City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Regular Meeting Agenda - Final

Planning and Zoning Commission

Tuesday, February 23, 2016 | **6:00 PM** | **City Council Chambers**

630 E. Hopkins

I. Call To Order

II. Roll Call

III. Chairperson's Opening Remarks

IV. 30 Minute Citizen Comment Period

CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on February 9, 2016.

2. PC-16-01_02 (Posey Road Industrial Park) Consider a request by Warren Realty, on behalf of TXY Investments Associates, LLC, for approval of a Preliminary Subdivision Plat for approximately 6.33 Acres, more or less, out of the William H. Van Horn Survey, generally located north of Posey Road and West of IH-35. (B. Melland)

PUBLIC HEARINGS

3. CUP-16-03 (Staples Food Trailers) Hold a public hearing and consider a request by Javier Llamas for a Conditional Use Permit to allow the use of portable food facilities in a Mixed Use “MU” zoning district at 201 and 203 Staples Road (A. Villalobos).

4. CUP-16-04 (Bad Habits Hookah Lounge) Hold a public hearing and consider a request by Bad Habis Hookah Lounge, on behalf of G&S Development LLC, for a Conditional Use Permit to allow for the sale of beer and wine at a Smoking Lounge for on-premise consumption at 1617 Aquarena Springs Drive. (T. Carpenter)

5. PSA-15-03 (IH-35 and East River Ridge Pkwy) Hold a public hearing and consider a request by Alan Holt, on behalf of Armbruster Holt LTD, to amend the Preferred Scenario Map to change 4.78 acres of the Juan Veramendi Survey from Area of Stability to Employment Center. (W. Parrish)

6. PSA-15-05 (IH-35 and Posey Road) Hold a public hearing and consider a request by Gunnarson Outdoors for a Preferred Scenario Amendment to change an Area of Stability to an Employment Center for an approximately 50.643 acre, more or less, tract out of the William H. Van Horn Survey, Abstract 464, located west of IH-35 along Posey Road. (A. Brake)

NON-CONSENT AGENDA

7. 2015 End of Year Report

8. Development Services Report:
1. Planning Commission Appointments

V. Question and Answer Session with Press and Public.

VI. Adjournment

Notice of Assistance at the Public Meetings

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:
_____

File #: ID#16-90, **Version:** 1

AGENDA CAPTION:
Consider approval of the minutes of the Regular Meeting on February 9, 2016.

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: n/a
Account Number: n/a
Funds Available: n/a
Account Name: n/a

CITY COUNCIL GOAL:

BACKGROUND:

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes
Planning and Zoning Commission

Tuesday, February 9, 2016 | **6:00 PM** | **City Council Chambers**

630 E. Hopkins

I. Call To Order

II. Roll Call

With a quorum present the regular meeting of the San Marcos Planning and Zoning Commission was called to order by Chair Wood at 6:00 p.m. on Tuesday, February 9, 2016 in the City Council Chambers of the City of San Marcos, City Hall, 630 E. Hopkins, San Marcos, Texas.

Present 9 - Vice Chair Kenneth Ehlers, Chairperson Chris Wood, Commissioner Angie Ramirez, Commissioner Jim Garber, Commissioner Travis Kelsey, Commissioner Shawn Dupont, Commissioner Saul Gonzales, Commissioner Kate McCarty, and Commissioner Douglas Beckett

III. Chairperson's Opening Remarks

IV. 30 Minute Citizen Comment Period

There were no citizen comments.

CONSENT AGENDA

1. Consider approval of the minutes of the Regular Meeting on January 26, 2016.

2. PC-15-53_02 (Blanco Vista Tract E-2) Consider a request by CSF Civil Group, on behalf of Brookfield Residential, for approval of a revised Preliminary Plat for approximately 16.5 acres, more or less, out of the William Ward League Survey, located east of Blanco Vista Boulevard. (A. Brake)

A motion was made by Vice Chair Ehlers, seconded by Commissioner Dupont, that the Consent Agenda be approved. The motion carried by the following vote:

For: 9 - Vice Chair Ehlers, Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty and Commissioner Beckett

Against: 0

PUBLIC HEARINGS

3. CUP-15-44 (La Quinta Inn and Suites) Hold a public hearing and consider a request by TCAT Beverages, LLC, on behalf of La Quinta Inn and Suites, for a Conditional Use Permit to allow for the sale of mixed beverages for on-premise consumption at 111 Centerpoint Court. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

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

A motion was made by Commissioner Kelsey, seconded by Commissioner Garber, that CUP-15-44 (La Quinta Inn and Suites) be approved with the conditions that the permit be valid for one (1) year, provided standards are met, subject to the point system; the permit shall be valid upon issuance of the Certificate of Occupancy; and the CUP shall be posted in the same area and manner as the Certificate of Occupancy. The motion carried by the following vote:

For: 9 - Vice Chair Ehlers, Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty and Commissioner Beckett

Against: 0

4. CUP-16-01 (Wonderworld Loft Apartments) Hold a public hearing and consider a request by Travis Kilpatrick for a Conditional Use Permit to allow loft apartments in a General Commercial zoning district at 185 Wonderworld Drive. (T. Carpenter)

Chair Wood opened the public hearing.

Tory Carpenter, Staff Planner gave an overview of the request.

Andrew Mayer, 300 W. Avenue, San Marcos stated the proposed use is in an intensity zone and asked why the building was proposed behind the parking lot.

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

A motion was made by Commissioner Dupont, seconded by Commissioner McCarty, that CUP-16-01 (Wonderworld Loft Apartments) be approved as submitted. The motion carried by the following vote:

For: 9 - Vice Chair Ehlers, Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty and Commissioner Beckett

Against: 0

5. PC-15-52_04 (Simon Place II) Hold a public hearing and consider a request by San Marcos 123 and 35 Partners, LLC, for a replat of 4.72 acres, more or less, establishing Simon Place II, Lots 1, 2, and 3, City of San Marcos, Hays County, Texas. (W. Parrish)

Chair Wood opened the public hearing.

Will Parrish, Planning Tech gave an overview of the request.

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

A motion was made by Vice Chair Ehlers, seconded by Commissioner Gonzales, that PC-15-52_04 (Simon Place II) be approved as submitted. The motion carried by the following vote:

For: 9 - Vice Chair Ehlers, Chairperson Wood, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty and Commissioner Beckett

Against: 0

NON-CONSENT AGENDA

6. PVC-15-02 (Lodges at Parker's Pond Plat Variance) Consider a plat variance request by Ryan Thomason, on behalf of Lodges at Parker's Pond, LLC, for the Lodges at Parker's Pond Final Plat (PC-15-49_03) to allow a deviation from Section 6.7.2.1(j) of the Land Development Code requiring that the lot depth shall not exceed three times the lot width. (T. Carpenter)

Chair Wood recused himself from the dais.

A motion was made by Commissioner Dupont, seconded by Commissioner Ramirez, that PVC-15-02 (Lodges at Parker's Pond Plat Variance) be approved. The motion carried by the following vote:

For: 8 - Vice Chair Ehlers, Commissioner Ramirez, Commissioner Garber, Commissioner Kelsey, Commissioner Dupont, Commissioner Gonzales, Commissioner McCarty and Commissioner Beckett

Against: 0

Recused: 1 - Chairperson Wood

V. Question and Answer Session with Press and Public.

There were no questions from the press and public.

VI. Adjournment

A motion was made that the meeting be adjourned at 6:32 p.m. The motion carried by a unanimous vote.

_____ _____

Chris Wood, Chair **Kenneth Ehlers, Vice Chair**

_____ _____

Travis Kelsey, Commissioner **Angie Ramirez, Commissioner**

_____ _____

Jim Garber, Commissioner **Shawn Dupont, Commissioner**

_____ _____

Saul Gonzales, Commissioner **Kate McCarty, Commissioner**

ATTEST:

_____

Francis Serna, Recording Secretary

Notice of Assistance at the Public Meetings

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:
_____

File #: PC-16-01_02, **Version:** 1

AGENDA CAPTION:
PC-16-01_02 (Posey Road Industrial Park) Consider a request by Warren Realty, on behalf of TXY Investments Associates, LLC, for approval of a Preliminary Subdivision Plat for approximately 6.33 Acres, more or less, out of the William H. Van Horn Survey, generally located north of Posey Road and West of IH-35. (B. Melland)

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Community Wellness/Strengthen the Middle Class

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
The subject property is approximately 6.33 acres out of a larger 44 acre parent tract. The applicant plans to purchase both the subject property and the parent tract. They are requesting preliminary plat approval for a single lot that is planned to be the relocation site of the Ingram Ready Mix batch plant currently located on the east side of IH-35, just north of Centerpoint Road.

This proposed lot and future development will be accessed by an extension of Transportation Way. Water infrastructure will be extended to this proposed lot and service will be provided by the City of San Marcos. An Out-of-City Utility Agreement (OCU) was previously approved by the City Council. Per the approval of the OCU, an On-Site Sewage Facility may be installed to serve this proposed lot for the future Ingram Ready Mix development.

Staff has reviewed the request and determined that all of the criteria pertaining to preliminary plats has been met and is recommending **approval** of this preliminary plat as submitted.

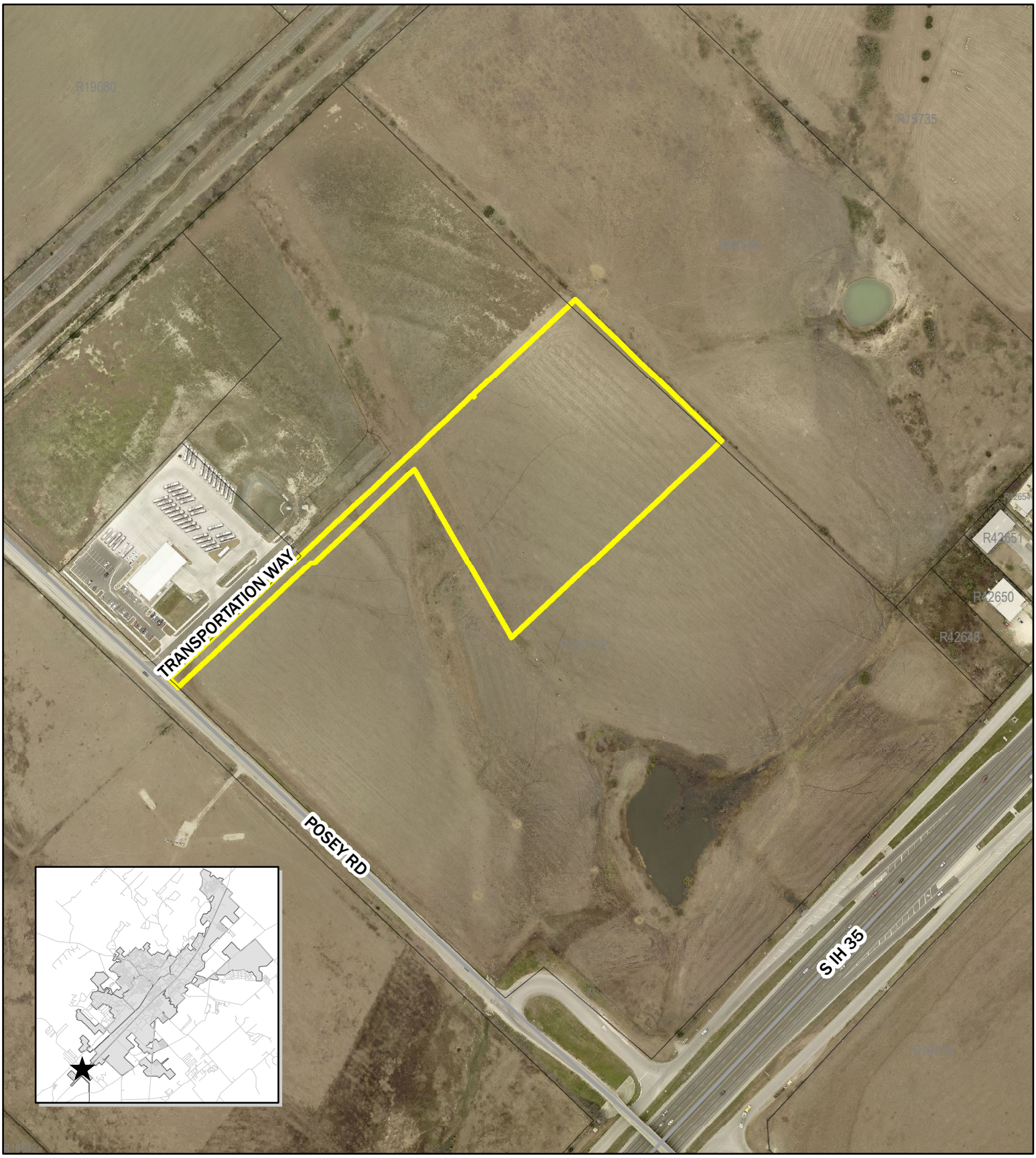
PC-16-01_02
Posey Road Industrial Park
Preliminary Plat
Map Date: 2/10/2016

PC-16-01-02

N

0 250 500 1,000 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.



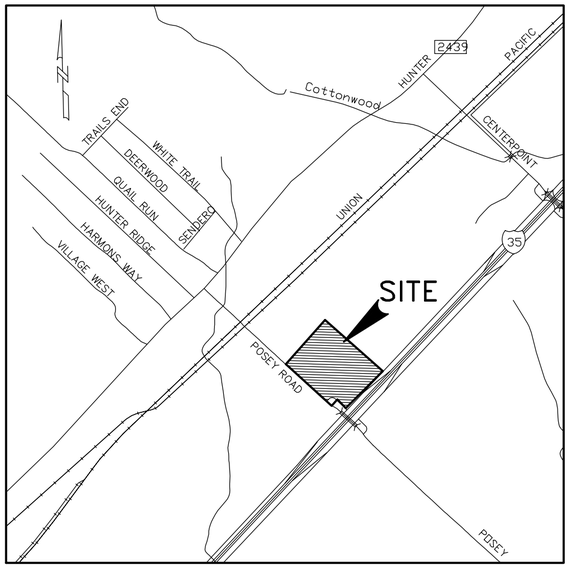
PC-16-01_02
Posey Road Industrial Park
Preliminary Plat
Map Date: 2/10/2016

PC-16-01-02

N

0 250 500 1,000 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.



LOCATION MAP

Acreage: 7.74 acres
Land Use; Light Industrial
Water: City of San Marcos
Sewer: Individual On-Site Sewage Facility
Electricity: Pedernales Electric Cooperative, Inc.
ROW Dedication 1.41 acres

EDWARD'S AQUIFER NOTE:

This Subdivision is not located in the Edwards Aquifer Recharge or Contributing Zone.

E.T.J. NOTE

This subdivision lies within the boundaries of The City of San Marcos Extra Territorial Jurisdiction in Hays County, Texas.

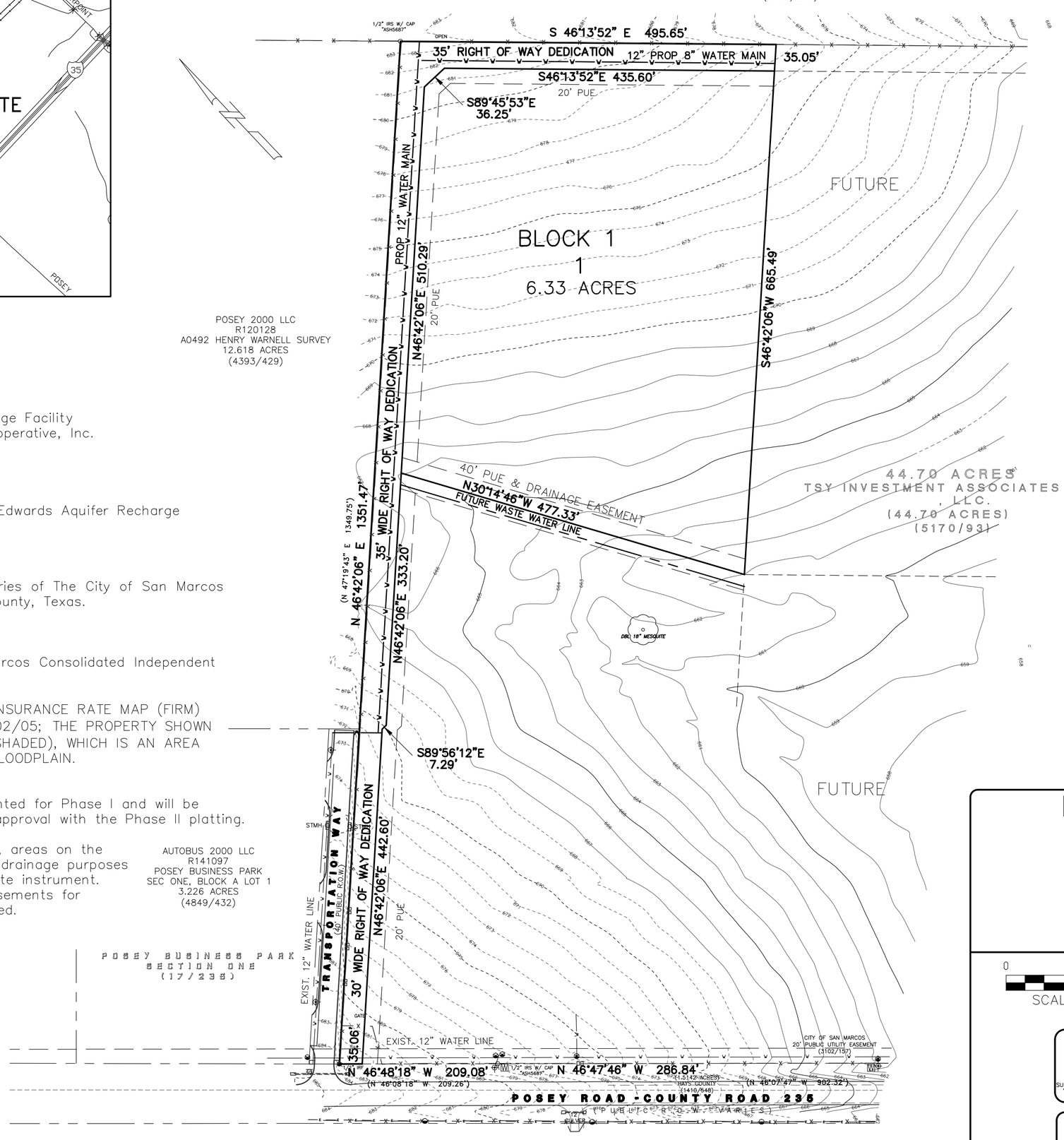
SCHOOL DISTRICT

This subdivision lies within the San Marcos Consolidated Independent School District

ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP (FIRM) NO. 48209C0478F, REVISED DATE 09/02/05; THE PROPERTY SHOWN HEREON IS LOCATED IN ZONE "X" (UNSHADED), WHICH IS AN AREA OUTSIDE THE DESIGNATED 100-YEAR FLOODPLAIN.

A Traffic Impact Analysis is not warranted for Phase I and will be submitted to the City for review and approval with the Phase II platting.

Prior to final plat approval of Phase 1, areas on the remainder tract will be designated for drainage purposes for Phase I and will be filed by separate instrument. With future phases with designated easements for drainage, this instrument will be vacated.



REVISED FEBRUARY 11, 2016

DEVELOPER

WARREN REALTY
1405 UNITED DRIVE
SAN MARCOS, TEXAS 78666

OWNER

TSY INVESTMENTS ASSOCIATES, LLC
11506 CHANCELLROY DR
AUSTIN, TEXAS 78759

SURVEYOR

ASH & ASSOCIATES
132 JACKSON LANE
SAN MARCOS, TEXAS 78666
FIRM NO. 100847-00
512-392-1719

ENGINEER

RAMSEY ENGINEERING, LLC
3206 YELLOWPINE TERRACE
AUSTIN, TEXAS 78757
TBPE FIRM NO. F-12606
512-650-6800

PRELIMINARY PLAT
POSEY ROAD INDUSTRIAL PARK PHASE I
CITY OF SAN MARCOS
HAYS COUNTY, TEXAS

0 100 200
SCALE 1" = 100'

DEVELOPER:
WARREN REALTY LTD
1405 UNITED DRIVE
SAN MARCOS, TX 78666

ASH & ASSOCIATES
SURVEYING - ENGINEERING - ARCHITECTURE
"SERVING THE COMMUNITY OF TEXAS"

132 JACKSON LANE
SAN MARCOS, TEXAS 78666
(512) 392-1719
FAX (512) 392-1928
ashandassociates.net

Surveying: 100847-00
Engineering: F-13483
Architecture: TX20240

DRAWN: RMM SCALE: PLOT 1"=100'
REVIEWED: RMM DATE: 01/04/16
©:ASH & ASSOCIATES, L.L.C.

PROJECT No. 15-5768

SHEET 1 OF 1

PC-16-01_02
Preliminary Plat
Posey Road Industrial Park

Applicant Information:

Applicant: Warren Realty
1405 United Drive
San Marcos, TX 78666

Property Owner: TSY Investments
11506 Chancellroy Dr.
Austin, TX 78759

Subject Property:

Summary: The subject property is approximately 6.33 acres within the William H. Van Horn Survey, generally located north of Posey Road and West of IH-35.

Zoning: This property is currently within the City of San Marcos ETJ.

Traffic/ Transportation: Currently, no improved roads are serving the subject property. Right-of-way (ROW) is proposed to be dedicated and partially improved for Transportation Way. ROW is also proposed to be dedicated for a future east west local street adjacent of the north side of this property.

Utility Availability: A Waterline is present along Posey Road but not directly adjacent to this site. The applicant plans to extend water infrastructure to serve the site. Wastewater infrastructure is not adjacent to the subject property or within the vicinity. The applicant intends to install an On-Site Sewage Facility to serve the wastewater needs of the subject site.

Planning Department Analysis:

The purpose of a Preliminary Plat is to establish lot design for a subdivision, establish utility layouts, and street and intersection design. The Preliminary Plat stage ensures that the final plat design, if final platting is accomplished in phases, is consistent with the overall plan for the area. Preliminary Plats are not recorded and are not the legal document used for sale of lots, but rather are used to allow for comprehensive review of the proposed development.

The subject property is approximately 6.33 acres out of a larger 44 acre parent tract. The applicant plans to purchase both the subject property and the parent tract. They are requesting preliminary plat approval for a single lot that is planned to be the relocation site of the Ingram Ready Mix batch plant currently located on the east side of IH-35, just north of Centerpoint Road.

This proposed lot and future development will be served by an extension of Transportation Way, which is partially developed to the south at present. The east half of Transportation Way will be constructed prior to final approval of this plat. The other half will be developed at such time that the property immediately to the west develops.

Water infrastructure will be extended to this proposed lot from the existing 12" line adjacent to Posey Road and water service will be provided by the City of San Marcos per an Out-of-City Utility Agreement (OCU-15-07) approved by the City Council on December 15, 2015. Per the approval of the OCU, an On-Site Sewage Facility may be installed to serve this proposed lot for the future Ingram Ready Mix development. However, wastewater infrastructure will be required to be addressed in subsequent Subdivision Concept Plat approvals for the remainder tract and installed prior to Final Plat approvals within the remainder. Approval of a Subdivision Improvement Agreement allowing for the deferral of the required City Wastewater infrastructure will be required prior to final plat approval of this proposed plat.

The following criteria shall be used to determine whether the application for a Preliminary Subdivision Plat shall be approved, approved with conditions, or denied where no Subdivision Concept Plat has been approved for the land subject to the proposed plat:

(1) The plat is consistent with all zoning requirements for the property, and any approved development agreement;

(2) The plat conforms to the approved Watershed Protection Plan (Phase 1);

(3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities conform to the master facilities plans for the facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;

(4) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision and meet applicable standards of Chapters 6 and 7 of this Land Development Code; and

(5) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county.

Staff has reviewed the request and determined that all of the above criteria have been met and is recommending **approval** of this preliminary plat as submitted.

Planning Department Recommendation	
☒	Approve as submitted
☐	Approve with conditions or revisions as noted
☐	Alternative - Postpone
☐	Denial

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this proposed 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 if the plat does not meet the criteria for approval section of the Land Development Code, or to statutorily deny (an action that keeps the applicant "in process") the plat.

Prepared by:

Brandon Melland, AICP	Senior Planner	February 10, 2016
Name	**Title**	**Date**

PC- 16 - 01 — 02

City of San Marcos
SUBDIVISION PLAT APPLICATION

	APPLICANT	PROPERTY OWNER
Name	WARREN REALTY	TSY INVESTMENTS ASSOCIATES, LLC
Mailing Address	1405 UNITED DRIVE	11506 CHANCELLROY DR
	SAN MARCOS, Tx 78666	AUSTIN, TX 78759
Daytime Phone	512-392-6484	
Email Address	kevinb@sacnpac.com	

AGENT ACKNOWLEDGEMENT STATEMENT:

I _____ acknowledge that I am the rightful owner of the property proposed for subdivision and hereby authorize Ash & Associates **to serve as my agent to file this application and to work with the Responsible Official on my behalf during the subdivision platting process.**

Signature of Property Owner: _____

Printed Name: _____ **Date:** _____

Signature of Agent: _____

Printed Name: Richard McDaniel **Date:** 01-08-16

TYPE OF APPLICATION

Subdivision Plats

- ☐ Subdivision Concept Plat
- ☒ Preliminary Subdivision Plat
- ☐ Final Subdivision Plat

Development Plats

- ☐ Preliminary Development Plat
- ☐ Final Development Plat

- ☐ Variance
- ☐ Plat Vacation

Section _____

Accompanying _____

Minor Subdivision Plats (for Administrative Approval)

- ☐ Minor Subdivision Plat

Revisions to Recorded Plats (for Administrative Approval)

- ☐ Amending Plat
- ☐ Replat without Vacation

SUBJECT PROPERTY

Subdivision Name: POSEY ROAD INDUSTRIAL PARK, PHASE I

Address or General Location: POSEY ROAD & I35

Proposed Number of Lots: 1 **Acres:** 7.79

Appraisal District Tax ID: R 19709

Located In

- ☐ City Limits
- ☐ S.M. River Corridor
- ☒ ETJ* - Please circle county: *Caldwell* *Comal* *Guadalupe* *Hays*
- ☐ Planned Development District

Proposed Use of Land LIGHT INDUSTRIAL/ COMMERCIAL

**Subdivision plat applications for land in the ETJ may be subject to additional requirements and review as defined by the Interlocal Agreement for the respective county.*

SUBDIVISION IMPROVEMENT AGREEMENT

Whenever public improvements to serve the development are deferred until after Final Subdivision Plat or Final Development Plat approval, the property owner shall enter into a Subdivision Improvement Agreement by which the owner covenants to complete all required public improvements no later than two years following the date upon which the Final Subdivision Plat or Final Development Plat is approved.

- ☐ **I will complete all required public improvements prior to the Final Subdivision Plat or Final Development Plat.**
- ☐ **I wish to defer installation of public improvements and will complete a Subdivision Improvement Agreement with the City.**

Signature: _____

Printed Name: _____ **Date:** _____

PRELIMINARY PLAT - POSEY ROAD INDUSTRIAL PARK PH. 1.

ELECTRIC UTILITY SERVICE ACKNOWLEDGEMENT:

Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Electric Service Provider* Pedernales Electric Cooperative, Inc.

Applicable Utility Service Code(s) A, D.

Comments/Conditions Please place ten (10) utility easements along all property lines, including along roadways and road easements. This can be done by note or plat drawing. Thanks

Signature of Electric Company Official _____

Title Right of Way Agent **Date** 01-05-16

GAS UTILITY SERVICE ACKNOWLEDGEMENT:

Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Gas Service Provider* _____

Applicable Utility Service Code(s) _____

Comments/Conditions _____

Signature of Gas Company Official _____

Title _____ **Date** _____

WATER AND WASTEWATER UTILITY SERVICE ACKNOWLEDGEMENT:
Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Water Service Provider* City of San Marcos

Applicable Utility Service Code(s) C

Comments/Conditions line extension required

Signature of Water Utility Official: Tony Salmi

Title: Water Dist Manager **Date:** Jan 11, 2016

Name of *Wastewater Service Provider* City of San Marcos

Applicable Utility Service Code(s) C

OR, the use of either 1) _____ a private wastewater treatment system, or 2) _____ septic tanks, is approved for all lots in the proposed subdivision which are not required to connect to the City of San Marcos wastewater system.

Comments/Conditions Line extensions required

Signature of City or County Wastewater Official: Lloyd Jones

Title: Wastewater Collections Mgr. **Date** 1-11-16

TELEPHONE UTILITY SERVICE ACKNOWLEDGEMENT:
Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Telephone Service Provider* Century Telephone

Applicable Utility Service Code(s) _____

Comments/Conditions _____

Signature of Telephone Company Official _____

Title: _____ **Date** _____

SUBMITTAL REQUIREMENTS FOR ALL PLATS:

WATER AND WASTEWATER UTILITY SERVICE ACKNOWLEDGEMENT:
Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Water Service Provider* City of San Marcos

Applicable Utility Service Code(s) _____

Comments/Conditions _____

_____

Signature of Water Utility Official: _____

Title: _____ **Date:** _____

Name of *Wastewater Service Provider* City of San Marcos

Applicable Utility Service Code(s) _____

OR, the use of either 1) _____ a private wastewater treatment system, or 2) _____ septic tanks, is approved for all lots in the proposed subdivision which are not required to connect to the City of San Marcos wastewater system.

Comments/Conditions _____

Signature of City or County Wastewater Official: _____

Title: _____ **Date** _____

TELEPHONE UTILITY SERVICE ACKNOWLEDGEMENT:
Utility service codes are to be indicated, as applicable in the space provided in each acknowledgment listed below according to the following designations:

A. Adequate service is currently available to the subject property
B. Adequate service is not currently available, but arrangements have been made to provide it
C. Adequate service is not currently available, and arrangements have not been made to provide it
D. Need easement(s) within subject property

Name of *Telephone Service Provider* Century Telephone

Applicable Utility Service Code(s) _____

Comments/Conditions _____

_____

Signature of Telephone Company Official _____

Title: _____ **Date** _____

SUBMITTAL REQUIREMENTS FOR ALL PLATS:

- ❑ Complete application
- ❑ Required fees $1170.29* _____ *(see next page for Fee Schedule)*
- ❑ All legislative requirements complete
- ❑ Proof of record ownership *(recorded deed corresponds to ownership indicated on tax certificate)*
- ❑ Current tax certificate *(must show prior year taxes paid by January 31st of current year)*
- ❑ Names and addresses of property lien-holders
- ❑ One digital copy of submittal materials
- ❑ Five 18"x24" hard copies of plat document*

I hereby affirm that if I am not the property owner of record, or if the applicant is an organization or business entity, I have been authorized to represent the owner, organization, or business in this application. I certify the preceding information is complete and accurate, and it is understood that I or another representative should be present at all meetings concerning this application.

Signature of Applicant: _____

Printed Name: Richard McDaniel, agent _____ **Date:** 01-08-16

*Plats in the ETJ may require additional hard copies.

ADDITIONAL REQUIREMENTS:

Subdivision Concept Plats:

- ❑ Watershed Protection Plan (Phase 1)
- ❑ Residential compatibility site plan (where applicable)
- ❑ Cluster development plan (where applicable)

Preliminary Subdivision Plats or Preliminary Development Plats

- ❑ Approved Watershed Protection Plan Phase I (can be submitted concurrently)
- ❑ Traffic Impact Analysis Worksheet (if commercial development or 100+ unit residential)

Final Subdivision or Final Development Plats:

- ❑ Preliminary Plat (where applicable)
- ❑ Approved Watershed Protection Plan Phase II and approved Public Improvement Construction Plan by the Director of Engineering (can be submitted concurrently).
- ❑ Subdivision Improvement Agreement and surety if public facility construction was deferred.
- ❑ Traffic Impact Analysis Worksheet (if commercial development or 100+ unit residential)

Minor Subdivision Plats:

Minor subdivisions plats must meet the following qualifications:

- ❑ Proposed subdivision results in 4 or fewer lots
- ❑ All lots front onto an existing public street and construction or extension of a street or alley is not required or is considered a minor extension by Director of Engineering.
- ❑ Extension of municipal facilities is not required or the installation of utilities is considered a minor extension by the Director of Engineering.
- ❑ Approved WPP Phase II is required if land is located within the Edwards Aquifer Recharge Zone, within a designated stream or river corridor, or if the land contains floodplain, floodway or a waterway as defined by the LDC.

Amending Plats and Replats:

- ❑ Detailed description of the purposes and circumstances that warrant change of the recorded plat identifying all lots, easements or improvements affected by the proposed change.

FEE SCHEDULE

FEE SCHEDULE

For Plats Located Inside/Outside of the City Limits	
Subdivision Minor Plat / Amending Plat	$406 plus $102 per acre (max $1000)
Concept Plan	$762 plus $51 acre (max $2000)
Preliminary Plat	$762 plus $51 acre (max $2000)
Final Plat	$1015 plus $102 acre (max $2500)
Replat, not administrative	$762 plus $51 acre (max $2000)
Vacation of Previously Recorded Plat	$153
Subdivision Variance Request	$609
Cluster Development Plan	$26 per acre ($100 min / $1500 max)
Technology Fee	$11

STAFF USE ONLY:

Submittal Date: 01/11/2016 **5 Business Days from Submittal:** 01/18/2016

Completeness Review By: Molly Conyell **Date:** 01/11/2016

Contact Date for Supplemental Info: _____

Supplemental Info Received (required within 5 days of contact): _____

Application Returned to Applicant: _____

Application Accepted for Review: 01/11/2016 **Fee:** $1,170.29

Comments Due to Applicant 01/27/2016

Date for Plat Resubmittals 02/05/2016

Date of Planning and Zoning Commission Meeting: 02/23/2016

File #: CUP-16-03, **Version:** 1

AGENDA CAPTION:
CUP-16-03 (Staples Food Trailers) Hold a public hearing and consider a request by Javier Llamas for a Conditional Use Permit to allow the use of portable food facilities in a Mixed Use “MU” zoning district at 201 and 203 Staples Road (A. Villalobos).

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: n/a
Account Number: n/a
Funds Available: n/a
Account Name: n/a

CITY COUNCIL GOAL: Community Wellness / Strengthen the Middle Class

COMPREHENSIVE PLAN ELEMENT(s): *n/a*

BACKGROUND:

The subject property is located on the southeast corner of Staples Road and Laredo Street and is zoned Mixed Use. Surrounding uses are varied, and include single-family residential to the east along with several Commercial uses along Staples and Hwy 123. The applicant intends to open a mobile food facility with 2 food trailers, a covered area for outdoor picnic tables, and an enclosed restroom facility. No amplified music is proposed. Additional improvements to the site include a one-way drive aisle accessed from Staples Road and exited on Laredo Street and approximately 9 parking spaces. Proposed hours of operation are 6 a.m. to 7 p.m. Monday - Sunday.

The applicant has worked with staff to configure the site in an appropriate manner by addressing the compatibility of the adjacent residential homes to the south and east as well as to preserve the natural landscape and tree cover on the site. Additionally, a 6 foot privacy fence currently exists adjacent to both residential homes. This fence helps to buffer the commercial use from the existing residences and is also a requirement of the LDC. Furthermore, the LDC requires the subject property to double their setback distances from the residential homes which the applicant has indicated on the site plan. The subject property has existing sidewalks along Staples and Laredo Street providing both pedestrian and vehicular accessibility to the neighborhood and adjacent commercial uses.

Staff is concerned, however, with potential noise affecting nearby residences. To avoid potential noise issues, staff recommends that the hours of operation be limited to close no later than 9 p.m. Monday - Sunday and that the condition of no live music be added to the CUP. Staff also recommends an initial approval period of one year to monitor the site. Additionally, the applicant will be required to meet all applicable building and site

requirements which will be reviewed through the permitting process.

Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

1. **The CUP shall be valid for one (1) year;**
2. **The hours of operation shall be limited to closing at 7 p.m. Monday through Sunday;**
3. **No more than 2 food trailers may be located on the site without first amending the CUP;**
4. **No live amplified music shall be allowed; and**
5. **The CUP shall become effective upon the issuance of the Certificate of Acceptance and the successful completion of the building and site final inspections.**

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CUP-16-03
Food Trailer Park
201 & 203 Staples Road
Map Date: 2/4/2016

200 ft buffer

Site Location

N

0 65 130 260 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.

CUP-16-03
Food Trailer Park
201 & 203 Staples Road
Map Date: 2/11/2016

Site Location

N

0 100 200 400 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.

CUP-16-03
Conditional Use Permit
Staples Food Trailers
201 & 203 Staples Road

Applicant Information:

Applicant: Javier Llamas

Mailing Address: 7085 Hwy 142
Maxwell, Texas 78656

Property Owner: Javier and Maria Llamas
7085 Hwy 142
Maxwell, Texas 78656

Applicant Request: Request for a Conditional Use Permit to allow the use of portable food facilities in a Mixed Use "MU" zoning district at 201 and 203 Staples Road.

Public Hearing Notice: Public hearing notification was mailed on February 11, 2016

Response: None as of Staff Report date.

Subject Property:

Expiration Date: None

Location: 201 and 203 Staples Road

Legal Description: CD Wallace, Block 6, Lot 7 and 8

Frontage On: Staples Road and Laredo Street

Neighborhood: Wallace Addition Neighborhood

Existing Zoning: Mixed Use "MU"

Preferred Scenario: The front portion of the property along Staples Road is within a "Medium Intensity" on the Preferred Scenario Map, while the back portion of the property is within a "Low Intensity / Area of Stability".

Utilities: Adequate

Existing Use of Property: Vacant

Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of property	MU	Single-Family residence
S of property	MU	Single-Family residence
E of property	SF-6	Single-Family residence
W of property	GC	Grocery Store & Gas Station

Code Requirements:

A Conditional Use Permit (CUP) allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A Director's Interpretation signed in 2011 (DS-11-01) specified that mobile food establishments are similar enough in nature to be classified as a Market (public, flea) use. A market use is allowed by right in Heavy Commercial (HC) zoning districts and with a Conditional Use Permit in Mixed Use (MU), Neighborhood Commercial (NC), and General Commercial (GC) zoning districts as well as the Central Business Area (CBA) located in the Downtown.

Case Summary

The subject property is located on the southeast corner of Staples Road and Laredo Street and is zoned Mixed Use, which allows both residential and commercial uses. Surrounding uses are varied, and include single-family residential to the east along with several Commercial uses along Staples and Hwy 123. The Hacienda Meat Market is located directly in front of the subject property along with a Convenience store with gas sales to the north.

The applicant intends to open a mobile food facility with 2 food trailers, a covered area for outdoor picnic tables, and an enclosed restroom facility. No amplified music is proposed. The Land Development Code (LDC) requires that establishments having only outdoor dining consisting of fewer than 16 seats shall provide a minimum of 4 parking spaces. The applicant has stated that seating will not exceed 16 seats, and has indicated 9 angled parking spaces on the site plan. Additional improvements to the site include a one-way drive aisle accessed from Staples Road and exited on Laredo Street. Proposed hours of operation are 6 a.m. to 7 p.m. Monday – Sunday.

The applicant has provided example images of a similar mobile food trailer design which they constructed in Lockhart, Texas. Those images have been included within your packet.

Comments from Other Departments:

The Police Department did not express any concerns regarding the establishment and there have been no other comments from other departments.

Planning Department Analysis:

Staff has reviewed the request for compliance with the LDC and has found that the request is consistent with the policies and the general intent of the zoning district. The proposed food trailers present an opportunity to serve both the adjacent neighborhood and the residents of San Marcos with a food service option that is located in walking distance to both a residential area and to several existing office and commercial services.

The applicant has worked with staff to configure the site in an appropriate manner by addressing the compatibility of the adjacent residential homes to the south and east as well as to preserve the natural landscape and tree cover on the site. The existing tree cover serves as an asset to the property and the applicant intends on preserving the existing trees by strategically designing the site.

Additionally, a 6 foot privacy fence currently exists adjacent to both residential homes. This fence helps to buffer the commercial use from the existing residences and is also a requirement of the LDC. Furthermore, the LDC requires that a commercial use adjacent to a residential use will have increased setback requirements. This provision requires the subject property to double their setback distances from the residential homes. The applicant has indicated these increased setbacks on the site plan to a 15 foot setback along the south and a 10 foot setback along the east.

Furthermore, the subject property has existing sidewalks along Staples and Laredo Street providing for both pedestrian and vehicular accessibility to the neighborhood and adjacent commercial uses. The applicant is providing trash and recycling facilities on site which will be screened from the public street.

Staff is concerned, however, with potential noise affecting nearby residences. To avoid potential noise issues, staff recommends that the hours of operation be limited to close no later than 9 p.m. Monday – Sunday and that the condition of no live music be added to the CUP. Staff also recommends an initial approval period of one year to monitor the site. Additionally, the applicant will be required to meet all applicable building and site requirements which will be reviewed through the permitting process.

It appears that the request is consistent with the policies and general intent of the zoning district, is compatible with the character and integrity of adjacent developments, and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic with respect to the Land Development Code.

Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

1. **The CUP shall be valid for one (1) year;**
2. **The hours of operation shall be limited to closing at 7 p.m. Monday through Sunday;**
3. **No more than 2 food trailers may be located on the site without first amending the CUP;**
4. **No live amplified music shall be allowed; and**
5. **The CUP shall be effective upon the issuance of the Certificate of Acceptance and the successful completion of the building and site final inspections.**

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

Commission's Responsibility:

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

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

- is consistent with the policies of the Comprehensive Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

Prepared by:

Andrea Villalobos	Planning Technician	2/9/2016
Name	**Title**	**Date**

15' setback
10' setback
12'
25' setback
50'
STAPLES ROAD
15' setback
Fenced
Food Retailer
Food Retailer
Covered Retail Area
Open Room
Covered Retailer Area
Food Retailer
Drive aisle
201 STAPLES
(trees/grass)
LAREDO STREET

09/15

CUP-16 - 02

City of San Marcos
CONDITIONAL USE PERMIT APPLICATION - GENERAL

	APPLICANT	PROPERTY OWNER
Name:	Javier Llamas	Javier Llamas
Mailing Address:	7085 Hwy 142 Maxwell TX	
Telephone No.:	(512) 618-8570 (512) 138-6097	
E-mail address:	llamas llamasjavi123@hotmail.com	

Property Address: 201 and 203 Staples Rd.
Legal Description (if platted): Lot 8, 7 Block 6 Subdivision ED Walks
Tax ID Number: R 46976 / R 46975 **Zoning District:** MU

PROPOSED USE

Brief description of Proposed Use (attach separate page if needed): It will be a Food Trailer Park with Parking for customers. Also a restroom connected to Sewer. It will have two picnic tables.

Only 2 Two Food Trailers.

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: Javier Llamas Date: 1-11-16

To be completed by Staff:
Meeting Date: 02/23/2016 Application Deadline: 01/11/2016
Accepted by: Molly Coryell Date: 01/11/2016

Land Development Code: Conditional Use Permit

Purpose, Applicability, Exceptions and Effect

Purpose. The purpose of a Conditional Use Permit is to allow the establishment of uses which may be suitable only in certain locations in a zoning district or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their proposed location, design and configuration, and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses enumerated as conditional uses in a particular zoning district, or those nonconforming uses which are damaged or destroyed, and which are permitted to be reestablished under this Land Development Code, shall be authorized as conditional uses.

Effect. Approval of a Conditional Use Permit authorizes the use or development of the property in accordance with the conditions of the permit. Approval of a Conditional Use Permit shall be deemed to authorize only the particular use for which the permit is issued and shall apply only to the property for which the permit is issued (i.e., it is not personal to the applicant), except for uses authorized under Section 4.3.4.2 or Section 4.3.4.3 of this Code. No conditionally permitted use shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new Conditional Use Permit in accordance with the procedures set forth in this section. Initiation or development of the use shall not be authorized until the applicant has secured all the permits and approvals required by this Land Development Code.

Processing of Application and Decision

Hearing and Notification. The Director shall schedule a public hearing before the Planning and Zoning Commission on the application for a Conditional Use Permit, and shall cause personal notice to be given in accordance with the LDC.

Commission Decision. The Planning and Zoning Commission shall be the initial decision maker, subject to appeal to the City Council, on whether to approve, approve with conditions or modifications, or deny the permit. The Planning and Zoning Commission may also recommend whether any requested variations from the standards in the zoning district regulations should be granted by the Zoning Board of Adjustments.

Criteria for Approval

Factors. When considering an application for a Conditional Use Permit, the Planning and Zoning Commission shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:

(1) The proposed use at the specified location is consistent with the policies embodied in the adopted Master Plan;

(2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

(4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

(5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

(6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and

(7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

Conditions. The Planning and Zoning Commission may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the Planning and Zoning Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.

Expiration and Revocation

Time of Expiration. A Conditional Use Permit shall expire if:

(1) A building permit, if any, for the use has not been approved within one year of the date of approval of the permit;

(2) The building permit subsequently expires;

(3) The use has been discontinued for a period exceeding six months; or

(4) A termination date attached to the permit has passed.

Revocation. The Planning and Zoning Commission may revoke any Conditional Use Permit that is in violation of any condition imposed on the use in accordance with the procedures of Article 3, Division 7 of this Chapter 1.

Appeals

The applicant or other interested person may appeal the decision of the Planning and Zoning Commission to grant or deny a permit to the City Council in accordance with Article 10, Division 1, of this Chapter 1. The Council shall apply the criteria in Section 1.5.7.5 in deciding whether the Commission's action should be upheld, modified or reversed. A three-fourths vote of all of the members of the City Council shall be necessary to reverse a decision of the Planning and Zoning Commission to deny a permit.

Conditional Use Permit Application Checklist: *GENERAL*

Provided by applicant as of date of submittal		By staff as of date of completeness review	
Completed	**Required Item**	**Staff Verification**	**Staff Comments**
☐	A pre-application conference with staff is recommended	☐	
☐	A completed application for Conditional Use Permit and required fees	☐	
☐	A site plan illustrating the location of all structures on the subject property and on adjoining properties	☐	
☐	Authorization to represent the property owner, if applicant is not the owner	☐	
☐	Application Fee $609	☐	
☐	Renewal Fee $305	☐	
☐	Technology Fee $11		
Any of the following pieces of information as requested by the Planning Director:			
☐	Landscaping and/or fencing of yards and setback areas and proposed changes	☐	
☐	Design of ingress and egress	☐	
☐	Off-street parking and loading facilities	☐	
☐	Height of all structures	☐	
☐	Proposed uses	☐	
☐	The location and types of all signs	☐	
☐	Hours of operation	☐	
☐	Impervious cover or drainage issues or impacts	☐	
☐	All information and illustrations necessary to show the nature and effect of the proposed variations to the standards of the zoning district	☐	

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

Signed: Javier Llamas Date: 1-11-16

Printed Name: Javier Llamas

☐ Engineer ☐ Surveyor ☐ Architect/Planner ☑ Owner ☐ Agent: _____

El Taco Feliz
Coming Soon

File #: CUP-16-04, **Version:** 1

AGENDA CAPTION:

CUP-16-04 (Bad Habits Hookah Lounge) Hold a public hearing and consider a request by Bad Habis Hookah Lounge, on behalf of G&S Development LLC, for a Conditional Use Permit to allow for the sale of beer and wine at a Smoking Lounge for on-premise consumption at 1617 Aquarena Springs Drive. (T. Carpenter)

Meeting date: February 23, 2016

Department: Planning & Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:

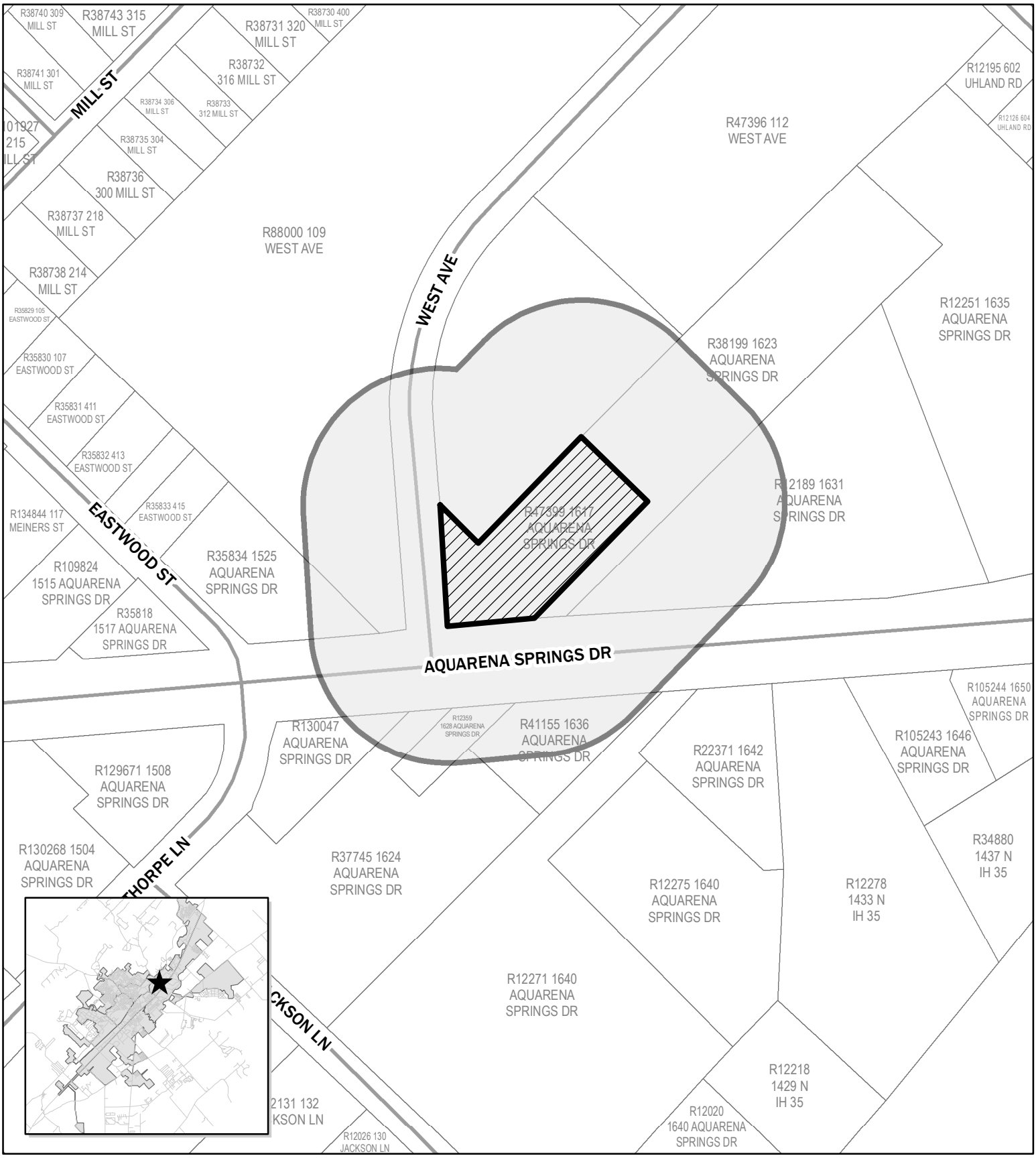
The subject property zone General Commercial and is located at the northeast corner of Aquarena Springs Drive and West Avenue. The gross floor area of the building is approximately 5,280 square feet and has approximately 100 indoor and 30 outdoor fixed seats. Hours of operation are from 4:00pm to 2:00am.

The applicant is proposing to use the subject property as a smoking lounge, supplying hookahs and shisha (the tobacco mixture used in hookahs) to be used on-site. Other entertainment facilities include pool tables and an oxygen bar.

The applicant stated that the selection of beer will be limited and that alcohol sales with be incidental to the rental of hookahs and sale of tobacco. He also stated that beer will only be served in cans or bottles, i.e. no kegs will be used on site.

Staff provides this request to the Commission for your consideration and recommends **approval** of the Conditional Use Permit with the following conditions:

1. **The permit shall be valid for one (1) year, provided standards are met, subject to the point system; and**
2. **The permit shall be posted in the same area and manner as the Certificate of Occupancy;**
3. **No amplified music shall be allowed on the patio;**
4. **The smoking of cigarettes, or tobacco products other than shisha is not permitted indoors; and**
5. **Alcohol-related advertisement shall not be visible from the exterior of the building.**



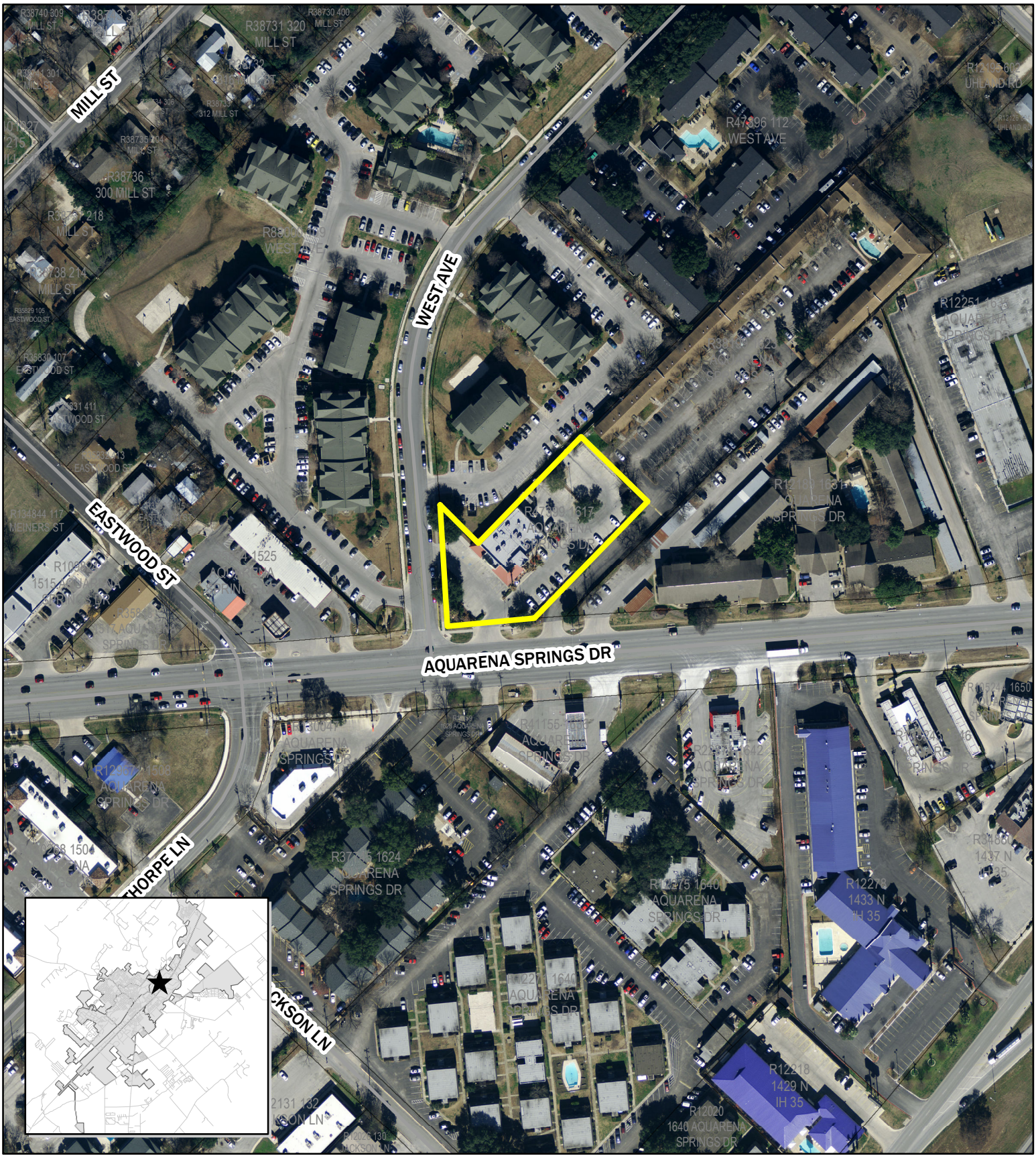
CUP-16-04
Bad Habits Hookah Lounge
1617 Aquarena Springs Dr
Map Date: 2/10/2016

Site Location
200 ft Buffer

0 150 300 600 Feet

N

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.



CUP-16-04
Bad Habits Hookah Lounge
1617 Aquarena Springs Dr
Map Date: 2/10/2016

Site Location

0 150 300 600 Feet

N

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.

CUP-16-04
Conditional Use Permit
Bad Habits Hookah Lounge
242 N LBJ Dr

Applicant Information:

Applicant:	Bad Habits Hookah Lounge 831 Sagewood Trail San Marcos, TX 78666
Property Owner:	G&S Development LLC 6621 Olympia Drive Pasadena, TX 77505
Applicant Request:	Approval of a new Conditional Use Permit (CUP) to allow on-premise consumption of beer and wine at a smoking lounge.
Notification	Public hearing notification mailed on February 11, 2016
Response:	Staff received one letter in opposition on February 17, 2016

Subject Property:

Location:	1617 Aquarena Springs Drive
Legal Description:	Lot 5A, Block B of the Westfield Addition
Frontage On:	Aquarena Springs Drive and West Avenue.
Neighborhood:	Millview East
Existing Zoning:	General Commercial
Preferred Scenario Designation:	Area of Stability
Utilities:	Adequate
Existing Use of Property:	Restaurant - Vacant
Proposed Use of Property:	Hookah Lounge

Zoning and Land Use:

	Current Zoning	Existing Land Use
N of Property	MF-24	Multifamily
S of Property	OP, MF-18	Offices, Multifamily
E of Property	MF-18	Multifamily
W of Property	MF-24	Multifamily

Code Requirements:

A conditional use permit allows the establishment of uses which may be suitable only in certain locations or only when subject to standards and conditions that assure compatibility with adjoining uses. Conditional uses are generally compatible with permitted uses, but require individual review and imposition of conditions in order to ensure the appropriateness of the use at a particular location.

A business applying for on-premise consumption of alcohol must not be within 300 feet of a church, school, hospital, or a residence located within a zoning district that limits density to six units per acre or less. This location does meet the distance requirements.

CUP's issued for on-premise consumption of alcohol make the business subject to the code standards and the penalty point system for violations (Section 4.3.4.2). This location is outside the Central Business Area and not subject to the additional restrictions with the CBA.

Case Summary

The subject property is located at the northeast corner of Aquarena Springs Drive and West Avenue. The gross floor area of the building is approximately 5,280 square feet and has approximately 100 indoor and 30 outdoor fixed seats. Hours of operation are from 4:00pm to 2:00am.

The applicant is proposing to use the subject property as a smoking lounge, supplying hookahs and shisha (the tobacco mixture used in hookahs) to be used on-site. Other entertainment facilities include pool tables and an oxygen bar.

The applicant stated that selection of beer will be limited and that alcohol sales with be incidental to the rental of hookahs and sale of tobacco. He also stated that beer will only be served in cans or bottles, i.e. no kegs will be used on site.

Until recently the property was the site of Los Cucos Mexican restaurant which held a lifetime CUP for mixed beverages.

Comments from Other Departments:

There were no comments from other departments. We received a letter in opposition from the owners of the Colony apartment complex which is adjacent to the subject property. The letter is included as an attachment to this packet.

Planning Department Analysis:

Since a "smoking lounge" is permitted in General Commercial zoning districts, this request is solely for the on-premise consumption of beer & wine. Furthermore, tobacco selling establishments, or smoking lounges, are exempt from the San Marcos smoking ordinance. As the business name, website, and social media pages suggest, the business is being advertised and held out to the public as a smoking lounge.

Staff has little concern with noise disrupting nearby multifamily residences since the patio faces away from apartment buildings and is separated by a large parking lot. To ensure that this will not disrupt nearby residences, staff recommends that no amplified music be allowed on the patio.

To help ensure that the establishment functions as a smoking lounge and not a bar, staff recommends that no alcohol-related advertisement be visible from the exterior of the building. Staff also recommends that the smoking of tobacco products other than shisha not be allowed, i.e. cigarettes cannot be smoked indoors.
Staff has reviewed the request for compliance with the Land Development Code and found that the request is consistent with the policies and the general intent of the zoning district and does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic.

In order to monitor new permits for on-premise consumption of alcohol, the Planning Department's recommendation is that they be approved initially for a limited time period. Other new conditional use permits have been approved as follows:

- Initial approval for 1 year;
- Renewal for 3 years
- Lifetime of the TABC license

Staff provides this request to the Commission for your consideration and recommends approval of the Conditional Use Permit with the following conditions:

1. **The permit shall be valid for one (1) year, provided standards are met, subject to the point system; and**
2. **The permit shall be posted in the same area and manner as the Certificate of Occupancy;**
3. **No amplified music shall be allowed on the patio;**
4. **The smoking of cigarettes, or tobacco products other than shisha is not permitted indoors; and**
5. **Alcohol-related advertisement shall not be visible from the exterior of the building.**

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

Commission's Responsibility:

The Commission is required to hold a public hearing and receive comments regarding the proposed Conditional Use Permit. After considering public input, the Commission is charged with making a decision on the Permit. Commission approval is discretionary. The applicant, or any other aggrieved person, may submit a written appeal of the decision to the Planning Department within 10 working days of notification of the Commission's action, and the appeal shall be heard by the City Council.

The Commission's decision is discretionary. Provided the request meets the minimum requirements of Section 4.3.4.2 of the LDC, the Commission shall also evaluate the impact of the proposed conditional use on surrounding properties under Section 1.5.7.5 of the LDC, by considering the extent to which the use:

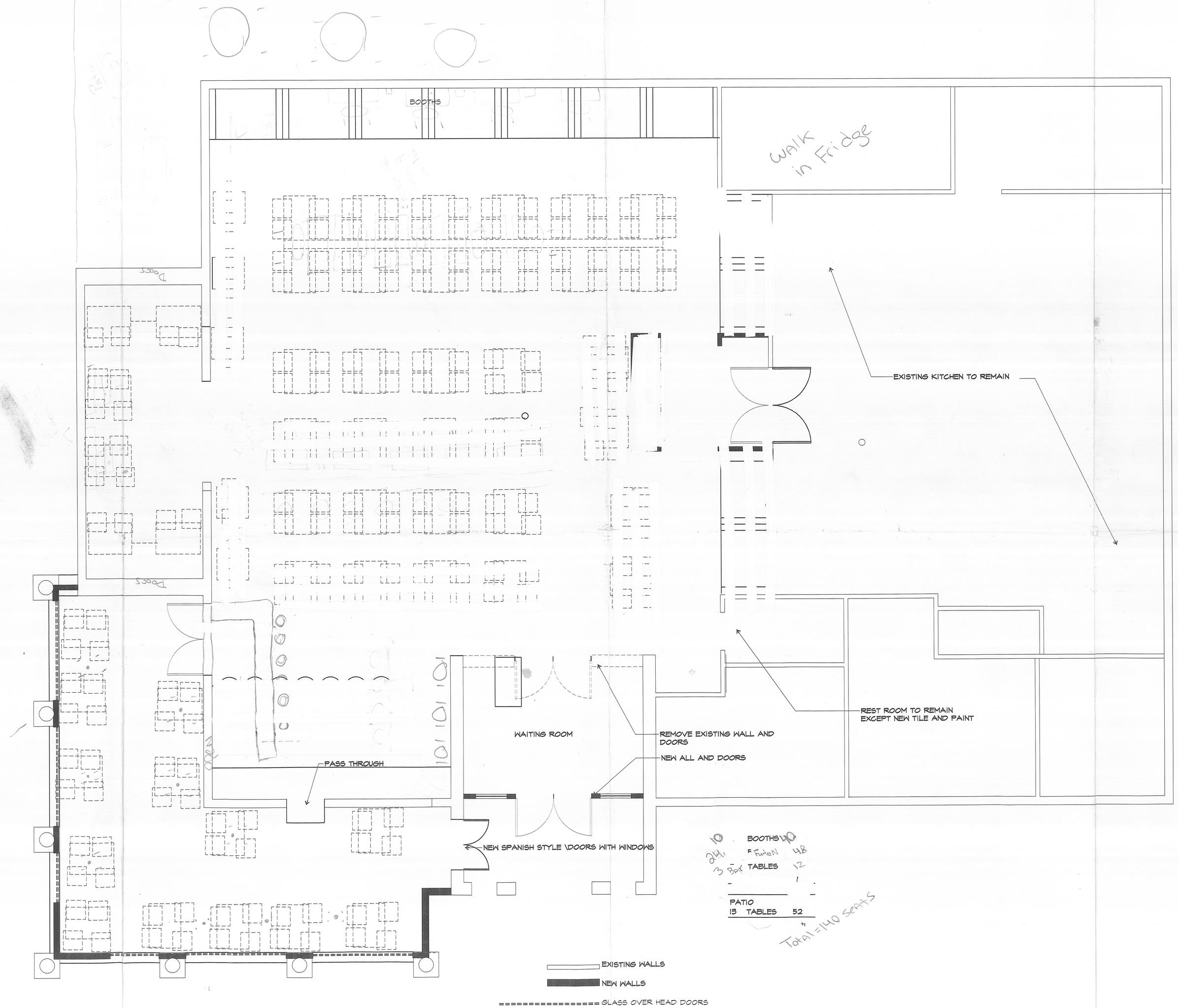
- is consistent with the policies of the Comprehensive Plan and the general intent of the zoning district;
- is compatible with the character and integrity of adjacent developments and neighborhoods;
- includes improvements to mitigate development-related adverse impacts; and
- does not generate pedestrian or vehicular traffic which is hazardous or conflicts with existing traffic in the neighborhood.

Conditions may be attached to the CUP that the Commission deems necessary to mitigate adverse effects of the proposed use and to carry out the intent of the Code.

Prepared by:

Tory Carpenter	Planner	February 11, 2016
Name	**Title**	**Date**

1/4



LOS CUCOS MEXICAN CAFE

SAN MARCOS TEXAS

BURTON M ISON

WIMBERLEY, TEXAS
P.O.BOX 624
512-847-2120

ARCHITECT

DATE:

09/12

CUP- 16 - 04

City of San Marcos

CONDITIONAL USE PERMIT APPLICATION
To Allow On-Premise Consumption of Alcoholic Beverages
Outside the Central Business Area

LICENSE INFORMATION

Trade Name of Business: Bad Habits Hookah Lounge

Application is filed by:

☐ Individual ☐ Partnership ☒ Corporation ☐ Other: _____

Name of Individual or Entity: San Marcos Smoke LLC **Phone Number:** 2105218231

Mailing Address: 831 Sagewood Trail San Marcos, Texas 78666

Email Address: Badhabitshookah@gmail.com

Type of Permit Requested: ☐ Mixed Beverage ☒ Beer & Wine ☐ Other: _____

PROPERTY

Street Address: 617 Aquarena Springs Dr. **Current Zoning:** GC

Legal Description: Lot 5A Block B Subdivision Westfield Resub.

Tax ID Number: R 47399

Property Owner's Name: Dale Grayson **Phone Number:** (713) 305-0553

Address: 6621 Olympia Drive, Pasadena, Texas 77505

BUSINESS DETAILS

Primary Business Use: ☐ Restaurant ☐ Bar ☒ Other: Hookah Lounge

Hours of Operation: 4:00 p.m - 2:00 am

Type of Entertainment Facilities: Pool Tables, Oxygen Bar

Indoor Fixed Seats Capacity: 100 **Outdoor Fixed Seats:** 30

Gross Floor Area Including Outdoor Above-ground Decks: 5,280 SqFt Square Feet

Number of Off-Street Parking Spaces Provided: ~~80~~ 73

Located more than 300 feet from church, public school, hospital, low density residential? ☒ Y ☐ N

APPLICATION FOR CITY OF SAN MARCOS CONDITIONAL USE PERMIT-TABC

CUP PERMIT HISTORY *Check all that apply*

- ☒ **New request**, no existing TABC CUP Permit at this location
- ☐ **Change** to existing TABC Permit. Nature of Change: _____
- ☐ **Renewal**
- ☐ **Change in name of license holder** of existing business at same location
- ☐ **Change in name of existing business** at this location

SUBMITTAL REQUIREMENTS

- Beer and Wine Permit: **$609 Application fee + $11.00 Technology Fee** (non-refundable)
- Mixed Beverage Permit: **$609 Application fee + $11.00 Technology Fee** (non-refundable)
- Change to Existing Permit/Renewal: **$305.00 fee + $11.00 Technology Fee** (non-refundable)
- **Site Plan** drawn to scale, preferably on paper no larger than 11" x 17", showing dimensions of property, locations and square footage of building(s), interior layout showing dimensions of tables, bar area, etc., number of off-street paved parking spaces, and fences buffering residential uses.
- **Copy of State TABC License Application**

I certify that this information is complete and accurate. I understand that I or a representative should be present at all meetings regarding this application.

☐ *I am the property owner of record; or*

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

Applicant's Signature _____

Printed Name: Taylor Henry **Date:** 1/11/16

To be completed by Staff:

Meeting Date: _____ Application Deadline: _____

Accepted By: _____ Date: _____

Conditional Use Permit Application Checklist
To Allow On-Premise Consumption of Alcoholic Beverages Outside the Central Business Area

Provided by applicant as of date of submittal		By staff as of date of completeness review	
Completed	**Required Item**	Staff Verification	**Staff Comments**
☐	A pre-application conference with staff is recommended	☐	
☐	A completed application for Conditional Use Permit and required fees. * (see note below)	☐	
☐	A site plan *drawn to scale* showing dimensions of property, locations and square footage of building(s), number of off-street paved parking spaces, and fences buffering residential uses. * (see note below)	☐	
☐	Interior layout showing all proposed seating; kitchen and bar areas; and restroom facilities	☐	
☐	All information and illustrations necessary to show the nature of the proposed use and its effect on surrounding properties	☐	
☐	Authorization to represent the property owner, if applicant is not the owner	☐	
Any of the following pieces of information as requested by the Director of Development Services : *(see note below)			
☐	Landscaping and/or fencing of yards and setback areas and proposed changes	☐	
☐	Design of ingress and egress	☐	
☐	Off-street loading facilities	☐	
☐	Height of all structures	☐	
☐	Proposed uses	☐	
☐	The location and types of all signs	☐	
☐	Copy of State TABC License application	☐	
☐	Impervious cover or drainage issues or impacts	☐	
☐	Menu		

* For renewals, staff may accept a written statement that no changes have been made to these items if copies are available on file.

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

Signed: _____ Date: 01/11/2016

Print Name: Taylor Henry

☐ Engineer ☐ Surveyor ☐ Architect/Planner ☒ Owner ☐ Agent _____

Carpenter, Tory

From: Serna, Francis
Sent: Thursday, February 18, 2016 8:23 AM
To: Carpenter, Tory
Subject: FW: CUP-16-04

From: Kevin Gross [mailto:kgross@summitstatebank.com]
Sent: Wednesday, February 17, 2016 1:52 PM
To: Planning_Info <planning_info@sanmarcostx.gov>
Cc: Randy Werhane <randy@arborprop.com>; Doug Werhane <doug@arborprop.com>; L.G. Ross <lgcomedy@gmail.com>
Subject: CUP-16-04

Dear Members of the Planning & Zoning Commission, City of San Marcos

Re: CUP-16-04
Bad Habits Hookah Lounge
1617 Aquarena Springs Drive

My name is Kevin Gross and I represent the owners (of which I am one) of The Colony of San Marcos apartments, and Colony Phase II apartments, located at 1631 and 1623 Aquarena Springs Rd, and immediate neighbors to the east of the proposed Bad Habits Hookah Lounge at 1617 Aquarena Springs Rd.

We are much opposed to the proposed new conditional use permit to allow the sale of beer and wine at a smoking lounge (hookah bar). We believe that allowing this particular business would not be in the best interests of the neighborhood. We deem the involvement of alcohol with smoking in the immediate proximity to our resident tenants would create an environment that is unsafe, unhealthy, and would likely lead to other problems, namely crime. We would much rather see a business that complements the neighborhood, rather than detracts from it.

We respectfully ask that you deny the request for this business at this location.

I have copied L.G. Ross (a co-owner) and the Principals of our management company, Arbor Properties, on this message.

Please feel free to contact me if you have any questions.
Thank you for your attention and consideration.

Kevin Gross

E-MAIL NOTICE
Summit State Bank will never send an email asking you to provide, verify, update or confirm any personal, account, or financial information.

This email and any files transmitted with it are intended only for the personal and confidential use of the recipient named in this email. If you are not the intended recipient (or responsible for the delivery of the message to the intended recipient), you are hereby notified that any dissemination, distribution, copying, or other use of, or taking of any action in reliance on this email is strictly prohibited. If you have received this email in error, please contact the sender, Postmaster@summitstatebank.com or call (707) 568-6000 immediately and delete all copies of this email from your system. All email sent to and from this address will be received or otherwise recorded by Summit State Bank's email system and is subject to archival, monitoring or review by, and/or disclosure to, someone other than the recipient.

File #: PSA-15-03, **Version:** 1

AGENDA CAPTION:
PSA-15-03 (IH-35 and East River Ridge Pkwy) Hold a public hearing and consider a request by Alan Holt, on behalf of Armbruster Holt LTD, to amend the Preferred Scenario Map to change 4.78 acres of the Juan Veramendi Survey from Area of Stability to Employment Center. (W. Parrish)

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: NA
Account Number: NA
Funds Available: NA
Account Name: NA

CITY COUNCIL GOAL: Community Wellness / Strengthen the Middle Class

COMPREHENSIVE PLAN ELEMENT(s): Land Use, Goal 1.

BACKGROUND:
The subject site consists of approximately 4.78 acres, more or less, out of the J.M. Veramendi Survey. The property is located on the Southeast corner of IH-35 and East River Ridge Pkwy, across IH-35 from Carlson Circle.

This site is identified as an Area of Stability on the Preferred Scenario Map. Given the surrounding zoning, the site is considered Redevelopment/Infill on the Land Use Intensity Matrix. This matrix, attached, provides general uses that *Vision San Marcos* recommends in this type of area. Also attached is the Zoning Translation Table. This table is currently part of the Land Development Code and indicates what types of zoning can be requested for properties based on their Preferred Scenario Map classification. The site currently falls under the LS-RI (Low / Stability-Redevelopment / Infill) column. The applicant is requesting to amend the Preferred Scenario and designate this property as an Employment Center.

Currently the site consists of vacant land and is zoned Future Development (FD). Surrounding land uses include vacant land, and multifamily apartments.

This site and the surrounding area is located within the 100 year floodplain. This property and the surrounding developments did flood during the 2015 Memorial Day flood event.

Prior to the 2005 City wide rezoning that was done in conjunction with the adoption of the current Land Development Code, this property was part of a larger tract of land which was zoned Commercial (C), which was the standard commercial zoning under the previous code (as opposed to Heavy Commercial (HC)). However, during the City wide rezone, the property was rezoned to Future Development. The majority of the other potions of this property that had been rezoned under the City wide rezoning from C to FD have since been rezoned from FD to General Commercial (GC) or Multifamily 18 (MF-18). It is unclear to current City staff what the rationale was behind the 2005 rezoning from C to FD.

If this request is not granted, the applicant is able to maintain and develop under the existing zoning category or apply for a change to residential zoning districts up to MF-12, as well as commercial zoning districts Mixed Use or Neighborhood Commercial. A Planning and Zoning Commission recommendation and City Council approval would be required for any proposed zoning changes. A summary of what is currently permitted at this location is attached.

Staff has reviewed the request and recommends **approval** of the request to change from an Area of Stability to an Employment Center.

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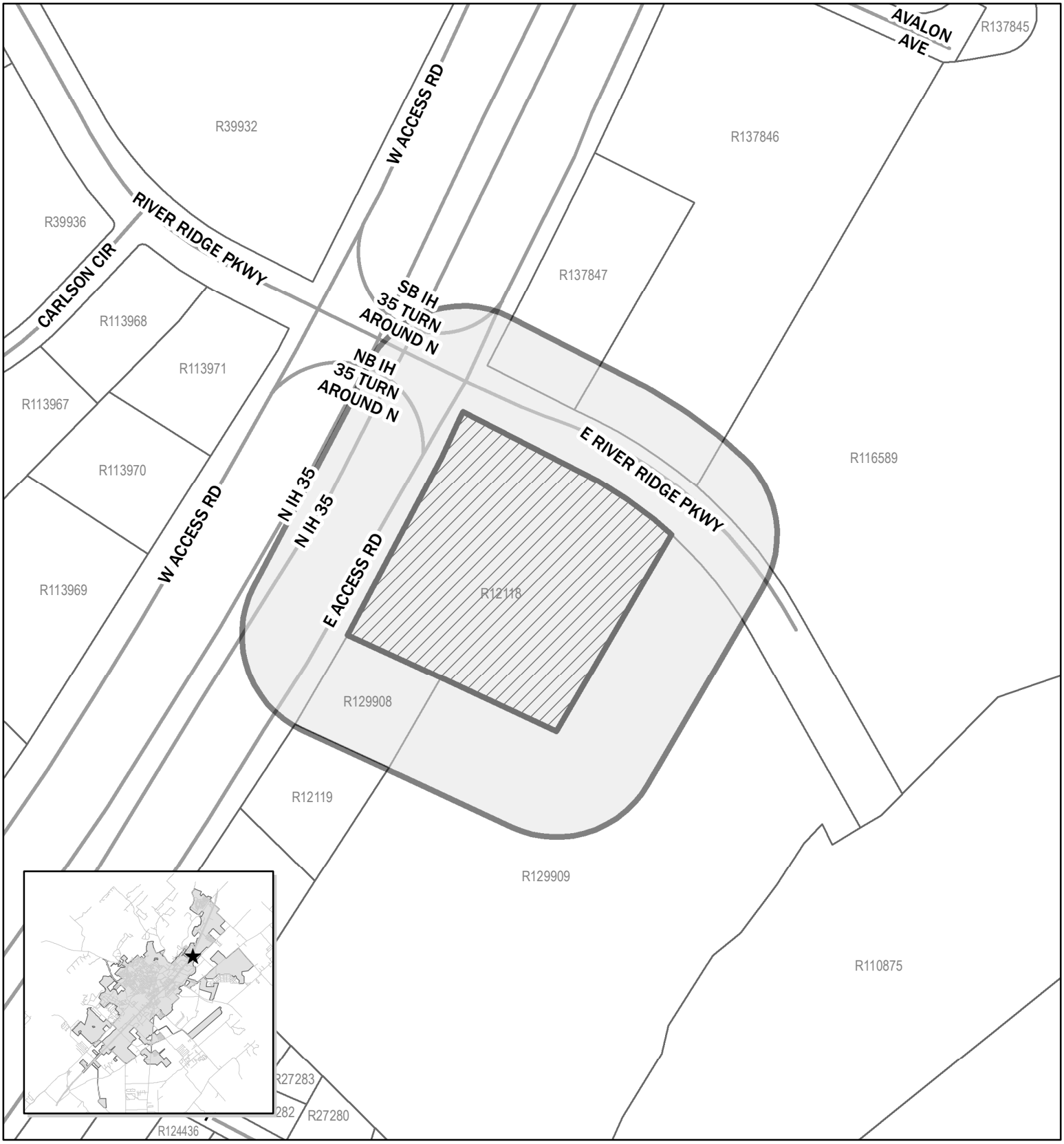


PSA-15-03
IH 35 and River Ridge Pkwy
Pre-Notice
Map Date: 1/5/2016

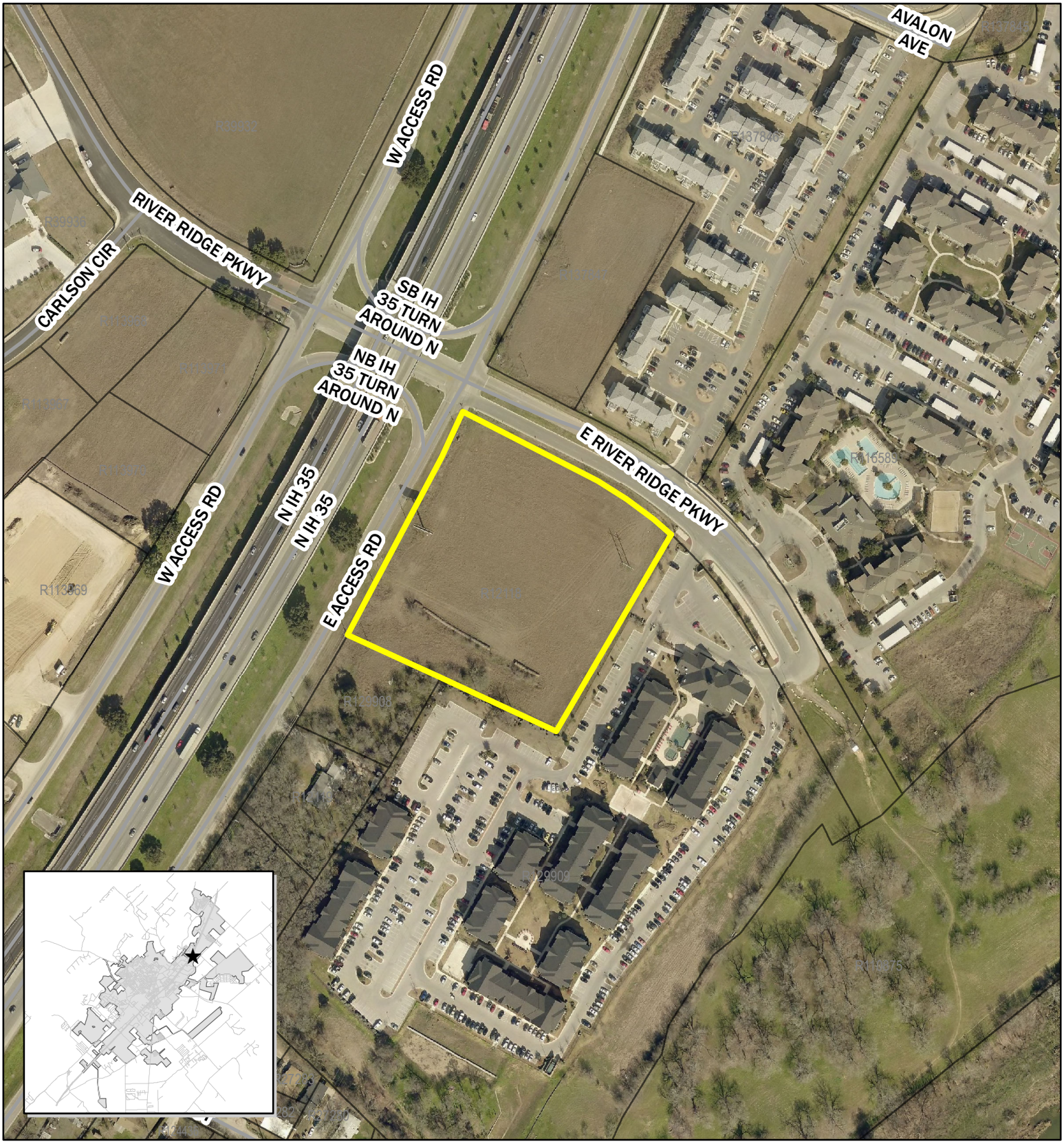
Site Location

200ft Buffer

0 150 300 600 Feet

N

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.



PSA-15-03
IH 35 and River Ridge Pkwy
Pre-Notice
Map Date: 1/5/2016

PSA-15-03

0 150 300 600 Feet

N

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.

PSA-15-03
Preferred Scenario Amendment
IH-35 and East River Ridge Pkwy

Summary:

The applicant is requesting a change from Area of Stability to Employment Center on the Preferred Scenario Map.

Applicant: Alan Holt
Armbruster Holt, LTD
PO Box 2183
Manchaca, TX 78652

Property Owners: Armbruster Holt, LTD
PO Box 2183
Manchaca, TX 78652

Notification: Courtesy notice sent on January 8, 2016 with updates at the Neighborhood Commission January 20; Planning & Zoning Commission on January 26; and City Council February 2.

Personal notice sent and signs posted on February 11, 2016 for the Public Hearing to be held on February 23.

Response: The update to the Neighborhood Commission was held on January 20 and one Commissioner was inquisitive as to the nature of the proposed use on the property. At the P&Z meeting on January 26, a Commissioner requested that staff provide additional information about the flood plain and how the site had been affected during the recent flood events at the February 23 meeting. At the City Council meeting on February 2 several City Council members expressed concern over the floodplain and distance of the property to the river, and stated that they would like to see the 2D model prior to making a decision. Additionally, several Council members were concerned about the possibility of a gas station located within the flood plain.

All written questions and comments from these meetings can be found in the public input attachment.

Subject Property:

Location: Southwest corner of IH-35 and East River Ridge Pkwy.

Legal Description: Approximately 4.78 acres, more or less, out of the J.M. Veramendi Survey

Sector: Sector One (6)

Current Zoning: Future Development (FD)

Current Preferred Scenario Designation: Area of Stability

Proposed Preferred Scenario Designation: Employment Center

	Zoning	Existing Land Use	Preferred Scenario
N of Property	GC & MF-18	Vacant & Multifamily	Stability
S of Property	FD & MF-18	Vacant & Multifamily	Stability
E of Property	MF-18 & PDD	Multifamily	Stability

Surrounding Area:	W of Property	GC	IH-35 and Carlson Circle	Employment

Preferred Scenario Amendments, Generally:

With the adoption of *Vision San Marcos*, the City's comprehensive plan, the Preferred Scenario Map replaced the City's previous Future Land Use Map, and the process for requesting changes to the Map was amended. In order for a property to develop, the appropriate zoning must be in place. If a zoning change is necessary, the underlying designation on the Preferred Scenario (Area of Stability, Intensity Zone, or Employment Area) must support the proposed zoning. This determination is made by using the Preferred Scenario Map and Land Use Intensity Matrix from *Vision San Marcos*, as well as the Zoning Translation Table in the Land Development Code. If the proposed zoning is not permitted based on the Preferred Scenario and Intensity Matrix designation, an applicant may request an amendment to the Preferred Scenario.

The Comprehensive Plan recommends that amendments to the Preferred Scenario Map only be considered twice per year, and this language was adopted as part of the City's Land Development Code. Preferred Scenario Amendment requests should be carefully examined using the tools provided in *Vision San Marcos*.

The process adopted in the Land Development Code in response to *Vision San Marcos* also separates the zoning request from the Preferred Scenario Request. Only with an approval recommendation from the Planning and Zoning Commission and a motion for approval by the City Council can an applicant file for a zoning change request.

Standard procedures for reviewing and taking action on zoning change and planned development district requests have not changed as part of this process except as noted above.

Property Description & Current Conditions:

The subject site consists of approximately 4.78 acres, more or less, out of the J.M. Veramendi Survey. The property is located on the Southeast corner of IH-35 and East River Ridge Pkwy, across IH-35 from Carlson Circle.

This site is identified as an Area of Stability on the Preferred Scenario Map. Given the surrounding zoning, the site is considered Redevelopment/Infill on the Land Use Intensity Matrix. This matrix, attached, provides general uses that *Vision San Marcos* recommends in this type of area. Also attached is the Zoning Translation Table. This table is currently part of the Land Development Code and indicates what types of zoning can be requested for properties based on their Preferred Scenario Map classification. The site currently falls under the LS-RI (Low / Stability-Redevelopment / Infill) column. The applicant is requesting to amend the Preferred Scenario and designate this property as an Employment Center.

Currently the site consists of vacant land and is zoned Future Development (FD). Surrounding land uses include vacant land, and multifamily apartments.

Prior to the 2005 City wide rezoning that was done in conjunction with the adoption of the current Land Development Code, this property was part of a larger tract of land which was zoned Commercial (C), the standard commercial zoning under the previous code. However, during the City wide rezone, the property was rezoned to Future Development. The majority of the other portions of this property that had been rezoned under the City wide rezoning from C to FD have since been rezoned from FD to General Commercial (GC) or Multifamily 18 (MF-18). It is unclear to current City staff what the rationale was behind the 2005 rezoning from C to FD.

If this request is not granted, the applicant is able to maintain and develop under the existing zoning category or apply for a change to residential zoning districts up to MF-12, as well as commercial zoning districts Mixed Use or Neighborhood Commercial. A Planning and Zoning Commission recommendation and City Council approval would be required for any proposed zoning changes. A summary of what is currently permitted at this location is attached.

Request: Change from Area of Stability to Employment Center on the Preferred Scenario Map

The applicant is proposing the development of a commercial corner that includes the sale of gas at this location which would require the site to be designated as Employment Center on the Preferred Scenario map. The change to Employment Center essentially removes any independent residential use from being requested. Mixed Use (MU) and Vertical Mixed Use (VMU) are zoning classifications that could be requested. Both allow residential but include it as part of a mixture of uses that includes retail and office.

If the request is granted, the site would be classified as an Employment Center on the Zoning Translation Table (EC). A change to Employment Center would restrict any residential zoning options, yet heavy commercial options as well as light and heavy industrial options would be available to be requested through the zoning process. Employment Centers, typically, are located on large sites with excellent road and rail access as well as access to water and sewer infrastructure.

***Vision San Marcos* Plan Elements:**

Economic Development (ED)

The ED chapter of *Vision San Marcos* looks specifically at the strategies of the Core 4 Collaboration moving forward. The three collaborative actions identified by the Core 4 are 1) Preparing the 21st Century Workforce, 2) Competitive Infrastructure and Entrepreneurial Regulation and 3) Creating the Community of Choice. Staff analyzed this request based on the three action items to determine if the request supports, contradicts or is neutral toward the actions and provides the following table of the analysis:

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

STRATEGY	SUMMARY		Supports	Contradicts	Neutral
Preparing the 21st Century Workforce	Provides / Encourages educational opportunities				Applicant has not indicated that educational facilities will be included
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business		Applicant indicates that proposed project will provide opportunities for jobs and services.		
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity		Applicant indicates that proposed project will provide opportunities for jobs and services.		

Environment & Resource Protection (ERP)

The ERP chapter of *Vision San Marcos* provides useful analysis tools. The Land Use Suitability Map considers the constraints as listed in the table below in its creation to determine what areas are most suitable for development. The water quality model provides a watershed-level analysis of the impacts of adding impervious cover for developments.

The overall land use suitability for this site is a three (3), which is considered moderately constrained. This is largely due to the fact that the lot is wholly within the 100 year flood plain, which is considered a four (4) on the constraint scale, the second most constrained. Additionally, it is located within the Blanco River Watershed, which is designated as a three (3) in terms of constraint (moderate). For all other environmental indicators this site ranks a one (1), which indicates the lowest level of constraint. The table below indicates the scores for this site for each of the variables used in creating the Land Use Suitability Map and the results of the water quality model. Please refer to the attached Land Use Suitability and Environmental Features maps for further clarification.

ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints

	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint			X		
Constraint by Class					
Cultural	X				
Edwards Aquifer	X				
Endangered Species	X				
Floodplains				X	
Geological	X				
Slope	X				
Soils	X				
Vegetation	X				
Watersheds			X		
Water Quality Zone	X				

ENVIRONMENT & RESOURCE PROTECTION – Water Quality Model Results

Located in Subwatershed:	Blanco River Watershed				
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed			X		
Notes: The subwatershed will experience a higher amount of impervious cover with the Preferred Scenario. Due to the intermittent nature of the river, the increases in TSS and bacteria would generally occur during storm events. Implementing various best management practices specific to this site to filter run off could reduce potential increases in TSS and bacteria loading.					

Land Use (LU)

The LU chapter of *Vision San Marcos* focuses on the Preferred Scenario Map. This site is located in an Area of Stability. A map is attached which shows a detailed view of the preferred scenario zones within and surrounding this property.

Neighborhoods & Housing (NH)

The NH chapter of *Vision San Marcos* focuses on the Neighborhood Character Studies which are currently being conducted alongside the Code SMTX project, the update to the Land Development Code. The site is not located within a neighborhood but is located in the Northern Neighborhood Character Study Area. The Neighborhood Character Study

process would allow citizens the opportunity to tell staff what they would like to see developed in this area. The Neighborhood Character Plans do not currently exist and will be drafted after the adoption of Code SMTX.

Parks, Public Spaces & Facilities (PPSF)

The PPSF chapter of *Vision San Marcos* discusses the City's recreational facilities as well as the water, wastewater and other public infrastructure. The table below is an analysis of the facilities in the area. Wastewater and water service is available in the area and both are indicated as low maintenance areas. In addition, Blanco Shoals Park is located within ¼ mile of the property.

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

				YES	NO
Will Parks and / or Open Space be Provided?					X
Will Trails and / or Green Space Connections be Provided?					X
Parkland dedication is only required when developing residential properties.					
Maintenance / Repair Density	Low (maintenance)		Medium		High (maintenance)
Wastewater Infrastructure	X				
Water Infrastructure	X				
Public Facility Availability					
				YES	NO
Parks / Open Space within ¼ mile (walking distance)? Blanco Shoals Park				X	
Wastewater service available?				X	
Water service available?				X	

Transportation

A Travel Demand Model (TDM) was created to analyze the traffic impacts of growth in San Marcos. The table below is a summary of the TDM results and other transportation modes surrounding the site. The TDM analyzes the overall transportation network of the existing network and the Preferred Scenario. It is not a measure of the impact of this particular change. The results of the TDM indicate that improvements may be required. However, the TDM was created before the completion of the recent Texas Department of Transportation (TXDOT) improvements to Hunter Road. A Traffic Impact Analysis (TIA) would describe any improvements needed in more detail.

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

		A	B	C	D	F
Existing Daily LOS	North bound IH-35 Frontage	X				
	East River Ridge Parkway	X				
Existing Peak LOS	North bound IH-35 Frontage	X				
	East River Ridge Parkway	X				
Preferred Scenario Daily LOS	North bound IH-35 Frontage					X
	East River Ridge Parkway	X				
Preferred Scenario Peak LOS	North bound IH-35 Frontage					X
	East River Ridge Parkway		X			
The current Travel Demand Model shows that the North bound IH 35 Frontage Road deteriorates from a LOS A (Existing Daily and Existing Peak) to a LOS F (Future Daily and Future Peak). Additionally, the Preferred Scenario shows that East River Ridge Parkway deteriorates from a LOS A (Existing Peak) to a LOS B (Future Peak) with the Existing Daily and Future Daily remaining a LOS A. (Note: Map of Future Peak indicates that East River Ridge will be a LOS D, however this data is incorrect and we are in the process of updating it.)						

	N/A	Good	Fair	Poor
Sidewalk Availability (Required to build.)	X			
Sidewalks will be required to be built along both IH 35 and East River Ridge Parkway				
	YES		NO	
Adjacent to existing bicycle lane?			X	
Adjacent to existing public transportation route?			X	
Notes: The site is not close to a CARTS route, however there is a Texas State University bus route that travels past this site. Existing sidewalks on East River Ridge are 10 feet wide and can be used as a shared use path for Bicycles and pedestrians, however it is not currently designated as such.				

Staff Analysis:

Comments from Other Departments

As this tract of land is wholly within the 100 year floodplain, the Engineering and CIP Department is currently running the 2D Model to identify any potential impacts that development on this tract may have on surrounding properties. Flood waters from the 2015 Memorial Day Flood did affect this proeperty. The applicant is aware that to develop on the property they will need to elevate any occupied structure a minimum of one (1) foot higher than the Base Flood Elevation (BFE). At this time, the Engineering Department is advising all applicants to elevate to one (1) foot above the Advisory Base Flood Elevation (ABFE), although the ABFE has not been adopted by the Federal Emergency Management Agency (FEMA) or the City. There is a 2 ½ foot difference between the current BFE and the ABFE, although staff is awaiting confirmation of this number through the 2D Model.

Planning Department Analysis

In reviewing the Land Use Suitability Map, Staff has noted that the overall site has been identified as moderately constrained, primarily due to its location within the 100 year flood plain. In addition to being within the 100 year flood plain, this lot is also located within the Blanco River Watershed, which the Comprehensive Plan has identified as a moderately constrained watershed. The Comprehensive Plan does identify the Blanco Watershed as a watershed that is planned to have an increase in impervious cover, and recommends implementing various best management practices (BMPs) for proposed development within the watershed to reduce potential increases in total suspended solids (TSS) and bacteria loading.

Other than these two items, the other eight (8) criteria for the Land Use Suitability Map are identified as having the least amount of constraint to development. The Environment and Resource Protection section of the Comprehensive Plan clearly states that the Land Use Suitability Map was developed as a tool to identify areas within the planning area that are best suited to accommodate growth in an environmentally sensitive manner. At this time, development is permitted within the 100 year flood plain, although there are additional requirements above what is required outside of the flood plain. A Watershed Protection Plan is required in order to determine developable area prior to the platting process. At the time that the Site Plan is submitted, applicants must prove that the manner in which they develop the site will not have an adverse impact on adjacent property. Additionally, structures must receive a Flood Plain Development Permit, and the finished floor must be elevated at least one (1) foot above the Base Flood Elevation. At this time, the City is recommending that the finished floor be elevated to one (1) foot above the ABFE, but as FEMA has not made the ABFE official it is not a statutory requirement.

The boundary of the Floodway, the portion of the river in which water is conveyed during normal rain events, ranges between approximately 500 and 650 feet from the rear of this property. It should be noted that during the 2015 Memorial Day flood event, flood water did have a significant effect on the neighboring properties. The Grove Apartments, which are located between the Blanco River and this property, had water in the ground floor units and the clubhouse. The height of the water within these buildings varied significantly, from 2 to 10 inches, however the units that had the most water are the furthest units from this property and are located adjacent to a drainage channel. Two houses that front on the IH-35 frontage road near this property also suffered significant damage in the 2015 Memorial Day flood event, as they are also much closer to the drainage channel. Both of these houses had at least 18 inches of water in them, and one of the houses has since been demolished.

This site sits at the intersection of IH 35 frontage road and East River Ridge. A Traffic Impact Analysis (TIA) worksheet will be required at the time of plat to determine if a full TIA would be required to identify any potential improvements that could be required. The Transportation Master Plan, currently being updated, may also provide updated recommendations for this area. It should also be noted that the Texas Department of Transportation is planning on adding an additional off ramp from the interstate to the frontage road that would allow for North bound traffic to exit IH-35 just prior to this tract. The addition of this off ramp has the potential to change the character of the IH-35 and East River Ridge Parkway intersection and increase the demand for commercial uses in this area.

Based on the site's location at the intersection of IH-35 and East River Ridge and adjoining property uses, the request for an Employment Center designation on the Preferred Scenario Map is a logical request from the land use perspective. In addition to the restrictions on zoning requests that prohibit the ability for an applicant to request the majority of zoning districts that allow residential uses, the applicant has placed deed restrictions on the property that prohibit any multifamily or student housing purpose until at least 2058 (see attached) and prohibit hotels, motels, or other similar commercial lodging until 2024 (see attached). An Employment Center designation would allow the applicant to request a wide range of commercial and industrial zoning classification, which in turn, would allow for a wide range of commercial uses.

There are several multifamily projects in the immediate vicinity that could benefit from commercial services in this location, in addition to traffic that travels on IH-35. It should be noted that, if this request is not granted, due to this tract's designation as an Area of Stability – Infill/Redevelopment site, the applicant would have the ability to request a zoning change up to Neighborhood Commercial (NC) without requesting a Preferred Scenario Amendment. However the applicant has indicated that they would like to request General Commercial (GC) as their preferred zoning classification, as GC allows for a wider variety of uses than NC. However the request to rezone the property must come back to the Planning and Zoning Commission and City Council for final consideration and approval.

The applicant has expressed the intent for a gas station to be developed on a portion of the property, as convenience stores with gas sales are allowed by right within GC, but require a Conditional Use Permit (CUP) within NC. It should be noted that both NC and GC are limited to the same amount of impervious cover, which is 80%, so under either zoning classification similar sized developments could be constructed. If the applicant's request for a PSA is granted, NC would no longer be an allowable zoning classification, however Mixed Use (MU) would be a zoning classification that could be requested. The MU zoning classification allows for a wider range of commercial uses than NC, but still requires a CUP for a convenience store with gas sales, and the impervious cover is limited to 60%. A CUP may allow City Staff to address concerns about gas sales in this location without prohibiting the use.

At this time, the Commission is acting on the request which will change the City's Preferred Scenario Map. As many options for development may occur with or without the approval of this request, the Commission should consider all aspects of this staff report, the attached maps and figures as well as the existing Codes in their decision. A summary of what may be permitted at this location, if the map amendment is approved, is attached. Any changes in zoning following this request would be required to follow the standard process of notice and public hearing. Zoning requests are considered separately and would require a full staff analysis for consistency with the Comprehensive Plan as well as any other applicable standards.

Recommendations & Options for Action:

Based on the analysis provided in this report, staff recommends approval of the request to change from an Area of Stability to an Employment Center.

Options for the Commission include:

- Approval of the request as submitted
- Alternative recommendation
- Denial of the request

Planning Department Recommendation:	
☒	Approve as submitted
☐	Alternative
☐	Denial

The Commission's Responsibility:

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Preferred Scenario Amendment. The Commission's advisory recommendation to the Council is a discretionary decision. The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

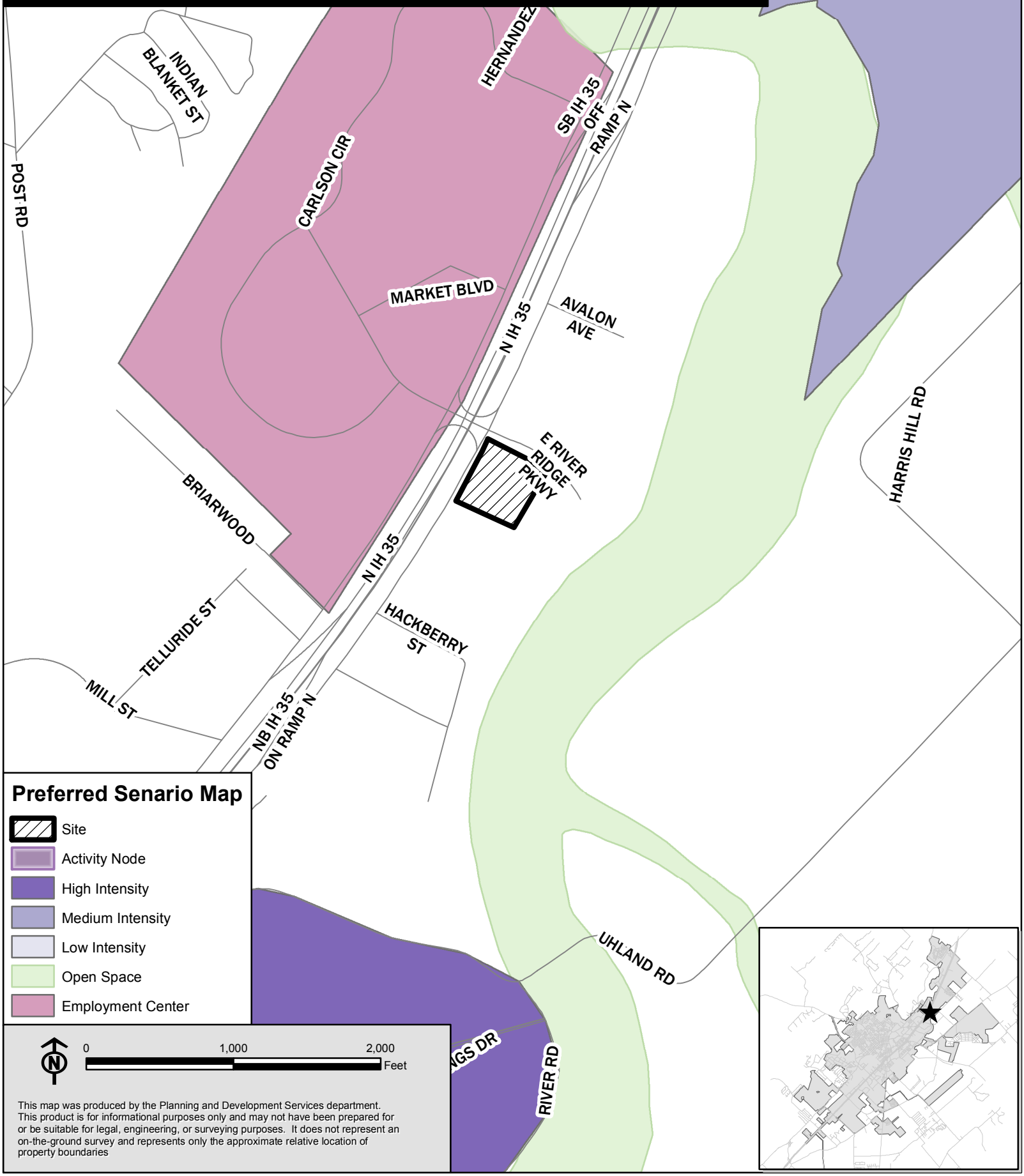
After considering the public input, your recommendation should consider whether the amendment is consistent with the following policies of the Comprehensive Plan as stated in section 1.4.1.5 of the Land Development Code:

- Is the request in an area suitable for development as shown on the Land Use Suitability Map and if not what development constraints exist;
- Is the request consistent with the Neighborhood Character Study for the area;
- Is the request near existing parks and public utilities; and,
- Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity.

Prepared by:

Will Parrish, CNU-A	Planning Technician	February 10, 2016
Name	**Title**	**Date**

PSA-15-03
IH-35 & East River Ridge
Map Date: 1/12/2016



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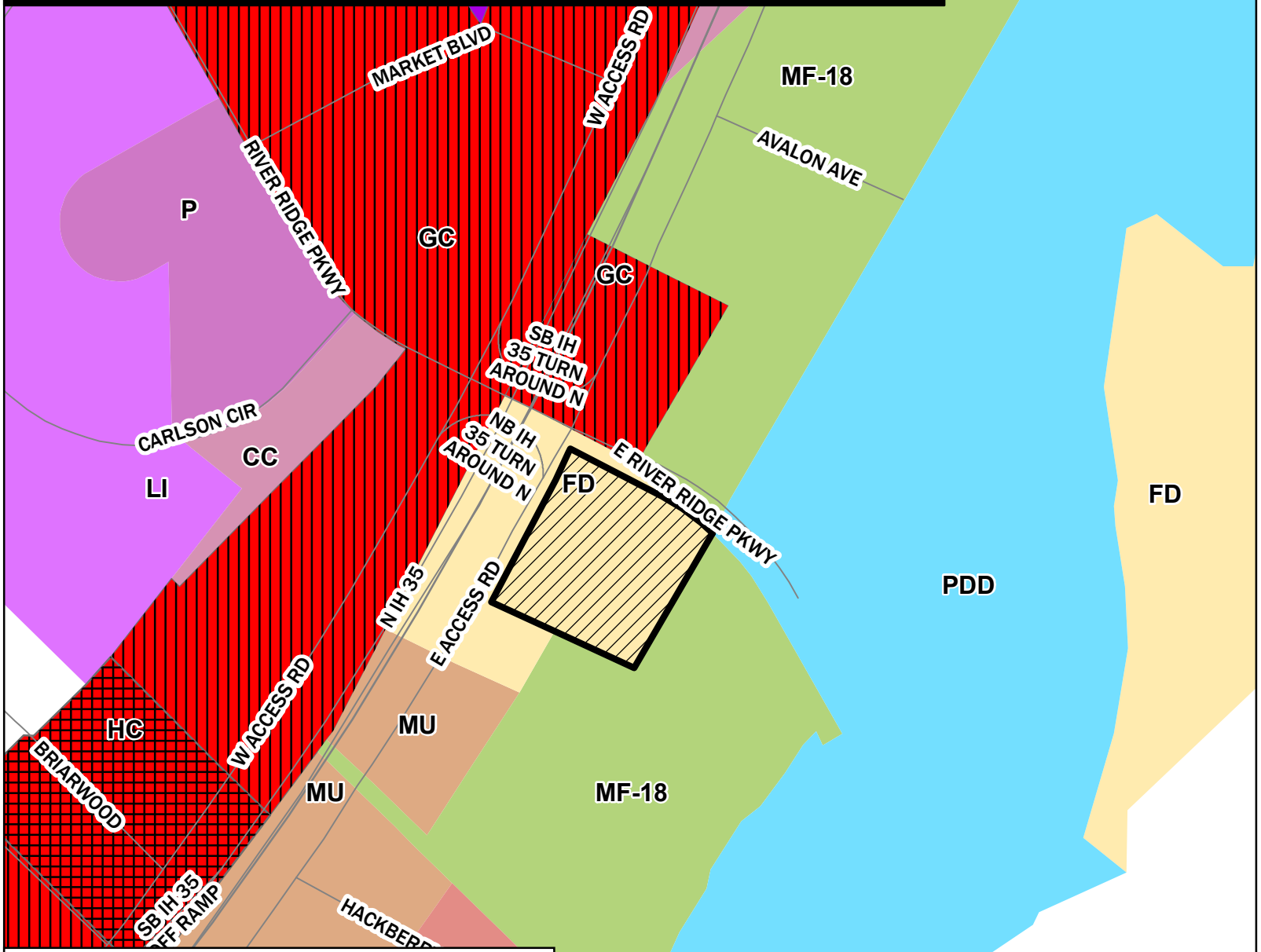
IH-35 & East River Ridge
Map Date: 1/12/2016



Existing Zoning

- Site

Existing Zoning

ZONECODE

- CC
- Future Development
- General Commercial
- Heavy Commercial
- Heavy Industrial
- Light Industrial
- MF-18
- MU
- P
- Planned Development District
- SF-6

N

0 500 1,000 Feet

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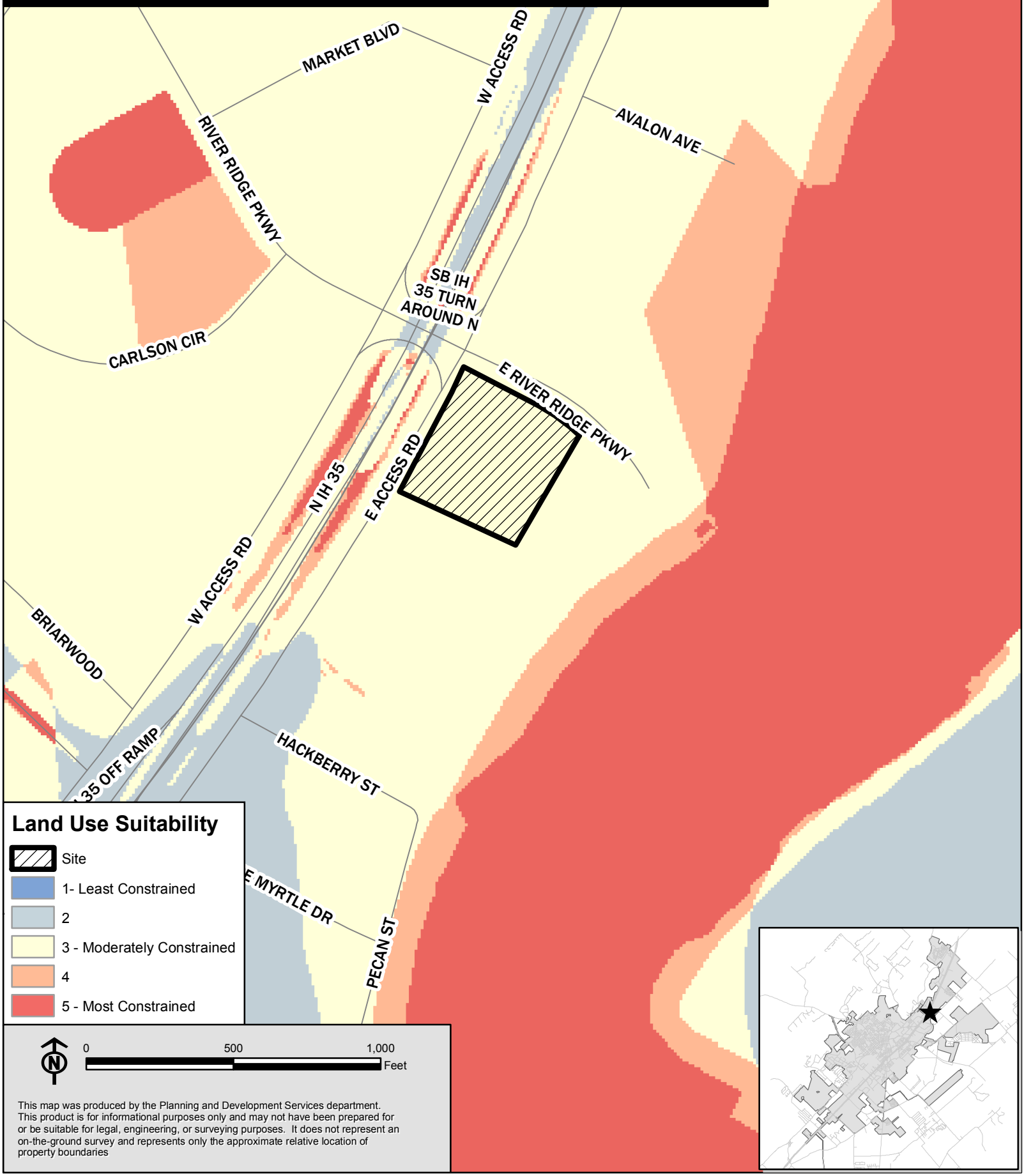

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PSA-15-03
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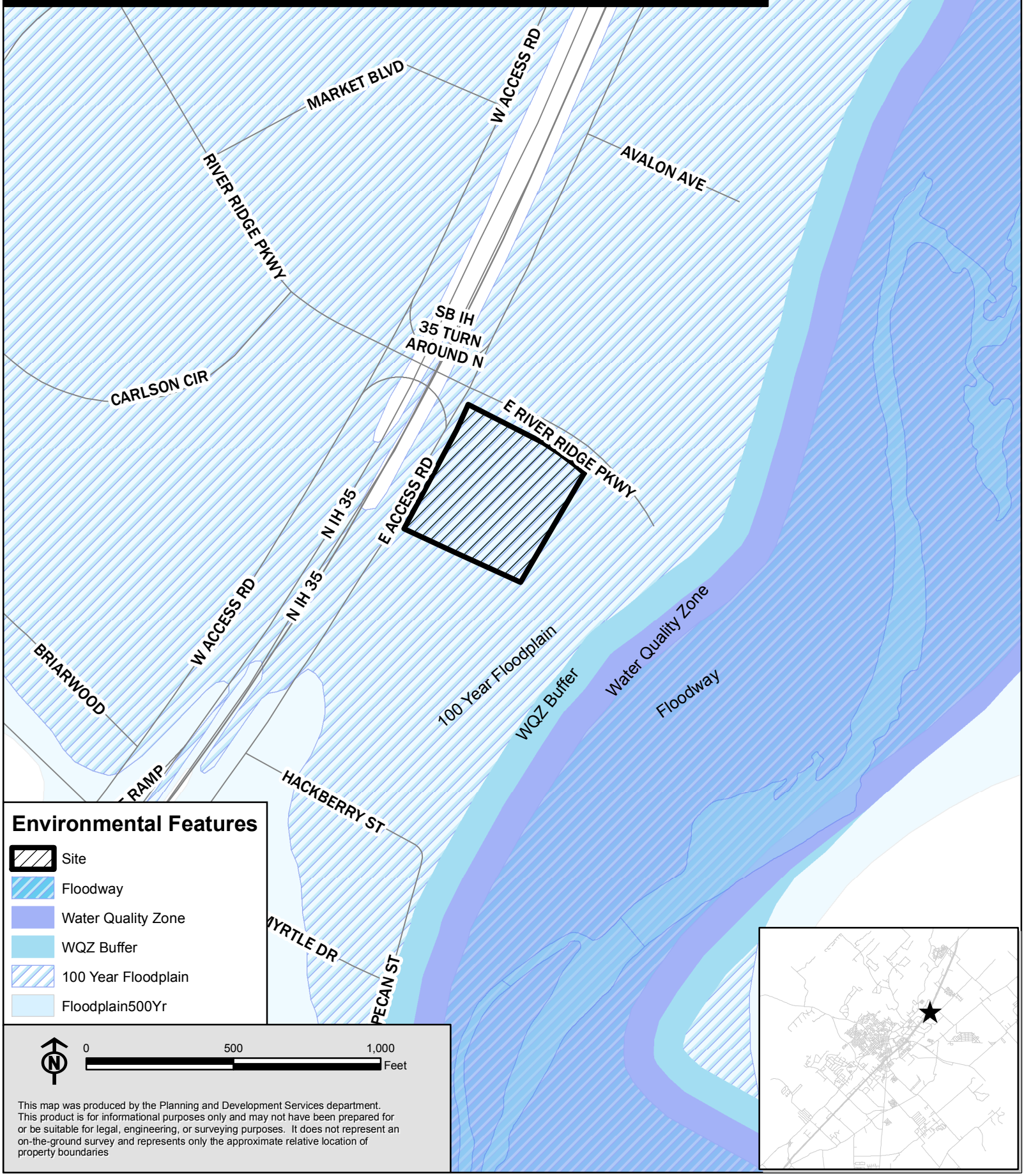
Map Date: 2/17/2016



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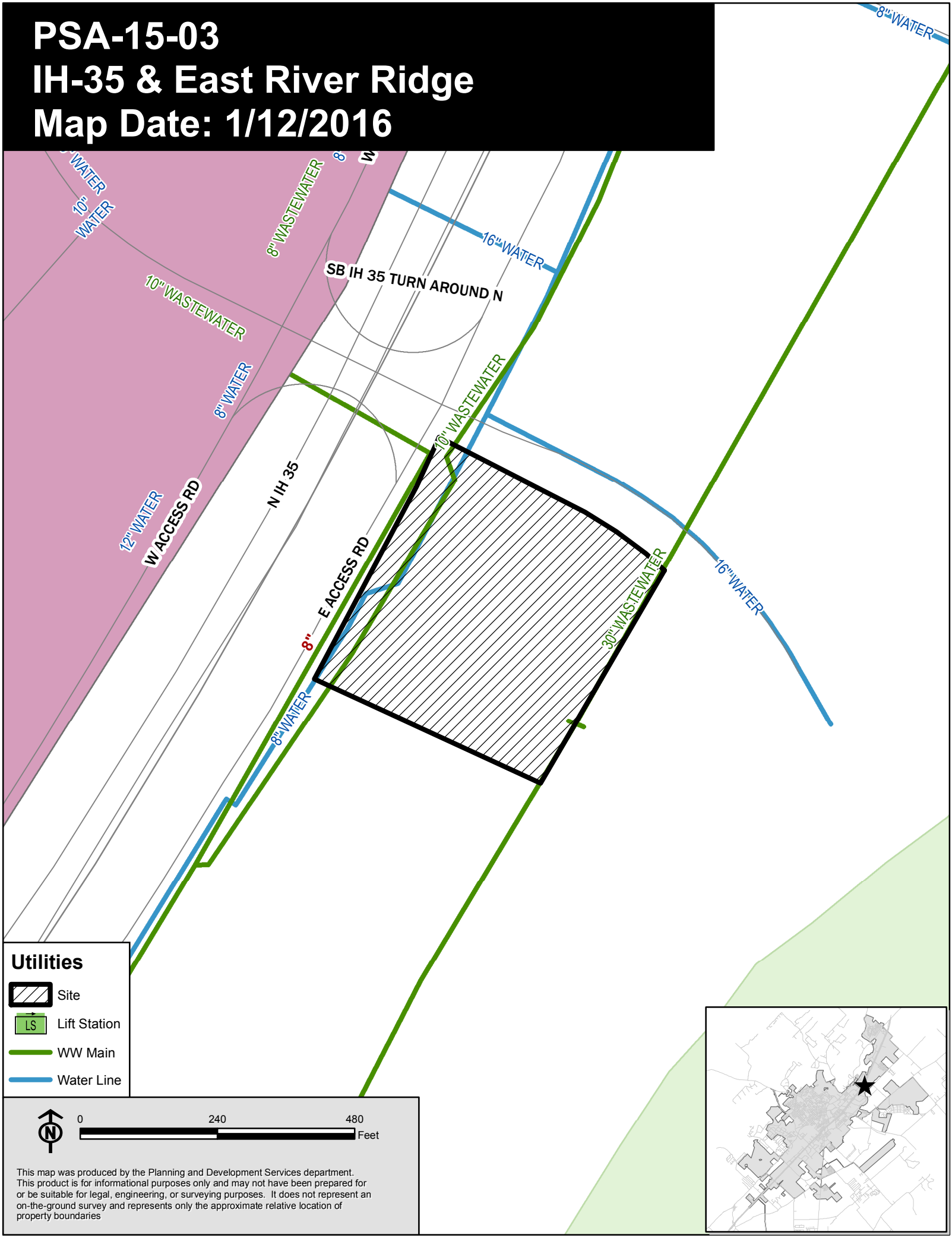

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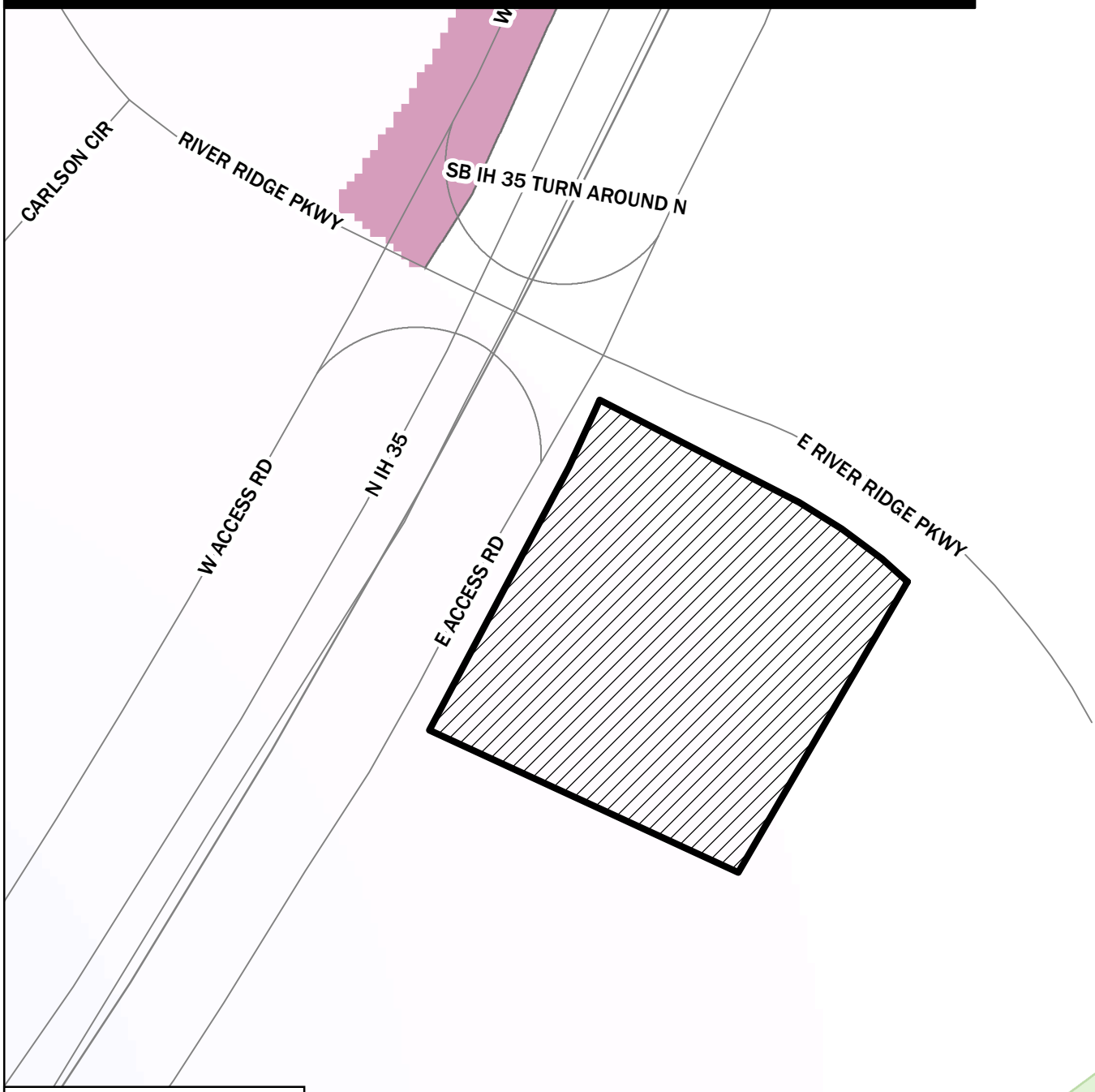

Wastewater Hotspots

Site

High

Low

0 240 480 Feet

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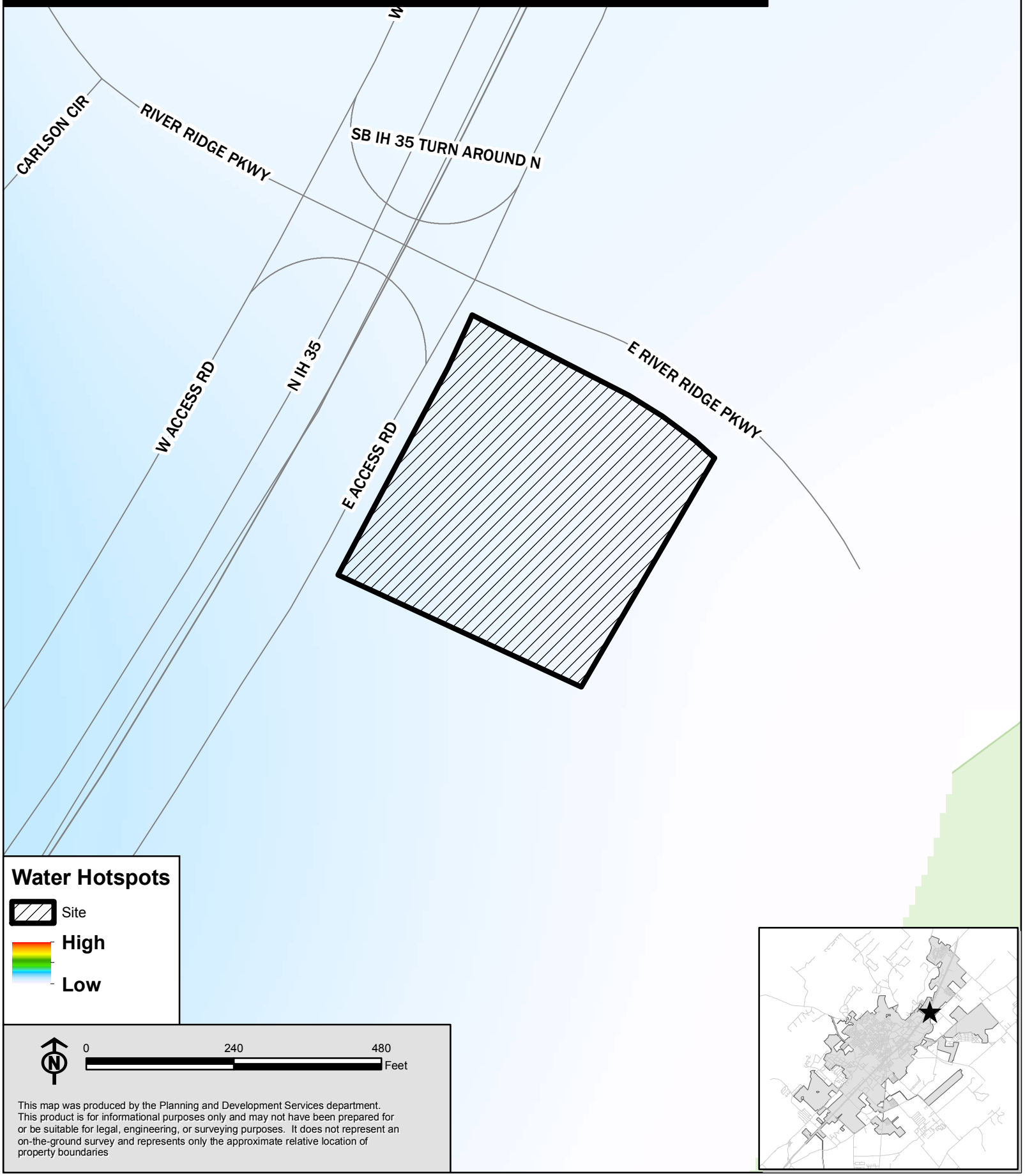

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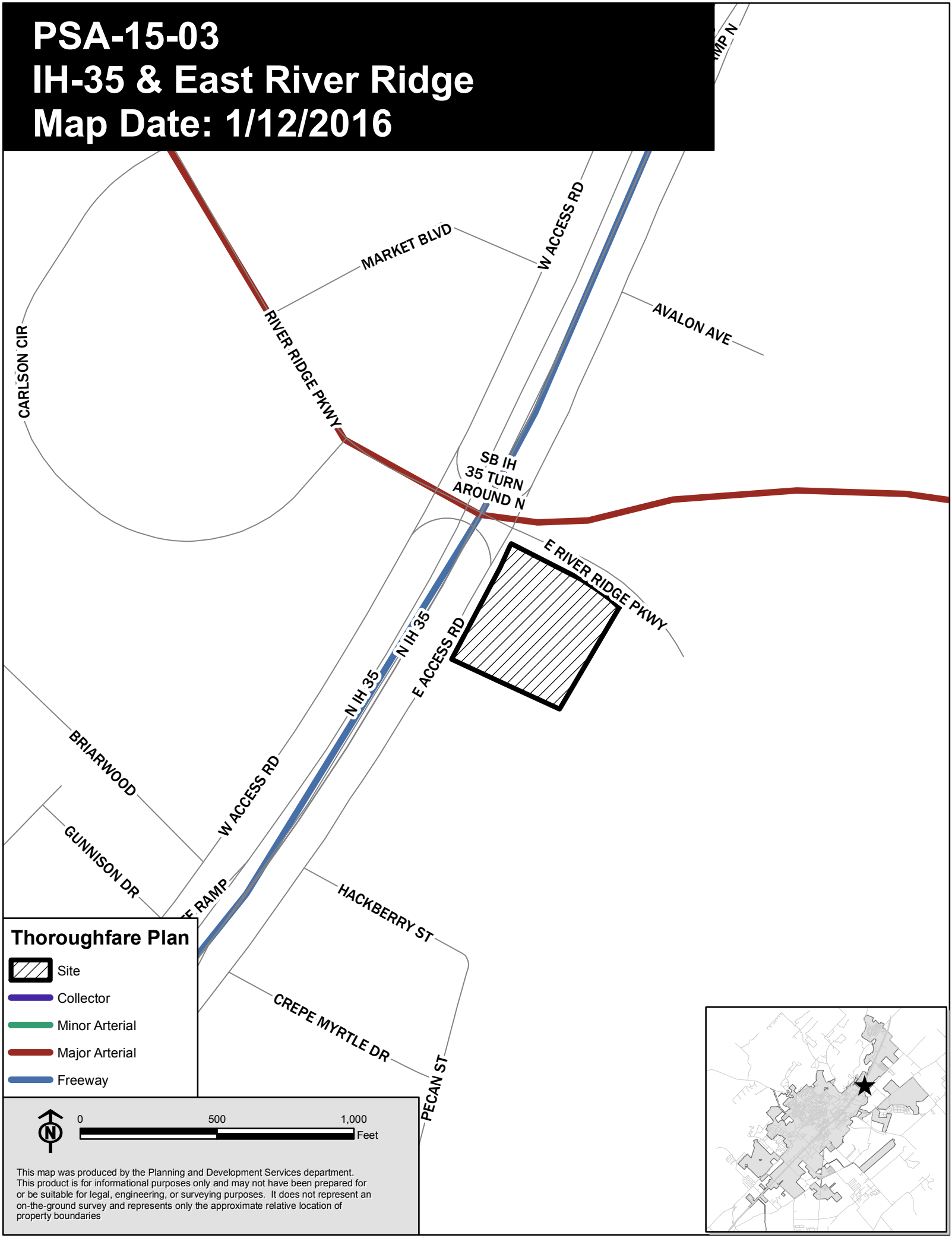

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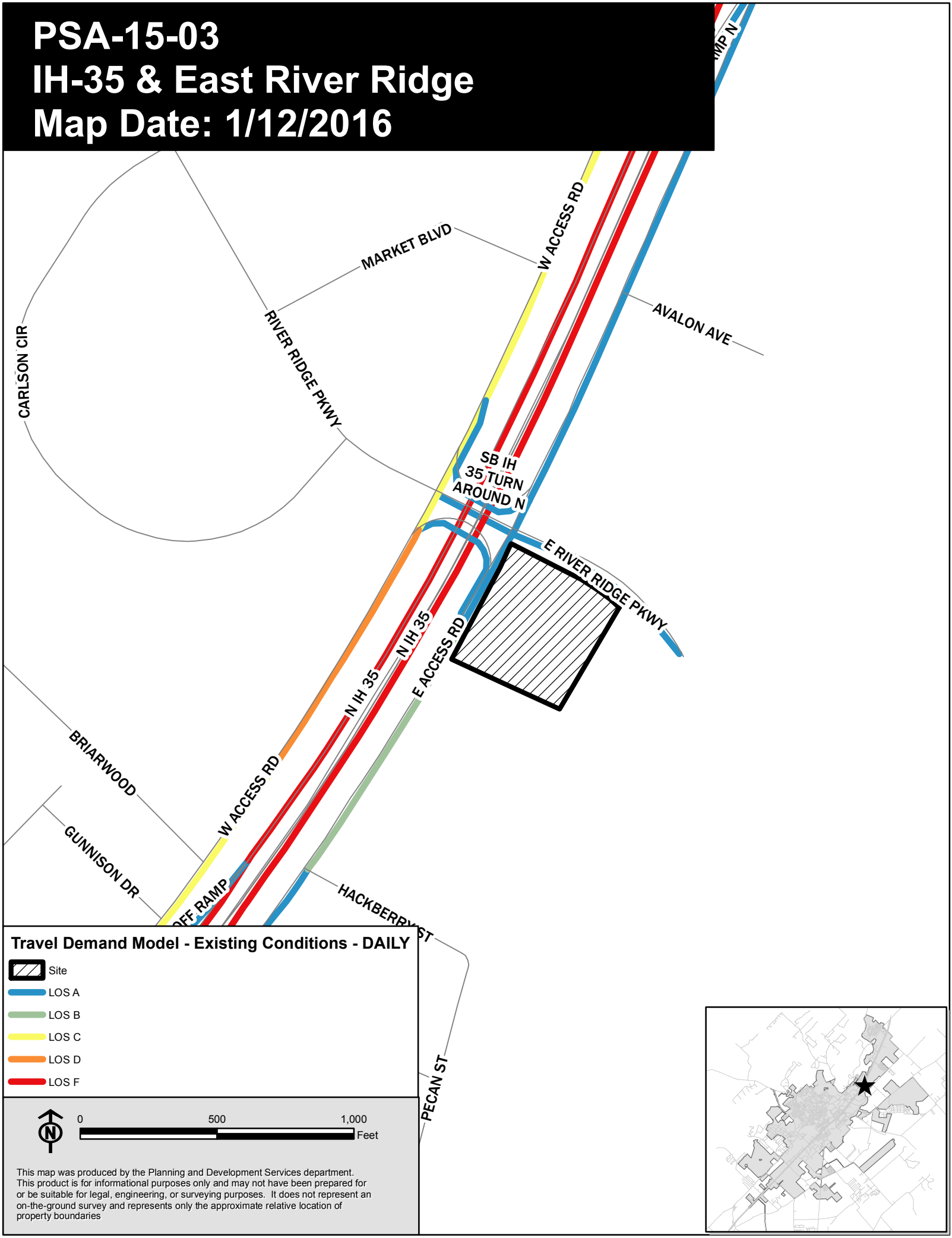

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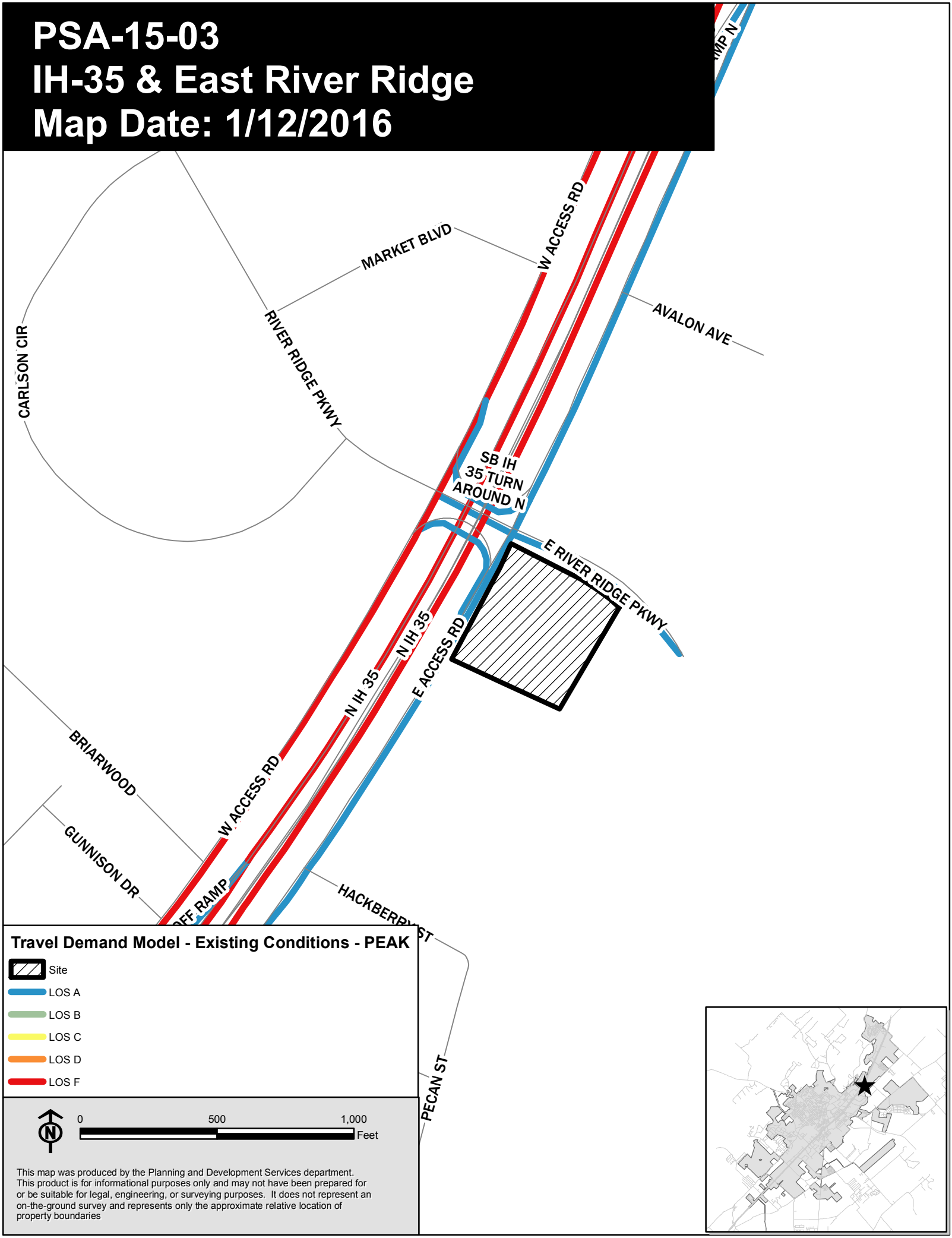

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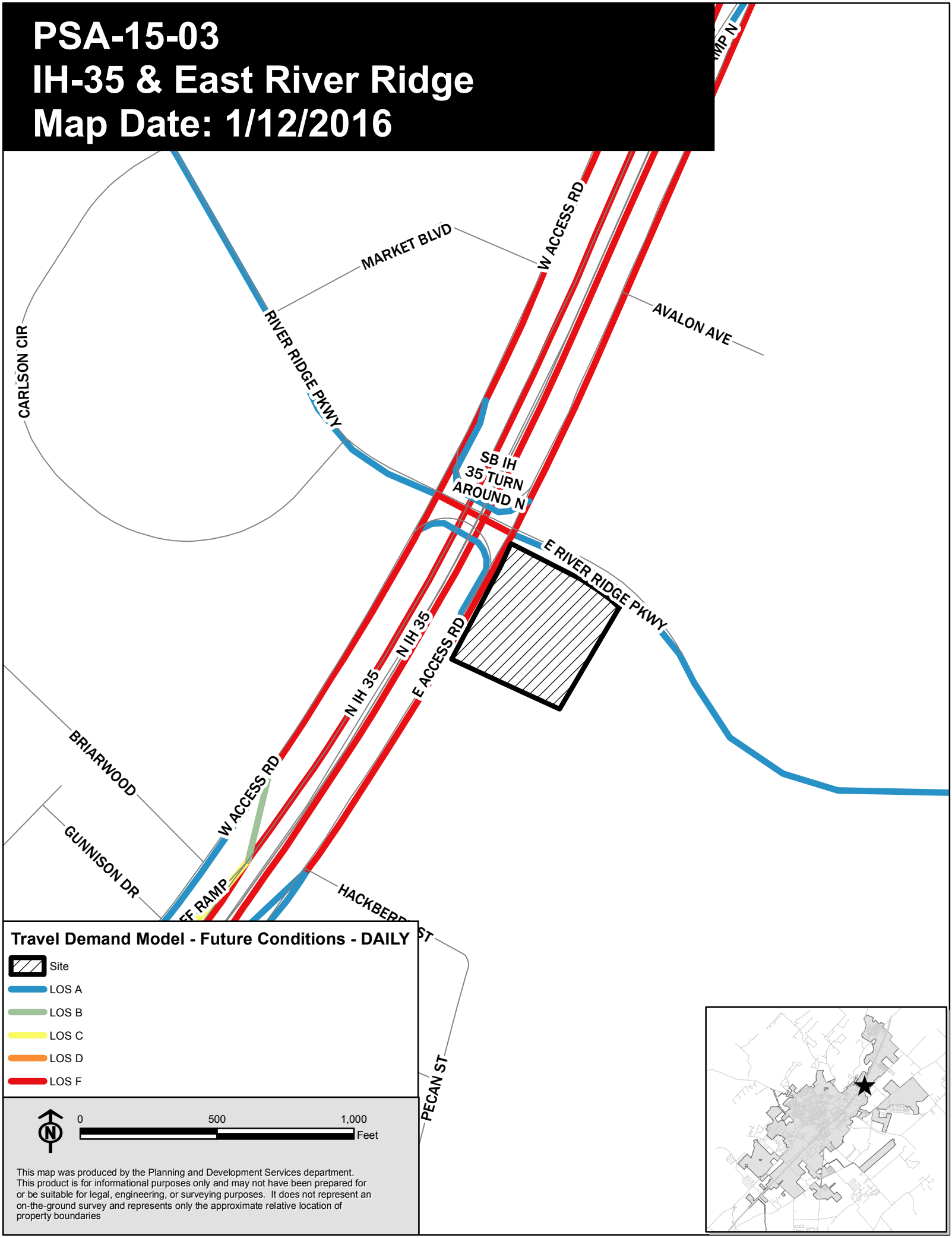

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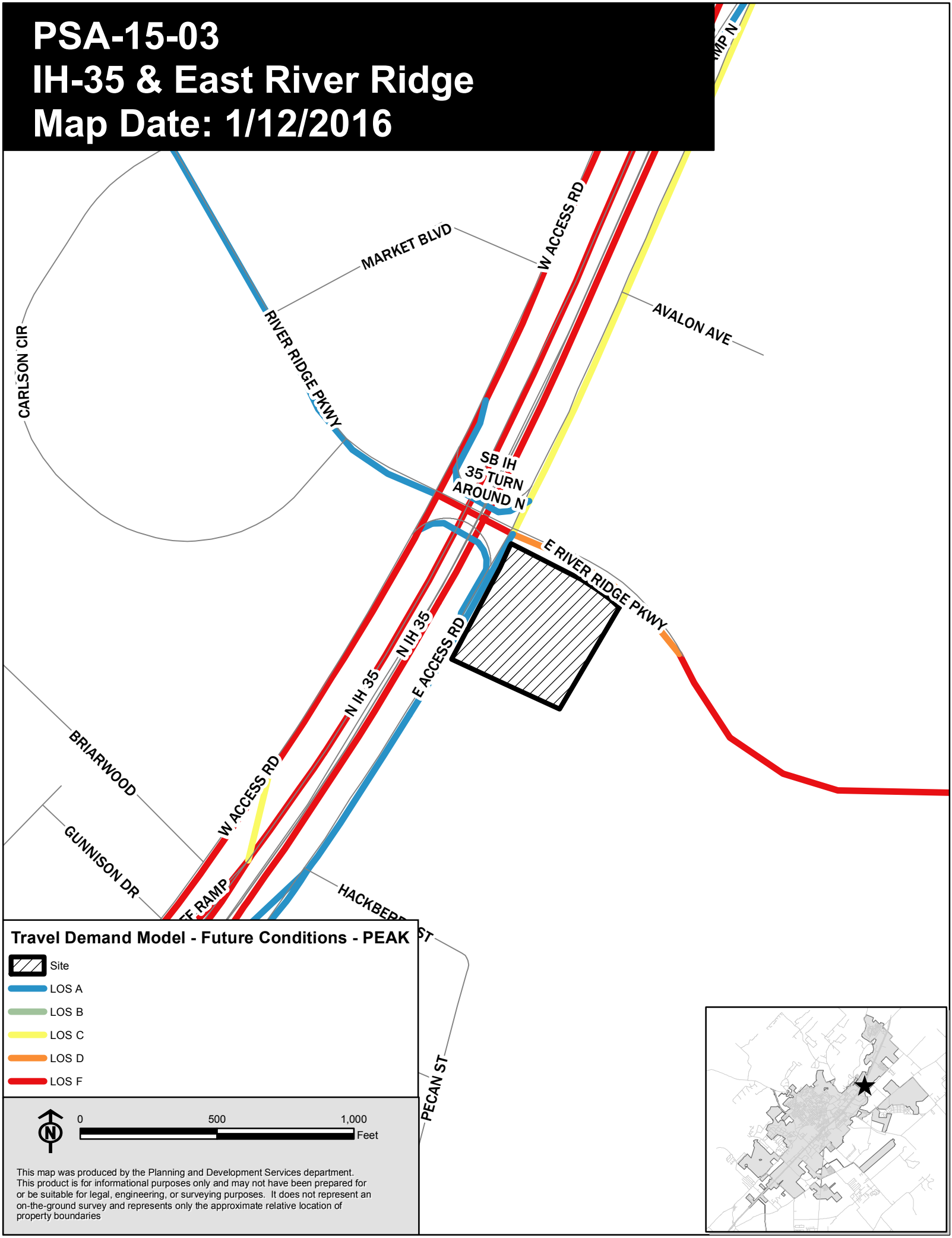
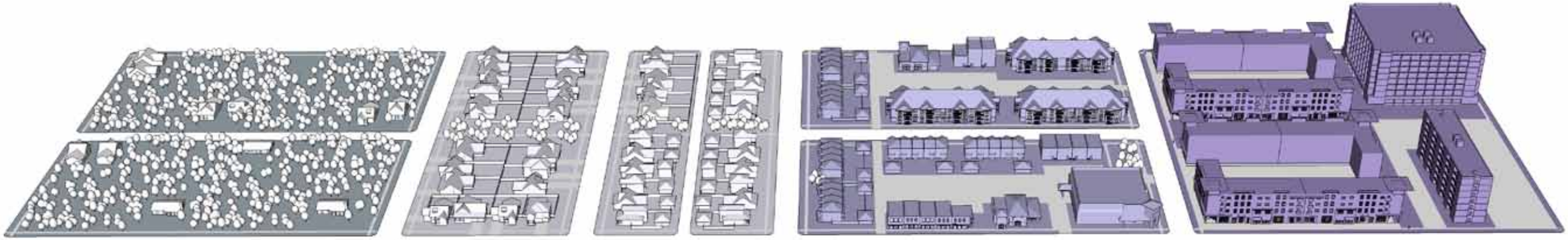
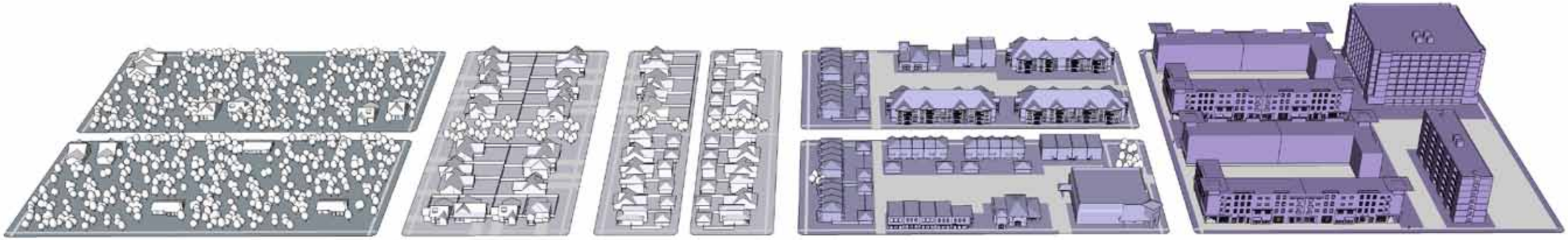




Open Space / Agricultural	Low Intensity and Areas of Stability	Medium Intensity	High Intensity
Preserve Areas Hiking Trails Community Gardens **Active Recreation Areas** Recreation-related Commercial Camping Hiking Trails Community Gardens	**Neighborhood & Area Protection / Conservation** **General Use Categories:** Single Family, Home Office, Corner Neighborhood Retail - no gas **Building Types:** 1-2 Story, 3 with CUP **Examples:** Existing Predominately Single-Family Neighborhoods, Default Classification for any area not classified, Utilize Land Use Suitability Map	**General Use Categories:** Single Family, Duplex, Multi-family at nodes, Bed & Breakfast, Home Office, Corner Neighborhood Retail - gas with CUP, Office, Convenience Retail, Restaurants - no drive through **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Triangle - single family	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging **Building Types:** 1-4 Story, Mixed-use at nodes and corridors
	NOTES: Commercial at major nodes and along corridors (with uses that are predominately non-single-family residential); One lot depth for commercial along corridors and at nodes; Corridors include but are not limited to: Old RR 12: Holland to Wonderworld, LBJ east of Holland, Arterials in the Edwards Recharge Zone		
Current Condition **Agricultural / Ranching** Single Family Residential Bed & Breakfast Home Office Produce Stands Hiking Trails Community Gardens	**Redevelopment Infill** **General Use Categories: Single Family with accessory building, Bed & Breakfast (5 rooms), Home Office, Corner Neighborhood Retail - no gas, Restaurants - no drive through** **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Examples:** Existing Mixed Residential Areas	**General Use Categories:** Single Family, Duplex, Multi-family at nodes, Lodging, Home Office, Office / Flex Space at nodes, Corner Store, Convenience Retail with gas, Restaurants **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** South End	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging **Building Types:** 1-5 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Downtown, Midtown
NOTES: Recreation-related commercial uses in active recreation areas will require special standards	NOTES: Commercial and Multi-family at major nodes and along corridors; One lot depth for commercial in Protection / Conservation; Two lot depth in all other areas; Corridors include but are not limited to: Hopkins east of Moore, University: Sessom to Hopkins, RR12: Lindsay to Hopkins, Hunter: San Antonio to Wonderworld		



New Development	Low Intensity and Areas of Stability	Medium Intensity	High Intensity
	General Use Categories: Single Family with accessory building, Bed & Breakfast (5 rooms), Home Office, Corner Neighborhood Retail - no gas, Restaurants - no drive through **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Blanco Vista, Paso Robles Default classification for sites with 20 acres or more	**General Use Categories:** Single Family, Duplex, Multi-family, Lodging, Home Office, Office / Flex Space at nodes, Corner Store, Convenience Retail with gas, Restaurants, Light Industrial with CUP **Building Types:** 1-5 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Blanco Vista, Paso Robles, East Village, Medical District, South End, Star Park, Triangle	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging, Light Industrial with CUP **Building Types:** 1-5 Story, Mixed-use at nodes and corridors

NOTES: Commercial and Multi-family at major nodes and along corridors; One lot depth for commercial in Protection / Conservation; Unlimited lot depth in all other areas; Corridors include but are not limited to: LBJ south of Sessom, Aquarena Springs: Sessom to IH 35, Guadalupe: University to IH 35

GENERAL NOTES:

Uses in potential Employment Centers include: Industrial, Office Parks and Retail Malls with standards

Uses and intensity must comform with the City's Edwards Aquifer regulations

Corridor intensity varies with intensity zone

Development intensity decreases with distance from a node or corridor

Home Office - no signage, no sales, one employee

All on-premise consumption of alcohol requires a CUP

The Urban Land Institute defines Convenience Retail as: minimart, restaurant, beauty parlor, dry cleaner, fast food service, medical and dental office

Civic uses are permitted in all development types / intensity zones

All commercial uses in Protection / Conservation and Redevelopment / Infill should follow compatibility standards including architectural standards

Lot depth for corridors is typically 120 feet

East River Ridge Pkwy and North bound Frontage IH-35 Current Condition

Requested Change

Development Code Zoning Classifications :: Vision San Marcos Comprehensive Plan Intensity Zone / Development Pairs

TRANSLATION TABLE

	Intensity Zone / Development Pairs										
	LS-PC	*LS-RI*	*LS-ND*	*M-PC*	*M-RI*	*M-ND*	*H-PC*	*H-RI*	*H-ND*	*EC*	*OA**
Zoning Abbreviation											
FD	✓	✓	✓								✓
AR	✓		✓								✓
SF-R	✓	✓	✓								
SF-11	✓	✓	✓								
SF-6	✓	✓	✓	✓	✓	✓					
SF-4.5		✓	✓	✓	✓	✓	✓	✓	✓		
D		✓	✓	✓	✓	✓					
DR		✓	✓	✓	✓	✓	✓	✓	✓		
TH		✓	✓	✓	✓	✓	✓	✓	✓		
PH-ZL		✓	✓	✓	✓	✓	✓	✓	✓		
MF-12		✓	✓	✓	✓	✓	✓	✓	✓		
MF-18				✓	✓	✓	✓	✓	✓		
MF-24				✓	✓	✓	✓	✓	✓		
MR	✓	✓	✓								
MH		✓	✓	✓	✓	✓					
MU		✓	✓	✓	✓	✓	✓	✓	✓	✓	
VMU				✓	✓	✓	✓	✓	✓	✓	
P	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
OP				✓	✓	✓	✓	✓	✓	✓	
NC		✓	✓	✓	✓	✓	✓	✓	✓		
CC					✓	✓	✓	✓	✓		
GC					✓	✓	✓	✓	✓	✓	
HC					✓	✓	✓	✓	✓	✓	
CBA							✓	✓	✓		
SC			✓	✓	✓	✓	✓	✓	✓	✓	
LI									✓	✓	
HI										✓	
PDD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

*OA is generally intended where shown on the Preferred Scenario Map

LS - Low Intensity and Areas of Stability
M - Medium Intensity
H - High Intensity

PC - Neighborhood Area Protection /Conservation
RI - Redevelopment / Infill
ND - New Development

EC - Employment Center
OA - Open Space / Agricultural

Existing Zoning Category

Future Development (FD)

- The site contains approximately 4.78 acres of FD
- The property is vacant
- Without a zoning change request this land could be used for farming, farm equipment storage, grain sales, plant nursery, stables, single family homes on two acre lots with accessory buildings or dwellings, home child care, art studios, tennis courts, religious assembly, government buildings, public schools
- Bed and breakfasts, outdoor amusement venues, country clubs, day camps, fairgrounds, cemeteries, electrical substation, post offices, private schools, veterinarians, and livestock sales are **conditional**

Existing Intensity: Permitted Zoning Categories & Uses in Area of Stability - Redevelopment/Infill

Residential Districts
(SF-R, SF-11, SF-6, SF 4.5, DR, TH, PH-ZL, MF-12, MR, MH)

- These residential districts include single family up to low density (12 units per acre) multifamily and mobile home parks. Uses include single family residences, duplexes, townhomes, low density multifamily, manufactured homes, accessory buildings, home child care, art studio, park or playground, religious assembly, and some conditional uses for governmental and recreational purposes

Other Zoning Districts
(FD, MU, P, NC, PDD)

- FD is a place holder for newly annexed properties
- MU allows 5.5 units per acre and the following uses: bed and breakfast, home child care, loft apartments, single family residences, office, art studio, beauty shop, dry cleaning, dance and martial arts school, grocery without gas, pharmacy, restaurant, small retail, park or playground, government and recreational uses and religious assembly, many uses are conditional, including multifamily apartments

- P is public zoning meant for institutional uses such as schools and government and some office.
- NC allows for limited commercial uses appropriate at the neighborhood scale.
- PDD is an overlay district which allows for variations from an established base zoning and is intended to encourage flexible and creative planning and development

Permitted Zoning Categories and Uses in Employment Center

Zoning Districts

(FD, AR, MU, VMU, P, OP, GC, HC, SC, LI, HI, PDD)

- MU allows 5.5 units per acre and the following uses: bed and breakfast, home child care, loft apartments, single family residences, office, art studio, beauty shop, dry cleaning, dance and martial arts school, grocery without gas, pharmacy, restaurant, small retail, park or playground, government and recreational uses and religious assembly, many uses are conditional, including multifamily apartments
- VMU allows 40 units per acre and the uses are similar to MU
- P is public zoning meant for institutional uses such as schools and governmental and some office and residential uses
- OP is limited to office, religious assembly and governmental uses
- GC allows bed and breakfast, offices, general commercial uses, gas sales, art studio, dance and martial arts school, barber shop, woodworking shop, indoor health club, museum, park or playground, religious assembly, schools and governmental
- HC allows bed and breakfast, offices, general commercial uses, gas sales, self-storage units, truck terminals, tire sales (outdoors/storage),
- SC would follow the SmartCode regulations
- LI allows cabinet shop (manufacturing), offices, food processing
- HI allows auto body repair offices, food processing, machine shop, petroleum bulk storage
- PDD is an overlay district which allows for variations from an established base zoning and is intended to encourage flexible and creative planning and development

Hays County
Linda C. Fritsche
County Clerk
San Marcos, Texas 78666

70 2008 80035939

Instrument Number: 2008-80035939
As
OPR RECORDINGS

Recorded On: November 19, 2008

Parties: ARMBRUSTER HOLT LTD

To

Billable Pages: 25
Number of Pages: 26

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

OPR RECORDINGS	112.00
Total Recording:	**112.00**

************* **DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT** ************

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2008-80035939
Receipt Number: 207246
Recorded Date/Time: November 19, 2008 03:05:16P
Book-Vol/Pg: BK-OPR VL-3533 PG-804
User / Station: O Martinez - Cashering #2

Record and Return To:

INDEPENDENCE TITLE
HOLD
SAN MARCOS TX 78666

COUNTY COURT OF HAYS COUNTY, TEXAS

State of Texas |
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

Linda C Fritsche

Linda C Fritsche, County Clerk

After Recording Return To:
Independence Title Company
0715509

Bk Vol Pg
80035939 OPR 3533 805

This instrument prepared by:
James L. Webb
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203

Return to:
Janet Karr
Chicago Title
909 Fannin #200
Houston, Texas 77010
460417

STATE OF TEXAS)
:
HAYS COUNTY)

RESTRICTIVE COVENANT AND EASEMENT AGREEMENT

This Restrictive Covenant and Easement Agreement (this "Agreement") is made as of this 18 day of November, 2008, by and among **ARMBRUSTER HOLT LTD.**, a Texas limited partnership, **WILLIAM CLIFTON HOLT,** an individual resident of the State of Texas, **MARYEM A. HOLT,** an individual resident of the State of Texas, **DAVID WAYNE HOLT,** an individual resident of the State of Texas, and **TIMOTHY JAMES HOLT**, an individual resident of the State of Texas (collectively, "Holt"), and **CAMPUS CREST AT SAN MARCOS, LP**, a Delaware limited partnership ("Campus Crest").

RECITALS

A. Campus Crest is the owner of 19.390 acres of land located in San Marcos, Hays County, Texas, more particularly described in Exhibit A attached hereto and made a part hereof (the "Campus Crest Property").

B. Holt is the owner of 4.768 acres of land located in San Marcos, Hays County, Texas, more particularly described in Exhibit B attached hereto and made a part hereof (the "Holt Property"). The Holt Property is adjacent to the Campus Crest Property.

C. The parties now desire to create certain covenants, easements, restrictions and obligations which shall attach to and run with the Campus Crest Property and the Holt Property, all as further set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. Adoption of Recitals. The foregoing Recitals are hereby acknowledged as being true and correct, and the same are hereby adopted as part of this Agreement.

1/1679120.3

2. Restrictive Covenant. No portion of the Holt Property shall be used for multifamily or student housing purposes for a period of fifty (50) years from the date hereof.

3. Access and Maintenance Easement from Holt. Holt does hereby grant and convey unto Campus Crest, its successors and assigns, for the benefit of Campus Crest, its employees, invitees, tenants and agents, a perpetual, non-exclusive easement, license and privilege on, over, across and upon that certain property more particularly described and depicted in Exhibit C attached hereto and made a part hereof (the "Holt Easement Property") (i) for vehicular and pedestrian ingress and egress to and from the Interstate 35 frontage road and the Campus Crest Property and (ii) to enter upon and to install, construct, use, operate, maintain, repair and replace the Improvements on the Holt Easement Property as more particularly provided in Section 6.

4. Access and Maintenance Easement from Campus Crest. Campus Crest does hereby grant and convey unto Holt, its successors and assigns, for the benefit of Holt, its employees, invitees, tenants and agents, a perpetual, non-exclusive easement, license and privilege on, over, across and upon that certain property more particularly described and depicted in Exhibit D attached hereto and made a part hereof (the "Campus Crest Easement Property", and together with the Holt Easement Property, the "Overall Easement Property") (i) for vehicular and pedestrian ingress and egress to and from the Interstate 35 frontage road and the Holt Property and (ii) to enter upon and to install, construct, use, operate, maintain, repair and replace the Improvements on the Campus Crest Easement Property as more particularly provided in Section 6.

5. Use of Easements. Notwithstanding that the aforesaid easements granted in Sections 3 and 4 shall be effective as of the date hereof, neither party shall be permitted to utilize said easements until such time as the Curb Cut (as defined herein) is approved by the applicable governmental authorities and construction on the Improvements has commenced.

6. Construction and Maintenance of Improvements.

(a) At such time as Campus Crest or Holt, or their respective successors and/or assigns, is granted approval for a curb cut ("Curb Cut") from the applicable governmental authorities, which provides access from the Interstate 35 frontage road to any portion of the Campus Crest Property or Holt Property, as applicable, the parties will reasonably cooperate with one another to construct the Curb Cut and a driveway (together, the "Improvements") on the Overall Easement Property. The parties agree that, upon seeking approval for the Curb Cut, they will use reasonable efforts to attempt to have the Curb Cut approved for a location within the Overall Easement Property. In the event the Curb Cut is approved for a location along the frontage of the Campus Crest Property or Holt Property other than within the Overall Easement Property, the parties agree to execute and record an amendment to this Agreement which replaces the description of the Overall Easement Property with a description consistent with the final location of the Curb Cut.

(b) Once said Curb Cut approval has been obtained, the party receiving such approval (the "Constructing Party") will deliver to the other party hereto a proposed budget, construction schedule and plans and specifications for the construction of the Improvements, which Improvements shall be in a first class manner consistent with other similar improvements on retail

property in Hays County, Texas. The non-Constructing Party shall have thirty (30) days to review and provide comments thereon. Said budget, construction schedule and plans and specifications shall be deemed approved in the event that no comments are provided by the non-Constructing Party within said time period. The Constructing Party will work in good faith to reach a mutually acceptable and reasonable agreement on said budget, construction schedule and plans and specifications. The Constructing Party shall construct the Improvements in accordance with said budget, construction schedule and plans and specifications within a reasonable time thereafter and without unreasonably interfering with the operations then being conducted on the other parcel. At such time as construction of the Improvements is ready to commence, the parties agree to execute and record, if necessary, a reasonable amendment document that amends the terms of this Agreement to address the then current status of the parcels and the facts of the situation as they exist at such time, provided that such amendment shall not materially increase the obligations or reduce the rights of the parties hereto.

(c) Upon completion of the construction of the Improvements, the Constructing Party shall deliver a written reimbursement request with supporting documentation to the non-Constructing Party for one-half of the cost of constructing the Improvements. The non-Constructing Party shall reimburse the Constructing Party for said costs within twenty (20) days of receipt of such written request with supporting documentation; provided, however, that the reimbursing party shall not be obligated to reimburse the Constructing Party for more than one half of the estimated costs set forth on the budget presented by the Constructing Party prior to the commencement of construction.

(d) Upon completion of the construction of the Improvements, Campus Crest and Holt, or their respective successors and/or assigns with respect to the Campus Crest Easement Property and the Holt Easement Property, respectively, shall share equally in the cost of using, operating, maintaining, repairing and replacing the Improvements on the Overall Easement Property. Campus Crest and Holt, or their respective successors and/or assigns, shall be responsible for maintaining the Improvements located within the portion of the Overall Easement Property owned by it in good condition and repair; provided, however, that if the Improvements on such owner's property are damaged or destroyed through the acts of the other party hereto, its successors and/or assigns, or its employees, invitees, tenants or agents, whether such act is willful, negligent or accidental, then the damaging owner shall forthwith proceed to rebuild, repair and replace the same to as good a condition as to which such Improvements existed immediately prior to such damage or destruction at no cost to the non-damaging owner. All such repair work performed by the damaging owner shall be performed as expeditiously as possible and in such a manner as not to unreasonably interfere with, obstruct or delay access to or from the portion of the Campus Crest Property or Holt Property owned by the non-damaging owner.

(e) Campus Crest and Holt agree to cause all work performed hereunder to be conducted in a good and workmanlike manner and in manner that will not materially interfere with the construction, use or operation of the Campus Crest Property or Holt Property, as applicable, free and clear of any and all mechanics' and materialmen's liens and in accordance with applicable laws, statutes, ordinances, rules, regulations, orders and all other requirements of any governmental

authority or similar entity which are applicable to or affect all or any portion of the Overall Easement Property.

7. Liens. If any lien or notice of lien shall be filed against any portion of the Overall Easement Property, the Campus Crest Property or the Holt Property arising out of or related to the construction, maintenance or repair of the Improvements other than a lien filed by a party hereto as provided in Section 8(b), the party causing such work to be done or materials to be delivered (the "Lien Defaulting Party"), within thirty (30) days after notice of the filing thereof, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Should the Lien Defaulting Party fail to discharge said lien of record within said thirty (30)-day time period, the non-Lien Defaulting Party hereto, in addition to any other remedy provided at law, shall have the right (but not the obligation) to cause said lien to be discharged of record. The Lien Defaulting Party shall reimburse the non-Lien Defaulting Party hereto for the costs of discharging said lien of record within twenty (20) days after receipt of proof of payment thereof.

8. Remedies; Self-Help.

(a) Should either Campus Crest or Holt fail to perform any of its obligations hereunder with the exception of reimbursement obligations (the "Defaulting Party"), such non-defaulting party (the "Curing Party") shall give the Defaulting Party thirty (30) days' written notice thereof, setting forth with particularity the Curing Party's objections or claimed deficiencies, and if such objections and/or deficiencies are not corrected to the Curing Party's reasonable satisfaction within said thirty (30)-day period, or in the event that such correction requires more than thirty (30) days and is not commenced promptly and performed diligently or continues beyond the time reasonably needed to correct the deficiency, then the Curing Party, in addition to any other right or remedy available at law or in equity, shall have the right thereafter to correct any or all such deficiencies, or cause such deficiencies to be corrected, and to continue to do so without further notice unless and until the defaulting party resumes full performance of its obligations hereunder. The Defaulting Party shall reimburse the Curing Party for the cost of performing such work within twenty (20) days after receipt of proof of payment thereof.

(b) Should either Campus Crest or Holt fail to timely pay any reimbursement obligation as set forth hereunder (the "Monetary Defaulting Party"), the owner giving such notice (the "Monetary Curing Party") shall have the right, in addition to any other remedy provided at law or in equity, to record a lien on the property owned by the Monetary Defaulting Party to the extent of the amount paid by the Monetary Curing Party but not reimbursed by the Monetary Defaulting Party, which amount shall bear interest at a rate equal to twelve percent (12%) or the highest legal rate of interest, whichever is less, from the date of billing until paid.

9. Indemnity. Each party hereby agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, causes of action, judgments, damages, costs, expenses and liabilities (including, without limitation, attorney's fees, whether before trial, at trial, on appeal, or in arbitration proceedings, and court costs) which relate to matters, actions or omissions arising or resulting from the construction, maintenance or use of the easements granted

hereunder, by the indemnifying party and/or any agents or employees of the indemnifying party.

10. Liability Insurance. During such time as either party is constructing, maintaining or repairing the Improvements, such party will maintain commercial general liability insurance (inclusive of umbrella coverages) covering injuries to persons and property on, in or about its property and the Overall Easement Property, with a single limit of not less than $2,000,000, issued by a solvent and responsible insurer authorized to do business in the State of Texas, and all such policies will contain a waiver of the right of subrogation and shall name the other party hereto as an additional insured. Each party agrees to provide a copy of an insurance certificate evidencing such coverage to the other party hereunder, if requested by such other party.

11. Miscellaneous.

(a) Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(b) Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas.

(c) Waiver and Amendment. This Agreement may be amended only by a written agreement executed by all of the parties hereto.

(d) Binding Effect; Covenants Run With the Land. The parties covenant and agree that the servitudes, agreements, covenants and restrictions and all other terms, conditions and provisions hereof shall be binding upon their respective successors and assigns and all other persons or entities having or hereafter acquiring any right, title or interest in the respective property, and all other persons and entities claiming by, through or under said owners and their respective successors and assigns. The rights, obligations and benefits established pursuant to this Agreement shall run with the land and shall be binding upon the owner of the Holt Property and the Campus Crest Property, and their respective successors and assigns and all subsequent owners of any portion of such property. Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of any third party or the general public.

(e) Default. In the event that either party or its successors and/or assigns violates the terms of this Agreement, the non-defaulting party or its successors and assigns (each an "Enforcing Party"), shall have the exclusive and only right to proceed with any legal or equitable remedy available to any such Enforcing Party against the owner(s) at the time of the violation of that portion of the Holt Property or Campus Crest Property in violation of this Agreement. The parties expressly agree that if Campus Crest or any of the undersigned parties signing on behalf of Holt (each called a "Holt Party") is not an owner or occupant of the Campus Crest Property or Holt Property, as applicable, at the time of the violation of this Agreement, no remedies shall be available against or exercised against any such non-owning Campus Crest or Holt Party.

(f) Notices. All notices, requests, consents and other communications hereunder shall be in writing and shall be personally delivered, or delivered by overnight courier, or mailed by First Class, Registered or Certified Mail, return receipt requested, postage prepaid, or delivered by facsimile (provided that a notice delivered by facsimile shall immediately thereafter be delivered by one of the other methods permitted in this Section 11(f)), as follows:

Notice to Campus Crest:
Campus Crest Development, LLC
2100 Rexford Rd., Suite 414
Charlotte, North Carolina 28211
Attention: James W. McCaughan
Phone: (704) 496-2500
Facsimile: (704) 496-2598

with a copy to:
Dawn Helms Sharff
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203
Phone: (205) 521-8200
Facsimile: (205) 488-6200

Notice to Holt:
Armbruster Holt Ltd.
P.O. Box 2183
Manchaca, TX 78652
Phone: (512) 327-9799

with a copy to:
William C. Holt
1525 21st Avenue North
Texas City, TX 77590-5232

with a copy to:
Armbrust & Brown, LLP
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Attention: Frank Brown
Phone: (512) 435-2302
Fax: (512) 435-2360

Any such notice, request, consent or other communications shall be deemed received at such time as it is actually delivered, on the first business day following an overnight delivery, or on the fifth business day after a mailing, as the case may be. Either party hereto may change the address for receiving notices hereunder by notice sent in accordance with the terms of this Section 11(f).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

HOLT:

ARMBRUSTER HOLT LTD.

By: Holt Armbruster LLC,
its General Manager

By: _____
Name: _____
Title: _____

WILLIAM CLIFTON HOLT

MARYEM A. HOLT

_____
DAVID WAYNE HOLT

TIMOTHY JAMES HOLT

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

HOLT:

ARMBRUSTER HOLT LTD.

By: Holt Armbruster LLC,
its General Manager

By: _____
Name: _____
Title: _____

_____
WILLIAM CLIFTON HOLT

_____
MARYEM A. HOLT

David Wayne Holt
_____
DAVID WAYNE HOLT

_____
TIMOTHY JAMES HOLT

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

HOLT:

ARMBRUSTER HOLT LTD.

By: Holt Armbruster LLC,
its General ~~Manager~~ Partner

By: Alan L. Holt for Holt Armbruster LLC
Name: ALAN L. HOLT
Title: PRESIDENT

WILLIAM CLIFTON HOLT

MARYEM A. HOLT

DAVID WAYNE HOLT

TIMOTHY JAMES HOLT

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

WITNESS:

Print Name: James Webb

CAMPUS CREST:

CAMPUS CREST AT SAN MARCOS, LP

By: HSRE-Campus Crest GP I, LLC, a Delaware limited liability company, its sole general partner

By: HSRE-Campus Crest I, LLC, a Delaware limited liability company, its sole member

By: Campus Crest Ventures III, LLC, a Delaware limited liability company, a member

By: Campus Crest Properties, LLC, a North Carolina limited liability company, its manager

By: _____
Name: F. Brian Schneiderman
Its Manager

1/1679120.3

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of November, 2008, by _____, as _____ of Holt Armbruster LLC, general manager of Armbruster Holt LTD., on behalf of said limited liability company as general manager of said partnership.

_____
NOTARY PUBLIC

My commission expires (if not legible on seal):_____

[NOTARIAL SEAL]

STATE OF Texas)

COUNTY OF Dallas)

This instrument was acknowledged before me on this 12th day of November, 2008 by William C. Holt.

CHARLOTTE HARRISON
NOTARY PUBLIC
STATE OF TEXAS
MY COMMISSION EXPIRES
AUGUST 24, 2009

Charlotte Harrison
NOTARY PUBLIC

My commission expires (if not legible on seal): Aug 24th 2009

[NOTARIAL SEAL]

STATE OF Texas)

COUNTY OF Dallas)

This instrument was acknowledged before me on this 12th day of November, 2008 by Maryem Holt.

CHARLOTTE HARRISON
NOTARY PUBLIC
STATE OF TEXAS
MY COMMISSION EXPIRES
AUGUST 24, 2009

Charlotte Harrison
NOTARY PUBLIC

My commission expires (if not legible on seal): Aug 24th 2009

[NOTARIAL SEAL]

1/1679120.3

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of November, 2008 by David W. Holt.

_____
NOTARY PUBLIC

My commission expires (if not legible on seal):_____

[NOTARIAL SEAL]

STATE OF Texas)

COUNTY OF Galveston

This instrument was acknowledged before me on this 12th day of November, 2008 by Timothy J. Holt.

CHARLOTTE HARRISON
NOTARY PUBLIC
STATE OF TEXAS
MY COMMISSION EXPIRES
AUGUST 24, 2009

Charlotte Harrison
NOTARY PUBLIC

My commission expires (if not legible on seal): Aug 24 2009

[NOTARIAL SEAL]

1/1679120.3

STATE OF TEXAS)

COUNTY OF Trans)

This instrument was acknowledged before me on this 11th day of November, 2008, by Alan Holt, as President of Holt Armbruster LLC, general ~~manager~~ partner of Armbruster Holt LTD., on behalf of said limited liability company as general manager of said partnership.

ANN F. LOPEZ
MY COMMISSION EXPIRES
February 24, 2012

NOTARY PUBLIC

My commission expires (if not legible on seal):_____

[NOTARIAL SEAL]

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of November, 2008 by William C. Holt.

NOTARY PUBLIC

My commission expires (if not legible on seal):_____

[NOTARIAL SEAL]

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of November, 2008 by Maryem Holt.

NOTARY PUBLIC

My commission expires (if not legible on seal):_____

[NOTARIAL SEAL]

1/1679120.3

STATE OF Texas)

COUNTY OF Uvalde)

This instrument was acknowledged before me on this 11 day of November, 2008 by David W. Holt.

[NOTARIAL SEAL]

ELDA ALEJANDRO
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
4-11-2010

Elda Alejandro
NOTARY PUBLIC

My commission expires (if not legible on seal): 4-11-2010

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of November, 2008 by Timothy J. Holt.

_____
NOTARY PUBLIC

[NOTARIAL SEAL]

My commission expires (if not legible on seal): _____

1/1679120.3

STATE OF North Carolina
COUNTY OF Mecklenburg

This instrument was acknowledged before me on this 10 day of November, 2008 by F. Brian Schneiderman, as Manager of Campus Crest Properties, LLC, a North Carolina limited liability company, manager of Campus Crest Ventures III, LLC, a Delaware limited liability company, member of HSRE-Campus Crest I, LLC, a Delaware limited liability company, sole member of HSRE-Campus Crest GP I, LLC, a Delaware limited liability company, general partner of Campus Crest at San Marcos, LP, a Delaware limited partnership.

CHARLOTTE Y McDARIS
NOTARY PUBLIC
MECKLENBURG COUNTY, NC
My Commission Expires 7-30-2013

NOTARY PUBLIC

My commission expires (if not legible on seal):

[NOTARIAL SEAL]

1/1679120.3

EXHIBIT A

Legal Description of Campus Crest Property

FIELD NOTE DESCRIPTION
OF A
19.390 ACRE TRACT OF LAND
OUT OF THE
J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17,
SITUATED IN
THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

BEING A 19.390 ACRE (844,628 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS; BEING A PORTION OF THAT TRACT DESCRIBED AS "UNSOLD PORTIONS OF 189.6 ACRES" IN A SPECIAL WARRANTY DEED TO ARMBRUSTER HOLT LTD., FILED DECEMBER 28, 2005 AND RECORDED IN VOLUME (VOL.) 2834, PAGE (PG.) 86 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS (H.C.O.P.R.); SAID 19.390 ACRE TRACT BEING MORE PARTICULARY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" (HEREAFTER REFERRED TO AS "BYRN CAP") FOUND FOR THE EASTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT MARKING THE SOUTHERNMOST CORNER OF EAST RIVER RIDGE PARKWAY (HAVING A WIDTH OF 100 FEET) AS DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, FILED JUNE 7, 2004 AND RECORDED IN VOL. 11, PG. 365, HAYS COUNTY PLAT RECORDS (H.C.P.R.), SAID POINT ALSO BEING ON THE COMMON NORTHWESTERLY LINE OF THAT CERTAIN CALLED 82.651 ACRE TRACT OF LAND DESCRIBED IN A DONATION DEED TO CITY OF SAN MARCOS, FILED FEBRUARY 17, 2004 AND RECORDED IN VOL. 2405, PG. 387, H.C.O.P.R. AND THE SOUTHEASTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT;

THENCE, WITH THE COMMON NORTHWESTERLY LINE OF SAID 82.651 ACRE TRACT AND THE SOUTHEASTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING TWELVE (12) CALLS:

1) SOUTH 58 DEGREES 30 MINUTES 36 SECONDS WEST, A DISTANCE OF 62.40 FEET TO A 1/2-INCH IRON ROD WITH RED PLASTIC CAP STAMPED "BAKER-AICKLEN & ASSOC. ROUND ROCK, TX" (HEREAFTER REFERRED TO AS "BAKER CAP") FOUND FOR CORNER;
2) NORTH 26 DEGREES 13 MINUTES 58 SECONDS WEST, A DISTANCE OF 46.34 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
3) SOUTH 45 DEGREES 34 MINUTES 30 SECONDS WEST, A DISTANCE OF 51.63 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
4) SOUTH 32 DEGREES 17 MINUTES 24 SECONDS WEST, A DISTANCE OF 93.04 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
5) SOUTH 36 DEGREES 13 MINUTES 24 SECONDS WEST, A DISTANCE OF 113.84 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
6) SOUTH 50 DEGREES 31 MINUTES 08 SECONDS WEST, A DISTANCE OF 67.79 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
7) SOUTH 31 DEGREES 58 MINUTES 50 SECONDS WEST, A DISTANCE OF 156.95 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
8) SOUTH 11 DEGREES 51 MINUTES 44 SECONDS WEST, A DISTANCE OF 54.99 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
9) SOUTH 31 DEGREES 15 MINUTES 12 SECONDS WEST, A DISTANCE OF 141.41 FEET TO A 1/2-INCH IRON ROD FOUND FOR CORNER;

10) SOUTH 23 DEGREES 47 MINUTES 07 SECONDS WEST, A DISTANCE OF 155.33 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
11) SOUTH 23 DEGREES 18 MINUTES 13 SECONDS WEST, A DISTANCE OF 135.96 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR CORNER;
12) SOUTH 37 DEGREES 05 MINUTES 47 SECONDS WEST, A DISTANCE OF 181.79 FEET TO A 1/2-INCH IRON ROD WITH "BAKER CAP" FOUND FOR THE SOUTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT AND SAID PORTION OF 189.6 ACRE TRACT, SAME MARKING THE WESTERNMOST CORNER OF SAID 82.651 ACRE TRACT, SAID POINT ALSO BEING ON THE NORTHEASTERLY LINE OF LOT 4-G, BLOCK 2, FAIRLAWN ADDITION, FILED APRIL 27, 2001 AND RECORDED IN VOL. 10, PG. 5, H.C.P.R.;

THENCE, NORTH 24 DEGREES 07 MINUTES 55 SECONDS WEST, WITH THE COMMON SOUTHWESERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT AND THE NORTHEASTERLY LINE OF SAID LOT 4-G, A DISTANCE OF 284.04 FEET TO A 5/8-INCH IRON PIPE IN CONCRETE FOUND FOR CORNER OF THE HEREIN DESCRIBED TRACT, SAME MARKING THE COMMON NORTHERNMOST CORNER OF SAID LOT 4-G, THE EASTERNMOST CORNER OF BLOCK 4, FAIRLAWN ADDITION, DATED JUNE 1, 1940, RECORDED IN VOL. 120, PG. 368, HAYES COUNTY DEED RECORDS (H.C.D.R.) AND THE EASTERNMOST CORNER OF THAT CERTAIN TRACT OF LAND (TRACTS I & II) DESCRIBED IN A WARRANTY DEED TO JOSE HINOJOSA, ET ALI, FILED AUGUST 6, 1996 AND RECORDED IN VOL. 1245, PG. 087, H.C.O.P.R.;

THENCE, NORTH 46 DEGREES 06 MINUTES 58 SECONDS WEST, CONTINUING WITH THE SOUTHWESTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, SAME BEING THE NORTHEASTERLY LINE OF SAID BLOCK 4, AND WITH THE NORTHEASTERLY LINE OF SAID HINOJOSA TRACT AND SEVERAL OTHER SMALL TRACTS, AT A DISTANCE OF 748.10 FEET PASSING A 5/8-INCH IRON PIPE FOUND ON LINE, CONTINUING IN ALL A TOTAL DISTANCE OF 748.38 FEET TO A CALCULATED POINT FOR THE WESTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CALCULATED POINT BEING ON THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF INTERSTATE HIGHWAY NO. 35 (HAVING A VARIABLE WIDTH), SAID POINT ALSO BEING ON A CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS NORTH 56 DEGREES 38 MINUTES 31 SECONDS WEST, AT A DISTANCE OF 11,649.19 FEET;

THENCE, IN A NORTHERLY DIRECTION, WITH THE EASTERLY R.O.W. LINE OF SAID INTERSTATE HIGHWAY NO. 35 (IH-35), AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00 DEGREES 14 MINUTES 53 SECONDS, AN ARC LENGTH OF 50.43 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 33 DEGREES 14 MINUTES 02 SECONDS EAST – 50.40 FEET TO A CALCULATED POINT FOR CORNER OF THE HEREIN DESCRIBED TRACT, SAME MARKING THE WESTERNMOST CORNER OF THAT CERTAIN CALLED 1.0 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO HOUSING CORPORATION OF ETA TAU CHAPTER OF SIGMA NU FRATERNITY, A TEXAS NONPROFIT CORPORATION, FILED OCTOBER 24, 2005 AND RECORDED IN VOL. 2794, PG. 339, H.C.O.P.R.;

THENCE, SOUTH 46 DEGREES 09 MINUTES 01 SECONDS EAST, DEPARTING THE EASTERLY R.O.W. LINE OF SAID IH-35, WITH THE SOUTHWESTERLY LINE OF SAID 1.0 ACRE TRACT, AT A DISTANCE OF 0.81 FEET PASSING A 5/8-INCH IRON PIPE FOUND ON LINE, CONTINUING IN ALL A TOTAL DISTANCE OF 212.52 FEET TO A 5/8-INCH IRON PIPE FOUND FOR CORNER OF THE HEREIN DESCRIBED TRACT AND MARKING THE SOUTHERNMOST CORNER OF SAID 1.0 ACRE TRACT;

THENCE, NORTH 32 DEGREES 24 MINUTES 20 SECONDS EAST, PARTWAY WITH THE SOUTHEASTERLY LINE OF SAID 1.0 ACRE TRACT AND PARTWAY WITH THE SOUTHEASTERLY LINE OF THAT CERTAIN CALLED 1.071 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO WS LTD., FILED JULY 27, 1999 AND RECORDED IN DOCUMENT NO. 9917646, H.C.O.P.R., AT A DISTANCE OF 210.17 FEET PASSING A 1/2-INCH IRON PIPE FOUND MARKING THE COMMON EASTERNMOST CORNER OF SAID 1.0 ACRE TRACT AND THE SOUTHERNMOST CORNER OF SAID 1.071 ACRE TRACT, CONTINUING IN ALL A TOTAL DISTANCE OF 469.76 FEET TO A 3/8-INCH IRON ROD FOUND FOR

CORNER OF THE HEREIN DESCRIBED TRACT AND MARKING THE EASTERNMOST CORNER OF SAID 1.071 ACRE TRACT;

THENCE, NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, WITH THE NORTHEASTERLY LINE OF SAID 1.071 ACRE TRACT, A DISTANCE OF 212.35 FEET TO A CALCULATED POINT FOR CORNER OF THE HEREIN DESCRIBED TRACT, AND FROM WHICH A 1-INCH IRON PIPE FOUND BEARS NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, AT A DISTANCE OF 0.53 FEET AND A 1/2-INCH IRON ROD FOUND BEARS NORTH 86 DEGREES 20 MINUTES 55 SECONDS EAST, AT A DISTANCE OF 0.18 FEET, SAID CALCULATED POINT BEING ON THE EASTERLY R.O.W. LINE OF SAID IH-35, SAID POINT ALSO BEING ON A CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS NORTH 58 DEGREES 50 MINUTES 34 SECONDS WEST, AT A DISTANCE OF 11,649.19 FEET;

THENCE, IN A NORTHERLY DIRECTION, WITH THE EASTERLY R.O.W. LINE OF SAID IH-35, AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00 DEGREES 58 MINUTES 03 SECONDS, AN ARC LENGTH OF 196.71 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 30 DEGREES 40 MINUTES 24 SECONDS EAST – 196.68 FEET TO A 1/2-INCH IRON ROD WITH ORANGE PLASTIC CAP STAMPED "WALLACE GROUP" (HEREAFTER REFERRED TO AS "WALLACE CAP") SET FOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, DEPARTING THE EASTERLY R.O.W. LINE OF SAID IH-35, AND TRAVELING THROUGH THE INTERIOR OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING TWO (2) CALLS:

1) SOUTH 65 DEGREES 49 MINUTES 45 SECONDS EAST, A DISTANCE OF 450.03 FEET TO A 1/2-INCH IRON ROD WITH "WALLACE CAP" SET FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE EASTERLY LINE OF THAT CERTAIN CALLED 100 FOOT WIDE EASEMENT AND R.O.W. DESCRIBED IN A DEED TO LOWER COLORADO RIVER AUTHORITY (L.C.R.A.), FILED MARCH 28, 1951 AND RECORDED IN VOL. 149, PG. 334, H.C.D.R.;
2) NORTH 29 DEGREES 41 MINUTES 56 SECONDS EAST, WITH THE EASTERLY LINE OF SAID 100 FOOT WIDE EASEMENT AND R.O.W., A DISTANCE OF 430.64 FEET TO A 1/2-INCH IRON ROD WITH "BYRN CAP" FOUND MARKING THE NORTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE SOUTHWESTERLY R.O.W. LINE OF SAID EAST RIVER RIDGE PARKWAY DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, SAID POINT ALSO BEING ON A CURVE TO THE RIGHT FROM WHICH THE RADIUS POINT BEARS SOUTH 41 DEGREES 36 MINUTES 52 SECONDS WEST, AT A DISTANCE OF 768.51 FEET;

THENCE, DEPARTING THE EASTERLY LINE OF SAID 100 FOOT WIDE EASEMENT AND R.O.W., AND WITH THE SOUTHWESTERLY R.O.W. LINE OF SAID EAST RIVER RIDGE PARKWAY, THE FOLLOWING TWO (2) CALLS:

1) IN A SOUTHEASTERLY DIRECTION, WITH SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 18 DEGREES 19 MINUTES 27 SECONDS, AN ARC LENGTH OF 245.78 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 39 DEGREES 13 MINUTES 24 SECONDS EAST – 244.73 FEET TO A 1/2-INCH IRON ROD WITH "BYRN CAP" FOUND FOR CORNER OF THE HEREIN DESCRIBED TRACT AND BEING THE END OF SAID CURVE;
2) SOUTH 30 DEGREES 03 MINUTES 14 SECONDS EAST, A DISTANCE OF 421.98 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT, DELINEATING AND ENCOMPASSING WITHIN THE METES RECITED 19.390 ACRES (844,628 SQUARE FEET) OF LAND, MORE OR LESS, BASED ON THE ALTA/ACSM LAND TITLE SURVEY AND DRAWING MADE BY THE WALLACE GROUP, INC., ROUND ROCK, TEXAS IN FEBRUARY AND MARCH OF 2008, AND WITH BEARINGS SHOWN HEREON BEING REFERENCED TO THE CITY OF SAN

MARCOS GPS CONTROL MONUMENTS NO. 02 AND 10 USING NAD-83 IN THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NO. 4204.

EXHIBIT B
Legal Description of Holt Property

FIELD NOTE DESCRIPTION
OF A
4.768 ACRE TRACT OF LAND
OUT OF THE
J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17,
SITUATED IN
THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

BEING A 4.768 ACRE (207,681 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS; BEING A PORTION OF THAT TRACT DESCRIBED AS "UNSOLD PORTIONS OF 189.6 ACRES" IN A SPECIAL WARRANTY DEED TO ARMBRUSTER HOLT LTD., FILED DECEMBER 28, 2005 AND RECORDED IN VOLUME (VOL.) 2834, PAGE (PG.) 86 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS (H.C.O.P.R.); SAID 4.768 ACRE TRACT BEING MORE PARTICULARY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" (HEREAFTER REFERRED TO AS "BYRN CAP") FOUND FOR THE NORTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAME MARKING THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF INTERSTATE HIGHWAY NO. 35 (HAVING A VARIABLE WIDTH) WITH THE SOUTHWESTERLY R.O.W. LINE OF EAST RIVER RIDGE PARKWAY (HAVING A WIDTH OF 100 FEET) AS DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, FILED JUNE 7, 2004 AND RECORDED IN VOL. 11, PG. 365, HAYS COUNTY PLAT RECORDS (H.C.P.R.);

THENCE, DEPARTING THE EASTERLY R.O.W. LINE OF SAID INTERSTATE HIGHWAY NO. 35 (IH-35), AND WITH THE SOUTHWESTERLY R.O.W. LINE OF SAID EAST RIVER RIDGE PARKWAY, THE FOLLOWING TWO (2) CALLS:

3) SOUTH 63 DEGREES 33 MINUTES 40 SECONDS EAST, A DISTANCE OF 251.61 FEET TO A 1/2-INCH IRON ROD WITH "BYRN CAP" FOUND FOR CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE RIGHT FROM WHICH THE RADIUS POINT BEARS SOUTH 26 DEGREES 26 MINUTES 28 SECONDS WEST, AT A DISTANCE OF 768.51 FEET;

2) IN A SOUTHEASTERLY DIRECTION, WITH SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 15 DEGREES 10 MINUTES 24 SECONDS, AN ARC LENGTH OF 203.52 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 55 DEGREES 58 MINUTES 20 SECONDS EAST – 202.93 FEET TO A 1/2-INCH IRON ROD WITH "BYRN CAP" FOUND FOR THE EASTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT ALSO BEING ON THE EASTERLY LINE OF THAT CERTAIN CALLED 100 FOOT WIDE EASEMENT AND R.O.W. DESCRIBED IN A DEED TO LOWER COLORADO RIVER AUTHORITY (L.C.R.A.), FILED MARCH 28, 1951 AND RECORDED IN VOL. 149, PG. 334, HAYS COUNTY DEED RECORDS (H.C.D.R.);

THENCE, DEPARTING THE SOUTHWESTERLY R.O.W. LINE OF SAID EAST RIVER RIDGE PARKWAY, AND TRAVELING THROUGH THE INTERIOR OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING TWO (2) CALLS:

1) SOUTH 29 DEGREES 41 MINUTES 56 SECONDS WEST, WITH THE EASTERLY LINE OF SAID 100 FOOT WIDE EASEMENT AND R.O.W., A DISTANCE OF 430.64 FEET TO A 1/2-INCH IRON ROD WITH ORANGE PLASTIC CAP STAMPED "WALLACE GROUP" (HEREAFTER REFERRED

TO AS "WALLACE CAP") SET FOR THE SOUTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT;

2) NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, DEPARTING THE EASTERLY LINE OF SAID 100 FOOT WIDE EASEMENET AND R.O.W., A DISTANCE OF 450.03 FEET TO A 1/2-INCH IRON ROD WITH "WALLACE CAP" SET FOR THE WESTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE EASTERLY R.O.W. LINE OF SAID IH-35, SAID POINT ALSO BEING ON A CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS NORTH 59 DEGREES 48 MINUTES 37 SECONDS WEST, AT A DISTANCE OF 11,649.19 FEET;

THENCE, IN A NORTHERLY DIRECTION, WITH THE EASTERLY R.O.W. LINE OF SAID IH-35, AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 02 DEGREES 20 MINUTES 12 SECONDS, AN ARC LENGTH OF 475.08 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 29 DEGREES 01 MINUTES 17 SECONDS EAST – 475.03 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT, DELINEATING AND ENCOMPASSING WITHIN THE METES RECITED 4.768 ACRES (207,681 SQUARE FEET) OF LAND, MORE OR LESS, BASED ON AN ON-THE-GROUND SURVEY PERFORMED BY THE WALLACE GROUP, INC., ROUND ROCK, TEXAS IN FEBRUARY AND MARCH OF 2008, AND WITH BEARINGS SHOWN HEREON BEING REFERENCED TO THE CITY OF SAN MARCOS GPS CONTROL MONUMENTS NO. 02 AND 10 USING NAD-83 IN THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NO. 4204.

EXHIBIT C

Legal Description of Holt Easement Property

FIELD NOTE DESCRIPTION OF A
0.148 ACRE TRACT OF LAND OUT OF THE
ARMBRUSTER HOLT LTD. TRACT,
LOCATED IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

BEING A 0.148 ACRE (6,442 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS; BEING A PORTION OF THAT TRACT DESCRIBED AS "UNSOLD PORTIONS OF 189.6 ACRES" IN A SPECIAL WARRANTY DEED TO ARMBRUSTER HOLT LTD., FILED DECEMBER 28, 2005 AND RECORDED IN VOLUME 2834, PAGE 86 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS; SAID 0.148 TRACT BEING MORE PARTICULARY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" FOUND MARKING THE INTERSECTION OF THE SOUTHWESTERLY LINE OF EAST RIVER RIDGE PARKWAY (HAVING A WIDTH OF 100 FEET) AS DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, FILED JUNE 7, 2004 AND RECORDED IN VOLUME 11, PAGE 365, HAYS COUNTY PLAT RECORDS, AND THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF INTERSTATE HIGHWAY NO. 35 (IH-35), SAID POINT MARKING A CORNER OF SAID PORTION OF 189.6 ACRE TRACT AND BEING ON A CURVE TO THE RIGHT, AND FROM WHICH A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" FOUND MARKING A CORNER ALONG THE SOUTHWESTERLY LINE OF SAID EAST RIVER RIDGE PARKWAY BEARS SOUTH 63 DEGREES 33 MINUTES 40 SECONDS EAST, AT A DISTANCE OF 251.61 FEET;

THENCE, IN A SOUTHWESTERLY DIRECTION, DEPARTING THE SOUTHWESTERLY LINE OF SAID EAST RIVER RIDGE PARKWAY, AND WITH THE COMMON EASTERLY R.O.W. LINE OF SAID IH-35 AND A WESTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, AND WITH SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02 DEGREES 12 MINUTES 47 SECONDS, AN ARC LENGTH OF 449.95 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 28 DEGREES 57 MINUTES 35 SECONDS WEST – 449.90 FEET TO A CALCULATED POINT FOR THE **POINT OF BEGINNING** AND NORTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT,

THENCE, DEPARTING THE EASTERLY R.O.W. LINE OF SAID IH-35, AND TRAVELING THROUGH THE INTERIOR OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING THREE (3) CALLS:

1) SOUTH 65 DEGREES 49 MINUTES 45 SECONDS EAST, A DISTANCE OF 256.39 FEET TO A CALCULATED POINT FOR THE EASTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT;
2) SOUTH 24 DEGREES 10 MINUTES 15 SECONDS WEST, A DISTANCE OF 25.00 FEET TO A CALCULATED POINT FOR THE SOUTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT;
3) NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, A DISTANCE OF 259.00 FEET TO A CALCULATED POINT FOR THE WESTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE COMMON EASTERLY R.O.W. LINE OF SAID IH-35 AND A WESTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, SAID POINT ALSO BEING ON A CURVE TO THE LEFT;

THENCE, IN A NORTHERLY DIRECTION, WITH SAID COMMON LINE, AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00 DEGREES 07 MINUTES 25 SECONDS, AN ARC LENGTH OF 25.13 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 30 DEGREES 07 MINUTES 41 SECONDS EAST – 25.13 FEET TO THE **POINT OF BEGINNING**, DELINEATING AND ENCOMPASSING WITHIN THE

METES RECITED 0.148 ACRE (6,442 SQUARE FEET) OF LAND, MORE OR LESS, BASED ON THE ALTA/ACSM LAND TITLE SURVEY AND DRAWING MADE BY THE WALLACE GROUP, INC., ROUND ROCK, TEXAS, WITH BEARINGS BEING REFERENCED TO THE CITY OF SAN MARCOS GPS CONTROL MONUMENTS NO. 02 AND 10 USING NAD-83 IN THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NO. 4204.

EXHIBIT D

Legal Description of Campus Crest Easement Property

FIELD NOTE DESCRIPTION OF A
0.149 ACRE TRACT OF LAND OUT OF THE
ARMBRUSTER HOLT LTD. TRACT,
LOCATED IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

BEING A 0.149 ACRE (6,508 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS; BEING A PORTION OF THAT TRACT DESCRIBED AS "UNSOLD PORTIONS OF 189.6 ACRES" IN A SPECIAL WARRANTY DEED TO ARMBRUSTER HOLT LTD., FILED DECEMBER 28, 2005 AND RECORDED IN VOLUME 2834, PAGE 86 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS; SAID 0.149 TRACT BEING MORE PARTICULARY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" FOUND MARKING THE INTERSECTION OF THE SOUTHWESTERLY LINE OF EAST RIVER RIDGE PARKWAY (HAVING A WIDTH OF 100 FEET) AS DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, FILED JUNE 7, 2004 AND RECORDED IN VOLUME 11, PAGE 365, HAYS COUNTY PLAT RECORDS, AND THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF INTERSTATE HIGHWAY NO. 35 (IH-35), SAID POINT MARKING A CORNER OF SAID PORTION OF 189.6 ACRE TRACT AND BEING ON A CURVE TO THE RIGHT, AND FROM WHICH A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" FOUND MARKING A CORNER ALONG THE SOUTHWESTERLY LINE OF SAID EAST RIVER RIDGE PARKWAY BEARS SOUTH 63 DEGREES 33 MINUTES 40 SECONDS EAST, AT A DISTANCE OF 251.61 FEET;

THENCE, IN A SOUTHWESTERLY DIRECTION, DEPARTING THE SOUTHWESTERLY LINE OF SAID EAST RIVER RIDGE PARKWAY, AND WITH THE COMMON EASTERLY R.O.W. LINE OF SAID IH-35 AND A WESTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, AND WITH SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02 DEGREES 20 MINUTES 12 SECONDS, AN ARC LENGTH OF 475.07 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 29 DEGREES 01 MINUTES 17 SECONDS WEST – 475.03 FEET TO A CALCULATED POINT FOR THE **POINT OF BEGINNING** AND NORTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT,

THENCE, DEPARTING THE EASTERLY R.O.W. LINE OF SAID IH-35, AND TRAVELING THROUGH THE INTERIOR OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING THREE (3) CALLS:

1) SOUTH 65 DEGREES 49 MINUTES 45 SECONDS EAST, A DISTANCE OF 259.00 FEET TO A CALCULATED POINT FOR THE EASTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT;
2) SOUTH 24 DEGREES 10 MINUTES 15 SECONDS WEST, A DISTANCE OF 25.00 FEET TO A CALCULATED POINT FOR THE SOUTHERNMOST CORNER OF THE HEREIN DESCIBED TRACT;
3) NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, A DISTANCE OF 261.66 FEET TO A CALCULATED POINT FOR THE WESTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE COMMON EASTERLY R.O.W. LINE OF SAID IH-35 AND A WESTERLY LINE OF SAID PORTION OF 189.6 ACRE TRACT, SAID POINT ALSO BEING ON A CURVE TO THE LEFT;

THENCE, IN A NORTHERLY DIRECTION, WITH SAID COMMON LINE, AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00 DEGREES 07 MINUTES 25 SECONDS, AN ARC LENGTH OF 25.13 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 30 DEGREES 15 MINUTES 06 SECONDS EAST – 25.13 FEET TO THE **POINT OF BEGINNING**, DELINEATING AND ENCOMPASSING WITHIN THE

METES RECITED 0.149 ACRE (6,508 SQUARE FEET) OF LAND, MORE OR LESS, BASED ON THE ALTA/ACSM LAND TITLE SURVEY AND DRAWING MADE BY THE WALLACE GROUP, INC., ROUND ROCK, TEXAS, WITH BEARINGS BEING REFERENCED TO THE CITY OF SAN MARCOS GPS CONTROL MONUMENTS NO. 02 AND 10 USING NAD-83 IN THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NO. 4204.

Hays County
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666

70 2014 14026568

Instrument Number: 2014-14026568
As
Recorded On: September 09, 2014 **Electronic Recording**

Parties: ARMBRUSTER HOLT LTD **Billable Pages: 7**

To **Number of Pages: 8**

Comment: ERECORDING PARTNERS NETWO

(Parties listed above are for Clerks reference only)

**** THIS IS NOT A BILL ****

Electronic Recording	50.00
Total Recording:	**50.00**

************** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT **************

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number:	2014-14026568
Receipt Number:	376830
Recorded Date/Time:	September 09, 2014 08:50:28A
Book-Vol/Pg:	BK-OPR VL-5017 PG-422
User / Station:	O Mejia - Indexing Station #1

Record and Return To:

EFILE
EFILE
SAN MARCOS TX 78666

State of Texas |
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

Liz Q. Gonzalez

Liz Q.Gonzalez, County CLerk

15/ITC/LBA/#1420665-SMA

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

ARMBRUSTER HOLT, LTD., WILLIAM CLIFTON HOLT, JR., TIMOTHY JAMES HOLT and DAVID WAYNE HOLT, (collectively, the "Declarant") are the owners of the following described property:

Being 4.768 acres of land, more or less, out of the J. M. VERAMENDI SURVEY NO. 2, in Hays County, Texas and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof ("Property").

Declarant, by deed of even date herewith, has conveyed the property described as Lot 6, BLANCO SHOALS SUBDIVISION, SECTION 2, according to the map or plat thereof, recorded in Volume 16, page 361, Plat Records, Hays County, Texas ("Benefited Property"), to SHVASAI HOLDINGS, LLC. For the consideration expressed in that conveyance, Declarant will hold and convey the Property, subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth:

PART 1. LAND USE RESTRICTIONS

Declarant hereby declares that the property described above shall be held, sold and conveyed subject to the following restrictions, covenants, and conditions, which shall run with the Property and portions thereof and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, and their heirs, successors, and assigns, and which restrictions, covenants, and conditions shall inure to the benefit of SHVASAI HOLDINGS, LLC as owner of the Benefited Property;

The Property, or any portion thereof, shall be expressly prohibited from use for any of the following purposes: hotel, motel or other similar commercial lodging.

PART 2. AMENDMENT

This Declaration may be amended only by written instrument signed by Declarant or Declarant's successor(s) in interest and SHVASAI HOLDINGS, LLC.

PART 3. DURATION

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for ten (10) years from the date hereof or such date as SHVASAI HOLDINGS, LLC,, conveys the Benefited Property to an unrelated third party, whichever is earlier, at which time said covenants shall automatically terminate and be of no further force and effect, without necessity of any further action by any party.

PART 4. ENFORCEMENT

If the owners of any portion of the property or their heirs, executors, administrators, successors, assigns or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, or in the Restrictions, it shall be lawful for SHVASAI HOLDINGS, LLC, to prosecute any proceedings against the person or persons violating or attempting to violate any such Covenants or Restrictions. The failure of the owner to perform his or her obligation hereunder would result in irreparable damage to the owners of the Benefited Property; thus the breach of any provision of this Declaration or the Restrictions may not only give rise to an action for damages at law but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction without the proof of an specific damages. In the event enforcement actions are instituted and the enforcing party recovers, then in addition to the remedies specified above, court costs and reasonable attorney's fees shall be assessed against the violator.

PART 5. PARTIAL INVALIDITY

Partial Invalidity. In the event any of the foregoing covenants, conditions, restrictions, reservations or charges are held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

PART 6. SEVERANCE

Severance. In the event any of the foregoing covenants, conditions, restrictions, reservations or charges are held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, reservations or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

EXECUTED this 8th day of September, 2014.

Remainder of this page is intentionally left blank; signature and acknowledgment pages follow.

ARMBRUSTER HOLT LTD.

By: HOLT ARMBRUSTER, LLC,
General Partner

By: Alan L. Holt

ALAN L. HOLT, President

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on the 8th day of Sept., 2014, by ALAN L. HOLT, President of HOLT ARMBRUSTER, LLC, on behalf of said limited liability company acting in its capacity as General Partner of ARMBRUSTER HOLT LTD., on behalf of said limited partnership.

LUCI ALTENHOFF
MY COMMISSION EXPIRES
October 2, 2015

NOTARY PUBLIC, State of Texas

DAVID WAYNE HOLT

TIMOTHY JAMES HOLT

WILLIAM CLIFTON HOLT, JR.

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on the 8th day of Sept., 2014, by DAVID WAYNE HOLT.

LUCI ALTENHOFF
MY COMMISSION EXPIRES
October 2, 2015

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on the 8th day of Sept., 2014, by TIMOTHY JAMES HOLT.

LUCI ALTENHOFF
MY COMMISSION EXPIRES
October 2, 2015

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on the 8th day of Sept., 2014, by WILLIAM CLIFTON HOLT, JR.

LUCI ALTENHOFF
MY COMMISSION EXPIRES
October 2, 2015

NOTARY PUBLIC, State of Texas

FIELD NOTE DESCRIPTION
OF A
4.768 ACRE TRACT OF LAND
OUT OF THE
J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17,
SITUATED IN
THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS

BEING A 4.768 ACRE (207,681 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J.M. VERAMENDI SURVEY NO. 2, ABSTRACT NO. 17, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS; BEING A PORTION OF THAT TRACT DESCRIBED AS "UNSOLD PORTIONS OF 189.6 ACRES" IN A SPECIAL WARRANTY DEED TO ARMBRUSTER HOLT LTD., FILED DECEMBER 28, 2005 AND RECORDED IN VOLUME (VOL.) 2834, PAGE (PG.) 86 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS (H.C.O.P.R.); SAID 4.768 ACRE TRACT BEING MORE PARTICULARY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BYRN SURVEY" (HEREAFTER REFERRED TO AS "BYRN CAP") FOUND FOR THE NORTHERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAME MARKING THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF INTERSTATE HIGHWAY NO. 35 (HAVING A VARIABLE WIDTH) WITH THE SOUTHWESTERLY R.O.W. LINE OF EAST RIVER RIDGE PARKWAY (HAVING A WIDTH OF 100 FEET) AS DEDICATED BY THE FINAL PLAT OF LOT 2, AND EAST RIVER RIDGE PARKWAY, BLANCO SHOALS SUBDIVISION, FILED JUNE 7, 2004 AND RECORDED IN VOL. 11, PG. 365, HAYS COUNTY PLAT RECORDS (H.C.P.R.);

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2) IN A SOUTHEASTERLY DIRECTION, WITH SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 15 DEGREES 10 MINUTES 24 SECONDS, AN ARC LENGTH OF 203.52 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 55 DEGREES 58 MINUTES 20 SECONDS EAST – 202.93 FEET TO A 1/2-INCH IRON ROD WITH "BYRN CAP" FOUND FOR THE EASTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT ALSO BEING ON THE EASTERLY LINE OF THAT CERTAIN CALLED 100 FOOT WIDE EASEMENT AND R.O.W. DESCRIBED IN A DEED TO LOWER COLORADO RIVER AUTHORITY (L.C.R.A.), FILED MARCH 28, 1951 AND RECORDED IN VOL. 149, PG. 334, HAYS COUNTY DEED RECORDS (H.C.D.R.);

THENCE, DEPARTING THE SOUTHWESTERLY R.O.W. LINE OF SAID EAST RIVER RIDGE PARKWAY, AND TRAVELING THROUGH THE INTERIOR OF SAID PORTION OF 189.6 ACRE TRACT, THE FOLLOWING TWO (2) CALLS:

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DESCRIPTION OF 4.768 ACRE TRACT (CONTINUED)

2) NORTH 65 DEGREES 49 MINUTES 45 SECONDS WEST, DEPARTING THE EASTERLY LINE OF SAID 100 FOOT WIDE EASEMENT AND R.O.W., A DISTANCE OF 450.03 FEET TO A 1/2-INCH IRON ROD WITH "WALLACE CAP" SET FOR THE WESTERNMOST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING ON THE EASTERLY R.O.W. LINE OF SAID IH-35, SAID POINT ALSO BEING ON A CURVE TO THE LEFT FROM WHICH THE RADIUS POINT BEARS NORTH 59 DEGREES 48 MINUTES 37 SECONDS WEST, AT A DISTANCE OF 11,649.19 FEET;

THENCE, IN A NORTHERLY DIRECTION, WITH THE EASTERLY R.O.W. LINE OF SAID IH-35, AND WITH SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 02 DEGREES 20 MINUTES 12 SECONDS, AN ARC LENGTH OF 475.08 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 29 DEGREES 01 MINUTES 17 SECONDS EAST – 475.03 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT, DELINEATING AND ENCOMPASSING WITHIN THE METES RECITED 4.768 ACRES (207,681 SQUARE FEET) OF LAND, MORE OR LESS, BASED ON AN ON-THE-GROUND SURVEY PERFORMED BY THE WALLACE GROUP, INC., ROUND ROCK, TEXAS IN FEBRUARY AND MARCH OF 2008, AND WITH BEARINGS SHOWN HEREON BEING REFERENCED TO THE CITY OF SAN MARCOS GPS CONTROL MONUMENTS NO. 02 AND 10 USING NAD-83 IN THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE NO. 4204.

I, DANIEL M. FLAHERTY, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5004, STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS FIELD NOTE DESCRIPTION WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY PERFORMED ON THE GROUND AND THAT THE SAME IS TRUE AND CORRECT.

STATE OF TEXAS
REGISTERED
DANIEL M. FLAHERTY
5004
PROFESSIONAL
LAND SURVEYOR

03-05-08
DATE

DANIEL M. FLAHERTY, R.P.L.S. #5004
THE WALLACE GROUP, INC.
ONE CHISHOLM TRAIL, SUITE 130
ROUND ROCK, TEXAS 78681
PH. (512) 248-0065
WORK ORDER NO. 20950
20950-FN 4.768 ACRE TRACT

City of San Marcos

PREFERRED SCENARIO MAP AMENDMENT APPLICATION

	APPLICANT ALAN HOLT for	PROPERTY OWNER
Name	Armbruster Holt, Ltd, et al	ARMBRUSTER HOLT LTD, DAVID HOLT TIMOTHY HOLT, WILLIAM C. HOLT, JR
Mailing Address	PO Box 2183	
	MANCHACA, TX 78652	
Daytime Phone	512 327 4744	
E-mail	alanlholt@yahoo.com	

PROPERTY DESCRIPTION:

Address ≈ 2200 N IH 35, SAN MARCOS TX 78666

Legal Description *(if platted)* _____

Appraisal District Tax I.D. R 12118 **Acres** ≈ 4.78

Current Intensity Zone LOW **Proposed Intensity Zone** EMPLOYMENT AREA

Zoning Classification FD **Proposed New Zoning, if any** GC

Located In
- ☐ Floodway
- ☐ S.M. River Corridor
- ☐ Edwards Aquifer Recharge Zone
- ☐ Historic District

Existing use of land and building(s)

ALL VACANT LAND, AGRICULTURAL USE (CROPS FOR 4T CATTLE)

APPLICATION FOR CITY OF SAN MARCOS PREFERRED SCENARIO AMENDMENT

REQUESTED AMENDMENT:

Proposed new use of property RETAIL, OFFICE, OR OTHER GENERAL COMMERCIAL

Reasons which support this request

ADJACENT TO 2000+ STUDENTS IN MF STUDENT HOUSING DEVELOPMENTS
ADJACENT TO GC LOT, MU LOTS
IH 35 FRONTAGE AND CORNER OF RIVER RIDGE PKWY

SUBMITTAL REQUIREMENTS:

$750 plus $50 per acre ($2000 max) plus $10 Technology Fee payable to the City of San Marcos

Name(s) and Address(es) of Property Lien-Holder(s), if any

Metes and Bounds legal description or a map/survey to scale (if not platted), submitted on paper no larger than 11" x 17" showing the location and boundaries of the property (if the amendment involves changing more than one existing designation, show the boundaries of such designations within the property).

I certify the preceding information is complete and accurate, and it is understood 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: Alan L. Holt for ARMBRUSTER HOLT LTD et al **Date:** 9/25/15

Printed Name: ALAN L. HOLT

To be completed by Staff:

Meeting Date:_____ Application Deadline: _____

Accepted By: _____ Date: _____

File #: PSA-15-05, **Version:** 1

AGENDA CAPTION:
PSA-15-05 (IH-35 and Posey Road) Hold a public hearing and consider a request by Gunnarson Outdoors for a Preferred Scenario Amendment to change an Area of Stability to an Employment Center for an approximately 50.643 acre, more or less, tract out of the William H. Van Horn Survey, Abstract 464, located west of IH-35 along Posey Road. (A. Brake)

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Community Wellness / Strengthen the Middle Class

COMPREHENSIVE PLAN ELEMENT(s): Land Use, Goal 1

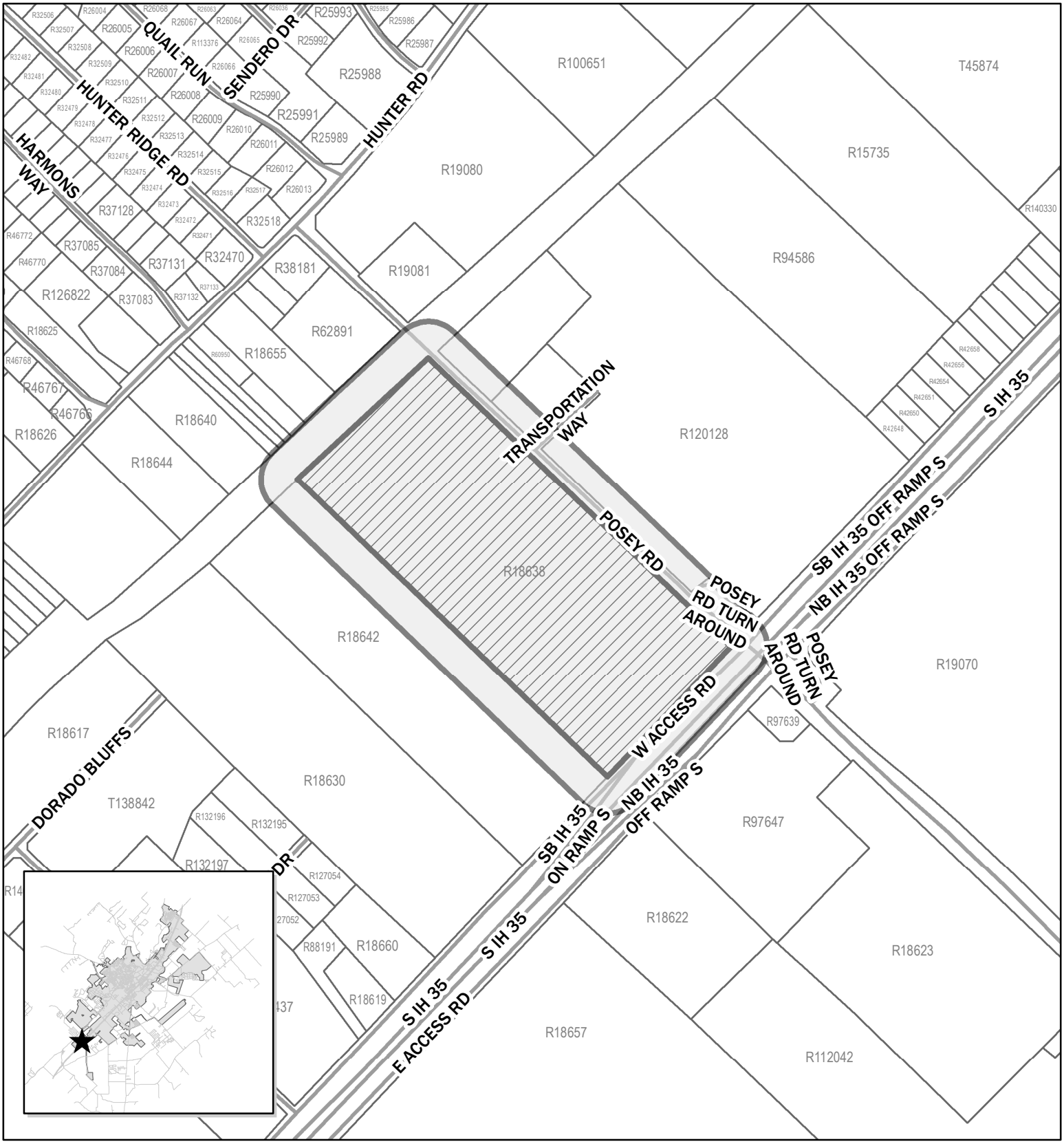
BACKGROUND:
This request to change the Preferred Scenario Map has been reviewed against *Vision San Marcos: A River Runs Through Us*, the City's Comprehensive Plan and was found to be generally consistent with the intent of the Plan as outlined in the staff report. All figures used to review this case are attached.

The applicant is proposing to install an off-premise freestanding sign located on the portion of the property inside the City Limits, approximately 2.3 acres, that is currently zoned "Agricultural Ranch District." In order to request a zoning change to "General Commercial", which is needed to allow for the sign to be located there, the applicant is requesting to amend the Preferred Scenario Map from Area of Stability to Employment Center. The Plan states that Employment Centers are areas where new development, such as industrial, manufacturing, large office park and intense commercial uses are appropriate. The installation of the off-premise freestanding sign itself will not promote economic development but designating the site as an Employment Center has the potential to promote economic development and employment opportunities, developing a site that is adjacent to the IH-35 corridor. In addition to the zoning categories listed in the Zoning Translation Table, new zoning categories, specific to Employment Centers, may be available with the completion of Code SMTX.

At this time the Commission is considering the request which will change the City's Preferred Scenario Map.

Any future changes in the zoning of the property would be required to follow the standard process of notice and public hearing. Zoning requests are considered separately and require full staff analysis.

Staff recommends **approval** of the request to change from an Area of Stability to an Employment Center as submitted.



PSA-15-05
Posey Road and IH 35
Pre-Notice
Map Date: 1/6/2016

PSA-15-05
200ft Buffer

0 500 1,000 2,000 Feet

N

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PSA-15-05
IH-35 & Posey Road
Map Date: 1/11/2016

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PSA-15-05
Preferred Scenario Amendment
IH-35 and Posey Road

Summary:

The applicant is requesting a change from Area of Stability to Employment Center on the Preferred Scenario Map.

Applicant: Gunnarson Outdoor
1801 South IH-35
San Marcos, TX 78666

Property Owners: *George and Bobbie Gilbert*: 15 Timbercrest, San Marcos, TX 78666

Notification: Courtesy notice sent on January 8 with updates at Neighborhood Commission January 20; Planning & Zoning Commission January 26; and City Council February 2.

Personal notice sent and signs posted on February 11 for the Public Hearing to be held on February 23.

Response: The update to the Neighborhood Commission was held on January 20 but no one spoke in regard to this specific request. No one spoke in regard to this request at the P&Z meeting on January 26. The update to City Council was given on February 2 and no one spoke in regard to this request.

Subject Property:

Location: Intersection of IH-35 and Posey Road

Legal Description: Approximately 50.643 acres, more or less, out of the William H. Van Horn Survey, Tract 12

Sector: A portion of the property is located in Sector Four (4)

Current Zoning: The portion of the property located within the City Limits is Agricultural Ranch District (AR)

Current Preferred Scenario Designation: Area of Stability

Proposed Preferred Scenario Designation: Employment Center

Surrounding Area:

	Zoning	Existing Land Use	Preferred Scenario
N of Property	AR & outside City Limits	Vacant & Texas State Transportation Center	Stability
S of Property	AR & outside City Limits	Vacant	Stability
E of Property	GC	Toyota Dealership	Stability
W of Property	Outside City Limits	PEC Electric Station	Stability

Preferred Scenario Amendments, Generally:

With the adoption of *Vision San Marcos*, the City's comprehensive plan, the Preferred Scenario Map replaced the City's previous Future Land Use Map, and the process for requesting changes to the Map was amended. In order for a property to develop, the appropriate zoning must be in place. If a zoning change is necessary, the underlying designation on the Preferred Scenario, (Area of Stability, Intensity Zone, or Employment Area) must support the proposed zoning. This determination is made by using the Preferred Scenario Map and Land Use Intensity Matrix from *Vision San Marcos*, as well as the Zoning Translation Table in the Land Development Code. If the proposed zoning is not permitted based on the Preferred Scenario and Intensity Matrix designation, an applicant may request an amendment to the Preferred Scenario.

The Comprehensive Plan recommends that amendments to the Preferred Scenario Map only be considered twice per year, and this language was adopted as part of the City's Land Development Code. Preferred Scenario Amendment requests should be carefully examined using the tools provided in *Vision San Marcos*.

The process adopted in the Land Development Code in response to *Vision San Marcos* also separates the zoning request from the Preferred Scenario Request. Only with an approval recommendation from the Planning and Zoning Commission and a motion for approval by the City Council can an applicant file for a zoning change request.

Standard procedures for reviewing and taking action on zoning change and planned development district requests have not changed as part of this process except as noted above.

Property Description & Current Conditions:

The subject site consists of approximately 50.643 acres, more or less, out of the William H. Van Horn Survey. The property is located at the intersection of IH-35 and Posey Road, directly opposite from the Toyota dealership. The Texas State Transportation Center is located to north of the property.

This site is identified as an Area of Stability on the Preferred Scenario Map. Given the size of the site, it is considered New Development on the Land Use Intensity Matrix. This matrix, attached, provides general uses that *Vision San Marcos* recommends in this type of area. Also attached is the Zoning Translation Table. This table is currently part of the Land Development Code and indicates what types of zoning can be requested for properties based on their Preferred Scenario Map classification. The site currently falls under the LS-ND (Low Intensity and Area of Stability – New Development) column.

Currently the site consists of vacant land. The majority of the property lies in the Extraterritorial Jurisdiction (ETJ) with only approximately 100 feet of the front portion of the property in the City Limits. This portion of the property was annexed in 1986 and has been zoned Agricultural Ranch District, "AR", since at least the mid-1990s if not earlier. Surrounding land uses include a Transportation Center for Texas State, vacant land, and a car dealership.

If this request is not granted, the applicant is able to maintain and develop under the existing zoning category or apply for a change to single family residential zoning districts, up to SF-6, multifamily districts up to MF-12 and some commercial under the Neighborhood Commercial district, "NC". Due to the size of the site, SmartCode is also an allowed zoning category to request. A Planning and Zoning Commission recommendation and City Council approval would be required for any proposed zoning changes. A summary of what is currently permitted at this location is attached.

Request: Change from Area of Stability to Employment Center on the Preferred Scenario Map

The applicant is proposing to install an off-premise freestanding sign located on the portion of the property inside the City Limits, approximately 2.3 acres, that is currently zoned "AR." These types of signs are only allowed in the following zoning categories: Community Commercial ("CC"), General Commercial ("GC"), Heavy Commercial ("HC"), Light Industrial ("LI"), and Heavy Industrial ("HI). None of these categories are currently allowed under the existing Preferred Scenario designation of LS-ND and require the site to be designated as Employment Center on the Preferred Scenario map. The applicant has indicated that the intent is to rezone the portion of the property inside the City Limits as "GC." Before a sign permit for a new off-premise sign permit can be issued, Section 6.3.3.4(e) of the Land Development Code requires the applicant to first remove an existing off-premise sign that has a total area equal to or greater than the total area proposed for the new sign. The applicant has indicated to staff that an existing sign was removed on January 8, 2015 to make way for the construction of the Hilton Garden Inn on the southbound frontage of IH-35, south of River Ridge Parkway. Staff verified that the existing sign was removed and has created an exhibit for the background information illustrating this.

The change to Employment Center essentially removes any independent residential use from being requested. Mixed Use (MU) and Vertical Mixed Use (VMU) are zoning classifications that could be requested. Both allow residential but include it as part of a mixture of uses that includes retail and office. Also, heavy commercial options as well as light and heavy industrial options would be available.

If the request is granted, the site would be classified as an Employment Center on the Zoning Translation Table (EC). Employment Centers, typically, are located on large sites with excellent road and rail access as well as access to water and sewer infrastructure. The list of general uses and applicable zoning categories can be found in the attachments.

***Vision San Marcos* Plan Elements:**

Economic Development (ED)

The ED chapter of *Vision San Marcos* looks specifically at the strategies of the Core 4 Collaboration moving forward. The three collaborative actions identified by the Core 4 are 1) Preparing the 21st Century Workforce, 2) Competitive Infrastructure and Entrepreneurial Regulation and 3) Creating the Community of Choice. Staff analyzed this request based on the three action items to determine if the request supports, contradicts or is neutral toward the actions and provides the following table of the analysis:

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

STRATEGY	SUMMARY		Supports	Contradicts	Neutral
Preparing the 21st Century Workforce	Provides / Encourages educational opportunities				Applicant has not indicated that educational facilities will be included.
Competitive Infrastructure & Entrepreneurial Regulation	Provides / Encourages land, utilities and infrastructure for business				Applicant has not indicated that infrastructure will be extended.
The Community of Choice	Provides / Encourages safe & stable neighborhoods, quality schools, fair wage jobs, community amenities, distinctive identity				Applicant has not indicated that opportunities for jobs and services will be included.

Environment & Resource Protection (ERP)

The ERP chapter of *Vision San Marcos* provides useful analysis tools. The Land Use Suitability Map considers the constraints as listed in the table below in its creation to determine what areas are most suitable for development. The water quality model provides a watershed-level analysis of the impacts of adding impervious cover for developments.

The majority of the land use suitability for this site is a one (1) and a two (2), the least constrained. Two corners of the property are shown as a three (3), moderately constrained. The table below indicates the scores for this site for each of the variables used in creating the Land Use Suitability Map and the results of the water quality model. Please refer to the attached Land Use Suitability and Environmental Features maps for further clarification.

ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints

	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint	X	X			
Constraint by Class					
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 – Water Quality Model Results

Located in Subwatershed:	York Creek Watershed				
	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed	X				
Notes: No additional impervious cover was anticipated, or modeled, in this subwatershed. There were no additional recommendations for this watershed in the Plan.					

Land Use (LU)

The LU chapter of *Vision San Marcos* focuses on the Preferred Scenario Map. This site is located in an Area of Stability. It is in relatively close proximity to other Employment Centers. A map is attached which shows a detailed view of the preferred scenario zones within and surrounding this property.

Neighborhoods & Housing (NH)

The NH chapter of *Vision San Marcos* focuses on the Neighborhood Character Studies which are currently being conducted alongside the Code SMTX project, the update to the Land Development Code. The site is not located in a designated neighborhood or designated Neighborhood Character Study Area.

Parks, Public Spaces & Facilities (PPSF)

The PPSF chapter of *Vision San Marcos* discusses the City's recreational facilities as well as the water, wastewater and other public infrastructure. The table below is an analysis of the facilities in the area. Water service is available in the area but wastewater service is not. While water and wastewater are not utilities necessary for the installation of an off-premise sign, any future development of the property would require that wastewater service be established. As the majority of the property is outside the City Limits, this would be either be handled through an Out of City Utility Extension request or a request for annexation both of which are required to be approved by City Council. The water service area is indicated as a low maintenance area.

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

				YES	NO
Will Parks and / or Open Space be Provided?					X
Will Trails and / or Green Space Connections be Provided?					X
Maintenance / Repair Density	Low (maintenance)		Medium		High (maintenance)
Wastewater Infrastructure	NA				
Water Infrastructure	NA				
Public Facility Availability					
				YES	NO
Parks / Open Space within ¼ mile (walking distance)?					X
Wastewater service available? City Council recently approved an Out of City					X

Utility Extension request for the 45 acre property located north of the subject property across Posey Road. The extension of wastewater facilities, while not needed to install a billboard, is needed for future development of the subject property.		
Water service available?	X	

Transportation

A Travel Demand Model (TDM) was created to analyze the traffic impacts of growth in San Marcos. The table below is a summary of the TDM results and other transportation modes surrounding the site. The TDM analyzes the overall transportation network of the existing network and the Preferred Scenario. It is not a measure of the impact of this particular change. The results of the TDM indicate that some improvements along Posey Road may be required. The Texas Department of Transportation (TxDOT) has plans to reconstruct the Posey Road overpass starting this year.

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

		A	B	C	D	F
Existing Daily LOS	Posey Road Southbound Frontage IH-35	X X		X		
Existing Peak LOS	Posey Road Southbound Frontage IH-35	X X	X			
Preferred Scenario Daily LOS	Posey Road Southbound Frontage IH-35	X X				
Preferred Scenario Peak LOS	Posey Road Southbound Frontage IH-35	X X		X		
The Transportation Demand Model shows that both Posey Road and the Southbound Frontage of IH-35 remain a LOS A in both Existing Daily and Peak as well as in the Preferred Scenario Daily. The TDM does show deterioration in LOS for Posey Road to a LOS C in the Preferred Scenario Peak.						
			N/A	Good	Fair	Poor
Sidewalk Availability (Required to build.)			X			
There are no existing sidewalks. They will be required to be built along Posey Road and the Southbound Frontage Road of IH-35 at the time of development of the site.						
			YES		NO	
Adjacent to existing bicycle lane?					X	
Adjacent to existing public transportation route?			X			
Notes: The property is situated along a CARTS route however the closest stop is located at the Outlet Mall on the northbound side of IH-35.						

Staff Analysis:

Comments from Other Departments

There have been no other comments or concerns from other departments.

Planning Department Analysis

The Comprehensive Plan, *Vision San Marcos* describes Employment Centers as areas where new development, such as industrial, manufacturing, large office park and intense commercial uses are appropriate. *Vision San Marcos* further states that businesses that provide long-term sustainable employment opportunities should be encouraged in employment centers and are typically located on large sites with excellent access to road and rail transportation and have access to water and sewer infrastructure. Planning Department staff, following a review of *Vision San Marcos*, finds that this request is generally consistent with the plan.

The installation of the off-premise freestanding sign itself will not promote economic development but designating the site as an Employment Center has the potential to promote economic development and employment opportunities, developing a site that is adjacent to the IH-35 corridor. In addition to the zoning categories listed in the Zoning Translation Table, new zoning categories, specific to Employment Centers, may be available with the completion of Code SMTX.

At this time the Commission is considering the request which will change the City's Preferred Scenario Map. As many options for development may occur with or without the approval of this request, the Commission should consider all aspects of this staff report, the attached maps and figures as well as the existing Codes in their decision. A summary of what may be permitted at this location, if the map amendment is approved, is attached. Any changes in zoning following this request would be required to follow the standard process of notice and public hearing. Zoning requests are considered separately and would require a full staff analysis for consistency with the Comprehensive Plan as well as any other applicable standards.

Recommendations & Options for Action:

Based on the analysis provided in this report, staff recommends approval of the request to change from an Area of Stability to an Employment Center as submitted.

Options for the Commission include:

- Approval of the request as submitted
- Alternative recommendation
- Denial of the request

Planning Department Recommendation:	
☒	Approve as submitted
☐	Alternative
☐	Denial

The Commission's Responsibility:

The Code requires the Commission to hold a public hearing and receive public comment regarding the proposed Preferred Scenario Amendment. The Commission's advisory recommendation to the Council is a discretionary decision. The City Council will ultimately decide whether to approve or deny this request, and will do so through the passage of an ordinance.

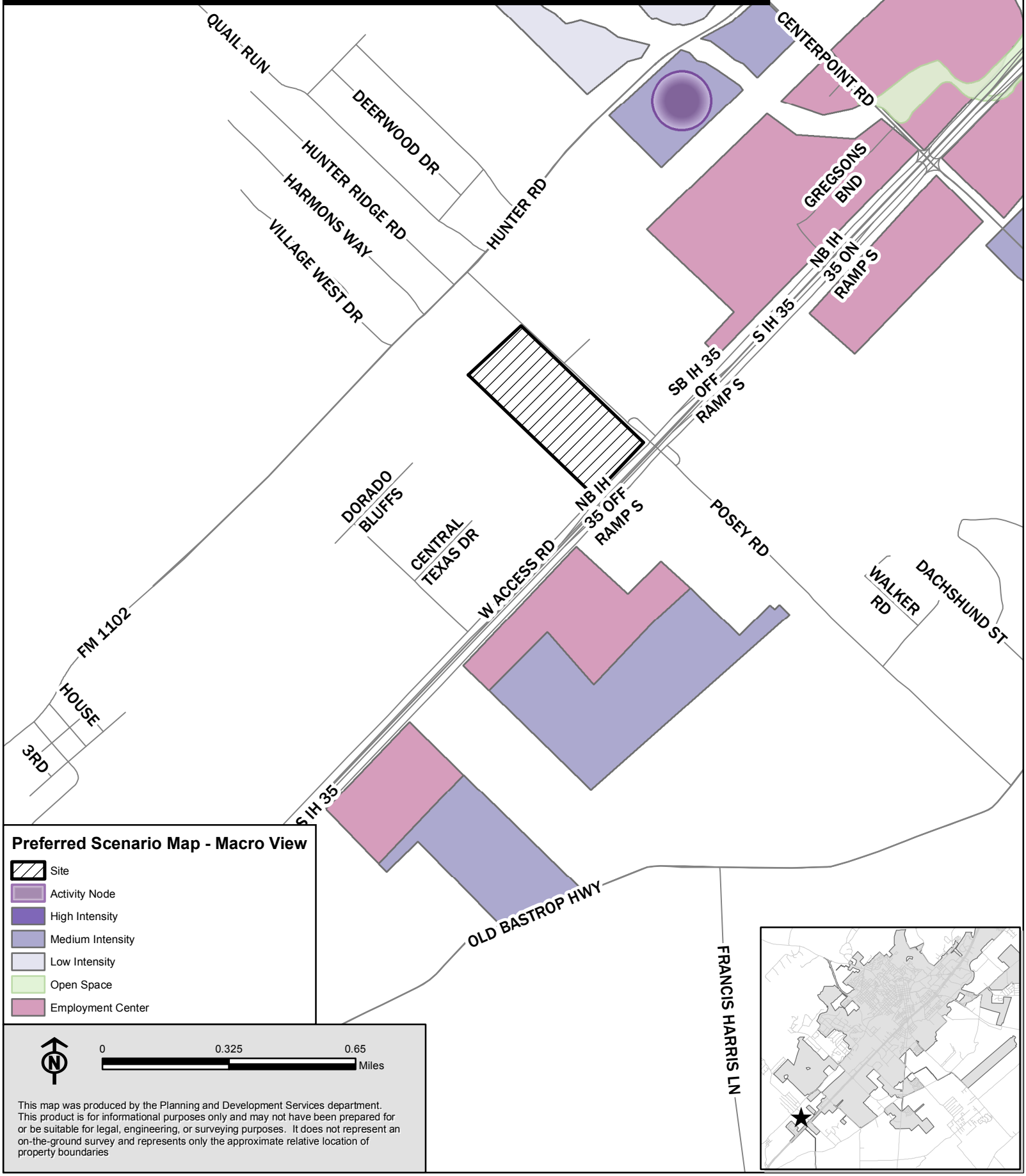
After considering the public input, your recommendation should consider whether the amendment is consistent with the following policies of the Comprehensive Plan as stated in section 1.4.1.5 of the Land Development Code:

- Is the request in an area suitable for development as shown on the Land Use Suitability Map and if not what development constraints exist;
- Is the request consistent with the Neighborhood Character Study for the area;
- Is the request near existing parks and public utilities; and,
- Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity.

Prepared by:

Alison Brake, CNU-A	Planner	February 179, 2016
Name	**Title**	**Date**

PSA-15-05
IH-35 & Posey Road
Map Date: 1/11/2016



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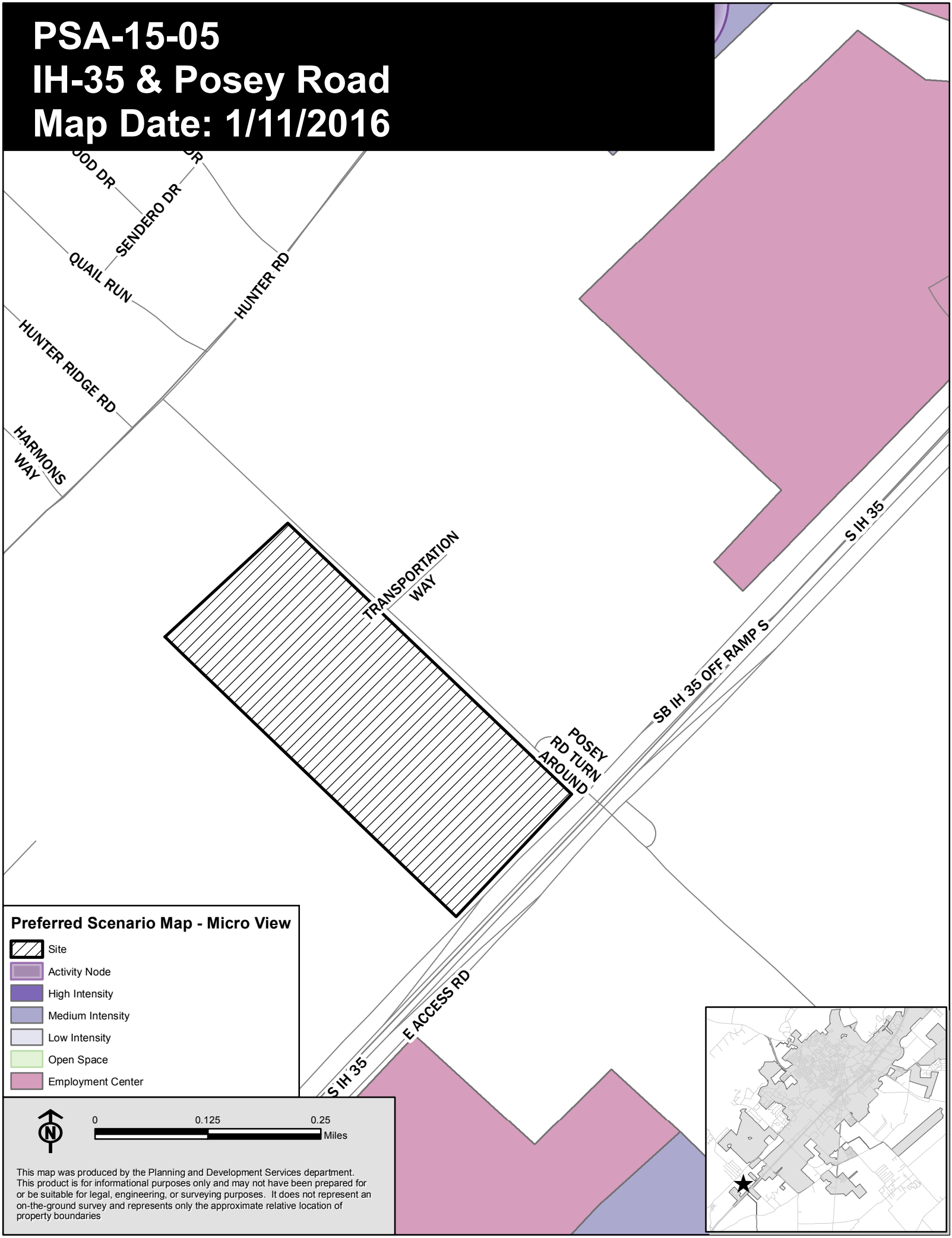

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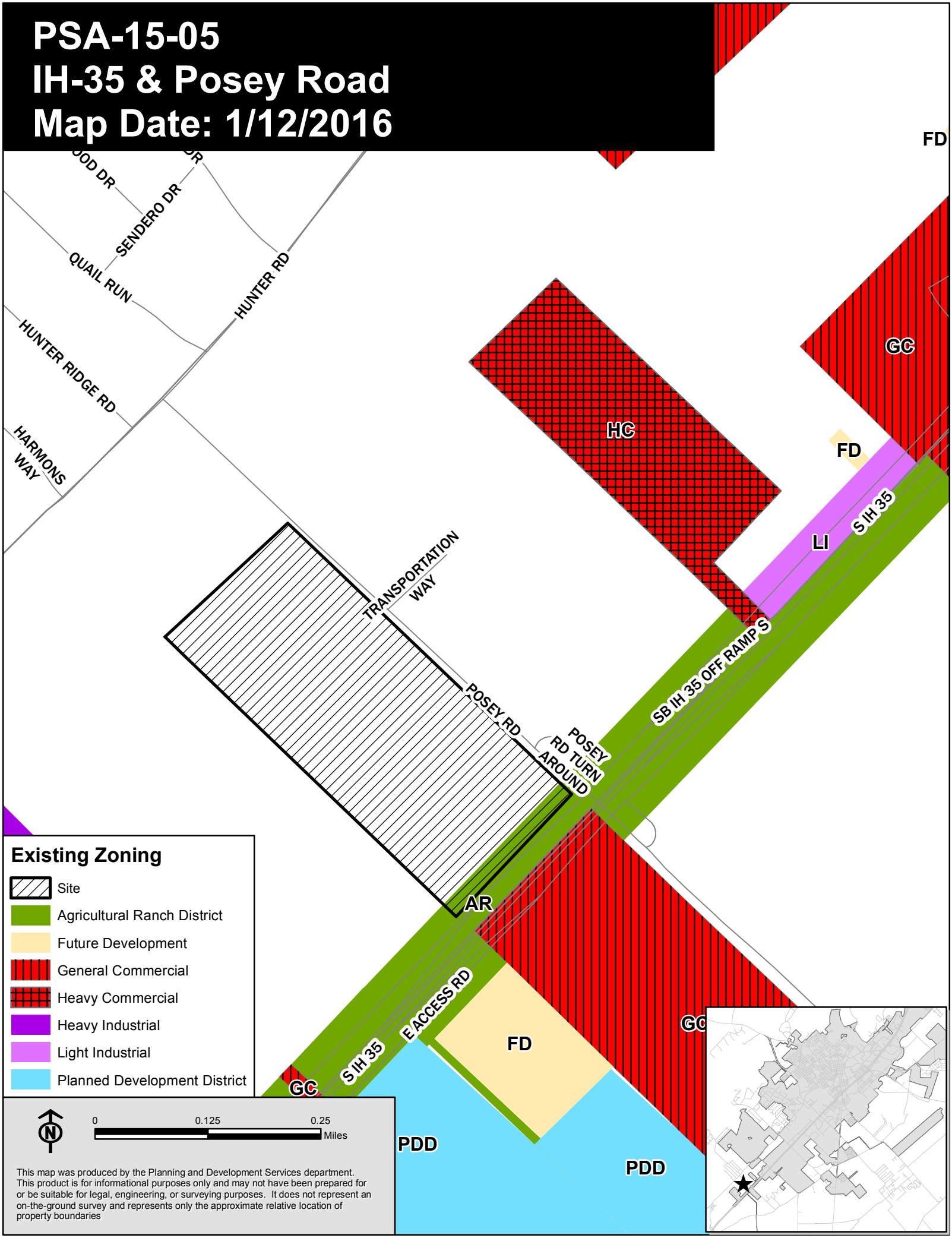

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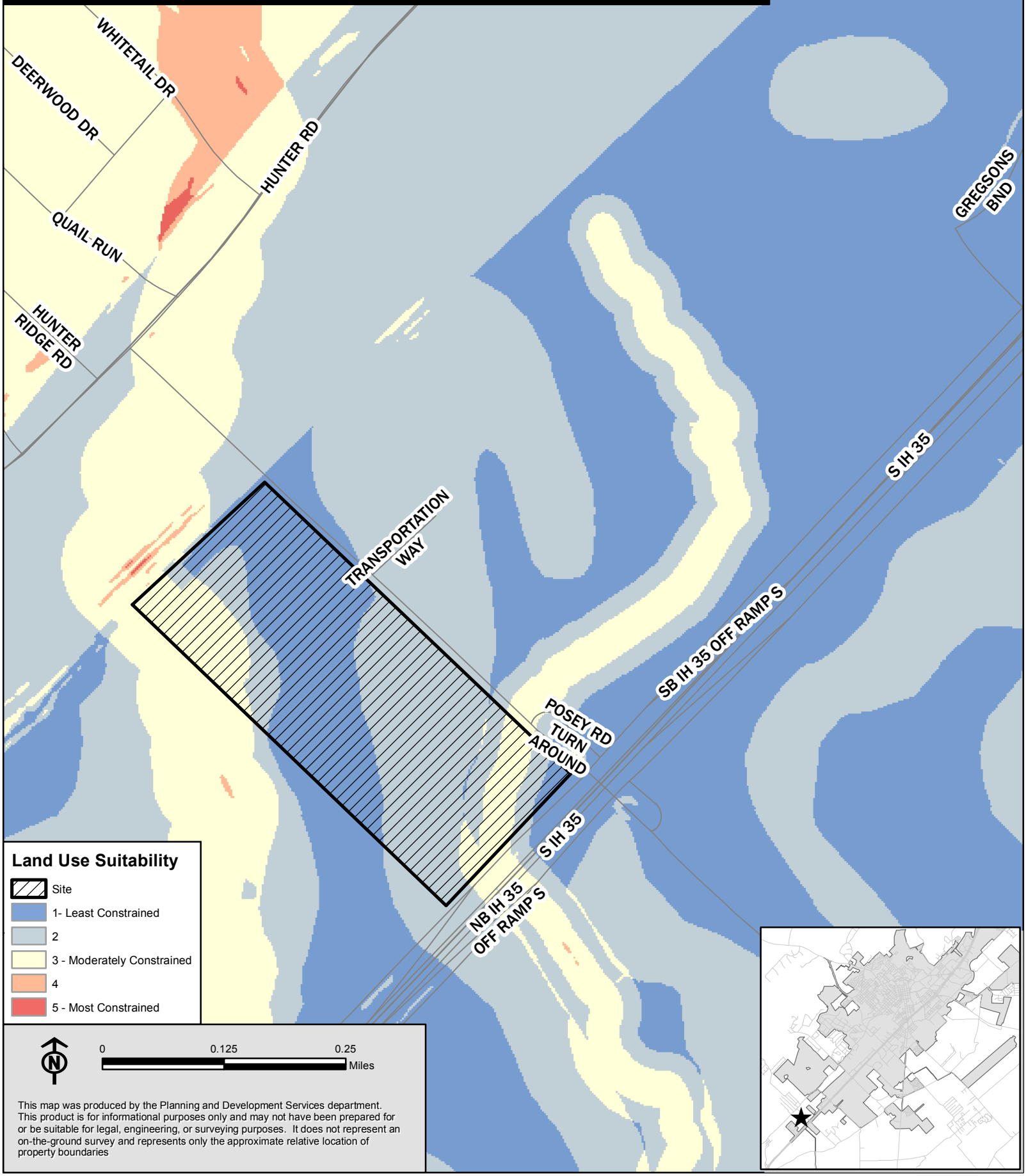

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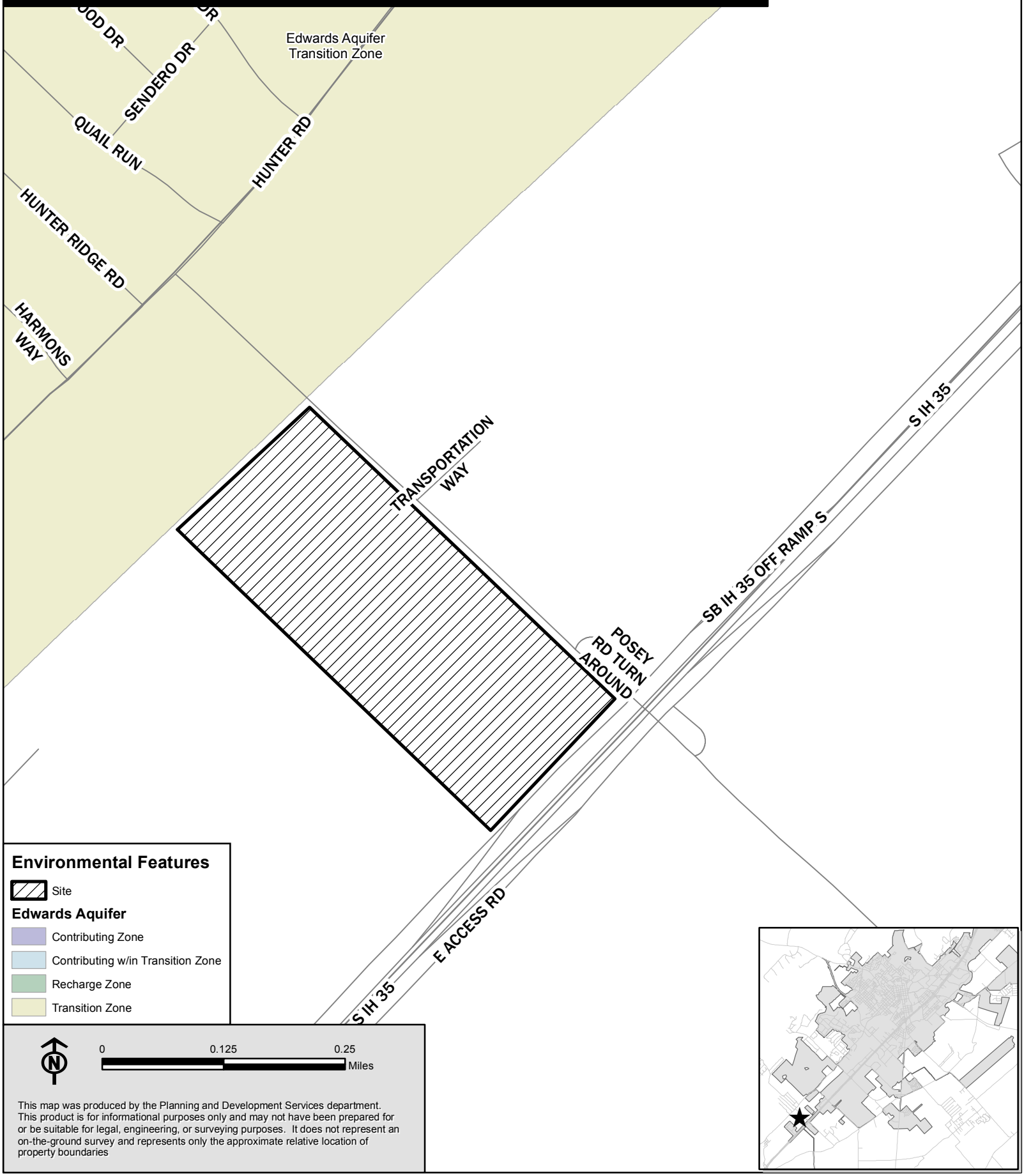

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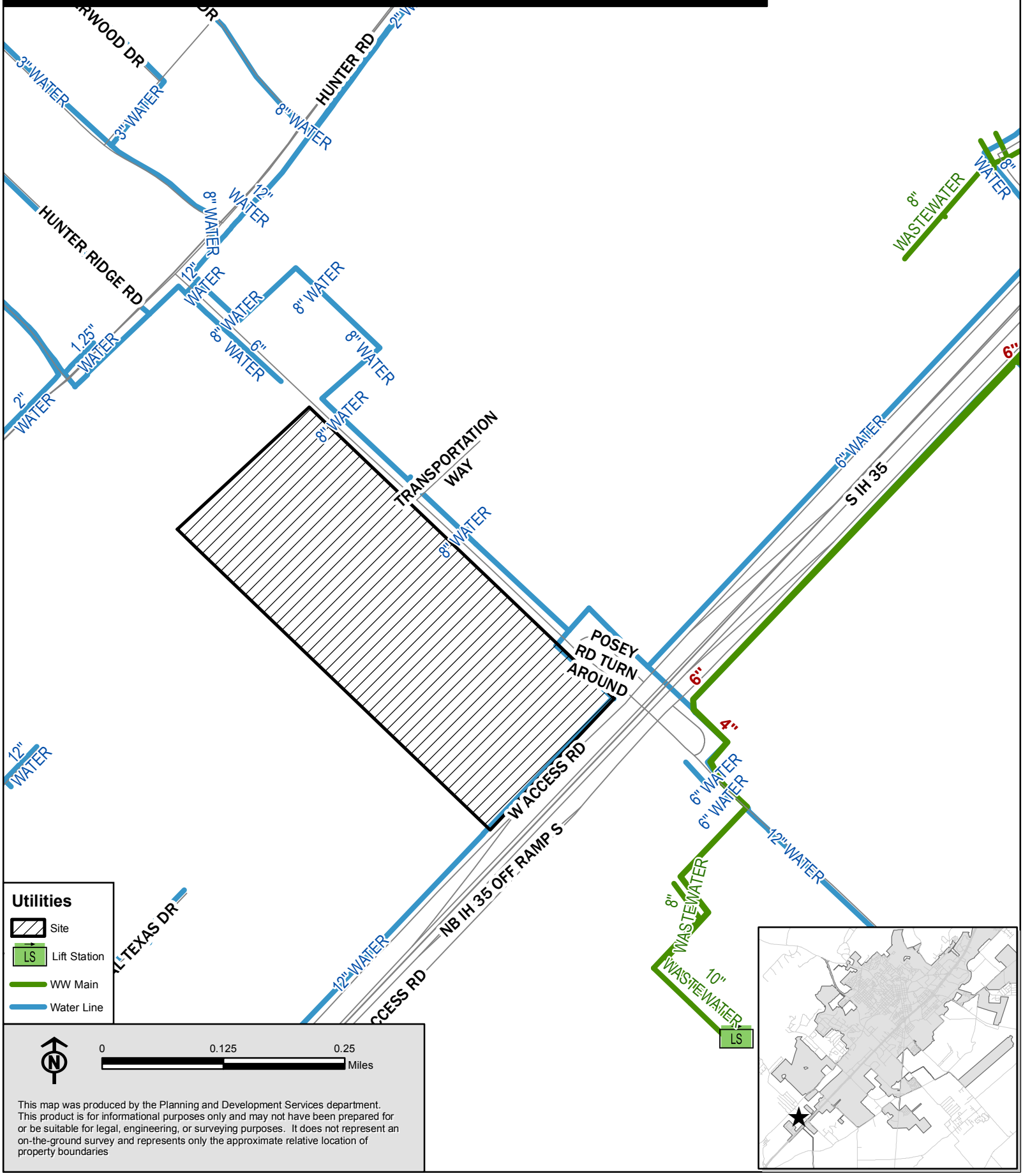

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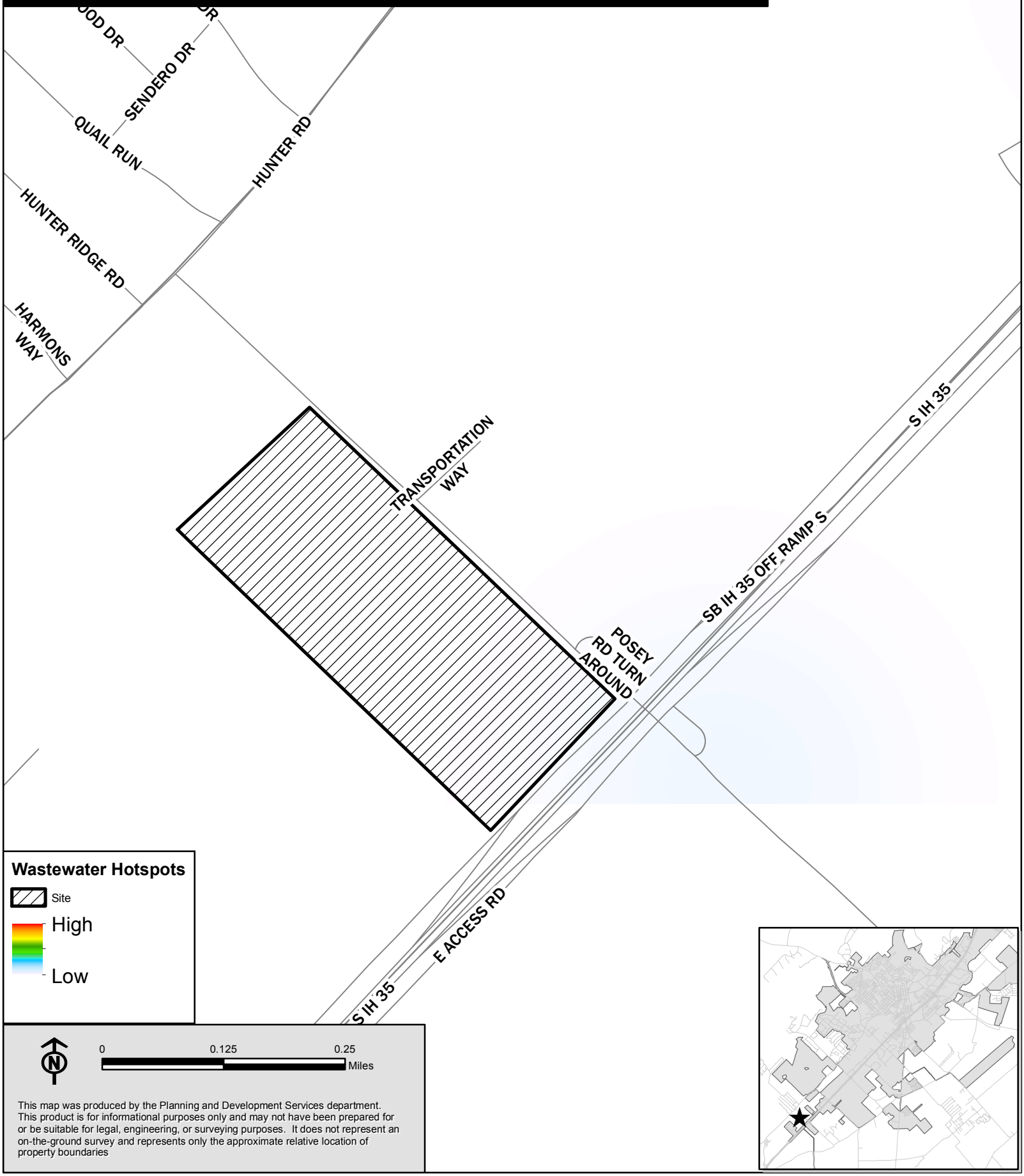

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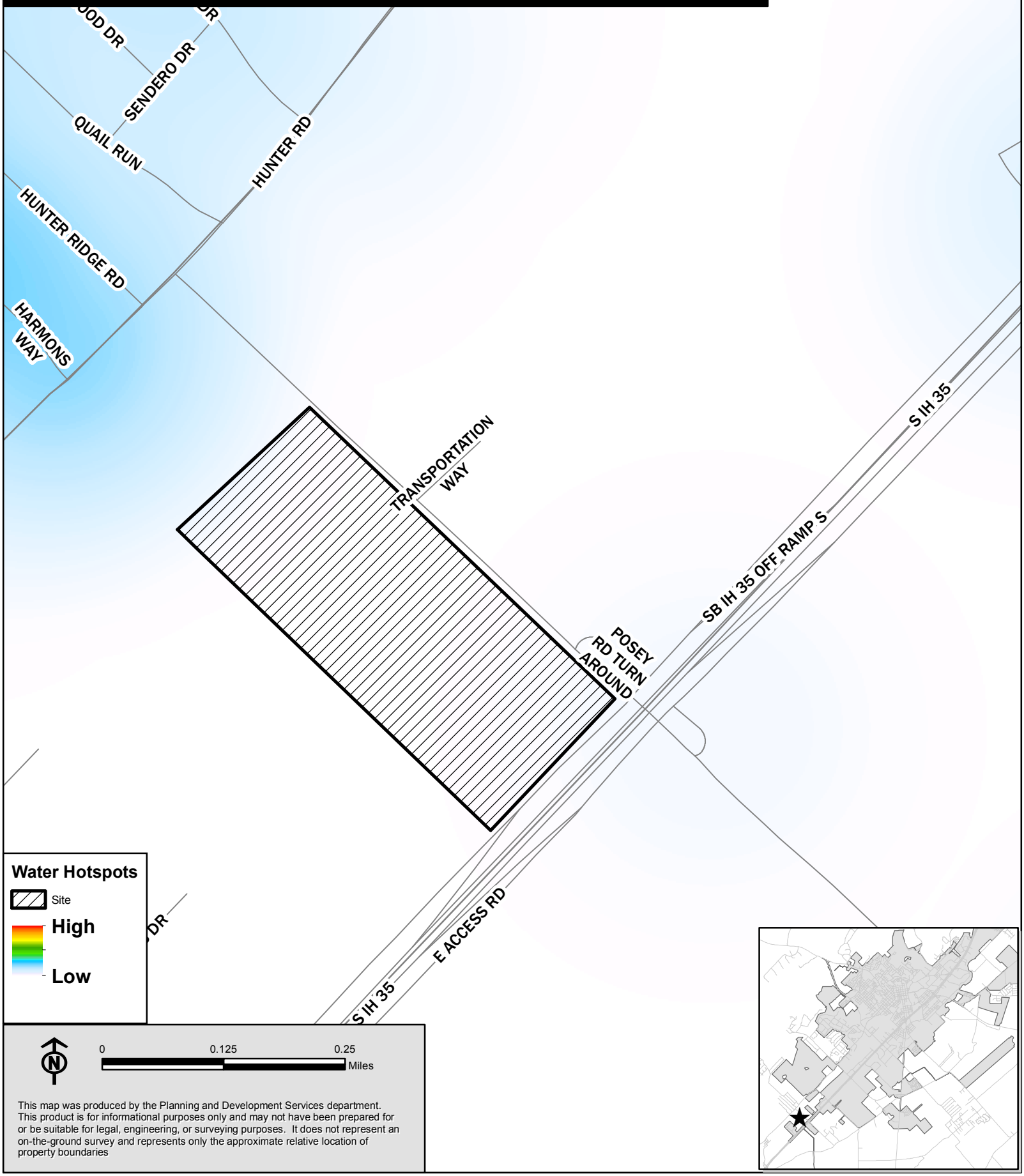

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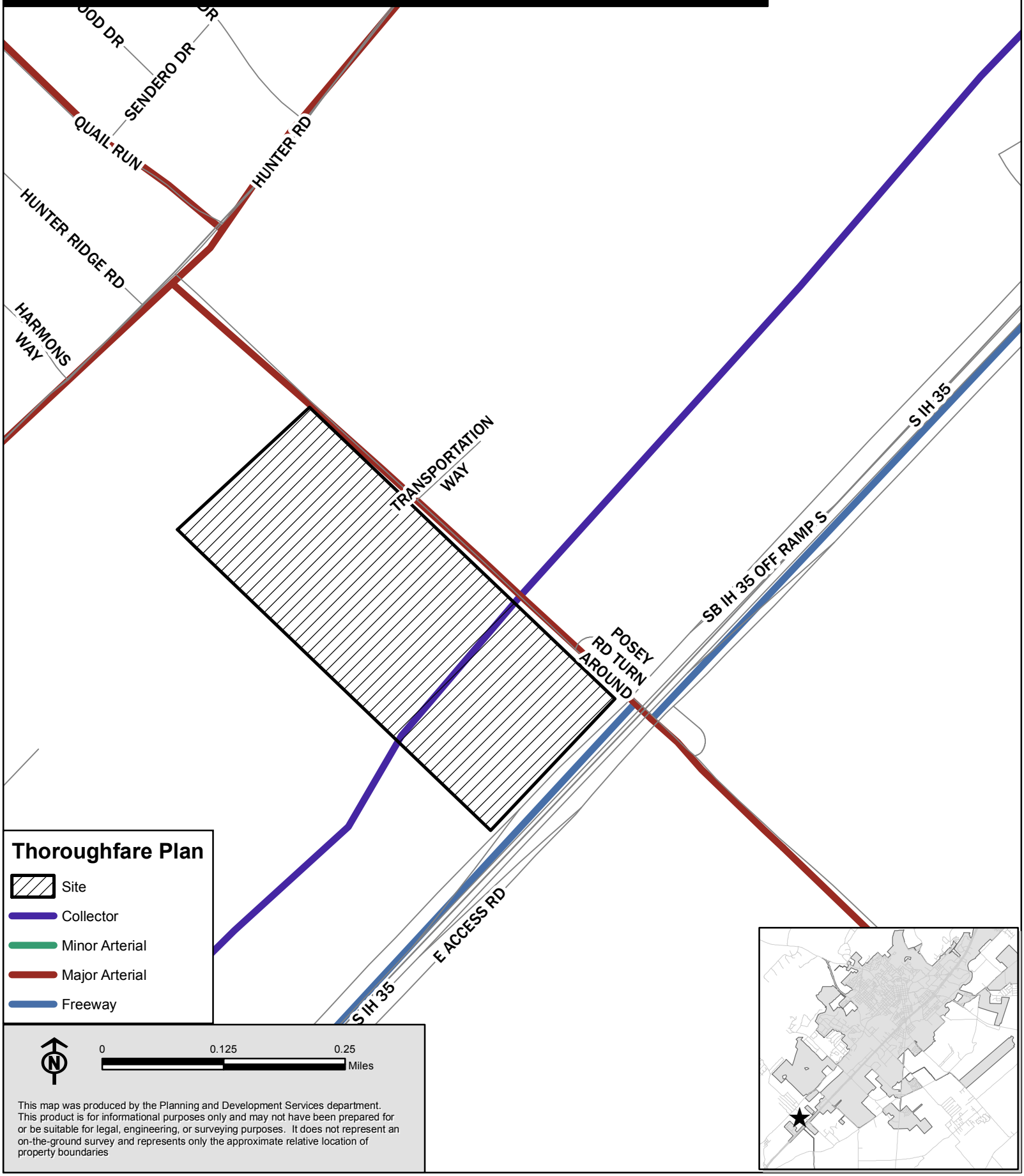

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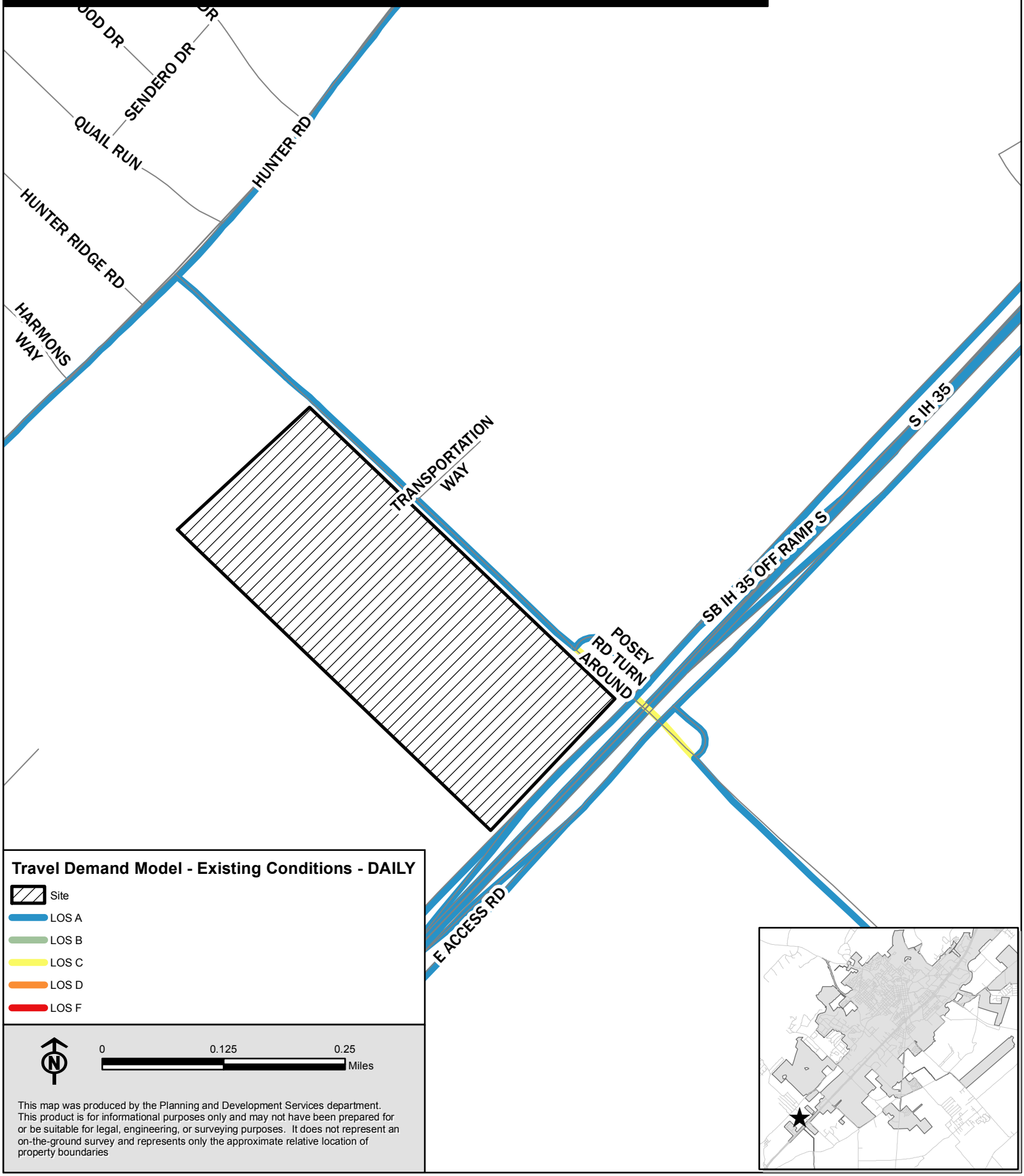

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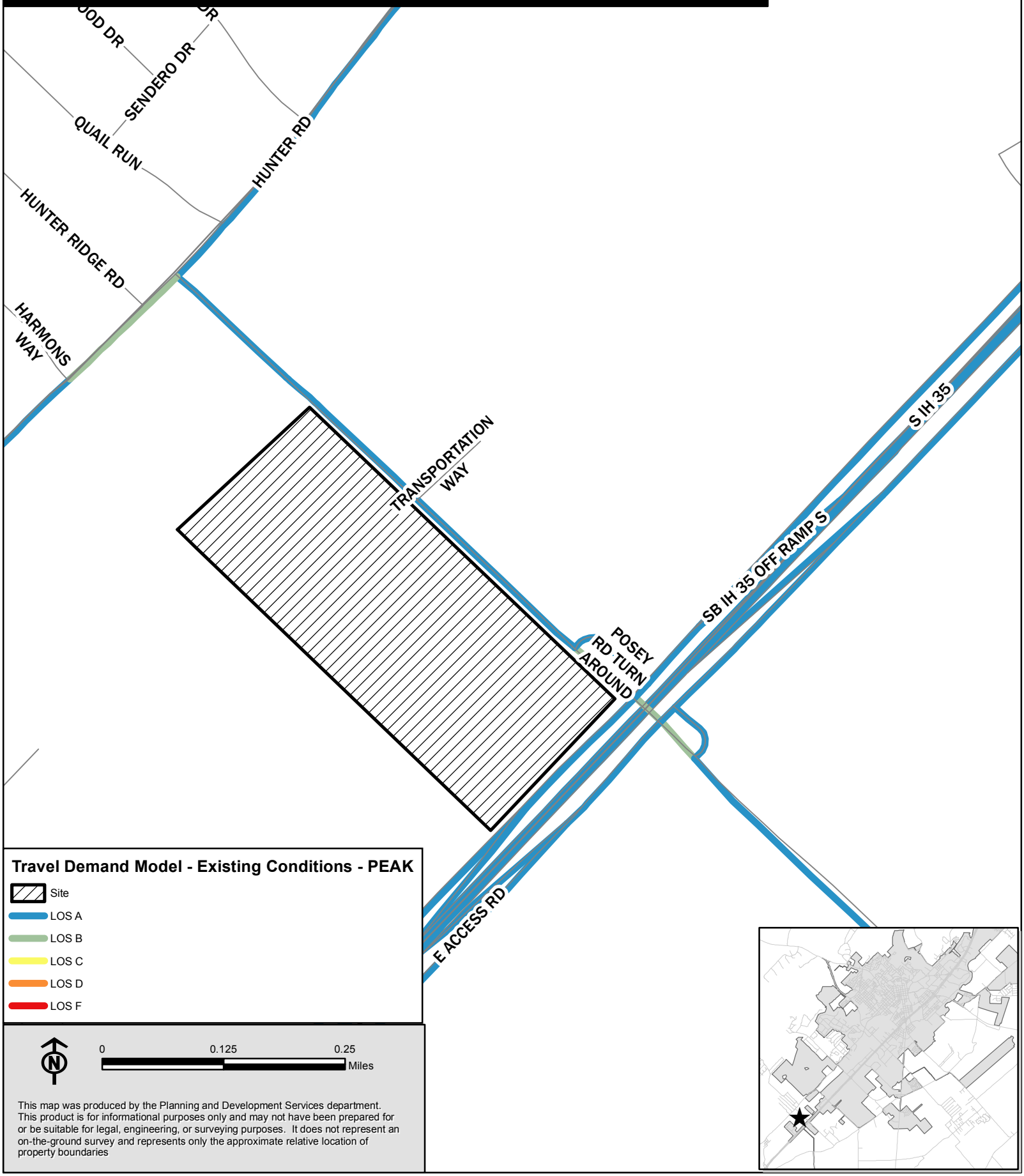

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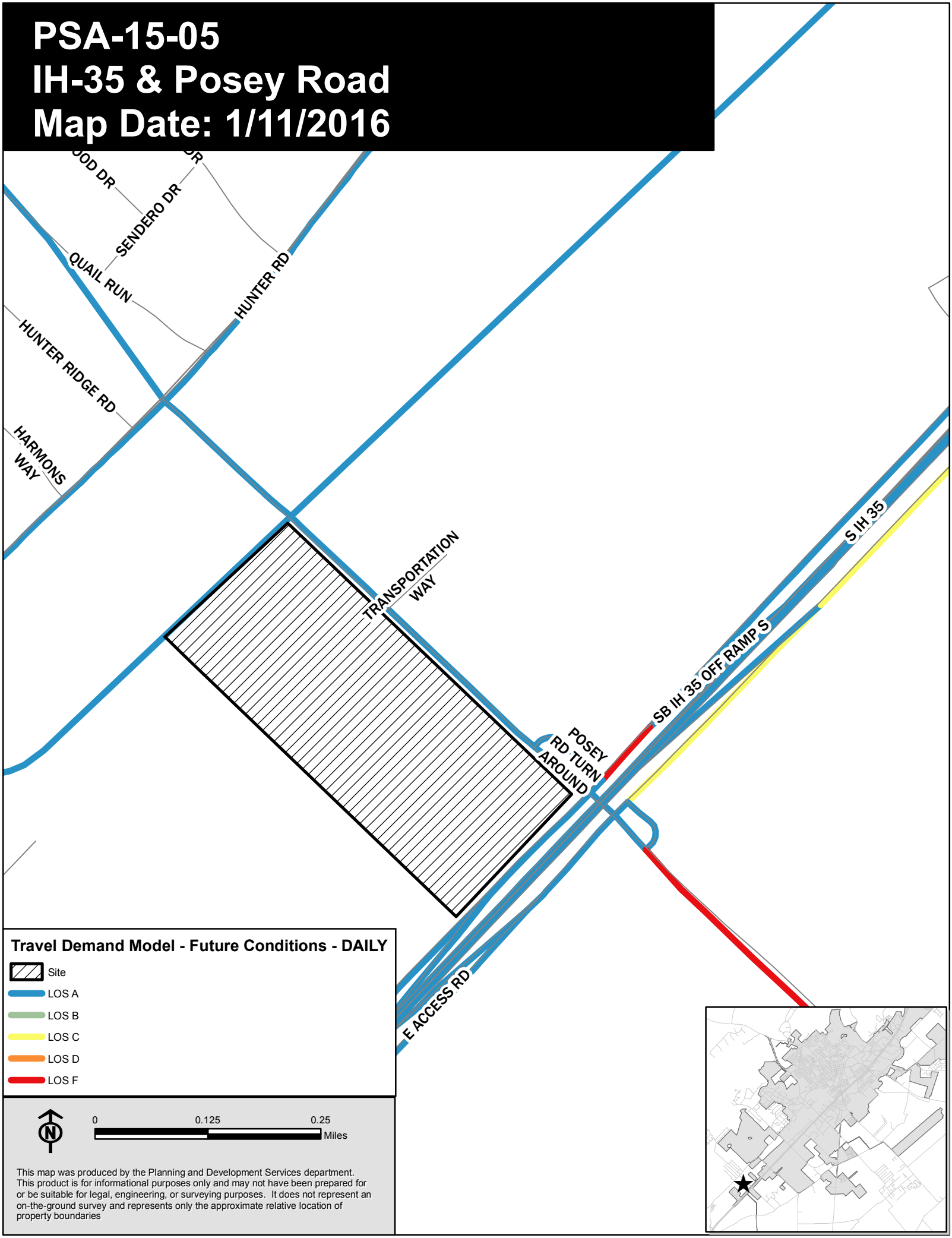

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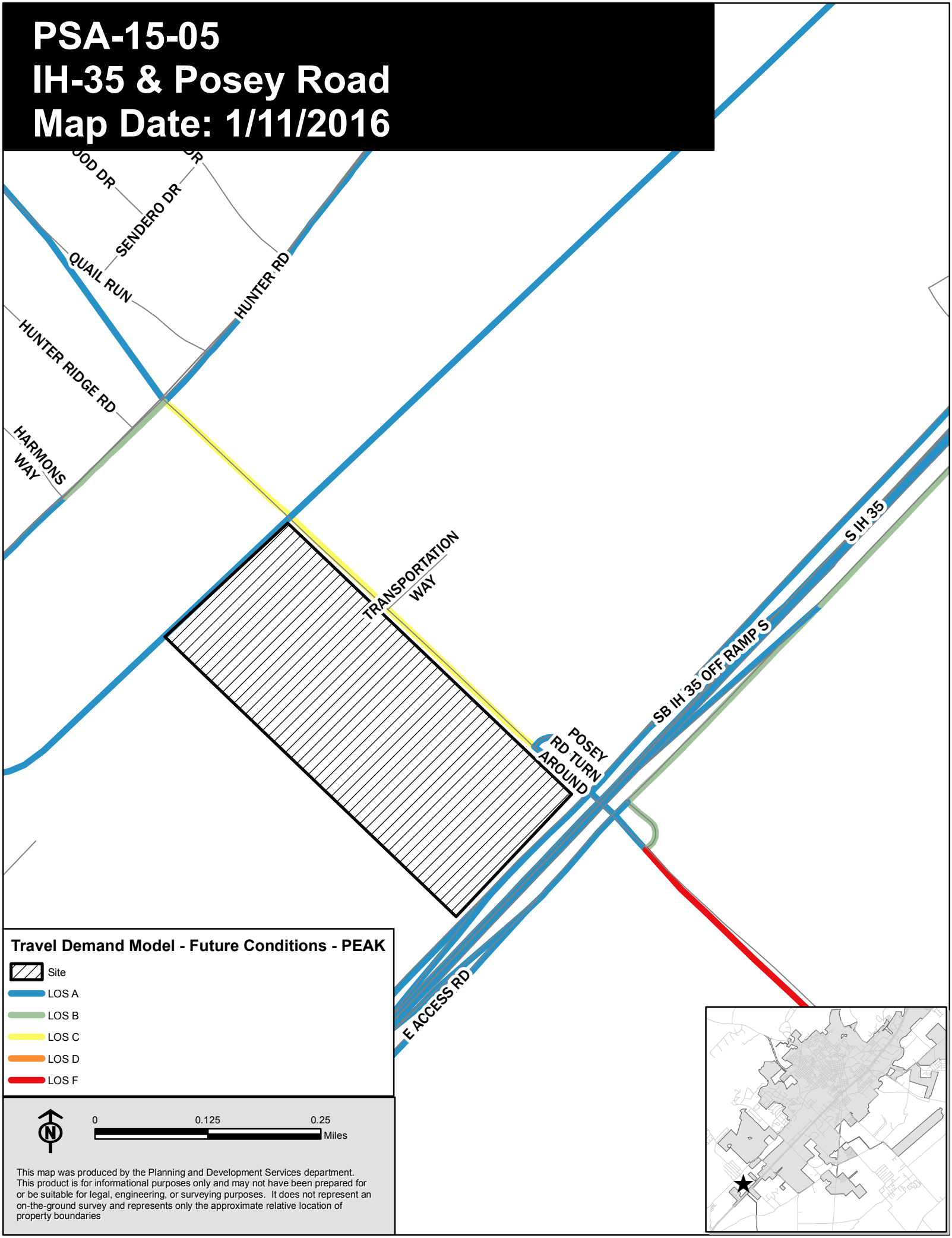

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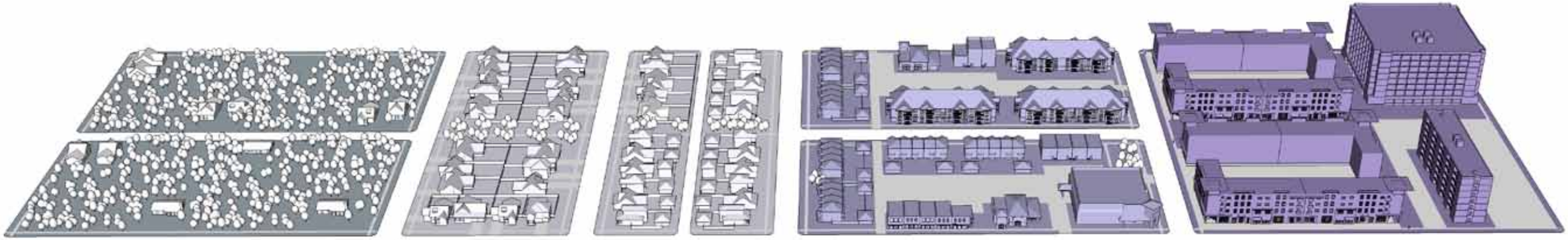
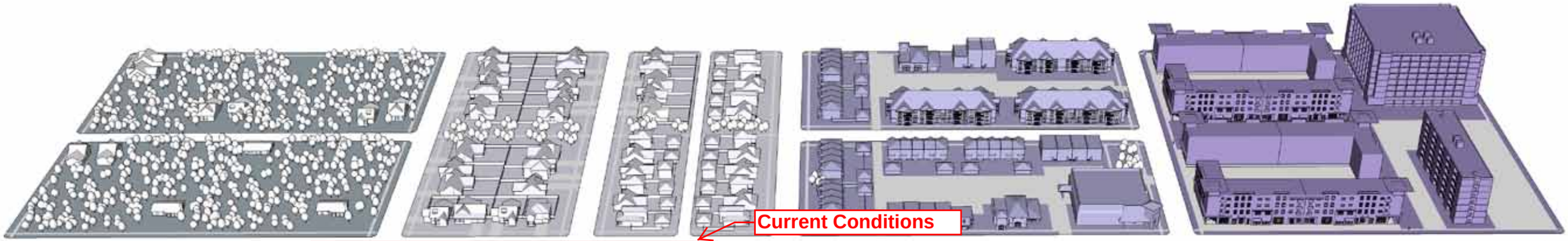


Open Space / Agricultural	Low Intensity and Areas of Stability	Medium Intensity	High Intensity
Preserve Areas Hiking Trails Community Gardens **Active Recreation Areas** Recreation-related Commercial Camping Hiking Trails Community Gardens **Agricultural / Ranching** Single Family Residential Bed & Breakfast Home Office Produce Stands Hiking Trails Community Gardens			
Neighborhood & Area Protection / Conservation	**General Use Categories:** Single Family, Home Office, Corner Neighborhood Retail - no gas **Building Types:** 1-2 Story, 3 with CUP **Examples:** Existing Predominately Single-Family Neighborhoods, Default Classification for any area not classified, Utilize Land Use Suitability Map	**General Use Categories:** Single Family, Duplex, Multi-family at nodes, Bed & Breakfast, Home Office, Corner Neighborhood Retail - gas with CUP, Office, Convenience Retail, Restaurants - no drive through **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Triangle - single family	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging **Building Types:** 1-4 Story, Mixed-use at nodes and corridors
Redevelopment Infill	**General Use Categories: Single Family with accessory building, Bed & Breakfast (5 rooms), Home Office, Corner Neighborhood Retail - no gas, Restaurants - no drive through** **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Examples:** Existing Mixed Residential Areas	**General Use Categories:** Single Family, Duplex, Multi-family at nodes, Lodging, Home Office, Office / Flex Space at nodes, Corner Store, Convenience Retail with gas, Restaurants **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** South End	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging **Building Types:** 1-5 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Downtown, Midtown

NOTES: Recreation-related commercial uses in active recreation areas will require special standards

NOTES: Commercial at major nodes and along corridors (with uses that are predominately non-single-family residential); One lot depth for commercial along corridors and at nodes; Corridors include but are not limited to: Old RR 12: Holland to Wonderworld, LBJ east of Holland, Arterials in the Edwards Recharge Zone

NOTES: Commercial and Multi-family at major nodes and along corridors; One lot depth for commercial in Protection / Conservation; Two lot depth in all other areas; Corridors include but are not limited to: Hopkins east of Moore, University: Sessom to Hopkins, RR12: Lindsay to Hopkins, Hunter: San Antonio to Wonderworld



New Development	Low Intensity and Areas of Stability	Medium Intensity	High Intensity
	General Use Categories: Single Family with accessory building, Bed & Breakfast (5 rooms), Home Office, Corner Neighborhood Retail - no gas, Restaurants - no drive through **Building Types:** 1-3 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Blanco Vista, Paso Robles Default classification for sites with 20 acres or more	**General Use Categories:** Single Family, Duplex, Multi-family, Lodging, Home Office, Office / Flex Space at nodes, Corner Store, Convenience Retail with gas, Restaurants, Light Industrial with CUP **Building Types:** 1-5 Story, Mixed-use at nodes and corridors **Preferred Scenario Examples:** Blanco Vista, Paso Robles, East Village, Medical District, South End, Star Park, Triangle	**General Use Categories:** Single Family, Duplex, Multi-family, Bed & Breakfast, Home Office, Corner Store, Office / Flex Space, Retail, Restaurants, Lodging, Light Industrial with CUP **Building Types:** 1-5 Story, Mixed-use at nodes and corridors

NOTES: Commercial and Multi-family at major nodes and along corridors; One lot depth for commercial in Protection / Conservation; Unlimited lot depth in all other areas; Corridors include but are not limited to: LBJ south of Sessom, Aquarena Springs: Sessom to IH 35, Guadalupe: University to IH 35

GENERAL NOTES:

Uses in potential Employment Centers include: Industrial, Office Parks and Retail Malls with standards

Uses and intensity must comform with the City's Edwards Aquifer regulations

Corridor intensity varies with intensity zone

Development intensity decreases with distance from a node or corridor

Home Office - no signage, no sales, one employee

All on-premise consumption of alcohol requires a CUP

The Urban Land Institute defines Convenience Retail as: minimart, restaurant, beauty parlor, dry cleaner, fast food service, medical and dental office

Civic uses are permitted in all development types / intensity zones

All commercial uses in Protection / Conservation and Redevelopment / Infill should follow compatibility standards including architectural standards

Lot depth for corridors is typically 120 feet

Posey Rd. & Southbound Frontage IH-35 Current Condition

Land Development Code Zoning Classifications :: Vision San Marcos Comprehensive Plan Intensity Zone / Development Pairs

TRANSLATION TABLE

Requested Change

Zoning Abbreviation	Intensity Zone / Development Pairs										
	LS-PC	*LS-RI*	*LS-ND*	*M-PC*	*M-RI*	*M-ND*	*H-PC*	*H-RI*	*H-ND*	*EC*	*OA**
FD	✓	✓	✓								✓
AR	✓		✓								✓
SF-R	✓	✓	✓								
SF-11	✓	✓	✓								
SF-6	✓	✓	✓	✓	✓	✓					
SF-4.5		✓	✓	✓	✓	✓	✓	✓	✓		
D		✓	✓	✓	✓	✓					
DR		✓	✓	✓	✓	✓	✓	✓	✓		
TH		✓	✓	✓	✓	✓	✓	✓	✓		
PH-ZL		✓	✓	✓	✓	✓	✓	✓	✓		
MF-12		✓	✓	✓	✓	✓	✓	✓	✓		
MF-18				✓	✓	✓	✓	✓	✓		
MF-24				✓	✓	✓	✓	✓	✓		
MR	✓	✓	✓								
MH		✓	✓	✓	✓	✓					
MU		✓	✓	✓	✓	✓	✓	✓	✓	✓	
VMU				✓	✓	✓	✓	✓	✓	✓	
P	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
OP				✓	✓	✓	✓	✓	✓	✓	
NC		✓	✓	✓	✓	✓	✓	✓	✓		
CC					✓	✓	✓	✓	✓		
GC					✓	✓	✓	✓	✓	✓	
HC					✓	✓	✓	✓	✓	✓	
CBA							✓	✓	✓		
SC			✓	✓	✓	✓	✓	✓	✓	✓	
LI									✓	✓	
HI										✓	
PDD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

*OA is generally intended where shown on the Preferred Scenario Map

LS - Low Intensity and Areas of Stability
M - Medium Intensity
H - High Intensity

PC - Neighborhood Area Protection /Conservation
RI - Redevelopment / Infill
ND - New Development

EC - Employment Center
OA - Open Space / Agricultural

Existing Zoning Category (subject site)

Agricultural Ranch District (AR)

- The site contains approximately 2.3 acres, more or less, of AR
- The property is vacant
- Without a zoning change request this land could be used for farming, farm equipment storage, grain sales, plant nursery, stables, single family homes with accessory buildings or dwellings, religious assembly, government buildings, public schools
- Bed and breakfasts, country clubs, day camps, fairgrounds, cemeteries, electrical substation, post offices, private schools, veterinarians, and livestock sales are **conditional**

Permitted Zoning Categories & Uses in existing LS – ND (Low Intensity and Area of Stability – New Development)

Single-Family Districts

(SF-R, SF-11, SF-6, SF 4.5, D, DR, TH, PH-ZL, MR, MH)

- These districts allow single family residences on lots ranging from 1 acre to 4,500 square feet
- They also allow duplexes, townhomes, and zero-lot line homes
- Uses include single family residences, manufactured homes, accessory buildings, home child care, art studio, park or playground, religious assembly, and some conditional uses for governmental and recreational purposes

Other Zoning Districts

(FD, MF-12, MU, P, NC, SC, PDD)

- FD is a place holder for newly annexed properties
- MF-12 allows for the development of multifamily residential at not more than 12 units per acre
- P is public zoning meant for institutional uses such as schools and government and some office
- NC allows for low intensity office, retail and service facilities for local neighborhood areas
- SC would follow the SmartCode regulations
- PDD is an overlay district which allows for variations from an established base zoning and is intended to encourage flexible and creative planning and development

PERMITTED ZONING CATEGORIES AND USES IN EMPLOYMENT CENTER

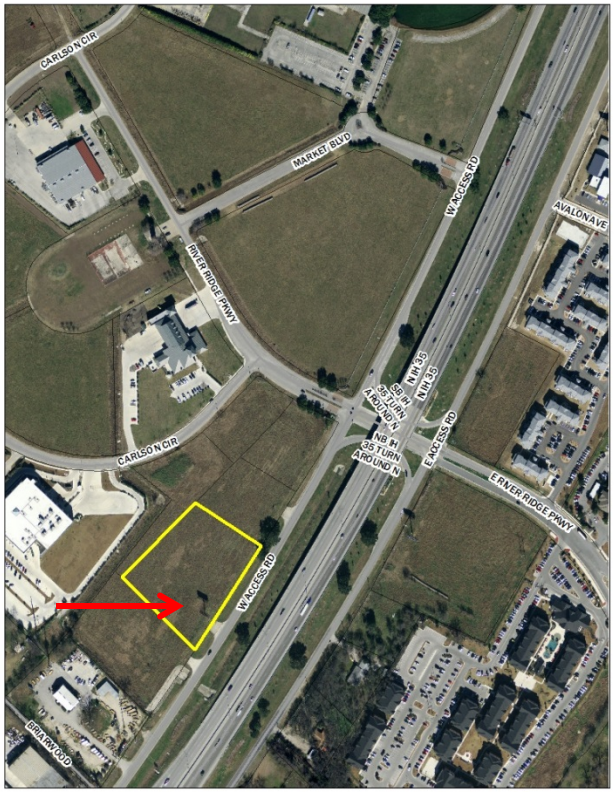
OTHER DISTRICTS

(MU, VMU, P, OP, GC, HC, SC, LI, HI, PDD)

- MU allows 5.5 units per acre and the following uses: bed and breakfast, home child care, loft apartments, single family residences, office, art studio, beauty shop, dry cleaning, dance and martial arts school, grocery without gas, pharmacy, restaurant, small retail, park or playground, government and recreational uses and religious assembly, many uses are conditional, including multifamily apartments
- VMU allows 40 units per acre and the uses are similar to MU
- P is public zoning meant for institutional uses such as schools and governmental and some office and residential uses
- OP is limited to office, religious assembly and governmental uses
- GC allows bed and breakfast, offices, art studio, dance and martial arts school, barber shop, woodworking shop, indoor health club, museum, park or playground, religious assembly, schools and governmental
- HC allows bed and breakfast, offices, self-storage units, tire sales (outdoors/storage),
- SC would follow the SmartCode regulations
- LI allows cabinet shop (manufacturing), offices, food processing
- HI allows auto body repair offices, food processing, machine shop, petroleum bulk storage
- PDD is an overlay district which allows for variations from an established base zoning and is intended to encourage flexible and creative planning and development

Location of Removed Off-Premise Sign

2014



2015

PSA - 15 - 05

City of San Marcos

PREFERRED SCENARIO MAP AMENDMENT APPLICATION

	APPLICANT	PROPERTY OWNER
Name	GUNNARSON OUTDOOR	BOBBIE GILBERT
Mailing Address	1801 IH 35 SOUTH	15 TIMBERCREST
	SAN MARCOS, TX 78666	SAN MARCOS, TX 78666
Daytime Phone	512-396-5353	512-396-2313
E-mail	LEASING@GUNNARSONADVERTISING.COM	

PROPERTY DESCRIPTION:

Address 202 POSEY RD

Legal Description *(if platted)* _____

Appraisal District Tax I.D. R 18638 Acres 50.643

Current Intensity Zone _____ Proposed Intensity Zone EMPLOYMENT

Zoning Classification AR Proposed New Zoning, if any GENERAL COMMERCIAL

Located In
- ❑ Floodway
- ❑ S.M. River Corridor
- ❑ Edwards Aquifer Recharge Zone
- ❑ Historic District

Existing use of land and building(s)

AGRICULTURAL

PSA - 15 - 05

APPLICATION FOR CITY OF SAN MARCOS PREFERRED SCENARIO AMENDMENT

REQUESTED AMENDMENT:

Proposed new use of property SMALL PORTION OF THE PROPERTY WILL BE USED FOR A BILLBOARD STRUCTURE. REMAINING PROPERTY WILL CONTINUE TO BE USED AS AGRICULTURAL

Reasons which support this request

AMENDMENT IS REQUIRED TO CHANGE ZONING ON PORTION OF PROPERTY IN THE CITY LIMITS. CHANGE IS IN LINE WITH OTHER PROPERTIES THAT HAVE CHANGED THE PREFERRED SCENARIO IN THIS AREA

SUBMITTAL REQUIREMENTS:

$750 plus $50 per acre ($2000 max) plus $10 Technology Fee payable to the City of San Marcos

Name(s) and Address(es) of Property Lien-Holder(s), if any

Metes and Bounds legal description or a map/survey to scale (if not platted), submitted on paper no larger than 11" x 17" showing the location and boundaries of the property (if the amendment involves changing more than one existing designation, show the boundaries of such designations within the property).

I certify the preceding information is complete and accurate, and it is understood 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: _____ **Date**: 12-14-15

Printed Name: Richard McDaniel

To be completed by Staff:

Meeting Date: _____ Application Deadline: _____

Accepted By: _____ Date: _____

File #: ID#16-36, **Version:** 1

AGENDA CAPTION:
2015 End of Year Report
Presentation from staff and discussion on the End of Year Report for 2015
Meeting date: February 23, 2016

Department: Planning & Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s): *Economic Development, Environment & Resource Protection, Land Use, Neighborhoods & Housing*

BACKGROUND:

The attached presentation provides a summary of activities conducted by the Planning & Development Services Department in 2015 including:

Population Estimates & Projections
Planning Cases & Statistics
Building Permits / Inspections & Statistics
Housing Statistics
Outreach Events
Staff Certifications & Education

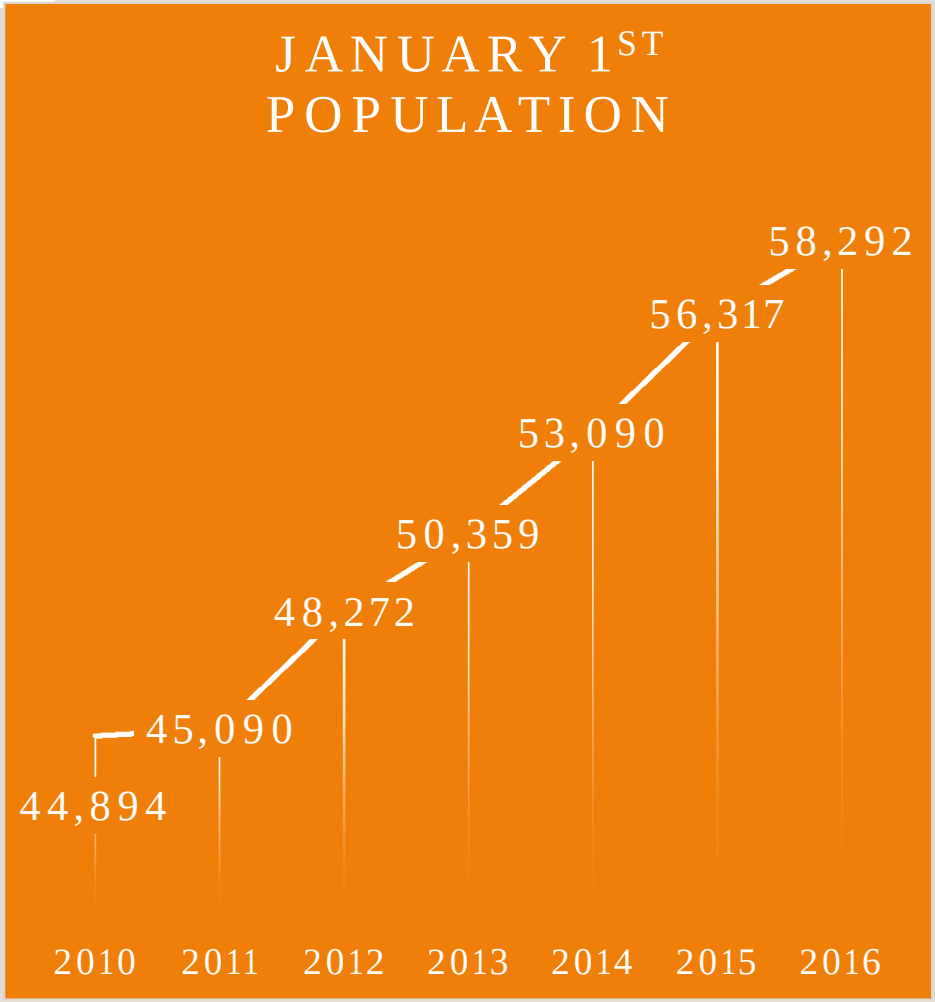
2015 Year in Review

PLANNING AND ZONING COMMISSION

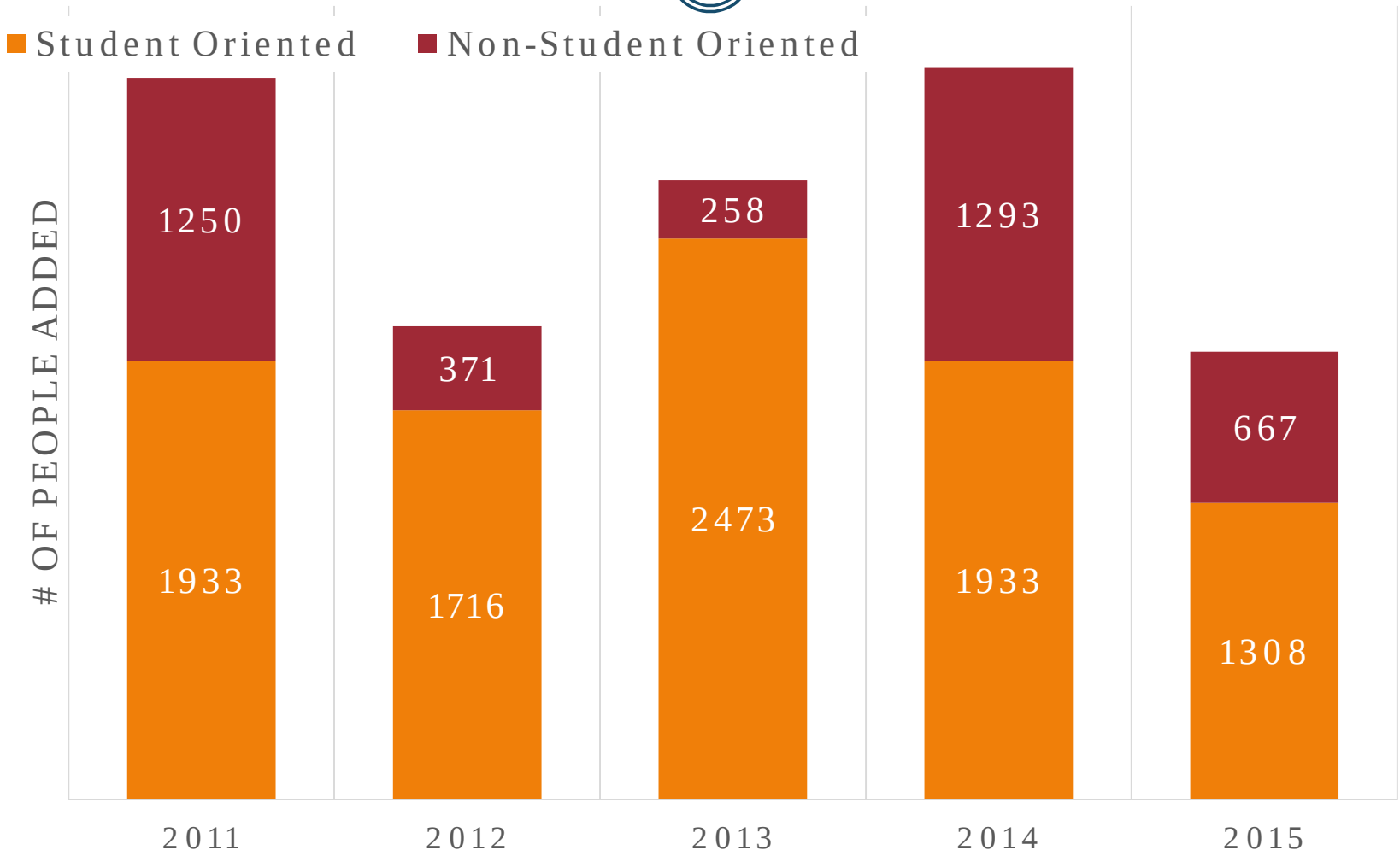
FEBRUARY 23, 2016

Population

- 58,292 as of Jan 1, 2016
- 3.51% growth in 2015
- Census: 2012, 2013 & 2014 fastest growing city over 50,000 in US

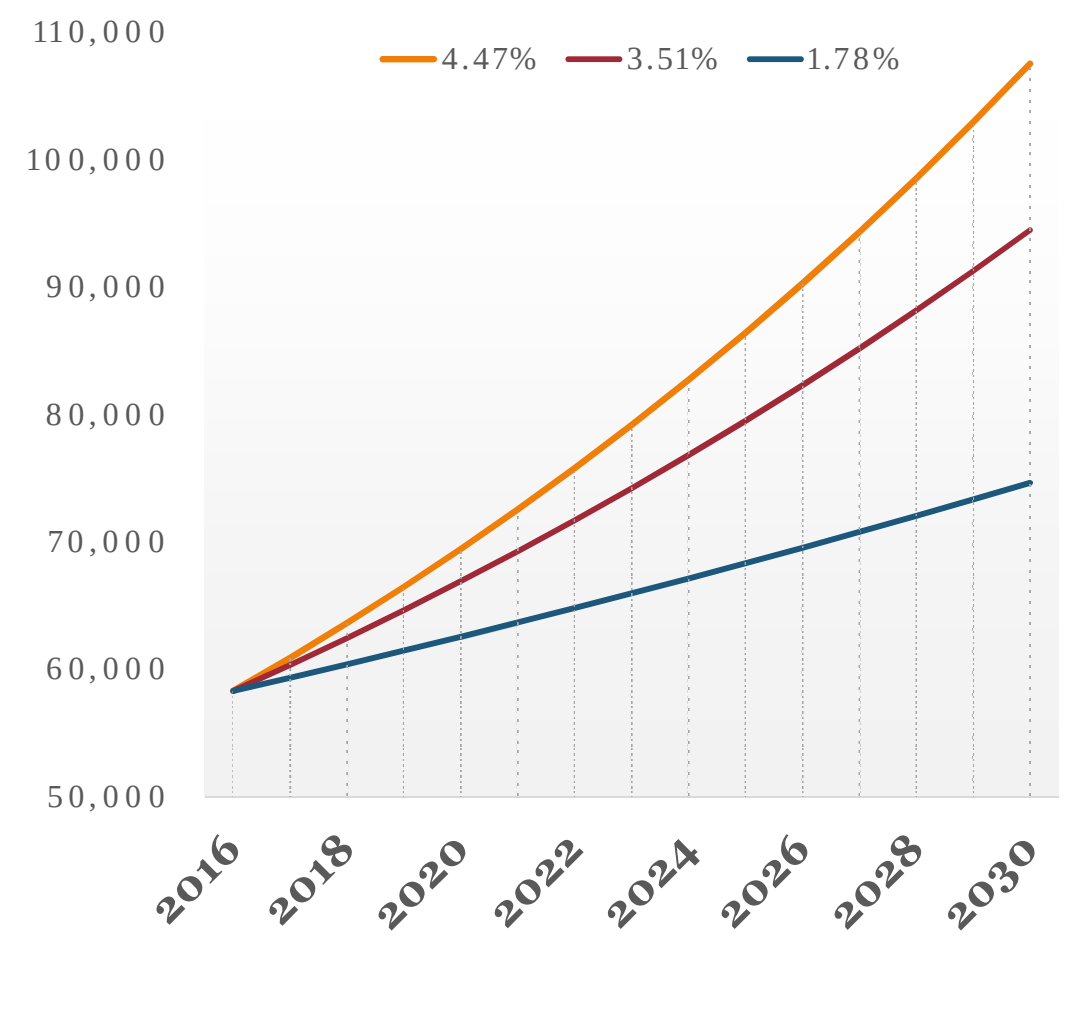


Analyzing Population Growth



Future Population Estimates

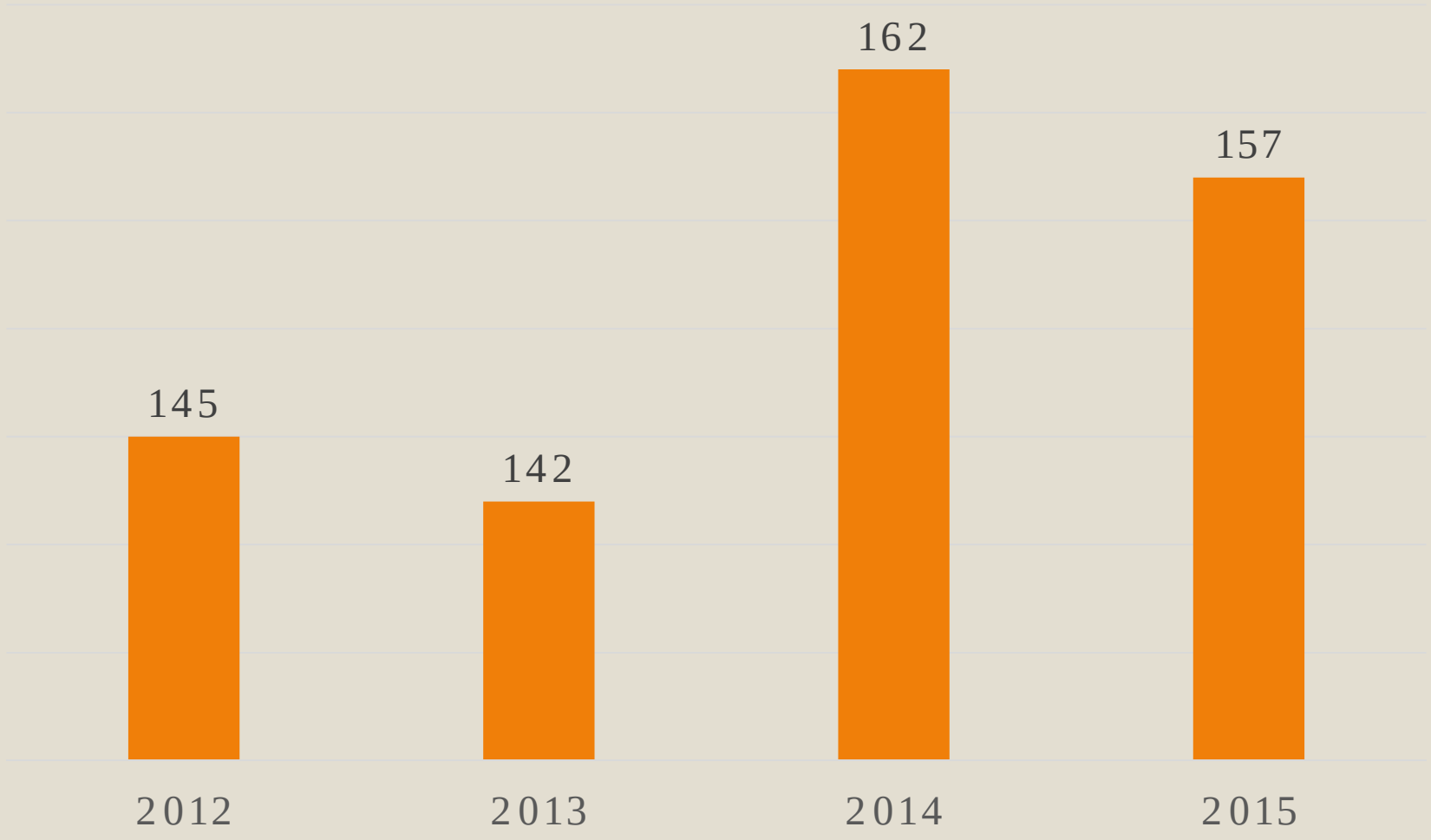
- 2030 population projections:
  - Average Growth Rate since 2010 (4.47%)
    - 107,535
  - 2015 Growth Rate (3.51%)
    - 94,458
  - Comprehensive Planning Growth Rate (1.78%)
    - 74,625



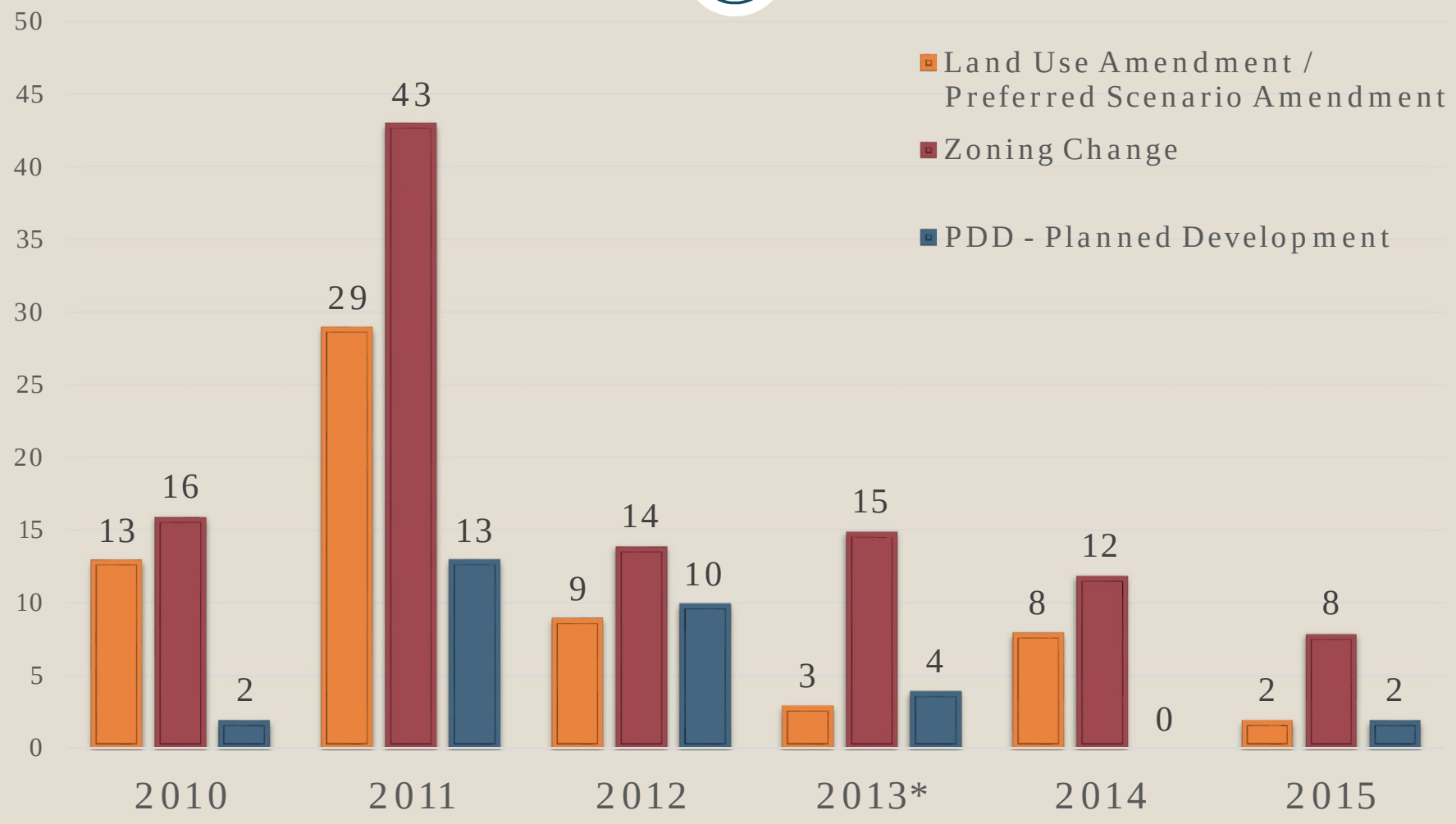
2015 Notable Development Cases

- Two Preferred Scenario Amendments
- Trace/ Highpointe
- Lamar School Site/ Lindsey Hill
- Amazon
- San Marcos CISD Remodels/Additions/New
- Guadalupe Station (Old Post Office)
- Simon's Place Redevelopment
- Fairfield Inn & Suites / Comfort Inn & Suites Opened
- Springtown Redevelopment Incentive
- Annexation of First Year Candidate Properties

Total Planning Cases Submitted



Land Use and Zoning Cases



*In 2013 a new Comprehensive Plan and Process (PSA) was adopted

2015 Zoning Changes by Acreage

SF: 264.6 acres

MF-24: 54.6 acres

OP: 4.5 acres

NC: 9.9 acres

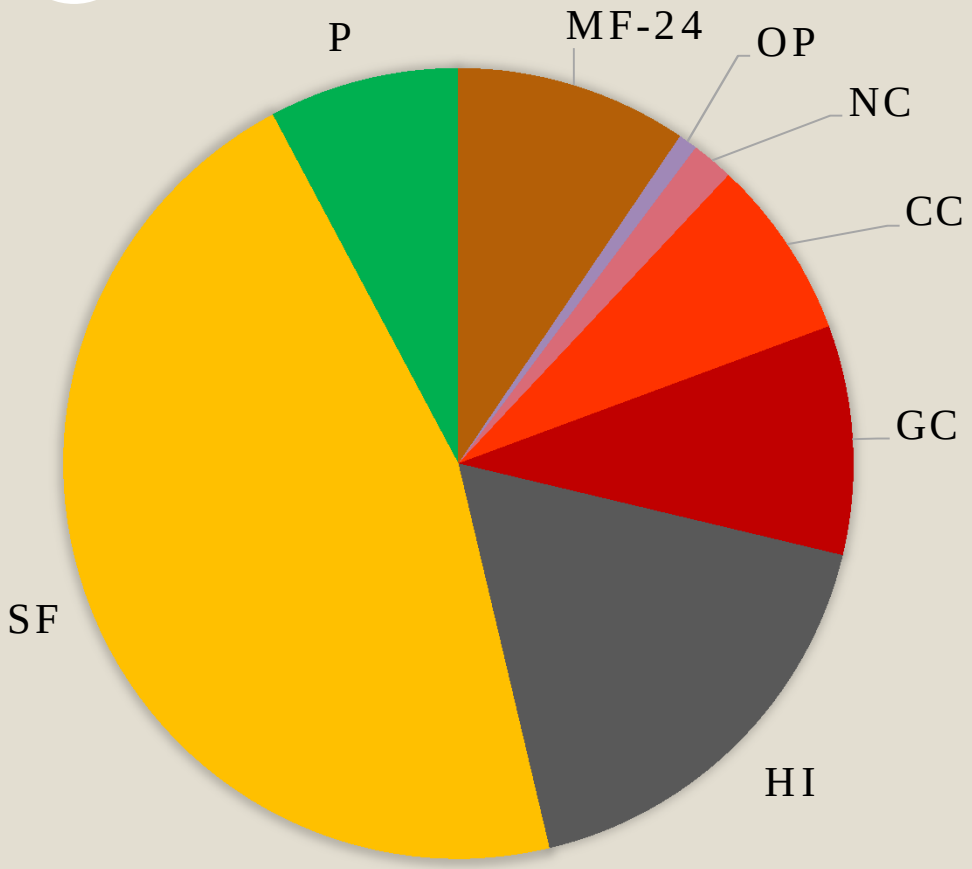
CC: 42.5 acres

GC: 54 acres

HI: 101.2 acres

P: 44.9 acres

Total acreage zoned: 576.2 acres +/-

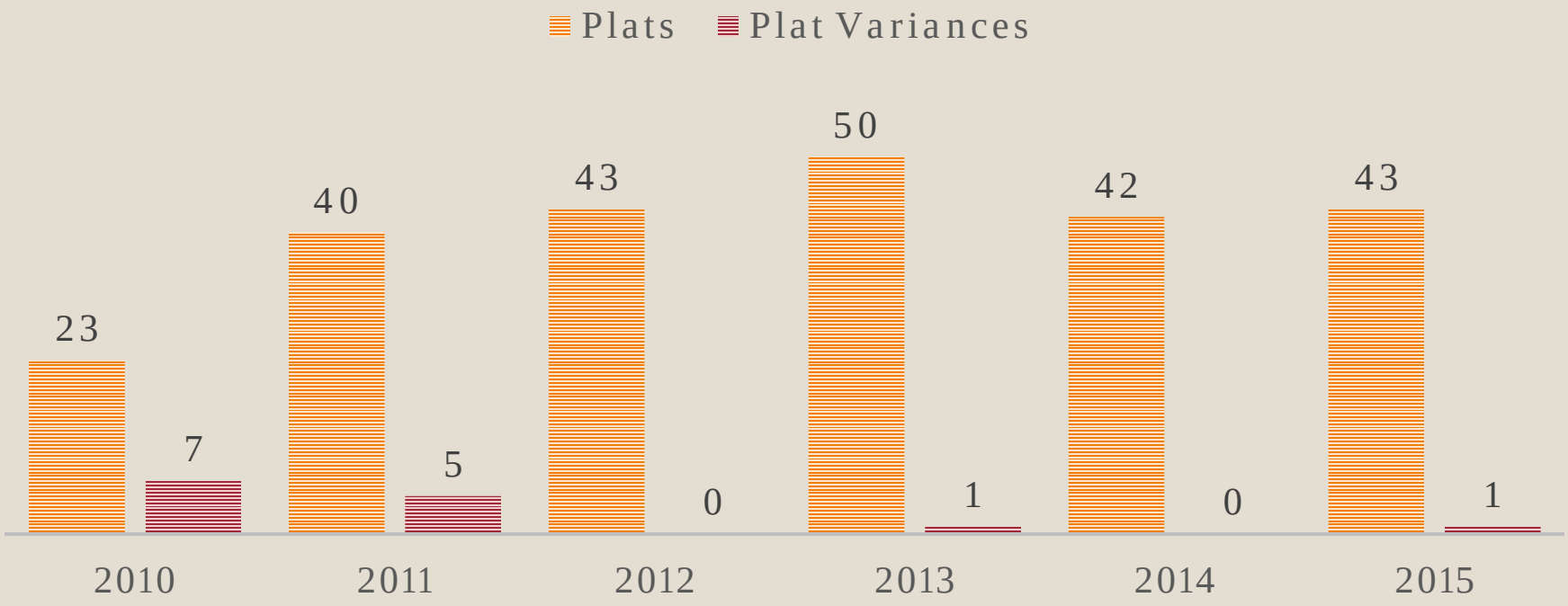


*Trace PDD consists of 418 acres +/-

*Thorpe Lane PDD did not require a rezoning

Plat Case Trends

- 43 plats were submitted in 2015
  - 22 reviewed by P&Z
  - 21 administratively approved

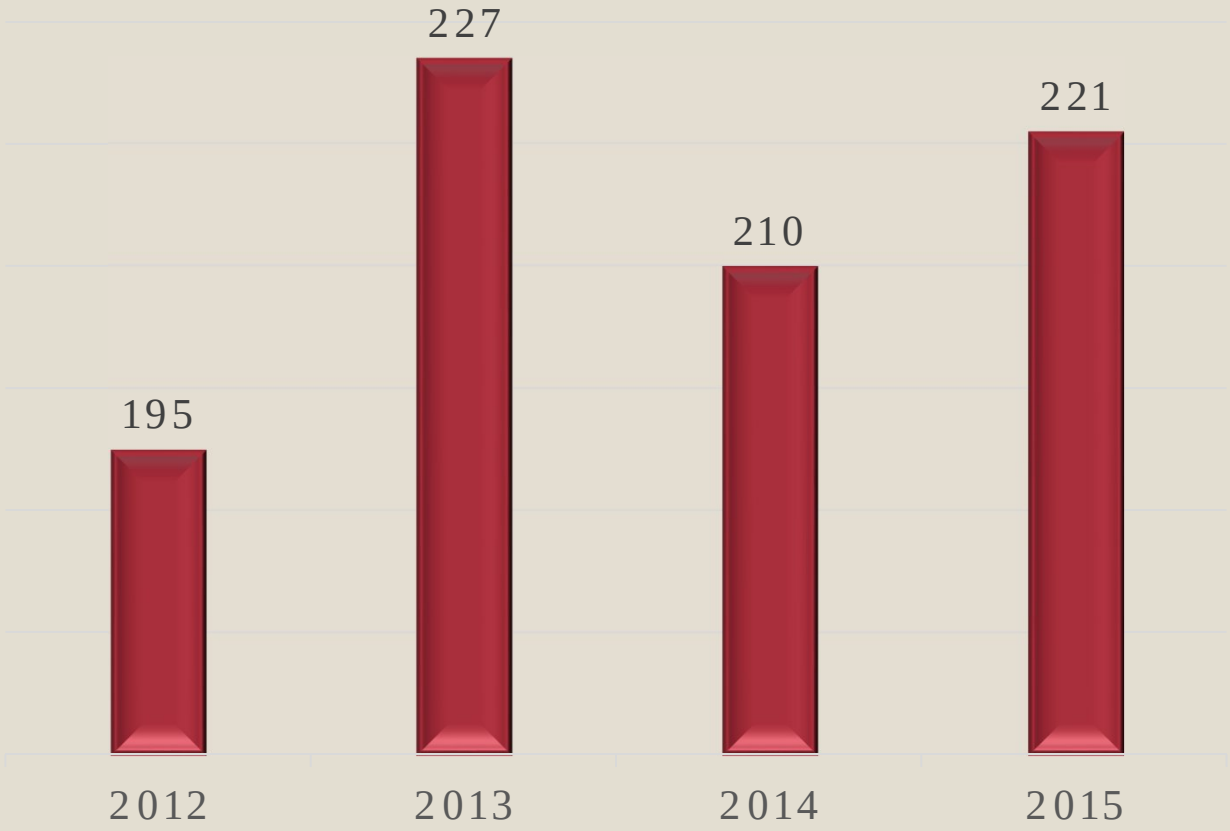


Conditional Use Permit Trends

- 2 administrative approvals for change in ownership
- 5 for general uses were received, 3 were reviewed by P&Z
- 33 for on-premise consumption were reviewed by P&Z
  - 70% were renewals

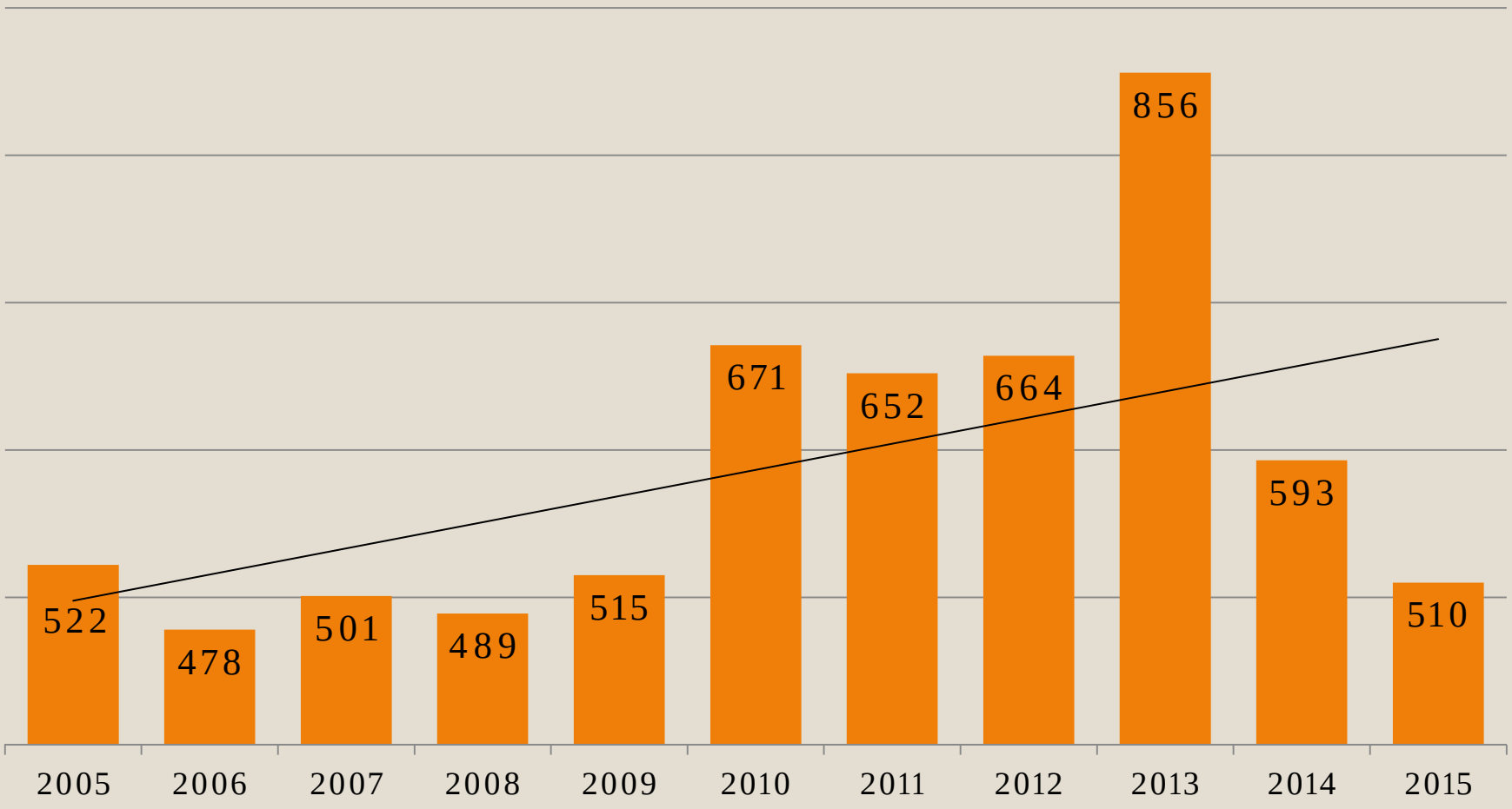
Pre-development Meetings

5% increase since 2014

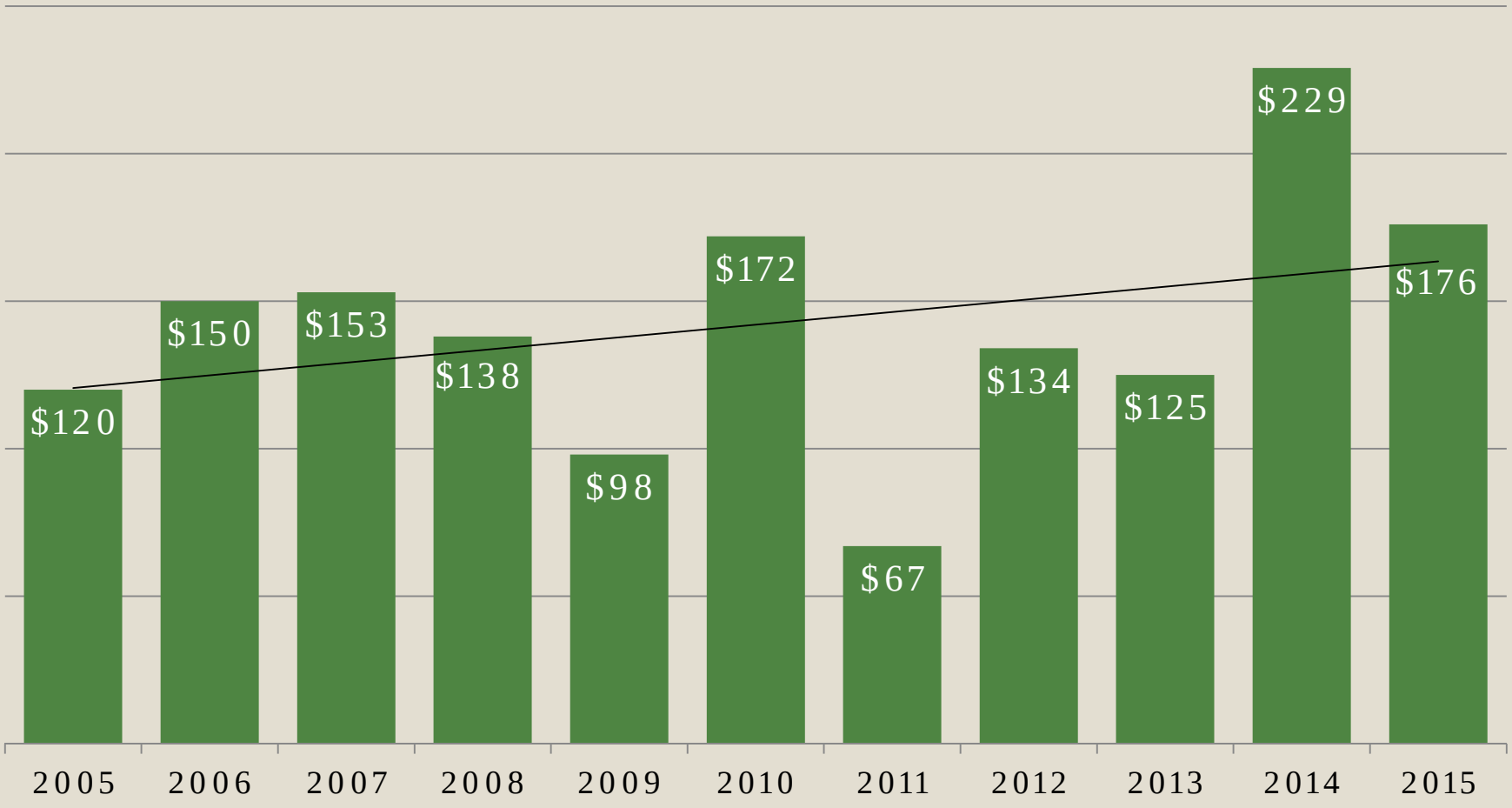


*some projects were seen more than once and there is some overlap with Development Review Committee

Total Building Permits Submitted

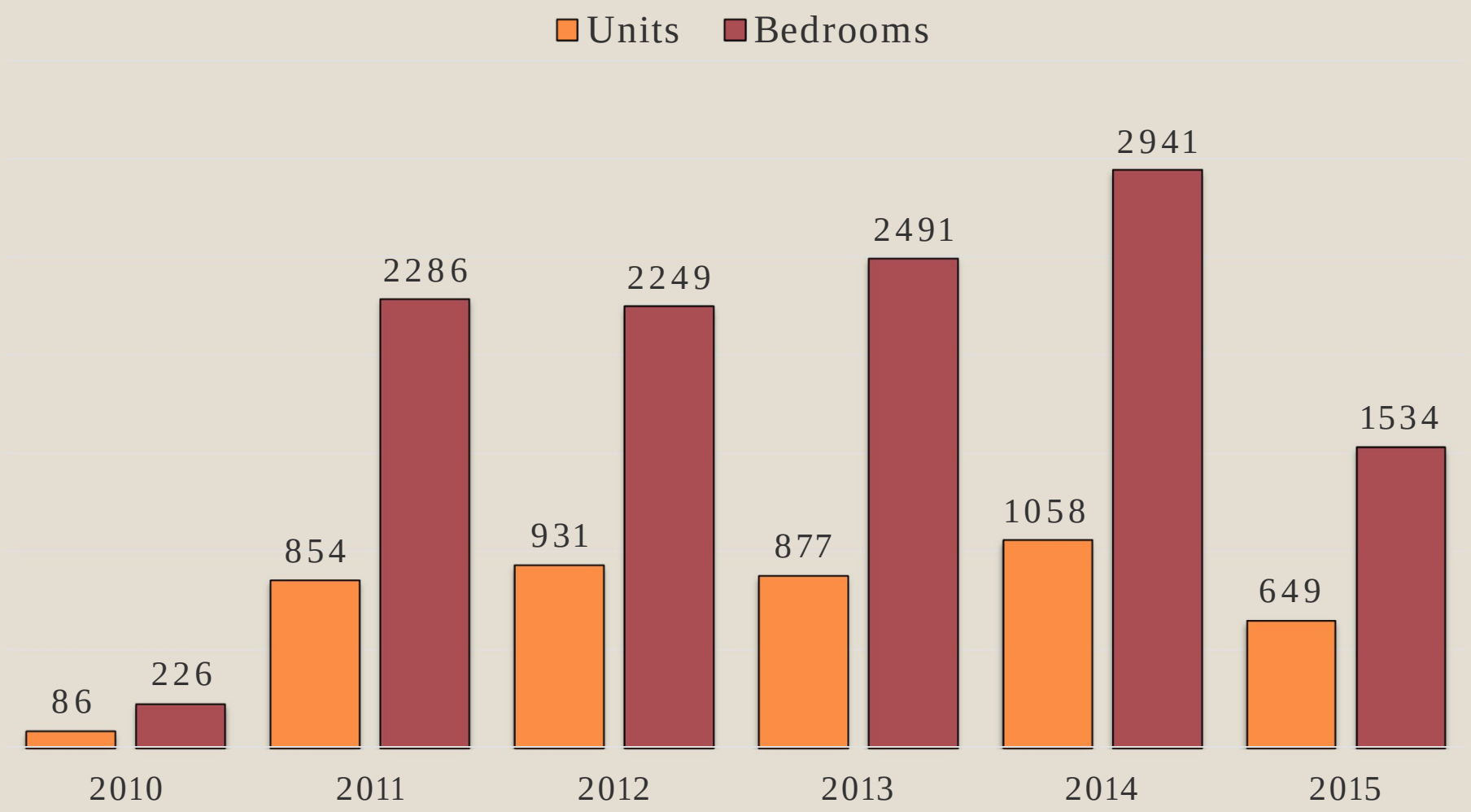


Annual Permitted Value in Millions



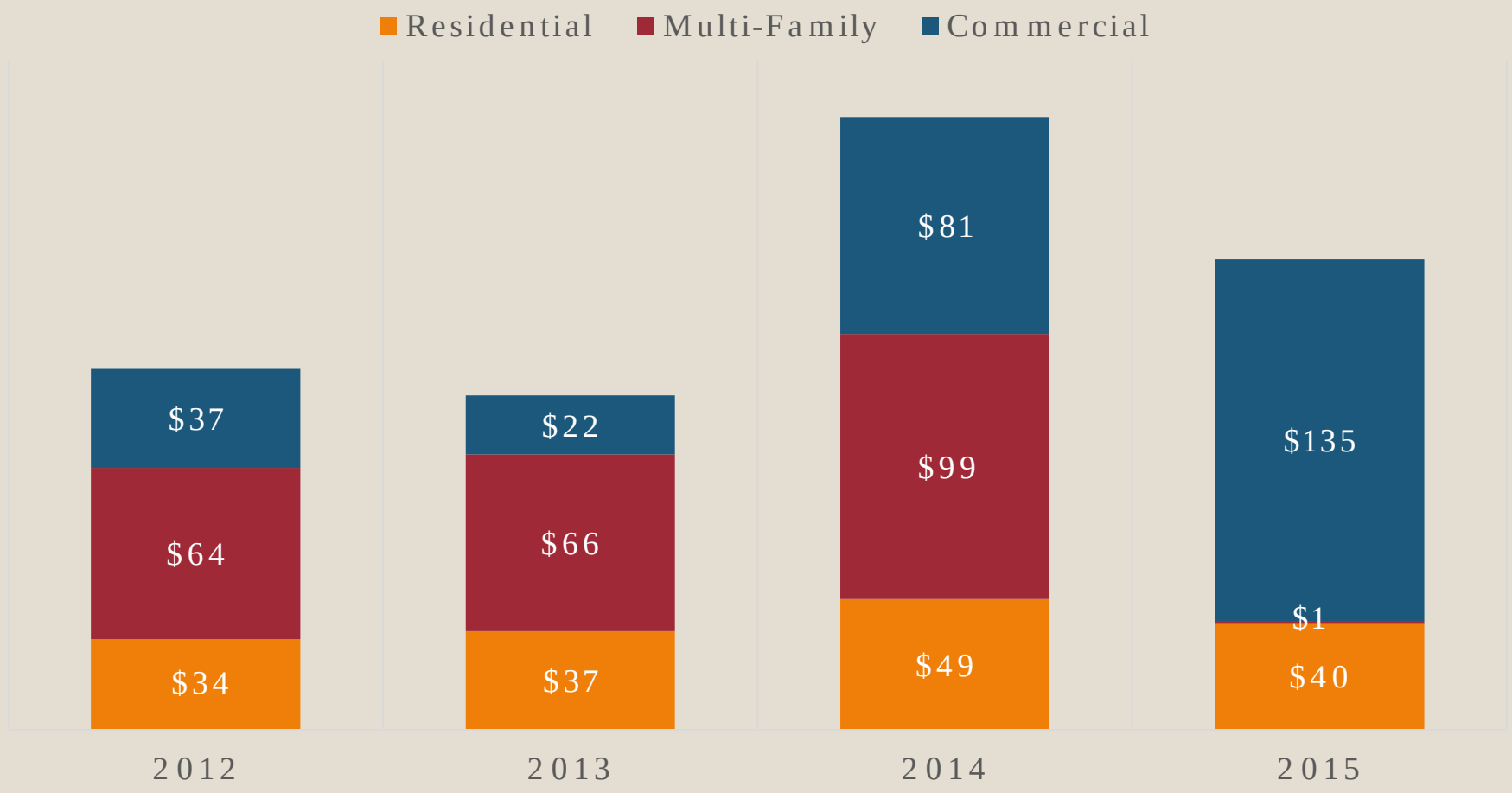
*Amazon accounts for $70 M of the 2015 permit value

Multi-Family Statistics



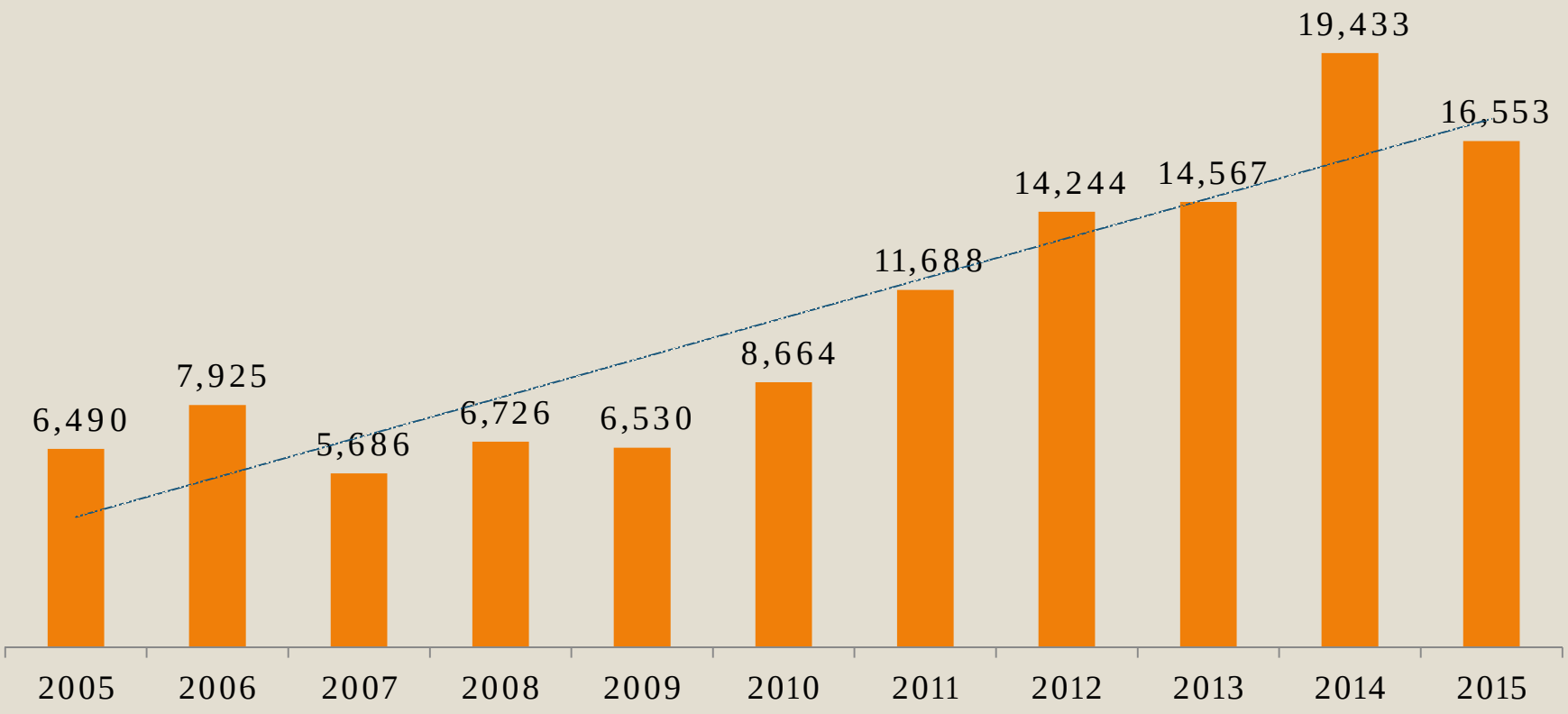
Single Family Homes Permitted

Permit Value by Land Use in Millions

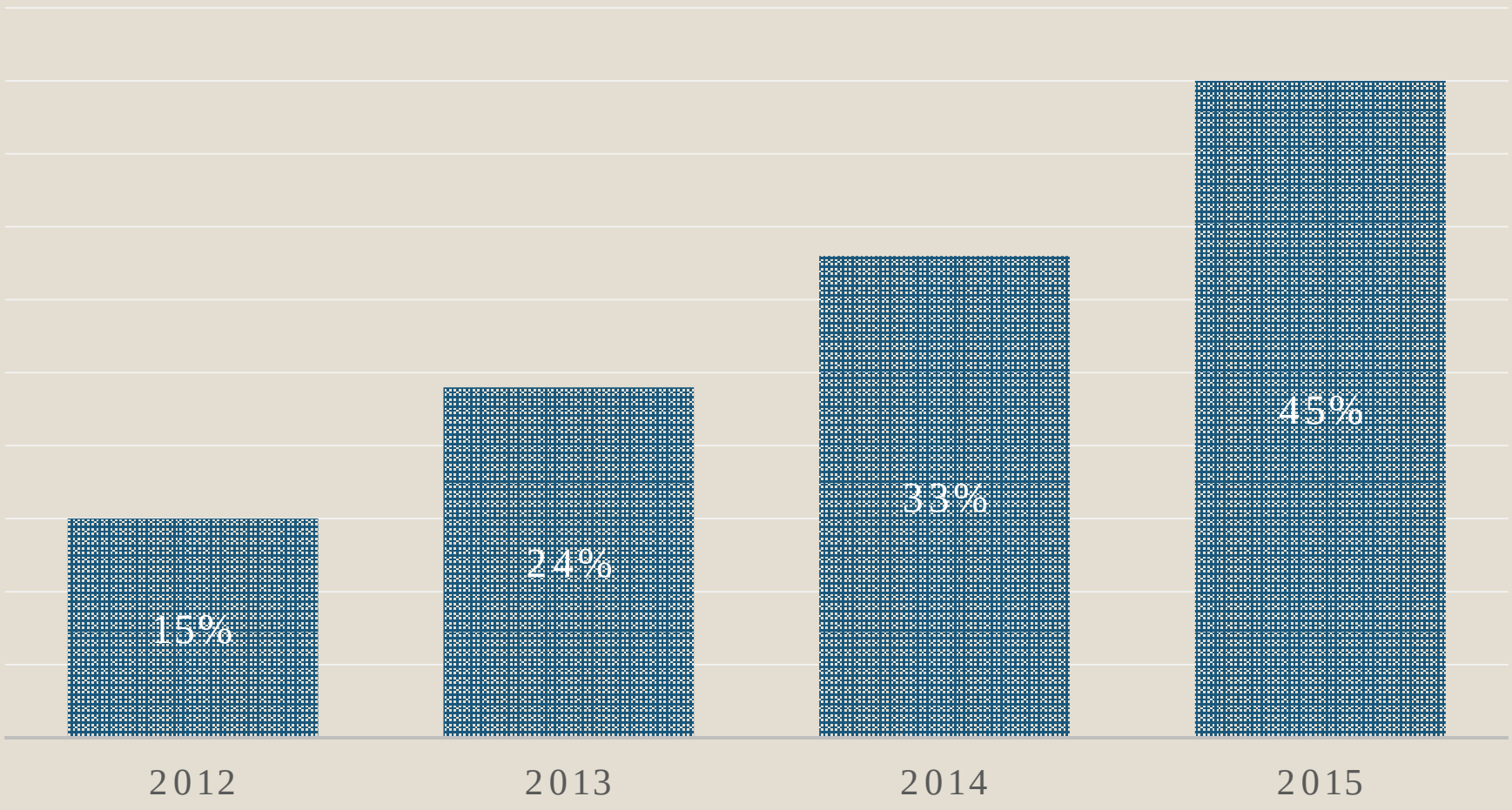


*Amazon accounts for $70 M of the 2015 Commercial value

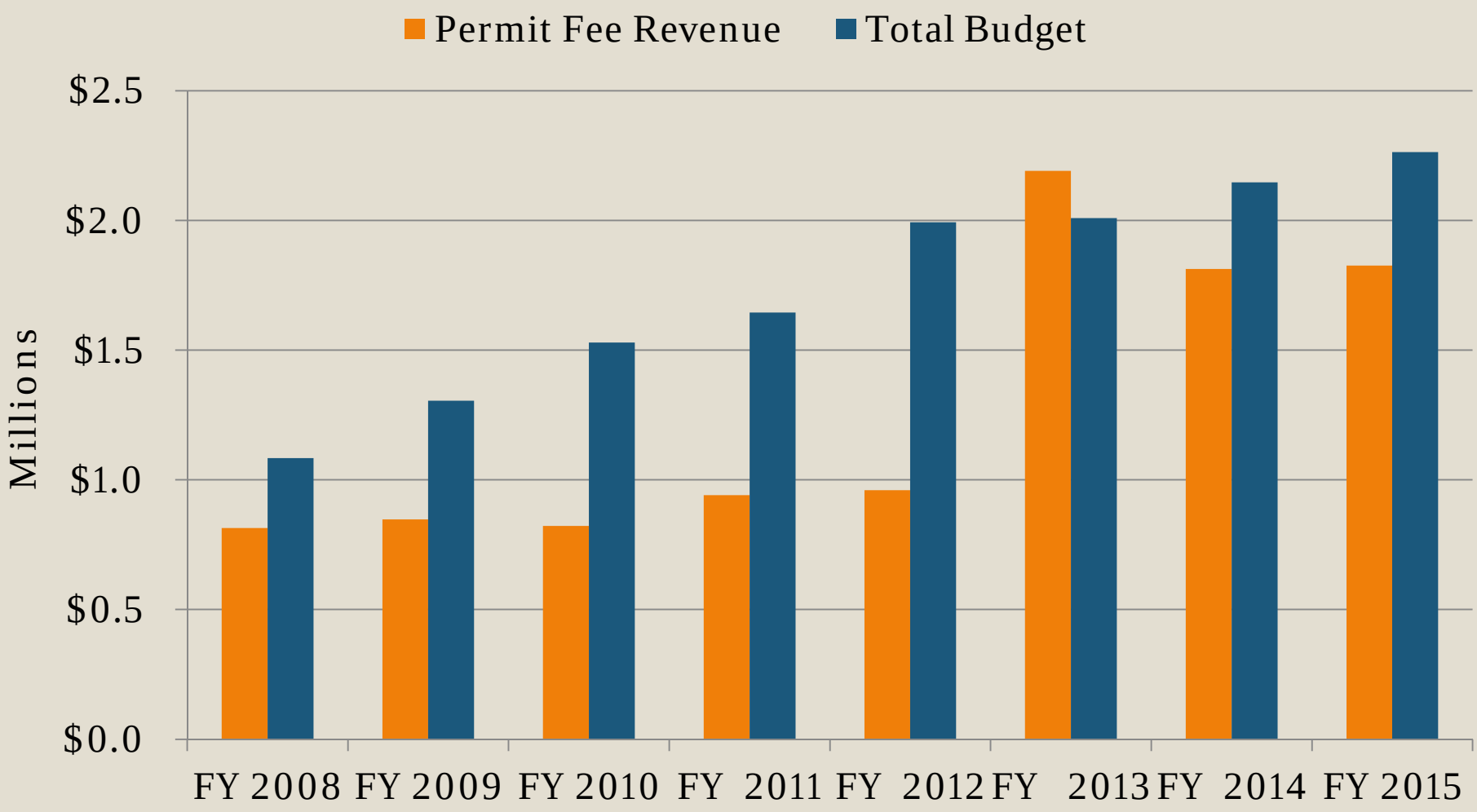
Total Number of Scheduled Inspections



Percent of Permits Applied for Online



Development Services General Fund Budget



Community Outreach Events

- Plan Your Neighborhood Workshops
- Environmental Code Workshops
- Live & Virtual CodeSMTX Open Houses
- Zoning For Character Open House
- General Contractor Training
- GIS Day

Education

- Conferences and Trainings
  - Texas APA Conference
  - TCMA Conference
  - BPI Conference
  - TNRIS Conference
  - Crystal Reports Training
  - Environmental Law Training
  - Certified Stormwater Inspector Training
  - Economy Management Leadership Summit
  - 2015 Texas Downtown Association Development & Revitalization Conference
  - Texas Main Street Summer Manager Training
  - APA National Conference
  - CNU National Conference
  - TML Conference
  - Leadercast 2015
  - Land Use Fundamentals

New Staff Certifications

- Total Certifications
  - 2 – Congress for the New Urbanism (CNU-A)
  - 1 – Fire Inspector
  - 1 – Registered Environmental Manager

CNUa
accredited

Permit Center
Customers
Enter Here
THE CITY OF
SAN MARCOS
VAN
ACCESSIBLE

Commercial Permits by Date Issued

Project	Permit #	Address	Issue Date	Value
2015				
New				
Sakura Steak & Sushi	2014-16033	117 Meiners St	2/9/15	$330,000
Public Self Storage Facility	2014-16448	1615 N IH 35	2/17/15	$1,100,000
The Woods Clubhouse	2015-16619	650 River Rd	2/19/15	$726,000
Shell Building (1 tenant)	2014-16423	4015 S IH 35 Ste 150	3/12/15	$3,300,000
Stripes	2014-16364	3936 S IH 35	3/16/15	$834,000
Public Self Storage Facility	2015-17612 & 17161	1615 N IH 35	4/2/15	$2,200,000
Raising Cane's Chicken Fingers	2015-16691	928 Hwy 80	4/2/15	$9,000,000
54th St. Restaurant & Drafthouse	2015-16987	1303 S IH 35	6/2/15	$1,485,000
85 Room Hotel	2015-16775	111 Centerpoint Ct	6/9/15	$4,500,000
University Federal Credit Union	2015-17241	1190 Thorpe Ln	6/29/15	$1,500,000
Aqua Brew	2014-14908	150 S LBJ Dr	7/13/15	$1,200,000
Office Building	2015-17251	110 Willow Springs Dr	7/13/15	$350,000
Project Endurance	2015-17896	1401 E McCarty Ln	9/2/15	$70,000,000
Bush's Chicken	2015-17710	1035 Hwy 123 Ste 301	9/14/15	$350,000
Starbucks & Newk's Eatery	2015-17716	1303 S IH 35 Ste 101 & 103	9/23/15	$642,900
Self Storage Building	2015-17685	2214 S IH 35	9/28/15	$1,900,000
Shell Building (3 tenant)	2015-17773	1020 Centerpoint Rd	11/16/15	$1,200,000
In-N-Out Burger	2015-17778	1437 N IH 35	12/17/15	$1,500,000
Car Wash	2015-18426	233 Wonder World Dr	12/18/15	$750,000
Substantial Addition/ Remodel > $300,000				
Starbucks	2014-15949	690 Centerpoint Rd Ste 101	1/7/15	$310,000
	2015-16830	320 Barnes Dr. Ste 109	3/31/15	$386,000
AHS Retrofit	2014-16431	1301 Wonder World Dr	4/29/15	$5,700,000
Factore	2015-17347 & 17607	2301 N IH 35	5/12/15	$7,340,000
Under Armor	2015-17498	3939 S IH 35 Ste 650	6/26/15	$431,515
West Elm Outlet	2015-17518	4015 S IH 35 Ste 323	7/7/15	$550,000
Tenant Finish Out	2015-17897	1600 Clovis Barker Rd Ste 414	8/6/15	$400,000
Tenant Finish Out	2015-17850	1180 Thorpe Ln Ste 120	8/17/15	$540,000
Tenant Finish Out	2015-17356	4015 S IH 35 Ste 150	8/20/15	$500,000
The Lodge at Southwest	2015-18169 thru 181173	1975 Aquarena Springs Dr	8/31/15	$1,604,087
Gold's Gym	2015-17749	1180 Thorpe Ln Ste 120	9/22/15	$3,500,000
Grande Communications	2015-18445	401 Carlson Cir	10/14/15	$1,000,000
Restaurant Finish Out	2015-17756	1303 S IH 35 Ste 103	11/13/15	$550,000
HEB Distribution Center	2015-18567	2301 Hunter Rd	11/20/15	$4,740,500
Office/Fitness Remodel	2015-18548	401 N Fredricksburg Dr	12/1/15	$400,000
Burger King	2015-18423	1012 Hwy 123	12/14/15	$350,000
Restroom & FoodCourt	2015-18828	3939 S IH 35	12/14/15	$984,032
TOTAL				**$132,154,033.51**

File #: ID#16-47, **Version:** 1

AGENDA CAPTION:

Development Services Report:

1. Planning Commission Appointments

Meeting date: February 23, 2016

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND: