



**SAN MARCOS
PLANNING AND ZONING
COMMISSION REGULAR
MEETING
CITY COUNCIL CHAMBERS,
630 E. HOPKINS
TUESDAY, JANUARY 28, 2014
6:00 P.M.**

1. Call To Order
2. Roll Call
3. **Chairperson's Opening Remarks**

***NOTE:** The Planning and Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session.*

4. 30 Minute Citizen Comment Period
5. **2013 End of Year Report** - Presentation from Staff and discussion on the End of Year Report for 2013.

CONSENT AGENDA

THE FOLLOWING ITEMS NUMBERED 6 - 6 MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COMMISSIONER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

6. **Consider the approval of the minutes of the Regular Meeting on January 14, 2014.**

PUBLIC HEARINGS

7. **ZC-14-01 (Davis Tract)** Hold a public hearing and consider a request by John Noell for an amendment to the Zoning Map from Future Development (FD), Single Family (SF-6) and Multiple Family (MF-24) to Multiple Family (MF-24) for 16.479 acres more or less out of the Juan M Veramendi Survey No. 2 located at Davis Lane and River Road, and provide a recommendation to the City Council regarding the request.
8. **SCW-13-02 (206, 216 and 220 N. Edward Gary)** Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Properties 2, LLC, for a SmartCode Warrant to allow an increase in height beyond the 5-story limit for a proposed 9-story building in a SmartCode T-5 zoning district at 206, 216 and 220 North Edward Gary

Street.

9. **2013-13485 (Qualified Watershed Protection Plan, The Woodlands)** Hold a public hearing and consider a request by Doucet and Associates on behalf of Dovetail Development, LLC for approval of a Qualified Watershed Protection Plan Phase 2 for the development of approximately 44.67 acres near IH-35 and River Road.

NON-CONSENT AGENDA

10. **PC-13-28_03 (Woodlands of San Marcos)** Consider a request by Doucet & Associates, Inc., on behalf of JR Thornton et al, Thornton Family Investments LP, Clara L. Cape Testamentary Trust, for approval of the Vacation of the Plat of Lot 1, Capes Camp Subdivision, being 1.99 acres, more or less, and for approval of a Final Plat for approximately 44.66 acres, more or less, out of the J.M. Veramendi Survey, No. 2, Abstract 17, establishing Lot 1 and Lot 2 of Woodlands of San Marcos Subdivision, located at the intersection of River Road and Cape Road.
11. **MUD 14-01 (LaSalle Municipal Utility District #1)** Consider the request of Michael Schroeder on behalf of LaSalle Holdings, Ltd. for consent to create LaSalle Municipal Utility District #1 on an approximately 234.4 acre site out of the William Hemphill Survey, generally located between IH 35 and SH 21 north of Yarrington Road, and provide a recommendation to the City Council regarding the request.
12. **Development Services Report:**
 - a. Comprehensive Master Plan Implementation update.
13. Question and Answer Session with Press and Public. *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*
14. Adjournment.

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 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the _____ day of _____

_____ Title: _____

Agenda Information

AGENDA CAPTION:

Chairperson's Opening Remarks

Meeting date: January 28, 2014

Department: Developmenet Services

Funds Required:

Account Number:

Funds Available:

Account Name:

CITY COUNCIL GOAL:

BACKGROUND:

Agenda Information

AGENDA CAPTION:

2013 End of Year Report - Presentation from Staff and discussion on the End of Year Report for 2013.

Meeting date: January 28, 2014

Department: Development Services

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

Customer Friendly Processes

BACKGROUND:

ATTACHMENTS:

2013 End of Year Memo



MEMO

TO: PLANNING AND ZONING COMMISSION
FROM: MATTHEW LEWIS, CNU-A, DEVELOPMENT SERVICES DIRECTOR
DATE: JANUARY 23, 2014
RE: 2013 END OF YEAR REPORT

2013 was a very productive year. We have achieved more with less to a point that can't be replicated. The professionalism of our staff and commission has increased and the quality of our work is more refined. The Development Services staff lives to improve the quality of life for our citizens thru betterment of our built and natural environments.

All the great work that was accomplished last year provides us direction and guidance for the work we take on this year. We are excited and proud to share the accomplishments by the Commission and our staff in 2013.

Highlights from this presentation are:

- According to Staff's estimates, the City's population as of January 1, 2014 is 50,850.
- The new Comprehensive Plan, *Vision San Marcos*, was adopted in April.
 - The Future Land Use Map was replaced with the Preferred Scenario, and a more comprehensive process for updates was implemented
- The department held over 100 public meetings
- 142 cases were submitted. The Commission heard 96 of these. The rest were either administratively approved or withdrawn.
- 227 predevelopment meetings were held.
- 31 projects were permitted in the SmartCode area
- Key projects completed:
 - Impact Fee Ordinance
 - Complete Streets Ordinance
 - Erosion Control Program
 - Standardized Surety Agreement process
 - Main Street Manager & Coordinator
 - CUP Audit Report
 - Department Newsletter
 - Parking Day
 - Planning Month
 - SMTX Talks
 - Making it Happen Downtown

- Conferences and Trainings attended by Commission and Staff
 - Texas APA – San Marcos held a session on *Vision San Marcos*
 - CNU National
 - Systematic Development of Informed Consent
 - VeloTexas Bicycle Design Workshop
 - Webinars
- Awards received
 - *Vision San Marcos* - Central Texas APA
 - Bill Taylor – Texas APA Planning Commissioner of the Year
 - MyPermitNow – Digital Government Achievement Award (national)
- Total Certifications
 - 2 – American Institute of Certified Planners (AICP)
 - 2 – Congress for the New Urbanism (CNU-A)
 - 1 – Certified Risk Manager (CRM)
 - 2 – Code Enforcement Officers
 - 2 – Building Permit Technicians
 - 1 – ICC Zoning Inspector
 - 2 – Notaries
 - 3 – Deputized to Write Inspections
- 856 Building Permits Issued, (\$255 million value)
- 14,417 inspections were scheduled
- Building and site permit review times went down for the second consecutive year
- Vacant positions were filled, but staffing levels have not increased

This shows the hard work of our Staff and Commission. 2013 was a successful year, and we all look forward to more great things in 2014.

Agenda Information

AGENDA CAPTION:

Consider the approval of the minutes of the Regular Meeting on January 14, 2014.

Meeting date: January 28, 2014

Department: Development Services

Funds Required:

Account Number:

Funds Available:

Account Name:

CITY COUNCIL GOAL:

BACKGROUND:

ATTACHMENTS:

January 14, 2014 PZ Minutes

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
January 14, 2014**

1. Present

Commissioners:

Bill Taylor, Chair
Carter Morris, Vice Chair
Chris Wood
Travis Kelsey
Curtis Seebeck
Randy Bryan
Kenneth Ehlers
Angie Ramirez

City Staff:

Matthew Lewis, Development Services Director
Kristy Stark, Development Services Assistant Director
Roxanne Nemcik, Assistant City Attorney
Francis Serna, Recording Secretary
John Foreman, Planning Manager
Emily Koller, Planner
Amanda Hernandez, Senior Planner
Tory Carpenter, Planning Tech

Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday January 14, 2014, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Taylor welcomed the audience and viewers.

4. 30 Minute Citizen Comment Period

Melissa Derrick encouraged the commission to approve environmental regulations. She said that she especially likes the cut and fill limitations. She felt that the regulations will help prevent flooding and sediment into the river. Ms. Derrick stated that the regulations are advancement for the community.

Lea Rice stated that she is in opposition of the SmartCode Warrant for the increased height for a proposed 9 story building in the T5 SmartCode Zoning District on N. Edward Gary. She said the Commission should consider the regulations in the SmartCode that establish the basic requirements for building mass and scale throughout downtown. Ms. Rice explained that the requirement is 2-5 stories with some variations. She further mentioned that a 9 story building does not fit the picture. She pointed out that a code adopted should stay in place. She said that any new development should preserve and enhance the key public views up to campus and down to the square. Ms. Rice added that new development in the area should provide visual interest and not overwhelm the distinct character of downtown. She felt that the Commission's decision will likely set the tone for all future requests for SmartCode warrants in deviation from the 5 stories by the current SmartCode. She said consideration should be given to the citizens that call San Marcos home.

Cama Davis, attorney stated she was born and raised in San Marcos and her family is also from San Marcos. Ms. Davis stated that she seconded everything that Ms. Rice said. She said it would be a shame for the downtown to turn into a place for students. She explained that there is currently not enough parking and throwing in a 9 story apartment for students will increase traffic. Ms. Davis added that she wants to be able to see Old Main and have that small town feel. She stated that her mother is opposed to the Carson building extension because the original story limit is 5 stories and the request should stay at 5 stories. She pointed out that the Fire Department will have issues putting out fires for a 9 story building. In addition, she stated that historic sections of San Marcos will not be visible. Ms. Davis said that there will be additional runoff into the river from the parking. She added that the decision of the Commission will set the tone for proposed future developments. She reported that Ellie Del Prado Dietz is also opposed to the project because of the obstruction to view Old Main and she felt that Old Main defines the area. She added that Ms. Dietz felt that there is not enough parking to accommodate the students and the development is too close to Texas State University. Ms. Davis adds that her dad is also opposed to the request.

Consent Agenda

NOTE: *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session.*

5. Consider the approval of the minutes of the Regular Meeting on December 10, 2013.

6. PC-13-45_03 (Posey Business Park) Consider a request by Garrett-Ihnen Civil Engineers, on behalf of Posey 2000 LLC, for approval of a Final Plat and associated subdivision improvement agreement for approximately 3.631 acres, more or less, out of the Henry Warnell Survey No. 21, Abstract No. 492, establishing Posey Business Park Section One subdivision located near the intersection of Posey Road and Hunter Road.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Ehlers, the Commission voted all in favor to approve the consent agenda. The motion carried.

Public Hearings

7. CUP-13-41 (Tex Mex Sports Bar) Hold a public hearing and consider a request by Maricela Ramos, owner of Tex Mex Sports Bar, for approval of a new Conditional Use Permit at a location with an expired CUP to allow the sale of beer and wine for on-premise consumption at 1700 S. IH 35.

Amanda, Hernandez Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Bryan, the Commission voted all in favor to approve CUP-13-41 with the conditions that the permit be valid for one (1) year, provided standards are met, subject to the point system; and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

8. CUP-13-42 (322 Cheatham Street) Hold a public hearing and consider a request by Jean Paul Jafari, on behalf of Dolcetto, L.L.C., for a new Conditional Use Permit to allow the sale of beer and wine for on-premise consumption at 322 Cheatham Street.

Alison Brake, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Lisa M. Copoletta, spoke in opposition of the request. She stated that she is concerned that residents are not allowed in the street, there are only ten parking spaces and now staff is allowing on street parking. She expressed concerns regarding business hours, alcohol consumption, and loud music adjacent to residential properties. Ms. Copoletta strongly suggested that the Commission vote against the request.

Ryan Butler pointed out that they will not have any live band outdoor music. He felt that the noise would not be an issue. He pointed out that parking should not be an issue but if it is they will address it at the time. Mr. Butler said he would be available to answer questions.

Daniel Scales stated that Mr. Butler should be proactive and deal with parking so that there is not an issue in the future.

Jon Stone, designer of the project explained that the project is not a bar. He pointed out that the applicants attended school in San Marcos, graduated and decided to stay in San Marcos. Mr. Stone explained that the applicants want to display art and celebrate the culture on the area and artist. He added that they have met all the parking requirements. In addition, they have a privacy fence and have minimized the lights for the business. Mr. Stone said he was available to answer questions.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Carothers, the Commission voted seven (7) for and one (1) against to approve CUP-13-43 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, the permit shall be posted in the same area and manner as the Certificate of Occupancy, the permit shall not be valid until an approved TABC Permit is issued to the applicant and a copy is submitted to the Director, the permit shall not become effective until a Certificate of Occupancy is received, all Environmental Health permitting requirements must be met, and no live music shall be allowed on the property at any time without first amending the CUP. The motion carried. Commissioner Seebeck dissenting.

9. **CUP-13-43 (Cheatham Street Warehouse)** Hold a public hearing and consider a request by James Kent, on behalf of CSW Management LLC d/b/a/ Cheatham Street Warehouse for renewal of a Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 119 Cheatham Street.

Tory Carpenter, Planning Staff gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bryan and a second by Commissioner Ehlers, the Commission voted all in favor to approve CUP-13-43 with the conditions that the permit shall be valid for the lifetime of the TABC license, provided standards are met, subject to the point system and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

There was a ten minute recess.

10. **CUP-13-44 (Garcia's Mexican Food Restaurant)** Hold a public hearing and consider a request by Juan Ybarra, on behalf of Garcia-Ybarra Investments, LLC d/b/a Garcia's Mexican Food Restaurant, approval of a new Conditional Use Permit at a location with an expired CUP to allow the sale of beer and wine for on-premise consumption at 403 South LBJ Street.

Amanda Hernandez, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Ehlers, the Commission voted all in favor to approve CUP-13-44 with the condition that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

11. **ZC-13-14 (117 Meiners)** Hold a public hearing and consider a request by Wen Feng Lin, President of Wenfeng Enterprises, Inc., on behalf of Life Church San Marcos, Inc. for a Zoning Change from Public and Institutional (P) to Mixed Use (MU) for Lot 20A, Millview Addition, located at 117 Meiners Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Matt Chambers, 615 W. MLK Drive stated that he is a member of the Zoning Board of Adjustments and is in support of the request. He pointed out that he owns property on 103 Mill and 202 Meiners Street. He informed the Commission that both properties are zoned multi-use. Mr. Chambers felt that the request is an equal use of the property. In addition, he feels there will be no adverse effects of the area. Mr. Chambers stated that he was present representing Jason Howell, the owner of 117 Meiners. He noted that he and Mr. Howell support the request.

David Childress, resident of Maxwell Texas said they own two houses across from the proposed use. Mr. Childress expressed his concerns regarding the increase in traffic on the two small roads in the area. Mr. Childress explained that student's park on both sides of the road which makes it difficult for residents to back out of their driveway. He added that vehicles exiting the property shine their headlights into the windows of his houses. Mr. Childress read a letter previously provided to the Commission from Ms. Joan Childress. Ms. Joann Childress noted that she is in opposition to the request.

George Lopez, resident of San Antonio Texas stated he was representing the applicant. He shared that there is a long family history of the family operating restaurants with over 50 years of experience. Mr. Lopez stated that the applicants will be sure the restaurant is successful and a good business partner for the community and the area. Mr. Lopez explained that the applicant have not had any issues with the current restaurant and the property owners adjacent to their business. The applicants have made an effort to make sure there are no incidents. He asked for the Commission's consideration and approval of the application. Mr. Lopez stated he would be available to answer questions.

Lisa M. Coppoletta asked the Commission to postpone the request. She suggested that the applicant work with the families and correct the issues with the lights shining in their windows.

Joann Childress stated that she owns property on Eastwood Street. She explained that the property has been family owned for years. Ms. Childress pointed out that there are single family homes surrounding the property. Ms. Childress added that the University has taken part of Mill and there is excessive traffic on Reimer's and Eastwood. She felt that the restaurant will be best in a different area where they are not imposing on single family residents.

Don Eyssen expressed concerns regarding traffic. He felt that the area will be gutted if the request is approved. He explained that the taxes will increase in a low income neighborhood. He pointed out that the neighborhood is an established neighborhood and feels that the integrity of the neighborhood will be ruined.

Shirley Harris stated she owns two houses on Mill Street and that her renters cannot get in and out of their driveways. She felt that the traffic would increase the hazard on the street.

Patrick Montgomery stated that he was unaware of the request. He felt that a mixed use in a residential area is not a sensible proposal and is not suitable for the area. Mr. Montgomery spoke in opposition of the request.

Stephanie Lopez, the applicant wife stated that the proposed loop will aide in the traffic concerns. She stated that the loop is due to begin construction in the spring. Ms. Lopez added that they are sensitive to the residential areas. She explained that the business will not be a loud, crazy out of control bar. Ms. Lopez explained that the business will be similar to their current business and will continue to provide the same service to San Marcos.

Pastor Chris Clemens, Pastor of the Church on Meiners stated that they are selling the property. Mr. Clemens explained that they have been at the property for two years and that the area in becoming more commercial with restaurants in the area. He stated that he thought a restaurant would be a perfect fit for the area but also thinks that the neighbor's concerns should be taken into consideration. Mr. Clemens pointed out that parking is adequate and felt that things can be done minimize the light concerns. He expressed that the proposed use will be a restaurant and not a bar. Mr. Clemens stated that the request is a great idea.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Carothers, the Commission voted six (6) for and two (2) against to approve ZC-13-14. The motion carried. Commissioners Bryan and Ramirez dissenting.

12. **CUP-13-40 (117 Meiners Street)** Hold a public hearing and consider a request by Wen Feng Lin, on behalf of Wenfeng Enterprise Inc., for a new Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 117 Meiners Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Kelsey, the Commission voted all in favor to approve CUP-13-40 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system, the permit approval shall be effective only upon approval by the City Council of the Petitions for Zoning Change at 117 Meiners Street (ZC-13-14), the permit shall not be valid until an approved TABC Permit is issued tot eh applicant and a copy is submitted to the Director, all Environmental Health permitting must be met, the permit shall be effective upon issuance of the Certificate of Occupancy, and the permit shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried.

13. **SCW-13-02 (206, 216 and 220 N. Edward Gary)** Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Properties 2, LLC, for a SmartCode Warrant to allow an increase in height beyond the 5-story limit for a proposed 9- story building in a SmartCode T5 zoning district at 206, 216 and 220 North Edward Gary Street.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing.

Jim Garber stated that this is an important project that has incredible implications for the future of San Marcos. He mentioned that the decision that the Commission makes will be the most important decision they will ever make. Mr. Garber felt that the ruling will set the tone for San Marcos for the next 100 years. Mr. Garber said he is not speaking for or against the project. He explained that this project begs for stakeholder input, because the project will affect everyone. He suggested that the item be tabled and that the Commission direct staff to conduct workshops, open houses, to have all stakeholders involved and to have discussions as held for the Master Plan. Mr. Garber suggested that all stakeholders be informed and for the Commission to get informed on what the stakeholders want for the future of their city.

Melissa Derrick stated that the city paid Gateway Planning to work on the Downtown Master Plan. Ms. Derrick referred to sections of the SmartCode. She stated that she was confused because the code was established and felt that a warrant was not allowed. She stated that many citizens and small business owners are against the warrant request.

Jill Keith, 200 Orchard stated she agrees with the previous speakers. She read the definition of a warrant in the SmartCode. She explained that the DRC (Development Review Committee) is allowed the administratively approve a warrant. She inquired on who is allowed to be appointed to the DRC. Ms. Keith referred to special requirements in A and B grids related to pedestrian connectivity. She expressed her concern that the B grids to not promote pedestrian activity. She felt that the request is not consistent with the Master Plan.

Lisa M. Coppoletta, 1322 Belvin said that the request needs to be open to the community and someone needs to speak to TCEQ (Texas Commission on Environmental Quality). She asked if staff has consulted with TCEQ. Ms. Coppoletta spoke in opposition to the request. She asked that the request be tabled.

Jay Hiebert, 209 W. Sierra Circle presented charts from a 2013 City of San Marcos Community Survey Report. He pointed out the top concerns of residents of the City of San Marcos. He felt that new leadership is necessary in planning services.

Patrick Montgomery felt that the loophole is the definition of a warrant. He pointed out that he is in real estate and their intent is to maximize their investment. Mr. Montgomery stated that the applicant is trying to maximize his investment. Mr. Montgomery stated that the applicant is asking for almost double height of what is allowed in the SmartCode. He added that change is inevitable and citizens want sensible development. Mr. Montgomery said that all members of the community embrace the nature of the town and become upset when unreasonable requests come before the Commission. He added that the city is putting the decision in the hand of the elected officials.

Don Eyssen expressed his concerns regarding a warrant not going before the City Council.

Stan Alt, property owner across the proposed building. Mr. Alt stated he is not against or in support of the request. He stated that he is concerned with parking due to the University. He felt that solutions should be addressed and the process has begun with city staff. Mr. Alt added that he would like to hear input from citizens before a decision is made. He explained that Michigan is 20 years ahead of San Marcos. Both cities had similar issues. Mr. Alt suggested that the Commission follow up with Mr. Garber's idea with tabling the request and hearing input from citizens.

HC Kyle, 711 W. San Antonio said Mr. Garber made an excellent point. He said he has spoken to several people and knows their opinions. He added that he hoped the Commission also knows what the citizen's opinions are. He asked the Commission to give careful consideration of the request and suggested that the item be postponed. Mr. Kyle expressed concerns regarding parking. Mr. Kyle commented that the paper stated that the request would give the students the opportunity to live downtown and not have a vehicle. He pointed out that only one of his occupants in his downtown units did not have a vehicle.

Daniel Scales expressed concerns regarding how far down they will have to dig with taller buildings. He asked the Commission if they knew where the TCEQ monitoring wells were located. He pointed out that the monitoring wells are located across the street and suggested that TCEQ be contacted.

Bridget Philips, Harvey Street read her comments previously submitted to the Commission. Ms. Phillips spoke in opposition to the request.

Camille Phillips explained that with the University going with online classes there may not be a need for more apartments. She stated that many current apartments are not full. Ms. Phillip's inquired about parking spaces for the proposed development. She said that downtown parking is currently an issue. She added that there are no drawings of the project. Ms. Phillips further explained that students cannot afford to not have a vehicle because they have to get to and from their jobs. She asked that the request be tabled.

Matt Chambers, MLK Drive stated that the project should not be denied. He felt that there should be more community discussion.

There were no additional citizen comments and the public hearing was closed.

MAIN MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Seebeck, the Commission voted six (6) for and two (2) against to approve that the SCW-13-02 be postponed for two weeks for staff to coordinate public input. The motion carried. Commissioners Wood and Taylor dissenting.

AMENDED MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Wood, the Commission voted seven (7) for and one (1) against to include that the postponement not exceed two (2) weeks. The motion carried. Commissioner Ramirez dissenting.

14. **SCW-13-03 (520 S. LBJ)** Hold a public hearing and consider a request by Gloria Suarez, Owner, for a SmartCode Warrant to allow a reduction from the 80% frontage buildout requirement by incorporating a public park feature along Lee Street for a proposed mixed use building at the corner of Lee and S. LBJ Drive in a SmartCode T5 zoning district located at 520 S. LBJ Drive.

Emily Koller, Staff Planner gave an overview of this project.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Seebeck, the Commission voted all in favor to approve SCW-13-03. The motion carried.

15. **LDC-13-06 (Environmental Regulations)** Hold a public hearing and consider proposed revisions to Chapters 5 and 7 of the Land Development Code to clarify language, remove inconsistencies, and modify/add environmental protection standards contained within these chapters.

Rey Garcia, Staff Engineer gave an overview of this project.

Chair Taylor opened the public hearing.

Lisa M. Capoletta said that she sees no discussion regarding indigent's artifacts. She expressed concerns regarding preserving the artifacts. Ms. Capoletta stated that San Marcos has a lot of proactive people that are concerned about the artifacts. She encouraged staff to think about the long heritage of San Marcos. She explained that when she does gardening, she finds arrowheads all over her yard and feels that they are all over San Marcos.

Diane Wassenich pointed out that the changes are small but are important. The Habitat Conversation Plan is spending millions in the San Marcos River to preserve the habitat and improve the river. Ms. Wassenich pointed out that the massive clearing of the sediment in the river will not be done again. She said that they are looking at San Marcos to take care of the river in multiple ways. She stated that this is the first item coming before the Commission and more will follow in the next few years. Ms. Wassenich pointed out that it is very important that we move forward so that less sediment flows in to the river. Ms. Wassenich spoke in support of the environmental regulation changes. She asked the Commission to approve the changes.

Jill Keith, Orchard thanked Lisa for speaking about the unobserved heritage in San Marcos. She stated that she has lived in San Marcos for over forty years. Ms. Keith pointed out that she has buckets full of arrowheads that her children found. She added that she graduated from Texas State University and has the upmost respect for the university and advantages and academic environment it provides to San Marcos. Ms. Keith said she wanted it noted that we do not use our heritage to promote San Marcos.

Daniel Scales said his tribe is Azteca, and explained that the property was all one area. He asked the Commission if it wasn't enough that they have displaced his people but are desecrating their graves. He pointed out that the Commissioners are not part of any of the tribes.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Kelsey and a second by Commissioner Ramirez, the Commission voted five (5) for and three (3) against to recommend approval to City Council the proposed revisions to Chapters 5 and 7 of the Land Development Code to clarify language, remove inconsistencies, and modify/add environmental protection standards contained within these chapters. The motion carried. Commissioners Taylor, Wood, Seebeck dissenting.

Non Consent Agenda:

16. Staff presentation and discussion on Municipal Utility Districts.

Amanda Hernandez and Roxanne Nemcik gave a brief presentation

17. Development Services Report:

- a. Comprehensive Master Plan Implementation update
- b. Code SMTX update

Matthew Lewis gave a brief update.

18. Question and Answer Session with Press and Public. *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*

Bridget Phillips asked why the warrant request was postponed for two weeks.

19. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission meeting at 9:50 p.m. on Tuesday, January 14, 2014.

Bill Taylor, Chair

Travis Kelsey, Commissioner

Chris Wood, Commissioner

Corey Carothers, Commissioner

Curtis Seebeck, Commissioner

Randy Bryan, Commissioner

Angie Ramirez, Commissioner

Kenneth Ehlers, Commissioner

ATTEST:

Francis Serna, Recording Secretary

Agenda Information

AGENDA CAPTION:

ZC-14-01 (Davis Tract) Hold a public hearing and consider a request by John Noell for an amendment to the Zoning Map from Future Development (FD), Single Family (SF-6) and Multiple Family (MF-24) to Multiple Family (MF-24) for 16.479 acres more or less out of the Juan M Veramendi Survey No. 2 located at Davis Lane and River Road, and provide a recommendation to the City Council regarding the request.

Meeting date: January 28, 2014

Department: Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

Strengthen the Middle Class, Encourage Strong Neighborhoods, Education and Workforce

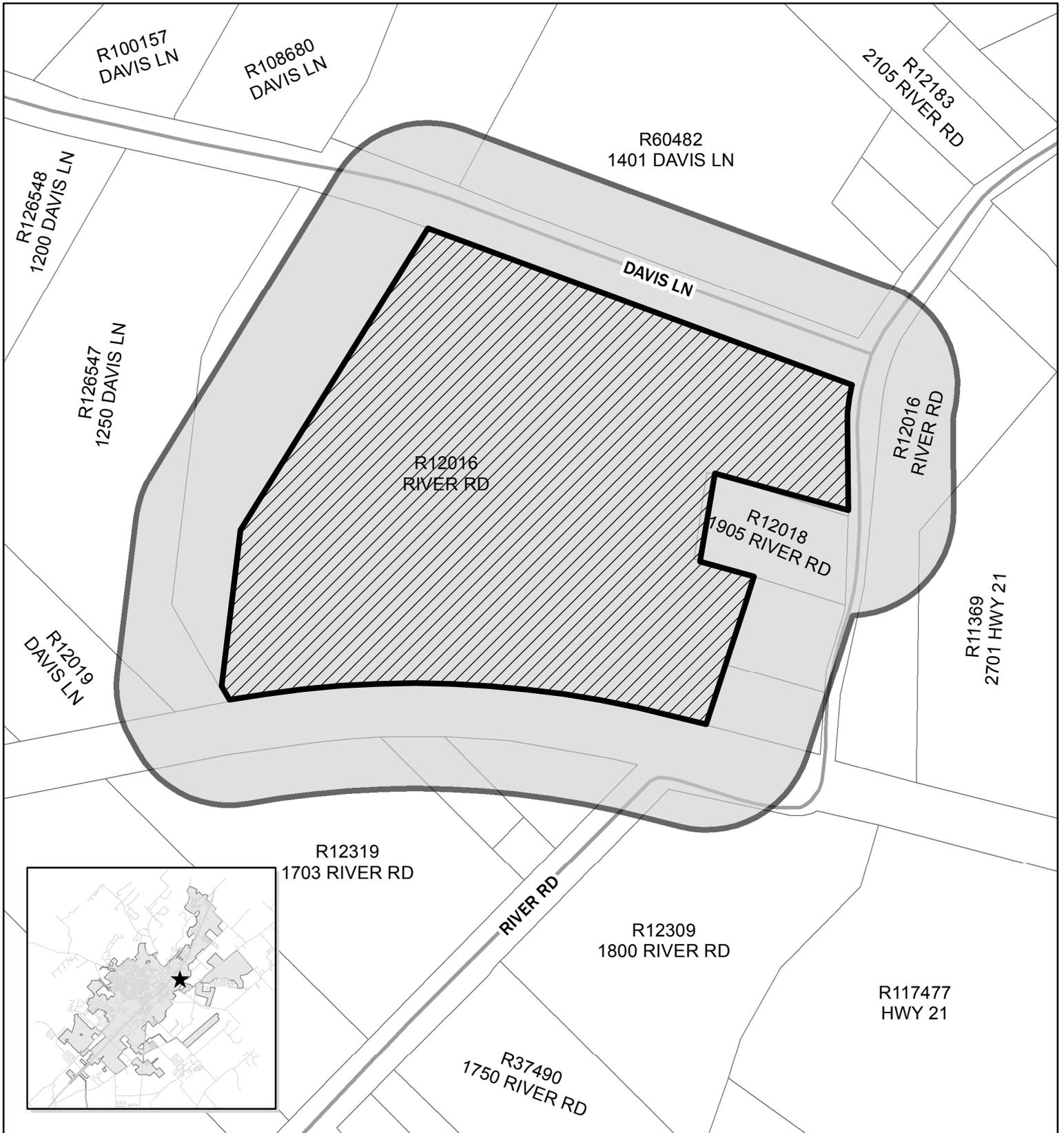
BACKGROUND:

The applicant is requesting a zoning change on a 16.479 acre property. Approximately 6.4 acres of the property are zoned SF-6 and FD. The remainder of the property is MF-24, and the applicant wishes to make the entire property MF-24. A multi-family development is proposed on the vacant land.

Staff finds the zoning change request to be consistent with the policies outlined in the Land Development Code and Vision San Marcos and recommends approval as submitted.

ATTACHMENTS:

Case Map
staff report
Comp Plan Checklist
Application



ZC-14-01
FD & SF-6 to MF-24
Davis Tract
Map Date: 1/16/2014

-  Site Location
-  Notification Buffer (200 feet)

0 150 300 600 Feet



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



Zoning Change ZC-14-01 Davis Lane & River Road

Summary: The applicant is requesting a zoning change from Single Family (SF-6) and Future Development (FD) to Multiple Family Residential (MF-24) for approximately 6.4 acres out of a 16.479 acre tract described as part of Lot 34, Juan M Veramendi Survey #2.

Applicant: John Noell
3660 Stoneridge Road, Suite E 101
Austin, TX 78746

Property Owners: Vernon Lemens
1509 Guadalupe Street, Suite 200
Austin, TX 78701

Notification: Personal notifications of the public hearing were mailed on Friday, January 17, 2014

Response: None as of report date.

Property/Area Profile:

Legal Description: Part of Lot 34, Juan M Veramendi Survey #2

Location: Intersection of River Road and Davis Lane

Existing Use of Property: Vacant

Proposed Use of Property: Multifamily Housing

Future Land Use Map: Midtown (High Intensity)

Existing Zoning: SF-6, FD, MF-24

Proposed Zoning: MF-24

Utility Capacity: Adequate

Neighborhood: Two Rivers East

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use	Future Land Use
N of property	P	Church / School	Midtown – High Intensity
S of property	MH, FD	Rail Road Tracks / Mobile Homes	Midtown – High Intensity
E of property	SF-6	Single Family	Midtown – High Intensity / Open Space
W of property	FD	Vacant	Midtown – High Intensity

Case Summary

The subject property consists of 16.479 acres at the intersection of River Road and Davis Lane. It is surrounded by a mix of zoning categories including Public & Institutional and Multiple Family Residential along Davis Lane, Single Family along River Road and Future Development to the west and south. The adjacent land uses include an apartment complex, church and school, single family homes and the rail road. The property is within Midtown on the Preferred Scenario Map which is a High Intensity Zone.

The tract is currently vacant. The proposed use of the property is multifamily housing.

Planning Department Analysis

The zoning change request has been reviewed using *Vision San Marcos: A River Runs Through Us* as well as the guidance criteria in Section 1.5.1.5 of the Land Development Code.

The subject tract lies within Midtown on the Preferred Scenario Map. Midtown is envisioned as a high density mixed use area, possibly the densest in San Marcos with housing for many household types.

