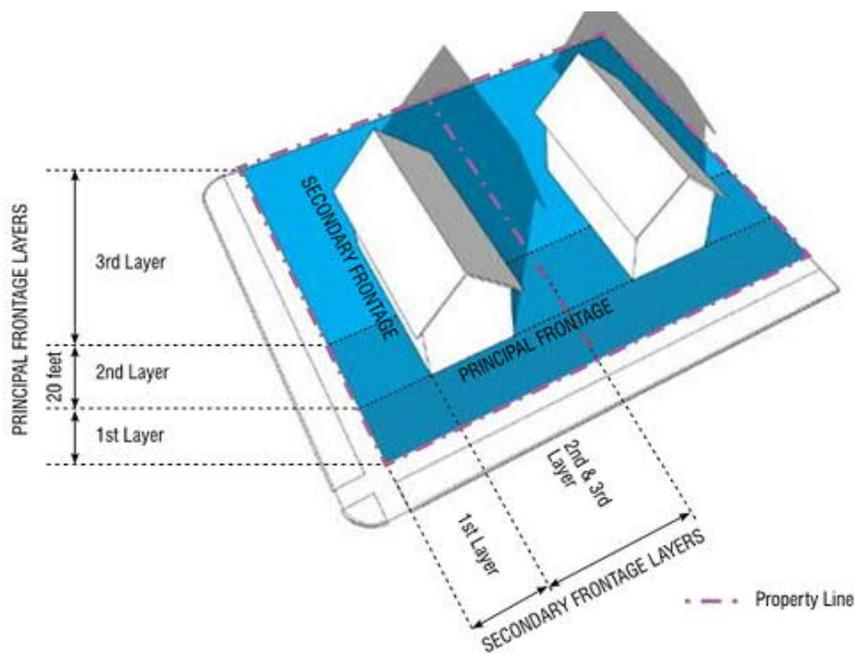


FIGURE 7.3 SIDE-LOADED GARAGE



FIGURE 7.4 DETACHED GARAGE



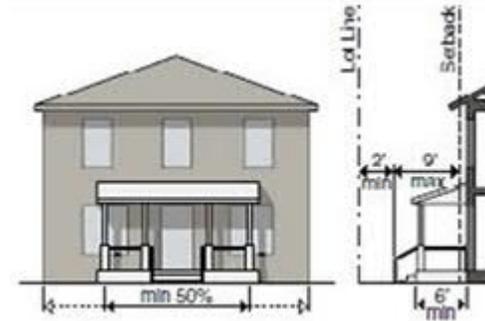


Surface Parking Requirements

- Surface parking is not permitted in front of the building façade (1st layer).
- Developers indicate the builders do not have affordable products that comply.
- Alternative Compliance is available as a relief procedure.

Porch Requirements

- When a porch is provided, the standards apply.
- When a porch is not provided, the standards do not apply.
- Developers indicate that they do not have home designs that meet the standards.
- Alternative Compliance is available as a relief procedure.



General Requirements:

1. A front porch must be at least 6 feet deep (excluding the steps).
2. A front porch must be contiguous with a width not less than 50% of the building facade.
3. A front porch must be roofed and may be screened but cannot be fully enclosed.
4. A front porch may extend up to 9 feet, including the steps, into a required front setback, provided that such extension is at least 2 feet from the vertical plane of any lot line.

SAN MARCOS Relevant Development Code Sections Cont.

FIGURE 3.1 RESIDENTIAL BLOCK



FIGURE 3.6 NATURAL OBSTRUCTION



FIGURE 3.10 SUBDIVISION ACCESS



Two-Tier Blocks

- Two tiers of residential lots are required, so that homes do not back onto major roadways.
- Developers indicate that this does not work with their standard residential development layout.
- Alternative Compliance is available as a relief procedure.

Table 4.1 Comprehensive Plan / District Translation Table

- Developers indicate that the process for a “NP” Not Preferred zoning request appears to take longer than a standard “C” Considered request.
- The process is the same.

TABLE 4.1 COMPREHENSIVE PLAN / DISTRICT TRANSLATION

DISTRICT CLASSIFICATION	COMPREHENSIVE PLAN		
	OPEN SPACE/ AGRICULTURAL	LOW INTENSITY	EXISTING NEIGHBORHOOD
Conventional Residential	NP	NP	C
Neighborhood Density Districts	NP	NP	See Section 4.1.2.4 - 4.1.2.5
Character Districts	NP	C	<u>PSA</u>
Special Districts	<u>PSA</u>	NP	NP
Legend	<u>PSA</u> = Not Allowed (PSA Required)		NP=Not Preferred

SAN MARCOS Current Process & Potential Solutions

CURRENT PROCESS

(Development Agreement)

- Establish Council Committee.
- Negotiate Standards, Waivers, Annexation, Utilities, & Timing.
- +/- 6 month from application to approval.

CURRENT PROCESS

(Annex / Zone)

- No negotiation.
- Development follows all city standards or requests waivers through relief procedures in the Code.
- +/- 4 months from application to approval

POTENTIAL SOLUTIONS

- Amend Ch. 86 to make annexation more permissive.
- Amend Table 4.1
- Restore incentive options for residential developments
- Amend the City Code or Development Code city-wide or only for ETJ developments.



City Council Direction Requested

Staff recommends a combination of the following, in the order provided:

- 1) Amend Chapter 86 to make the annexation language more flexible, allowing the developer the potential to negotiate the timing of annexation through the OCU approval or Development Agreement process.
- 2) Amend Table 4.1 to indicate conventional residential zoning districts such as SF-6 and SF-4.5 as “C” or considered in areas of Low Intensity.
- 3) Restore the ability for developers to seek financial incentives as an incentive to negotiate development agreements or annex into the City.

Should Council wish, consideration may be given to amending the City Code of Ordinances or San Marcos Development Code, either city-wide or only for ETJ developments to remove some standards which developers indicate as barriers to successful development.

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Proposed Developments with TPDES Applications



0 4,000 8,000 Feet

1 inch = 4,000 feet

0 0.5 1 1.5 2 Miles

Edwards Aquifer Recharge Zone Buffer

Water Quality Zone Buffer

River Bend Ranch (HK)
2,070 LUE's

Mayan
1,100 LUE's

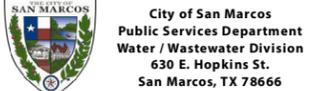
Riley's Point (HK)
1,680 LUE's

Fleming Farms
329 LUE's

Independence Trail
400 LUE's

Jakovich & Parry
Capial Partners

	River Corridor
	SM River Protection Zone
	Creek
	Edwards Aquifer Recharge Zone Buffer
	Water Quality Zone Buffer
Flood Hazard Area	
Flood Zone	
	A
	AE
	Proposed FM 110
Proposed TPDES Permits	
	Fleming Farms
	Independence Trail
	Mayan
	Riley's Point (HK)
	River Bend Ranch (HK)
	City Limits
	ETJ
Edwards Aquifer	
Zone	
	Edwards Aquifer Recharge Zone
	Edwards Aquifer Contributing Zone within the Transition Zone
	Edwards Aquifer Transition Zone



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630 E. Hopkins St.
San Marcos, TX 78666

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Development Comparison Table

	PASO ROBLES (KISSING TREES)	BLANCO VISTA	LA CIMA	LASALLE (WATERSTONE)	TRACE	WHISPER	EL CERRITO RANCH	RIVERBEND RANCH	RILEY'S POINT	FLEMING FARMS	INDEPENDENCE TRAIL	HILLERT TRACT (MAYAN)
Process	PDD	PDD	DA	DA	PDD	PDD	Plat	DA	DA	Plat	Plat	N/A
Year (original approval)	2010	2011	2014	2014	2015	2017	2017	In Process	In Process	In Process	In Process	2008
Incentive Agreement	TIRZ	TIRZ	PID (county)	MUD	PID (City)	PID (City)		MUD / PID Req. 2020	MUD / PID Req. 2020			MUD / PID Req. 2020
# Units -/+	3,400	2,200	2,800	12,000	1,300	500	43	2,056	1,780	329	403	Unknown
Total Acreage +/-	340	433	2,552	2,750	418	706	53	657	479	65	73	563
Annexation / in CL	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No	No	Yes

ASKS	X = in approved agreement			X = waiver requested (*considered by Committee)				X = anticipated future waiver request				
Setback Mods.			X	X	X							
Sign Waivers					X							
3:1 Not Applicable		X					X					
Private Streets	X											
No Sidewalks Req.	X											
Mixed Use Flexibility	X			X	X	X						
Alley Requirement								X*	X*	X	X	
Garage Standards								X*	X*	X	X	X
Block Requirements								X	X			

EXCEEDS CODE	X = in approved agreement			X = City requested item								
Architectural Standards	X	X	X	X	X	X						
Alley Loaded Homes		X		X	X							
Additional Parks / Fees	X	X	X	X	X							
Trails		X	X	X								
Fire Station Dedication			X		X				X			
School Site Dedication			X	X	X							
Cluster Development			X									
Golf Course	X											
Reduced Density	X		X									
Garage Standards					X							
Street Scope Imps.				X	X							
Block Variation					X							



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Legislation Text

File #: ID#20-699, **Version:** 1

AGENDA CAPTION:

Executive Session in accordance with:

- A. Section §551.074 of the Texas Government Code: Personnel Matters - To discuss the duties and responsibilities of the City Manager, pertaining to the Police Chief Selection Process
- B. Section §551.071 of the Texas Government Code: Consultation with Attorney - to receive advice of legal counsel regarding acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction
- C. Section §551.072 of the Texas Government Code: Real Property - To receive a staff briefing and deliberations regarding the acquisition of wastewater easement for proposed development in the Southeast area of the Extraterritorial Jurisdiction
- D. Section §551.072 of the Texas Government Code: Real Property - to receive a staff briefing and deliberations regarding acquisition of property in Downtown San Marcos for public use.