The City’s current Thoroughfare Plan indicates a minor arterial roadway crossing the property on the southwest corner with a connection to River Road on the opposite side of the rail road tracks. The applicant may wish to request a Thoroughfare Map Amendment for an alternate alignment; however the applicant will be responsible their proportionate share of this future roadway to accommodate the additional traffic generated by this development

A review worksheet is attached to this report which details the analysis of the zoning change using the Comprehensive Plan Elements. Staff finds this request is consistent with the Comprehensive Plan Elements as summarized below:

- It is located in Midtown, which is an appropriate area for this type of development.
- The overall environmental constraint for this property ranges from 3-5 which is largely due to its location within the 100 year floodplain and the location of the water quality zone on the portion of the property nearest the intersection of Davis Lane and River Road. The developer will be required to comply with all of the Environmental standards that will be applicable to this property.
- The Water Quality Model anticipated a certain amount of development within Intensity Zones – the 50-75% impervious cover in the Blanco River water shed accounts for Midtown and other Intensity Zones located within its boundaries.
- It is not located in a water or wastewater “hot spot.” Service is available and adequate.
- There are currently no parks within ¼ mile of this property. Parkland dedication or fee in lieu will be required for the multi-family development. There is a need for civic space in Midtown.
- The Travel Demand Model shows a Level of Service “A” for River Road for all instances except the 2035 peak hours. Davis Lane was not included in the Travel Demand Model.

In addition, the request has been reviewed against the criteria for zoning changes in the Land Development Code as detailed below:

Evaluation			Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	Neutral	
X			<p>Change implements the policies of the plan elements in the adopted Comprehensive Plan, including the land use classification on the Preferred Scenario Map.</p> <p><i>The change is consistent with the Preferred Scenario Map and Comprehensive Plan Elements in Vision San Marcos.</i></p>
		X	<p>Consistency with any development agreement in effect</p> <p><i>No development agreements are in effect for this property.</i></p>
X			<p>Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified</p> <p><i>MF-24 is an existing and compatible use in the area.</i></p>

Evaluation		Neutral	Criteria (LDC 1.5.1.5)
Consistent	Inconsistent		
X			<p>Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area</p> <p><i>The property is currently served with City water and wastewater. There are no Capital Improvement Plan projects anticipated in the immediate area.</i></p>
X			<p>Other factors which substantially affect the public health, safety, morals, or general welfare</p> <p><i>None noted.</i></p>

Additionally, the Commission should consider:

- (1) Is the property suitable for use as presently zoned?
Staff evaluation: Yes.
- (2) Has there been a substantial change of conditions in the neighborhood surrounding the subject property?
Staff evaluation: There have been no substantial changes in the area.
- (3) Will the proposed rezoning address a substantial unmet public need?
Staff evaluation: This would not address a substantial unmet public need.
- (4) Will the proposed rezoning confer a special benefit on the landowner/developer and cause a substantial detriment to the surrounding lands?
Staff evaluation: No, there is no special benefit to the landowner and no detriment to surrounding lands.
- (5) Will the proposed rezoning serve a substantial public purpose?
Staff evaluation: The rezoning does not serve a substantial public purpose.

Staff presents this request to the Commission and recommends approval as submitted.

Planning Department Recommendation:	
X	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
	Denial

Prepared by:

Amanda Hernandez, AICP

Senior Planner

January 10, 2014

Name

Title

Date

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed zoning. After considering the public input, the Commission is charged with making an advisory recommendation to the City Council regarding the request. The City Council will ultimately decide whether to approve or deny the zoning change request. The Commission's advisory recommendation to the Council is a discretionary decision.

ZC-14-01 Zoning Change Review

(By Comp Plan Element)

LAND USE – Preferred Scenario Map / Land Use Intensity Matrix

	YES	NO (map amendment required)
Does the request meet the intent of the Preferred Scenario Map and the Land Use Intensity Matrix?	X	

ECONOMIC DEVELOPMENT – Furthering the goal of the Core 4 through the three strategies

Not applicable to this Zoning Change Request

STRATEGY	SUMMARY	Supports	Contradicts	Neutral
Preparing the 21 st Century Workforce	Provides / Encourages educational opportunities			
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business			
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity			

ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints

INCLUDE MAP	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint			X	X	X
Constraint by Class (Higher constraints mostly along River Road)					
Cultural	X				
Edwards Aquifer	X				
Endangered Species	X				
Floodplains				X	
Geological	X				
Slope	X				
Soils	X				
Vegetation	X				
Watersheds			X		
Water Quality Zone	X			X	X

ENVIRONMENT & RESOURCE PROTECTION –

Located in Subwatershed:	Blanco River				
ANALYSIS FOR PSA ONLY					
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed			X		
Additional Impervious Cover was anticipated within Intensity Zones					
Additional Impervious Cover Increase Anticipated					
Anticipated pollutants:					

NEIGHBORHOODS – Where is the property located

CONA Neighborhood(s):	Two Rivers East
Neighborhood Commission Area(s):	Sector 6
Neighborhood Character Study Area(s):	Not applicable at this time.

PARKS, PUBLIC SPACES AND FACILITIES –Availability of parks and infrastructure

		YES	NO
Will Parks and / or Open Space be Provided? Dedication or Fee in Lieu with plat			
Will Trails and / or Green Space Connections be Provided? Unknown			
	Low (maintenance)	Medium	High (maintenance)
Wastewater Hotspot	X	X	
Water Hotspot	X		
Public Facility Availability			
		YES	NO
Parks / Open Space within ¼ mile (walking distance)?			X
Wastewater service available?		X	
Water service available?		X	

TRANSPORTATION – Level of Service (LOS), Access to sidewalks, bicycle lanes and public transportation

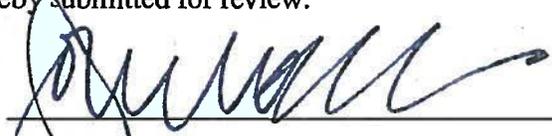
		A	B	C	D	F
Existing Daily LOS	ROADWAY 1: River Road	X				
Existing Peak LOS	ROADWAY 1: River Road	X				
Preferred Scenario Daily LOS	ROADWAY 1: River Road	X				
Preferred Scenario Peak LOS	ROADWAY 1: River Road			X		
		N/A	Good	Fair	Poor	
Sidewalk Availability		X				
		YES	NO			
Adjacent to existing bicycle lane?					X	
Adjacent to existing public transportation route?					X	
Notes: A Minor Arterial shown on the Thoroughfare Plan crossed this property connecting Aquarena Springs to River Road near the rail road tracks. The applicant may wish to pursue a Thoroughfare Map Amendment to realign this proposed roadway.						



Petition for Zoning Change, Zoning Overlay, or Historic District Checklist

- A pre-application conference with staff is recommended;
- A completed application form, including a statement verifying land ownership and, if applicable, authorization of the land owner's agent to file the petition and required fees;
- Legal description of the site (metes and bounds or lot and block if platted)
- Certificate of no tax delinquency
- Subdivision Concept Plats or Site Plans as required (see Chapter 1 of the LDC)
- Additional information as required to clarify the request

I hereby certify and attest that the application is complete and all information identified above is complete and hereby submitted for review.

Signed: 

Date: 11.25.13

Print Name: John Noell

Engineer Surveyor Architect/Planner Owner Agent: _____

ZC-14 - 01

09/12

City of San Marcos

ZONING CHANGE APPLICATION

	<u>APPLICANT</u>	<u>PROPERTY OWNER</u>
Name:	John Noell	Vernon Lemens
Mailing Address:	3660 Stoneridge Road Suite E101 Austin, TX 78746	1509 Guadalupe Street suite 200 Austin, TX 78701
Telephone No.:	512-347-0040 ext. 105	512-476-2608
E-mail address:	jnoell@udg.com cc: egalicia@udg.com	vlemens@aol.com

PROPERTY DESCRIPTION:

Street Address: Davis Lane & River Road

Subdivision: _____ Block: _____ Lot(s): _____

Other Description (if unplatted) Juan M Veramendi Survey #2, Tract PT of 34, Acres 16.123

* a metes and bounds description is required if property is a partial lot or is not platted

Appraisal District Tax ID No.: R 117193 Acres: 16.479

Lien Holder(s) - for notification purposes: _____ *acreage to be rezoned 6.40

Name: _____

Mailing Address: _____

(If more than one lien holder, please provide information on a separate page)

A certificate of no tax delinquency must be attached to this application

ZONING CHANGE INFORMATION:

Zoning Designation: Current: MF-24, SF-6, FD Requested: MF-24

Master Plan Designation: High Intensity Land Use Map Amendment Required? No

Present Use of Property: Undeveloped

Desired Use of Property/Reason for Change: Develop multifamily housing

I certify that the information in this application is complete and accurate.

I am the property owner of record; or

I have attached authorization to represent the owner, organization, or business in this application.

Signature: _____ Date: 11-25-13

Printed Name: John Noell

APPLICATION FOR CITY OF SAN MARCOS ZONING CHANGE

Development Services-Planning • 630 East Hopkins • San Marcos, Texas 78666 • 512-393-8230 • FAX 855-759-2843

FEE INFORMATION:

Fee Schedule:

Zoning Change to MF 12, 18, 14	\$3,000
Zoning Change to all other categories	\$750 plus \$50 acre (\$2,000 maximum)
Zoning variance/Special Exception	\$600
Renotification fee	\$75
TOTAL: \$1, 330.00	

APPLICATION PROCESS:

Please be advised that this is a 2-3 month process. The Planning and Zoning Commission will conduct a public hearing to consider your request. Prior to the hearing, the City will mail notices to all property owners within 200 feet of the subject tract, to the listed applicant and property owner, to any lien holders, and to the appropriate neighborhood representative. A sign advertising the change will also be placed on the property by the City.

At the public hearing the applicant, or a representative for the applicant, should be present to answer any questions the Commission may have. Failure to appear could result in your request being tabled or denied. Those in support of the request and those in opposition will be given an opportunity to speak. Following the close of the public hearing, the Planning and Zoning Commission will make a recommendation to either approve or deny the request.

This recommendation is then forwarded to City Council for their action. A notice is published in the newspaper 15 days prior to their hearing. City Council will conduct a public hearing and either adopt an Ordinance to approve the change or deny the request. You will be notified by mail of the date of the City Council public hearing. If an ordinance is adopted, at least one further meeting is required to give Council an opportunity to reconsider the request. If there is no reconsideration, the process is complete. If there is reconsideration, a third reading of the ordinance would be required for approval.

To be completed by Staff:

Property is located in: Edwards Aquifer Recharge Zone Historic District River Corridor
Concurrent Land Use Amendment is Required: Yes No

Meeting Date: Jan 28 Deadline: Dec 16 Accepted By: TORY C. Date: 12-10

AGREEMENT TO THE PLACEMENT OF ZONING NOTIFICATION SIGNS

The City of San Marcos Land Development Code provides that notification signs shall be placed on any property that is the subject of a zoning change, zoning variance, or conditional use permit. The signs shall be placed on the property by the Development Services-Planning staff prior to the 10th day before the scheduled public hearing based on the following criteria:

- Signs shall be placed on each street for property having multiple street frontages
- Signs shall be placed in a visible, unobstructed location near the front property line

Signs shall remain in place until final action is taken on the application, unless the case is formally withdrawn by the applicant prior to a final decision. Staff will remove the signs.

It is the responsibility of the applicant to periodically check the sign locations to verify that signs remain in place and have not been vandalized or removed. It is the responsibility of the applicant to immediately notify the Development Services-Planning Department of any missing or defective signs.

It is unlawful for a person to alter any notification sign, or to remove it while the case is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.

I have read the above statement and agree to allow the placement of notification signs as required on the project covered by the attached request. The Development Services-Planning staff has my permission to place these signs on my property. I will notify City staff if the sign is damaged or removed.



Signature of Applicant

11.25.13

Date

FOR STAFF USE ONLY:

Sign (s) were placed by staff on _____ by _____.

Sign (s) were removed by staff on _____ by _____.

Agenda Information

AGENDA CAPTION:

SCW-13-02 (206, 216 and 220 N. Edward Gary) Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Properties 2, LLC, for a SmartCode Warrant to allow an increase in height beyond the 5-story limit for a proposed 9-story building in a SmartCode T-5 zoning district at 206, 216 and 220 North Edward Gary Street.

Meeting date: January 28, 2014

Department: Development Services

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

Strengthen the Middle Class, Encourage Strong Neighborhoods, Education and Workforce

BACKGROUND:

Update Since 1/14 P&Z

A public hearing was held on this request on January 14. As directed by the Planning and Zoning Commission at the January 14th meeting, staff coordinated a public event to share more information about the proposal with interested citizens and stakeholders. The Warrant request was the topic of Main Street's regular Coffee Talk event held on Wednesday, January 22, at 5:00 p.m. at the LBJ Museum in downtown. More than 90 people were in attendance. Notes are included in the back-up.

The Warrant request is for a proposed mixed use residential project located at the intersection of Hutchison and Edward Gary. The SmartCode specifies that an applicant may request additional height beyond the 5-story limit in a T5 zoning district by Warrant.

The proposed structure is nine stories in height. Two levels of parking are concealed behind a 20' first story; therefore, the building appears as eight stories from the public frontages. The first level is designated as retail, a community center space and an outdoor streetside patio/dining space. Another level of parking is concealed by residential on the third floor. The remaining levels are entirely residential totaling approximately 95 units (344 beds).

The request for additional height has been reviewed using Section 1.3 Intent, the

Downtown Design Standards in Article 6 and the Height Strategy Context table in the Downtown Design Guidelines. Some items for consideration have been outlined in detail in the full staff report. The request meets the intent of the SmartCode and staff recommends approval.

ATTACHMENTS:

Case Map

Staff Report

Coffee Talk Notes

Statement of Intent

Elevations

Site Plan

Rendering

Application

Downtown Design Guidelines - Height

Public Comments

**SCW-13-02
SmartCode Warrant
Carson Diversified Properties 2, LLC
206, 216 and 220 N. Edward Gary**



Summary:

Applicant: Carson Diversified Properties 2, LLC
1911 Corporate Drive, Suite 102
San Marcos, TX 78666

Property Owners: 1. Applicant
2. Allen Manning Inc.
206 N. Edward Gary Street
San Marcos, TX 78666

Applicant Request: Request for a SmartCode Warrant to seek a deviation from Table 5.2 Building Configuration to allow additional height beyond the 5-story limit for a proposed 9-story building in a SmartCode-T5 Zoning District

Notification Public hearing notification was mailed on January 3, 2014, for 1/14 meeting and a second public hearing notice was mailed on January 17th for the 1/28 meeting.

Response: Comments received to date are attached.

Property Area/Profile:

Location: 206, 216 and 220 N. Edward Gary

Legal Description: Original Town of San Marcos, Block 4, Lots 5,6, Pt of 7

Frontage On: Edward Gary and Hutchison

Neighborhood: Downtown

Existing Zoning: T5

Preferred Scenario Map: High Intensity

Existing Utilities: Adequate

Existing Use of Property: Commercial

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	T5	Commercial/Retail
S of Property	T5	Commercial
E of Property	T5	Commercial/Residential
W of Property	T5	Commercial

Code Requirements:

A Warrant is a ruling that would permit a practice that is not consistent with a specific provision of the SmartCode, but is justified by the provisions of Section 1.3 Intent. The Warrant process requires personal notification of property owners within 200' and public hearing before the Planning and Zoning Commission.

Height is regulated in the base SmartCode within the Building Configuration section (Table 5.2). Five stories are permitted by right in a T5 zoning district and additional height may be considered by Warrant.

The request must be determined to meet the Intent of the SmartCode in Section 1.3. Staff is also reviewing the request using the Height Strategy by Context table in the Downtown Design Guidelines. The Design Guidelines were developed in part to assist in the design review for the Warrant process.

Comments from Other Departments:

Fire has stated they do not have the ability to adequately protect buildings beyond six stories.

SMEU and Engineering/CIP are coordinating with the applicant's design team on the location of utilities and the improvements already completed as part of the Hutchison CIP project.

Police had no comments.

Background:

Update since 1/14 P&Z Meeting

As directed by the Planning and Zoning Commission, staff coordinated a public event to provide more information about the proposal. Main Street regularly hosts Coffee Talk events – these are one hour informal events downtown on a topic affecting downtown business owners, property owners and residents. The request for additional height was the subject of the January 22nd Coffee Talk held at the LBJ Museum from 5:00-6:00 p.m. More than 90 people were in attendance for the conversation.

The developer, John David Carson, spoke for 10 minutes at the beginning and Council Member John Thomaides provided an update on future code amendments for Warrants. The staff-initiated amendment could allow City Council to review Warrants for additional height and provide a cap for building height downtown.

The rest of the time was open Q and A with the applicant. A summary of the questions asked are included in a separate attachment.

The Warrant request was postponed by the applicant at the December 10, 2013, Commission meeting. The request for additional height has been amended from seven stories as stated in the original application to a proposed 9-story building for the January 14, 2014, meeting.

The details of the proposal remain much the same. The request is for a proposed mixed use retail and residential project located at the southeast corner of the intersection of Hutchison and Edward Gary. The proposed structure is nine stories in height. Two levels of parking are concealed behind a 20' first story; therefore, the building appears as eight stories from the public frontages. The first story is designated as retail (4500 sf), a community center space (3250 sf) and an outdoor street-side patio/dining space (1250 sf). Another level of parking is concealed by residential on the third floor (which appears as the second from the street). The remaining levels are residential consisting of approximately 95 units (344 beds).

It is expected that the final building design will fully comply with the design standards required in the base code's Article 6 including the upper floor massing requirement. The building will now be constructed to high-rise specifications (75' and taller). Additional public safety standards are required for high-rises including non-combustible construction.

The site is zoned SmartCode-T5 Urban Center and is located in the Downtown Design Context as identified in the Downtown Design Guidelines.

Planning Department Analysis:

The request for additional height does meet the intent of the SmartCode as defined in Section 1.3 Intent. As a large mixed use residential project in the transition area between campus and downtown, it will help to meet the housing demand created by the University in a way that offers an opportunity to live a car-free lifestyle without negatively impacting surrounding properties. It also provides needed residential density in downtown to support the 2008 Downtown Master Plan's vision of a dense, vibrant 24/7 urban center. The project satisfies many of the Intent criteria as listed below and is characteristic of compact, pedestrian-oriented mixed use development that the SmartCode encourages.

Section 1.3 Intent

1.3.2 Region

- b. That growth strategies should encourage Infill and redevelopment in parity with New Communities.*
- c. That development contiguous to urban areas should be integrated with the existing urban pattern.*

1.3.3. The Community

- a. That neighborhoods and Regional Centers should be compact, pedestrian-oriented and Mixed Use.*
- b. That neighborhoods and Regional Centers should be the preferred pattern of development and that districts specializing in a single use should be the exception.*
- c. That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.*
- f. That appropriate building Densities and land uses should be provided within walking distance of transit stops.*
- g. That Civic, Institutional, and Commercial activities should be embedded downtown, not isolated in remote single-use complexes.*

1.3.4. The Block and The Building

- a. That buildings and landscaping should contribute to the physical definition of Thoroughfares as Civic places.*
- b. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.*
- h. That the harmonious and orderly evolution of urban areas should be secured through form-based codes.*

1.3.5. The Transect

- a. That communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.*
- b. The Transect Zone descriptions in Table 1.1 constitute the intent of the Code with regard to general character.*

The table referenced in 1.3.5(b) describes the intent and general character of each transect zone. In T5, the project should offer a mix of uses or contribute to a mixed use environment, be an attached building, contain street trees, and promote substantial pedestrian activity. The building must also be oriented to the street, define a street wall and contain one of the T5 frontage types. As proposed, the project meets this intent.

Notable elements that contribute to the building design's consistency with the character of the T5 transect include:

- Designated outdoor street-side seating area on the principle A-Grid frontage (Hutchison);
- Retail on both frontages;
- Parking that is not visible from the public frontages because it is "wrapped" by the building;
- Vehicular access solely from the alley.

Downtown Design Guidelines

The Downtown Design Guidelines offer specific guidance for height requests with criteria to aid in review. Design Contexts have been assigned to different geographical areas within the SmartCode and height is considered in each context. This project is located in the Downtown Context, but is along the boundary of the University Edge Context as well.

Downtown – Within the Downtown context, it is especially important to maintain compatibility with the Courthouse Square. Increased density is appropriate where it does not impact the character of the square.

University Edge - The University Edge context should create a safe, pedestrian-friendly transition between campus and downtown. New campus development in this context should be compatible in scale and respectful of downtown design traditions. In addition, there are key public views up to campus and down to Courthouse Square. New development should preserve and enhance these views.

Items for Consideration

- **Scale:** The Design Guidelines state that a new building should establish a sense of human scale in building design. The SmartCode base standards strongly regulate form at the street level. This project will meet or exceed these standards in the treatment of the public and private frontages at street level.
- **Views:** The Design Guidelines state that views from the public right-of-way to the university and Courthouse Square are important and should be retained. New buildings should minimize the impacts to these primary views. Texas State University's Old Main is visible from Hopkins Street and Edward Gary though partially obstructed by a billboard and overhead utility lines. This billboard will be removed and not reinstalled as part of the development. Staff believes the view would be further obstructed by the building, but would likely be impacted equally by a 5-story building (permitted by right). The project is proposed in a block of downtown that does not contain any portion of the Courthouse Square Historic District boundary. The project will likely not affect the pedestrian experience on the Square but will impact views from the Square along Hopkins and from the river along Hopkins back towards the Square and University.
- **Height:** The Design Guidelines state that additional height is appropriate in the Downtown Context when not adjacent to the Square or other sensitive site. For large projects, a variation in building height is essential. The base code requires specific treatment of upper floor massing in order to provide this variation. The massing requirement can remove significant square footage from the habitable space of the building; therefore, additional height may be necessary in order to meet the massing requirement without impacting the number of units. The applicant has stated the total density of this project is reduced approximately 20% with the step-backed upper floors due to unit loss.

Staff provides this request to the Commission for your consideration and recommends approval of the SmartCode Warrant for additional height based on the applicant's justification of intent and the proposed design features of the building.

Planning Department Recommendation:	
X	Approve as submitted
	Denial

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment on this application. After considering the public input, the Commission is charged with making a decision to approve or deny the Warrant.

The Commission's decision is discretionary. In evaluating the impact of the proposed Warrant on surrounding properties, the Commission should consider the extent to which the practice:

- enables, encourages and qualifies the implementation of the SmartCode policies on Intent;
- is consistent with policies of the Comprehensive Plan and Downtown Master Plan;
- is compatible with the character and integrity of adjacent developments and the general intent of the Transect.

The following standards are not available for Warrants:

- a. the maximum dimensions for traffic lanes;
- b. the required provision of Rear Alleys; and
- c. the Base Residential Densities.

Emily Koller	Planner	January 23, 2014
Name	Title	Date

Notes from Coffee Talk on Proposed 9-Story

January 22, 2014

LBJ Museum

5:00-6:00 p.m.

1. **Will the project be leased by the bedroom or by unit?** Bedroom
2. **What is the layout for types of units?** Some 1 and 2 bedrooms, primarily 4 bedrooms.
3. **Can the Planning and Zoning Commission approve 7 stories on the same night or does it need to come back?** Legal question. Staff to check.
4. **How much space is retail (concerned about losing good commercial space for downtown residential)?**
5. **Have you considered underground parking?** Yes, but more expensive and invasive.
6. **What is the parking ratio?** Will be approximately 72-75%. 3 of 4 residents will have a car parked on site.
7. **Is a hotel included in plans?** No.
8. **Will depth of construction affect plume from Sunshine Cleaners lot?** No. Testing of the well on site has not identified any chemicals of concern.
9. **How will this affect the river?** Not expected to have an effect. Already 100% impervious cover.
10. **Why can't this be housing for young professionals?** Market still adjusting, difficult to get financing for mixed use. Confident market will support student housing and will be first step in more developments with diversified housing types.
11. **If the fire truck can reach 6 stories, how are we addressing fire protection?** Fires for this type of construction fought differently. Issue is more number of staff, which is budgetary.
12. **This seems like an exception to the rule for one developer. Why let them have special treatment?** Staff response – Warrants are available for additional height and outlined in the code as a public process. We are going through the public process for the request.
13. **Sidewalks and protected bike lanes provided?** City has provided cross-section for Edward Gary. Will be to SC standards with sharrows not protected lanes.
14. **Every request for a warrant has been approved downtown and we do not have limits for height or an appeal process like other cities.** Staff: There are projects being developed that have not gone through the warrant process. The height limit and appeal process are good suggestions and should be incorporated. Codes are not perfect and should be flexible. Staff will work on changes for Council consideration.
15. **Why developing on an active property?** Market supports this location.
16. **Is Carson Properties developing site and maintaining ownership?** Yes with partner Ron Inscore.
17. **What will the increase on tax base be?** Look to Sanctuary Lofts for percentage comparison. Significant increase. Value will likely be eight digits.
18. **How can you do so much planning for 7 stories and then change request to 9 stories seemingly last minute?** Buildings like this are extremely complicated projects, constantly running numbers. Needed to submit application because of City's long lead time for P&Z. Still running numbers today.
19. **Since this is such a controversial project, can it be delayed to after City Council considers code amendments?**

General Comments:

- Seen projects like this in Ann Arbor. San Marcos should be like that in 20 years. Supportive if parking can be solved.
- Location is troubling, will have serious impact downtown. Would be more supportive if closer to University.
- From a real estate perspective, this is a good first step in getting close to a condo market in downtown.

PROJECT DESCRIPTION & JUSTIFICATION OF INTENT

The proposed development is a to-be-named mixed-use retail and residential project located on the southeast corner of E Hutchison St and N Edward Gary in downtown San Marcos. The structure is anticipated to consist of approximately 95 units (344 beds) of residential above approximately 4500 SF of retail, 1250 SF of associated street-side outdoor seating/patio, and a 3250 SF community center.

As a corner property, the structure will have two public frontages, one along E Hutchison and the other along N Edward Gary. Pedestrian access is planned to be taken off the public frontages. Vehicular access is planned to be taken off the abutting alley. From the public frontages, the building would display eight stories with the residential uses occupying seven floors above an approximately 20' first floor. Three stories of integrated parking are concealed from the public frontages by the building. The applicant anticipates compliance with Article 6 of the SmartCode - Downtown Design Standards.

As a significant, mixed-use residential project located in the downtown, within one-block of the Texas State campus, and inside the transit-oriented district, this project will help address housing demand created by Texas State University in a manner that provides students an opportunity to live a car-free, pedestrian lifestyle within proximity to their daily needs and tasks. In addition, this project delivers student-oriented housing in a location that minimizes ancillary impacts on the City at large (such as traffic congestion and conflicts with single-family housing) while enabling students to participate in the downtown community. Further, the street retail product will provide additional services for the community at large to enjoy.

The project satisfies many of the Intent criteria as listed below and is characteristic of compact, pedestrian-oriented mixed-use development that both the SmartCode and the recently adopted comprehensive Master Plan (Vision San Marcos: A River Runs Through Us) encourage in the Downtown Activity Center.

INTENT CRITERIA MET

1.3.2. THE REGION

- b. That growth strategies should encourage infill and redevelopment in parity with New Communities.
- c. That development contiguous to urban areas should be integrated with the existing urban pattern.

1.3.3 THE COMMUNITY

- a. That neighborhoods and Regional Centers should be compact, pedestrian-oriented and Mixed Use.
- b. That neighborhoods and Regional Centers should be the preferred pattern of development and that Districts specializing in a single use should be the exception.
- c. That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.
- f. That appropriate building Densities and land uses should be provided within walking distance of transit stops.
- g. That Civic, Institutional, and Commercial activities should be embedded downtown, not isolated in remote single-use complexes.

1.3.4 THE BLOCK AND THE BUILDING

- a. That buildings and landscaping should contribute to the physical definition of Thoroughfares as Civic places.
- b. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
- h. That the harmonious and orderly evolution of urban areas should be secured through form-based codes.

1.3.5. THE TRANSECT

- a. That Communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
- b. That the Transect Zone descriptions on Table 1.1 shall constitute the Intent of this Code with regard to the general character of each of these environments.

Additional Property Owner (R41457)

A E Manning Inc
c/o Allen Manning
aem@triplecrownlive.com
(512) 618-2682

Authorization may be validated via email or cell phone.

Do not contact owner at place of business.



Hutchison Street Elevation



North Edward Gary Street Elevation



**CRAYCROFT
McELROY
HENDRYX**

4131 N. CENTRAL EXPRESSWAY,
SUITE 750
DALLAS, TEXAS 75204
P: 214.522.6060
F: 214.522.6076
www.craycroft.net

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***** NOT FOR BIDDING.
CONSTRUCTION NOT PERMITTING.
ISSUED FOR COORDINATION &
REVIEW ONLY *****

220 N. EDWARD GARY
SAN MARCOS, TEXAS

DATE

BID SET

PERMIT SET

CONSTRUCTION SET

REVISIONS

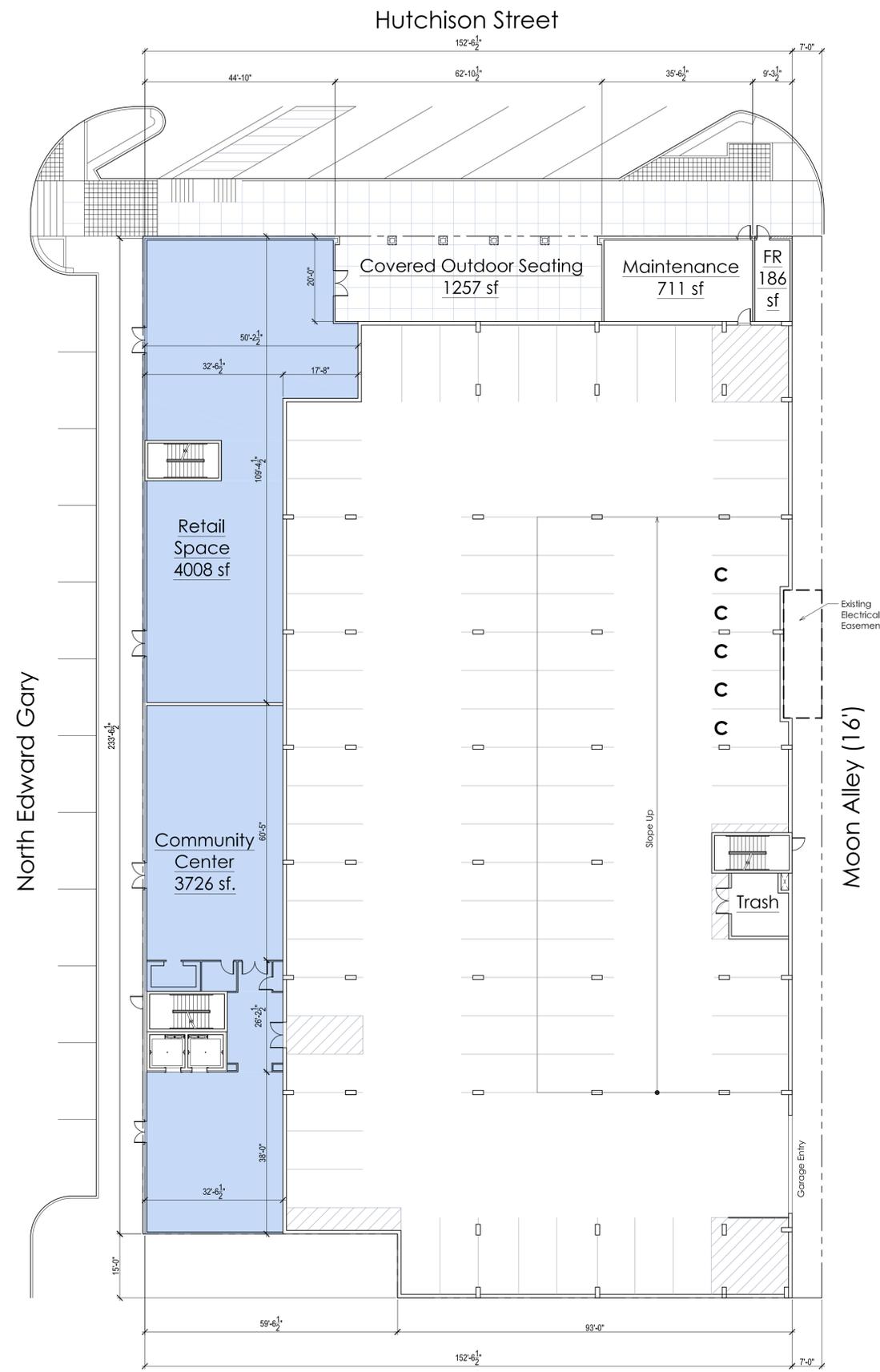
PROJECT NO. 13003

SHEET NO. w/ TITLE

DD1.01

Site Level Plan

Item 10
Attachment # 6
Page 1 of 1



**SITE LEVEL PLAN
COMMERCIAL / PARKING GARAGE LEVEL 1**

1
1/16" = 1'-0"



SCW-13-02

City of San Marcos SMARTCODE WARRANT APPLICATION

	<u>APPLICANT</u>	<u>PROPERTY OWNER</u>
Name:	<u>Carson Diversified Properties 2, LLC</u>	<u>Same as applicant</u>
Mailing Address:	<u>1911 Corporate Dr. STE 102</u> <u>San Marcos, TX 78666</u>	<u>see additional owner on attached</u>
Telephone No.:	<u>(512) 392-3322</u>	
E-mail address:	<u>john david@carsonproperties.net</u>	

Property Address: 220 N Edward Gary, 216 N Edward Gary, 206 N Edward Gary
Legal Description (if platted): Lot 5, 6, PT of 7 Block 4 Subdivision Original Town of San Marcos
Tax ID Number: R 41455, 41456, and 41457 **Zoning District:** Smartcode T5

WARRANT REQUEST
1.5.2 A warrant is a ruling that would permit a practice that is not consistent with a specific provision of the Code but is justified by the provisions of Section 1.3 Intent.

Section of the SmartCode from which the deviation is sought: As specified in Table 5.10k / Table 1.2k, applicant is requesting a warrant to allow additional height beyond the 5-story "by right" allowance for a proposed six story (seven story including parking deck concealed from public frontage) building in a Smart-Code T5 zoning district.

Justification of Intent (provide additional narrative and exhibits as necessary):
See attached

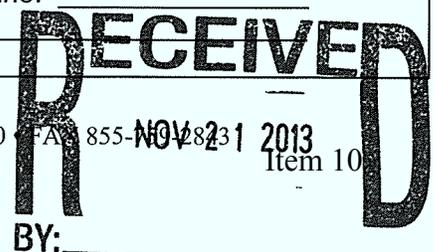
I certify that the information in this application is complete and accurate. I understand that I or another representative should be present at all meetings concerning this application.

I am the property owner of record; or
 I have attached authorization to represent the owner, organization, or business in this application.

Signature of Applicant: [Signature] Date: Nov. 21, 2013

To be completed by Staff:
Meeting Date: Dec 10
Accepted by: S. Keller

Application Deadline: Oct 28
Date: 11/21/13



Section 2: Design Contexts

This section includes goal statements for each of the design contexts within downtown. These contexts are areas identified by community workshop participants as having unique character, constraints and/or design goals. Please note the Courthouse Square area is not included, as a separate design review system is in place for the historic district. See the map on the following page for the location of the design contexts.

University Edge

The University Edge context should create a safe, pedestrian-friendly transition between campus and downtown. New campus development in this context should be compatible in scale and respectful of downtown design traditions. In addition, within the University Edge there are key public views up to campus and down to Courthouse Square. New development should preserve and enhance these views.

Downtown

Within the Downtown context it is especially important to maintain compatibility with Courthouse Square. Increased density is appropriate where it does not impact the character of the square.

Residential/Transition Edge

For new development within the Residential/Transition Edge context it is important to minimize impacts from higher scale development on the character of the adjacent residential neighborhoods. New development should provide a transition in scale between the taller buildings in the T5 zone and the existing residential neighborhoods.

Transit Oriented Development

Projects within the Transit Oriented Development context should establish a strong pedestrian orientation. The street front character is especially important here to encourage pedestrian activity.

Approach

The Approach context is the corridor between the highway and downtown, providing an entry procession into the heart of downtown. New development in this area should provide visual interest and not overwhelm the distinct character of the downtown.

Section 3: Design Guidelines

Overarching Guidelines

This section provides general design guidelines for projects throughout all of the design contexts downtown.

Building Scale

A new building should convey a sense of human scale through its design features.

1. Establish a sense of human scale in a building design.

Views

Views from the public right of way to the university and Courthouse Square are important and should be retained. The location of the building on a site, in addition to its scale, height, and massing, can impact views from the adjacent public right of way, including streets, sidewalks, intersections, and public spaces.

2. Minimize the impacts to primary views from the public right of way to the university and Courthouse Square.

Guidelines Specific to the Design Standards

This section provides specific guidelines on topics directly related to the design standards.

Building Height

The variety in building heights that exists in downtown San Marcos helps to define the character of the area. New development should continue the tradition of height variation, expressing and supporting human scale and architectural diversity in the area. New buildings above three stories should set back upper floors to maintain a sense of human scale at the street and minimize impacts to lower scale historic structures downtown. The base code allows five stories in downtown, but additional height may be considered. The following table should be used when analyzing requests for additional height.

3. Provide variation in building height in a large project.
4. Position the taller portion of a structure away from neighboring buildings of lower scale or other sensitive edges.

Height Strategy by Context

Design Context	Goal(s)	Additional Height in First and Second Layer	Additional Height in Third Layer
University Edge	Preserve key public views up the hill to campus.	Alternatives which maintain sufficient public access to key views up the hill may be considered.	Alternatives may be considered where taller structures will provide greater residential opportunities within proximity to campus and key views are sufficiently maintained.
Downtown	Maintain compatibility with Court-house Square.	Flexibility for building height requirements may be considered where it will not be visible from the square. Overall mass should maintain a sense of human scale and not appear out of character with the Downtown Historic District.	No additional height adjacent to Downtown Historic District. Additional height may be considered where it will not obscure key views.
Residential/ Transition Edge	Minimize impacts from higher scale development on the character of adjacent residential neighborhoods. Provide a transition in scale between the T5 zone and the neighborhoods.	No additional height.	Additional height should only be permitted if it is not visible from the public right of way or the adjacent residential neighborhoods.
Transit Oriented Development	An increased density at and surrounding the future rail stop is desired.	Additional height at the street wall may be appropriate where the building maintains a sense of human scale and a pedestrian-friendly streetscape.	Additional height may be appropriate here where the building maintains a sense of human scale and maintains a pedestrian-friendly streetscape.
Approach	The intent for the approach area is to provide corridors between the highway and downtown.	Additional height may be appropriate where it does not directly impact residential neighborhoods. The building should maintain a sense of human scale and a pedestrian-friendly streetscape.	Additional height may be appropriate where it does not directly impact residential neighborhoods. The building should maintain a sense of human scale and a pedestrian-friendly streetscape.

Building Mass and Articulation

Traditional development patterns create a rhythm along the street by the repetition of similar building widths and vertical proportions. Variations in massing and building articulation should be expressed throughout a new structure, resulting in a composition of building modules that relate to the scale of traditional buildings.

5. Provide horizontal expression at lower floor heights to establish a sense of scale.
6. Provide vertical articulation in a larger building mass to establish a sense of scale.
7. Maintain established development patterns created by the repetition of similar building widths along the street.
8. Design floor to floor heights to establish a sense of scale and reflect San Marcos traditions.

From: [Koller, Emily](#)
To: [Koller, Emily](#)
Subject: FW: 5 Stories Going to 9??? Tonight???
Date: Tuesday, January 14, 2014 3:46:40 PM
Attachments: [City of San Marcos Community Survey Final Report.pdf](#)
[ATT00001.htm](#)

From: "Nancy Noret Moore" <nancynoretmoore@gmail.com>
To: "Mayor & Council Information" <Mayor_Council_Info@sanmarcostx.gov>
Subject: 5 Stories Going to 9??? Tonight???

Dear Mayor and Council,

I am writing in reference to:

SCW-13-02 (206, 216 and 220 N. Edward Gary) Hold a public hearing and consider a request by John David Carson, on behalf of Carson Diversified Properties 2, LLC, for a SmartCode Warrant to allow an increase in height beyond the 5-story limit for a proposed 9- story building in a SmartCode T5 zoning district at 206, 216 and 220 North Edward Gary. Street

I am against ANY changes to the newly completed Master Plan. I believe that if we start allowing it to be changed, it will open the door to any and many other changes. I believe that this subject should at least be opened for discussion with your citizens. There are many areas of concern, traffic, parking for guests, views, etc. Apparently, tomorrow night, One Round of Voting, and 5 stories goes to 9!

I am forwarding to you the San Marcos Survey completed in 2013. Based on the findings, I see that the results are pointing to the citizens of San Marcos speaking loudly to their dissatisfaction to how they perceive our developing city, and they are not satisfied with the transparency of the city as well as other issues on pages listed below. This is a BIG change! The SmartCode gives too much power to the Planning Dept. and the P&Z Commission in my opinion. I will be interested to know for what reasons the Planning Dept. is approving this warrant!

The following questions and page numbers I believe to be the most relevant:

Q.4 p.4 Perceptions of the city

Q13 p. 11 Satisfaction with the Transparency of the City

Q19 p. 17 City's Strategic Initiatives

Demographics pp.23, 24, 25

Benchmarks vs National p. 32 Transparency in San Marcos vs Southwest Region vs US.



PLANNING COMMISSION COMMENT SHEET

Regular Meeting Date: _____

PUBLIC HEARING SIGN UP SHEET

"Please **PRINT** all information."

Name: ELENA DURAN Telephone: 512-567-7691

Address: 1133 LAGO VISTA

e-mail address: hillsofhaysreps@yahoo.com

Circle one: written or ~~oral~~ comments

PUBLIC HEARING ITEM # (8, 13)

CITIZENS WHO WISH TO MAKE WRITTEN COMMENTS SHOULD COMPLETE THE WRITTEN COMMENTS PORTION:

#8 Please do NOT allow a CUP at 322 Cheatham St. There is a residence right next door and we do NOT want it to turn into Crystal River Inn. Residents next door were told they can't park on the street. This should apply to everyone on this block! Hours of operation are to close to "BAR" hours!

#13 Please Do Not Allow 9 stories- SMFD has said publicly that they have equipment for 5! Lets stick to the CODE!! 5 stories is plenty!

CITIZENS WHO WISH TO MAKE ORAL COMMENTS:

1. MUST SIGN UP TO SPEAK. ONE MUST SIGN UP TO SPEAK ON THE DAY OF THE MEETING DURING REGULAR BUSINESS HOURS (8:00 A.M -5:00 P.M.) AT THE DEVELOPMENT SERVICES-PLANNING OFFICE OR FROM 5:00 - 5:45 IN COUNCIL CHAMBERS;
2. WILL HAVE ONE OPPORTUNITY TO SPEAK; AND
3. MUST OBSERVE THE 3-MINUTE TIME LIMIT.

(Inquiries from speakers about matters not listed on the agenda will either be directed to the Staff or placed on a future agenda for Planning Commission consideration.)

OFFICE USE ONLY:
(# in which received)



PLANNING COMMISSION COMMENT SHEET

Regular Meeting Date: _____

PUBLIC HEARING SIGN UP SHEET

"Please **PRINT** all information."

Name: STEVEN Aycock DDS Telephone: 512-392-1214

Address: 312 CHEATHAM ST

e-mail address: stevenmaycockdds@gmail.com

Circle one: written or oral comments

PUBLIC HEARING ITEM # ()

CITIZENS WHO WISH TO MAKE WRITTEN COMMENTS SHOULD COMPLETE THE WRITTEN COMMENTS PORTION:

I have reservations concerning the
CUP @ 312 CHEATHAM. THE hours of
operation seem more in line w/ a bar
than an art gallery. Given the lack of
parking + the presence of a residence
next door I feel this operation would be
better situated elsewhere.

CITIZENS WHO WISH TO MAKE ORAL COMMENTS:

1. MUST SIGN UP TO SPEAK. ONE MUST SIGN UP TO SPEAK ON THE DAY OF THE MEETING DURING REGULAR BUSINESS HOURS (8:00 A.M -5:00 P.M.) AT THE DEVELOPMENT SERVICES-PLANNING OFFICE OR FROM 5:00 - 5:45 IN COUNCIL CHAMBERS;
2. WILL HAVE ONE OPPORTUNITY TO SPEAK; AND
3. MUST OBSERVE THE 3-MINUTE TIME LIMIT.

(Inquiries from speakers about matters not listed on the agenda will either be directed to the Staff or placed on a future agenda for Planning Commission consideration.)

OFFICE USE ONLY:
(# in which received)

From: [Serna, Francis](#)
To: [Koller, Emily](#)
Subject: FW: No HUTCHINSON highrise please
Date: Tuesday, January 21, 2014 8:49:21 AM

From: Jody C [mailto:jodikers@gmail.com]
Sent: Sunday, January 19, 2014 11:11 AM
To: Planning_Info
Subject: No HUTCHINSON highrise please

Dear hardworking P&Z,

Thank you for reading my email and for your time!

This is Jody Cross, LMT, UFL UNIBRAWD, Curator of Bower Bird Gallery, and lover of this small town. Please let me know how I can be better heard about not wanting a highrise built over the businesses on Hutchinson (Yellow Store, Triple Crown, Cedars,etc). I do not believe it will actually help for any of the proposed reasons given. The sprawl will continue, the construction causes too much stress on us all, and we are already growing as the fastest in our category. It's time to take a break, relax, and just enjoy what we've already accomplished as a town. We need time off to think long and hard before taking the next steps. Rome wasn't built in a day...and I really don't even want us to become a Rome (they fell!). Thank you!

Sincerely, Jody Cross

From: [Serna, Francis](#)
To: [Koller, Emily](#)
Subject: FW: 9 story building
Date: Thursday, January 23, 2014 8:36:38 AM

From: Barbara Piersol [mailto:bpiersol@grandecom.net]
Sent: Wednesday, January 22, 2014 11:25 PM
To: Planning_Info
Subject: 9 story building

To the Planning staff and the Commissioners,

I am urging you to deny the warrant request for the nine story building in San Marcos. This project would change the whole character of the downtown. The planned parking is inadequate for a building this size and overflow would place an added burden on our local merchants who are already struggling with road construction.

When the City decided on a five story height limit which they felt appropriate, it is surprising that you would be asked for an exception so soon afterward for a building almost twice this height.

If you feel you can't turn down this proposal, please postpone it to give everyone a chance to think it through. Your decision will greatly impact the future of our city.

Thank you for your consideration.

Barbara Piersol, a concerned citizen

Agenda Information

AGENDA CAPTION:

2013-13485 (Qualified Watershed Protection Plan, The Woodlands) Hold a public hearing and consider a request by Doucet and Associates on behalf of Dovetail Development, LLC for approval of a Qualified Watershed Protection Plan Phase 2 for the development of approximately 44.67 acres near IH-35 and River Road.

Meeting date: January 28, 2014

Department: Engineering and CIP

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

BACKGROUND:

The applicant is requesting approval of a Qualified Watershed Protection Plan Phase 2 (QWPP2) based upon reclamation of land within the FEMA-mapped 100-year floodplain of the San Marcos River and the Blanco River.

The entire proposed site is currently within the FEMA-mapped 100-year floodplain. However, the applicant has obtained approval from FEMA for a Conditional Letter of Map Revision based on Fill (CLOMR-F), Case No. 13-06-2284C dated October 17, 2013, which provides the proposed revision to the 1% annual chance floodplain boundaries.

No adverse hydraulic effect from the development is verified in a drainage report done by RPS, dated January 6, 2014. Water quality controls to achieve required water quality treatment are outlined in the Water Quality Report done by Doucet and Associates, dated September 5, 2013.

Staff recommends approval of the request.

ATTACHMENTS:

QWPP2 Staff Report

QWPP-Exhibit

2013-13485

Qualified Watershed Protection Plan

Phase II

The Woodlands of San Marcos



Applicant Information:

Agent: Carey Bresler, Client Manager
 Doucet & Associates, Inc.
 7401-B Hwy. 71 W., Suite 160
 Austin, TX 78735

Applicant: Woodlands of San Marcos, LLC
 By: Thomas W. Scott, III
 Manager of HJT, LLC
 As Managing Member of Woodlands of San Marcos, LLC
 1150 Timothy Road, Suite 201
 Athens, GA 30606

Property Owner: JR Thornton et al & Thornton Family Investments LP
 & Clara L. Cape Testamentary Trust
 P.O. Box 1430
 San Marcos, TX 78667

Notification: Notification not required

Subject Property:

Legal Description: 44.67 acre tract out of the JM Veramendi Survey Number 2, Abstract 17
Location: East of IH-35, South of River Road
Existing Use of Property: Vacant Land
Zoning: PDD with base zoning of MF-12 for Lot 1 and FD for Lot 2
Proposed Use of Property: Multi-family, Student Housing

Frontage On: River Road

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	SF-6/MF-24/CC/GC/P	Single family residences & multifamily residences, Commercial & City lift station
W of Property	FD	Vacant
S of Property	FD	Stokes Park, some residential
E of Property	GC & P	Commercial & Parkland

Engineering Analysis

The applicant is requesting approval of a Qualified Watershed Protection Plan Phase 2 (QWPP2) based upon reclamation of land within the FEMA-mapped 100-year floodplain of the San Marcos River and the Blanco River. The property is currently vacant.

The entire proposed site is currently within the FEMA-mapped 100-year floodplain. However, the applicant has obtained approval from FEMA for a Conditional Letter of Map Revision based on Fill (CLOMR-F), Case No. 13-06-2284C dated October 17, 2013, which provides the proposed revision to the 1% annual chance floodplain boundaries.

A drainage report done by RPS, dated January 6, 2014, evaluated conveyance of the Blanco River floodwaters to and through the site as a result of the overtopping of the Blanco River to verify no adverse hydraulic impact. It also verified that the proposed development does not create an adverse hydraulic impact to the floodwaters of the San Marcos River.

The established water quality zone, which is an area bounded by the floodway and a 100-foot offset from that floodway, will contain storm lines for conveyance of upgradient stormwater and vegetative filter strips. Additionally, a 100-foot wide buffer zone beyond the water quality zone is also established. Impervious cover will be limited to 30% in the buffer zone.

Stormwater detention has been waived for this site based off its proximity to the San Marcos River and the theory that it is more appropriate to directly release flow from developed areas to the river instead of detaining the flow so that the peak discharge may combine with peaks from runoff generated further upstream in the watershed.

The development is located within the San Marcos River Corridor and is required to treat a capture depth of 0.8". In the Water Quality Report done by Doucet and Associates, dated September 5, 2013, the applicant is proposing to treat a capture depth of 1.6" to help offset the effects of the proposed impervious improvements. An 85% pollutant removal rate for Total Suspended Solids (TSS) is achieved through use of a series of biofiltration systems. Also, Integrated Pest Management guidelines for controlling insects, pests, and plant diseases through natural or low-impact means are outlined in the water quality report.

The applicant will provide drainage entry points along River Road to convey upgradient stormwater from River Road through the development. The design of these drainage entry points will be finalized with the Comprehensive Site Preparation Permit Application.

No portion of the tract is located within the Edwards Aquifer Recharge Zone.

The proposed grading layout consists of a leveled site area. Section 6.05 of the PDD states, "Natural drainage patterns shall be preserved whenever possible..." Staff would have preferred a proposed grading layout consisting of a tiered design that more closely follows the existing topography to preserve the natural drainage patterns. This would require a new CLOMR approval from FEMA to provide for this revision.

However, based upon the engineering review of this Qualified Watershed Protection Plan, Phase 2, it meets the applicable technical requirements of Chapter 5 of the Land Development Code

Staff provides this request to the Commission for your consideration and recommends approval.

Engineering Department Recommendation	
<input checked="" type="checkbox"/>	Approve as submitted
<input type="checkbox"/>	Approve with conditions or revisions as noted
<input type="checkbox"/>	Alternative - Postpone
<input type="checkbox"/>	Denial

The Commission's Responsibility:

The Commission is required by law to hold a public hearing and receive public comment regarding the proposed Qualified Watershed Protection Plan. After considering the public input, the Commission, following the recommendation of the City Engineer, is charged with approving, conditionally approving or denying the request.

The following criteria shall be used to determine whether the application for a Watershed Protection Plan (Phase 1 and Phase 2, as applicable) shall be approved, approved with conditions, or denied:

(1) Other water quality zones - factors. Where land subject to the plan lies in whole or in part within a river or stream corridor water quality zone located outside the Edwards Aquifer recharge or transition zones:

- a. Whether the Watershed Protection Plan is consistent with approved legislative applications for the land subject to the plan;
- b. Whether the Watershed Protection Plan meets the standards in [Chapter 5](#), Article 1, and/or the specific criteria in [Chapter 5](#), Article 3;
- c. Whether any proposed mitigation plan offsets the impacts to water quality resulting from increased development within a buffer zone; and
- d. Whether the Watershed Protection Plan is consistent with proposed clustering or development transfers outside the plan area.

(2) Reclaimed land - factors. For developments where reclamation of land within the 100-year floodplain is proposed:

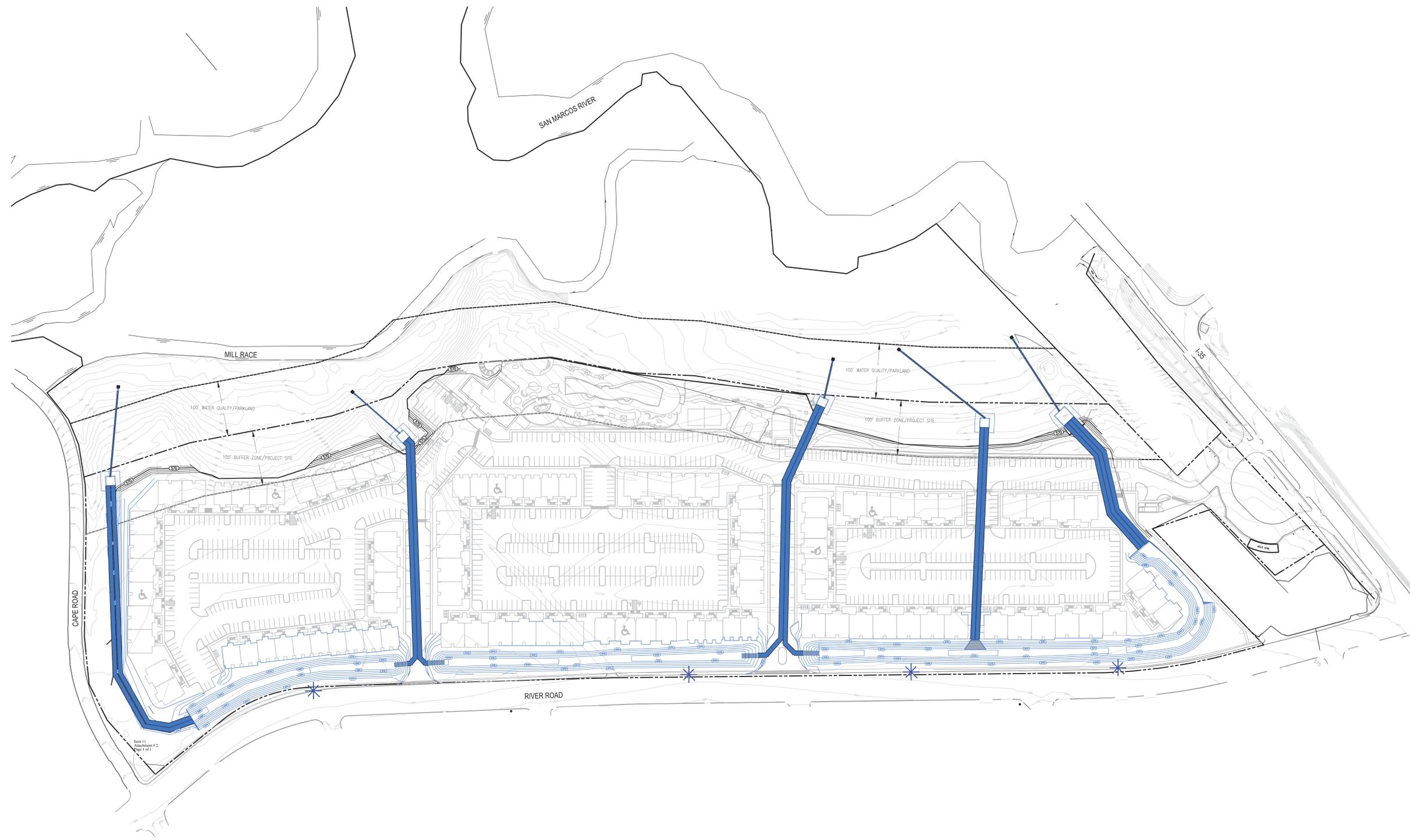
- a. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) is consistent with approved legislative applications for the land subject to the plan, including expressly any master drainage plan elements applicable to the land;
- b. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) meets the general standards in [Chapter 5](#), Article 1, and the specific criteria in [Chapter 5](#), Article 4, Division 2; and
- c. Whether any adverse impacts have been appropriately mitigated.

(3) Conditions. The Planning and Zoning Commission or the City Council on appeal may attach such conditions to approval of either phase of a Watershed Protection Plan as are necessary to assure that the Plan meets water quality standards, based on the recommendation of the Engineering Director, a qualified geologist, or a Texas-licensed professional engineer. Conditions may include a requirement to prepare or modify a mitigation plan.

(4) No Watershed Protection Plan (Phase 1 or Phase 2, as applicable) shall be approved or approved with conditions unless proper documentation is submitted to the Director indicating that all applicable federal and state permits, approvals, and clearances have first been obtained.

Prepared by:

David Rabago	Senior Project Engineer	1-28-14
Name	Title	Date



* = DRAINAGE ENTRY POINT

Agenda Information

AGENDA CAPTION:

PC-13-28_03 (Woodlands of San Marcos) Consider a request by Doucet & Associates, Inc., on behalf of JR Thornton et al, Thornton Family Investments LP, Clara L. Cape Testamentary Trust, for approval of the Vacation of the Plat of Lot 1, Capes Camp Subdivision, being 1.99 acres, more or less, and for approval of a Final Plat for approximately 44.66 acres, more or less, out of the J.M. Veramendi Survey, No. 2, Abstract 17, establishing Lot 1 and Lot 2 of Woodlands of San Marcos Subdivision, located at the intersection of River Road and Cape Road.

Meeting date: January 28, 2014

Department: Development Services

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

Big Picture Infrastructure

BACKGROUND:

This is a Vacation of Lot 1, Capes Camp Subdivision and a Final Plat for Lots 1 and 2, Woodlands of San Marcos Subdivision. Lot 1 will be developed as The Woodlands of San Marcos student housing complex and Lot 2 will be dedicated to the City as parkland. Prior to any site permits being issued, a maintenance agreement for the maintenance of the drainage improvements on Lot 2 will be executed.

Staff has reviewed the request and finds that the final plat and plat vacation meet the criteria of 1.6.3.5 and 1.6.8.5 of the Land Development Code respectively and meet the criteria set forth in Ordinance 2013-03. Staff recommends **approval** of both the plat vacation and the final plat.

ATTACHMENTS:

Site Map

Staff Report

Vacating Instrument for Lot 1, Capes Camp Subdivision

Lot 1, Capes Camp Plat (being vacated)

Final Plat

PC-13-28(03), Final Plat Woodlands of San Marcos Subdivision



Applicant Information:

Applicant: Carey Bresler, Client Manager
Doucet & Associates, Inc.
7401-B Hwy. 71 W., Suite 160
Austin, TX 78735

Current Property Owner: JR Thornton et al & Thornton Family Investments LP & Clara L. Cape
Testamentary Trust
P.O. Box 1430
San Marcos, TX 78667

Future Property Owner: Woodlands of San Marcos, LLC
By: Thomas W. Scott, III
Manager of HJT, LLC
As Managing Member of Woodlands of San Marcos, LLC
1150 Timothy Road, Suite 201
Athens, GA 30606

Notification: Notification not required

Type & Name of Subdivision: Vacation of Plat of Lot 1, Capes Camp Subdivision and Final Plat, Lot 1 and Lot 2, Woodlands of San Marcos Subdivision

Subject Property:

Summary: This is a Vacation of Lot 1, Capes Camp Subdivision and a Final Plat for Lots 1 and 2, Woodlands of San Marcos Subdivision. The proposed subdivision will first vacate a plat that was recorded in 2001 and then create two lots. Lot 1, which is 23.69 acres with frontage along the IH-35 frontage road and River Road, and Lot 2 which is 20.14 acres and is being dedicated to the City as parkland.

Traffic / Transportation: The property reflected within this Final Plat fronts the IH-35 frontage road as well as River Road and Cape Road. The primary access for the complex will be from the frontage road with secondary entrance/exits on River Road. A deceleration lane will be constructed along the IH-35 frontage road, a TxDOT maintained roadway. A Subdivision Improvement Agreement for the deceleration lane and other site related improvements will be submitted prior to plat recordation.

Utility Capacity: The City of San Marcos will provide water, wastewater, and electric service.

Parks proposal: Lot 2 – 20.14 acres of land which includes Thompson's Island and land within the Water Quality Zone.

Zoning: PDD with base zoning of MF-12 for Lot 1 and FD for Lot 2

Surrounding Zoning and Land use:

	Current Zoning	Existing Land Use
N of Property	SF-6/MF-24/CC/GC/P	Single family residences & multifamily residences, Commercial & City lift station
W of Property	FD	Vacant
S of Property	FD	Stokes Park, some residential
E of Property	GC & P	Commercial & Parkland

Planning Department Analysis:

The applicant is proposing to vacate Lot 1, Capes Camp Subdivision, which is a 1.99 acre tract that was recorded in 2001. Section 1.6.8.5(c) of the Land Development Codes requires that a plat vacation be decided by the Commission in conjunction with its decision on a new plat application for the same land. The vacating instrument has been included in the background material and will be recorded prior to the recordation of the final plat. Upon the execution and recording of the vacating instrument, the vacated plat will have no further effect.

This final plat is proposing two lots, Lot 1 (23.67 acres) and Lot 2 (20.14 acres). Lot 1 will be developed as The Woodlands of San Marcos student housing multifamily complex. The property depicted in the plat is subject to the Planned Development District (PDD) that was approved in January 2013 (Ordinance 2013-03). Lot 2 will be dedicated to the City as parkland and includes the area known as Thompson's Island as well as the area of land contained in the Water Quality Zone. In addition to the drainage easements that are being dedicated with the plat on Lot 1, a maintenance agreement for the maintenance of drainage improvements on Lot 2 will be executed prior to any site permits being issued; this has been noted on the plat.

Staff has reviewed the request for plat vacation and finds the proposed plat vacation meets all criteria of 1.6.8.5 of the Land Development Code and recommends **approval**.

Staff has reviewed the request and finds the proposed final plat meets all criteria of 1.6.3.5 of the Land Development Code and meets the criteria set forth in Ordinance 2013-03 and recommends **approval**.

Planning Department Recommendation	
x	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
	Denial

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this proposed Subdivision Final Plat. The City charter delegates all subdivision platting authority to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the plat.

Prepared By:

Alison Brake	Planner	January 16, 2014
Name	Title	Date

WHEREAS, Thornton Family Investments, LP, a Texas limited partnership and Robert E. Thornton and Russell C. Thornton, individually and as co-trustees of the JR Thornton Unified Credit Trust and the Clara Louise Cape Testamentary Trust ("Owner") is the current owner of LOT 1, CAPES CAMP SUBDIVISION the plat of which is recorded in VOLUME 10, PAGE 97, of the Plat Records of Hays County, Texas:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That Thornton Family Investments, LP, a Texas limited partnership and Robert E. Thornton and Russell C. Thornton, individually and as co-trustees of the JR Thornton Unified Credit Trust and the Clara Louise Cape Testamentary Trust for and in consideration of the premises and pursuant to the provisions of Chapter 212.013 of the Texas Local Government Code, and in connection with the replatting of the property including this lot, does hereby vacate the plat of **LOT 1, CAPES CAMP SUBDIVISION**.

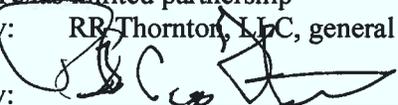
EXECUTED this the _____ day of _____ 2013.

OWNER:

THORNTON FAMILY INVESTMENTS, LP,

a Texas limited partnership

By: RR Thornton, LLC, general partner

By: 
Russell Cape Thornton, Co-Managing Member

By: _____
Robert Edward Thornton, Co-Managing Member

THE JR THORNTON UNIFIED CREDIT TRUST

By: 
Russell Cape Thornton, Co-Trustee

By: _____
Robert Edward Thornton, Co-Trustee

CLARA LOUISE CAPE TESTAMENTARY TRUST

By: 
Russell Cape Thornton, Co-Trustee

By: _____
Robert Edward Thornton, Co-Trustee

RUSSELL CAPE THORNTON, INDIVIDUALLY


Russell Cape Thornton

ROBERT EDWARD THORNTON, INDIVIDUALLY

Robert Edward Thornton

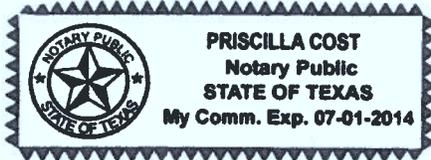
ACKNOWLEDGEMENT

The State of Texas §

§

County of Hays §

This instrument was acknowledged before me on 12-27-13 by Russell Cape Thornton, Co-Managing Member of RR Thornton, LLC, general partner of Thornton Family Investments, LP, a Texas limited partnership, on behalf of said entities.



Priscilla Cost

Notary Public, State of Texas

The State of Texas §

§

County of _____ §

This instrument was acknowledged before me on _____ by Robert Edward Thornton, Co-Managing Member of RR Thornton, LLC, general partner of Thornton Family Investments, LP, a Texas limited partnership, on behalf of said entities.

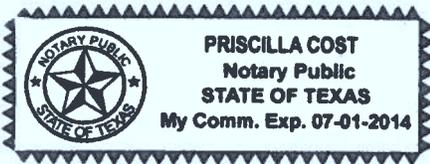
Notary Public, State of Texas

The State of Texas §

§

County of Hays §

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Priscilla Cost

Notary Public, State of Texas

The State of Texas §

§

County of _____ §

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Notary Public, State of Texas

APPROVAL OF VACATION OF SUBIDVISION PLAT

BE IT KNOWN that on the _____ day of _____ 20____, the Planning and Zoning Commission of the City of San Marcos, at its regular meeting, did approve the vacation of the plat of **LOT 1, CAPES CAMP SUBDIVISION**, the plat of which is recorded in **VOLUME 10, PAGE 97**, of the Plat Records of Hays County, Texas, upon application thereof by all the owners of all the lots in said subdivision.

EXECUTED this the _____ day of _____ 20_____.

Chairman, Planning and Zoning Commission

Printed Name: _____

ACKNOWLEDGEMENT

STATE OF TEXAS }
 }
COUNTY OF HAYS }

BEFORE ME, the undersigned authority, a Notary Public in and for _____ County, Texas on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument as Chairman of the Planning and Zoning Commission of the City of San Marcos, Texas, a municipal corporation, and he acknowledge to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNER MY HAND AND SEAL OF OFFICE, this the _____ day of _____ 20_____.

NOTARY PUBLIC in and for the State of Texas

WHEREAS, Thornton Family Investments, LP, a Texas limited partnership and Robert E. Thornton and Russell C. Thornton, individually and as co-trustees of the JR Thornton Unified Credit Trust and the Clara Louise Cape Testamentary Trust ("Owner") is the current owner of LOT 1, CAPES CAMP SUBDIVISION the plat of which is recorded in VOLUME 10, PAGE 97, of the Plat Records of Hays County, Texas:

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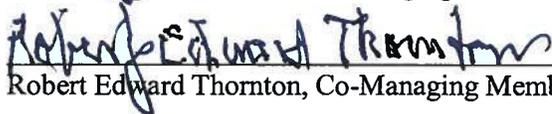
EXECUTED this the _____ day of _____ 2013.

OWNER:

THORNTON FAMILY INVESTMENTS, LP,
a Texas limited partnership

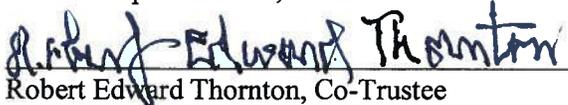
By: RR Thornton, LLC, general partner

By: 
Russell Cape Thornton, Co-Managing Member

By: 
Robert Edward Thornton, Co-Managing Member

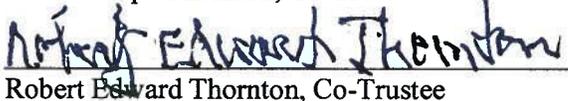
THE JR THORNTON UNIFIED CREDIT TRUST

By: _____
Russell Cape Thornton, Co-Trustee

By: 
Robert Edward Thornton, Co-Trustee

CLARA LOUISE CAPE TESTAMENTARY TRUST

By: _____
Russell Cape Thornton, Co-Trustee

By: 
Robert Edward Thornton, Co-Trustee

RUSSELL CAPE THORNTON, INDIVIDUALLY

Russell Cape Thornton

ROBERT EDWARD THORNTON, INDIVIDUALLY

Robert Edward Thornton
Robert Edward Thornton

ACKNOWLEDGEMENT

The State of Texas §

§

County of _____ §

This instrument was acknowledged before me on _____ by Russell Cape Thornton, Co-Managing Member of RR Thornton, LLC, general partner of Thornton Family Investments, LP, a Texas limited partnership, on behalf of said entities.

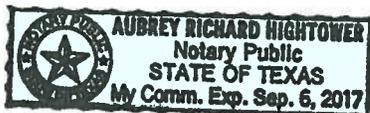
Notary Public, State of Texas

The State of Texas §

§

County of Travis §

This instrument was acknowledged before me on 12-27-2013 by Robert Edward Thornton, Co-Managing Member of RR Thornton, LLC, general partner of Thornton Family Investments, LP, a Texas limited partnership, on behalf of said entities.



[Signature]
Notary Public, State of Texas

The State of Texas §

§

County of _____ §

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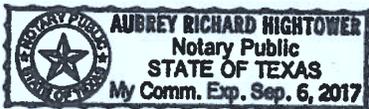
Notary Public, State of Texas

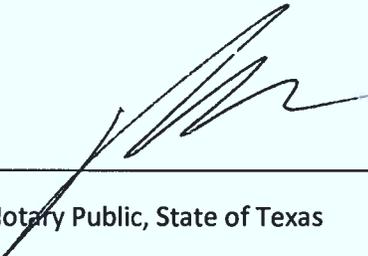
The State of Texas §

§

County of Travis §

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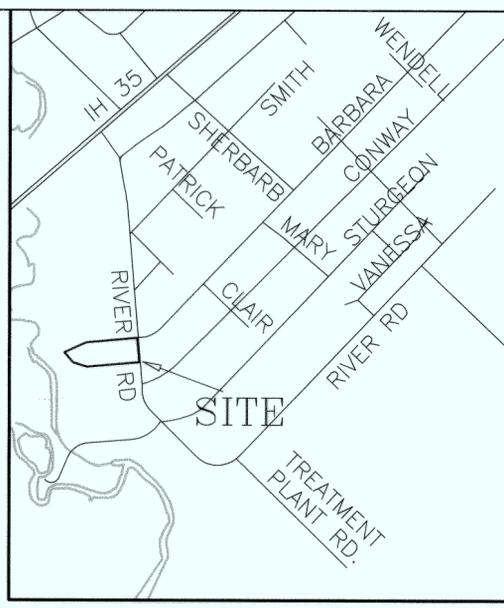




Notary Public, State of Texas

LEGEND

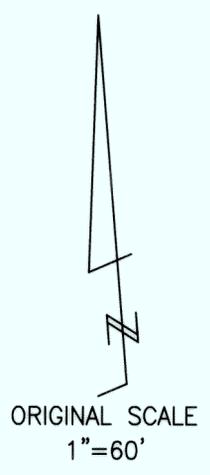
- HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- CONCRETE MONUMENT FOUND WITH ALUMINUM CAP STAMPED "CITY OF SAN MARCOS"
- 1/2" IRON ROD FOUND
- UTILITY LINE, POLE AND GUY
- P.U.E. PUBLIC UTILITY EASEMENT



VICINITY MAP-NOT TO SCALE

SURVEYORS NOTES

1. FENCES MEANDER
2. BEARINGS, DISTANCES, AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. ACCORDING TO SCALING FROM THE F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209CD193 E DATED 2/18/98, THIS LOT IS WITHIN ZONE AE AND AH, (SPECIAL FLOOD HAZARD AREAS).
4. A SIDEWALK IS REQUIRED FOR THIS LOT.



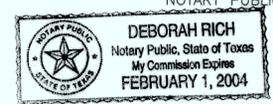
STATE OF TEXAS *
COUNTY OF HAYS *

I, THE OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED AS LOT 1, CAPES CAMP SUBDIVISION, SUBDIVIDE THIS PROPERTY AND DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES SHOWN ON THIS PLAT.

J. R. Thornton
 THORNTON FAMILY INVESTMENTS, L.P.
 P.O. BOX 1340
 SAN MARCOS, TEXAS 78667

STATE OF TEXAS *
COUNTY OF HAYS *

THIS SUBDIVISION PLAT WAS ACKNOWLEDGED BEFORE ME ON
Sept. 7, 2001 BY Robert Thornton
Deborah Rich
 NOTARY PUBLIC, STATE OF Texas



APPROVED AND AUTHORIZED FOR RECORD BY THE DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF SAN MARCOS.

September 6, 2001
DATE

Ron Patterson
 RON PATTERSON, AIA, AICP
 DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES

Brenda Smith
 BRENDA SMITH
 RECORDING SECRETARY

STATE OF TEXAS *
COUNTY OF HAYS *

I, LEE CARLISLE, COUNTY CLERK OF HAYS COUNTY, TEXAS, CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE ON September 10, 2001 AT 9:40 O'CLOCK A. M., AND RECORDED ON September 10, 2001 AT 9:40 O'CLOCK A. M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN BOOK 10, AT PAGE 97.



Jenny DeLoan
 LEE CARLISLE
 COUNTY CLERK
 HAYS COUNTY, TEXAS

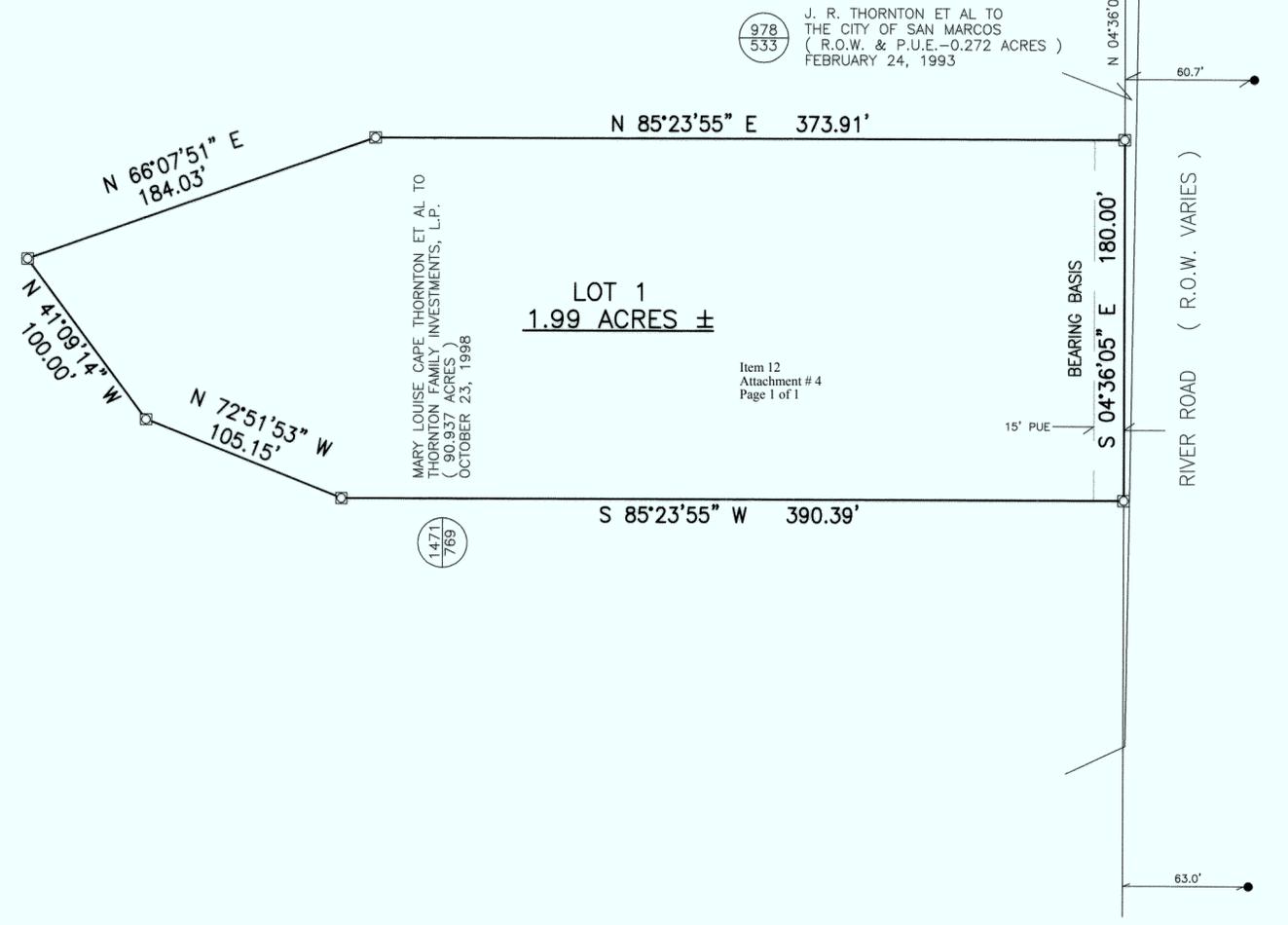
KNOW 'ALL' MEN BY THESE PRESENTS:

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY STATE THAT TO THE BEST OF MY SKILL AND KNOWLEDGE THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION.



David Williamson
 REGISTERED PROFESSIONAL LAND SURVEYOR
 DAVID C. WILLIAMSON, R.P.L.S. #4190

BYRN & ASSOCIATES, INC.
ENGINEERS SURVEYORS
 1115 HIGHWAY 80 EAST
 P.O. BOX 1433
 SAN MARCOS, TEXAS 78666
 (512) 396-2270



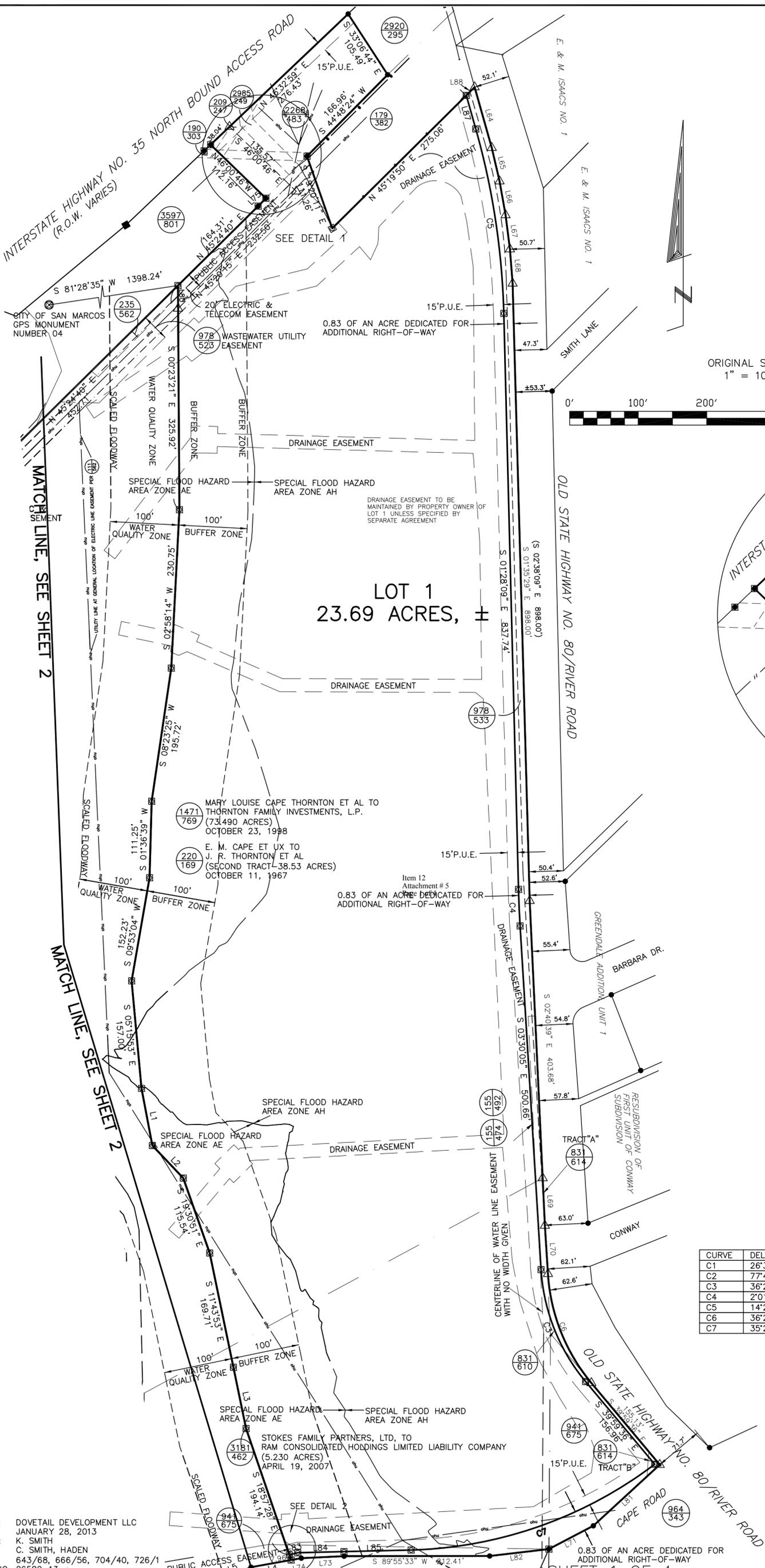
J. R. THORNTON ET AL TO THE CITY OF SAN MARCOS (R.O.W. & P.U.E. - 0.272 ACRES) FEBRUARY 24, 1993

MARY LOUISE CAPE THORNTON ET AL TO THORNTON FAMILY INVESTMENTS, L.P. (90.937 ACRES) OCTOBER 23, 1988

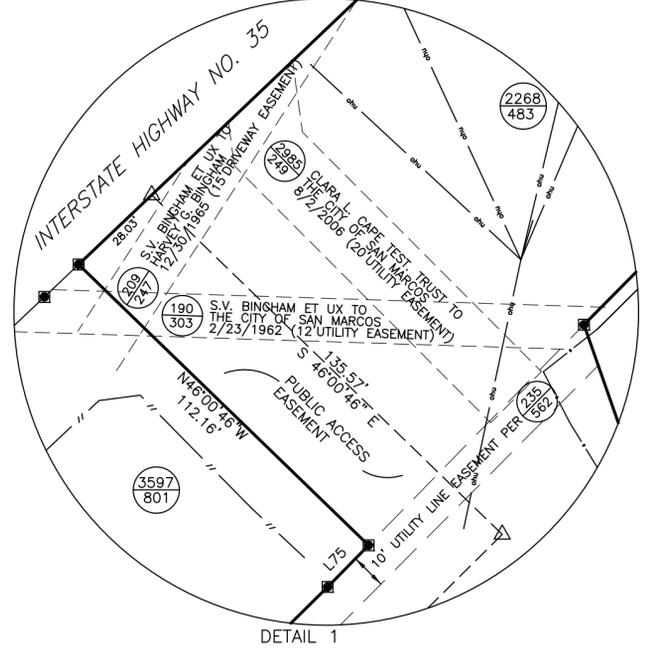
Item 12 Attachment # 4 Page 1 of 1



VICINITY MAP - 1"=2000'



ORIGINAL SCALE
1" = 100'



- LEGEND**
- VOL
PG HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
 - VOL
PG HAYS COUNTY PLAT RECORDS
 - 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
 - 1/2" IRON ROD FOUND OR DIAMETER NOTED
 - 1/2" IRON PIPE FOUND OR DIAMETER NOTED
 - 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"
 - 1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "SURV TEX"
 - COTTON SPINDLE SET
 - CALCULATED POINT
 - CONCRETE NAIL SET
 - CONCRETE MONUMENT FOUND
 - UTILITY LINE, POLE AND GUY
 - EDGE OF ASPHALT
 - DRILL HOLE FOUND IN CONCRETE
 - PUBLIC UTILITY EASEMENT
 - ALUMINUM DISK IN CONCRETE FOUND STAMPED "CITY OF SAN MARCOS"
 - DEED LINE

CURVE DATA

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	26°33'30"	344.66'	159.76'	S 70°33'37" W	158.34'
C2	77°41'05"	35.82'	48.56'	N 60°22'23" E	44.93'
C3	36°29'30"	280.00'	178.33'	S 21°44'50" E	175.33'
C4	2°01'56"	1500.00'	53.21'	S 02°29'07" E	53.20'
C5	14°22'20"	1085.00'	272.16'	S 08°39'19" E	271.45'
C6	36°24'39"	273.57'	173.85'	S 21°45'48" E	170.94'
C7	35°28'33"	618.18'	382.76'	S 70°39'34" W	376.67'

**PLAT OF
WOODLANDS OF SAN MARCOS**

BEING 44.66 ACRES, MORE OR LESS, IN THE J. M. VERAMENDI SURVEY NUMBER 2, ABSTRACT 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

OWNER:
DOVETAIL DEVELOPMENT LLC
1550 TIMOTHY ROAD, SUITE 201
ATHENS, GEORGIA 30606

DATE: JULY 15, 2013

SCALE: 1" = 100'



**BYRN &
ASSOCIATES, INC.**

ENGINEERS SURVEYORS

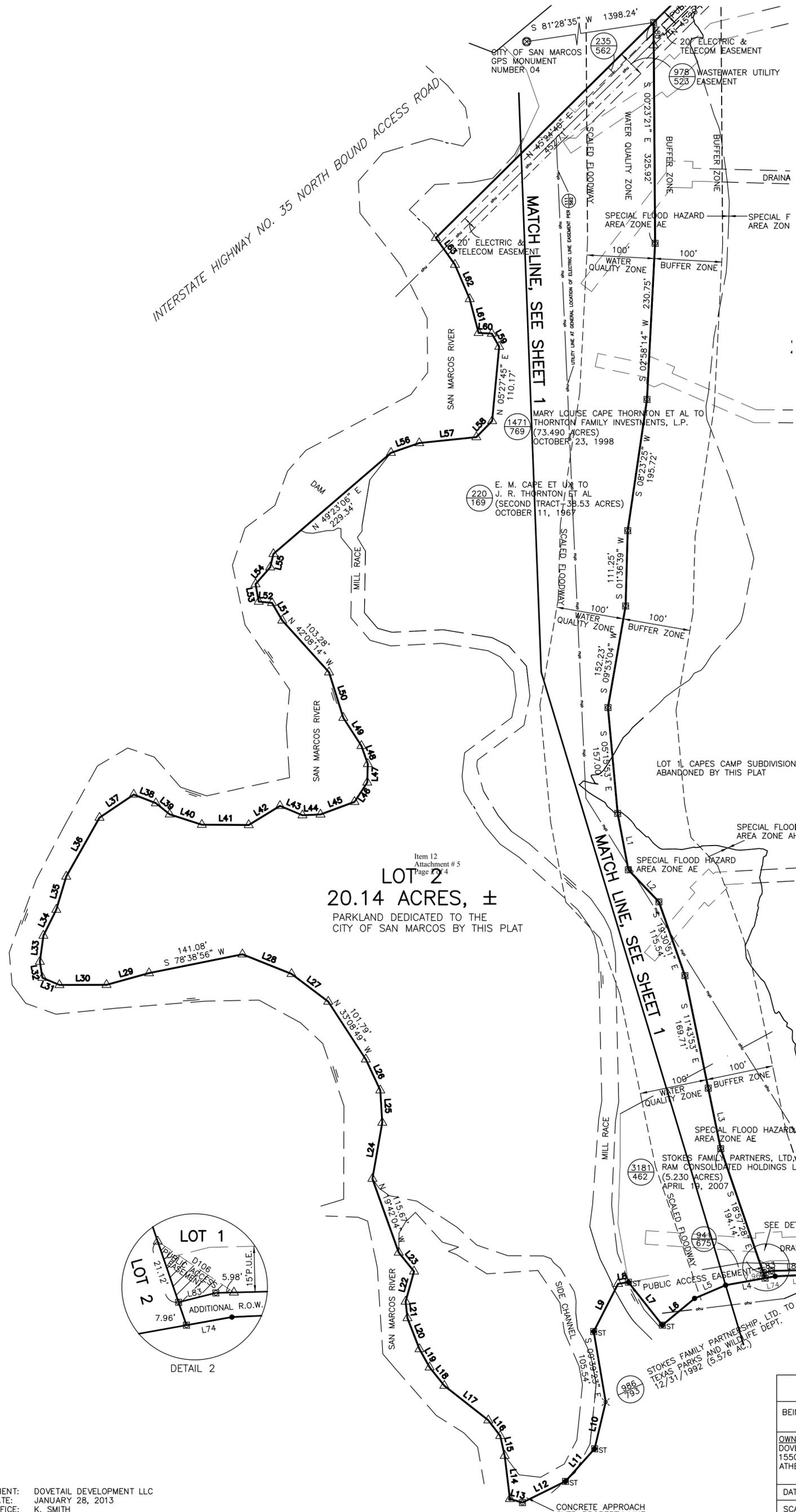
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945

CLIENT: DOVETAIL DEVELOPMENT LLC
DATE: JANUARY 28, 2013
OFFICE: K. SMITH
CREW: C. SMITH, HADEN
FB/PG: 643/68, 666/56, 704/40, 726/1
PLAT NO. 26582-13-c

ORIGINAL SCALE
1" = 100'

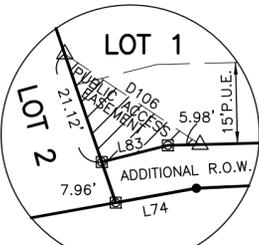


INTERSTATE HIGHWAY NO. 35 NORTH BOUND ACCESS ROAD



Item 12
Attachment # 5
Page 2 of 4

LOT 2
20.14 ACRES, ±
PARKLAND DEDICATED TO THE CITY OF SAN MARCOS BY THIS PLAT



LINE	BEARING	DISTANCE
L1	S 10°47'49" E	84.60'
L2	S 43°37'41" E	65.38'
L3	S 11°43'53" E	91.13'
L4	S 79°52'30" W	59.28'
L5	S 66°58'21" W	50.00'
L6	S 50°28'41" W	62.00'
L7	N 38°18'56" W	80.83'
L8	S 81°00'08" W	15.52'
L9	S 27°08'39" W	79.08'
L10	S 13°22'45" W	70.99'
L11	S 41°55'14" W	64.62'
L12	S 63°48'35" W	71.00'
L13	N 73°46'25" W	19.26'
L14	N 06°55'37" W	64.27'
L15	N 12°42'08" W	29.94'
L16	N 37°28'30" W	29.10'
L17	N 51°53'28" W	82.80'
L18	N 38°45'54" W	34.75'
L19	N 29°08'13" W	30.79'
L20	N 21°20'20" W	49.07'
L21	N 06°22'43" W	24.65'
L22	N 15°45'52" E	46.24'
L23	N 39°13'35" W	35.89'
L24	N 09°59'46" E	84.15'
L25	N 03°34'07" W	47.78'
L26	N 25°07'16" W	50.44'
L27	N 53°00'35" W	68.04'
L28	N 68°16'31" W	78.25'
L29	S 74°34'28" W	65.27'
L30	S 89°53'47" W	69.78'
L31	N 67°10'30" W	27.38'
L32	N 08°56'05" W	23.96'
L33	N 07°41'11" E	38.76'
L34	N 26°29'12" E	42.87'
L35	N 16°46'28" E	51.07'
L36	N 29°33'00" E	99.89'
L37	N 56°03'42" E	61.13'
L38	S 68°47'44" E	35.19'
L39	S 51°01'21" E	26.22'
L40	S 72°08'52" E	50.04'
L41	S 89°40'08" E	69.42'
L42	N 58°41'17" E	54.31'
L43	S 67°21'33" E	35.95'
L44	N 87°22'32" E	26.77'
L45	N 69°44'39" E	53.68'
L46	N 33°24'58" E	34.35'
L47	N 01°34'45" E	27.33'
L48	N 19°27'28" W	28.26'
L49	N 32°55'46" W	49.39'
L50	N 17°27'37" W	70.35'
L51	N 30°17'27" W	30.06'
L52	N 84°42'55" W	19.78'
L53	N 10°25'48" W	26.23'
L54	N 41°14'39" E	33.10'
L55	N 13°29'16" E	20.27'
L56	N 71°00'55" E	44.19'
L57	N 84°05'06" E	85.07'
L58	N 44°28'14" E	33.33'
L59	N 29°24'34" W	22.23'
L60	N 86°58'51" W	19.66'
L61	N 14°46'30" W	51.70'
L62	N 23°20'38" W	55.11'
L63	N 35°23'36" W	48.70'
L64	S 15°50'29" E	91.63'
L65	S 13°09'29" E	50.00'
L66	S 10°08'29" E	50.00'
L67	S 07°17'29" E	50.00'
L68	S 04°28'29" E	50.00'
L69	S 02°42'53" E	69.14'
L70	S 03°38'45" E	70.32'
L71	S 62°26'11" W	62.37'
L72	S 83°19'26" W	86.99'
L73	S 87°22'11" W	62.47'
L74	S 79°52'30" W	15.21'
L75	N 44°35'27" E	16.22'
L76	S 87°22'13" W	63.77'
L77	S 79°52'30" W	18.53'
L78	N 18°57'28" W	15.18'
L79	S 62°26'11" W	10.83'
L80	N 00°23'21" W	33.52'
L81	S 47°29'38" W	131.36'
L82	S 83°19'26" W	86.99'
L83	S 75°52'42" W	12.65'
L84	S 88°34'42" W	67.56'
L85	S 88°42'17" W	98.02'
L86	S 58°55'54" E	43.35'
L87	S 15°50'29" E	50.69'
L88	N 45°19'50" E	17.05'

PLAT OF
WOODLANDS OF SAN MARCOS

BEING 44.66 ACRES, MORE OR LESS, IN THE J. M. VERAMENDI SURVEY NUMBER 2, ABSTRACT 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

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DOVETAIL DEVELOPMENT LLC
1550 TIMOTHY ROAD, SUITE 201
ATHENS, GEORGIA 30606

DATE: JULY 15, 2013

SCALE: 1" = 100'

BYRN & ASSOCIATES, INC.
ENGINEERS SURVEYORS
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945

CLIENT: DOVETAIL DEVELOPMENT LLC
DATE: JANUARY 28, 2013
OFFICE: K. SMITH
CREW: C. SMITH, HADEN
FB/PG: 643/68, 666/56, 704/40, 726/1
PLAT NO. 26582-13-c

STATE OF TEXAS*
COUNTY OF HAYS*

I, WOODLANDS OF SAN MARCOS, LLC, ACTING BY AND THROUGH THOMAS W. SCOTT, III AS MANAGER OF HJT, LLC AS MANAGING MEMBER OF WOODLANDS OF SAN MARCOS, LLC, OWNER OF 44.66 ACRES OF LAND CONVEYED TO US IN VOLUME _____, PAGE _____ AND VOLUME _____, PAGE _____ OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND DESIGNATED AS WOODLANDS OF SAN MARCOS, SUBDIVIDE THIS PROPERTY AND DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS (INCLUDING PARKLAND DEDICATED IN FEE SIMPLE AND LABELED ON THIS PLAT AS LOT 2) WITH A RESERVATION OF DRAINAGE EASEMENTS AS INDICATED ON LOT 2), WATERCOURSES, DRAINS, EASEMENTS (EXCEPT THOSE EASEMENTS AND RIGHTS-OF-WAYS CREATED BY SEPARATE INSTRUMENT OR INDICATED AS PRIVATE) AND PUBLIC PLACES SHOWN ON THIS PLAT.

WOODLANDS OF SAN MARCOS, LLC
BY: THOMAS W. SCOTT, III
MANAGER OF HJT, LLC
AS MANAGING MEMBER OF WOODLANDS OF SAN MARCOS, LLC
1550 TIMOTHY ROAD, SUITE 201
ATHENS, GEORGIA 30606

STATE OF TEXAS*
COUNTY OF HAYS*

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED

_____, OWNER, 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 PURPOSE AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS ____ DAY OF _____, 20____.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES ON: _____

APPROVED AND AUTHORIZED TO BE RECORDED ON _____ DAY OF _____, 20____ BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SAN MARCOS.

BILL TAYLOR, CHAIRMAN
PLANNING AND ZONING COMMISSION

FRANCIS SERNA
RECORDING SECRETARY

APPROVED:

MATTHEW LEWIS, CNU-a, DIRECTOR
OF DEVELOPMENT SERVICES

DATE

CIP AND ENGINEERING

DATE

STATE OF TEXAS *
COUNTY OF HAYS *

I, LIZ GONZALEZ, COUNTY CLERK OF HAYS COUNTY, TEXAS, CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE ON THE ____

DAY OF _____, 20____ AT _____ O'CLOCK

____.M., AND RECORDED ON THE ____ DAY OF

_____, 20____ AT _____ O'CLOCK ____M., IN

THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN BOOK _____, AT PAGE _____.

LIZ GONZALEZ
COUNTY CLERK
HAYS COUNTY, TEXAS

I JENNIFER I. DERMANCI, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF ENGINEERING, AND HEREBY CERTIFY THAT THIS PLAT IS FEASIBLE FROM AN ENGINEERING STANDPOINT, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

JENNIFER I. DERMANCI, P.E.

DATE

REGISTERED PROFESSIONAL ENGINEER, NO. 109825

DOUCET & ASSOCIATES, INC.

7401 B HIGHWAY 71 WEST, SUITE 160

AUSTIN, TX. 78735

512-583-2600

KNOW ALL MEN BY THESE PRESENTS:

THAT I, DAVID C. WILLIAMSON, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THAT THE CORNER MONUMENTS SHOWN THEREON AS "SET" WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF SAN MARCOS.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE.

REGISTERED PROFESSIONAL LAND SURVEYOR
DAVID C. WILLIAMSON, R.P.L.S. NO. 4190

DEED REFERENCES

(111/562) E. M. CAPE TO TEXAS POWER & LIGHT COMPANY (TRANSMISSION & DISTRIBUTION LINE EASEMENT) JULY 15, 1936

(155/474) E. M. CAPE ET AL TO THE CITY OF SAN MARCOS (WATERLINE EASEMENT) MARCH 10, 1953

(179/382) E. M. CAPE ET AL TO THE CITY OF SAN MARCOS (WATERLINE EASEMENT) MARCH 10, 1953

(179/382) E. M. CAPE TO THE CITY OF SAN MARCOS (0.69 ACRES) JANUARY 20, 1959

(190/303) S. V. BINGHAM ET UX TO THE CITY OF SAN MARCOS (12' UTILITY EASEMENT) FEBRUARY 23, 1962

(209/247) S. V. BINGHAM ET UX TO HARVEY G. BINGHAM (15' DRIVEWAY EASEMENT) DECEMBER 30, 1965

(220/169) E. M. CAPE ET UX TO J. R. THORNTON ET AL (SECOND TRACT-38.53 ACRES) OCTOBER 11, 1967

(831/610) THE CITY OF SAN MARCOS TO JOHN J. STOKES (0.023 ACRES) MAY 31, 1990

(831/614) JOHN J. STOKES TO THE CITY OF SAN MARCOS (R.O.W. & P.U.E.-TRACTS "A" & "B") MAY 17, 1990

(941/675) JOHN J. STOKES & FRANCES B. STOKES TO STOKES FAMILY PARTNERS, LTD., (PROPERTY 2-0.607 ACRES) AUGUST 10, 1992

(978/533) J. R. THORNTON ET AL TO THE CITY OF SAN MARCOS (R.O.W. DRAINAGE & P.U.E.-0.272 ACRES) FEBRUARY 24, 1993

(1471/769) MARY LOUISE CAPE THORNTON ET AL TO THORNTON FAMILY INVESTMENTS, L.P. (73.490 ACRES) OCTOBER 23, 1998

(2268/483) FLORENCE ALLYN BINGHAM TO CLARA LOUISE CAPE TESTAMENTARY TRUST (0.7027 ACRES) JULY 18, 2003

(2920/295) ERNEST VALDEZ, JR., & BERNADINE VALDEZ TO GASPAR VENCES & OLGA VENCES (0.342 ACRES) MAY 10, 2006

(2999/324) CLARA L. CAPE TESTAMENTARY TRUST TO THE CITY OF SAN MARCOS (20' PUBLIC UTILITY EASEMENT) AUGUST 2, 2006

(3181/462) STOKES FAMILY PARTNERS, LTD. TO RAM CONSOLIDATED HOLDINGS LIMITED LIABILITY COMPANY (5.230 ACRES) APRIL 19, 2007

(3597/801) D2 POWER HOLDINGS, LLC, TO BENJAMIN J. KVANLI & MICHELLE CLEMENTS (0.833 ACRES & 0.0411 ACRES) MARCH 24, 2005

(3597/801) D2 POWER HOLDINGS, LLC, TO BENJAMIN J. KVANLI & MICHELLE CLEMENTS (0.0411 AC.) MARCH 24, 2005

(964/343) J. M. CAPE TO THE CAPE FAMILY LIMITED PARTNERSHIP DECEMBER 15, 1992 (0.252 AC.)

DRAINAGE DEDICATION CERTIFICATION

THE DRAINAGE/DETENTION EASEMENTS ON LOT 1 ARE DEDICATED TO THE CITY OF SAN MARCOS FOR THE PURPOSES OF RECEIVING AND CONVEYING ALL DRAINAGE AND WATER FLOWS INCLUDING UPGRADIENT STORMWATER; AND ALL DRAINAGE FACILITIES LOCATED THEREON, THEREIN OR THEREUNDER, INCLUDING BUT NOT LIMITED TO THE NETWORK OF CHANNELS, BOX CULVERTS AND STORMWATER LINES SHALL BE MAINTAINED BY THE OWNERS OF LOT 1 ALL IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF SAN MARCOS CODE, CHAPTER 7 OF THE LAND DEVELOPMENT CODE AS AMENDED AND ALL OTHER APPLICABLE LAWS AND REGULATIONS.

SURVEYORS NOTES

- 1. FENCES MEANDER.
- 2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
- 3. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0481F, DATED SEPTEMBER 2, 2005, PORTIONS OF THIS TRACT ARE WITHIN SPECIAL FLOOD HAZARD AREAS ZONE AE AND ZONE AH AND THE FLOODWAY OF THE SAN MARCOS RIVER.
- 4. THIS SURVEY WAS DONE IN CONJUNCTION WITH TITLE COMMITMENT G.F. NO. 1200535, DATED JANUARY 5, 2012 PROVIDED BY GRACY TITLE.
- 5. THIS TRACT IS SUBJECT TO THE RIGHTS OF THE STATE OF TEXAS UP TO THE GRADIENT BOUNDARY OF THE SAN MARCOS RIVER. THE WEST LINE OF THIS TRACT IS THE GRADIENT BOUNDARY OF THE SAN MARCOS RIVER. THEREFORE THIS BOUNDARY IS SUBJECT TO CHANGE DUE TO NATURAL CAUSES. THE POINTS SHOWN HEREON ARE ALONG THE LOW BANK AT OR NEAR THE WATER'S EDGE AND ARE AN APPROXIMATION OF THE GRADIENT BOUNDARY. THEREFORE AREAS ARE APPROXIMATE.
- 6. UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATED BASED ON ABOVE GROUND FEATURES, AVAILABLE MAPS, UTILITY PROVIDERS AND A UTILITY SHAPEFILE PROVIDED BY CITY OF SAN MARCOS PERSONNEL.
- 7. A 6 FOOT CONCRETE SIDEWALK IS REQUIRED ALONG RIVER ROAD AND CAPE ROAD TO BE PERMITTED AND CONSTRUCTED WITH COMPLETE SITE PREPARATION.
- 8. THIS SUBDIVISION IS SUBJECT TO THE PDD AGREEMENT WITH THE CITY OF SAN MARCOS, ORDINANCE 2013-13, APPROVED JANUARY 15, 2013.
- 9. THIS SUBDIVISION IS WITHIN THE CITY LIMITS OF SAN MARCOS, TEXAS.
- 10. THIS SUBDIVISION IS WITHIN THE BOUNDARIES OF THE SAN MARCOS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
- 11. THIS SUBDIVISION IS WITHIN THE BOUNDARIES OF THE SAN MARCOS RIVER CORRIDOR.
- 12. IN ACCORDANCE WITH SECTION 6.05 OF THE PLANNED DEVELOPMENT DISTRICT STANDARDS FOR THE WOODLANDS OF SAN MARCOS PDD (CITY OF SAN MARCOS ORDINANCE NO. 20121-03), A BLANKET EASEMENT ACROSS THE PROPERTY IS DEDICATED TO THE CITY OF SAN MARCOS FOR THE PURPOSES OF INSPECTING, TESTING AND MONITORING OWNERS MAINTENANCE OF PERMANENT BMP'S TOGETHER WITH THE RIGHT OF ACCESS FOR SUCH PURPOSES.
- 13. CLOMR NO. 13-06-2284C WAS APPROVED BY FEMA ON OCTOBER 17, 2013 REVISING THE BASE FLOOD ELEVATIONS AND REMOVING A PORTION OF THE PROPERTY OUT OF THE FLOODPLAIN.
- 14. LOT 1, CAPES CAMP SUBDIVISION HAS BEEN VACATED THROUGH DOCUMENT NO. _____.
- 15. NO SITE PERMITS SHALL BE ISSUED UNTIL A MAINTENANCE AGREEMENT IN A FORM ACCEPTABLE TO THE CITY FOR THE MAINTENANCE OF DRAINAGE IMPROVEMENTS PLACED ON LOT 2 FOR THE BENEFIT AND USE OF LOT 1 HAS BEEN EXECUTED AND RECORDED IN THE OFFICIAL RECORDS OF HAYS COUNTY.

CLIENT: DOVETAIL DEVELOPMENT LLC
DATE: JANUARY 28, 2013
OFFICE: K. SMITH
CREW: C. SMITH, HADEN
FB/PG: 643/68, 666/56, 704/40, 726/1
PLAT NO. 26582-13-c

PLAT OF
WOODLANDS OF SAN MARCOS
BEING 44.66 ACRES, MORE OR LESS, IN THE J. M. VERAMENDI SURVEY NUMBER 2, ABSTRACT 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

OWNER: DOVETAIL DEVELOPMENT LLC 1550 TIMOTHY ROAD, SUITE 201 ATHENS, GEORGIA 30606	
DATE: JULY 15, 2013	ENGINEERS SURVEYORS P.O. BOX 1433 SAN MARCOS, TEXAS 78667 PHONE 512-396-2270 FAX 512-392-2945
SCALE: 1" = 100'	

Agenda Information

AGENDA CAPTION:

MUD 14-01 (LaSalle Municipal Utility District #1) Consider the request of Michael Schroeder on behalf of LaSalle Holdings, Ltd. for consent to create LaSalle Municipal Utility District #1 on an approximately 234.4 acre site out of the William Hemphill Survey, generally located between IH 35 and SH 21 north of Yarrington Road, and provide a recommendation to the City Council regarding the request.

Meeting date: January 28, 2014

Department: Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

Big Picture Infrastructure

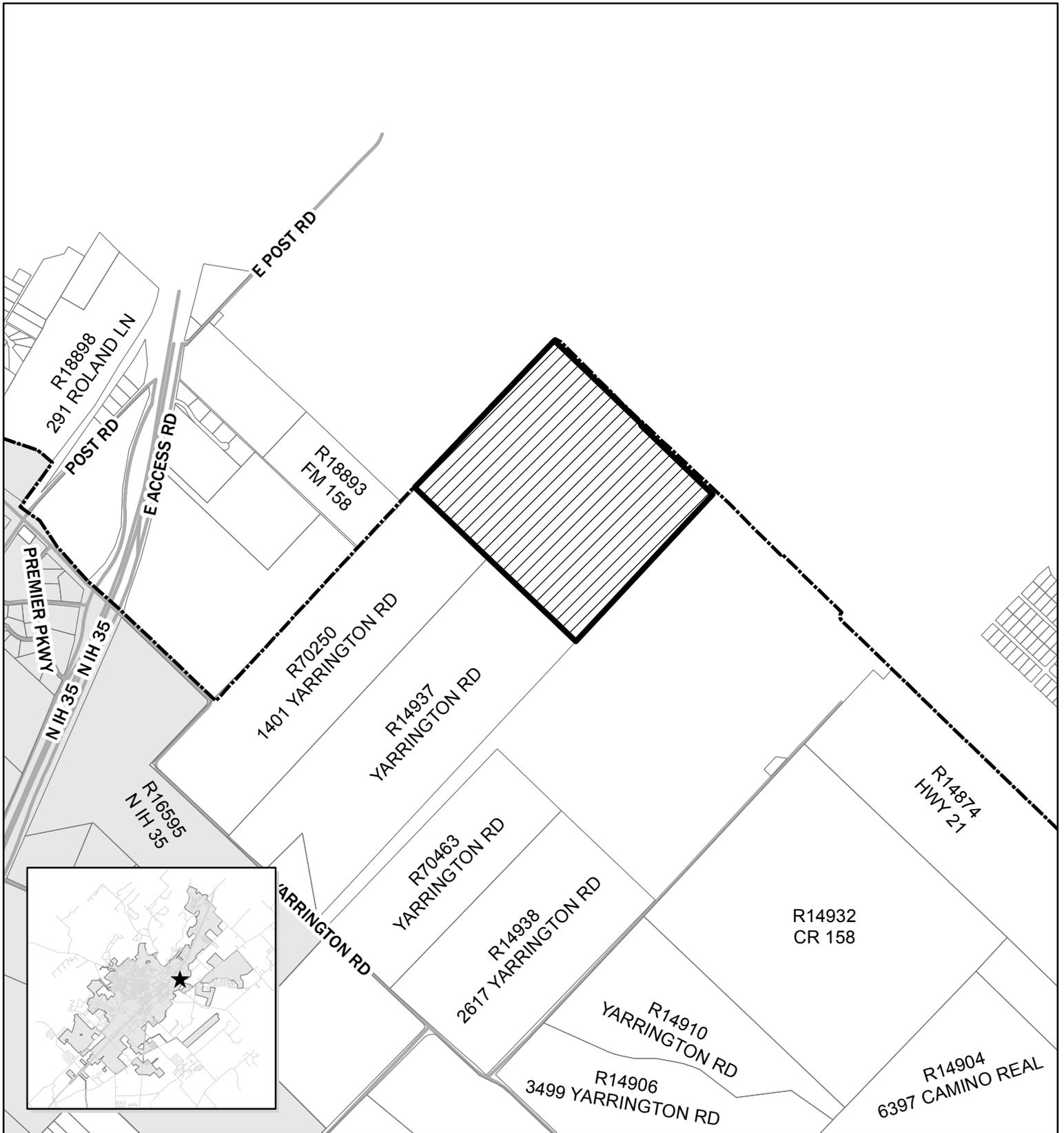
BACKGROUND:

LaSalle Holdings, Ltd. is requesting consent to create LaSalle Municipal Utility District #1. This property is not located within any City of San Marcos utility service areas and will be served by the City of Kyle. A preliminary engineering report is attached along with the consent agreement.

Staff recommends support of the consent agreement to create LaSalle Municipal Utility District #1 within the City of San Marcos ETJ with the condition that all requirements for the preparation of a market study and development agreement are met prior to development and Conditions and Criteria for Consent to Creation of Districts (Sec. 70.052) are met.

ATTACHMENTS:

Case Map
staff report
Consent Agreeemnt
Engineering Report
Ch 70 San Marcos Code



MUD-14-01

LaSalle #1

Map Date: 1/16/2014

-  Site Location
-  Notification Buffer (200 feet)
-  EJT
-  City Limits

0 1,200 2,400 4,800 Feet



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Municipal Utility District (MUD) MUD 14-01 LaSalle Municipal Utility District #1



Summary:

The applicant is requesting consent to form a Municipal Utility Districts within the City of San Marcos' Extraterritorial Jurisdiction. The approximately 235 acre tract is adjacent to the 1,437 acre site which was approved as four Municipal Utility Districts in April of 2013. The property is out of the William Hemphill Survey and is generally located between IH 35 and SH 21 north of Yarrington Road

Applicant:

Michael Schroeder, Manager
LaSalle Management, LLC
P.O. Box 163234
Austin, TX 78716

Andrew N. Barrett
Barrett & Associates, PLLC
3300 Bee Caves Road, Suite 650 #189
Austin, TX 78746

Owner:

LaSalle Holdings, Ltd.

Property/Area Profile:

Legal Description: A 234.4 acre site out of the William Hemphill Survey
Location: Between IH 35 and SH 21 north of Yarrington Road
Existing Use of Property: Vacant (ETJ)
Proposed Use of Property: Low Density Residential, Elementary School, Park
Preferred Scenario Map: ETJ
Existing Zoning: ETJ
Proposed Zoning: ETJ

Area Zoning and Land Use Pattern:

	Zoning	Existing Land Use	Future Land Use
N of Property	ETJ	Residential / Vacant	Kyle ETJ
S of Property	FD/ETJ	Vacant	Very Low and Low Density Residential / Commercial
E of Property	ETJ	Residential / Ag / Vacant	Very Low and Low Density Residential
W of Property	ETJ	Residential / Ag / Vacant	Very Low Density Residential / Kyle ETJ

Case Summary

LaSalle Holdings, Ltd owns unplatted, vacant land out of the William Hemphill Survey between IH 35 and SH 21 north of Yarrington Road. Following a positive recommendation from the Planning and Zoning Commission in April of 2013 the applicant received consent from City Council to create four Municipal Utility Districts (MUD) on approximately 1,400 acres for a residential and mixed use development. The MUDs were created by special act of the Texas Legislature in the same year. A 234.4 acre tract of the additional land to the west (MUD 1) was located within the City of Kyle Extraterritorial Jurisdiction (ETJ). With the City of Kyle consent, the applicant created the District through the Texas Legislature.

Since the initial approval of the four MUDs, the City of Kyle and the City of San Marcos negotiated a change to the ETJ boundary. This change relocated LaSalle MUD #1 to the City of San Marcos ETJ. At this time the applicant is requesting consent from the City of San Marcos for this MUD.

The City of San Marcos will not be providing water or wastewater service to the MUD. The MUD is located entirely within the City of Kyle's water and wastewater Certificated Area of Convenience and Necessity (CCN No. 11024 / CCN No. 20410) and will receive water and wastewater service from the City of Kyle.

The applicant has provided a preliminary engineering report addressing the existing conditions for topography, soils, etc. The report also addresses potential effects of development in accordance with TCEQ rules. The area is generally flat and the development is not anticipated to have major impacts to the environment.

This MUD is part of a larger project, including the four already approved MUDs, that is expected to develop over a period of 10 years, and a concept plan has been submitted. The entire development is proposed to have a future population of approximately 20,000 based on approximately 8,000 units of mixed residential densities. The development will also contain mixed use, commercial, school, parks and open spaces.

Financial estimates are provided in the preliminary engineering report for construction of on and off-site infrastructure as well as impact fees that will be due to the City of Kyle. In addition, the report details the estimated assessed value, total bondable cost recovery and projected tax rates for each of the districts. The projected tax rates range from \$0.85 to \$1.06. This development, which is not connecting to City of San Marcos utilities, is not anticipated to impact the costs of current San Marcos utility users.

The report notes economic development and job creation as a benefit of this project. It further states that the property owners are committed to following the City of San Marcos Comprehensive Plan which will be addressed in the development agreement. A development agreement and market study will be required to be completed prior to development of the property.

A Consent Agreement for these MUDs has been negotiated with the city manager and city staff. The consent agreement outlines the conditions under which the city is willing to consent to the creation of the district. Both the Consent Petition and the Consent Agreement are included in your packet. A brief summary of some of the main points contained in the Consent Agreement are:

- Provisions for automatic withdrawal and/or dissolution of the City's consent to the district if the district fails to meet certain requirements;
- Establishment of requirements and limitations on the issuance of bonds for district improvements;
- A requirement that a Master Development Fee of \$162,231 will be paid to the City from the Developer's reimbursement from the issuance of bonds;
- Agreement that the district's tax rates approximate but not be less than the city's ad valorem tax rate;
- Commitment that the district will enter into a development agreement for the development of the property (which will allow the city to impose its zoning and land use regulations on the property within the district as well as city codes relating to health and safety);
- Provision that the district will enter into a strategic partnership agreement within 180 days of the district's organizational meeting.

All aspects of land development will be addressed at a later date through a development agreement entered into with the Developer. No development may take place or permits issued until a development agreement is approved by the City and filed in the Hays County Deed Records.

Comments from other Departments:

The contents of the petition meet the requirements of Section 54.015 of the Texas Water Code.

Planning Department Analysis

The purpose of the policy relating to the creation of a Municipal Utility District according to Sec. 70.051 of the City of San Marcos Code of Ordinances are:

- Encourage quality development
- Allow the city to enforce reasonable land use and development regulations
- Provide for construction of infrastructure consistent with city standards and city inspection of such infrastructure
- Facilitate cost-effective construction of infrastructure consistent with city standards and city inspection of such infrastructure
- Provide notice to residents of the district that the city may annex the district at some future time
- Establish guidelines for reasonable conditions to be placed on 1) issuance of bonds; and 2) the City’s consent to creation of the district including conditions consistent with the city’s water and sewer bond ordinances regarding creation of districts that might otherwise detrimentally compete with the city’s utility systems
- Establish guidelines for other mutually beneficial agreements by the city and the district
- Provide a procedural framework for responding to a petition seeking the city’s consent to the creation of the district within the City’s municipal boundaries or ETJ.

If the City Council consents to the creation of a MUD then it should impose the following requirements as conditions of the city’s consent unless the city council determines that the requirements are not appropriate:

Evaluation			Conditions and Criteria for Consent to Creation of Districts (Sec. 70.052)
Consistent	Inconsistent	Neutral	
X			<p>1) The utility district shall contain acreage necessary to ensure the economic viability of the utility district but no more acreage than can be feasibly annexed at one time. In general a district is not expected to include less than 200 nor more than 500 acres.</p> <p><i>The proposed district is approximately 234.4 acres</i></p>
X			<p>2) The economic viability of the utility district must be shown in the same manner as required by the state.</p> <p><i>The engineering report addresses the economic viability</i></p>
X			<p>3) The consent ordinance and consent agreement must reflect and conform to all the applicable stipulations of this policy as adopted by the city council.</p> <p><i>The Legal Department has worked with the applicant to address conformity with City Codes</i></p>
X			<p>4) The city council must determine that the utility district is not likely to be annexed by the city or be served by city water and wastewater within three years. This determination shall not be binding on the city however.</p> <p><i>While adjacent to the city limits, it was determined that this property was not likely to be served by city utilities within three years.</i></p>

Evaluation			Conditions and Criteria for Consent to Creation of Districts (Sec. 70.052)
Consistent	Inconsistent	Neutral	
X			<p>5) When the city council receives a petition for creation of a utility district within the city's extraterritorial jurisdiction, it shall be evaluated in accordance with the master plan, the impacts of the utility district and the policy set forth in this division.</p> <p><i>The property is adjacent to the four previously approved LaSalle MUDs and Future Development zoning. This area is also adjacent to an Employment Center indicated on the Preferred Scenario.</i></p>
X			<p>6) It is in the city's preferred growth area</p> <p><i>The property is adjacent to the four previously approved LaSalle MUDs and Future Development zoning. This area is also adjacent to an Employment Center indicated on the Preferred Scenario.</i></p>
X			<p>7) The city does not support MUDS that are in industrial or commercial areas</p> <p><i>The MUD is located on vacant property and the corporate campus commercial area is not included in the MUD request</i></p>
X			<p>8) The districts ad valorem tax rate will approximate or exceed the city's rate</p> <p><i>The proposed tax rates approximate the city's rate</i></p>
X			<p>9) It must be located entirely within the city's extraterritorial jurisdiction</p> <p><i>The MUD included in this request is located in the city's ETJ</i></p>
X			<p>10) The city discourages the use of sewer package treatment plants</p> <p><i>An existing City of Kyle wastewater treatment plant will be utilized</i></p>
X			<p>11) It will require the developer(s) to contribute a portion of infrastructure without reimbursement by the MUD or the city</p> <p><i>All infrastructure will be extended from existing City of Kyle infrastructure</i></p>
		X	<p>12) The development supported by the MUD provides extraordinary public benefits (such as extension or enhancement of infrastructure, affordable housing, environmental improvement, public transportation facilities and open space). Whether development supported by the MUD provides sufficient public benefits should be determined by weighing the value of the benefits to the community and to the property in the MUD, against the costs to the city including delayed annexation. The city council will consider benefits including but [not] limited to:</p> <ul style="list-style-type: none"> a. Land use controls (including land plans) that otherwise would not be available in the city's ETJ b. Amenities that would not typically accompany a development with conventional financing c. Connectivity with other existing city infrastructure d. The potential for city capital improvements program funds to be redirected to other high priority needs by financing capital infrastructure with alternative MUD financing and by the application of post annexation surcharges e. School and public safety sites, and transportation infrastructure sufficient to meet development needs <p><i>The MUDs will require a development agreement to ensure the development provides the extraordinary public benefits.</i></p>

Additionally, the requirements of the Consent Agreement must be met.

Staff recommends support of the Consent Agreement to create LaSalle Municipal Utility District #1 within the City of San Marcos Extraterritorial Jurisdiction with the condition that all requirements for the preparation of a market study and development agreement are met prior to development and Conditions and Criteria for Consent to Creation of Districts (Sec. 70.052) are met.

Planning Department Recommendation:	
<input type="checkbox"/>	Approve as submitted
<input checked="" type="checkbox"/>	Approve with conditions or revisions as noted
<input type="checkbox"/>	Alternative
<input type="checkbox"/>	Denial

The Commission's Responsibility:

The Commission is required pursuant to Chapter 70, Section 70.102 of the San Marcos Code to review and make an advisory recommendation to the City Council regarding the city's consent and conditions on its consent. The recommendation of the Commission is forwarded to the city council.

A copy of Chapter 70 of the San Marcos Code is attached.

Prepared by:

Amanda Hernandez, AICP

Senior Planner

January 16, 2014

Name

Title

Date

CONSENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

This Consent Agreement (“Agreement”) is between the City of San Marcos, Texas (“the City”), a home-rule city located in Hays County, Texas, and LaSalle Holdings, Ltd. a Texas limited partnership (the “Developer”). City consents to the creation of one (1) municipal utility district to include approximately 236 acres of land, within the extraterritorial jurisdiction (“ETJ”) of the City of San Marcos, Texas. The name of the proposed District shall be the LaSalle Municipal Utility District No. 1 (the “District”). The District was created in the 83rd Legislative Session pursuant Texas Water Code Sections 49 and 54 by special act of the Texas legislature. The special act is codified in SUBTITLE F, TITLE 6, SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 8472.

INTRODUCTION

The Developer owns approximately 236 acres of land located within the extraterritorial jurisdiction of the City (the “Land”). The Developer desires to have the City’s consent to the creation of a municipal utility district.

The area is currently without an adequate waterworks system, wastewater system, or drainage system. The District will provide financing mechanisms to provide these items. Further, the District will assist in financing road improvements including the San Marcos Loop. Finally, the District may provide parks and open space.

The City has adopted an ordinance that regulates the creation and review of special districts within the City’s limits and its ETJ.

The City has determined that, pursuant to the terms of this Agreement, and the requirements of CHAPTER 70 OF THE SAN MARCOS CODE the City will benefit from: (i) the quality of the development that will result from the plan set forth in the Development Agreement; and (ii) the creation of the District to finance the water and wastewater and drainage systems for the District. The Developer has determined that, pursuant to the terms of this Agreement, it will benefit from: (i) the certainty and assurance of the development regulations applicable to the development of the Land under this Agreement; and (ii) the ability to obtain the financial commitments that are necessary for development of this scope to become competitive in the marketplace.

The City hereby finds that:

- (1) it is not likely to annex the District or serve the district within three (3) years from the date of the approval of this consent petition.
- (2) it is not likely that the City will service the District with water or wastewater;
- (3) the District is in the City’s preferred growth area;

- (4) the District is entirely within the city's extraterritorial jurisdiction;
- (5) the development supported by the District provides the following extraordinary public benefits:
 - a. The City will receive a total of \$164,231 out of the net Developer reimbursement from the proceeds from the issuance of bonds in conjunction with the District;
 - b. The City may impose a sales and use tax on all eligible property within the District and receive sixty percent (60%) of the revenue collected through a Strategic Partnership Agreement as provided in Section 2.02(a) herein;
 - c. City's land use controls will apply within the District pursuant to a Development Agreement;
 - d. In conjunction with the District, the City will receive parkland and public improvements will be constructed in accordance with the City's Land Development Code.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the parties contract as follows.

ARTICLE I DEFINITIONS

Section 1.01. Definitions. In addition to the terms defined elsewhere in this Agreement or in the City's ordinances, the following terms and phrases used in this Agreement will have the meanings set out below:

Agreement: This Consent Agreement between the City of San Marcos, Texas and the Developer.

Bonds. As used throughout this Agreement, "bonds" includes notes and other obligations.

City: The City of San Marcos, Texas, a home rule city located in Hays County, Texas.

Commission: The Texas Commission on Environmental Quality or its successor state agency.

Developer: LaSalle Holdings, Ltd., a Texas Limited Partnership, or its successors and assigns under this Agreement.

Development Agreement: The Development Agreement concerning the LaSalle Project, as amended from time to time by the parties.

District: The financing district known as LaSalle MUD No. 1 created by special act of the 83rd Texas Legislature over the portion of the Land described by metes and bounds in Exhibit A.

Effective Date: The last date when one or more counterparts of this Agreement, individually or taken together, bear the signature of the City and the Developer.

Land: Approximately 236 acres of land located in the City's extraterritorial jurisdiction, described by metes and bounds on Exhibit A.

ARTICLE II DISTRICT CREATION

Section 2.01. Consent to Creation of District. The City acknowledges receipt of the Developer's request, in accordance with SECTION 54.016 OF THE TEXAS WATER CODE AND SECTION 42.042 OF THE TEXAS LOCAL GOVERNMENT CODE, for creation of a financing district (the "District") over the Land that may exercise all powers granted by CHAPTERS 49 AND 54 OF THE TEXAS WATER CODE. On the Effective Date of this Agreement, the City has approved the ordinance attached as Exhibit B, consenting to the inclusion of the Land described on Exhibit A within the District. The City agrees that this ordinance will be deemed to constitute the City's consent to the creation of the District within its extraterritorial jurisdiction. No further action will be required on the part of the City to evidence its consent however, the City agrees to provide any additional confirmation of its consent that may be required by the Developer or the District if requested to do so.

Section 2.02. Strategic Partnership Agreement.

(a) At the organizational meeting of the District's Board, the Board will authorize the negotiation and execution of a Strategic Partnership Agreement setting forth the terms and conditions of the City's annexation of the Land for limited purposes and the terms and conditions upon which the District will be converted to a limited district that will continue to exist following the City's full purpose annexation of all of the land within the District in accordance with Section 43.0751, TEXAS LOCAL GOVERNMENT CODE, and the Enabling Legislation. The Strategic Partnership Agreement shall permit the City to impose a sales and use tax on all eligible commercial and retail activities in areas annexed for limited purposes at the same rate it is imposed within the City as authorized under CHAPTER 321 OF THE TAX CODE and imposed by the City, and that the City shall pay to the District an amount equal to forty percent (40%) of the Sales and Use Tax revenues collected and paid to the City as reflected in sales tax reports provided by the Comptroller to the City and City will retain the remainder (60%).

The Strategic Partnership Agreement must be approved by the District and an original, executed by the District, returned to the City not later than 180 days after the organizational meeting of the Board. The SPA shall be limited in scope to provide for limited purpose and full purpose annexation and sales and use tax. It shall not contain any land development or other related matters.

(b) The District may not issue bonds until a Strategic Partnership Agreement is negotiated and approved by the City and the District, and an original Strategic Partnership Agreement executed by the District, returned to the City.

Section 2.03. General

a. The Developer shall submit to the City a satisfactory review of the Developer's financial position, certified by a third-party financial analyst. This requirement is satisfied by submitting a copy of the District's annual audit to the City when the audit is required by TCEQ rule.

b. All records, files, books, information, etc., of the District shall be a matter of public record and available for city inspection at all times.

Section 2.04. Expiration; Dissolution. The City's consent to the creation of the District shall be deemed withdrawn if:

(a) formal approval of the District is not granted by the state within 24 months after the date of the ordinance granting the City's consent;

(b) developer fails to commence substantial construction of improvements within the District within five (5) years after the date of the ordinance granting the City's consent;

The City's consent shall be deemed withdrawn and the District shall be dissolved if:

(a) The District has not held a confirmation election within two (2) years from the date of its creation by legislature; or

(b) upon the expiration of ten (10) years from the date of its creation if the District has been inactive for five consecutive years which means that the District has not performed any of the functions for which it was created, and the District has no outstanding bonded indebtedness.

Section 2.05. Annexation by the District. The District may not annex any additional land into its boundaries without the prior written consent of the City. Provided, however, that a district created pursuant to this Agreement or a resulting district may annex property that is within the boundaries of the Land. Any land annexed into the District must be located entirely within the city's ETJ.

The District and any resulting District and the Developer, on behalf of itself and respective successors and assignees, covenant and agree that, except upon written consent of the City, neither the District and any resulting district nor the Developer will: (1) seek or support any effort to incorporate the Land or any part thereof; or (2) sign, join in, associate with, or direct to be signed any petition seeking to incorporate the Land or seeking to include the Land within the boundaries of any other special district, assessment jurisdiction, other municipality, or any other incorporated entity other than the City.

Section 2.06. Administrative Fee and Master Development Fee.

(a) As additional consideration for this Agreement, the Developer shall pay the City an Administrative Fee and a Master Development Fee, which amounts will be full payment to the City of all fees due to the City in connection with the approval of this Agreement, but which is in addition to any other applicable City fees and sums due under the Development Agreement.

(b) Administrative Fee. An Administrative Fee of \$1,642 shall be paid to the City by the Developer on or before the Effective Date of this Agreement. This fee shall be for the sole use and benefit of the City for any purpose as the City in its discretion may decide.

(c) Master Development Fee. A Master Development Fee of \$164,231.00 shall be paid to the City out of the net Developer reimbursement from the proceeds from the issuance of bonds by the District and any resulting district at the rate of 5% of each net bond reimbursement received by the Developer from the District, and any resulting district, if any, in accordance with the formula attached hereto as Exhibit D.

The City, the Developer and the District and any resulting district agree that the payment of the Master Development Fee is to be paid from the net Developer reimbursement from the proceeds of bonds issued by the District and any resulting district in conjunction with the closing of each such series of bonds but in any event not later than 30 days from the date of closing on a series of bonds. To the extent the full amount of the Master Development Fee is not paid by the 10th anniversary of the Effective Date of this Agreement, the percentage of net Developer reimbursement from each series of bonds is subject to increase as the City may determine.

(d) Assignment. The Developer hereby makes a partial assignment of its reimbursement rights to the City, as evidenced by Exhibit D attached hereto and made a part hereof for all purposes. No assignment of Developer's reimbursement rights shall be effective unless and until the City receives notice of such assignment accompanied by a fully executed Partial Assignment of Reimbursement Rights pursuant to which the City has a right to receive the Master Development Fee payable out of developer reimbursements as bonds are issued in accordance with this Agreement

Section 2.07. Bonds. The District shall have authority to issue bonds for its water, wastewater, drainage and roadway projects, as well as parks and recreational facilities, and other matters such as organizational costs, operation and maintenance, interest during construction, etc., subject to, and allowed by, the Commission rules. Bonding of land or easements necessary for Districts' projects shall be subject to the limitations set forth in the San Marcos Code as of the date of this Agreement. The Districts, including resulting districts, shall not issue bonds to provide services to land or projects outside the boundaries of the Districts. Bonds issued for one purpose shall not be used for another purpose except for surplus funds in a bond issue which surplus funds result from lower interest rate costs or lower project costs and as approved in accordance with Commission rules for the use of surplus bond funds; or TCEQ approved change in scope of authorized bond funds.

**ARTICLE III
DEVELOPMENT PLAN, PARKS AND ROADWAYS**

Section 3.01. Land Use. Developer agrees to enter into a Development Agreement with the City to delay annexation of the District by the City, establish certain restrictions and commitments imposed and made in connection with the development of the District in order to provide increased certainty to Developer and City concerning the development approval process and the development requirements of the City for a period of years; and to identify land uses and other aspects of the development of the District under the authority granted by SECTION 212.172 OF THE TEXAS LOCAL GOVERNMENT CODE. The Development Agreement must be executed by Developer, approved by City and filed in the Hays County Deed Records prior to any development of the land within the Project or any issuance of permits to develop the Land.

The Land shall be developed in accordance with the standards and requirements set forth in the Development Agreement.

The City accepts the Conceptual Land Plan submitted in the Developer's Preliminary Engineering and Creation Report (Revised January 2013) to illustrate the general proposed land uses. Notwithstanding the foregoing, any proposed development of the Property shall be subject to and governed by the terms of the City's Land Development Code and a Development Agreement which will supersede and replace the Conceptual Land Plan.

Section 3.02 Parks and Open Space. Park and open space and shall be dedicated in accordance with the Development Agreement.

Section 3.03. Roadway improvements, right-of-way, easements and other land dedications. Roadway improvements, right-of-way and the traffic plan shall also be developed in accordance with the Development Agreement. All rights-of-way for roads, and easements including but not limited to utility and drainage easements shall be dedicated to the public in accordance with the Development Agreement.

**ARTICLE IV
WATER AND WASTEWATER, AND OTHER MUNICIPAL SERVICES**

Section 4.01. Water Services. Water service to the District shall be provided by third parties that hold the CCN to serve areas of the District within its service boundary. Currently, the City of Kyle holds the Certificate of Convenience and Necessity ("CCN") over most of the property and it is anticipated that it will provide water to the Land in conjunction with any other CCN holders.

Section 4.02. Wastewater Services. Retail wastewater service to the District shall be provided by a third party. It is anticipated that the City of Kyle will provide that service.

Any wastewater treatment plant constructed in whole or in part with bond proceeds will be subject to review and comment by the San Marcos City Council prior to the issuance of the state permit or any amendment thereto. Any wastewater treatment package plant

designed and constructed to provide wastewater service to the District will be designed to be capable of and shall treat wastewater to tertiary standards. Further, the District's package plant shall meet or exceed the effluent limitations (5.5.2.1) and minimum self-monitoring requirements (5) times per week for CBOD, TSS, Ammonia Nitrogen and Total Phosphorus; and daily for E. coli bacteria, colonies per 100 ml) contained in City of San Marcos' TPDES Permit. Any wastewater treatment package plant providing wastewater service to the District shall be operated by Class A wastewater operator on a full-time basis. "Full time basis" does not mean an operator has to be on site for 40 hours per week but must monitor the plant as required by State of Texas regulation and meet or exceed the self-monitoring requirements in San Marcos' TPDES Permit, or meet requirements established by separate agreement with the City.

Section 4.03. Connection of Utilities. The District shall comply with TEXAS LOCAL GOVERNMENT CODE §212.012 and TEXAS WATER CODE §54.106 regarding connection of utilities.

Section 4.04 Ownership, Maintenance and Operation of Roadways. All Roadways will be dedicated to the public and maintained by Hays County.

Section 4.05 City Services. No City services, other than services related to planning and zoning (including environmental quality), enforcement of planning and zoning regulations (including environmental regulations), and any other services that the City may agree to provide under separate contract with the District or the Developer will be provided to any area within the District boundaries prior to the City's annexation of such land for full purposes.

ARTICLE V AUTHORITY

Section 5.01. Authority. This Agreement is entered into under the statutory authority of SECTION 54.016 OF THE TEXAS WATER CODE AND SECTIONS 42.042 AND 212.172 OF THE TEXAS LOCAL GOVERNMENT CODE. The parties intend that this Agreement guarantee the continuation of ETJ status of the Land within the District; authorize certain general uses and development on the Land; provide for infrastructure for the Land; specify the uses and development of the Land after annexation; and provide other lawful terms and considerations relating to the Land.

ARTICLE VI ISSUANCE OF BONDS; SETTING TAX RATES:

Section 6.01. Issuance of Bonds; The District and any resulting district may issue Bonds as permitted by SECTION 70.053 OF THE SAN MARCOS CODE and this Agreement, as each may be amended from time to time. TCEQ administrative rule 30 TAC 293.47 shall apply in determining the bonding allowed for water, wastewater and drainage. Except as authorized by this Agreement, the District and any resulting district shall not issue Bonds without the prior approval of the City Council and not until the

documents required by Article II are executed in accordance therewith. Bonds shall be issued only for the purposes authorized in this consent agreement and bonds authorized for one purpose shall not be used for another purpose.

Section 6.02. Bond Requirements. The District and any resulting district shall obtain all necessary authorizations for Bonds in accordance with this Agreement and with CHAPTER 70, SECTION 70.053 OF THE SAN MARCOS CODE. To the extent of a conflict with SECTION 70.053 OF THE SAN MARCOS CODE, this Agreement shall control. All Bonds, including refunding bonds, issued by the District and any Resulting District shall comply with the following requirements:

- (a) Maximum maturity of 25 years from the date of issuance for any one series of Bonds; and
- (b) The net effective interest rate will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one month period immediately preceding the date that the notice of sale of such Bonds is given; and
- (c) The Bonds shall expressly provide that the District and any resulting district shall reserve the right to redeem Bonds at any time beginning not later than the tenth (10th) anniversary of the date of issuance, without premium. No variable rate Bonds shall be issued by the District and any resulting district; and
- (d) Any refunding Bonds of the District and any resulting district must provide for a minimum of three percent (3%) present value savings, and, further, must provide that the latest maturity of the refunding Bonds may not extend beyond the latest maturity of the refunded Bonds; and

Section 6.03 Economic Feasibility. At least thirty (30) days before the issuance of bonds, except refunding bonds, the District's financial advisor shall certify in writing that the bonds are being issued within the existing economic feasibility guidelines established by the TCEQ for the districts issuing bonds for water, sewer or drainage facilities in Hays County and shall deliver such certification to the City Manager and the City Clerk. The District and all Resulting Districts agree to provide a copy of TCEQ Bond Order and Memo prior to issuance to reduce cost to District.

Section 6.04. Notice of Bond Issues. At least thirty (30) days before the issuance of bonds, the District or any resulting district shall deliver to the City Manager and City Attorney notice containing: (a) the amount of Bonds being proposed for issuance; (b) a general description of the projects to be funded by such bonds; and (c) the proposed debt service tax rate after the issuance of the Bonds.

If the District and any resulting district is not required to obtain TCEQ approval of the issuance of the Bonds (other than refunding bonds), the District and any resulting district

shall deliver such other notice required in this Section at least sixty (60) days prior to the issuance of Bonds. Within thirty (30) days after the District or any resulting district closes the sale of a series of bonds, the District or resulting district shall deliver to the City Manager a copy of the final official statement for such series of bonds. If the City requests additional information regarding such issuance, the District or resulting district shall promptly provide such information at no cost to the City.

Section 6.05. Compliance with Agreements. At least thirty (30) days before issuance of Bonds, the District and any resulting district shall certify in writing that it is in substantial compliance with the consent resolution approved by the city council, the consent agreement, and to the extent such agreements impose requirements on the District, with the consent agreement and all other agreements executed by the City and the District and shall promptly deliver such certification to the City Manager, and City Clerk.

Section 6.06. Certifications. With respect to any matter required by this Article VI to be certified in writing, the Agreement also requires, and the District and any resulting district hereby warrants, that every statement in any certification shall be true and correct in all material respects and that the person signing the certification has been given the requisite authority to do so on behalf of such district.

Section 6.07. Tax Rate. The District's and any resulting district's Tax Rate will approximate but not be less than the City's tax rate.

Section 6.08. Notice of Tax Rate. The District and any resulting district shall send a copy of the order or other action setting an ad valorem tax rate to the City Manager, and City Clerk within thirty (30) days after District's adoption of the rate.

Additional Requirements relating to Bonds:

The District shall provide copies of any material event notices filed under applicable federal securities laws or regulations to the city manager and city attorney within thirty (30) days after filing such notices with the applicable federal agency.

Before the District issues bid invitations for its bonds, the city council shall have the right of review of all bond issues and sales, including bond prices, interest rates and redemption premiums, and copies of all documents submitted to state agencies shall be concurrently submitted to the City. Provided, however, that the city council must provide any comments within 30 days of receiving the bid invitations.

No bond funds shall be expended or bonds issued to provide service outside the District boundaries without the prior consent of the City Council.

The District shall prepare for and submit to the City annual reports on the status of construction and bond sales.

ARTICLE VII TERM, ASSIGNMENT AND REMEDIES

Section 7.01. Term.

a. As between the City and the Developer, the term of this Agreement will commence on the Effective Date and continue for 20 years thereafter, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City and the Developer. Upon the expiration of 20 years, this Agreement may be extended, at the Developer's request and with City Council approval, for up to two successive ten-year periods.

b. As between the City and the District, the term of this Agreement will commence on the date that the District Board of Directors executes this Agreement and will continue for 40 years thereafter, unless the District is annexed by the City on an earlier date.

Section 7.02. Assignment.

a. The rights and obligations of the Developer under this Agreement may be assigned by the Developer in accordance with the provisions of Section 7.02(b) and (c).

b. If the Developer assigns its rights and obligations hereunder as to a portion of the Land, then the rights and obligations of any assignee and the Developer will be severable, and the Developer will not be liable for the nonperformance of the assignee and vice versa. However, Developer will continue to be responsible and liable for all obligations up to the effective date of the assignment. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance.

c. Developer, as Owner, may assign this Agreement and including any obligation, right, title or interest of Developer under this Agreement, to the District or any resulting district (after the District Confirmation Date), and to any person or entity (an "Assignee") provided that the following conditions are satisfied: (1) the City has also given its written consent to allow the Assignee to assume all of the obligations of the Developer under the Development Agreement as amended; (2) if not the District or resulting district, Assignee is a successor owner of all or any part of the Land or is a lender to a successor owner of all or any part of the Land; (3) if not the District or any resulting District, Assignee has a contractual right to be reimbursed for water, sewer or drainage improvements from Bonds (or has a lien or other security interest in such reimbursements); (4) the assignment is in writing executed by Developer, as Owner, Assignee and the City in the form of assigned attached as Exhibit D; (5) Assignee expressly assumes in the assignment any assigned obligations and expressly agrees in the assignment to observe, perform, and be bound by this Agreement to the extent this Agreement relates to the obligations, rights, titles, or interests assigned; (6) Developer is then in compliance with all terms and conditions of the Development Agreement as amended; (7) a copy of the executed assignment is provided to all Parties within 15 days after execution; and (8) Assignee has executed a Partial Assignment of Reimbursement Rights in favor of the City in substantially the same form as Exhibit D. Provided all of the foregoing conditions are satisfied, from and after the date the assignment is executed by Developer and Assignee, the City agrees to look solely to Assignee for the performance of all obligations assigned to Assignee and agrees that Owner shall be released from performing the assigned obligations and from any liability that results from the Assignee's failure to perform the assigned obligations. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the

assignment. Owner shall maintain written records of all assignments made by Owner (including, for each Assignee, the Notice information required by this Agreement, and including a copy of each executed assignment) and, upon written request from any Party or Assignee, shall provide a copy of such records to the requesting person or entity.

It is specifically intended that this Agreement as may be amended, and all terms, conditions and covenants herein, shall survive a transfer, conveyance, or assignment occasioned by the exercise of foreclosure of lien rights by a creditor or a Party, whether judicial or non-judicial. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and Assignees. Notwithstanding the foregoing, however, Developer shall not have the right to assign this Agreement, or any right, title, or interest of Owner under this Agreement, until the District and all resulting districts have become a Party.

d. This Agreement is not intended to be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Land.

Section 7.03. Remedies. In the event of default by any party, a non-defaulting party may give the defaulting party written notice specifying the default (the “Notice”). If the defaulting party fails to fully cure any default that can be cured by the payment of money (“Monetary Default”) within 30 days after receipt of the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 30 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, then the other party shall be entitled to a proper writ issued by a court of competent jurisdiction compelling and requiring the defaulting party to observe and perform the covenants, obligations and conditions described in this Agreement. The non-defaulting party may employ attorneys to pursue its legal rights and if it prevails before any court or agency of competent jurisdiction, the defaulting party shall be obligated to pay all expenses incurred by the non-defaulting party, including reasonable attorneys’ fees not to exceed the usual and customary rate charged by the City attorney.

No Bonds shall be issued during any period in which Developer is not in compliance with any court order compelling performance under this Agreement as amended. Further, during the cure period and continuing until the default or breach is cured, the District is prohibited from taking any affirmative act to issue Bonds until the default or breach has been cured. The City shall have all rights to enjoin the issuance of Bonds during any period during which a default or breach remains uncured under this Section. If Developer fails to cause the District to cure any default or breach, Developer shall not enter into any agreements with the District or seek reimbursement from the District for any expenses incurred in connection with the District or the development of the Land until the default or breach has been cured

Section 7.04. Cooperation.

a. The City, the Developer, and the District each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

b. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, the City, the Developer, and the District agree

to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Agreement.

**ARTICLE VIII
MISCELLANEOUS PROVISIONS**

Section 8.01. Notice. Any notice giver under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing “next day deliver”, addressed to the party to be notified and with all charges prepaid; (iii) personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or 3 days after the date of mailing. Notice given in any other manner will be effective only when received. For purposed of notice, the addresses of the parties will, until changed as provided below, be as follows:

City:	City of San Marcos 630 East Hopkins San Marcos, Texas 78666 Attn: City Manager
With Required Copy to:	City Attorney, Legal Department 630 East Hopkins San Marcos, Texas 78666
Developer:	Mike Schroeder Managing Member LaSalle Holdings, Ltd. 6109 FM 390N Brenham, TX 77833 USA
With a Copy to:	Andy Barrett Andy Barrett and Associates, PLLC 3300 Bee Cave Road, Suite 650 #189 Austin, Texas 78746
District:	Matt Kutac 3300 Bee Cave Road, Suite 650 #189 Austin, Texas 78746

The parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days’ written notice to the other party. The

Developer and the District may, by giving at least five (5) days' written notice to the City, designate additional parties to receive copies of notices under this Agreement.

Section 8.02. Severability; Waiver.

a. If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

b. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 8.03. Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement are governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Hays County, Texas.

Section 8.04. Entire Agreement. This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties. This Agreement supersedes all other agreements between the parties concerning the subject matter.

Section 8.05. Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Whenever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the parties.

Section 8.06. Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Section 8.07. Authority for Execution. The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its

City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on behalf of the Developer.

Section 8.08. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A - Metes and Bounds Description of the Land
- Exhibit B - District Consent Ordinance
- Exhibit C - Master Development Calculation Form
- Exhibit D - Assignment and Assumption Agreement

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the dates indicated below:

SIGNATURE PAGES FOLLOW

City of San Marcos

By: _____
Daniel Guerrero, Mayor

ATTEST:

Jamie Lee Pettijohn
City Clerk

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me the _____ day of _____, 2014 by _____ of the City of San Marcos, Texas, a home-rule city, on behalf of the City.

Notary Public, State of Texas

Printed Name: _____

My Commission Expires: _____

LaSalle Holdings, Ltd.
a Texas Limited Partnership

By: LaSalle Management, LLC
a Texas limited liability company
its General Partner

Name: _____
Title: Manager

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

This instrument was executed by Michael Schroeder, as the in his capacity as an authorized representative of LaSalle Holdings, Ltd., before me on this, the ___ day of _____, 2014.

Notary Public, State of Texas

Printed Name: _____

My Commission Expires: _____

EXHIBIT A

[Metes and Bounds Description of the Land]

HOLT CARSON, INC.
PROFESSIONAL LAND SURVEYORS
1904 FORTVIEW ROAD
AUSTIN, TEXAS 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084
www.hciaustin.com

DESCRIPTION of 236.03 acres out of the William Hemphill Survey, Abstract No. 221, Hays County, Texas, being a portion of that 765.035 acre tract, conveyed to LaSalle Holdings, Ltd. by deed recorded in Volume 2909, Page 684 of the Official Public Records of Hays County, Texas; the said 236.03 acre tract is more particularly described as follows:

BEGINNING at a calculated point for the most northerly corner of the herein described tract, being the most northerly corner of the aforesaid 765.035 acre tract;

THENCE, with the common northeast line of the said 736.035 acre tract, being along the centerline and southwest right-of-way line of County Road 158, for the following four (4) courses:

- 1) S46°59'19"E, 1823.83 feet to a calculated angle point;
- 2) S43°24'50"W, 19.98 feet to a calculated angle point;
- 3) S46°53'13"E, 1513.88 feet to a calculated angle point for the most easterly corner of the herein described tract;
- 4) S43°15'36"W, 9.13 feet to a calculated angle point for corner;

THENCE, S42°11'14"W, leaving the southwest right-of-way line of said County Road 158, across the said 765.035 acre tract, for a distance of 3046.20 feet to a calculated point on the westerly line of the said 765.035 acre tract, being the most easterly corner of that 468.288 acre tract, described as Parcel 1 – Tract 2, conveyed to FM 158 Land, Ltd. by deed recorded in Volume 2702, Page 613 of the said Official Public Records;

THENCE, with the common line between the said 765.035 acre tract and the 468.288 acre tract, for the following three (3) courses:

- 1) N46°30'07"W, 487.13 feet to a calculated angle point;
- 2) N47°10'05"W, 1456.13 feet to a calculated angle point;
- 3) N47°05'42"W, 1442.73 feet to a calculated point for the most westerly corner of the said 765.035 acre tract, being on the southeast line of Quail Ridge Subdivision, a subdivision recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas;

THENCE, N42°43'31"E, with the northwest line of the said 765.035 acre tract, for a distance of 3080.78 feet to the POINT OF BEGINNING, CONTAINING 236.03 acres of land area.

EXHIBIT B

DISTRICT CONSENT ORDINANCE

EXHIBIT C

Master Development Fee Calculation Form

TOTAL DISTRICT BONDS SOLD	\$ _____
Less:	
Surplus and Escrowed Funds	\$ _____
Non-Construction Costs:	
Legal and Financial Advisory Fees:	\$ _____
Interest Costs:	
Capitalized Interest	\$ _____
Developer Interest	\$ _____
Bond Discount	\$ _____
Administrative and Organization (including creation costs and operating advances)	\$ _____
Bond Application, Market Study, and other bond issuance costs	\$ _____
TCEQ Bond Issuance Fee	\$ _____
Application, Review and Inspection Fees	\$ _____
Site Costs	\$ _____
Off-Site Costs	\$ _____
Total Deductions:	\$ _____
 NET DEVELOPER REIMBURSEMENT AMOUNT	 \$ _____*

MASTER DEVELOPMENT FEE PERCENTAGE: MASTER DEVELOPMENT FEE
AMOUNT:

X 5%

\$._____

* based upon costs approved for reimbursement under applicable TCEQ rules, and an audit of
developer reimbursables performed at the time of each Bond issue

EXHIBIT D

**ASSIGNMENT AND ASSUMPTION
AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made and entered into as of the _____ day of _____ between _____ a _____ ("Assignor"), and _____ a _____ ("Assignee") (Assignor and Assignee are hereinafter sometimes collectively referred to as the "Parties" and singularly as a "Party").

RECITALS:

A. Assignor is the owner of the rights of the Owner under that certain "Consent Agreement" (the "Agreement") effective as of _____, among **LaSalle, Holdings, Ltd.**, a Texas limited partnership, its successors and assigns, collectively as Owner, the City of San Marcos, Texas, as the City, and LaSalle Municipal Utility District No. 1, as the District, relating to the creation and operation of the District, to the extent that the Agreement covers, affects, and relates to the lands described on **Exhibit A** attached to and made a part hereof of this Assignment for all purposes (the "Transferred Premises").

B. Assignor desires to assign certain of its rights under the Agreement as it relates to the Transferred Premises to Assignee, and Assignee desires to acquire such rights, on and subject to the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and obligations set forth herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereby agree and act as follows:

1. **Certain Defined Terms.** Unless indicated otherwise herein, capitalized terms in this Assignment shall have the same respective meanings as are ascribed to them in the Agreement.

2. **Assignment.** Subject to all of the terms and conditions of this Assignment, Assignor hereby assigns all **[or describe specifically assigned rights if partial]** of its rights under the Agreement, insofar as the Agreement covers, affects, and

relates to the Transferred Premises.

3. **Assumption.** Assignee hereby assumes all obligations of Assignor and any liability that may result from acts or omissions by Assignee under the Agreement as it relates to the Transferred Premises that may arise or accrue from and after the effective date of this Assignment, and Assignor is hereby released from all such obligations and liabilities from and after the effective date of this Assignment; provided, however, this Assignment does not release Assignor from any liability that resulted from an act or omission by Assignor that occurred prior to the effective date of this Assignment unless the City approves the release in writing.

4. **Governing: Law.** This Assignment must be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary.

5. **Counterpart/Facsimile Execution.** This Assignment has been prepared in multiple counterparts, each of which shall constitute an original hereof, and the execution of any one of such counterparts by any signatory shall have the same force and effect and shall be binding upon such signatory to the same extent as if the same counterpart were executed by all of the signatories. Facsimile copies of signatures may be appended hereto with the same force and effect as legally delivered original signatures.

6. **Notice to City.** A copy of this Assignment shall be provided to the City within fifteen (15) days after execution.

7. **Binding Effect.** This Assignment, when accompanied by a Partial Assignment of Reimbursement Rights in favor of the City for the Master Development Fee described in the Agreement, shall be binding upon and shall inure to the benefit of Assignor and Assignees and their respective heirs, personal representatives, successors, and assigns.

8. **Partial Assignment of Reimbursement Rights.** Assignee hereby assigns to the City of San Marcos Texas its right to reimbursements from bond proceeds in the amount equal to the Engineer's Cost Estimate (as that term is defined in the Agreement and in the Amended and Restated Development Agreement).

EXECUTED as of the day and year first above written.

ASSIGNOR:

By: _____

Printed Name: _____

Title: _____

ASSIGNEE:

By: _____

Printed Name: _____

Title: _____

PRELIMINARY ENGINEERING & CREATION REPORT

FOR

**LASALLE MUNICIPAL UTILITY DISTRICT NO. 1
of Hays County**

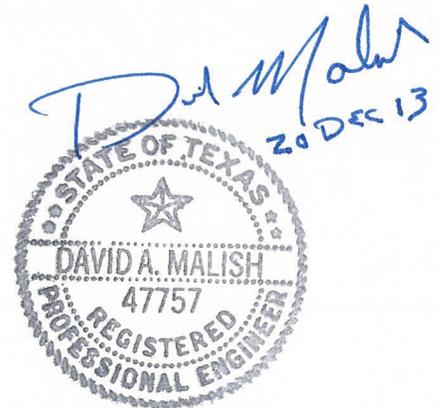
December 2013

Prepared for:

Michael A. Schroeder
P.O. Box 163234
Austin, TX 78716

Prepared by:

Murfee Engineering Company, Inc.
1101 Capital of Texas Highway, South
Building D
Austin, Texas 78746
(512) 327-9204
Texas Registered Firm No. F-353



PRELIMINARY ENGINEERING AND CREATION REPORT FOR LASALLE MUNICIPAL UTILITY DISTRICT NO. 1

INTRODUCTION

This preliminary engineering report is prepared and submitted in support of creation concurrence of the creation of LaSalle Municipal Utility District No. 1 (the District). This report is prepared to provide background information and projected land uses, allowing for development of preliminary cost estimates for water, wastewater, and drainage facilities for economic assessment. More specifically, this report presents a physical description of the area, a land use plan summary, existing and projected population data, preliminary engineering cost estimates of proposed improvements, and projected tax rates and estimated water and wastewater service rates.

The District encompasses approximately 234.4 acres and is situated entirely within the City of San Marcos' Extraterritorial Jurisdiction (ETJ). As is shown in Figure 1, the District is located generally northeast of the City of San Marcos, just east of IH35. It should be noted that this District was created by the 2013 Texas Legislature along with four additional and adjacent municipal utility districts, LaSalle MUDs No. 2, 3, 4, and 5, which previously received creation consent from the City of San Marcos. These Districts are shown geographically in the Appendix.

This report is prepared on behalf of the City of San Marcos for consideration of creation concurrence of LaSalle MUD No. 1 as stated above. The petitioners own 100% of the value of all of the land within the proposed District.

DESCRIPTION OF THE AREA

Location: The LaSalle Municipal Utility District No. 1 (the District) is located southeast of the City of Kyle, northeast of the City of San Marcos, east of IH 35. The general location of this District was previously shown on Figure 1 and in Appendix A.

Adjacent Areas: The adjacent land areas have typically been utilized for agricultural purposes, but several tracts in the area have been developed into rural, typically low-density and/or mobile home subdivisions. The area to the north has been developed with urban (mostly residential) subdivisions.

Existing Conditions: The area included within the Districts' boundaries has been maintained primarily as agricultural fields for more than fifty years. Aerial photos between the 1950's and today show a fairly consistent agricultural land use for the property. No significant trees currently exist on the property.

Topography: The topographical information within the proposed District was derived from the two foot contour interval provided by the San Marcos geographical information systems dated November 2009 and is shown in Figure 2. As is shown, the topography within the District can be characterized as gently sloping with slopes less than 1%. Nominal ground elevations range from approximate 690' MSL in the northwest to near 661' MSL in the southeast.

Vegetation: Aerial photographs of the District reveal that the area has been cleared and used exclusively for agricultural purposes for over 50 years. No significant trees are currently located within the District.

Geology & Soils: The District lies in the Blackland Prairie Land Resource Area, east of the Balcones Escarpment. Soils occurring in the District were identified and mapped by the former U.S. Department of Agriculture, Soil Conservation Service (USDA, SCS) in the Soil Survey of Comal and Hays Counties, Texas. Figure 3 provides the soils identified within the District.

Soils identified as occurring within the Districts belong to the Branyon and Krum soils series. General descriptions of the soils as provided by the former SCS are outlined below.

Krum clay, 0 to 1 percent slopes. (KrA)

This is a deep, nearly level soil on stream terraces and valley fills. Slopes are plane or slightly concave. The areas are mostly long and narrow or oblong in shape and range from 10 to 360 acres in size. These soils have a high shrink-swell potential.

Krum clay, 1 to 3 percent slopes. (KrB)

This is a deep, gently sloping soil on stream terraces and valley fills. Slopes are plane or concave. Areas are long and narrow or oblong in shape and range from 10 to 400 acres in size. These soils have a high shrink-swell potential.

Branyon clay, 0 to 1 percent slopes. (ByA)

This is a deep, nearly level soil on ancient high stream terraces in the Blackland Prairie Land Resource Area. Most areas are irregular in shape and range from 10 to 800 acres in size. These soils exhibit a very high shrink-swell potential.

Branyon clay, 1 to 3 percent slopes. (ByB)

This is a deep, gently sloping soil on ancient high stream terraces in the Blackland Prairie Land Resource Area. Most areas are irregular in shape and range from 10 to 300 acres in size. These soils exhibit a very high shrink-swell potential.

Water Resources: The District lies just east of IH-35 as previously discussed. Both groundwater and surface water resources are limited in the area and potable water in sufficient quantities for development must be imported to the Districts.

Information on groundwater resources is somewhat limited as only a few wells in the area have reported data. The District lies over the eastern extent of the Trinity Aquifer. The Trinity aquifer is accessed from 1,500 to 2,000 feet deep and its water quality is considered suspect due to observed periodic high sulfate levels. This aquifer has perhaps not been accessed due to the excessive depth and cost to develop along with its suspect quality.

LAND USE PLAN

The LaSalle Municipal Utility District No. 1 encompasses approximately 234.4 acres in the eastern portion of Hays County. The District is projected to develop over a period of 10 years. A summary of the proposed land use plan within the District is presented below in Table 1. A general land use plan is also provided in Figure 4.

Table 1: Land Use Summary

	Acreage	Density	Units	Percent
Residential				
LDR	215.4	4.0	862	91.9%
MDR	0.0	8.0	0	
HDR	0	25.0	0	
Sub-Total	215.4		862	
Non-Residential				
MU	0.0	18.0	0	
Commercial	0.0			
Corporate Campus	0.0			
Office - Distribution	0.0			
Elem. School	12.0			5.1%
Parks	6.0			2.6%
ROW	0.0			
OS, LS, FP	1.0			0.4%
Sub-Total	19.0			
Totals	234.4		862	100.0%

FLOODPLAIN DETERMINATIONS

Certified floodplain determinations have not yet been completed within the District. Such certifications will be made with the subdivision designs during development plan preparation. However, the Federal Emergency Management Agency (FEMA) has identified Zone A floodplains within the general vicinity of the District on Flood Insurance Rate Map number 48209C0405F dated September 2, 2005 a portion of which is replicated on Figure 5. Recognizing that the District generally drains from the west to the east, no FEMA flood plains have been identified within District. As is shown, the limits of the FEMA 100-year flood plain terminate just east and southeast of the District.

WATER AND WASTEWATER SERVICE

The LaSalle MUD No. 1 is situated entirely within the City of San Marcos' Extraterritorial Jurisdiction (ETJ) and within the City of Kyle's Water and Wastewater Certificated Areas of Convenience and Necessity. The location of the City of Kyle's Water CCN (#11024) and Wastewater CCN (#20410) with respect to the proposed District is shown in Figure 6 and 7 respectively. Therefore the District will receive both water and wastewater service from the City of Kyle.

EXISTING AND PROJECTED POPULATIONS

As previously discussed, the entire geographic area within the District is currently used for agricultural purposes and is under cultivation. At this time there are no dwelling structures on the property and the population is considered to be zero at this time. Assuming 3.5 persons for low density dwelling units, and 862 units, as shown on Table 1, the ultimate population for the District is estimated to be 3017.

PRELIMINARY ENGINEERING COST ESTIMATES

Construction cost estimates for internal bondable utilities including water, wastewater, and drainage facilities were prepared based on the general land use categories and acreage identified in Table 1. Cost estimates for major offsite utilities for delivery of water and treatment and discharge of wastewater are based on general conceptual utility plans to extend service to the District from the City of Kyle's existing facilities. A schematic of that general design is shown in Figure 8. As is shown, water will be delivered to the District through the extension of approximately 5,350 LF of 12-inch diameter water transmission main. Major wastewater facilities will include a 1000 gpm lift station discharging to an 8-inch force main extending approximately 11,450 LF to the existing Kyle wastewater treatment plant site. It should be recognized that the selection and design of these facilities will necessarily change with coordination with other proposed development within the area. These design quantities are used at this time for cost estimating purposes only.

The cost estimates also include provision for impact fees paid to the City of Kyle for use of existing facilities. It is recognized that the City of Kyle will need to expand the capacity of at least the wastewater treatment plant to accommodate flows from the proposed development and that the District will be responsible for any pro rata cost of expansion. These costs may be included with the impact fees or funded separately as negotiated.

Table 2 provides a summary of the preliminary utility construction cost estimates eligible for bond reimbursement. Note that these costs include a contingency as well engineering costs and provisions for impact fees.

Table 2

**LaSalle MUD 1
Utility Construction Cost Estimates**

	Quantity	Unit Cost	District Share	Total
Internal Facilities				
Water	234.4 acres	\$8,750 / acre	100%	\$ 2,051,000
Wastewater	234.4 acres	\$10,000 / acre	100%	\$ 2,344,000
Drainage	234.4 acres	\$6,250 / acre	100%	\$ 1,465,000
Off Site				
Water Mains	5,350 l.f. of 12" Main	\$72 / l.f.	100%	\$ 385,200
Liftstations	1000 gpm	\$225 / gpm	100%	\$ 225,000
Forcemains	10,000 l.f. of 8" forcemain	\$040 / l.f.	100%	\$ 458,000
			Subtotal	\$ 6,928,000
			Contingency @ 15%	\$ 1,039,230
			Subtotal	\$ 7,967,430
			Engineering @ 12%	\$ 956,092
			Subtotal	\$ 8,923,522
Impact Fee				
City of Kyle - Water	862 LUE	\$2,115 / LUE	100%	\$ 1,823,130
City of Kyle - Wastewater	862 LUE	\$2,216 / LUE	100%	\$ 1,910,192
			Subtotal	\$ 3,733,322
			TOTAL	\$ 12,656,844

PROJECTED TAX RATE AND WATER AND SEWER SERVICE RATES

Current and Proposed Tax Rates: The District is subject to seven existing taxing jurisdictions. Table 3 provides a summary of these taxing jurisdictions along with the currently published tax rate. As is shown the current total overlapping tax rate within the geographic area is \$2.1691/\$100 assessed value.

Table 3: Existing 2011 Tax Rates

Entity	Tax Rate (\$/\$100 value)
Hays County	0.4251
Hays Consolidated Independent School District	\$1.4613
Austin Community College District	0.0949
Hays County Emergency Services District No. 5	0.1000
Plum Creek Groundwater	0.0220
Special Road	0.0438
Plum Creek Conservation District	0.0220
Total Existing Tax Rate	\$2.1691

Creation of the Districts and the subsequent issuance of bonds to finance water, wastewater, and drainage facilities to serve the Districts will result in the imposition of ad valorem taxes to service debt payments. Using the cost estimates presented in Table 2 of this application, a preliminary bond issue size was prepared by SAMCO Capital Markets, Inc. which is provided in Table 4. Table 5 provides a summary of the projected bond issue along with the subsequent projected debt service tax rate. As is shown, the project debt service tax rates will be approximately \$ 0.90 per \$100 assessed value.

Table 4
LASALLE
MUNICIPAL UTILITY DISTRICT NO. 1
ESTIMATED SUMMARY OF COSTS
\$16,483,346
Unlimited Tax Bonds

Construction Costs	
Internal Facilities	
Water	\$ 2,051,000
Wastewater	\$ 2,344,000
Drainage	\$ 1,465,000
Major Facilities	
Water Mains	\$ 385,200
Liftstations	\$ 225,000
Forcemains	\$ 458,000
Contingency	\$ 1,039,230
Engineering	\$ 956,092
Impact Fee	
City of Kyle (Water)	\$ 1,823,130
City of Kyle (Wastewater)	\$ 1,910,192
Total Hard Cost	\$ 12,656,844
Non-Construction Costs	
Legal Fees (2%)	\$329,667
Financial Advisory Fees (2%)	329,667
Capitalized Interest (2 yrs @ 4.50%)	741,751
Bond Discount (Estimated @ 3%)	494,500
Bond Issuance Expenses	160,168
Creation Costs	200,000
Organization & Administration	150,000
Operation Advances	100,000
TCEQ Bond Issuance Fee (.25%)	41,208
Bond Application Report	275,272
AG Fees	16,483
Developer Interest (2 yrs @ 4.50%)	741,751
Total Soft Cost	\$3,580,467
TOTAL BOND ISSUE:	<u>\$16,483,346</u>

Table 5

LASALLE MUD No. 1		
Number of LUEs:		862
MULTIPLIED BY - Estimated Value Per LUE:		\$ 175,000
= Estimated Total Assessed Value:		\$150,850,000
Construction Cost:	\$ 12,656,844	
Plus Estimated Soft Cost:	\$ 3,580,467	
Equals Projected Total:	\$ 16,483,346	
PROJECTED TOTAL BOND AMOUNT:	\$ 16,483,346	
Est. Average Annual Payment:		\$ 1,362,600
(4.50% for 20 years)		
(DIVIDED BY) Projected Total AV:		\$150,850,000
Projected Debt Service Tax Rate:		\$ 0.90

Water and Sewer Rates: Current water and wastewater rates for the City of Kyle are shown in Tables 6 and 7 respectively.

**Table 6
City of Kyle Water Rates**

Outside City Limits	Single Family Residential	
	< 4,000 Gallons	\$3.96
	4,001 – 8,000 Gallons	\$4.94
	8,001 – 12,000 Gallons	\$5.92
	12,001 – 16,000 Gallons	\$6.92
	16,001 – 20,000 Gallons	\$7.90
	20,001 – 30,000 Gallons	\$8.89
	30,001 – 50,000 Gallons	\$9.87
	> 50,001 Gallons	\$11.84
	Multifamily Residential	
	1 – 99,999,999 Gallons	\$7.13
	Commercial	
	1 – 99,999,999 Gallons	\$7.13
	Irrigation	
	1 – 99,999,999 Gallons	\$8.32
	Construction	
	1 – 99,999,999 Gallons	\$5.94
	Emergency Interconnect Wholesale Water Rate (per 1,000 gallons)	
	\$4.14	

Table 7
City of Kyle Wastewater Rates

Outside City Limits	Residential	\$3.42 / 1000
	Non-Residential	\$3.86 / 1000
	Commercial Sewer Only	\$3.86 / 1000

APPENDIX

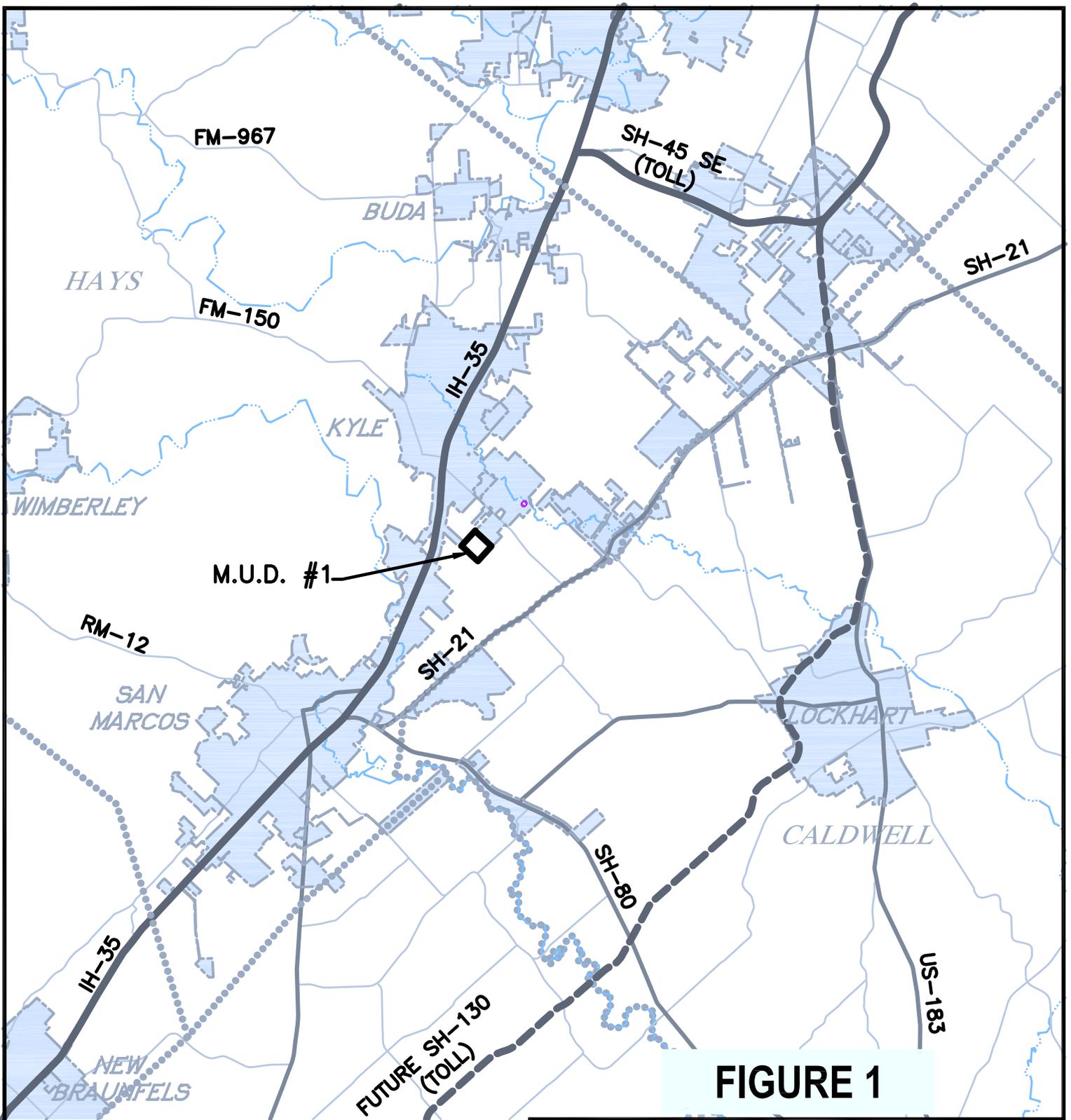


FIGURE 1



NOT TO SCALE



Murfee Engineering Company

**LaSALLE M.U.D. #1
GENERAL LOCATION MAP**

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204

Texas Registered Engineering Firm F-353

FILE(LAYOUT): O:\091029\10\MUD-109-029.10-MUD1-LOCATION.dwg (LOCATION) DATE: 10/26/2012

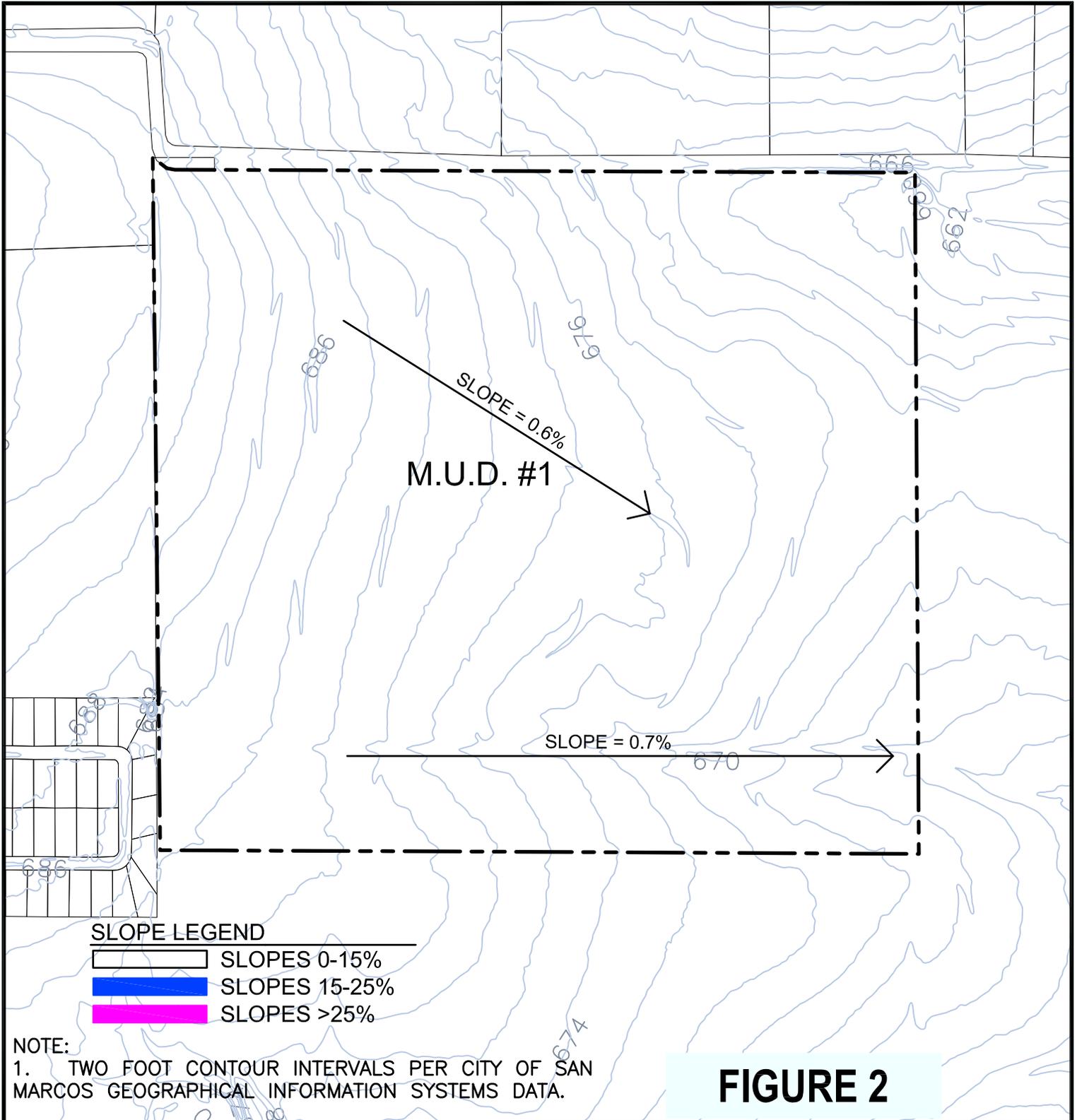
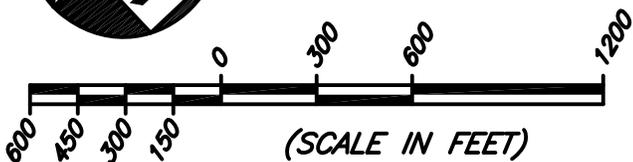


FIGURE 2



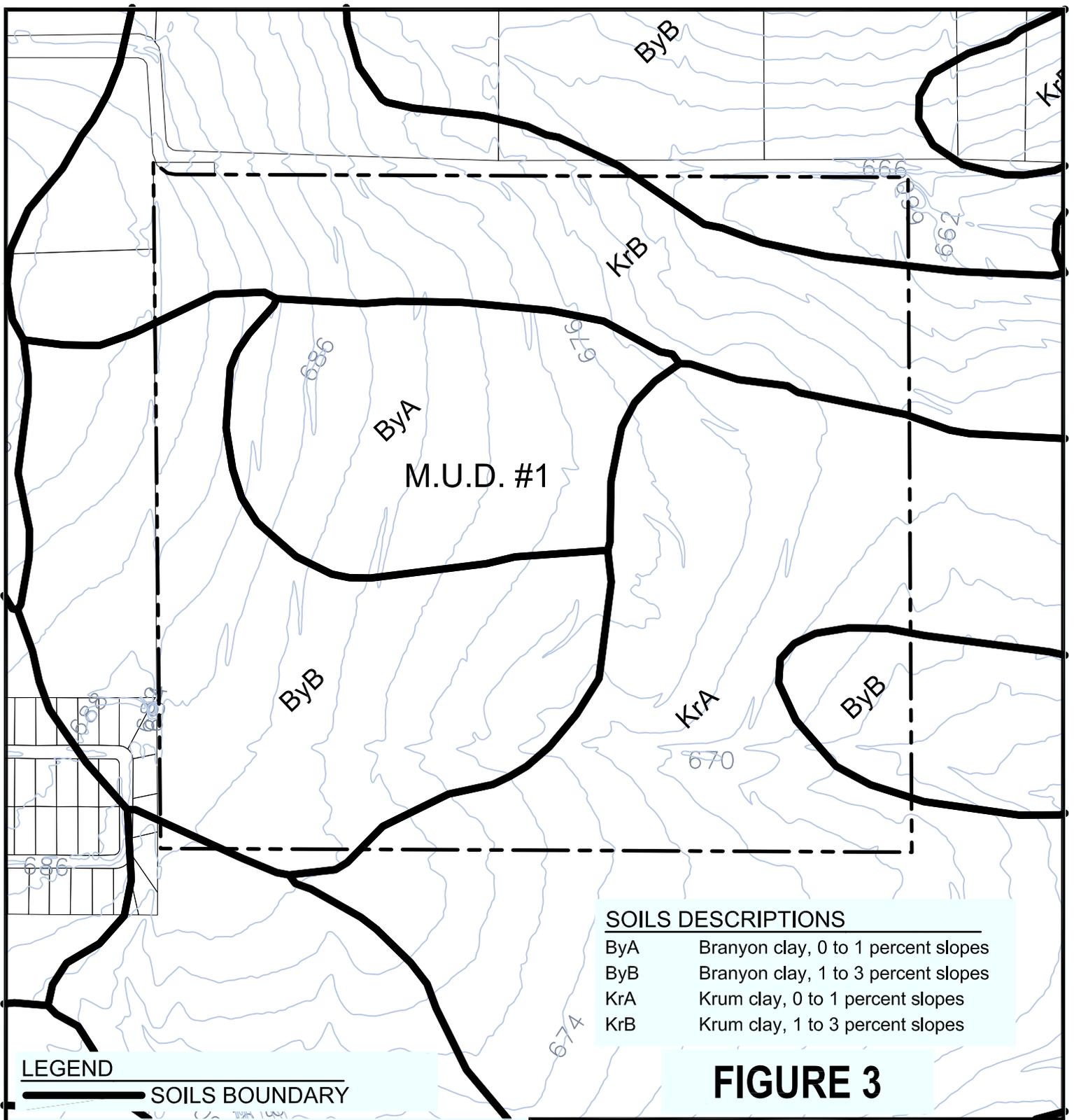
Murfee Engineering Company

**LaSALLE M.U.D. #1
TOPOGRAPHIC MAP AND SLOPE MAP**

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204

Texas Registered Engineering Firm F-353

FILE(LAYOUT): O:\09\029\10\MUD-109-029.10-MUD1-CONTOUR.dwg (CONTOUR) DATE: DRAWN: RWH

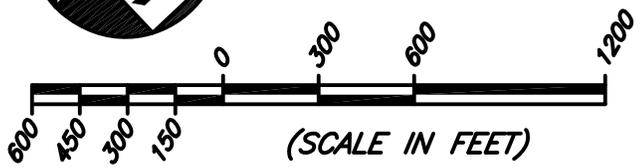


SOILS DESCRIPTIONS

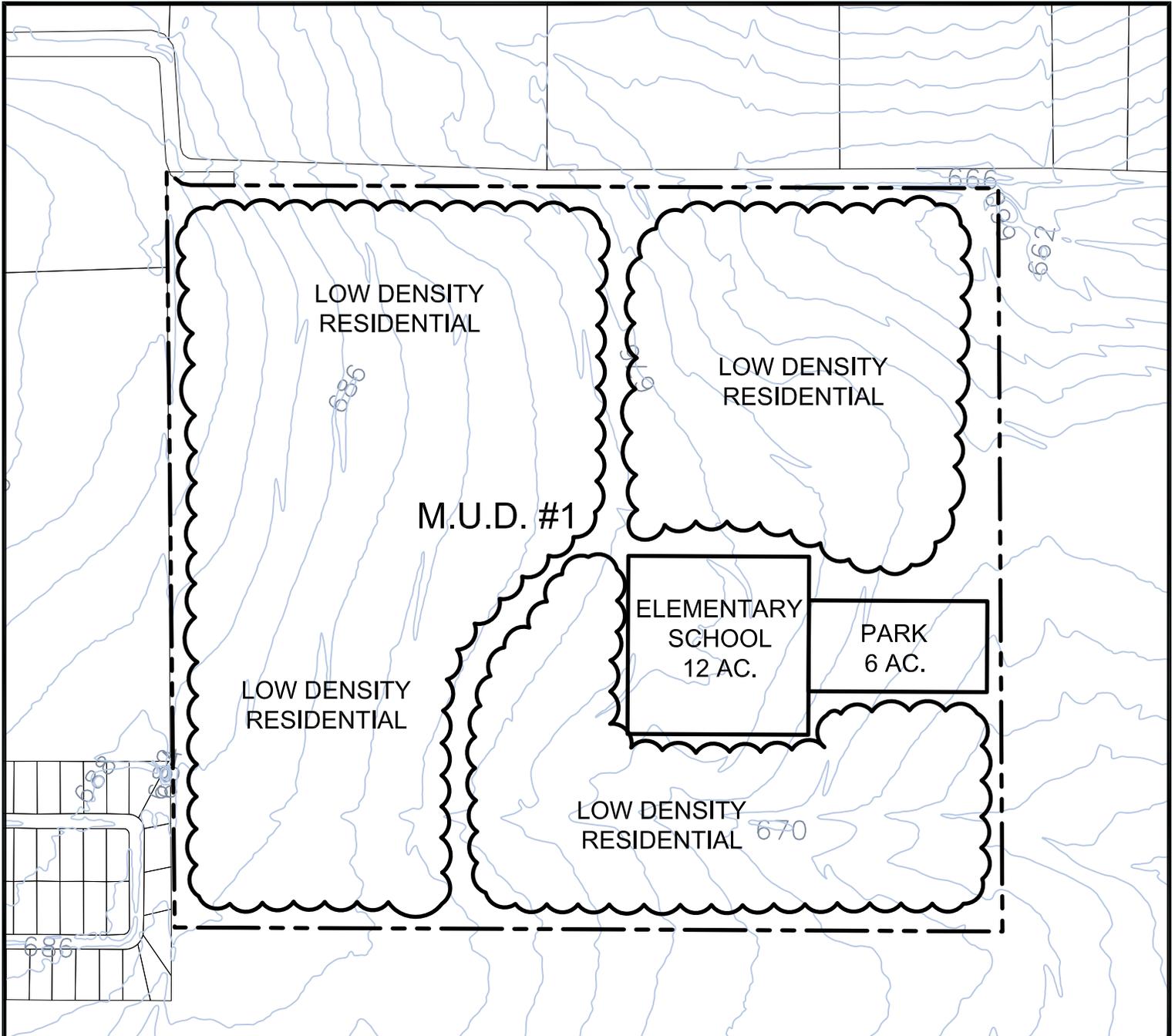
ByA	Branyon clay, 0 to 1 percent slopes
ByB	Branyon clay, 1 to 3 percent slopes
KrA	Krum clay, 0 to 1 percent slopes
KrB	Krum clay, 1 to 3 percent slopes

FIGURE 3

LEGEND
 ——— SOILS BOUNDARY

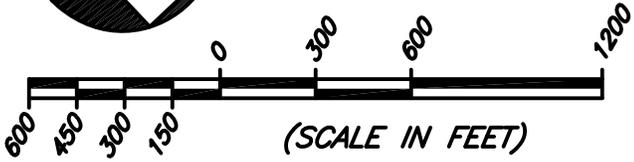


MEC	
Murfee Engineering Company	
LaSALLE M.U.D. #1	
SOILS MAP	
1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204	
Texas Registered Engineering Firm F-353	
FILE(LAYOUT): O:\09\029\10\MUD-109-029.10-MUD1-CONTOUR.dwg (SOILS)	DATE:
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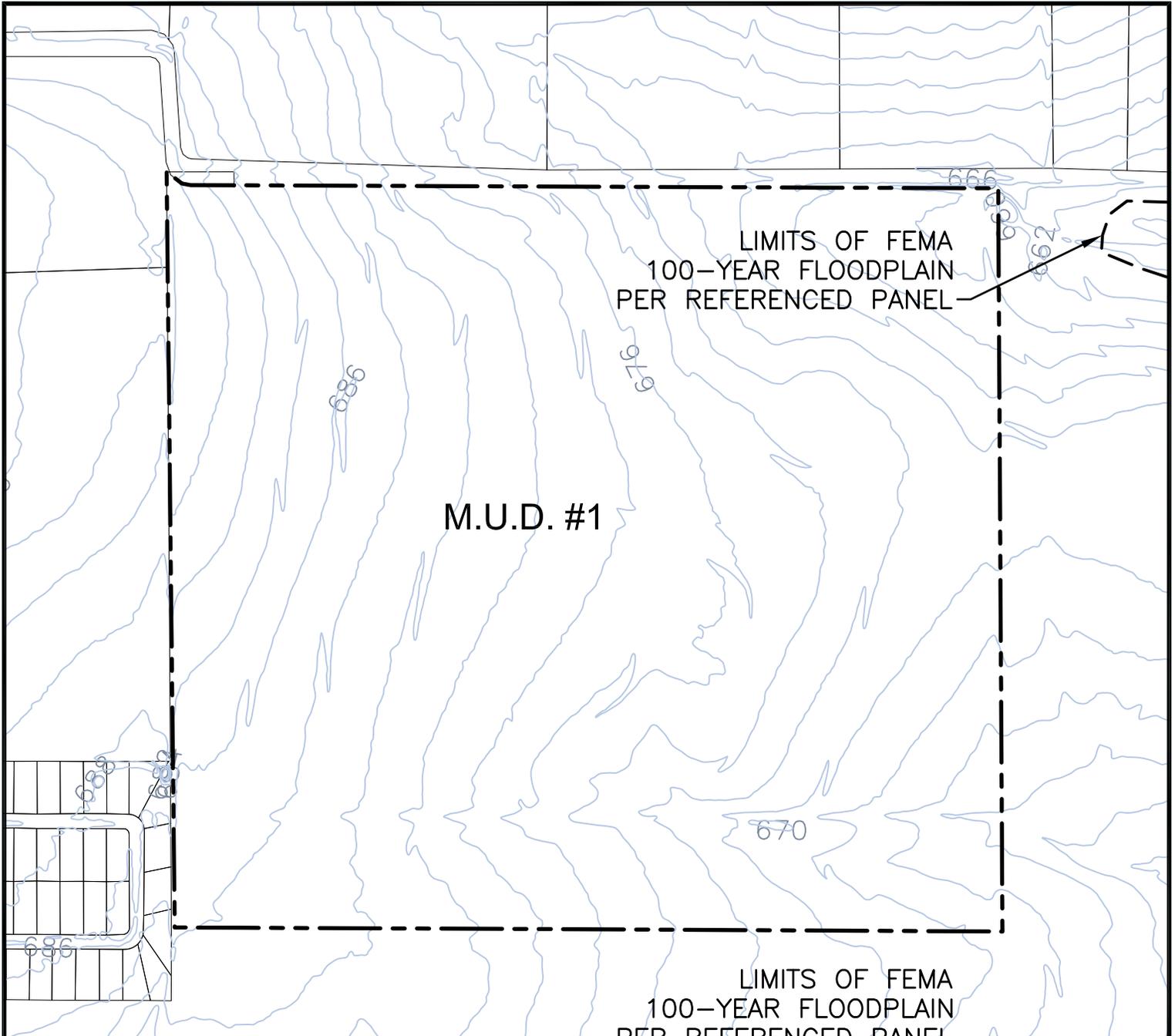


LAND USE SUMMARY	
LAND USE	ACREAGE
LOW DENSITY RESIDENTIAL	215.4
ELEMENTARY SCHOOL	12.0
PARKLAND	6.0
LANDSCAPE	1.0
TOTAL	234.4

FIGURE 4



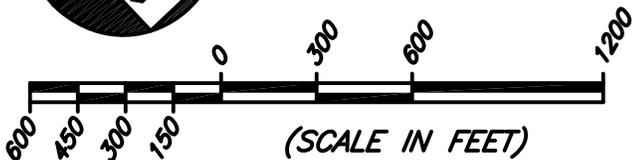
Murfee Engineering Company	
LaSALLE M.U.D. #1 CONCEPTUAL LANDPLAN	
1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204	
Texas Registered Engineering Firm F-353	
FILE(LAYOUT): O:\09\029\10\MUD-109-029.10-MUD1-CONTOUR.dwg (LANDPLAN)	DATE:
	DRAWN: RWH



LEGEND
 - - - - - FEMA 100-YEAR FLOODPLAIN

NOTE:
 NO 100-YEAR FLOODPLAIN EXISTS WITHIN M.U.D. #1
 PER FEMA FLOOD INSURANCE RATE MAP PANEL
 #48209C0405F, EFFECTIVE DATE SEPTEMBER 2, 2005

FIGURE 5

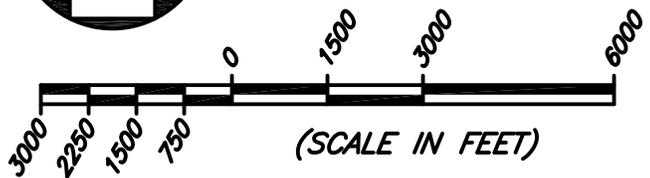
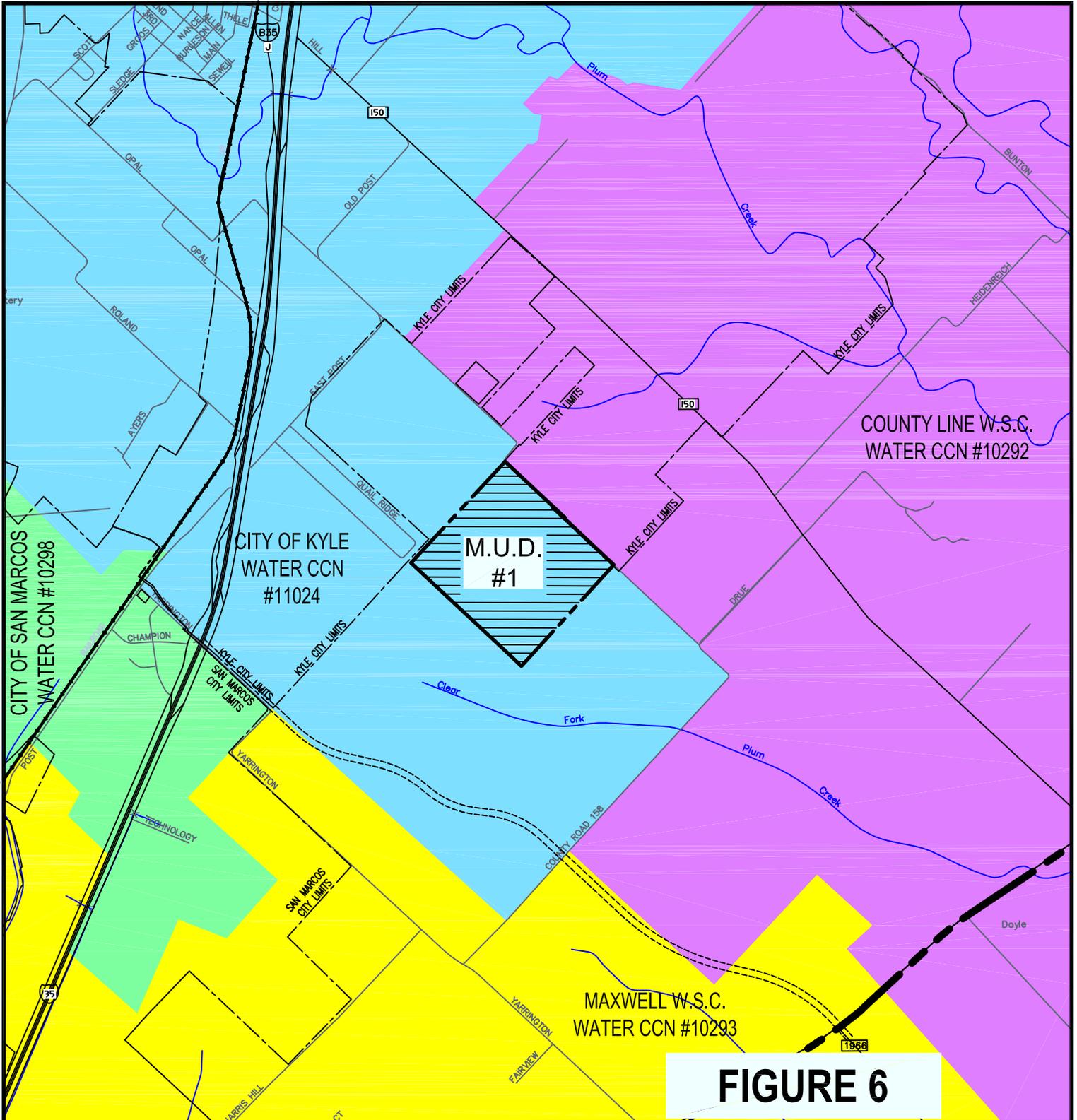


Murfee Engineering Company

**LaSALLE M.U.D. #1
 FLOODPLAIN MAP**

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Texas Registered Engineering Firm F-353



Murfee Engineering Company

LaSALLE M.U.D. #1

WATER C.C.N.'s

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204

Texas Registered Engineering Firm F-353

FILE(LAYOUT): O:\091029\10\MUD-109-029.10-MUD1-CCN.dwg(WATER-CCN) DATE: DRAWN: RWB

EXISTING CITY OF KYLE W.W.T.P. @
3.0 MGD (EXPANDABLE TO 4.5 MGD)

11,450 L.F.
8" FORCE MAIN

M.U.D.
#1

5,350 L.F.
12" WATERLINE

1,000 GPM
LIFT STATION

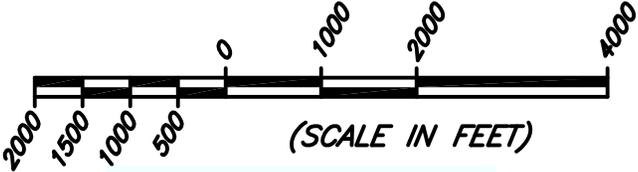


FIGURE 8

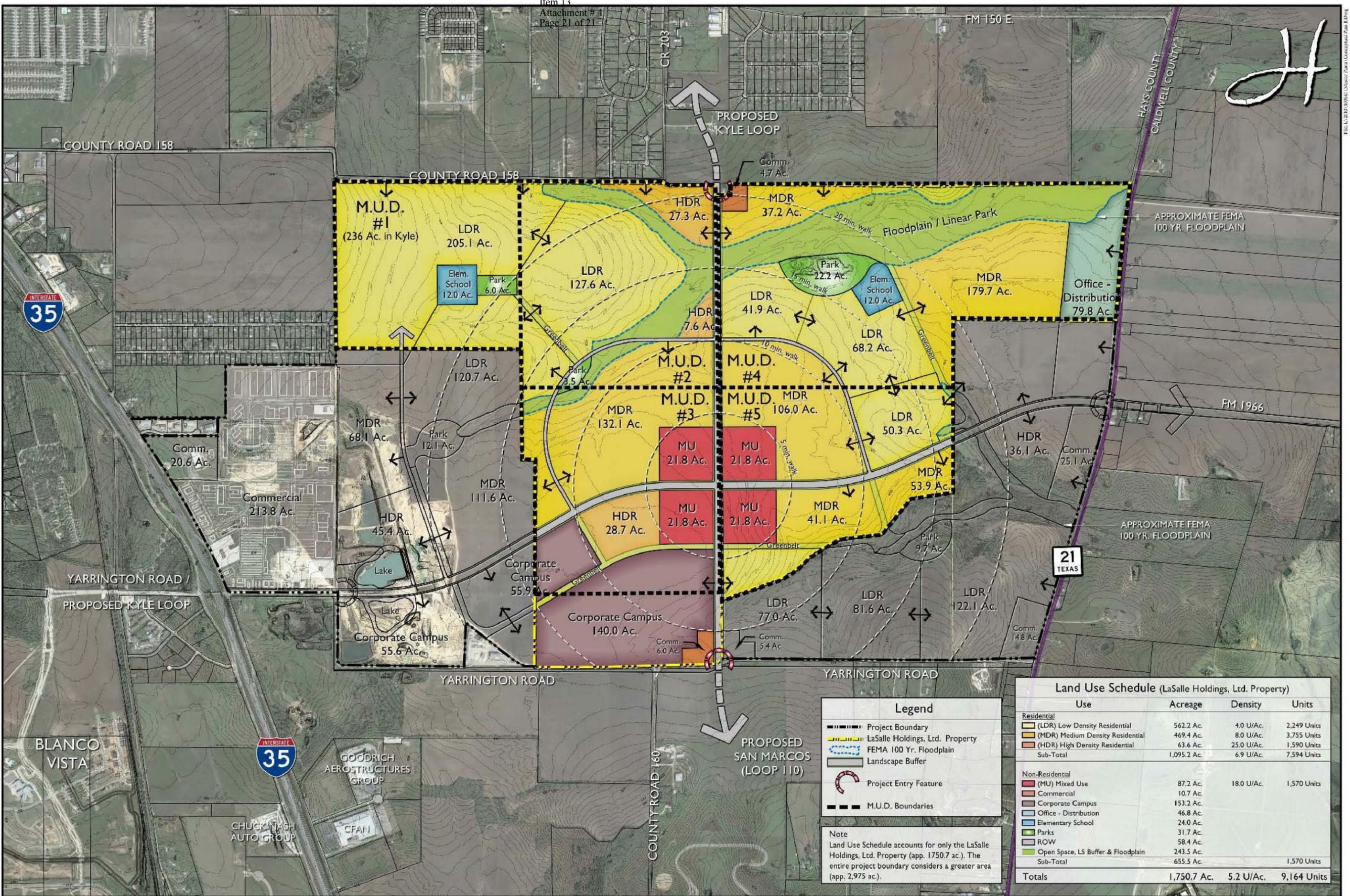
MEC
Murfee Engineering Company

**LaSALLE M.U.D. #1
WATER & WASTEWATER UTILITY PLAN**

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746 (512) 327-9204

Item 13 Texas Registered Engineering Flrm F-353

FILE(LAYOUT): O:\09\029\10\MUD-1\09-029.10-MUD1-UTILITY.dwg (W-WW) DATE: 10/29/2012 DRAWN: RWH



Land Use Schedule (LaSalle Holdings, Ltd. Property)			
Use	Acreage	Density	Units
Residential			
(LDR) Low Density Residential	562.2 Ac.	4.0 U/Ac.	2,249 Units
(MDR) Medium Density Residential	469.4 Ac.	8.0 U/Ac.	3,755 Units
(HDR) High Density Residential	63.6 Ac.	25.0 U/Ac.	1,590 Units
Sub-Total	1,095.2 Ac.	6.9 U/Ac.	7,594 Units
Non-Residential			
(MU) Mixed Use	87.2 Ac.	18.0 U/Ac.	1,570 Units
Commercial	10.7 Ac.		
Corporate Campus	153.2 Ac.		
Office - Distribution	46.8 Ac.		
Elementary School	24.0 Ac.		
Parks	31.7 Ac.		
ROW	58.4 Ac.		
Open Space, LS Buffer & Floodplain	243.5 Ac.		
Sub-Total	655.5 Ac.		1,570 Units
Totals	1,750.7 Ac.	5.2 U/Ac.	9,164 Units

Legend

- Project Boundary
- LaSalle Holdings, Ltd. Property
- FEMA 100 Yr. Floodplain
- Landscape Buffer
- Project Entry Feature
- M.U.D. Boundaries

Note
Land Use Schedule accounts for only the LaSalle Holdings, Ltd. Property (app. 1,750.7 ac.). The entire project boundary considers a greater area (app. 2,975 ac.).



CONCEPTUAL LAND PLAN w/ M.U.D. OVERLAY

SCALE: 1" = 600'
DATE: 08-09-2012



All data herein was obtained from public sources and is not guaranteed to be accurate. This plan is not intended to be used for any purpose other than that for which it was prepared. The user assumes all liability for any use of this plan. The user agrees to hold the preparer harmless from any and all claims, damages, losses, or expenses, including reasonable attorneys' fees, that may be incurred by the user as a result of the use of this plan. The user agrees to hold the preparer harmless from any and all claims, damages, losses, or expenses, including reasonable attorneys' fees, that may be incurred by the user as a result of the use of this plan.

ARTICLE 2. - UTILITY DISTRICTS [67]

DIVISION 1. - GENERALLY

DIVISION 2. - POLICY FOR CREATION OF DISTRICTS

DIVISION 3. - REQUIREMENTS FOR CREATION OF DISTRICTS

DIVISION 4. - REVIEW PROCESS

FOOTNOTE(S):

⁽⁶⁷⁾ *Cross reference— Utilities, ch. 86; drainage and erosion control, § 94.046 et seq.; subdivisions, ch. 110; zoning, ch. 114.*

[\(Back\)](#)

DIVISION 1. - GENERALLY

Sec. 70.026. - Out of district service requests for utility districts.

Sec. 70.027. - Fees established.

Secs. 70.028—70.050. - Reserved.

Sec. 70.026. - Out of district service requests for utility districts.

- (a) The review process in this section for out of district service request for utility districts is established.
- (b) Petitions for out of district service for a utility district shall be reviewed by the staff and planning and zoning commission prior to city council action. The request shall be filed with the city clerk. Upon receipt of the filed request, the city clerk shall immediately inform the city council, and the city manager. The recommendations of the staff and commission shall be forwarded to the city council for consideration within 30 days of the filing.

(Ord. No. 1986-85, Part C, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.027. - Fees established.

Under this article, an initial fee in the amount of \$5,000.00 shall accompany the pre-application review request of any MUD petition. The petitioner shall reimburse the city for expenses incurred by the city in connection with the city's consent to formation of the district, including but not limited to professional fees incurred in connection with the review, negotiation and preparation of the consent resolution, consent agreement, development agreement, impact statements and plans of any proposed or newly formed political subdivision authorized to be created by the Texas Water Code is established by the city council.

(Ord. No. 1986-85, Part D, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Secs. 70.028—70.050. - Reserved.

DIVISION 2. - POLICY FOR CREATION OF DISTRICTS

[Sec. 70.051. - Adoption; purpose and intent.](#)

[Sec. 70.052. - Conditions and criteria for consent to creation of districts.](#)

[Sec. 70.053. - Bonds.](#)

[Sec. 70.054. - Additional requirements and policy statement.](#)

[Secs. 70.055—70.075. - Reserved.](#)

Sec. 70.051. - Adoption; purpose and intent.

The policy relating to the political subdivisions created pursuant to article III, section 52, or article XVI, section 59, of the state constitution is adopted pursuant to the applicable sections of V.T.C.A., Water Code and the Texas Municipal Annexation Act, to be equitably applied to all petitioners for new utility districts within the city's extraterritorial jurisdiction.

- (a) The purposes of this policy are to:
- (1) Encourage quality development;
 - (2) Allow the city to enforce reasonable land use and development regulations;
 - (3) Provide for construction of infrastructure consistent with city standards and city inspection of such infrastructure;
 - (4) Facilitate cost-effective construction of infrastructure consistent with city standards and city inspection of such infrastructure;
 - (5) Provide notice to residents of the district that the city may annex the district at some future time;
 - (6) Establish guidelines for reasonable conditions to be placed on:
 - a. Issuance of bonds by the district; and
 - b. The city's consent to creation of the district, including conditions consistent with the city's water and sewer bond ordinances regarding creation of districts that might otherwise detrimentally compete with the city's utility systems;
 - (7) Establish guidelines for other mutually beneficial agreements by the city and the district; and
 - (8) Provide a procedural framework for responding to a petition seeking the city's consent to the creation of the district.

(Ord. No. 1986-85, Part E, 7-21-86; Ord. No. 1987-18, §§ 1—4, 2-9-87; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.052. - Conditions and criteria for consent to creation of districts.

- (a) If the city council consents to the creation of, or inclusion of land within a MUD then it should impose the following requirements as conditions of the city's consent, and such requirements shall be stipulated in the consent resolution and other ancillary agreement, unless the city council determines that the requirements are not appropriate with regard to a specific district.
- (1) The utility district shall contain acreage necessary to ensure the economic viability of the utility district but no more acreage than can be feasibly annexed at one time. In general, a district is not expected to include less than 200 nor more than 500 acres.
 - (2) The economic viability of the utility district must be shown in the same manner as required by the state.
 - (3) The consent resolution and agreement must reflect and conform to all the applicable stipulations of this policy.

- (4) The city council must determine that the utility district is not likely to be annexed by the city or be served by city water and wastewater within three years. This determination shall not be binding on the city however.
 - (5) When the city council receives a petition for creation of a utility district within the city's extraterritorial jurisdiction, it shall be evaluated in accordance with the master plan, the impacts of the utility district, and the policy set forth in this division.
 - (6) It is in the city's preferred growth area.
 - (7) The city does not support MUDS that are in industrial or commercial areas.
 - (8) The district's ad valorem tax rate will approximate or exceed the city's rate.
 - (9) It must be located entirely within the city's extraterritorial jurisdiction.
 - (10) The city discourages the use of sewer package treatment plants.
 - (11) It will require the developer(s) to contribute a portion of infrastructure without reimbursement by the MUD or the city.
 - (12) The development supported by the MUD provides extraordinary public benefits (such as extension or enhancement of infrastructure, affordable housing, environmental improvement, public transportation facilities, and open space). Whether development supported by the MUD provides sufficient public benefits should be determined by weighing the value of the benefits to the community, and to the property in the MUD, against the costs to the city including delayed annexation. The city council will consider benefits including but limited to:
 - a. Land use controls (including land plans') that otherwise would not be available in the city's ETJ;
 - b. Amenities that would not typically accompany a development with conventional financing;
 - c. Connectivity with other existing city infrastructure;
 - d. The potential for city capital improvement program funds to be redirected to other high priority needs by financing capital infrastructure with alternative MUD financing and by the application of post-annexation surcharges;
 - e. School and public safety sites, and transportation infrastructure, sufficient to meet development needs.
- (b) The city shall not consent to the creation of any special taxing or public financing district within the city limits unless, in addition to the findings set forth in section (a) above, the city council finds that:
- (1) The land within the district shall be developed to a higher development standard than that required under the city's land development code and other applicable development ordinances;
 - (2) The quality of the development over time shall be assured through restrictive covenants applicable to all of the property within the district that are:
 - a. Approved by the city council; and
 - b. Enforceable by a mandatory homeowners' association with assessment power, which the city may compel to perform its enforcement duties;
 - (3) The roads, parks, and utility infrastructure within the district shall generally be of higher quality than that required under the land development code, and other applicable development ordinances and regulations so as to reduce operation and maintenance costs to the city over time;
 - (4) The creation of the district shall contribute to the economic development of the city and improve the quality of life for residents of the city;
 - (5) Any loss of ad valorem property taxes incurred by the city as a result of the creation of a district may be made up through the collection of other fees and utility rates generated within the district; and
 - (6) The district shall connect to the city's water and sewer system. If the district is located within a geographical area that falls within the certificated service territory of another utility, the district shall purchase the certificated service area and transfer it to the city at no cost.

Sec. 70.053. - Bonds.

- (a) *Water, wastewater and drainage.* A utility district shall be permitted the bonding permitted under the state law and the rules of the Texas Commission on Environmental Quality ("TCEQ") for: (1) construction, and for (2) land and easement costs for water, sewer, and drainage improvements. Further, the 30 percent of the district's construction costs shall be paid by the developer as provided in Chapter 30 of the Texas Administrative Code shall apply in determining the bonding allowed for water, wastewater and drainage. Additionally, that oversize portion of a water or wastewater approach main which the city has required to be constructed to serve areas outside of the boundaries of the utility district may be financed with bonds. In these cases, the city shall repay the utility district annually for the city's pro rata share of the debt retirement cost of the facility. The city shall retain the right to impose impact fees as defined in the San Marcos Land Development Code as amended, pro rata charges as defined in [Chapter 86](#) of the San Marcos Code as amended, or any other recovery method permitted under state law to recover for its pro rata share. However, the following items shall not be allowed to be financed by the issuance of bonds and, therefore, shall not be included in the bonding package:
- Land or easements within the utility district or any property owned by the developers of the utility district dedicated for any water or wastewater line or facility, including treatment plants for any function related to drainage. However, bonds may be authorized for the purchase of land for irrigation purposes connected with a package treatment plant. Provided further that irrigation land purchased from the developers of the utility district must be purchased at the central appraisal district valuation.
- (b) *Intangibles.*
- (1) A contingency factor of ten percent shall be allowed on all water, wastewater and drainage costs.
 - (2) Construction costs shall include ten percent for engineering and shall include all fees.
 - (3) Interest during construction and capitalized interest shall be allowed to the full extent of the state law for all costs that qualify for bond financing.
 - (4) Other non-construction costs allowed for bond financing are fiscal agent fees, legal fees and administration, organizational expense and printing the bonds, as allowed by state law.
- (c) *Bonded amenities.* Additional bonding authority may be used as the city council specifies for any of the following items. The city council must approve the need for each item, the site location and design. The aggregate of the city requirements shall be limited by the economic viability of utility district. Bonded authority for any land under this section shall be based on raw land cost and carrying expenses.
- (1) Fire station sites.
 - (2) Parklands, nature preserves, hike and bike trails, lakes and greenbelts in addition to those required by the city.
 - (3) Water quality monitoring stations, holding ponds and stormwater treatment facilities.
 - (4) Other items that might be mutually agreed upon by the city council and the petitioners and that are permitted by the state.
- (d) *Nonbonded amenities.* The following amenities are required and shall not be financed by the issuance of bonds or by the incurrence of debt by the utility district:
- (1) Traffic control signs and devices constructed within the utility district.
 - (2) Sidewalks, installed in accordance with the City of San Marcos Land Development Code.
- (e) Bonds, including refunding bonds issued by the district, shall, unless otherwise agreed to by the city, comply with the following requirements, provided such requirements do not generally render the bonds unmarketable:
- (1) Maximum maturity of 25 years for any one series of bonds;
 - (2) The net effective interest rate will not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period preceding the date notice of sale is given.
 - (3) The bonds shall expressly provide that the district shall reserve the right to redeem bonds at any time subsequent to the tenth anniversary of the date of issuance, without premium. No variable rate

bonds shall be issued by a district without city council approval;

- (4) Any refunding bonds of the district must provide for a minimum of three percent value savings and that the latest maturity of the refunding bonds may not extend beyond the latest maturity of the refunded bonds unless approved by the city council.
- (f) The city shall require the following information with respect to bond issuance:
 - (1) At least 30 days before issuance of bonds, except refunding bonds, the district's financial advisor shall certify in writing that the bonds are being issued within the existing economic feasibility guidelines established by the TCEQ for districts issuing bonds for water, sewer or drainage facilities in the county in which the district is located and shall deliver certification to the city clerk, the city manager and the director of finance.
 - (2) At least 30 days before the issuance of bonds. The district shall deliver to the city manager, city attorney and the director of finance notice as to:
 - a The amount of the bonds being proposed for issuance;
 - b. The projects to be funded by such bonds; and
 - c The proposed debt service tax rate after issuance of the bonds.
 - (3) If the district is not required to obtain TCEQ approval of the issuance of the bonds (other than refunding bonds), the district shall deliver such notice required in this section at least 60 days prior to issuing such bonds. Within 30 days after the district closes the sale of a series of bonds, the district shall deliver to the city manager a copy of the final official statement for such series of bonds. If the city requests additional information regarding such issuance, the district shall promptly provide such information at no cost to city.
 - (4) At least 30 days before issuance of bonds, the district shall certify in writing that the district is in full compliance with the consent resolution approved by the city council and, to the extent such agreements impose requirements on the district, with the consent agreement, strategic partnership agreement and all other agreements executed by the city and the district, and shall deliver the certification to the city manager, city attorney and the city clerk.

(Ord. No. 1986-85, Part E, § 2, 7-21-86; Ord. No. 1987-18, §§ 1—4, 2-9-87; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.054. - Additional requirements and policy statement.

The city should require the following of all utility districts as permitted by Texas law, and these requirements shall be stipulated by the appropriate set of consent resolutions and agreements:

- (1) All development activities within the utility district shall conform to all of the substantive aspects of all city ordinance requirements in existence on the date of approval of the creation petition by the city council.
- (2) Underground utilities may be required by the city council.
- (3) All development construction by the utility district or the developers must be designed and constructed in accordance with the city standards for similar facilities, including, without limitation, fire flow standards and utility and road design, construction and installation standards in accordance with plans and specifications approved by the city before construction begins.
- (4) All public improvements shall be constructed in accordance with the City of San Marcos Land Development Code.
- (5) The city shall have the right to inspect all facilities of the utility district at any time during construction. Final approval by the city must be obtained by the applicant before additional construction in the district can begin. In addition, the city shall have the right to charge inspection fees for review of facilities, the cost of which is not covered by other appropriate charges.
- (6) Bonds shall be issued only for those purposes specifically authorized by the consent agreement, and bonds authorized for one purpose shall not be used for another.
- (7) Before the utility district issues bid invitations for its bonds, the city council shall have the right of review of all bond issues and sales, including bond prices, interest rates and redemption premiums,

- and copies of all documents submitted to state agencies shall be concurrently submitted to the city.
- (8) All records, files, books, information, etc., of the utility district shall be a matter of public record and available for city inspection at all times.
 - (9) The utility district shall prepare for and submit to the city annual reports on the status of construction and bond sales.
 - (10) The utility district shall comply with V.T.C.A., Local Government Code § 212.012 and V.T.C.A., Water Code § 54.106 regarding connection of utilities.
 - (11) The utility district shall not provide service outside its boundaries unless approval is obtained from the city council. If permission is granted, no bond funds shall be expended or indebtedness incurred to provide service without approval of the city council.
 - (12) No land within the utility district shall be allowed at any time in the future to incorporate, join in an incorporation or be annexed into any incorporated city other than the City of San Marcos.
 - (13) No land may be annexed to or acquired by a utility district without the approval of the city council.
 - (14) Right-of-way, public parkland, utility and drainage easements and all other appropriate lands and easements shall be dedicated to the public, by the utility district and its ultimate successor.
 - (15) Any wastewater treatment plant constructed in whole or in part with bond proceeds under this policy must be reviewed and approved by the city council prior to the issuance of the state permit or any amendment thereto if it is to discharge instead of irrigate.
 - (16) The district shall provide copies of any material event notices filed under applicable federal securities laws or regulations to the city manager, city attorney and finance director within 30 days after filing such notices with the applicable federal agency.
 - (17) Construction of capital improvements such as fire stations and recreational amenities will be encouraged.
 - (18) Sharing of fire stations, recreation amenities and other capital improvements by the city and the district will be encouraged.
 - (19) The city and the owners of all land in the proposed district may reach agreement on the terms of a development agreement pursuant to V.T.C.A., Local Government Code § 212.171, et seq. to extend the city's planning authority over land included in the district by providing for approval of a development plan, authorizing enforcement by the city of land use and development regulations, and including other lawful terms and considerations the parties consider appropriate. The development agreement may include provisions that mutually acceptable to the parties relating to the following matters:
 - a. Land use plan reflecting all approved land uses and residential densities;
 - b. Compliance with city construction codes, including permit requirements;
 - c. Compliance with city and other applicable stormwater and water quality regulations;
 - d. Development standards comparable to city zoning regulations; and
 - e. Dedication and development of park areas.The above list is not intended to be exhaustive. It is expected that the parties will cooperate to identify those matters unique to that district that may be addressed in a development agreement.
 - (20) The district shall send a copy of the order or other action setting an ad valorem tax rate to the city manager, city clerk and city attorney within 30 days after district adoption of the rate.
 - (21) The district shall send a copy of its annual audit to the city manager and finance director within 30 days after approval.

(Ord. No. 1986-85, Part E, § 3, 7-21-86; Ord. No. 1987-18, §§ 1—4, 2-9-87; Ord. No. 2011-54, § 1, 10-18-11)

Secs. 70.055—70.075. - Reserved.

DIVISION 3. - REQUIREMENTS FOR CREATION OF DISTRICTS

Sec. 70.076. - Requirements established.

Sec. 70.077. - Preapplication review.

Sec. 70.078. - Preapplication submittals by applicant.

Sec. 70.079. - Petition submitted by applicant.

Secs. 70.080—70.100. - Reserved.

Sec. 70.076. - Requirements established.

The requirements in this division for information and a review process for petition for the creation of utility districts are established.

(Ord. No. 1986-85, Part A, 7-21-86)

Sec. 70.077. - Preapplication review.

- (a) For a period beginning at least 60 days prior to the submission of a petition for creation of a utility district, the applicant shall confer with the city manager concerning the purpose of the utility district, the conceptual design of public improvements, land use and transportation plans and tentative construction schedules. The purpose of this review period shall be for the city to provide a pre-application checklist of items specified in section 170.078 to the applicant and to receive and review the documents required by this article and provide an opportunity for the city and applicant to identify and resolve differences prior to submission of the petition and the statutory 120-day review period. The 60-day minimum pre-application review shall be initiated by a letter to the city manager officially requesting a pre-application review meeting. The 60-day review period shall commence on the day of receipt of the letter by the city.

(Ord. No. 1986-85, Part A, § 1, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.078. - Preapplication submittals by applicant.

The applicant under this division shall file the following documents with the city manager in electronic format as well as three printed copies concurrent with the letter to the city manager initiating the pre-application review process:

- (1) A market study prepared in conformance with state standards.
- (2) A preliminary engineering report, containing the items required by the rules of the TCEQ and, in particular, a description of the area, land use plan, existing and projected populations, tentative cost estimates of the proposed improvements, projected tax rate and water and sewer rates, investigation and evaluation of the availability of comparable service from other systems and bond issue requirements.
- (3) Environmental maps of the district at a scale of one inch to 500 feet. These shall include:
 - a. Contour intervals of ten feet or less.
 - b. Delineation of all areas sloping one percent or less; one percent to 15 percent; 16 percent to 25 percent; 26 percent or more.
 - c. All aquifer recharge structures to include the following: caves, sinkholes, cracks, fractures or fissures at the surface and watercourses or drainageways which have recharge structures within them.
 - d. One-hundred-year floodplain and floodway.
 - e. Any trees 50 feet or taller and all trees with a caliper of 30 inches or greater.

- f. The habitat of endangered or threatened species of fauna or flora.
 - g. Soils with high shrink/swell ratios, soils that are easily eroded, and soils that are classified as prime agricultural by the state department of agriculture or the United States Department of Agriculture.
 - h. Wetlands.
 - i. Archaeological sites.
 - j. Manmade structures over 75 years old.
- (4) Land use map at a scale of one inch to 500 feet. This shall include:
- a. The location of all existing and proposed roads with a right-of-way of 60 feet or more.
 - b. Land use categories using the same categories as shown on the master plan's future land use plan.
 - c. School sites, fire stations, recreational buildings.
 - d. Parks and the parks' uses.
 - e. The number of residential units for each residential land use category.
 - f. The number of units per acre for each residential land use category.
 - g. The acreage of each land use.
- (5) Environmental impact statement. A description of how the proposed land use plan relates to:
- a. The environmental constraints in the utility district; and
 - b. The master plan's natural and cultural resources and land use section goals, objectives and policies.
- (6) Transportation impact statement which includes:
- a. A description of the number of average daily trips (ADT) that will be generated and/or attracted to the utility district and a delineation on a map of that ADT in the existing roadway system within one mile of the utility district.
 - b. A statement and justification, including calculations, as to whether the existing roadway system within the city and its extraterritorial jurisdiction has the capacity to carry the utility district's ADT or not.
 - c. A description of the utility district's transportation plan and its ADT transportation impact as they relate to the master plan's transportation goals, objectives and policies.
- (7) Proposed utility service maps showing all water and wastewater facilities and lines of six inches or larger.
- (8) Drainage maps showing preconstruction and post construction runoff rates and proposed detention and filtration pond sizings and locations.
- (9) The capacity calculations for sizing the facilities and a comparison of service levels to TCEQ utility requirements for supply, storage and treatment.
- (10) Proposed consent ordinance.
- (11) Proposed consent agreement.
- (12) Proposed utility agreement if contract bonds with the city for city services are sought by the utility district.
- (13) Proposed construction participation agreements for any facilities the utility district plans to construct or use in participation with any other utility district or entity.
- (14) Proposed solid waste management plan.
- (15) Proposed future utility district annexations or future service areas outside of the initial utility district boundaries.
- (16) Annexation impact statements.
- a. The applicant shall provide a document comparing the relationship of the indebtedness of the utility district to construction plans for water and wastewater lines and facilities and to the tax base or value of taxable development at one, three, five and ten years from the formation

of the utility district.

- b. The applicant shall describe how fire and police protection will be provided five years and ten years from creation of the utility district.
- (17) Justification statement. The applicant shall justify the creation of the utility district. The justification statement shall include but not be limited to the following issues:
- a. The probability of the city providing water and wastewater service to the area proposed to be a utility district within the next three years.
 - b. Job creation and economic base development for the citizens of the city by the utility district.
 - c. Improving the city's ability to participate in providing adequate and safe utilities to the utility district and elsewhere.
 - d. The utility district development's conformance to the master plan.
 - e. The economic viability of the utility district shown in the same manner as required by the state.
 - f. The costs of utilities to users of the utility district's facilities related to the cost of utilities for users of the city's utilities. The rates or taxes used to pay the costs of the city's facilities shall be compared to the rates or taxes used to pay the costs of the utility district's facilities if the latter were built.
- (18) Application and fees for any city master plan amendments, if necessary.

(Ord. No. 1986-85, Part A, § 2, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.079. - Petition submitted by applicant.

The applicant shall file the petition for creation of a utility district and one copy of the documents which are on a list which is on file with the city clerk. Upon receipt of the petition, the city clerk shall immediately inform the city council of the filing. Concurrently, the applicant shall also submit the petition and other documents required by the state in a creation petition to the city manager in electronic format along with three printed copies. The city manager shall be responsible for all formal staff contact with the applicant and shall coordinate the staff and commission review process.

(Ord. No. 1986-85, Part A, § 3, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Secs. 70.080—70.100. - Reserved.

San Marcos, Texas, Code of Ordinances >> Subpart A - GENERAL ORDINANCES >> Chapter 70 - SPECIAL DISTRICTS >> ARTICLE 2. - UTILITY DISTRICTS >> DIVISION 4. - REVIEW PROCESS >>

DIVISION 4. - REVIEW PROCESS

[Sec. 70.101. - Staff review.](#)

[Sec. 70.102. - Planning and zoning commission review process.](#)

[Sec. 70.103. - City council review and action period.](#)

Sec. 70.101. - Staff review.

- (a) The city manager is authorized to establish and implement a staff review process to review and comment on the proposed utility district.

(Ord. No. 1986-85, Part B, § 1, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.102. - Planning and zoning commission review process.

- (a) Within 30 days after the completion of the staff review, the petition and the staffs review and comments shall be placed on the planning and zoning commission's agenda for review and recommendations to the city council.
- (b) The recommendation of the planning and zoning commission shall be forwarded to the city council not less than 30 days before the end of the review period. The city manager shall then compile all commission recommendations and all staff recommendations in a single binding, and forward them to the mayor, each member of the city council, the city clerk, and the applicant. Copies shall be available to the public at all times.

(Ord. No. 1986-85, Part B, § 2, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Sec. 70.103. - City council review and action period.

- (a) The city attorney shall prepare the final consent ordinance, agreements and contracts under this division and provide them in writing to the city council.
- (b) The city manager shall place the proposal on the city council agenda for posting of the public hearing and action no later than the next to the last regularly scheduled meeting of the city council during this review period.

(Ord. No. 1986-85, Part B, § 3, 7-21-86; Ord. No. 2011-54, § 1, 10-18-11)

Agenda Information

AGENDA CAPTION:

Development Services Report:

- a. Comprehensive Master Plan Implementation update .

Meeting date: January 28, 2014

Department: Development Services

Funds Required:

Account Number:

Funds Available:

Account Name:

CITY COUNCIL GOAL:

BACKGROUND: