SAN MARCOS
PLANNING AND ZONING
COMMISSION REGULAR
MEETING
CITY COUNCIL CHAMBERS,
630 E. HOPKINS
TUESDAY, JUNE 25, 2013
6:00 P.M.

1. Call To Order

2. Roll Call

3. **Chairperson's Opening Remarks**

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

4. 30 Minute Citizen Comment Period

CONSENT AGENDA

THE FOLLOWING ITEMS NUMBERED 5 - 8 MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COMMISSIONER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

5. **Consider the approval of the minutes of the Regular Meeting on June 11, 2013.**

6. **PC-10-14_01b (Buie Tract Subdivision)** Consider a request by the City of San Marcos in cooperation with Craddock Avenue Partners LLC for approval of a concept plat amendment for the Buie Tract Subdivision being approximately 153.15 acres more or less out of the Thomas J. Chambers, Robert H. Williams and John Williams surveys near the intersection of Craddock Avenue and Wonder World Drive.

7. **PC-13-03_03 (Retreat on Willow Creek)**Consider a request by Carlson, Brigance and Doering, on behalf of Preferred Development Partners, for approval of a Final Plat and associated subdivision improvement agreement for approximately 47.232 acres, more or less, out of the Juan M. Veramendi Survey No. 1, Abstract 17, establishing the Retreat on Willow Creek Phase 1 subdivision located near the intersection of Stagecoach Trail and Hunter Road.

8. **PC-13-09_03 (Blanco Vista Tract I)** Consider a request by CSF Civil Group, on behalf of Carma Blanco Vista, L.L.C. (Brookfield Residential), for approval of a Final Subdivision Plat of Blanco Vista Tract I for approximately 13.31 acres, more or less, out of the William Ward League

Survey No. 3, Abstract No. 467, for 43 residential lots located at Blanco Vista Boulevard and Royal Oak Boulevard.

PUBLIC HEARINGS

9. **ZC-13-08 (1402/1404 Clyde Street)** Hold a public hearing and consider a request by Mark Mayhew for a Zoning Change from Single Family (SF-6) to Townhome (TH) for Lots 30 & 31 out of Block 2, Westover Subdivision, located at 1402 & 1404 Clyde Street

10. **ZC-13-09 (Windemere)** Hold a public hearing and consider a request by Robert Haug and Vinson Wood for an amendment to the Zoning Map from Future Development (FD) to Single-Family Rural (SF-R) for the Enclave at Windemere, consisting of 20.08 acres more or less out of the T.J Chambers Survey located at Lime Kiln Road and Windemere Road.

11. **ZC-11-29(Gas Lamp District)** Hold a Public Hearing and consider a request by Bury + Partners, on behalf of Walton Texas LP for a Zoning Change from Future Development (FD) to Smart Code (SC) for a 495 +/- acre site out of John H. Yearby Survey, located at the Northwest corner of Old Bastrop Highway and Centerpoint Road.

12. **WARRANT REQUEST (Gas Lamp District)**Hold a public hearing and consider a request for Bury + Partners, on behalf of Walton Texas LP. for 13 warrants that allow deviation from SmartCode (SC) Zoning for a 495 +/- acre site out of the John H. Yearby Survey located at the Northwest corner of Old Bastrop Highway and Centerpoint Road, as follows: **1.** Section 5.12 – allow the second layer of the lot to be 12 feet vs. 20 feet required for up to 49% of the total number of single family lots in the project; **2.** Section 5.9.4 – allow driveways to be 12 feet wide in the right-of-way vs. 12 feet wide in the first layer for up to 49% of the total number of single family lots in the project; **3.** Table 3.6 – allow pipe, post, column and double column light poles in any T-Zone; **4.** Table 1.3 – allow an atypical cross section for Arterial A; **5.** Table 3.3– allow head-in parking for street section CS-80-54 vs. reverse angle required; **6.** Table 3.3 – allow cross sections ST-50-26 & ST-50-28 in all T-Zones; **7.** Table 1.3 – reduction of setbacks in T3 zone from 24 feet front and 12 feet all other to 10 feet front and 5 feet all other; **8.** Table 1.3 – allow a reduction in the building height from 2 stories to 1 story for age restricted or nursing facilities; **9.** Section 3.8.2 – allow a minimum of 30% commercial (office/retail) in T5 Zone vs. 15% retail and 15% office required; **10.** Section 3.5.4 – permit the reservation of a childcare / elementary school lot for 2 years after the sale of the last single family or multi-family lot vs. up to five years after the sale of the last lot; **11.** Section 3.5.4 – Allow one 8 acre lot to be reserved for an elementary school vs. one 3 acre site in each of the 2 pedestrian sheds as required; **12.** Table 1.3 – allow a 25 acre apartment site to have an increased block perimeter of 2,400 feet vs. 2,000 feet required and allow this to be measured at private streets and pedestrian passages in addition to public streets as stated in code; **13.** Table 1.3 – allow the multifamily sites to have lot widths based on the block perimeters from Warrant #12 vs. 196 feet maximum width required.

13. **LDC-13-03 (Minor Revisions for Comprehensive Plan Implementation)** Hold a public hearing and consider revisions to Chapters 1, 2, 3, 4, 5, 6, 7, & 8 of the Land Development Code codifying the changes resulting from the adoption of Ordinance No. 2013-16, also known as the Adopting Ordinance for Vision San Marcos: A River Runs Through Us.

14. **LDC-13-04 (Multi-family Unit Definition)** Hold a public hearing and consider revisions to

Chapter 8 of the Land Development Code to modify the definition of "Dwelling Unit" and make associated changes.

NON-CONSENT AGENDA

15. Presentation, Staff update and discussion regarding the Impact Fee Review Project and the responsibilities of the Capital Improvements Advisory Committee (CIAC).

16. **Development Services Report**
    a. **Update from staff on implementation of Comprehensive Master Plan.**

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

18. Adjournment.

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov

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

_____ Title: _____

Agenda Information

AGENDA CAPTION:

Chairperson's Opening Remarks

Meeting date: June 25, 2013

Department: Development Services

Funds Required: **Account Number:**

Funds Available: **Account Name:**

CITY COUNCIL GOAL:

BACKGROUND:

Agenda Information

AGENDA CAPTION:

Consider the approval of the minutes of the Regular Meeting on June 11, 2013.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: **Account Number:**

Funds Available: **Account Name:**

CITY COUNCIL GOAL:

BACKGROUND:

ATTACHMENTS:

Minutes 6-11-13

MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
June 11, 2013

1. Present

Commissioners:

Bill Taylor, Chair
Curtis Seebeck
Corey Carothers
Kenneth Ehlers
Angie Ramirez

City Staff:

Matthew Lewis, Development Services Director
Roxanne Nemcik, Assistant City Attorney
John Foreman, Planning Manager
Jesse Shroyer, Streets and Drainage Manager
Emily Koller, Planner
Kenny Skrobanek, GIS Analyst
Tory Carpenter, Planning Tech
Will Parrish, Planning Tech

Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday June 11, 2013, in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Taylor welcomed the audience and viewers.

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

4. 30 Minute Citizen Comment Period.

Thom Prentice, 213 Trestle Tree, explained that he had trouble hearing at the meeting on May 14th because several people were speaking in the lobby. He told the Commission that the police officer at the meeting told two young ladies to be quiet after they applauded but did not confront other disruptive people. Mr. Prentice said that he feels that this is an issue that needs to be addressed with the Planning and Zoning Commission and City Council.

Consent Agenda:

5. Consider the approval of the minutes of the Regular Meeting on May 14, 2013 and May 28, 2013.

6. PC-12-26_03 (Final Plat, McCarty Commons Subdivision) Consider a request by LJA Engineering, on behalf of SLF II - McCarty, LP, for approval of a Final Plat and associated subdivision improvement agreement for approximately 17.669 acres more or less out of the Nathaniel Hubbard Survey, Abstract 230,

establishing the McCarty Commons Subdivision, Phase 1, located at the intersection of the I35 Frontage Road and McCarty Lane.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Carothers, the Commission voted all in favor to approve the consent agenda.

Public Hearings:

7. ZC-13-06 (9.31 acres, 300 Block of Wonder World Dr) Hold a public hearing and consider a request by Andrew Gary, on behalf of South Stagecoach Business Park Ltd., for a Zoning Change from General Commercial (GC) to Heavy Commercial (HC) for approximately 9.31 acres out of the J.M. Veramendi Survey No. 1, Abstract 17, located near the intersection of Stagecoach Trail and Wonder World Drive.

8. ZC-13-07 (8.11 acres, 300 Block of Wonder World Dr) Hold a public hearing and consider a request by Andrew Gary, on behalf of South Stagecoach Business Park Ltd., for a Zoning Change from Heavy Industrial (HI) to Heavy Commercial (HC) for approximately 8.11 acres out of the J.M. Veramendi Survey No. 1, Abstract 17, located near the intersection of Stagecoach Trail and Wonder World Drive.

Chair Taylor opened the public hearing for ZC-13-06 and ZC-13-07. No one spoke and Chair Taylor closed the public hearing.

MOTION: Upon a motion made by Commissioner Ehlers and a second by Commissioner Ramirez, the Commission voted all in favor to approve ZC-13-06 and ZC-13-07.

Non-Consent

9. Development Services Report

a) Update from Staff on implementation of the *San Marcos* Comprehensive Plan.

Matthew Lewis explained that the Commission will vote on LDC amendments that will help implement the Comprehensive Plan.

b) Presentation and Discussion regarding the 5 year Sidewalk Plan.

John Foreman gave a presentation outlining the 5 year Sidewalk Plan.

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

There were no questions from the press and public.

11. Adjourn.

Chair Taylor adjourned the Planning and Zoning Commission at 6:37 p.m. on Tuesday, June 11, 2013.

Bill Taylor, Chair	Kenneth Ehlers, Commissioner
Angie Ramirez, Commissioner	Curtis Seebeck, Commissioner
Corey Carothers, Commissioner	

ATTEST:

Francis Serna, Recording Secretary

DRAFT

Agenda Information

AGENDA CAPTION:

PC-10-14_01b (Buie Tract Subdivision) Consider a request by the City of San Marcos in cooperation with Craddock Avenue Partners LLC for approval of a concept plat amendment for the Buie Tract Subdivision being approximately 153.15 acres more or less out of the Thomas J. Chambers, Robert H. Williams and John Williams surveys near the intersection of Craddock Avenue and Wonder World Drive.

Meeting date: June 25, 2013

Department: Development Services - Planning

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

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

BACKGROUND:

Capstone Properties, a student housing developer based in Birmingham, Alabama, plans to purchase 35.4 acres of zoned MF-12 land in Phase 1 of the Buie Tract development. The proposed project is 194 units with 899 bedrooms. The original concept plat limited population density in the multi-family portion of Phase 1 to 802. Thus an emendment to the original concept plat is needed to increase the number to 899.

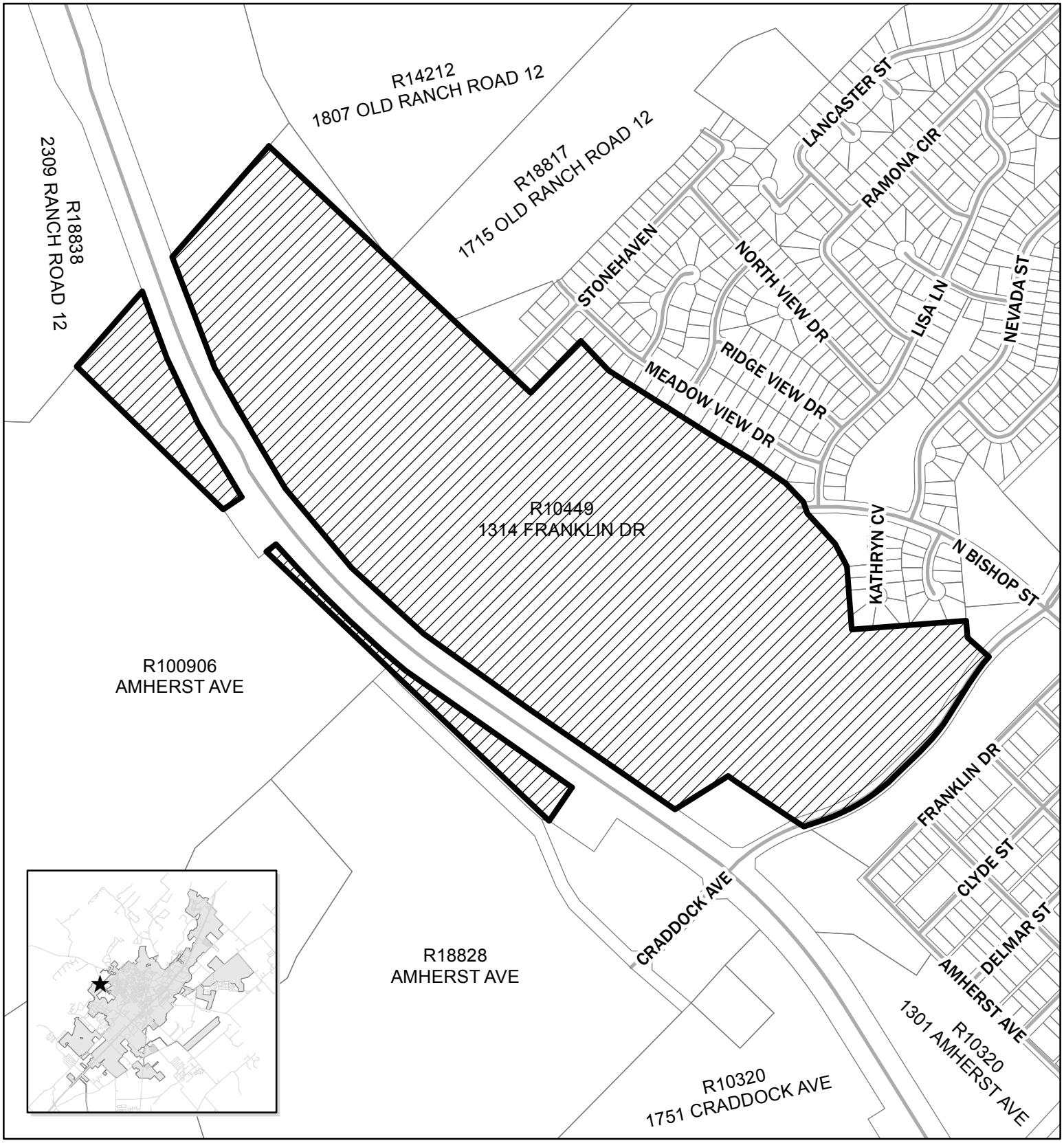
The Buie Tract is subject to a Development Agreement approved in 2009. Before Capstone may purchase the 35 acre tract for its development the Development Agreement must be partially assigned subject to approval of the City Council.

As conditions to the City Council's consent to the assignment approved on June 18, the owner was required to dedicate Phases 2 and 3 as parkland and also assign 71 units to the mixed use area in Phase 1A. Thus, the amended Concept Plat also provides for such parkland dedication and the timing for the dedication and the allocation of 71 units to Phase 1A.

The amendment meets the purposes and requirements of Chapter 1, Article 6, Division 2 of the LDC. Staff recommends approval of PC-10-14_01 as submitted.

ATTACHMENTS:

Case Map
staff report
Concept Plat Amendment
Development Agreement Partial Assignment



PC-10-14_01b
Buie Tract
Concept Plat Amendment
Map Date: 6/11/2013

Site Location

0 400 800 1,600 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.

PC-10-14_01 Concept Plat Amendment
Buie Tract Subdivision

Applicant Information:

Agent:	Ramsey Engineering, LLC 3206 Yellowpine Terrace Austin, TX 78757
Property Owner:	Craddock Avenue Partners, LLC PO Box 5555 Austin, TX 78763
Type & Name of Subdivision:	The subject property is approximately 153 acres out of the Thomas Jefferson Chambers Survey, Abstract 2, and the John Williams Survey, Abstract 471, near the intersection of N. Bishop Street and Craddock Avenue.

Subject Property:

Summary:	This is a request to amend the Concept Plat approved in 2011 for a 153 acre tract known as the Buie Tract located at Wonder World and Craddock Avenue.
Zoning:	MF-12. The permitted density for the entire Buie Tract is 459 units with 453 allowed to be clustered in Phase I. There are approximately 194 units planned for Phase 1, Section 1.
Traffic/ Transportation:	A TIA was reviewed and approved in December 2010 based on the permitted density in the Development Agreement. Signalization was not recommended at the intersection of Bishop and Craddock. An update will be required at the time the Mixed Use portion of Phase I is developed.
Utility Capacity:	Utilities will be provided on-site by the City of San Marcos. The developer is responsible for the construction of a private lift station on site.

Planning Department Analysis:

Among the purposes a Concept Plat are to delineate the sequence and timing of development within a proposed subdivision and to determine the availability and capacity of public improvements needed. After approval of a Concept Plat variations to increase the intensity, density or number of units of a proposed development are not allowed without amending the original Concept plat.

The original Concept Plat provided for a population density of 802 within the Phase 1 portion of the development as well as allowed densities in Phases 1A, 2 and 3. Capstone Properties, plans to purchase 35.4 acres of zoned MF-12 land in Phase 1 of the development for a student oriented multi-family housing project. The proposed project is 194 units with a population density of 899. The applicant, therefore, seeks the amendment to modify the population density and number of units in Phase 1.

This project is subject to a Development Agreement approved by the City Council in 2009. Before Capstone may purchase the 35 acre tract for its proposed student oriented project, the Development

Agreement must be partially assigned to Capstone, subject to approval of the City Council. The City Council conditioned its consent to a partial assignment on the dedication of Phases 2 and 3 to the City as parkland and the allocation of 71 units to the Mixed Use portion of the development. Thus, in addition to the modifications to the densities and numbers of units for Phase 1 related to the Capstone project, the amended Concept Plat provides for the dedication of Phases 2 and 3 as parkland (and the timing for such dedication), and for the allocation of 71 units to Phase 1A.

Prior Development Approvals

- Development Agreement: December 2009
- Phase 1 (MF and MU) Zoning and Land Use: May 2010
- Watershed Protection Plan Phase 1: August 2010
- Traffic Impact Analysis: December 2010
- Concept Plat: January 2011
- Watershed Protection Plan Phase 2 (includes Geological Assessment): March 2013
    - *WPAP (Water Pollution Abatement Plan) – March 8, 2013*
    - *SCS (Sewage Collection System) – March 28, 2013*
- Phase 1 Final Plat: April 2013

Recommendation

The amendment to the Concept Plat meets the purposes and criteria for approval under Chapter 1, Article 6, Division 2 of the Land Development Code. Staff presents this request to the Commission and recommends approval of PC-10-14_01 as submitted.

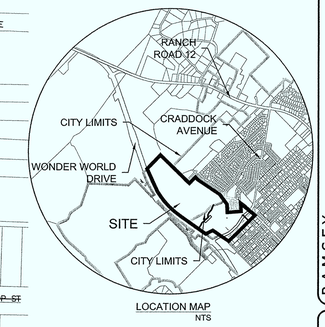
Planning Department Recommendation	
X	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
	Statutory Denial

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this proposed Concept 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, approve with limited conditions, disapprove, or to statutorily deny (an action that keeps the applicant "in process") the Concept Plat.

Prepared By:

Emily Koller	Planner	June 19, 2013
Name	**Title**	**Date**



LOCATION MAP
NTS

CONCEPTUAL LAND PLAN SUMMARY						
PHASING PLAN	SCHEDULE OF PHASING	ZONING ACREAGE	FUTURE LAND USE MAP DESIGNATION	ZONING	NUMBER OF DWELLING UNITS	POPULATION DENSITIES
PHASE 1	SUMMER 2013	*33.2	MEDIUM DENSITY RESIDENTIAL	MF-12	194	899
PHASE 1 A	SUMMER 2015	*12.88	MIXED USE	MU	71	213
PHASE 2	——	18.81	VERY LOW DENSITY RESIDENTIAL	——	0	0
PHASE 3	——	75.15	VERY LOW DENSITY RESIDENTIAL	——	0	0

* ZONING ACREAGE INCLUDES ONE HALF OF ADJACENT STREET R.O.W.

TOTAL # ALLOWABLE LOTS / UNIT BASED ON PROJECT DENSITY = 459
TOTAL PROJECT AREA = 153.15± ACRES
OVERALL PLAN DENSITY = 1.73 LOTS/UNITS PER ACRE
MAXIMUM ALLOWABLE/DENSITY=3.0 LOTS/ UNITS PER ACRE (VERY LOW RESIDENTIAL)

PARKLAND DEDICATION

REQUIRED		5.56 ACRES
PROPOSED	OUTPARCEL #1 & #2	8.80 ACRES

PHASES 2 AND 3 TO BE DONATED TO CITY AS PARKLAND. PARKLAND CONVEYANCE TO OCCUR AT THE SAME TIME OF THE PHASE 1 SECTION 1 FINAL PLAT RECORDATION AND THE DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT RECORDATION.

NOTES

1. WATERSHED PROTECTION PLAN PHASE 1 AND 2 APPROVED.
2. STORM WATER DETENTION WAIVER APPROVED WITH WATERSHED PROTECTION PLAN PHASE 1.
3. RESOLUTION #2009-166R WAS APPROVED FOR THE SITE ON DECEMBER 2009.
4. DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT APPROVED BY CITY COUNCIL ON 6/18/13.

RAMSEY ENGINEERING
Ramsey Engineering, LLC
Civil Engineering • Consulting
TBPE Firm No. F-12606
3206 Yellowpine Terrace
Austin, Texas 78757
Cell: 512-650-6800
skramsey53@att.net

DESIGNED: SR | DRAWN: AL | REVIEWED: CD

6/19/13

No.	DATE	REVISIONS	RECOM'D
1	6/19/13	AMENDMENT PER CITY COUNCIL APPROVED DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT	SR

PROJECT: BUIE TRACT SUBDIVISION SAN MARCOS, TX

SHEET TITLE: CONCEPT PLAT

PROJECT No. 10-002-12

SHEET No. 1 OF 1

S:\Projects_10\419-RE-Buie Tract\0419-001-10 Buie Tract - Preliminary Conceptual Land Plan\Exhibits\2013-06-19-CONCEPT-PLAN-CURRENT.dwg; Layout: "CCSM-BUF-ZONE"; Wed, Jun 19, 2013, 4:14pm by JimmyM

When recorded, return to:
Capstone Collegiate Communities, LLC
431 Office Park Drive
Birmingham, Alabama 35223

DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT, ASSUMPTION AND CITY CONSENT AGREEMENT

This Development Agreement Partial Assignment, Assumption and City Consent Agreement ("Agreement") is entered into by and among Craddock Avenue Partners LLC ("Assignor"), Capstone Collegiate Communities, LLC ("Assignee"), and the City of San Marcos ("City"), with reference to the following recitals of fact and intention:

A. Assignor and City have executed that certain that certain Development Agreement regarding the Buie Tract Property dated November 24, 2009 and recorded in Volume 3914, Page 871 of the Official Public Records of Hays County, Texas, (the "Original Agreement"), concerning certain real property located in the City of San Marcos, County of Hays, State of Texas as further described on Exhibit "A" to the Development Agreement (the "Overall Property"), as such Original Agreement was approved by the City pursuant to Resolution No. 2009-166R dated December 1, 2009 (the "Resolution") and as corrected by the Correction to Recorded Development Agreement dated October 26, 2012, recorded on November 7, 2012 in the Official Records as Document Number 1203224 (the "Correction"; the Original Agreement, Resolution and Correction collectively, the "Development Agreement").

B. Assignee is under contract to purchase from Assignor a portion of the Overall Property as further described on Exhibit "1" attached hereto (the "Capstone Property"). As a condition to Assignee's purchase of the Capstone Property, Assignor desires to assign all of its right, title and interest under the Development Agreement with respect to the Capstone Property to Assignee, and Assignee desires to assume all of Assignor's obligations under the Development Agreement with respect to the Capstone Property, and City desires to consent to such assignment and assumption, upon the terms that follow.

C. Assignor desires to retain all of its right, title and interest under the Development Agreement with respect to all portions of the Overall Property other than the Capstone Property ("Assignor's Remaining Property").

D. City, Assignor and Assignee (referred to herein individually as a "Party" and collectively as the "Parties") also wish to confirm the status of and clarify certain matters addressed in the Development Agreement.

E. The Parties do not intend to alter or amend the terms of the Development Agreement, but only to set forth how the rights and obligations of Assignor under the Development Agreement will be split between Assignor and Assignee following the sale and transfer of the Capstone Property to Assignee.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment of Rights. Effective upon closing of the sale of the Capstone Property from Assignor to Assignee (the "Closing"), and only if the Closing occurs, Assignor hereby assigns to Assignee all of its right, title and interest in, to and under the Development Agreement with respect to the Capstone Property. Assignor hereby represents and warrants that Assignor is not currently in default under the Development Agreement, and, to Assignor's knowledge, the City is not currently in default under the Development Agreement. City hereby confirms that, to its knowledge, Assignor is not currently in default under the Development Agreement and that the City is not currently in default under the Development Agreement .

2. Assumption of Responsibilities. Effective upon the Closing, and only if the Closing occurs, Assignee assumes and agrees to be bound by and liable for all of the covenants, warranties, representations and agreements to be observed or performed under the Development Agreement with respect to the Capstone Property from and after the Closing, with the same effect as though Assignee was the original and named developer under the Development Agreement with respect to the Capstone Property. Assignee acknowledges receipt of a copy of the Development Agreement which was previously provided to Assignee, and Assignee has read and fully understands the Development Agreement.

3. Retained Rights and Responsibilities. Assignor retains all right, title and interest in, to and under the Development Agreement with respect to Assignor's Remaining Property. Assignee has no liability whatsoever for performance of Assignor's covenants, warranties, representations and agreements to be observed or performed by the Assignor under the Development Agreement with respect to Assignor's Remaining Property, whether required to be performed before or after the Closing. Assignor has no liability whatsoever for performance of Assignee's covenants, warranties, representations and agreements to be observed or performed by the Assignee under the Development Agreement with respect to the Capstone Property after the Closing. Assignee has no liability whatsoever for performance of Assignor's covenants, warranties, representations and agreements to be observed or performed by the Assignor under the Development Agreement with respect to the Capstone Property prior to the Closing. No failure by Assignor to fully comply with any and/or all requirements under the Development Agreement applicable to Assignor's Remaining Property after the Closing shall constitute a default under the Development Agreement with respect to the Capstone Property or in any other manner suspend, delay, terminate, modify the right of Assignee to pursue development of the Capstone Property in accordance with the Development Agreement.

4. Density Allocation. Effective upon Closing:

4.1. Of the Permitted Project Density set forth in Section 2(a) of the Development Agreement, 194 Lots/Units are exclusively allocated to the Capstone Property. The remaining Lots/Units are allocated to Assignor's Remaining Property, subject to the requirements of the

Development Agreement and any applicable deed restrictions, covenants or other conditions running with the land.

4.2. Of the Phase 1 Density set forth in Section 2(b) of the Development Agreement, 194 Lots/Units are exclusively allocated to the Capstone Property. The remaining Lots/Units are allocated to Assignor's Remaining Property within Phase 1, subject to the requirements of the Development Agreement and any applicable deed restrictions, covenants or other conditions running with the land.

5. Impervious Cover Allocation. Effective upon Closing:

5.1. Of the Permitted Project Impervious Cover set forth in Section 3(a) of the Development Agreement, 16.50 acres of the permitted project impervious cover are exclusively allocated to the Capstone Property, with the remaining 14.13 acres of permitted project impervious cover allocated to Assignor's Remaining Property in whatever manner Assignor desires in accordance with the Development Agreement.

5.2. Any remaining permitted project impervious cover not utilized by Assignee following completion of development of the Capstone Property may be used on Assignor's Remaining Property in accordance with the terms of the Development Agreement.

6. City Consent to Assignment and Assumption and Effective Date of Agreement. Subject to the satisfaction of those certain conditions as approved by the San Marcos City Council on June 18, 2013, attached hereto and made a part hereof as Exhibit "2" (the "City's Conditional Approval"), City hereby consents to such partial assignment and assumption in conformance with the terms and conditions of the Development Agreement. This Agreement shall be effective upon the full satisfaction of the City's Conditional Approval (the "Effective Date"), and City hereby agrees that, from and after the Effective Date of this Agreement, it shall recognize Assignee as the "Owner" of the Capstone Property for all purposes under the terms of the Development Agreement.

7. Notice Address. If any notice is given by the City to either the Assignor or the Assignee, the City shall also give such notice to the other Party. For purposes of notices under the Development Agreement, the address for Assignee is Capstone Collegiate Communities, LLC, 431 Office Park Drive, Birmingham, Alabama 35223, Attention: John Vawter, with a copy to David A. Ryan, Esq., Hand Arendall LLC, 71 N. Section Street, Suite B, Fairhope, Alabama 36532 and the address for Assignor is P.O. Box 50324, Austin, Texas 78763, with a copy to Douglas Bender, Esq., 1208 West Avenue, Austin, Texas 78701.

8. Notice and Cure Rights of Designees. If any notice is given by the City to the Assignor or the Assignee, the City shall also give such notice to Assignee's construction lender and any other party requested in writing by Assignee (such lender or other party, an "Assignee Designee"). Any written designation of an Assignee Designee will include a notice address for such Assignee Designee. The City further acknowledges that any Assignee Designee has a right (but not the obligation) to remedy or cure any default by the Assignee under the Development

Agreement on behalf of the Assignee, and that the City will accept such remedy or cure by the Assignee Designee on behalf of the Assignee.

9. Indemnification. Assignor shall indemnify and hold harmless Assignee from any claims, obligations, or liabilities related to the Development Agreement for any actions or events that occurred prior to the Closing. Assignee shall indemnify and hold harmless Assignor from any claims, obligations, or liabilities related to the Development Agreement with respect to the Capstone Property for any actions or events that shall occur after the Closing. Assignor shall indemnify and hold harmless Assignee from any claims, obligations, or liabilities related to the Development Agreement with respect to Assignor's Remaining Property for any actions or events that shall occur after the Closing.

10. Assignor's Representations and Warranties. Assignor does hereby represent and warrant to Assignee and City as follows:

(a) The Development Agreement is in full force and effect in all respects, and has not been amended or modified (except as specifically contemplated in this Agreement) and has not been terminated;

(b) Assignor has performed all of its obligations under the Development Agreement as of the Effective Date, and no condition, act, or omission that constitutes or would constitute, with notice, the passage of time, or both, a default by Assignor under the Development Agreement has occurred; and

(c) Assignor has full power and authority to enter into this Agreement and assign all of its rights and remedies under the Development Agreement with respect to the Capstone Property to Assignee.

11. Further Assignment. The Parties acknowledge that prior to Closing, Assignee intends to assign all of its rights with respect to the Capstone Property to a special purpose entity managed or otherwise controlled by Assignee. Assignee may assign its rights under the Development Agreement and this Agreement to a special purpose entity managed or otherwise controlled by Assignee without further consent by Assignor or the City, provided that (i) Assignee gives the City prior written notice of the assignment, including a copy of the special purpose entity's organizational documents or other evidence showing the entity is managed or controlled by Assignee, (ii) such assignment is done in connection with the purchase of the Capstone Property by such entity, and (iii) the assignment instrument is recorded in the public records where this Agreement and the Development Agreement are recorded. Assignee, or the special purpose entity to which the Development Agreement is assigned, may further collaterally assign Assignee's rights under the Development Agreement to a lender providing construction financing for the Capstone Property without further consent by Assignor or the City, provided that (i) Assignee gives the City prior written notice of the assignment and (ii) the assignment instrument is recorded in the public records where this Agreement and the Development Agreement are recorded.

12. Defined Terms. All defined terms used herein shall have the meanings ascribed to them in the Development Agreement, unless otherwise defined herein.

13. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signature of each of the parties to one of such counterpart signature pages and all such counterpart signature pages shall be attached to one Agreement and read having the same force and effect as though all the signatories had signed a single page.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

15. Attorney's Fees. In any action brought by a Party hereto to enforce the obligations of any other party hereto, the substantially prevailing Party shall be entitled to collect from the opposing party to such action such substantially prevailing Party's reasonable litigation costs and attorney's fees and expenses (including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation).

16. Recitals. The recitals of fact and intention set forth on the first page of this Agreement are incorporated herein by this reference and are acknowledged by the parties to be true and correct.

17. Full Force and Effect. All terms, covenants, conditions and provisions set forth in the Development Agreement shall remain in full force and effect as supplemented and/or clarified by this Agreement.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.

SIGNATURE PAGE OF ASSIGNOR TO
DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT,
ASSUMPTION AND CITY CONSENT AGREEMENT

ASSIGNOR:
Craddock Avenue Partners, LLC

By: _____
Name: _____
As Its: _____

STATE OF _____
COUNTY OF _____

SWORN TO AND SUBSCRIBED before me on _____, 2013 by _____, in his/her capacity as _____ of Craddock Avenue Partners, LLC, and known to me, or proved to me by photo identification, to be the person who executed this instrument.

_____

Notary Public, State of _____
My Commission Expires _____

SIGNATURE PAGE OF ASSIGNEE TO
DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT,
ASSUMPTION AND CITY CONSENT AGREEMENT

ASSIGNEE:
Capstone Collegiate Communities, LLC

By: _____
Name: _____
As Its Authorized Member

STATE OF _____
COUNTY OF _____

SWORN TO AND SUBSCRIBED before me on _____, 2013 by _____, in his capacity as an Authorized Member of Capstone Collegiate Communities, LLC, and known to me, or proved to me by photo identification, to be the person who executed this instrument.

_____

Notary Public, State of _____
My Commission Expires _____

SIGNATURE PAGE OF CITY TO
DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT,
ASSUMPTION AND CITY CONSENT AGREEMENT

CITY CONSENT:
City of San Marcos, Texas

By _____
Name: _____
As Its: _____

STATE OF _____
COUNTY OF _____

SWORN TO AND SUBSCRIBED before me on _____, 2013 by _____, in his/her capacity as _____ of the City of San Marcos, Texas, and known to me, or proved to me by photo identification, to be the person who executed this instrument.

_____

Notary Public, State of _____
My Commission Expires _____

EXHIBIT "1"
CAPSTONE PROPERTY

FIELD NOTE DESCRIPTION OF 35.429 ACRES OF LAND OUT OF THE THOS. JEFFERSON CHAMBERS SURVEY ABSTRACT No. 2 AND THE JOHN WILLIAMS SURVEY, ABSTRACT No. 471, BOTH IN HAYS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN (174.27 ACRE) TRACT OF LAND AS CONVEYED TO CRADDOCK AVENUE PARTNERS, L.L.C. BY GENERAL WARRANTY DEED RECORDED IN VOLUME 3198 PAGE 68 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a capped iron rod found (marked "Byrn") at an angle corner of that certain (174.27 acre) tract of land as conveyed to Craddock Avenue Partners, L.L.C. by General Warranty Deed recorded in Volume 3198, Page 68 of the Official Public Records of Hays County, Texas, and for the Southeast corner of Lot 5, Block B, Section One Bishop Crossing Subdivision, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 9 Page 261 of the Plat Records of Hays County, Texas, and from which a 60D nail found for the Southwest corner of Lot 9, Block C, of said Section One Bishop Crossing Subdivision, bears S 86 deg. 16' 45" W 576.44 ft., and also from which a capped iron rod found (marked "Byrn") in the curving South right-of-way line of Bishop Street for the Northeast corner of Lot 1, Block B, of said Section One Bishop Crossing Subdivision bears N 03 deg. 51' 12" W 353.26 ft.;

THENCE entering the interior of said Craddock Avenue Partners (174.27 acre) tract, S 03 deg. 58' 40" E 85.76 ft. to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." for an angle corner and the **PLACE OF BEGINNING** of the herein described tract;

THENCE continuing across the interior of said Craddock Avenue Partners (174.27 acre) tract with a Northeasterly line of this tract, **S 47 deg. 03' 06" E 109.21 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." for a Northeasterly angle corner of this tract, same being a point in the Northwesterly right-of-way line of Craddock Lane as described in General Warranty Deed to the City of San Marcos as recorded in Volume 3753, Page 565 of the Official Public Records of Hays County, Texas;

THENCE continuing across the interior of said Craddock Avenue Partners (174.27 acre) tract with the Northwesterly right-of-way line of Craddock Lane and with the Southeasterly line of this tract, the following six (6) courses;

1) along a curve to the left with a radius of 994.00 ft. for an arc length of 175.56 ft. and which chord bears **S 37 deg. 41' 38" W 175.33 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of tangency;
2) **S 32 deg. 38' 03" W 196.28 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of curvature;
3) along a curve to the right with a radius of 916.00 ft. for an arc length of 217.16 ft. and which chord bears **S 39 deg. 25' 33" W 216.65 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of tangency;
4) **S 46 deg. 13' 02" W 176.40 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of curvature;

5) along a curve to the right with a radius of 916.00 ft. for an arc length of 402.29 ft. and which chord bears **S 58 deg. 47' 57" W 399.06 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of tangency;
6) **S 71 deg. 22' 24" W 144.14 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at a point of intersection with a Southwesterly line of said Craddock Avenue Partners (174.27 acre) tract for a Southerly angle corner of this tract, and from which a capped iron rod found (marked "Byrn") for the called most easterly Southeast corner of said Craddock Avenue Partners (174.27 acre) tract bears S 55 deg. 45' 56" E 426.23 ft.;

THENCE with a Southwesterly line of said Craddock Avenue Partners (174.27 acre) tract, the following four (4) courses;

1) **N 55 deg. 45' 56" W 360.50 ft.** to a capped iron rod found (marked "Solis Kanak");
2) **N 55 deg. 33' 48" W 49.88 ft.** to a ½" iron rod found;
3) **S 58 deg. 28' 47" W 43.88 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.", set in place of a capped iron rod found (marked "Solis Kanak") found on December 9, 2009 by Holt Carson, Inc.;
4) **S 58 deg. 27' 17" W 271.82 ft.** to a PK Nail found at the base of a metal fence post in the Northeast right-of-way line of Wonder World Drive, 100.00 ft. left of record engineers station 118+57.37, for an angle corner of this tract, and from which a capped iron rod found (marked "TxDOT") bears S 55 deg. 01' E 113.68 ft.;

THENCE entering the interior of said Craddock Avenue Partners (174.27 acre) tract with the Northeast right-of-way line of Wonder World Drive, **N 55 deg. 01' 00" W** passing a capped iron rod found (marked "Savory") at a distance of 557.55 ft., continuing along said bearing for a total distance of **898.78 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc." for a Southwesterly angle corner of this tract;

THENCE leaving the Northeasterly right-of-way line of Wonder World Drive and continuing across the interior of said Craddock Avenue Partners (174.27 acre) tract, the following six (6) courses;

1) **N 62 deg. 49' 27" E 743.43 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.";
2) **N 43 deg. 01' 51" E 324.83 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.";
3) **N 50 deg. 22' 14" E 87.07 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.";
4) **N 62 deg. 32' 36" E 142.16 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.";
5) **S 54 deg. 21' 25" E 704.79 ft.** to a ½" iron rod found with a plastic cap imprinted "Holt Carson, Inc.";
6) **N 84 deg. 47' 42" E 574.00 ft.** to the **PLACE OF BEGINNING,** containing **35.429 acres** of land.

EXHIBIT "2"
CITY'S CONDITIONAL APPROVAL

The following are conditions to the consent of the City of San Marcos to the Development Agreement Partial Assignment and Assumption granted herein. This Agreement and the City's consent hereto shall not be effective until each of said conditions below have been satisfied and/or incorporated into recorded restrictive covenants.

1. Approximately 94 acres (Phases 2 and 3) of the 153 acre tract will be dedicated to the City as parkland.

2. 8.804 acres of land in Phase 1 along Wonder World Drive as indicated in the Phase 1, Section 1 Final Plat will be dedicated to the City as parkland.

3. The density on the Phase 1 multi-family residential tract will be reduced from 382 units as originally allowed to 194 units with a population density of 899.

4. 71 units will be assigned to the Mixed Use area of Phase 1 with a limit of three bedrooms per unit. No leased or rented by the bedroom multi-family dwelling units will be allowed on any portion of such Mixed Use area. In addition, building heights shall not exceed one story in the portion of the Mixed Use area on the west side of Craddock Avenue that abuts the Franklin Square neighborhood.

5. An amendment to the Concept Plat for consideration by the San Marcos Planning and Zoning Commission will be initiated to modify the Conceptual Land Plan Summary Table as follows:

Phasing Plan	Zoning Acreage	Zoning	Number of Dwelling Units Previously Approved	Existing Concept Plat Population Density	Potential Population Including Phase 2	Number of Dwelling Units Proposed	Population Density Proposed
Phase 1	33.2+/-	MF-12	382	802	802	194	899
	12.88 +/-	MU	71	149	149	71	213
			453	**951**	**951**	**265**	**1,112**
Phase 2	18.81 +/-	TBD	Transfer of Unused Phase I Units	Not Addressed in Concept Plat	476*	0~~10~~	0~~27~~
Phase 3	75.15+/-	TBD	4	11	11	0~~4~~	0~~11~~
	All Phases Total		**457**	**962**	**1,438****	**265~~279~~**	**~~1,150~~ 1,122**

* Note: 188 units transferred from Phase 1 x (4.63 bedrooms/ units in Capstone project minus 2.1 bedrooms per unit per existing Concept Plat).

**(382 x 2.1= 802) + (71 x 2.1= 149)+ (188 x 2.53= 476)+ 11 = 1,438.

Approval of the amendment to the Concept Plat is a condition of the City's consent granted herein.

6. The developer of the multi-family 35 acre portion of Phase 1 shall enter into a contract deemed acceptable to City staff to have a private company provide shuttle service to transport residents of the multi-family development to and from Texas State University-San Marcos (Texas State) until such time that the Texas State shuttle system provides shuttle service.

7. Craddock Avenue Partners, L.L.C. agrees to update the Traffic Impact Analysis ("TIA") prior to final plat submittal of the Mixed Use portion of Phase 1 and to implement such improvements as are recommended by the TIA in relation to its proportionate responsibility under applicable City Ordinances.

8. No leased or rented by the bedroom multi-family dwelling units will be allowed on any portion of the Assignor's Remaining Property.

9. The owners of all the property subject to the Development Agreement will execute and record restrictive covenants in favor of the City and in a form acceptable to the City Attorney reflecting the above terms (the unit allocations and population densities listed in the Concept Plat as amended will be included within the restrictive covenants).

Agenda Information

AGENDA CAPTION:

PC-13-03_03 (Retreat on Willow Creek) Consider a request by Carlson, Brigance and Doering, on behalf of Preferred Development Partners, for approval of a Final Plat and associated subdivision improvement agreement for approximately 47.232 acres, more or less, out of the Juan M. Veramendi Survey No. 1, Abstract 17, establishing the Retreat on Willow Creek Phase 1 subdivision located near the intersection of Stagecoach Trail and Hunter Road.

Meeting date: June 25, 2013

Department: Development Services - Planning

Funds Required: NA

Account Number: NA

Funds Available: NA

Account Name: NA

CITY COUNCIL GOAL:

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

BACKGROUND:

The subject property is part of the Retreat on Willow Creek Planned Development District and has a base zoning of Mixed Use. The PDD overlay limits the property to single family residential only.

The Phase I Final Plat is consistent with the Preliminary Plat which was approved by Planning and Zoning Commission on April 23, 2013. The developer now plans to purchase the property within Phase 1 and defer the public improvements until after Final Plat approval.

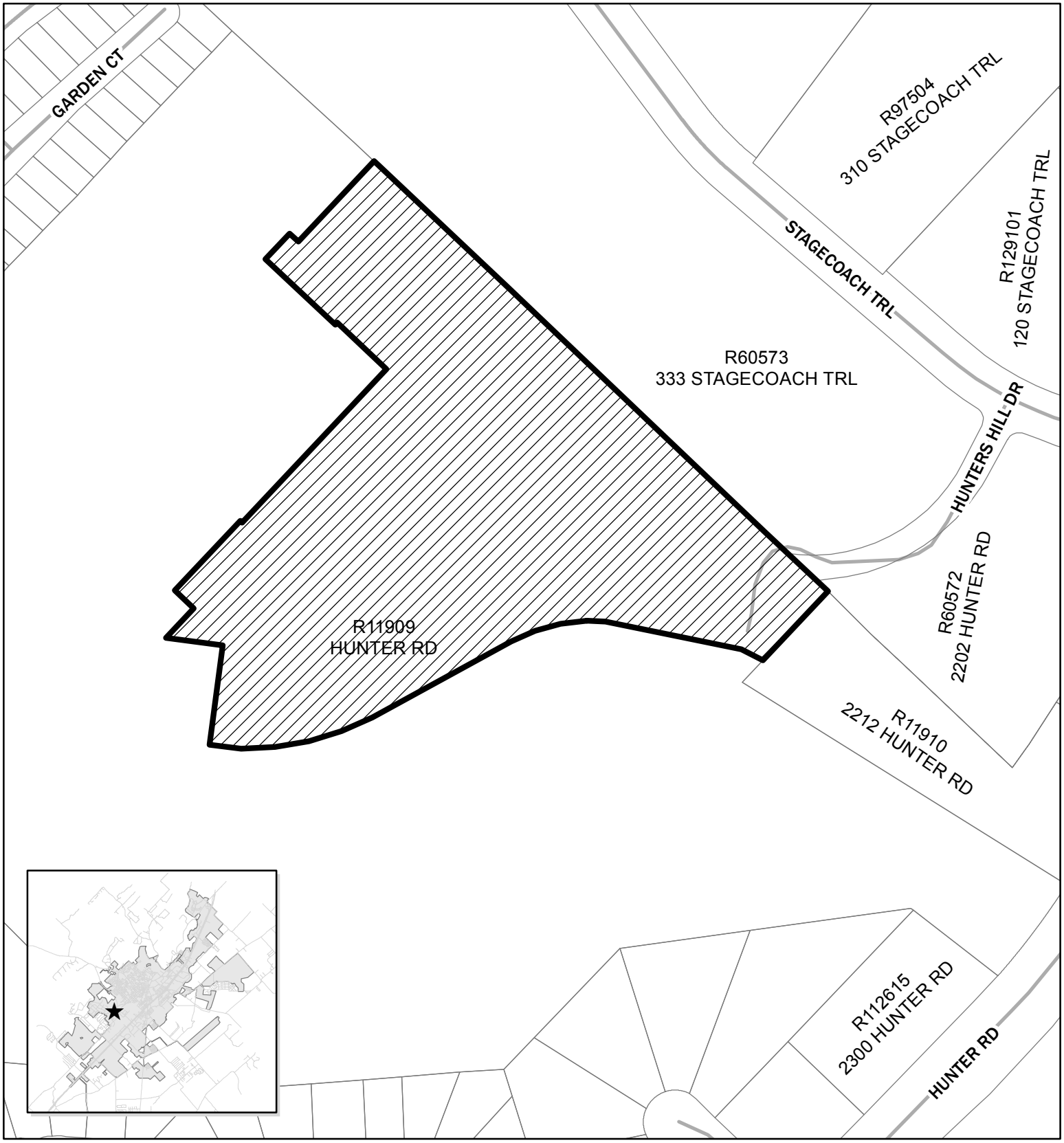
Phase 1 consists of 49 single family lots and more than 32 acres of parkland dedication. Access will be from Stagecoach Trail on the newly constructed Hunters Hill Drive.

The Public Improvements Construction Plan and Watershed Protection Plan Phase 2 have been approved by the Director of Engineering.

The plat meets the requirements established in the Land Development Code as well as Retreat on Willow Creek PDD. Staff recommends approval as submitted.

ATTACHMENTS:

Case Map
Staff Report
Plat
Subdivision Improvement Agreement



PC-13-03(03)
Retreat at Willow Creek Phase I
Stagecoach Trail @ Hunter Road
Map Date: 3/6/2013

Site Location
Notification Area (200 feet)

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.

PC-13-03_03
Final Plat
The Retreat on Willow Creek Phase 1

Applicant Information:

Agent: Carlson, Brigance and Doering Inc.
5501 W. William Cannon Drive
Austin, TX 78744

Applicant: KB Home Lonestar, Inc.
10800 Pecan Park, Suite 200
Austin, TX 78750

Property Owner: Preferred Development Partners
215 W. Bandera Road
Boerne, TX 78006

Subject Property:

Summary: The subject property is approximately 47.232 acres out of the J.M. Veramendi Survey No. 1, Abstract 17, located west of Hunter Road and south of Stagecoach Trail.

Zoning: PDD overlay with Mixed Use (MU) base zoning.

Traffic/ Transportation: The property will be accessed from Hunters Hill Drive, which will be extended from Stagecoach Trail as part of the public improvements. The TIA has been recommended for approval and requires a pro rata contribution to road and signal improvements on Hunter Road.

Utility Capacity: All utilities are provided for onsite. Some line extensions are required. A public utility easement has been granted by the San Marcos CISD along Hunters Hill Drive to provide electrical service to the property. A water and wastewater line extension is also required.

Planning Department Analysis:

The subject property is part of the Retreat on Willow Creek Planned Development District and has a base zoning of Mixed Use. The PDD overlay limits the property to single family residential only. The Phase I Final Plat is consistent with the Preliminary Plat which was approved by Planning and Zoning Commission on April 23, 2013. The developer now plans to purchase the property within Phase 1 and defer the public improvements until after Final Plat approval.

There are 49 single family lots in Phase 1; however, due to the requirements of the PDD, a maximum of 25 homes are permitted to be constructed. Prior to the construction of the 26th home, the developer is required to submit construction plans and complete the road and bridge across the floodplain to provide the required two points of access.

Public parkland dedication totaling 32.628 acres is included in this plat. An additional park development fee of $23,000 negotiated as part of the PDD will also be received prior to recordation. Two lots within the subdivision are dedicated as access easements to allow public access to the parkland and ten parking spaces are provided for park users only.

The public improvements for Phase 1 include three streets, water quality/drainage improvements and public parking for the Parkland. The PICP and Watershed Protection Plan Phase 2 have been approved by the Director of Engineering. The Subdivision Improvement Agreement has been executed by the property owner (attached) as well as an Assignment and Assumption of Subdivision Improvement Agreement, assigning development rights for Phase 1 to KB Home Lonestar Inc.

The Traffic Impact Analysis has been recommended for approval. Recommendations are based on the full build-out of the entire Retreat on Willow Creek development – 253 single family homes. Signal and intersection improvements are called for at Hunter Road and Foxtail Run, as well as at Hunter Road and Wonder World Drive. These will be required at the time Foxtail Run is extended through the subdivision connecting Phases 1-3 (153 lots) on the north side of Willow Creek and Phase 4 (approximately 100 lots) on the south side.

Staff has reviewed the request and determined that the plat meets the requirements of the Land Development Code as well as the requirements of the Retreat on Willow Creek Planned Development District and recommends approval.

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, or to statutorily deny (an action that keeps the applicant "in process") the plat.

Prepared by:

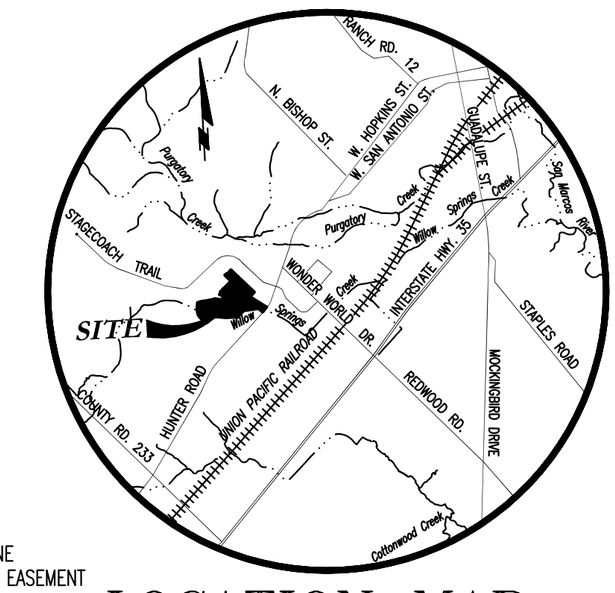
Name	Title	Date
Emily Koller	Planner	June 13, 2013

THE RETREAT ON WILLOW CREEK PHASE 1

SCALE: 1" = 100'

LEGEND

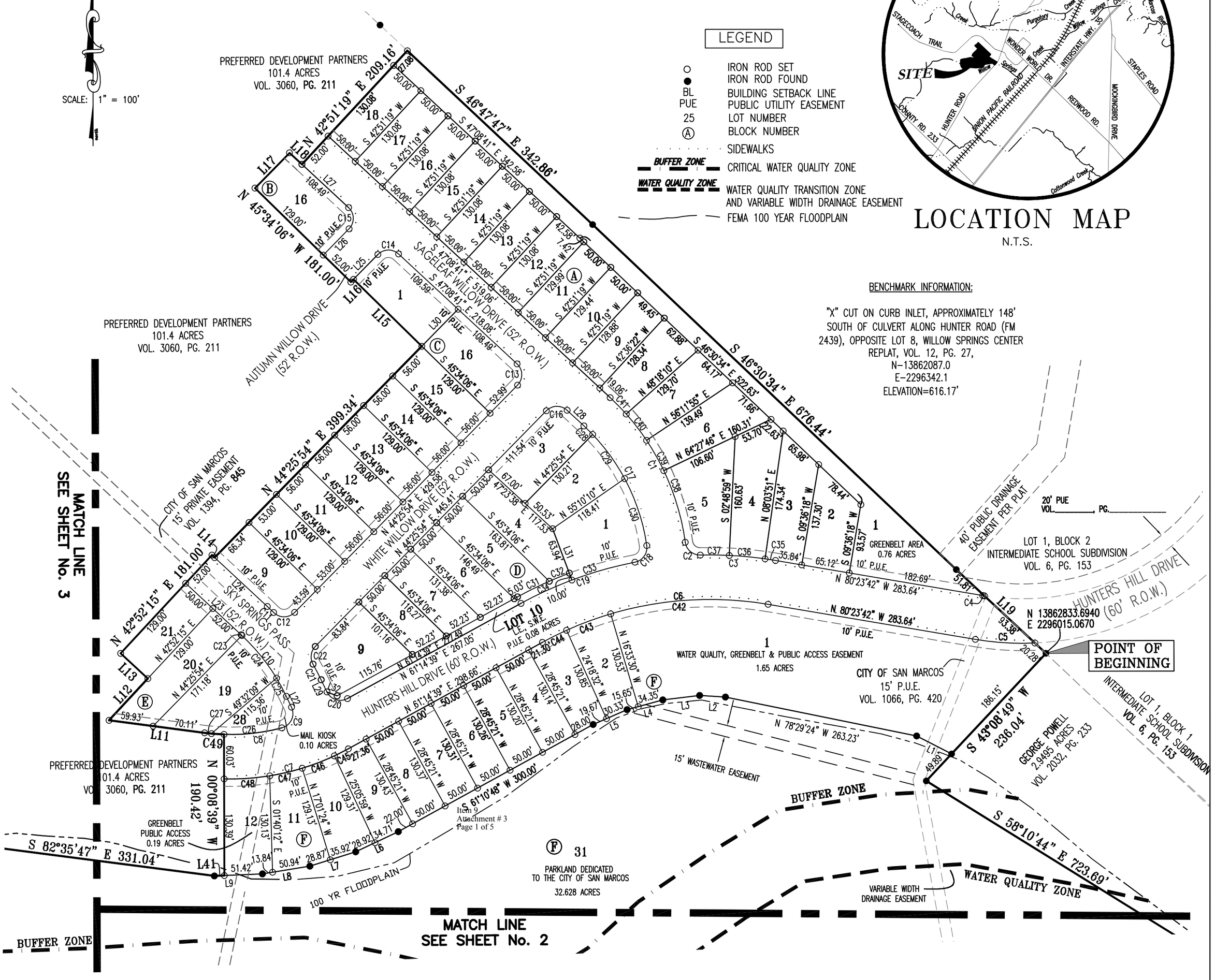
○	IRON ROD SET
●	IRON ROD FOUND
BL	BUILDING SETBACK LINE
PUE	PUBLIC UTILITY EASEMENT
25	LOT NUMBER
Ⓐ	BLOCK NUMBER
. . . . .	SIDEWALKS
BUFFER ZONE	CRITICAL WATER QUALITY ZONE
WATER QUALITY ZONE	WATER QUALITY TRANSITION ZONE AND VARIABLE WIDTH DRAINAGE EASEMENT
— — —	FEMA 100 YEAR FLOODPLAIN



LOCATION MAP
N.T.S.

BENCHMARK INFORMATION:

"X" CUT ON CURB INLET, APPROXIMATELY 148' SOUTH OF CULVERT ALONG HUNTER ROAD (FM 2439), OPPOSITE LOT 8, WILLOW SPRINGS CENTER REPLAT, VOL. 12, PG. 27,
N-13862087.0
E-2296342.1
ELEVATION=616.17'



Item 9
Attachment # 3
Page 1 of 5

DATE: JUNE 07, 2013

ACREAGE: 47.232 ACRES

SURVEY: J. VERAMENDI SURVEY, NUMBER 1, ABSTRACT 17, HAYS COUNTY, TEXAS

TOTAL NUMBER OF LOTS:	55
SINGLE FAMILY LOTS	49
GREENBELT/ACCESS LOT	1
MAIL KIOSK LOT	1
LANDSCAPE/SIDEWALK LOT	1
WATER QUALITY/ACCESS/GREENBELT LOT	1
GREENBELT AREA LOT	1
NUMBER OF BLOCKS	6
PARKLAND LOT	1

OWNER: PREFERRED DEVELOPMENT PARTNERS, LTD
215 WEST BANDERA ROAD
BOERNE, TEXAS 78006
(830) 755-6491 phone

ENGINEER & SURVEYOR:
CARLSON, BRIGANCE & DOERING, INC.
5501 WEST WILLIAM CANNON DRIVE
AUSTIN, TEXAS 78749
(512) 280-5160 phone
(512) 280-5165 fax

STATE OF TEXAS }
COUNTY OF TRAVIS }

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT.

DO HEREBY CERTIFY THAT A PORTION OF THIS PROPERTY IS LOCATED WITHIN A DESIGNATED 100-YEAR FLOOD ZONE AREA, AS DELINEATED ON THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANELS 48209C 0476F, AND 0477F, DATED SEPTEMBER 2, 2005, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. ADDITIONALLY, STORMWATER RUNOFF FROM THE 100 YEAR STORM EVENT SHALL BE CONTAINED WITHIN THE DRAINAGE FACILITIES TO BE LOCATED WITHIN THE RIGHTS-OF-WAY, AND /OR OPEN SPACE AND DRAINAGE EASEMENT LOTS.

_____
CHARLES R. BRIGANCE, Jr., P.E. No. 64346 DATE
CARLSON, BRIGANCE & DOERING, INC.
5501 WEST WILLIAM CANNON
AUSTIN, TEXAS 78749
(512) 280-5160

STATE OF TEXAS
CHARLES R. BRIGANCE JR.
64346
LICENSED
PROFESSIONAL ENGINEER

CARLSON, BRIGANCE & DOERING, INC.
ID# F3791

STATE OF TEXAS }
COUNTY OF TRAVIS }

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

SURVEYED BY: _____
AARON V. THOMASON, R.P.L.S #6214 DATE
CARLSON, BRIGANCE & DOERING, INC.
5501 WEST WILLIAM CANNON
AUSTIN, TEXAS 78749
aaron@cbdeng.com

STATE OF TEXAS
REGISTERED
AARON V. THOMASON
6214
PROFESSIONAL
LAND SURVEYOR

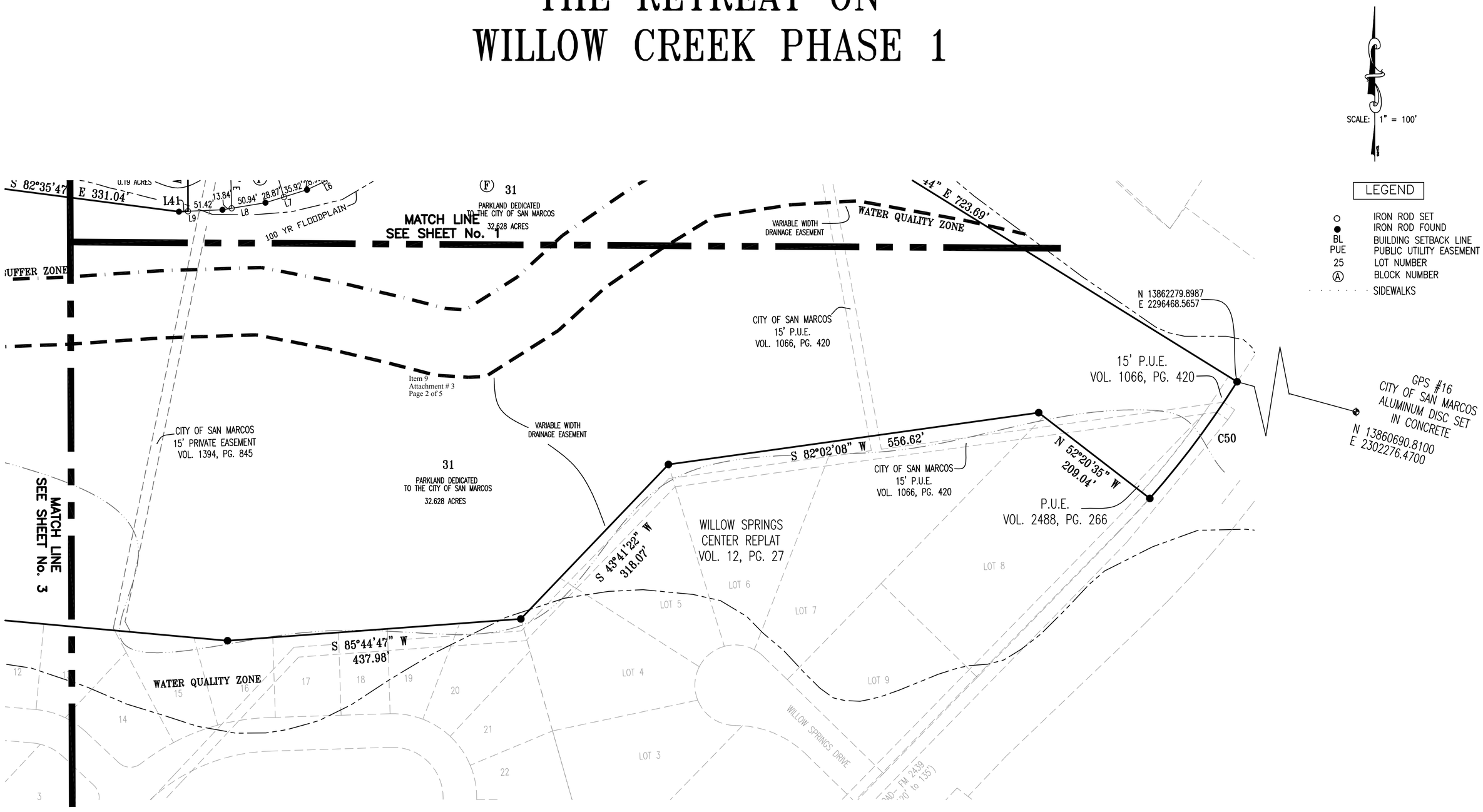
SHEET 1 OF 5

A SUBDIVISION OF 47.232 ACRES BEING RETREAT ON WILLOW CREEK PHASE 1, IN THE J. VERAMENDI SURVEY, NUMBER 1, ABSTRACT 17, HAYS COUNTY, TEXAS

Carlson, Brigance & Doering, Inc.
Civil Engineering ◆ Surveying
5501 West William Cannon Drive ◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆ Fax No. (512) 280-5165

PATH-J:\4563\SURVEY\PLAT PH 1

THE RETREAT ON WILLOW CREEK PHASE 1



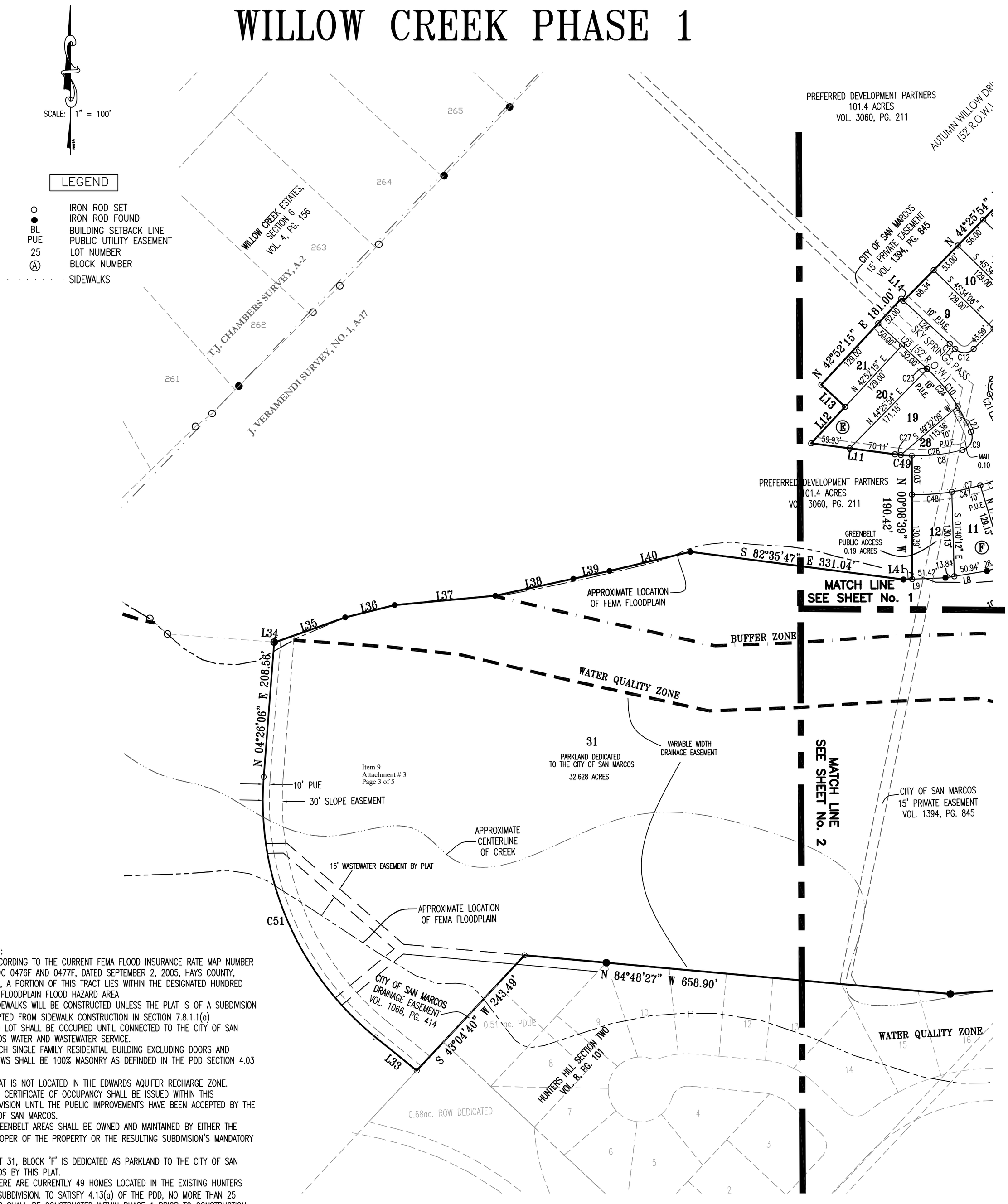
SHEET 2 OF 5

A SUBDIVISION OF 47.232 ACRES BEING RETREAT ON WILLOW CREEK PHASE 1, IN THE J. VERAMENDI SURVEY, NUMBER 1, ABSTRACT 17, HAYS COUNTY, TEXAS

Carlson, Brigance & Doering, Inc.
Civil Engineering ◆ Surveying
5501 West William Cannon Drive ◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆ Fax No. (512) 280-5165

PATH–J:\4563\SURVEY\PLAT PH 1

THE RETREAT ON WILLOW CREEK PHASE 1



Item 9
Attachment # 3
Page 3 of 5

NOTES:

1. ACCORDING TO THE CURRENT FEMA FLOOD INSURANCE RATE MAP NUMBER 48209C 0476F AND 0477F, DATED SEPTEMBER 2, 2005, HAYS COUNTY, TEXAS, A PORTION OF THIS TRACT LIES WITHIN THE DESIGNATED HUNDRED YEAR FLOODPLAIN FLOOD HAZARD AREA
2. SIDEWALKS WILL BE CONSTRUCTED UNLESS THE PLAT IS OF A SUBDIVISION EXEMPTED FROM SIDEWALK CONSTRUCTION IN SECTION 7.8.1.1(a)
3. NO LOT SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF SAN MARCOS WATER AND WASTEWATER SERVICE.
4. EACH SINGLE FAMILY RESIDENTIAL BUILDING EXCLUDING DOORS AND WINDOWS SHALL BE 100% MASONRY AS DEFINDED IN THE PDD SECTION 4.03 (d)
5. PLAT IS NOT LOCATED IN THE EDWARDS AQUIFER RECHARGE ZONE.
6. NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED WITHIN THIS SUBDIVISION UNTIL THE PUBLIC IMPROVEMENTS HAVE BEEN ACCEPTED BY THE CITY OF SAN MARCOS.
7. GREENBELT AREAS SHALL BE OWNED AND MAINTAINED BY EITHER THE DEVELOPER OF THE PROPERTY OR THE RESULTING SUBDIVISION'S MANDATORY HOA.
8. LOT 31, BLOCK 'F' IS DEDICATED AS PARKLAND TO THE CITY OF SAN MARCOS BY THIS PLAT.
9. THERE ARE CURRENTLY 49 HOMES LOCATED IN THE EXISTING HUNTERS HILL SUBDIVISION. TO SATISFY 4.13(a) OF THE PDD, NO MORE THAN 25 HOMES SHALL BE CONSTRUCTED WITHIN PHASE 1 PRIOR TO CONSTRUCTION OF THE PORTION OF FOXTAIL RUN CROSSING THE PARKLAND LOT (AREA 3 AS DESIGNATED IN THE PDD) ALLOWING A SECONDARY ACCESS POINT.
10. DEVELOPMENT OF THIS PROJECT, INCLUDING TREE MITIGATION, SHALL COMPLY WITH THE TERMS OF THE PDD APPROVED FOR THIS SUBDIVISION.
11. THE WATER QUALITY POND ON LOT 1, BLOCK F SHALL BE OWNED AND MAINTAINED BY EITHER THE DEVELOPER OR THE RESULTING SUBDIVISION'S MANDATORY HOA.
12. PUBLIC ACCESS IS GRANTED TO THE PARKLAND THROUGH PUBLIC ACCESS EASEMENTS DEDICATED WITHIN LOTS 1 AND 12 IN BLOCK F AS SHOWN ON THIS PLAT. PUBLIC ACCESS EASEMENTS SHALL BE MAINTAINED BY EITHER THE DEVELOPER OF THE PROPERTY OR THE RESULTING SUBDIVISION'S MANDATORY HOA.
13. VARIABLE WIDTH DRAINAGE EASEMENT IS HEREBY DEDICATED AS A PART OF THIS PLAT TO ALLOW FOR THE CONTAINMENT OF DRAINAGE IMPROVEMENTS DURING THE PHASE 2 PUBLIC IMPROVEMENTS.

SHEET 3 OF 5

A SUBDIVISION OF 47.232 ACRES BEING RETREAT ON WILLOW CREEK PHASE 1, IN THE J. VERAMENDI SURVEY, NUMBER 1, ABSTRACT 17, HAYS COUNTY, TEXAS

Carlson, Brigance & Doering, Inc.
Civil Engineering ◆ Surveying
5501 West William Cannon Drive ◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆ Fax No. (512) 280-5165

PATH–J:\4563\SURVEY\PLAT PH 1

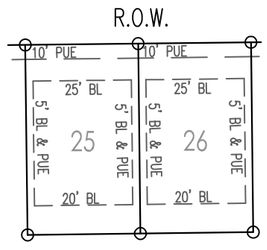
THE RETREAT ON
WILLOW CREEK PHASE 1

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	TANGENT
C1	326.00'	224.27'	219.88'	N27°26'12"W	116.78
C2	20.00'	29.21'	26.68'	S49°34'11"E	17.91
C3	530.00'	101.90'	101.75'	N85°54'12"W	51.11
C4	320.00'	2.16'	2.16'	S80°35'19"E	1.08
C5	380.00'	80.68'	80.53'	S86°28'39"E	40.49
C6	470.00'	314.67'	308.83'	S80°25'28"W	163.49
C7	330.00'	174.41'	172.38'	N76°23'05"E	89.29
C8	270.00'	78.88'	78.60'	N83°31'39"E	39.72
C9	20.00'	35.12'	30.78'	N24°51'26"E	24.09
C10	274.00'	103.70'	103.08'	N36°17'12"W	52.48
C11	326.00'	11.75'	11.75'	N46°05'46"W	5.88
C12	20.00'	31.59'	28.41'	N89°41'03"E	20.18
C13	20.00'	31.97'	28.67'	N01°21'24"W	20.56
C14	20.00'	30.87'	27.89'	S88°38'36"W	19.46
C15	20.00'	31.97'	28.67'	N01°21'24"W	20.56
C16	20.00'	30.87'	27.89'	S88°38'36"W	19.46
C17	274.00'	185.87'	182.33'	N27°42'41"W	96.67
C18	20.00'	30.46'	27.60'	N35°21'20"E	19.07
C19	530.00'	164.14'	163.49'	S70°06'59"W	82.73
C20	20.00'	32.57'	29.09'	S72°06'00"E	21.19
C21	326.00'	23.78'	23.78'	N27°32'02"W	11.90
C22	20.00'	25.85'	24.09'	S07°24'14"W	15.09
C23	274.00'	1.51'	1.51'	N46°58'15"W	0.76
C24	274.00'	74.30'	74.08'	N39°02'39"W	37.38
C25	274.00'	27.89'	27.87'	N28°21'35"W	13.96
C26	270.00'	95.86'	95.36'	N85°19'47"E	48.44
C27	270.00'	9.27'	9.27'	S83°30'57"E	4.64
C28	274.00'	16.49'	16.49'	N45°25'13"W	8.25
C29	274.00'	73.81'	73.59'	N35°58'42"W	37.13
C30	274.00'	95.56'	95.08'	N18°16'09"W	48.27
C31	540.00'	47.91'	47.89'	S63°47'09"W	23.97
C32	540.00'	29.17'	29.17'	S67°52'31"W	14.59
C33	530.00'	88.48'	88.38'	S74°12'21"W	44.35
C34	530.00'	75.66'	75.59'	S65°20'01"W	37.89
C35	530.00'	14.25'	14.25'	N81°09'56"W	7.13
C36	530.00'	48.54'	48.53'	N84°33'35"W	24.29
C37	530.00'	39.11'	39.10'	N89°17'51"W	19.56
C38	326.00'	101.33'	100.92'	N16°37'58"W	51.08
C39	326.00'	47.02'	46.98'	N29°40'10"W	23.55
C40	326.00'	44.92'	44.89'	N37°44'58"W	22.50
C41	326.00'	31.00'	30.98'	N44°25'16"W	15.51
C42	470.00'	214.62'	212.76'	S86°31'24"W	109.21
C43	470.00'	63.58'	63.53'	S69°33'59"W	31.84
C44	470.00'	36.48'	36.47'	S63°28'04"W	18.25
C45	330.00'	21.06'	21.05'	N63°04'20"E	10.53
C46	330.00'	46.52'	46.48'	N68°56'18"E	23.30
C47	330.00'	45.03'	45.00'	N76°53'11"E	22.55
C48	330.00'	61.80'	61.71'	N86°09'38"E	30.99
C49	270.00'	26.25'	26.24'	N85°19'04"W	13.14
C50	1372.40'	217.09'	216.86'	S36°47'16"W	108.77
C51	470.00'	454.33'	436.85'	N23°15'28"W	246.68

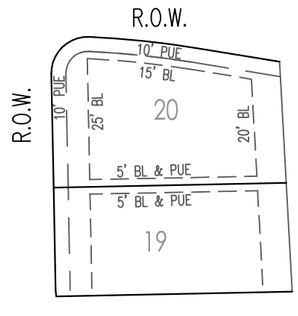
LINE TABLE		
LINE	LENGTH	BEARING
L1	53.03	N62°49'34"W
L2	34.90	N86°24'30"W
L3	50.00	S83°09'10"W
L4	50.00	S74°43'09"W
L5	50.00	S66°19'59"W
L6	63.63	S64°40'12"W
L7	64.79	S72°39'32"W
L8	64.79	S80°44'07"W
L9	64.91	S87°31'45"W
L11	130.05	N82°31'56"W
L12	76.84	N42°52'15"E
L13	50.00	N47°07'45"W
L14	4.89	S47°07'45"E
L15	129.00	N45°34'06"W
L16	5.15	S44°25'54"W
L17	66.62	N44°25'54"E
L18	22.62	S47°08'41"E
L19	165.48	S46°56'36"E
L22	16.22	S25°26'39"E
L23	102.00	S47°07'45"E
L24	97.11	S47°07'45"E
L25	46.99	S44°25'54"W
L26	49.61	N44°25'54"E
L27	85.87	S47°08'41"E
L28	31.04	S47°08'41"E
L29	18.25	S25°26'39"E
L30	70.00	N44°25'54"E
L31	73.94	N20°34'37"W
L32	14.67	S69°15'13"E
L33	81.56	N50°57'03"W
L34	1.71	S85°37'46"E
L35	114.45	N70°29'47"E
L36	78.49	N76°03'37"E
L37	155.84	N84°37'56"E
L38	123.07	N77°45'33"E
L39	56.92	N77°45'33"E
L40	128.21	N76°45'12"E
L41	13.49	N87°31'45"E

Item 9
Attachment A
Page 4 of 5

TYPICAL LOT EASEMENT DETAIL
NOT TO SCALE



TYPICAL CORNER LOT EASEMENT DETAIL
NOT TO SCALE



SHEET 4 OF 5

A SUBDIVISION OF 47.232 ACRES BEING
RETREAT ON WILLOW CREEK PHASE 1, IN
THE J. VERAMENDI SURVEY, NUMBER 1,
ABSTRACT 17, HAYS COUNTY, TEXAS

Carlson, Brigance & Doering, Inc.
Civil Engineering ◆ Surveying
5501 West William Cannon Drive ◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆ Fax No. (512) 280-5165

PATH–J:\4563\SURVEY\PLAT PH 1

THE RETREAT ON
WILLOW CREEK PHASE 1

STATE OF TEXAS }
COUNTY OF HAYS }

PREFERRED DEVELOPMENT PARTNERS LTD., BEING THE OWNER OF 101.4 ACRES OF LAND OUT OF THE J. VERAMENDI SURVEY, NUMBER 1, ABSTRACT NUMBER 17 SITUATED IN HAYS COUNTY, TEXAS AS CONVEYED BY DEED RECORDED IN VOLUME 3060, PAGE 211 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY SUBDIVIDE 47.232 ACRES OF LAND, TO BE KNOWN AS:

THE RETREAT ON WILLOW CREEK PHASE 1

IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED, AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES SHOWN ON THIS PLAT.

_____
NORMAN REITMEYER, MANAGER
PREFERRED DEVELOPMENT PARTNERS, LTD
215 WEST BANDERA ROAD, SUITE 114–461
BOERNE, TEXAS 78006

STATE OF TEXAS }
COUNTY OF HAYS}

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____ BY NORMAN REITMEYER
, ON BEHALF OF SAID COMPANY.

_____
NOTARY PUBLIC, STATE OF TEXAS

CITY OF SAN MARCOS}
CERTIFICATE OF APPROVAL}

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

_____
BILL TAYLOR, CHAIRMAN
PLANNING & ZONING COMMISSION

_____
FRANCIS SERNA,
RECORDING SECRETARY

APPROVED:

_____
MATTHEW LEWIS, CNU–A
DIRECTOR DEVELOPMENT SERVICES

_____
DATE

_____
LAURIE MOYER, P.E.
DIRECTOR OF ENGINEERING AND CIP

_____
DATE

STATE OF TEXAS }
COUNTY OF HAYS }

I, LIZ Q. GONZALES, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF _____, 20____, A.D., AND DULY RECORDED ON THE _____

DAY OF _____, 20____ A.D., AT _____ O'CLOCK ___.M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN BOOK _____, PAGE(S)

_____, AND DOCUMENT NUMBER _____.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF_____, 20____, A.D.

_____
LIZ Q. GONZALES
COUNTY CLERK
HAYS COUNTY, TEXAS

SHEET 5 OF 5

A SUBDIVISION OF 47.232 ACRES BEING
RETREAT ON WILLOW CREEK PHASE 1, IN
THE J. VERAMENDI SURVEY, NUMBER 1,
ABSTRACT 17, HAYS COUNTY, TEXAS

C B D
Carlson, Brigance & Doering, Inc.
Civil Engineering ◆ Surveying
5501 West William Cannon Drive ◆ Austin, Texas 78749
Phone No. (512) 280-5160 ◆ Fax No. (512) 280-5165

PATH–J:\4563\SURVEY\PLAT PH 1

City of San Marcos
Subdivision Improvement Agreement

Subdivision Name: Retreat at Willow Creek Phase 1
Developer Name: PREFERRED DEVELOPMENT PARTNERS, LTD.
Developer Address: 12040 COLWICK
SAN ANTONIO, TX 78216

Planning Dept. Case No.: PC-13-03_03

Recitals:

A. The Developer owns the land included in the proposed final plat of the Subdivision, and more particularly described on the attached **Exhibit A** (the "Property").

B. The Developer desires to develop the Property, and City ordinances and State laws require the Developer to complete all on-site and off-site public improvements (the "Public Improvements") associated with the Subdivision.

C. This Agreement is authorized by Section 1.6.6.3 of the City Land Development Code (the "LDC"), and is executed to memorialize the Developer's responsibilities regarding the Public Improvements.

Agreement:

In consideration of the mutual covenants set forth in this Agreement, the City and the Developer agree as follows:

1. Recitals Incorporated. The Recitals are incorporated in this Agreement for all purposes.

2. Parties. The parties to this Agreement are the Developer and the City of San Marcos.

3. Effective Date. This Agreement is effective on the date the Developer signs it (the "Effective Date").

4. Construction of Improvements. The Developer agrees to construct and install, at the Developer's expense, all of the Public Improvements in compliance with applicable City ordinances, standards, and regulations, and in accordance with the construction plans and specifications approved by the City.

5. Security for Completion of Improvements. The Developer agrees to provide and continuously maintain security (the "Security") for the completion of the Public Improvements in accordance with Section 1.6.6.4 of the LDC. The Security must be in the amount of 125% of the cost estimate for the Public Improvements approved by the City Director of Engineering.

6. Warranty and Maintenance Bond. The Developer agrees to correct all defects in materials or workmanship in the Public Improvements for a period of one year after acceptance by the City. The Developer agrees to provide a maintenance bond in favor of the City in the amount of 20% of the cost of the Public Improvements for a period of two years after acceptance by the City.

7. Lien Search Certificate. The Developer agrees to provide, at the time this Agreement is executed, a Lien Search Certificate prepared and signed by a title company acceptable to the City Attorney. The Lien Search Certificate must identify the property, must name all owners of the Property, must name all lienholders having liens against the Property, and must be dated no more than 10 days prior to the Effective Date. The Lien Search Certificate must be accompanied by a Consent of Lienholder signed by an authorized representative of each lienholder identified in the Lien Search Certificate. This Agreement will not be accepted without the Lien Search Certificate and the executed Consent of Lienholder, if applicable.

8. Acquisition of Property Interests. The Developer agrees to acquire at its expense all rights-of-way, easements and other real property interests needed for the construction of the Public Improvements, including all off-site improvements, in a manner suitable for dedication of the real

property interests to the City. The form of all documents under which real property interests are acquired is subject to approval by the City Attorney. The Developer agrees to record each such document in the official public records of the county in which the Property is located, and to provide a copy of each such recorded document to the City Attorney.

9. Recording of Plat. Upon completion of all of the following, the City agrees to record the final plat of the Subdivision in the official public records of the county in which the Property is located:

A. Approval of this Agreement by the City Planning and Zoning Commission.
B. Approval of the final plat of the Subdivision by the City Planning and Zoning Commission.
C. Submission to City of Lien Search Certificate, and executed Consent of Lienholder for each lienholder on the Property.
D. Approval of the Security by the City Attorney.
E. Approval by the City Attorney of all conveyance documents for rights-of-way, easements and other real property interests needed for the construction of the Public Improvements.

10. Conditions of Draw on Security. The City Director of Engineering may draw upon any Security upon the occurrence of one or more of the following events:

A. The Developer commenced construction but did not properly construct or complete one or more of the Public Improvements, and failed to remedy the construction deficiency within a reasonable cure period;
B. The Developer did not renew or replace the Security at least 45 days prior to its expiration date; or
C. The issuer of the Security, or any third party, has acquired all or any portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure.

11. Drawing on the Security; Use of Draws. The City Director of Engineering may draw upon the Security by submitting a draft to the issuer that complies with the terms governing the draft. The draw may be in any amount up to the full amount of the Security. The City agrees to restrict its use of funds from draws to purposes associated with the construction, maintenance or repair of the Public Improvements. The parties agree that by making a draw, the City does not waive its rights to enforce any obligation of the Developer under this Agreement, and the City is not accepting the Public Improvements for ownership and maintenance prior to final completion.

12. Right of Entry. The Developer grants to the City and its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property to inspect the construction of the Public Improvements, and to construct, inspect, maintain, and repair any public improvements made on the Property by the City.

13. Remedies. The remedies available to the City in the event of noncompliance by the Developer with this Agreement are cumulative in nature. These remedies include, but are not limited to, the following:

A. Refusal to approve or record any plat associated with the Subdivision.
B. Refusal to provide or allow utility services to all or any part of the Property.
C. Refusal to accept all or a portion of the Public Improvements for public ownership or maintenance.
D. Draws against the Security for construction of the Public Improvements.
E. Injunction against further sale of tracts of land within the Subdivision.

14. No Third Party Rights. No person or entity who or which is not a party to this Agreement has any right of action under this Agreement. Nor does any such person or entity, other than the City (including without limitation a trustee in bankruptcy) have any interest in or claim to any funds drawn by the City on the Security in accordance with this Agreement.

15. Indemnification. The Developer covenants to indemnify, save, and hold harmless the City and its their respective officers, employees, and agents from, and against, all claims, demands, actions, damages, losses, costs, liabilities, expenses and judgments recovered from or

asserted on account of injury or damage to persons or property loss or damage arising in connection with construction performed by or on behalf of the Developer on the Property.

16. Miscellaneous. A. The Developer may assign its rights and obligations under this Agreement to a purchaser of all or part of the Property, if the Developer delivers written notice of the assignment to the City accompanied by an assignment agreement under which the assignee accepts all of the Developer's obligations under this Agreement and submits new Security for the Public Improvements in a form acceptable to the City Attorney. Any other assignment by a Party of rights or obligations under this Agreement will require the written approval of the other Party.

B. This Agreement, including appendices and referenced attachments, constitutes the entire agreement between the City and the Developer on this subject and supersedes all other proposals, presentations, representations, and communications, whether oral or written, between the parties. This Agreement may be amended only by a written document that is duly approved and executed by all parties.

C. In the event any section, subsection, paragraph, sentence, phrase or word is held invalid for any reason, the balance of this Agreement will remain in effect and will be read as if the parties intended at all times not to include the invalid section, subsection, paragraph, sentence, phrase or word.

D. This agreement shall be governed by the laws of the State of Texas. Exclusive venue for any legal dispute arising under this agreement shall be in Hays County, Texas. The City's execution of and performance under this Agreement will not act as a waiver of any immunity of the City to suit or liability under applicable law. The parties acknowledge that the City, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.

E. Notices required by this Agreement will be provided by the parties to one another by certified mail, return receipt requested, or by confirmed facsimile transmission, to the following addresses:

To the City:	To the Developer:
City Manager	PREFERRED DEVELOPMENT PARTNERS LTD.
City of San Marcos	ATTN: DONALD G. KUYKENDALL
630 E. Hopkins	12040 COLWICK
San Marcos, TX 78666	SAN ANTONIO, TX 78216
Fax: 512/396-4656	Fax: 210-979-0001
	EMAIL: DAN@KUYKENDALL.COM

If a party changes its address or facsimile number for notice purposes, it will provide written notice of the new address to the other party within 10 days of the change.

F. In the event that the performance by either party of any of its obligations under this contract is interrupted or delayed by events outside of their control such as acts of God, war, riot, or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of the events.

G. This Agreement constitutes a covenant running with the title to the Property, and the provisions of this Agreement are binding on the Developer and on all successors and assigns of the Developer.

Executed by the parties to be Effective on 06/13/2013

[signatures on following page]

City of San Marcos, Texas

By:_____
James R. Nuse, P.E., City Manager

This instrument was acknowledged before me on _____, 201___ by James R. Nuse, P.E., known personally by me to be the City Manager of the City of San Marcos, on behalf of the City of San Marcos.

Notary seal:

_____
Notary Public, State of Texas

Developer:
Preferred Development Partners, Ltd.

By:_____
Signature
Norman Reitmeyer; Manager PDS LLC, General Partner
Printed name, title

This instrument was acknowledged before me on June 13, 2013 by Norman Reitmeyer, known personally by me to be the Manager of PDS, LLC.

Notary Seal:

RENEE RIEBER
Notary Public
STATE OF TEXAS
My Comm. Exp. March 19, 2015

Renee Rieber
Notary Public, State of TX
Renee Rieber

Consent of Lienholder to
Subdivision Improvement Agreement

Subdivision Name: Retreat at Willow Creek Phase 1
Developer Name: PREFERRED DEVELOPMENT PARTNERS, LTD.
Developer Address: 12048 CLUNICK
SAN ANTONIO, TX 78216

Lienholder Name: WESTERN NATIONAL BANK
Lienholder Address: 508 W. WALL STE. 1000
MIDLAND, TX 79701

Recitals:

A. The Developer is the owner of the property described in the attached and incorporated **Exhibit A** ("Property").

B. The Lienholder is the lienholder of the Property under the terms and conditions of the following document(s):

Deed of Trust dated 11/28/06 from the Developer to MICHAEL USSELY, Trustee, securing the payment of a promissory note payable to the Lienholder. The Deed of Trust is recorded in Volume 3060, page 220 of the Official Public Records of HAYS County, Texas.

C. The Developer has requested that the City of San Marcos (the "City") approve and execute a Subdivision Improvement Agreement with the Developer governing installation of all on-site and off-site public improvements (the "Public Improvements") associated with the Subdivision.

Agreement:

In consideration of $10.00 and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Lienholder agrees as follows:

1. The Lienholder consents to the execution of the Subdivision Improvement Agreement and the rights and obligations of the Developer set out therein.
2. The Lienholder subordinates its lien rights on this Property to the rights and interests of the City under the Subdivision Improvement Agreement, and the Lienholder agrees that any foreclosure by the Lienholder of its liens will not extinguish City's rights and interests in the Subdivision Improvement Agreement.

The undersigned has the authority to bind the Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on JUNE 14, 2013

Lienholder:
WESTERN NATIONAL BANK

By: [signature]

MARK NOLEN, SVP
Printed name, title

This instrument was acknowledged before me on JUNE 14, 2013 by MARK NOLEN, known personally by me to be the SVP of WESTERN NATIONAL BANK.

Notary Seal:

VIRGINIA V. MARTIN
Notary Public
State of Texas
My Comm. Expires 06-21-2013

Virginia V. Martin
Notary Public, State of 6-21-13

EXHIBIT A:
METES AND BOUNDS DESCRIPTION OF PROPERTY

FIELD NOTES

BEING THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND PART OF THE JUAN M. VERAMENDI SURVEY NO. 1, ABSTRACT 17, SITUATED IN HAYS COUNTY, TEXAS, SAID TRACT OF LAND BEING A PORTION OF A 101.4 ACRE TRACT OF LAND CONVEYED TO PREFERRED DEVELOPMENT PARTNERS, IN VOLUME 3060, PAGE 211 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 47.232 ACRE TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a capped ½" iron rod found at the northernmost corner of that 2.9495 acre tract of land conveyed to George Powell in Volume 2032, Page 233 of the Official Public Records of Hays County, Texas (O.P.R.H.C.TX.), also being a point on the southwestern boundary line of Lot 1, Block 1, Intermediate School Subdivision, as recorded in Volume 6, Page 153 of the Plat Records of Hays County Texas (P.R.H.C.TX.), also being a northeastern corner of said Preferred Development Partners tract for a northeastern corner and **POINT OF BEGINNING** of the herein described tract,

THENCE, continuing with the common boundary line of said Preferred Development Partners tract and said George Powell tract, the following two (2) courses and distances, numbered 1 and 2,

1. S43°08'49"W, passing at a distance of 186.15 feet a capped ½" iron rod found and continuing in all a total of 236.04 feet to a capped ½" iron rod found and
2. S58°10'44"E, a distance of 723.69 feet to a capped ½" iron rod found at a point of curvature to the right at the southernmost corner of said George Powell tract, also being a point on the northwestern right-of-way line of Hunter Road (FM 2439), for the easternmost corner of the herein described tract,

THENCE, with the northwestern right-of-way line of said Hunter Road and the eastern boundary line of said Preferred Development Partners tract with said curve having a radius of 1372.40 feet, an arc length of 217.09 feet and whose chord bears S36°47'16"W, a distance of 216.86 feet to a capped ½" iron rod found at the northeast corner of Lot 8, Willow Springs Center Replat, as recorded in Volume 12, Page 27 of the P.R.H.C.TX.,

THENCE, continuing with the common boundary line of said Preferred Development Partners tract and said Willow Springs Center Replat, the following three (3) courses and distances numbered 1 through 3,

1. N52°20'35"W, a distance of 209.04 feet to a capped ½" iron rod found,
2. S82°02'08"W, a distance of 556.62 feet to a capped ½" iron rod found and
3. S43°41'22"W, a distance of 318.07 feet to capped ½" iron rod found at the northwestern corner of Lot 4 of said Willow Springs Center Replat, also being at the northeast corner of Lot 20, Hunter Hill Section Two, as recorded in Volume 8, Page 101 of the P.R.H.C.TX.,

THENCE, continuing with the common boundary line of said Preferred Development Partners tract and said Hunter Hill Section Two, the following two (2) courses and distances numbered 1 and 2,

1. S85°44'47"W, a distance of 437.98 feet to a capped ½" iron rod found and
2. N84°48'27"W, a distance of 532.41 feet to a capped ½" iron rod found at the common boundary corner of Lots 9 and 10, Hunter Hill Section Two, also being the northeastern corner of a 0.51 acre PDUE conveyed to the City of San Marcos in Volume 1066, Page 414 of the O.P.R.H.C.TX.,

THENCE, continuing with the north and western boundary line of said 0.51 acre PDUE and the western boundary line of a 0.68 acre tract conveyed for ROW (Foxtail Run) and the southeastern boundary line of said Preferred Development Partners tract, the following two (2) courses and distances numbered 1 and 2,

1. N84°48'27"W, a distance of 126.49 feet to a capped ½" iron rod set and
2. S43°04'40"W, a distance of 243.49 feet to a capped ½" iron rod set for the southwestern corner of the herein described tract,

THENCE, crossing said Preferred Development Partners tract the following twenty-five (25) courses and distances, numbered 1 through 25,

1. N50°57'03"W, a distance of 81.56 feet to a capped ½" iron rod set at a point of curvature to the right,
2. with said curve to the right having a radius of 470.00 feet, an arc length of 454.33 feet, and whose chord bears N23°15'28"W, a distance of 436.85 feet to a capped ½" iron rod set;
3. N04°26'06"E, a distance of 208.56 feet to a capped ½" iron rod found,
4. S85°37'46"E, a distance of 1.71 feet to a capped ½" iron rod found,
5. N70°29'47"E, a distance of 114.45 feet to a capped ½" iron rod found,
6. N76°03'37"E, a distance of 78.49 feet to a capped ½" iron rod found,
7. N84°37'56"E, a distance of 155.84 feet to a capped ½" iron rod found,
8. N77°45'33"E, a distance of 179.99 feet to a capped ½" iron rod found,
9. N76°45'12"E, a distance of 128.21 feet to a capped ½" iron rod found,
10. S82°35'47"E, a distance of 331.04 feet to a capped ½" iron rod found,
11. N87°31'45"E, a distance of 13.49 feet to a capped ½" iron rod found,
12. N00°08'39"W, a distance of 190.42 feet to a capped ½" iron rod set at a point of curvature to the right,
13. with said curve to the right having a radius of 270.00 feet, an arc length of 26.25 feet, and whose chord bears N85°19'04"W, a distance of 26.24 feet to a capped ½" iron rod set,
14. N82°31'56"W, a distance of 130.05 feet to a capped ½" iron rod set,
15. N42°52'15"E, a distance of 76.84 feet to a capped ½" iron rod set,
16. N47°07'45"W, a distance of 50.00 feet to a capped ½" iron rod set,
17. N42°52'15"E, a distance of 181.00 feet to a capped ½" iron rod set,
18. S47°07'45"E, a distance of 4.89 feet to a capped ½" iron rod set,
19. N44°25'54"E, a distance of 399.34 feet to a capped ½" iron rod set,
20. N45°34'06"W, a distance of 129.00 feet to a capped ½" iron rod set,
21. S44°25'54"W, a distance of 5.15 feet to a capped ½" iron rod set,
22. N45°34'06"W, a distance of 181.00 feet to a capped ½" iron rod set,
23. N44°25'54"E, a distance of 66.62 feet to a capped ½" iron rod set,
24. S47°08'41"E, a distance of 22.62 feet to a capped ½" iron rod set,
25. N42°51'19"E, a distance of 209.16 to a capped ½" iron rod set on the northeast boundary line of said Preferred Development Partners tract, also being a point on southwest boundary line of Lot 1, Block 2 of said Intermediate School Subdivision, from which a ½" capped iron rod found bears N46°47'47"W, a distance of 50.49 feet,

THENCE, continuing with the common boundary line of said Preferred Development Partners tract and said Intermediate School Subdivision tract, the following three (3) courses and distances, numbered 1 through 3,

1. S46°47'47"E, a distance of 342.86 feet to a capped ½" iron rod found,
2. S46°30'34"E, a distance of 676.44 feet to a capped ½" iron rod found and
3. S46°56'36"E, a distance of 165.48 feet to the **POINT OF BEGINNING**, and containing 47.232 acres of land.

Surveyed by: _____ 13 Jun 2013

AARON V. THOMASON, R.P.L.S. No. 6214
Carlson, Brigance and Doering, Inc.
5501 West William Cannon
Austin, TX 78749
Ph: 512-280-5160 Fax: 512-280-5165
aaron@cbdeng.com

STATE OF TEXAS
REGISTERED
AARON V. THOMASON
6214
PROFESSIONAL
LAND SURVEYOR

BEARING BASIS: TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204), NAD 83

Brenda Wong

Marsh Risk & Insurance Services
777 South Figueroa Street, 11th Floor
Los Angeles, CA 90017
213 346 5351
brenda.wong@marsh.com
www.marsh.com

June 14, 2013

Laurie Lara
KB Home
10800 Pecan Park Blvd. Suite 200
Austin, TX 78750

Subject:

Principal: KB Home Lone Star Inc.
Obligee: City of San Marcos
Bond Description: Subdivision-Performance
Bond Amount: $ 2,251,747.50
Bond Number: K08908771

Dear Laurie Lara:

In response to your request, enclosed is the above-referenced bond that is based on the information we received with the request.

Please have this bond signed, sealed and forwarded to the City of San Marcos for acceptance and filing. As always, the bond should be re-checked for accuracy before filing with the obligee.

If you have any questions, please feel free to contact me.

Sincerely,

Brenda Wong

Enclosure

Agenda Information

AGENDA CAPTION:

PC-13-09_03 (Blanco Vista Tract I) Consider a request by CSF Civil Group, on behalf of Carma Blanco Vista, L.L.C. (Brookfield Residential), for approval of a Final Subdivision Plat of Blanco Vista Tract I for approximately 13.31 acres, more or less, out of the William Ward League Survey No. 3, Abstract No. 467, for 43 residential lots located at Blanco Vista Boulevard and Royal Oak Boulevard.

Meeting date: June 25, 2013

Department: Planning and Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

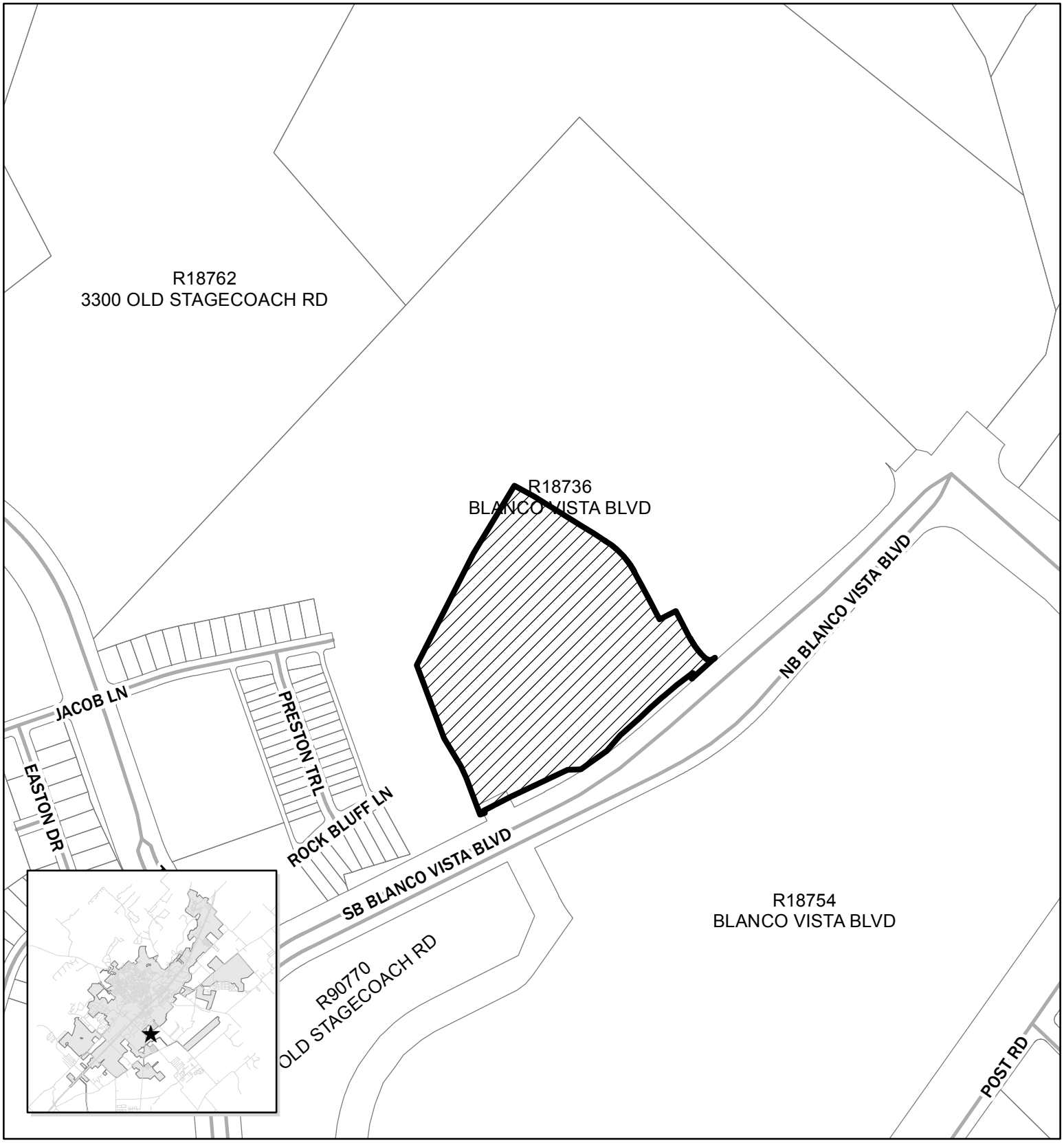
Big Picture Infrastructure

BACKGROUND:

The subject property is part of the continued build out of the Blanco Vista Subdivision. It has a base zoning of Mixed Use and is within the single-family portion of the subdivision. Tract I provides for 43 residential lots, one landscape lot that will also function as the required secondary emergency access and one drainage easement lot. Two new streets are proposed as part of this plat; Royal Oak Boulevard and Leather Oak Loop. Tract I is not located in the floodplain or floodway. Both the Watershedd Protection Plan Phase 2 and the Public Improvement Construction Plans have been submitted and approved. Parkland dedication is not required as it was completed with the inital phase of this project. Staff recommends **approval** of the plat as submitted.

ATTACHMENTS:

Case Map
Staff Report
Plat
Conceptual Plan



PC-13-09_03
Blanco Vista Tract I
Map Date: 6/6/2013

Site Location
Notification Area (200 feet)
Historic District

0 262.5 525 1,050 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.

PC-13-09_03 Final Plat, Blanco Vista, Tract I

Applicant Information:

Agent:	CSF Civil Group 3636 Executive Center Drive Suite 209 Austin, Texas 78731
Property Owner:	Brookfield Residential 9737 Great Hills Trail Suite 260 Austin, Texas 78759
Notification:	Notification not required
Type & Name of Subdivision:	Final Plat, Blanco Vista Tract I

Subject Property:

Summary:	The subject property is approximately 13.31 acres, more or less, and is located at the intersection of Blanco Vista Boulevard and Royal Oak Boulevard.
Zoning:	Mixed Use/PDD/Single-Family
Traffic/ Transportation:	The property is at the intersection of Blanco Vista Boulevard and Royal Oak Boulevard. Sidewalks will be installed as part of the development of this plat.
Utility Capacity:	All utilities are provided for on-site.

Planning Department Analysis:

The subject property is part of the Blanco Vista Planned Development District, and has a base zoning of Mixed Use. This section is within the single-family portion of the development and provides for the development of 43 residential lots, one landscape lot that will also function as the required secondary emergency access and one drainage easement lot. Two streets are proposed to be constructed; Royal Oak Boulevard and Leather Oak Loop. The proposed plat would be consistent with developments in the area and the PDD. The site is part of the continued build-out of the Blanco Vista subdivision.

The site is not located in floodplain or floodway. The Watershed Protection Plan Phase 2 and the Public Improvement Construction Plans have been submitted and approved.

Parkland dedication was completed with the initial phase of this project, and is not required for this individual plat.

The Planning Department finds that the plat meets the requirements of the Land Development Code and recommends approval.

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

The Commission's Responsibility:

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

Prepared By:

Alison E. Brake	Planner	June 13, 2013
Name	**Title**	**Date**

FINAL PLAT:
BLANCO VISTA TRACT I
CITY OF SAN MARCOS, TEXAS

Item 6
Attachment # 3
Page 1 of 3

LEGEND	
●	1/2" REBAR FOUND (OR AS NOTED)
●CH	1/2" REBAR WITH "CHAPARRAL" CAP FOUND
○	1/2" REBAR WITH "CHAPARRAL" CAP SET
✱	COTTON SPINDLE FOUND
⊛	COTTON SPINDLE WITH "CHAPARRAL" WASHER SET
△	CALCULATED POINT
⊕	CONTROL POINT/BENCHMARK LOCATION
E.E.	ELECTRIC EASEMENT
( )	RECORD INFORMATION
· · · ·	SIDEWALK LOCATION

STREET SUMMARY	
ROYAL OAK BOULEVARD	209 L.F.
LEATHER OAK LOOP	1,579 L.F.

CURRENT ZONING: P.D.D.

CURRENT TRACT: "TRACT I"

LOT SUMMARY	
RIGHT-OF-WAY	2.179 ACRES
43 RESIDENTIAL LOTS	8.179 ACRES
1 LANDSCAPE & EMERGENCY FIRE ACCESS LOT	0.052 ACRES
1 DRAINAGE, LANDSCAPE AND OPEN SPACE LOT	2.900 ACRES
TOTAL	13.310 ACRES

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping
3500 McCall Lane
Austin, Texas 78744
512-443-1724

PROJECT NO.: 500-005

DRAWING NO.: 500-005-PL1

PLOT DATE: 5/31/13

PLOT SCALE: 1" = 60'

DRAWN BY: JBE

FINAL PLAT: BLANCO VISTA TRACT I
CITY OF SAN MARCOS, TEXAS

STATE OF TEXAS:
COUNTY OF HAYS:

WHEREAS, CARMA BLANCO VISTA, LLC IS THE OWNER OF 13.310 ACRES IN THE WILLIAM WARD LEAGUE, ABS. 467 IN HAYS COUNTY, TEXAS, BEING A PORTION OF A 199.323 ACRE TRACT CONVEYED TO CARMA BLANCO VISTA, LTD. IN A SPECIAL WARRANTY DEED DATED JUNE 25, 2004 AND RECORDED IN VOLUME 2494, PAGE 616 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 13.310 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the westernmost corner of Lot 3, Block A, Blanco Vista Tract C Section A, a subdivision of record in Volume 14, Page 266 of the Plat Records of Hays County, Texas, being in the northeast line of Lot 2, Block A, of said Blanco Vista Tract C Section A;

THENCE crossing the said 199.323 acre tract and with the perimeter of said Lot 2, the following three (3) courses and distances:

1. North 27°15'17" West, a distance of 22.92 feet to a 1/2" rebar with "Chaparral" cap set for the northernmost corner of said Lot 2;
2. South 62°44'43" West, a distance of 100.00 feet to a 1/2" rebar with "Chaparral" cap found for the westernmost corner of said Lot 2;
3. South 27°15'17" East, a distance of 8.68 feet to a 1/2" rebar with "Chaparral" cap found for the northernmost corner of Lot 1, Block A, of said Blanco Vista Tract C Section A;

THENCE South 70°07'50" West crossing the said 199.323 acre tract and with the north line of said Lot 1, a distance of 17.23 feet to a 1/2" rebar with "Chaparral" cap set, from which a 1/2" rebar with "Chaparral" cap found for an angle point in the north line of said Lot 1, bears South 70°07'50" West, a distance of 114.40 feet;

THENCE crossing the said 199.323 acre tract, the following fourteen (14) courses and distances:

1. North 19°45'45" West, a distance of 131.47 feet to a 1/2" rebar with "Chaparral" cap set;
2. North 25°12'12" West, a distance of 40.18 feet to a 1/2" rebar with "Chaparral" cap set;
3. North 31°05'53" West, a distance of 106.78 feet to a 1/2" rebar with "Chaparral" cap set;
4. North 19°50'52" West, a distance of 255.33 feet to a 1/2" rebar with "Chaparral" cap set;
5. North 27°15'54" East, a distance of 409.70 feet to a 1/2" rebar with "Chaparral" cap set;
6. North 32°04'23" East, a distance of 250.00 feet to a 1/2" rebar with "Chaparral" cap set;
7. South 57°55'37" East, a distance of 85.00 feet to a 1/2" rebar with "Chaparral" cap set;
8. South 57°55'37" East, a distance of 276.82 feet to a 1/2" rebar with "Chaparral" cap set;
9. With a curve to the right, having a radius of 270.00 feet, a delta angle of 30°07'48", an arc length of 141.98 feet, and a chord which bears South 42°51'43" East, a distance of 140.35 feet to a 1/2" rebar with "Chaparral" cap set;
10. South 27°47'49" East, a distance of 174.81 feet to a 1/2" rebar with "Chaparral" cap set;
11. North 62°12'11" East, a distance of 60.00 feet to a 1/2" rebar with "Chaparral" cap set;
12. South 27°47'49" East, a distance of 97.49 feet to a 1/2" rebar with "Chaparral" cap set;
13. With a curve to the left, having a radius of 270.00 feet, a delta angle of 17°38'42", an arc length of 83.15 feet, and a chord which bears South 36°37'09" East, a distance of 82.82 feet to a 1/2" rebar with "Chaparral" cap set;
14. With a curve to the left, having a radius of 25.00 feet, a delta angle of 86°30'11", an arc length of 37.74 feet, and a chord which bears South 88°41'36" East, a distance of 34.26 feet to a 1/2" rebar with "Chaparral" cap set in the northwest right-of-way line of Blanco Vista Boulevard (right-of-way width varies) as shown on said Blanco Vista Tract C Section A;

THENCE South 48°03'19" West crossing the said 199.323 acre tract and with the northwest right-of-way line of Blanco Vista Boulevard, a distance of 103.10 feet to a cotton spindle found for an angle point in the southeast line of said Lot 3;

THENCE crossing the said 199.323 acre tract and with the southeast line of said Lot 3, with a curve to the left, having a radius of 25.00 feet, a delta angle of 45°34'37", an arc length of 19.89 feet, and a chord which bears North 09°00'24" East, a distance of 19.37 feet to a 1/2" rebar with "Chaparral" cap set for the northernmost corner of said Lot 3;

THENCE crossing the said 199.323 acre tract and with the northwest line of said Lot 3, the following nine (9) courses and distances:

1. South 53°09'16" West, a distance of 67.32 feet to a 1/2" rebar with "Chaparral" cap found;
2. South 49°18'15" West, a distance of 60.02 feet to a 1/2" rebar with "Chaparral" cap found;
3. South 47°54'27" West, a distance of 184.41 feet to a 1/2" rebar with "Chaparral" cap set;
4. South 40°43'00" West, a distance of 68.67 feet to a 1/2" rebar with "Chaparral" cap set;
5. South 54°37'10" West, a distance of 104.01 feet to a 1/2" rebar with "Chaparral" cap set;
6. South 88°25'32" West, a distance of 43.73 feet to a 1/2" rebar with "Chaparral" cap set;
7. With a curve to the right, having a radius of 50.00 feet, a delta angle of 117°47'59", an arc length of 102.80 feet, and a chord which bears South 76°08'58" West, a distance of 85.63 feet to a 1/2" rebar with "Chaparral" cap set;
8. South 57°28'13" West, a distance of 122.40 feet to a 1/2" rebar with "Chaparral" cap set;
9. South 62°44'43" West, a distance of 1.88 feet to the POINT OF BEGINNING, containing 13.310 acres of land, more or less.

NOW, THEREFORE, KNOW ALL BY THE PRESENTS:

THAT WE, CARMA BLANCO VISTA, LLC AS OWNER OF THE ABOVE DESCRIBED PROPERTY, DO HEREBY ADOPT THIS PLAT DESIGNATING THE TRACT AS FINAL PLAT: BLANCO VISTA TRACT I, AN ADDITION TO THE CITY OF SAN MARCOS, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER THE RIGHTS OF WAY, PUBLIC USE AREAS AND OTHER EASEMENTS SHOWN THEREON FOR THE PURPOSES INDICATED; THAT NO BUILDINGS, FENCES OR OTHER OBSTRUCTIONS SHALL BE CONSTRUCTED OR PLACED UPON, OVER OR ACROSS THE SAID EASEMENTS, EXCEPT AS MAY BE PERMITTED BY THE SAID CITY; THAT SAID EASEMENTS MAY BE FOR THE MUTUAL USE AND ACCOMMODATION OF ALL PUBLIC UTILITIES SERVING THE PROPERTY, UNLESS AN EASEMENT LIMITS THE USE TO PARTICULAR UTILITIES, WITH ALL USES BEING SUBORDINATE TO THAT OF THE CITY OF SAN MARCOS'S; THAT THE SAID CITY AND PUBLIC UTILITIES SHALL HAVE THE RIGHT TO REMOVE AND KEEP REMOVED ALL OR PARTS OF ANY BUILDINGS, FENCES, TREES, SHRUBS OR OTHER IMPROVEMENTS OR GROWTHS, WHICH MAY IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE OR EFFICIENCY OF THEIR RESPECTIVE SYSTEMS LOCATED WITHIN SAID EASEMENTS; AND THAT THE SAID CITY AND PUBLIC UTILITIES SHALL AT ALL TIMES HAVE THE RIGHT OF INGRESS TO AND EGRESS FROM THEIR RESPECTIVE EASEMENTS FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, INSPECTING, PATROLLING, MAINTAINING, READING METERS, AND ADDING TO OR REMOVING ALL OR PARTS OF THEIR RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING PERMISSION FROM ANYONE; AND THAT THIS PLAT IS SUBJECT TO ALL OF THE REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY OF SAN MARCOS AND THE COUNTY OF HAYS, TEXAS.

WITNESS MY HAND THIS _____ DAY OF _____, 20__.

_____
SHAUN E. CRANSTON, VICE PRESIDENT

CARMA BLANCO VISTA, LLC
9737 GREAT HILLS TRAIL, SUITE #260
AUSTIN, TX 78759
(512) 391-1331

STATE OF TEXAS:
COUNTY OF HAYS:

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

PERSONALLY APPEARED SHAUN E. CRANSTON, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATIONS THEREIN EXPRESSED.

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

_____
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

_____
MY COMMISSION EXPIRES ON:

PLAT NOTES:

1. THIS PLAT (AND LOTS THEREIN) IS SUBJECT TO THE PDD AGREEMENT WITH THE CITY OF SAN MARCOS, ORDINANCE 2011-37, APPROVED AUGUST 16, 2011, AMENDED JULY 17, 2012, ORD. 2012-33.

2. NO PUBLIC IMPROVEMENT SHALL BE ACCEPTED BY THE CITY UNTIL CONSTRUCTION PLANS FOR OPEN SPACE IMPROVEMENTS AND AN OPEN SPACE PLAN, OUTLINING THE MANAGEMENT AND MAINTENANCE RELATIONSHIP BETWEEN CITY AND HOMEOWNER ASSOCIATION FOR SUCH IMPROVEMENTS, ARE APPROVED BY THE CITY.

3. BUILDING SETBACKS SHALL BE IN ACCORDANCE WITH THE BLANCO VISTA PDD, OR AS OTHERWISE APPROVED BY THE CITY OF SAN MARCOS.

4. A 10 FOOT-WIDE PUBLIC UTILITY EASEMENT IS HEREBY DEDICATED ADJACENT TO THE RIGHTS-OF-WAY OF LEATHER OAK LOOP.

5. SPECIAL NOTICE:
SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF THE LDC AND STATE LAW, AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.

6. SIDEWALKS:
PUBLIC SIDEWALKS, BUILT TO CITY OF SAN MARCOS STANDARDS, ARE REQUIRED ALONG THE FOLLOWING STREETS, AS SHOWN BY A DOTTED LINE ON THE FACE OF THE PLAT: ROYAL OAK BOULEVARD AND LEATHER OAK LOOP. THESE SIDEWALKS SHALL BE IN PLACE PRIOR TO THE LOT BEING OCCUPIED. FAILURE TO CONSTRUCT THE REQUIRED SIDEWALKS MAY RESULT IN THE WITHHOLDING OF CERTIFICATES OF OCCUPANCY, BUILDING PERMITS, OR UTILITY CONNECTIONS BY THE GOVERNING BODY OR UTILITY COMPANY.

7. THE LOTS HEREIN SHALL COMPLY WITH THE REQUIREMENTS AND RESTRICTIONS OF "TRACT I" WITHIN THE BLANCO VISTA PDD STANDARDS.

8. NEITHER ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY NOR BUILDING AND SITE CONSTRUCTION PERMITS (OTHER THAN MODEL HOMES) SHALL OCCUR PRIOR TO THE FILING OF THIS PLAT AND ACCEPTANCE OF ASSOCIATED INFRASTRUCTURE.

9. ALL LOTS IN THIS SUBDIVISION ARE SUBJECT TO THE "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BLANCO VISTA", AS AMENDED FROM TIME TO TIME, ORIGINALLY RECORDED IN VOLUME 3062, PAGE 327 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS.

10. LOTS 1, 25 AND 27-34, BLOCK A ARE PROHIBITED FROM TAKING DIRECT DRIVEWAY ACCESS FROM ROYAL OAK BOULEVARD.

11. THIS PROPERTY IS WITHIN THE CURRENT MAPPED EDWARDS AQUIFER TRANSITION ZONE.

12. NO LOT IN THIS SUBDIVISION FALLS WITHIN THE 100 YEAR FLOOD PLAIN OF A WATERWAY THAT IS WITHIN THE LIMITS OF STUDY OF THE FEDERAL FLOOD INSURANCE ADMINISTRATION FIRM PANEL 48209C0385F, DATED SEPTEMBER 2, 2005, FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS.

13. THE BLANCO VISTA H.O.A. OR ITS ASSIGNS SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF LANDSCAPE AND DRAINAGE LOTS SHOWN HEREON.

CITY OF SAN MARCOS:
CERTIFICATE OF APPROVAL:

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

_____ _____
DIRECTOR OF ENGINEERING — DATE

_____ _____
MATTHEW LEWIS, DIRECTOR DEVELOPMENT SERVICES — DATE

_____ _____
FRANCIS SERNA, RECORDING SECRETARY — DATE

_____ _____
CHAIRMAN, PLANNING AND ZONING COMMISSION — DATE

STATE OF TEXAS:
COUNTY OF HAYS:

I, _____, CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE

ON THE _____ DAY OF _____ A.D. 20__ AT _____ O'CLOCK _____ M., AND DULY

RECORDED ON THE _____ DAY OF _____, A.D. 20__ AT _____ O'CLOCK _____ M., IN THE

OFFICIAL PUBLIC RECORDS OF SAID COUNTY AND STATE, IN DOCUMENT NUMBER _____

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK, THE _____ DAY OF _____,

20__ A.D.

_____, COUNTY CLERK, HAYS COUNTY, TEXAS

BY _____
DEPUTY

BENCHMARK INFORMATION:

BM #4: SQUARE CUT ON BACK OF CONCRETE CURB ON MEDIAN ISLAND NOSE NEAR DRAINAGE CHANNEL CROSSING ON BLANCO VISTA BOULEVARD.

ELEVATION = 639.66'

NGVD 29 DATUM (SOURCE BENCHMARK IS RM88, F.E.M.A. MAP 48209C0185E DATED FEBRUARY 18, 1998.)

STATE OF TEXAS
REGISTERED
JOE BEN EARLY, JR.
6016
PROFESSIONAL
LAND SURVEYOR

5/31/13

CONTROL POINT "HC08"

4" ALUMINUM DISC IN CONC. STAMPED "HC08";

THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON 1983/93 HARN VALUES FROM LCRA CONTROL NETWORK.

TEXAS CENTRAL ZONE COORDINATES:

N 9954796.42
E 3067134.53

SURFACE TO GRID
1.000017434

GRID TO SURFACE
0.999982566

BENCHMARK ELEV. = 637.78 (NGVD 29 DATUM).
SOURCE BENCHMARK IS RM88, F.E.M.A. MAP 48209C0185E DATED FEBRUARY 18, 1998.

FROM G.P.S. OBSERVATIONS USING L.C.R.A. H.A.R.N. NETWORK.

CSM10
(CITY OF SAN MARCOS GPS #10)

4" ALUMINUM DISK IN CONCRETE

TEXAS CENTRAL ZONE COORDINATES:

N 9947582.78
E 3071412.89

ELEVATION = 629.35'

INFORMATION PROVIDED BY THE CITY OF SAN MARCOS, TEXAS.

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping
3500 McCall Lane
Austin, Texas 78744
512-443-1724

PROJECT NO.: 500-005
DRAWING NO.: 500-005-PL1
PLOT DATE: 5/31/13
PLOT SCALE: 1" = 60'
DRAWN BY: JBE

FINAL PLAT: BLANCO VISTA TRACT I

CITY OF SAN MARCOS, TEXAS

CURVE TABLE						
NO.	DELTA	RADIUS	TAN	ARC	CHORD	BEARING
C1	6°33'42"	200.00'	11.46'	22.90'	22.89'	N28°47'32"E
C2	30°07'48"	270.00'	72.67'	141.98'	140.35'	S42°51'43"E
C3	17°38'42"	270.00'	41.91'	83.15'	82.82'	S36°37'09"E
C4	86°30'11"	25.00'	23.52'	37.74'	34.26'	S88°41'36"E
C5	45°34'37"	25.00'	10.50'	19.89'	19.37'	N09°00'24"E
C6	117°47'59"	50.00'	82.89'	102.80'	85.63'	S76°08'58"W
C7	17°02'48"	330.00'	49.46'	98.18'	97.82'	N37°34'03"W
C8	89°04'02"	15.00'	14.76'	23.32'	21.04'	N73°34'40"W
C9	13°56'52"	275.00'	33.64'	66.94'	66.78'	S54°54'53"W
C10	15°56'37"	325.00'	45.51'	90.44'	90.15'	S55°54'47"W
C11	52°01'12"	15.00'	7.32'	13.62'	13.16'	S37°52'30"W
C12	194°02'25"	50.00'	406.04'	169.33'	99.25'	N71°06'54"W
C13	52°01'12"	15.00'	7.32'	13.62'	13.16'	N00°06'18"W
C14	51°37'35"	325.00'	157.20'	292.84'	283.04'	N00°18'07"W
C15	10°29'01"	325.00'	29.82'	59.47'	59.38'	N30°45'12"E
C16	48°09'38"	15.00'	6.70'	12.61'	12.24'	N11°54'53"E
C17	178°07'12"	50.00'	3047.32'	155.44'	99.99'	N76°53'40"E
C18	48°40'05"	15.00'	6.78'	12.74'	12.36'	S38°22'47"E
C19	34°55'01"	325.00'	102.21'	198.06'	195.01'	S45°15'19"E
C20	10°58'45"	275.00'	26.43'	52.70'	52.62'	S33°17'11"E
C21	94°40'35"	15.00'	16.28'	24.79'	22.06'	S86°06'51"E
C22	15°24'04"	325.00'	43.95'	87.36'	87.10'	N54°14'54"E
C23	89°44'44"	15.00'	14.93'	23.50'	21.17'	N17°04'34"E
C24	15°56'39"	275.00'	38.51'	76.53'	76.28'	S55°54'47"W
C25	90°00'00"	15.00'	15.00'	23.56'	21.21'	N71°06'54"W
C26	51°37'35"	275.00'	133.02'	247.79'	239.49'	N00°18'07"W
C27	14°01'19"	275.00'	33.82'	67.30'	67.13'	N32°31'21"E
C28	74°00'13"	15.00'	11.30'	19.37'	18.06'	N76°32'07"E
C29	38°39'58"	275.00'	96.48'	185.58'	182.08'	S47°07'48"E
C30	11°44'07"	325.00'	33.40'	66.57'	66.45'	S33°39'52"E
C31	87°28'23"	15.00'	14.35'	22.90'	20.74'	S04°12'16"W
C32	29°04'43"	50.00'	12.97'	25.38'	25.10'	S31°47'20"W
C33	88°43'16"	50.00'	48.90'	77.42'	69.92'	N89°18'40"W
C34	5°08'56"	270.00'	12.14'	24.26'	24.25'	S55°21'09"E
C35	16°42'03"	270.00'	39.63'	78.70'	78.42'	S44°25'40"E
C36	8°16'50"	270.00'	19.54'	39.02'	38.99'	S31°56'14"E
C37	5°14'20"	325.00'	14.87'	29.72'	29.71'	S50°33'39"W
C38	8°19'48"	325.00'	23.67'	47.25'	47.21'	S57°20'42"W
C39	2°22'30"	325.00'	6.74'	13.47'	13.47'	S62°41'51"W
C40	46°18'21"	50.00'	21.38'	40.41'	39.32'	S35°01'04"W
C41	40°25'20"	50.00'	18.41'	35.28'	34.55'	S78°22'55"W
C42	28°58'32"	50.00'	12.92'	25.29'	25.02'	N66°55'09"W
C43	45°51'21"	50.00'	21.15'	40.02'	38.96'	N29°30'13"W
C44	32°28'51"	50.00'	14.56'	28.34'	27.97'	N09°39'53"E
C45	8°09'09"	325.00'	23.16'	46.24'	46.20'	N22°02'20"W
C46	8°18'40"	325.00'	23.61'	47.14'	47.10'	N13°48'26"W
C47	8°18'40"	325.00'	23.61'	47.14'	47.10'	N05°29'46"W
C48	8°18'40"	325.00'	23.61'	47.14'	47.10'	N02°48'54"E
C49	8°18'40"	325.00'	23.61'	47.14'	47.10'	N11°07'33"E
C50	8°15'06"	325.00'	23.44'	46.81'	46.77'	N19°24'26"E
C51	1°58'42"	325.00'	5.61'	11.22'	11.22'	N24°31'20"E
C52	1°01'26"	325.00'	2.90'	5.81'	5.81'	N26°01'24"E
C53	9°27'35"	325.00'	26.89'	53.66'	53.60'	N31°15'54"E
C54	24°50'47"	15.00'	3.30'	6.50'	6.45'	N23°34'18"E
C55	23°18'51"	15.00'	3.09'	6.10'	6.06'	N00°30'31"W
C56	51°33'56"	50.00'	24.15'	45.00'	43.50'	N13°37'02"E
C57	38°32'15"	50.00'	17.48'	33.63'	33.00'	N58°40'08"E
C58	17°27'27"	50.00'	7.68'	15.23'	15.18'	N86°39'59"E
C59	43°58'21"	50.00'	20.19'	38.37'	37.44'	S62°37'07"E
C60	26°35'13"	50.00'	11.81'	23.20'	22.99'	S27°20'21"E
C61	5°02'22"	325.00'	14.30'	28.59'	28.58'	S60°11'39"E
C62	8°12'53"	325.00'	23.34'	46.60'	46.56'	S53°34'01"E
C63	9°50'43"	325.00'	27.99'	55.85'	55.78'	S44°32'13"E
C64	8°02'40"	325.00'	22.85'	45.63'	45.59'	S35°35'32"E
C65	3°46'23"	325.00'	10.71'	21.40'	21.40'	S29°41'00"E
C66	3°25'35"	275.00'	8.23'	16.45'	16.44'	S49°39'15"W
C67	12°31'04"	275.00'	30.16'	60.08'	59.96'	S57°37'34"W
C68	3°36'41"	275.00'	8.67'	17.33'	17.33'	N24°18'34"W
C69	14°37'44"	275.00'	35.30'	70.21'	70.02'	N15°11'21"W
C70	22°58'37"	275.00'	55.89'	110.28'	109.54'	N03°36'49"E
C71	10°24'33"	275.00'	25.05'	49.96'	49.89'	N20°18'24"E
C72	14°55'21"	275.00'	36.02'	71.62'	71.42'	S59°00'06"E
C73	23°31'01"	275.00'	57.24'	112.87'	112.08'	S39°46'55"E
C74	0°13'36"	275.00'	0.54'	1.09'	1.09'	S27°54'37"E
C75	2°46'03"	325.00'	7.85'	15.70'	15.70'	S29°10'50"E
C76	8°58'04"	325.00'	25.49'	50.87'	50.82'	S35°02'53"E

LINE TABLE		
No.	BEARING	LENGTH
L1	N00°12'23"W	5.21'
L2	N27°47'49"W	25.00'
L3	S49°18'15"W	2.13'
L4	S88°25'32"W	1.15'
L5	N19°27'35"W	2.89'
L6	N19°50'52"W	1.13'
L7	N06°33'24"E	0.74'
L8	S70°32'25"W	35.08'
L9	N27°15'17"W	22.92'
L10	S27°15'17"E	8.68'
L11	S70°07'50"W	17.23'
L12	N32°05'06"E	31.56'
L13	N62°12'11"E	125.00'

SURVEYOR'S CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS:

THAT I, JOE BEN EARLY, JR., A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY TO THE BEST OF MY SKILL AND KNOWLEDGE THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND ON JUNE 29, 2012 AND THE CORNER MONUMENTS SHOWN THEREON AS "SET" WERE PROPERLY PLACED UNDER MY SUPERVISION IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF SAN MARCOS.

5/31/13

JOE BEN EARLY, JR., R.P.L.S.
REGISTERED PROFESSIONAL LAND SURVEYOR, STATE OF TEXAS NO. 6016
CHAPARRAL PROFESSIONAL LAND SURVEYING, INC.
3500 McCALL LANE
AUSTIN, TX 78744
512-443-1724

STATE OF TEXAS
REGISTERED
JOE BEN EARLY, JR.
6016
PROFESSIONAL
LAND SURVEYOR

ENGINEER'S CERTIFICATION:

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

NO LOT IN THIS SUBDIVISION FALLS WITHIN THE 100 YEAR FLOOD PLAIN OF A WATERWAY THAT IS WITHIN THE LIMITS OF STUDY OF THE FEDERAL FLOOD INSURANCE ADMINISTRATION FIRM PANEL 48209C0385F, DATED SEPTEMBER 2, 2005, FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS.

CHARLES STEINMAN, P.E. #64410,
REGISTERED PROFESSIONAL ENGINEER, STATE OF TEXAS
CSF CIVIL GROUP, LLC
3636 EXECUTIVE CENTER DRIVE, SUITE 209
AUSTIN, TEXAS 78731
(512) 614-4466
TBPE FIRM REGISTRATION NO. 12377

STATE OF TEXAS
CHARLES E. STEINMAN
64410
LICENSED
PROFESSIONAL ENGINEER

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping
3500 McCall Lane
Austin, Texas 78744
512-443-1724

PROJECT NO.: 500-005
DRAWING NO.: 500-005-PL1
PLOT DATE: 5/31/13
PLOT SCALE: 1" = 60'
DRAWN BY: JBE

File: L:\252919\PDD-2011\Exhibits\Concept Plan\Concept Plan.dwg

Phasing Schedule

Phasing Plan	Tract(s)	Schedule of Phasing	Acreage	Zoning	Number of Dwelling Units	Population Densities
Phase 1	B	Under Construction	27.8	MU	159	413
Phase 2	V	Under Construction	22.1	MU	106	276
Phase 3	C	Spring 2012	31.1	MU	To Be Determined at Time of Platting	To Be Determined at Time of Platting
Phase 4	A, D, E, G, H, I, J, T, U	Fall 2016	125.9	MU	To Be Determined at Time of Platting	To Be Determined at Time of Platting
Phase 5	F, K, L, M, N, O, P, Q, R, S	Fall 2016	224.0	MU	To Be Determined at Time of Platting	To Be Determined at Time of Platting
Elementary School	N/A	Existing	11.7	MU	N/A	N/A
Recreation Center	N/A	Existing	3.7	MU	N/A	N/A
Worship Site	N/A	Existing	5.1	MU	N/A	N/A
Drainage & Open Space	N/A	Existing	77.4	MU	N/A	N/A
Blanco Vista & Trail Ridge Pass	N/A	Existing	29.4	MU	N/A	N/A
Loop 110	N/A	Existing	16.9	MU	N/A	N/A

Brookfield Residential

Loop 110

Tract N Residential

Tract L Residential

Tract M Residential

Tract O Residential

Tract K Residential

Tract H Residential

Tract F Commercial / Multi-Family

Tract G Mixed Use Commercial / Residential

ARTERIAL 2

ARTERIAL 1

Tract P Residential

Tract R Residential

Tract I Residential

Tract J Residential

Public / Institutional Existing Worship Site

Public / Institutional Fire Station

Tract E Residential

Tract Q Residential

Existing Recreation Center

Tract D Res.

Tract C Residential

Public / Institutional Existing Elem. School

Tract S Residential

Tract V Phase 2 106 Units

Tract B Phase 1 159 Units (SOLD)

Tract T Residential

Tract U Mixed Use Commercial / Residential

Tract A Residential

Old Stagecoach Road

Yarrington Rd.

RR Tracks

Post Road

Soccer Park

5 Mile Dam

Dudley Johnson & Randall Vetter Parks

INTERSTATE 35

Item 10

Legend

- Entry Feature
- Existing Platted Area

Land Use Schedule

Uses	Acreage	Density	Units
Residential			
Residential	407.8 ac.	5.3 U/ac.	2,175
Residential Total	407.8 ac.	5.3 U/ac.	2,175
Community Features			
Recreation Center	3.7 ac.		
Public ROW - Loop 110	16.9 ac.		
Public ROW - Arterial 1&2	29.4 ac.		
Drainage & Open Space	77.4 ac.		
Community Features Total	127.4 ac.		
SUB-TOTAL	535.2 ac.	4.1 U/ac.	2,175
Non-Residential			
Commercial / Multi-Family	14.6 ac.		
Mixed Use	8.5 ac.		
Public & Institutional	16.8 ac.		
Non-Residential Total	39.9 ac.		
PROJECT TOTAL	575.1 ac.	3.8 U/ac.	2,175

712 Congress Avenue, Suite 300
Austin, TX 78701
Tel: (512) 480-0032 Fax: (512) 480-0617
www.pvlplanning.com

PVL Planning + Landscape Architecture + Graphic Design

All information furnished regarding this property is from sources deemed reliable. However, PVL has not made an independent verification of the information and makes no guarantee, warranty or representation about it. It is submitted subject to errors, omissions, rental rate change, or other conditions. This base plan is conceptual in nature and is subject to change. The information contained herein is for illustrative purposes only. The base plan is not to scale and may reflect minor changes to the original and other aspects of the development hereunto, with the approval of the City of San Marcos and the BBB in marketing efforts.

CONCEPTUAL PLAN
(EXHIBIT - 2)

SCALE: 1" = 300'
0 — 400'
DATE: 07-05-2011
NORTH

Blanco Vista
San Marcos, Texas

Agenda Information

AGENDA CAPTION:

ZC-13-08 (1402/1404 Clyde Street) Hold a public hearing and consider a request by Mark Mayhew for a Zoning Change from Single Family (SF-6) to Townhome (TH) for Lots 30 & 31 out of Block 2, Westover Subdivision, located at 1402 & 1404 Clyde Street

Meeting date: June 25, 2013

Department: Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

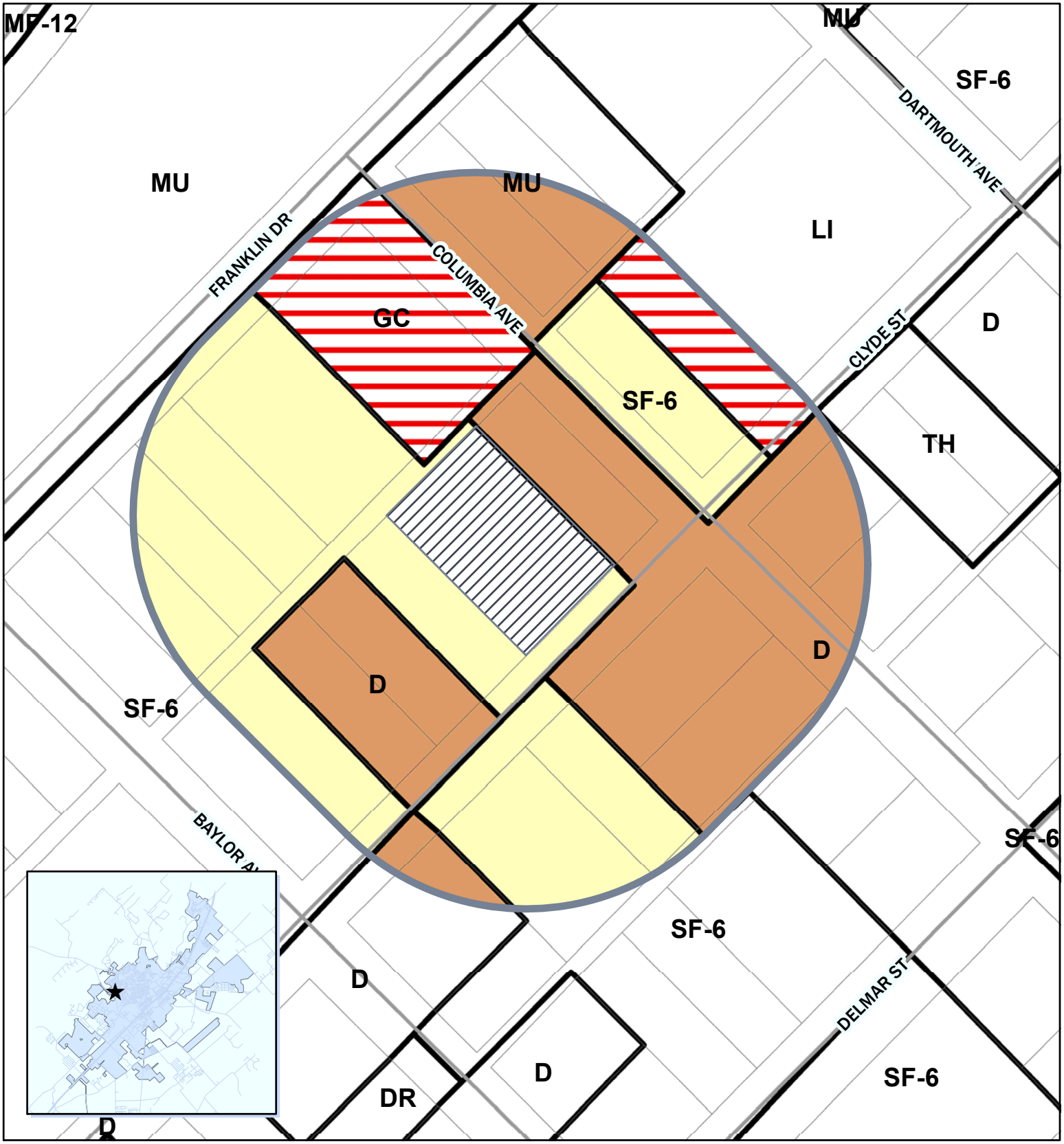
BACKGROUND:

The subject property consists of lots 30 & 31, Block 2 of Westover Subdivision and is currently vacant. It is surrounded by a mix of land uses including commercial and residential. The applicant proposes to rezone the properties to allow the construction of townhomes. The proposed Townhouse Zoning would allow the construction of single family attached or detached residential structures or duplexes. No plans have been submitted at this time however all requirements in the LDC, including occupancy restriction, must be met.

The property is located in an area of stability on the Preferred Scenario Map. The property is in a Mixed Residential Area based on the surrounding zoning (40.3% Single Family / 59.7% Other Residential) and is classified as Redevelopment / Infill on the Land Use Intensity Matrix. A review worksheet is attached to this report which details the analysis of the zoning change using Comprehensive Plan Elements. Staff finds this request is consistent with the Comprehensive Plan Elements and Land Development Code requirements and recommends approval.

ATTACHMENTS:

map
Staff report
Comp Plan Analysis
Application
Deed
letters



ZC-13-08
1402/1404 Clyde St
Map Date: 6/18/2013

Site Location
200 Ft. Buffer
Single Family
Other Residential
Other Zoning - N/A

0 50 100 200 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.

Zoning Change
ZC-13-08
1402 & 1404 Clyde

Summary: The applicant is requesting a zoning change from Single Family (SF-6) to Townhouse (TH) for Lots 30 & 31, Block 2, Westover Subdivision located at 1402 & 1404 Clyde.

Applicant: Mark Mayhew
302 West Hopkins Street
San Marcos, TX 78666

Property Owners: Same as above.

Notification: Personal notifications of the public hearing were mailed on Friday, June 14, 2013 to all property owners within 200 feet of the subject property.

Response: Mr. Joe Schneider called in reference to this request and intends to submit a letter for the Commission to consider.

Property/Area Profile:

Legal Description: Lots 30 & 31, Block 2, Westover Subdivision

Location: 1402 & 1404 Clyde

Existing Use of Property: Vacant

Proposed Use of Property: Townhomes

Preferred Scenario Map: Area of Stability

Land Use Intensity Matrix: Redevelopment / Infill

Existing Zoning: Single Family (SF-6)

Proposed Zoning: Townhouse (TH)

Utility Capacity: Adequate

Sector: Sector 2

Area Zoning and Land Use Pattern:

	Zoning	Existing Land Use	Preferred Scenario
N of Property	D	Residential	Stability
S of Property	SF-6	Residential	Stability
E of Property	D	Residential	Stability
W of Property	SF-6 / GC	Residential / Commercial	Stability

Case Summary

The subject property consists of lots 30 & 31, Block 2 of Westover Subdivision and is currently vacant. It is surrounded by a mix of land uses including commercial and residential. The applicant proposes to rezone the properties to allow the construction of townhomes. The proposed Townhouse Zoning would allow the construction of single family attached or detached residential structures or duplexes. No plans have been submitted at this time however all requirements in the LDC, including occupancy restriction, must be met.

Planning Department Analysis

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

The property is located in an area of stability on the Preferred Scenario Map.

The property is in a Mixed Residential Area based on the surrounding zoning (48.8% Single Family / 51.2% Other Residential) and is classified as Redevelopment / Infill on the Land Use Intensity Matrix.

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

- The property lies within an Area of Stability and is classified as a Mixed Residential Area – Townhouse is an eligible zoning category; therefore, a Preferred Scenario Amendment is not required.
- It is located in the Purgatory Creek watershed, additional impervious cover for the site is not accounted for within the Plan's Water Quality Model however due to the location in the recharge zone, impervious cover will be limited.
- The property is "high-moderately" constrained according to the Land Use Suitability Map – this is due mainly to the location within the recharge zone
- It is not located in a wastewater or water "hot spot." Both services are available and adequate.
- Parkland is not located within walking distance, and there are no sidewalks or bike lanes in the area, but a public transportation route is located along N. Bishop St.
- The Travel Demand Model only analyzes roadways that are Collector and above. The nearest Collector roadway, which provides access to this neighborhood, is N. Bischop St.

In addition, the consistency of this proposed change to the LDC criteria is detailed below:

Evaluation			Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	Neutral	
X			**Change implements the policies of the plan elements in the adopted Comprehensive Plan, including the land use classification on the Preferred Scenario Map** *The change is consistent with the Preferred Scenario Map and Comprehensive Plan Elements in Vision San Marcos. See the analysis above and the attached Comprehensive Plan Worksheet.*
		X	**Consistency with any development agreement in effect** *No development agreements are in effect for this property.*
X			**Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified** *The townhome use is appropriate in this Mixed Residential Area.*
X			**Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area** *The property is currently served with City water and wastewater. There are no Capital Improvement Plan projects anticipated in the immediate area.*
X			**Other factors which substantially affect the public health, safety,**

Evaluation			Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	Neutral	
			morals, or general welfare *None noted.*

Additionally, the Commission should consider:

(1) Is the property suitable for use as presently zoned?
Staff evaluation: Yes.

(2) Has there been a substantial change of conditions in the neighborhood surrounding the subject property?
Staff evaluation: The surrounding area has been and remains a mix of residential uses.

(3) Will the proposed rezoning address a substantial unmet public need?
Staff evaluation: This would not address a substantial unmet public need.

(4) Will the proposed rezoning confer a special benefit on the landowner/developer and cause a substantial detriment to the surrounding lands?
Staff evaluation: No, there is no special benefit to the landowner and no substantial detriment to the surrounding lands.

(5) Will the proposed rezoning serve a substantial public purpose?
Staff evaluation: The rezoning does not serve a substantial public purpose.

Staff presents this request to the Commission and recommends approval.

Planning Department Recommendation	
☒	**Approve as submitted**
☐	**Approve with conditions or revisions as noted**
☐	**Discussion only**
☐	**Denial**

Prepared by:

Amanda Hernandez, AICP	Senior Planner	June 18, 2013
Name	**Title**	**Date**

The Commission's Responsibility:

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

ZC-13-07 Zoning Change Review

(By Comp Plan Element)

LAND USE – Preferred Scenario Map / Land Use Intensity Matrix

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

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

Not applicable to this Zoning Change Request

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

ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints

INCLUDE MAP	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint				X	
Constraint by Class – **This data is not yet available for analysis**					
Cultural					
Edwards Aquifer					
Endangered Species					
Floodplains					
Geological					
Slope					
Soils					
Vegetation					
Watersheds					
Water Quality Zone					

ENVIRONMENT & RESOURCE PROTECTION –

Located in Subwatershed:	**Purgatory Creek**				
ANALYSIS FOR PSA ONLY	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed		X			
Additional Impervious Cover Increase Anticipated					
Anticipated pollutants:					

NEIGHBORHOODS – Where is the property located

CONA Neighborhood(s):	**Westover**
Neighborhood Commission Area(s):	**Sector 2**
Neighborhood Character Study Area(s):	**Not applicable at this time.**

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

	YES	NO
Will Parks and / or Open Space be Provided?		X
Will Trails and / or Green Space Connections be Provided?		X

	Low (maintenance)		Medium		High (maintenance)
Wastewater Hotspot	**X**				
Water Hotspot	**X**				

Public Facility Availability

	YES	NO
Parks / Open Space within ¼ mile (walking distance)?		**X**
Wastewater service available?	**X**	
Water service available?	**X**	

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

		A	B	C	D	F
Existing Daily LOS	ROADWAY 1: **N. Bishop St**	**X**				
Existing Peak LOS	ROADWAY 1:	**X**				
Preferred Scenario Daily LOS	ROADWAY 1: **N. Bishop St**	**X**				
Preferred Scenario Peak LOS	ROADWAY 1: **N. Bishop St**			**X**		

	N/A	Good	Fair	Poor
Sidewalk Availability	**X**			

	YES	NO
Adjacent to existing bicycle lane?		**X**
Adjacent to existing public transportation route?	**X***	

Notes:
This property does not front on a Collector Roadway or above – N. Bishop St. is the Collector for this neighborhood.
***A public transportation route is located on N. Bishop St.**

RECEIVED
MAY 04 2013
BY: TOPY

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

A pre-application conference with staff is recommended;

A completed application form, including a statement verifying land ownership and, if applicable, authorization of the land owner's agent to file the petition and required fees;

Legal description of the site (metes and bounds or lot and block if platted)

Certificate of no tax delinquency

Subdivision Concept Plats or Site Plans as required (see Chapter 1 of the LDC)

Additional information as required to clarify the request

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

Signed: Mark S Mayhew Date: 4/10/2013

Print Name: MARK S MAYHEW

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

ZC- 13 - 08

09/12

City of San Marcos
ZONING CHANGE APPLICATION

	APPLICANT	PROPERTY OWNER
Name:	Mark Mayhew	Same
Mailing Address:		
Telephone No.:	512-753-9168	
E-mail address:	markmayhew@centurylink.net	

PROPERTY DESCRIPTION:

Street Address: 1402/4 Clyde

Subdivision: Westover **Block:** 2 **Lot(s):** 30 & 31

Other Description (if unplatted) _____

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

Appraisal District Tax ID No.: R 47413 **Acres:** 0.37

Lien Holder(s) - for notification purposes:

Name: Mark Mayhew

Mailing Address: 302 W. Hopkins St. San Marcos TX 78666

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

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

ZONING CHANGE INFORMATION:

Zoning Designation: **Current:** SF **Requested:** Townhome

Master Plan Designation: _____ **Land Use Map Amendment Required?** _____

Present Use of Property: vacant

Desired Use of Property/Reason for Change: Townhomes

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

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

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

Signature: Mark P. Mayhew **Date:** 4/10/2013

Printed Name: MARK P. Mayhew

APPLICATION FOR CITY OF SAN MARCOS ZONING CHANGE

Development Services-Planning • 630 East Hopkins • San Marcos, Texas 78666 • 512/393-8230 • FAX 512/396-9190

AGREEMENT TO THE PLACEMENT OF ZONING NOTIFICATION SIGNS

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

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

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

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

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

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

Signature of Applicant

4/10/2013
Date

FOR STAFF USE ONLY:

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

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

FEE INFORMATION:

Fee Schedule:

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

APPLICATION PROCESS:

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

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

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

To be completed by Staff:

Property is located in: ☐ Edwards Aquifer Recharge Zone ☐ Historic District ☐ River Corridor

Concurrent Land Use Amendment is Required: ☐ Yes ☒ No

Meeting Date: _____ Deadline: _____ Accepted By: _____ Date: _____

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

70 2011 11030080

Instrument Number: 2011-11030080
As
OPR RECORDINGS

Recorded On: December 27, 2011

Parties: COMPTON DONALD R
To MAYHEW MARK

Billable Pages: 2
Number of Pages: 3

Comment:

(Parties listed above are for Clerks reference only)

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

OPR RECORDINGS	20.00
Total Recording:	**20.00**

******************** 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: 2011-11030080
Receipt Number: 292154
Recorded Date/Time: December 27, 2011 03:33:33P
Book-Vol/Pg: BK-OPR VL-4250 PG-173
User / Station: S Breland - Cashiering #5

Record and Return To:

SAN MARCOS 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

Liz Q. Gonzalez

Liz Q.Gonzalez, County CLerk

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

General Warranty Deed

Date: December 23, 2011

SAN MARCOS TITLE CO.
GF # 626491

Grantor: Donald R. Compton, a single person

Grantor's Mailing Address:
Donald R. Compton
P.O. Box 341
San Marcos, Texas 78666
Hays County

Grantee: Mark Mayhew, a married man
302 West Hopkins Street
San Marcos, Texas 78666

Grantee's Mailing Address:
Mark Mayhew
302 West Hopkins Street
San Marcos, Texas 78666
Hays County

Consideration:

Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

Lots 29, 30 and 31, Block 2, WESTOVER ADDITION, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 59, Page 184, of the Deed Records of Hays County, Texas.

Reservations from Conveyance:

None

Exceptions to Conveyance and Warranty:

This conveyance is made and accepted subject to any and all of the conditions, restrictions, reservations, covenants, easements and set backs, relating to the hereinabove described property, to the extent they are still in effect, shown of record in the above mentioned County and State, and to all regulations and ordinances of municipal or other governmental authority, if any, relating to the above described property, including taxes for the current year, for which the Grantee assumes the responsibility for payment.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

Donald R. Compton

Donald R. Compton

STATE OF TEXAS)

COUNTY OF HAYS)

This instrument was acknowledged before me on December 23 2011, by Donald R. Compton.

SANDRA DAVID
Notary Public, State of Texas
My Commission Expires
NOVEMBER 22, 2013

Notary Public, State of Texas
My commission expires: _____

AFTER RECORDING RETURN TO:

San Marcos Title Company
100 San Antonio, Suite 101
San Marcos, TX 78666

HOGAN-SCHNEIDER PROPERTIES, LTD.
803 Mustang Lane
San Marcos, Texas 78666

June 18, 2013

Development Services-Planning
630 East Hopkins
San Marcos, TX 78666

RE: XC-13-08

Dear Planning Services:

Hogan-Schneider Properties, Ltd. owns three properties (1408 and 1410 Clyde and 1312 Baylor) within the 200 foot radius of the subject property. We are opposed to a zoning change from Single Family to Townhouse for lots 30 &31, block 2 of Westover Addition. The zero lot line interior setback and the different front and rear setbacks of Townhouse zoning will not be compatible with the rest of the developed 1400 block of Clyde Street. We feel that these lots would be more compatible with the rest of the neighborhood if they were built as Single Family lots.

Thank you,

Joe Schneider,
Hogan-Schneider Properties, Ltd.

C W HOGAN, LLC
803 Mustang Lane
San Marcos, Texas 78666

June 18, 2013

Development Services-Planning
630 East Hopkins
San Marcos, TX 78666

RE: XC-13-08

Dear Planning Services:

C W Hogan, LLC owns the property at 1414 Clyde Street which is within the 200 foot radius of the subject property. We are opposed to a zoning change from Single Family to Townhouse for lots 30 &31, block 2 of Westover Addition. The zero lot line interior setback and the different front and rear setbacks of Townhouse zoning will not be compatible with the rest of the developed 1400 block of Clyde Street. We feel that these lots would be more compatible with the rest of the neighborhood if they were built as Single Family lots.

Thank you,

Laura Schneider

Laura Schneider,
C W Hogan, LLC

Agenda Information

AGENDA CAPTION:

ZC-13-09 (Windemere) Hold a public hearing and consider a request by Robert Haug and Vinson Wood for an amendment to the Zoning Map from Future Development (FD) to Single-Family Rural (SF-R) for the Enclave at Windemere, consisting of 20.08 acres more or less out of the T.J Chambers Survey located at Lime Kiln Road and Windemere Road.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: na

Account Number: na

Funds Available: na

Account Name: na

CITY COUNCIL GOAL:

BACKGROUND:

The subject property is a 20.08 acre portion of a larger 235 acre tract located on the west side of Lime Kiln Road, which would provide the only access to the entire site unless and until Craddock Road is built. The surrounding uses are predominantly residential and agricultural. The site is also located adjacent to the Sink Creek Water Quality Protection Zone and within the Edwards Aquifer Recharge Zone. The 20.08 acre subject property fronts on Lime Kiln.

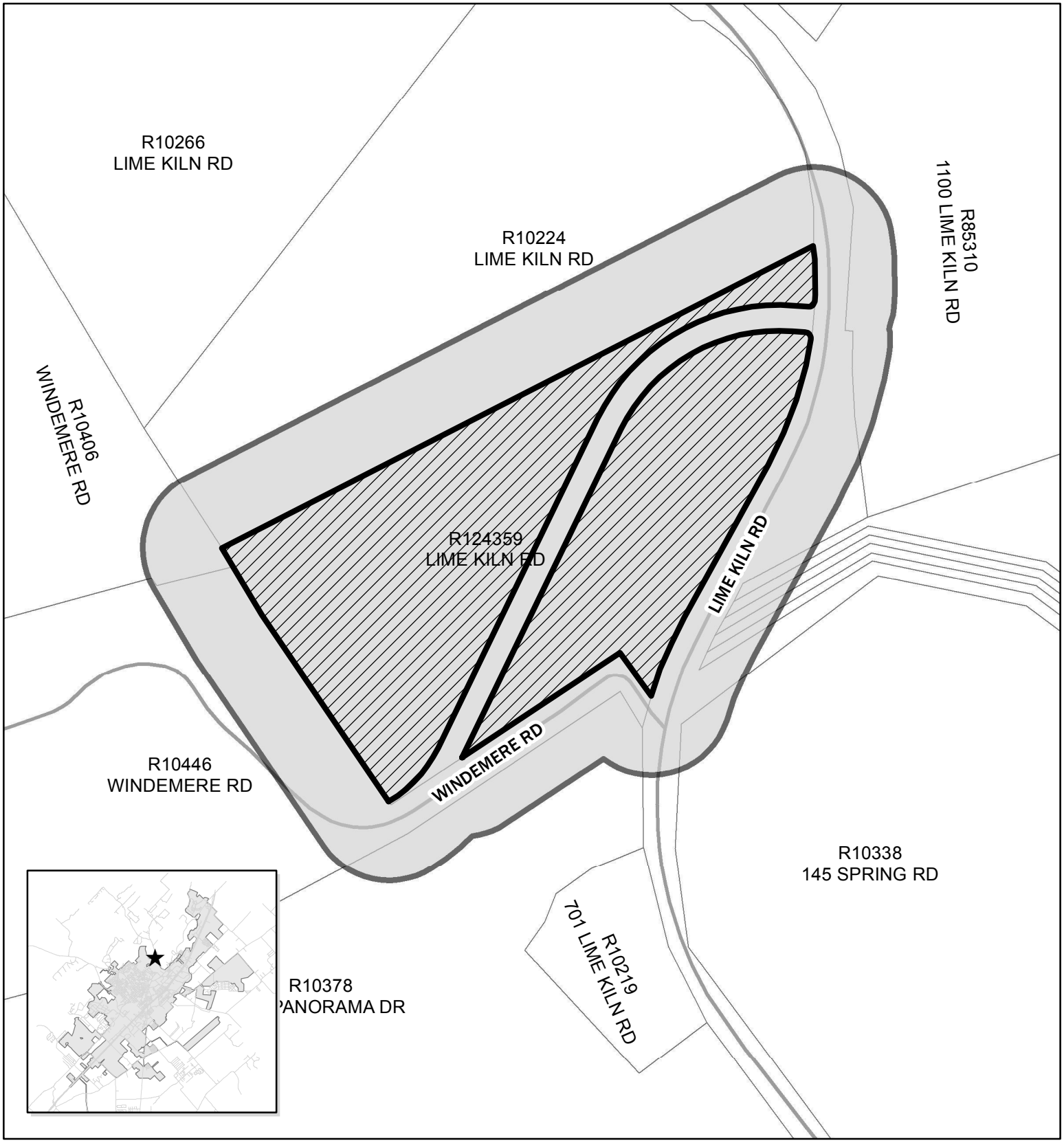
The property is located within the Edwards Aquifer Recharge Zone and is subject to a TCEQ water pollution abatement plan. A portion of the property is also located within the Water Quality zone of Sink Creek**.**

The proposed SF-R zoning allows single-family residential development with minimum lot sizes of one acre and a maximum density of .8 units per acre. The zoning change request has been reviewed using *Vision San Marcos: A River Runs Through Us* as well as the guidance criteria in Section 1.5.1.5 of the Land Development Code.

The property is located in an area of stability on the Preferred Scenario Map. At over 20 acres, it is classified as New Development on the Land Use Intensity Matrix. A review worksheet is attachedwhich details the analysis of the zoning change using Comprehensive Plan Elements. Staff finds this request is consistent with the Comprehensive Plan Elements and the criteria in the Land Development Code and recommends approval.

ATTACHMENTS:

Case Map
Staff Report
Comp Plan Analysis



ZC-13-09
Enclave at Windemere
Map Date: 6/13/2013

Site Location
Notification Buffer (200 feet)

0 200 400 800 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.

ZC-13-09
Zoning Change
The Enclave at Windemere
Windemere and Lime Kiln Road

Summary:

Applicant/Owners: Robert L Haug and Vinson J Wood
2009 RR 620 North #130
Austin, Texas 78734

Consultants: ETR Development Consulting, L.L.C.
401 Dryden Lane
Buda, TX 78610

Property/Area Profile:

Legal Description: 20.08 acres out of the TJ Chambers A-2 Survey

Location: 200 Lime Kiln Road

Existing Use of Property: Undeveloped

Existing Zoning: Future Development (FD)

Proposed Use of Property: Single Family Residences

Proposed Zoning: Single Family (SF-R)

Sector: Adjacent to Sector 3

Frontage On: Lime Kiln

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	ETJ	Open space
S of Property	ETJ	Open Space
E of Property	ETJ	Agriculture
W of Property	SF-R	Open Space

Background

The subject property is a 20.08 acre portion of a larger 235 acre tract located on the west side of Lime Kiln Road, which would provide the only access to the entire site unless and until Craddock Road is built. The surrounding uses are predominantly residential and agricultural. The site is also located adjacent to the Sink Creek Water Quality Protection Zone and within the Edwards Aquifer Recharge Zone. The 20.08 acre subject property fronts on Lime Kiln.

The property is located within the Edwards Aquifer Recharge Zone and is subject to a TCEQ water pollution abatement plan. A portion of the property is also located within the Water Quality zone of Sink Creek.

Case History

A summary of cases for the overall 235 acre site is outlined below. A Planned Development District Overlay is in place for Phase 1, which does not include the subject property in this case.

- February 2008 – A Concept Plan was applied for and withdrawn by the applicant [PC-08-06(01)]
- February 2008 – Watershed Protection Plan Phase I *approved* [WPP1-08-0002]
- March 2008 – Land Use Map Amendment from VLDR to LDR was applied for and withdrawn by the applicant [LUA-08-05]
- June 2008 – A Plat Variance to allow 16 lots access from a median street was applied for and withdrawn [PVC-08-03]
- June 2008 – A Plat Variance to allow hiking trails and wildlife easements for pedestrian circulation in lieu of concrete sidewalks was applied for and withdrawn [PVC-08-02]
- July 2010 – A Plat Variance to allow a subdivision with more than 75 lots to have only one point of vehicular access was withdrawn [PVC-10-03]
- August 2010 – A Plat Variance to allow less than the minimum required ROW for a 47 foot portion of the street was *approved with conditions*[1] [PVC-10-04]
- January 2011 – A Zoning Change from FD to SF-R was applied for and was *approved* [ZC-11-04]
- January 2011 – A Plat Variance to allow for a 6,500 foot block was *approved with conditions*[2] [PVC-11-01]
- January 2011 – A Plat Variance to allow a maximum temporary cul-de-sac length of 6,500 feet was *approved with conditions*[2] [PVC-11-02]
- January 2011 – A Zoning Change from FD to SFR was applied for and was *approved* [ZC-11-04]
- January 2011 – A Variance to the minimum lot width was applied for and *denied* by ZBOA [VR-11-03]
- February 2011 – Parks Advisory Board recommended approval of a Fee-in-lieu (.99 acres equivalent = $24,750)
- March 2011 – A Concept Plat was submitted and approved [PC-11-01(01)]
- September 2011 – A Planned Development District for Phase I (150 acres) was applied for and was approved [PDD-11-10]
- July 2012 – A Planned Development District overlay for The Enclave (22.5 acres) was applied for. The applicant subsequently requested the item be postponed to pursue other options.
- May 2013 – The Planned Development District application for the Enclave was withdrawn

Many of these cases had public opposition

[1] Planning Conditions: all other ROW shall be dedicated and constructed to city standards, no more than 74 total lots shall use the new residential collector as their sole point of access, the property shall not be developed more densely than shown on the concept plan

[2] Planning Conditions: the number of lots is limited to 74, connections are made to each of the adjacent tracts providing for the possibility of future connections

Case Summary

The proposed SF-R zoning allows single-family residential development with minimum lot sizes of one acre and a maximum density of .8 units per acre. The zoning change request has been reviewed using *Vision San Marcos: A River Runs Through Us* as well as the guidance criteria in Section 1.5.1.5 of the Land Development Code.

The property is located in an area of stability on the Preferred Scenario Map. At over 20 acres, it is classified as New Development on the Land Use Intensity Matrix.

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

- The property lies within an Area of Stability and is classified as a New Residential Area. Single-Family-Rural is an eligible zoning category; therefore, a Preferred Scenario Amendment is not required.
- It is located in the Sink Creek watershed, additional impervious cover for the site is not accounted for within the Plan's Water Quality Model, however due to the location in the recharge zone and standards associated with SF-R, impervious cover will be limited.
- The property is "high-moderately" constrained according to the Land Use Suitability Map – this is because of the location within the recharge zone, floodplains, and water quality buffer. The SF-R zoning designation is the lowest-intensity single-family zoning in San Marcos.
- It is not located in a wastewater or water "hot spot." There is not currently water or wastewater service. Providing service to the site would be the responsibility of the developer.
- The site is within walking distance from the Spring Lake Preserve, but there are no sidewalks or bike lanes in the area.
- The Travel Demand Model shows a daily level of service A for Lime Kiln, but Post and Aquarena, which connect the subject property to the city, show levels of service of C and F respectively. Distribution and timing of any transportation improvements will occur at the time of platting.

In addition, the consistency of this proposed change to the LDC criteria is detailed below:

Evaluation			Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	Neutral	
X			**Change implements the policies of the plan elements in the adopted Comprehensive Plan, including the land use classification on the Preferred Scenario Map** *The change is consistent with the Preferred Scenario Map and Comprehensive Plan Elements in Vision San Marcos. See the analysis above and the attached Comprehensive Plan Worksheet.*
		X	**Consistency with any development agreement in effect** *No development agreements are in effect for this property.*
X			**Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified** *The SF-R zoning is consistent with the zoning of the adjacent Preserve at Windemere PDD and is compatible with the other surrounding agricultural and low-density residential properties.*
X			**Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area** *There are no Capital Improvement Plan projects anticipated in the immediate area.*
X			**Other factors which substantially affect the public health, safety, morals, or general welfare** *Access to this site has been much discussed in previous cases. This rezoning would entitle the construction of up to 16 single-family lots on the subject tract. No more than 74 lots may be developed beyond the "spike strip" separating the Enclave from the Preserve until a second access is obtained for the Preserve at Windemere PDD tract.*

Staff has reviewed the request against the criteria for spot zoning. The evaluation is below:

(1) Is the property suitable for use as presently zoned?

Yes, Future Development does allow for large-lot residential, but it is a placeholder zoning category that was designated at the time of annexation in 2009.

(2) Has there been a substantial change of conditions in the neighborhood surrounding the subject property?

Staff evaluation: No, the surrounding neighborhood has been and remains a mix of agricultural and residential uses. Please see the attached map.

(3) Will the proposed rezoning address a substantial unmet public need?

Staff evaluation: No, this rezoning would not address a substantial unmet need.

(4) Will the proposed rezoning confer a special benefit on the landowner/developer and cause a substantial detriment to the surrounding lands?

Staff evaluation: Staff has not identified a special benefit or substantial detriment.

(5) Will the proposed rezoning serve a substantial public purpose?

Staff evaluation: Staff has not identified a substantial public purpose served by the rezoning.

Planning Department Recommendation	
☒	**Approve as submitted**
☐	**Approve with conditions or revisions as noted**
☐	**Discussion only**
☐	**Denial**

Prepared by:

John Foreman, AICP, CNU-A	Planning Manager	June 12, 2013
Name	**Title**	**Date**

ZC-13-09 Zoning Change Review

(By Comp Plan Element)

LAND USE – Preferred Scenario Map / Land Use Intensity Matrix

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

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

Not applicable to this Zoning Change Request

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

ENVIRONMENT & RESOURCE PROTECTION – Land Use Suitability & Development Constraints

INCLUDE MAP	1 (least)	2	3 (moderate)	4	5 (most)
Level of Overall Constraint				X	X
Constraint by Class – ANALYSIS PROVIDED FOR SITES WITH A 3, 4 OR 5 OVERALL					
Cultural					
Edwards Aquifer					X
Endangered Species					
Floodplains				X	
Geological					
Slope					
Soils					
Vegetation					
Watersheds					
Water Quality Zone				X	

ENVIRONMENT & RESOURCE PROTECTION –

Located in Subwatershed:	**Sink Creek**				
ANALYSIS FOR PSA ONLY	0-25%	25-50%	50-75%	75-100%	100%+
Modeled Impervious Cover Increase Anticipated for watershed	X				
Additional Impervious Cover Increase Anticipated					
Anticipated pollutants:					

NEIGHBORHOODS – Where is the property located

CONA Neighborhood(s):	**None**
Neighborhood Commission Area(s):	**None – near Sector 3**
Neighborhood Character Study Area(s):	**Not applicable at this time.**

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

	YES	NO
Will Parks and / or Open Space be Provided?		X
Will Trails and / or Green Space Connections be Provided?	X*	
A Greenway is shown on the PSM. Will be recommended at time of plat.		

	Low (maintenance)		Medium		High (maintenance)
Wastewater Hotspot	**X**				
Water Hotspot	**X**				

Public Facility Availability

	YES	NO
Parks / Open Space within ¼ mile (walking distance)?		**X**
Wastewater service available?		**X**
Water service available?		**X**

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

		A	B	C	D	F
Existing Daily LOS	ROADWAY 1: **Lime Kiln**	**X**				
Existing Peak LOS	ROADWAY 1: **Lime Kiln**				**X**	
Preferred Scenario Daily LOS	ROADWAY 1: **Lime Kiln** ROADWAY 2: **Post Rd**	**X**		 **X**		
Preferred Scenario Peak LOS	ROADWAY 1: **Lime Kiln** ROADWAY 2: **Post**				**X** **X**	

	N/A	Good	Fair	Poor
Sidewalk Availability	**X**			

	YES	NO
Adjacent to existing bicycle lane?		**X**
Adjacent to existing public transportation route?		**X**

Notes:

Agenda Information

AGENDA CAPTION:

ZC-11-29 (Gas Lamp District) Hold a Public Hearing and consider a request by Bury + Partners, on behalf of Walton Texas LP for a Zoning Change from Future Development (FD) to Smart Code (SC) for a 495 +/- acre site out of John H. Yearby Survey, located at the Northwest corner of Old Bastrop Highway and Centerpoint Road.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

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

BACKGROUND:

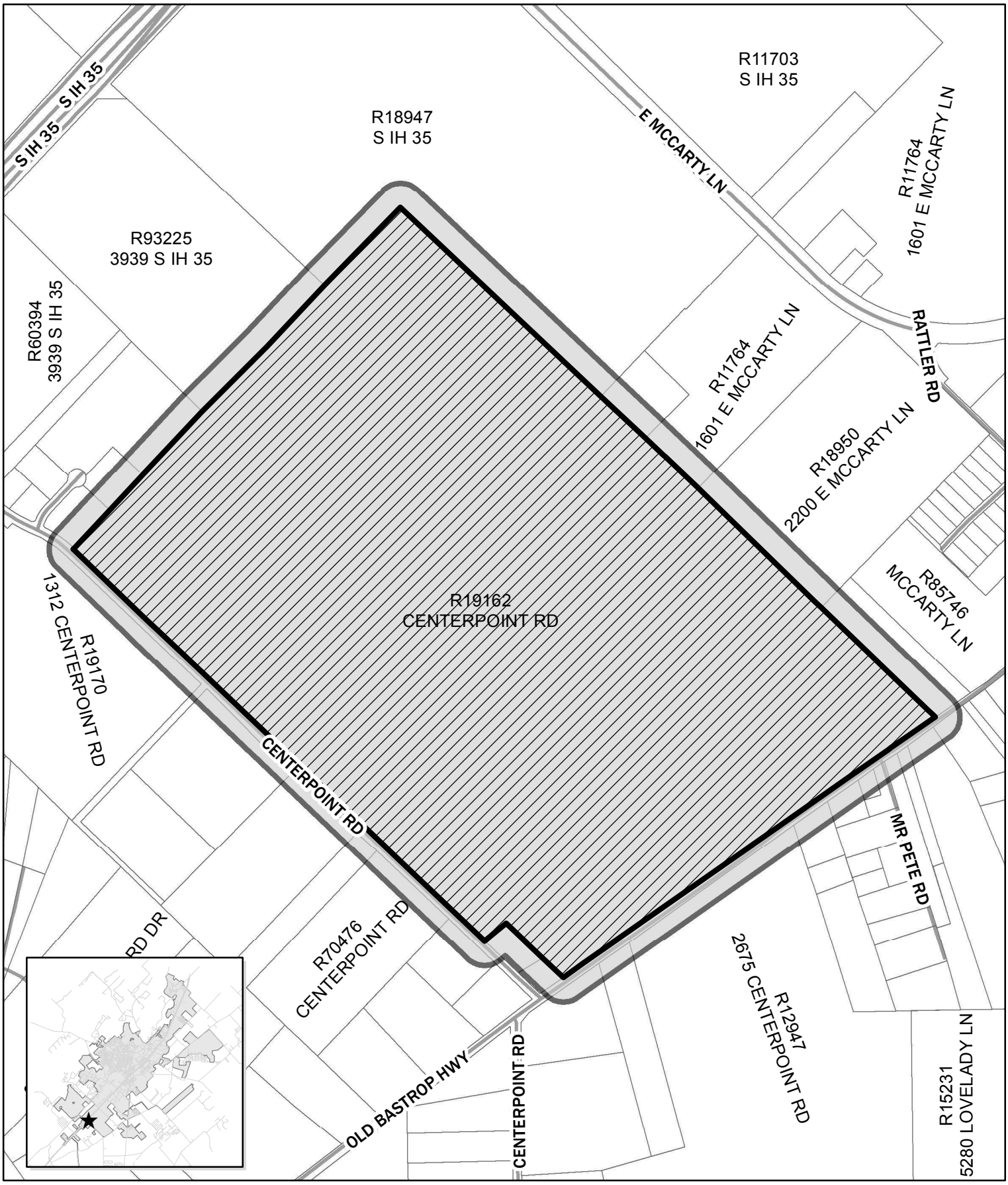
The subject property consists of +/- 495 unplatted acres of vacant land out of the John H. Yearby Survey. The property is currently vacant with electrical power lines crossing near the western boundary. The applicant is proposing to develop the site with a variety of uses that are compatible with the SmartCode zoning such as residential, commercial, office, industrial, civic, parks and open space.

A request for warrants to vary from certain Smart Code requirements has been reviewed and will be presented following an approval of this zoning change.

Staff recommends **approval** of the zoning change request.

ATTACHMENTS:

Notice Map
Staff Report
SC Regional Scale Map
Application
Metes & Bounds



ZC-11-29
Gas Lamp District
Centerpoint Road
Date: 11/30/2012

Site Location
200 ft Buffer

0 600 1,200 2,400
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.

Zoning Change
ZC-11-29
Northwest Corner of Old Bastrop Highway & Centerpoint Road

Summary: The applicant is requesting a zoning change from Future Development (FD) to SmartCode (SC) for a +/- 495 acre site out of the John H. Yearby Survey, located at the Northwest corner of Old Bastrop Highway and Centerpoint Road

Applicant: Bury+Partners, Inc.
221 West 6th Street, Suite 600
Austin, TX 78701

Owner: Walton Texas LP
4800 N Scottsdale Rd #40000
Scottsdale, AZ 85251

Notification: Personal notifications of the public hearing were mailed on Friday, June 14, 2013 to all property owners within 200 feet of the subject property. Notification signs were also placed on site.

Response: No written response was received as of the date of this report

Property/Area Profile:

Legal Description: A0508 John H. Yearby Survey, Acres 495.23 (1.00 @ MKT)
Location: Northwest corner of Old Bastrop Highway and Centerpoint Road
Existing Use of Property: Vacant
Proposed Use of Property: Residential, Commercial, Office, Industrial, Civic, Parks & Open Space
Future Land Use Map: Very Low, Medium & High Density Residential, Commercial, Industrial, Open Space
Existing Zoning: Future Development (FD)
Proposed Zoning: SmartCode (SC)
Sector: 5

Area Zoning and Land Use Pattern:

	Zoning	Existing Land Use	Future Land Use
N of Property	CC/ETJ	Power Plant / Ag / Vacant	Low Density Residential & Commercial
S of Property	P/ETJ	Residential / Ag / Vacant	Low Density Residential & Commercial
E of Property	ETJ	Residential / Ag / Vacant	Low Density Residential & Commercial
W of Property	GC/CC	Outlet Malls / Vacant	Commercial

Comments from other Departments:

None received.

Case Summary

This rezoning request was submitted prior to the adoption of the Vision San Marcos Comprehensive Plan and is being reviewed under the Horizon's plan and sector plans.

The subject property consists of +/- 495 unplatted acres of vacant land out of the John H. Yearby Survey and is located on the Northwest corner of Old Bastrop Highway and Centerpoint Road.. The property is currently vacant with electrical power transmission lines crossing near the western boundary. The applicant is proposing to develop the site with a variety of uses that are compatible with the SmartCode zoning such as residential, commercial, office, industrial, civic, parks and open space.

A request for warrants to vary from certain Smart Code requirements has been reviewed and will be presented following an approval of this zoning change.

Planning Department Analysis

The applicant is requesting a zoning change from Future Development (FD) to SmartCode (SC) for this property. SmartCode zoning allows a mix of uses including residential, office and retail. The property is located in Sector 5 which consists of the south half of the City on the East side of I-35. While uses in this sector vary from residential to industrial, the area immediately surrounding this property is mostly vacant with a few residential uses and the Outlet Malls.

The requested zoning change is consistent with the City's Future Land Use Map which indicates a mix of residential, commercial, industrial, and open space uses. The property is bordered on three sides by the City's Extraterritorial Jurisdiction (ETJ) with similar future land uses.

This is the first SmartCode (SC) zoning change request for a property of this size. Based on the Regional Scale Plan that was adopted with the SmartCode, this property is located in a G3 area which indicates that it is intended for growth. Intended Growth Divisions were assigned to locations that can support substantial Mixed Use without significantly impacting the environment.

Evaluation			Criteria (LDC 1.5.1.5)
Consistent	Inconsistent	Neutral	
X			Change implements the policies of the adopted Master Plan, including the land use classification on the Future Land Use Map and any incorporated sector plan maps *The change is consistent with the Horizon's Master Plan and the Future Land Use Map which identifies residential, commercial, industrial and open space uses on the property and existing in surrounding areas.*
		X	Consistency with any development agreement in effect *No development agreements exist on this tract*
X			Whether the uses permitted by the proposed change and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified. *SmartCode Zoning permits a variety of uses with standards. This is new development and as such, staff feels SmartCode standards will help this area grow in a way that is consistent with future visions for the area.*
X			Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area. *The property has access to public services and utilities. Streets and Uses will be consistent with City Codes and Ordinances as well as the Thoroughfare Plan.*
X			Other factors which substantially affect the public health, safety, morals, or general welfare. *Staff feels that SmartCode standards reduce any potential effects to the public health, safety, moral or general welfare.*

Additionally, the Commission should consider:

(1) Is the property suitable for use as presently zoned?

Staff evaluation: Yes, Future Development Zoning does allow large lot subdivisions, but it is meant to be a temporary placeholder zoning designation upon annexation.

(2) Has there been a substantial change of conditions in the neighborhood surrounding the subject property?

Staff evaluation: No, there have been no recent changes in the condition of the surrounding area. The property is less than ½ of a mile from the existing Outlet Malls and is adjacent to the proposed McCarty Commons Development.

(3) Will the proposed rezoning address a substantial unmet public need?

Staff evaluation: Yes, this property is located in a future development zone based on the proposed Comprehensive Master Plan Preferred Scenario. The development of a SmartCode neighborhood allows for benefits such as mixed use neighborhoods that are walkable and this could be the first large scale SmartCode development.

(4) Will the proposed rezoning confer a special benefit on the landowner/developer and cause a substantial detriment to the surrounding lands?

Staff evaluation: No, the land is currently zoned Future Development (FD) and would require a rezoning for development to occur. This zoning request is consistent with the proposed Comprehensive Master plan and with existing and proposed surrounding developments.

(5) Will the proposed rezoning serve a substantial public purpose?

Staff evaluation:, The proposed rezoning would allow for SmartCode standards to be utilized on a green field site which could otherwise end up as a large lot residential subdivision with no commercial and little public space provided for the public benefit.

Staff recommends approval of the zoning change request.

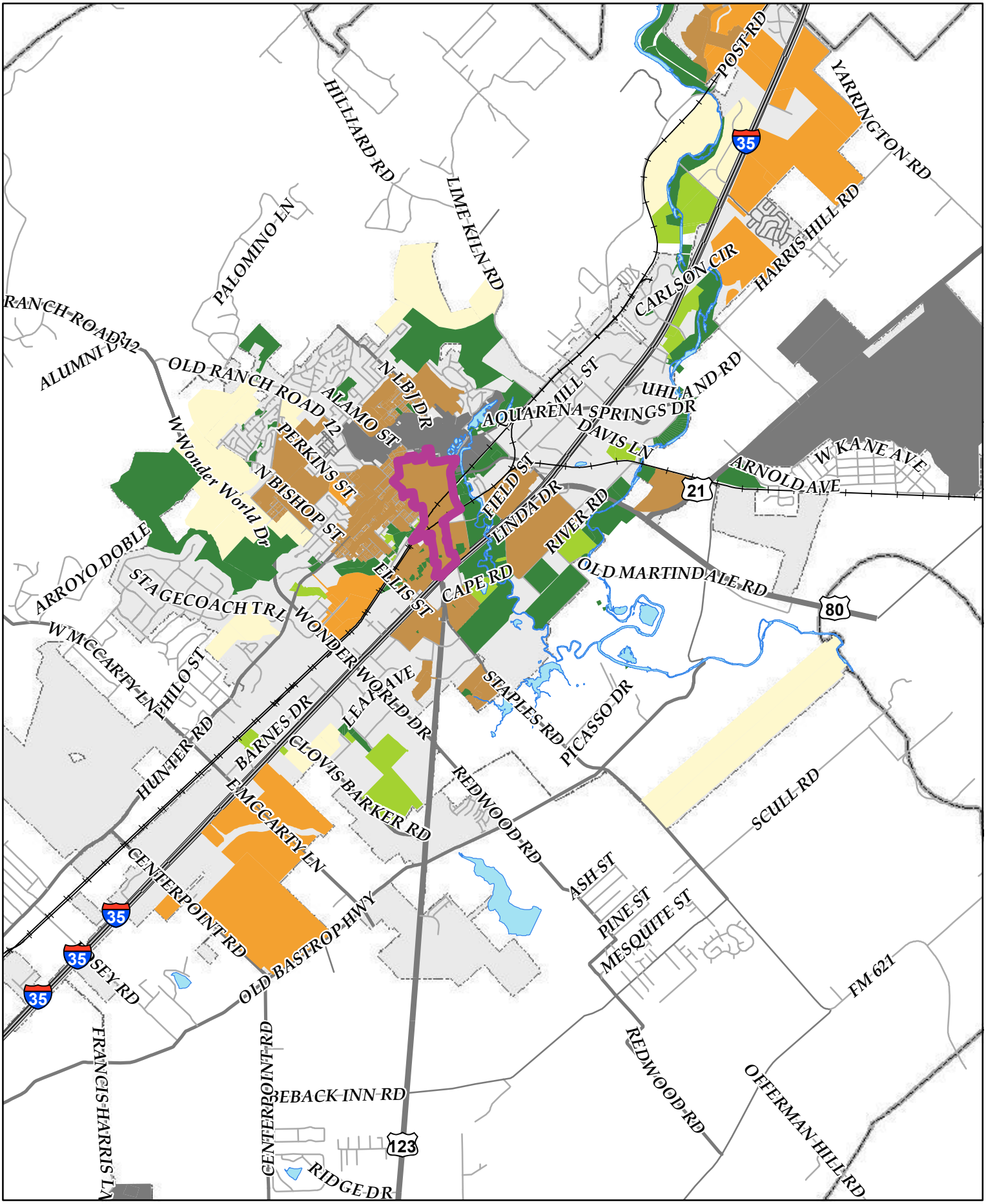
Planning Department Recommendation:	
☒	**Approve as submitted**
☐	**Approve with conditions or revisions as noted**
☐	**Alternative**
	Denial

The Commission's Responsibility:

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

Prepared by:

Amanda Hernandez, AICP	Senior Planner	June 13, 2013
Name	**Title**	**Date**



N

0 0.5 1 Miles

THE CITY OF SAN MARCOS

Regional Scale Plan

- SD - Special District
- O1 - Preserved Open Sector
- O2 - Reserved Open Sector
- G1 - Restricted Growth Sector
- G3 - Intended Growth Sector
- G4 - Infill Growth Sector
- City Limits
- Mandatory Downtown Area
- ETJ

11/09

ZC-11-29

City of San Marcos

ZONING CHANGE APPLICATION

	APPLICANT	PROPERTY OWNER
Name:	Bury+Partners, Inc.	Walton Texas LP
Mailing Address:	221 West 6th St, Suite 600	4800 N Scottsdale Rd #40000
	Austin, TX 78701	Scottsdale, AZ 85251
Telephone No.:	(512) 328-0011	(602) 264-1298
E-mail address:	pmisi@burypartners.com	wwithers@waltondm.com

PROPERTY DESCRIPTION:

Street Address: Northwest corner of Old Bastrop Highway and Center Point Rd

Subdivision: no existing subdivision Block: N/A Lot(s): N/A

Other Description (if unplatted) A0508 JOHN H YEARBY SURVEY, ACRES 495.23 (1.00 @ MKT)

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

Appraisal District Tax ID No.: R 19162 Acres: 495.282

Lien Holder(s) - for notification purposes:

Name: N/A

Mailing Address: N/A

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

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

ZONING CHANGE INFORMATION:

Zoning Designation: Current: Future Development (FD) Requested: Smart Code

Master Plan Designation: Land Use Map Amendment Required? No

Present Use of Property: Vacant

Desired Use of Property/Reason for Change: See Exhibit

Rec'd 2011 AUG 12 AM 11 51

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

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

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

Signature: Paulo Misi Date: 08/11/2011

Printed Name: PAULO MISI

APPLICATION FOR CITY OF SAN MARCOS ZONING CHANGE

FEE INFORMATION:

Fee Schedule:

From "M" to "SF-6" or "SF-4.5"	No Charge
To Residential (one and two family, townhouse)	$25 per acre ($100 min./$1,500 max. fee)
To "PDD" or "P"	$25 per acre ($100 min./$1,500 max. fee)
To Multi-family (all categories)	$100 per acre ($250 min./$1,500 max. fee)
To Commercial (all categories)	$100 per acre ($250 min./$1,500 max. fee)
To Industrial (all categories)	$100 per acre ($250 minimum fee)
Zoning variance	$150 per variance requested
Renotification fee	$75

APPLICATION PROCESS:

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

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

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

To be completed by Staff:

Property is located in: ☐ Edwards Aquifer Recharge Zone ☐ Historic District ☐ River Corridor

Concurrent Land Use Amendment is Required: ☐ Yes ☐ No

Meeting Date: 9/13/11 Deadline: 8/16/11 Accepted By: Sonia Nelson Date: 8/12/11

AGREEMENT TO THE PLACEMENT OF ZONING NOTIFICATION SIGNS

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

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

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

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

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

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

Paulo Misi
Signature of Applicant

08/11/2011
Date

FOR STAFF USE ONLY:

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

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

Walton
Investing on Solid Ground®

Will E. Withers, LEED AP
Planning and Development Manager

Direct: (512) 660-9007
wwithers@walton.com

August 10, 2011

Mr. Bill Couch, P.G., AICP
City of San Marcos
Development Services
630 East Hopkins
San Marcos, Texas 78666

Re: Zoning Application
Agent Authorization
Prime 35

Dear Mr. Couch:

Walton Texas, LP authorizes Bury +Partners, Inc. to act as their agent for the purposes of submitting the zoning applications and coordination with the City of San Marcos for the Prime 35 project. If you have any questions please feel free to contact me.

Sincerely,

WALTON TEXAS, LP, a Texas limited partnership,
as owner, operator and manager, as applicable

By: Walton Texas GP, LLC, a Texas limited liability company, Its General Partner,

By: Walton International Group, Inc., a Nevada corporation, Its Manager

By: Gordon A. Price
Name: Gordon A. Price
Its: Authorized Signatory

By: Wayne G. Souza
Name: WAYNE G. SOUZA
Its: AUTHORIZED SIGNATORY

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

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

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

Signed: Paulo Misi Date: 08/11/2011

Print Name: PAULO MISI

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

2011 AUG 12 AM 11 49

61.163 ACRES
GAS LAMP DISTRICT
SPECIAL DISTRICT AREA

FN. NO. 13-013(KWA)
JANUARY 11, 2013
BPI JOB NO. R0103932-10001

DESCRIPTION

OF 61.163 ACRES OF LAND OUT OF J.H. YEARBY SURVEY, ABSTRACT NO. 508, SITUATED IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 495.23 ACRES OF LAND CONVEYED TO WALTON INTERNATIONAL GROUP BY DEED OF RECORD IN VOLUME 3822, PAGE 246 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 61.163 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a 1/2 inch iron rod with "BPI" cap set in the northerly right-of-way line of County Road 234 (Centerpoint Road) (80'R.O.W.), being the southeasterly corner of that certain 28.482 acre remainder tract conveyed to W.V. Edwards, Jr. Revocable Living Trust by Deed of record in Volume 2784, Page 154 of said Official Public Records, for the southwesterly corner of said 495.23 acre tract and hereof;

THENCE, N43°01'08"E, leaving the northerly right-of-way line of County Road 234, along the easterly line of said 28.482 acre remainder tract, for a portion of the westerly line of said 495.23 acre tract, a distance of 1247.21 feet to the **POINT OF BEGINNING** and southwesterly corner hereof;

THENCE, N43°01'08"E, continuing along the easterly line of said 28.482 acre remainder tract, for a portion of the westerly line of said 495.23 acre tract and hereof, a distance of 288.22 feet to a 6 inch cedar post found at the southeasterly corner of Lot 1 Final Plat of Prime Outlet I, a subdivision of record in Book 9, Pages 9-11 of said Plat Records, being the northeasterly corner of said 28.482 acre remainder tract, for an angle point in the westerly line of said 495.23 acre tract and hereof;

THENCE, N43°49'22"E, along the easterly line of said Lot 1, for a portion of the westerly line of said 495.23 acre tract and hereof, a distance of 1424.21 feet to a 6 inch cedar post found at the southeasterly corner of that certain 259.52 acre tract conveyed to SLF II-McCarty LP by deed of record in Volume 3206, Page 512 of said Official Public Records, being the northeasterly corner of said Lot 1, for an angle point in the westerly line of said 495.23 acre tract and hereof;

THENCE, along the southeasterly line of said 259.52 acre tract, for a portion of the westerly and northerly lines of said 495.23 acre tract and hereof, the following two (2) courses and distances:

1) N44°15'05"E, a distance of 887.73 feet to a 1/2 inch iron rod with "Byrn" cap found at the northwesterly corner of said 459.23 acre tract and hereof;

2) S43°39'20"E, a distance of 1120.64 feet to the northeasterly corner hereof, from which a 1/2 inch iron rod with cap stamped "RPLS #5209" found for the southeasterly corner of said 259.52 acre tract bears, S46°39'20"E, a distance of 1136.09 feet;

THENCE, leaving the southeasterly line of said 259.52 acre tract, over and across said 495.23 acre tract, for the easterly line hereof, the following five (5) courses and distances:

1) S48°22'04"W, a distance of 2314.22 feet to an angle point;

2) S54°04'38"W, a distance of 121.69 feet to an angle point;

3) S48°22'18"W, a distance of 128.26 feet to an angle point;

4) S43°21'57"W, a distance of 63.48 feet to an angle point, from which a 1/2 inch iron rod with cap set for a southeasterly corner of said 495.23 acre tract bears, S28°08'57"E, a distance of 3931.34 feet;

5) N45°38'14"W, a distance of 908.52 feet to the **POINT OF BEGINNING**, containing an area of 61.163 acres (2,663,083 square feet) of land, more or less, within these metes and bounds.

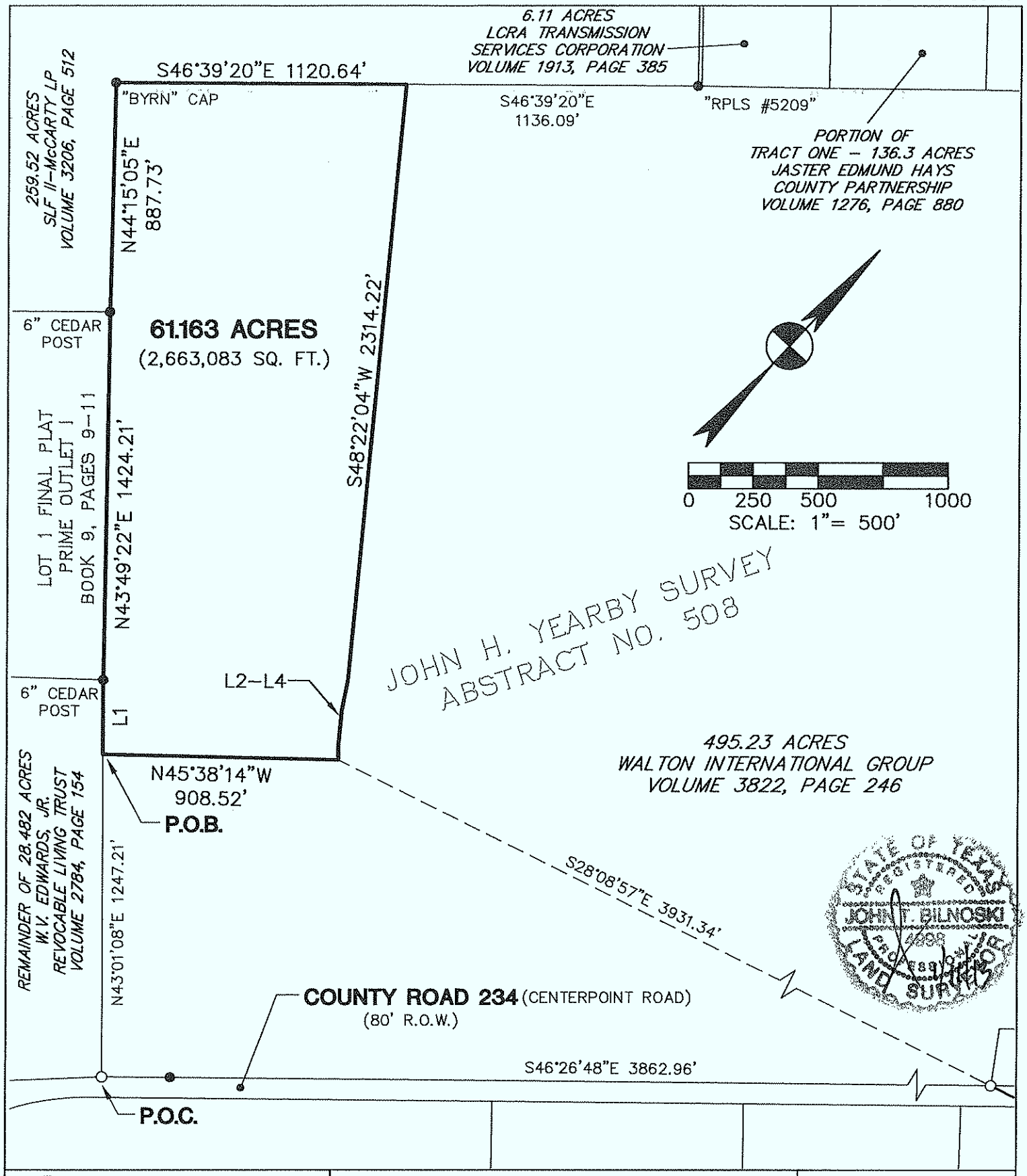
BEARING BASIS: THE BASIS OF BEARINGS IS REFERENCED TO THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(93) BY UTILIZING THE CITY OF AUSTIN GPS CONTROL MONUMENTS AS FOLLOWS: K-26-1001, K-29-4001, K-27-4001, L-26-3001, K-27-2001, K-26-2001, K-27-1001 AND CB54.

1/11/13

JOHN T. BILNOSKI — DATE
R.P.L.S. NO. 4998
STATE OF TEXAS

BURY & PARTNERS, INC.
221 WEST SIXTH STREET
SUITE 600
AUSTIN, TEXAS 78701

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
4998
PROFESSIONAL
LAND SURVEYOR



Bury+Partners

221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512)328-0011 Fax (512)328-0325
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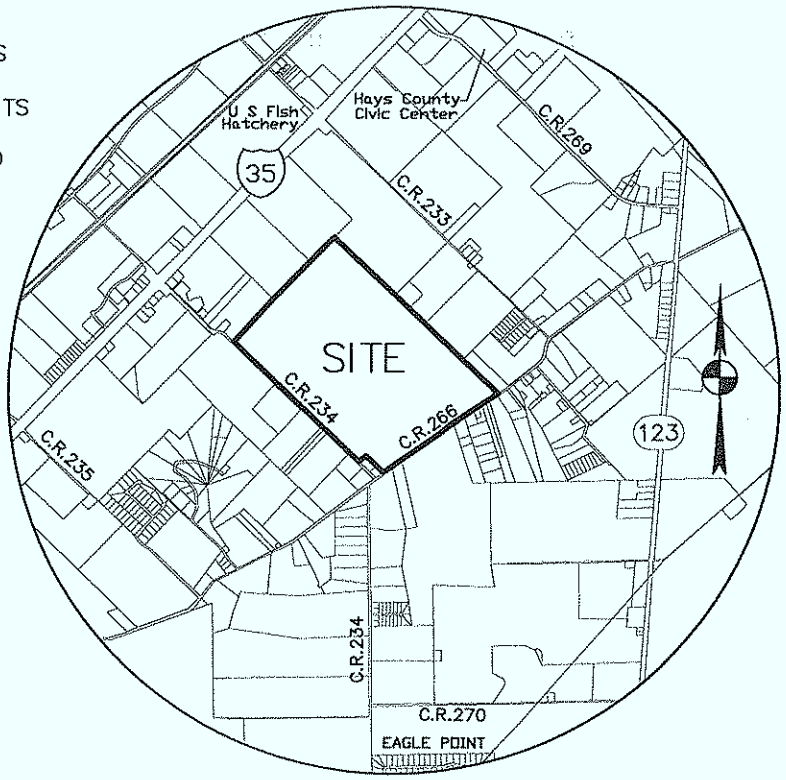
SKETCH TO ACCOMPANY DESCRIPTION
OF 61.163 ACRES OF LAND OUT OF J.H. YEARBY SURVEY, ABSTRACT NO. 508, SITUATED IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 495.23 ACRES OF LAND CONVEYED TO WALTON INTERNATIONAL GROUP BY DEED OF RECORD IN VOLUME 3822, PAGE 246 OF THE OFFICIAL PUBLIC RECORDS OF HAYS, COUNTY, TEXAS.

GAS LAMP DISTRICT

DATE: 01/10/13	FILE: H:\103932\001\103932001EX6.DWG	FN No.: 13–013(KWA)	DRAWN BY: KWA	PROJ. No: R0103932–10001

BEARING BASIS NOTE:

THE BASIS OF BEARINGS IS REFERENCED TO THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(93) BY UTILIZING THE CITY OF AUSTIN GPS CONTROL MONUMENTS AS FOLLOWS: K-26-1001, K-29-4001, K-27-4001, L-26-3001, K-27-2001, K-26-2001, K-27-1001 AND CB54.



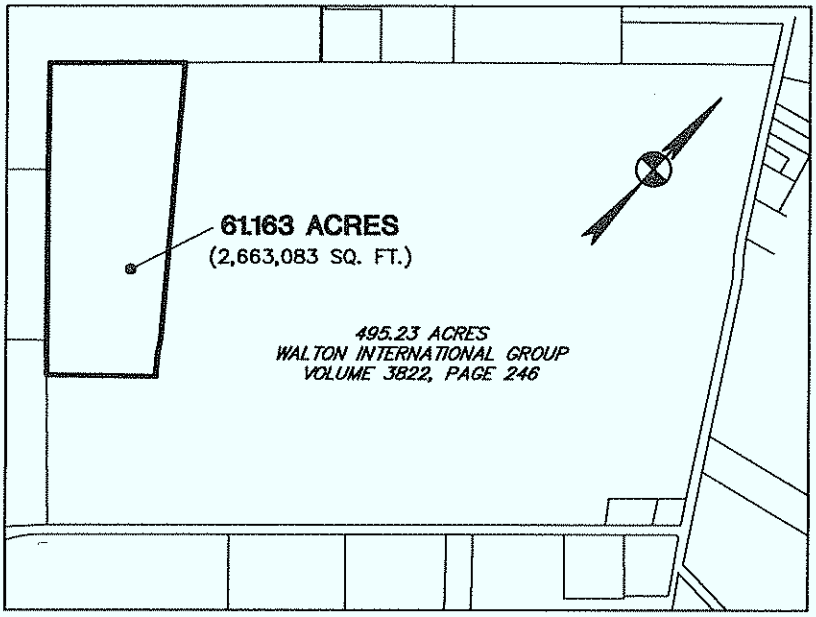
VICINITY MAP
N.T.S.

LEGEND

●	1/2" IRON ROD FOUND (UNLESS NOTED)
O	1/2" IRON ROD WITH CAP SET
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING

LINE TABLE

No.	BEARING	DISTANCE
L1	N43°01'08"E	288.22'
L2	S54°04'38"W	121.69'
L3	S48°22'18"W	128.26'
L4	S43°21'57"W	63.48'



AREA MAP

STATE OF TEXAS
REGISTERED
JOHN T. BILNOSKI
4998
PROFESSIONAL
LAND SURVEYOR
1/11/13

Bury+Partners
221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512)328-0011 Fax (512)328-0325
Bury+Partners, Inc. © Copyright 2013

SKETCH TO ACCOMPANY DESCRIPTION
OF 61.163 ACRES OF LAND OUT OF J.H. YEARBY SURVEY, ABSTRACT NO. 508, SITUATED IN THE CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 495.23 ACRES OF LAND CONVEYED TO WALTON INTERNATIONAL GROUP BY DEED OF RECORD IN VOLUME 3822, PAGE 246 OF THE OFFICIAL PUBLIC RECORDS OF HAYS, COUNTY, TEXAS.

GAS LAMP DISTRICT

DATE: 01/10/13	FILE: H:\103932\001\103932001EX6.DWG	FN No.: 13-013(KWA)	DRAWN BY: KWA	PROJ. No: R0103932-10001

Agenda Information

AGENDA CAPTION:

WARRANT REQUEST (Gas Lamp District) Hold a public hearing and consider a request for Bury + Partners, on behalf of Walton Texas LP. for 13 warrants that allow deviation from SmartCode (SC) Zoning for a 495 +/- acre site out of the John H. Yearby Survey located at the Northwest corner of Old Bastrop Highway and Centerpoint Road, as follows: **1.** Section 5.12 – allow the second layer of the lot to be 12 feet vs. 20 feet required for up to 49% of the total number of single family lots in the project; **2.** Section 5.9.4 – allow driveways to be 12 feet wide in the right-of-way vs. 12 feet wide in the first layer for up to 49% of the total number of single family lots in the project; **3.** Table 3.6 – allow pipe, post, column and double column light poles in any T-Zone; **4.** Table 1.3 – allow an atypical cross section for Arterial A; **5.** Table 3.3– allow head-in parking for street section CS-80-54 vs. reverse angle required; **6.** Table 3.3 – allow cross sections ST-50-26 & ST-50-28 in all T-Zones; **7.** Table 1.3 – reduction of setbacks in T3 zone from 24 feet front and 12 feet all other to 10 feet front and 5 feet all other; **8.** Table 1.3 – allow a reduction in the building height from 2 stories to 1 story for age restricted or nursing facilities; **9.** Section 3.8.2 – allow a minimum of 30% commercial (office/retail) in T5 Zone vs. 15% retail and 15% office required; **10.** Section 3.5.4 – permit the reservation of a childcare / elementary school lot for 2 years after the sale of the last single family or multi-family lot vs. up to five years after the sale of the last lot; **11.** Section 3.5.4 – Allow one 8 acre lot to be reserved for an elementary school vs. one 3 acre site in each of the 2 pedestrian sheds as required; **12.** Table 1.3 – allow a 25 acre apartment site to have an increased block perimeter of 2,400 feet vs. 2,000 feet required and allow this to be measured at private streets and pedestrian passages in addition to public streets as stated in code; **13.** Table 1.3 – allow the multifamily sites to have lot widths based on the block perimeters from Warrant #12 vs. 196 feet maximum width required.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: n/a

Account Number: n/a

Funds Available: n/a

Account Name: n/a

CITY COUNCIL GOAL:

Big Picture Infrastructure

BACKGROUND:

The subject property consists of +/- 495 unplatted acres of vacant land out of the John H. Yearby Survey. The property is currently vacant with electrical power

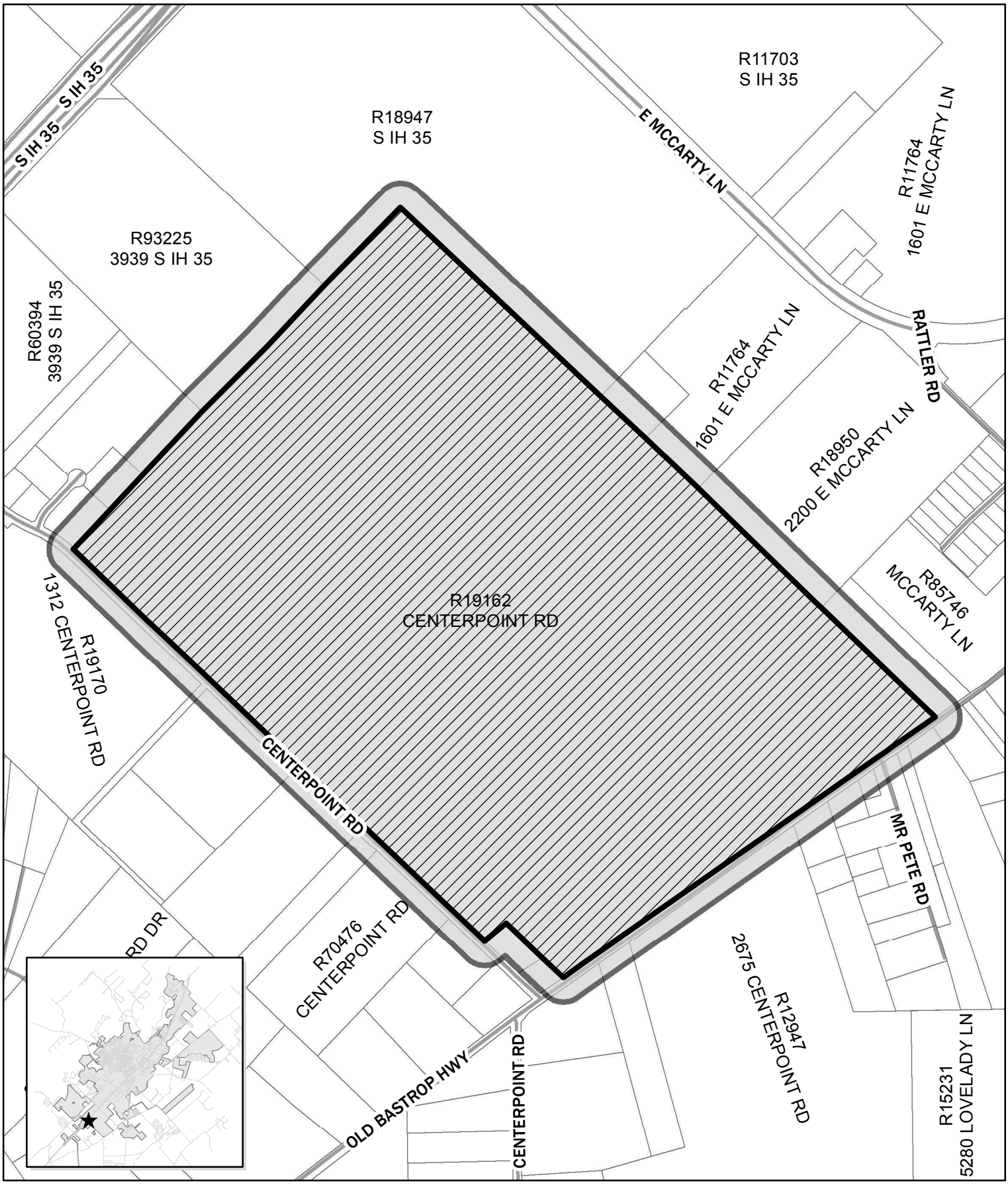
lines crossing near the western boundary. The applicant is proposing to develop the site with a variety of uses that are compatible with the SmartCode zoning such as residential, commercial, office, industrial, civic, parks and open space.

This is a request for warrants to vary from certain Smart Code requirements that can be considered following an approval of the zoning change.

Staff recommends approval for Warrants 3, 4, 5, 6, 7, 8, 9, 10, 11 & 13 and provides a Neutral recommendation for Warrants 1, 2 & 12

ATTACHMENTS:

Notice Map
Staff Report
Warrant Justification



ZC-11-29
Gas Lamp District
Centerpoint Road
Date: 11/30/2012

Site Location
200 ft Buffer

0 600 1,200 2,400
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.

ZC-11-29
SmartCode Warrants
Gas Lamp District
Northwest Corner of Old Bastrop Highway and Centerpoint Road

Summary:

Applicant: Bury+Partners, Inc.
221 West 6th Street, Suite 600
Austin, TX 78701

Property Owner: Walton Texas LP
4800 N Scottsdale Rd #40000
Scottsdale, AZ 85251

Applicant request: 13 warrants to allow deviation from SmartCode Zoning as follows:

1. Section 5.12 – allow the second layer of the lot to be 12 feet vs. 20 feet required for up to 49% of the total number of single family lots in the project
2. Section 5.9.4 – allow driveways to be 12 feet wide in the right-of-way vs. 12 feet wide in the first layer for up to 49% of the total number of single family lots in the project
3. Table 3.6 – allow pipe, post, column and double column light poles in any T-Zone
4. Table 1.3 – allow an atypical cross section for Arterial A
5. Table 3.3– allow head-in parking for street section CS-80-54 vs. reverse angle required
6. Table 3.3 – allow cross sections ST-50-26 & ST-50-28 in all T-Zones
7. Table 1.3 – reduction of setbacks in T3 zone from 24 feet front and 12 feet all other to 10 feet front and 5 feet all other
8. Table 1.3 – allow a reduction in the building height from 2 stories to 1 story for age-restricted or nursing facilities
9. Section 3.8.2 – allow a minimum of 30% commercial (office/retail) in T5 Zone vs. 15% retail and 15% office required
10. Section 3.5.4 – permit the reservation of a childcare / elementary school lot for 2 years after the sale of the last single family or multi-family lot vs. up to five years after the sale of the last lot
11. Section 3.5.4 – Allow one 8 acre lot to be reserved for an elementary school vs. one 3 acre site in each of the 2 pedestrian sheds as required
12. Table 1.3 – allow a 25 acre apartment site to have an increased block perimeter of 2,400 feet vs. 2,000 feet required and allow this to be measured at private streets and pedestrian passages in addition to public streets as stated in code
13. Table 1.3 – allow the multifamily sites to have lot widths based on the block perimeters from Warrant #12 vs. 196 feet maximum width required

Notification: Personal notifications of the public hearing were mailed on Friday, June 14, 2013 to all property owners within 200 feet of the subject property.

Response: None as of agenda posting.

Property Area/Profile:

Legal Description: 495 +/- acres out of the John H. Yearby Survey

Location: Northwest Corner of Old Bastrop Highway and Centerpoint Road

Existing Use of Property: Vacant

Proposed Use of Property: Residential, Commercial, Office, Industrial, Civic, Parks & Open Space

Future Land Use Map: Very Low, Medium & High Density Residential, Commercial, Industrial, Open Space

Existing Zoning: Future Development (FD)

Proposed Zoning SmartCode (SC)

Sector: 5

Zoning and Land Use Pattern:

	Zoning	Existing Land Use
N of Property	CC/ETJ	Power Plant / Ag / Vacant
S of Property	P/ETJ	Residential / Ag / Vacant
E of Property	ETJ	Residential / Ag / Vacant
W of Property	GC/CC	Outlet Malls / Vacant

Warrant Process:

Within the SmartCode district, Warrants may be approved by the Planning and Zoning Commission. A Warrant is a ruling that would permit a practice that is not consistent with a specific provision of the SmartCode, but is justified by the provisions of Section 1.3 Intent.

Comments from Other Departments:

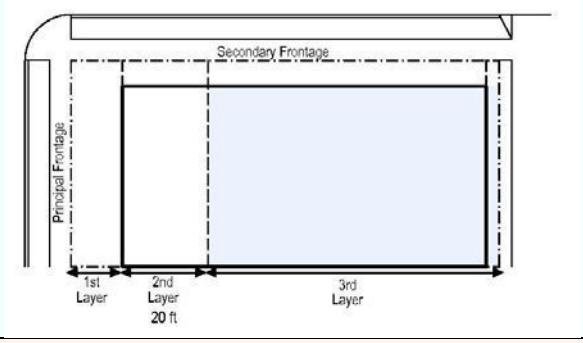
None

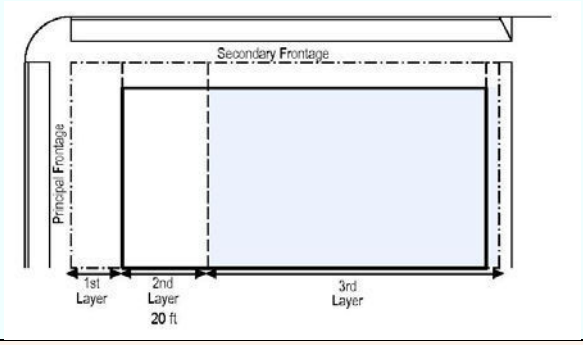
Background:

The subject property consists of +/- 495 unplatted acres of vacant land out of the John H. Yearby Survey. The property is currently vacant with electrical power lines crossing near the western boundary. The applicant is proposing to develop the site with a variety of uses that are compatible with the SmartCode zoning such as residential, commercial, office, industrial, civic, parks and open space. This development is located along a medium intensity zone on the preferred scenario map.

This request is for 13 warrants to vary from certain Smart Code requirements outlined below.

Planning Department Analysis:

WARRANT #1	
Code Requirement	**Table 5.12. Form-Based Code Graphics: New Development – T4** PARKING PLACEMENT 2. Covered Parking Shall be provided within the third Layer as shown in the diagram 
Warrant Request	***Reduce the depth of the 2nd layer to 12 feet for:*** *Lots 50 feet wide or greater – up to 34% of the total number of single-family lots in the project* *Lots 40 feet – 49 feet – up to 15% of the total number of single-family lots in the project with the additional requirement to only have a 1-car garage*
Justification Summary	The applicant stated that they wish to have a variety of housing types within this development. The reduction of the 2nd layer reduces the length of the driveway and impervious cover associated with it.
Applicants Statement of Intent of SmartCode	Continues to provide the required front porch, street tree planning and minimizes the impact of the garage on the architecture by being set back 12 feet from the front of the porch / architecture. Block structure remains consistent with SmartCode.
Recommendation / Discussion **NEUTRAL**	The applicant has provided an "up to" cap on the number of lots that may utilize this warrant and is attempting to meet the intent of the SmartCode. Staff wishes to see a true SmartCode development and feels that having a garage door along the front façade does not meet this intent.

WARRANT #2	
Code Requirement	**Section 5.9.4 Specific to Zones T3, T4** Driveways at Frontages shall be no wider than 12 feet in the first layer 
Warrant Request	***Driveway width shall be no wider than 12 feet at the street right-of-way:*** *For T3 & T4 zones to a maximum of 34% of single family lots referenced in Warrant #1*
Justification Summary	The applicant stated that this warrant will allow the driveway width to transition to the width of the garage door opening within the first layer. This warrant only applies to the 2-car garage front-load homes and minimizes the chances of an owner modification to the driveway transition.
Applicants Statement of Intent of SmartCode	This small variation preserves the characteristics of a pedestrian oriented community. The width of the driveway at the sidewalk is unaltered and allows for street tree placement.
Recommendation / Discussion **NEUTRAL**	Up to 34% of the total single-family lots within the development would be eligible for this warrant as referenced in Warrant #1. Maintaining a smaller driveway width in the right-of way reduces the impact on pedestrian mobility where driveways cut sidewalks. Staff wishes to see a true SmartCode development and feels that wider driveways in the first layer do not meet the intent.

WARRANT #3	
Code Requirement	**Table 3.6 Public Lighting** Lighting varies in brightness and also in the character of the fixture according to the Transect
Warrant Request	***Allow any type of light fixture, except cobra head, anywhere in the development***
Justification Summary	The applicant stated that this warrant will provide uniformity along roadways which are bordered by different T-zones.
Applicants Statement of Intent of SmartCode	Lighting choices are consistent with those presented and this request retains the decorative options outlined in the SmartCode.
Recommendation / Discussion **APPROVAL**	By utilizing any light fixture in any zone, the character of this development can be established without breaks based on "invisible" T-zone boundaries. The applicant did not include the cobra head light fixture in this request and will utilizing the more decorative lighting options.

WARRANT #4	
Code Requirement	**Table 1.3 Summary Table – New Development** The types of thoroughfares permitted are outlined in this table
Warrant Request	***Allow an atypical cross section for Arterial A:*** *The major north / south roadway that is / will align with future SH 21*
Justification Summary	The applicant stated that this cross section is proposed to accommodate existing electrical transmission lines which current run through the property.
Applicants Statement of Intent of SmartCode	Although this section is not a typical Smart Code section, it does provide Smart Code elements such as street trees, trails and a landscaped median.
Recommendation / Discussion **APPROVAL**	The location of the transmission lines provides this property with a special circumstance. This roadway is consistent with the City's Thoroughfare plan as the location for future SH 21 – a major arterial

WARRANT #5	
Code Requirement	**Table 3.3 Thoroughfare Assemblies** CS-80-54 is a commercial street in the T5 zone which requires reverse angle parking
Warrant Request	***Standard head-in angled parking for street section CS-80-54:*** *Proposed as the 2nd access point along Centerpoint Road*
Justification Summary	The applicant stated that this roadway will be the main entrance to the project and the developer would like to have the option to provide head-in parking to address traffic concerns.
Applicants Statement of Intent of SmartCode	Angled parking is still being provided and the roadway cross section has not been altered.
Recommendation / Discussion **APPROVAL**	All other aspects of this cross section will be required to be met.

WARRANT #6	
Code Requirement	**Table 3.3 Thoroughfare Assemblies** ST-50-26 and ST-50-28 are permitted in T4, T5, T6
Warrant Request	***Allow ST-50-26 & ST-50-28 in T3***
Justification Summary	The applicant stated that this warrant will provide uniformity along roadways which pass through different T-zones.
Applicants Statement of Intent of SmartCode	No statement of intent provided.
Recommendation / Discussion **APPROVAL**	All other aspects of these cross sections will be required to be met.

WARRANT #7	
Code Requirement	**Table 1.3 Summary Table – New Development** 24 ft front and 12 rear / side setbacks for T3 zone
Warrant Request	***Allow 10 ft front and 5 ft rear / side setbacks in T3 zone***
Justification Summary	The applicant stated that this is a mixed-use master planned community and the setbacks should be consistent throughout.
Applicants Statement of Intent of SmartCode	Provides a mix of products, varied font setbacks and favors a walkable community.
Recommendation / Discussion **APPROVAL**	The request allows T-3 zones to have setbacks similar to those permitted in T4 & T5 zones.

WARRANT #8	
Code Requirement	**Table 1.3 Summary Table – New Development** T5 principal buildings are to be 2 stories minimum and 5 maximum
Warrant Request	***Allow a 1 story building for an age restricted of nursing facility***
Justification Summary	The applicant stated that due to accessibility, safety and marketing issues, the developer needs the option to have a nursing or retirement facility on a single floor.
Applicants Statement of Intent of SmartCode	The area this applies to is limited and considering the size of the project, maintains the integrity of the SmartCode.
Recommendation / Discussion **APPROVAL**	The request is consistent with developments for similar uses.

WARRANT #9	
Code Requirement	**Section 3.8.2 Density Calculations** To ensure Mixed Use, the T5 Zone should be required to provide a minimum 15% Retail and 15% Office
Warrant Request	***Allow a minimum of 30% commercial (retail or office) in T5 Zone***
Justification Summary	The applicant stated that regulating this split would be difficult due to the change / relocation of commercial uses over time.
Applicants Statement of Intent of SmartCode	A minimum of 30% commercial uses does not change the intent of the code.
Recommendation / Discussion **APPROVAL**	This property is located near a large commercial development, the outlet malls. Allowing this flexibility may help this development lower their commercial vacancy rates.

WARRANT #10	
Code Requirement	**Section 3.5.4 (b) & (c)** Civic building lot shall be reserved for an elementary school (childcare building) for up to five years after the sale of the last lot
Warrant Request	***Allow the timing for reserving an elementary school (child care) lot to be satisfied upon the second anniversary of the sale of the last single-family or multifamily lot***
Justification Summary	The applicant stated that the five year requirement is an excessive amount of time to impose on the project and developer.
Applicants Statement of Intent of SmartCode	When the last residential lot is sold, the need for an elementary school or childcare will be known and this warrant provides two additional years to reserve the site.
Recommendation / Discussion **APPROVAL**	Code specifies up to five years. The request is such that all residential lots, whether single-family or multi-family, will be sold and the need for this type of facility will be known.

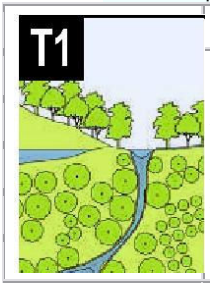
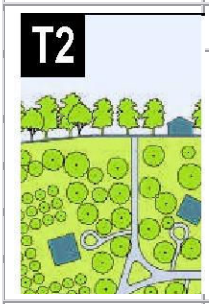
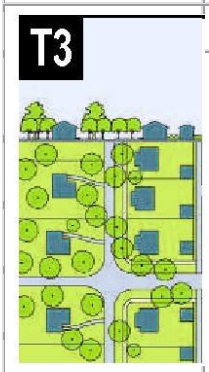
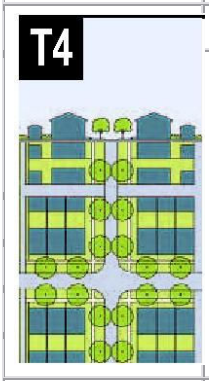
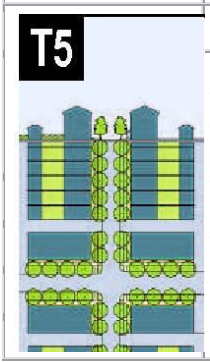
WARRANT #11	
Code Requirement	**Section 3.5.4 (b)** The area reserved for an elementary school shall be a minimum of three acres for each pedestrian shed
Warrant Request	***Allow a single 8 acre site to be reserved for the two pedestrian sheds at any location***
Justification Summary	The applicant stated that two three acre school sites would be less than one mile from each other and that most school sites are larger than 3 acres
Applicants Statement of Intent of SmartCode	Two three acre sites would be required for this development, totaling 6 acres. Eight acres is being proposed.
Recommendation / Discussion **APPROVAL**	Code specifies up to five years. The request is such that all residential lots, whether single-family or multi-family, will be sold and the need for this type of facility will be known.

WARRANT #12	
Code Requirement	**Table 1.3 Summary Table – New Development** Block perimeter in a T5 Zone is 2,000 feet maximum
Warrant Request	***Allow a 25 acre apartment site a block perimeter of 2,400 ft:*** *Calculated at public and private streets and at pedestrian passages*
Justification Summary	The applicant stated that this warrant allows an apartment building to be built at a more efficient scale with a financially feasible design. The apartment site is located adjacent to a green space and is bounded by two major roadways.
Applicants Statement of Intent of SmartCode	Architecture addressing the street, hidden parking, enhanced pedestrian circulation along with reasonable block lengths help maintain the full intent of the code.
Recommendation / Discussion **NEUTRAL**	Block perimeter in a T5 zone may be up to 2,000 feet except for buildings with parking structures which may be 2,500 feet. The Council PID Subcommittee provided direction that they wished to see a true SmartCode development. Varying block structure and allowing pedestrian passages to delineate a block does not meet the intent.
ALTERNATE WARRANT RECOMMENDATION FROM STAFF	*Allow a 25 acre apartment site a block perimeter of 2,400 ft calculated at public and private streets and at pedestrian passages. All private streets and pedestrian passages will maintain a public appearance, be built to city approved cross sections and not have gates. Private streets and pedestrian passages will be treated as public streets meeting public frontage requirements. All other Smart Code requirements will be met.*

WARRANT #13	
Code Requirement	**Table 1.3 Summary Table – New Development** Lot width in a T5 zone shall be 18 ft min – 196 ft max
Warrant Request	***Allow the lot width of multi-family (apartments / senior living) and approximately 24 acres of office use west of arterial A to be dictated by the size of a block***
Justification Summary	The applicant stated that the developer may need the blocks to be single lots. Multiple lots cause complications with design, code, tax assessments, etc.
Applicants Statement of Intent of SmartCode	The block size is basically maintained allowing a cohesive walkable community.
Recommendation / Discussion **APPROVAL**	This warrant would allow larger buildings to exist on their own lot avoiding the need for firewalls and separation requirements. Larger buildings will still be required to meet the intent of the Code through articulation and other requirements.

SMARTCODE TABLE 1.1. TRANSECT ZONE DESCRIPTIONS

This table provides descriptions of the general character of each T-zone. It is part of Intent Section 1.3.

	**T-1 NATURAL**		
	T-1 Natural Zone consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation.	**General Character:**	Natural landscape with some agricultural use
		Building Placement:	Not applicable
		Frontage Types:	Not applicable
		Typical Building Height:	Not applicable
		Type of Civic Space:	Parks, Greenways
	**T-2 RURAL**		
	T-2 Rural Zone consists of sparsely settled lands in open or cultivated states. These include, woodland, agricultural land, grassland, and hill country. Typical buildings are farmhouses, agricultural buildings, cabins, and villas.	**General Character:**	Primarily agricultural with woodlands & wetland and scattered buildings
		Building Placement:	Variable Setbacks
		Frontage Types:	Not applicable
		Typical Building Height:	1- to 2-Story
		Type of Civic Space:	Parks, Greenways
	**T-3 SUB-URBAN**		
	T-3 Sub-Urban Zone consists of low density walkable residential areas, adjacent to higher zones that have some mixed use. Home occupations and outbuildings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and Thoroughfares irregular to accommodate natural conditions, but designed for slow movement.	**General Character:**	Lawns, and landscaped yards surrounding detached single-family houses; pedestrians occasionally
		Building Placement:	Large and variable front and side yard Setbacks
		Frontage Types:	Porches, fences, naturalistic tree planting
		Typical Building Height:	1- to 2-Story with some 3-Story
		Type of Civic Space:	Parks, Greenways
	**T-4 GENERAL URBAN**		
	T-4 General Urban Zone consists of a mixed use but primarily residential urban fabric. It may have a wide range of building types: single, sideyard, and rowhouses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.	**General Character:**	Mix of Houses, Townhouses & small Apartment buildings, with scattered Commercial activity; balance between landscape and buildings; presence of pedestrians
		Building Placement:	Shallow to medium front and side yard Setbacks
		Frontage Types:	Porches, fences, Dooryards
		Typical Building Height:	2- to 3-Story with a few taller Mixed Use buildings
		Type of Civic Space:	Squares, Greens
	**T5 URBAN CENTER**		
	T-5 Urban Center Zone consists of higher density mixed use building that accommodate retail, offices, rowhouses and apartments. It has a tight network of streets, with wide sidewalks, regularly spaced street tree planting and buildings set close to the sidewalks.	**General Character:**	Shops mixed with Townhouses, larger Apartment houses, Offices, workplace, and Civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity
		Building Placement	Shallow Setbacks or none; buildings oriented to
		Frontage Types:	Stoops, Shopfronts, Galleries
		Typical Building Height:	2- to 5-Story with some variation
		Type of Civic Space:	Parks, Plazas and Squares, median landscaping

Staff recommendation for each warrant is noted above:
Approval for Warrants 3, 4, 5, 6, 7, 8, 9, 10, 11, & 13.
Neutral for Warrants 1, 2, & 12

Planning Department Recommendation:	
X	Approve only certain warrants as noted
	Approve all warrants
	Defer the warrants to a later date, for further consideration
	Denial

The Commission's Responsibility:

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

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

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

The following standards are not available for Warrants:

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

Amanda Hernandez, AICP	Senior Planner	June 13, 2013
Name	**Title**	**Date**

SMART CODE WARRANTS

FOR

GAS LAMP DISTRICT

SAN MARCOS, TEXAS

Prepared for:

Walton
Investing on Solid Ground®

Walton Development & Management (USA), Inc.
515 North Congress, Suite 2050
Austin, Texas 78701

Prepared by:

BURY + PARTNERS, INC.
221 West Sixth Street, Suite 600
Austin, Texas 78701

MARCH 2013

Bury+Partners

SMART CODE WARRANTS

FOR

GAS LAMP DISTRICT

SAN MARCOS, TEXAS

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TBPE Registration No. F-1048

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MARCH 2013

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WARRANT 1

WARRANT 1

Smart Code:
Table 5.12. Form-Based Code Graphics: New Development – T4

PARKING PLACEMENT
1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram (see Table 6.1d).
2. Covered parking shall be provided within the third Layer as shown in the diagram (see Table 6.1d).
3. Trash containers shall be stored within the third Layer.

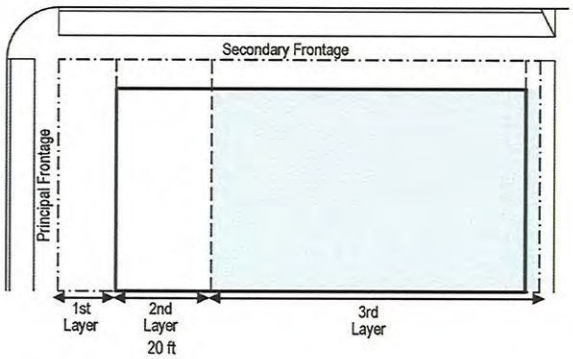
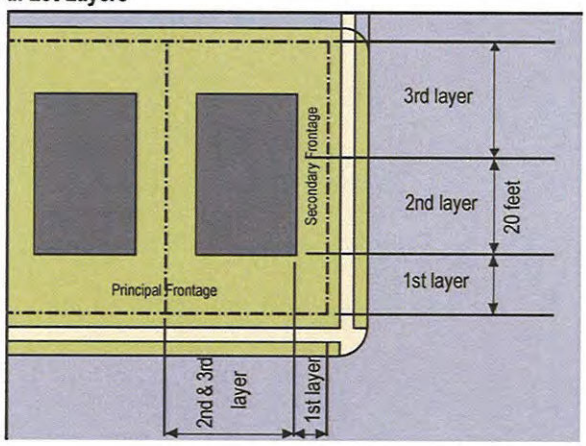


TABLE 6.1. DEFINITIONS ILLUSTRATED
d. Lot Layers



Requested Warrant:

The depth of the 2nd layer will be reduced to 12 feet, for:

- Lots 50' wide or greater; up to 34% of the total number of single-family lots in the project.
- Lots 40' to 49' wide; up to 15% of the total number of single-family lots in the project, with the additional requirement to only have a 1-car wide garage.

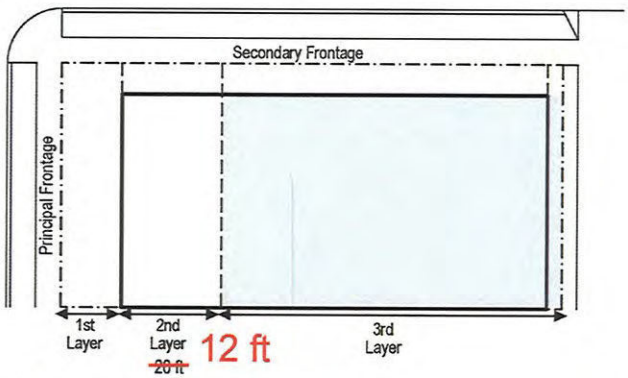
Justification:
The success of this project relies on a variety of product types. This warrant provides a small variation from the Code, to allow for a small percentage of homes to be front loaded and to appeal to a wider variety of home buys.

Buyers requesting front-load product typically are looking for private outdoor space in the form of a fenced back yard. These homes are typically purchased by families often with multiple children. We are reserving these for larger lots to accommodate personal outdoor play equipment, pools and gardens.

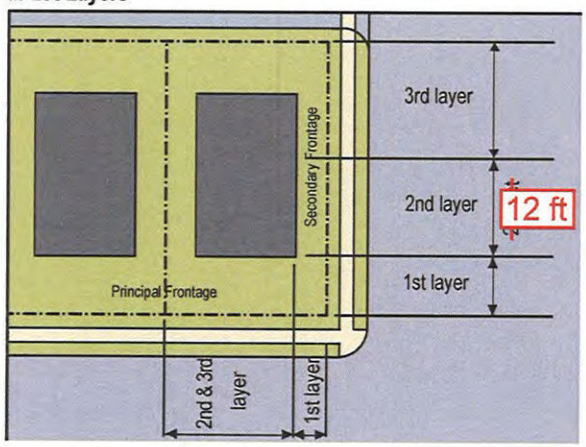
Additionally, a more diverse community is a more stable community. With multiple product offerings, you appeal to more people and product absorption occurs more quickly, helping to assure a successful project.

Allowing the garage to encroach into the 2nd layer, 8 feet, helps to keep the length of a driveway shorter while providing a setback from the front of the architecture. This minimizes the effect of the garage on the front elevation and reduces the amount of impervious cover placed unnecessarily within the lot.

This layout is meeting the intent of the Smart Code by continuing to provide the required front porch, continues to provide street tree planting required by Smart Code and minimizes the impact of the garage on the architecture with it being set back 12' from the front porch/architecture. Smart Code block structure is also consistent within all product types.

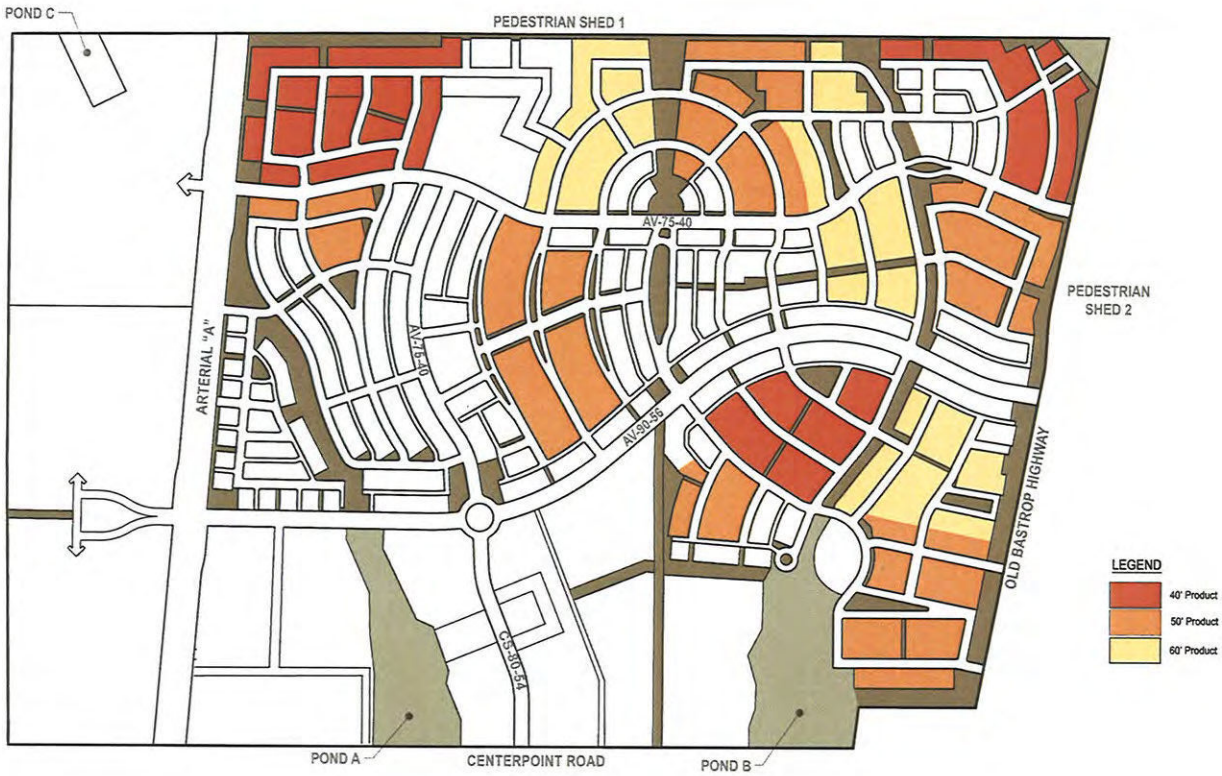


d. Lot Layers



- This warrant is restricted to a maximum of 15% of the total single family product with a 1-car wide garage on lots 40-49' wide;
- This warrant is restricted to a maximum of 34% of the total single family product with a 2-car wide garage on lots 50' wide and larger.

This warrant will currently apply for the lots for the lots shown in the picture below:



WARRANT 2

WARRANT 2

Smart Code:

5.9.4. **Specific to zones T3, T4**

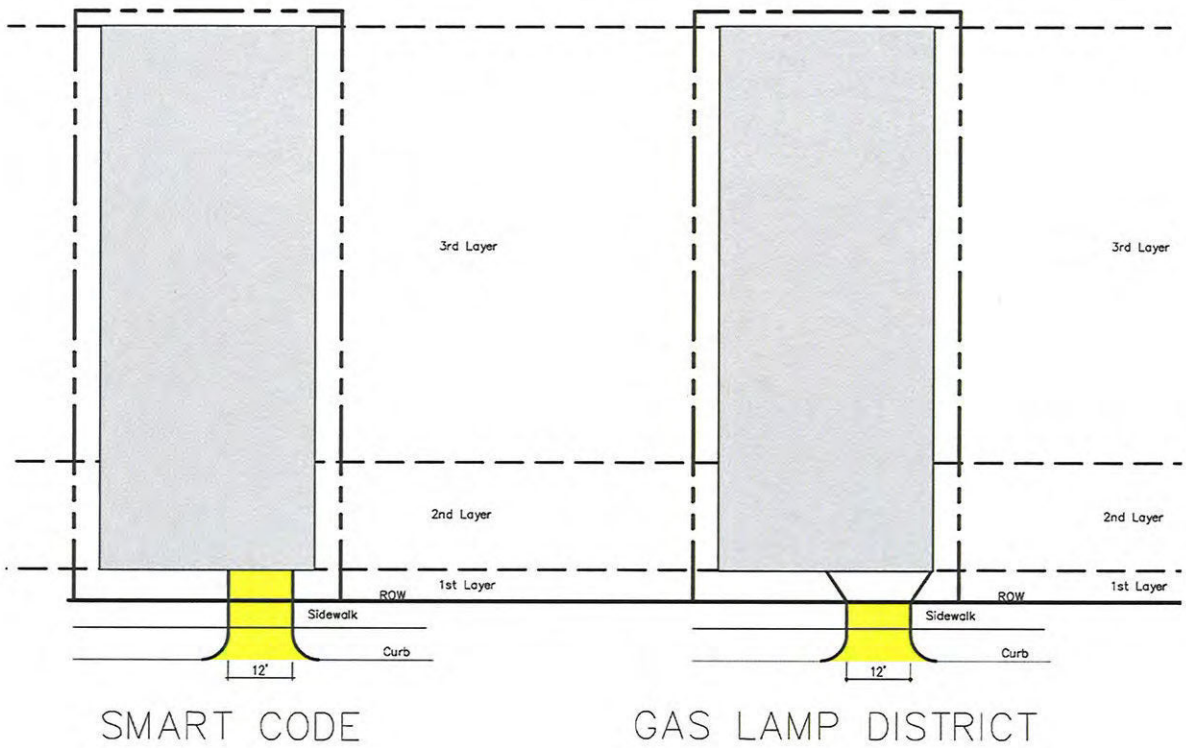
a. Driveways at Frontages shall be no wider than 12 feet in the first Layer.

Requested Warrant:

Driveway width shall be no wider than 12 feet at the street ROW for T3 and T4 zones to a maximum of 34% of the total number of single-family lots, as described on Warrant 1.

Justification:

This warrant is related to the previous warrant request for covered parking location. It allows the driveway width to transition to the width of the garage door opening at the ROW line. This is a small variation from the Smart Code and does not alter the intent of the Smart Code while preserving the characteristics of a pedestrian oriented community. The width of the driveway at the sidewalk is unaltered and allows for street tree placement, consistent with the Smart Code. This warrant also minimizes the chances of an owner modification to the driveway transition. This warrant only applies to the few 2-car garage front-load homes allowed within the project.



WARRANT 3

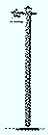
WARRANT 3

Smart Code:

The Smart Code specifies a list of lighting poles that are allowed in each transect zone. Cobra head, pipe, post, column and double column are the 5 of options available in the Code.

TABLE 3.6. PUBLIC LIGHTING

Lighting varies in brightness and also in the character of the fixture according to the Transect. LED or similar efficiency is recomended.

	T1	T2	T3	T4	T5	SD	Specifications
Cobra Head	▪					▪	
Pipe 	▪	▪	▪				
Post		▪	▪	▪			
Column			▪	▪	▪		
Double Column					▪		

Requested Warrant:

The developer may utilize the pipe, the post, the column, or the double column Smart Code approved public lighting type in any Transect Zone or Special District throughout the Project.

Justification:
According to Code, this development would be required to have at least 3 different types of lighting poles. Most of these options are non-standard light poles types and energy providers do not keep decorative lighting pole types in their inventory. This warrant is needed to reduce the future maintenance costs for the future residents and to provide uniformity throughout the development. Transects often change from one side of the street to the other or from one end to another and keeping a light fixture consistent along a street rather than by transect will provided a more consistent look both day and night.

If this warrant request is approved, this project could use any of the 4 lighting pole options listed below in any of the transect zones or Special Districts. All other lighting options are still available per Smart Code.

Lighting choices allowed are consistent with choices presented within the Smart Code and additionally meets the intent by retaining the decorative options outlined within the Smart Code.

ARTICLE 3. COMMUNITY PLANS

San Marcos, Texas

TABLE 3.6. PUBLIC LIGHTING

Lighting varies in brightness and also in the character of the fixture according to the Transect. LED or similar efficiency is recomended.

	T1	T2	T3	T4	T5	SD	Specifications
Pipe	▪	▪	▪	▪	▪	▪	
Post	▪	▪	▪	▪	▪	▪	
Column	▪	▪	▪	▪	▪	▪	
Double Column	▪	▪	▪	▪	▪	▪	

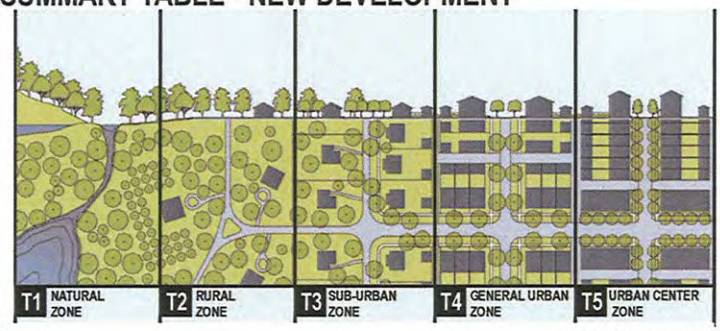
WARRANT 4

WARRANT 4

Smart Code:

San Marcos, Texas

TABLE 1.3. SUMMARY TABLE - NEW DEVELOPMENT



d. THOROUGHFARES (see Table 3.3)					* 2500 with parking structures
HW	permitted	permitted	permitted	not permitted	not permitted
BV	not permitted	not permitted	permitted	permitted	permitted
AV	not permitted	not permitted	permitted	permitted	permitted
CS	not permitted	not permitted	not permitted	not permitted	permitted
DR	not permitted	not permitted	permitted	permitted	permitted
ST	not permitted	not permitted	permitted	permitted	permitted
RD	permitted	permitted	permitted	not permitted	not permitted
Rear Lane	not permitted	not permitted	permitted	permitted	not permitted
Rear Alley	not permitted	not permitted	not permitted	permitted	required
Path	permitted	permitted	permitted	not permitted *	not permitted
Passage	not permitted	not permitted	not permitted	permitted	permitted
Bicycle Trail	permitted	permitted	permitted	not permitted *	not permitted
Bicycle Lane	permitted	permitted	permitted	not permitted	not permitted
Bicycle Route	permitted	permitted	permitted	permitted	permitted

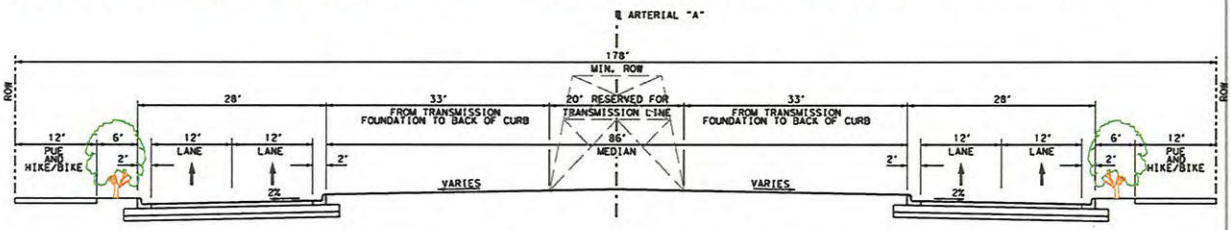
Requested Warrant:

"Exhibit G – Arterial 'A' Design" shall be permitted as shown in the Project.

Justification:

This roadway is part of the City of San Marcos Transportation Master Plan and its proposed alignment follows the existing Lower Colorado River Authority (LCRA) overhead electric transmission line and easement. Several meetings were held between the City, the Developer and LCRA and the road section below was agreed to as a typical section. Although this section is not a typical Smart Code section, it does provide the elements of the Smart Code. (Street tree planting, hike/bike trails and a landscaped median)

Although the proposed typical section for this roadway is not a Smart Code standard, it has been designed to reinforce the intent of the Code while accommodating the physical constraints.



PROPOSED ARTERIAL "A" TYPICAL SECTION

STA. XX+XX.XX TO STA XX+XX.XX

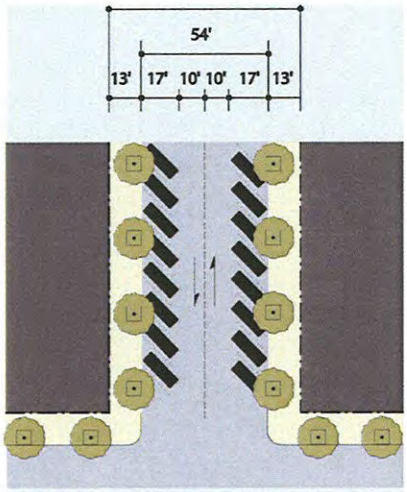
WARRANT 5

WARRANT 5

Smart Code:

TABLE 3.3. THOROUGHFARE ASSEMBLIES

These Thoroughfares are assembled from the elements that appear in Tables 3.2 and incorporate the Public Frontages of Table 3.2. The key gives the Thoroughfare type followed by the right-of-way width, the pavement width, and in some instances by specialized transportation capability.



CS-80-54
Commercial Street
TS
80 feet
54 feet
Slow Movement
25 MPH
5.7 seconds
2 lanes
Both Sides @ 17 feet marked reverse angle
5 feet
Gallery/Arcade, Shopfront/Awning
17 foot Sidewalk
7'X7' tree well
Curb
Trees at 30' o.c. Avg.
BR, SH, TR

Requested Warrant:

Standard head-in angled parking may be allowed in street section CS-80-54.

Justification:
Reverse angle parking is the only option allowed in the Smart Code for this roadway section, see Table 3.3. This warrant allows the option for head-in parking. This warrant will provide the option for head-in angle parking, as shown on the Figure below.

The land plan for the project has this road section as the main entrance into the project. Developer would like to have the option for head-in angled parking to address the concerns of traffic congestion caused by drivers backing into a space rather than pulling straight in.

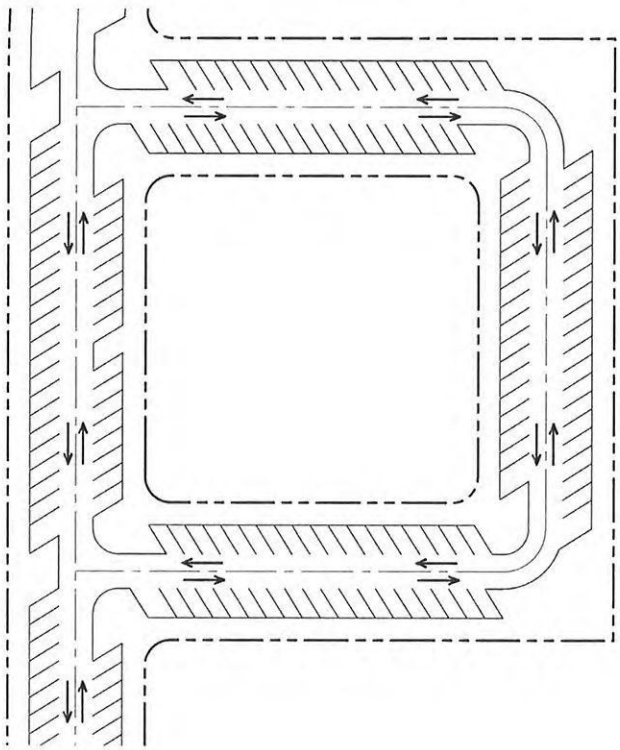
When you back into a parking space, it takes longer, meaning that the aisles are blocked for a longer period of time. This can lead to circulation issues.

When you pull forward into a parking space, it is much quicker, and backing out again is easier (therefore safer) than backing in because you have more room in the aisle than you do in a parking space.

Another complication of backing into a parking space is that you cannot see the lines very clearly (if at all) in your mirrors, which means that sloppy parking is more likely, and that will further compound the accident risk and convenience.

A driver is always in moving car and when pulling out of a parking space you always have a person in the direction of oncoming traffic.

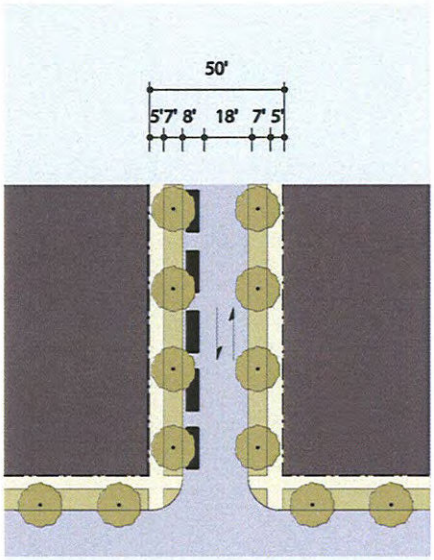
In summary, angled parking along this street type is still provided and the roadway section has not been altered allowing the intent of the Smart Code to be preserved.

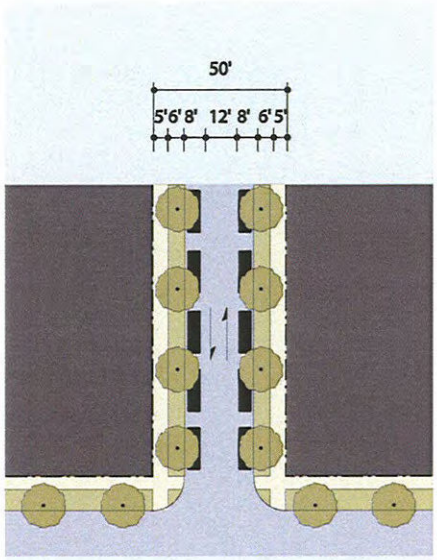


WARRANT 6

WARRANT 6

Smart Code:





ST-50-26	ST-50-28
Street	Street
T4, T5, T6	T4, T5, T6
50 feet	50 feet
26 feet	28 feet
Free Movement	Yeild Movement
20 MPH	20 MPH
7.4 seconds	7.6 seconds
2 lanes	2 lanes
One Side @ 8 feet marked	Both Sides @ 8 feet unmarked
10 feet	10 feet
ST, FC, DY/LC, PF	ST, FC, DY/LC, PF
5 foot Sidewalk	5 foot Sidewalk
7 foot Continuous planter	6 foot Continuous planter
Curb	Curb
Trees at 30' o.c. Avg.	Trees at 30' o.c. Avg.
BR, SH	BR, SH

Requested Warrant:

ST-50-26 and ST-50-28 shall be allowed in T3.

Justification:
The Smart Code only allows these roadway typical sections to be used in T4, T5, and T6. If these roadway types are allowed in the denser transects (T4 and T5), this roadway could also be used in a T3 transect. Considering most of this project is in a T4 or T5 zone, this warrant will also provide consistency of roadway types as you traverse through transects.

WARRANT 7

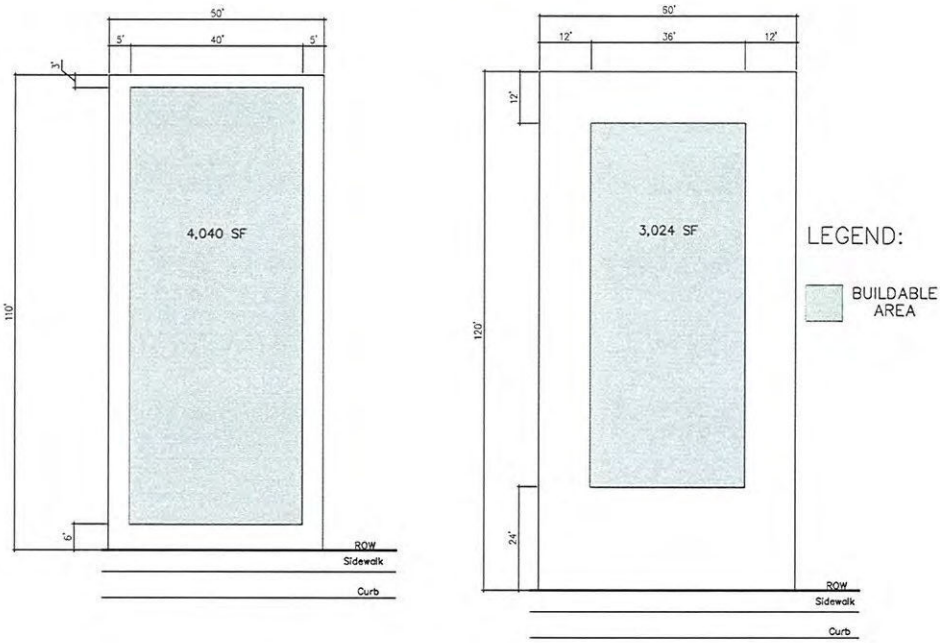
WARRANT 7

Smart Code:

San Marcos, Texas

TABLE 1.3. SUMMARY TABLE - NEW DEVELOPMENT

g. SETBACKS - PRINCIPAL BUILDING (see Tables 5.11 - 5.13)					
(g.1) Front Setback (Principal)	not applicable	48 ft. min	24 ft. min	6 ft. min 18 ft. max	0 ft. min 12 ft. max
(g.2) Front Setback (Secondary)	not applicable	48 ft. min	12 ft. min	6 ft. min 18 ft. max	0 ft. min 12 ft. max
(g.3) Side Setback	not applicable	96 ft. min	12 ft. min	0 ft. min or 6 ft. min. total	0 ft. min 24 ft. max
(g.4) Rear Setback	not applicable	96 ft. min	12 ft. min	3 ft. min *	3 ft. min *
Frontage Buildout	not applicable	not applicable	40% min	60% min	80% min



50'x110' – T4
SMART CODE

60'x120' – T3
SMART CODE

Requested Warrant:

Principal Building front setbacks shall be 10', side setbacks shall be 5' and rear setback shall be 5' for a T3 transect.

Justification:
The setbacks for a T3 transect in the Smart Code are:

- Front Setback (principal) – 24 ft
- Front Setback (secondary) – 12 ft
- Side Setback – 12 ft
- Rear Setback – 12 ft

The intent of the code is to provide a suburban feeling for the T3 transect zone and a more urban feeling for T4 and T5 transects. Therefore, lots in the T3 transect are larger in size than the lots in a T4 transect. As this is a mixed-use master-planned community, the setbacks need to be consistent throughout to provide a cohesive neighborhood.

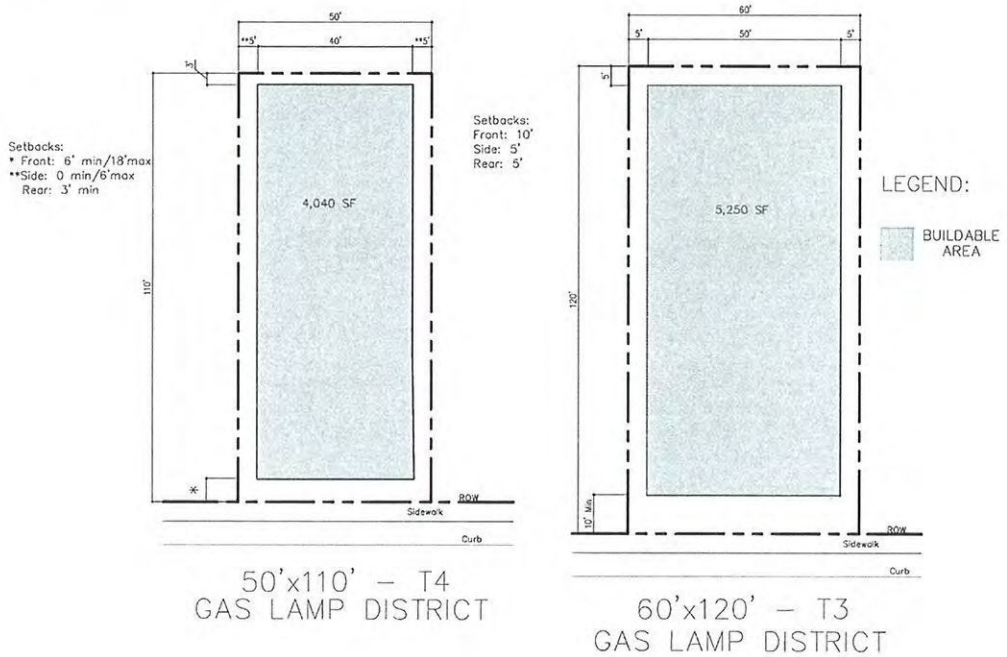
This warrant is necessary because the setbacks allowed by the Smart Code would make the community inconsistent and cause the buildable areas of a 60' lot to be smaller than a 50' lot. For example:

- a 50'x110' lot is considered a T4 transect and the buildable area for this lot is 4,040 sf;
- a 60'x120' lot is considered a T3 transect and the buildable area for this lot is 3,024 sf.

If this warrant is approved, the buildable area will be proportional to the lot size area:

- a 50'x110' lot is considered a T4 transect and the buildable area for this lot is 4,040 sf;
- a 60'x120' lot is considered a T3 transect and the buildable area for this lot is 5,250 sf.

In summary, this warrant request is justified to prevent the Code from penalizing the buyer of a larger lot, by imposing stricter rules, than a buyer of a smaller lot. It still meets the intent of the code by providing a lot distribution with a larger width, a mix of products, a varied front setback and favors a walkable community.



WARRANT 8

WARRANT 8

Smart Code:

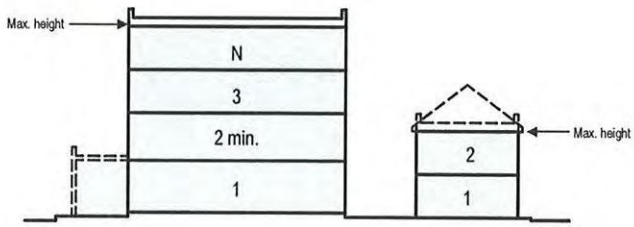
San Marcos, Texas

TABLE 1.3. SUMMARY TABLE - NEW DEVELOPMENT

k. BUILDING CONFIGURATION (see Table 5.2)					
Principal Building	not applicable	2 Stories max	2 Stories max	3 Stories max	5 Stories max*, 2 min
Outbuilding	not applicable	2 Stories max	2 Stories max	2 Stories max	2 Stories max

BUILDING CONFIGURATION

1. Building height shall be measured in number of Stories, excluding Attics and raised basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 25 ft.
3. Height shall be measured to the eave or roof deck as specified on Table 5.2.
4. Expression Lines shall be as shown on Table 5.2.



Requested Warrant:

For age restricted or nursing facility uses in T5, a one story building is permitted.

Justification:

The Smart Code requires buildings in a T5 transect to have a minimum of 2 stories.
Due to accessibility, safety and marketing issues, the developer needs the opportunity to develop a nursing home or retirement home on a single floor. The Smart Code portion addressed by this Warrant is limited and, considering the size of this project, it maintains the integrity of the Smart Code.

WARRANT 9

WARRANT 9

Smart Code:

3.8.2. Density shall be expressed in terms of dwelling units per acre as specified for the area of each Transect Zone by Table 1.3b. For purposes of Density calculation, the Transect Zones include the Thoroughfares but not land assigned to Civic Zones. To ensure Mixed Use, the T5 Zone should be required to provide a minimum 15% Retail and 15% Office.

Requested Warrant:

A minimum of 30% of the T5 land area in the Project shall be used for commercial (office/retail) uses.

Justification:

According to item 3.8.2. of the Smart Code, the T5 zone should be comprised of a minimum of 15% retail and 15% office.

The intent of this warrant is to allow this requirement to be also satisfied by 30% of commercial uses regardless of the use being office or retail in a T5 zone. This warrant request is justified because it does not change the intent or the character of the Code. Often, commercial uses change/move from time to time. With both retail and office being a commercial use it could cause confusion trying to regulate an exact split between the 2 types of uses. Allowing the market to dictate the type of commercial use will help the project keep absorption rates high. We don't want to see empty space waiting for a specific use and as an adjacent use to the very large retail centers (outlets), the developer needs to ensure the flexibility to deliver compatible uses.

WARRANT 10

WARRANT 10

Smart Code:

According to Smart Code item 3.5.4 (b).:

b. Civic Building Lot shall be reserved for an elementary school for up to five years after the sale of the last lot. Its area shall be a minimum of three (3) acres. The school site may be within any Transect Zone. Any playing fields should be outside the Pedestrian Shed.

According to Smart Code item 3.5.4 (c).:

c. One Civic Building Lot suitable for a childcare building shall be reserved within each Pedestrian Shed for up to five years after the sale of the last lot. The owner or a homeowners' association or other community council may organize, fund and construct an appropriate building as the need arises.

Requested Warrant:

Upon the second anniversary of the sale of the last single-family or multifamily Lot in the Project or in a Pedestrian Shed (as applicable), the timing requirements for reserving elementary school and childcare building sites as described in Section 3.5.4 (b, c) of the Smart Code shall be satisfied.

Justification:

This warrant is justified because the 5 years after the last lot is sold is an excessive amount of time to impose upon the project and the developer. Although, when the last residential is sold the need for an elementary school or childcare shall be known, this warrant proposes an extension of 2 years after the sale of the last residential lot to reserve a site for an elementary school and childcare sites. An additional 3 years (total of 5) on such a large project is an excessive burden on the developer.

WARRANT 11

WARRANT 11

Smart Code:
According to the Smart Code item 3.5.4. (b), one 3-acre site in each pedestrian Shed shall be reserved for a school site.

b. Civic Building Lot shall be reserved for an elementary school for up to five years after the sale of the last lot. Its area shall be a minimum of three (3) acres. The school site may be within any Transect Zone. Any playing fields should be outside the Pedestrian Shed.

Requested Warrant:

Owner may reserve a single 8 acre site within the Project or a 3 acre site in each Pedestrian Shed in order to satisfy the requirement of reserving a Civic Building Lot for an elementary school.

Justification:
According to the Smart Code, 6 acres shall be reserved for a school site, because this project has 2 Pedestrian Sheds. Of the 6 acres required for a school site 3 acres would be located in one pedestrian shed and the remaining 3 acres in a second pedestrian shed. Considering this project has 495 acres, if these rules are applied these 2 school sites would be located in less than a mile from each other. Additionally, most schools sites are larger than 3 acres.

Because of the small acreage requirement and the close proximity of these 2 sites, this warrant allows the developer to provide one site of a combined area of 8 acres anywhere within the project.

WARRANT 12

WARRANT 12

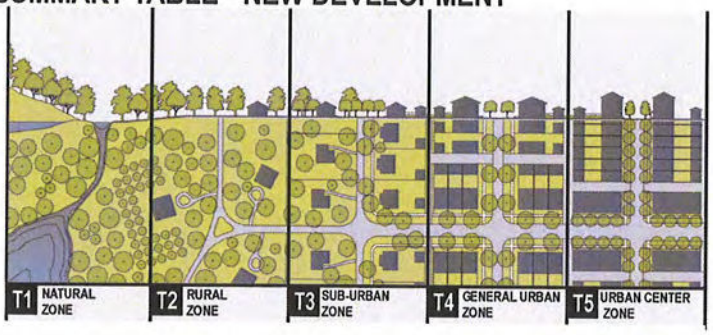
Smart Code:

Table 1.3 – Summary Table – New Development

Block perimeter for a T5 zone = 2,000 ft max (2,500 ft with parking structures)

San Marcos, Texas

TABLE 1.3. SUMMARY TABLE - NEW DEVELOPMENT



c. BLOCK SIZE					
Block Perimeter	no maximum	no maximum	2400 ft. max	2000 ft. max	2000 ft. max *
d. THOROUGHFARES (see Table 3.3)					* 2500 with parking structures

TABLE 5.7. SPECIFIC FUNCTION & USE

This table expands the categories of Table 5.4 to delegate specific Functions and uses within Transect Zones.

a. RESIDENTIAL	T1	T2	T3	T4	T5	SD
Mixed Use Block					▪	
Flex Building				▪	▪	
Apartment Building				▪	▪	
Live/Work Unit			▪	▪	▪	▫
Rowhouse				▪	▪	
Duplex			▪	▪	▪	
Courtyard House				▪	▪	
Sideyard House			▪	▪	▪	
Cottage			▪	▪		
House		▪	▪	▪		
Villa		▪				
Accessory Unit		▪	▪	▪	▪	

f. OTHER: AGRICULTURE	T1	T2	T3	T4	T5	SD
Grain Storage	▪	▪				▫
Livestock Pen	▫	▫				▫
Greenhouse	▪	▪	▫			▫
Stable	▪	▪	▫			▫
Kennel	▪	▪			▫	▫
f. OTHER: AUTOMOTIVE						
Gasoline		▫			▫	▪
Automobile Service					▫	▪
Truck Maintenance						▪
Drive -Through Facility					▫	▪
Rest Stop	▪	▪				▫

Requested Warrant:

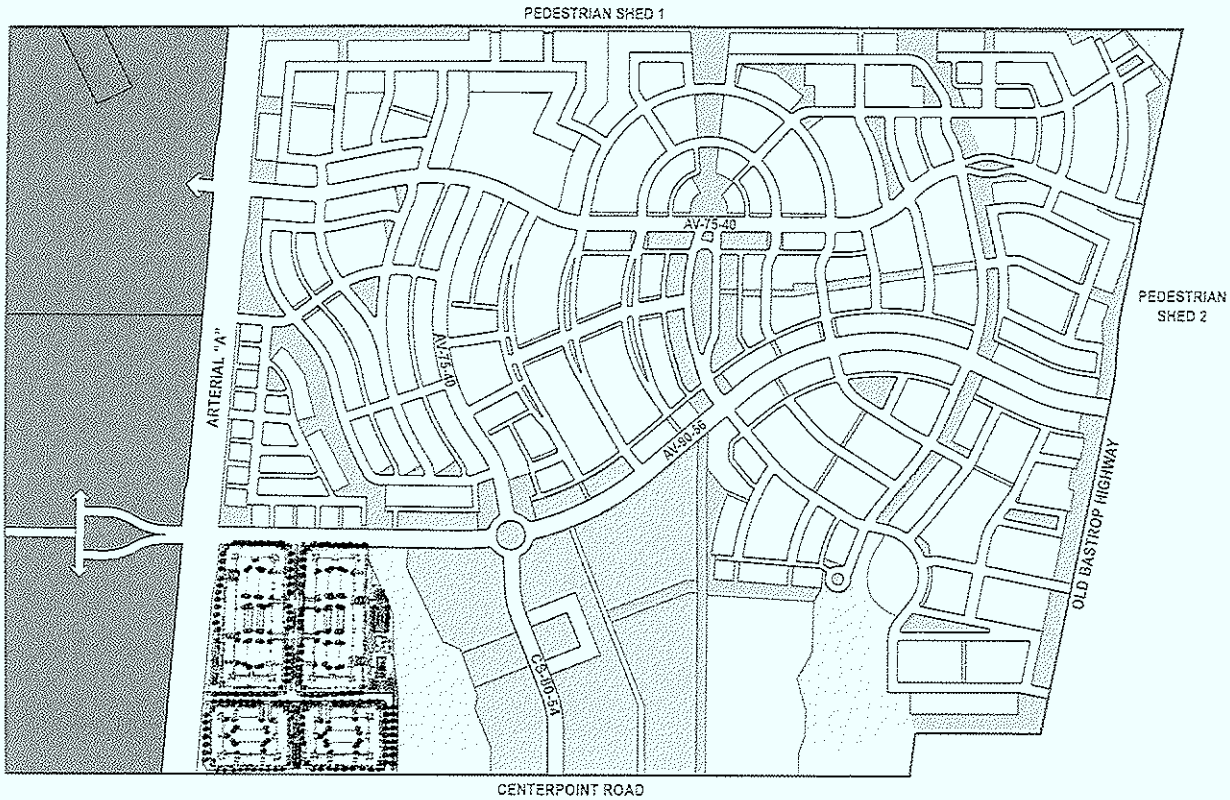
A 25-acre of apartment development within this project shall not exceed 2,400ft of block perimeter in a T5 transect. Block perimeter shall be calculated at public and private streets and at pedestrian passages.

Justification:

The 2,400 foot block perimeter allows for an apartment building to be built at a more efficient scale and financially feasible design. The 2,400 foot block is within the block dimension allowed with a parking garage and the Developer wishes to extend this to layouts that park cars behind the units like the exhibit below. Architecture addressing the streets with efficient hidden parking, enhanced pedestrian circulation through sidewalks and pedestrian corridors, along with reasonable block lengths help to maintain the full intent of the code.

This apartment site is currently proposed to be located adjacent to the drainage pond/green space and bounded by two proposed major intersections: Centerpoint Rd. and Arterial A; and Arterial A and Collector A.

If this warrant is approved, the apartment site layout could be similar to:


PEDESTRIAN SHED 1
PEDESTRIAN SHED 2
ARTERIAL "A"
AV-75-40
AV-75-40
AV-90-35
CS-100-5A
OLD BASTROP HIGHWAY
CENTERPOINT ROAD

WARRANT 13

WARRANT 13

Smart Code:
Table 1.3 – Summary Table – New Development
Lot Width for a T5 zone = 18ft min, 196 ft max

San Marcos, Texas
TABLE 1.3. SUMMARY TABLE - NEW DEVELOPMENT

f. LOT OCCUPATION	T1 NATURAL ZONE	T2 RURAL ZONE	T3 SUB-URBAN ZONE	T4 GENERAL URBAN ZONE	T5 URBAN CENTER ZONE
Lot Width	not applicable	by Warrant	60 ft. min 120 ft. max	18 ft. min 120 ft. max	18 ft. min 196 ft. max
Lot Coverage	not applicable	by Warrant	60% max	80% max	100% max

TABLE 5.7. SPECIFIC FUNCTION & USE
This table expands the categories of Table 5.4 to delegate specific Functions and uses within Transect Zones.

a. RESIDENTIAL	T1	T2	T3	T4	T5	SD
Mixed Use Block					▪	
Flex Building				▪	▪	
Apartment Building				▪	▪	
Live/Work Unit			▪	▪	▪	▫
Rowhouse				▪	▪	
Duplex			▪	▪	▪	
Courtyard House				▪	▪	
Sideyard House			▪	▪	▪	
Cottage			▪	▪		
House		▪	▪	▪		
Villa		▪				
Accessory Unit		▪	▪	▪	▪	
c. OFFICE						
Office Building				▪	▪	▫
Live-Work Unit			▪	▪	▪	▫

f. OTHER: AGRICULTURE	T1	T2	T3	T4	T5	SD
Grain Storage	▪	▪				▫
Livestock Pen	▫	▫				▫
Greenhouse	▪	▪	▫			▫
Stable	▪	▪	▫			▫
Kennel	▪	▪			▫	▫
f. OTHER: AUTOMOTIVE						
Gasoline		▫			▫	▪
Automobile Service					▫	▪
Truck Maintenance						▪
Drive -Through Facility					▫	▪
Rest Stop	▪	▪				▫

Requested Warrant:

Lot width for multifamily (apartments and senior living) and approximately 24 acres of office use west of Arterial A in a T5 zone may be up to the block size.

Justification:
A commercial/multifamily developer or builder may need the block to be a single lot. Multiple lots cause complications with design, code, tax assessments and a multitude of other issues. A single lot allows for a cohesive design and use without unnecessary cost and complications.

Because the Smart Code block size is basically maintained, the design intent of the code is preserved and it allows for a cohesive walkable community.

Agenda Information

AGENDA CAPTION:

LDC-13-03 (Minor Revisions for Comprehensive Plan Implementation) Hold a public hearing and consider revisions to Chapters 1, 2, 3, 4, 5, 6, 7, & 8 of the Land Development Code codifying the changes resulting from the adoption of Ordinance No. 2013-16, also known as the Adopting Ordinance for Vision San Marcos: A River Runs Through Us.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

CITY COUNCIL GOAL:

BACKGROUND:

The City Council, on April 16, 2013, adopted Ordinance 2013-16 with the following general provisions:

1) Repeal the Horizons Master Plan and the sector plans
2) Adopt Vision San Marcos: A River Runs Through Us as the City's Comprehensive Plan
3) Adopt the Preferred Scenario Map as the Future Land Use Map
4) Limit the consideration of requests for amendments of the Preferred Scenario to twice per year

Staff is presenting the attached text amendments to Chapters 1-8 of the Land Development Code to facilitate these general provisions.

ATTACHMENTS:

Cover Memo
Chapter 1
Chapter 2
Chapter 3
Chapter 4
Chapter 5
Chapter 6
Chapter 7
Chapter 8

DEVELOPMENT
SERVICES- PLANNING

MEMO

TO: **PLANNING AND ZONING COMMISSION**
THROUGH: **MATTHEW LEWIS, DIRECTOR OF DEVELOPMENT SERVICES**
FROM: **AMANDA HERNANDEZ, AICP, SENIOR PLANNER**
DATE: **JUNE 14, 2013**
RE: **LDC-13-03 REVISIONS TO THE LAND DEVELOPMENT CODE TO CODIFY THE ADOPTING ORDINANCE FOR VISION SAN MARCOS: A RIVER RUNS THROUGH US**

The City Council, on April 16, 2013, adopted Ordinance 2013-16 with the following general provisions:

1) ***Repeal the Horizon's Master Plan and the sector plans***
2) ***Adopt Vision San Marcos: A River Runs Through Us as the City's Comprehensive Plan***
3) ***Adopt the Preferred Scenario Map as the Future Land Use Map***
4) ***Limit the consideration of requests for amendments to twice per year***

Staff is presenting the attached text amendments to Chapters 1-8 of the Land Development Code which:

1) *Repeal the Horizons Master Plan and the sector plans:*

(a) **Removes all "Horizons," "master plan," "future land use" and "sector plan" language**	throughout

2) *Adopt Vision San Marcos: A River Runs Through Us as the City's Comprehensive Plan:*

(a) **Replaces previously removed language with "Vision" "comprehensive plan," and "preferred scenario"**	throughout
(b) **Reserves a section for Neighborhood Character Studies**	Section 3.1.1.3
(c) **Provides definitions for terms that were added as a result of the changes outlined in this memo.**	Chapter 8

3) *Adopt the Preferred Scenario Map as the Future Land Use Map:*

(a) **Provides rules for interpreting the boundaries of the preferred scenario map – similar to the language used for interpreting the zoning map**	Section 1.4.1.3

4) Limit the consideration of requests for amendments to twice per year:

(a) **Establishes the twice per year preferred scenario amendment process – requiring an amendment to be approved prior to acceptance of subsequent applications for zoning, PDD, etc.**	Sections 1.4.1.1, 1.4.1.2, 1.5.1.2, 1.5.3.2
(b) **Establishes criteria for reviewing planning cases based on the comprehensive plan elements.**	Sections 1.4.1.5, 1.5.1.5, 1.5.3.5, 1.5.7.5
(c) **Clarifies the responsible official for review of applications by changing "planning director" to "planning and development services director" or "director"**	Throughout
(d) **Codifies the Zoning Translation Table and clarifies single-family vs. other residential uses**	Sections 1.4.1.3, 4.1.5.2

ARTICLE 1: - DEVELOPMENT APPLICATIONS

DIVISION 1: - CLASSIFICATION OF DEVELOPMENT APPLICATIONS

Section 1.1.1.1 - Categories of Decisions and Rules Governing Decision-Making

For purposes of this Land Development Code, decisions on development applications are classified either as legislative, quasi-judicial or administrative decisions.

(a) *Legislative Decisions*. Legislative decisions are those which establish or change the City's policies and rules governing the use or development of land. Legislative decisions shall be finally decided by the City Council acting in its capacity as a municipal legislature. Legislative decisions may be based upon general considerations of fostering and preserving the public health, safety and general welfare, including the municipality's fiscal well being, and are characterized by exercise of broad discretion. Legislative decisions shall be prefaced by a public hearing when required by state law, the City Charter, or this Land Development Code. Legislative decisions cannot be delegated, and are not subject to appeal or variation.

(b) *Quasi-Judicial Decisions*. Quasi-judicial decisions are those in which general standards contained in the City's established policies and rules governing land development are applied to specific development proposals. Quasi-judicial decisions may be delegated to City staff persons or to an appointed board or commission for initial or final decision. Quasi-judicial decisions require the exercise of considerable discretion and may involve fact-finding or the imposition of conditions. Quasi-judicial decisions may be prefaced by a public hearing. Quasi-judicial decisions may be subject to appeal or variation.

(c) *Administrative Decisions*. Administrative decisions are those in which specific standards contained in the City's established policies and rules governing land development are applied to specific development proposals. Administrative decisions shall be delegated to City staff persons or to an appointed board or commission for initial or final decision. Administrative decisions may require the exercise of limited discretion. Administrative decisions shall not be prefaced by a public hearing. Administrative decisions may be subject to appeal or variation.

(d) *Rules Governing Decisions*.

(1) Whenever a quasi-judicial or administrative decision is made subject to appeal or variation by this Land Development Code, the final decision-maker in an appeal or request for variation shall exercise the same degree of discretion exercised by the initial decision-maker unless otherwise provided by law.

(2) Whenever an amended or revised development application is submitted to the City for decision, the amended or revised application shall be of the same classification as the initial application and shall be subject to the same level of discretion as was the initial application.

(3) Whenever an appointed board or commission makes a recommendation to the City Council on a decision to be finally decided by the Council, such board or commission shall be deemed to act in the same capacity as the City Council.

(4) The applicant shall bear the burden of demonstrating that a request for approval or development application meets the criteria for approval for that type of application. The appellant bears the burden of demonstrating that the initial decision by the City should be reversed or modified.

Section 1.1.1.2 - Legislative Decisions and Applications

(a) Decisions on the following types of petitions, applications or relief procedures are classified as legislative decisions, and such petitions and applications are referred to as legislative applications:

DRAFT

(1) A petition seeking amendment to the text, Capital Improvements Plan or ~~Future Land Use Map~~Preferred Scenario Map of the ~~Master~~Comprehensive Plan.

(2) A petition seeking amendment to the text of this Land Development Code.

(3) A petition to establish or amend a zoning district map classification, including creation or amendment of an overlay district;

(4) An application for approval or amendment of a Concept Plan incorporated as part of a Planned Development district.

(5) A petition for approval of a development agreement and approval of a land use plan in the City's extraterritorial jurisdiction.

(6) A petition to extend City utilities to land located in the City's extraterritorial jurisdiction.

(7) A petition seeking amendment of an interlocal agreement with a county containing land in the City's extraterritorial jurisdiction.

(8) A petition for relief from a dedication or construction requirement.

(9) A petition for development transfer.

Section 1.1.1.3 - Quasi-Judicial Decisions and Applications

(a) Decisions on the following types of development permit applications, requests or relief procedures are classified as quasi-judicial decisions, and such applications and requests are referred to as quasi-judicial applications:

(1) An application for a Conditional Use Permit.

(2) An application for approval of a Subdivision Concept Plat.

(3) An application for approval of a Preliminary Subdivision Plat.

(4) An application for approval of a Preliminary Development Plat.

(5) An application for approval of a Final Subdivision Plat or Final Development Plat, other than a Minor Subdivision Plat.

(6) A request for decision by the Zoning Board of Adjustments.

(7) A request for a Certificate of Appropriateness.

(8) An appeal of an impact fee decision.

(9) An application for approval of a Cluster Development Plan.

(10) A permit revocation proceeding.

(11) An application for approval of a Residential Compatibility Site Plan required in conjunction with approval of any other quasi-judicial application.

(12) An application for approval of a Qualified Watershed Protection Plan.

(13) Any petition for exemption from the requirements of a quasi-judicial application.

(14) An appeal of any quasi-judicial decision.

(15) A variance petition.

(16) A vested rights petition.

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Section 1.1.1.4 - Administrative Decisions and Applications

(a) Decisions on the following types of development permit applications or relief procedures are classified as administrative decisions, and such applications are referred to as administrative applications:

(1) An application for approval of a Site Preparation Permit;

(2) An application for approval of a Minor Subdivision Plat.

(3) An application for approval of an amending plat.

(4) An application for approval of construction plans.

(5) An application for approval of a permit to install an on-site sewage disposal system.

(6) An application for approval of a building permit.

(7) An application for approval of a sign permit.

(8) An application for approval of a certificate of occupancy.

(9) An application for a floodplain permit.

(10) Any petition for exemption from the requirements of an administrative application.

(11) An appeal of any administrative decision, other than an appeal to the Zoning Board of Adjustments.

(12) A Watershed Protection Plan (does not include a Qualified Watershed Protection Plan).

(Ord. No. 2006-45, § 1, 9-19-06)

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DIVISION 2: - SEQUENCE OF DEVELOPMENT APPLICATIONS

Section 1.1.2.1 - General Rules for Priority

(a) Where more than one development application is required by this Land Development Code in order to initiate or continue development of land, the requests or applications shall be decided in the following general sequence:

(1) Applications classified as legislative shall be first decided and shall be deemed prior to all other applications.

(2) Applications classified as quasi-judicial shall be decided prior to applications classified as administrative.

(3) Applications within a class which are assigned priority under this Land Development Code shall be decided prior to subordinate applications.

Section 1.1.2.2 - Specific Rules of Priority

(a) *Applications of Mixed Classification*. Whenever this Land Development Code authorizes a property owner to submit development applications of different priority classifications simultaneously, the order of decision shall be as provided in Section 1.1.2.1. An applicant may not submit a subordinate application that must be decided within a time certain under this Land Development Code without execution of an express waiver of such time limitation pending decision on the priority application. Action on accompanying applications shall be as follows:

(1) Denial of a legislative application shall be deemed a denial of any pending quasi-judicial or administrative applications, or subordinate applications for the same land, on the date the legislative application is denied.

(2) Denial of a quasi-judicial application shall be deemed a denial of any pending administrative or subordinate quasi-judicial applications for the same land on the date the quasi-judicial application is denied.

(3) Subordinate applications shall not be approved subject to approval of priority applications.

(4) No proceedings or deliberations are required for action on any applications which are deemed denied under this Section. Applications deemed denied under this Section shall be returned promptly to the applicant.

(5) Any subordinate application that must be decided within a time certain under this Land Development Code and that is not accompanied by an express waiver of such time limitation pending decision on the priority application shall be deemed incomplete and shall not be further processed.

(b) *Subordinate Applications*. Approval of any subordinate application shall be consistent with the terms and conditions of approval of all priority applications.

(c) *Legislative Priority*. The following priorities are established among legislative applications for the same land:

(1) A petition seeking an amendment to the ~~Master~~Comprehensive Plan shall be decided prior to any application to amend the text or map of the zoning regulations.

(2) A petition seeking an amendment to the text of the ~~Master~~Comprehensive Plan shall be decided prior to any amendment of a ~~Master~~Comprehensive Plan map.

(3) A petition seeking amendment to the text of the zoning regulations shall be decided prior to any amendment of the Zoning Map.

(4) A petition seeking approval of a development agreement shall be decided prior to any application to amend the text or map of the zoning regulations.

(d) *Quasi-Judicial Priority*. The following priorities are established among quasi-judicial applications for the same land:

(1) An application for approval of a Watershed Protection Plan (Phase 1 or Phase 2 as applicable, refer to Section 1.7.1.2) shall be decided prior to any application for Subdivision Concept Plat, a Preliminary Subdivision Plat or a Preliminary Development Plat.

(2) An application for approval of a Subdivision Concept Plat shall be decided before any application for approval of a Preliminary Subdivision Plat, Preliminary Development Plat or related final plat.

(3) An application for a variance from the Zoning Board of Adjustments concerning lot size, lot dimensions or other standards affecting platting shall be decided prior to any application for approval of a Preliminary Subdivision Plat or Preliminary Development Plat.

(e) *Administrative Priority*. The following priorities are established among administrative applications for the same land:

(1) An application for a Site Preparation Permit shall be decided prior to any decision of a construction permit.

(2) An application for approval of a Final Subdivision Plat or Final Development Plat shall be decided prior to approval of an application for a construction permit.

(3) An application for a building permit shall be decided prior to approval of an application for a certificate of occupancy.

(Ord. No. 2009-73, § 2, 12-1-09)

Section 1.1.2.3 - Subsequent Priority Application; Inconsistency with Subordinate Application

When a development application is submitted that is assigned priority over one or more approved development applications that remain in effect, and there is a conflict or inconsistency between the priority application and the approved subordinate applications, the applicant for the priority application shall submit with the application an unconditional written statement acknowledging that, upon approval of the priority application, all approvals of inconsistent subordinate applications shall be vacated, and the applicant will be required to resubmit the subordinate applications for amendment consistent with the approved priority application. Failure to submit this statement shall result in denial of the priority application. If the inconsistency between the priority application and the subordinate application is not discovered until after the priority application is approved, the inconsistency shall constitute grounds for revocation of approval of the priority application upon discovery.

ARTICLE 2: - AUTHORITY OF DECISION-MAKERS

DIVISION 1: - GENERAL PROVISIONS

Section 1.2.1.1 - Source of Authority

Authority under this Land Development Code shall be vested in and delegated to the officials and decision-makers designated in this Article 2 under the City's Charter, the constitution and laws of the State of Texas and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Land Development Code to any authority conferred upon the officials and decision-makers under the City's Charter, the constitution or laws of the State of Texas or the City Code shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

Section 1.2.1.2 - Implied Authority

The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Land Development Code to the extent the implied authority is not in conflict with the expressly delegated authority.

Section 1.2.1.3 - Limitation on Authority

(a) *City Policy*. It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are as stated in this Land Development Code, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.

(b) *Representations Concerning Future Action on Petition or Application*. No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the governing body of the City, shall have the authority to make representations to a property owner concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any development application or petition that has yet to be filed or is pending before the City for decision. An official may, however, upon request of a person, convey information concerning that official's position on a pending application in accordance with procedures established in this Chapter 1. No person is entitled to rely upon any representation made by an official in contravention of this subsection, and each and every such representation shall be deemed in violation of the policy of the City, and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this subsection.

(c) *Representations Concerning Future Amendments.* No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the City Council, shall have the authority to make binding representations to any person concerning the likelihood that a change in any legislative classification or a change in the text of this Land Development Code as applied to a specific tract of land will be granted, or that an existing legislative classification or text provision will remain in effect, or that any petition for relief will be granted. No person is entitled to rely upon any representation made by an official in contravention of this subsection, and each and every such representation shall be deemed in violation of the policy of the City, and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this subsection.

(d) *Effect of ~~Master~~Comprehensive Plan, Ordinance or Development Standard on Liability Claims*. The City's approval of a development application under the standards and procedures of this Land Development Code does not guarantee or assure that development of the property in accordance with the standards will prevent, minimize or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of a development application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Land Development Code constitute an exercise of the City's governmental authority, and approval of a development application shall not give rise to any liability on the part of the City or its officers, agents and employees, nor will an approval release the applicant from any liability for harm arising out of development of the property under applicable law.

(e) *No Waivers*. Except as expressly provided for in this Land Development Code (refer to Section 1.6.1.4 and Section 1.4.4.1), no official, board, commission of the City, or the City Council, shall have authority to waive any requirement or standard for a development application. Any attempted waiver of a requirement or standard for a development application in contravention of this subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

(Ord. No. 2008-44, § 1, 10-6-08)

Section 1.2.1.4 - Conflict in Authority

(a) *Internal Inconsistency*. Whenever one or more provisions of this Land Development Code are in apparent conflict, the provisions shall be construed, if possible, so that effect is given to each. If the conflict is between a general provision and a specific provision, and the conflict is irreconcilable, the specific provision shall prevail as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision should prevail.

(b) *Incomplete Provisions*. Whenever a specific standard or procedure of this Land Development Code is incomplete when applied in isolation to a development application or development activity, such standard shall be supplemented by any general or specific provision of this Code, the City Code, or the City Charter in order to give effect to the incomplete provision.

Section 1.2.1.5 - Illustrations and Visual Representations

(a) In this section, "illustration" means an illustration, picture, model or other visual representation or depiction. "Illustration" does not include a subdivision or development plat submitted in accordance with the requirements of this chapter.

(b) A decision-maker may not consider an illustration in reaching a decision on a development application or petition unless it is submitted by the applicant as a part of the application or petition.

(c) If an application or petition includes an illustration, the responsible official shall determine whether the decision-maker can require compliance with and conformity to the illustration as a condition of approval of the applicant's development application or petition. In general, compliance with and conformity to an illustration cannot be made a condition of approval with respect to the following:

(1) Applications for amendments to the ~~Future Land Use Map~~Preferred Scenario Map under Article 4 of this Chapter;

(2) Petitions related to zoning map amendments under Article 5 of this Chapter (except for petitions for PD or development transfer districts); and

(3) Applications and petitions related to plats under Article 6 of this Chapter.

In general, compliance with and conformity to an illustration can be made a condition of approval of other applications and petitions.

(d) If the responsible official makes an affirmative determination under subsection (c) above, the decision maker may include compliance with and conformity to an illustration submitted by an applicant as a condition of approval of an applicant's development application or petition.

(Ord. No. 2006-45, § 2, 9-19-06)

DIVISION 2: - CITY STAFF

Section 1.2.2.1 - Responsible Official

(a) *Responsible Official*. The responsible official shall be the Director or Manager of a designated City department or department division, or his or her designee who is assigned responsibility under this Land Development Code for taking the following actions with regard to a particular type of development application or relief petition authorized under this Chapter 1:

(1) Accepting the application or petition for filing and processing the application;

(2) Reviewing and making recommendations concerning the application or petition;

(3) Seeking advice of other City departments and coordinating any recommendations from such departments concerning the application or petition;

(4) Initially deciding the application or petition, where so authorized;

(5) Determining a request for exemption;

(6) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application or petition;

(7) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to the application or petition;

(8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and

(9) Taking all other actions necessary for administration of the provisions of this Land Development Code with respect to the application or petition.

(b) *Specific Duties*. The specific duties of the responsible official shall include those authorized under the universal procedures applicable to all types of development applications under Article 3 of this Chapter 1, those authorized under the provisions governing procedures for deciding particular applications under this Chapter 1, and those authorized under relief procedures under Article 10 of this Chapter 1.

(c) *Delegation*. The responsible official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

(Ord. No. 2009-73, § 3, 12-1-09)

Section 1.2.2.2 - ~~Planning~~ Director of Planning and Development Services

(a) *Responsible Official*. The ~~Planning~~ Director of Planning and Development Services refers to the person or person designated by the City Manager to carry out the duties of the ~~Planning~~ Director as described in this Land Development Code. The ~~Planning~~ Director is the responsible official for the following types of development applications and relief petitions:

(1) Petition for amending the ~~Master~~Comprehensive Plan;

(2) Petition for a development agreement;

(3) Petition for a zoning map amendment, including a petition for creation of an overlay district, Planned Development PD district, historic district or historic landmark, and Development Transfer (DT) district;

(4) Petition for a development transfer;

(5) Application for a Conditional Use Permit;

(6) Application for a Cluster Development Plan;

(7) Application for a special exception;

(8) Application for change in status of a nonconformity;

(9) Application for a Subdivision Concept Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, and replat;

(10) Application for a sign permit;

(11) Appeal of a decision on any application for which the Director is the responsible official;

(12) Variance petition for any application for which the Director is the responsible official;

(13) Vested rights petition for any decision where the Director is the responsible official for the application for which the vested rights petition is filed;

(14) Park fee decision; and

(15) Omnibus relief petition.

(b) *Initial Decision-Maker*. The ~~Planning~~ Director is the initial decision-maker for the following types of development applications and relief petitions, subject to appeal as provided in this Chapter 1:

(1) Application for a Minor Subdivision Plat;

(2) Application for a sign permit;

(3) Park fee decision; and

(4) Vested rights petition for any decision for which the Director is the initial decision-maker.

(c) The ~~Planning~~ Director is hereby authorized to approve administrative adjustments to certain standards in this Code as provided in this Section. An administrative adjustment may be approved if it does not materially affect or change by more than ten percent factors such as, but not limited to, project density, land area or size, intensity of land uses, parking or traffic generation. Any applicant that is denied a request for an administrative adjustment may apply or petition for a variance under the applicable provisions of this Code; or, if no variance process is provided for the type of adjustment requested, the applicant may appeal the decision of the ~~Planning~~ Director in the same manner for appeals of an official's decision to the Zoning Board of Adjustments under Section 1.2.5.3

(Ord. No. 2009-73, § 4, 12-1-09; Ord. No. 2011-27, § 2, 6-21-11)

Section 1.2.2.3 - Engineering Director

(a) *Responsible Official*. Engineering Director refers to the person or person designated by the City Manager to carry out the duties of the Engineering Director as described in this Land Development Code. The Engineering Director is the responsible official for the following types of development applications and relief petitions:

(1) Application for approval of construction plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;

(2) Application for a Site Preparation Permit;

(3) Application for a Floodplain Permit;

(4) Application for a Watershed Protection Plan (Phase 1 and Phase 2);

(5) Petition for a Utility Extension Agreement;

(6) Appeal of a decision on any application for which the Director is the responsible official;

(7) Variance petition for any application for which the Director is the responsible official;

(8) Vested rights petition for any decision where the Director is the responsible official for the application for which the vested rights petition is filed; and

(9) Petition for relief from a dedication or construction requirement.

(b) *Initial Decision-Maker*. The Engineering Director is the initial decision-maker for the following types of development applications and relief petitions, subject to appeal as provided in this Chapter 1:

(1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;

(2) Application for a Site Preparation Permit;

(3) Application for a Floodplain Permit;

(4) Application for a Watershed Protection Plan (Phase 1 or Phase 2, not a Qualified Watershed Protection Plan); and

(5) Impact fee decision; and

(6) Vested rights petition for any decision for which the Director is the initial decision-maker.

(c) *Floodplain Administrator.* The Engineering Director is the Floodplain Administrator for the City and shall carry out the following duties and responsibilities:

(1) Maintain and hold open for public inspection all records pertaining to this Article.

(2) Review permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(3) Review and approve or deny applications for Floodplain Permits required by this Article.

(4) Provide forms for post-construction elevation certificates and receive completed certificates, as needed, to assist property owners in meeting the requirements for participation in the National Flood Insurance Program.

(5) Review and make recommendations regarding proposed appeals and letters of map revision initiated by property owners.

(6) Coordinate the local review of proposed new flood insurance studies and flood insurance rate maps for the City as required by the Federal Emergency Management Agency.

(7) Make the necessary interpretation, where interpretation is needed, as to the exact location of the boundaries of the areas of special flood hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(8) Endeavor to ensure that the flood-carrying capacity within the altered or relocated portion of any waterway is maintained.

(9) Require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1—30 and AE of the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2009-73, § 5, 12-1-09)

Section 1.2.2.4 - Building Official

(a) The building official is the responsible official for and shall initially decide the following types of applications:

(1) Application for a building permit; and

(2) Application for a certificate of occupancy

Section 1.2.2.5 - Other City Officials

The City Manager, City Attorney and any other official delegated responsibilities under this Land Development Code are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

DIVISION 3: - PLANNING AND ZONING COMMISSION

Section 1.2.3.1 - Structure of Commission

The members of the Planning and Zoning Commission are appointed by the Council and serve without compensation. In making appointments to the Commission, the Council shall seek to ensure broad representation and expertise among the membership. The Commission shall establish bylaws to govern rules of procedure and the annual election of officers.

Section 1.2.3.2 - Advisory Capacity

(a) The Planning and Zoning Commission shall act as an advisory body to the City Council regarding the City's Capital Improvements Program, and on all matters related to the physical growth and development of the City. The Planning and Zoning Commission shall advise the City Council on applications and petitions for legislative decisions as authorized by this Land Development Code. In that capacity, the Commission shall review, prepare reports upon and make recommendations concerning approval, conditional approval or denial of the following types of petitions and development applications, in accordance with the procedures and standards that apply to the petition or development application:

(1) Petition for amending the ~~Master~~Comprehensive Plan;

(2) Petition for a development agreement;

(3) Petition for a zoning map amendment, including a petition for creation of an overlay district, Planned Development PD district, historic district or historic landmark, or Development Transfer (DT) district;

(4) Petition for a development transfer;

(5) Amendments to the text of the Land Development Code as authorized by the City Charter; and

(6) Other advisory duties as assigned by City Council.

Section 1.2.3.3 - Authority for Deciding Quasi-Judicial Applications

(a) *Final Decision-Maker*. The Planning and Zoning Commission shall finally decide the following types of quasi-judicial applications:

(1) An application for a Subdivision Concept Plat;

(2) An application for a Preliminary Subdivision Plat or Preliminary Development Plat;

(3) An application for a Final Subdivision Plat or Final Development Plat, for which no Preliminary Subdivision Plat or Preliminary Development Plat, respectively, has been approved;

(4) An application for a replat; and

(5) An application for a Conditional Use Permit;

(6) Residential Compatibility Site Plans.

(b) *Initial Decision-Maker*. The Planning and Zoning Commission shall initially decide the following types of quasi-judicial applications, subject to an appeal to the City Council:

(1) An application for a Qualified Watershed Protection Plan; and

(2) An application for a Cluster Development Plan.

Section 1.2.3.4 - Authority for Deciding Administrative Applications

(a) The Planning and Zoning Commission shall finally decide the following types of administrative applications:

(1) An application for a Final Subdivision Plat or Final Development Plat for which a Preliminary Subdivision Plat or Preliminary Development Plat, respectively, has previously been approved; and

(2) An application for an amending plat that has been forwarded by the Director.

Section 1.2.3.5 - Authority for Deciding Appeals and Relief Petitions

(a) *Appellate Authority*. The Planning and Zoning Commission shall finally decide appeals filed in accordance with Article 10, Relief Procedures, on the following development applications and relief petitions:

(1) A Minor Subdivision Plat that has been forwarded by the Director;

(2) A Site Preparation Permit; and

(3) A Watershed Protection Plan, Phase I or Phase II.

(b) *Petitions for Relief*. The Planning and Zoning Commission shall finally decide the following petitions for relief:

(1) The Planning and Zoning Commission shall finally decide any variance petition on an application for a Subdivision Concept Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat or replat; and

(2) The Planning and Zoning Commission shall initially decide any vested rights petition for any decision for which it is the initial decision-maker.

DIVISION 4: - CITY COUNCIL

Section 1.2.4.1 - Authority for Amendments to Land Development Code

The City Council may from time to time amend, supplement or change by ordinance the text of this Land Development Code on its own initiative or upon petition for a text amendment.

Section 1.2.4.2 - Authority for Deciding Legislative Applications

The City Council shall finally decide all types of legislative applications authorized under this Land Development Code.

Section 1.2.4.3 - Authority for Deciding Quasi-judicial Applications [Reserved]

Section 1.2.4.4 - Authority for Deciding Appeals and Relief Petitions

(a) *Appellate Authority*. The City Council shall finally decide appeals on the following development applications and relief petitions:

(1) A Qualified Watershed Protection Plan;

(2) A Cluster Development Plan;

(3) A Certificate of Appropriateness;

(4) A Conditional Use Permit;

(5) A vested rights petition; and

(6) An Impact Fee Appeal.

(b) *Petitions for Relief*. The City Council shall finally decide the following petitions for relief:

(1) Petition for relief from a dedication or construction requirement; and

(2) Omnibus relief petition.

(c) *Effect on Planning and Zoning Commission Decisions.* The authority of the City Council to hear appeals and petitions for relief in specific instances described in this Section shall not be construed to divest the Planning and Zoning Commission of its final approval authority over subdivision plats and development plats.

DIVISION 5: - ZONING BOARD OF ADJUSTMENTS (ZBOA)

Section 1.2.5.1 - Structure of Board

(a) *Composition and Term.* The Zoning Board of Adjustments shall consist of five regular members and two alternates appointed by the City Council, for terms of two years. The members may be removed for cause by the City Council upon written charges and after a public hearing. All regular members and alternates shall reside within the City limits. The alternate members shall serve in the absence of one or more regular members when requested to do so by the mayor, City Manager or chair of the ZBOA, as the case may be, so that all cases to be heard by the ZBOA will be heard by a minimum of four members. Vacancies are filled for the unexpired term of any member by appointment by the City Council.

(b) *Rules*. The ZBOA may adopt rules to govern its proceedings. These rules must be consistent with this Chapter and state law. The chair or, in the chair's absence, the acting chair, may administer oaths and compel the attendance of witnesses.

(c) *Meetings*. Meetings of the ZBOA shall be held at the call of the chair and at other times as the ZBOA may determine. All meetings of the ZBOA shall be open to the public, except that the ZBOA may hold closed meetings as permitted under state law.

(d) *Minutes*. The ZBOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the ZBOA and shall be public information.

(e) *Duties of Director*. The ~~Planning~~ Director shall be an ex officio member of the ZBOA without power of vote. As an ex officio member of the ZBOA, the Director shall act as secretary of the ZBOA and shall set up and maintain a separate file for each application for approval, special exception, and variance received. The Director shall record in each file the names and addresses of all persons to whom notices are mailed, including the date of mailing, and shall keep a record of all notices published as required in this Chapter. All records and files provided for in this subsection shall be permanent and official files and records of the City.

Section 1.2.5.2 - Authority for Deciding Quasi-Judicial Applications

(a) The Zoning Board of Adjustments shall finally decide the following types of quasi-judicial applications:

(1) An application for a special exception;

(2) An application for a change in the status of a nonconformity; and

Section 1.2.5.3 - Authority for Deciding Appeals

(a) The Zoning Board of Adjustments shall finally decide appeals on the following development applications within the City limits:

(1) A Certificate of Appropriateness;

(2) A denial based on the provisions of Chapter 4 and/or Chapter 6, except for provisions related to plats, of this Land Development Code;

(3) A certificate of occupancy; and

(4) An appeal of the ~~Planning~~ Director's decision on a sign permit or an interpretation of the sign regulations;

(5) Appeal of official's decision.

(b) The Zoning Board of Adjustments shall finally decide the following petitions for relief:

(1) A variance to any requirement of Chapter 4 of this Land Development Code; and

(2) A sign variance.

Section 1.2.5.4 - Rules Governing Proceedings

(a) *Vote required for decisions.* The concurring vote of four members of the ZBOA is necessary to reverse an order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the ZBOA is required to pass under this Land Development Code, or to authorize a variance from the terms of a provision of this Land Development Code.

(b) *Quorum*. A quorum shall consist of four members of the ZBOA.

(c) *Limitation on Authority*. The authority delegated to the ZBOA under this Land Development Code shall not be construed to effect any of the following:

(1) Approval of a petition for a zoning map amendment;

(2) Approval of a Conditional Use Permit;

(3) Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a nonconformity.

(d) *Timing of Decision*. The ZBOA shall not render any decision on a development application, appeal or relief petition while a petition for a zoning amendment, application for a Conditional Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided under procedures in this Chapter 1.

Section 1.2.5.5 - Appeals

(a) *Procedure for Appeal.* Upon receiving a notice of appeal of a matter for which appeal to the ZBOA is authorized under this Land Development Code, the responsible official from whom the appeal is taken shall immediately transmit to the ZBOA all papers constituting the record of the action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the ZBOA facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the ZBOA or a court of record on application, after notice to the official, if due cause is shown.

(b) *Appeals of Board Decisions.* Appeals of any decision of the ZBOA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the ZBOA is illegal in whole or in part and specifying the grounds of the illegality. The petition must be filed within ten days after the date the decision is filed with the Planning and Development Services Department.

Section 1.2.5.6 - Public Hearing

Notice of hearing before the ZBOA is required as follows:

(a) The ZBOA shall hold a public hearing on all applications, appeals and relief petitions, and written notice of the public hearing shall be sent to the applicant or appellant, all persons who are owners of real property within 200 feet of the property for which the application, petition or appeal is made, as indicated by the most recently approved municipal tax roll, and all other persons deemed by the ZBOA to be affected thereby.

(b) The notice shall be given not less than ten days before the date set for the hearing. The notice shall be delivered personally or through the U.S. Postal Service.

(c) Notice of the proceedings shall be posted in accordance with Article 3, Division 2 of this Chapter 1 - Notice Requirements.

DIVISION 6: - HISTORIC PRESERVATION COMMISSION

Section 1.2.6.1 - Structure of Commission

(a) *Composition.* The Historic Preservation Commission shall consist of seven persons appointed by the City Council from the following sources:

(1) Two members shall be residents of the City or its extraterritorial jurisdiction, or shall be employed in the City or its extraterritorial jurisdiction, and shall be from the disciplines of architecture, history, planning, archaeology or other disciplines related to historic preservation.

(2) Two members shall be citizens of the City with a demonstrated interest in the history of the City.

(3) Two members shall be property owners or residents from one of the historic districts designated under Section 4.2.5.1(c)(1) of this Land Development Code, other than the downtown historic district. The Council will endeavor to rotate appointments to the Commission evenly from among these districts.

(4) One member shall be a property owner, business owner, or resident within the downtown historic district.

(b) *Term of Office.* The members of the Historic Preservation Commission shall serve three-year staggered terms, with three members being appointed in one year, two members appointed in the next year, and two members being appointed in the following year. An appointment to fill a vacancy shall be for the unexpired term.

(c) *Rules.* The Historic Preservation Commission shall elect from its membership a chair who shall serve for a term of one year and who shall be eligible for reelection. The chair shall preside over the Historic Preservation Commission and shall have the right to vote. The Historic Preservation Commission shall hold regular monthly meetings at a time and date established by the Commission.

(Ord. No. 2005-104, § 1, 12-14-05)

Section 1.2.6.2 - Advisory Capacity

The Historic Preservation Commission shall advise the City Council on petitions for historic districts and historic landmarks, including initiation of such petitions, and in such capacity shall review, prepare reports upon and make recommendations concerning approval, conditional approval or denial of such petitions.

Section 1.2.6.3 - Authority for Deciding Quasi-Judicial Applications

The Historic Preservation Commission shall be the initial decision-maker for a Certificate of Appropriateness, subject to appeal to the Zoning Board of Adjustments.

ARTICLE 3: - UNIVERSAL PROCEDURES

DIVISION 1: - APPLICATION PROCEDURES

Section 1.3.1.1 - Application Processing

(a) *Who May Initiate Application.* Unless otherwise expressly provided by this Land Development Code, a petition for legislative decision affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a development permit, may be initiated only by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

(b) *Sufficiency of Application for Filing.* Subject to subsection (a) of this section, the responsible official shall accept for filing every petition for a legislative decision or application for a development permit or approval authorized by this Land Development Code (referred to collectively in this section as an "application") that gives the responsible official fair notice of the project and the nature of the decision, permit or approval sought. If the responsible official determines that an application does not give fair notice of the project and the nature of the decision, permit or approval sought, the responsible official shall not accept the application for filing, and shall request clarification from the applicant.

(c) *Complete Application.* Every application accepted by a responsible official for filing shall be subject to a determination of completeness by the responsible official.

(1) The responsible official shall not process an application unless it is complete. An application is complete if it complies with all technical requirements relating to the form and content of the application contained or referenced in this Land Development Code.

(2) The charging of fees and the processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for processing. Incomplete applications shall be subject to expiration under subdivision (b)(5) below.

(3) A determination of completeness of an application shall not constitute a determination of compliance with the substantive requirements of this Code. A determination of completeness shall be made by the responsible official not later than the tenth business day after the date the application is submitted to the responsible official. An application shall be deemed complete:

a. On the 11th business day after the application has been received, if the responsible official has not provided notice that the application is incomplete or

b. On the eleventh business day after supplemental information for the application has been received in response to a notice that the application is incomplete, if the responsible official has not provided notice that the application, including the supplemental information, is incomplete.

(4) If an application is not complete, the responsible official shall provide a written notice to the applicant specifying the documents or other information needed to complete the application, and stating the date the application will expire if the supplemental information is not provided.

(5) If the responsible official determines that an application (including supplemental information received in response to a notice that the application is incomplete) is not complete on or before the 45th day after the application is submitted, the application will be deemed to have expired on that 45th day, and it will be returned to the applicant together with any accompanying documents. Thereafter, the applicant must submit a new application. The City may retain any fee paid for reviewing the application for completeness.

(d) *Waiver.* Notwithstanding the requirements of subsection (b) of this section, the responsible official may initially waive a technical requirement relating to the form or content of an application if it appears unnecessary due to the scope and nature of the proposed activity. The decision maker on the application may withdraw the waiver, however, if the decision maker determines that meeting the requirement is necessary to determine compliance with applicable standards of approval.

(e) *Commencement of City Review Period.* The time period established by state law or this Land Development Code for processing or deciding an application shall commence on the date that an application is deemed to be complete under subdivision (c)(3) of this section.

(f) *Pre-Application Conference.* An applicant is encouraged to request a pre-application conference with the responsible official prior to filing an application. The request shall be in writing on a form prepared by the responsible official and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan of development or application for plat approval. The purposes of the pre-application conference are to ascertain the nature of the proposed development; to identify the procedures and standards that apply to the application; to discuss any project modifications recommended by the responsible official; to identify any requests for relief to be sought by the applicant; to determine whether any waiver of application requirements should be granted; and to outline the schedule for acting on the application. A pre-application conference is optional and shall not be required as a standard of approval of the application. No application shall be accepted for filing at a pre-application conference.

(g) *Neighborhood Organization Contacts.* An applicant is encouraged to contact and meet with registered neighborhood organizations for the area in which the applicant's proposed development is located. An applicant may request, in connection with a pre-application conference, contact information for these neighborhood organizations. Contact with these organizations is optional and shall not be required as a standard of approval of the application.

(h) *Sequence of Applications.* Notwithstanding any other provision of this Code to the contrary, an application shall not be considered complete if is not submitted in proper sequence with respect to priority applications upon which the application depends. If an application is subject to priority applications that must be approved before, or processed together with, the application, the responsible official shall inform the applicant, and the responsible official may require the applicant to present information to verify that the priority applications have been approved or filed, as applicable.

(i) *Vested Rights.* For purposes of determining a vested rights petition pursuant to Division 4 of Article 10 of this Chapter:

(1) Vested rights are limited to the project for which fair notice is given in an application; and

(2) No vested rights accrue solely from the filing of an incomplete application that has expired, or from the filing of a complete application that is subsequently denied.

(j) *Universal Development Application Contents.* In addition to any requirements specified for a particular type of application for a development permit or petition for a legislative decision in this Chapter 1 of the Land Development Code, the contents of the application or petition shall be as prescribed in the Chapter One Technical Manual prepared and adopted as an appendix to this Code. The ~~Planning~~ Director may amend the Technical Manual from time to time with the approval of the Planning and Zoning Commission. All applications shall contain the following information:

(1) Identification of property owner and authorized agent;

(2) Description of the property and the nature of the development that is the subject of the application;

(3) Identification of all zoning classifications (inside the City only) for the property;

(4) Identification of all pending legislative applications for the property;

(5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;

(6) Identification of all accompanying applications;

(7) Identification of all pending or accompanying requests for relief;

(8) Demonstration of compliance with approved priority permits; and

(9) Proposed waiver, if any, of the time for decision on the application.

(k) *Accompanying Applications.* Where this Land Development Code authorizes a property owner to file more than one application simultaneously, each application shall identify all other accompanying applications.

(l) *Application Fees.* Every application when first submitted shall be accompanied by payment of the prescribed fees set forth in the fee schedule prepared and adopted as an appendix to this Code. The prescribed fees shall not be refundable, except when the City Council waives the application fee for resubmission of an application that was denied. The fee schedule may be amended from time to time by resolution of the City Council.

(1) The following entities shall be exempt from all fees prescribed under this Code except that no exemption from or waiver of impact fees shall be permitted except as provided under section 86.309 of this Code:

(1) Non-profit orgainzations receiving funds from the city through the city's Community Development Block Grant or Human Services program;

(2) The city when using city employees on a construction project of the city;

(3) Contractors hired by the city to work on construction projects of the city;

(4) San Marcos Reinvestment Corporation and San Marcos Habitat for Humanity when building new affordable single-family residential dwellings;

(5) The Housing Authority of the City of San Marcos, for construciton projects on property owned by it, for low-income housing or administrative offices; and

(6) Any taxing unit as defined under Section 1.04(11) of the Texas Tax Code for construction projects having a permitted value of $1,000.00 or less.

(m) *Modification of Applications.* The applicant may modify any application following its filing and prior to the expiration of the period during which the City is required to act on the application. If the modification is under revisions requested by the City, and the modification is received at least five working days prior to the time scheduled for decision on the application, the application shall be decided within the period for decision prescribed by this Land Development Code. In all other instances, submittal of a modified application shall extend the time for deciding the application for a period equal to the time specified in this Land Development Code to decide the original application, commencing on the date the modified application is received, unless a waiver of the time for decision is first required, in which case the terms of the approved waiver shall govern the period within which the City must act on the application.

(n) *Action by Responsible Official.* Following the determination that an application is complete, the responsible official shall circulate the application to all other administrative officials whose review is required for a decision on the application and compile the comments and recommendations of the officials. The responsible official shall render a decision in the time prescribed, if the official is the decision-maker for the application. In all other cases, the responsible official shall forward the application for review to any advisory body and the final decision-maker, and prepare a report to such board or commission, or to the City Council, as the case may be, including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices and schedule the application for decision within the time and in the manner required by this Land Development Code.

(o) *Exemption Determination.* For any application for a development permit for which exemptions are listed under this Chapter 1, an exemption from the requirement to apply for such permit shall be determined in the following manner:

(1) The application for exemption must be filed on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all of the following information:

a. Name, address, and telephone number of the property owner and the applicant;

b. A brief description of the activity or development for which exemption is sought;

c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site; and

d. Information establishing the basis for the exemption.

(2) The application for exemption may be accompanied by a subordinate application, provided that such application shall not be deemed to be accepted for filing nor processed for review until the responsible official has determined whether an exemption should be granted.

(3) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit be prepared in accordance with the requirements of Chapter 1.

(p) *Action by Advisory Body.* In the absence of a recommendation from an advisory body by a majority vote on a proposed application, the advisory body shall be presumed conclusively to have recommended that the application be considered by the Council with no recommendation from the advisory body.

(q) *Decision.* The decision-maker for the application shall approve, approve with conditions or deny the application within the time prescribed by this Land Development Code. Unless otherwise prescribed by law or City Charter, where the decision-maker is a board, commission or the Council, the application shall be decided by majority vote of a quorum of the members of the board, commission or the Council, provided that a super-majority vote or other decision rule on the application has not been invoked in accordance with the provisions of law, charter or this Code.

(r) *Time for Decision.* The time for decision on an application shall be as specified for each procedure authorized in this Chapter 1. If no time is prescribed in the provisions governing the application procedure, the application shall be decided within a reasonable time. Where a subordinate application accompanies a priority application, the time for deciding the subordinate application shall run from the date the priority application is decided, unless otherwise provided by law or this Land Development Code.

(s) *Conditions.* The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Land Development Code.

(t) *Definitions.* In this section:

(1) *Fair notice of the project and the nature of the decision, permit or approval sought* means a written description of the development, accompanied by sufficient written information for the responsible official to determine the following:

(A) The site of the proposed development, including its physical location and size; and

(B) The nature of the proposed development, in sufficient detail to be able to:

1. Determine the physical characteristics of the development (e.g., fill or excavation, building construction, public infrastructure installation or improvement);

2. Determine the nature and extent of public facilities or infrastructure, if any, that would be associated with or impacted by the development;

3. Confirm that the proposed development requires a decision, permit or approval by the city under the city Land Development Code before the development is initiated;

4. Confirm the manner in which the proposed development contributes to completion of the project for which the decision, permit or approval is sought, if the development is part of a larger project; and

5. Confirm the specific type of decision, permit or approval that is required by the city for the development under the city Land Development Code before the development is initiated.

The responsible official shall presume that an application provides "fair notice of the project and the nature of the decision, permit or approval sought" if the application is submitted on the proper application form promulgated by the City in the Technical Manual, is accompanied by all required attachments, and reasonably appears to be complete.

(2) *Project* means a development that requires a decision, permit or approval by the city under the City Land Development Code before it is initiated.

(Ord. No. 2005-74, § 1, 10-4-05; Ord. No. 2006-45, § 3, 9-19-06; Ord. No. 2008-17, § 3, 5-6-08)

DIVISION 2: - NOTICE REQUIREMENTS

Section 1.3.2.1 - General Notice Requirements

(a) *Published Notice*. Whenever published notice of a public hearing before a board or commission or the City Council regarding a legislative or quasi-judicial decision is required under state law, the City Charter, or this Land Development Code, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the 15th day before the date set for the required hearing. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

(b) *Personal Notice*. Whenever personal notice of a public hearing is required by state law, the City Charter, or this Land Development Code before a board or commission or the City Council, the responsible official shall cause notice to be sent by regular mail before the tenth day before the hearing date to 1) each owner of real property located within 200 feet of the exterior boundary of the property in question, 2) to any registered neighborhood organization representing the area in which the subject property is located, 3) the applicant and/or property owner, and 4) if the matter to be considered is an appeal, to the appellant. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.

(1) Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the City limits, and, when required by state law, on the most recently approved county tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or county tax roll, notice may be given by publication.

(2) Notice may be served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

(c) *Posted Notice*. Whenever this Land Development Code requires that notice of a public hearing be posted on land, the responsible official shall cause notification signs stating the purpose of the hearing to be placed on the subject property before the tenth day prior to the first public hearing.

(1) A minimum of one sign shall be placed on each street frontage. Property with multiple street frontages shall have the requisite sign on each street. Signs shall be placed in a visible, unobstructed location near the front property line.

(2) The notification signs shall be left in place until final action is taken on the request for approval or development application, unless the case is formally withdrawn by the applicant prior to a final decision. It shall be the responsibility of the applicant to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.

(d) *Notification Following Decision*. Within ten working days of the date of a responsible official, board, commission or City Council determination on a development application, written notification of the action shall be mailed to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of the conditions, if any. If the final decision-maker denies the application, a written statement setting forth the basis for the decision to deny the application also shall be included. Record of this notification shall be filed with the secretary of the board or commission or City Council on the date of notification.

(e) *Notification of Appeal or Revocation*. Whenever appeal is taken from a final decision on a development application following a public hearing, or whenever the City is to consider revocation of a development permit which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the

manner prescribed by subsection (b). If no public hearing was held prior to approval of the development application, personal notice of revocation shall be given only to the holder of the permit.

(f) *Special Notice*. Whenever this Code requires or the City Council prescribes that notice of a public hearing be given that differs from the requirements of this Section, the responsible official shall cause such notice to be given in the manner otherwise required or prescribed.

DIVISION 3: - PUBLIC HEARINGS

Section 1.3.3.1 - Public Hearings

(a) *Setting of the Hearing*. When the responsible official determines that a development application is complete and that a public hearing is required by this Land Development Code, the official shall consult with the secretary of the body required to conduct the hearing and shall select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made under Section 1.3.2.1. The time set for the hearing shall conform to the time periods required by this Code.

(b) *Conduct of Hearing.* Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.

(1) The responsible official shall first present a description of the proposed development and a written or oral recommendation, if required. The official's written recommendation, if any, shall be available to the applicant at the time that the agenda packet for the body conducting the hearing is compiled.

(2) The applicant shall present any information it deems appropriate.

(3) Public testimony shall be heard first in favor of the proposal, then in opposition to it.

(4) At the discretion of the chairperson, the responsible official and the applicant may respond to any statement by any witness.

(5) The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. At the sole discretion of the chairperson of the body conducting the hearing, a witness may be permitted to pose relevant questions to staff, the applicant or another witness, as directed by the chairperson.

(c) *Record of Proceedings*. The body conducting the hearing shall record the proceedings by any appropriate means.

(d) *Continuance of Proceedings*. The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken.

(e) *Additional Rules*. The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation, and may apply such additional rules to govern the public hearing which are not inconsistent with this Section.

(f) *Joint Public Hearing*. Unless otherwise prescribed in this Land Development Code, whenever a petition for a legislative decision or a development application must be preceded by a public hearing both before an advisory body and before the City Council, the advisory body and the Council may conduct a joint public hearing and take action on the petition or application in the following manner:

(1) The Council shall establish the date of the joint public hearing by motion at a regular or special meeting;

(2) The Council shall cause notice of the joint public hearing to be provided as required by this Land Development Code, or, by a vote of two-thirds of its members, may prescribe a different type of notice for the joint public hearing;

(3) The advisory body and the Council shall be convened for the hearing and for any action to be taken on the petition or application;

(4) The advisory body and the Council may take action on the petition or application at the same meeting, provided that the Council shall not take action until the report and recommendation of the advisory body has been received.

DIVISION 4: - POST-DECISION PROCEDURES

Section 1.3.4.1 - Post-Decision Procedures

(a) *Re-Application Following Denial*. Whenever any development application, with the exception of any plat application, is denied for failure to meet the substantive requirements of this Land Development Code, a development application for all or a part of the same property shall not be accepted for filing for a period of six months from the date of denial unless the subsequent application involves a proposal that is materially different from the previously denied proposal. The decision-maker on the first application shall resolve any questions concerning the similarity of the second application. Non-compliance with this subsection shall be grounds for denial of the application. The decision-maker may, at its option, waive the six-month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

(b) *Amendments and Revisions to Approval*. Unless another method is expressly provided by this Land Development Code, any request to amend or revise an approved development application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

(c) *Amendments Required*. Whenever a subordinate development application differs materially from a priority application to which the subordinate application must conform, the applicant shall submit an amended application for the priority application, which shall be decided prior to the subordinate application. The applicant's failure to comply with the section shall result in denial of the subordinate application.

DIVISION 5: - EXPIRATION, EXTENSION AND REINSTATEMENT

Section 1.3.5.1 - Expiration, Extension and Reinstatement of Approvals

(a) *Time of Expiration*. Unless otherwise expressly provided by this Land Development Code, a quasi-judicial or administrative development permit shall automatically expire and become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if (1) the applicant fails to satisfy any condition that was imposed as part of the approval of the development application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or (2) the applicant fails to submit a subsequent development application required by this Land Development Code within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the development application, the time shall be presumed to be one year from the date the decision was made.

(b) *Effect of Expiration*. Upon the expiration of a quasi-judicial or administrative permit, all previously approved quasi-judicial or administrative permits for the same land also shall expire on the expiration date if (1) the expired permit is subordinate to such previously approved permits and (2) the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits. Thereafter, a new application for each permit deemed expired under this Section must be approved subject to regulations in effect at the time the new application is accepted for filing.

(c) *Extension Procedures - Initial Request*. Unless a different time is expressly provided for a specific procedure by this Land Development Code, the responsible official or the board, commission or the City Council that finally approves a quasi-judicial or administrative development application may grant an initial extension of the time for expiration of the application for a period not to exceed one year from the date of initial approval of the application, provided that a request for extension is made in writing at least 30 days before the approved application expires. Unless expressly stated otherwise, the extension period provided under a specific procedure shall be for the initial extension request. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The decision-maker may grant a request for extension of the expiration date for a period of up to one year upon demonstration that circumstances beyond the control of the permit holder have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

(d) *Extension Procedures - Subsequent Extension.* A permit-holder may apply for an extension of the expiration date for a permit for a period not to exceed two years, or for a second extension of the expiration date of the permit for a period not to exceed one additional year. The application must be in writing. Such an extension may be granted only by a designated board or commission, for administrative applications, and only by the City Council, for quasi-judicial applications, following a public hearing. In determining whether to grant a request, the board, commission or Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

(e) *Conditions*. In granting an extension, the official or body deciding the request may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the decision-maker may require that one or more newly adopted development standards be applied to the proposed development.

(f) *Reinstatement*. Unless otherwise provided by this Land Development Code, an applicant may request reinstatement of an expired quasi-judicial or administrative development application by filing a written request with the responsible official within 30 days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one year. The expiration date shall not be extended for more than two years from the date of initial approval of the application.

(g) *Effect of Decision on Extension or Reinstatement*. The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under subsection (b). The denial of an

extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under subsection (b). Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

DIVISION 6: - INSPECTIONS

Section 1.3.6.1 - Inspection Procedures

(a) Whenever a development application approved under this Land Development Code authorizes construction of a structure, building or impervious surface, or authorizes installation of capital improvements to serve a proposed development, or otherwise authorizes disturbance of the surface or subsurface of the land, the following procedures shall be followed during the development process:

(1) Right of entry. The owner of the land subject to the approved development application shall, as a condition of the approval, be deemed to have authorized City inspectors to enter onto the land during reasonable hours for the purpose of determining compliance with the terms, conditions and requirements of the application. If a City inspector is refused entry, the responsible official may obtain judicial authorization for the entry, may initiate the process for suspension or revocation of the approved application by the decision maker for the application, or may exercise any other remedy provided by this Land Development Code or under other law.

(2) Regular inspections. The City shall make inspections of the land or premises during development and construction to ensure full compliance with all terms, conditions and requirements of the approved development application. The applicant shall designate one person, with a current address and phone, to whom notice will be given, and from whom information can be obtained, under this Section.

(3) Authorized inspectors. Employees of the Fire Marshal's office, Planning, Building Inspections, Public Works, Environmental Health, Water and Wastewater, and Environment and Engineering Departments are authorized to issue municipal court citations for violations of this Land Development Code.

DIVISION 7: - ENFORCEMENT AND REVOCATION OF PERMITS

Section 1.3.7.1 - Enforcement Procedures and Revocation of Permits

(a) *Enforcement Activities*. Enforcement activities include informal contacts with individuals to advise them of requirements, the issuance of verbal warnings, written warnings, and municipal court citations, formal court action, and billing and collection. Employees of the Fire Marshal's office, Planning, Building Inspections, Public Works, Environmental Health, Water and Wastewater, and Environment and Engineering Departments are authorized to issue municipal court citations for violations of this Article.

(b) *Right to Enter*. The responsible official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Land Development Code. Submittal of any application for a development permit that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

(c) *General Remedies*. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used or developed in violation of this Land Development Code or any development application approved thereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent or abate such activity. Appropriate action or proceedings include termination of utility services (water, gas, electric); revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

(d) *Stop Work Orders*.

(1) Whenever any construction or development activity is being done contrary to any term, condition or requirements of an approved development application or this Land Development Code, the responsible official or the official's authorized representative may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the responsible official to proceed with the work. This prohibition shall extend throughout any appeal period.

(2) The owner or authorized agent may appeal the stop work order to the responsible official by giving written notice. The responsible official shall hear the appeal within five working days of receiving the notice. The appellant may appeal a negative ruling by the responsible official in writing to the City Council, which shall hear the appeal at the next regular meeting that occurs at least ten days after receipt of the notice of appeal.

(3) The decision-maker on the appeal may require the placement of temporary erosion control, water quality protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.

(4) The responsible official or the City Council, as the case may be, shall decide the appeal and make such order as is necessary to assure compliance with the terms of this Land Development Code and all approved development applications.

(e) *Municipal Court Actions*. The City Attorney is authorized to prosecute violations of this Land Development Code in the municipal court where jurisdiction lies for the action.

(f) *Civil Court Actions*. The City Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Land Development Code. The initiation of one form of enforcement action by the City Attorney will not preclude the City Attorney from initiating any other form of enforcement action.

(g) *Fines and Penalties*. A person who violates any provision of this Land Development Code pertaining to fire safety, zoning or public health and sanitation, including dumping of refuse, shall be punished, upon conviction, by a fine not to exceed $2,000.00. A person who violates any other provision of this Land Development Code shall be punished, upon conviction, by a fine not to exceed $500.00.The owner or owners of any building or premises or part thereof, where anything in violation of this Division shall be placed or shall exist, any architect, builder, contractor, agent, persons or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This subsection does not apply to enforcement of an ordinance in the City's extraterritorial jurisdiction.

(h) *Separate Offenses*. Each day that a violation continues shall be deemed a separate offense under this Section.

(i) *Revocation Proceedings*.

(1) If a responsible official determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of an approved development application, the official shall set a hearing before the original decision-maker, or if the decision was made by the official or another responsible official, before the board or commission to which appeal may be taken from such decision under this Land Development Code. If the City Council was the original decision-maker, the Council may refer the proposed revocation to the Planning and Zoning Commission for its report and recommendation prior to such hearing. Circumstances that warrant revocation of an approved development application shall include but not be limited to the following:

a. A material mistake was made in approving the development application;

b. Approval of the development application was procured on the basis of material misrepresentations or fraud on the part of the applicant;

c. Development activities being undertaken on the land subject to the development permit are not in conformity with terms of the approved development application;

d. The use authorized by the permit is in violation of a condition of approval of the approved development application;

(2) The applicant and any interested parties shall be given notice of the hearing in the manner provided in Section 1.3.2.1. The public hearing shall be conducted in accordance with the procedures described in Section 1.3.3.1

(3) In rendering its decision whether to revoke the approved application, the decision-maker shall determine whether the activity authorized under the original approved application complies with the terms, conditions and requirements of such approval. The decision-maker may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of the application shall be met.

(4) A decision to revoke an approved development application shall become final ten days after the date notice of the decision was given, unless appealed. After the effective date, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new development application for the activity. Appeal from the decision to revoke the approved development application shall be to the City Council, unless the decision to revoke was made by the Council.

(j) This Division does not apply to construction permits issued under the requirements of Chapter 14 of the City Code.

DIVISION 8: - TEXT AMENDMENTS

Section 1.3.8.1 - Legislative Changes to Land Development Code

(a) *Amendments*. The City Council may from time to time amend, supplement, or change the text of this Land Development Code by a majority vote of its members, unless a different vote is otherwise required by this Land Development Code, the City Charter, or other law.

(b) *Hearing and Notice*. The City Council shall conduct a public hearing on a proposed text amendment in accordance with Section 1.3.3.1 and cause notice of the amendment to be published in accordance with Section 1.3.2.1 for amendments to the following provisions of this Land Development Code:

(1) Any provision of Chapter 1, Articles 2, 3 or 5;

(2) Any provision of Chapter 4

(3) Any provision of Chapter 6; or

(4) Any provision of Chapter 8

The hearing and notice requirements of this Section 1.3.8.1 do not apply to an action of the City Council imposing a moratorium on the acceptance, processing or issuance of development permits or petitions for legislative decisions.

(c) *Recommendation of Advisory Body*. Where required by this Land Development Code, the City Charter, or other law, the City Council shall first consider the recommendation of the Planning and Zoning Commission, together with the recommendations of any other advisory body prescribed by this Code, concerning the proposed text amendment. Where action is required of the Planning and Zoning Commission or other advisory body on a proposed text amendment, the advisory body also shall conduct a public hearing.

(d) *Initiation of Amendments*. Unless otherwise limited by this Land Development Code, a petition for amending the text of the Land Development Code may be initiated by the City Council, the Planning and Zoning Commission, a board, commission or advisory body described in Chapter 1, Article 2, an ad hoc advisory body appointed by the Council, a responsible official designated in this Code, any citizen or owner of land within the City limits, or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).

(1) Except for amendments initiated by the City Council, the petition to amend the text of this Land Development Code shall state with particularity the nature of the amendment and the reason for the amendment.

(2) A petition for a text amendment may be submitted in conjunction with a development application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the development application.

(3) The City Council may establish rules governing times for submission and consideration of text amendments.

ARTICLE 4: - GENERAL LEGISLATIVE PROCEDURES

DIVISION 1: - ~~MASTER~~COMPREHENSIVE PLAN AMENDMENTS

DIVISION 1: - ~~MASTER~~COMPREHENSIVE PLAN AMENDMENTS

Section 1.4.1.1 - Amendments to ~~Master~~Comprehensive Plan

Section 1.4.1.2 – Application Requirements

Section 1.4.1.3 – Rules of Interpretation

Section 1.4.1.~~3~~ 4 – Processing of Application and Decision

Section 1.4.1.~~4~~ 5 – Criteria for Approval

Section 1.4.1.~~5~~ 6- Planning and Zoning Commission's Role in Reviewing the ~~Master~~Comprehensive Plan

Section 1.4.1.1 - Amendments to ~~Master~~Comprehensive Plan

(a) *Periodic Amendment*. The City Council, upon recommendation of the Planning and Zoning Commission, may amend the ~~San Marcos Horizons City~~Vision San Marcos ~~Master~~Comprehensive Plan ~~(Master Plan)~~ from time to time on its own motion or through initiation by a City official or a property owner.

(b) *Map Amendments*. The Planning and Zoning Commission, the City Council, or a property owner may initiate a request for amendment of the ~~Future Land Use Map~~Preferred Scenario Map, Thoroughfare Plan, or Capital Improvements Plan~~, including the maps for any adopted sector plan, of the Master Plan~~. The ~~City Council may establish by resolution schedules for the~~ consideration of ~~Future Land Use Map~~ such amendments shall be limited to twice per year as determined by the Director.

(c) *Effect*. Approved amendments of the ~~Master~~Comprehensive Plan shall authorize a property owner to submit other petitions for legislative decisions or applications for development permits consistent with the amendment.

Section 1.4.1.2 - Application Requirements

(a) *Responsible Official*. The ~~Planning~~ Director shall be the responsible official for a petition for a ~~Master~~Comprehensive Plan amendment submitted by a property owner.

(b) *Contents — Map Amendment*. An amendment to the ~~Master~~Comprehensive Plan shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

(c) *Accompanying Applications*. A request for amendment of the ~~Future Land Use Map~~Preferred Scenario Map submitted by a property owner ~~may be accompanied by~~must be approved prior to an application for a consistent zoning amendment for land within the City limits, or by a Subdivision Concept Plat, for land within the extraterritorial jurisdiction. After approval of a ~~Master Plan~~Preferred Scenario Map amendment, any accompanying applications shall be consistent with the amendments. In the case of a request to amend a facility master plan map, the application may be accompanied by a request to extend utilities. Thereafter, any accompanying applications shall be consistent with the amendments.

Section 1.4.1.3 – Rules of Interpretation

(a) *Preferred Scenario Map*. The intensity zone boundary lines shown on the Preferred Scenario Map are intended to be general in nature. Where uncertainty exists as to the boundaries of districts as shown on the Preferred Scenario Map, the following rules shall apply:

(1) Boundaries shown as approximately following public right-of-way including streets, highways or alleys shall be construed to follow the centerlines.

(2) Boundaries shown as approximately following platted lot lines shall be construed as following the lot lines.

(3) Boundaries shown as approximately following City limits shall be construed as following the City limits.

(4) Boundaries shown as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines.

(5) Boundaries shown as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries shown as approximately following the centerlines of streams, rivers, creeks, canals, bodies of water, or drainage ways shall be construed to follow the centerlines, and in the event of change in any such centerlines shall be construed to move with the centerlines.

(6) Boundaries shown as parallel to, or extensions of, features described in subsections "1" through "5" above shall be so construed. Distances not specifically indicated on the Preferred Scenario Map shall be determined by the scale of the Map.

(7) This provision shall apply to all properties except those properties in the Edward's Aquifer Recharge Zone which shall always take the less intense zone. Properties which are partially covered by an intensity zone boundary may be considered by the Director for full inclusion in, or full removal from an intensity zone according to the following criteria:

(a) Fifty-One Percent (51%) of the area of the property must be within the zone in which it proposes to locate; and

(b) The property must have a similar level of constraint as shown on the Land Use Suitability Map as the zone in which it proposes to locate; and

(c) The change meets the majority of the future vision for the zone in which it proposes to locate as described in the Comprehensive Plan

(8) Where physical features on the ground are at variance with information shown on the Preferred Scenario Map, or if there arises a question as to the proposed intensity zone and such question cannot be resolved by the application of subsections "1" through "7" above, then the Planning and Zoning Commission shall interpret the intensity zone boundaries following the process outlined in Article 10, Division 1: Appeals of this Chapter.

(9) If the intensity zone of a property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as an "Area of Stability" and be colored in yellow if located within the city limits or white if within the ETJ.

(b) *Land Use Intensity Matrix.* The land use intensity matrix is a tool intended to be utilized along with the preferred scenario map and the zoning equivalency table found in Section 4.1.5.1. In determining where a subject property lies on the land use intensity matrix, the following rules shall apply to the "examples" and "Preferred Scenario Examples" within the matrix:

(1) Predominately Single-Family Neighborhoods consist of any area that exists with more than 49 percent Single Family (SF) and Future Development (FD) Zoning. This calculation shall be based on the land areas of "SF" and "FD" zoning districts versus other residential zoning districts within a 200 foot buffer area, excluding the subject property.

(2) Existing Mixed Residential Areas consist of any area that exists with 49 percent, or less, Single Family (SF) and Future Development (FD) Zoning. This calculation shall be based on the land areas of "SF" and "FD" zoning districts versus other residential zoning districts within a 200 foot buffer area, excluding the subject property.

(c) *Zoning Translation Table.* The zoning translation table in Section 4.1.5.2 provides a direct translation from the Comprehensive Plan and Preferred Scenario Map to existing Zoning Districts. Zoning district classifications and corresponding abbreviations can be found in Section 4.1.5.1. Intensity Zone / Development Pairs translations are as follows:

(1) *LS*: Low Intensity and / or Areas of Stability. This includes areas within the City's ETJ where an Intensity zone has not been identified)

(2) *M*: Medium Intensity

(3) *H*: High Intensity

(4) *PC*: Neighborhood & Area Preservation / Conservation

(5) *RI*: Redevelopment and / or Infill

(6) *ND*: New Development

(7) *EC*: Employment Center

(8) *OA*: Open Space and / or Agricultural

Section 1.4.1.~~3~~ 4 - Processing of Application and Decision

(a) *Submittal*. A petition for amendment of the ~~Master~~ Comprehensive Plan shall be submitted to the Director~~ at least 20 days before the date of any public hearing before the Planning and Zoning Commission~~. Public hearing for the request will be held ~~subject~~in accordance with~~ to~~ the schedule established under Section 1.4.1.1(b)

(b) *Notice~~ and Hearing~~*. The Director shall cause personal notice of the hearing to be mailed in accordance with Article 3, Division 2 of this Chapter 1. In addition, for Preferred Scenario Map amendments, the Director may post supplemental documentation on the City's website and hold a public informational meeting with, members of the Neighborhood Commission and the Council of Neighborhood Associations (CONA) prior to the public hearing. ~~The Planning and Zoning Commission shall hold a public hearing on the petition in accordance with Article 3, Division 3 of this Chapter 1 after receiving the report and recommendation of the Director.~~

(c) *Hearing.* The Planning and Zoning Commission shall hold a public hearing on the petition in accordance with Article 3, Division 3 of this Chapter 1 after receiving the report and recommendation of the Director.

(~~c~~d) *Commission Recommendation*. The Planning and Zoning Commission shall make a recommendation regarding the proposed ~~Master~~ Comprehensive Plan amendment(s) to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the petition for a ~~Master~~ Comprehensive Plan amendment.

(~~d~~e) *Decision by Council*. Following receipt of the recommendation of the Planning and Zoning Commission, the City Clerk shall schedule a public hearing to determine whether to approve and adopt the amendment(s). The City Clerk shall cause notice of the hearing to be published in accordance with Article 3, Division 2 of this Chapter 1. After the public hearing is closed, the Council may approve, reject or modify the requested amendments by adoption of an ordinance. The maps of the ~~Master~~Comprehensive Plan shall be amended to reflect the Council's decision as needed.

Section 1.4.1.~~4~~ 5 - Criteria for Approval

The Planning and Zoning Commission in making its recommendation and the City Council in taking action on the request for amendment of the ~~Master~~ Comprehensive Plan shall consider the following criteria:

(a) For text amendments, whether the amendment is consistent with other policies of the ~~Master~~Comprehensive Plan, taking into account the nature of any proposed map amendment associated with the text amendment;

(b) ~~(c)~~ Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City.

(c) For preferred scenario map amendments, whether the amendment is consistent with the following policies of the ~~Master~~Comprehensive Plan: ~~that apply to the map being amended, taking into account the nature of any proposed land use associated with the map amendment; and~~

(1) Is the request in an area suitable for development as shown on the Land Use Suitability Map? If not, what development constraints exist?

(2) Is the request consistent with the Neighborhood Character Study for the area?

(3) Is the request near existing parks and public utilities?

(4) Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

~~(c) Whether the amendment promotes the orderly and efficient growth and development of the community and furthers the public health, safety and general welfare of the City.~~

Section 1.4.1.~~5~~ 6 - Planning and Zoning Commission's Role in Reviewing the ~~Master~~Comprehensive Plan

It is the responsibility of the Planning and Zoning Commission to perform ongoing review of the City's ~~Master~~Comprehensive Plan, including:

(a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the Council;

(b) Holding public hearings and making recommendations to the Council regarding updates to the land use and transportation elements of the plan at least once every three years; and

(c) Holding public hearings and making recommendations to the Council regarding the update of the entire ~~Master~~Comprehensive Plan document at least once every ten years.

DIVISION 2: - PETITION FOR DEVELOPMENT AGREEMENT

Section 1.4.2.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a petition for approval of a development agreement is to determine whether the City wishes to authorize by binding contract a plan of development for land located in the City's extraterritorial jurisdiction, to prescribe land uses, environmental standards, development standards and public facilities standards governing development of the land for the term of the agreement, to provide for delivery of public facilities to the property, and to provide for annexation of the property to the City.

(b) *Applicability*. A development agreement may be approved only for land located in the extraterritorial jurisdiction of the City. A development agreement may be approved to effect a development transfer if the granting site or the receiving site, or both, are located outside the City limits at the time the development agreement is executed.

(c) *Effect*. Approval of a petition for a development agreement authorizes the petitioner to submit a draft development agreement and land use plan to the City for approval. Subsequent approval of the development agreement and land use plan puts into effect the regulations governing the use and development of the land subject to the agreement, authorizes provision of City services in accordance with the agreement, and authorizes the property owner to make application for subordinate development permits. An executed development agreement shall be binding on the property owner, the City and their respective successors-in-interest and assigns for the term of the agreement.

Section 1.4.2.2 - Sequence of Approvals

(a) *Accompanying Applications*. If the property is to be developed in phases under the proposed development plan, the petition for approval of a development agreement shall be accompanied by an application for approval of a Subdivision Concept Plat and an application for approval of a Watershed Protection Plan (Phase 1), provided that the petition shall be decided first. A petition for approval of a development agreement may not be submitted with a petition for utility extension.

(b) *Subsequent Applications*. Following approval of a development agreement, the property owner may submit any development application authorized by the agreement in the sequence prescribed by the agreement or in this Chapter 1, subject to the standards applied by the agreement.

Section 1.4.2.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning~~ Director shall be the responsible official for a petition for a development agreement.

(b) *Contents*. A petition for approval of a development agreement shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.4.2.4 - Processing of Petition and Decision

(a) *Director's Role*. The ~~Planning~~ Director shall circulate the petition for approval of a development agreement among City departments for review and shall consolidate comments and recommendations in a report, which shall be delivered to the Planning and Zoning Commission and City Council in advance of the public hearing on the petition. The Director shall cause legislative notice of public hearings before the Planning and Zoning Commission and the Council to be published in accordance with Article 3, Division 2 of this Chapter 1.

(b) *Recommendation by Commission*. The Planning and Zoning Commission shall conduct a public hearing in accordance with Article 3, Division 3 of this Chapter 1 to consider whether to recommend approval, conditional approval or denial of the petition for approval of a development agreement.

(c) *Initial Decision by Council.* The City Council shall consider the petition for approval of a development agreement at a public hearing conducted in accordance with Article 3, Division 3 of this Chapter 1 and shall decide whether to approve, conditionally approve or deny the petition. If the Council approves the petition, the City Manager shall coordinate efforts to negotiate the agreement and a land use plan for the property with the property owner. The Council may appoint a subcommittee of its members for purposes of reviewing and facilitating negotiations with the property owner.

(d) *Preparation and Negotiation of Agreement*. Following approval of a petition for a development agreement, the petitioner shall prepare an initial draft of the agreement containing the elements required by Chapter 2, Article 2 of this Land Development Code, and consistent with the City Council's approval of the petition. The draft shall be accompanied by a land use plan for the proposed development that reflects the Council's decision on the petition and conceptual development plan. The petitioner shall transmit the draft agreement to the responsible official, who shall distribute the agreement among appropriate departments of the City, the City Manager and members of the Council subcommittee, if any. Following the conclusion of negotiations on the agreement, the responsible official shall prepare a report to the City Manager and the City Council summarizing issues that remain unresolved under the draft agreement.

(e) *Final Decision by Council and Acceptance by Property Owner*. The draft agreement, proposed land use plan and report shall be delivered to the City Council for a final decision. The Council may accept, accept with modifications, or reject the proposed development agreement, and may approve, conditionally approve or deny the land use plan consistent with its decision on the development agreement. If the Council accepts the agreement, it shall approve the agreement by resolution that authorizes the City Manager to execute the agreement on behalf of the City following execution by the property owner. Unless a different time is specified in the resolution, the property owner shall accept the development agreement and land use plan and execute the agreement within ten working days of the date the resolution is adopted. If the agreement is not accepted and executed by the property owner within such period, the Council's acceptance of the agreement shall be deemed withdrawn.

(f) *Recording Agreement*. The approved development agreement shall be recorded in the real property records of each county in which land subject to the agreement is located.

(g) *Land Use Plan*. The land use plan for the property shall be approved as an exhibit to the development agreement and shall conform to the requirements in Chapter 2, Article 2 of this Land Development Code. Thereafter, development applications for the land subject to the development agreement shall be consistent with the land use plan and shall be processed in accordance with the provisions in the agreement.

Section 1.4.2.5 - Criteria for Approval

(a) The following factors shall be considered by the Planning and Zoning Commission in recommending and the Council in deciding whether to approve, conditionally approve, or deny a petition for approval of a development agreement:

(1) The extent to which the proposed agreement and conceptual plan of development meet the policies in Chapter 2, Article 2 of this Land Development Code; and

(2) The extent to which the proposed agreement furthers the public health, safety and general welfare.

Section 1.4.2.6 - Expiration, Extension, Amendment and Termination of Agreement

(a) *Expiration*. The development agreement shall expire on the date that its term ends. The conceptual plan of development governing development of the property shall expire on that date, except for any land that is subject to

an approved or pending Final Subdivision Plat or Final Development Plat, as applicable, and any approved development application that remains in effect for the property.

(b) *Extension.* The development agreement and land use plan may be extended for additional periods under the terms of the agreement. Extension of development applications on land subject to the agreement shall be in accordance with this Land Development Code, or as provided in the agreement.

(c) *Amendment*. The development agreement and land use plan may be amended from time to time under the procedure for approval of a petition for a development agreement.

(d) *Termination.* The development agreement and land use plan may be terminated for breach of the agreement or other reasons in accordance with its terms.

DIVISION 3: - PETITION FOR UTILITY EXTENSION

Section 1.4.3.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a petition for approval of a utility extension shall be to determine whether the City wishes to authorize extension of water or wastewater facilities to provide services to a development located outside the City limits.

(b) *Applicability*. A petition for approval of a utility extension shall be required where a property owner seeks water or wastewater services from the City for a proposed project that will be located outside the City limits at the time of the proposed extension and subsequent development, or where a property owner seeks wastewater service from the City but not water service.

(c) *Effect*. Approval of a petition for a utility extension authorizes the City to annex the property, and authorizes the petitioner to submit development applications consistent with the capacity of the facilities to be extended, and upon approval of the applications, to construct extensions of the facilities in accordance with the terms of the approved petition.

Section 1.4.3.2 - Sequence of Approvals

The petition for approval of a utility extension may be accompanied by an application for approval of a Watershed Protection Plan (Phase 1) and plat application illustrating the nature of the proposed development, provided that the petition shall be decided first. A petition for approval of a utility extension may not be submitted with a petition for a development agreement.

Section 1.4.3.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a petition for approval of a utility extension.

(b) *Contents*. A petition for approval of a utility extension shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.4.3.4 - Processing of Petition and Decision

(a) ~~*Planning D*~~*Director's Role*. The ~~Planning D~~Director shall circulate the petition among City departments for review, shall evaluate the petition under the approval criteria, and shall prepare a report that shall be delivered to the City Council in advance of the Council's consideration of the petition. The report shall contain the Director's analysis of the financial feasibility of extending water and wastewater services to the development and any fiscal impacts on the utilities from the extension.

(b) *Council Decision*. The City Council shall consider the petition, and shall decide whether to approve, conditionally approve or deny the petition.

Section 1.4.3.5 - Criteria for Approval

(a) *Factors*. In deciding the petition for approval of a utility extension, the Council shall consider the factors in Chapter 2, Article 3 of this Land Development Code.

(b) *Conditions*. The Council in deciding the petition for approval of a utility extension may attach conditions that assure that the approval criteria will be implemented, including but not limited to conditions related to the scope of the development to be served, the timing of annexation, the timing of utility improvements or extensions needed to provide adequate capacity to the development to be served, and provisions for financing the extensions.

Section 1.4.3.6 - Expiration and Extension

(a) *Expiration.* If a plat application (of any type) has not been approved for the property to be served by a utility extension within two years from the date of approval of the utility extension by the Council, and if no progress has been made towards completion of the project associated with the utility extension (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) of the Texas Local Government Code, as amended) during that two year period, the approved petition for a utility extension shall expire. If progress is made towards completion of the project associated with the utility extension (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of the project associated with the utility extension (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) for a period of two years, the approved petition for a utility extension shall expire. In the event a plat application (of any type) subsequently expires or is revoked, the approved utility extension petition shall likewise expire.

(b) *Extension.* The City Council may extend the time of expiration for or reinstate an approved utility extension petition for a period not to exceed one year, in accordance with the procedures in Article 3, Division 5 of this Chapter 1.

(Ord. No. 2005-78, § 1, 10-18-05)

DIVISION 4: - WAIVER OR MODIFICATION OF DEVELOPMENT STANDARDS AS AN ECONOMIC DEVELOPMENT INCENTIVE

Section 1.4.4.1 - Purpose, Applicability and Effect

(a) *Purpose.* The purpose of a request for waiver of development standards is to determine whether the City wishes to authorize, as part of the approval of a request for economic development incentives, alternative standards or criteria for approval for development applications related to a specific project with-in the City limits or extraterritorial jurisdiction, in order to support and implement the City's adopted economic development program.

(b) *Applicability.* A waiver or modification of development standards may be approved only for projects approved by the City Council under the City's Economic Incentives Policy, as it may be amended from time to time by the City Council.

(c) *Effect.* Approval of a waiver or modification of development standards authorizes the petitioner to submit applications for subordinate development permits for the specific project under the modified criteria set forth in the Economic Development Incentives Agreement.

(Ord. No. 2008-44, § 2, 10-6-08)

Section 1.4.4.2 - Application Contents and Submittal Requirements

(a) *Responsible Official.* The City Manager shall be the responsible official for requests for development incentives.

(b) *Contents.* A request for waiver or modification of development standards shall accompany an application for city economic development incentives and shall identify the nature of the project, the specific portions of the code to be modified or waived and the benefit of these actions to the City.

(Ord. No. 2008-44, § 2, 10-6-08)

Section 1.4.4.3 - Processing of Petition and Decision

(a) *Director's Role.* The City Manager shall cause a City departmental review of the requested incentives and creation of a report consolidating comments and recommendations, which shall be delivered to the City Council prior to their consideration of the request.

(b) *Recommendation by Commissions.* The City Council may request review and recommendation of the request for modifications or waivers by The Planning and Zoning Commission or other appointed bodies.

(c) *Initial Decision by Council.* The City Council shall consider the request for incentives and give direction to the City Manager regarding waivers and or modifications of development standards as incentives for an economic development project. The Council may appoint a subcommittee of its members for purposes of reviewing and facilitating negotiations with the property owner.

(d) *Final Decision by Council and Acceptance by Property Owner.* The proposed waivers or modifications of development standards shall be included in an Economic Incentives Agreement and shall be delivered to the City Council for a final decision. The Council may grant a waiver or modification of standards at a public meeting if it finds that granting the request is consistent with the adopted Comprehensive Plan, the adopted Economic Development Incentives Policy and furthers the public health, safety and general welfare. Council's approval authorizes the City Manager to execute the agreement. If the agreement is not accepted and executed by the property owner within a stated period, the Council's acceptance of the agreement shall be deemed withdrawn.

(e) *Development Standard Waivers or Modifications.* The approved Development Incentive Agreement shall specify all applicable deviations from the adopted Land Development Code. Thereafter, development applications shall be consistent with the specific project described in the Development Incentive Agreement and shall be processed in accordance with the provisions of the Land Development Code as waived or modified by the agreement.

(Ord. No. 2008-44, § 2, 10-6-08)

Section 1.4.4.4 - Expiration, Extension, Amendment and Termination of Agreement

(a) *Expiration.* The waivers or modifications of development standards contained in the agreement shall apply to any required applications for development of the specific project that are approved and accepted during the term of the agreement.

(b) *Amendment.* The Development Incentive Agreement may be amended from time to time under the procedure for approval of an original application requesting a development incentive.

(c) *Termination.* The Development Incentive Agreement may be terminated for breach of the agreement or other reasons in accordance with its terms. If the Development Incentive Agreement expires or is terminated before any and all required development applications have been made and accepted, the development standards shall be those specified in the current Land Development Codes.

(Ord. No. 2008-44, § 2, 10-6-08)

ARTICLE 5: - ZONING PROCEDURES

DIVISION 1: - PETITION FOR ZONING MAP AMENDMENTS

Section 1.5.1.1 - Purpose, Applicability and Effect

(a) *Purpose.* The purpose of a petition for a zoning map amendment is to establish the initial zoning district classification of land, or to authorize a use of land, or to change the zoning district classification of land, or in the case of overlay zoning districts, to authorize uses or a set of zoning standards for the land that are not presently authorized under the regulations for the zoning district in which the property is located.

(b) *Applicability.* Where a property owner seeks to establish an initial zoning district classification for land, or to establish a use of land or through an overlay district to apply standards to a proposed use that are not currently authorized by the zoning district regulations currently in effect, the property owner must submit a petition for a zoning map amendment before seeking approval of any quasi-judicial or administrative development application for such land. The requirements of this Division do not apply to land outside of the City limits. The requirements of this Division do apply to land annexed to the City upon the effective date of the annexation.

(c) *Effect.* Enactment of an ordinance approving a petition for a zoning map amendment results in a change in zoning district classification for the property, and the use of the land thereafter is subject to all requirements of the new zoning district. Approval of a petition for a zoning map amendment authorizes the property owner to establish any use authorized in the new zoning district, subject to the standards applicable within the zoning district, upon obtaining approval of all development applications required by this Land Development Code.

(Ord. No. 2006-45, § 4, 9-19-06)

Section 1.5.1.2 - Sequence of Approvals

(a) *Prior Applications.* A petition for a zoning map amendment shall not be approved unless the following petitions, where applicable, have been approved and remain in effect:

(1) Any petition for amendment of the City's ~~Master~~Comprehensive Plan upon which the petition for zoning map amendment is dependent~~, provided that the Master Plan amendment and the zoning map amendment may be processed concurrently as long as the recommendation and decision on the Master Plan amendment is made first~~; and

(2) Any petition for amendment of the regulations in Chapter 4 of this Land Development Code required to authorize the use in the zoning district requested in the petition.

(b) *Subsequent Approvals.* No application for a quasi-judicial or administrative development application shall be approved until a petition for a zoning map amendment has been approved authorizing the use or standards proposed in the development application.

Section 1.5.1.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a petition for a zoning map amendment.

(b) *Initiation of Zoning Map Amendment*. Only the property owner or the owner's authorized agent (proof of such authorization must be submitted with the zoning application), the ~~Planning D~~Director, the Planning and Zoning Commission, or the City Council on its own motion, may initiate a petition for a zoning map amendment.

(1) In the event the ownership stated on a petition is different from that shown in City or appraisal district records, the petitioner shall submit written proof of ownership or verification that the petitioner is acting as an authorized agent for the property owner.

(2) A landowner or agent seeking approval of a petition for a zoning map amendment shall pay or otherwise satisfy all delinquent taxes, paving assessments, impact fees, or any other delinquent debts or obligations for the property to be rezoned at the time the petition is submitted. It shall be the petitioner's responsibility to provide evidence or proof that all taxes and obligations have been paid.

(c) *Contents*. The petition for a zoning map amendment shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.1.4 - Processing of Application and Decision

(a) *Notice*. The responsible official(s) shall cause posted notice and personal notice of the public hearing before the Planning and Zoning Commission and published notice and posted notice of the public hearing before the City Council to be given in accordance with Article 3, Division 2 of this Land Development Code.

(b) *Special Notice*. Whenever the City Council intends to convene a joint public hearing with the Planning and Zoning Commission, the Director shall cause notice of the joint public hearing to be given as prescribed by ordinance of the Council.

(c) *Action by Commission*. The Planning and Zoning Commission, following the public hearing, shall formulate a report and recommendation on the petition for a zoning map amendment, and shall forward the report and recommendation to the City Council.

(d) *Decision*. The City Council shall consider the report of the Planning and Zoning Commission and the petition at a public hearing no sooner than seven days after the date of the Planning and Zoning Commission's recommendation and report. The City Council may vote only on a specific proposed amendment that has been recommended for approval or denial by the Planning and Zoning Commission. If the City Council wants to consider a zoning designation other than that recommended by the Planning and Zoning Commission, the Council shall return the petition to the Planning and Zoning Commission with direction to make a recommendation on the alternate designation suggested by the City Council. A decision of the Council reclassifying land to a different zoning district shall be in the form of an ordinance that amends the City's official Zoning Map.

(e) *Super-Majority Vote*. In each of the following circumstances, a zoning amendment shall not become effective except by the favorable vote of three-fourths of all members of the City Council:

(1) When a written protest against the amendment is signed by the owners of 20 percent or more of either the area of the lots or land included in the proposed change, or of the lots or land adjoining or within 200 feet of the lots or land. In computing the percentage of land area, the area of streets and alleys shall be included in the computation. For purposes of this subsection, the following shall apply:

a. The written protest of any one owner of land owned by two or more persons shall be presumed to be the protest of all such owners.

b. The written protest must be submitted to the City Clerk at least five business days before the date of the meeting at which the proposed change is to be considered.

c. A person who wishes to withdraw a signature from a written protest must submit a signed, written request for the withdrawal to the City Clerk by the deadline for submitting a written protest. A signature may not be otherwise withdrawn.

d. A petition for a zoning map amendment may not be modified to change the boundaries of the subject property after a written protest petition requiring a super-majority vote of the city council has been submitted.

(2) When the Planning and Zoning Commission recommends denial of the zoning amendment.

(f) *Deferral of Decision*. The Planning and Zoning Commission or the Council may, on its own motion, or at the applicant's request, defer its recommendation or decision and table the request to a date certain that is not more than 90 calendar days from the date of the initial public hearing, to consider other information or proposed modifications to the request which may have a direct bearing on the recommendation or decision. If the Planning and Zoning Commission or Council elects to table the request, the tabling shall specifically state the meeting date at which the request will reappear on the Commission or Council agenda, and further notice in the newspaper, to the property owner, and to surrounding property owners shall not be required.

(g) *Consideration of Previously Denied Amendments.* A request to change the zoning district designation for a tract of land shall not be considered by the Planning and Zoning Commission or the City Council within one year of the Council's decision to deny the same requested change for all or any portion of the parcel unless the Commission and Council each determine that there has been a substantial change in conditions surrounding the parcel since the initial request, and agree to reconsider the change by a three-fourths vote of the members present and voting.

(Ord. No. 2012-19, § 2, 4-3-12; Ord. No. 2012-18, § 1, 4-17-12)

Section 1.5.1.5 - Criteria for Approval

(a) In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the plan elements in ~~of~~ the adopted ~~Master~~Comprehensive Plan, as follows, including the land use classification of the property on the ~~Future Land Use Map~~Preferred Scenario Map. ~~and any incorporated sector plan maps~~;

(a) Is the request in an area suitable for development as show on the Land Use Suitability Map? If not, what development constraints exist?

(b) Is the request consistent with the Neighborhood Character Study for the area?

(c) Is the request near existing parks and public utilities?

(d) Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(2) Whether the proposed zoning map amendment is consistent with a development agreement in effect;

(3) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;

(4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area; and

(5) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

DIVISION 2: - OVERLAY ZONING DISTRICT

Section 1.5.2.1 - Purposes and Effect

(a) *Purpose*. An overlay zoning district is a zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

(b) *Effect*. Adoption of the overlay district does not repeal the base zoning district and all regulations contained in the base zoning district shall remain applicable to the uses allowed in the overlay district, except as expressly varied in the regulations of the overlay zoning district. In addition, special standards set forth in the adopting ordinance shall apply to all development within the district.

Section 1.5.2.2 - Establishment of Overlay Zoning Districts

(a) *Creation.* An overlay district, other than a planned development district or a transfer district, shall be established as an amendment to the text of the zoning regulations in Chapter 4 of this Land Development Code in accordance with procedures in Article 3, Division 8 of Chapter 1. Overlay zoning districts shall also be established on the Zoning Map in accordance with the procedures governing petitions for zoning map amendments in Division 1 of this Article 5.

(b) *Enacting Ordinance*. In creating an overlay zoning district, the Council shall specify the following standards:

(1) The intent and purpose of the district;

(2) The types of districts with which the overlay zoning district may be combined;

(3) Uses allowed by the overlay zoning district which are not allowed in the base district and standards and conditions applicable to such uses;

(4) Uses otherwise permitted within the base district, which are prohibited, limited or restricted within the overlay zoning district, and the standards and conditions constituting such limitations or restriction;

(5) Standards to be applied in the overlay district which are intended to supersede conflicting standards in the base district; and

(6) Special standards to be applied in the overlay district.

DIVISION 3: - PETITION FOR PLANNED DEVELOPMENT DISTRICT

Section 1.5.3.1 - Purpose and Effect

(a) *Purpose.* The purpose of a petition for a PD district is to authorize a special overlay zoning district designed to result in a higher quality development for the community, in accordance with an approved conceptual plan and development standards, than would otherwise result from the use of conventional zoning districts.

(b) *Effect*. Enactment of an ordinance approving a petition to establish a PD district results in the addition of "PD Planned Development District" as an overlay zoning district on the official Zoning Map, thereby amending the map. Approval also results in adoption of a Concept Plan, zoning regulations and development standards for the overlay district, which may vary regulations applicable within the base zoning district, or standards in Chapters 5, 6 and 7 of this Land Development Code as applied to the land within the PD district. Thereafter, the property owner is authorized to establish any use allowed in the PD district or in the base zoning district, subject to the Concept Plan incorporated within the PD district, and the development standards in the PD and base zoning districts, upon obtaining approval of all applications for development permits required by this Land Development Code. Establishment of a PD district amends any development or public facilities standards otherwise applicable to plat approval to the extent of any conflict with standards applicable within the PD district, without the necessity of approval of a variance petition.

Section 1.5.3.2 - Sequence of Approvals

(a) *Prior Applications.* A petition for a PD district shall not be ~~approved~~ accepted until a petition for amendment of the City's ~~Master~~Comprehensive Plan, upon which the petition for the PD district is dependent, has first been approved.

(b) *Accompanying Applications.* A petition for a planned development district may be accompanied by a petition to amend the base zoning district. The petition may also be accompanied by an application for a Watershed Protection Plan (Phase 1), together with an application for approval of a Cluster Development Plan, provided that the petition for the PD district shall be approved by ordinance before the Watershed Protection Plan (Phase 1) and Cluster Development Plan applications are decided.

(c) *Subsequent Approvals*. No Site Preparation Permit for any tract or lot within the PD district shall be approved until a Cluster Development Plan has been approved, where applicable, under Division 8 of this Article 5.

Section 1.5.3.3 - Application Requirements

(a) *Contents.* The petition for a PD district shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.3.4 - Processing of Application and Decision

(a) *Responsible Official.* The ~~Planning D~~Director shall be the responsible official for a petition for a PD district.

(b) *Changes Prior to Establishment of PD district.* Features of the Concept Plan or the development standards may be modified throughout the review and adoption process in response to continued refinements and negotiations regarding the terms of the PD district. Items may be added to improve the Concept Plan and development standards, and objectionable features of the plan and the development standards may be removed. Amendments may not, however, include an enlargement of the size of the PD district, a change to the base zoning district, or an increase in residential density without submission of a new petition.

(c) *Procedures.* Procedures for processing and deciding the petition for a PD district shall be the same as those governing a petition for a zoning map amendment under Division 1 of this Article 5.

Section 1.5.3.5 - Criteria for Approval

(a) *Factors*. The following criteria will be used by the Planning and Zoning Commission in recommending and the Council in deciding whether to approve, approve with modifications, or deny a petition for a PD district:

(1) The extent to which the land covered by the proposed PD district fits one or more of the special circumstances in Section 4.2.6.1 warranting a PD district classification.

(2) The extent to which the proposed PD district furthers the policies of the ~~Master~~Comprehensive Plan, as follows ~~generally, and for the sector in which the proposed PD district is located~~.

(a) Does the request further the goals of the Core 4 through their strategies as outlined in the Comprehensive Plan?

(b) Is the request in an area suitable for development as show on the Land Use Suitability Map? If not, what development constraints exist?

(c) Does the request have a negative impact on the watershed?

(d) Is the request consistent with the Neighborhood Character Study for the area?

(e) Is the request near existing parks and public utilities?

(f) Will additional parks or greenspace be provided?

(g) Is the request near a water or wastewater maintenance hotspot?

(f) Based on the Travel Demand Model, is the request in an area with sufficient roadway capacity?

(3) The extent to which the proposed PD district will result in a superior development than could be achieved through conventional zoning classifications.

(4) The extent to which the proposed PD district will resolve or mitigate any compatibility issues with surrounding development.

(5) The extent to which the PD district is generally consistent with the criteria for approval of a watershed plan for land within the district.

(6) The extent to which proposed uses and the configuration of uses depicted in the Concept Plan are compatible with existing and planned adjoining uses;

(7) The extent to which the proposed development is consistent with adopted master facilities plans, including without limitation the water facilities, master wastewater facilities, transportation, drainage and other master facilities plans; and

(8) The extent to which the proposed open space and recreational amenities within the development provide a superior living environment and enhanced recreational opportunities for residents of the district and for the public generally.

(b) *Conditions*. The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PD district regulations and Concept Plan as are necessary to assure that the purpose of the PD district is implemented.

Section 1.5.3.6 - Amendments and Relief Measures

(a) *Amendments*. The ~~Planning D~~Director may permit the applicant to make minor amendments to the Concept Plan without the necessity of amending the ordinance that established the PD district. If the ~~Planning D~~Director determines that proposed amendments substantially impact the nature or purposes of the approved PD, whether individually or cumulatively, the Director will deny the request for approval of the modifications and provide the applicant with the opportunity to revise the proposed amendments to bring them into compliance with the PD. If an applicant wishes to make any amendments to an approved Concept Plan other than minor amendments approved by the ~~Planning D~~Director, the Director will submit the amendments to the Planning and Zoning Commission and City Council for review and approval as a revised PD district. Minor amendments shall be as follows:

(1) Corrections in spelling, distances and other labeling that do not affect the overall development concept;

(2) Changes in building position or layout that are less than ten feet or ten percent of the total building project or area;

(3) Changes in proposed property lines as long as the original total project acreage is not exceeded, and the area of any base zoning district is not changed by more than five percent; and

(4) Changes in parking layouts as long as the number of required spaces and general original design are maintained.

(b) *Variances*. A separate variance from the standards in Chapters 4 through 7 of this Land Development Code shall not be required where the development standards incorporated within the PD district expressly modify such standards.

Section 1.5.3.7 - Expiration of Rights

(a) *Lapse of Rights in District*. In a PD district, progress toward development of the Concept Plan shall occur within the following time periods:

(1) An application for approval of a Cluster Development Plan, accompanied by a Watershed Protection Plan (Phase 1), where applicable, or other required permit, shall be submitted for approval within five years of the date of establishment of the PD district, unless otherwise provided in the adopting ordinance. If a Cluster Development Plan or required permit application for all or a phase of the development depicted in the Concept Plan is not submitted within this period, the authority to submit a Cluster Development Plan or required permit and all subsequent Cluster Development Plans or required permits for the PD district shall be suspended.

(2) If the land within the PD district is to be developed in phases, a Cluster Development Plan and Watershed Protection Plan (Phase 1), or other required permit, shall be submitted for the next phase within two years from approval of a Cluster Development Plan or required permit application for the preceding phase, or as otherwise provided in the approved phasing schedule for the PD district. If a subsequent Cluster Development Plan or required permit application is not submitted within this period, the authority to submit a Cluster Development Plan or permit application for that portion of the property and any subsequent Cluster Development Plans for the district shall be suspended.

(3) Expiration of an approved Cluster Development Plan or required permit shall result in suspension of the authority to submit a new Cluster Development Plan or required permit for that portion of the property and any Cluster Development Plans or required permits for subsequent phases of development within the district.

(b) *Commission Recommendation.* Following expiration of the right to submit a Cluster Development Plan or required permit, the Planning and Zoning Commission shall consider whether the undeveloped land within PD district should be changed to another zoning classification in accordance with the procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Planning and Zoning Commission thereafter shall recommend to the City Council whether the right to submit a Cluster Development Plan or required permit application should be reinstated, or whether the property should be zoned to another classification.

(c) *Council Consideration.* The Planning and Zoning Commission's recommendation shall be considered by the City Council in accordance with procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Council shall determine whether the right to submit the Cluster Development Plan or required permit application should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors:

(1) Whether the PD district remains consistent with the ~~Master~~Comprehensive Plan and any related Neighborhood Character Study;

(2) Whether the uses authorized in the PD district are compatible with existing and planned land uses adjacent to the site;

(3) Whether there are extenuating circumstances justifying the failure to submit a development plan during the applicable time period; and

(4) Whether rezoning the property to another classification would constitute confiscation of a vested property right or deprive the owner of the economically viable use of the land.

(d) *Council Action.* The City Council may take the following actions:

(1) Reinstate the right to submit the Cluster Development Plan or required permit application within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of land within the PD district;

(2) Modify the PD district regulations applicable to the property; or

(3) Repeal the PD district for the affected portions of the property and zone the property to another zoning district classification.

DIVISION 4: - DEVELOPMENT TRANSFER PETITION

Section 1.5.4.1 - Purpose, Applicability and Effect

(a) *Purpose.* The purpose of a development transfer petition is to authorize the simultaneous transfer of residential densities, impervious cover or nonresidential square footage from one development site that is to be limited permanently in whole or in part to open space (the granting site) to another development site that is not subject to such constraints (the receiving site).

(b) *Applicability.* Within the City limits, residential density, impervious cover or nonresidential square footage may be transferred from an area proposed to be designated as permanent open space to an area planned for residential or nonresidential use that qualifies as a receiving site under this Land Development Code through a petition for establishment of an overlay transfer zoning district for the granting and receiving sites. Outside the City limits, development transfers may be accomplished only by including provisions for the granting and receiving sites in a development agreement approved under Article 4, Divisions 2 or 3, of this Chapter 1.

(c) *Effect.* Development of the granting site, upon approval of the development transfer petition, shall thereafter be limited to the density, impervious cover or nonresidential square footage remaining after the transfer. Development of the receiving site, upon approval of the petition, shall thereafter be allowed an increase in the impervious cover, residential density, or nonresidential square footage over and above the levels allowed before the transfer.

Section 1.5.4.2 - Sequence of Approvals

(a) *Prior Approvals*. A development transfer petition shall not be granted prior to approval of amendments to the ~~Master~~Comprehensive Plan upon which the transfer is dependent.

(b) *Accompanying Applications.* A development transfer petition shall be accompanied by the following applications:

(1) Where both the granting and receiving sites are located inside the City limits:

a. A petition for an overlay zoning district (DTG district) for the granting site;

b. A petition for an overlay zoning district (DTR district) for the receiving site;

c. Where required by Chapter 4, Article 2, Division 6, a Concept Plan;

d. A Watershed Protection Plan (Phase 1) for the granting site, provided that the development transfer petition and all petitions for an overlay zoning district shall be decided prior to the final decision on the Watershed Protection Plan (Phase 1).

(2) Where either the granting or the receiving site, or both, are located outside the City limits:

a. A petition for an annexation or development agreement that governs requirements for the development transfer on either the granting site, the receiving site, or both;

b. A Watershed Protection Plan (Phase 1) for the granting site, provided that the development transfer petition and petition for a development agreement shall be decided prior to the final decision on the Watershed Protection Plan (Phase 1).

c. If one of the sites is inside the City limits, a petition for a transfer zoning district for the site and, where required by Chapter 4, Article 2, Division 7, a Concept Plan for the receiving site.

(3) Inside the City limits, the petition may be accompanied by a Concept Plan to be incorporated in the DTR district regulations.

Section 1.5.4.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a petition for a development transfer.

(b) *Contents.* A petition for a development transfer shall be accompanied by an application prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.4.4 - Processing of Application and Decision

(a) *Processing of Petition*. The responsible official shall process the petition for development transfer in accordance with procedures for petitions for overlay zoning districts and zoning map amendments, in the case of land where either the granting site or the receiving site or both are within the City limits, or in accordance with procedures for annexation or development agreements, where either the granting site or the receiving site or both, are outside the City limits.

(b) *Action by Commission*.

(1) Where either the granting site or the receiving site, or both are within the City limits, the Planning and Zoning Commission shall consider and make its recommendations to the City Council on the petition for development transfer and the transfer zoning district(s), in accordance with procedures for an overlay zoning district and a zoning map amendment under Divisions 1 and 2 of this Article 5.

(2) Where either the granting site or the receiving site, or both, are outside the City limits, the Planning and Zoning Commission shall consider and make its recommendations to the City Council on the petition for development transfer and the development agreement that incorporates the development transfer provisions, in accordance with procedures for a development agreement under Article 4, Division 2 of this Chapter 1.

(c) *City Council Decision.*

(1) Where either the granting site or the receiving site, or both, is within the City limits, the City Council shall consider and decide the petition for development transfer and shall determine whether to establish transfer zoning district(s) and approve any Concept Plan for the receiving district, based on the recommendations from the Planning and Zoning Commission and in accordance with procedures for an overlay zoning district and a zoning map amendment under Divisions 1 and 2 of this Article 5.

(2) Where either the granting site or the receiving site, or both, are outside the City limits, the City Council shall consider and decide the petition for development transfer and shall determine whether to approve a development agreement that incorporates the development transfer provisions, based on the recommendations from the Planning and Zoning Commission and in accordance with procedures for a development agreement under Article 4, Divisions 2 or 3, respectively, of this Chapter 1.

(d) *Official Zoning Map.* The official Zoning Map shall be amended by ordinance to reflect the establishment of the transfer zoning districts.

(1) Any granting site within the City limits shall be designated as a DTG district.

(2) Any receiving site within the City limits shall be designated as a DTR district.

Section 1.5.4.5 - Criteria for Approval

(a) *Factor*s. The following criteria will be used by the Planning and Zoning Commission in recommending and the Council in deciding whether to approve, approve with modifications, or deny a petition for a development transfer:

(1) Whether approval of the petition for development transfer implements the policies of the ~~Master~~Comprehensive Plan relating to preservation of open space and protection of water quality;

(2) Whether the development transfer implements a specific plan for watershed protection;

(3) Whether conservation easements or other means of preserving protected portions of the granting site have been executed;

(4) Whether the proposed receiving site qualifies as a development transfer site;

(5) Whether the development of the receiving site at greater residential density or nonresidential square footage does not negatively impact existing uses or inhibit development of land under existing zoning classifications; and

(6) Whether the density, impervious cover or nonresidential square footage to be transferred from the granting site can be used by clustering or intensifying development on the granting site.

(b) *Conditions.*

(1) The Planning and Zoning Commission may recommend and the City Council may attach any conditions to establishment of the transfer districts that assure preservation of the granting site and compatibility of the resulting development transfer with uses adjacent to the receiving site.

(2) The Planning and Zoning Commission may recommend and the City Council may attach any conditions to the development agreement that incorporates the development transfer provisions in order to assure preservation of the granting site and compatibility of the resulting development transfer with uses adjacent to the receiving site.

Section 1.5.4.6 - Variances

No petition for a variance to standards within the base zoning district shall be required for development of residential density or impervious cover transferred under the petition to the DTR district.

Section 1.5.4.7 - Expiration of Rights

(a) *Lapse of Rights in DTR District.* The authorization to utilize the increased impervious cover, residential density or nonresidential square footage within a DTR district shall expire five years after the date the district is established, for those portions of the property for which a Cluster Development Plan or plat application has not been approved or is no longer in effect. Thereafter, no development application shall be accepted for filing or further processed that proposes to utilize the increased impervious cover, residential density or nonresidential square footage until the City Council has decided whether to reinstate the right to develop under the DTR district. If the authorization to use the increased impervious cover, residential density or nonresidential square footage is not reinstated by the City Council, the rights cannot thereafter be used.

(b) *Commission Recommendation.* Following expiration of the authorization to utilize increased impervious cover, residential density or nonresidential square footage within a DTR district, the Planning and Zoning Commission shall consider whether the overlay district should be removed, in accordance with the procedures for acting on a petition for a zoning map amendment under Division 1 of this Article 5. The Planning and Zoning Commission thereafter shall recommend to the City Council whether the right to develop under the DTR should be reinstated, or whether the overlay district should be removed.

(c) *Council consideration.* The Planning and Zoning Commission's recommendation shall be considered by the City Council in accordance with procedures for action upon a petition for a zoning map amendment under Division 1 of this Article 5. The Council shall determine whether authorization to utilize increased impervious cover, residential density or nonresidential square footage within the DTR district should be reinstated, or whether the overlay district should be removed for those portions of the land where a Cluster Development Plan has not been approved or is no longer in effect. In making such determination, the Council shall consider the following factors:

(1) Whether the increased impervious cover, residential density or nonresidential square footage authorized by the DTR district remains consistent with the ~~Master~~Comprehensive Plan;

(2) Whether the increased impervious cover, residential density or nonresidential square footage authorized by the DTR district is compatible with existing and planned land uses adjacent to the site;

(3) Whether there are extenuating circumstances justifying the failure to obtain approval for a Cluster Development Plan or plat application during the applicable time period; and

(4) Whether removing the DTR district would constitute confiscation of a vested property right or deprive the owner of the economically viable use of the land.

(d) *Council Action.* The City Council may take the following actions:

(1) Reinstate the right to develop the land in accordance with the DTR district within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of land within the overlay district;

(2) Modify the DTR district regulations applicable to the property; or

(3) Repeal the DTR district for the affected portions of the property.

DIVISION 5: - HISTORIC ZONING PROCEDURES

Section 1.5.5.1 - Establishment and Expansion of Local Historic Districts

(a) *General Procedures*. Except as provided in this Section, a petition to establish or expand a historic (HD) zoning district (see Chapter 4) shall be processed and decided in accordance with the procedures governing a petition for an overlay zoning district under Division 2 of this Article 5.

(b) *Recommendation of Historic Preservation Commission*. Before the establishment of a historic zoning district, the Historic Preservation Commission shall carry out the following activities:

(1) The Historic Preservation Commission shall cause a report to be prepared that identifies the historic significance of the exteriors of buildings, structures, features, sites, objects and surroundings in the area of the proposed district. This report shall reflect the current characteristics of the area of the proposed new district or expansion of an existing district. The report shall contain the Historic Preservation Commission's recommendations on the area to be included in the proposed historic zoning district(s). The recommendation shall take into account the following factors:

a. Historical, architectural and cultural significance of the site(s);

b. Suitability for preservation or restoration;

c. Educational value; and

d. Satisfaction of criteria established for inclusion of the site(s) and/or district in the National Register of Historic Places.

(2) Upon completion, the initial report and recommendations of the Historic Preservation Commission shall be delivered to the Planning and Zoning Commission and to the State Historical Commission for review.

(3) The Historic Preservation Commission shall hold a public hearing on the establishment of the proposed district and shall provide:

a. The hearing shall be held at least 30 days after the transmittal of the report to the Planning and Zoning Commission and to the State Historical Commission and prior to the Planning and Zoning Commission's consideration.

b. Written notice of the public hearing will be mailed to the owners of all properties to be included in the district and published in a newspaper of general circulation in the City, in accordance with the legislative and personal notice provisions of Article 3, Division 2 of this Chapter 1.

(4) After the public hearing, the Historic Preservation Commission shall submit its final report and recommendations on the establishment of the historic zoning district to the Planning and Zoning Commission, which action shall constitute the initiation of the petition to establish the landmark, if no other petition has been filed to designate the landmark.

(5) Subsequent to the Planning and Zoning Commission's action, the final report, including the proposed ordinance and the recommendations of both commissions, shall be forwarded to the City Council for action. The ordinance shall provide for a suitable sign or marker on or near the property indicating that the property has been so designated, and shall set forth any restrictions on development or utilization of the landmark. One copy of the ordinance shall be filed in the office of the county clerk of the county in which the property is located.

(c) *Planning and Zoning Commission and Council Consideration.*

(1) The Planning and Zoning Commission shall not schedule a public hearing on the establishment of a historic zoning district until it receives the final report and recommendations of the Historic Preservation Commission.

(2) The Planning and Zoning Commission in making its recommendations and the City Council in deciding the petition for establishment of an historic district shall take into consideration the report and recommendations of the Historic Preservation Commission.

(Ord. No. 2006-45, § 5, 9-19-06; Ord. No. 2009-73, § 6, 12-1-09)

Section 1.5.5.2 - Establishment of Historic Landmarks

(a) *General Procedures*. Except as provided in this Section, a petition to establish an historic landmark shall be processed and decided in accordance with the procedures governing a petition for a zoning map amendment under Division 1 of this Article 5.

(b) *Recommendation of Historic Preservation Commission.* Before the establishment of an historic landmark, the Historic Preservation Commission shall carryout the following activities:

(1) The Historic Preservation Commission shall cause a report to be prepared that identifies the historic significance of the exteriors of buildings, structures, features, sites, objects and surroundings of the proposed landmark. This report shall reflect the current characteristics of the proposed landmark. The report shall contain the Historic Preservation Commission's recommendation on the site to be designated as a historic landmark. The recommendation shall take into account the following factors:

a. Historical, architectural and cultural significance of the site(s);

b. Suitability for preservation or restoration;

c. Educational value; and

d. Satisfaction of criteria established for inclusion of the site(s) and/or district in the National Register of Historic Places.

(2) Upon completion, the initial report and recommendations of the Historic Preservation Commission shall be delivered to the Planning and Zoning Commission and to the State Historical commission for review.

(3) The Historic Preservation Commission shall hold a public hearing on the establishment of the proposed district and shall provide:

a. The hearing shall be held at least 30 days after the transmittal of the report to the Planning and Zoning Commission and to the State Historical Commission and prior to the Planning and Zoning Commission's consideration.

b. Written notice of the public hearing will be mailed to the owners of all properties to be included in the district and published in a newspaper of general circulation in the City, in accordance with the legislative and personal notice provisions of Article 3, Division 2 of this Chapter 1.

(4) After the public hearing, the Historic Preservation Commission shall submit its final report and recommendations on the establishment of the historic zoning district to the Planning and Zoning Commission, which action shall constitute the initiation of the petition to establish the landmark, if no other petition has been filed to designate the landmark.

(5) Subsequent to the Planning and Zoning Commission's action, the final report, including the proposed ordinance and the recommendations of both commissions, shall be forwarded to the City Council for action. The ordinance shall provide for a suitable sign or marker on or near the property indicating that the property has been so designated, and shall set forth any restrictions on development or utilization of the landmark. One copy of the ordinance shall be filed in the office of the county clerk of the county in which the property is located.

(c) *Planning and Zoning Commission and City Council Consideration.*

(1) The Planning and Zoning Commission shall not schedule a public hearing on the establishment of a historic zoning district until it receives the final report and recommendations of the Historic Preservation Commission.

(2) The Planning and Zoning Commission in making its recommendations and the City Council in deciding the petition for establishment of a historic district shall take into consideration the report and recommendations of the Historic Preservation Commission.

(d) *Notification of Designation.* Upon adoption of the ordinance, the owners and occupants of each designated historic landmark shall be given written notification of the designation in accordance with Article 3, Division 2 of this Chapter 1.

(Ord. No. 2009-73, § 7, 12-1-09)

DIVISION 6: - CERTIFICATES OF APPROPRIATENESS

Section 1.5.6.1 - Purpose, Applicability, Exceptions and Effect

(a) *Purpose.* The purpose of a Certificate of Appropriateness is to assure that construction, alteration, restoration, relocation, or demolition of a structure, or alterations to the site or appurtenances, in a historic district or at a historic landmark is congruous with the historical, architectural or cultural aspects of the district or landmark. Furthermore, the purpose of a Certificate of Appropriateness is to make certain that historic structures, streets and neighborhoods are preserved and protected.

(b) *Applicability.* A Certificate of Appropriateness is required prior to undertaking any of the following activities in a local historic district or at a local historic landmark:

(1) Construction and reconstruction, including fences;

(2) Alteration, additions, restoration and rehabilitation;

(3) Relocation;

(4) Signage;

(5) Construction or reconstruction of a parking lot;

(6) Construction or reconstruction of an appurtenance;

(7) Demolition; and

(8) Establishment or alteration of lighting, furniture and seating plans, and/or awnings and umbrellas within public right-of-ways.

(c) *Exceptions.* This requirement does not apply to the following activities:

(1) Changes in color to a structure's exterior;

(2) Interior arrangements for structures in a local historic district or at a local historic landmark;

(3) Ordinary maintenance or repair of any exterior feature that does not involve a change in design, material, or outer appearance;

(4) With the written approval of the responsible official, construction, reconstruction, alteration, restoration or demolition of any feature which the Building Inspector or other responsible official shall certify is required for the public safety because of an unsafe or dangerous condition; and

(5) Portions of buildings and sites not visible from adjacent public rights-of-way, streets or alleys.

(d) *Effect.* Approval of a Certificate of Appropriateness authorizes the applicant to apply for permits allowing construction, alteration, restoration, relocation, or demolition of a structure, or alterations to the site or appurtenances, in a historic district or at a local historic landmark.

(Ord. No. 2009-73, § 8, 12-1-09)

Section 1.5.6.2 - Sequence of Approvals

(a) *Prior Approvals*. An application for a Certificate of Appropriateness shall not be approved unless the following petition(s) or development permit(s), where applicable, have been approved and remain in effect for land to be subject to the certificate:

(1) All legislative applications required to establish or change the use;

(2) Watershed Protection Plan (Phase 1);

(3) Conditional Use Permit;

(4) Final Subdivision Plat or Final Development Plat.

(b) *Subsequent Approvals*. A Certificate of Appropriateness must be approved prior to the issuance of a building permit or any other permit that authorizes construction, alteration, restoration, relocation, or demolition of a structure, or alterations to the site or appurtenances, in the local historic district or at a local historic landmark.

Section 1.5.6.3 - Application Requirements

(a) *Responsible Official.* The ~~Planning D~~Director shall be the responsible official for a Certificate of Appropriateness.

(b) *Contents.* The application for a Certificate of Appropriateness shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.6.4 - Processing of Application and Decision

(a) *Decision-Maker.* The Historic Preservation Commission shall be the initial decision-maker for a Certificate of Appropriateness, subject to appeal to the ZBOA.

(b) *Notice and Hearing.* Personal notice of the public hearing on the application for a Certificate of Appropriateness before the Historic Preservation Commission shall be given in accordance with Article 3, Division 2 of this Chapter 1.

(c) *Public Hearing and Decision.* The Historic Preservation Commission shall conduct a public hearing concerning the application in accordance with Article 3, Division 3 of this Chapter 1. If the Historic Preservation Commission determines that the proposed activity is appropriate, it shall approve the application and shall issue to the applicant a Certificate of Appropriateness. If the Historic Preservation Commission determines that a Certificate of Appropriateness should not be issued, or should be issued subject to conditions, it shall place upon its records the reasons for its determination.

(d) *Time for Decision.* The Historic Preservation Commission shall render its decision on the request within 45 days of the date the application is deemed complete and adequate for review, subject to the supplemental options available under subsection (e).

(e) *Options for Decision Regarding Historic Landmarks.*

(1) During this 45-day period for decisions under subsection (d) action contrary to the request of the applicant is reasonably necessary or appropriate for the continued preservation of the property, as determined by the Historic Preservation Commission, the Commission may request that the City Council authorize negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein of for the making of a grant or loan to the owner for such purpose. If a determination is made by the Historic Preservation Commission under this subsection, the owner may not demolish, alter, remodel or relocate the landmark for 180 days after the date the application was deemed complete and adequate for review or such shorter period of time as provided in subsections (e)(3) and (4).

(2) The Commission may reduce the waiting period required by this Section when the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required period were allowed.

(3) The Commission has the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling, or relocation is undertaken subject to conditions agreed to by the Commission ensuring the continued maintenance of the historical, architectural or cultural integrity and character of the landmark.

(Ord. No. 2009-73, § 9, 12-1-09)

Section 1.5.6.5 - Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Certificate of Appropriateness shall be approved, conditionally approved or denied:

(1) Consideration of the effect of the activity on historical, architectural or cultural character of the historic district or landmark;

(2) For historic zoning districts, compliance with zoning district regulations;

(3) Whether the property owner would suffer extreme hardship, not including loss of profit, unless the Certificate of Appropriateness is issued;

(4) The construction and repair standards and guidelines cited in Section 4.2.5.1(j).

(Ord. No. 2009-73, § 10, 12-1-09)

Section 1.5.6.6 - Appeals

(a) *General Procedure.* An applicant or other interested person may appeal a final decision of the Historic Preservation Commission on an application for a Certificate of Appropriateness to the Zoning Board of Adjustments within ten days of the Commission's action on the application. The Zoning Board of Adjustments shall decide the appeal in accordance with Article 10, Division 1 of this Chapter 1. except as supplemented or modified in subsections (b) and (c) of this Section.

(b) *Supplemental Procedure.* In considering the appeal the Zoning Board of Adjustments shall:

(1) Review the record of the proceeding from which an appeal is sought;

(2) Receive an overview of the case from the responsible official including previous recommendations from City Staff and the decision of the Historic Preservation Commission;

(3) Hear arguments from the party appealing the decision of the Historic Preservation Commission; and

(4) Remand the matter back to the Historic Preservation Commission when testimony and evidence is presented that was not previously presented at the time of the hearing before the Historic Preservation Commission.

(c) *Criteria on Appeal.*

(1) The board shall apply the substantial evidence test to the decision of the Historic Preservation Commission;

(2) The burden of proof before the board shall be on the appealing party, who must establish that the record reflects the lack of substantial evidence in support of the decision of the Historic Preservation Commission;

(3) The board may not substitute its judgment for the judgment of the Historic Preservation Commission on the weight of the evidence on issues committed to the commission's discretion.

(Ord. No. 2011-55, § 2, 11-1-11)

Section 1.5.6.7 - Expiration and Extension

(a) *Time of Expiration.* A Certificate of Appropriateness shall expire one year from the date it is issued if the proposed activity has not commenced, or two years from the date the certificate is issued, if the proposed activity has not been completed.

(b) *Extension.* A Certificate of Appropriateness may be extended by the Historic Preservation Commission for a period not to exceed one year from the date required for commencement and two years from the date for completion of the activity authorized by the certificate.

DIVISION 7: - CONDITIONAL USE PERMIT

Section 1.5.7.1 - Purpose, Applicability, Exceptions and Effect

(a) *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.

(b) *Applicability*. A Conditional Use Permit is required to use or develop property within the City limits for any use designated as a conditional use in the Land Use Matrix in Chapter 4 of this Land Development Code for the zoning district in which the property is located. The Conditional Use Permit application must be accompanied by a Site Plan prepared in accordance with Section 1.5.7.3 of this Chapter.

(c) *Exceptions*. A Conditional Use Permit shall not be required to use or develop property for any use designated as a permitted use in the land use matrix in Chapter 4, Article 1 of this Land Development Code for the zoning district in which the property is located, or any use authorized in a planned development PD district.

(d) *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.

Section 1.5.7.2 - Sequence of Approvals

(a) *Prior Approvals*. An application for a Conditional Use Permit shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed Conditional Use Permit.

(1) All legislative applications;

(2) Watershed Protection Plan (Phase 2); and

(3) Final Subdivision Plat that includes the lot for which the Conditional Use Permit is sought.

(b) *Accompanying Applications*. An application for a Conditional Use Permit shall be accompanied by a Site Plan and may be accompanied by an application for a Site Preparation Permit, provided that the application for the Conditional Use Permit is first decided.

Section 1.5.7.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Conditional Use Permit.

(b) *Contents.* An application for approval of a Conditional Use Permit shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.7.4 - Processing of Application and Decision

(a) *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 Article 3, Division 2 of this Chapter 1.

(b) *Commission Decision*. The Planning and Zoning Commission shall conduct a public hearing on the application in accordance with Article 3, Division 3 of this Chapter 1. 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.

Section 1.5.7.5 - Criteria for Approval

(a) *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~~Comprehensive Plan;

(2) The proposed use is consistent with the Neighborhood Character Study that has been completed for the area

(~~2~~3) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(~~3~~4) 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~~5) 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~~6) 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~~7) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and

(~~7~~8) 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.

(b) *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.

Section 1.5.7.6 - Expiration and Revocation

(a) *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.

(b) *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.

Section 1.5.7.7 - 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.

DIVISION 8: - CLUSTER DEVELOPMENT PLAN

Section 1.5.8.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a Cluster Development Plan shall be to authorize the use of residential density standards in substitution for minimum lot size standards for residential uses, or to authorize increased impervious cover or lot coverage for nonresidential uses.

(b) *Applicability.* A Cluster Development Plan shall be required inside the City limits or where authorized by a development agreement, whenever (1) the land to be developed is subject to approval of a Watershed Protection Plan (Phase 1or Phase 2) under this Land Development Code and (2) the property owner seeks authorization to have subsequent development applications reviewed under residential density standards in lieu of minimum lot size standards, or, for nonresidential uses, under increased lot coverage provisions, as authorized in the zoning district regulations in Chapter 4, Article 2. A Cluster Development Plan also shall be required following approval of a petition for development transfer for the receiving site. A Cluster Development Plan shall be approved prior to approval of any plat application or Site Preparation Permit for the property.

(c) *Effect.* Approval of a Cluster Development Plan authorizes the property owner to submit a plat application and Site Preparation Permits for the property subject to the Cluster Development Plan.

Section 1.5.8.2 - Sequence of Approvals

(a) *Prior Approvals.* An application for a Cluster Development Plan shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed plan.

(1) All legislative applications, including the establishment of a PD district and incorporation of a Concept Plan; and

(2) Watershed Protection Plan (Phase 1).

(b) *Accompanying Applications*. The application for a Cluster Development Plan may be accompanied by an application for approval of a Watershed Protection Plan (Phase 1) and plat approval, provided that the application for the Watershed Protection Plan (Phase 1) shall be decided first, and the application for the Cluster Development Plan is decided prior to the plat application.

Section 1.5.8.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Cluster Development Plan.

(b) *Contents.* An application for approval of a Cluster Development Plan shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.8.4 - Processing of Application and Decision

(a) *Hearing and Notification.* The Director shall schedule a public hearing before the Planning and Zoning Commission on the application for approval of a Cluster Development Plan. The notice posting may be combined with that for a Watershed Protection Plan (Qualified, where applicable) for the same land.

(b) *Commission's Action*. The Planning and Zoning Commission shall conduct a public hearing on the application in accordance with Article 3, Division 3 of this Chapter 1. The Commission shall approve, conditionally approve or deny the application for a Cluster Development Plan.

Section 1.5.8.5 - Criteria for Approval

(a) *Factors*. The Planning and Zoning Commission, or the City Council on appeal, shall apply the following factors in taking action on the Cluster Development Plan application:

(1) The Cluster Development Plan meets the standards for residential density or lot coverage as outlined in Table 4.1.6.1 in Chapter 4, Article 2, Division 1, subject to any limitations contained within Chapter 5

(2) The Cluster Development Plan is consistent with other zoning district regulations, including any approved Concept Plan in a planned development (PD) district.

(3) The Cluster Development Plan conforms to the approved Watershed Protection Plan (Phase 1);

(4) The Cluster Development Plan meets the residential compatibility standards in Chapter 6, Article 7, Division 3.

(5) The Cluster Development Plan contains sufficient buffering to assure compatibility with adjacent uses and the character of the neighborhood.

(b) *Conditions*. The Planning and Zoning Commission, or the Council on appeal, may impose such conditions on approval of the Cluster Development Plan as are necessary to assure conformity with the Watershed Protection Plan (Phase 1) and compatibility with adjoining uses and neighborhood character.

(Ord. No. 2006-45, § 6, 9-19-06)

Section 1.5.8.6 - Appeals

The applicant or other interested person may appeal the decision of the Planning and Zoning Commission to the City Council in accordance with Article 10, Division 1, of this Chapter 1. The Council shall apply the criteria in Section 1.5.8.5 in deciding whether the Commission's action should be upheld or modified.

Section 1.5.8.7 - Expiration and Revocation

(a) *Expiration*. If a Preliminary Subdivision Plat or Preliminary Development Plat has not been approved for land subject to the Cluster Development Plan within one year from the date of approval of a Cluster Development Plan, the Cluster Development Plan shall lapse and no application for plat approval, or application for approval of a Cluster Development Plan on another phase of the development or Site Preparation Permit shall be accepted for filing thereafter, unless the Cluster Development Plan is reinstated. A Cluster Development Plan also shall expire upon expiration of the associated Watershed Protection Plan (Phase 1 or 2).

(b) *Extension and Reinstatement*. The Planning and Zoning Commission may extend the time of expiration for or reinstate a Cluster Development Plan for a period not to exceed one year, in accordance with the procedures in Article 3, Division 5 of this Chapter 1.

DIVISION 9: - SPECIAL EXCEPTIONS

Section 1.5.9.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a special exception shall be to authorize a modification of zoning standards applicable to particular types of development within any zoning district, which is consistent with the overall intent of the zoning ordinance and for which express standards are prescribed, but that requires additional review to determine whether the development with the modification is compatible with adjoining land uses and the character of the neighborhood in which the development is proposed.

(b) *Applicability*. An application for a special exception may be filed only for those modifications listed in Section 4.5.3.7 of this Code. The special exceptions procedure shall be applicable only within the City limits.

(c) *Effect*. Approval of an application for a special exception entitles the property owner to undertake the activity authorized under the exception notwithstanding any standards in the zoning district regulations to the contrary.

(Ord. No. 2006-45, § 7, 9-19-06)

Section 1.5.9.2 - Sequence of Approvals

(a) *Prior Approvals*. An application for a special exception shall not be approved unless the following petition(s) or development permit(s), where applicable, have been approved and remain in effect for the land subject to the exception:

(1) All legislative applications required to establish or change the use with which the exception is associated;

(2) Conditional Use Permit; and

(3) Final Subdivision Plat or Final Development Plat.

(b) *Accompanying Applications*. The application for a special exception may be accompanied by one or more applications for a Site Preparation Permit, if applicable, or one or more applications for construction permits, provided that the application for the special exception shall be decided first.

Section 1.5.9.3 - Application Requirements

(a) *Responsible Official.* The ~~Planning D~~Director shall be the responsible official for a special exception.

(b) *Contents*. An application for a special exception shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.5.9.4 - Processing of Application and Decision

(a) *Notice and Hearing.* A public hearing on the special exception application before the Zoning Board of Adjustments shall be held, preceded by personal notice provided in accordance with Section 1.3.2.1(b) of this Chapter 1.

(b) *Decision.* The Zoning Board of Adjustments shall approve, conditionally approve, or deny the special exception following legislative and person notice in accordance Article 3, Division 2 of this Chapter 1. The ZBOA shall conduct a public hearing on the application in accordance with Article 3, Division 3 of this Chapter 1.

(c) *Time for Decision*. An application for approval of a special exception shall be decided within 30 days of the official filing date.

Section 1.5.9.5 - Criteria for Approval

(a) *Criteria.* In deciding whether to approve, conditionally approve or deny the application for a special exception, the ZBOA shall apply the standards in Chapter 4, Article 5, Division 3 governing the special exception. In addition, the ZBOA shall consider whether the special exception will substantially and adversely affect the use of adjacent or neighboring property.

(b) *Conditions*. The ZBOA may impose such conditions on the application for special exception as are necessary to prevent harm to adjacent or neighboring property.

Section 1.5.9.6 - Expiration

(a) The special exception shall expire one year after the ZBOA approves or conditionally approves the application unless the applicant obtains all necessary construction permits or otherwise performs the tasks authorized by the approved special exception within such period.

DIVISION 10: - PETITION FOR CHANGE IN NONCONFORMING STATUS

Section 1.5.10.1 - Property Owner's Petition

(a) *Applicability*. A property owner may petition the Zoning Board of Adjustments for a change in the status of a nonconforming use or structure for the following matters:

(1) Expansion of the land area of a nonconforming use;

(2) Expansion of the gross floor area of a nonconforming structure;

(3) Re-construction of a nonconforming structure that has been destroyed;

(4) Resumption of a nonconforming use previously abandoned;

(5) The enlargement, expansion or repair of a nonconforming structure if such enlargement, expansion or repair does not increase the structure's nonconformity; or

(6) Encroachment on a zoning set-back line.

(b) *Effect*. If the ZBOA grants the petition for a change in nonconforming status, modifications made in the nonconforming use, structure or lot that are consistent with the approved petition shall enjoy the same status and shall be subject to the same limitations as the original nonconformity under this Land Development Code.

(c) *Application requirements*.

(1) The Director of Development Services shall be the responsible official for a petition seeking a change in nonconforming status.

(2) An application for seeking a change in nonconforming status shall be prepared in accordance with Chapter 1 of the Technical Manual.

(d) *Procedure and decision*. The ZBOA shall process and decide the petition for a change in nonconforming status as a special exception in accordance with Division 9 of this Article.

(e) *Criteria for approval*. In deciding the petition, the ZBOA shall apply the following criteria:

(1) The proposed change in nonconforming status meets the criteria Chapter 4, Article 5, Division 3.

(2) Granting the petition shall not result in greater harm to adjacent and neighboring land uses than the original nonconformity.

Section 1.5.10.2 - Petition for Termination

(a) *Applicability*. The responsible official or any other City official, may petition the Zoning Board of Adjustments for termination in nonconforming status of a nonconforming use, nonconforming structure or nonconforming lot.

(b) *Effect*. If the ZBOA grants the petition for termination of nonconforming status, the nonconforming use, nonconforming structure or nonconforming lot shall be deemed in violation of this Land Development Code and shall be subject to any remedy for enforcement, as provided in Article 3, Division 7 of this Chapter 1. Thereafter, the property owner may not seek reinstatement of nonconforming status.

(c) *Requirements*.

(1) The Director of Development Services shall be the responsible official for a petition seeking termination of nonconforming status.

(2) The application shall include the following information and documents:

a. All information and documents required in the Technical Manual;

b. A concise statement of the reasons why the nonconforming status should be terminated, with specific reference to the rule(s) governing the nonconformity which the petitioner seeks to enforce;

c. A detailed explanation of how granting the petition enforces the standards governing nonconforming status.

Section 1.5.10.3 - Procedure and Decision

The ZBOA shall process and decide the petition for termination in nonconforming status as a revocation proceeding under Article 3, Division 7 of this Chapter 1.

Section 1.5.10.4 - Criteria for Approval and Conditions

(a) *Criteria for Approval*. In deciding the petition, the ZBOA shall apply the following criteria:

(1) Termination in nonconforming status enforces the rules governing nonconformities in Chapter 4, Article 5, Division 2.

(2) Granting the petition does not result in deprivation of a vested property right or deprive the property owner of all economic use of the land.

(b) *Conditions*. If the ZBOA determines that termination in nonconforming status would be warranted but for the confiscatory impact on the property owner, the ZBOA may attach additional conditions to continuing nonconforming status that protect the public interest, or the ZBOA may identify and apply a reasonable amortization period before terminating the nonconforming status.

ARTICLE 6: - PLATTING PROCEDURES

DIVISION 1: - PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES

Section 1.6.1.1 - Authority, Purpose and Applicability

(a) *Authority*. The procedures of this Article 6 are authorized under the authority of Tex. Loc. Gov't Code ch. 212 and the City's charter. The provisions of this Article 6 expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction.

(b) *Purpose*. The provisions of this Article 6 are intended to implement the following specific objectives by assuring compliance of land divisions and development with certain environmental standards contained in Chapter 5 of this Land Development Code and the development standards and public facilities standards contained in Chapters 6 and 7 of this Land Development Code prior to site preparatory activities on individual lots, tracts or parcels:

(1) Promote the development and the utilization of land in a manner that assures an attractive and high quality community environment in accordance with the ~~Master~~Comprehensive Plan and the Zoning Ordinance of the City of San Marcos;

(2) Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;

(3) Protect the public interest by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;

(4) Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction;

(5) Provide neighborhood conservation and prevent the development of slums and blight;

(6) Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;

(7) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Article;

(8) Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;

(9) Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;

(10) Prevent pollution of the air, streams, bodies of water, and aquifers; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;

(11) Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;

(12) Establish adequate and accurate records of land subdivision;

(13) Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;

(14) Protect and provide for the public health, safety and general welfare of the community;

(15) Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;

(16) Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;

(17) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;

(18) Encourage the development of residential areas that meet a wide range of income levels;

(19) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and

(20) Encourage the development of a stable, prospering economic environment.

(c) *Applicability.*

(1) The provisions of this Article 6 apply to any non-exempt division or development of land within the corporate boundaries of the City and within its extraterritorial jurisdiction.

(2) No construction permit shall be issued for any building, structure or on-site wastewater system on a property until a subdivision or a development plat has been approved and filed for record with the following exceptions:

a. Permits for repair, remodeling and expansion of existing buildings, if the current boundaries of the property existed in the same configuration on March 10, 1975, and the Engineering Director and the Director of Water and Wastewater have determined that the existing City infrastructure is adequate to serve the building and the proposed improvements. The cumulative area of building expansions allowed under this subsection is limited to 50 percent of the original floor area of all residential and all nonresidential structures.

b. Permits for accessory buildings not connected to wastewater service.

c. Permits for repair or remodeling of an existing structure which involves no increase in square footage; or

d. Demolition permits, or permits for removal of a structure from a parcel or tract.

e. Permits for new construction, if all the following criteria are met:

1. If the current boundaries of the property existed in the same configuration on March 10. 1975; and

2. The Engineering Director and Director of Public Services, or their designees, have determined there is no need for additional easements or right-of-way dedication.

(Ord. No. 2011-55, § 3, 11-1-11)

Section 1.6.1.2 - Types of Plats Required

(a) This Article 6 adopts procedures authorized in subchapters A and B of Tex. Loc. Gov't Code ch. 212.

(1) *Subdivision plats*. A Final Subdivision Plat or a Minor Subdivision Plat shall be approved prior to any non-exempt land division.

(2) *Development plats*. A Final Development Plat shall be approved prior to development of any tract or parcel for which no subdivision plat is required, or prior to development of any lot in a subdivision for which dedication of any right-of-way for construction or maintenance of public improvements is required by this Land Development Code. A development plat shall be required prior to approval of a manufactured home rental community.

(b) *Supplemental Requirements - Residential Compatibility Site Plan.*

DIVISION 1: - PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES

(1) *Residential Compatibility Site Plan.* If a plat is proposed for a residential subdivision that includes lot sizes triggering the requirements of Section 6.7.3.1, then a Residential Compatibility Site Plan is required which conforms to the criteria established in Section 6.7.3.1

(2) *Variance Requests Made to the Planning and Zoning Commission.* Requests for variances to the requirements of this Division shall be made to the Planning and Zoning Commission, which will act in accordance with the applicable procedures for variances contained in this Chapter 1.

(3) *Site Plan.* When required by this Article, the subdivider shall submit a site plan drawn at a scale not smaller than 100 feet to one inch and containing the following information:

a. The proposed name of the subdivision;

b. The name, address and telephone number of the subdivider and of the owner of the property proposed to be platted;

c. The name and address of the preparer of the site plan;

d. The dimensions of all lots abutting on both sides of the common boundary between the proposed subdivision and all adjacent subdivisions, the names, right-of-way widths and pavement width of existing streets, if any, contiguous to the proposed subdivision, and the name of all adjacent subdivisions, with historical designation, if any;

e. The name, right-of-way width and pavement width of streets or alleys contiguous to the proposed subdivision;

f. Identification of wooded areas and waterways and approximate changes in grade in the areas occupied by the lots and right-of-way designated in subsections (4) and (5) of this Section;

g. Proposed setbacks and minimum size of dwellings proposed to be located on each of the lots in the proposed subdivision;

h. Location of sidewalks;

i. Location, type and height of proposed fences, walls, earth berms and vegetative buffering; and

j. The scale, north point, legend and date of the drawing.

(4) *Procedure for submission and approval of Residential Compatibility Site Plans.* The Residential Compatibility Site Plan required in subsection (1) above shall be submitted before or concurrently with the plat to the ~~Planning D~~Director no later than 15 calendar days prior to a regularly scheduled meeting of the Planning and Zoning Commission. The ~~Planning D~~Director shall place the Residential Compatibility Site Plan on the Commission's agenda for a public hearing and consideration for approval or disapproval. There shall be no additional fee charged for processing the Residential Compatibility Site Plan. The ~~Planning D~~Director shall provide personal notice of the public hearing to the owners of all existing platted lots that abut the proposed subdivision. The Residential Compatibility Site Plan shall be approved, approved conditionally, or disapproved by the Planning and Zoning Commission after holding a public hearing. No plat subject to this subsection shall be approved without prior approval or conditional approval of the required Residential Compatibility Site Plan. Approval of the Residential Compatibility Site Plan shall be documented by a certificate printed on the Residential Compatibility Site Plan containing the date of approval, and the signature of the presiding officer of the meeting of the Planning and Zoning Commission on that date. The signature shall not be affixed until all conditions of approval, if any, have been met. In addition, prior to recording of the plat of the subdivision, a note shall be printed on the plat stating that its acceptance is subject to the requirements of the approved Residential Compatibility Site Plan.

(5) *Amendments.* A Residential Compatibility Site Plan required by this Section which is disapproved may be amended and resubmitted by the subdivider concurrently with the corresponding subdivision plat, with the necessary changes to address the reasons for original disapproval. Amendments made to an approved

Residential Compatibility Site Plan are subject to the same content and procedural requirements as a newly submitted Residential Compatibility Site Plan.

Section 1.6.1.3 - Exemptions

(a) The following land divisions are exempt from the requirements of this Article that apply to subdivision plats:

(1) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended;

(2) Use of existing cemeteries complying with all State and local laws and regulations;

(3) A division of land created by order of a court of competent jurisdiction;

(4) A division of land that results in the creation of two or more parcels, each of which is greater than five acres inside the City limits, or each of which is greater than ten acres within the City's extraterritorial jurisdiction, when each parcel has direct access to an existing public street, and no dedication of public facilities is required under this Land Development Code in connection with the division; and

(5) Creation of a remainder tract.

(6) Acquisition of land for governmental purposes by dedication, condemnation, or easement.

(b) The following development activities are exempt from the requirements of this Article that apply to development plats:

(1) Any development activity associated with a subdivision plat that conforms to the requirements set forth in Divisions 3 and 5 of this Chapter;

(2) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended;

(3) Use of existing cemeteries complying with all State and local laws and regulations;

(4) Bona fide agricultural activities;

(5) Construction of agricultural accessory structures and related development activities; and

(6) Construction of a single-family dwelling and related accessory structures and development activities.

(Ord. No. 2010-49, § 2, 9-7-10)

Section 1.6.1.4 - Time for Decision

(a) *Time Period for Action*. All plat applications shall be acted upon within 30 days from the official filing date unless a waiver is submitted in accordance with subsection (b) below.

(b) *Waiver Requests*. An applicant may request in writing a waiver of the decision time. The waiver request shall contain a statement of the reasons for the waiver and the time for which a waiver is sought. Where the Planning and Zoning Commission is the final decision-maker, no waiver shall be granted for a period less than the Commission's next regularly scheduled meeting. Waiver requests which have not been received by the responsible official on or before the fourth calendar day prior to the Planning and Zoning Commission meeting at which action is to be taken on the plat application shall be deemed denied and action shall be taken on the plat application at such meeting as scheduled.

(c) *Action on the Waiver Request*. The decision-maker shall take action on the waiver request within the 30-day period for acting on the plat. Where the Planning and Zoning Commission is the decision-maker, action on the waiver request shall be taken at the meeting at which the plat is scheduled for decision. If the waiver is granted, action on the plat application shall be tabled for a time certain consistent with the approved waiver.

(d) *Plat Application for Extraterritorial Jurisdiction*. Where the land to be platted lies within the extraterritorial jurisdiction of the City in a county with which the City has an interlocal agreement under Tex. Loc. Gov't Code ch. 242, no plat application shall be accepted as complete for filing by the responsible official unless the application is accompanied by verification that a copy has been delivered to the county in which the land subject to the application is located. If the City has not received a decision from the county on matters pertaining to the plat application which are to be determined by the county under the interlocal agreement, the application for plat approval shall be denied, unless a waiver is submitted in accordance with subsection (b) above.

Section 1.6.1.5 - Stages of Plat Approval

(a) *Subdivision plats*. A subdivision plat may be approved in three stages:

(1) Subdivision Concept Plat;

(2) Preliminary Subdivision Plat; and

(3) Final Subdivision Plat.

(b) *Development plats*. A development plat may be approved in two stages:

(1) Preliminary Development Plat; and

(2) Final Development Plat.

(c) *Combined applications prohibited.*

(1) An applicant may not submit applications for approval of a Preliminary Subdivision Plat and a Final Subdivision Plat simultaneously.

(2) An applicant may not submit applications for approval of a Preliminary Development Plat and a Final Development Plat simultaneously.

(d) *Final Subdivision Plat in lieu of Preliminary Subdivision Plat*. An applicant may submit a Final Subdivision Plat application without having submitted an application for approval of a Preliminary Subdivision Plat, provided that all criteria for approval for both the Preliminary Subdivision Plat application and the Final Subdivision Plat application shall be applied to the Final Subdivision Plat application by the decision-maker. Construction plans must be submitted for approval in conjunction with such Final Subdivision Plat application. The ~~Planning D~~Director, in consultation with the Engineering Director services, may recommend denial of the Final Subdivision Plat application pending submission of a Preliminary Subdivision Plat application, where it appears that there is insufficient time to evaluate the Final Subdivision Plat application and construction plans.

(e) *Final Development Plat in lieu of Preliminary Development Plat*. An applicant may submit a Final Development Plat application without having submitted an application for approval of a Preliminary Development Plat, provided that all criteria for approval for both the Preliminary Development Plat application and the Final Development Plat application shall be applied to the Final Development Plat application by the decision-maker. Construction plans must be submitted for approval in conjunction with such Final Development Plat application. The ~~Planning D~~Director, in consultation with the Engineering Director, may recommend denial of the Final Development Plat application pending submission of a Preliminary Development Plat application, where it appears that there is insufficient time to evaluate the Final Development Plat application and construction plans.

Section 1.6.1.6 - Relief Procedures

(a) *Appeals*. A decision of a responsible official on a plat application shall be appealed to the Planning and Zoning Commission, as further provided under the specific procedure.

(b) *Variances*. The applicant may file a petition for variances to the standards applicable to a Preliminary Subdivision Plat or a Preliminary Development Plat, or where no Preliminary Subdivision Plat or Preliminary Development Plat application, respectively, has been submitted for approval, to the standards applicable to a Final Subdivision Plat or Final Development Plat, in accordance with Article 10, Division 2 of this Chapter 1. The variance petition shall be decided by the Planning and Zoning Commission in conjunction with the application for approval of the plat.

(c) *Relief from Dedication or Construction Requirement*. The applicant may submit a petition for relief from a dedication or construction requirement that was applied or incorporated in the Planning and Zoning Commission's decision to conditionally approve or deny an application for approval of a Preliminary Subdivision Plat or a Preliminary Development Plat, or where no Preliminary Subdivision Plat or Preliminary Development Plat application has been submitted, an application for approval of a Final Subdivision Plat or Final Development Plat, after a final decision by the Commission on the application. The petition shall be submitted in accordance with Article 10, Division 3 of this Chapter 1, and shall be decided by the City Council. If the Council grants relief, the applicant shall submit a plat application that conforms to the relief granted for approval by the Commission, or where a Preliminary Subdivision Plat or a Preliminary Development Plat application was conditionally approved, the applicant may submit a Final Subdivision Plat or a Final Development Plat application, as applicable, that conforms to the relief granted.

(d) *Vested Rights Petition*. An applicant may file a vested rights petition with an application for plat approval. The vested rights petition shall be decided by the Planning and Zoning Commission, subject to appeal to the City Council, in accordance with Article 10, Division 4 of this Chapter 1.

(e) *Relief Where No Preliminary Subdivision Plat Application is Filed*. If an applicant files an application for Final Subdivision Plat approval without first having received approval of a Preliminary Subdivision Plat application, the applicant may submit a variance petition with the Final Subdivision Plat application, or a petition for relief from a dedication or construction requirement after the Planning and Zoning Commission's decision on the Final Subdivision Plat application.

(f) *Relief Where No Preliminary Development Plat Application is Filed*. If an applicant files an application for Final Development Plat approval without first having received approval of a Preliminary Development Plat application, the applicant may submit a variance petition with such Final Development Plat application, or a petition for relief from a dedication or construction requirement after the Planning and Zoning Commission's decision on the Final Development Plat application.

Section 1.6.1.7 - Certifications

(a) *Reasons for Denial*. A written summary of the reasons for denial of a plat application shall be provided by the responsible official to the applicant. For purposes of this Section, conditional approval of a plat application shall not be considered a denial.

(b) *Exemption Determination*. The responsible official, upon written petition of a property owner, a utility provider or the City Council, shall certify in writing whether a plat is required under this Article 6 or whether an exemption under Section 1.6.1.3 applies to a proposed development for the land. The responsible official shall notify the petitioner of the determination within 20 days of the date the petition is received, or within ten days of the date of the decision, whichever is earlier, in the manner provided in Article 3, Division 2 of this Chapter 1. The petitioner may appeal the responsible official's decision in the manner provided in Article 10, Division 1 of this Chapter 1.

(c) *Certification of Action on Plat*. If a utility provider or the City Council requests the status of a plat for the land, the responsible official shall certify whether a plat has been prepared and any action taken on the plat in the manner and within the time periods listed in subsection (b).

DIVISION 2: - SUBDIVISION CONCEPT PLATS

Section 1.6.2.1 - Purpose, Applicability, and Effect

(a) *Purpose.* The purpose of a Subdivision Concept Plat shall be to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed is part of a larger parcel of land owned or controlled by the applicant, in order to determine compliance with the City ~~Master~~Comprehensive Plan and the availability and capacity of public improvements needed for the subdivision and the larger parcel.

(b) *Applicability*.

(1) A Subdivision Concept Plat shall be required for any division of land where proposed development of the tract is to occur in phases. A Subdivision Concept Plat may not be accepted for filing if the land subject to the plat exceeds 300 acres for single-family residential developments, or 100 acres for other types of developments. Nonresidential and residential mixed-use developments shall not exceed 400 total acres. Phasing for the Subdivision Concept Plat shall be for a time period of five years. If the land subject to the Subdivision Concept Plat is part of a larger parcel, the remaining land shall be shown as a remainder tract, but shall not be included within the Subdivision Concept Plat.

(2) A Subdivision Concept Plat also shall be required for land in a Planned Development (PD) zoning district.

(c) *Effect.* Approval of a Subdivision Concept Plat authorizes the subdivider to submit a Preliminary Subdivision Plat or Preliminary Development Plat application for each phase of development shown on the plat, subject to the schedule of development approved for the land. Once a Subdivision Concept Plat has been approved, all plats approved thereafter for the same land shall be consistent with the Subdivision Concept Plat for so long as the Subdivision Concept Plat remains in effect. Minor variations, such as slight shifts in lot lines or street layouts, between the Subdivision Concept Plat and the subsequent plat application(s) shall be permitted, however, in no case shall variations increase the intensity, density, number of units, and/or impervious cover of the proposed development.

(Ord. No. 2005-78, § 1, 10-18-05)

Section 1.6.2.2 - Sequence of Approvals

(a) *Prior Approvals Required.* An application for a Subdivision Concept Plat shall not be approved unless the following petitions and development permits, where applicable, have been approved and remain in effect for the land included in the Subdivision Concept Plat:

(1) All legislative applications needed to authorize the proposed uses for the land;

(2) A Watershed Protection Plan (Phase 1);

(3) A Cluster Development Plan; and

(4) A Traffic Impact Analysis.

(b) *Subsequent Approvals.* If an application is submitted for approval of a Subdivision Concept Plat, the application shall be decided before any Preliminary Subdivision Plat or Preliminary Development Plat application for the same land.

(c) *Accompanying Applications*.

(1) An application for a Subdivision Concept Plat may be accompanied by an application for Preliminary Subdivision Plat or Preliminary Development Plat approval for the first phase of the subdivision, provided that the Subdivision Concept Plat application must be decided first, except as provided in subsection (c)(2) below.

(2) An application for a Subdivision Concept Plat may be accompanied by an application for rezoning approval. The Subdivision Concept Plat may be conditionally approved by the Planning and Zoning Commission prior to the

rezoning application being acted upon by City Council, however, if the City Council denies the rezoning application, the approval of the Subdivision Concept Plat shall be null and void.

(Ord. No. 2006-45, § 8, 9-19-06)

Section 1.6.2.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Subdivision Concept Plat.

(b) *Submittal*. An application for a Subdivision Concept Plat shall be submitted on a form provided by the Director.

(c) *Contents*. An application for a Subdivision Concept Plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.6.2.4 - Decision

The Planning and Zoning Commission shall decide whether to approve, approve with conditions or deny the Subdivision Concept Plat application. The conditions may relate to, among other matters, compliance with the City ~~Master~~Comprehensive Plan, and the availability and capacity of public improvements.

Section 1.6.2.5 - Criteria for Approval

(a) *Factors.* The following criteria shall be used to determine whether an application for a Subdivision Concept Plat shall be approved, approved with conditions, or denied:

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

(2) The Subdivision Concept Plat conforms to the approved Watershed Protection Plan (Phase 1);

(3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities is adequate to serve each phase of the subdivision and generally meets the standards of Chapter 7, Article 1;

(4) The schedule of development is feasible and prudent, and assures that the proposed development will progress to completion within the time limits proposed; and

(5) The proposed Subdivision Concept Plat meets residential compatibility standards in Section 6.7.3.1.;

(6) If the land lies within a Planned Development (PD) zoning district, a Development Transfer Receiving DTR zoning district, or is subject to a Cluster Development Plan, the proposed Subdivision Concept Plat conforms to the PD or DTR district regulations and is consistent with the incorporated Concept Plan, or is consistent with the approved Cluster Development Plan;

(7) The location, size and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plat;

(8) Where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and is subject to an interlocal agreement under Tex. Loc. Gov't Code ch. 242, the proposed Subdivision Concept Plat meets any county standards to be applied under the agreement.

(b) *Conditions*. In addition to any other conditions required to conform the plat to the standards of this Land Development Code, the Planning and Zoning Commission may condition approval on exclusion of land from the Subdivision Concept Plat or adjustments in the proposed sequence or timing in the proposed phases of the development.

Section 1.6.2.6 - Expiration and Extension

(a) *Time of Expiration*. Expiration of the Subdivision Concept Plat shall be governed by the schedule of development approved by the Planning and Zoning Commission. The subdivider shall make progress towards completion of each phase of the subdivision (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) in accordance with the approved phasing schedule. Failure to make progress towards completion of each phase of the subdivision (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) in accordance with the phasing schedule shall result in the expiration of the Subdivision Concept Plat for that and all subsequent phases of the subdivision as of the fifth anniversary of the date of approval of the Subdivision Concept Plat. Expiration of the Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, or Final Development Plat for any phase of the Subdivision Concept Plat shall result in the expiration of the Subdivision Concept Plat for all phases for which any type of preliminary plat has not been approved as of the fifth anniversary of the date of approval of the Subdivision Concept Plat.

(b) *Extension*. The expiration date for any phase of the development may be extended by the Planning and Zoning Commission under Section 1.3.5.1. Extension of the expiration date for the phase extends the expiration date for the Subdivision Concept Plat for a like period. A Subdivision Concept Plat is not subject to reinstatement following expiration.

(Ord. No. 2005-78, § 1, 10-18-05)

Section 1.6.2.7 - Remainder Tracts

(a) A remainder tract is that portion of a larger parcel that is not included within the boundaries of a subdivision plat. Remainder tracts shall not be considered lots or tracts of the subdivision. Approval of a subdivision plat shall not constitute approval of development on a remainder tract.

(b) Information accompanying a subdivision plat application for remainder tracts shall be deemed to be an aid to the Planning and Zoning Commission in taking action on the plat application and may be used to determine whether development of the land subject to the plat will be adequately served by public facilities and services and is otherwise in compliance with this Land Development Code, taking into account the development of the property as a whole. Information concerning remainder tracts, including topography, drainage, and existing and planned public improvements, may be considered in formulating conditions to approve the plat application. Based upon such information, the Planning and Zoning Commission may require that additional or less land be included in the subdivision plat in order to satisfy the standards applicable to the plat application. A Watershed Protection Plan (Phase 1 or Phase 2, as applicable) shall not be required for remainder tracts.

DIVISION 3: - PRELIMINARY SUBDIVISION PLATS

Section 1.6.3.1 - Purpose, Exceptions and Effect

(a) *Purpose*. The purpose of a Preliminary Subdivision Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this Land Development Code.

(b) *Exceptions*. A Preliminary Subdivision Plat is not required, where the subdivider elects to submit only a Final Subdivision Plat, accompanied by construction plans.

(c) *Effect*. Approval of a Preliminary Subdivision Plat shall authorize the subdivider to submit construction plans for approval by the Engineering Director under Chapter 7 of this Land Development Code and, upon approval of such plans, to construct public improvements to serve the subdivision in accordance therewith. Approval of a Preliminary Subdivision Plat also shall authorize the subdivider to seek approval of a Final Subdivision Plat for the land subject to the Preliminary Subdivision Plat.

Section 1.6.3.2 - Sequence of Approvals

An application for a Preliminary Subdivision Plat shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed plat

(a) All legislative applications;

(b) Watershed Protection Plan (Phase 1); and

(c) Subdivision Concept Plat (where development is proposed in phases).

Section 1.6.3.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Preliminary Subdivision Plat.

(b) *Contents*. An application for a Preliminary Subdivision Plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.6.3.4 - Decision

The Planning and Zoning Commission shall decide whether to approve, approve with conditions or deny the Preliminary Subdivision Plat application. The action of the Commission shall be noted on two copies of the Preliminary Subdivision Plat, referenced and attached to any conditions determined. One copy shall be returned to the applicant and the other retained in the City's files. A notation of the action taken on each Preliminary Subdivision Plat application and the reasons for the action shall be entered in the minutes of the Commission.

Section 1.6.3.5 - Criteria for Approval

(a) *No Subdivision Concept 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.

(b) *Approved Subdivision Concept 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 a Subdivision Concept Plat has been approved for the land subject to the proposed plat:

(1) The plat conforms to the general layout of the Subdivision Concept Plat and is consistent with the phasing plan approved therein;

(2) 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;

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

(4) 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.

Section 1.6.3.6 - Expiration

The approval of a Preliminary Subdivision Plat application shall remain in effect for a period of two years from the date the application was approved or conditionally approved by the Planning and Zoning Commission, during which period the applicant shall make progress towards completion of a Final Subdivision Plat for the land subject to the Preliminary Subdivision Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended). If no progress is made towards completion of a Final Subdivision Plat for the land subject to the Preliminary Subdivision Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) within the two year period, the Preliminary Subdivision Plat approval shall expire and the plat shall be null and void, unless extended in accordance with Article 3, Division 5 of this Chapter 1. If progress is made towards completion of a Final Subdivision Plat for the land subject to the Preliminary Subdivision Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) during the two year period, but after the progress is made, no further progress is made towards completion of a Final Subdivision Plat for the land subject to the Preliminary Subdivision Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) for a period of two years, the Preliminary Subdivision Plat approval shall expire and the plat shall be null and void, unless extended in accordance with Article 3, Division 5 of this Chapter 1.

(Ord. No. 2005-78, § 1, 10-18-05)

Section 1.6.3.7 - Revisions Following Approval of Preliminary Subdivision Plat

(a) *Minor Changes*. Minor changes in the design of the subdivision subject to a Preliminary Subdivision Plat may be incorporated in an application for approval of a Final Subdivision Plat without the necessity of filing a new application for approval of a Preliminary Subdivision Plat. Minor changes shall include adjustment in street or alley alignments, lengths, and paving details, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved priority applications.

(b) *Amendments*. All other proposed changes to the design of the subdivision subject to an approved Preliminary Subdivision Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Subdivision Plat before approval of a Final Subdivision Plat. Approval of major revisions to an approved Preliminary Subdivision Plat shall occur prior to the date any approved Subdivision Concept Plat would have expired for the same land.

DIVISION 4: - PRELIMINARY DEVELOPMENT PLATS

Section 1.6.4.1 - Purpose and Effect

(a) *Purpose*. The purpose of the Preliminary Development Plat is to assure the adequacy of public facilities needed to serve the intended development and the overall compliance of such development with applicable requirements of this Land Development Code.

(b) *Exceptions*. A Preliminary Development Plat is not required where the applicant elects to submit only a Final Subdivision Plat, accompanied by construction plans.

(c) *Effect*. Approval of a Preliminary Development Plat shall authorize the applicant to submit construction plans for approval by the Engineering Director under Division 6 of this Article 6. Approval of a Preliminary Development Plat also shall authorize the applicant to seek approval of a Final Development Plat for the land subject to the Preliminary Development Plat. The installation of public improvements on the land subject to the development plat, however, may not begin prior to approval of a Site Preparation Permit for the land.

Section 1.6.4.2 - Sequence of Approvals

(a) An application for a Preliminary Development Plat shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed plat:

(1) All legislative applications; and

(2) Watershed Protection Plan (Phase 1); and

(3) A Traffic Impact Analysis.

(Ord. No. 2006-45, § 9, 9-19-06)

Section 1.6.4.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Preliminary Development Plat.

(b) *Contents*. An application for approval of a Preliminary Development Plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.6.4.4 - Processing of Application and Decision

The Planning and Zoning Commission shall decide whether to approve, approve with conditions, or deny the Preliminary Development Plat application. The action of the Commission shall be noted on two copies of the Preliminary Development Plat, referenced and attached to any conditions determined. One copy shall be returned to the applicant and the other retained in the City's files. A notation of the action taken on each Preliminary Development Plat application and the reasons for the action shall be entered in the minutes of the Commission.

Section 1.6.4.5 - Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Preliminary Development Plat shall be approved, approved with conditions, or denied:

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

(2) The Preliminary Development Plat conforms to the approved Watershed Protection Plan (Phase 1);

(3) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities to serve the development site conform to the master facilities plans for such 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 are adequate to serve the development and meet the standards of Chapters 6 and 7 of this Land Development Code;

(5) Easements or rights-of-way for all public water, sanitary sewer, roadway and drainage facilities have been designated;

(6) Fire lanes access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections;

(7) Easements have been designated for all landscaped buffers and open space; and

(8) 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.

Section 1.6.4.6 - Expiration and Extension

The approval of a Preliminary Development Plat application shall remain in effect for a period of two years from the date the application was approved or conditionally approved by the Planning and Zoning Commission, during which period the applicant shall make progress towards completion of a Final Development Plat for the land subject to the Preliminary Development Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended). If no progress has been made towards completion of a Final Development Plat of the property covered by the Preliminary Development Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) within the two-year period, the Preliminary Development Plat approval shall expire and the plat shall be null and void, unless extended in accordance with Article 3, Division 5 of this Chapter 1. If progress is made towards completion of a Final Development Plat for the land subject to the Preliminary Development Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of a Final Development Plat for the land subject to the Preliminary Development Plat (as defined in V.T.C.A., Texas Local Government Code, Section 245.005(c) as amended) for a period of two years, the Preliminary Development Plat approval shall expire and the plat shall be null and void, unless extended in accordance with Article 3, Division 5 of this Chapter 1.

In accordance with Article 3, Division 5, the Commission may extend the expiration date of the Preliminary Development Plat for a period not to exceed one year.

(Ord. No. 2005-78, § 1, 10-18-05)

Section 1.6.4.7 - Revisions Following Approval of Preliminary Development Plat

(a) *Minor Changes*. Minor changes in the design of the development subject to a Preliminary Development Plat may be incorporated in an application for approval of a Final Development Plat without the necessity of filing a new application for approval of a Preliminary Development Plat. Minor changes shall include adjustment in street or alley alignments, lengths, and paving details, provided that such changes are consistent with any approved priority applications.

(b) *Amendments*. All other proposed changes to the design of the development subject to a Preliminary Development Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Development Plat before approval of a Final Development Plat.

DIVISION 5: - FINAL SUBDIVISION PLATS AND FINAL DEVELOPMENT PLATS

Section 1.6.5.1 - Purpose, Applicability, Exceptions and Effect

(a) *Purpose*. The purpose of a Final Subdivision Plat or a Final Development Plat is to assure that the division or development of the land subject to the plat is consistent with all standards of this Land Development Code pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded, and to assure that the subdivision or development meets all other standards of this Land Development Code to enable initiation of site preparation activities for any lot or tract subject to the plat.

(b) *Applicability*. Approval of a Final Subdivision Plat or a Final Development Plat shall be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.

(c) *Exceptions*. A Final Subdivision Plat or Final Development Plat application under this Division shall not be required for any land division that may be approved through the Minor Subdivision Plat procedures of Division 6 of this Article 6.

(d) *Effect*.

(1) Approval of a Final Subdivision Plat authorizes the ~~Planning D~~Director to record the plat upon completion of public improvements or posting of security, and authorizes the subdivider to install any improvements in public rights-of-way under approved construction plans and a subdivision improvement agreement, and to submit for approval a Site Preparation Permit for any lot in the subdivision.

(2) Approval of a Final Development Plat authorizes the ~~Planning D~~Director to record the plat upon completion of public improvements or posting of security, and authorizes the developer to submit for approval a Site Preparation Permit application for the land subject to the plat; provided that the installation of public improvements on the lot or tract may not begin prior to approval of the Site Preparation Permit.

Section 1.6.5.2 - Sequence of Approvals

(a) *Prior Approvals.*

(1) An application for a Final Subdivision Plat shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed Final Subdivision Plat:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2);

c. Preliminary Subdivision Plat, unless the applicant has elected to eliminate this stage of the platting process;

d. Construction plans; and

e. A Traffic Impact Analysis.

(2) An application for a Final Development Plat shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for land to be subject to the proposed Final Development Plat:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2), unless the applicant has elected to satisfy Watershed Protection Plan (Phase 2) requirements through approval of a development plat;

c. Preliminary Development Plat, unless the applicant has elected to eliminate this stage of the platting process;

d. Construction plans; and

e. A Traffic Impact Analysis.

(b) *Accompanying Applications.*

(1) An application for approval of a Final Subdivision Plat may be accompanied by an application for approval of a Site Preparation Permit for one or more proposed lots, provided that the Final Subdivision Plat shall be decided prior to decision on any Site Preparation Permit.

(2) An application for approval of a Final Development Plat may be accompanied by an application for approval of a Site Preparation Permit for the land subject to the plat, provided that the Final Development Plat shall be decided prior to decision on any Site Preparation Permit.

(Ord. No. 2006-45, § 10, 9-19-06)

Section 1.6.5.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Final Subdivision Plat or a Final Development Plat.

(b) *Contents*. An application for approval of a Final Development Plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

(c) *Consent of Lienholders*. The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas policy, or a title opinion letter from an attorney licensed to practice in Texas, identifying all persons having an interest in the property subject to the plat, including lienholders. The applicant shall submit a written agreement executed by each lienholder consenting to the platting of the property and to the dedications and covenants that may be contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney.

Section 1.6.5.4 - Decision

(a) *Decision*. The Planning and Zoning Commission shall decide whether to approve, approve with conditions, or deny the Final Subdivision Plat or Final Development Plat application. The Commission also shall decide any appeal of the Engineering Director's decision on construction plans.

(b) *Certification*. A notation of the action taken on each Final Subdivision Plat or Final Development Plat application and the reasons therefore shall be entered in the minutes of the Planning and Zoning Commission. The Director's notification to the applicant under Article 3, Division 2 of this Chapter 1 following approval of a Final Subdivision Plat or Final Development Plat shall constitute certification that the plat has been approved by the Commission.

Section 1.6.5.5 - Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Final Subdivision Plat or a Final Development Plat shall be approved, approved with conditions or denied:

(1) *Prior Approved Preliminary Subdivision Plat or Preliminary Development Plat*:

a. The Final Subdivision Plat or Final Development Plat, as applicable, conforms to the approved Preliminary Subdivision Plat or Preliminary Development Plat, except for minor changes authorized under Divisions 3 or 4 of this Article 6 and that may be approved without the necessity of revising the approved Preliminary Subdivision Plat or Preliminary Development Plat;

b. Where public improvements have been installed, the improvements conform to the approved construction plans and have been approved for acceptance by the Engineering Director;

c. Any appeal of the Engineering Director's decision on the construction plans has been resolved;

d. Where the Planning and Zoning Commission has authorized public improvements to be deferred, the subdivision improvement agreement and surety have been executed and submitted by the property owner in conformity with Division 6 of this Article 6;

e. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in Chapter 7 of this Land Development Code; and

f. 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.

(2) *No Prior Approved Preliminary Subdivision Plat or Preliminary Development Plat:*

a. The Final Subdivision Plat or Final Development Plat conforms to all criteria for approval of a Preliminary Subdivision Plat or Preliminary Development Plat, as applicable;

b. The construction plans conform to the requirements of Division 6 of this Article 6;

c. The subdivision improvement agreement and surety for installation of public improvements have been prepared and executed by the property owner in conformity with Division 6 of this Article 6;

d. The final layout of the subdivision or developments meets all standards for adequacy of public facilities contained in Chapter 7 of this Land Development Code; and

e. 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.

Section 1.6.5.6 - Revisions to Final Subdivision Plat or Final Development Plat

(a) *Following Approval*. An applicant may apply for modification of an approved Final Subdivision Plat or Final Development Plat to reflect changes arising from installation of public improvements thereafter, provided that the approved Final Subdivision Plat or Final Development Plat has not been recorded and that approval of the modified Final Subdivision Plat or Final Development Plat occurs prior to expiration of approval of the initial Final Subdivision Plat or Final Development Plat application. If the approved Final Subdivision Plat or Final Development Plat has been recorded, revisions may only be approved under Division 8 of this Article 6.

(b) *After Denial or Conditional Approval*. Following conditional approval or denial of a Final Subdivision Plat or Final Development Plat application, the applicant may submit a revised Final Subdivision Plat or Final Development Plat application, together with any revised construction plans, for approval by the Planning and Zoning Commission, provided that the revised application is approved prior to the original expiration date of any approved Preliminary Subdivision Plat or Preliminary Development Plat, as applicable, for the same land.

Section 1.6.5.7 - Expiration and Extension

The approval of a Final Subdivision Plat or Final Development Plan application shall remain in effect for a period of two years from the date the application was approved or conditionally approved by the Planning and Zoning Commission, during which period the applicant shall submit any required revisions for approval and make all other changes needed to record the plat. If the final Subdivision Plat or Final Development Plat has not been recorded within the two-year period, the final Subdivision Plat of Final Development Plat approval, unless extended in accordance with Article 3, Division 5 of this Chapter 1, shall expire and the applicable plat shall be deemed null and void.

(Ord. No. 2005-78, § 1, 10-18-05; Ord. No. 2006-45, § 11, 9-19-06)

Section 1.6.5.8 - Plat Recordation

(a) After approval of the Final Subdivision Plat or Final Development Plat, the Planning and Zoning Commission shall cause the ~~Planning D~~Director to record the Final Subdivision Plat or Final Development Plat with the county clerk of the county in which the land is located upon the subdivider's or developer's performance of one of the following:

(1) Completion of the construction of required improvements prior to recordation; or

(2) Filing of security in lieu of completing construction in accordance with Division 6 of this Article 6.

(b) *Submittal of Record Plat Where Improvements Installed.* Where public improvements have been installed prior to recording of the plat, the property owner shall submit a maintenance bond in accordance with Division 6 of this Article 6 from each contractor, three sealed sets of "as built" plans or record drawings, one sealed set of "as built" mylars, and a digital copy of all plans (in a format as determined by the Engineering Director), together with a letter stating the contractors' compliance with Division 6 of this Article 6, and bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all City construction standards. The property owner also shall submit copies of the approved Final Subdivision Plat or Final Development Plat, revised to reflect the "as built" plans, in the format and number as set forth in the Technical Manual, together with all certifications set forth in the Chapter 1 Technical Manual.

(c) *Submittal of Record Plat Where Improvements Have Not Been Installed.* Where public improvements have yet to be completed in connection with an approved Final Subdivision Plat or Final Development Plat, the property owner shall submit in the format and number as set forth in the Technical Manual, of the approved Final Subdivision Plat or Final Development Plat, revised to reflect any changes required by the Planning and Zoning Commission.

(d) *Signing and Recording.* Upon receipt of a complete record plat application, the responsible official shall procure the signature of the chair of the Planning and Zoning Commission on the plat and shall promptly cause the plat to be recorded.

(e) *Update of Lienholder Consents*. In conjunction with the application for a record plat, the applicant shall furnish to the City an updated title policy commitment issued by a title insurance company authorized to do business in Texas, or a title opinion letter from an attorney licensed to practice in Texas, identifying all persons having an interest in the property subject to the plat, including lienholders. If there has been any change in the lienholders since the time of the lienholder consent agreement provided under Section 1.6.5.3, the applicant shall submit a new agreement executed by each lienholder consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney.

DIVISION 6: - CONSTRUCTION MANAGEMENT

Section 1.6.6.1 - Construction Plans

(a) *Purpose.* The purpose of construction plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this Land Development Code.

(b) *Contents.* An application for approval of construction plans shall be prepared in accordance with Chapter 1 of the Technical Manual.

(c) *Responsible Official and Decision.*

(1) The Engineering Director shall be the responsible official for approval of construction plans.

(2) For construction plans submitted following approval of a Preliminary Subdivision Plat or Preliminary Development Plat, the Engineering Director shall approve, approve subject to modifications, or reject the construction plans within 30 working days after the plans have been submitted. Incomplete plans shall be returned to the applicant.

(3) For construction plans submitted where no application for Preliminary Subdivision Plat or Preliminary Development Plat has been submitted for approval, the Engineering Director shall approve, approve subject to modifications, or disapprove the construction plans, subject to appeal as provided in (g) below.

(4) If construction plans are approved, the plans shall be marked "approved" and one set shall be returned to the applicant, and at least two sets shall be retained in the City's files.

(5) Once the construction plans are approved, the property owner shall provide additional sets of the approved plans to the City, as specified by the Engineering Director, for use during construction. A full set of the City-approved and stamped construction plans must be available for inspection on the job site at all times.

(d) *Notification.* The Engineering Director shall notify the applicant of the Director's decision in accordance with Article 3, Division 2 of this Chapter 1.

(e) *Time for Decision.* The decision on approval or denial of construction plans shall be made within 30 working days of the official filing date.

(f) *Revised Plan Submission.* If the conditions of approval require revision(s) to the construction plans, one set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and resubmit them for decision. A properly revised set of construction plans shall be submitted to the Engineering Director within ten working days of receipt of the notice of decision. The Director shall have an additional 20 working days to approve or deny the revised set of plans.

(g) *Appeal.* Where construction plans are submitted after approval of a Preliminary Subdivision Plat or Preliminary Development Plat, the Engineering Director's decision on the plans may be appealed to the Planning and Zoning Commission in accordance with Article 10, Division 2, and shall be decided in conjunction with the Commission's decision on the Final Subdivision Plat or Final Development Plat application. An appeal of the Director's decision must be accompanied by a Final Subdivision Plat or Final Development Plat application, and the grounds for appeal shall be certified and documented by a professional engineer licensed in the State of Texas.

(h) *Criteria for Approval.* The Engineering Director or the Commission on appeal shall render a decision on the construction plans in accordance with the following criteria:

(1) The plans are consistent with the approved Preliminary Subdivision Plat or approved Preliminary Development Plat, or the proposed Final Subdivision Plat or proposed Final Development Plat;

(2) The plans conform to the approved Watershed Protection Plan (Phase 2);

(3) The plans conform to the environmental standards, development standards, and standards for adequate public facilities contained in Chapters 5, 6, and 7 of this Land Development Code; and

(4) The plans conform to the specifications contained in the City's TCSS.

(i) *Effect.* Approval of construction plans authorizes the property owner to install public improvements in rights-of-way offered for dedication to the public under an approved Preliminary or Final Subdivision Plat, or under an approved Preliminary or Final Development Plat for which a Site Preparation Permit also has been approved.

(Ord. No. 2005-59, § 3, 8-16-05; Ord. No. 2006-45, § 12, 9-19-06)

Section 1.6.6.2 - Timing of Public Improvements

(a) *Completion Prior to Final Subdivision Plat*. Except as provided below, after approval of a Preliminary Subdivision Plat and before an approved Final Subdivision Plat is filed, the installation of all public improvements required to serve the subdivision, whether to be located off-site or on-site, including but not limited to water, wastewater, drainage, roadway and park improvements, shall be finally completed in accordance with the approved construction plans. The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas, also shall be finally competed prior to Final Subdivision Plat approval in accordance with the approved construction plans.

(b) *Deeds in Escrow*. As a condition of Preliminary Subdivision Plat approval, the Planning and Zoning Commission may require the property owner to deposit deeds in escrow describing by metes and bounds street rights-of-way, park land, and easements required by these regulations, conveying such rights-of-way, park land and easements to the City, pending acceptance of improvements by the City and recordation of the Final Subdivision Plat. In the event the property owner fails to complete the public improvements, and the improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery and recording of the deeds in order to complete the improvements as required.

(c) *Installation after Final Subdivision Plat Approval.* The Planning and Zoning Commission on request of the applicant may defer the obligation to install one or more public improvements to serve the subdivision until after Final Subdivision Plat approval. The request shall be submitted with an application for Preliminary Subdivision Plat approval. If the subdivider elects not to file for Preliminary Subdivision Plat approval, public improvements shall be installed after approval of the Final Subdivision Plat. In either case, deferral of the obligation to install public improvements shall be conditioned on execution of a subdivision improvement agreement and sufficient surety to secure the obligations defined in the agreement.

(d) *Off-Site Easements*. All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by a deed approved by the City Attorney.

Section 1.6.6.3 - Subdivision Improvement Agreement

(a) *Obligations under 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, including residential lot improvements for drainage or erosion control, and common area improvements, no later than two years following the date upon which the Final Subdivision Plat or Final Development Plat is approved. The agreement shall be subject to review and approval by the City Attorney, and shall be approved by the Planning and Zoning Commission with approval of the Final Subdivision Plat or Final Development Plat. The agreement shall contain the following provisions:

(1) Covenants to complete the improvements;

(2) Covenants to warranty the improvements for a period of one year following acceptance by the City;

(3) Covenants to provide a maintenance bond in the amount of 20 percent of the costs of the improvements for such period;

(4) Provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor, with the City as a co-obligee;

(5) Provisions for securing the obligations of the agreement consistent with Section 1.6.6.4; and

(6) Such other terms and conditions as are agreed to by the property owner and City, or as may be required by this Land Development Code.

(b) *Covenants to Run with the Land*. The subdivision improvement agreement shall provide that the covenants contained in the agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing lienholders shall be required to execute the agreement or provide written consent to the covenants contained in the agreement. The City shall deliver a release to bona fide third party purchasers of individual lots when all required public improvements have been accepted by the City.

(Ord. No. 2006-45, § 13, 9-19-06; Ord. No. 2010-49, § 3, 9-7-10)

Section 1.6.6.4 - Security for Completion of Improvements

(a) *Security*. Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after approval of the Final Subdivision Plat or Final Development Plat, the property owner shall provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of one of the following:

(1) A cash escrow with the City;

(2) An irrevocable letter of credit drawn upon a state or national bank that has a regular business office in the State of Texas that (A) is of a term sufficient to cover the completion, maintenance and warranty periods, but not less than two years and (B) authorizes the City to draw upon the letter of credit by presenting to the issuer only a sight draft and a certificate signed by an authorized representative of the City attesting to the City's right to draw funds under the letter of credit;

(3) A construction funding agreement under which funds for the construction of the required improvements are escrowed in Texas with an office of a state or national bank, under which (A) the City has the irrevocable right to withdraw funds, and (B) the subdivider may be permitted to draw funds to make payments towards the construction of the improvements as progress is verified;

(4) A first and prior lien on the property;

(5) A performance bond submitted to the City by a surety company holding a license to do business in the State of Texas and providing a date for completion of the required public improvements.

(b) *Amount and Acceptability*. The security shall be issued in the amount of 125% of the cost estimate approved by the Engineering Director for all public improvements associated with the subdivision. The security shall be subject to the approval of the City Attorney.

(c) *Security for Construction in Extraterritorial Jurisdiction*. Where the land to be platted lies within the extraterritorial jurisdiction of the City, the security shall be in a form and contain such terms as are consistent with the interlocal agreement between the City and the county in which the land is located. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions of subsections (a) and (b).

(d) *Partial Release*. If, in the opinion of the ~~Planning D~~Director and Engineering Director, the public improvements have commenced in good faith, a release for construction on up to 5% of the residential lots may be issued. A lot must have permanent street access installed to it prior to this release.

(e) *Remedies*. In addition to all other remedies authorized in Article 3, Division 7 of this Chapter 1, where a subdivision improvement agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:

(1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

(2) Obtain funds under the security and complete the improvements itself or through a third party; or

(3) Assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public improvements serving the tract.

(Ord. No. 2012-41, § 1, 9-18-12)

Section 1.6.6.5 - Inspection and Acceptance of Public Improvements

(a) *Inspections*. Construction inspection shall be supervised by the Engineering Director. Construction shall be in accordance with the approved construction plans. Inspection shall be in accordance with Article 3, Division 6 of this Chapter 1. Any significant change in design required during construction shall be made by the subdivider's engineer, and shall be subject to approval by the Engineering Director. If the Director finds upon inspection that any of the required public improvements have not been constructed properly and in accordance with the approved construction plans, the property owner shall be responsible for completing and/or correcting the public improvements.

(b) *Submission of As-Built Plans or Record Drawings*. The City shall not accept dedication of required public improvements until the applicant's engineer has certified to the Engineering Director, through submission of a detailed "as-built" record drawing or survey plat of the property and any off-site easements, the location, dimensions, materials, and other information establishing that the public improvements have been built in accordance with the approved construction plans. Each as-built sheet shall show all changes made in the plans during construction and on each sheet there shall be an as-built stamp bearing the signature of the engineer and date.

(c) *Acceptance of Improvements*. When the Engineering Director has determined that the public improvements have been installed in accordance with the approved construction plans, the Director shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. The Engineering Director may accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of other improvements. Upon acceptance of the required public improvements, the Director shall issue a certificate to the property owner stating that all required public improvements have been satisfactorily completed.

(d) *Disclaimer*. Approval of a preliminary or Final Subdivision Plat or Final Development Plat by the Planning and Zoning Commission shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this Section 1.6.6.5

(e) *Acceptance of Improvements for Land in Extraterritorial Jurisdiction*. Where the facilities to be constructed under the subdivision improvement agreement are located within the City's extraterritorial jurisdiction, and are to be dedicated to the county in which the land is located, the Director shall inform the county that the public improvements have been constructed in accordance with approved construction plans, and are ready for acceptance by the county.

Section 1.6.6.6 - Maintenance and Warranty of Improvements

(a) *Maintenance during Construction*. The property owner shall maintain all required public improvements during construction of the development.

(b) *Bond.* The owner shall covenant to warranty the required public improvements for a period of one year following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of 20 percent of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

(Ord. No. 2010-49, § 4, 9-7-10)

Section 1.6.6.7 - Impact Fee Offsets

Whenever a property owner seeks to offset the costs of dedicating rights-of-way or constructing one or more public improvements required by this Land Development Code against impact fees due from a development, the owner may request inclusion of such provisions in the subdivision improvement agreement required by Section 1.6.6.3, or if the dedication or construction has occurred prior to Final Subdivision Plat or Final Development Plat approval, the owner may propose a subdivision improvement agreement that incorporates the offsets against impact fees. The Director shall determine the amount of the offsets due, if any, in accordance with the standards contained in Chapter 7, Division 1 of this Land Development Code. The agreement shall be subject to approval by the Planning and Zoning Commission with the Final Subdivision Plat or the Final Development Plat application, and the Commission's decision may be appealed to the City Council in accordance with Article 10, Division 6 of this Chapter 1.

DIVISION 7: - MINOR SUBDIVISION PLATS

Section 1.6.7.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a Minor Subdivision Plat is to simplify divisions of land under certain circumstances by authorizing administrative approval of a plat.

(b) *Applicability.* An application for approval of a Minor Subdivision Plat may be filed only when all of the following circumstances apply:

(1) The proposed division results in four or fewer lots;

(2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Land Development Code; and

(3) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

(c) *Effect*. Approval of a Minor Subdivision Plat authorizes the ~~Planning D~~Director to record the plat, and further authorizes submittal of an application for a Site Preparation Permit for any lot in the subdivision.

Section 1.6.7.2 - Sequence of Approvals

(a) *Prior Approvals*. An application for a Minor Subdivision Plat shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for the land included in the proposed Minor Subdivision Plat:

(1) All legislative applications; and

(2) Watershed Protection Plan (Phase 2), if the 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 this Code.

(b) *Accompanying Applications*. An application for approval of a Minor Subdivision Plat may be accompanied by an application for approval of a Site Preparation Permit for the land subject to the plat, provided that the Minor Subdivision Plat shall be decided prior to decision on any Site Preparation Permit.

(Ord. No. 2005-59, § 2, 8-16-05)

Section 1.6.7.3 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director shall be the responsible official for a Minor Subdivision Plat.

(b) *Contents*. An application for approval of a Minor Subdivision Plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.6.7.4 - Decision

The Director shall decide whether to approve, approve with conditions, or deny the Minor Subdivision Plat application.

Section 1.6.7.5 - Appeals

The applicant may appeal a decision of the Director conditionally approving or denying a Minor Subdivision Plat to the Planning and Zoning Commission. The appeal shall be processed and decided in accordance with Article 10, Division 2.

Section 1.6.7.6 - Criteria for Approval

The Director, or the Planning and Zoning Commission on appeal, shall decide whether to approve, conditionally approve or deny the Minor Subdivision Plat application based upon the following criteria:

(a) The Minor Subdivision Plat is consistent with all zoning requirements for the property, all other requirements of this Land Development Code that apply to the plat, and any approved development agreement;

(b) The Minor Subdivision Plat conforms to the approved Watershed Protection Plan (Phase 2);

(c) All lots to be created by the plat already are adequately served by all required City utilities and services, and

(d) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

Section 1.6.7.7 - Expiration

The approval of a Minor Subdivision Plat application shall remain in effect for a period of two years from the date that the application was approved or conditionally approved by the Director or the Planning and Zoning Commission on appeal, during which period the applicant shall make progress towards completion of the plat (as defined in Section 245.005(c) of the Texas Local Government Code, as amended). If no progress has been made towards completion of the Minor Subdivision Plat within the two-year period, the Minor Subdivision Plat approval shall expire and the plat shall be deemed null and void. If progress is made towards completion of the Minor Subdivision Plat (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) during a distinct period of time within the two-year period, but after such distinct period, no further progress is made towards completion of the Minor Development Plat for the land subject to the plat (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) for a two-year period, the Minor Development Plat approval shall expire and the plat shall be null and void, unless extended in accordance with Article 3, Division 5 of this Chapter 1.

(Ord. No. 2005-78, § 1, 10-18-05)

Section 1.6.7.8 - Recordation

The property owner shall submit the approved Minor Subdivision Plat, following any required revisions, to the responsible official, who shall cause the Minor Subdivision Plat to be recorded in the property records of the county in which the land is located.

DIVISION 8: - REVISIONS TO RECORDED PLATS

Section 1.6.8.1 - General Requirements for Plat Revisions

(a) *Applicability and Terminology.* The procedures in this Division 8 shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with the county or a recorded covenant or restriction applicable to such plat. The term "replat" includes changes to a recorded plat, restriction or covenant, whether the change is effected by vacating the recorded plat and approval of a new plat application, replatting without vacation, or approving an amended plat.

(b) *City Action Required for Replats*. Except as expressly stated otherwise in this Division 8, any change to a recorded plat or a recorded covenant or restriction applicable to such plat shall be subject to approval by the Planning and Zoning Commission under requirements and procedures for approval of a Final Subdivision Plat application under Division 5 of this Article 6.

(c) *Responsible Official.* The ~~Planning D~~Director shall be the responsible official for a replat.

(d) *Construction Management*. If a replat requires construction of additional improvements, the provisions of Division 6 of this Article 6 shall apply.

(e) *Recordin*g. The replat shall be filed for recording in accordance with Division 5 of this Article 6.

Section 1.6.8.2 - Replats Without Vacation

(a) *Applicability*. A replat of all or a portion of a recorded plat may be approved without vacation of the recorded plat if:

(1) The replat is signed and acknowledged by only the owners of the property being replatted; and

(2) The replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

(b) *Notice and Hearing*. Published notice of the public hearing on the replat application shall be given in accordance with Article 3, Division 2 of this Chapter 1. The hearing shall be conducted by the Planning and Zoning Commission in accordance with Article 3, Division 3 of this Chapter 1.

(c) *Partial Replat Application*. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed "Purpose for Replat" statement.

(d) *Criteria for Approval*. The replat of the subdivision shall meet all approval criteria for a Final Subdivision Plat.

(e) *Effect*. Upon approval of the application, the replat may be recorded and is controlling over the previously recorded plat for the portion replatted.

Section 1.6.8.3 - Special Replat Requirements

(a) *Applicability*. In addition to compliance with the requirements of Section 1.6.8.2 above, a replat without vacation of the preceding plat must conform to the requirements of this Section if:

(1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) *Exception*. The requirements of this Section shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single- or duplex-family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

(c) *Notice and Hearing*. Published and personal notice of the public hearing on the replat application shall be given in accordance with Article 3, Division 2 of this Chapter 1. Personal notice shall be accompanied by a copy of the language of subsection (d). The hearing shall be conducted by the Planning and Zoning Commission in accordance with Article 3, Division 3 of this Chapter 1.

(d) *Protest*. If the replat application is accompanied by a variance petition and is protested in accordance with this subsection, approval of the replat shall require the affirmative vote of at least three-fourths of the members of the Planning and Zoning Commission present at the meeting. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the replat application and extending 200 feet from that area, but within the original subdivision, must be filed with the Commission prior to the close of the public hearing. In computing the percentage of land area under this Section, the area of streets and alleys shall be included.

Section 1.6.8.4 - Amending Plats

(a) *Purpose.* The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent with provisions of state law.

(b) *Applicability.* The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

(1) Correct an error in a course or distance shown on the preceding plat;

(2) Add a course or distance that was omitted on the preceding plat;

(3) Correct an error in a real property description shown on the preceding plat;

(4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) Correct an error in courses and distances of lot lines between two adjacent lots;

(8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) Relocate one or more lot lines between one or more adjacent lots;

(10) Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat;

(11) Replat one or more lots fronting on an existing street; or

(12) Allow for modification, abandonment or addition of an easement with the written consent of entities to which the easement is dedicated.

(c) *Effect.* Upon approval by the ~~Planning D~~Director, an amending plat may be recorded and is controlling over the recorded plat without vacation of that plat.

(d) *Contents*. An application for approval of an amending plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

(e) *Decision.* The ~~Planning D~~Director shall either approve, approve with conditions, or deny the application for an amending plat.

(f) *Criteria for Approval*. The ~~Planning D~~Director shall decide whether to approve, conditionally approve or deny the amending plat application based upon the following criteria:

(1) The amending plat makes only those changes to the recorded plat that are allowed under subsection (b);

(2) If a correction in courses and distances of lot lines between two adjacent lots is proposed:

a. Both lot owners join in the application for amending the plat;

b. Neither lot is abolished;

c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

d. The amendment does not have a material adverse effect on the property rights of the owners in the plat.

(3) If relocation of one or more lot lines between one or more adjacent lots is proposed:

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

c. The amendment does not increase the number of lots.

(4) If six or fewer lots are proposed to be added to a subdivision:

a. The changes do not affect compliance with applicable zoning and other regulations of the City;

b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

c. The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area.

(5) If lots fronting on an existing street are to be replatted:

a. the owners of all those lots join in the application;

b. the amendment does not attempt to remove recorded covenants or restrictions;

c. the amendment does not increase the number of lots; and

d. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(g) *Expiration.* Approval of an amending plat shall expire if the plat is not submitted for recordation within the time period specified for recordation of a Final Subdivision Plat.

(h) *Simple Amendment to Plat Agreement.*

(1) *Purpose.* The purpose of an agreement for simple amendment to plat shall be to provide an expeditious means of developing over a middle lot line between two adjacent lots under the same ownership.

(2) *Applicability.* The procedures for an agreement for simple amendment to plat shall apply only for the purpose of constructing a single structure or building over a single lot line between two contiguous legally conforming lots.

(3) *Effect.* Upon approval by the Director of Development Services, an agreement for simple amendment to plat may be recorded and is controlling over the recorded plat until such time as the structure or building requiring the simple amendment to plat is destroyed or demolished.

(4) *Contents.* An application for approval of an agreement for simple amendment to plat shall be prepared in accordance with Chapter 1 of the Technical Manual.

(5) *Decision.* The Director of Development Services shall either approve, approve with conditions, or deny the application for an agreement for simple amendment to plat.

(6) *Criteria for Approval.* The Director of Development Services shall decide whether to approve, conditionally approve, or deny the simple amendment to plat application based on the following criteria:

a. The combined area and dimensions of the two contiguous lots shall meet all dimensional standards for a single lot under the City's Land Development Code.

b. Both lots must be under the same ownership.

c. Both lots must be legally platted whole lots within an existing subdivision.

d. An agreement for simple amendment to plat shall not attempt to remove or modify recorded covenants or restrictions or easements.

e. An agreement for simple amendment to plat shall not require the dedication of any additional right-of-way or easements.

(7) *Expiration.* An agreement for simple amendment to plat shall expire automatically if:

a. Development of the lot does not occur within two years of the recordation of an agreement for simple amendment to plat.

b. The structure developed under this agreement is either demolished or destroyed.

(8) *Recording.* Upon expiration of the simple amendment to plat agreement an instrument evidencing such expiration and rescinding the agreement shall be filed at the county of record. However, failure to file such instrument does not extend the term of the agreement and the City may take any action available at law or in equity to enforce its ordinances or applicable laws, rules or standards that would apply to the lots in the absence of any agreement under this section.

(Ord. No. 2006-45, § 14, 9-19-06; Ord. No. 2011-27, § 3, 6-21-11)

Section 1.6.8.5 - Plat Vacation

(a) *Applicability*. A plat vacation application must be approved by the Planning and Zoning Commission prior to vacation of any recorded plat or portion thereof. A plat may be vacated only in conjunction with approval of a new plat application.

(b) *Application*. If no lot subject to the recorded subdivision plat has been sold, the property owner may apply for a plat vacation. If any lot in a subdivision has been sold, the recorded subdivision plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision. A plat vacation application shall be accompanied by an application for a Subdivision Concept Plat, Preliminary Subdivision Plat, or Final Subdivision Plat for the land subject to the recorded plat or portion thereof to be vacated, prepared in accordance with this Article 6. A plat vacation application also shall be accompanied by an unconditional waiver of the time for decision on a plat for the plat vacation application, pending approval of a new Final Subdivision Plat application for the same land.

(c) *Processing and Decision*. The plat vacation application shall be decided by the Planning and Zoning Commission in conjunction with its decision on a new plat application for the same land. The application for plat vacation shall be processed together with the new plat application in accordance with the procedures applicable to the new plat application under this Article 6. If the new plat application is for a Subdivision Concept Plat or Preliminary Subdivision

Plat, decision on the plat vacation application shall be deferred or conditioned on approval of a Final Subdivision Plat application for the land subject to the recorded plat or portion thereof to be vacated. The Commission shall finally decide the plat vacation application after it decides the Final Subdivision Plat application.

(d) *Criteria*. The Planning and Zoning Commission shall approve the plat vacation application upon approving the Final Subdivision Plat application for the same land, and shall deny the plat vacation application upon denial of such Final Subdivision Plat application. The Final Subdivision Plat application, as well as any preceding Subdivision Concept Plat or Preliminary Subdivision Plat application, shall be decided in accordance with the criteria applicable to such applications under this Article 6.

(e) *Effective Date of Plat Vacation*. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. On the execution and recording of the vacating instrument, the vacated plat shall have no further effect.

ARTICLE 7: - WATERSHED PROTECTION PLANS

DIVISION 1: - APPROVAL AND APPLICATION PROCESS; APPEALS

Section 1.7.1.1 - Purpose, Applicability, Exceptions and Effect

(a) *Purpose*. The purpose of a Watershed Protection Plan shall be to apply the environmental and flood control standards contained in Chapter 5 to a conceptual development design. A Watershed Protection Plan assures that such standards will be met at the time of development of the property by establishing terms and conditions for approval of applications for plats and Site Preparation Permits. For purposes of this Code, an Aquifer Protection Plan and a Site Plan for land in the San Marcos River Corridor which was under prior regulations for or in association with a plat application are Watershed Protection Plans.

(b) *Applicability*. Except as provided in subsections (c) or (d), approval of a Watershed Protection Plan is required within the City limits or within the City's extraterritorial jurisdiction prior to approval of a plat application or, for developments where a plat already has been approved for the property, prior to approval of a Site Preparation Permit. A Watershed Protection Plan shall include all land contiguous to and in the same ownership with the land subject to the plat application or Site Preparation Permit, except a remainder tract.

(c) *Exceptions*. A Watershed Protection Plan is not required for any land that is expressly exempted from the environmental standards contained in Chapter 5, Articles 1—4 of the Land Development Code.

(d) *Effect*. Approval of a Watershed Protection Plan entitles the applicant to seek approval of a Cluster Development Plan, plat application or Site Preparation Permit, as the case may be.

(Ord. No. 2011-55, § 4, 11-1-11)

Section 1.7.1.2 - Sequence of Approvals

(a) *Phased Plans.* An application for a Watershed Protection Plan typically shall be prepared and acted upon by the City in two phases.

(1) A Watershed Protection Plan (Phase 1) shall be prepared prior to approval of the following types of development applications:

a. Utility Extension,

b. Development Transfer Petition,

c. Subdivision Concept Plat,

d. Preliminary Subdivision Plat,

e. Preliminary Development Plat,

f. Cluster Development Plan.

(2) A Watershed Protection Plan (Phase 2), which shall contain greater detail than a Phase 1 Watershed Protection Plan, shall be prepared prior to approval of the following types of development applications:

a. Minor Subdivision Plat or a replat, if the 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 this Code,

b. Construction plans,

c. Site Preparation Permit,

d. Final Subdivision Plat,

e. Final Development Plat.

(3) The Watershed Protection Plan (Phase 2) shall be consistent with the Watershed Protection Plan (Phase 1). An applicant may elect to submit a Watershed Protection Plan (Phase 2) in lieu of a Watershed Protection Plan (Phase 1).

(b) *Prior Approvals.* An application for a Watershed Protection Plan (either phase), shall not be approved until all petitions for legislative decisions authorizing the use of or provisions of services to the property have been approved and remain in effect for land to be subject to the Watershed Protection Plan (either phase). An application for a Phase 2 Watershed Protection Plan shall not be approved or approved with conditions prior to formal acceptance by FEMA of any required Conditional Letter of Map Revision.

(c) *Subsequent Approvals*. No plat application, Site Preparation Permit, or construction permit shall be approved unless a required Watershed Protection Plan, either phase as applicable, has been first approved for the land subject to the application.

(d) *Accompanying Applications*.

(1) A Watershed Protection Plan (Phase 1) may be accompanied by an application for a Cluster Development Plan.

(2) For land that is to be divided before development, an application for a Watershed Protection Plan (Phase 1) may be accompanied by an application for approval of a Subdivision Concept Plat or Preliminary Subdivision Plat.

(3) An application for a Watershed Protection Plan (Phase 2) may be accompanied by an application for approval of a Final Subdivision Plat.

(4) If a plat already has been approved or is not required for development of the land, an application for a development plat (preliminary or final) or Site Preparation Permit may be submitted with the application for a Watershed Protection Plan (Phase 2).

(5) In any case, the Watershed Protection Plan (Phase 1 or Phase 2 as applicable) shall be decided first.

(Ord. No. 2005-59, § 2, 8-16-05; Ord. No. 2006-45, § 15, 9-19-06)

Section 1.7.1.3 - Application Requirements

(a) *Responsible Official*. The Engineering Director shall be the responsible official for an application for a Watershed Protection Plan, Phase 1 and Phase 2. The ~~Planning D~~Director shall advise and assist the Engineering Director in evaluating the application and preparing reports for the Planning and Zoning Commission or the City Council on appeal.

(b) *Contents*. An application for approval of a Watershed Protection Plan, Phase 1 and Phase 2, shall be prepared in accordance with Chapter 1 of the Technical Manual. Where land within a floodplain is proposed to be reclaimed, a Reclamation Concept Plan prepared in accordance with the Technical Manual also must be approved as an element of both phases of the Watershed Protection Plan.

Section 1.7.1.4 - Processing of Application and Decision

(a) *Decision by Type of Watershed Protection Plan*. An application for approval of a Watershed Protection Plan, Phase 1 and Phase 2, initially shall be decided by the Engineering Director, except where the application is accompanied by any of the following requests, in which case the application shall be construed as an application for a Qualified Watershed Protection Plan, which shall be decided by the Planning and Zoning Commission following a recommendation by the City Engineer:

(1) A petition for a variance from water quality standards under Section 1.7.1.6

(2) A request for an increase in impervious cover requiring a mitigation plan under Chapter 5, Articles 1, 2 or 3;

(3) A request for reclamation of land in the floodway or 100-year floodplain under Chapter 5. Article 4, within a water quality zone or buffer zone;

(4) The development of 20 acres or more of land within the 100-year floodplain; or

(5) A request for clustering or development transfers benefiting a water quality zone under Chapter 5, Articles 1, 2 or 3.

(b) *Commission Decision.*

(1) The ~~Planning D~~Director shall schedule a public hearing before the Planning and Zoning Commission on the application for approval of a Qualified Watershed Protection Plan. The public hearing may be combined with that for a Cluster Development Plan for the same land.

(2) The Commission shall approve, conditionally approve, or deny the application for a Qualified Watershed Protection Plan, subject to an appeal to the City Council under Section 1.7.1.6

(c) *Time for Decision*. The Engineering Director or the Planning and Zoning Commission shall take action on an application for a Watershed Protection Plan (either phase as applicable and other than a Qualified Watershed Protection Plan) within 30 days from the official filing date. The Planning and Zoning Commission may defer action on any Watershed Protection Plan (either phase) that proposes modification of a floodplain constituting wetlands or waters of the United States protected under Section 404 of the Clean Water Act until such time as the applicant demonstrates proof of compliance with all federal regulations pertaining to the protection and mitigation of such areas.

(d) *Conditions for Accompanying or Subsequent Development Application*. The approval or conditional approval of a Watershed Protection Plan (Phase 1 and Phase 2) will constitute conditions of approval of any subordinate development applications for the land subject to the Plan, and such development applications must be consistent with the Watershed Protection Plan (Phase 1 and Phase 2). The following elements shall be incorporated within any subordinate development application consistent with the approved or conditionally approved Watershed Protection Plan (Phase 1 and Phase 2):

a. Demarcation of all water quality zones and buffer zones for the property subject to the development application;

b. Location of impervious cover allocated to the property, including areas of intensified impervious cover, subject to the development application, or to be allocated among lots or tracts into which the property is to be divided;

c. For land in the Edwards Aquifer recharge or transition zones, identification of all sensitive features and demarcation of all sensitive feature protection zones for the property subject to the development application; and

d. The contours of any land authorized for reclamation.

(e) *Modification of Previously Approved Watershed Protection Plans*. The property owner shall submit a modified Watershed Protection Plan (Phase 1 and Phase 2, as applicable) for approval where the following activities are proposed:

(1) Any change in the nature or character of the development from that covered by the approved Watershed Protection Plan, or any change that would significantly impact the ability of the approved plan to preserve water quality.

(2) Any development on land previously identified as undeveloped in the approved Watershed Protection Plan.

(f) *Revised Permit Application.* If the conditions of approval of subsequent plats or permits require revision to the Watershed Protection Plan (Phase 1 and Phase 2, as applicable), a properly revised Watershed Protection Plan shall

be submitted to the Engineering Director within thirty working days of receipt of the notice of decision. The Director shall have an additional 20 working days to approve or deny the revised application.

(Ord. No. 2006-45, § 16, 9-19-06; Ord. No. 2011-55, § 5, 11-1-11)

Section 1.7.1.5 - Criteria for Approval

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

(1) Edwards Aquifer zones - factors. Where land subject to the plan lies in whole or in part within the Edwards Aquifer recharge or transition zones:

a. Whether the Watershed Protection Plan is consistent with approved legislative applications for the land subject to the plan;

b. Whether the Watershed Protection Plan meets the standards in Chapter 5, Article 1, Division 1, and the specific criteria in Chapter 5, Article 2;

c. Whether any proposed mitigation plan or enhanced geological assessment offsets the impacts to water quality resulting from increased development within a buffer zone;

d. Whether any proposed intensification of impervious cover for the area beyond the limits allowed by right subject to the Watershed Protection Plan is warranted; and

e. Whether the Watershed Protection Plan is consistent with proposed clustering or development transfers outside the plan area.

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

a. Whether the Watershed Protection Plan is consistent with approved legislative applications for the land subject to the plan;

b. Whether the Watershed Protection Plan meets the standards in Chapter 5, Article 1, and/or the specific criteria in Chapter 5, Article 3;

c. Whether any proposed mitigation plan offsets the impacts to water quality resulting from increased development within a buffer zone; and

d. Whether the Watershed Protection Plan is consistent with proposed clustering or development transfers outside the plan area.

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

a. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) is consistent with approved legislative applications for the land subject to the plan, including expressly any master drainage plan elements applicable to the land;

b. Whether the Reclamation Concept Plan (which is an element of both phases of the Watershed Protection Plan when reclamation is proposed) meets the general standards in Chapter 5, Article 1, and the specific criteria in Chapter 5, Article 4, Division 2; and

c. Whether any adverse impacts have been appropriately mitigated.

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

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

(Ord. No. 2006-45, § 17, 9-19-06)

Section 1.7.1.6 - Appeals and Relief Procedures

(a) *Appeal*. The applicant for either phase of a Watershed Protection Plan or any interested person may appeal the decision of the Engineering Director to the Planning and Zoning Commission. For a Qualified Watershed Protection Plan, the decision of the Commission may be appealed to the City Council, in accordance with Article 10, Division 1 of this Chapter 1. The Council may sustain, modify or reverse the Commission's decision.

(b) *Variance Petition*. The Planning and Zoning Commission may approve a variance from a standard applicable to a Watershed Protection Plan based on a variance petition submitted in accordance with Article 10, Division 2 of this Chapter 1, as part of its decision on a Qualified Watershed Protection Plan. In order to grant a variance petition, in addition to all approval criteria identified in Article 10, Division 2, the Commission must first determine that development in accordance with the variance will not result in violation of the water quality standards contained in the TCEQ Edwards Aquifer rules. The Planning and Zoning Commission shall make written findings concerning its decision on the variance petition, which shall be incorporated into the official minutes of the Commission meeting at which the petition and the Qualified Watershed Protection Plan are decided. In making the findings required in this subsection, the Planning and Zoning Commission shall take into account the alternatives that will achieve the purpose and intent of this Article, and the probable effect of the variance upon preservation of water quality. The approval of a variance petition shall require the affirmative vote of three-fourths of the Commission members present.

(c) *Vested Rights Petition*. Where an applicant claims exemption from one or more requirements applicable to a Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified) under this Land Development Code on grounds of vested rights, the applicant may submit a vested rights petition prepared in accordance with Article 10, Division 4 of this Chapter 1 for decision by the Planning and Zoning Commission. The petition shall be decided and appealed in accordance with Article 10, Division 4 of this Chapter 1.

(d) *Omnibus Relief Petition*. An applicant for a Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified) may petition the City Council for omnibus relief in accordance with Article 10, Division 5 of this Chapter 1. The petition must be submitted within ten days of a final decision by the Planning and Zoning Commission on the Watershed Protection Plan (Phase 1 and/or Phase 2, or Qualified). The City Council shall decide the petition in accordance with Article 10, Division 5 of this Chapter 1.

Section 1.7.1.7 - Expiration, Extension and Reinstatement

(a) If a development application that may accompany a Watershed Protection Plan (Phase 1 and/or Phase 2) under Section 1.7.1.2 has not been approved or extended under Article 3, Division 5 of this Chapter 1 for the property subject to the Watershed Protection Plan within two years from the date of approval of either phase of the Plan, and if no progress has been made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended), the applicable phase of the Watershed Protection Plan shall expire. If progress is made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of the development of the property covered by the Watershed Protection Plan (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) for a period of two years, the approval for the Watershed Protection Plan shall expire, unless extended in accordance with Article 3, Division 5 of this Chapter 1. In the event such development application subsequently expires or is revoked, the applicable phase of the Watershed Protection Plan shall likewise expire. In the event that a Watershed Protection Plan (Phase 2) expires, the associated Watershed Protection Plan (Phase 1) shall likewise expire.

DIVISION 1: - APPROVAL AND APPLICATION PROCESS; APPEALS

(Ord. No. 2005-78, § 1, 10-18-05)

ARTICLE 8: - SITE PREPARATION PERMITS

DIVISION 1: - APPROVAL AND APPLICATION PROCESS; APPEALS

Section 1.8.1.1 - Purpose, Applicability, Exceptions and Effect

(a) *Purpose.* The purpose of a Site Preparation Permit shall be to apply the zoning, environmental, development and public facilities standards contained in Chapters 4, 5, 6 and 7 of this Land Development Code to a specific development design proposed for a platted tract, parcel or lot. A Site Preparation Permit assures that preparatory construction activities on the development site will meet City standards prior to soil disturbance, construction or placement of a structure on the tract, parcel or lot. A Site Preparation Permit application may consist of a series of schematic drawings designed to satisfy one or more criteria governing the decision on the permit.

(b) *Applicability*. Approval of a Site Preparation Permit is required prior to any non-exempt development of land within the City limits or within the City's extraterritorial jurisdiction. Within the City limits, the zoning, environmental, development and public facilities standards in Chapters 4, 5, 6 and 7 of this Land Development Code apply to a Site Preparation Permit application. Within the City's extraterritorial jurisdiction, only the environmental and public facilities standards in Chapters 5 and 7 apply to a Site Preparation Permit application.

(1) *Separate Permit Required.* A separate permit is required for all development meeting any of the criteria listed below. All other development shall submit a site plan with the applicable construction permit demonstrating compliance with the requirements of this code.

a. Existing nonresidential and multifamily uses that are proposing to add greater than 5,000 square feet of impervious cover.

b. Existing nonresidential and multifamily uses that expand more than 50 percent of the building's originally constructed floor area.

c. Nonresidential and multifamily development that increases the value of the site by more than 50 percent of the value of the lot, as determined by the applicable County Appraisal District.

d. All nonresidential and multi-family development located partially or completely on a lot within any of the following sensitive environmental regions:

1. Over the Edwards Aquifer Recharge or Contributing Zones;

2. Within an Identified Floodway, or Floodplain;

3. Within the San Marcos River Corridor; or

4. Wetlands or Jurisdictional Water.

(2) Development activities that do not meet the criteria above and do not require a construction permit shall apply for a Site Preparation Permit but will not be subject to the requirement for an Engineer's seal.

(c) *Exceptions*. The requirements of a Site Preparation Permit do not apply in whole or in part to the following activities or land uses:

(1) Clearing that is necessary only for surveying purposes.

(2) Agricultural uses.

(3) Partial Exemptions: Refer to the Applicability sections of Chapters 4, 5, 6. and 7 of the Land Development Code to determine the applicability of each of these sections to the proposed development.

(d) *Effect*. Approval of a Site Preparation Permit authorizes site preparatory activities other than construction or placement of a structure on the land, subject to the terms of the permit and for the duration of the permit. Approval of a Site Preparation Permit also authorizes the property owner to apply for a construction permit.

(Ord. No. 2009-73, § 11, 12-1-09; Ord. No. 2011-55, § 6, 11-1-11)

Section 1.8.1.2 - Sequence of Approvals

(a) *Prior Approvals.* An application for a Site Preparation Permit shall not be approved unless the following petitions or development permits, where applicable, have been approved and remain in effect for the tract, parcel or lot:

(1) Within the City limits:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2);

c. Final subdivision or development plat;

d. Conditional Use Permit;

e. Cluster Development Plan; and

f. Special exception.

(2) Within the ETJ:

a. All legislative applications;

b. Watershed Protection Plan (Phase 2); and

c. Final Subdivision Plat or development plat.

(b) *Accompanying Applications*. A Site Preparation Permit may be accompanied by an application for a construction permit for the same land, provided that the Site Preparation Permit shall be decided first.

Section 1.8.1.3 - Application Requirements

(a) *Responsible Official*. The Engineering Director shall be the responsible official for a Site Preparation Permit. The ~~Planning D~~Director shall advise and assist the Engineering Director in evaluating and reaching a decision on the application. The Directors shall coordinate review and evaluation of the application and shall formulate a single decision on the Site Preparation Permit.

(b) *Contents.* The application for a separate Site Preparation Permit shall be sealed by an engineer licensed in the State of Texas and prepared in accordance with Chapter 1 of the Technical Manual.

(Ord. No. 2011-55, § 7, 11-1-11)

Section 1.8.1.4 - Processing of Application and Decision

(a) *Decision.* The Engineering Director shall initially approve the application for a Site Preparation Permit, approve the application with conditions, or deny the application, subject to appeal as provided in Section 1.8.1.6

(b) *Notification.* The Director shall notify the applicant of the Director's decision in accordance with Article 3, Division 2 of this Chapter 1.

(c) *Time for Decision.* The application for a Site Preparation Permit shall be decided within 30 working days of the official filing date.

(d) *Revised Permit Application.* If the conditions of approval require revision to the Site Preparation Plan, a properly revised Site Preparation Plan shall be submitted to the Director within 20 working days of receipt of the notice of decision. The Director shall have an additional 20 working days to approve or deny the revised application.

(Ord. No. 2006-45, § 18, 9-19-06)

Section 1.8.1.5 - Criteria for Approval

(a) The following criteria shall be used to determine whether the application for a Site Preparation Permit shall be approved, approved with conditions, or denied:

(1) The development applications listed in Section 1.8.1.2 for the property subject to the Site Preparation Permit have previously been approved and remain in effect;

(2) The Site Preparation Permit is consistent with the approved petitions or applications;

(3) Where not excepted or satisfied through approval of priority development applications, the following standards in Chapter 4, Zoning Regulations, have been satisfied:

a. Zoning district regulations in which the property is located;

b. Special dimensional and design standards applicable within an overlay district to which the use is subject;

c. Conditional Use Permit (CUP) requirements or Planned Development (PD) requirements, when applicable;

d. Development Transfer (DT) requirements, when applicable; and

e. Any standards imposed as conditions for approval of a variance or special exception.

(4) Where not excepted or satisfied through approval of priority development applications, the standards in Chapter 5, Chapter 6, and Chapter 7 have been satisfied.

Section 1.8.1.6 - Appeals and Relief Procedures

(a) *Appeal*. The applicant for a Site Preparation Permit or any interested person may appeal the decision of the Engineering Director to the Planning and Zoning Commission in accordance with Article 10, Division 1 of this Chapter 1. The Commission may sustain, modify or reverse the Director's decision.

(b) *Variance Petition*. A petition seeking to vary standards applicable to the Site Preparation Permit shall be filed, processed and decided by the Planning and Zoning Commission in accordance with Article 10, Division 2 of this Chapter 1 prior to the decision on the Site Preparation Permit.

(c) *Vested Rights Petition*. Where an applicant claims exemption from one or more requirements applicable to a Site Preparation Permit under this Land Development Code on grounds of vested rights, the applicant may submit a vested rights petition to the responsible official prepared in accordance with Article 10, Division 4 of this Chapter 1. The petition shall be decided and appealed in accordance with Article 10, Division 4 of this Chapter 1.

Section 1.8.1.7 - Expiration and Extension

(a) *Time of Expiration*. A Site Preparation Permit expires if no progress has been made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) within two years after final approval of the permit. If progress is made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) during the two-year period, but after the progress is made, no further progress is made towards completion of the development authorized by the permit (as defined in Section 245.005(c) of the Texas Local Government Code, as amended) for a period of two years, the permit shall expire, unless extended in accordance

with Article 3, Division 5 of this Chapter 1. The Site Preparation Permit may be revoked if a building permit or other permit authorizing construction of a structure on the property has not been issued within two years after the date of approval of the permit, or, if no permit is required, construction of a structure has not commenced on the development site within such period.

(b) *Extension*. A Site Preparation Permit may be extended for a period not to exceed an additional 90 days by the responsible official, within which development authorized by the permit on the property subject to the permit must be commenced. The date for issuance of a construction permit or commencement of construction of a structure may be extended by the responsible official for a period not to exceed one year.

(Ord. No. 2005-78, § 1, 10-18-05)

ARTICLE 9: - CONSTRUCTION PERMITS

DIVISION 1: - GENERAL PROVISIONS

Section 1.9.1.1 - Terminology and Effect

(a) *Scope of Term*. For purposes of this Chapter 1, the term "construction permit" refers to any authorization to construct, alter or place a structure on a lot, tract or parcel. The term excludes an authorization to construct a capital improvement to be dedicated to the public in support of a proposed land use, the grading of land, the removal of vegetation, and other activities authorized to prepare a development site for construction of a structure.

(b) *Effect*. Approval of a construction permit authorizes the property owner to place or construct the structure on the lot, tract or parcel in accordance with the terms of the permit. Approval of a construction permit confirms that the application conforms to all requirements of this Land Development Code pertaining to the construction of the proposed structure.

Section 1.9.1.2 - Sequence of Approvals

(a) *Prior Approvals*. An application for a construction permit shall not be approved until the following petitions or development applications, where applicable, have been approved and remain in effect for land for which the application is made:

(1) All legislative applications needed to authorize the proposed uses for the land;

(2) All quasi-judicial applications;

(3) A Final Subdivision Plat or Final Development Plat;

(4) A Site Preparation Permit; and

(5) Any variance petition required for placement or construction of the structure on the lot, tract or parcel.

(b) *Accompanying Applications*. An application for a construction permit may be accompanied by an application for a Site Preparation Permit, provided that the Site Preparation Permit is decided first.

(c) *Rules of Priority Among Construction Permits*. The following rules of priority apply among construction permits.

(1) A Floodplain Permit shall be approved prior to a building permit.

(2) A building permit shall be approved prior to a certificate of occupancy.

(3) Where a building permit is required, an application for a sign permit may accompany the application for a building permit, provided that the building permit application is decided first.

DIVISION 2: - BUILDING PERMITS

Section 1.9.2.1 - Applicability and Effect

(a) *Applicability.* An application for a building permit is required within the City limits, or where provided for in a development agreement, in the City's extraterritorial jurisdiction, prior to placement, construction or alternation of a building or structure.

(b) *Effect.* Approval of an application for a building permit authorizes the property owner to construct, alter or place a structure on the lot, tract or parcel. Approval of an application for a building permit also authorizes the property owner, upon completion of a structure intended for human occupancy, to make application for a certificate of occupancy.

Section 1.9.2.2 - Application Requirements

(a) *Responsible Official*. The building official shall be the responsible official for a building permit.

(b) *Contents*. An application for approval of a building permit shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.9.2.3 - Decision

(a) *Decision*. The building official shall approve, conditionally approve or deny the application for a building permit.

(b) *Time for Decision*. The building official shall decide the application for a building permit within 30 days of the official filing date.

Section 1.9.2.4 - Appeals

The applicant and any interested person may appeal the building official's decision on the building permit application to the Zoning Board of Adjustments in accordance with Article 10 of this Chapter 1, other than an appeal arising under the Building Code or other construction codes included or adopted in Chapters 14 or 38 of the City Code, in which case such appeal shall be made to the Construction Board of Adjustment (CBOA). The ZBOA shall decide the appeal in accordance with Article 10 of this Chapter.

Section 1.9.2.5 - Criteria for Approval

(a) The building official shall apply the following criteria in deciding the application for a building permit:

(1) The application generally conforms to all prior approved development applications for the property and any variance petition authorizing variation from the standards otherwise applicable to the permit.

(2) The location of the structure on the property is in accordance with all prior approved development applications.

(3) The proposed plan for construction or alteration conforms to the Building Code and other applicable construction codes adopted by the City.

(4) All applicable fees, including impact fees, have been paid.

Section 1.9.2.6 - Expiration and Extension

(a) *Expiration*. A building permit expires if construction, alteration or placement of the structure authorized by the permit has not commenced on the property within 90 days after final approval of the permit. The building permit shall expire within one year of the date of approval if a certificate of occupancy for the structure has not been approved, or if the structure is not intended for human occupation, the construction, alteration or placement of the structure on the property has not been completed, within such period.

(b) *Extension and Reinstatement*. The building official may extend the time for commencing construction, alteration or placement of a structure for a period not to exceed 90 days, and the time for obtaining approval of a certificate of occupancy or completing construction, alternation or placement of the structure for a period of one year, in accordance with Article 3, Division 5 of this Chapter 1. The building official also may reinstate the permit for a one-year period under Article 3, Division 5 of this Chapter 1.

DIVISION 3: - CERTIFICATES OF OCCUPANCY

Section 1.9.3.1 - Applicability and Effect

(a) *Applicability.* An application for a certificate of occupancy is required within the City limits, or where authorized by a development agreement, in the City's extraterritorial jurisdiction, after the construction, alteration or placement of a structure on a lot, tract or parcel and prior to habitation or any use of the structure, or any occupation of a manufactured home rental community. A certificate of occupancy also is required prior to a change in the use of any structure if the use is a different use based upon the land uses listed in Section 4.3.1.2 (Land Use Matrix).

(b) *Effect.* Approval of a certificate of occupancy authorizes habitation or other occupancy of the structure in accordance with the terms of the certificate.

Section 1.9.3.2 - Application Requirements

(a) *Responsible Official*. The building official shall be the responsible official for a certificate of occupancy.

(b) *Contents*. An application for approval of a certificate of occupancy shall be prepared in accordance with Chapter 1 of the Technical Manual.

Section 1.9.3.3 - Decision

(a) *Decision*. The building official shall approve or deny the application for a certificate of occupancy.

(b) *Time for Decision*. The building official shall decide the application for a certificate of occupancy within 30 days of the official filing date.

(c) *Record*. A record of all certificates of occupancy shall be kept on file in the offices of the building official, and copies shall be furnished upon request to any person in accordance with state laws governing public information.

(d) *Posting of Certificate.* Except for single-family structures, the approved certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

Section 1.9.3.4 - Appeal

The applicant and any interested person may appeal the building official's decision on the certificate of occupancy to the Zoning Board of Adjustments in accordance with Article 10 of this Chapter 1, other than an appeal contesting compliance with the Building Code or other construction codes included or adopted in Chapters 14 or 38 of the City Code, in which case such appeal shall be made to the Construction Board of Adjustment (CBOA). The ZBOA shall decide the appeal in accordance with Article 10.

Section 1.9.3.5 - Criteria for Approval

(a) The building official or the Zoning Board of Adjustments on appeal shall apply the following criteria in deciding the application for a certificate of occupancy:

  (1) The location of the structure on the property is in accordance with the approved application for the building permit;

  (2) Where a change of use in an existing structure is proposed, the use conforms to the use regulations governing the property;

(3) Where occupancy of a manufactured home rental community is proposed, the community has been designed and constructed in conformity with the requirements of Chapter 4, Article 2, Division 1.

(4) The structure, following inspection by the building official, was built in conformity with the Building Code, as incorporated in the City Code of Ordinances, as may be modified from time to time.

(5) There are no outstanding permit requirements.

(6) When the property lies within a special flood zone, an elevation certificate prepared in accordance with FEMA standards is provided.

(Ord. No. 2006-45, § 19, 9-19-06)

Section 1.9.3.6 - Revocation of Certificate

The building official may institute proceedings to revoke a certificate of occupancy under Article 3, Division 7 of this Chapter 1, whenever the official determines that the certificate has been issued in error, or on the basis of incorrect information supplied, or that the use, dimensions, or other feature of the structure authorized for occupancy, or any portion thereof, is in violation of any provision of this Land Development Code or the Building Code or other construction codes included or adopted in Chapter 14 of the City Code.

DIVISION 4: - RESERVED [1]

Sections 1.9.4.1—1.9.4.6 - Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 2012-29, § 1, adopted June 5, 2012, repealed Div. 4, which pertained to floodplain permit and derived from Ord. No. 2004-92, § 2, 12-13-04. For similar provisions, see chapter 39 in Subpart A, General Ordinances. (Back)

DIVISION 5: - SIGN PERMIT

Section 1.9.5.1 - Purpose, Applicability, Exceptions and Effect

(a) *Purpose.* The purpose of a sign permit is to authorize the display, erection, rebuilding, restructuring, expansion, relocation, or structural alteration of any on-premise or off-premise sign.

(b) *Applicability*. A sign permit is required within the City limits for on-premise and off-premise signs, and for off-premise signs in the City's extraterritorial jurisdiction.

(1) On-premise signs to be located in a historic district or at a historic landmark shall first receive approval for a Certificate of Appropriateness authorizing the activity under Article 5, Division 6 of this Chapter 1 before an application for a sign permit may be decided.

(2) Electrical permits under the electrical code in the City's Code of Ordinances are also required for electric signs, except those designed to be plugged into an existing electric outlet.

(3) A license agreement on city owned property.

(c) *Exemptions*. The following signs and activities do not require a sign permit:

(1) Signs not visible from the nearest public street toward which they are oriented.

(2) Temporary window displays consisting of merchandise or posters.

(3) National, state or other governmental flags up to 60 square feet in area.

(4) Balloons not exceeding 36 inches in greatest dimension.

(5) On-premises directional signs, except on properties zoned single-family or duplex, up to four square feet in area and up to four feet in height. Only two of these signs may be used on each street frontage of a premise (as shown on approved site preparation permits).

(6) Unlighted letters, numbers or symbols up to 24 inches in height that form an architectural detail of a building.

(7) Signs facing the interior of athletic stadiums or fields or facing the exterior of athletic stadiums or fields operated by nonprofit organizations or governmental entities.

(8) Unlit signs up to 32 square feet in area, on the premises of a governmental, religious, educational or other noncommercial institution, which function solely as community information signs.

(9) Signs that are displayed on vehicles that are being operated or stored in the normal course of a business, such as signs indicating the name or the type of business, that are located on moving vans, delivery trucks, trailers and other commercial vehicles; but only if the primary purpose of such vehicles is not for the display of the signs thereon, and only if such vehicles are parked or stored in properly designated and paved parking spaces that are located in areas appropriate to their use as commercial or delivery vehicles, such as service areas or locations close to the business building(s) away from public traffic.

(10) Signs displayed on a vehicle for the sole purpose of advertising the vehicle for sale, lease or hire.

(11) Signs consisting of a plaque or historical marker commemorating a person, event, structure, or site.

(12) Governmental signs.

(13) Temporary signs customarily associated with a recognized national, state, local or religious holiday.

(14) Signs on vending machines, gasoline pumps and amusement equipment pertaining to the function of the facilities.

(15) Signs carried by humans.

(16) Signs displayed by aircraft in flight.

(17) Unlighted attached signs up to 32 square feet in area on trailers or portable buildings containing an accessory use temporarily located on the premises, provided the signs pertain to the use of the trailer or portable building.

(18) Temporary signs, except for banner signs over public rights-of-way.

(19) Unlighted signs located on property used for agricultural purposes which pertain to the sale of agricultural products produced on the premises.

(20) Unlighted signs or electric signs, other than CEVM signs, plugged into an existing electric outlet, in first or second story windows provided that the signs do not exceed 50 percent of the window's size (window signs are included in the total on-premise attached sign calculation).

(21) Change in the sign copy on an existing sign or the replacement of a nonstructural panel or sign face within a fixed frame, other than changes that effect the status of off-premises signs or CEVM signs.

(22) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving restructuring or a structural alteration.

(23) Political signs less than 36 square feet in size and less than eight feet in height.

(d) *Effect*. Approval of a sign permit authorizes the placement, construction, repair or other activity authorized by the permit in accordance with its terms.

(Ord. No. 2008-3, § 1, 3-3-08)

Section 1.9.5.2 - Application Requirements

(a) *Responsible Official*. The ~~Planning D~~Director is the responsible official for a sign permit.

(b) *Contents*. An application for a sign permit shall be prepared in accordance with Chapter 1 of the Technical Manual.

(Ord. No. 2008-3, § 1, 3-3-08)

Section 1.9.5.3 - Decision

(a) *Decision.* The Director shall either approve, conditionally approve or deny the application for a sign permit. If a variance petition has been submitted to the Zoning Board of Adjustments and Appeals, the Director shall suspend the Director's decision until after the petition is decided.

(b) *Time for Decision.* The Director shall make a decision on the permit within five working days after all requested materials including, but not limited to, drawings, specifications, and other information necessary to adequately review the application has been provided by the applicant; or, if a variance petition is pending, within five working days of the date the Director is notified of the Zoning Board of Adjustments' decision on the petition.

(c) *Amendments*. After the approval of a sign permit, an applicant shall not be required to submit an amended application, if proposed amendments do not involve changes to the location, sign type, electrification or increase in size or height of the sign.

(Ord. No. 2008-3, § 1, 3-3-08)

Section 1.9.5.4 - Appeal and Relief Procedures

(a) *Appeal*. The applicant and any interested person may appeal the ~~Planning D~~Director's decision on a sign permit to the Zoning Board of Adjustments in accordance with Article 10, Division 1 of this Chapter 1. The Zoning Board of Adjustments shall decide the appeal in accordance with Article 10, Division 1.

(b) *Variances*. The applicant may file a petition for variances to the standards applicable to a sign permit (other than those pertaining to CEVM signs) in accordance with Article 10, Division 2 of this Chapter 1 to the Zoning Board of Adjustments. The Zoning Board of Adjustments' decision on the petition shall be in accordance with the criteria in Article 10, Division 2 of this Chapter 1.

(c) *Vested Rights Petition*. The applicant may file a vested rights petition with the application for a sign permit. The petition shall be decided in accordance with the procedures in Article 10, Division 4 of this Chapter 1.

(Ord. No. 2008-3, § 1, 3-3-08)

Section 1.9.5.5 - Criteria for Approval

(a) The administrator, or the ZBOA on appeal, shall decide whether to approve, conditionally approve or deny a sign permit application based upon the following criteria:

(1) The application is consistent with any building permit required to establish the use to which the sign is appurtenant;

(2) The application conforms to the approved Site Preparation Permit for the land on which the sign is to be placed;

(3) The application conforms to any variances granted by the Planning and Zoning Commission;

(4) The application meets the standards in Chapter 6, Article 3 and the Technical Manual;

(5) For signs to be placed within a historic district or on the premises of a historic landmark, the application conforms to the approved Certificate of Appropriateness.

(Ord. No. 2008-3, § 1, 3-3-08)

Section 1.9.5.6 - Expiration and Extension

(a) *Expiration.* A sign permit shall expire within 90 days of approval of the permit, if construction or other authorized activity has not commenced on the sign. If a sign permit is issued in conjunction with a building permit, the sign permit shall expire upon expiration of the building permit, and the sign must be completed at the time the structure is completed. If a conforming on-premise sign is removed for a period of six months, a new sign permit shall be required.

(b) *Extension and Reinstatement*. The Director may grant an extension of the expiration date or reinstate an expired sign permit for a period not to exceed 180 days under Article 3, Division 5 of this Chapter 1.

(Ord. No. 2008-3, § 1, 3-3-08)

DIVISION 6: - MANUFACTURED/MOBILE HOME PARKS/RECREATIONAL VEHICLE PARKS

Section 1.9.6.1 - Applicability

This Article is applicable in the City limits and in the extraterritorial jurisdiction of the City. All manufactured home developments must submit a development plat for approval.

Section 1.9.6.2 - General Requirements

(a) *Required.* Any person who intends to construct, alter or extend any mobile home or HUD-Code manufactured housing park shall obtain a permit issued by the ~~Planning D~~Department in the name of the person for the specific construction, alteration or extension proposed in conformation with requirements and procedures of the Department of Planning and Development Services.

(b) *Application Requirements.* All applications for permits shall be made upon a standard form provided by the City. To this application shall be attached five copies of a development plat, at a minimum scale of one inch to 100 feet for sites of 30 acres or more and at a minimum scale of one inch to 50 feet for sites under 30 acres. The development plat shall include all data required in Article 6, Division 4 or 5, as applicable, of this Chapter.

(c) *Fee.* All applications to the department shall be accompanied by a fee established by the City Council.

(d) *Issuance.* When, upon review of the application, the proposed plan meets the requirements of this Article, a permit shall be issued by the department to construct, alter or extend a mobile home or manufactured housing park.

(e) *Denial.* Any person whose application for a permit under this Section has been denied may request a hearing on the matter under the procedure provided by Chapter 1, Article 10.

Section 1.9.6.3 - Inspection

(a) *Required.* The Planning and Development Services Department, the Environmental Health Department, Director of Public Services, Fire Chief, Fire Marshal, or designated responsible official are authorized and directed to make inspections as are necessary to determine compliance with this Article.

(b) *Entry onto Premises.* The Planning and Development Services Department, the Environmental Health Department, the Director of Public Services, the Fire Chief, Fire Marshal, and the Police Chief shall have the power to enter at reasonable times, upon any private or public property, for the purpose of inspecting and investigating conditions relating to the enforcement of this Article.

(c) *Certificate; Inspection Standards.* An application for an inspection certificate will be issued in the office of the department.

(1) *Mobile home or manufactured home owner inspection fee.* The individual mobile home or manufactured home owner will be issued an inspection certificate for the initial hookup upon payment of the fee established by the City Council, provided the mobile home or manufactured home meets the standards and specifications of this article.

(2) *Standards for inspection.* The inspection shall consist of the following:

a. *Gas system.* Pressure test all exterior and interior piping with 5# air. Check water heater and central heating vents, check sources of combustion air for heating system. Gas lines shall be buried a minimum of six inches underground from the park supply to the mobile home or manufactured home piping.

b. *Electrical system.* Check grounding, entrance cord, breaker box. All wiring shall meet requirements of National Electrical Code and City electrical code as amended.

c. *Water supply.* Hookup shall be made with schedule #40 PVC or equivalent piping.

d. *Sewer system.* Check mobile home or manufactured home vents. Only rigid pipes shall be used to connect the mobile home or manufactured home to the park sewer. Piping shall be protected against damage. All joints and connections in sewer lines shall be gas and liquid tight.

e. *Mobile home or manufactured home stand.* The area beneath the mobile home or manufactured home shall be graded so that water will not stand under the mobile home or manufactured home. The stand shall provide a stable area for placing of tiedown anchors and blocking.

f. *Storage.* The area beneath the mobile home or manufactured home shall not be used to store lumber, gasoline or any flammable materials.

g. *Grass.* The mobile home or manufactured home owner shall not allow grass and weeds to become a fire or health hazard.

h. *Tiedowns.* The mobile home or manufactured home shall be tied down as required by state standards and the building code.

i. *Blocking.* The mobile home or manufactured home shall be blocked as required by state standards and the building code.

j. *Inspection responsibility.* The mobile home or manufactured home owner shall arrange for an inspection date with the inspector and may accompany the inspector on the inspection if the owner so desires. No mobile home or manufactured home shall be connected to the park gas line until an inspection has been made by a City inspector. A fee established by the City Council will be charged for each reinspection.

(3) Mobile home or manufactured housing park inspection fee.

a. The mobile home or manufactured housing park will be issued a certificate of inspection for a base fee established by the City Council. An additional fee established by the City Council per mobile home or manufactured home space shall be computed and added to the base fee. The mobile home or manufactured housing park inspection certificates will certify park compliance with this Division. The mobile home or manufactured housing park inspection shall consist of the following:

1. Placement of the mobile home or manufactured home on a space.
2. Parking facilities per mobile home or manufactured home space.
3. Condition of internal streets, accessways.
4. Condition of road signs.
5. Condition of service buildings.
6. Condition and proper functioning of drainage system.
7. Condition of ground and soil cover.
8. Condition of premises of unoccupied spaces.
9. Condition of park sewer system.
10. Verification that all mobile homes or manufactured homes located within the park have an approved individual inspection certificate.

b. The mobile home or manufactured housing park owner shall arrange for an inspection date with the inspector for the inspection of the park. The mobile home or manufactured housing park owner may accompany the inspector if the owner so desires. All mobile home or manufactured housing parks shall be inspected annually or more often upon tenant complaint. If violations are found, there shall be a reinspection fee for each inspection.

(d) *Inspection of Register.* The department, the Environmental Health Department, the Fire Chief, Fire Marshal, and the Police Chief shall have the power and authority in discharging their official duties to inspect the register containing a record of all residents of the mobile home or manufactured housing park.

(e) *Duty of Occupants.* Every occupant of a mobile home or manufactured housing park shall give the park owner or the owner's agent or authorized employee access to any part of the park at reasonable times for the purpose of making repairs or alterations as are necessary to effect compliance with this Article.

(f) *Recreational Vehicles.* Recreational vehicles, as defined in Chapter 8, are prohibited in mobile home parks and manufactured housing parks.

(Ord. No. 2006-45, § 21, 9-19-06; Ord. No. 2009-73, § 12, 12-1-09)

Section 1.9.6.4 - Notices, Hearings and Orders

(a) *Violation Notice.* Whenever it is determined that there are grounds to believe that there has been a violation of Section 1.9.6.3, the City shall give notice of the alleged violation to the individual mobile or manufactured home owner (if applicable) and to the manufactured housing park owner or agent, as provided in this section. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Allow a reasonable time for the performance of the act it requires;

(4) Be served upon the park owner or the owner's agent, provided that the notice or order shall be deemed to have been properly served upon the park owner or agent when a copy thereof has been sent by mail to the owner's or agent's last known address or when the owner or agent has been served with the notice by any method authorized or required by State law; and

(5) Contain an outline of remedial action which, if taken, will effect compliance with this Article.

(b) *Appeal from Notice.* Any person affected by any notice issued in connection with the enforcement of any section of this Article applicable to a mobile home or manufactured housing park by the City may request and shall be granted a hearing on the matter before the municipal court judge, provided that the person shall file within ten days after the day the notice was served, in the offices of the municipal court, a written petition requesting the hearing and setting forth a brief statement of the grounds therefor. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension, except for an order issued under Section 6.8.1.5. Upon receipt of the petition, the municipal court judge will set a time and place for the hearing and give the petitioner written notice thereof. At the hearing, the petitioner will be given an opportunity to be heard and to show why the notice should be modified or withdrawn.

(c) *Hearing; Order.* After the hearing, the judge shall issue an order in writing sustaining, modifying or withdrawing the notice, which will be served as provided in subsection (a) of this Section. Upon failure to comply with an order of the judge sustaining or modifying a decision thereof, the department will take whatever action necessary to enforce this Article.

(d) *Order Without Notice.* Whenever the municipal court judge finds that an emergency exists which requires immediate action to protect the public health or safety, the judge may, without notice or hearing, issue an order reciting the existence of the emergency. Notwithstanding any other section of this Article, this order shall be effective immediately. Any person to whom the order is directed shall comply therewith immediately, but upon written petition to the City shall be afforded a hearing as soon as possible. Subsection (b) and (c) of this Section shall be applicable to the hearing and the order issued thereafter.

(Ord. No. 2006-45, § 22, 9-19-06)

Section 1.9.6.5 - Application Requirements

(a) *Filing a Development Plat.* The development plat for a mobile home or manufactured home park shall be filed as required by Article 6, Division 4 or 5, as applicable, of this Chapter and shall show the following elements in addition to those required generally on a development plat:

(1) The area and dimensions of the tract of land, with identification of location and boundaries.

(2) The number, location, size and address of all mobile home and manufactured home spaces.

(3) The location, width, grade and specifications of driveways, roadways and walkways.

(4) The location, grade and specifications of water and sewer lines and riser pipes.

(5) The location and details of lighting, electrical and gas systems.

(6) The location and specifications of all buildings constructed or to be constructed within the park.

(7) Existing and proposed topography of the mobile home or manufactured housing park.

(8) The location of fire mains, including the size, the hydrants and any other fire-related equipment which may be provided.

(9) Other information as City reviewing officials may reasonably require.

(10) A stamp showing approval of the development plat by the ~~Planning D~~Department based on the specifications and standards in this Division.

(b) *Action on a Development Plat.* Approval or disapproval of a development plat shall be in accordance with Article 6 of this Chapter.

ARTICLE 10: - RELIEF PROCEDURES

DIVISION 1: - APPEALS

Section 1.10.1.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of an appeal is to contest an initial decision on a development application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise modifying the standards of this Land Development Code that apply to the development application.

(b) *Applicability*. Any final administrative decision on a development application authorized by this Land Development Code, including a determination by the responsible official that a proposed development is exempt from one or more development applications, may be appealed to the board or commission designated in the regulations establishing the procedure by which the decision was made. A final quasi-judicial decision on a development application may be appealed to the City Council only if expressly provided for in the regulations establishing the procedure by which the decision was made. No appeal shall be taken from a legislative decision authorized under this Land Development Code.

(c) *Effect*. The granting of an appeal supercedes the decision from which appeal was taken, and results in approval, conditional approval or denial of the development application for which approval was sought.

Section 1.10.1.2 - Appeal Requirements

(a) *Who May Appeal*. The applicant and any interested person may appeal a final decision on a development application to the appellate body designated by this Land Development Code, if any.

(b) *Form of Appeal*. The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the development application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.

(c) *Time for Filing Appeal*. A written appeal must be filed with the responsible official within ten working days from the date of notification of the final decision on the development application.

Section 1.10.1.3 - Processing of Appeal and Decision

(a) *Responsible Official*. The responsible official on appeal is the responsible official designated by this Land Development Code for processing of the development application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate body.

(b) *Stay of Proceedings*. Receipt of a written appeal of a decision on a development application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without limitation acceptance, processing or issuance of any subordinate development applications, and any development activities authorized by initial approval of the development application.

(1) The stay shall be lifted only if the responsible official certifies in writing to the appellate body that a stay would cause imminent peril to life or property.

(2) Thereafter, the stay may be reinstated only by order of the appellate body or a court of record, on application, after notice to the responsible official, for due cause shown.

(c) *Hearing and Notice*. Notification of the appeal and conduct of the public hearing thereon shall be in accordance with Article 3, Divisions 2 and 3 of this Chapter 1. The initial public hearing on the appeal shall be held within 25 working days after the filing of the appeal with the responsible official, unless a different time is prescribed by the provisions of this Chapter.

(d) *Decision on Appeal*. The appellate body shall decide the appeal within 30 working days of the close of the public hearing. The appellate body shall affirm, reverse or modify the decision from which the appeal was taken.

(e) *Notification of Decision on Appeal*. The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Article 3, Division 2 of this Chapter 1.

Section 1.10.1.4 - Criteria

In deciding the appeal, other than appeals from a decision of the Historic Preservation Commission, the appellate body shall apply the same criteria that govern the initial decision on the development application under the provisions of this Chapter 1. The Zoning Board of Adjustments shall apply the criteria and standard of review set forth in Section 1.5.6.6 for appeals from a decision of the Historic Preservation Commission.

(Ord. No. 2011-55, § 8, 11-1-11)

Section 1.10.1.5 - Expiration and Extension

For purposes of determining expiration or extension periods under this Land Development Code, the date of the appellate body's granting of relief on an appeal is the date on which the development application is deemed approved.

DIVISION 2: - VARIANCE PETITIONS

Section 1.10.2.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a variance petition is to vary one or more standards applicable to a development application, subject to the limitations set forth in this Section or elsewhere in this Land Development Code. A variance petition shall not be used as a means of amending the text of this Land Development Code or of changing a zoning district or other legislative classification of the property for which the variance is sought. A variance petition cannot be used as a means to contest the applicability of a standard to a development application, an exemption determination, or a decision on a development application.

(b) *Applicability*. A variance petition may be filed to modify any standard applicable to an administrative or quasi-judicial development application, unless otherwise prohibited by this Land Development Code. The variance petition shall be decided by the responsible official, board, commission or the City Council as designated in the regulations establishing the procedures for the development application. A variance petition may not be used to vary standards applicable to a petition for a legislative decision.

(c) *Effect*. The granting of a variance petition in whole or in part authorizes the petitioner to submit a development application that complies with the standard as varied or modified, and authorizes the decision-maker to evaluate the application using the varied standard, for the duration of the variance.

Section 1.10.2.2 - Petition Requirements

(a) *Who May Petition*. A variance petition may be filed by a property owner or the applicant for any administrative or quasi-judicial development application.

(b) *Form of Petition.* A variance petition shall be prepared in accordance with Chapter 1 of the Technical Manual. The variance petition shall contain a detailed written statement of the reasons why the standards to be varied should not be applied to the development application identified in the petition, and shall be accompanied by the fee established by the City Council.

(1) A variance petition shall be accompanied by a development application prepared consistent with the requested variance, if the decision-maker for the variance petition and the decision-maker for the development application are the same.

(2) If the body deciding the variance petition is different from the official or body deciding the development application, the petition shall be accompanied by illustrations or other documents showing the effect of the requested variance on development to be proposed in the application.

(c) *Time for Filing Petition.*

(1) A variance petition must be filed with the development application for which an applicable standard is to be varied, if the decision-maker for the variance petition and the decision-maker for the application are the same.

(2) A variance petition that is to be decided by a different body than the decision-maker on the development application must be filed with the board, commission or the City Council deciding the variance petition prior to filing of the development application. Where the decision-makers for the variance petition and the development application are different, no development application dependent upon approval of the pending variance petition shall be accepted for filing until a final decision has been reached on the petition.

Section 1.10.2.3 - Processing of Petitions and Decision

(a) *Responsible Official*. The responsible official for a variance petition is the responsible official designated by this Land Development Code for processing of the development application identified in the variance petition. Upon receipt of a variance petition, the responsible official shall transmit the petition to the decision-maker for processing and determination in accordance with this Section.

(b) *Hearing and Notice*.

(1) Where the decision-makers for the variance petition and the development application are the same, notification of the requested variances shall be provided in conjunction with any required notification for the development application. A public hearing on the variances requested shall be required only if a public hearing is required on the development application and shall be conducted in conjunction with such hearing.

(2) Where the decision-makers for the variance petition and the development application are different, personal notification of a public hearing before the Zoning Board of Adjustments, Planning and Zoning Commission or the City Council deciding the variance petition shall be provided. The public hearing shall be conducted in accordance with Article 3, Division 3 of this Chapter 1, and shall be held within 25 working days after the variance petition is filed with the responsible official.

(c) *Burden of Proof*. The petitioner bears the burden of proof to demonstrate that a variance to the standards applicable to a development application should be granted.

(d) *Decision on Petition*. The body deciding the variance petition shall grant, grant subject to conditions or deny the request for one or more variances.

(1) Where the decision-makers for the variance petition and the development application are the same, the variance petition shall be decided within the period within which the development application must be decided.

(2) Where the decision-makers for the variance petition and the development application are different, the variance petition shall be decided within 30 working days of the close of the public hearing.

(e) *Notification of Decision on Petition*. The petitioner shall be notified of the decision on the variance petition in the manner provided in Section 1.3.2.1 of this Land Development Code.

Section 1.10.2.4 - Criteria for Approval

(a) In deciding the variance petition, the decision-maker shall apply the following criteria:

(1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

(2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(4) Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

(5) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;

(6) Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapters 4 through 7 of this Land Development Code;

(7) The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;

(8) The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and

(9) The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this Section.

Section 1.10.2.5 - Expiration and Extension

(a) *Expiration on Failure to File Application*. Where the decision-makers for the variance petition and the development application are different, a variance to a standard applicable to the development application shall expire within 90 days of the date the variance petition is granted, unless the property owner or applicant files the development application with the City in accordance with this Land Development Code within such period. The decision-maker may extend the time for filing the development application for good cause shown, but in any event, the expiration date for the variance shall not be extended beyond one year from the date the variance petition was granted.

(b) *Effect of Permit Expiration or Extension*. Variances granted in conjunction with a development application remain in effect for the period the development permit is in effect, and expire upon expiration of the development permit. Extension of the development permit also shall result in extension of the variance.

(c) *Effect of Application Denial*. Denial of the development application in conjunction with which a variance petition was granted or processed shall result in expiration of the variance.

DIVISION 3: - PETITION FOR RELIEF FROM DEDICATION OR CONSTRUCTION REQUIREMENT

Section 1.10.3.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a petition for relief from a dedication or construction requirement is to assure that the application of uniform dedication and construction standards to a proposed plat or other development application does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.

(b) *Applicability.* A petition for relief under this Division may be filed by a property owner to contest any requirement to dedicate land for or to construct public improvements for dedication to the public that is imposed under the public facilities standards in Chapter 7 of this Land Development Code to a plat application or to any other petition or development application authorized under this Code, whether the requirement is under uniform standards, or attached as a condition to approval of the petition or permit. A petition under this Division shall not be used to seek variation from a standard on grounds applicable to a petition for a variance under Division 2 of this Article 10.

(c) *Effect*. If the relief requested under the petition is granted in whole or in part by the City Council, the dedication or construction requirement initially imposed shall be modified accordingly, and the standards applied or the conditions attached to initial approval of the development application shall be thereafter applied in accordance with the relief granted. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

Section 1.10.3.2 - Petition Requirements

(a) *Who May Petition*. A petition for relief from a dedication or construction requirement may be filed by a property owner or the applicant for any petition for a legislative decision or development permit, in which the dedication or construction requirement has been applied or attached as a condition of approval, or as grounds for denying the petition or development permit application.

(b) *Form of Petition.* The petition for relief from a dedication or construction requirement shall allege that application of the standard or the imposition of conditions relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, roadway, drainage or parks system, as the case may be, or does not reasonably benefit the proposed development.

(c) *Study Required*. The petitioner shall provide a study in support of the petition for relief that includes the following information:

(1) Total capacity of the City's water, wastewater, roadway, drainage or park system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

(2) Total capacity to be supplied to the City's water, wastewater, roadway, drainage or park system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements.

(3) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land

or construction of capital improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.

(4) The effect of any credits against impact fees due the petitioner as a result of dedicating the land or constructing the capital improvement in accordance with the City's requirements.

(5) The effect of any City participation in the costs of oversizing the capital improvement to be constructed in accordance with the City's requirements.

(6) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.

(d) *Time for Filing Petition and Study.* A petition for relief from a dedication or construction requirement shall be filed with the responsible official within ten days of the initial decision on the development application. Where the dedication or construction requirement is applicable to more than one development permit, the petition for relief shall be filed following a decision on the first application in which the requirement is applied. The study in support of the petition shall be filed within 30 days of the initial decision, unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional 30 days for good cause shown.

(e) *Land in Extraterritorial Jurisdiction*. Where land or facilities to be dedicated are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code ch. 242, a petition for relief or study in support of the petition shall not be accepted as complete for filing by the responsible official unless the petition or study is accompanied by verification that a copy has been delivered to the county in which the facilities are to be located.

Section 1.10.3.3 - Processing of Petitions and Decision

(a) *Responsible Official*. The Engineering Director is the responsible official for a petition for relief from a dedication or construction requirement. Where the petition is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code ch. 242, the Director shall coordinate a recommendation with the county official responsible for reviewing plats in the county. The Director shall evaluate the petition and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the Director's analysis. In evaluating the petition and study, the Director shall take into account the maximum amount of any impact fees to be charged against the development for the type of capital improvement that is the subject of the petition, and any credits due the petitioner against impact fees, as well as any traffic impact, drainage or other adequate facilities studies evaluating the impacts of the development or similar developments on the City's water, wastewater, roadway, drainage or parks systems. The Director may utilize any reasonable methodology in evaluating the petitioner's study, including but not limited to impact fee methodologies.

(b) *Decision-Maker*. The City Council shall decide the petition for relief from a dedication or construction requirement.

(c) *Public Hearing*. The City Council shall conduct a public hearing in accordance with Article 3, Division 3 of this Chapter 1, within 30 working days after the study supporting the petition is filed with the responsible official.

(d) *Burden of Proof*. The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.

(e) *Decision*. The City Council shall consider the petition for relief from a dedication or construction requirement and, based upon the criteria set forth in Section 1.10.3.4, shall take one of the following actions:

(1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or

(2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development on community water, wastewater, roadway or drainage

facilities, and either deny the development application or require that additional dedications of rights-of-way for or improvements to such systems be made as a condition of approval of the application; or

(3) Grant the petition for relief, and waive in whole or in part any dedication or construction requirement to the extent necessary to achieve proportionality; or

(4) Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the capital improvement under standard participation policies.

(f) *Notification of Decision on Petition*. The petitioner shall be notified of the decision on the petition for relief in the manner provided in Article 3, Division 2 of this Chapter 1.

Section 1.10.3.4 - Criteria for Approval

In deciding the petition for relief from a dedication or construction requirement, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway, drainage or park system, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the petitioner, the Director's report and recommendation and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the county.

Section 1.10.3.5 - Expiration and Extension

(a) *Expiration on Failure to File Application*. Where a development application was denied based upon the imposition of the standard or condition requiring dedication of land or construction of a capital improvement, the petitioner shall resubmit the application to the original decision-maker within 90 days of the date the petition for relief is granted in whole or in part showing conformity with the City Council's decision on the petition, or the relief granted by the City Council on the petition shall expire. The Council may extend the time for filing the development application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date the petition was granted.

(1) If the development application is modified to increase the number of residential units or the intensity of nonresidential uses, the responsible official may require a new study to validate the relief granted by the City Council.

(2) If the development application for which relief was granted is denied on other grounds, a new petition for relief may be required.

(b) *Effect of Permit Expiration or Extension*. Where approval of the development application was conditioned on satisfaction of the dedication or construction requirement, the Engineering Director may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the City Council on the petition. The relief granted on the petition shall remain in effect for the period the development permit is in effect, and expire upon expiration of the development permit. Extension of the development permit also shall result in extension of the relief granted on the petition.

DIVISION 4: - VESTED RIGHTS PETITION

Section 1.10.4.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of a vested rights petition is to determine whether one or more standards of this Land Development Code should not be applied to a development application by operation of state law.

(b) *Applicability*. A vested rights petition may be filed with any quasi-judicial or administrative development application authorized under this Land Development Code. A vested rights petition may not be filed with a petition for a legislative decision.

(c) *Effect*. Upon granting of a vested rights petition in whole or in part, the responsible official shall process the development application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards.

Section 1.10.4.2 - Petition Requirements

(a) *Who May Petition*. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, for a quasi-judicial or administrative development application in conjunction with the filing of the application.

(b) *Form of Petition*. The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the development application under Tex. Loc. Gov't Code ch. 245 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

(1) A narrative description of the grounds for the petition;

(2) A copy of each approved or pending development application which is the basis for the contention that the City may not apply current standards to the development application which is the subject of the petition;

(3) Identification of all standards otherwise applicable to the development application from which relief is sought;

(4) Identification of any current standards which petitioner agrees can be applied to the development application at issue;

(5) A narrative description of how the application of current standards affect proposed lot size, lot dimensions, lot coverage or building size shown on the development application for which the petition is filed; and

(6) A copy of any prior vested rights determination involving the same land.

(c) *Time for Filing Petition*. A vested rights petition shall be filed with a development application for which a vested right is claimed. Where more than one application is authorized to be filed by this Land Development Code, the petition may be filed simultaneously for each application.

Section 1.10.4.3 - Processing of Petitions and Decision

(a) *Responsible Official*. The responsible official for a vested rights petition is the responsible official for processing the development application with which the petition is associated. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The responsible official shall promptly forward a copy of the vested rights petition to the City Attorney following acceptance.

(b) *Initial Decision*. If the responsible official is the decision-maker on the application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written

report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten days of the date the vested rights petition is accepted for filing.

(c) *Decision by Commission or Board on Petition.* If the development application is to be decided by the Planning and Zoning Commission or another board or commission, the Director shall submit a report in the form of a recommendation to such decision-maker. The commission or board shall render a decision on the vested rights petition in conjunction with its decision on the development application.

(d) *Decision by City Council*. Where the City Council is the final decision-maker on the development application, the petitioner may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this Land Development Code pending decision by the Council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the responsible official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within 30 days of the petitioner's request. If no written request for Council referral is filed, the Council shall decide the vested rights petition with its decision on the development application.

(e) *Appeal of Decision on Petition*. The petitioner or any interested person may appeal the responsible official's or the commission's or board's decision on the vested rights petition within ten working days of the date of such decision to the City Council in accordance with the procedures in Division 1 of this Article 10. An appeal under this subsection stays acceptance of filing of any subordinate development applications. The Council shall decide the petition within 30 days of receipt of the notice of appeal.

(f) *Action on the Petition*. The decision-maker on the vested rights petition may take any of the following actions:

(1) Deny the relief requested in the petition, and direct that the development application shall be reviewed and decided under currently applicable standards;

(2) Grant the relief requested in the petition, and direct that the development application shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or

(3) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the development application, while standards contained in identified prior regulations also shall be applied.

(g) *Order on Petition*. The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:

(1) The nature of the relief granted, if any;

(2) The approved or filed development application(s) upon which relief is premised under the petition;

(3) Current standards which shall apply to the development application for which relief is sought;

(4) Prior standards which shall apply to the development application for which relief is sought, including any procedural standards;

(5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and

(6) To the extent feasible, subordinate development applications that are subject to the same relief granted on the petition.

(h) *Application Following Final Decision on Petition*. Following the City's final decision on the vested rights petition, the property owner shall conform the development application for which relief is sought to such decision. The decision-maker on the development application shall consider any application revised under this subsection in accordance with the procedures for deciding the initial application under this Land Development Code and in conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the development application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the City Council under subsection (d), proceedings on the application shall resume after the Council's decision on the vested rights petition.

Section 1.10.4.4 - Criteria for Approval

(a) *Factors*. The responsible official or the City Council, as the case may be, shall decide the vested rights petition based upon the following factors:

(1) The nature and extent of prior development applications filed or approved for the land subject to the petition;

(2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;

(3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;

(4) Whether specific standards otherwise applicable affect lot size, lot dimensions, lot coverage or building size based upon the proposed development application;

(5) Whether any statutory exception applies to the standards in the current Land Development Code from which the applicant seeks relief;

(6) Whether any prior approved applications relied upon by the petitioner have expired under Section 1.10.4.5

(b) *Conditions*. If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Land Development Code, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

Section 1.10.4.5 - Expiration and Extension

(a) *Expiration*. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

(1) The petitioner or property owner fails to submit a required revised development application consistent with the relief granted within 30 days of the final decision on the petition;

(2) The development application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or

(3) The development application for which relief was granted on the vested rights petition expires.

(b) *Extension*. Extension of the date of expiration for the development application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

Section 1.10.4.6 - Dormant Projects

(a) For purposes of this Section only:

(1) Initial permit means any of the following types of approvals granted under the San Marcos Code of Ordinances, chs. 94, 110 or 114, as amended, or any predecessor zoning, subdivision or development ordinance, whether or not such approvals were issued in conjunction with or as a condition of approval of any other permits: Site plan, landscape plan, development plan, concept plan, zoning site plan, special use permit, site development permit, subdivision master plan, preliminary plat, variances or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of land uses, lots or improvements on a site intended for development.

(2) Final permit means a building permit, certificate of occupancy, or final plat approved under San Marcos City Code, chs. 94, 110 or 114, as amended, or any predecessor zoning, subdivision or development ordinance.

(b) Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date on, May 11, 2000, under the of the San Marcos Code of Ordinances, chs. 94, 110 or 114, as amended, or any

predecessor zoning, subdivision or development ordinance, shall expire on the effective date of this Land Development Code.

(c) The owner of the land subject to an initial permit that expires under subsection (b) may petition the City Council to reinstate such zoning permit by filing a written petition within 60 calendar days of the effective date of this Land Development Code. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

(1) As of May 11, 2000, one of the following events had occurred:

a. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;

b. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;

c. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent of the most recent appraised market value of the land;

d. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or

e. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid.

(2) After May 11, 2000 but before the expiration date specified in subsection (b), one of the following events had occurred:

a. A final permit was approved for all or part of the land subject to the approved zoning permit, and remained in effect for such land on such expiration date; or

b. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(d) The City Council may take one of the following actions:

(1) Reinstate the expired initial permit without an expiration date, if it finds that the petitioner has met any one of the criteria listed in subsection (c)(1);

(2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in subsection (c)(2), subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;

(3) Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in subsection (c); or

(4) Reinstate the zoning permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in subsection (c)(2)(b) and the pending application subsequently was approved, and deny the petition for the remaining land subject to the expired initial permit.

DIVISION 5: - OMNIBUS RELIEF PETITION

Section 1.10.5.1 - Purpose, Applicability and Effect

(a) *Purpose*. The purpose of an omnibus relief petition is to determine whether the application of the standards in this Land Development Code to a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applications would, if not modified or other relief granted, constitute a regulatory taking under constitutional or statutory standards.

(b) *Applicability*. A petition for relief under this Division may be filed following final decision to deny or conditionally approve an application for a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or a Floodplain Permit, and related applications.

(c) *Effect*. Upon granting of an omnibus relief petition in whole or in part by the City Council, the responsible official shall process the application for the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applications, and the decision-maker shall decide the applications consistent with the relief granted on the petition, including any amendments to applicable standards approved by the Council.

Section 1.10.5.2 - Petition Requirements

(a) *Who May Petition*. An omnibus relief petition may be filed by a property owner or the owner's authorized agent, including the applicant, for a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit following denial or conditional approval by the Engineering Director or by the Planning and Zoning Commission. For purposes of this Division, denial of any requested bonuses, mitigation plans or variances shall be grounds for filing an omnibus relief petition. The petition shall be to the City Council and may be accompanied by an appeal of the Commission's decision.

(b) *Form of Petition*. The omnibus relief petition shall allege that the application of the standards of this Land Development Code to the proposed Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applications deprives the petitioner of all economically viable use of the petitioner's land, or, in the case of land located in the City's extraterritorial jurisdiction, has resulted in devaluation in the fair market value of the land by at least 25 percent. The petition shall include the following information and documents:

(1) The development application(s) for which the petitioner seeks relief and for which the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit has priority;

(2) The application for the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit that was denied or conditionally approved by the Planning and Zoning Commission;

(3) A copy of the record of the Planning and Zoning Commission's final decision on the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related applications, and a summary of any reasons given for the decision;

(4) A proposed Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit, if any that the petitioner believes is consistent with the relief sought in the petition;

(5) A detailed statement of the grounds for the petition that addresses the approval criteria set forth in this Division; or

(6) In the event the petition alleges that the application of the standards has resulted in at least a 25 percent devaluation of the property, the petition must also be accompanied by a statement of the petitioner's intent to submit an appraisal of the property by a qualified professional comparing the market value of the property as if the standards applicable to the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit were not in effect with the market value of the property with the standards in effect. This appraisal must utilize

sales comparisons or other reliable method of determining fair market value, and the completed appraisal must be submitted prior to the Council's consideration of the petition.

(c) *Time for Filing Petition*. An omnibus relief petition shall be filed within ten days of a final adverse decision on an application for a Watershed Protection Plan by the Planning and Zoning Commission.

Section 1.10.5.3 - Processing of Petitions and Decision

(a) *Responsible Official*. The responsible official for an omnibus relief petition is the ~~Planning D~~Director. The Director shall promptly forward a copy of the omnibus relief petition to the City Attorney following acceptance. The Director shall prepare a recommendation and forward the matter to the Council for decision.

(b) *Decision by City Council and Time for Decision*. The City Council shall decide the petition within 30 working days of the date the petition is filed, unless the petitioner is required to submit an appraisal, in which case the time for decision shall not commence to run until such appraisal is received. The Council may take one of the following actions on the petition:

(1) Deny the petition for relief, and either uphold the decision of the Engineering Director or Planning and Zoning Commission on the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit, or require that a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit be prepared consistent with the standards of this Land Development Code; or

(2) Grant the relief sought in the petition in whole or in part, reversing or modifying the decision of the Director or the Planning and Zoning Commission on the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit, and direct that related development applications be processed and evaluated in a manner consistent with such determination.

Section 1.10.5.4 - Criteria for Approval

(a) *Factors*. In deciding whether to grant relief to the petitioner, the City Council will consider whether there is any evidence from which it can reasonably conclude that the application of all or a part of the standards governing approval of a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit under this Land Development Code will deprive the petitioner of all economically viable use of the land, or for land in the extraterritorial jurisdiction, that the application of the standards has resulted in at least a 25 percent devaluation of the property, based upon the following factors:

(1) The nature and intensity of the uses allowed following application of the standards in this Land Development Code to the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applications, in comparison with the nature and intensity of the uses allowed without application of the standards;

(2) Whether the standards of this Land Development Code when applied to the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applications allow an economically viable use of the land;

(3) For petitions in which it is alleged that there has been a devaluation of property located in the extraterritorial jurisdiction, whether the adoption or application of standards in this Article is the producing cause of any devaluation of the property;

(4) The total expenditures made in connection with the proposed development in reasonable reliance on prior regulations;

(5) The extent to which the petitioner's expectations for economically viable uses have been realized through actual or anticipated development on land originally part of the same tract or parcel as the land for which relief is sought under the petition;

(6) The extent to which petitioner has taken advantage of any other relief measures provided by this Code that would result in mitigation of economic impacts resulting from application of the standards in this Land Development Code;

(7) Any fees reasonably paid in connection with the proposed development;

(8) Any representations made by City officials concerning the project and reasonably relied upon to the detriment of the petitioner;

(9) The extent to which the alleged effects of applying the standards of this Land Development Code from which relief is sought would occur in any event from application of standards by another regulatory agency;

(10) The extent to which the owner of the property had actual or constructive notice of regulations or proposed changes in the standards governing Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permits;

(11) Whether development of the land in accordance with the development applications proposed by petitioner and in the absence of applying the standards in this Land Development Code from which relief is sought will constitute a public or private nuisance;

(12) The extent to which development of the land in accordance with the development applications proposed by petitioner and in the absence of applying the standards in this Land Development Code from which relief is sought is substantially detrimental to the public health and safety; and

(13) The nature and extent of prior development applications filed or approved for the land subject to the petition.

(b) *Modification of Standards*. In granting relief under the petition, the City Council may waive or modify the standards to be applied to the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit or related development applications, or may impose reasonable conditions on related development applications in order to implement the relief granted. The Council also may initiate a petition for a zoning map amendment in order to afford the relief granted, which shall be decided in accordance with Article 5, Division 1 of this Chapter 1. In such case, the Council's decision on the petition shall not be considered final until the petition for the zoning map amendment is decided. The action taken by the Council under this Section shall not deprive the Planning and Zoning Commission of its final approval authority over subdivision plats.

Section 1.10.5.5 - Expiration and Extension

(a) *Expiration*. The relief granted in response to a petition under this Section will be deemed null and void, and all claims pertaining to loss of economically viable use, or devaluation of land by 25 percent or more, will be deemed forfeited and thereupon shall expire, if any of the following events occurs:

(1) A Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit or related development application, consistent with the City Council's determination on the petition, is not filed with the City within 30 days of the date of a final determination by the City Council; or

(2) A related development application is subsequently denied for failure to comply with standards governing the application, thereby resulting in expiration of the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit; or

(3) Approval of a related development application expires, thereby resulting in expiration of the Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit.

(b) *Extension and Reinstatement*. The date for submitting a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit or related development application may be extended by the City Council for not more than 90 days. Reinstatement of an expired related development application shall result in extension of the relief granted on the omnibus relief petition for a like period.

DIVISION 6: - IMPACT FEE APPEAL

Section 1.10.6.1 - Applicability, Exceptions and Effect

(a) *Applicability.* The following administrative decisions pertaining to the imposition or relief from an impact fee authorized under Chapter 7, Article 7 of this Land Development Code may be appealed to the City Council:

(1) The applicability of an impact fee to the development;

(2) The amount of the impact fee due;

(3) The availability or amount of an offset or credit against payment of an impact fee for inclusion in a subdivision improvement agreement;

(4) The expiration of an offset or credit;

(5) The application of an offset or credit against an impact fee due;

(6) The availability of or amount of a refund due; or

(7) The applicability of an exception or exemption.

(b) *Exception*. If the property owner or applicant contends that the amount of the impact fee or the availability or amount of an offset or credit against an impact fee due places a disproportionate burden on the property owner or applicant, or that payment of the impact fee exceeds the benefit received by the new development, the procedures of this Division do not apply. In such instance, the property owner or applicant shall file a petition for relief from a dedication or construction requirement under Division 3 of this Article 10 in order to resolve the issue. Such petition may include a claim that the dedication or construction of a public improvement places a disproportionate burden on the property owner or applicant, as provided for in Division 3.

(c) *Effect*. The granting of an impact fee appeal supercedes the decision from which appeal was taken. If relief includes reduction in the amount of an impact fee paid under protest, the amount of the reduction shall be refunded to the appellant.

Section 1.10.6.2 - Appeal Requirements

(a) *Who May Appeal*. The property owner or applicant for a building permit or, in the extraterritorial jurisdiction of the City, an applicant for a utility connection, who is subject to payment of an impact fee under Chapter 7, Article 7 of this Land Development Code, may file an impact fee appeal. The burden is on the appellant to demonstrate that the initial decision was erroneous.

(b) *Form of Appeal*. The appeal shall contain a written statement of the reasons why the impact fee decision was erroneous. The appellant may submit evidence directly relevant and material to the grounds for the appeal. The burden of proof shall be on the appellant to demonstrate that the decision being appealed was not in accordance with impact fee standards in Chapter 7, Article 7.

(c) *Time for Filing Appeal*. A written appeal must be filed with the responsible official within 30 days of the decision being appealed.

Section 1.10.6.3 - Processing of Appeal and Decision

(a) *Responsible Official*. The responsible official on appeal is the Engineering Director. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the City Council for decision.

(b) *Stay of Proceedings*. If the notice of appeal is accompanied by a payment or other security satisfactory to the City Attorney in an amount equal to the original determination of the impact fee due, the development application may be processed and approved while the appeal is pending. If the impact fee is not paid or otherwise secured, all proceedings on a development application associated with the appeal shall be stayed, including without limitation the acceptance, processing or approval of the application or subordinate applications.

(c) *Decision on Appeal*. The City Council shall decide the appeal within 30 days of the date the appeal is filed. The Council shall affirm, reverse or modify the decision from which appeal was taken.

(d) *Notification of Decision on Appeal*. The appellant shall be notified of the decision on appeal and the right to any refund in the manner provided in Article 3, Division 2 of this Chapter 1.

Section 1.10.6.4 - Criteria

In deciding the appeal, the City Council shall apply the criteria governing the imposition, collection, offsetting and crediting or refund of an impact fee under Chapter 7, Article 7.

Chapter 2 - DEVELOPMENT IN THE ETJ

ARTICLE 1: - DEVELOPMENT IN THE ETJ

DIVISION 1: - REGULATION AND AUTHORITY

Section 2.1.1.1 - Regulations Applicable to the Extraterritorial Jurisdiction

(a) *Regulations and authority.* The following regulatory standards shall govern development in the City's extraterritorial jurisdiction and shall be applied in deciding development applications in the extraterritorial jurisdiction:

(1) Standards governing annexation and development agreements in this Chapter 2, Article 2, on the authority of and pursuant to Tex. Loc. Gov't Code chs. 43 and 212, subchapter G;

(2) Policies and standards governing utility extensions in this Chapter 2, Article 3;

(3) Policies and maps of the adopted ~~Master~~Comprehensive Plan and interpretive rules, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 213, in accordance with Chapter 3, Article 1;

(4) Environmental standards in Chapter 5, Articles 1- 4, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 401 and Texas Water Code chs. 16 and 26;

(5) Development standards in Chapter 6, Articles 1 and 6, when applied through platting procedures in Chapter 1, Article 6, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 212 and ch. 242;

(6) Development standards in Chapter 6, Article 3, when made applicable to the extraterritorial jurisdiction by this Land Development Code, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 216;

(7) Public facilities standards and park fees in Chapter 7, Articles 1 - 6 and 8 - 10, when applied through platting procedures in Chapter 1, Article 6, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 212 and ch. 242;

(8) Impact fees for water, wastewater and drainage facilities, in accordance with Chapter 7, Article 7, on the authority of and pursuant to Tex. Loc. Gov't Code ch. 395;

(9) Land use, zoning and development standards otherwise applicable only within City limits, when applied through development agreements approved pursuant to Chapter 1, Article 4, on the authority of and pursuant to Tex. Loc. Gov't Code chs. 43 and 212, subchapter G; and

(10) All procedures in Chapter 1 required to apply the standards to developments in the extraterritorial jurisdiction under the same authority and pursuant to Texas laws authorizing the application of substantive standards to such development proposals.

(b) *Incorporation of statutory authorization.* Each and every authorization to regulate development in the City's extraterritorial jurisdiction contained in Texas statutes, as may be amended from time to time, and which are identified generically in subsection (a) and implemented by this Land Development Code hereby is adopted and incorporated herein.

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ARTICLE 2: - DEVELOPMENT AGREEMENTS

DIVISION 1: - DEVELOPMENT AGREEMENTS

Section 2.2.1.1 - Purpose and Applicability

(a) *Purpose.* The purpose of a development agreement is to enable development of land in the City's extraterritorial jurisdiction to occur at densities or intensities of use that require public water and wastewater services and that are to be governed by standards applicable to development inside the City limits. The purpose of the agreement also shall be to provide for development outside the City limits that is compatible with development inside the City limits in anticipation of eventual annexation of the land subject to the agreement into the City.

(b) *Applicability.* A development agreement shall be used where either of the following is applicable:

(1) It is likely that the property subject to the agreement will remain in the extraterritorial jurisdiction for a period exceeding five years and the property owner seeks to pursue development prior at urban level residential densities or intensities of use.

(2) The City proposes to annex a property within the ETJ that is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use. A development agreement, consistent with the provisions of the Local Government Code, shall be established.

(Ord. No. 2011-55, § 9, 11-1-11)

Section 2.2.1.2 - Policies Applicable to Petitions for Development Agreements

The following policies shall be taken into consideration in deciding a petition for approval of a development agreement:

(a) Development of the property under the proposed agreement and land use plan should implement the policies of the ~~Master~~Comprehensive Plan;

(b) Extension of public facilities and services to the property under the agreement should not compromise the City's ability to timely provide adequate public facilities to property inside the City or degrade environmental resources;

(c) Water quality impacts arising from the proposed development should be mitigated by measures provided in the development agreement;

(d) The agreement should not further creation or expansion of other utility providers to the City's detriment;

(e) The agreement should authorize application of the City's zoning and development standards to the uses proposed, which otherwise could not be applied to the proposed development;

(f) The agreement should authorize the City to recoup the costs of capital improvements provided to the development while it remains in the extraterritorial jurisdiction;

(g) The schedule of annexation proposed in the agreement should further the City's policies on expansion and growth of the City;

(h) The agreement should not create future barriers to annexation of land contiguous to the area subject to the agreement; and

(i) The agreement should not promote economic development that undermines or inhibits economic development within the City center or other economic centers of the community;

(j) Proposed development transfers should substantially further protection of water quality and result in compatible development on the receiving site.

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Section 2.2.1.3 - Contents of Agreement

A development agreement at a minimum shall contain the following provisions, which shall be drafted to the satisfaction of the City Attorney:

(a) A legal description of the land subject to the agreement.

(b) A description of the proposed development, identifying each land use authorized, including the density or intensity of such use, and including incorporation by reference of a land use plan prepared in accordance with Section 2.2.1.4

(c) The proposed schedule of development.

(d) Proposed base zoning districts for the property following annexation to the City.

(e) A complete list of all development standards that shall be applied to the property, referenced to the standards in this Land Development Code, through the agreement, together with a list of standards in the Code that do not apply to the development.

(f) A complete list of all development application procedures that shall be applied to the property, referenced to the articles and divisions of this Land Development Code, through the agreement, together with a list of procedures in the Code that do not apply to the development.

(g) A list of special standards applicable to development of the property that normally do not apply to development of land within the City or its extraterritorial jurisdiction.

(h) A schedule for providing public facilities and services to the development that identifies the service provider and the approximate dates within which service will be provided for each phase of the development.

(i) Identification of the means and provisions for financing each public service required to support development of the property, including but not limited to impact fees, contributions in aid of construction, dedication of rights-of-way for public improvements, and construction of such improvements;

(j) A schedule for annexing the property to the City, together with any guarantees of immunity from annexation, identifying the period during which the property may not be annexed.

(k) The term of the agreement and provisions for extension, if any.

(l) Provisions for enforcement of the agreement by the City.

(m) Provisions for amending the agreement.

(n) Provisions for recording the agreement. The agreement shall be recorded in each county in which some of the land subject to the agreement is located.

(o) Provisions assuring that the agreement shall bind successors-in-interest to the parties.

(p) Where development transfers are intended, assurances that the granting site will be preserved.

Section 2.2.1.4 - Land Use Plan

(a) *Purpose.* The purpose of the land use plan that is to be incorporated into the development agreement is to graphically depict the locations of authorized uses for the land subject to the agreement, and to define prospective zoning district boundaries and development standards for such areas.

(b) *Relationship to Conceptual Plan.* The land use plan shall be consistent with the conceptual plan of development approved with the petition for the development agreement.

(c) *Consistency With Land Use Plan.* Subsequent development applications shall be consistent with the land use plan.

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(d) *Phasing and Development Standards.* Unless expressly provided to the contrary in the annexation agreement, only the initial phase of development shall be authorized while the property is located outside the City limits. Development that occurs outside City limits pursuant to the development agreement and land use plan shall be subject to the use limitations and standards in the zoning district referenced in the land use plan.

(e) *Zoning Upon Annexation.* Following annexation of the land to the City, the zoning classifications for the property shall be substantially similar to those designated in the development agreement. Areas designated in the land use plan for specific zoning classifications shall be zoned in accordance with the agreement. The land subject to the agreement shall be zoned upon annexation to the City in accordance with the applicable procedures of Chapter 1, Article 4 and Article 5.

(Ord. No. 2006-45, § 23, 9-19-06)

Section 2.2.1.5 - City Services

In approving the development agreement and land use plan, the City Council shall decide the method by which City services will be provided to serve development of the property subject to the agreement, and may resolve all issues pertaining to extension of water and wastewater facilities.

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ARTICLE 3: - UTILITY EXTENSIONS

DIVISION 1: - UTILITY EXTENSIONS

Section 2.3.1.1 - Purpose and Applicability

A petition for approval to extend City water or wastewater utility facilities under this Article applies only to land located within the City's extraterritorial jurisdiction.

Section 2.3.1.2 - Procedure

(a) A petition for approval to extend City water or wastewater utility facilities shall be submitted to the ~~Planning D~~Director on a form furnished by the City. A petition shall include or be accompanied by a written request for annexation of the applicant's property. If the applicant's property is not contiguous to the City limits, the petition must be accompanied by a written request for annexation of an area at least 15 feet in width from each property owner, or, for public right-of-way, the entity having jurisdiction over the right-of-way, along the intended route of the utility extension.

(b) A petition for approval to extend City water or wastewater utility facilities will be reviewed by the City staff, and the ~~Planning D~~Director will make a written report to the City Council on the petition.

(c) The City Council will evaluate the petition on the basis of the staff report and the criteria listed in Section 2.3.1.3. The City Council may either grant, grant subject to conditions, or deny the petition.

Section 2.3.1.3 - Policies Applicable to Petitions for Utility Extensions in ETJ

The following policies shall be taken into consideration in deciding a petition for a utility extension:

(a) Whether the proposed development to be served by the extension is consistent with the ~~Master~~Comprehensive Plan;

(b) Whether the extension is proposed to be constructed in accordance with the TCSS, the provisions of Chapter 86 of the City Code, and all other applicable City regulations and standards;

(c) Whether it is feasible to annex the property, and any intervening property which is needed for utility rights-of-way, to the City in a timely manner;

(d) Whether the utility extension would compromise the City's ability to timely provide adequate water or wastewater facilities to property inside the City;

(e) Whether the utility extension will lead to premature development that cannot be served efficiently and timely by roadway, drainage or park facilities;

(f) Whether the utility extension is financially feasible given the proposed means of financing the extension;

(g) Whether the utility extension will lead to significant degradation of water quality or other environmental resources, either from construction of the water or wastewater improvements, development of petitioner's land, or development of other land that may be served through the extended facilities; and

(h) Whether the petitioner proposes to extend wastewater facilities without utilizing City water facilities.

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Chapter 3 - COMPREHENSIVE PLANNING

ARTICLE 1: - PLAN ELEMENTS AUTHORIZED

ARTICLE 2: - ~~MASTER~~ COMPREHENSIVE PLAN CONSISTENCY RULE

ARTICLE 1: - PLAN ELEMENTS AUTHORIZED

DIVISION 1: - CREATION, IMPLEMENTATION, AND REVISION

DIVISION 1: - CREATION, IMPLEMENTATION, AND REVISIONS

Section 3.1.1.1 - City ~~Master~~ Comprehensive Plan Created

Section 3.1.1.2 ~~-~~ – Implementation

Section 3.1.1.3 – Neighborhood Character

Section 3.1.1.4 – Other Plans

Section 3.1.1.1 - City ~~Master~~ Comprehensive Plan Created

The Vision San Marcos: A River Runs Through Us ~~Horizons City Master~~Comprehensive Plan, prepared by the City Planning Department and dated ~~November 1995~~April, 2013, is adopted as the ~~master~~ comprehensive plan for the physical development of the City. The City Clerk and Planning and Development Services Department will keep a copy of this ~~master~~ comprehensive plan on file for public inspection.

Section 3.1.1.2 - Implementation

(a) The ~~Planning~~ Director is authorized and directed to implement the policies of the ~~Master~~ Comprehensive Plan through the activities described ~~in Chapter 5- San Marcos Action Plan of San Marcos Horizons~~therein.~~, and in particular, the following:~~ Implementation tools and strategies within Vision San Marcos: A River Runs Through Us are found throughout the plan and include, but are not limited to:

(1) Preferred Scenario Map

(2) Land Use Intensity Matrix

(3) Land Use Suitability Map

(3) 2035 Vision, Goals and Objectives

(4) Introduction Section – How to Use This Plan

(5) All Plan Element Sections

(6) Neighborhood Character Studies

(7) Process for Updating the Plan Section

(8) Five Year Action Items Section

(9) All adopted updates to the plan, figures and addendum

~~(1) The preparation and revision of neighborhood/sector plans for all areas within the City.~~

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~~(2) The application of the Master Plan's Future Land Use Plan to guide subdivision platting and other development decision making in the City's extraterritorial jurisdiction.~~

~~(3) The future revision of the Future Land Use Map when annexations to the City alter the City's extraterritorial jurisdiction.~~

~~(4) Implementation of the Master Plan through zoning decisions.~~

~~(Ord. No. 2006-45, § 24, 9-19-06)~~

Section 3.1.1.3 - ~~Sector Plans~~Neighborhood Character [RESERVED]

~~(a) V~~*NOTE: Vision San Marcos: A River Runs Through Us includes a recommendation for Neighborhood Character Studies to further define development regulations within the City and its ETJ. This section is reserved for the adoption of these studies as amendments to the Comprehensive Plan. ~~The following Sector Plans are adopted as an amendment to the San Marcos Horizons City Master Plan. Sector Plans are amendments to the Master Plan.~~

~~(1) The Sector One Plan.~~

~~(2) The Sector Two Plan.~~

~~(3) The Sector Three Plan.~~

~~(4) The Sector Four Plan.~~

~~(5) The Sector Five Plan.~~

~~(6) The Sector Six Plan.~~

~~(7) The Sector Seven Plan.~~

~~(8) The Wonder World Drive Land Use Plan.~~

~~(9) The Campus Edge Master Plan.~~

~~(b) The Future Land Use Plan of the City may be amended by the adoption of a Future Land Use Plan for a sector of the City in an update to a sector plan.~~

~~(c) The Sector PlansNeighborhood Character Studies shall be used by the Planning and Zoning Commission and the City Council in guiding decisions regarding the growth and development of the City.~~

(Ord. No. 2006-45, § 25, 9-19-06; Ord. No. 2007-52, § 2, 9-28-07)

Section 3.1.1.4 – Other Plans

(a) These plans shall be used by staff, boards, commissions and council in guiding decisions regarding the growth and development of the City

(b) Wonder World Master Plan

(c) Campus Edge Master Plan

(d) Sustainability Master Plan

(d) Transportation Master Plan

(e) Water and Wastewater Master Plans

(f) Downtown Master Plan

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(g) Storm Water Master Plan

(h) Parks, Recreation and Open Space Master Plan

(i) Airport Master Plan

(j) Habitat Conservation Plan

(k) Arts Master Plan

(l) Flood Protection Master Plan

(m) Solid Waste Master Plan

(n) and any other plans adopted by the City

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ARTICLE 2: - ~~MASTER~~ COMPREHENSIVE PLAN CONSISTENCY RULES

DIVISION 1: - CONSISTENCY AND APPLICABLE ELEMENTS

DIVISION 1: - CONSISTENCY AND APPLICABLE ELEMENTS

Section 3.2.1.1 - Rules for Determining Consistency

Section 3.2.1.2 - Applicable ~~Master~~ Comprehensive Plan Elements, Maps and Policies

Section 3.2.1.1 - Rules for Determining Consistency

(a) Development applications shall be consistent with the City's adopted ~~Master~~ Comprehensive Plan, as amended from time to time.

(b) A legislative development application is consistent with the City's adopted ~~Master~~ Comprehensive Plan if the application is consistent with applicable policies in the ~~Master~~ Comprehensive Plan and applicable ~~Master~~ Comprehensive Plan maps.

(1) In determining whether a legislative development application is consistent with a ~~Master~~ Comprehensive Plan map, the City shall take into consideration the policies that govern interpretation of the map, as well as location or property specific designations on the map.

(2) The ~~Future Land Use~~Preferred Scenario Map incorporated in the ~~Master~~ Comprehensive Plan is not a zoning district map and shall not be construed as defining zoning district boundaries, but will be used as a guide in making decisions regarding zoning.

(c) A quasi-judicial or administrative development application is consistent with the City's adopted ~~Master~~ Comprehensive Plan if the application conforms with regulations in this Land Development Code that implement the applicable policies of the ~~Master~~ Comprehensive Plan. Policies or maps that have not been implemented through regulations incorporated in this Land Development Code shall not be applied to quasi-judicial or administrative development applications.

Section 3.2.1.2 - Applicable ~~Master~~ Comprehensive Plan Elements, Maps and Policies

The following ~~Master~~ Comprehensive Plan elements~~, Sector Plans~~ and maps apply to legislative development applications:

(a) The ~~Horizon Plan~~Vision San Marcos Comprehensive Plan and all ~~Sector Plans~~Maps, Addenda~~um~~ contents and Neighborhood Character Studies, as amended;

(b) Water, Wastewater and Drainage Master Plans;

(c) ~~The Future Land Use Plan and Maps~~The Preferred Scenario Map and Land Use Intensity Matrix;

(d) The Transportation Master Plan including the Thoroughfare ~~Plan~~ Map and all other Maps;

(e) Density Policies;

(f) Parks and Open Space Master Plan.

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Chapter 4 - ZONING REGULATIONS

ARTICLE 1: - GENERAL PROVISIONS

DIVISION 1: - PURPOSE

The zoning regulations and districts contained in this Chapter are established in accordance with an adopted ~~master~~comprehensive plan, as authorized by Chapter 211 of the Texas Local Government Code, for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the City limits. They have been designed to lessen the congestion in the streets, to secure safety from fire, panic and other dangers, to ensure adequate light and air, to prevent the overcrowding of land and thus avoid undue concentration of population, and to facilitate the adequate provision of transportation, water supply, wastewater treatment, schools, parks and other public requirements. They are established with reasonable consideration for, among other things, the character of each zoning district and its peculiar suitability for the particular uses specified, conserving the value of buildings and environmentally sensitive features, and encouraging the most appropriate use of land throughout the City.

DIVISION 2: - ZONING DISTRICT MAP

Section 4.1.2.1 - Division of the City into Districts

The City is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the Zoning District Map of the City, which may also be cited as the "Zoning Map", which is adopted as a part of this Code as fully as if the same were set forth herein in detail.

Section 4.1.2.2 - The Official Zoning District Map

(a) *Official Map*. The Zoning Map shall be maintained as an electronic file in the office of the ~~Planning D~~Director and labeled as "Official Zoning Map of the City of San Marcos, Texas". This map shall be the official Zoning Map and shall bear the signature of the mayor, attested by the City Clerk, shall bear the seal of the City, and shall contain the following certification: "This is to certify that this is the Official Zoning Map referred to in Chapter 4 Chapter 4 of the Land Development Code, Ordinance No. _____ of the City of San Marcos, Texas, adopted on the ___ day of _____, 200_, as amended by official action of the City Council". In case of any question, this version of the map shall be controlling.

(b) *Maintenance of Official Map*. The official Zoning Map shall be maintained in the office of the ~~Planning D~~Director. The map shall be used for reference and shall be maintained up-to-date by incorporating all subsequent amendments enacted by official action of the City Council. The ~~Planning D~~Director will use all reasonable means to protect the official Zoning Map from damage, and to ensure the accurate restoration of the map file if damage or destruction of the original file occurs.

(c) *Changes or Amendments Reflected on the Map*. Any changes or amendments made to the zoning district boundaries shall be incorporated into the Zoning Map file promptly after the amendment has been approved by the City Council. The ~~Planning D~~Director shall maintain a descriptive log of amendments to the map using the following format: "On the ___ day of _____, _____, by official action of the City Council of San Marcos, Texas, the following change(s) was made on the City's official Zoning Map: _____(enter a brief description of the nature of the change), Ordinance No. _____, effective date _____, _____". Each descriptive entry for an amendment to the official map shall be signed by the ~~Planning D~~Director. The ~~Planning D~~Director will use all reasonable means to ensure that no changes are made to the official Zoning Map without authorization by official action of the City Council.

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(d) *Replacement of the Official Zoning District Map*. In the event that the official Zoning Map file becomes damaged, destroyed, lost or difficult to interpret for any reason, the City Council may adopt, by ordinance following a public hearing, a new official Zoning Map which shall replace and supersede the prior Zoning Map, but which shall not, in effect, amend or otherwise change the original official Zoning Map or any subsequent amendment thereto.

Section 4.1.2.3 - Zoning District Boundaries

(a) *Rules of Interpretation*. The zoning district boundary lines shown on the Zoning Map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

(1) Boundaries shown as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines.

(2) Boundaries shown as approximately following platted lot lines shall be construed as following the lot lines.

(3) Boundaries shown as approximately following City limits shall be construed as following the City limits.

(4) Boundaries shown as following railroad lines shall be construed to be located along the centerline of the railroad right-of-way lines.

(5) Boundaries shown as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries shown as approximately following the centerlines of streams, rivers, creeks, canals, bodies of water, or drainageways shall be construed to follow the centerlines, and in the event of change in any such centerlines shall be construed to move with the centerlines.

(6) Boundaries shown as parallel to, or extensions of, features described in subsections "1" through "5" above shall be so construed. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the Map.

(7) Whenever any street, alley or other public way is vacated by official action of the City Council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of the street, alley or other public way shall be automatically extended to the centerline of the vacated street, alley or public way (or to the new property ownership boundary line, if it is not determined to be at the former centerline) and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(8) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

(9) Where physical features on the ground are at variance with information shown on the Zoning Map, or if there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections "1" through "8" above, then the Zoning Board of Adjustments shall interpret the zoning district boundaries.

(10) If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as "FD" (Future Development District) in the same manner as provided for newly annexed territory.

(11) Zoning changes which are still valid and which were made between the effective date of the previous Zoning Ordinance (Ordinance No. 1984-71, as amended), adopted on June 13, 1984, and the effective date of this Code are indicated in approximate locations on the Zoning Map. For exact legal descriptions, refer to the adopting ordinances for each particular zoning change.

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DIVISION 4: - ZONING UPON ANNEXATION

DIVISION 3: - COMPLIANCE REQUIRED AND APPLICATION OF REGULATIONS

Section 4.1.3.1 - Compliance

All land, buildings, structures or appurtenances located within the City shall be occupied, used, erected, altered, removed, placed, demolished and/or converted in conformance with the zoning regulations prescribed for the zoning district in which the land, building, structure or appurtenance is located. Violations of these regulations shall be subject to penalties as per Chapter 1, Article 3, Division 7 of this Code. All of the standards and regulations contained in this Chapter shall be considered as minimum requirements unless explicitly stated otherwise. Pursuant to Section 1.2.2.2 the ~~Planning D~~Director is granted authority to approve administrative adjustments to standards in this Chapter. To the extent the ~~Planning D~~Director has approved such an administrative adjustment to a standard established under this Chapter, an owner of land meeting the adjusted standard and any other applicable standards and requirements of this Chapter will be deemed to be in compliance with requirements of this Chapter.

(Ord. No. 2006-45, § 26, 9-19-06; Ord. No. 2011-27, § 4, 6-21-11)

Section 4.1.3.2 - Uses Prohibited By Other Regulatory Authorities

No uses of land, buildings, structures or appurtenances in the City shall be allowed which are prohibited by State or Federal law or which operate in violation of State or Federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency, Texas State Department of Health Services, Texas Commission on Environmental Quality, Federal Aviation Administration, Federal Communications Commission, or any other applicable State or Federal agency, as the case may be.

DIVISION 4: - ZONING UPON ANNEXATION

Section 4.1.4.1 - Timing and Effect of Zoning After Annexation

(a) As soon as practical following annexation, but in no event more than 180 calendar days thereafter, the ~~Planning D~~Director shall, on the Director's own or upon application by property owners of the annexed area, initiate proceedings to establish appropriate zoning on the newly annexed territory. The ~~Planning D~~Director shall commence public notification and other standard procedures for zoning amendments as set forth in Chapter 1 of this Code. The proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notices and public hearings). The zoning approval and formal adoption of the ordinance establishing zoning must occur, however, after the annexation takes effect, and as a separate and distinct action by the City Council. From the time an annexation takes effect until action is completed to zone the land, the interim zoning of the land shall be considered to be Future Development (FD) District, and all zoning and development regulations of the FD zoning district shall be adhered to with respect to development and use of the land that has been newly annexed.

(b) The initial zoning of a land parcel, whether it is interim in nature, by initiation of the landowner or by initiation of the City, must meet the requirements for notification and public hearings as set forth in Chapter 1 of this Code and all applicable State laws.

(c) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of a petition for annexation, but an annexation petition may not be conditioned upon the approval of any particular zoning classification.

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DIVISION 5: - ZONING DISTRICTS ESTABLISHED

Section 4.1.5.1 - Zoning District Names
Section 4.1.5.2 – Zoning Translation Table

Section 4.1.5.1 - Zoning District Names

The City of San Marcos is hereby divided into the following zoning districts:

Abbreviated Designation	Zoning District Name	~~Future Land Use Map Designation~~
FD	Future Development (FD) District (minimum 2-acre lots)	~~Very Low Density Residential (0-3 dupa)~~
AR	Agricultural Ranch District (minimum 5-acre lots)	~~Very Low Density Residential (0-3 dupa)~~
SF-R	Rural Residential District (minimum 1-acre lots)	~~Very Low Density Residential (0-3 dupa)~~
SF-11	Single Family District (minimum 11,000 square foot lots)	~~Low Density Residential (0-6 dupa)~~
SF-6	Single Family District (minimum 6,000 square foot lots)	~~Low Density Residential (0-6 dupa)~~
SF-4.5	Single Family District (minimum 4,500 square foot lots)	~~Medium Density Residential (0-12 dupa)~~
D	Duplex Residential District	~~Low Density Residential (0-6 dupa)~~
DR	Duplex Restricted District	~~Medium Density Residential (0-12 dupa)~~
TH	Townhouse Residential District	~~Low/Medium Density Res. (0-12 dupa)~~
PH-ZL	Patio Home, Zero-Lot-Line Residential District	~~Medium Density Residential (0-12 dupa)~~
MF-12	Multiple-Family Residential District (maximum 12 units per gross	~~Medium Density Residential (0-12~~

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	acre)	~~dupa)~~
MF-18	Multiple-Family Residential District (maximum 18 units per gross acre)	~~High Density Residential (>12 dupa)~~
MF-24	Multiple-Family Residential District (maximum 24 units per gross acre)	~~High Density Residential (>12 dupa)~~
MR	Manufactured Home and Residential District	~~Low Density Residential (0-6 dupa)~~
MH	Manufactured Home District	~~Medium Density Residential (0-12 dupa)~~
MU	Mixed Use District	~~Mixed Use~~
VMU	Vertical Mixed Use District	~~Mixed Use~~
P	Public and Institutional District	~~Public~~
OP	Office Professional District	~~Commercial~~
NC	Neighborhood Commercial District	~~Commercial~~
CC	Community Commercial District	~~Commercial~~
GC	General Commercial District	~~Commercial~~
HC	Heavy Commercial District	~~Commercial~~
CBA	Central Business Area District	~~Commercial~~
LI	Light Industrial District	~~Industrial~~
HI	Heavy Industrial District	~~Industrial~~
PDD	PDD Overlay District	~~Mixed~~

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DIVISION 5: - ZONING DISTRICTS ESTABLISHED

Section 4.1.5.2 - Zoning Translation Table

The following table shall be utilized in conjunction with the Preferred Scenario Map and Land Use Intensity Matrix of the Comprehensive Plan to determine if a Preferred Scenario Map Amendment is required. A proposed zoning change to a category with a check mark under a specific Intensity Zone may proceed with a zoning change request:

	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

DIVISION 6: - DIMENSIONAL AND DEVELOPMENT STANDARDS

Section 4.1.6.1 - General

All projects or development shall comply with all of the applicable dimensional and development standards in Table 4.1.6.1 and Article 2 of this Chapter 4 and Chapter 6. Additional requirements may also apply as required in other sections of the Code. All area requirements and lot sizes shall be calculated based on gross acres.

Section 4.1.6.2 - Nonresidential Uses in Residential Districts

Any nonresidential uses which may be permitted within a residential district in accordance with Section 4.3.1.2 shall conform to the requirements as prescribed for the CC, Community Commercial, zoning district.

(Ord. No. 2006-45, § 27, 9-19-06)

Table 4.1.6.1
Dimensional and Development Standards

* See Chapters 4 and 6 for additional standards or requirements.

** There may be additional standards or requirements for development within the Edwards Aquifer Zone, (Chapter 5, Article 2), the San Marcos River Corridor (Chapter 5, Article 3), developments utilizing development transfer techniques (Section 5.3.1.5), and developments utilizing cluster techniques (Section 5.3.1.5).

Standard Category	Residential Districts														
	FD	AR	SF-R	SF-11	SF-6	SF-4.5	D*	DR*	TH	PH-ZL	MF-12	MF-18	MF-24	MR	MH
Lot/Parcel Area, Minimum Sq. Ft.	87120	217800	43560	11000	6000*	4500*	11000	5400	2500*	4000	*	*	12000	6000*	3200*
Lot/Parcel Area, Maximum Acres	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Units per Acre, Maximum/Gross Acre	0.40	0.15	0.80	3.0	5.5	7.5	6.0	6.0	6/12	7.5	12.0	18.0	24.0	5.5	9.0

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DIVISION 6: - DIMENSIONAL AND DEVELOPMENT STANDARDS

Lot Frontage Minimum Feet	150	200	150	80	35	35	60	40	25	35	40	60	60	35	40
Lot Width, Minimum Feet	200	200	150	80	50*	50*	90	50	25	40	60	70	60	60	40
Front Yard Setback, Minimum Feet	50	40	40	30	25	20	25	25	20	20	25	25	25	25	10
Side Setback, Minimum Feet, Interior	20	20	20	10	5	5	5	5	0*	0/10*	10	10	10	7.5	5
Side Setback, Corner, Minimum Feet	25	25	25	15	15	15	10	15	12	10	15	15	15	15	25
Rear Yard Setback, Minimum*	20%	20%	20%	20%	20ft.	15ft.	20ft.	15ft.	10ft.	10ft.	10ft.	10ft.	10ft.	20ft.	20ft.
Lot Depth, Minimum Feet	200	200	200	100	100	90	100	90	N/A	85	100	100	100	100	80
Impervious Cover, Max. %**	30%	15%	40%	40%	50%	60%	75%	75%	70%	75%	75%	75%	75%	50%	N/A
Building height, Maximum Stories*	2	2	2	2	2	2	2	2	2	2	4	4	4	2	2

* Stories may not exceed 14 feet in height from finished floor to finished ceiling.

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DIVISION 6: - DIMENSIONAL AND DEVELOPMENT STANDARDS

Standard Category	Special or Nonresidential Districts										
	VMU	MU	P	NC	OP	CC	GC	HC	CBA	LI	HI
Lot/Parcel Area, Minimum Sq. Ft.	4000	6000	N/A	6000	6000	6000	6000	6000	6000	6000	6000
Lot/Parcel Area, Maximum Acres	20	20	N/A	5	5	N/A	N/A	N/A	N/A	N/A	N/A
Units per Acre, Maximum/Gross Acres	40	5.5	24.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Lot Frontage Minimum Feet	35	50	50	50	50	50	50	50	50	50	50
Lot Width, Minimum Feet	40	50	50	50	50	50	50	50	50	50	50
Front Yard Setback, Minimum Feet	0	25	25	20	20	20	20	25	0*	20	20
Side Setback, Minimum Feet, Interior	0	7.5	7.5	5	5	5	5	10	0	10	10
Side Setback, Corner, Minimum Feet	0	15	15	15	15	15	15	15	0	15	15
Rear Yard Setback, Minimum*	5ft.*	5ft.*	5ft.*	5ft.*	5ft.*	5ft.*	5ft.*	20ft.	5ft.	10ft.*	10ft.*
Lot Depth, Minimum Feet	100	100	100	100	100	100	100	100	100	100	100
Impervious Cover, Max. %**	85%	60%	80%	80%	80%	80%	80%	80%	N/A	85%	85%
Building Height, Maximum Stories*	4***	4	N/A	*	*	N/A	N/A	N/A*	*	N/A*	N/A

* Stories may not exceed 14 feet in height from finished floor to finished ceiling.

*** Taller structures may be approved by Conditional Use Permit.

(Ord. No. 2010-49, § 5(Exh. A), 9-7-10; Ord. No. 2011-55, § 14, 11-1-11)

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ARTICLE 2: - ZONING DISTRICTS

DIVISION 1: - RESIDENTIAL DISTRICTS

Section 4.2.1.1 - FD, Future Development District

(a) *Purpose*. The Future Development (FD) District is intended to provide areas for land that is relatively undeveloped and/or agricultural in nature. The FD district is also a default district for newly annexed land that is not yet ready to be zoned for a particular intended use.

(b) *Authorized Uses*. The following are authorized uses under the regulations established in this Chapter:

a. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4

b. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building, and Height Requirements:*

(1) The minimum rear yard shall be 20 per cent of the total lot depth measured at the point of the lots greatest depth.

(e) *Additional Requirements*. See Chapter 6 for additional development requirements and standards.

Section 4.2.1.2 - AR, Agricultural Ranch District

(a) *Purpose*. The AR Agricultural Ranch District is intended to preserve agricultural usage of land, to offer protection to agricultural land from the effects of objectionable, hazardous, or environmentally disruptive uses, and to discourage untimely scattering of more dense urban development.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) The minimum rear yard shall be 20 per cent of the total lot depth measured at the point of the lots greatest depth.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Section 4.2.1.3 - SF-R, Single-Family Rural Residential District

(a) *Purpose*. The SF-R Rural Residential District is intended for the development of single-family uses in larger lot subdivisions in a more rural setting.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(1) For lots in the SF-R district, consisting of at least one acre but with a lot width less than 150 feet, the side setbacks may be reduced proportionally to the percent difference between the lot width and 150 feet.

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(d) *Additional Area, Building and Height Requirements*:

(1) The minimum rear yard shall be 20 per cent of the total lot depth measured at the point of the lots greatest depth.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *Occupancy Restrictions*. See Section 4.3.4.5

(Ord. No. 2009-73, § 13, 12-1-09)

Section 4.2.1.4 - SF-11, Single-Family District

(a) *Purpose*. The SF-11 Single Family District is intended for development of primarily low-density detached, single-family residences and customary accessory uses on lots of at least 11,000 square feet in size.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) The minimum rear yard shall be 20 per cent of the total lot depth measured at the point of the lots greatest depth.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *Occupancy Restrictions*. See Section 4.3.4.5

Section 4.2.1.5 - SF-6, Single-Family District

(a) *Purpose*. The SF-6 Single Family District is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 6,000 square feet in size.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 6,900 square feet

(2) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *Occupancy Restrictions*. See Section 4.3.4.5.

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Section 4.2.1.6 - SF-4.5, Single-Family District

(a) *Purpose*. The SF-4.5 Single Family District is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 4,500 square feet in size.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 4,500 square feet

b. Corner: 5,400 square feet

(2) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *Occupancy Restrictions*. See Section 4.3.4.5.

Section 4.2.1.7 - D, Duplex Residential District (Low Density)

(a) *Purpose*. The D Duplex Residential District is intended for development of single-family residences and associated uses as well as for development on larger parcels of land of low density two-family duplex units. The D Duplex Residential District is intended to replace existing DP zoned areas. D zoning is not to be applied to properties for new duplex development.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Duplex, duplex condominium: 11,000 square feet

b. All other uses: 6,000 square feet

(2) Minimum Lot Width:

a. Single-family dwelling, group 50 feet per lot home, two-unit townhouse:

b. All other uses: 90 feet per lot

(3) Minimum Lot Frontage:

a. Single-family dwelling, group 35 feet per lot home, two-unit townhouse:

b. All other uses: 60 feet per lot

(4) Minimum Side Yard, Interior:

a. Single-family dwelling, group five feet home, two-unit townhouse:

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b. All other uses: Ten feet

c. No side setback required for the common wall side of two-unit townhouses

(e) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Duplex Residential (D) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Section 4.2.1.8 - DR, Duplex Restricted Residential District (Medium Density)

(a) *Purpose*. The DR Duplex Restricted Residential District is intended for development of single-family residences and associated uses as well as for development on larger parcels of land of medium density two-family duplex units.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Duplex, duplex condominium: 5,400 square feet

b. All other uses: 4,500 square feet

(2) Minimum Lot Width:

a. Single-family dwelling, group 50 feet per lot home, two-unit townhouse, patio home, industrialized home:

b. All other uses: 60 feet per lot

(3) Minimum Lot Frontage:

a. Single-family dwelling, group 35 feet per lot home, two-unit townhouse, patio home, industrialized home:

b. All other uses: 40 feet per lot

(4) Minimum Side Yard, Interior:

a. Single-family dwelling, group five feet home, two-unit townhouse, patio home, industrialized home:

b. All other uses: Ten feet

c. No side setback required for the common wall side of two-unit townhouse

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Duplex Restricted Residential (DR) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(g) *Occupancy Restrictions*. See Section 4.3.4.5.

Section 4.2.1.9 - TH, Townhouse Residential District

(a) *Purpose*. The TH Townhouse Residential District is intended for development of single-family residences and associated uses as well as for development on larger parcels of land of two-family townhouse units.

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(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 2,500 square feet

b. Corner: 4,000 square feet

(2) Minimum Lot Width:

a. Internal: 25 feet

b. All other uses: 36 feet

(3) Minimum Lot Frontage:

a. Internal: 25 feet

b. All other uses: 36 feet

(4) Minimum Rear Yard: Zero feet when abutting townhouses on the rear: Ten feet when abutting an alley or service drive, or property not zoned for townhouse usage

(5) Minimum Side Yard, Interior:

a. Corner. Common Wall. Zero feet

b. District Boundary. Exterior Wall: five feet

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Townhouse Residential (TH) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(g) *Occupancy Restrictions*. See Section 4.3.4.5.

Section 4.2.1.10 - PH-ZL, Patio Home, Zero-Lot-Line Residential District

(a) *Purpose*. The PH-ZL Patio Home, Zero-Lot-Line Residential District is intended for development of primarily detached single-family residences on compact lots having one side yard reduced to zero feet, also commonly referred to as "zero-lot-line", and having a minimum of 4,000 square feet.

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DIVISION 1: - RESIDENTIAL DISTRICTS

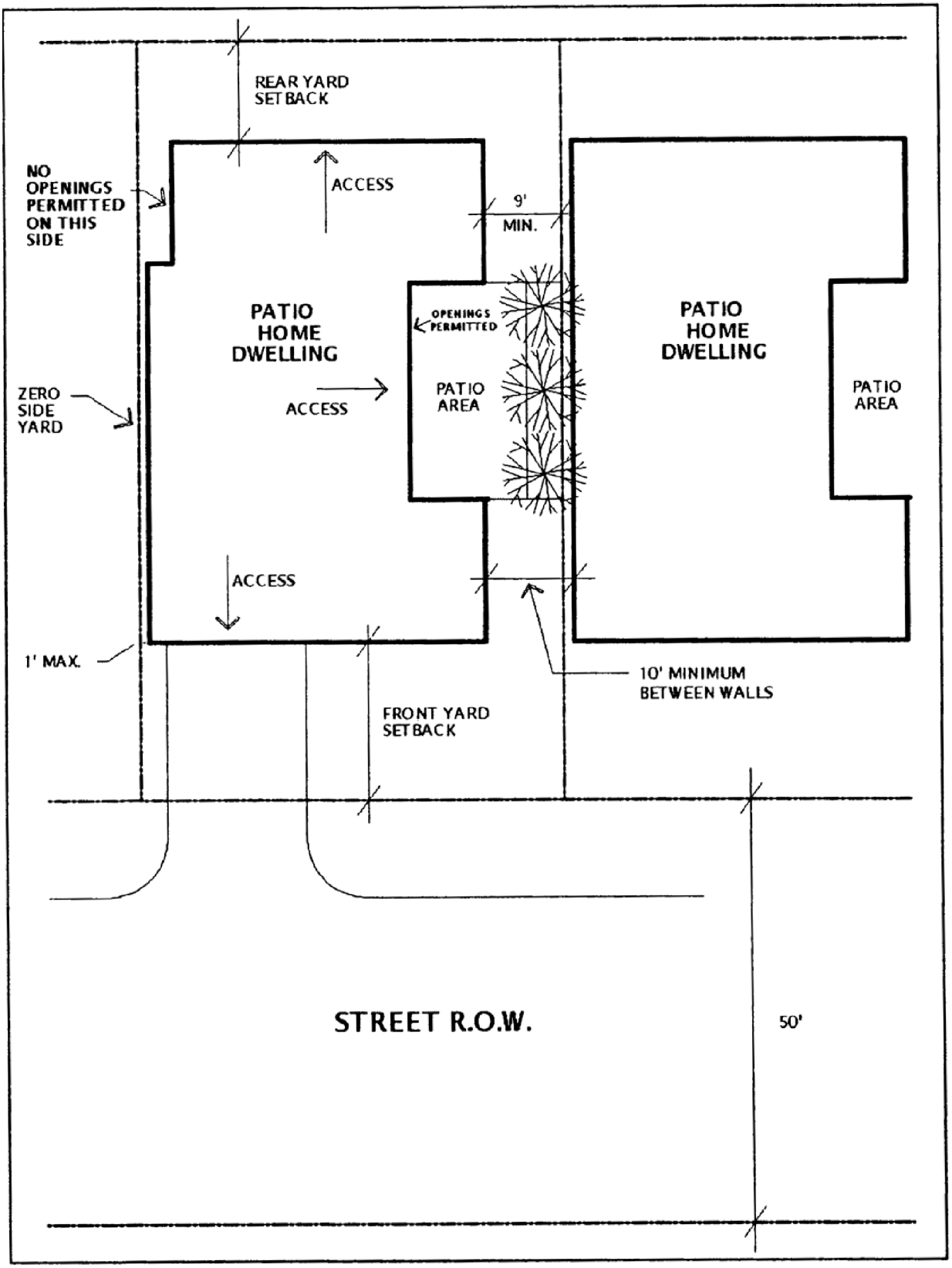

Figure 4-1: Patio Home/Zero-Lot-Line

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Side Yard: The dwelling may be constructed with a zero side yard on one side, and a side yard of not less than nine feet extending the full depth of the lot on the other side. On the "zero" side, the structure may be set back a maximum of one foot. A five-foot wide maintenance, drainage, and roof overhang easement extending the full depth of the lot shall be designated along the side property line which abuts the zero side yard on an adjacent lot, and which shall be indicated on the Final Subdivision Plat. In all cases, there shall be at least a ten-foot side yard on corner lots where adjacent to a street right-of-way or alley. Under no circumstances shall the separation between two zero lot line dwellings, or between a zero lot line dwelling and any other type of principal building on an adjacent lot, be less than ten feet wall-to-wall.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *Parking*. A 20-foot paved alley must be provided for ingress and egress to all rear garages.

(g) *Accessory buildings*. No accessory building shall occupy more than 40 per cent of the required rear yard. Accessory buildings shall be set back a minimum of three feet from the rear property line; provided, however, that where the rear lot line is the line of an alley 20 feet or more in width, no setback shall be required. No accessory building may be closer than ten feet to the main building in the rear yard. Accessory buildings, except garages, shall not be allowed in front or side yards.

(h) *Plat Requirements*. The plat of the requested area for a PH-ZL zero lot line dwelling district shall incorporate the requirements for a PH-ZL zero lot line dwelling as follows:

(1) Zero lot line dwellings can be constructed in an area requested and approved for designation as PH-ZL.

(2) Zero lot line dwellings will be uniformly located on the same side of the lot within a street block.

(3) Zero lot line dwellings shall have no windows on the side of the house which abuts the property line.

(4) No area shall be designated PH-ZL that contains less than five adjoining lots on each street.

(5) The entire frontage on the street side under review must be included in the PH-ZL designation. An exception may be made where an alley breaks the block on the side of the street.

(i) *Occupancy Restrictions*. See Section 4.3.4.5.

(j) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Patio Home, Zero-Lot-Line Residential (PH-ZL) is considered a mixed residential zoning district (see Section 1.4.1.3)*

Section 4.2.1.11 - MF-12, Multiple-Family Residential District

(a) *Purpose*. The MF-12 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 12 units per acre. This district should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

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(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. 3,630 square feet per dwelling unit for the first three dwelling units, plus as much additional lot area as necessary for each dwelling unit over three so that the total gross density does not exceed 12 dwelling units per acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 40 feet

b. All other uses: 60 feet

(4) Minimum Rear Yard: Ten feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

(e) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Multiple-Family Residential (MF-12) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(Ord. No. 2011-55, § 10, 11-1-11)

Section 4.2.1.12 - MF-18, Multiple-Family Residential District

(a) *Purpose*. The MF-18 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 18 units per acre. This district should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. 2,425 square feet per dwelling unit for the first three dwelling units, plus as much additional lot area as necessary for each dwelling unit over three so that the total gross density does not exceed 18 dwelling units per acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

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a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 40 feet

b. All other uses: 60 feet

(4) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

(e) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Multiple-Family Residential (MF-18) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

(Ord. No. 2011-55, § 11, 11-1-11)

Section 4.2.1.13 - MF-24, Multiple-Family Residential District

(a) *Purpose*. The MF-24 Multiple-Family Residential District is intended for development of multiple-family, apartment residences at not more than 24 units per acre. This district should be located adjacent to a major thoroughfare and may serve as a buffer between low or medium density residential development and nonresidential development or high-traffic roadways.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. 12,000 square feet; gross density shall not exceed 24 dwelling units per acre.

b. The minimum lot area for all other uses shall be determined by the applicable minimum lot dimensions.

(2) Minimum Lot Width:

a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(3) Minimum Lot Frontage:

a. Duplex, group home: 45 feet

b. All other uses: 60 feet

(4) Minimum Rear Yard: Ten feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Minimum Side Yard, Interior:

a. Duplex, group home. Five feet

b. All other uses: Ten feet

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(e) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Multiple-Family Residential (MF-24) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Section 4.2.1.14 - MR, Manufactured Home and Residential District

(a) *Purpose*. The MR Manufactured Home and Residential District is established to:

(1) Recognize that certain areas of the City are suitable for a mixture of single-family dwelling units and HUD-Code manufactured homes, and to provide adequate space and site diversification for residential purposes designed to accommodate the peculiarities and design criteria of manufactured homes, along with single-family residences.

(2) Protect against pollution, environmental hazards and other objectionable influences.

(3) Provide adequate provisions for vehicular and pedestrian circulation.

(4) Promote housing densities appropriate to and compatible with existing and proposed public support facilities.

(5) Promote the most desirable use of land and direction of building development; promote stability of development; protect the character of the district; conserve the value of land and buildings; and protect the City's tax base.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 6,900 square feet

(2) Minimum Lot Width:

a. Internal: 50 feet

b. All other uses: 60 feet

(3) Minimum Side Yard, Interior:

a. Single-Family Detached: Five feet

b. Mobile Homes: 7½ feet

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(f) *HUD-Code Manufactured Home Standards*.

(1) The installation, occupancy, and maintenance of manufactured homes in the MR manufactured home and residential district shall be subject to the following:

a. Manufactured homes shall have no outside horizontal dimension less than 14 feet, except for original extensions or subsequent additions containing less than 50 per cent of the total enclosed floor area.

b. The exterior siding material, excluding skirting, shall be nonmetallic.

c. Manufactured homes shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the federal manufactured home construction and safety standards

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in effect on the date of manufacture. A manufactured home without that certification, but meeting all other requirements, may be accepted as of safe and quality construction provided it meets the following criteria:

1. All electrical materials, devices, appliances and electrical equipment are in sound and safe condition. Aluminum conductors are not acceptable.
2. All mechanical systems, including space and water heating, are in sound and safe condition.
3. All plumbing, gas piping, and wastewater systems are in sound and safe condition.
4. The unit is in sound and safe structural condition. Uncompressed finish floorings, such as carpet, greater than one-eighth inch in thickness beneath loadbearing walls which are fastened to the floor structure are not acceptable. Manufactured homes which have shown signs of fire damage are not acceptable.
5. The determination of the acceptance of any noncertified unit shall be made jointly by the Building Official and Fire Marshal.

d. Manufactured homes shall be installed in accordance with the following criteria:

1. The frame shall be supported by and tied to a foundation system capable of safely supporting the loads imposed as determined from the character of the soil. The minimum acceptable foundation design shall be a series of eight-inch grout-filled concrete block piers spaced no more than eight feet on center and bearing on 12-inch by 12-inch solid concrete footings. A tiedown and anchoring system separate and apart from the foundation ties shall be provided as recommended by the manufacturer, if different from the foundation ties.
2. Axle and hitch assemblies shall be removed at the time of placement on the foundation.
3. Each manufactured home shall be totally skirted with metal, masonry, pressure-treated wood, or other nondegradable material which is compatible with the design and exterior materials of the primary structure.
4. Electrical power supply shall be made from a meter installation on the manufactured home or from a permanent meter pedestal.

e. Driveways and off-street parking shall be provided in accordance with the requirements for single-family dwellings.

f. Garage and carport additions are permitted, provided they cover a paved parking area and are connected to a street by a paved drive, meet the minimum building setback requirements, and have roof and siding material that is consistent with the primary structure.

g. Patio and porch covers are permitted, provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements.

h. Living area additions are permitted, provided they meet the minimum building setback requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as required of the primary structure.

(2) All requirements in Chapter 6 Article 8 apply.

(g) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Manufactured Home and Residential (MR) is considered a mixed residential zoning district (see Section 1.4.1.3)*

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Section 4.2.1.15 - MH, Manufactured Home District

(a) *Purpose*. The MH Manufactured Home District is established to:

(1) Provide adequate space and site diversification for residential purposes designed to accommodate the peculiarities and design criteria of manufactured homes.

(2) Protect against pollution, environmental hazards and other objectionable influences.

(3) Provide adequate provisions for vehicular and pedestrian circulation.

(4) Promote housing densities appropriate to and compatible with existing and proposed public support facilities.

(5) Promote the most desirable use of land and direction of building development; promote stability of development; protect the character of the district; conserve the value of land and buildings; and protect the City's tax base.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements:*

(1) Minimum Lot Area (of a manufactured home lot or space):

a. Internal: 3,200 square feet

b. Corner: 4,400 square feet

(2) Minimum Lot Width (of a manufactured home lot or space):

a. Internal: 40 feet

b. Corner: 55 feet

(3) Minimum Lot Frontage:

a. Internal: 40 feet

b. Corner: 55 feet

(4) Minimum Front Yard: Ten feet; for a manufactured home park, the measurement shall be from the front line of the approved space.

(5) Minimum Rear Yard: 20 feet; for a manufactured home park, the measurement shall be from the rear line of the approved space.

(e) *Additional Requirements*. All HUD-Code manufactured home standards of Section 4.2.1.14 (f) apply to development within this district.

(f) *Required Conditions*. A development designed as a manufactured home park shall meet all requirements pertaining to subdivisions. A facility designed for the explicit purpose of renting or leasing of manufactured home sites shall not be construed to permit the sale of the spaces as lots.

(g) All requirements in Chapter 6 Article 8 apply.

(h) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Manufactured Home (MH) is considered a mixed residential zoning district (see Section 1.4.1.3)*

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DIVISION 2: - PUBLIC, SPECIAL AND NONRESIDENTIAL DISTRICTS

Section 4.2.2.1 - MU, Mixed Use District

(a) *Purpose*. The MU, Mixed Use District, when assigned to tracts of land generally greater than one acre, is intended to provide for a mixture of retail, office, and residential uses in close proximity to enable people to live, work, and purchase necessities in a single location. On tracts of one acre or less, the MU, Mixed Use District is intended to permit small scale mixed use buildings that have residential units above retail or office uses, especially on existing residential use properties. Bed-and-breakfast establishments could also be located in this district. Additionally, pedestrian walkways and open area are desired in order to promote a pedestrian-friendly environment. It is not the purpose of this zoning district to permit or encourage properties used for single-family residences to be converted to exclusively commercial or multi-family use. The following are key concepts that should be acknowledged through development practices within Mixed Use Districts:

(1) Residential uses in conjunction with nonresidential activities, possibly located above retail and office establishments;

(2) All types of residential uses, including single-family homes, townhouses, and loft-style multiple-family units;

(3) Central green spaces;

(4) Traffic flows that enable people to move freely without the use of an automobile by emphasizing the pedestrian; and

(5) Outside spaces, such as small parks, courtyards, and outdoor eating areas.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(4) Minimum Rear Yard: Five feet with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(5) Structures higher than four stories may be approved by CUP.

(6) All uses shall provide connections to existing sidewalks, parks or open space.

(7) Parking areas for nonresidential uses shall be screened from single-family uses with a living or solid masonry screening device.

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(e) *For the purpose of determining if an area is predominantly single-family or Mixed Residential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Mixed Use (MU) is considered a mixed residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(Ord. No. 2006-45, § 28, 9-19-06; Ord. No. 2011-55, § 12, 11-1-11)

Sec. 4.2.2.2 - VMU, Vertical Mixed Use District.

(a) *Purpose*. The VMU, Vertical Mixed Use District, is intended to provide for a mixture of retail, office, and dense residential uses in close proximity to enable people to live, work, and purchase necessities in a single location. It is not the purpose of this zoning district to permit or encourage properties to be converted to exclusively commercial or multi-family use. The following are key concepts that should be acknowledged through development practices within Vertical Mixed Use Districts:

(1) Residential uses in conjunction with nonresidential activities, located above retail and office establishments along street frontages;

(2) All types of residential uses, including single-family homes, townhouses. and loft-style multiple-family units;

(3) Traffic flows that enable people to move freely without the use of an automobile by emphasizing the pedestrian; and

(4) Outside spaces, such as sidewalk cafes, small parks, courtyards, and outdoor eating areas.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements:*

(1) Minimum Rear Yard: Five feet with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(2) Structures higher than four stories may be approved by CUP.

(3) All uses shall provide connections to existing sidewalks, parks, or open space.

(4) Parking areas for nonresidential uses shall be screened from single-family uses with a living or solid masonry screening device.

(5) Parking shall not be located between the front facade and the front property line.

(e) *For the purpose of determining if an area is predominantly single-family or a ~~m~~Mixed R~~r~~esidential Area when interpreting the Land Use Intensity Matrix in the Comprehensive Plan, Vertical Mixed Use (VMU) is considered an other residential zoning district (see Section 1.4.1.3)*

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(Ord. No. 2011-55, § 13, 11-1-11)

Section 4.2.2.3 - P, Public and Institutional District

(a) *Purpose*. The P, Public and Institutional District is intended to accommodate uses of a governmental, civic, public service, or public institutional nature, including major public facilities, state colleges and universities. The review of the location for public facilities is intended to facilitate the coordination of community services while minimizing the

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potential disruption of the uses of nearby properties. This district is intended for properties used, reserved, or intended to be used for a civic or public institutional purpose or for major public facilities.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Width:

a. Internal: 50 feet

b. Corner: 60 feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet; an additional two feet is required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Note—Formerly, § 4.2.2.2

Section 4.2.2.4 - NC, Neighborhood Commercial District

(a) *Purpose*. The NC, Neighborhood Commercial District is established to provide low intensity office, retail and service facilities for the local neighborhood area. These uses should be compatible with residential uses in the neighborhood. Hours of business operation should be limited during the week, and businesses should generally close by 10:00 p.m. on the weekends. Businesses shall use landscaping and other buffering techniques to minimize their impact on the adjacent community. Equipment such as dumpsters and storage units shall be located away from residential uses and be screened. NC, Neighborhood Commercial District areas should generally be located on collector streets at the intersection of collector or arterial roadways and act as buffer areas for residential uses from the arterial traffic.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

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(Ord. No. 2006-45, § 29, 9-19-06)

Note—Formerly, § 4.2.2.3

Section 4.2.2.5 - OP, Office Professional District

(a) *Purpose*. The OP, Office Professional District is established to provide areas primarily for low intensity, small scale office uses and service facilities. Office uses should be compatible with residential uses, and should incorporate established landscape and buffering requirements.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(4) Maximum Height of Structures: 30 feet or 2½ stories whichever is less.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

(Ord. No. 2006-45, § 30, 9-19-06)

Note—Formerly, § 4.2.2.4

Section 4.2.2.6 - CC, Community Commercial

(a) *Purpose*. The CC, Community Commercial is established to provide areas for quality larger general retail establishments and service facilities for the retail sale of goods and services. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

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(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Note—Formerly, § 4.2.2.5

Section 4.2.2.7 - GC, General Commercial District

(a) *Purpose*. The GC, General Commercial District is intended to provide locations for limited (light) commercial and service-related establishments, such as wholesale product sales, automotive supply stores, veterinary services, and other similar limited commercial uses. The commercial uses within this district will have operation characteristics that are generally compatible with the CC, Community Commercial District.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Note—Formerly, § 4.2.2.6

Section 4.2.2.8 - HC, Heavy Commercial District

(a) *Purpose*. The HC, Heavy Commercial District is intended to provide locations for more intense commercial and service-related establishments than are generally permitted within the GC, General Commercial District, such as mini-warehouse, auto-body repair shops, lumber yards, and other similar heavy commercial uses. The commercial uses within this district will have operation characteristics that are generally incompatible with residential and office uses, as well as some uses in the CC, Community Commercial District.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

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(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Note—Formerly, § 4.2.2.7

Section 4.2.2.9 - CBA, Central Business Area District

(a) *Purpose*. The CBA, Central Business Area District is intended to maintain and encourage development and redevelopment within the central business section (old downtown) of the City. Standards for the district are generally intended to regulate development such that new structures look similar to existing ones within this Section of the City. They are also intended to preserve and enhance the image, character and unique qualities of the City's original business district. This district may be appropriate in areas where TND style development is planned.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Minimum Front Yard: Zero feet; all structures shall be constructed within three feet of the side or front property lines.

(4) Minimum Rear Yard: Five feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(5) Maximum Height of Structures: See Section 4.2.4.1. Downtown Building Height Overlay District.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Note—Formerly, § 4.2.2.8

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DIVISION 3: - INDUSTRIAL DISTRICTS

Section 4.2.3.1 - LI, Light Industrial District

(a) *Purpose*. The LI, Light Industrial District is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

b. Corner: 60 feet

(3) Maximum Height of Structures: 25 feet within 200 feet of a residentially zoned property; no limit on height beyond 200 feet from a residentially zoned property

(4) Minimum Rear Yard: Ten feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(e) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

Section 4.2.3.2 - HI, Heavy Industrial District

(a) *Purpose*. The HI, Heavy Industrial District is intended primarily for the conduct of heavy manufacturing, assembling and fabrication activities that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad.

(b) *Authorized Uses*. Permitted and conditional uses, as authorized in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4

(c) *Additional Development Standards*. See Table 4.1.6.1

(d) *Additional Area, Building and Height Requirements*:

(1) Minimum Lot Area:

a. Internal: 6,000 square feet

b. Corner: 7,500 square feet

(2) Minimum Lot Frontage:

a. Internal: 50 feet

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b. Corner: 60 feet

(3) Minimum Rear Yard: Ten feet, with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear yard.

(4) Maximum Height of Structures: 25 feet within 200 feet of a residentially zoned property; no limit on height beyond 200 feet from a residentially zoned property

(e) *Additional Requirements.* See Chapter 6 for additional requirements and standards.

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DIVISION 4: - OVERLAY DISTRICTS

Section 4.2.4.1 - Downtown Building Height Overlay District

(a) *Purpose*. The City Council makes the following findings and determinations:

(1) Downtown San Marcos is known through Texas for its attractive courthouse square and vibrant commercial activity that enhances tourism and improves the quality of life for all citizens of the City.

(2) The City Council desires to protect the special qualities of the downtown area which include the lower scale of buildings and density in the vicinity of the downtown historic district and the central business area zoning district.

(3) The city wishes to encourage new construction in areas within and near the downtown historic district and central business area zoning district which will be appropriate to the surroundings and in a form that will not adversely affect the downtown area of the City.

(4) Construction on properties outside of, but near, the downtown historic district and central business area zoning district can impact the downtown historic district and central business area zoning district as a result of development which fails to maintain a human-scale of architecture and a pedestrian-oriented environment as a result of blocking air and light, and increasing building density.

(b) *Establishment of Overlay District*. A downtown building height overlay district is established in the area bounded on the north by Pat Garrison Street and University Drive (extended to the San Marcos River), on the east by the San Marcos River, on the south by the Union Pacific Railroad right-of-way and Martin Luther King, Jr. Drive, and on the west by Comanche Street. The official zoning map of the City is amended to incorporate this area as the downtown building height overlay district. This Division will remain in effect for a four-year period beginning July 8, 2004, and it shall be automatically repealed on July 8, 2008 unless continued in effect by express action of the City Council.

(c) *Height Limitation*. In the downtown building height overlay district, the maximum height of a building or structure shall not exceed four stories or 45 feet, whichever is less.

(Ord. No. 2006-21, § 1, 6-6-06)

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DIVISION 5: - HISTORIC DISTRICTS

Section 4.2.5.1 - HD, Historic District

(a) *Purpose*. The purpose of HD, Historic District is to promote the educational, cultural and economic welfare of the public and of the City by preserving and protecting historic structures, streets and neighborhoods that serve as visible reminders of the history and cultural heritage of the City, the State and the United States. Furthermore, it is the purpose of HD, Historic District to strengthen the economy of the City by stabilizing and improving property values in historic areas and to encourage new buildings and developments that will be harmonious with the existing historic buildings and squares.

(b) *Establishment and Expansion of Local Historic Districts*. Local historic districts shall be established as an overlay district by ordinance and processed in accordance with Section 1.5.5.1

(c) *Historic Districts and Landmarks*.

(1) The following local historic districts are established the within the corporate City limits:

a. The Belvin Street historic district.

b. The San Antonio Street historic district.

c. The downtown historic district.

d. The Dunbar historic district.

e. The Burleson Street historic district.

f. The Lindsey-Rogers historic district.

g. The Hopkins Street historic district.

(2) The following local historic landmarks are established within the corporate City limits:

a. The Oaks Heights Live Oak Tree located in the 500 Block of Franklin Drive.

b. The Charles S. Cock House located at 400 E. Hopkins Street.

c. The Merriman Cabin located at 150 C. M. Allen Parkway.

d. The Dunbar School located at 801 Endicott Street.

e. The Old Fish Hatchery located at 204 C. M. Allen Parkway.

f. The Commemorative Air Force Hangar located at 2249 Airport Drive.

g. The Civil Air Patrol Building A located at 1945 Airport Drive.

h. Graham Tower located at 1921 Airport Drive.

(3) Designation of local historic landmarks shall be in accordance with Section 1.5.5.2

(d) *Authorized Uses*. Permitted and conditional uses, as authorized in the base zoning district in the Land Use Matrix in Article 3, Division 1 of this Chapter 4. Accessory uses as authorized in Article 3, Division 2 of this Chapter 4. Manufactured homes are not permitted in the Historic District.

(e) *Area, Building, and Height Requirements*. The development standards as required in the base zoning district shall apply unless modified as permitted in this Section.

(f) *Additional Requirements*. See Chapter 6 for additional requirements and standards.

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(g) *Amendment of Regulations*. The Historic Preservation Commission may from time to time recommend amendments to these regulations to the City Council as the Commission may deem necessary to effectuate the purposes of this district.

(h) *Investigations and Reports*. The Historic Preservation Commission may make studies of matters relating to the protection, enhancement, perpetuation or use of local historic landmarks and historic districts and to the restoration of landmarks as the Commission may, from time to time, deem necessary or appropriate for the effectuation of the purposes of this district, and may submit reports and recommendations as to these matters to the City Council and other agencies of the City. In making these studies, the Commission may hold public hearings as it may deem necessary or appropriate.

(i) *Ordinary Maintenance Allowed*.

(1) Nothing in these district regulations shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a local historic district or of any local landmark that does not involve a change in design, material, or outer appearance other than color.

(2) Nothing in these district regulations shall prevent the construction, reconstruction, alteration, restoration or demolition of any feature which the Building Inspector or similar official shall certify is required for the public safety because of an unsafe or dangerous condition.

(j) *Construction and Repair Standards*.

(1) New construction and existing buildings and structures and appurtenances thereof within local historic districts that are moved, reconstructed, materially altered or repaired shall be visually compatible with other buildings to which they are visually related generally in terms of the following factors; provided, however, these guidelines shall apply only to those exterior portions of buildings and sites visible from adjacent public streets:

a. *Height*. The height of a proposed building shall be visually compatible with adjacent buildings.

b. *Proportion of building's front facade*. The relationship of the width of a building to the height of the front elevation shall be visually compatible to the other buildings to which it is visually related.

c. *Proportion of openings within the facility*. The relationship of the width of the windows in a building shall be visually compatible with the other buildings to which it is visually related.

d. *Rhythm of solids to voids in front facades*. The relationship of solids to voids in the front facade of a building shall be visually compatible with the other buildings to which it is visually related.

e. *Rhythm of spacing of buildings on streets*. The relationship of a building to the open space between it and adjoining buildings shall be visually compatible to the other buildings to which it is visually related.

f. *Rhythm of entrance and/or porch projection*. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible to the other buildings to which it is visually related.

g. *Relationship of materials, texture and color*. The relationship of the materials, and texture of the exterior of a building including its windows and doors, shall be visually compatible with the predominant materials used in the other buildings to which it is visually related.

h. *Roof shapes*. The roof shape of a building shall be visually compatible with the other buildings to which it is visually related.

i. *Walls of continuity*. Appurtenances of a building including walls, fences, and building facades shall, if necessary, form cohesive walls of enclosure along a street, to ensure visual compatibility of the building to the other buildings to which it is visually related.

j. *Scale of a building*. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the other buildings to which it is visually related.

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(2) The Historic Preservation Commission may use as general guidelines, in addition to the specific guidelines contained in subsections (a) and (b) of this section, the City of San Marcos Design Guidelines, the City of San Marcos Sign Design Guidelines for the Downtown Historic District, and the current Standards for Historic Preservation Projects issued by the United States Secretary of the Interior. The City Council may, after receiving recommendations from the Historic Preservation Commission and Planning and Zoning Commission, approve revisions to the City of San Marcos Design Guidelines or the City of San Marcos Sign Design Guidelines for the Downtown Historic District by resolution.

(k) *Acquisition of Historic Easements*. The City may acquire, by purchase, donation or condemnation, historic easements in any area within its jurisdiction wherever and to the extent that the City Council, upon the recommendation of the Historic Preservation Commission, determines that the acquisition will be in the public interest. For the purpose of this Section, the term "historic easement" means any easement, restriction, covenant or condition running with the land, designated to preserve, maintain or enhance all or part of the existing state of places of historic, architectural or cultural significance.

(l) *Alteration of Local Landmark*. alteration of a historic landmark shall be in accordance with Section 1.5.6.4(e).

(m) *Demolition by Neglect*.

(1) *Applicability*. No owner or person with an interest in a historic landmark or real property or a landmark included within a historic district shall permit the landmark or property to fall into a serious state of disrepair so as to result in the deterioration of the historic landmark or any exterior architectural feature or other feature subject to the requirements of this chapter which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. The owner or person with an interest shall make repairs to prevent such deterioration if the historic Landmark Commission finds any of the following defects to exist:

a. *Deteriorated or Inadequate Foundation*. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety;

b. *Members of Walls*. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;

c. *Members of Ceilings/Roofs*. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective materials or deterioration. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;

d. *Fireplaces/Chimneys*. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;

e. *Weather Protection*. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors. Defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering. Any fault or defect in the building which renders same structurally unsafe or not properly water tight.

f. *Windows and Doors*. Windows, skylight, door frames not maintained in good condition and weather tight. Exterior doors not maintained in good condition or not secured.

g. *Ingress and Egress*. Landing, stairs, steps, and other means of ingress and egress not properly maintained or structurally unsafe.

(2) *Identification and Enforcement*.

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a. Staff will identify that a landmark's structure's or building's condition falls under the criteria of Demolition by Neglect. This initial identification may originate from a staff inspection of the neighborhood or by citizen referral.

b. The staff shall present its findings and recommendations to the Historic Preservation Commission at a public hearing with a report detailing the defects which, in the staff's opinion, indicated Demolition by Neglect. The owner is notified by certified mail of the hearing. The Historic Preservation Commission must render a decision, within 45 days of the date the notice of the public hearing is provided to the owner, as to any finding of Demolition by Neglect subject to any supplemental options under subsection (2)d.

c. If a finding of Demolition by Neglect is made by the Historic Preservation Commission without any recommendation to exercise any options under subsection (2)d, staff shall proceed under the process outlined in the building ordinance to require correction of defects or repairs so that such structure shall be preserved and protected in accordance with the purposes of this chapter and applicable building ordinances.

d. If the Historic Preservation Commission renders a decision finding Demolition by Neglect, it may request that the City Council authorize negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein or for the making of a grant or loan to the owner to prevent further deterioration in furtherance of the purposes of this division and Article V, division 5 of Chapter 1 of the Land Development Code. If a determination is made by the Historic Preservation Commission under this subsection, neither the owner or the city may demolish the historic landmark or subject building structure or feature for 180 days after the date of notice to the owner of the public hearing under subsection (2)b, except upon a finding of an imminent threat to public safety by the Chief Building Official under applicable ordinances. Upon a finding of an imminent threat to public safety by the Chief Building Official, whether or not notice to the owner and a hearing would be required prior to demolition, the Chief Building Official shall provide notice to the Director of Planning before proceeding with any demolition.

(Ord. No. 2005-54, § 1, 7-19-05; Ord. No. 2005-106, § 1, 12-14-05; Ord. No. 2006-45, § 31, 9-19-06; Ord. No. 2007-20, § 1, 4-3-07; Ord. No. 2008-4, § 1, 3-3-08; Ord. No. 2009-73, § 14, 12-1-09)

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DIVISION 6: - PLANNED DEVELOPMENT DISTRICTS

Section 4.2.6.1 - Purpose, Applicability, Nature and Size of District

(a) *Purpose*. The purpose of an overlay planned development zoning district ("PD District") is to provide for the development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan that may include uses, regulations and other requirements that vary from the provisions of other zoning districts. PD districts are intended to implement generally the goals and objectives of the City's ~~Master~~Comprehensive Plan. PD districts are also intended to encourage flexible and creative planning, to ensure the compatibility of land uses, to allow for the adjustment of changing demands to meet the current needs of the community, and to result in a higher quality development for the community than would result from the use of conventional zoning districts.

(b) *Applicability*. A PD district may only be established in one of the following circumstances:

(1) The land is located in close proximity to established residential neighborhoods where conventional zoning classifications may not adequately address neighborhood concerns regarding the quality or compatibility of the adjacent development, and where it may be desirable to the neighborhood, the developer or the City to develop and implement mutually-agreed, enforceable development standards;

(2) The land, or adjacent property that would be impacted by the development of the land, has sensitive or unique environmental features requiring a more flexible approach to zoning, or special design standards, in order to afford the best possible protection of the unique qualities of the site or the adjacent property;

(3) The land is proposed for development as a mixed-use development or a traditional neighborhood development requiring more flexible and innovative design standards;

(4) The land consists of inner-City or downtown property that is proposed for redevelopment or infill development, and special design considerations are deemed desirable;

(5) The land serves as transition between different and seemingly incompatible land uses;

(6) The land is proposed for development as an ~~major commercial or industrial~~ employment center, and special design standards may be warranted; and

(7) The land is of such a character that it is in the community's best interest to encourage high quality development through flexible development standards to further the goals and objectives of the City's ~~Master~~Comprehensive Plan.

(c) *Nature of District*. Each PD district shall be established as an overlay zoning district that combines with one or more base zoning districts. Development in a PD district must be consistent with a Concept Plan that is incorporated as part of the district by the adopting ordinance.

(d) *Minimum District Size*. No PD district shall be established for a gross contiguous area less than the following:

(1) Single-family detached, attached and duplex uses: two acres;

(2) Multifamily uses: one acre;

(3) Nonresidential uses: one acre;

(4) Mixed residential and nonresidential uses: two acres.

Section 4.2.6.2 - Authorized Uses

(a) *Base Zoning District Uses*. Any use permitted outright or conditionally in the base district shall be permitted in the PD district, unless the use is prohibited or otherwise conditioned in the regulations adopted for the PD district. Uses designated as conditional uses in the land use matrix in Article 3, Division 1 of this Chapter 4 may be authorized in

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the PD district only if designated on the Concept Plan adopted as part of the PD district, in which case the use does not require a separate Conditional Use Permit under Chapter 1, Article 5, Division 7

(b) *Overlay Zoning District Uses*. The PD district may provide for uses not allowed in the base zoning district, provided that the uses are compatible with the stated purposes of the district and do not conflict with policies in the ~~Master~~Comprehensive Plan, considering the arrangement, combination and design features of the uses within the PD district, as depicted on the Concept Plan.

(c) *Location and Arrangement of Uses*. The location and arrangement of all authorized uses in the PD district shall be consistent with the Concept Plan approved with the district.

(d) *Limitations on Residential Uses*. Proposed lot sizes for residential uses in the PD district shall be no smaller on average than the lot sizes allowed in the base zoning district for each type of housing (e.g., single-family, duplex, etc.). Minor deviations from the standards are allowed in a small per-centage of the lots in order to provide improved design, or to provide flexibility in the layout of the subdivision or diversity in lot size choices. Unless otherwise provided by the PD district regulations on the basis of exceptional design and provision of enhanced open space, residential density shall not exceed 7.5 units per gross acre for single-family residential use and 24 units per gross acre for multifamily use.

Section 4.2.6.3 - Development Standards

(a) *Base District and Supplemental Standards*. In a PD district, uses shall conform to the standards in the base zoning district governing area, building and height requirements in this Chapter 4, and to the supplemental standards in Chapter 6 of this Land Development Code, unless specifically excepted in the ordinance establishing the PD district.

(b) *Overlay Zoning District Standards*. In a PD district, standards otherwise applicable to authorized uses in the base zoning district or pursuant to Chapter 6 of this Land Development Code may be varied, and thereafter shall be applied to the uses established in the PD district, only if approved in the ordinance establishing the PD district. Standards that may be varied include, but may not be limited to, residential density, lot area, lot width, lot depth, yard depths and widths, building height and size, building exterior construction, lot coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signage and lighting. Varied standards may increase or decrease the requirements otherwise applicable to particular uses. Any graphic depictions used to illustrate such standards, unless otherwise provided in the PD district regulations, shall be considered standards that apply to subsequent development applications.

(c) *Traditional Neighborhood Design*. Traditional Neighborhood Design (TND), is emerging as a popular type of development in many urban areas. The following are characteristics of this type of development and shall be incorporated into all Planned Developments that desire to incorporate this design concept:

(1) Compact, mixed-use, pedestrian-oriented design,

(2) Incorporation of open space, public plazas, or other public amenity,

(3) Human-scale design (Three stories or less) that encourages pedestrian circulation,

(4) High quality development standards for signs, landscaping, building materials, and other components,

(5) Integrated design or clustering of residential uses,

(6) Creative circulation and parking solutions

Projects without the above-listed characteristics shall not be considered TND projects.

(d) *Open Space Standards*. In residential or mixed-use PD districts, unless otherwise expressly provided by the PD regulations or designated in the PD Concept Plan, the following standards governing open space shall apply:

(1) A minimum of 20 per cent of the gross land area within the entire PD district, except within TND developments, shall be devoted to open space, ~~consistent with the open space requirements of the City's~~

~~MasterComprehensive Plan~~. Open space for PD districts may be satisfied by either public or by a combination of public and private open space. Open space requirements specified in this subsection are in addition to requirements for site landscaping and buffering. Public open space shall be dedicated to the City.

(2) The 100-year floodplain areas shall be encouraged to be preserved and maintained as open space; and

(3) Significant stands of native trees and shrubs shall be preserved and protected from destruction or alteration.

(4) Open space requirements shall be satisfied for each phase of a multi-phased residential development. If open space is not to be provided proportionally among phases of development, the applicant must execute a reservation of open space in a form that will assure the City that such open space will be provided. The City may require that all open space within the district must be provided prior to completion of development within the district.

(e) *Public Facilities Standards*. In order to implement the plan of development depicted in the Concept Plan and to assure that the purposes of the district are realized, public facilities standards in Chapter 7 of this Land Development Code may be varied, provided that such exceptions are expressly identified in the PD district regulations and illustrated where necessary on the Concept Plan incorporated as part of the district regulations. Thereafter, standards applicable to plat applications and applications for site preparation plans shall conform to the variations approved in the ordinance establishing the PD district.

(f) *Public Facilities Studies*. In order to justify variations from public facilities standards pertaining to provision of roadway and drainage facilities and to demonstrate compliance with the adequate public facilities policies in Chapter 7 of this Land Development Code, a traffic impact study or drainage study may be required as a pre-requisite for approving a petition for a PD district.

Section 4.2.6.4 - Concept Plan

(a) *Requirement for Concept Plan*. No PD district may be established without approval of a Concept Plan that illustrates the proposed location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development. Detailed requirements for the contents of a Concept Plan are contained in Chapter 1, Article 5, Division 3. The Concept Plan shall be incorporated as a component part of the PD district regulations, and shall be construed in conjunction with the authorized uses and development standards set forth in such regulations.

(b) *Consistency Required*. All development applications within the PD district shall be consistent with the incorporated Concept Plan. Failure of a subsequent development application to conform to the approved Concept Plan for the PD district shall result in denial of the application, unless the PD district regulations first are amended through incorporation of a Concept Plan with which the development application is consistent.

Section 4.2.6.5 - Subsequent Development Applications

(a) *Development Applications Authorized*. The development standards for a PD district shall be applied to the authorized uses through the following types of development applications:

(1) Cluster Development Plan, and

(2) Plat application.

(b) *Minor Deviations from Approved Concept Plan*. Minor deviations from the Concept Plan may be approved by the ~~Planning D~~Director. The following are considered minor deviations:

(1) Corrections in spelling, distances, and other labeling that does not affect the overall development concept.

(2) Changes in building position or layout that are less than ten feet or ten per cent in size.

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(3) Changes in the proposed property lines as long as the original stated project acreage is not exceeded.

(4) Changes in parking layouts as long as the number of required spaces and general original design is maintained.

Section 4.2.6.6 - Adopting Ordinance

(a) The ordinance establishing a PD district shall incorporate the approved Concept Plan as part of the district regulations and shall set forth the following:

(1) The base zoning district(s) to be overlaid, together with the boundaries of the district(s);

(2) A statement as to the purpose and intent of the PD district established therein;

(3) The permitted, conditional and accessory uses authorized in the district, the location of such uses, the residential densities or floor-to-area ratios associated with base districts or phases of the development in conformance with the approved Concept Plan;

(4) The general standards applicable to development within the district, with or without reference to the base district, including but not limited to: density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and such other requirements as the City Council may deem necessary in order to implement the ~~Master~~Comprehensive Plan, and the purposes of the PD District;

(5) Provisions stating that all zoning standards not expressly set forth for the district in the adopting ordinance shall be as provided in the base zoning district(s), and that any standard in Chapters 5, 6 and 7 that has not been expressly varied in the adopting ordinance shall be applicable to subsequent development permits for land within the PD district;

(6) Design standards applicable to the development;

(7) A specific list of deviations from standards in the base zoning district(s), together with any standards in Chapters 5, 6 and 7 which are to be varied for development within the PD district;;

(8) Required dedications of land or public improvements;

(9) The timing of performance by the developer in relation to the phasing of development, where applicable; and

(10) Such additional conditions as are established by the Council to assure that the PD district and Concept Plan are consistent with the stated purposes of the district.

(b) *Residential PD Concept Plan*. A Concept Plan shall be submitted with any residential PD zoning request for a development comprised of single-family or two-family (duplex) dwellings on individually platted lots, and shall show general uses, the topography and boundaries of the PD area, existing physical features of the site, location of existing or proposed public facilities, phasing of the development, access, thoroughfares, alleys (if proposed), preliminary lot arrangements, proposed densities, proposed screening, landscaped or private amenity areas, conceptual project scheduling, and other pertinent development data.

(c) *Nonresidential or Multifamily PD Concept Plan*. A Concept Plan shall be submitted with any nonresidential, multifamily, single-family attached, or manufactured (mobile) home PD zoning request, and shall clearly show all pertinent aspects of the type and nature of the proposed development. The Concept Plan shall show the types of use(s) proposed; access, topography and boundaries of the PD area; existing physical features of the site; existing and proposed streets, alleys, easements and lot lines; location of existing or proposed public facilities; building heights and locations; parking areas and ratios; fire lanes; screening and landscaped areas; conceptual project phasing and scheduling; and other pertinent development data to adequately describe the proposed development (see Chapter 1 and the Technical Manual of this Code for Concept Plan requirements and procedures).

(1) *For a nonresidential, multifamily, single-family attached, or manufactured (mobile) home PD (or portion of a PD)*. A detailed Site Plan shall be submitted for approval within one year from the approval date of the Concept Plan

for all or some portion of the PD covered by the overall PD Concept Plan. If a detailed Site Plan is not submitted within one year, then the PD Concept Plan may be subject to review by the Planning and Zoning Commission and the City Council to determine its continued validity. If the City determines that the PD Concept Plan is no longer valid or that the proposed development is no longer viable, then a new PD Concept Plan (along with a zoning application to amend the PD ordinance and its accompanying Concept Plan) must be submitted for review and approval prior to detailed Site Plan review/approval (and any subsequent issuance of a building permit) for any nonresidential, multifamily, single-family attached, or manufactured (mobile) home portion of the PD district.

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DIVISION 7: - TRANSFER OF DEVELOPMENT RIGHTS GRANTING ZONE

Section 4.2.7.1 - Development Transfer (DT) District

(a) *Purpose and Nature of District*. The purpose of the Development Transfer (DT) district shall be to allow the transfer of residential density or impervious cover from a site that is to be in whole or in part restricted to permanent open space (granting site) to a different site on which the density or impervious cover can be utilized pursuant to an integrated development design (receiving site). The DT district is an overlay district which may combine with one or and more base zoning districts. The DT district comprises two subdistricts: the Development Transfer Granting (DTG) district, to be applied to the granting site, and the Development Transfer Receiving (DTR) district, to be applied to the receiving site.

(b) *Development Transfer Granting (DTG) District*. The DTG district may be applied to preserve land in a natural state, part of which is located over the Edwards Aquifer or contains watershed protection zones, buffer zones, floodplain or other environmentally significant natural features. The DTG district may combine with residential or nonresidential base zoning districts and restricts the number of dwellings or the amount of square feet of impervious cover that can be constructed on all or part of the land. The resulting restrictions must be secured through conservation easements or other instruments that preserve the area containing the environmentally significant resources. The gross residential density or impervious cover that is limited within the DTG district shall be quantified and transferred to a designated DTR district or other receiving site in accordance with the standards in this Division.

(c) *Development Transfer Receiving (DTR) District*. The DTR district may be applied to land that does not contain environmentally significant resources and the intensified development of which is compatible with adjacent land uses and is consistent with the ~~Master~~Comprehensive Plan. The DTR district may combine with residential base zoning districts, and authorizes a greater number of dwelling units to be established on the land than is allowed under the base zoning district density. The arrangement and design of the residential uses in the DTR district shall be implemented through a Cluster Development Plan. The increase in gross residential density in the DTR district shall be quantified from the density or impervious cover transferred from a designated DTG district or other granting site in accordance with the standards in this Division.

Section 4.2.7.2 - Limitations on District

(a) *Simultaneous Creation of Districts*. No DTG district may be established without a corresponding receiving site, and no DTR district may be established without a corresponding granting site. A DT district shall only be established through approval of a petition for a development transfer pursuant to procedures in Chapter 1, Article 5, Division 4 of this Land Development Code.

(b) *Transfer Involving Land Outside City Limits*. A DTG district may be established with a receiving site located in the City's extraterritorial jurisdiction, if the receiving site is subject to an annexation agreement or development agreement and the district is created through approval of a petition for a development transfer pursuant to procedures in Chapter 1, Article 5, Division 4 of this Land Development Code. A DTR district may be established with a granting site located in the City's extraterritorial jurisdiction, if the granting site is subject to an annexation agreement or development agreement and the district is created through approval of a petition for a development transfer pursuant to procedures in Chapter 1, Article 5, Division 4 of this Land Development Code.

Section 4.2.7.3 - Transfer of Residential Density

(a) *Dwelling Unit Conversion*. The gross residential density to be transferred from a granting site shall be converted to a specific number of dwelling units, which shall be added to the total number of dwelling units allowed for the receiving site under the base zoning district, subject to the limitations in this Section.

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(b) *Maximum Units Transferred*. The maximum number of dwelling units which may be transferred from the granting site shall be computed by multiplying the density associated with the base zoning district for the TDG district by the number of gross acres in the DTG district, using the following conversion density:

Base Zoning District	Density transferred (units per acre)
MF-24	24
MF-18	18
MF-12	12
TH	12
D and DR	6
SF-4.5	7.5
SF-6	5.5
SF-11	3
SF-R	0.8

(c) *Maximum Units Received*. The maximum number of additional dwelling units that may be developed on the receiving site resulting from a transfer of residential density shall not exceed a number that equals 50% of the residential density associated with the base zoning district for the TDR district multiplied by the number of gross acres included in the DTR district. For example, MF-12 DTR density maximum of [12 units per acre] + [12 units per acre x 50%] = 18 units per acre after transfer.

Section 4.2.7.4 - Transfer of Impervious Cover

(a) *Transfer from Edwards Aquifer Recharge Zone*. Where a property owner elects to transfer impervious cover allowed within the Edwards Aquifer recharge zone to a receiving site inside the City limits, the owner may increase residential density for the receiving site upon approval of a petition for development transfer and a establishment of a DTR district for the receiving site. If the granting site lies within City limits, the property owner also must obtain approval of a petition for establishment of a DTG district for the granting site.

(b) *Conversion to Dwelling Units*. The impervious cover to be transferred shall be converted to a number of residential units in accordance with the standards in Section 5.2.8.2 of this Land Development Code.

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(c) *Maximum Units Received*. The maximum number of additional dwelling units that may be developed on the receiving site resulting from a transfer of impervious cover shall not exceed a number that equals 50% of the residential density associated with the base zoning district for the TDR district multiplied by the number of gross acres included in the DTR district.

(d) *Transfer of Residential Density and Impervious Cover*. Where both residential density and impervious cover are to be transferred from a granting site, the maximum number of dwelling units resulting from such conversions shall be added, but in no event shall the maximum number of additional dwelling units that may be developed on the receiving site exceed the number that equals 50% of the residential density associated with the base zoning district for the TDR district multiplied by the number of gross acres included in the DTR district.

Section 4.2.7.5 - Transfer of Nonresidential Square Footage

(a) *Nonresidential Square Footage Transfer*. Nonresidential square footage may be transferred from a granting site inside the City limits to a receiving site inside the City limits upon approval of a petition for development transfer and establishment of DTG and DTR districts for the granting and receiving sites. The petition to establish the DTR district shall be accompanied by a Concept Plan.

(b) *Maximum Square Footage Transferred*. The maximum number of nonresidential square footage that may be transferred from the granting site shall be computed by multiplying the lot coverage standard associated with the base zoning district for the granting site, using the table in Section 4.2.7.3(b), by the number of gross acres in the DTG district (expressed in square feet), and multiplying the resulting number by the maximum height allowed in the base zoning district for permitted uses.

(c) *Maximum Square Footage Received*. The maximum additional nonresidential square footage that may be developed on the receiving site shall not exceed a number that equals 25% of the maximum square footage that could be developed in the base zoning district for the TDR district.

(Ord. No. 2006-45, § 32, 9-19-06)

Section 4.2.7.6 - Development Standards in DTR District

(a) *Residential Density*. Within the DTR district, residential density standards shall apply in lieu of the minimum lot size standards specified for the base zoning district.

(b) *Buffers*. All development within the DTR district shall be adequately buffered from adjoining residential uses as stated in Chapter 6.

Section 4.2.7.7 - Plan for Development in DTR District

(a) *Concept Plan*. A Concept Plan for the receiving site may be included in the petition for establishment of a DTR district. A proposed Concept Plan for the receiving site shall be included in the petition for establishment of a DTR district whenever the petitioner proposes to transfer nonresidential square footage from the granting site to the receiving site.

(b) *Concept Plan Requirements*. The Concept Plan shall illustrate the proposed location and arrangement of uses, development phasing, planned public improvements, proposed amenities, open space and the overall design of the development. Detailed requirements for the contents of a Concept Plan shall be the same as those required for a Concept Plan in a Planned Development PD district, as set forth in Chapter 1, Article 5, Division 3. Upon approval of the DTR district petition, the Concept Plan shall be incorporated as a component part of the DTR district regulations, and shall be construed in conjunction with the authorized uses and development standards set forth in such regulations. Subsequent development applications in the DTR district shall be consistent with the incorporated Concept Plan.

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(c) *Cluster Development Plan*. In lieu of including a Concept Plan with the petition for establishment of the DTR district, except where mandated by subsection (a), the property owner may submit a Cluster Development Plan prepared in accordance with Chapter 1, Article 5, Division 8

(d) *Consistency with Approved Plans*. Subsequent development applications in the DTR district shall be consistent with the incorporated Concept Plan or approved Cluster Development Plan.

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ARTICLE 3: - USE REGULATIONS

DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Section 4.3.1.1 - Interpretive Rules

(a) *Use of Land and/or Buildings*. The use of land and/or buildings shall be in accordance with those listed in the following Land Use Matrix. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located or for activities consistent with the nonconforming provisions of this Chapter. The legend for interpreting the permitted uses in the Land Use Matrix (Section 4.3.1.2) is:

P	Designates use permitted in the zoning district indicated.
	Designates use prohibited in the zoning district indicated.
C	Designates use may be permitted in the zoning district indicated by Conditional Use Permit (also see Chapter 1, Article 5, Division 7).

(1) See Definitions in Chapter 8 of the Land Development Code for further description of uses.

(b) If a use is not listed (or blank) in the Land Use Matrix, it is not allowed in any zoning district (see subsection (d) below).

(c) *Use Chart Organization*. The following use categories are listed in the Land Use Matrix (Section 4.3.1.2):

(1) Agricultural Uses

(2) Residential Uses

(3) Office or Service Type Uses

(4) Retail and Service Uses

(5) Transportation and Auto Service Uses

(6) Amusement and Recreational Service Uses

(7) Institutional/Governmental Uses

(8) Commercial and Wholesale Trade Uses

(9) Industrial/Manufacturing and Construction Uses

(d) *Classification of New/Unlisted Uses*. It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the City of San Marcos. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use not in the Land Use Matrix (Section 4.3.1.2) shall be made as follows.

(1) A person, City department, the Planning and Zoning Commission, or the City Council may propose zoning amendments to regulate new and previously unlisted uses. A person requesting the addition of a new or unlisted

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use shall submit to the ~~Planning D~~Director, or his/her designee, all information necessary for the classification of the use, including but not limited to:

a. The nature of the use and whether the use involves dwelling activity, sales, services, or processing;

b. The type of product sold or produced under the use;

c. Whether the use has enclosed or open storage and the amount and nature of the storage;

d. Anticipated employment typically anticipated with the use;

e. Transportation requirements, including approximate mileage, turning radius, or driving time of the expected client or patron base;

f. The nature and time of occupancy and operation of the premises;

g. The off-street parking and loading requirements;

h. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;

i. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and

j. Impervious surface coverage or anticipated size of building.

(2) A new and unlisted use may be interpreted by the ~~Planning D~~Director as similar to a listed use if the unlisted use possesses the majority of characteristics of the listed use. Otherwise the unlisted use must be submitted to the Planning and Zoning Commission and City Council as outlined in subsection (d)(3) below. If the unlisted use is deemed similar to a listed use by the ~~Planning D~~Director, no amendment of the Land Use Matrix (4.3.1.2) is required.

(3) When a new and unlisted use cannot be interpreted by the ~~Planning D~~Director as similar to an existing use, or a determination of the appropriate zoning district cannot be readily ascertained, the ~~Planning D~~Director shall refer the question concerning the new or unlisted use to the Planning and Zoning Commission and request a recommendation as to the zoning classification into which such use should be placed.

a. The ~~Planning D~~Director shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation as to the zoning classification into which the use should be placed. The referral shall be accompanied by the statement of facts in subsection (d)(1)a of this section.

b. The Planning and Zoning Commission shall consider the nature and described performance of the use and its compatibility with the uses permitted in the various districts, and determine the zoning district or districts within which the use is most similar, and should be permitted and if such use shall be permitted by right or by CUP.

c. The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use. If such recommendation is in response to an appeal, the Commission's recommendation shall be final.

d. The City Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the Land Use Matrix of the regulations according to procedures outlines in Chapter 1 (i.e., following notification and public hearing, etc.).

(Ord. No. 2006-45, § 33, 9-19-06)

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Section 4.3.1.2 - Land Use Matrix

LEGEND
P - The land use is permitted by right in the zoning district indicated.
- The land use is prohibited in the zoning district indicated (Blank).
C - The land use may be approved as a Conditional Use Permit (CUP) in the zoning district indicated.

Types of Land Uses	Residential Zoning Districts																	Nonresidential Districts								
	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	NC	OP	CC	GC	HC	CBA	LI	HI
Agricultural Uses																										
Barns and Farm Equipment Storage	P	P	C																							
Bulk Grain and/or Feed Storage/Processing	P	P	C																							
Farmers Market	P															P	P	P	C		C	C		C		
Farms, General (Crops)	P	P	P													P	P									
Farms, General (Livestock/Ranch)	P	P	P																							
Hay, Grain, and/or Feed Sales (Wholesale)	P	C																								
Livestock Sales/Auction	C	C																								
Plant Nursery (growing for commercial purposes but no retail sales on site)	P	P																								

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Stables	P	P																								
Stables (Private, Accessory Use)	P	P	P	C													C									
Residential Uses																										
Accessory Building/Structure (No larger than 625 s.f. in size and 12' in height)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	P	P
Accessory Building/Structure (Larger than 625 s.f. in size OR 12' in height)	P	P	P	C	C						P	P	P		C	C	C	P	C	C	P	P	P		P	P
Accessory Dwelling (One Accessory Dwelling Per Lot)	P	P	P	C	C											C	C	P	C	C	C	C	C	P	C	C
Bed and Breakfast Inn	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	C	P		P	P	P	P		
Caretaker's/Guard's Residence															P	P	P	P	C	C	P	P	P	P	P	P
Community Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								
Residential Hall or Boarding House											P	P	P			C	C	P	C							
Duplex/Two-Family/Duplex Condominiums							P	P	P		P	P	P			C	C	P								
Family Home Child Care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Four Family (Quadraplex) or Three Family (Tri-Plex)											P	P	P			C	C										
Fraternity or Sorority Building											C	C	C			C	C	P									
Home Occupation	(See Chapter 4, Article 3, Division 3)																										
HUD code-Manufactured Home														P	P												
Loft Apartments											P	P	P			P	P	C	C	C	C	C	C	P			
Multifamily (Apartments)											P	P	P			C	C	C						C			
Private Street Subdivision	(See Section 7.4.1.2																										
Single Family Detached House	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C								
Single Family Industrialized Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C								
Single Family Townhouse (Attached)								P	P		P	P	P			P	P										
Single Family Zero Lot Line/Patio Homes									C	P	P	P	P			C	C										
Office Service Type Uses																											
Armed Services Recruiting Center																P	P	P	P	P	P	P	P	P			

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Bank or Savings and Loan (w/o Drive-thru)																P	P		C	P	P	P	P	C			
Band or Savings and Loan (w Drive-thru)																C	C		C	C	P	P	P	C			
Check Cashing Service																C	C		P		P	P	P	P			
Offices (Health Services)																P	P		P	P	P	P	P	P			
Offices (Medical Office)																P	P		P	P	P	P	P	P			
Offices (Professional)																P	P	C	P	P	P	P	P	P			
Call Service Center																					P	P	P	P	P	P	
Personal and Business Service Uses																											
Appliance Repair																C	C		C		P	P	P	P			
Artist or Artisans Studio	P	P														P	P		P		P	P	P	P			
Ambulance Service (Private)																		P	C		C	P	P	C	C	C	
Automobile Driving School (including Defensive Driving)																P	P	P	C	C	P	P	P	C			
Automatic Teller Machines (ATM's)																P	P	P	P		P	P	P	C	P	P	
Barber/Beauty College (barber or cosmetology school or college)																		P	C	C	P	P	P	P			

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Barber/Beauty Shop, Haircutting (non-college)																P	P		P	C	P	P	P	P			
Bed and Breakfast (No Permanent Residence)	C	C									P	P	P	P	P	P	P		C		P	P	P	P			
Communication Equipment (Installation and/or Repair - No outdoor sales or storage)																					C	P	P	C	P	P	
Dance/Drama/Music Schools (Performing Arts)																P	P	P	P	C	P	P	P	P			
Extended Stay Hotels/Motels (Residence hotels)																C	C				C	P	P	C			
Exterminator Service (No outdoor sales or storage)																P	P					P	P				
Funeral Home																						P	P	C			
Hotel/Motel																P	P				C	P	P	C			
Kiosk (Providing A Retail Service)																P			C		P	P	P	P	P	P	
Laundry/Dry Cleaning (Drop Off/Pick Up)																P	P		C		P	P	P	P			
Martial Arts School																P	P	P	C	C	P	P	P	P			

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Medical Supplies and Equipment																P	P		P		P	P	P	P			
Mini-Warehouse/Self Storage Units																C						C	P		C		
Off-Premises Freestanding Sign																					P	P	P		P	P	
Photocopying/Duplicating/Copy Shop																P	P		C		P	P	P	P	P	P	
Sexually Oriented Business	(See Section 18, Article 6 of the City Code)																										
Studio for Radio or Television (without tower)																P	P	P			P	P	P	P	P	P	
Tool Rental (Indoor Storage only)																P			C		C	P	P	C	P	P	
Tool Rental (with Outdoor Storage)																						C	P		C	P	
Washateria/Laundry (Self Serve)																			C		P	P	P	P			
Retail and Service Type Uses																											
All Terrain Vehicle (go-carts) Dealer/Sales																					C	P	P				
Antique Shop (with outside storage)																C	C		C		C	P	P	C			
Auto Dealer (Primarily New/Used Auto Sales																						P	P		C	C	

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as accessory use only)																										
Auto Dealer, Used Auto Sales																				C	P	P				
Auto Supply Store for New and Rebuilt Parts															C	C				P	P	P				
Bike Sales and/or Repair															P	P				P	P	P	P			
Building Material Sales																					P	P				
Cabinet Shop (Manufacturing)																					P	P		P		
Convenience Store Without Gas Sales															P	P		C		P	P	P	P			
Convenience Store With Gas Sales															C			C		C	P	P	C			
Department Store																				P	P	P	P			
Food or Grocery Store with Gasoline Sales															C			C		C	P	P				
Food or Grocery Store without Gasoline Sales															P	P		C		P	P	P	P			
Gravestone/Tombstone Sales																					C	P		P		
Gun Smith																					C	P				
Home Improvement Center (10,000 s.f. or															C	C				P	P	P				

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more)																											
Lawnmower Sales and/or Repair																C	C				C	P	P		C	C	
Liquor Sales (retail)																					P	P	P				
Market (Public, Flea)																C	C		C			C	P	C			
Pharmacy																P	P		C		P	P	P	P			
Plant Nursery (Retail Sales/Outdoor Storage)	P	P														C	C	P	C	C	P	P	P				
Recycling Kiosk																P	P	P	C	C	P	P	P	P			
Restaurant/Prepared Food Sales																P	P	C	C		P	P	P	P			
Restaurant/Prepared Food Sales with beer/wine off-premises consumption																					C	C	C	P			
Restaurant/Prepared Food Sales with drive thru																C	C				P	P	P	C			
Retail Store (Misc.) with Drive Thru Service																C	C				C	P	P	P			
Retail Store (Misc.) without Drive Thru Service (Under 100,000 s.f. Bldg.)																C	C				P	P	P	P			
Retail Store (100,000																					C	P	P		C	C	

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s.f. or more Bldg.)																										
Retail Store (over 10,000 s.f. or more Bldg.) outside sales															C	C		C		C	P	P	C			
Retail Store (under 10,000 s.f. or more Bldg.) outside sales															C	C		C		P	P	P	C			
Retail Store (under 10,000 s.f. or more Bldg.) no outside sales															P	P		C		P	P	P	C			
Security Systems Installation Company																					P	P	P	P	P	
Shopping Center (Over 5 Acres)																				P	P	P		C		
Studio Tattoo or Body Piercing															C	C		C		P	P	P				
Temporary Outdoor Retail Sales / Commercial Promotion (4 day time limit; Permit Required by Building Official)															P	P		C		P	P	P	P	P	P	
Upholstery Shop (Non-Auto)																					P	P				
Veterinarian (Indoor Kennels)															C	C				C	P	P				
Woodworking Shop															P	P		P		P	P	P	P	P	P	

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(Ornamental)																											
Transportation and Automotive Uses																											
General Vehicular Sales and Service																C	C				P	P	P	C			
Auto Body Repair																						C	P		C	P	
Auto Muffler Shop																					P	P	P				
Auto Paint Shop																						C	P		C	P	
Auto Repair (General)																C	C				C	P	P				
Auto Repair as an Accessory Use to Retail Sales																C	C				P	P	P				
Auto Tire Repair/Sales (Indoor)																C	C				P	P	P	C			
Auto Wrecker Service/Tow Yard																							P			C	
Car Wash (Self Service; Automated)																C	C				C	P	P				
Full Service Car Wash (Detail Shop)																C	C				P	P	P				
Heavy Load Vehicle Sales/Repair																							P		C	C	
Limousine/Taxi Service																C	C				P	P	P	C			
Public Garage/Parking																C	C	C		C	C	C	C	C	C	C	

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Structure																										
Tire Sales (Outdoors/Storage)																				C	P	P				
Transit Terminal																				C	C	P	C			
Truck Terminal																					C	P		P	P	
Amusement and Recreational Uses																										
Amusement Services or Venues (Indoors)																C	C				C	P	P	P		
Amusement Services or Venues (Outdoors)	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C				P	P			
Bar																C	C				C	C	C	C		
Billiard/Pool Facility/Nightclub (Three or More Tables) No alcohol consumption																					C	P	P	P		
Smoking Lounge																C	C		C		C	P	P	C	P	P
Broadcast Station (with Tower)																		P					P		P	P
Charitable Gaming Facility																						C	C			
Civic/Conference Center																P	P	P			C	P	P	C	C	C
Country Club (Private)	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C		C		C	C	C		C	C

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Dance Hall/Dancing Facility																					C	P	P	C		
Day Camp	C	C																				P	P		P	P
Driving Range																						P	P			
Fair Ground	C																	P								
Health Club (Physical Fitness; Indoors Only)																P	P		P		P	P	P	P	P	P
Motion Picture Theater (Indoors)																C	C				C	P	P	P		
Motion Picture Studio, Commercial Film																						P	P	P	P	P
Museum (Indoors Only)																P	P	P	P		P	P	P	P		
On-Premises Consumption of Alcohol																C	C		C		C	C	C	C		
Park and/or Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Travel Trailers/RVs (Short Term Stays)																						P	P			
Rodeo Grounds	C																	P					P			
RV/Travel Trailer Sales																						P	P			
Tennis Court (Lighted)	P	C	C	C	C	C	C	C	P	C	P	P	P	P	P	C	C	P			C	C	C			
Theater (Non-Motion Picture; Live Drama)																C	C	P			C	P	P	P		

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Institutional/Governmental Uses																											
Adult Day Care (No Overnight Stay)																P	P	P	C		P	P	P				
Antenna (Non-Commercial)	(See Section 4.3.4.1																										
Antenna (Commercial)	(See Section 4.3.4.1																										
Assisted Living Facility/Hospice											P	P	P			P	P		C		P	P	P				
Broadcast Towers (Commercial)	(See Section 4.3.4.1																										
Cellular Communications Tower/PSS	(See Section 4.3.4.1																										
Cemetery and/or Mausoleum	C	C																P									
Child Day Care (Business)																P	P		C		P	P	P				
Meeting Place/Nonreligious					C	C	C	C	C	C						P	P		C		P	P	P	P			
Place of Religious Assembly/Church	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	
Clinic (Medical)																P	P	P	C	P	P	P	P	P			
Electrical Generating Plant	C																	C							C	C	

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Electrical Substation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		C	C	C		C	C
Emergency Care Clinic																P	P		C		P	P	P	C	C	C
Franchised Private Utility (not listed)	(See Section 4.3.4.1																									
Fraternal Organization/Civic Club																P	P		C		P	P	P	P		
Governmental Building or Use (Municipal, State or Federal)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Heliport																C	C	P				C	C	P	C	C
Helistop (Non-Emergency)																		P							C	C
Household Care Facility	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P								
Hospital (Acute Care/Chronic Care)											C	C	C			C	C	C	C	C	C	P	P		P	P
Nursing/Convalescent Home											P	P	P			P	P		C		P	P	P			
Philanthropic organization																P	P		C	P	P	P	P	P	C	C
Post Office (Private)																P	P	P	P	P	P	P	P	P	P	P
Post Office (Governmental)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P
Radio/Television Tower (Commercial)	(See Section 4.3.4.1																									

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Rectory/Parsonage with Place of Worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P			
Retirement Home/Home for the Aged											P	P	P			P	P				P	P	P			
School, K through 12 (Private)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P		P	P	P	C	P	P
School, K through 12 (Public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
School, Vocational (Business/Commercial Trade)																C	C	P	C		P	P	P	P	P	P
University or College	C																	P						P		
Commercial and Wholesale Trade Uses																										
Auction Sales (Non-Vehicle)																						P	P	C	C	P
Bio-Medical Facilities																							C		P	P
Caterer																P	P		C		C	C	P	P	P	P
Extermination Service																						P	P			P
Feed and Grain Store	C																					P	P			P
Furniture Manufacture																							P		P	P
Maintenance/Janitorial Service																C	C		C			P	P		P	P

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Manufactured Home Sales																							P			C	
Metal Fabrication Shop																						C	P		C	C	
Moving Storage Company																						C	P		P	P	
Portable Building Sales																						P	P			P	
Taxidermist																						P	P	P		P	
Transfer Station (Refuse/Pick-up)																									C	C	
Veterinarian (Outdoor Kennels or Pens)	C	C																					C		C	C	
Warehouse/Office and Storage																						C	P		P	P	
Welding Shop																							P		P	P	
Industrial/Manufacturing Uses																											
Aircraft Support and Related Services																		P								P	
Airport																		P							C	P	
Manufacturing																									P	P	
Contractor's Office/Sales, With Outside Storage including Vehicles																							P		C	P	

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Contractor's Temporary On-Site Construction Office (only with permit)	(Issued by the Building Official)																										
Distribution Center																							P		P	P	
Electronic Assembly/High Tech Manufacturing																						P	P		P	P	
Engine Repair/Motor Manufacturing Re-Manufacturing and/or Repair																							P		C	P	
Food Processing (no Outside Public Consumption)																							C		P	P	
Laboratory Equipment Manufacturing																									P	P	
Leather Products Manufacturing																							C		P	P	
Machine Shop																							P		C	P	
Manufacturing Processes not Listed																									C	C	
Marble or Stone Finishing																							C		P	P	
Micro Brewery (onsite mfg. and sales)																C	C				C	C	C	C	C	C	

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DIVISION 1: - INTERPRETIVE RULES AND LAND USE MATRIX

Motor Freight Terminal																						C		P	P	
Outside Storage (as primary use)																					C	P		C	C	
Paint Manufacturing																									P	
Petroleum Bulk Storage																								C	P	
Plastic Products Molding/Reshaping																								P	P	
Research Lab (Non-Hazardous)																			C		C	P	C	P	P	
Sand/Gravel Sales (Storage or Sales)																						C		C	P	
Sign Manufacturing																						P	C	P	P	
Stone/Clay/Glass Manufacturing																						C		P	P	
Wrecking/Junk Yard																						C			C	

(Ord. No. 2007-50, § 1, 9-4-07; Ord. No. 2009-53, § 1, 9-15-09; Ord. No. 2010-49, § 6(Exh. B), 9-7-10; Ord. No. 2010-72, § 3, 12-14-10; Ord. No. 2011-55, § 14, 11-1-11)

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DIVISION 2: - ACCESSORY BUILDINGS AND USE REGULATIONS

Section 4.3.2.1 - Area Regulations for Accessory Buildings in Single-Family and Two-Family Districts

(a) *Size of Yards.*

(1) Front yard: Detached accessory buildings shall be prohibited in front of the main building. Barns and related structures necessary for farming and ranching purposes shall be exempt from setback requirements on parcels or tracts of land that are ten acres or greater in size.

(2) Side and rear yards:

a. There shall be an interior side and rear yard setback not less than ten feet from any side or rear lot line provided that such accessory building is separated from the main building by a minimum distance of ten feet. In the case of an accessory building (of any size) being closer than ten feet to the main building, the minimum side and rear yard requirements for the main building shall be observed. A side yard adjacent to a street shall observe the same setback as the main building.

b. A side/rear setback of five feet may be used for a portable (i.e., removable) accessory building not exceeding 120 square feet in floor area, and not exceeding a total ridge height of eight and one-half feet, and provided that a solid fence or wall six feet in height is built on the side/rear lot line to screen the building from adjacent property or from a side street, as the case may be.

c. Garages or carports accessed from an interior side yard shall have a minimum setback of 20 feet from the side lot line. Carports or garages accessed from a side yard, facing a public street, or from a rear or side alley shall have a minimum distance equal to the required yard for the main building or 20 feet, whichever is greater.

(b) Carports shall be measured from the roof nearest to the street or alley (see Figure 4-2).

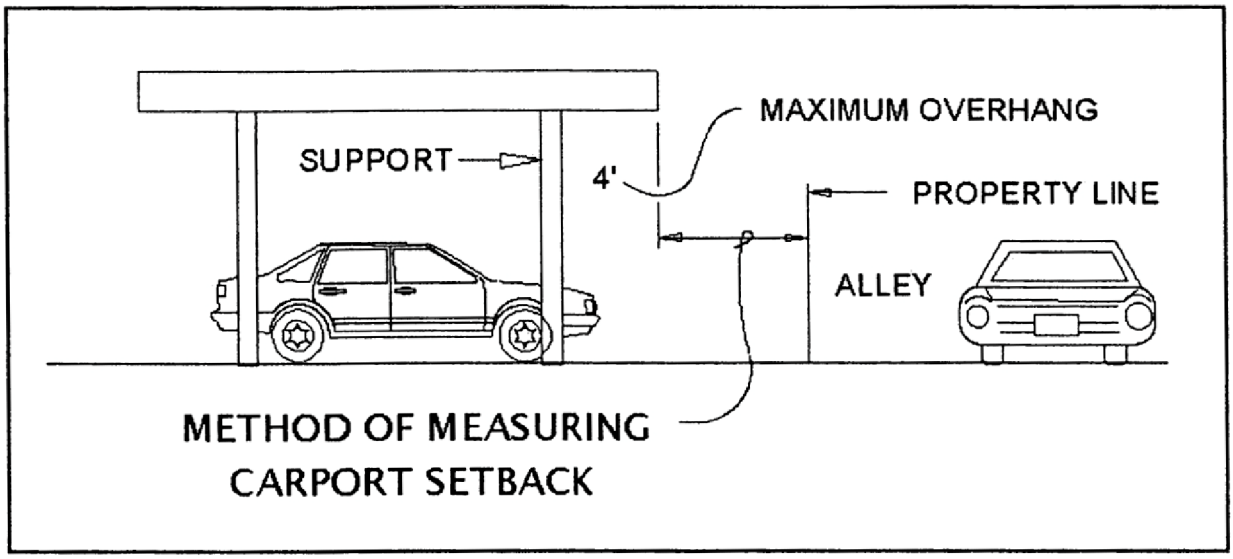

Figure 4-2: Carport Setback

(c) Accessory buildings are not permitted without a main structure except in the Future Development (FD) District.

(d) Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings (including accessory dwellings) may be allowed in certain zoning districts (see Chapter 1, Article 5, Division 7) by Conditional Use Permit (CUP) if there is no adverse impact upon adjacent properties.

(e) Metal portable accessory buildings less than 120 square feet and no greater than eight and one-half feet in total ridge height are permitted, but shall not be used as an enclosed parking area or garage.

(f) In all residential districts (including Agricultural), the total floor area of all accessory structures shall not exceed 50 per cent of the square footage of the livable area of the residence on the premises, or five per cent of the lot area, whichever is smaller. This requirement shall not apply to barns and related structures necessary for farming and ranching purposes.

(g) There shall be no more than two accessory buildings on any residential (or Agricultural) lot.

(h) See Article 4, Division 2 for exterior construction standards for accessory buildings.

(Ord. No. 2006-45, § 35, 9-19-06)

Section 4.3.2.2 - Area Regulations for Accessory Buildings in Nonresidential and Multiple-Family Districts

(a) *Size of Yards*.

(1) Front Yard: Same as for main structure. Detached accessory buildings shall be prohibited in front of the main building.

(2) Side and Rear Yards: Five feet.

(b) Carports shall be measured from the roof nearest to the street or alley (see Figure 4-2).

(c) Accessory buildings are not permitted without a main structure.

(d) Accessory buildings shall not exceed the height allowed in the specific zoning district, except taller accessory buildings (including accessory dwellings) may be allowed in certain zoning districts (see Chapter 1, Article 5, Division 7) by CUP if there is no adverse impact upon adjacent properties.

(e) Metal portable accessory buildings less than 120 square feet and no greater than eight and one-half feet in total ridge height are permitted, but only if a solid fence or wall six feet in height is built on the side/rear lot line to screen the building from adjacent property and from the view of a public street. Such metal buildings shall not be used as an enclosed parking area or garage.

(f) See Division 5 for exterior construction standards for accessory buildings.

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DIVISION 3: - HOME OCCUPATION REGULATIONS

Section 4.3.3.1 - Provisions for Home Occupations

(a) *Purpose*. Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

(b) *Special Provisions for Home Occupations*.

(1) Home occupations shall be permitted as accessory use in single-family residential zoning districts provided that they comply with all restrictions herein;

(2) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;

(3) Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 20 per cent of the combined gross floor area of dwelling unit and any accessory building(s) that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 600 square feet);

(4) The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs;

(5) Not more than one business-related vehicle shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;

(6) The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor activities, and between 8:00 a.m. and 10:00 p.m. for indoor activities;

(7) One commercial vehicle, GVW capaCity of one ton or less, according to the manufacturer's classification, may be used, or parked behind the front building line on the property, in connection with the home occupation, but the vehicle may not be parked in the street;

(8) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries (more than twice per day) by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons, according to the manufacturer's classification;

(9) The home occupation use/activity shall take place primarily within the dwelling, and there shall be no outside storage, including trailers, or outside display related to the home occupation use;

(10) No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home office environment, and that which is customarily associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain;

(11) The home occupation shall not generate noise, vibration, glare, fumes or odors, heat or electrical interference beyond what normally occurs within a residential district;

(12) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood;

(13) The home occupation shall be permitted one advertising sign for the home occupation that is a maximum of one square foot in size and is attached to the front facade such that it is flush with the facade;

(14) The occupation shall not offer any commodity for sale on the premises unless the commodity is made or assembled on-site, including arts and crafts items, handmade clothing; and,

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(15) The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

(c) *Applicability of Other Regulations*. Home occupations shall also be subject to any and all other provisions of local, State and Federal regulations and laws that govern such uses.

(d) *Uses Allowed as Home Occupations*. Subject to the provisions of this Division, home occupations may include the following uses:

(1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

(2) Author, artist, artisan, or sculptor;

(3) Dressmaker, seamstress or tailor;

(4) Music or dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than two pupils at a time;

(5) Individual tutoring and home schooling;

(6) Office facility of a minister, rabbi, priest or other cleric;

(7) Home crafts, such as rug weaving, model making, etc.;

(8) Office facility of a salesman, sales or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;

(9) Repair shop for small electrical appliances, cameras, watches and clocks, and other small items, provided that the items can be carried by one person without using special equipment, and provided that the items are not equipped with an internal combustion engine;

(10) Food preparation establishments such as cake making, decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all State and local health regulations;

(11) Registered family homes, in compliance with applicable State laws, which are incorporated herein by reference, with no more than six children or adults;

(12) Barber shop or beauty salon or manicure studio, provided that no more than one customer is served on the premises at any one time; and

(13) Swimming lessons and water safety instruction, provided that such instruction involves no more than two pupils at any one time.

(e) *Uses Prohibited as Home Occupations*. Home occupations shall not, in any event, be deemed to include the following uses:

(1) Animal hospitals or clinics, commercial stables having more than two horses per acre or kennels;

(2) Restaurants or on-premises food or beverage, including private clubs, consumption of any kind, except for limited food or meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;

(3) Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;

(4) On-premises retail or wholesale sales of any kind where multiple customers patronize the sales business on-site, except for items that are produced entirely on the premises in conformance with this Code, and except for occasional garage sales (no more than three per calendar year);

(5) Commercial clothing laundering or cleaning;

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(6) Mortuaries or funeral homes;

(7) Trailer, vehicle, tool or equipment rentals;

(8) Repair shops for any items having internal combustion engines; and

(9) Any use that would be defined by the Building Code as an Assembly, Factory or Industrial, Hazardous, Institutional or Mercantile occupancy.

(f) *Home Occupation Uses Not Classified Herein*. Any use that is not either expressly allowed nor expressly prohibited by this Division is considered prohibited, unless and until such use is classified by amendment to this Code by the City Council, subsequent to an affirmative recommendation by the Planning and Zoning Commission.

(g) *Effect of Section 4.3.3.1 on Existing Home Occupations*.

(1) Any home occupation that was legally in existence as of the effective date of this Code and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of this Section, and provided that the home occupation use was not in violation of any other local, State or Federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this Code may be required by the ~~Planning D~~Director.

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DIVISION 4: - REQUIREMENTS APPLICABLE TO PARTICULAR USES

Section 4.3.4.1 - Communications Antennas and Support Structures/Towers

(a) *Applicability.*

(1) These regulations apply to all commercial and amateur antennas and antenna support structures, unless exempted in subsection (2) below.

(2) Direct broadcast antennas or satellite dish antennas, multi-channel multi-point distribution (as defined by the FCC) antennas, television reception antennas, and amateur radio antennas meeting the following requirements do not require a permit unless mounted on a pole or mast that is 20 feet or more in height:

a. In any zoning district, antennas that are three feet or less in diameter;

b. In a nonresidential zoning district, antennas that are six feet or less in diameter;

c. In any zoning district, antennas designed to only receive television broadcasts;

d. In any zoning district, amateur radio antennas concealed behind or located upon or within attics, eaves, gutters or roofing components of a building; and

e. In any zoning district, amateur radio ground-mounted whips and wire antennas, mounted on a pole or mast less than 20 feet in height.

(3) Support structures or antennas legally installed before the effective date of this Code are not required to comply with this Code, but must meet all applicable State, Federal and local requirements, building codes and safety standards.

(4) Unused or abandoned antennas or antenna support structures must be removed at the owner's expense upon notification by the City.

(b) *General Requirements:*

(1) Antennas and antenna support structures may be considered either principal or accessory uses.

(2) Antenna installations shall comply with all other requirements of this Land Development Code and the City Code with the exception of those specifically cited within these regulations.

(3) No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennas attached to utility structures that exceed 50 feet in height, or to antennas placed wholly within or mounted upon a building.

(4) No amateur or commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.

(5) All antennas and support structures must meet or exceed the current standards and regulations of the FCC, the FAA, and all other applicable Federal, State and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six months or as may otherwise be required by the applicable regulating authority.

(6) A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment, unless the particular antenna is exempt from these regulations. All installations shall comply with applicable Federal, State and local building codes and the standards published by the Electronic

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Industries Association. Owners/users shall have 30 days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance.

(7) Antennas (amateur or commercial) shall not create electromagnetic or other interference with the City's and the county's radio frequencies and public safety operations, as required by the FCC. Antennas also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.

(8) No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem.

(9) Safeguards shall be utilized to prevent unauthorized access to an antenna installation (e.g., on a water tower or utility structure, a free-standing installation, etc.). Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.

(10) Temporary antennas shall only be allowed in the following instances:

a. In conjunction with a festival, carnival, rodeo or other special event/activity;

b. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;

c. When needed to restore service on a temporary basis after failure of an antenna installation. The City must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth day following initial placement of the antenna.

(11) Collocation is greatly encouraged by the City.

a. All new antenna support structures over 50 feet in height shall be constructed to support antennas for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.

b. An antenna support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within 50 feet of its original location if it is not moved any closer to residentially zoned property (if the structure was allowed by CUP, then its new location shall be within the physical/land boundaries of the CUP). The original (i.e., former) support structure shall be removed from the property within 90 days following completion of the new structure.

c. Where an additional antenna is to be attached to an existing antenna support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.

(12) Antenna support buildings and equipment storage areas/buildings shall be screened from public view, shall meet all applicable front, side and rear yard setback requirements, and shall be of a neutral color and use exterior finish colors and materials that are compatible with nearby structures. They shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of at least three feet, and which will attain an ultimate height of at least six feet at maturity. A six-foot solid wall or fence may be used in lieu of the landscaped screen provided exterior finish colors and materials are compatible with nearby structures. The use of chain-link for screening is prohibited, except that wrought iron, chain link, or similar screening may be used in conjunction with a landscaped screen as specified above.

(13) Satellite dishes and other similar antennas shall be permitted on the roof of a building, as long as satellite dishes do not exceed three feet in diameter and antennas do not extend over ten feet above the roof of the building.

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Roof-mounted antennas that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.

(14) Only one amateur antenna and antenna support structure shall be permitted per residential lot, except that two satellite dishes are allowed if both units are no larger than three feet in diameter (only one allowed if over one meter in diameter).

(15) All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA and/or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that the lights are not commercial (i.e., for-profit) in nature, and provided that the lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc. as they previously existed prior to support structure modification/replacement.

(16) Antennas and antenna support structures operated by public safety or other emergency service providers shall be permitted in any zoning district (e.g., police or fire communications).

(17) In all zoning districts other than those listed in (18) below, commercial antennas and antenna support structures are prohibited, except as specified within this Section.

a. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure.

b. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design in accordance with established technology and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

(18) In P, GC, HC, LI, and HI zoning districts, commercial antennas and antenna support structures are allowed as follows:

a. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by Conditional Use Permit (CUP) provided the structure conforms in all other aspects of the base zoning district's regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.

b. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/ distribution tower, elevated water storage tank, etc.) provided that the utility structure exceeds 50 feet in height, and provided that the antenna does not extend more than ten feet above the height of the utility structure.

c. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design design in accordance with established technology, and it is not readily visible/identifiable as an antenna from public roadways or from neighboring residential properties.

Section 4.3.4.2 - Conditional Use Permits for On-Site Alcoholic Beverage Consumption

(a) Conditional Use Permits granted for on-premises consumption of alcoholic beverages, unless otherwise specified by the Planning and Zoning Commission, shall remain in effect for the duration of the State TABC (Texas Alcoholic Beverage Commission) license or permit until the license or permit is cancelled, revoked, or allowed to expire, or until

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one of the following conditions occurs, after which the dispensing of alcoholic beverages for on-premises consumption requires issuance of a new Conditional Use Permit:

(1) The State TABC license or permit is reissued under a different [license or] permit holder's name.

(2) The Conditional Use Permit is forfeited, suspended, or revoked in accordance with Section 1.5.7.6

(3) There is a significant change in the name of the establishment, or any physical or operational change in the business that increases off-site impacts to surrounding properties.

(b) *Establishments Dispensing Alcoholic Beverages for On-premises Consumption*. Specific use conditions for establishments dispensing alcoholic beverages for on-premises consumption are as follows:

(1) *Procedures*.

a. The applicant shall complete and submit an application form to be provided by the City.

b. The ~~Planning D~~Director shall review the application form and Site Plan in accordance with Chapter 1 for completeness. Except as provided in subsection (b)(7) of this Section ("Limit in the CBA district") for the issuance of certain Conditional Use Permits through an administrative process, the ~~Planning D~~Director shall place the application on the Planning and Zoning Commission calendar for its consideration and notify all landowners within 200 feet of the site.

c. The Planning and Zoning Commission shall hold a public hearing when considering an application for a Conditional Use Permit and when considering a request for a variance from the distance requirements set forth in 4.3.4.2 (b)(2). The Commission shall hold a public hearing to consider the request for renewal of any CUP subject to a variance granted under this section.

d. The Commission shall act on a completed application within 30 days of the submission of the application to the ~~Planning D~~Director, unless an application is placed on a waiting list for consideration of permits in the CBA district when the limit of 12 unrestricted Conditional Use Permits or 15 restaurant Conditional Use Permits has been reached, or unless an application is delayed at the request of the applicant. When a permit is authorized by the commission, it shall be issued by the Director only after a TABC license or permit is issued to the applicant by the state, and a copy of the license or permit is submitted to the Director.

(2) *Standards*. For the Conditional Use Permit to be initially issued or an existing permit to be renewed or allowed to continue, the following standards will be met (figures in parentheses at the end of each subsection are weighted values to be used in the review or revocation process in subsection (b) (5) and (6) of this Section):

a. Location relative to existing land uses.

1. The place of business covered by the permit shall not be located within 300 feet of a residence located within a zoning district that limits density to six units per acre or less.

2. It is unlawful for a person to sell or engage in the business of selling any alcoholic beverages for on-premises consumption where the place of business is located:

(a) Within 300 feet of a church, public or private school, or public hospital.

(b) Within 1,000 feet of a public school, if the Planning and Zoning Commission receives a request from the board of trustees of the applicable school district (refer to Section 38.007 of the Texas Education Code;

(c) Within 1,000 feet of a private school if the Planning and Zoning Commission receives a request form the governing body of the private school.

3. The measurement of the distances regulated in this Section 4.3.4.2 shall be as follows:

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(a) Between a place of business where alcoholic beverages are sold and the church, public hospital, or residence shall be along the property lines of street fronts and from front door to front door, and in a direct line across street intersections.

(b) Between a place of business where alcoholic beverages are sold and the public or private school shall be:

i. In a direct line from the property line of the place of business, and in a direct line across intersections.

ii. If the permit or license holder is located on or above the fifth story of a multi-story building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

4. If a residence, church, public or private school, or public hospital locates within 300 feet of an establishment with a Conditional Use Permit after the permit is issued, the permitted establishment shall not be considered to be out of compliance with this Chapter.

b. The activities of the establishment selling alcoholic beverages for on-premises consumption shall not produce noise levels in excess of those described in Chapter 6, Article 4 so as to not interfere with the reasonable use and enjoyment of adjacent property or public areas. (2)

c. The premises shall be effectively screened from any adjoining property which is zoned for or utilized for residential purposes by a privacy fence designed to be compatible with surrounding buildings and approved by the Planning and Zoning Commission. The wall or fence shall be six feet in height and shall be maintained in good condition. (7)

d. The place of business shall be designed, constructed and maintained at all times in compliance with all fire, health, electrical, plumbing, and building code standards and regulations in effect within the City. Particular attention shall be given to the location of exits and seating arrangements in accordance with the fire prevention code. The maximum occupancy limit for each structure shall be established as provided in the building code. Review and revocation procedures (see subsection (b) (6) and (7) of this Section):

1. Violation of maximum occupancy. (2)

2. Violation of other fire, health, electrical, plumbing, and building codes which is not corrected within 30 days of notification of the code violation by an authorized City code enforcement official. (7)

e. The place of business and premises shall provide for off-street parking as follows:

1. In accordance with Chapter 6.

2. All parking areas or parking spaces shall be set back a minimum of five feet from any public right-of-way. (7)

3. All off-street parking areas shall be separated from the street right-of-way by a barrier, curb or tire stop approved by the Director of Public Works. (7)

4. Collective utilization of off-street parking by two or more buildings or uses on property of common ownership shall be permitted; provided, however, that the total of off-street parking spaces shall not be less than the sum of the requirements for the particular individual uses computed separately in accordance with applicable regulation for off-street parking spaces. (4)

5. Establishments located in a C-2 commercial district on November 20, 1978, as indicated upon the Zoning Map of the City on that date and which were dispensing liquor, wine, or beer for on-premises consumption under permit by the state on that date are exempt from the requirements of this subsection (b)(2)e.

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f. All appropriate areas of the premises outside of the place of business shall be well lighted for the safety and protection of patrons. Lighting shall be arranged, however, so as to not interfere with the reasonable use and enjoyment of adjacent property. Parking areas and parking spaces shall be screened from adjacent property to protect them from the direct glare of automobile headlights. Any lighting used to illuminate the premises shall be so designed and constructed as to reflect light away from any adjoining property or public street. (1)

g. Advertising at permitted establishments shall not exceed one wall or pole sign and one window sign. A wall sign shall be permanently attached to the structure of the permitted establishment and shall extend no more than six inches from the face of the wall. Window signs shall cover no more than 30 square feet. Signs shall contain no obscenity. The same sign violation may be cited no more frequently than once every ten days. (1)

h. Conspicuous littering of the permitted premises, inside or outside, whether by patrons or by management, is prohibited for reasons of public health, neighborhood preservation and community appearance. The applicant must have in force a garbage pickup agreement requiring regular and timely pickup from a centralized collection point. The holder of a Conditional Use Permit shall be responsible for maintaining the sidewalk, gutters, parking lot and all areas within 100 feet of any exit and all areas of the permitted property in a clean and sanitary condition, free from litter and refuse at all times. (2)

i. No open beverage containers of any kind shall be issued for off-premises consumption by permitted establishments. (2)

j. The management shall not knowingly or willingly permit the possession, display, or use of any weapons upon the permitted premises, including firearms, knives over six inches in length (except in the normal course of business for the preparation of food), or bludgeons of any type, except as authorized by state law. (7)

k. Establishments are prohibited from knowingly serving alcoholic beverages to clients who are intoxicated. "Intoxicated" has the same meaning as in V.T.C.A. Penal Code Chapter 49. (2)

l. The management shall not knowingly or willingly allow riotous or disorderly public behavior. The management of any permitted establishment has the burden and responsibility for the security and safety of patrons and shall eject or refuse service to any person deemed to be acting in violation of V.T.C.A., Penal Code ch. 42, the conditions of the establishment's Conditional Use Permit or TABC license or permit, or other health or safety codes. However, a patron having been refused service or ejected, and acting outside the premises shall not be the responsibility of the permitted establishment. (2)

m. Signs, as provided by the City, warning against public drunkenness, clearly indicating the number of drinks per body weight per hour constituting legal intoxication according to the regulations of the State Alcoholic Beverage Commission or the State Department of Public Safety, and the danger of driving while intoxicated shall be located in each permitted establishment as follows:

   1. One sign shall be located in a conspicuous place in each restroom. (1)

   2. One sign shall be located in a prominent place in the main bar area. (1)

   3. One sign shall be located in a lighted place near the front door of the permitted establishment. (1)

n. Permitted establishments which also have a TABC license for sales of alcoholic beverages for off-premises consumption, where drive-up or drive-through facilities are the only means provided to serve customers, shall comply with the following additional requirements:

   1. The opening or consumption of alcoholic beverages by customers is prohibited on the premises except in the designated customer seating area. There shall be a designated customer seating area for not more than one person. (2)

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2. A sign prohibiting the opening or consumption of alcoholic beverages by customers on the premises, except in the designated customer seating area, shall be prominently displayed at the point of sale. (1)

3. There shall be no additional facilities, other than restrooms and running water, provided through building or site alterations beyond what is necessary for the intended sale of beverages for on-premises consumption. (2)

(3) *Variance*.

(a) *Eligibility:* Certain businesses applying for a conditional use permit for on-site alcoholic beverage consumption may seek a variance from the distance requirements set forth in 4.3.4.2 (b)(2), above, if the business meets all of the following:

1. Bars and package stores are not eligible for this variance.

2. The business seeking the variance is a restaurant that agrees to limit its operation characteristics such that the restaurant will maintain its business in a manner to insure that its gross revenue from the sale of alcohol will be less than 25 percent of the total gross revenue of the business.

3. There is a distance of a least 200 feet from the primary entrance of the applicant business to the primary entrance of the church or school measured using a straight line.

4. The business seeking the variance shall comply with all aspects of the conditional use permit process.

5. All conditional use permits for the on-site alcoholic beverage consumption that include a distance variance shall be, for the life of the permit, subject to annual renewal. Variances are non-transferable and separate from the conditional use permit. Any hearing concerning a renewal will be conducted by the commission who shall have authority to grant or deny the renewal.

(b) *Procedure:*

1. For each neighboring church or school that is within the distances of the proposed restaurant, as described in subsection (b)(2)(a) and as measured in accordance with subsection (b)(3)(a) and (b), the proposed restaurant shall present a letter describing the operation characteristics of the restaurant and shall obtain a statement signed by the governing officer of board of any such church or school stating that the church or school does not oppose the granting of the distance variance based on the operation characteristics stated in the letter.

2. The business must agree, in writing, to restrict its operation characteristics as set forth in the request to the church or school, as may have been set forth in the request to the church or school. These operating characteristics shall be included in the Conditional Use Permit.

3. The business will agree to file an annual report, due 45 days before the hearing on the annual CUP renewal, setting forth the gross sales of the business and the gross sales derived from the sale of alcoholic beverages.

(c) *Hearing*.

1. The planning and zoning commission shall hold a hearing to consider the applicant's variance.

2. All property owners within 200 feet shall be notified and, in addition, all public and private schools and churches within 300 feet shall be notified.

3. At the conclusion of the hearing on the initial application for a variance the commission shall make a recommendation to the city council. If the commission recommends denial of the applicant's request for a variance they shall include findings of fact to show that the location or the restaurant:

a. Is not in the best interest of the public;

b. Would constitute waste or inefficient use of land or other resources;

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c. Creates an undue hardship on the applicant;

d. Does not serve its intended purpose;

e. Is not effective or necessary; or,

f. Any other reason the commission finds after consideration of the health, safety, and welfare of the public and the equities of the situation.

4. The city council shall, upon conclusion of a public hearing on the matter, have final authority to approve or disapprove of the commissions' recommendation. Procedures for council action shall be the same as set forth in Section 1.5.7.7 of the Land Development Code.

(4) Issuance to holder of state permit. The Conditional Use Permit shall be issued only to and for the benefit of the holder of an alcoholic beverage license or permit issued by the state for the place of business and premises for which the Conditional Use Permit is requested.

(5) Suspension. In accordance with the authority granted to municipalities by the state, the City shall have the right to immediately suspend the Conditional Use Permit for any property where the premises are determined to be an immediate hazard to the health and safety of any person or an immediate danger to any adjacent property. The suspension shall be for a period not to exceed 24 hours or until the danger or hazard is removed.

(6) Revocation.

a. The ~~Planning D~~Director shall cause a revocation hearing to be scheduled before the Commission in accordance with the same procedures as for initial consideration of a Conditional Use Permit when either of the following situations occur. These provisions supersede any conflicting provisions in Chapter 1, Article 5.

1. An establishment having a valid Conditional Use Permit violates any provision of this Chapter, or any provision of the permit, including conditions established by the Commission in approving the permit which may not otherwise be addressed in the mandatory standards enumerated in subsection (b)(2) of this section.

2. An establishment having a valid Conditional Use Permit accumulates at any time during an 18 month consecutive period any combination of confirmed violations of the standards which totals six or more of the weighted violation values shown in parentheses at the end of each enumerated standard in subsection (b)(2) of this Section. Violations of the standards shall be investigated, documented, confirmed, and filed by the ~~Planning D~~Director or a City officer. The ~~Planning D~~Director shall notify the permit holder by certified mail, return receipt requested, of each assessment of violation values. If the permit holder disagrees with the assessment, the permit holder may file a written appeal with the Director within 15 calendar days of receipt of the notice. Upon consideration of the evidence contained in the appeal, and any response by the City staff, the Director may affirm, rescind, or modify the assessment of violation values.

b. At least ten days prior to a revocation hearing, the Director shall notify the permit holder by certified mail, return receipt requested. Any complainant whose report of a violation resulted in the assessment of violation values shall also be notified at that time. The notice shall state the purpose of the hearing and the alleged grounds for revocation of the permit. The City shall provide to the permit holder, upon request, a copy of all written information of the City pertinent to the grounds for revocation.

c. At the revocation hearing, the City shall have the burden of producing evidence to show that the permit holder has not been in compliance with this Chapter, and that sufficient grounds exist to justify revocation of the permit. The permit holder may produce evidence of compliance. The Commission shall make its decision based upon the preponderance of the credible evidence before it.

d. If the permit is revoked, the dispensing of alcoholic beverages for on-premises consumption at the establishment shall cease the next day after the revocation and the Director shall report the Commission's

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actions to State TABC officials. Subsequent dispensing of alcoholic beverages for on-premises consumption at the establishment requires approval of a new Conditional Use Permit.

e. If the permit is not revoked, the dispensing of alcoholic beverages may continue at the establishment in accordance with the original permit, or the Commission may impose additional conditions on the permit which are reasonably related to the circumstances giving rise to the revocation hearing. The permit is again subject to revocation if one or more additional violation values are assessed during any probationary period established by the Commission in its decision.

(7) Administrative approval of certain permits. Conditional Use Permits may be approved administratively by the Director at the time a new State TABC license or permit is required for a currently licensed or permitted establishment due to a change in the name of the permit holder, the name of the business, or the ownership of the business, or due to remodeling which does not involve the expansion of the existing business except to improve compliance with the standards contained in subsection (b)(2) of this Section.

(8) *Limitations in the CBA district*.

a. A business in the central business area zoning district that wishes to dispense alcoholic beverages for on-premises consumption, and does not operate a bona fide restaurant on the premises, must apply for, obtain and maintain an unrestricted Conditional Use Permit, to be known as an "unrestricted permit". A business in the central business area zoning district that wishes to dispense alcoholic beverages for on-premises consumption, and does operate a bona fide restaurant on the premises, must apply for, obtain and maintain either an unrestricted permit, or a restricted Conditional Use Permit, to be known as a "restaurant permit". Except as noted in subdivisions b and c below, both unrestricted permits and restaurant permits are subject to all provisions of this chapter that apply to Conditional Use Permits, including those pertaining to revocation of permits.

b. The following provisions apply to unrestricted permits:

1. The number of active unrestricted permits in the central business area zoning district shall not exceed 14.

2. If there are 14 active unrestricted permits, any further applications for unrestricted permits in the district shall be placed on a waiting list and individually referred to the Commission for consideration within 45 days, in the same order as submitted, when the number of unrestricted permits is less than 14.

3. If the Commission authorizes a new unrestricted permit to be issued in the district, and a waiting list exists for further applications, the applicant whose permit was authorized must obtain the permit within 180 days of the Commission decision to authorize the permit, or the authorization is void and the next application on the waiting list will be referred to the Commission for consideration within 45 days.

4. The following revisions to unrestricted permits in the district may be considered and made without regard for any waiting list that may exist for new unrestricted permits in the district:

a) Administratively approved revisions under subsection (b)(6)d above.

b) Revisions to a current valid permit from a beer and wine permit to a mixed beverage permit, or vice-versa.

c) Revisions due to the remodeling of a business that is not subject to administrative approval under subsection (b)(6)d above.

5. An unrestricted permit shall be issued for on-premises consumption at a particular building. The unrestricted permit for a particular building shall be deemed revoked if the building remains vacant for more than six months or if no TABC permit for on-premises consumption is in effect at that building location for more than a six-month period. In such event, a new unrestricted permit for that building is

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required and may be issued by the Commission only if there are less than 14 unrestricted permits currently in effect in the Central Business Area.

c. The following provisions apply to restaurant permits:

1. Restaurant permits are valid for three years from date of issuance. Each business holding a restaurant permit must apply for and obtain a renewal permit every three years, no later than the expiration date of the current permit. A renewal permit for a current permit holder may be administratively issued if the applicant has complied with all of the provisions of this Chapter, all provisions of the permit, and any other applicable statutes during the previous permit period, and has not been assessed any violation values under this section. Otherwise, the application for the renewal permit shall be considered by the Commission after a public hearing.

2. A business holding a restaurant permit must become operational and open to the public within one year of issuance, or the permit shall expire. Upon request of the permit holder for good cause, the ~~Planning D~~Director may permit one six-month extension. A restaurant permit shall be issued to an applicant for on-premises consumption at a particular building. The restaurant permit for a particular building shall be deemed revoked if the building remains vacant for more than six months or if no TABC permit for on-premises consumption is in effect at that building location for more than a six-month period. In such event, a new restaurant permit for that building is required and may be issued by the Commission only if there are less than 15 restaurant permits currently in effect in the Central Business Area District. Effective upon adoption of this ordinance, a restaurant permit for on-premises consumption of beer and wine may be issued only after the restaurant has been in operation for at least six months; a restaurant permit for on-premises consumption of mixed beverages may be issued only after the restaurant has been in operation for at least 12 months. These waiting periods shall not apply to the issuance of a restaurant permit for on-premises consumption at the following addresses: 100 W. Hopkins Street; 321 N. LBJ Drive; 202 N. LBJ Drive, Suite A; 202 N. LBJ Drive, Suite 101; 202 E. San Antonio Street; 215 N. LBJ Drive; and 328 N. LBJ Drive.

   These waiting periods shall not be applicable to a restaurant located in a hotel, motel, or bed and breakfast where alcoholic beverages would be served primarily to patrons and guests. These waiting periods shall not be applicable to an individual or entity that holds an existing restaurant permit and makes an application to operate the restaurant at a different location within the Central Business Area District.

3. A business holding a restaurant permit must comply at all times with all of the following standards for "bona fide restaurants":

   a) The business must have a kitchen and food storage facilities of sufficient size to enable food preparation. The kitchen must be equipped with, and must utilize, a commercial grill, griddle, fryer, oven, or similar heavy food preparation equipment.

   b) The business must apply for, obtain and maintain a food establishment permit in accordance with chapter 18 of the City Code.

   c) The business must serve meals to customers during at least two meal periods each day the business is open. A meal must consist of at least one entree, such as a meat serving, a pasta dish, pizza, a sandwich or similar food in a serving that serves as a main course for a meal. At least three entrees must be available during each meal period. A meal period means a period of at least four hours.

   d) The business must be used, maintained, advertised and held out to the public as a place where meals are prepared and served.

4. An application for a restaurant permit must be accompanied by all of the following:

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a) A diagram of the floor layout of the business, clearly indicating areas where food is stored, where food is prepared, and where food is served to customers.

b) A statement of the total seating capacity of the business, and a statement of the seating capacity of the areas of the business where food is served.

c) A menu indicating all food and drink items served at the business.

5. The holder of a restaurant permit must submit to the Director:

a) A complete written update of all information required under the section above each year within 30 days of the annual renewal date of the state TABC license or permit for the holder's business;

6. The holder of a restaurant permit agrees, as a condition of the permit, to allow the ~~Planning D~~Director or an authorized representative to enter and inspect the business premises at any time during normal business hours to verify compliance with the requirements for restaurant permits under this section.

7. The number of active restaurant permits in the central business area zoning district shall not exceed 15. If there are 15 active restaurant permits, any further applications for restaurant permits in the district shall be placed on a waiting list and individually referred to the commission for consideration within 45 days, in the same order as submitted, when the number of restaurant permits is less than 15.

(Ord. No. 2005-19, §§ 1—7, 3-1-05; Ord. No. 2007-49, §§ 1, 2, 9-4-07; Ord. No. 2011-10, § 1, 4-19-11)

Section 4.3.4.3 - Conditional Use Permits for Fraternity/Sorority Buildings

(a) *Fraternity/Sorority Buildings.* Conditions for a Conditional Use Permit(s) for fraternity/sorority buildings are as follows:

(1) A Conditional Use Permit and a certificate of occupancy are required for initial occupancy by each organization in each location. A new permit and certificate of occupancy are required when an organization moves to a different location or occupies a location previously occupied as a fraternity or sorority building by another organization. Compliance with all applicable codes and standards shall be determined by the chief building official prior to issuance of the certificate of occupancy for the initial occupancy of the premises by the applicant organization.

(2) Applications for permits shall be signed by an officer of the organization and by the owner of the property. In addition to the required application form and Site Plan, the applicant organization shall provide a written statement explaining the organization's proposed means of compliance with these standards, identifying the names and telephone numbers of the president and vice-president of the organization, and designating the name, address, and telephone number of a contact person who shall be an adult, nonstudent, such as the property owner, an alumnus of the organization, a member of the faculty or staff of Texas State University, a parent of a member, or any person designated by the organization's national chapter. The contact person shall preferably have a City telephone number and, in all cases, shall reside within 75 miles of the City as measured from the city limit.

(3) The use of fraternity/sorority buildings and premises shall comply with the following requirements: Most requirements are followed by a penalty point value in parentheses that is assessed for confirmed violations of the requirement, and the cumulative total of penalty points is used to establish cause for revocation of the Conditional Use Permit as set forth in subsection (a)(6) of this Section.

a. The organization shall notify the Director within 15 days when there is a change in the name of the contact person or of the chapter president. (1 point)

b. The premises shall comply with all applicable building, fire, and other life safety codes. Fraternity and sorority buildings which are lawfully existing on June 22, 1992, will not be required to comply with all

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current building trade codes that apply to new buildings, but will be inspected and required to comply with minimum life safety requirements as determined by the chief building official. (3 points)

c. Signs used on the premises shall comply with the provisions of Chapter 6, Article 3, signs, of this Code. (1 point)

d. The maximum total permitted occupancy of each enclosed building, as determined by the chief building official, shall be posted in a visible location within the building. This limit shall not be exceeded at any time within any building. (3 points)

e. The maximum number of persons permitted at one time on the premises, including all indoor and outdoor areas, shall be determined by the Planning and Zoning Commission based upon the following considerations, but in no case shall the limit be less than the total permitted occupancy posted in accordance with subsection (a)(3)d of this Section:

1. The availability of permanent restroom facilities;
2. The width of abutting streets in relation to the potential for traffic congestion and accessibility for emergency vehicles;
3. The availability of off-street and on-street parking;
4. The relationship of the property to surrounding neighborhood uses; and
5. The existence of screening or buffering elements along the property lines abutting other lots.

The maximum number of persons on the premises at one time shall not exceed the limit established by the Planning and Zoning Commission. (2 points)

f. Social functions shall not be held or conducted during the following hours:

1. Between 11:00 p.m. and midnight on a Sunday, Monday, Tuesday, Wednesday or Thursday;
2. Between midnight and 7:00 a.m. on a Monday, Tuesday, Wednesday, Thursday or Friday; or
3. Between 1:00 a.m. and 7:00 a.m. on a Saturday or Sunday. (2 points)

g. Outdoor litter on the premises or on public property within 200 feet of the premises resulting from social functions at the fraternity/sorority building shall be cleaned up by 10:00 a.m. on the morning following the social function. (1 point)

h. Parking of guests' vehicles in the street, if permitted, shall not block adjacent driveways or restrict passage of any emergency vehicle. (3 points)

i. The number of off-street parking spaces available shall be adequate for the number of anticipated residents in accordance with Chapter 6, Article 2; provided, however, that any spaces required by the Planning and Zoning Commission in addition to the minimum of one per person capaCity of the permanent sleeping facilities may be located on private or university-owned property other than the site of the fraternity/sorority building if approved by the Planning and Zoning Commission as a condition of the Conditional Use Permit. If an existing parking area is not paved, the Site Plan submitted with the Conditional Use Permit application shall be of sufficient detail and scale that it can be determined whether or not the required number of spaces could be provided according to the minimum standards if it were paved. The Planning and Zoning Commission may establish a reasonable period of time, as a condition of the Conditional Use Permit, within which existing unpaved parking areas shall conform to the all-weather surface and dimensional requirements. If the paved parking is not provided within the time period set by the Commission, the permit shall be automatically revoked for failure to meet this condition of the permit.

j. Activities shall not occur on the premises of the fraternity/sorority building which result in the issuance of a police citation or the arrest of any person. For penalty point assessment purposes, all citations and arrests resulting from any single incident occurring on the premises of the fraternity/sorority building shall be

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treated as a single infraction. The issuance of a citation or an arrest resulting from an incident that is reported to the police by a member or representative of the resident organization shall not cause penalty points to be assessed. (2 points)

k. Activities shall not occur on the premises of the fraternity/sorority building which result in the final conviction of any person for an incident which involves personal injury or death, or sexual assault. (6 points)

l. In addition to the conditions provided in subsections (a)(3)a, through (a)(3)k of this Section, other relevant requirements may be established by the Planning and Zoning Commission as a condition of approval of the Conditional Use Permit based upon the particular characteristics of the subject site or surrounding neighborhood. The number of penalty points to be assessed for violation of the condition shall be determined by the Planning and Zoning Commission at the time the condition is established.

(4) Prior to the assessment of penalty points for violation of any of the conditions in subsection (a)(3) of this Section, the violation shall be confirmed in writing through personal knowledge of a City officer who investigated the incident in accordance with the officer's departmental policy. If an unconfirmed complaint is received directly by the Department of Planning and Development Services, the Director will notify the appropriate City department for further investigation. The Director shall be responsible for determining the initial assessment of penalty points.

(5) The Director shall notify the affected organization by certified mail addressed to its president at the address shown on the Conditional Use Permit each time the Director makes an assessment of penalty points. A copy of the notice shall be sent to the organization's contact person. The notice shall also include the total number of accumulated points, and the number presently under appeal, if any. The organization may, within 15 calendar days of its receipt of the notification, appeal the assessment by filing a petition with the municipal court judge and posting a hearing fee bond in an amount set by the judge. The municipal court judge may, after a hearing, affirm, waive, or modify the assessment of points if the judge finds an insufficient factual basis for the assessment, or if the judge finds a substantial justification or mitigating circumstances for excusing all or part of the assessment. Disputed fact issues shall be determined by a preponderance of the evidence. The bond shall be returned to the organization if its appeal is sustained in full, but shall be retained as a hearing fee if the appeal is denied in full or in part. If an appeal is pending regarding an assessment of penalty points, it shall preclude the points from forming any part of a basis for revocation under subdivision (a)(6) of this Section.

(6) When any combination of penalty points assessed against an organization equals or exceeds a total of six points during a consecutive period of 24 months, the Director shall schedule a hearing before the Planning and Zoning Commission on revocation of the organization's Conditional Use Permit under the same procedures as for initial consideration of a Conditional Use Permit. Notification of the hearing shall be sent to the organization by certified mail addressed to its president at the address shown on the Conditional Use Permit, with copies sent by certified mail to the organization's contact person and the owner of the subject property.

(7) The revocation hearing shall result in a decision by the Planning and Zoning Commission based upon a preponderance of the evidence before it. If the Conditional Use Permit is revoked, the use of the building as a fraternity or sorority building by the organization to which the permit was issued shall cease within 30 days of the date of the decision of the Commission. If the permit is not revoked, continued use of the premises as a fraternity or sorority building by the permitted organization may be subject to additional conditions reasonably related to the circumstances giving rise to the revocation hearing, as determined by the Commission, and the permit is again subject to revocation if one or more additional penalty points are assessed during any probationary period established by the Commission in its decision. Appeals of penalty points assessed during a probationary period may be filed as provided in subsection (a)(5) of this Section, prior to scheduling of another revocation hearing.

(8) For the purposes of this subsection, the term "social function" means any activity on an organization's premises at which the number of nonmembers in attendance exceeds the number of resident members of the fraternity or sorority building, and which involves the consumption of alcoholic beverages and either of the following:

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a. The use of an amplified sound system indoors or outdoors which is audible from any property line of the premises; or

b. The occurrence of any group activity outside of enclosed buildings.

(9) It is unlawful for any person to violate or to cause or permit to be violated any terms of a Conditional Use Permit issued under this Section. For the purposes of this subparagraph, the term "person" shall include the organization and the president and vice-president of the organization.

Section 4.3.4.4 - Industrialized Housing

(a) Industrialized homes in any single-family or duplex zoning district shall meet all of the requirements of the district in which the industrialized home is located and shall:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) Have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(3) Comply with aesthetic standards, building setbacks, side and rear yard offsets, subdivision standards, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings, and

(4) Be securely affixed to a permanent foundation.

(b) For the purposes of subsection (a) above, "value" means the taxable value of the industrialized housing and the lot after the installation of the housing.

(Ord. No. 2006-45, § 36, 9-19-06)

Section 4.3.4.5 - Occupancy Restrictions

(a) *Limited Number of Unrelated Individuals.* All dwelling units located in SF-R, SF-11, SF-6, SF-4.5, DR, TH, PH-ZL zoning districts shall be restricted to occupancy by a family, and up to one other person who is not related to any of the family members by blood, legal adoption, marriage, or conservatorship.

(b) Prima facie proof of occupancy of a dwelling unit by more than two unrelated persons is established in any prosecution for violation of this Section if it is shown that the same three or more vehicles with registrations to persons having different surnames and addresses were parked overnight at the dwelling unit a majority of nights in any 21-day period. This establishment of a prima facie level of proof in this subsection does not preclude a showing of "occupancy" of a dwelling unit by a person in any other manner.

(c) The property owner and any agent of the property owner shall be legally responsible for directly or indirectly allowing, permitting, causing, or failing to prohibit the occupancy of a dwelling unit by more than two unrelated persons.

Section 4.3.4.6 - Underground Utilities

(a) *Purpose*. The City makes the following findings and determinations:

(1) Downtown San Marcos is known throughout Texas for its attractive courthouse square, vibrant commercial activity that enhances tourism and improves the quality of life for all citizens of the city.

(2) The city wishes to beautify these areas and encourage redevelopment to the surroundings in a form that will not adversely affect the downtown area of the City.

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(3) The adoption of this Ordinance is in the interest of the public health, safety and welfare.

(b) *Establishment of Underground Utility Area*. The "Underground Utility Area" is generally bounded on the north by University Drive, on the east by Moon Street on the south by Hutchison Street, and on the west by LBJ Drive. The Underground Utility Area boundaries are generally depicted on the map attached hereto as Exhibit A and incorporated herewith [as] if set out in full. Conflicts between the general description in Section 4.3.4.6(b) and the boundary map depiction in Exhibit A will be determined by the Public Services Director.

(c) *Standards for Development:* The following standards establish provisions that apply to the Underground Utility Area. The standards of this Section supplement the standards for any underlying District.

(1) Underground utilities. All Development in the Area described in Section 4.3.4.6(b) and depicted in Exhibit A shall have underground utilities from the building to the property line. The term Development in this section shall have the same meaning as defined in Chapter 8, Article 1: General Definitions, Subsection 81, as amended. All utilities extended from off-site to serve development must also be underground or within an easement along the rear of the property, to the extent practicable, to eliminate the amount of overhead utilities within the area described in Section 4.3.4.6 (b) and depicted in Exhibit A. The developer shall not have to retrofit existing utilities.

(2) Utilities within the Underground Utility Area shall be subject to the standards, rules and regulations in Chapter 74, Article 4, Chapter 86, Article 4, the City's utility extension policies, and any other applicable codes and ordinances.

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DIVISION 4: - REQUIREMENTS APPLICABLE TO PARTICULAR USES

(Ord. No. 2011-22, § 1, 5-17-11)

Section 4.3.4.7 - Renewable Energy Systems

(a) *Purpose*. The purpose of this ordinance is to establish standards to facilitate the installation and construction of renewable energy systems in the City of San Marcos, subject to reasonable restrictions, which will mitigate possible nuisances and preserve the public health safety, and general welfare.

(b) *Applicability*. The requirements set forth in this ordinance shall govern the siting of renewable energy systems used to generate electricity or perform work which may be connected to the electric distribution grid, serve as an independent source of energy, or serve in a hybrid system. The requirements of this ordinance shall apply to all

renewable energy systems proposed after the effective date of this ordinance. Renewable energy systems for which a required permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; provided, however, that no modification that increases the height of the system or significantly increases its output shall be allowed without full compliance with this ordinance.

(c) *Zoning*.

(1) Small Renewable Energy Systems may be permitted as an accessory structure in all districts. If the system does not meet the standards of this article a conditional use permit may be available.

(2) Large Renewable Energy Systems may be permitted in the Heavy Commercial (HC), and Heavy Industrial (HI) Zoning District, or with a Conditional Use Permit in the Light Industrial (LI) Zoning District.

(d) *Removal of defective or abandoned renewable energy systems*. Any renewable energy system found to be unsafe by the building official shall be repaired by the landowner to meet federal, state and local safety standards or removed within six months of the determination of the building official. If any renewable energy system is not operational for a period of 12 consecutive months or more, the city may provide notice by registered mail to the owner of the property on which the system is located to submit a plan for corrective action within 45 days of receipt of the notice. The plan for corrective action shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the city deems the timetable for corrective action as unreasonable, the city must provide written notice of the determination to the landowner and the landowner shall remove the system at the landowner's expense within 120 days of receipt of notice from the city. The city shall have the authority to pursue any remedies at law or in equity to enforce the provisions of this subsection. Notwithstanding the remedies available to the city under this subsection, the city may pursue remedies available for unsafe building abatement and any other remedies under Chapter 14 of the San Marcos City Code concerning the installation, operation, maintenance, safety and removal of all or part of any renewable energy system, to the extent applicable.

(e) *Size*.

(1) The size of all small renewable energy systems shall not exceed the total number of kilowatts needed to generate the amount of electricity for the established uses on the property unless the applicant can demonstrate the on-site need for additional power.

(2) A large renewable energy system is any system designed to exceed the total number of kilowatts needed on the property on a consistent basis.

(f) *Application Requirements*.

(1) Compliance with International Building Code. Building permit applications for renewable energy systems shall be accompanied by standard drawings, and site plan (showing the location of the proposed renewable energy system and the locations of all existing buildings, structures and property lines to scale along with distances).

(2) Building permit applications for renewable energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information may be supplied by the manufacturer.

(3) An engineering analysis of any structure over 24 feet total height showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted.

(4) When a renewable energy source will be connected to the electric distribution grid an interconnect agreement with the electrical utility provider must be in place prior to the issuance of a building permit.

(g) *Additional Requirements for Small Wind Energy Systems*.

(1) *Visual Appearance; Lighting; and Power Lines*.

a. Wind Turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Small wind energy towers shall maintain galvanized steel, brushed aluminum or white finish, unless Federal Aviation

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Administration (FAA) standards require otherwise. The Director of Development Services may require a photo of a small wind energy system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).

b. At small wind energy system sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the small wind energy system to the natural setting and the existing environment.

c. Small wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.

d. Small wind energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.

e. Electrical controls and control wiring and power-lines shall be wireless or underground except where small wind energy system wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

f. The applicant shall provide evidence that the proposed height of the small wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system.

(2) The following setbacks and separation requirements shall apply to all small wind energy systems and Meteorological (MET) Towers:

a. No small wind energy structure shall be closer to any property line than a distance equal to 1.1 times the height of the structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a property line. Setbacks from property lines do not apply to wind energy systems attached to existing towers, utility structures, or to turbines mounted upon a building.

b. Wind energy systems mounted upon a building shall not project more than eight feet above the roof or parapet.

c. The tower height of a free-standing small wind energy system shall not exceed a maximum height of 80 feet on a parcel of between one-half acre and one acre. For property sizes of one acre or more, there is no limitation on maximum height except as imposed by required setbacks and FAA regulations. For property sizes less than one-half acre tower height is restricted by the applicable setbacks.

d. Communication and electrical lines. Each small wind energy system shall be set back from the nearest above-ground public electric power line, telecommunication line, or supporting structure a distance no less than 1.1 times its total height, determined from any part of the existing power line telecommunications line or supporting structure.

e. No portion of small wind energy systems or MET towers, including guy wire anchors, may extend closer than 30 feet from any property line.

f. Roof-top wind energy installations shall be set back from the edge of the building a minimum distance of two times the height of the turbine.

(3) *Minimum Ground Clearance*. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades.

(4) *Safety*.

a. Wind turbine towers shall not be climbable up to 12 feet above ground level.

b. All access doors to wind turbine towers and electrical equipment shall be lockable and should remain locked when not being serviced.

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c. Appropriate warning signage (e.g., electrical hazards) shall be placed on wind turbine towers, electrical equipment, and small wind energy systems.

d. Compliance with FAA Regulations: Wind energy systems must comply with regulations of the Federal Aviation Administration (FAA), including any necessary approvals for installations close to airports.

(h) *Additional Requirements for Small Solar Energy Systems*.

(1) *Height*.

a. Roof-mounted systems shall not project above the ridge of a gabled or gambrel roof.

b. Roof-mounted systems shall not project more than five feet above the deck or parapet of a flat roof. All mounting hardware shall be screened from view according to Section 6.1.2.4

c. Ground-mounted systems shall not be higher than eight feet.

d. Appurtenant components must be located within an enclosed structure or screened according to Section 6.1.2.4

(i) *Additional Requirements for Large Solar Energy Systems*.

(1) *Misdirection of Solar Radiation*. The proposed solar energy project shall be designed and will be operated to prevent the misdirection of concentrated solar radiation onto nearby property, public roads, or other areas accessible to the public.

(2) *Public Safety*. The proposed solar energy project shall be designed and will be operated to protect public safety, including development and implementation of a plan or operating procedures to prevent public access to hazardous areas.

(3) *Airport Proximity*. The proposed solar energy project is not located adjacent to or within the control zone of any airport.

(4) *Cleaning Chemicals and Solvents*. All chemicals or solvents used to clean photovoltaic panels and heliostats shall be low in volatile organic compounds and the operator will use recyclable or biodegradable products to the greatest extent possible.

(Ord. No. 2011-27, § 5, 6-21-11)

Editor's note—

Ord. No. 2011-27, § 5, adopted June 21, 2011, set out provisions intended for use as § 4.3.4.6. In order to preserve the style of this Code, and at the editor's discretion, these provisions have been included as § 4.3.4.7

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ARTICLE 4: - SUPPLEMENTAL STANDARDS

DIVISION 1: - AREA, BUILDING, AND HEIGHT REGULATIONS

Section 4.4.1.1 - Area and Building Regulations

(a) *Measuring Setbacks and Lot Dimensions*. All setback measurements shall be made in accordance with Figure 4-3.

(b) *Configuration of Lots*. Flag lots (i.e., lots with minimal, or panhandle type, frontage) shall not be permitted. Double frontage lots in residential zoning districts shall only be permitted if access is limited to one street frontage (Figure 4-4).

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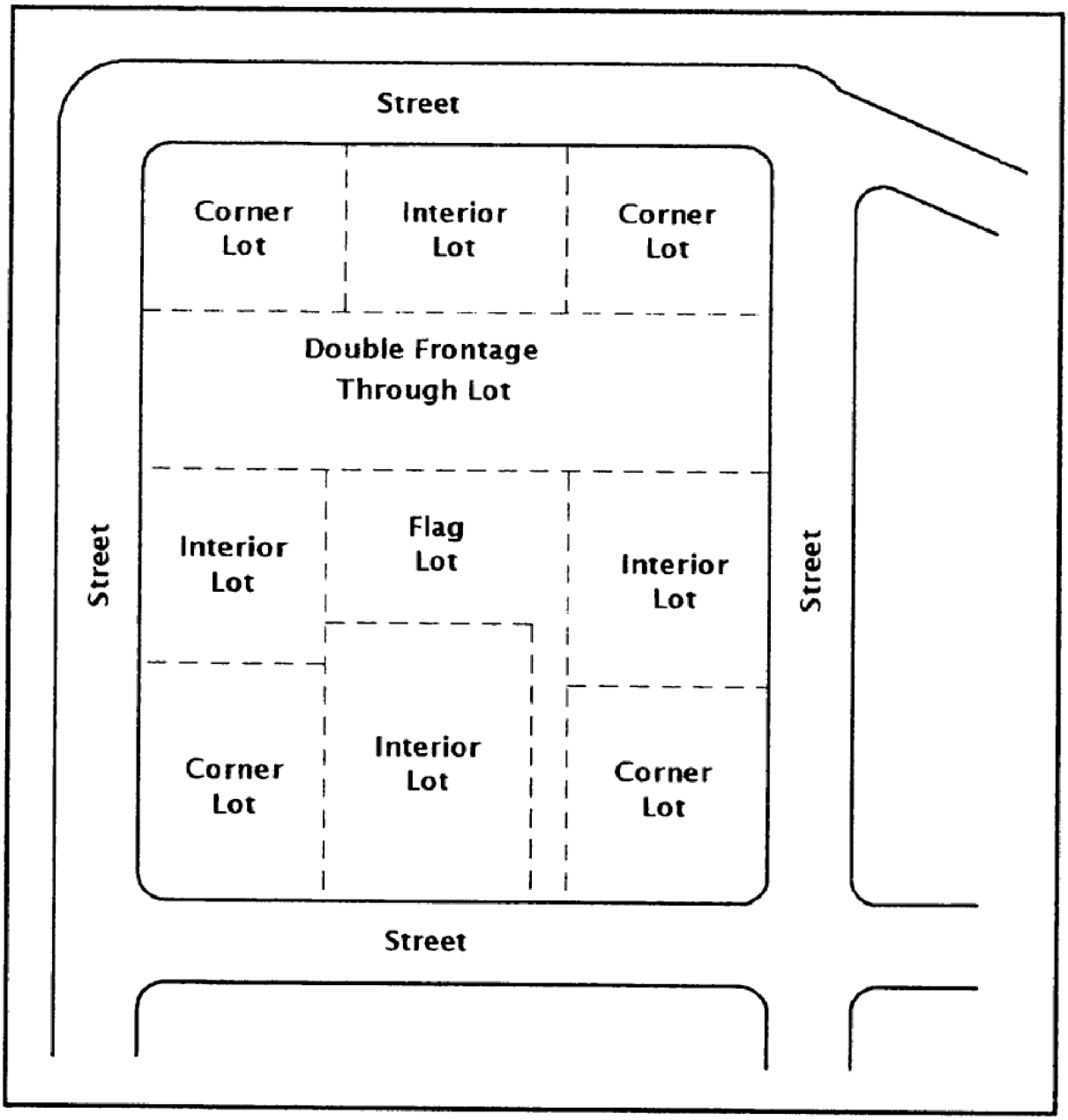

Figure 4-4: Types of Lots

Figure 4-4

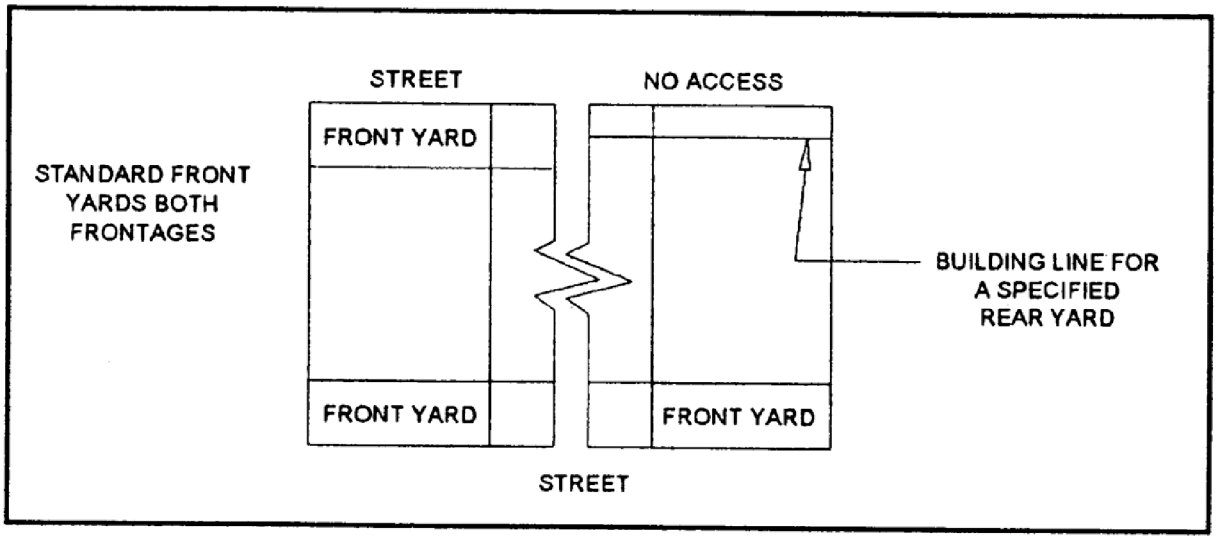

Figure 4-5: Double Frontage Lots

Figure 4-5

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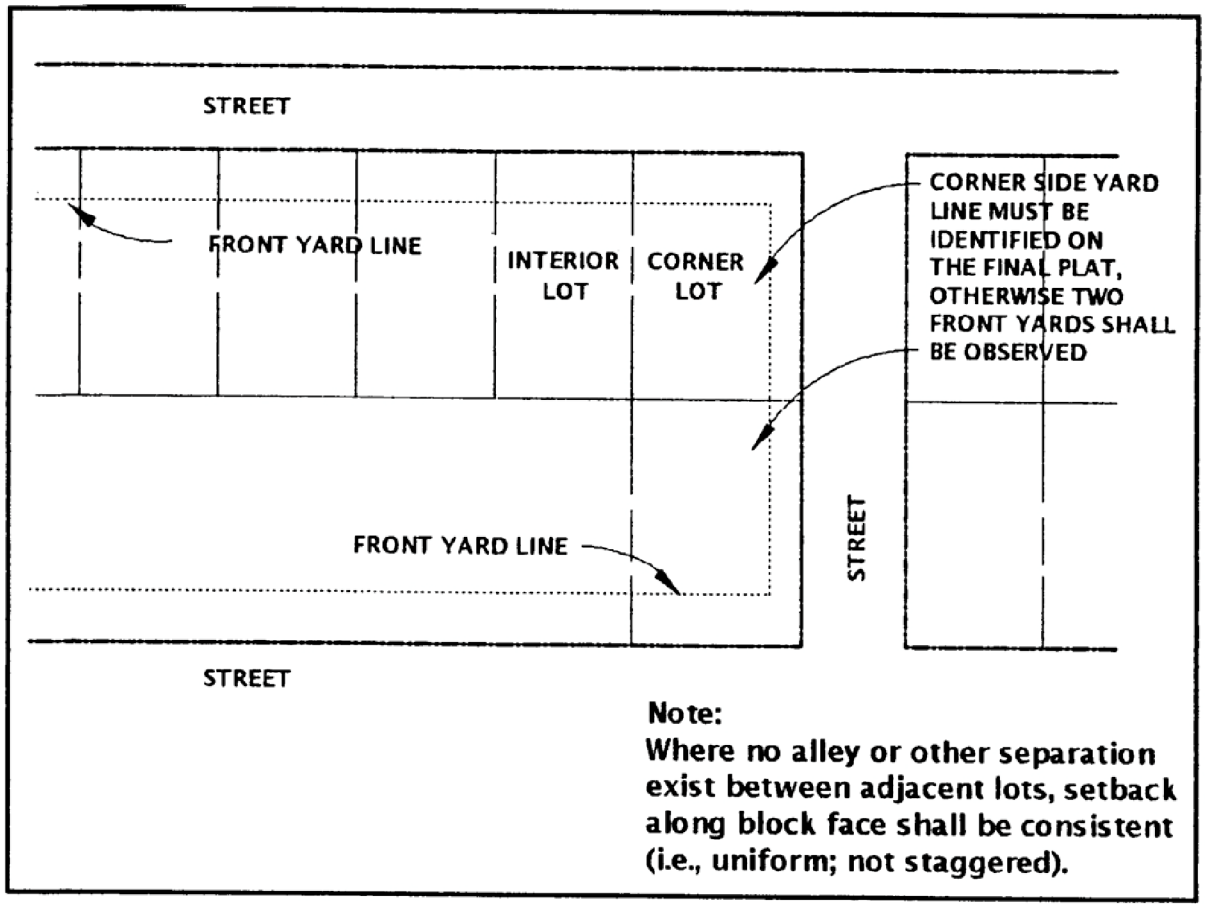

Figure 4-6: Identification of Side and/or Rear Yards

Figure 4-6

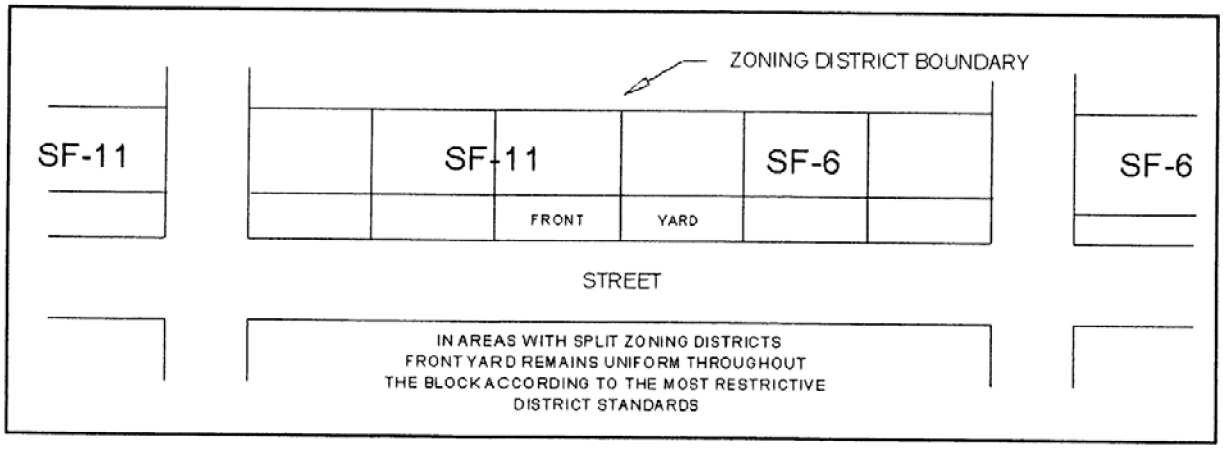

Figure 4-7: Frontage Requirements When Zoning District Changes

Figure 4-7

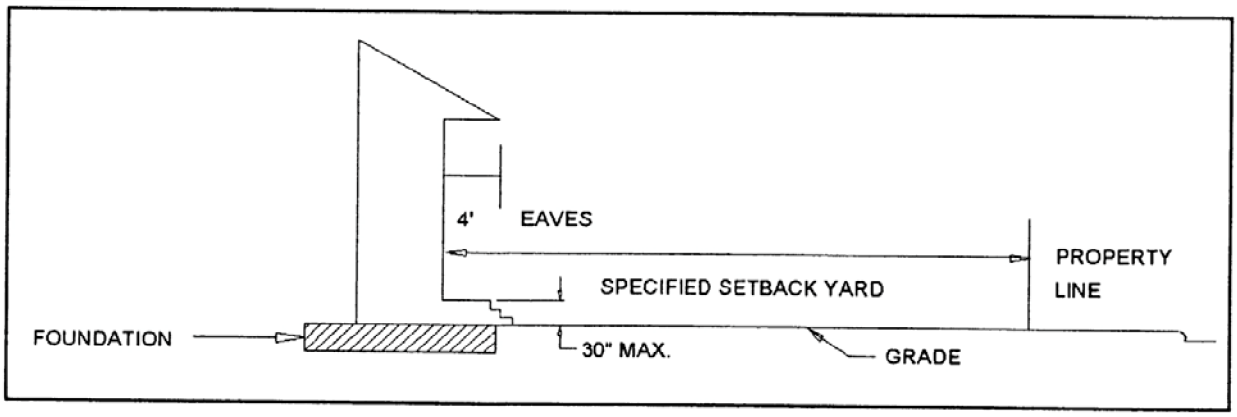

Figure 4-8: Measuring the Setback Yard

Figure 4-8

(c) *Building Setbacks.* All setbacks established on a recorded plat shall be enforced, even if they exceed the required setbacks in this Code. Setbacks established on a recorded plat shall only be changed through replat proceedings.

(d) *Front Yard.*

(1) On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a subdivision plat or development plat. Where single-family and duplex lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed (Figure 4-5). The side and/or rear yards in the case of single-family and duplex uses shall be identified and the front of the structure shall not face the side or rear yard (Figure 4-6).

(2) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage (Figure 4-7).

(3) The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet, and subsurface structures, platforms, enclosures or slabs may not project into the front yard to a height greater than 30 inches above the average grade of the yard (Figure 4-8). Open porches extending into the front yard shall not be enclosed.

(4) Minimum lot widths for lots with predominate frontage on the curved radius of a street (e.g., cul-de-sac or "eyebrow" portion of a street) shall be measured as the linear distance of the curved front building line, and shall be shown on the Final Subdivision Plat. Lot widths for all lots shall be as set forth in the respective zoning district for each lot.

(5) Gasoline service station pump islands (and their canopy structures) that parallel a public street may be located a minimum of 18 feet to the property line adjacent to a public street. For pump islands (and canopies) that are perpendicular or diagonal to a public street, the setback shall be 30 feet in order to prevent vehicles stacking out into the street while waiting for a pump position. Pump islands (and their canopies) may extend beyond the front building line as described above (provided that all other requirements of this Code are met), but shall not be closer than 15 feet to any property line that is not adjacent to a public street.

(6) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(e) *Side and Rear Yards*.

(1) On a corner lot used for one or two-family dwellings, both street exposures shall be treated as front yards on all lots platted after the effective date of this Code, except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek/flood plain area, or other similar phenomenon. In such case, the building line may be designated as a side yard of 15 feet or more (as determined by the applicable zoning district standards). On lots which were official lots of record prior to the effective date of this Code, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.

(2) Every part of a required side and rear yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed 12 inches into the required side or rear yard, and roof eaves projecting not to exceed 48 inches into the required side or rear yard. Air conditioning compressors and similar equipment are permitted in the side or rear yard. Open porches extending into a side or rear yard shall not be enclosed. A canopy may project into a required side or rear yard provided that it is not enclosed, and provided that it is at least five feet from the adjacent property line.

(3) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(f) *Open Storage Areas*. Open storage of materials, commodities or equipment, where allowed in the specific zoning district, shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display as defined in Chapter 8; there are screening requirements and special requirements for outside storage in Chapter 6.

(g) *Sight Visibility*.

(1) Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding or landscaping 30 inches or higher above the street center line obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection as follows:

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a. At a street intersection, clear vision must be maintained for a minimum of 25 feet across any lot measured from the corner of the property line in both directions.

b. At an intersection with an alley, this clearance must be maintained for ten feet.

c. Shrubs and hedges that are typically less than 30 inches in height at maturity, as measured from the centerline of the street, may be located in the visual clearance areas of all districts.

d. A limited number of single-trunk trees having a clear trunk (branching) height of at least eight feet may be located within sight visibility areas provided that they are spaced and positioned such that they will not produce a visibility inhibiting effect when they attain mature size.

(Ord. No. 2006-45, § 38, 9-19-06)

Section 4.4.1.2 - Special Height Regulations

(a) *Calculation of Height*.

(1) For the purposes of calculating the overall height of a structure, slope shall be calculated from the highest point of the building at natural grade to the lowest point of the building at natural grade, or the natural grade of an adjoining road, along a line that is, as close as possible, perpendicular to existing contours.

(2) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.

(b) In districts where the height of buildings is restricted to two or more stories, cooling towers may extend for an additional height not to exceed 50 feet above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires, ornamental cupolas, City or School District buildings, and institutional buildings may be erected to exceed the height limit, as specified in the particular zoning district, provided that one additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.

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DIVISION 2: - EXTERIOR CONSTRUCTION AND DESIGN REQUIREMENTS

Section 4.4.2.1 - Exterior Material Requirements for Buildings

(a) *Applicability*. The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new construction, and to alterations, remodeling or repairs (if the value of the work is more than 50% of the current value) of multi-family residential and nonresidential buildings within the City.

(b) *Exemption*. The following properties are exempt from standards applied to exterior materials:

(1) Property located within a Heavy Industrial zoning district;

(2) Property located within the municipal airport;

(3) Residential uses other than multi-family;

(4) Property located within a light industrial district that abuts a Heavy Industrial zoning district;

(5) Existing buildings located within light industrial districts that are not being expanded over 20% of existing gross floor area; and

(6) Portions of building elevations that are not generally visible from public view (streets, trails, parks or similar property).

(c) *Exterior material standards*. Exterior materials for buildings shall be classified as permitted either by right or by Conditional Use Permit. The official listing of exterior materials and their appropriate uses is found as an attachment to site preparation and building permits in the Technical Manual.

(Ord. No. 2005-59, § 6, 8.16.05; Ord. No. 2006-45, § 39, 9-19-06)

Section 4.4.2.2 - Exterior Design Requirements for Buildings

(a) *Applicability*. In order to ensure the aesthetic value and visual appeal of the City to residents and to visitors and potential businesses, the standards and criteria contained within this section are established as minimum standards. These standards shall apply to all construction (new, altered or repaired if more than 50% of the property's current value) or multi-family, residential and nonresidential properties within the City.

(b) *Exemptions*. The following properties are exempt from standards applied to exterior building design:

(1) Property located within Heavy Industrial zoning districts;

(2) Property located within the airport;

(3) Residential uses other than multi-family;

(4) Property located within light industrial districts zoned district that abut Heavy Industrial zoned districts;

(5) Buildings located within light industrial districts that are not being expanded over 20% of existing gross floor area; and

(6) Portions of building elevations that are not generally visible from public view (from streets, trails, parks or similar property).

(c) *General Design Standards*. The design of all applicable properties shall utilize at least three of the five listed design elements found in the Technical Manual. Each design element includes multiple techniques for achieving compliance. The ~~Planning D~~Director shall have all plans reviewed to assure the adequacy and application of these design elements to meet the purposes of this Land Development Code.

(d) *Design Requirements for Specific Types of Structures*.

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(1) For all multi-family residential structures, at least one window shall be constructed on facades facing streets.

(2) *Temporary Construction Buildings*. Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the Building Official and subject to periodic renewal by the Building Official for cause shown. Upon completion or abandonment of construction or expiration of a permit, the field offices or buildings and material storage areas shall be removed to the satisfaction of the Building Official.

(Ord. No. 2006-45, § 39, 9-19-06)

Section 4.4.2.3 - Procedure for Review of Exterior Design and Materials

(a) Drawing(s) depicting the exterior design and materials of buildings, in sufficient detail to verify compliance with the requirements of this section, shall be submitted at the time the Site Preparation Permit application is submitted, and again at the time the Building Permit application is submitted. These requirements shall be illustrated, along with calculations and/or specifications of how building envelopes shown on Site Preparation Permits will meet the requirements for materials and design.

(b) If requested by the City, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the Site Preparation Permit application.

(c) If the ~~Planning D~~Director cannot determine compliance with design or materials requirements through the variety of mechanisms and alternatives provided in this Land Development Code, the Site Preparation Permit shall not be approved until the applicant either revises the proposed design or materials to comply with the requirements, or the applicant obtains a Conditional Use Permit for alternative design or materials under Section 4.4.2.4

(Ord. No. 2006-45, § 39, 9-19-06)

Section 4.4.2.4 - Procedure for Approving Alternative Exterior Designs or Materials

(a) All requests for alternative exterior design or materials shall be clearly written, specifically noted, and described on the Site Preparation Permit application.

(b) If the Planning and Zoning Commission determines an alternative exterior design or material to be equivalent to or better than the standards referenced in this division, the Commission may approve an alternative design or material by granting a CUP in connection with the Site Preparation Permit.

(c) A CUP for alternative design compliance or exterior materials shall be approved or disapproved by the Planning and Zoning Commission based solely on the criteria set forth in subsection (e) of this Section.

(d) Relief from a decision of the Commission on a CUP application shall follow the procedures set forth for appeal of Site Preparation Permit applications that are denied.

(e) The Planning and Zoning Commission shall be required to make findings of full compliance with each of the following criteria in any motion for approval of a CUP for an alternative exterior design or material:

1. The grounds for the CUP are specific to a unique character of the property or use in question;
2. Financial hardship is not the basis for the CUP; and
3. The proposed alternative achieves the intent of the code to an equivalent or better degree than the standards cited in this division.

(Ord. No. 2006-45, § 39, 9-19-06)

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ARTICLE 5: - NONCONFORMING USES AND STRUCTURES

DIVISION 1: - INTENT OF PROVISIONS

Section 4.5.1.1 - Intent of Provisions

(a) Within the districts established by this Code or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this Code was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this Code to permit such nonconforming uses to continue, as long as the standards within this Article are met.

(b) It is further the intent of this Code that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.

(c) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

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DIVISION 2: - CLASSIFICATION OF NONCONFORMITIES

Section 4.5.2.1 - Nonconforming Uses

(a) Any use that does not conform with the regulations of this Code on the effective date hereof or any amendment hereto shall be deemed a nonconforming use provided that:

(1) Such use was in existence under and in compliance with the provisions of the immediately prior Zoning Ordinance; or

(2) Such use was a lawful, nonconforming use under the immediately prior Zoning Ordinance; or

(3) Such use was in existence at the time of annexation into the City, was a legal use of the land at such time, and has been in regular and continuous use since such time.

(b) Any other use that does not conform with the regulations of the Zoning District in which it is located on the effective date of this Code or any amendment hereto shall be deemed to be in violation of this Code, and the City shall be entitled to enforce fully the terms of this Code with respect to such use.

Section 4.5.2.2 - Nonconforming Structures

(a) Any structure that does not conform with the regulations of this Code on the effective date hereof or any amendment hereto shall be deemed a nonconforming structure provided that:

(1) Such structure was in existence under and in compliance with the provisions of the immediately prior Zoning Ordinance; or

(2) Such structure was a lawful, nonconforming structure under the immediately prior Zoning Ordinance; or

(3) Such structure was in existence at the time of annexation into the City, was a legal structure at such time, and has been in regular and continuous use since such time.

(b) Any other structure that does not conform with the regulations of the zoning district in which it is located on the effective date of this Code or any amendment hereto below, shall be deemed to be in violation of this Code, and the City shall be entitled to enforce fully the terms of this Code with respect to such structure.

Section 4.5.2.3 - Nonconforming Lots

(a) Any platted lot that does not conform with the regulations of this Code on the effective date hereof or any amendment hereto, except as expressly provided in subsection (c) below, shall be deemed a nonconforming platted lot provided that:

(1) Such platted lot was in existence under and in compliance with the provisions of the immediately prior Zoning Ordinance; or

(2) Such platted lot was a lawful, nonconforming platted lot under the immediately prior Zoning Ordinance; or

(3) Such platted lot was in existence at the time of annexation into the City, was a legally platted subdivision of the land at such time.

(b) Any other platted lot that does not conform with the regulations of the zoning district in which it is located on the effective date of this Code or any amendment hereto, and except as provided in subsection (c) below, shall be deemed to be in violation of this Code, and the City shall be entitled to enforce fully the terms of this Code with respect to such platted lot.

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(c) The following types of platted lots shall be deemed in conformance with the provisions of this Code, notwithstanding the fact that such lot does not meet the standards of this Code in the district in which it is located:

(1) Any vacant lot that conformed to the City's zoning district regulations at the time that it was platted; or

(2) Any lot occupied by a single-family dwelling authorized under the zoning district regulations in which the lot is located.

(d) Nothing in this Code shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the land use(s) intended and the lot was platted as a lot of record prior to the effective date of this Code.

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DIVISION 3: - RULES AND CRITERIA GOVERNING NONCONFORMITIES

Section 4.5.3.1 - Continuing Lawful Use

(a) A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

(b) A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

Section 4.5.3.2 - Expansion of Nonconformities

(a) A nonconforming use may be extended throughout the structure in which it is located, provided that:

(1) The structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use;

(2) No alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

(3) The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.

(b) A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

(c) A nonconforming use or structure shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide additional off-street parking or loading areas required by this Code.

Section 4.5.3.3 - Repair and Modification of Structures

(a) No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated.

(b) Nothing in this Article shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or nonconforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds 50% of the structure's appraised value, as determined by the applicable County Appraisal District.

Section 4.5.3.4 - Reconstruction Following Destruction

(a) If more than 50% of the total appraised value of a nonconforming structure, as determined by the applicable county Appraisal District, is destroyed by fire, the elements, or some other cause, then the structure may be rebuilt only in conformity with the standards of this Code.

(b) If less than 50% of the total appraised value of a nonconforming structure, as determined by the applicable county Appraisal District, is destroyed by fire, the elements, or some other cause, then the structure may be reconstructed as it was before the partial destruction but only to its original dimensions and floor area, and provided that such reconstruction is completed within one year (365 calendar days) following the event that caused the partial

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destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the one-year reconstruction period may be extended by the ~~Planning D~~Director.

(c) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use at the time of such destruction, then the nonconforming use may be re-established subject to the limitations on expansion set forth in this Division above.

(d) Any conforming structure that is totally or partially destroyed shall be reconstructed only in conformity with the standards of this Code.

Section 4.5.3.5 - Substitution of Nonconforming Uses

(a) A nonconforming use shall not be changed to another nonconforming use except as permitted by the Zoning Board of Adjustments (ZBOA).

(b) A nonconforming use may be changed to a conforming use provided that, once such change is made, the use shall not be changed back to a nonconforming use.

(c) A conforming use located in a nonconforming structure may be changed to another conforming use, but shall not be changed to a nonconforming use.

(d) All mobile home and manufactured home uses that have a Conditional Use Permit or legal nonconforming use status on the effective date of this Land Development Code shall be deemed legal nonconforming uses for a period of one year (365 days). Within a one-year period after notification, such uses and other mobile or manufactured homes or parks shall have the opportunity to meet the standards of Section 4.2.1.14. (f) (1) c. through g. in order to maintain their legal nonconforming use status after the one-year period has expired. Any mobile home or manufactured home use that does not meet these standards or has not set up a schedule to meet the standards within an additional one-year time period shall be declared an illegal use.

(Ord. No. 2006-45, § 40, 9-19-06)

Section 4.5.3.6 - Abandonment of Nonconforming Uses and Structures, and Cessation of Use of Structures or Land

(a) If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this Code, as amended, and with any other applicable City codes or ordinances that are in effect at the time the use is resumed or the structure is re-occupied.

(b) A nonconforming use or structure shall be deemed "abandoned" in the following circumstances:

(1) The use ceases to operate for a continuous period of six months (183 calendar days);

(2) The structure remains vacant for a continuous period of one year (365 calendar days); or

(3) In the case of a temporary use, the use is moved from the premises for any length of time.

Section 4.5.3.7 - Special Exceptions for Nonconforming Uses and Structures

(a) Upon written request of the property owner, the Zoning Board of Adjustments (ZBOA) may grant special exceptions to the provisions of this Article, limited to and in accordance with the following:

(1) Expansion of a nonconforming use within an existing structure provided that, in the case of a nonconforming residential use, such expansion does not increase the number of dwelling units to more than the number existing when the use first became nonconforming; or

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(2) Expansion of the gross floor area of a nonconforming structure provided that such expansion does not decrease any existing setback.

(3) Change from one nonconforming use to another, re-construction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.

(4) In granting special exceptions under this Section 4.5.3.7, the ZBOA may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of the Zoning Ordinance.

(b) The ZBOA may grant special exceptions for the following:

(1) Interpret the provisions of this Chapter in a way so as to carry out the intent and purpose of this Chapter, adjust districts where the street layout actually on the ground varies from the street layout as shown on the maps.

(2) Permit the reconstruction of a nonconforming building which has been damaged to the extent of more than 50% of its replacement cost.

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises in combination may, as a special exception, be changed to another nonconforming use, provided the Zoning Board of Adjustments finds that the proposed nonconforming use is not more nonconforming in the district than the previously existing nonconforming use.

(4) Permit the City to issue a building permit for expansion of a preexisting nonconforming use that is not in compliance with the ~~Future Land Use~~Preferred Scenario ~~Plan~~ Map and/or zoning district when the Zoning Board of Adjustments determines that this special exception will not adversely impact water, wastewater, drainage, and street transportation systems, and is in accord with all City codes and applicable ~~Master~~Comprehensive Plan policies, including those pertaining specifically to land use compatibility. Adverse impact means any of the following conditions which can be reasonably expected to result from the proposed development:

a. *Wastewater*. A septic system within 300 feet of an existing sewer line; any use whose proposed connection to a sewer system (wastewater collection and treatment system) which is now at or beyond its capacity as calculated using state department of water resources standards design criteria, including a sewer line or pipe which overflows primarily due to infiltration and inflow; any use which cannot be served adequately without the expenditure of City funds in excess of the amount paid by the user's capital recovery fees; any use whose plumbing and wastewater system does not conform to City specifications; any use which would create off site any one of the conditions listed in this subsection.

b. *Water*. Lowering water quantity, quality, or water pressure below the standards established by the ~~Master~~Comprehensive Plan, adopted in City codes, or as determined by applicable agencies of the state; and water demand on an existing water system which is below established standards (water demand includes that required to adequately fight fires).

c. *Drainage*. Nonconformance to the purposes, interests, or requirements of Chapter 5 pertaining to drainage and erosion control; preventing flood damage; creating additional runoff into a drainage system which is inadequate or nonexistent, or cause it to become inadequate in terms of its ability to handle runoff without causing flooding, soil erosion, property damage or hazard to life, or which retains water in any area which by design is not specifically allowed by the City to retain water; creating runoff which measurably harms the physical or biological integrity of the San Marcos River or Blanco River ecosystem.

d. *Transportation*. Creating or increasing an unsafe condition; nonconformance to adopted City ordinances concerning construction materials and design of roadways or pedestrian ways; generating or attracting daily vehicular traffic which causes a roadway's capacity to be exceeded; creating commercial through truck traffic (other than moving vans and garbage trucks) on any local residential street; contributing to or

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creating a road maintenance problem which would require City funds to be expended within four years to correct the condition.

e. Establishes an increased negative impact on the public health, safety or welfare.

(Ord. No. 2006-45, § 41, 9-19-06; Ord. No. 2010-49, § 7, 9-7-10)

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DIVISION 4: - AMORTIZATION

Section 4.5.4.1 - Structures with a Certain Replacement Cost

(a) The use of a structure that has an appraised value of $1,000.00 or less, which does not conform to the provisions of this Code, or any amendment thereto, shall be discontinued and the structure removed within six months (183 calendar days) following the effective date of this Code, or amendment thereto.

(b) See Section 1.5.10.2 regarding petition for termination of nonconforming use.

Section 4.5.4.2 - Land Used for Open/Outside Storage

(a) If the use of any lot, tract or property that does not have a building on it and that is used for open/outside storage as of the effective date of this Code (or amendment thereto) is made nonconforming by this Code (or amendment thereto), then such storage use shall cease within six months (183 calendar days) following the effective date of this Code (or amendment thereto). The lot, tract or property shall be cleaned up and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners.

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Chapter 5 - ENVIRONMENTAL REGULATIONS

ARTICLE 1: - GENERAL PROVISIONS

DIVISION 1: - GENERAL

Section 5.1.1.1 - Applicability, Exceptions, Authority and Findings

(a) *Applicability.*

(1) The standards of this Article apply to the development of land located on hillsides, in Edwards Aquifer recharge, transition, and upland zones, as defined in Article 2 of this Chapter 5, in the San Marcos River Corridor, and in other river, stream or waterway corridors, as defined in Division 2 of this Article 1, within the City limits and within the City's extraterritorial jurisdiction. Development includes clearing or rough cutting of vegetation or grading or scarifying of the top soil.

(2) The standards in this Article 1 shall be construed as supplemental to more specific water quality standards governing development of land in the Edwards Aquifer, set forth in Article 2 of this Chapter 5, and to more specific water quality standards governing development of land in the San Marcos River Corridor, set forth in Article 3 of this Chapter 5. The standards in this Article 1 also shall be construed as supplemental to standards pertaining to design, placement and construction of drainage facilities in floodplains, which standards are set forth in Article 4 of this Chapter 5, and to general drainage standards contained in Chapter 7, Article 5 of this Land Development Code. Where a standard contained or referenced in this Article conflicts with another applicable water quality or drainage facility standard, the stricter standard shall apply.

(3) The standards of this Article 1 are intended to apply with uniformity throughout the City's extraterritorial jurisdiction.

(b) *Exceptions*.

(1) Structures existing prior to the effective date of this Division may be replaced and/or enlarged up to a maximum amount equal to 50 percent of the ground floor area of the existing structure before having to comply with this Article.

(2) The clearing of underbrush and the maintenance or removal of individual trees on a parcel of land where development has already occurred; provided, however, that the clearing or removal is not for the purpose of construction.

(3) The hand clearing of underbrush and the trimming of trees necessary to allow sufficient access to the property for planning and engineering purposes.

(4) Agricultural activities or related maintenance.

(c) *Authority*. The requirements of this Article are authorized under Tex. Water Code Sections 16.316 and 26.177(b).

(d) *Findings.* The City Council makes the following findings:

(1) The City Council is a trustee of the natural environment of the San Marcos River, the Edwards Aquifer, the Balcones Escarpment, portions of the Blanco River, portions of the Texas Hill Country and the related watersheds for future generations of citizens of the City and surrounding areas.

(2) Development activities within the City and within its extraterritorial jurisdiction can result in irreparable damage to the quality of water in the San Marcos River and Edwards Aquifer.

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(3) Development activities within the City and within its extraterritorial jurisdiction can damage the Balcones Escarpment and portions of the Texas Hill Country through increased erosion, alterations to natural drainage, unregulated vegetation removal, and installation of impervious cover.

(4) The San Marcos River, the Blanco River, the Edwards Aquifer, and other rivers, streams and waterways must be protected in order to preserve the health, safety and welfare of the citizens of the City and surrounding areas.

(5) The continued economic growth of the City and the surrounding area is encouraged by a pleasing natural environment, protection of watersheds and groundwater, and recreational opportunities in close proximity to the City.

(6) The City Council desires to adopt site development rules and regulations for development within the City and within its extraterritorial jurisdiction for the purpose of protecting the San Marcos River, the Blanco River, the Edwards Aquifer, rivers, streams and waterways from the effects of water quality deterioration related to development activities.

(e) *Conflicts among standards*. Whenever there is a conflict between a City of Austin manual or standard and any other technical standard included or referenced in this Chapter, the other technical standard shall prevail.

Section 5.1.1.2 - Erosion Control Standards

(a) *Standards for Overland Flow and Natural Drainage:*

(1) Natural drainage patterns shall be preserved whenever possible. Drainage objectives can best be accomplished by leaving portions of a subdivision in an underdeveloped and natural state and located to receive runoff from the developed areas for purposes of unchannelized, overland flow.

(2) The loss of the pervious character of the soil shall be limited in order to prevent erosion and attenuate the harm of contaminants collected and transported by stormwater.

(3) Open surface drainage through grass-lined swales shall be utilized if possible.

(4) Drainage swales and other areas used for conveying stormwater runoff from developed areas shall be located to avoid sinkholes, faults and fractures to the greatest extent practicable.

(5) Construction of enclosed storm sewers and impervious channel linings shall be permitted only when the Engineering Director, on the basis of competent engineering evidence, confirms that the storm sewers or impervious linings are the only justifiable option available. These systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment, neutralize contaminants and dissipate energy by the use of multiple smaller outlets, whenever practical, by locating discharges to maximize overland flow and by any other strategies that will accomplish the objectives defined and discussed in this Article.

(6) *Point discharges.* Point discharges of runoff shall be dissipated to sheet flow conditions.

(7) Necessary stormwater drainage systems and culverts shall be designed to mitigate the impact of erosion and stormwater runoff on water quality through the use of approved control strategies to control sediment and dissipate energy and through the use of multiple smaller outlets whenever practical and by locating discharges to maximize overland flow.

(8) Detention pond bottoms must be vegetated.

(9) Internal rock berm baffles are required in ponds.

(10) Where a separate water quality pond is required under this Article or other applicable regulations, the discharge from the pond must be under a baffle that will trap floating matter in the pond.

(11) Suitable access must be provided for maintenance of ponds and sediment traps.

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(b) *Compliance with City of Austin Criteria Manuals.* Erosion control and restoration measures shall comply with the City of Austin Drainage Criteria Manual and the City of Austin Environmental Criteria Manual.

(c) *Erosion Prevention Techniques.* Erosion prevention techniques, as referenced in the City of San Marcos Technical Manual, City of Austin Drainage Criteria Manual and the City of Austin Environmental Criteria Manual, will be utilized to attain drainage objectives for channelization and overland flow.

Section 5.1.1.3 - Runoff Attenuation

(a) *Techniques to Minimize Erosion.* Under this Chapter, all drainage channels on the site shall be designed to minimize potential erosion. In addition to standards in Section 5.1.1.2, the following runoff attenuation strategies and techniques shall be used:

(1) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(2) Effective energy dissipation techniques must be used at inlets to and outlets from ponds. Inlets to ponds must also have sediment traps, with a wall or gabions, designed to trap the bulk of sediments and facilitate sediment removal.

(3) Velocity checks must be made on channel slopes over 2%.

(4) For channels with slopes over three percent and with non-erodable velocities (less than six feet per second), a rock pilot channel must be used to stabilize the channel bed.

(5) Sediment and litter traps are required at the discharge point of parking areas for commercial, industrial, and multifamily uses.

(6) Storm drain inlets for all development except for single-family and two-family residential development must be equipped with inlet baskets to capture litter from parking areas.

(b) *Detention Required.* Drainage facilities will be designed and constructed so that the rate of runoff at each existing discharge location from a site after construction shall be equal to or less than the runoff prior to construction. Rate of runoff shall be computed on a 25-year storm peak flow using the City of Austin Drainage Criteria Manual, if a separate water quality pond is required for the development. If a separate water quality pond is not required, the rate of runoff shall be computed on both a two-year and a 25-year peak storm flow using the City of Austin Drainage Criteria Manual. Computation of the rate of runoff shall be based on an assumption of a fully developed contributing drainage area or watershed.

(c) *Waiver of Detention.* Detention will be waived for single-family residential and small projects with less than 5,000 square feet of impervious cover, including buildings, parking lots and sidewalks. Runoff from development shall be discharged as sheet flow through grass areas to reduce peak runoff rates and provide for filtering of sediments prior to exiting property.

(Ord. No. 2009-73, § 15, 12-1-09)

Section 5.1.1.4 - Wastewater Collection and Disposal

(a) *Water Quality Corridors.* For development within the City limits, the use of septic tanks, holding tanks, evapotranspiration units, cesspools or other private or individual sewage disposal systems shall not be permitted in any river, stream or waterway corridor defined by this Chapter 5

(b) *Individual Disposal Systems.* Lots overlying the Edwards Aquifer recharge zone that are not connected to a public wastewater system shall use sewage disposal systems that are installed in accordance with applicable state regulations.

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Section 5.1.1.5 - Impervious Cover Limitations

(a) *Impervious Cover Limitations - Hillsides.* Impervious cover on hillsides shall be limited as follows:

(1) 35% on areas having a slope with a gradient of between 15% and 25%; or

(2) 20% on areas having a slope with a gradient more than 25%.

(b) *Impervious Cover Limitations - Edwards Aquifer*. Impervious cover for developments within the Edwards Aquifer Zone shall not exceed the standards in Article 2 of this Chapter 5

Impervious cover limitations - river corridors. Impervious cover for developments within water quality or buffer zones of rivers, streams and waterway corridors shall not exceed the standards in Article 3 of this Chapter 5.

Impervious cover limitations. Within City limits, the impervious cover allowed on a lot, parcel or tract shall be in accordance with the standards regarding impervious cover in Chapter 4, Article 2. Restrictions on impervious cover in subsections (a), (b) and (c) of this Section apply in addition to any lot coverage limitation imposed under Chapter 4, Article 2.

Erodible soils. The impervious cover standards in subsections (a), (b) and (c) of this Section shall be construed as maximum limitations on impervious cover, except as otherwise provided in this Land Development Code. Impervious cover on a development site subject to the limitations in subsections (a), (b) or (c) may be further limited if the site contains highly erodible soils, as identified in the Technical Manual for Chapter 5. Any development application that seeks approval of impervious cover under the standards of subsections (a), (b) or (c) on a site that has highly erodible soils shall include a plan for stabilizing and prevention of erosion of such soils from proposed development activities.

Computation of impervious cover. The area of impervious cover at a site will be the area of the impermeable surface measured horizontally and computed in accordance with Section 7.5.1.6. The area of impervious cover for a surface may be reduced based on data acceptable to the Engineering Director showing that the surface has a significant degree of permeability. The total square footage of impervious cover shall be converted to a percentage of the gross land area for the lot, parcel or tract for which development is intended.

Determination of slope contours. Slope contours will be based on existing topography prior to the initiation of grading or fill work at the site.

Section 5.1.1.6 - Street and Drainage Improvements

(a) *25-Year Frequency.* Plans for street and drainage improvements located within developments requiring compliance with this Article shall be designed on the basis of a 25-year frequency rainfall, in accordance with the City of Austin Drainage Criteria Manual.

(b) *Drainage Requirements - Responsibility for Drainage Improvements*. Drainage improvements required by this Division shall be provided at the sole expense of the owner of the property to be developed, unless otherwise expressly provided to the contrary in a subdivision improvements agreement. At the sole discretion of the Engineering Director, the owner of the property to be developed shall dedicate drainage improvements to the public in an easement that contains all storm water flows to the limits of the 100-year floodplain as determined in accordance with anticipated fully-developed contributing area land use conditions, and that allows continuous access for operation, maintenance and rehabilitation of all drainage improvements. Drainage improvements that serve streets or other public property may be dedicated in a public street right-of-way rather than a drainage easement, subject to the approval of the Engineering Director.

(1) In determining whether drainage improvements should be dedicated to the public, the Director shall take into consideration the following factors:

a. Detention and water quality facilities associated with a single development shall remain private.

b. Drainage improvements that may serve multiple developments or provide regional detention/treatment shall be dedicated to the public.

(2) Drainage easements must be at least 25 feet five inches in width for open drainage systems, or 15 feet in width for enclosed drainage systems.

Drainage Improvements Maintenance Criteria.

(1) *Responsibility to maintain drainage improvements.* All development of land required to be in compliance with this Chapter shall meet the following requirements:

a. All drainage improvements, contaminant removal facilities and detention basins located in public rights of way or publicly dedicated easements that have been accepted by the City for maintenance shall be maintained by the City.

b. All drainage improvements, contaminant removal facilities, detention basins located on private property and other publicly dedicated easements not accepted by the City for maintenance shall be maintained by the property owner.

c. Duly authorized City inspectors may lawfully enter onto the land or premises where property owners are required to maintain facilities, as required by this Article, at reasonable times, for the purpose of inspection of the maintenance required. The Engineering Director may inspect the premises of each facility approved under this Article at least once per year. Where noncompliance is found, the City shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If, within 30 days of the notice, the maintenance required is not accomplished, the City may bring action in a court of competent jurisdiction to require the property owner to accomplish necessary maintenance.

(2) *Responsibilities during construction.* During the course of construction, and until final inspection of completed drainage improvements, the permit holder shall provide for the following:

a. Maintaining of an onsite inspection and repair log for all drainage and erosion control features and facilities required under this Article. This log shall be open to inspection by City inspectors at reasonable times.

b. Maintaining rock covered points of ingress and egress sufficient to permit inspection of all drainage and erosion control features and facilities required under this Article.

c. Daily cleanup of paved streets and of drainage areas impacted by onsite or offsite construction.

(Ord. No. 2006-45, § 42, 9-19-06)

Section 5.1.1.7 - BMP Improvements Maintenance Criteria

(a) *Responsibility to Maintain Permanent BMPs*. The holder of any approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) required by this Land Development Code is responsible for maintaining any required permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as an owners association, a new property owner or lessee, a district, or the City) or the ownership of the property is transferred to the entity. The other entity will then be responsible for maintenance until another entity assumes the obligations in writing or ownership is transferred, with notice to the Engineering Director.

(b) *Annual Report*. The holder must submit a maintenance report to the Engineering Director between November 1 and December 31 of each year. No fee will be charged by the City for the filing or review of the report, but a late fee set by the City Council will be charged to a holder if a submission is not made by the due date. The Engineering Director may waive or extend the time period for this reporting requirement for BMP designs that are passive or for designs that demonstrate a low maintenance requirement. The report must be prepared by a Texas-licensed engineer and must describe all of the following:

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(1) An assessment of the condition of the BMP, current as of the date of the report.

(2) A history of maintenance activities performed on the BMP during the past year.

(3) The professional opinion of the engineer regarding the current functionality of the BMP and its ability to provide total suspended solids removal in accordance with the original design specifications for the BMP.

(4) Recommendations of the engineer regarding the need for maintenance or modification of the BMP to meet original design specifications.

Procedure by Engineering Director. If an entity responsible for maintaining a permanent BMP fails to properly maintain the BMP, the Engineering Director will send a written notice to the entity to correct the problem within a reasonable time set by the Engineering Director, not less than five nor more than 30 days from the entity's receipt of the notice. If the entity fails to comply with the notice, the Engineering Director may initiate one or more of the following:

(1) Enforcement action against the entity through the City Attorney.

(2) Proper maintenance of the BMP by use of City forces or a private contractor.

(3) Withholding of further permits, inspections or approvals for any other development at the site served by the BMP.

Assessment of costs. If the Engineering Director undertakes maintenance of a BMP under subdivision (c)(2), the Finance Director will send a statement of the costs for the maintenance, including an administrative fee set by the City Council, to the entity. If the full amount of the statement is not paid to the City within 30 days of the issuance of the statement, the Finance Director will certify the charges as a lien against the property on which the BMP is located, and the City Attorney may initiate legal action to collect the unpaid amount from the entity.

Section 5.1.1.8 - Continuing Responsibilities

(a) *Responsibility for compliance.* The holder of any approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) required by this Land Development Code is responsible for compliance with the terms and conditions of the approved plan, including the construction, operation and maintenance of all temporary BMPs and permanent BMPs shown on the approved plan or described in the accompanying technical report, through all phases of implementation. The holder is responsible for notifying all persons engaged in development activities on the site of the requirements of this Article and the terms and conditions of the approved plan, including the construction, operation and maintenance of all temporary BMPs and permanent BMPs shown on the approved plan or described in the accompanying technical report. Any failure to comply with any provision of this Article or any term or condition of the approval by any person engaged in work on a development on the site will constitute a violation of this Section by the holder and will subject the holder to enforcement under Chapter 1, Article 3, Division 7

(b) *Violations*. Any person engaged in work on a development who violates any provision of this Chapter or any term or condition of the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) for the development, including the construction, operation and maintenance of all temporary BMPs and permanent BMPs shown on the approved plan or described in the accompanying technical report, violates this Section and is subject to enforcement under Chapter 1, Article 3, Division 7

(c) *Legal Transfer of Property.* Upon legal transfer of property, the new owner is required to comply with all terms of any approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) required by this Land Development Code. If the new owner intends to commence any development on the site that is not covered by the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified), a new Watershed Protection Plan application (Phase 1, Phase 2, or Qualified, as applicable) that specifically addresses the new activity must be submitted to the Engineering Director for review and approval prior to commencement of the activity.

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DIVISION 2: - STREAM AND RIVER CORRIDOR WATER QUALITY STANDARDS

Section 5.1.2.1 - Purpose, Applicability and Exceptions

(a) *Purpose*. The purpose of the standards in this Division are to protect water quality and to prevent flood damage throughout the City and its extraterritorial jurisdiction.

(b) *Applicability*. Except as provided in subsection (c) below, the provisions of this Division apply to development affecting any stream, river or waterway located within the City or its extraterritorial jurisdiction, other than those within the recharge zone of the Edwards Aquifer or within the San Marcos River Corridor. Specific standards governing streams, rivers or waterways within the recharge zone of the Edwards Aquifer are contained in Article 2 of this Chapter 5 and those governing streams, rivers or waterways within the San Marcos River Corridor are contained in Article 3 of this Chapter 5. The provisions of this Division apply to development affecting streams, rivers or waterways within the recharge zone of the Edwards Aquifer or within the San Marcos River Corridor only as expressly referenced in Article 2 or Article 3, respectively.

(c) *Exceptions*. The provisions of this Division do not apply to the following:

(1) Any stream or waterway having a drainage basin of less than 120 acres measured upstream from the proposed development;

(2) The partition of land into not more than four single-family residential lots for sale or to development of a single-family residence for a family member who is related to the owner of the property within the third degree by consanguinity or affinity, as defined under Tex. Gov't Code ch. 573, and provided further that each resulting parcel has access to a public street or thoroughfare. This exception shall be cumulative, i.e., the creation of a fifth lot for the land from which lots are partitioned shall trigger the requirements of this Division.

(3) The construction of barns or other accessory structures related to agricultural uses.

Section 5.1.2.2 - Water Quality Zones

(a) A water quality zone shall be established for each stream, river or waterway located within the applicable area. The area of the water quality zone shall be determined as follows:

(1) *FEMA mapped waterway*. For any waterway with a FEMA defined floodway, a water quality zone shall be established 100 feet in width, measured from the boundary of the defined floodway on each side of the waterway, but shall not exceed the width of the 100-year floodplain.

(2) *Not a FEMA-mapped waterway.* If the waterway does not have an officially mapped 100-year floodplain, the water quality zone is either:

a. 50 feet extending out on each side of the centerline of a minor waterway, 100 feet extending out on each side of the centerline of an intermediate waterway, and 200 feet extending out on each side of the centerline of a major waterway; or

b. The area of the 100-year floodplain resulting from fully developed conditions in the watershed as calculated and determined by a Texas-licensed engineer, at the developer's option and expense, in accordance with engineering standards acceptable to the Engineering Director.

(3) *Designation required*. The water quality zones and buffer zones required by this Article shall be designated when a plat is required for a development, and shall be shown on all associated Watershed Protection Plans, Cluster Development Plans, plats, Site Preparation Permits, and building plans. Unless required by the Engineering Director to be dedicated as a flowage easement and dedicated for public maintenance, water quality zones and buffer zones shall be privately held and maintained, subject to the enforcement procedures for BMPs established in Section 5.1.1.7

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Section 5.1.2.3 - Buffer Zones

For any waterway with a FEMA defined floodway, a buffer zone shall be established 100 feet in width, measured from the outer boundary of the water quality zone established in Section 5.1.2.2, on each side of the waterway. The combined width of the water quality zone and the buffer zone shall not exceed the width of the 100-year floodplain.

Section 5.1.2.4 - Impervious Cover Limitations

(a) *Water Quality Zones*. No impervious cover shall be allowed in or transferred to a water quality zone, with the exception of those activities listed in subsection (d).

(b) *Buffer Zones*. Impervious cover within a buffer zone shall be limited by the gradient of the land to be developed, as follows:

(1) 30 percent on areas having a slope with a gradient of less than 15 percent;

(2) 20 percent on areas having a slope with a gradient of between 15 and 25 percent; or

(3) Ten percent on areas having a slope with a gradient greater than 25 percent.

(c) *Mitigation plan*. Impervious cover limitations may be exceeded in a buffer zone only for land with a gradient of less than 15 percent based upon a mitigation plan demonstrating that the water quality benefits of the impervious cover within the buffer zone can be achieved through utilization of water pollution abatement control facilities that incorporate best management practices for the entire development site. No impervious cover may be transferred to a buffer zone that exceeds the requirements of this Section. Transfer of impervious cover from a buffer zone may be allowed under Section 5.1.2.5

(d) *Exceptions to Impervious Cover Limitations.*

(1) Existing impervious cover in water quality or buffer zones may be replaced, subject to standards in Article 4 of this Chapter 5, but may not be increased except consistent with the limitations in this Section.

(2) Arterial, residential and collector street crossings in accordance with the following:

a. For FEMA- mapped waterways, water quality and buffer zones may be crossed by arterial and collector streets that are a distance of at least 2,000 feet horizontally from the nearest adjacent crossing of the waterway by an arterial or collector street.

b. For other waterways subject to this Article, water quality zones may be crossed by arterial, collector and residential roads that are a distance of at least 1,000 feet horizontally from the nearest adjacent crossing of the waterway by an arterial, collector or residential street.

c. Any water quality or buffer zone may be crossed by one collector or residential street regardless of the distance from the nearest crossing of the waterway by an existing arterial, collector or residential street, if the crossing will provide the only access to a public road or street for a portion of the tract of land on which the new street is proposed.

(3) Utility line crossings that are in compliance with all City and TCEQ requirements.

(4) Fences that do not obstruct or dam surface water flows.

(5) Trails and related facilities, other than buildings, for walking, running, and non-motorized biking.

Section 5.1.2.5 - Clustering and Development Transfers

(a) *Clustering*.

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(1) Within all areas subject to this Division 1 of Article 3, Chapter 5, clustering of residential density shall be allowed in accordance with Table 4.1.6.1 and transfer of impervious cover for nonresidential uses shall be allowed in accordance with Table 4.1.6.1, when approved under a Cluster Development Plan authorized in Chapter 1, Article 5, Division 7, or, outside City limits, when approved under a plat application authorized in Chapter 1, Article 6 that is consistent with a Watershed Protection Plan (Phase 1) approved under Chapter 1, Article 7.

(2) The maximum number of residential units attained under the Cluster Development Plan shall be calculated as follows:

[Gross non-restricted site area]
multiplied by
{The number of units allowed under the applicable zoning district in accordance with Table 4.1.6.1
multiplied by
{1.25}.

(b) *Development Transfer*. Development transfers may be authorized from all areas subject to this Division 1 of Article 3, Chapter 5, to areas not subject to this Division, when approved through a petition for development transfer under Chapter 1, Article 4, Division 4.

Section 5.1.2.6 - Performance Standards in Water Quality and Buffer Zones

(a) *Ground Cover*. Water quality zones and buffer zones shall be stabilized with native vegetation to achieve a 70 percent ground cover, or, if ground cover vegetation was less than 70 percent prior to construction, to a coverage level consistent with a stable undisturbed condition. Areas disturbed during construction activities shall be restored to the same standard.

(b) *Point Discharges.* New point discharges of runoff into water quality or buffer zones shall be dissipated to sheet flow conditions throughout the zone.

(c) *Restrictions*. The use of fertilizers and pesticides shall be prohibited within water quality or buffer zones.

(d) *Excavation and Fill*. Excavation and fill within water quality or buffer zones shall be allowed only in conformity with the standards in Article 4, Division 2 of this Chapter 5

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ARTICLE 2: - DEVELOPMENT RELATED TO THE EDWARDS AQUIFER

DIVISION 1: - GENERAL

Section 5.2.1.1 - Applicability and Authority

(a) *Applicability.* The standards contained in this Article 2 apply to the recharge, transition, and upland zones of the Edwards Aquifer.

(b) *Authority*. The requirements of this Article are authorized under Tex. Water Code Sections 16.316 and 26.177(b), and Tex. Loc. Gov't Code ch. 212.

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DIVISION 2: - DEVELOPMENT DUTIES

Section 5.2.2.1 - Duties in Undertaking Development Over Aquifer

(a) *Excavations in recharge zone or transition zone*.

(1) When a development in the recharge zone or transition zone includes any excavation, the person performing the development must either engage a qualified geologist to inspect the excavation, or notify the Engineering Director to arrange for inspection of the excavation by City personnel. The inspection will be for the purpose of determining whether the excavation has uncovered any geologic or manmade feature that presents a possible avenue for recharge to the aquifer. The inspection will be made either upon completion of the excavation, if it is in a single, defined area, or in segments, if the excavation is linear, or is in multiple locations, or is accomplished over an extended period of time. The excavation may be temporarily backfilled before inspection, but inspection must occur with the full excavation uncovered before permanent backfilling is performed. If an inspection reveals that one or more such features has been uncovered, the person performing the development must:

a. Immediately notify the Engineering Director;

b. Utilize temporary BMPs to prevent pollution from entering the aquifer through the features; and

c. Not perform any further work in the excavation until an application for an amendment to the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified, as applicable), for a development in the recharge zone, or an application for approval of a Site Preparation Permit, for a development in the transition zone, is submitted to and approved by the Engineering Director.

(b) *Discovery of Sensitive Feature in Recharge Zone or Transition Zone.*

(1) If a new sensitive feature, or any solution opening, cave, sinkhole, or similar feature, is encountered on a site in the recharge zone or transition zone during the construction process for a development, or if a previously known sensitive feature is found in the course of construction to be larger or more extensive than previously noted in the geologic assessment of the site, the holder or the holder's designated representative must:

a. Immediately suspend all excavation and construction activities within 50 feet of the feature, measured horizontally;

b. Immediately notify the Engineering Director of the discovery; and

c. Retain a qualified geologist to inspect the feature and make a recommendation to the Engineering Director based on the relative sensitivity of the feature.

(2) The Engineering Director may require, for a development in the recharge or transition zone, that the holder submit an application to amend the approved Watershed Protection Plan or Site Preparation Permit to adequately protect a feature encountered or found under subsection (b)(1) above. For development with an approved Watershed Protection Plan including a geological assessment, the Engineering Director will review the available information and within two working days of notification of the feature, will decide whether to allow construction activities to resume near the feature pending the amendment, and if so, at what locations. The Engineering Director will review and approve or deny a requested amendment to Watershed Protection Plan or Site Preparation Permit within five working days of submission of a geologic assessment if not included with the original application. The holder may appeal a denial in accordance with Chapter 1, Article 7.

Waiver to Watershed Protection Plan: For development applications proposing solely the construction or expansion of a single-family home on a lot legally platted in the recharge zone on or after March 1, 2000, the applicant is not required to submit a Watershed Protection Plan. A Site Preparation Permit for such an application must be submitted for approval in compliance with the Technical Manual.

Geological Assessments. All Watershed Protection Plans (Phase 1) for developments in the recharge zone and Site Preparation Permit for uses, other than a single-family residence, must be accompanied by a geologic assessment of the

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entire site prepared by a qualified geologist. The assessment must be based on 50-foot transects across the site, and must contain all information required for geologic assessments under the TCEQ Edwards Aquifer rules. The assessment must identify all sensitive features on the site, and for each sensitive feature, must state whether it is a major recharge feature, moderate recharge feature, or minor recharge feature.

Enhanced geologic assessment. A Watershed Protection Plan (Phase 2) for a development in the recharge zone may be accompanied by an enhanced geologic assessment of the site prepared by a qualified geologist. The enhanced assessment is subject to review and approval by the Engineering Director as part of the approval process for the Watershed Protection Plan (Phase 2). The enhanced assessment must meet the requirements for assessments under (c) above, and in addition, must meet the following:

(1) All caves that can be entered must be entered and mapped to establish the footprint of the cave, and to identify related surface hydrogeologic features (drainage areas, sinkholes, fractures, etc.) and cultural features (existing or proposed roads, buildings, utilities, etc.). Hydrogeologic features within each cave must be mapped or noted and interpreted to delineate the drainage area for the cave, which includes surface drainage into the cave's entrance(s), plus surface drainage into fractures, sinkholes, streambeds, or other features which appear to contribute recharge into the cave in areas beyond the cave entrance. Excavations must be conducted as part of the effort to fully map the caves when necessary for study and mapping of otherwise inaccessible parts of the caves. Where excavation may be unsafe, such as a passage that ends in collapse and likely continues on the opposite side of the collapse, geophysical methods should be employed to determine if and where the cave continues. The geophysical methods must be of a type that has proven accurate and appropriate for the depth, size, and geologic setting of the cave. The geophysical methods should not be used to replace mapping of the cave, but to supplement them and identify areas where excavation or drilling may find the continuation of the cave to allow its further mapping and study.

(2) Recharge features that cannot be entered must be excavated to more fully evaluate the hydrogeologic significance of the features, and to determine if they lead to caves. Excavations may be conducted by hand, explosive, and/or mechanized means as appropriate. Excavations will be considered complete if a cave, or bedrock with no openings, or a compact clay at least one foot thick throughout the feature's floors and walls, is found. Where fractures or other openings in the bedrock extend indefinite distances with no fill material or loose fill material, and hydrogeologic indicators suggest the feature may lead to a cave, then geophysical methods should be employed to determine if and where a cave is present to guide further excavation and study.

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DIVISION 3: - IMPERVIOUS COVER

Section 5.2.3.1 - Impervious Cover Limitation

(a) *Impervious Cover Limitation.* The total of all impervious cover that may be developed on a site in the recharge zone shall not exceed the following percentages of the gross area of the site based on the size of the site on October 8, 2001. Additional impervious cover limitations apply to those areas of the development site that are located within a water quality zone, a buffer zone or a sensitive feature protection zone.

Size of Site	Impervious Cover Limit
Up to and including three acres	40%
More than three acres and less than five acres	30%
Five acres or more	20%

(b) *Utilization of Site*. Land included in water quality zones, buffer zones, and sensitive feature protection zones may be used in the calculation of the total impervious cover allowed on the site. The total allowed impervious cover on a site may be allocated by an applicant in a manner that concentrates the allowed impervious cover in one or more uplands zones on the site, under Sections 5.2.8.1 and 5.2.8.2

Submittal of series of applications prohibited. A person may not submit a series of applications for approval of any type of Watershed Protection Plan for distinct sites on a single tract of property nor divide such land into smaller parcels for the purpose of increasing the impervious cover limit on the property. If the Engineering Director determines that an application involves a violation of this subsection, the Engineering Director will apply the impervious cover limitation for the entire tract of property, including those portions already developed, to the application.

Computation of impervious cover. The measurement of impervious cover at a site in the recharge zone shall be in accordance with Section 7.5.1.7 of this Land Development Code.

Exceptions included in total impervious cover. The impervious cover for an exception to the impervious cover limitations for water quality zones, buffer zones or sensitive feature protection zones shall be counted towards the total impervious cover allowed for a development site under this Section.

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DIVISION 4: - BEST MANAGEMENT PRACTICES (BMPS)

Section 5.2.4.1 - Requirements and Standards for BMPs

(a) *Best management practices* or *BMPs* means activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the Edwards Aquifer and hydrologically connected surface streams. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs are described in the TCEQ BMP Guidance Manual.

(b) *Installation of BMPs.* If impervious cover at the site of a development in the recharge zone equals or exceeds 15 percent on the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) for the development, permanent BMPs must be installed in accordance with the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) in order to mitigate the water quality impacts of the development. The permanent BMPs must limit the increase in the total suspended solids load in drainage from the site that results from the development to no more than 20 percent above that which would occur from natural drainage from the site.

(c) *BMPs in Accordance With TCEQ Rules.* All temporary and permanent BMPs required in the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) must be constructed, operated and maintained in accordance with the standards, criteria and requirements in the TCEQ Edwards Aquifer rules and the TCEQ BMP guidance manual.

(d) *Exclusion*. If a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) shows less than 15 percent impervious cover for a site, the proposed plan may eliminate information pertaining to the provision of permanent BMPs.

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DIVISION 5: - TEMPORARY EROSION AND SEDIMENTATION CONTROLS

Section 5.2.5.1 - Requirements for Developments Not Covered by a Watershed Protection Plan

(a) *Temporary Controls Required.* Temporary erosion and sedimentation controls are required to be installed and maintained for the following activities that may not covered by any type of Watershed Protection Plan, if they occur in the recharge zone or in an area of the transition zone that drains across the recharge zone:

(1) The construction or expansion of one single family home or accessory structure on a legally platted lot, or on an unsubdivided tract of land at least two acres in size, for which a legal description was contained in a deed recorded before March 1, 2000.

(2) The installation or maintenance of utility lines by a governmental entity.

(3) Landscaping activities involving more than 5,000 square feet of area of landscape installation.

(4) The resurfacing of existing paved roads, parking lots, sidewalks, or other development-related impervious surfaces.

(b) *Temporary Controls Required*. Temporary erosion and sedimentation controls are required to be installed and maintained for a development that is not required to be covered by any type of Watershed Protection Plan, if the activities occur in the recharge zone or in an area of the transition zone that drains across the recharge zone.

(c) *Standards*. All temporary erosion and sedimentation controls required under this Section must:

(1) Meet the applicable standards and requirements of the TCEQ Edwards Aquifer rules and the TCEQ BMP guidance manual;

(2) Be installed prior to commencing construction;

(3) Be maintained during construction; and

(4) Not be removed until vegetation is established and the construction area is stabilized.

Monitoring. The Engineering Director will monitor stormwater discharges from these activities to evaluate the adequacy of the temporary erosion and sedimentation control measures. The Engineering Director may require the person performing the activity to use additional controls if the Engineering Director determines that the controls used by the person are inadequate to protect water quality.

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DIVISION 6: - WATER QUALITY ZONES

Section 5.2.6.1 - Water Quality Zones

(a) *Water Quality Zones Established.* A water quality zone shall be established along each minor waterway, intermediate waterway, and major waterway in the recharge zone. The area of the zone is determined in one of the following ways:

(1) If the waterway has an officially mapped 100-year floodplain, the water quality zone is the area of the 100-year floodplain based on the latest Federal Emergency Management Agency maps adopted by the local regulatory authority, subject to site-specific interpretation in a manner acceptable to the Engineering Director.

(2) If the waterway does not have an officially mapped 100-year floodplain, the water quality zone is either:

a. 50 feet extending out on each side of the centerline of a minor waterway, 100 feet extending out on each side of the centerline of an intermediate waterway, and 200 feet extending out on each side of the centerline of a major waterway; or

b. The area of the 100-year floodplain as calculated and determined by a Texas-licensed engineer, at the developer's option and expense, in accordance with engineering standards acceptable to the Engineering Director.

(3) No development or impervious cover is allowed within a water quality zone, except for the following:

a. Arterial, residential and collector street crossings in accordance with the following:

1. Major waterways may be crossed by arterial streets that are a distance of at least 2,000 feet horizontally from the nearest adjacent crossing of the waterway by an arterial or collector street.

2. Intermediate waterways may be crossed by arterial and collector streets that are a distance of at least 2,000 feet horizontally from the nearest adjacent crossing of the waterway by an arterial or collector street.

3. Minor waterways may be crossed by arterial, collector and residential streets that are a distance of at least 1,000 feet horizontally from the nearest adjacent crossing of the waterway by an arterial, collector or residential street.

4. A waterway, whether major, intermediate or minor, may be crossed by one collector or residential street regardless of the distance from the nearest crossing of the waterway by an existing arterial, collector or residential street, if the crossing will provide the only access to a public road or street for a portion of the tract of land on which the new street is proposed.

b. Utility line crossings that are in compliance with all City and TCEQ requirements.

c. Fences that do not obstruct surface water flows.

d. Trails and related facilities, other than buildings, for walking, running, and non-motorized biking.

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DIVISION 7: - BUFFER AND PROTECTION ZONES

Section 5.2.7.1 - Buffer Zones

(a) *Buffer Zones Established.* A buffer zone is established along each minor waterway, intermediate waterway and major waterway in the recharge zone. The buffer zone is 100 feet wide, measured horizontally, along each side of the water quality zone for each minor, intermediate and major waterway.

(b) *Impervious Cover Limitation.* Impervious cover is limited to ten percent of the area of a site within a buffer zone, unless the area has a slope of 20 percent or more. If an applicant obtains approval for a mitigation plan in accordance with subsection (d), impervious cover within the buffer zone on a site, other than in an area with a slope of 20 percent or more, may be increased to 20 percent. In a portion of a buffer zone that has a slope of 20 percent or more, no impervious cover is allowed unless the applicant obtains approval for a mitigation plan in accordance with subsection (d), in which event impervious cover is limited to ten percent.

Development standards near floodways. For development in buffer zones adjacent to a 100-year floodplain that is 50 feet or less in width next to a floodway:

(1) The ten percent limit on impervious cover is absolute;

(2) All drainage from impervious cover in such areas must be directed away from the waterway; and

(3) A mitigation plan for the drainage, prepared in accordance with subsection (d) must be submitted for approval.

Mitigation plan. A Watershed Protection Plan (Qualified, refer to Section 1.7.1.4 of this Land Development Code) for a development in the recharge zone may be accompanied by a mitigation plan for improvements on the site that are proposed within a buffer zone. The mitigation plan must be prepared by a Texas-licensed engineer, or by such an engineer and a Texas-registered landscape architect, and must describe temporary and permanent mitigation measures to be installed and maintained at the site. A mitigation plan may consist of landscaping practices and features that perform an active filtration function for runoff from improvements, or BMPs, or both. To be approved, a mitigation plan must demonstrate to the satisfaction of the Engineering Director that the mitigation measures are designed, and will function, in a manner that provides for removal of contaminants from runoff from the site to the same extent as, or to a greater extent than, the installation and maintenance of a native grass surface within the entire width of the buffer zone.

Section 5.2.7.2 - Sensitive Feature Protection Zones

(a) *Sensitive Feature Protection Zones Established.* A sensitive feature protection zone shall be established around each sensitive feature in the recharge zone. Unless an applicant submits an enhanced geologic assessment of a feature in accordance with Section 5.2.2.1(d), or an enhanced topographic information in accordance with subsection (c) of this Section, the area of the zones shall be determined as follows (all measurements are to be made horizontally):

(1) Around a minor recharge feature, the zone shall extend 50 feet around the perimeter of the feature, and an additional 25 feet on the upstream side of the feature.

(2) Around a moderate recharge feature, the zone shall extend 100 feet around the perimeter of the feature, and an additional 50 feet on the upstream side of the feature.

(3) Around a major recharge feature, the zone shall extend 200 feet around the perimeter of the feature, and an additional 100 feet on the upstream side of the feature.

(b) *Enhanced Geologic Assessments.* If an applicant obtains the Engineering Director's approval of an enhanced geologic assessment for a feature in accordance with Section 5.2.2.1(d), the area of the sensitive feature protection zone for a feature shall be the area identified by the assessment as contributing significantly to recharge through the feature.

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Enhanced topographic information. If an applicant submits enhanced topographic information for a site, with contour intervals of two feet or less, the sensitive feature protection zone shall be the area within the following distance of a sensitive feature that is identified on the enhanced topographic survey as draining towards the feature:

(1) For a minor recharge feature, 75 feet.

(2) For a moderate recharge feature, 150 feet.

(3) For a major recharge feature, 300 feet.

Impervious cover limitations. No development or impervious cover is allowed within a sensitive feature protection zone, except for the following:

(1) Fences that do not obstruct surface water flows.

(2) Trails and other facilities, other than buildings, for walking, running, or non-motorized biking.

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DIVISION 8: - CLUSTERING INCENTIVES, DEVELOPMENT TRANSFERS AND PARKLAND CREDITS

Section 5.2.8.1 - Clustering Incentives

(a) *On-site Incentives.*

(1) For each acre of land in a buffer zone that is permanently set aside in its natural condition as open space, the total impervious cover may be transferred to one or more uplands zones and may be increased by a bonus of 7,000 square feet, if the Planning and Zoning Commission in approving a Qualified Watershed Protection Plan finds that setting aside the land achieves one or more of the following water quality protection results:

a. It removes all or a portion of the allowed development out of a buffer zone.

b. It increases the effective width of a buffer zone.

c. It increases the area of a sensitive feature protection zone.

d. It provides setbacks along smaller drainage ways that drain areas of less than 50 acres and would otherwise not be protected.

(2) Land set aside under this subsection must be permanently protected and maintained as open space in a manner acceptable to the City Attorney. The land must either be:

a. Dedicated to the City or the public as permanent open space;

b. Held in private ownership and permanently protected by a conservation easement or similar mechanism in favor of the City, another government agency, or a non-profit conservation organization approved by the ~~Planning D~~Director; or

c. Deeded to a government agency or a non-profit conservation organization approved by the ~~Planning D~~Director as permanent open space.

(3) Additional impervious cover incentives may be granted by the Commission, upon the recommendation of the Engineering Director and ~~Planning D~~Director, if the applicant proposes to use innovative BMPs or water quality protection measures that are in addition to or exceed those called for in this Article. No incentive will be granted unless the applicant provides credible scientific data that the proposed BMP or measure will significantly improve the quality of water leaving developed areas of the site. The Engineering Director shall report to the Commission on the significance of the measure and its probable impact on water quality protection on the site. The Commission shall have the discretion to grant an impervious cover incentive, up to the limits set elsewhere in this subsection, that is appropriate for the measures being proposed.

(4) The total impervious cover allowed on the portion of a development site within the Edwards Aquifer recharge of transition zones, including all incentives granted under this subsection, shall not exceed 30 percent of the gross area of such portion of the site.

(b) *Off-site Transfers.*

(1) For each acre of land in a buffer zone that is permanently preserved in the manner provided in subsection (a)(2) above, the total impervious cover may be transferred from that site to one or more uplands zones on a receiving site, and may be increased by a bonus of 7,000 square feet, if the development transfer meets one or more of the criteria in subsection (a)(1) above and is approved by the City Council under a development transfer petition under Chapter 1, Article 5, Division 4.

(2) The Engineering Director will keep a record of each off-site transfer, including documentation on both the sending and receiving sites and the total amount of the impervious cover bonus involved in each transfer.

(3) The total development allowed on a site, including all incentives granted under this subsection, may not exceed a 50 percent bonus to the impervious cover limits set in Section 5.2.3.1

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Section 5.2.8.2 - Development Transfers

(a) *Transfer of Development Rights.* The development transfer from a site located in the recharge zone to a receiving site located outside of the recharge zone is encouraged. The following provisions are intended to provide incentives for a development transfer.

(1) The allowance for impervious cover under the provisions of this Article for a site located in the recharge zone may be transferred in the form of a residential unit bonus to a receiving site inside the City limits through approval of petition for a development transfer under Chapter 1, Article 5, Division 4. The receiving site may be granted additional residential units to be added to the total number of units that would otherwise be allowed within the zoning district of the receiving site through approval of a development transfer receiving district. For each 5,000 square feet of impervious cover that could be legally constructed in the sending site, but is instead transferred to the receiving site, the following additional number of residential units may be constructed on the receiving site:

a. Two single family homes, duplexes or townhouses, or

b. Three apartment units.

(2) The Commission and the City Council must approve the petition for a development transfer under Chapter 1, Article 5, Division 4.

(3) The total increase in residential density allowed on the receiving site must not exceed 25 percent of the density otherwise allowed on the receiving site.

Section 5.2.8.3 - Parkland Credits

(a) *Parkland Dedication Credit.* Land included in water quality zones, buffer zones, and sensitive feature protection zones may be used to meet up to 75 percent of the parkland dedication requirements for sites that are being platted in accordance with Chapter 7, Article 6 of this Land Development Code under the following circumstances:

(1) The Commission, after receiving the recommendation of the Director of Parks and Recreation, must find that the dedication of the land as parkland is in the public interest;

(2) Parkland dedicated under this subsection must be dedicated in accordance with Chapter 7, Article 6, and must be designated as both parkland and permanent open space; and

(3) Only minimal trail improvements and low-impact recreational uses that are consistent with the water quality protection function of the zones will be allowed in areas that are dedicated as parkland and open space under this provision.

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ARTICLE 3: - DEVELOPMENT RELATED TO THE SAN MARCOS RIVER CORRIDOR

DIVISION 1: - GENERAL PROVISIONS

Section 5.3.1.1 - Purpose, Applicability, and Findings

(a) *Findings.*

(1) The City is the trustee of the natural environment of the San Marcos River for existing and future generations of citizens of the City and its environs;

(2) The San Marcos River provides significant and irreplaceable recreational opportunities to the citizens of the City and its environs;

(3) The San Marcos River ecosystem is biologically unique, and some animal and plant species found in the first few kilometers of the San Marcos River are found nowhere else;

(4) Development that is insensitively planned, improperly constructed or poorly maintained near the San Marcos River can result in irreparable damage to the natural environment and, particularly, to the quality of the water in the San Marcos River;

(5) The San Marcos River Corridor, due to highly erodible soils and rare biotic communities, is highly susceptible to irreparable damage resulting from development activities;

(6) The San Marcos River Corridor is facing the potential for intense development;

(7) The continued economic growth and quality of life of the City is dependent on a pleasing natural environment, quality recreational opportunities and unique natural resources within and in close proximity to the City;

(8) The San Marcos River Corridor must be protected in order to preserve the health, safety and welfare of the citizens of the City and its environs;

(9) If the San Marcos River Corridor is not developed in a sensitive and innovative manner in accordance with regulations designed to protect the corridor, the natural environment, river ecosystem and recreational characteristics, the San Marcos River will be irreparably damaged; and

(10) The City Manager has directed the City staff to conduct a study of characteristics of the San Marcos River Corridor, the adverse impact of development activities thereon and the means by which adverse development impacts can be mitigated.

(b) *Purposes*. The purposes of the standards in this Division shall be to:

(1) Prevent indiscriminate and unnecessary stripping of native vegetation and the unnecessary loss of soils;

(2) Prevent increases in soil erosion and sedimentation during and after development activities;

(3) Prevent increases in the rate, volumes and velocities of stormwater runoff;

(4) Prevent or reduce increases in pollution concentrations and total pollutant loadings of stormwater runoff;

(5) Protect the biological integrity of the San Marcos River habitat; and

(6) Preserve the natural and traditional character of the land and waterway to the greatest extent feasible.

(c) *Applicability*. The provisions of this Division apply to all land within the following described boundaries:

(1) An area bounded by the headwaters of the San Marcos River in Spring Lake along a line perpendicular to the flow line of Sink Creek southeast to the intersection of the Missouri Pacific Railroad tracks, then southwest along the Missouri Pacific Railroad tracks to its intersection with Charles Austin Drive, then southeast along Charles Austin Drive to its intersection with the Missouri Pacific Railroad tracks, then southwest along those tracks to

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McKinnon Street, then southeast along McKinnon Street to its intersection with Field Street, then south along Field Street to its intersection with Roberts Street, then along Roberts Street, southeast along a line crossing Interstate 35 to Sherbarb Street, along Sherbarb Street to its intersection with Linda Lane, then southwest along Linda Lane to its intersection with River Road, then south along River Road to a point on River Road where River Road turns northeast and intersects with land having soil which is classified as having a high or severe water erosion hazard, then southeast parallel with the San Marcos River to the confluence of the Blanco and San Marcos Rivers, then for a distance of 1,000 feet up the Blanco River and a distance of 200 feet from the bank of the Blanco River, then across the Blanco River to a point 200 feet from the eastern bank, then south at a distance 200 feet from the bank to the floodplain of the San Marcos River as defined in the Watershed Plan and Environmental Impact Statement, USDA, SCS-EIS-WS-(ADM)-78- 2-(F)-(TX), and on the Federal Emergency Management Administration (FEMA) maps for Hays, Guadalupe and Caldwell Counties in effect on August 11, 1985, (1) then along the floodplain or (2) within 1,000 feet of the centerline of the San Marcos River if the land is classified by the Soil Conservation Service Soil Surveys of Hays, Caldwell and Guadalupe Counties, as having a high or severe water erosion hazard, or (3) within 200 feet of the bank of the San Marcos River, whichever is the larger area, to the limits of the City's extraterritorial jurisdiction.

Then across the San Marcos River and from the limits of the City's extraterritorial jurisdiction west and north along the San Marcos River and (1) within the floodplain of the San Marcos River or a tributary as defined in the Watershed Plan and Environmental Impact Statement, USDA, SCS-EIS-WS-(ADM)-78- 2(F)-(TX), and on the Federal Emergency Management Administration (FEMA) maps for Hays, Guadalupe and Caldwell Counties in effect on August 11, 1985, or (2) within 1,000 feet of the centerline of the San Marcos River if the land is classified by the Soil Conservation Service Soil Surveys of Hays, Caldwell and Guadalupe Counties, as having a high or severe water erosion hazard, or (3) within 200 feet of the bank or the San Marcos River, whichever is larger area, then to Hays Co. Road, northwest along that road to USGS benchmark 578, then north along S. McKie Street to Interstate Highway 35, then across Interstate Highway 35 to C.M. Allen Parkway, then north along C.M. Allen Parkway to its intersection with Purgatory Creek, then along Purgatory Creek west for a distance of 1,000 feet and within 200 feet of its bank, then across Purgatory Creek a distance of 200 feet from the northern bank, then back to C. M. Allen Parkway at a distance 200 feet from the bank of Purgatory Creek then along C. M. Allen Parkway to Moon Street, down Moon Street to its intersection with Woods Street, then in a straight line northeast to that intersection of Sessom Drive with Peques Street, then northeast along Peques Street to a point where Peques Street intersects with the Eckrant-Rock Outcrop Complex soil group, then generally northeast along this soil group's boundary 1,000 feet from the centerline of the San Marcos River to its intersection with the beginning point near the intersection of Ed J.L. Green Drive and West Laurel Street, then southeast along a line to the headwaters of the San Marcos River in Spring Lake.

(2) The official map of the SMRC shall be retained in the City Clerk's Office. As land is annexed into the City, and the City's extraterritorial jurisdiction is extended in the vicinity of the San Marcos River, the boundaries of the SMRC shall be extended automatically without further action by the City Council in accord with the three-part description in the preceding paragraphs of this subsection.

(3) The Engineering Director shall interpret the boundaries of the San Marcos River Corridor from topographic, hydrologic and biological data based on the boundaries described in this subsection.

(4) The City Council shall periodically, with the assistance of the Engineering Director, review the boundaries of the SMRC. The City Council shall consider in this review and in considering revising the boundaries:

a. Revised FEMA floodplain maps;

b. Water quality monitoring data; and

c. The effectiveness of this Article's measures, which are designed to protect the river.

(d) *Exceptions.*

(1) *Development on platted subdivisions.* The additional requirements of this Article shall not apply to development, redevelopment, repair or construction or reconstruction of a single-family detached residence on a properly

platted subdivision lot that has been properly platted before the effective date of the ordinance from which this Article derives.

(2) *Erodible soils.* If a development is on land included within the San Marcos River Corridor because it is shown on the Hays, Guadalupe or Caldwell County Soil Conservation Service soil survey maps as being on soils that have a high or severe water erosion hazard, is not within 200 feet of the bank of the San Marcos River, and is not within a floodplain within the SMRC and a soils test, as verified by the Engineering Director, shows that the development is not on soils that have a high or severe water erosion hazard and that the stormwater runoff from the development will not flow over soils that have a high or severe water erosion hazard, the development shall not be required to meet the additional requirements of this Article.

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DIVISION 2: - DEVELOPMENT STANDARDS

Section 5.3.2.1 - Ecological Preservation

(a) *Applicability of Landscaping and Buffering.* All standards concerning landscaping, buffering and the preservation of natural vegetation. as set forth in Chapter 6, Article 1, shall apply within the SMRC.

(b) *Restoration of Disturbed Areas.* Restoration of disturbed areas that contain native woody and herbaceous plants shall be accomplished only as approved by the Engineering Director.

Stabilization of eroding creek banks. Stabilization of eroding creek banks is permitted in order to protect threatened property, but only as approved by appropriate Federal and State agencies and the Engineering Director. All these projects shall be designed to stabilize existing conditions only.

Excavation or filling. Excavation or filling shall be allowed within the SMRC only in accordance with Article 4, Division 2 of this Chapter 5, and the following additional requirements:

(1) The excavation or filling is necessary for the purpose of structural engineering or is in the area where a structure will be completed, including a building foundation; or

(2) Excavation or filling, as demonstrated and certified by a registered professional engineer, will improve the water quality of the runoff and/or stabilize an existing area of erosion and will continue the maintenance of flood and flow characteristics.

Section 5.3.2.2 - Water Quality Standards

(a) *Water Quality Zone.* The water quality zone for the waterways within the SMRC shall be defined in accordance with Division 1 of this Article 3 for a FEMA-mapped waterway, or as all land within a distance of 100 feet from a bank of the river, whichever is greater.

(b) *Buffer Zone*. The buffer zone of the waterways within the SMRC shall be defined in accordance with Division 1 of this Article 3 for a FEMA-mapped waterway, or as all land within a distance of 200 feet from a bank of the river, whichever is greater.

(c) *Impervious Cover Limitations*. Impervious cover limitations within the water quality zone of the SMRC shall be as provided in Section 5.1.2.4(a). Impervious cover limitations in areas of the SMRC outside water quality zones shall be as provided in Section 5.3.2.5

(d) *Other Land Within the Corridor*. Any development within the SMRC outside the water quality or buffer zones shall meet the requirements of Section 5.3.2.5 regarding overland flow.

(e) *Water Quality Basins.* Water quality detention or sedimentation basins shall be situated and constructed to capture and hold at least the first one-half inch of runoff from all impervious cover. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the Austin Drainage Criteria Manual.

(f) *Design of Basins.* The design of all water quality basins shall allow an average residence time of 24 hours for the first one-half inch of runoff from all impervious cover. The design of all water quality basins shall incorporate efficient removal of contaminants, including but not limited to lead, zinc, iron, total phosphorous, total nitrogen, total suspended solids, and fecal coliform bacteria generated as a consequence of the SMRC development for which a basin is designed as approved by the Engineering Director in accordance with the Contaminant Removal Guidelines of the City of San Marcos. These basins shall be maintained at all times so that efficient removal of the contaminants is continuous.

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(g) *Disposal of Contaminants.* Disposal of removed or filtered contaminants shall be as approved by the Engineering Director in accordance with the Contaminant Removal Guidelines of the City of San Marcos.

(h) *Input to and Release from Basins.* Input to and release from water quality basins shall utilize grass-lined swales and/or overland flow dispersion measures.

Section 5.3.2.3 - Overland Flow and Natural Drainage

(a) *Drainage Patterns.* Natural drainage patterns shall be preserved whenever possible, and the loss of the previous character of the soil should be limited in order to prevent erosion and attenuate the impact of contaminants collected and transported by stormwater. Open surface drainage through grass-lined swales is preferred. Drainage objectives can best be accomplished by leaving portions of a subdivision in an underdeveloped and natural state and located to receive runoff from the developed areas for purposes of unchannelized, overland flow. The use of streets as the central drainage network is prohibited.

(b) *Storm Sewers*. Construction of enclosed storm sewers and impervious channel linings are permitted only when the Engineering Director, on the basis of competent engineering evidence, concludes that the storm sewers or impervious linings are the only justifiable option available. If stormwater drainage systems and/or culverts are necessary, these systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment, neutralize contaminants and dissipate energy by the use of multiple smaller outlets, whenever practical, by locating discharges to maximize overland flow and by any other strategies that will accomplish the objectives defined and discussed in this Article.

Section 5.3.2.4 - Velocity Attenuation and Surface Drainage Channels

(a) Channelization of the San Marcos and Blanco Rivers and any tributary of the San Marcos River within the SMRC shall be prohibited.

(b) Any exceptions to the design flow and velocities or depths granted by the Engineering Director under Section 7.5.1.2 shall be comprehensive with the intent of Section 5.3.2.5

Section 5.3.2.5 - Creation of Impervious Cover

(a) *Impervious Cover Limitations.* Impervious cover on land within the San Marcos River Corridor outside a water quality zone shall be limited by the gradient of the land to be developed, as follows:

(1) 30 percent on areas having a slope with a gradient of less than 15 percent; or

(2) 20 percent on areas having a slope with a gradient of between 15 and 25 percent; or

(3) Ten percent on areas having a slope with a gradient greater than 25 percent.

(4) Credit shall be given for the use of pervious surfaces and materials in direct proportion to the pervious character of the material.

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DIVISION 3: - CLUSTERING AND DEVELOPMENT TRANSFERS

Section 5.3.3.1 - Clustering and Development Transfers

(a) *Clustering*. Within all areas subject to this Division 3 of Article 3, Chapter 5, clustering of residential density shall be allowed in accordance with Table 4.1.6.1 and transfer of impervious cover for nonresidential uses shall be allowed in accordance with Table 4.1.6.1, when approved under a Cluster Development Plan authorized in Chapter 1, Article 5, Division 8, or, outside the City limits, when approved under a plat application authorized in Chapter 1, Article 6 that is consistent with a Watershed Protection Plan (Phase 1) approved under Chapter 1, Article 7.

The maximum number of residential units attained under the Cluster Development Plan shall be calculated as follows:

{Gross non-restricted site area}
multiplied by
{The number of units allowed under the applicable zoning district in accordance with Table 4.1.6.1
multiplied by
{1.25 percent}.

(b) *Development Transfer*. Development transfers may be authorized from all areas subject to this Division 2 of Article 3, Chapter 5, to areas not subject to this Division, when approved through a petition for development transfer under Chapter 1, Article 5, Division 4.

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ARTICLE 4: RESERVED [1]

Sections 5.4.1.1—5.4.4.3.5 - Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 2012-29, § 1, adopted June 5, 2012, repealed Art. 4, which pertained to floodplain development and derived from Ord. No. 2004-92, § 2, 12-13-04; Ord. No. 2009-73, §§ 16—18, 12-1-09. For similar provisions, see Chapter 39 in Subpt. A, General Ordinances. (Back)

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ARTICLE 5: - TREE AND HABITAT PROTECTION

DIVISION 1: - GENERAL

Section 5.5.1.1 - Purpose

The purpose of this Article is to conserve, protect and enhance existing trees and natural landscape that are healthy and contribute to a safe and livable community. It is recognized that the preservation of existing trees contributes to the overall quality of life and environment of the City. Trees play a vital role in water and air quality. They protect the health of aquifers and river corridors set forth in Article 3 of this chapter, function in storm water management as well as erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement of property values.

(Ord. No. 2006-45, § 43, 9-19-06)

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DIVISION 2: - TREE PRESERVATION AND PROTECTION

Section 5.5.2.1 - General Tree Preservation Requirements

(a) *Application.* The provisions of this Section apply to all new development within the City and not within the ETJ. The responsible official shall be the ~~Planning D~~Director.

(b) *Preservation of Existing Landscape*. The existing natural landscape character, especially native oaks, elms, madrone, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, in an area of the street yard containing a stand of trees, the developer, and the builder shall use best good faith efforts to preserve such trees. Celtis Occidentalis (Hackberry), Juniperus Virginiana, Juniperus Ashei (Common Cedar), Chinaberry, mesquite and Ligustrum with a caliper of less than 12 inches are excluded from this provision. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on site septic facilities (OSSF) and approved storage areas shall be retained in a natural state, or reclaimed to its natural state, to the greatest extent feasible, or attractively landscaped in a manner that adds aesthetic value to the development.

(c) *Protected and Specimen Trees*.

(1) For the purposes of this Article, the caliper of a single-trunk tree shall be measured in accordance with the definition of "caliper" in Chapter 8 of this Code. The caliper of a multi-trunk tree shall be measured by the following equation: The caliper of the largest tree trunk, plus ½ the caliper of all other tree trunks. For example, a tree that has three trunks with calipers of 7", 6", and 4" would have a caliper of 12", or 7" + (½ x 6") + (½ x 4").

(2) The removal of any tree with a caliper of nine inches or larger must be specifically requested by the applicant and approved in writing by the designated responsible official prior to any action being taken to remove the tree or to damage or disturb the tree in any way.

(3) The removal of specimen trees, which for the purposes of these requirements are trees with 24-inch caliper or greater, must be specifically requested by the applicant and approved in writing by the designated responsible official prior to any action being taken to remove the tree or to damage or disturb the tree in any way. If the request is not approved by the designated responsible official, the applicant may appeal the decision to the Planning and Zoning Commission. Any specimen tree that is removed shall be replaced caliper-for-caliper (a ratio of one-to-one), even if the tree removed is within the building footprint area.

(4) The location of all trees over nine inches in caliper to be preserved or removed within the area proposed for development shall be designated on an application for a Site Preparation Permit or a Watershed Protection Plan, Phase 2 (see Chapter 1, Article 7). An aerial photograph indicating the tree canopy shall be submitted with an application for a Watershed Protection Plan, Phase 1, together with a designation of the location of specimen trees in the area proposed for development. Removal of any such trees without City approval is expressly prohibited. Such trees shall be tagged and numbered, and numbers shall be graphically depicted on the applicable plan submitted. The tags and related numbers shall remain on the trees until the Certificate of Occupancy is issued.

(Ord. No. 2009-73, § 19, 12-1-09)

Section 5.5.2.2 - Tree Protection Standards

(a) *Application.* The provisions of this Section apply to all new development within the City.

(b) *Protection of Trees During Construction*.

(1) All protected trees next to an excavation site or to a construction site for any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four feet high and surrounding the

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trunk of the tree. In addition, at least three inches of mulch or compost shall be spread beneath the drip line of the tree.

(2) The barriers shall be approved by the ~~Planning D~~Director and shall be in place before any site clearance or other site-disturbing act commences.

(3) All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier.

(4) Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the Certificate of Occupancy.

(c) *Action Around Protected Trees.* No person shall excavate any ditches, tunnels, or trenches, place any paving material, or place any drive within the protective zone of any protected tree without first obtaining a written permit from the ~~Planning D~~Director.

(d) *Damage to Protected Trees.* Unless specifically authorized by the ~~Planning D~~Director, no person shall intentionally damage, cut, carve, transplant, or remove any public tree or shrub; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree or shrub; allow any gaseous, liquid or solid substance which is harmful to such plants to come in contact with them or with the soil; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any protected tree or shrub.

(e) *Duty of Persons for Trees on Property.*

(1) It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view from any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten feet over sidewalks and 14 feet over all streets, except truck thoroughfares which shall require a clearance of 16 feet.

(2) It shall be the duty of any person or persons owning, occupying or controlling real property upon which tree trimming or removal occurs to advise all landscape contractors, tree services, arborists and others who remove or trim trees of the need for proper disinfection of all cutting tools and the required painting of all tree cuts on oak trees with a proper sealant immediately after cutting or pruning to prevent the spread of oak wilt and to ensure such sealing of cuts.

(f) *Removing Tree(s) from Development Site(s)*. The removal of an existing tree(s) from a development site must be in accordance with this and all other applicable ordinances of the City. Prior to the removal of any protected or specimen tree, as defined within this section, the property owner must first submit a letter to the ~~Planning D~~Director that describes in detail which tree(s) will be removed (as shown on a Site Preparation Permit or Watershed Protection Plan, Phase 2, as applicable), how the removal will be performed (and machinery and equipment needed), and the date and time when the anticipated removal will occur. If a specimen or protected tree proposed for removal is not within a building footprint or within 10 feet of a building footprint, within the area over the septic system, within an area necessary for reasonable site access, or within an area designated for the construction or installation of public facilities such as streets or utilities, the letter must also include a notarized statement by the owner that the tree(s) to be removed is (are) either not a protected or specimen tree(s), as defined within this section, or that its (their) removal will be in complete conformance with the provisions of this section, and the letter must be accompanied by a recommendation for removal from a certified arborist or registered landscape architect. The letter must be submitted at least one week in advance of the removal operation.

(g) *Trees Within the Building Footprint or Within Site Access Areas.*

(1) Trees over nine inches in caliper but less than 24 inches in caliper that are located within a building footprint or within 10 feet of a building footprint, within the area over the septic system, or within areas necessary for reasonable site access (but not including parking areas), such as a driveway, shall not be required to be preserved or replaced.

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(2) Trees over nine inches in caliper but less than 24 inches in caliper that are located within areas designated for the construction or installation of public facilities such as streets or utilities, shall not be required to be preserved or replaced.

(3) Trees over nine inches in caliper but less than 24 inches in caliper that are not located within a building footprint or within 10 feet of a building footprint, within the area over the septic system, within areas necessary for reasonable site access, or within areas designated for the construction or installation of public facilities such as streets or utilities, that the property owner requests and receives approval to remove may be removed, but shall be replaced on-site at a ratio of two-and-one-half trees per tree removed and shall be credited toward the number of trees required for site development. Replacement trees shall have a minimum caliper of two inches.

(4) Any specimen tree (24 inch caliper or greater) that is located within the building footprint, or areas necessary for site access (but not including parking areas), such as a driveway, shall not be required to be preserved. However, the tree that is removed shall be replaced caliper-for-caliper (a ratio of one-to-one). Trees removed shall be approved in accordance with Section 5.5.2.1

(Ord. No. 2005-59, § 1, 8-16-05; Ord. No. 2009-73, § 20, 12-1-09)

Section 5.5.2.3 - Credits - Nonresidential and Multifamily Development

(a) *Application.* The provisions of this Section apply to all new nonresidential and multifamily development within the City.

(b) *Incentives to Retain Existing Trees*. As an incentive to retain existing trees in the street yard, exclusive of the trees contained in the buffer required under Section 5.2.7.1, the following shall apply:

(1) In order to encourage the preservation of trees that are already established and growing, the additional credit as outlined below shall be given to healthy existing trees of a species listed on the Preferred Plant List in the Technical Manual.

(2) Existing trees shall receive existing credit against the landscaping requirements according to the following schedule:

a. Greater than 12-inch caliper: credit for two required trees.

b. Greater than four-inch but less than 12-inch caliper: credit for one-and-one-half trees.

(3) Any existing tree in the street yard which is at least six inches in caliper and at least 15 feet tall, shall be considered as two-and-one-half trees for the purposes of satisfying the requirements of Chapter 6, Article 1.

(4) Any existing specimen tree (24-inch caliper or greater) shall be considered as a caliper-for-caliper match for the purposes of satisfying the requirements of Chapter 6, Article 1. For example, a 24 inch caliper tree can be counted for up to 12 trees that each have a two-inch caliper.

(c) *Exclusions*. Celtis Occidentalis (hackberry), Juniperus Virginiana, Juniperis Ashei (Common Cedar), Chinaberry, Mesquite, and Ligustrum are excluded from this provision.

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Chapter 6 - DEVELOPMENT STANDARDS

ARTICLE 1: - LANDSCAPING, SCREENING, FENCING, AND COMPATIBILITY

DIVISION 1: - LANDSCAPING

Section 6.1.1.1 - Purpose

(a) *Orderly, Safe and Healthful Development.* For the purpose of providing for the orderly, safe and healthful development of land located within the City limits and promoting the health, safety and general welfare of the community, it is necessary to establish requirements for the installation and maintenance of landscaping elements and other site improvements in off-street parking areas and other developed properties.

(b) *Enhance Qualities.* The regulations contained in this Article are necessary to enhance the community's ecological, environmental and aesthetic qualities.

(c) *Mitigation of Adverse Effects.* Paved surfaces, automobiles, buildings and other improvements all produce great increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from erosion and flooding.

(d) *Natural Environment and Ecological Balance.* Preserving and improving the natural environment and maintaining a working ecological balance are significant concerns to the community. The fact that landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements benefits the health, welfare and general well being of the community and, therefore, it is proper that the use of the landscape elements be required.

(e) *Oxygen, Heat, Glare, Water Runoff.* Landscape installation is required within off-street paved surface areas to regenerate oxygen and to reduce heat, glare, water runoff and other conditions connected with the construction of structures or paved areas within the parcel.

Section 6.1.1.2 - Enforcement

(a) *Responsible Official and Responsibilities.* The ~~Planning D~~Director shall be the responsible official for this Article. The Director is charged with administering this Article and securing compliance with this Article. In furtherance of this responsibility, the Director shall:

(1) Make inspections as needed to effectuate the purposes and intent of this Article, and initiate appropriate action to bring about compliance with this Article if the inspections disclose any instance of noncompliance.

(2) Investigate any complaints of alleged violations of this Article, and maintain a record in the ~~planning d~~Department office of the disposition of the complaints.

(3) Issue notices of violation, and order, as set out in this Section, the correction of all violations of this Article found to exist on any premises.

(4) State in the notice of violation a time limit for compliance with this Article as set out in subsection (c) of this Section.

(5) Refuse to issue an occupancy certificate where the requirements of this Article have not been met. A temporary occupancy certificate may be issued where provisions have been made for landscaping installation at the most advantageous time for planting, not to exceed six months from the date of issuance.

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(6) Request the assistance of the City Attorney in taking appropriate legal action upon the failure of the responsible party to comply with the notice of violation at the time specified therein.

(b) *Authorization.* The Director is authorized and directed to lawfully enter all premises at reasonable times to perform inspections to determine compliance with the provisions of this Article.

(c) *Action after Determination of Violation.* When the Director determines that a violation of this Article exists, the responsible official shall take action as follows:

(1) Give written notice of the violation to the management, agent or owner shown on the most recent tax roll of the City.

(2) The notice shall include:

a. A description of the location of the property involved, either by address or by legal description;

b. A statement indicating the nature of the violation and the reason why the notice of violation is being issued;

c. The section of this Article upon which the notice of violation is based;

d. A description of the actions that are required to correct the violation;

e. A time limit for correction of the violation, which will not be less than ten days nor more than 90 days from the date of the written notice;

f. The name of the person to whom the notice of violation is directed;

g. A statement that failure to comply with the requirements of the notice will result in the City taking enforcement procedures in order to secure compliance; and

h. A description of the procedures available for review of the action of the Director as set out in this Article.

(d) *Notice.*

(1) Notices of violation shall be personally delivered, or sent by certified mail, return receipt requested, and (if possible) by posting a copy of the notice in a conspicuous place on the premises.

(2) The Director shall maintain a record of the manner of service of the notice.

(3) If the order is not complied with within the time specified in the order, the Director shall use all available means of enforcement in order to secure compliance.

(4) When any notice has been issued and the notice becomes an order within the terms of this Article, the responsible official shall cause to be placed in a conspicuous place on the premises a notice which shall read substantially as follows:

These premises are in violation of the requirements of the City of San Marcos landscaping and buffering requirements (Chapter 6 of the San Marcos Land Development Code). This notice is to remain as placed here until the requirements of the ordinance have been complied with. It is unlawful to remove this notice until the requirements have been complied with.

Section 6.1.1.3 - Applicability to New and Existing Developed Areas

(a) *New Development or New Structures.*

(1) The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth in this Article shall apply to all developed area within the City limits; provided, however, that the requirements and standards shall not apply to the central business area zoning district of the City as described in Chapter 4, unless new off-street parking is added, in which case the parking area shall conform to these regulations. All other new development and construction of new structures shall comply with this Article.

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(2) If other articles of this Chapter would otherwise permit land coverage by building development that would conflict with this Article, this Article shall supersede and prevail over the other requirements.

(3) If a principal use and some or all of the parking area, required or otherwise, serving the principal use are located on separate parcels, the landscape installation required in this Article shall prevail as to all the property with the result that an equivalent percentage of the area of all parcels utilized by a principal use shall be landscaped in compliance with this Article.

(b) *Existing Development Areas; Nonconformance.*

(1) All property with existing development on the effective date of the ordinance from which this Article derives which is not in compliance with this Article shall be considered nonconforming and allowed to continue until the time a building permit is granted to reconstruct or enlarge a structure on the property to an extent exceeding 50% of the current replacement cost of the structure. At that time, this Article shall apply to the previous existing parcel areas as well as any new paved areas, and the areas shall be brought into compliance. A plan showing existing and new development and the proposed landscaping shall be submitted in accordance with Section 6.1.1.6. In order to encourage early landscaping in existing paved areas and the preservation of trees that are already established and growing in these areas, an additional credit of 50 square feet shall be given to the preservation of each existing tree that is at least nine inches in caliper. This is in addition to the credit normally given for the preservation of an existing tree as provided in Chapter 5, Article 5.

(2) No structure existing on the effective date of this Code from which this Article derives shall be required to be altered or moved in order to comply with this Article except for reconstruction.

Section 6.1.1.4. - Required Landscape Area Standards

(a) *Meaning of "Landscape Area".* Landscape area shall mean the area (greater than one foot in width) within the boundary of a lot or parcel that is comprised of pervious surface integrated with living plant material, including but not limited to trees, shrubs, flowers, grass, or other living ground cover or native vegetation. For the purposes of meeting the requirements of this Article, undeveloped portions of the site cannot be considered landscaped area.

(b) *Establishment of Minimum Percentages.* A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs after the effective date of the ordinance from which this Article derives shall be devoted to landscape in accordance with the following schedule; provided, however, that this requirement shall not apply to the development, construction or reconstruction of single-family detached residential structures:

Table 6.1.1.4
Required Landscape Area Schedule

Land Use	Per cent Landscaped Area Required
Single-Family Detached	See Section 6.1.1.4 (d) below
Townhouses	20
Duplexes, Triplexes	20
Apartments	20

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Office and Professional Uses	15
Mixed Use	20
Retail and Commercial	10
Industrial or Manufacturing	10

(1) Plantings shall consist of a minimum of one tree and three five-gallon shrubs for every 1,000 square feet of the required minimum landscaping area to be planted or retained internal to the project, 90 per cent of which shall be chosen from the Preferred Plant List.

(2) Street trees shall be planted at the average rate of one tree for every 50 feet, or major fraction thereof, of street frontage. Where poor soil conditions or other factors require additional flexibility in planting, the ~~Planning D~~Director may approve alternative spacing of trees, but not reduction in the number of required trees. Trees planted within a street median adjacent to the street frontage may be counted for up to one-half of the required trees. Existing street trees that meet these standards may be credited as street trees. Street trees must be planted within ten feet of the property line or public utility easement (when applicable) or in the right-of-way between the street and the sidewalk if this area is at least four feet in width. Appropriate street trees from the Preferred Plant List shall be used for plantings between the sidewalk and the street. In no case shall less than two large trees per lot be planted or preserved.

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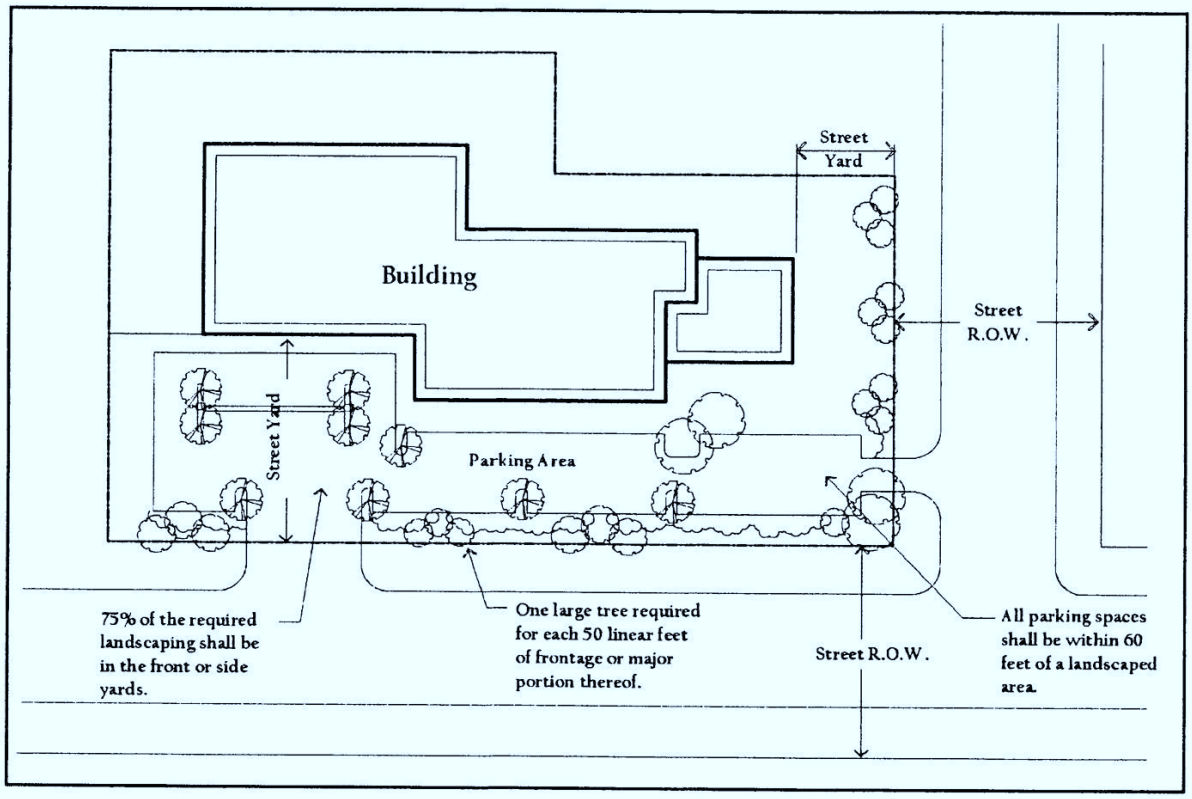

Figure 6-1: Landscaping Requirements

Figure 6-1

(3) On large tracts of land, exceptions to this Article may be granted by the ~~Planning D~~Director to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this Article is met, and it is located along rights-of-way or in strategic environmentally sensitive areas. In addition, exceptions may be granted if the geologic assessment performed during the Watershed Protection Plan Phase II process demonstrates that the soil or surface of the lot is unsuitable for the planting of trees.

(4) Existing trees and plant cover, if properly situated, can be counted toward compliance with the requirements of this section. These trees and plants must be indicated on the submitted landscape plan, with size and species noted, and clearly marked as "Existing Plant Material to be Retained".

(c) *Landscaping On-Site and Related Location.* The landscaped area required by Table 6.1.1.4 shall be placed upon that portion of a tract or lot that is being developed. Seventy-five per cent of the area required by Table 6.1.1.4 shall be installed in between the front or side property lines and the building being constructed. Clustering the remaining required landscaping along property lines abutting a lower intensity land use is encouraged. Undeveloped portions of a tract or lot shall not be considered landscaped.

(d) *Minimum Landscaping for Single-Family and Duplex Lots Only.* All required plant materials shall be from the City's Preferred Plant List in the Technical Manual.

(1) Two large shade trees that are a minimum of two inches in caliper and six feet in height at the time of planting;

(2) Additional landscaping for single-family or duplex units shall be required and shall consist of at least three out of the following four options:

a. Two small ornamental trees, equal to at least six feet in height at the time of planting;

b. Four large evergreen shrubs, equal in size to at least a five-gallon container size shrub;

c. Eight small shrubs, equal in size to at least a three-gallon container size shrub; and

d. Solid ground cover or lawn.

(e) *Landscaping Within Parking Areas.*

(1) All outdoor parking areas having spaces for more than 20 vehicles shall have landscaping within the perimeter of the parking areas equal in area to not less than five per cent of the total paved area.

(2) No parking space shall be located more than 60 feet from a portion of the required landscaping.

(3) Each landscape island within a parking lot shall contain a minimum square footage equivalent to one parking space of pervious area, shall be at least ten feet wide, and shall allow at least four feet between any trees within the island and the edge of the island.

(4) One tree of at least two-inch caliper in size shall be provided within the perimeter of the parking area for each 250 square feet of landscaping required.

(5) Landscaped terminal islands (end islands) shall be located at the end of all parking aisles in a configuration to allow for turning radii of intersecting aisles shown in the Transportation Criteria Manual to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. Required or provided landscaping shall not obstruct the view of any vehicle backing areas or turning areas in a way that creates a hazard.

(f) *Tree Credits.* Tree credits shall be given pursuant to Section 5.5.2.3 of this Code.

(Ord. No. 2006-45, § 44, 9-19-06)

Section 6.1.1.5 - General Requirements

(a) *Installation.* All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards.

(b) *Maintenance.* The owner of the building, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. The areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered sufficiently to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material needed to meet the requirements of this Article. Should a tree die or be removed for which credit has been obtained pursuant to this Land Development Code, trees sufficient to equal the area credited shall be required. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree is retained; such substitution shall require the approval of the ~~Planning D~~Director.

(c) *Planting Criteria.*

(1) *Trees.* Trees planted for credit under Section 6.1.1.4 shall be a minimum of two inches in caliper, measured six inches above ground level, and six feet in height when measured immediately after planting. Trees shall have an average mature crown greater than 15 feet. Trees having an average mature crown less than 15 feet may be substituted by grouping the trees so as to create at maturity the equivalent of a 15-foot crown if the drip line area is maintained.

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(2) *Shrubs, vines and ground cover.* Shrubs, vines and ground cover planted pursuant to this Article should be good, healthy nursery stock. Shrubs must be, at a minimum, a one-gallon container size at the time of planting.

(3) *Grass.* Grass areas are encouraged to be planted in species normally grown as permanent lawns in the City, including Zoysia, Bermuda or other drought-tolerant grass.

a. Grass areas may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in swales, other areas subject to erosion, or as required in a Watershed Protection Plan.

b. In new residential developments, developers and homebuilders are encouraged to offer low-water use landscape alternatives, such as Zoysia or buffalo grass.

(4) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this Section.

(5) *Soils.* New landscaped areas should be prepared so as to achieve a soil depth of at least six inches. The six-inch soil depth should consist of 75% soil blended with 25% compost.

(6) *Architectural planters.* The use of architectural planters may be permitted in fulfillment of landscape requirements.

(7) *Turf areas.* Except in residential developments, turf areas should be limited to a maximum of 50% of the total required landscaped area.

(8) *Xeriscape materials.* Developers and homebuilders are encouraged to use xeriscape plant materials on model homes to promote use of water-wise landscaping.

(9) *Other.*

a. Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

b. Pursuant to TAC 202.007, property/home owners associations shall not restrict or prohibit turf or landscaping materials that promote water conservation.

(10) *Landscape irrigation.*

a. All required landscaping areas shall be 100% irrigated by one of, or a combination of, the following methods:

1. An automatic underground irrigation system;

2. A drip irrigation system;

3. A hose attachment within 100 feet of all plant material, provided, however, that a hose attachment within 200 feet of all plant material in non-street yards shall be sufficient.

b. All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act and shall be professionally installed.

c. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(d) *Construction Phase.*

(1) No more than 25% of the drip line zone of trees to be preserved shall be paved with concrete, asphalt, or other impervious material.

(2) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees to be preserved.

(3) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. Final grading and removal of vegetation shall not occur more than 30 days prior to scheduled paving.

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(e) *Removal of Diseased or Dangerous Trees and Vegetation.*

(1) Upon direction from the Director of Public Services, a property owner may be required to treat or remove trees suffering from transmittable diseases or pests or allow the City to do so, charging the actual cost thereof to the property owner.

(2) The Director of Public Services may require the removal of a tree or part of a tree or any other vegetation that is within or overhanging a public right-of-way or easement if the tree or vegetation:

a. Is diseased or infested and in danger of falling;

b. Is creating a traffic hazard or sight distance hazard for traffic on a public street; or

c. Is interfering with safe and proper maintenance of the right-of-way or easement.

(Ord. No. 2006-45, § 45, 9-19-06; Ord. No. 2009-73, § 21, 12-1-09)

Section 6.1.1.6 - Plan Approval

(a) *Landscape Plan(s) Required.* Appropriate plans showing proposed landscape development, including figures to show compliance with this Article, shall be submitted to the Planning and Development Services Department. A landscape plan drawn to scale shall include dimensions and distances and clearly delineate any existing and proposed landscape development. The landscape plan shall also include detailed drawings of the entire off-street parking area, the location of proposed buildings, the name and location of proposed plant materials and the location of water sources.

(b) *Submittal.* This plan shall be submitted by the owner of the property or the manager or agent of the owner.

(c) *Approval.* This plan must be approved prior to the issuance of a building permit.

(d) *Submittal with Other Required Drawings.* A landscape plan(s) may be submitted in conjunction with other required drawings such as a site development plan or other requirements as stated in Chapter 1.

Section 6.1.1.7 - Variances or Appeals

Requests for variances or relief of these requirements shall be in accordance with Chapter 1, Article 10.

Section 6.1.1.8 - Requests for Extension of Time

The ~~Planning D~~Director shall be authorized to grant up to two extensions of up to six months each for the purpose of installing landscaping plants, trees, or other living material. The extensions, if approved, shall be based on the criteria that the required landscaping would more appropriately be installed at a later time due to weather conditions, an off-season time of year for planting, or other extenuating circumstance that will allow the newly installed landscaping the best chance of living.

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DIVISION 2: - SCREENING

Section 6.1.2.1 - Nonresidential and Multiple-Family Screening Required (New Construction)

(a) *Requirement Criteria.* This Section shall apply to the following:

(1) Any nonresidential use that is separated by only a street or has a side or rear contiguous to any residential use other than multiple-family.

(2) Any multiple-family use that is separated by only a street or has a side or rear contiguous to any residential district other than multiple-family.

(b) The following shall apply in either case outlined above:

(1) The nonresidential or multiple-family use shall construct an opaque screening fence a minimum of six feet in height. The screen shall be located no closer to the street than the property line. Such screening fence shall be maintained in good condition. Any sections of this Code concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or throughway.

(2) Buildings shall be set back from the applicable street or property line at a width equal to twice the required setback. (Ref. Table 4.1.6.1.)

(3) Prior to construction of buffers, as defined in Section 6.1.2.4 (3), complete plans showing type of material, depth of beam and structural support shall be submitted to the Building Inspection Division for analysis to determine whether or not:

a. The screen will withstand the pressures of time and nature; and

b. The screen adequately accomplishes the purpose for which it was intended.

(4) The Building Official shall determine if the buffer meets the requirements of this Section.

Section 6.1.2.2 - Parking Area Screening

Parking spaces shall be buffered from the street view and from adjacent properties, except in the latter case where there is shared access or shared parking between such properties. Buffering consists of screening at least 60% of the view of parking areas by using plantings, berms, or decorative walls. Shrubs must be evergreen and a minimum of two feet tall at time of planting, a predominate number of which must have a mature height of three to four feet. Decorative walls shall not exceed three feet in height. Walls and berms shall not predominate over the use of vegetative materials. Plantings, fences, or walls shall be set back a minimum of three feet from the curb or wheelstop to allow for the overhang of the vehicle; plantings shall have a minimum depth of five feet for planting area. If a change in grade or elevation provides an equivalent level of screening for the parking lot as a vegetative screen, the buffering requirements shall be considered to be met. These requirements are in addition to the landscape requirements in Section 6.1.1.4. (d).

Section 6.1.2.3 - Screening Along Arterial Roadways

(a) *Requirement Criteria.* Where subdivisions are platted so that the rear or side yards of lots are adjacent to an arterial or higher classification roadway as described in Section 7.4.1.4(q), or are separated from an arterial roadway by an alley, or back up to an arterial roadway, the developer shall provide, at its sole expense, a minimum six-foot tall masonry screening wall (also see Subsection (b) below), or some other alternative form of screening, if approved by the ~~Planning D~~Director, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.

(b) *Screening Alternatives.* Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's TCSS Manual. An alternative form of screening, in lieu of the masonry wall, may be approved by ~~Planning D~~Director and the Engineering Director with the Preliminary Subdivision Plat or Preliminary Development Plat application. Alternatives that may considered include:

(1) A living/landscaped screen in conjunction with decorative metal (e.g., wrought iron) fence sections with masonry columns;

(2) A combination of berms and living/landscaped screening;

(3) A combination of berms, decorative masonry walls and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or

(4) Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the ~~Planning D~~Director and Engineering Director find it to be in the public interest to approve the alternative screening device.

(c) *Time Required for Opacity.* Any required screening device shall be, or shall achieve, at least six feet in height and at least 90% opacity within three years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be in conformance with Chapter 6, Article 1, Division 1.

(d) *Maintenance Easement.* A wall/screening maintenance easement at least five feet in width shall be dedicated to the City or to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.

(e) *Installation.* The screening/wall/device shall be installed prior to final acceptance of a residential subdivision's public improvements or as a part of a site preparation permit of a commercial subdivision. All landscape materials, if utilized, shall be installed in accordance with Chapter 6, Article 1, Division 1. Failure to properly install all components of a required screening wall or device within the prescribed time frame, shall constitute a violation of this Land Development Code, and shall authorize the Engineering Director to refuse acceptance of the subdivision public improvements.

(f) *Design of Walls.* All masonry, wrought iron, steel or aluminum screening wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the Engineering Director. Use of chain-link, chicken-wire, hog-wire fencing, and any other material similar in appearance and quality is expressly prohibited.

(g) *Height of Screening.* The height of required screening devices, including spans between columns, shall be a minimum of six feet and shall be no more than eight feet. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot height by up to two feet for a total maximum height of ten feet for these features, provided that such taller elements comprise no more than ten per cent of the total wall length in elevation view.

(h) *Other Easements.* Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City and by any other applicable utility provider(s).

(Ord. No. 2006-45, § 46, 9-19-06)

Section 6.1.2.4 - General Screening

(a) The following requirements shall be in addition to the foregoing landscaping and planting requirements:

(1) All loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, utility boxes, mechanical equipment, and the rear of structures on double frontage lots, must be screened from view from the street or public rights-of-way.

(2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof. In any case in which a fence/wall is constructed to provide

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screening, landscaping elements shall be incorporated along a majority of the fence/wall. Also, in the case of roof-mounted mechanical equipment, parapet roof structures are approved for screening such equipment.

(3) If a nonresidential use is adjacent to a residential use other than multiple-family, such nonresidential use shall be screened in accordance with Section 6.1.2.1. and shall include a vegetative buffer.

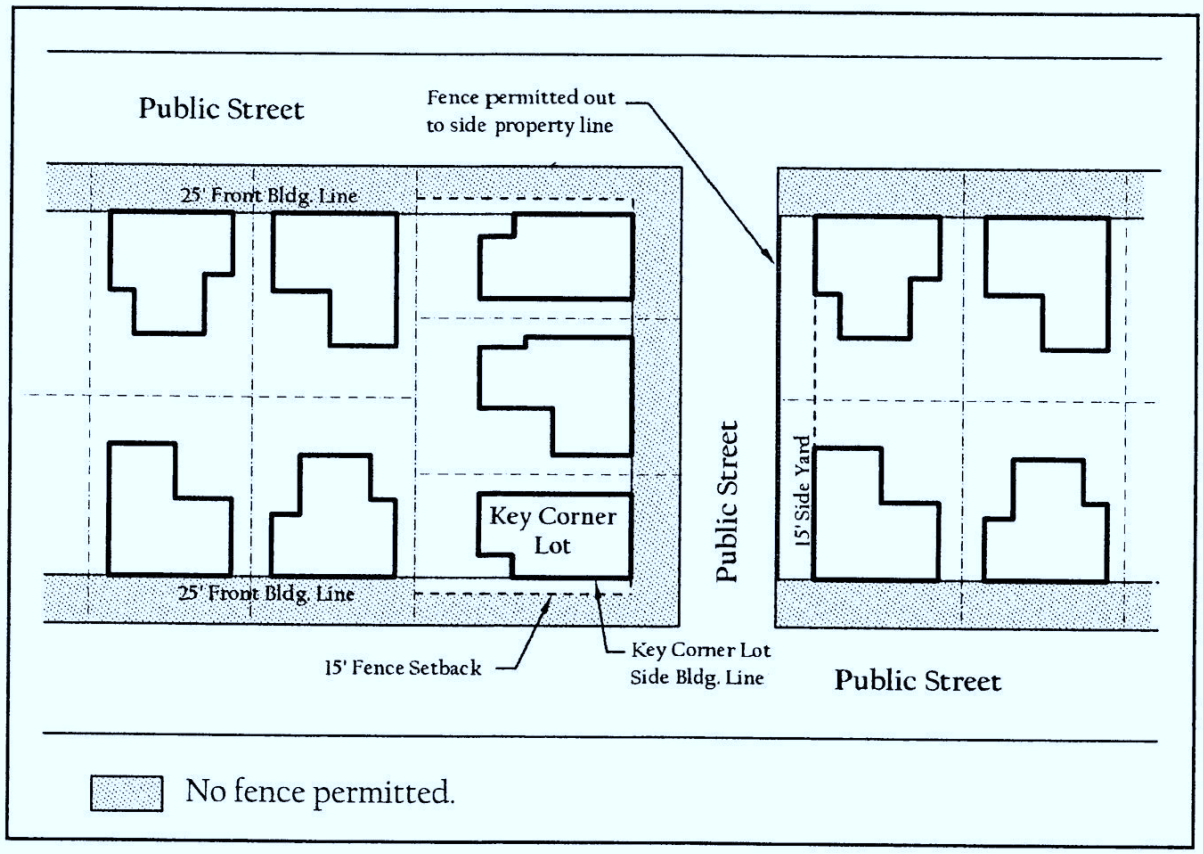

Figure 6-2: Fences in Front Yards

Figure 6-2

DIVISION 3: - FENCING

Section 6.1.3.1 - General Requirements for Fences

(a) *Fence* means any structure or partition, constructed of any material or combination of materials, including, but not limited to wood, stone, rock, brick, wire, steel, metal or plastic, and [then] erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two contiguous properties. Fence also includes any enclosure about a space, or about any object intended to prevent intrusion from without or straying from within.

(b) *Permit Required.* No fence shall be erected or constructed without a permit first having been issued by the Director of Development Services or his/her designee.

(1) *Gates for Vehicular Access.* Gates designed for vehicular access shall be set back from the property line a minimum of 24 feet.

(2) *Fences within Public Easements.* Fences crossing a public easement shall have a gate or removable panel to allow for maintenance access to such easement. No fence within a public utility easement shall be allowed to run parallel with the easement.

(3) *Fences within Drainage Easements.* Fences within a drainage easement should be constructed in a manner to not restrict the flow of drainage water.

(Ord. No. 2006-45, § 47, 9-19-06; Ord. No. 2009-73, § 22, 12-1-09; Ord. No. 2011-27, § 6, 6-21-11)

Section 6.1.3.2 - Fences in Residential Areas, Except Multiple-Family

(a) *Fences in the Front of Side Yard Adjacent to a Public Street.*

(1) *Materials Permitted.* Chain link, woven wire mesh metal panel or similar materials are not considered decorative fencing, and therefore not allowed in front yards. Fences may be constructed of wood, decorative metal, chain link or other materials traditionally used in private fence construction. In an older neighborhood, when it can be documented that the use of chain ink in the front yard is an established standard for the particular neighborhood, the responsible official may approve its use for a new fence. Other materials may be approved for use by the responsible official if the material is proven to be sturdy, durable, decorative and relatively maintenance-free.

(2) *Height and Location.* Any fence or wall located between the property line and the required front yard setback line (or side yard setback line if a corner lot) of a building shall not exceed four feet in height. Decorative fences with openings not less than 50% of the fence area and not exceeding four feet in height are permitted in required front and side yards. Any fence or wall built at or behind the required front yard setback (or side yard if a corner lot) shall not exceed six feet in height. No residential fence shall be closer than 15 feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot's rear yard area. (See Figure 6-2.)

(b) *Fences in the Rear Yard (and side yard not adjacent to public streets).*

(1) *Material Permitted.* Fences may be built of wood, decorative metal, chain link, woven wire mesh, or other materials traditionally used in private fence construction. Above-ground electrical fencing (does not include underground "virtual fencing", which is allowed), wire mesh (such a hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on parcels or lots of one acre or greater in size in the Future Development (FD) district, Agricultural Ranch (AR) district, and Rural Residential (SF-R) district.

(2) *Height.* Fences shall not exceed six feet in height unless the following conditions are met:

a. A joint fencing application is made with the signature of both adjacent property owners; and

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b. The ~~Planning D~~Director considers the desired fence to protect the interests of the adjacent property owners and the community at large.

(Ord. No. 2006-45, § 48, 9-19-06; Ord. No. 2009-73, § 22, 12-1-09)

Section 6.1.3.3 - Fences in Nonresidential and Multi-Family Areas

(a) *Fences Permitted Adjacent to a Street, Park or Trail.*

(1) *Materials permitted.* Fence or walls may be constructed of wood, decorative metal, masonry or other decorative materials. New and innovative materials may be approved for use by the responsible official if the material is compatible with creating a positive streetscape and enhancing the area's appearance. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed for this purpose except for property in Industrial and Heavy Commercial districts. Those properties may utilize chain ink fencing along a street if additional landscape material is provided between the fence and property line to assure compatibility with properties along that subject street.

(2) *Height and location of fencing.* Except as to decorative fences meeting the criteria set forth in subsection (3), any fence or wall located between the property line and the front facade (or the side facade if a corner lot) of a building shall not exceed four feet in height.

(3) *Certain Decorative Fences.* Decorative fences with openings not less than 50 per cent of the fence area permitted in required front and side yards only if the one of the following conditions applies:

a. The fence is eight feet tall or less and is on property in an Industrial or Heavy Commercial zoning district; or

b. The fence is eight feet tall or less and encloses only outdoor dining or recreation areas.

(4) *Fences between buildings on the same lot.* Any fence located facing a street that is between adjacent buildings and behind the front most facade of either building may not exceed eight feet in height.

(b) *Fences Permitted Along Private Property Lines.*

(1) *Materials permitted.* Generally fences or walls may be constructed of wood, decorative metal, masonry, chain link or other similar materials. New and innovative materials may be approved for use by the responsible official if the material is compatible.

(2) *Location of fencing.* Fences are permitted along adjacent property lines situated as follows:

a. No fencing shall be placed along an adjacent property line with segments that are not in conformance with subsection (b) of this section.

b. No fencing shall be located in a manner to preclude landscape maintenance or fence repair without a suitable access agreement.

c. No chain link or wire fencing shall be located closer than the building setback line adjacent to single-family or multiple-family residential uses.

(3) *Height of fences.* All fences or walls located along adjacent property lines shall be no taller than eight feet at the building setback line or six feet if located closer unless the following conditions are met:

a. A joint fencing application is made with the signature of both adjacent property owners; and

b. The ~~Planning D~~Director considers the desired fence to protect the interests of adjacent property owners and the community at large.

(c) Barbed wire, razor wire or similar security fencing features are prohibited unless approved under subsection (b)(3) of this section.

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(d) Above-ground electrical fencing (does not include underground "virtual fencing," which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on undeveloped parcels of five acres or greater in size, or platted lots with a recognized agricultural tax exemption.

(Ord. No. 2009-73, § 22, 12-1-09; Ord. No. 2011-27, § 7, 6-21-11)

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DIVISION 4: - ON-SITE REFUSE AND RECYCLING

Section 6.1.4.1 - On-Site Refuse and Recycling

(a) *Applicability.* This section shall apply to Commercial and Multi-Family developments that are seeking a building permit to construct, re-construct or enlarge a structure on the property to an extent exceeding 50 per cent of the current replacement cost of the structure in conformance with Section 6.1.1.3(b) of this Land Development Code.

(b) *Standards.*

(1) A Recycling Enclosure of equal size and shape to the required Refuse Enclosure shall be provided on-site.

(2) All Recycling and Refuse Enclosures shall be screened in accordance with Section 6.1.2.4(a)(1).

(3) Construction standards for the installation of required on-site refuse and recycling pad sites shall be in conformance with the City's TCSS Manual.

(Ord. No. 2011-27, § 8, 6-21-11)

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ARTICLE 2: - PARKING

DIVISION 1: - OFF-STREET PARKING SPACES REQUIRED

Section 6.2.1.1 - Spaces Required

Off-street parking spaces shall be provided in accordance with the requirements of this division in all zoning districts, except for the central business area. No off-street parking is required for properties in the CBA Central Business Area District. However, at the time any building or structure is erected or structurally altered outside the CBA Central Business Area District, or whenever a use in the CBA Central Business Area District is changed to a different use and any off-street parking is provided, the design standards of this division will apply.

(Ord. No. 2006-45, § 49, 9-19-06)

Section 6.2.1.2 - Minimum Requirements and Standards

(a) *Requirements for Off-Street Parking.* Requirements are as follows:

Use	Minimum
Single-Family	2 spaces per dwelling unit
Multifamily	1 space per bedroom + 5% for visitors
Group Home	4 spaces
Residential Care Facility	1 space per two person capacity
High Schools and Vocational Schools*	1 space per 3 students, faculty, and staff, based on maximum design capacity
All Other Schools*	1 space per classroom plus 1 for each 15 students
Libraries, laboratories, and student centers*	1 space per 300 sf GFA
Lodging houses and boarding houses	1 space per 2 person capacity of overnight sleeping facilities
Residence halls, fraternity buildings, and sorority buildings	1 space per person capacity of permanent sleeping facilities. Additional parking spaces may be required by the Planning and Zoning Commission for fraternity and sorority buildings as a condition of the Conditional Use

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	Permit where the building does not provide permanent sleeping facilities for all members of the organization.
Dance, assembly and exhibition halls without fixed seats	1 space per 100 sf used for assembly or dancing.
Theaters, auditoriums, churches, assembly halls, sports arena, stadiums	1 space per 4 seats of capacity in the main auditorium, sanctuary, or other area containing fixed seating.
Conference center/convention center	1 space per 4 seats or 1 space per 100 sf GFA, based on maximum design capacity whichever is less.
Office and professional uses outside the central business area, unless otherwise described in this Section, including but not limited to financial institutions, real estate offices, insurance agents, law offices, architects' offices, stock brokers, research services, administrative offices, etc.	1 space per 300 sf GFA
Retail and other commercial uses outside the central business area, unless otherwise described in this Section, including but not limited to department stores, clothing stores, grocery stores, pharmacies, convenience stores, bookstores, auto parts stores, general merchandise stores, business support services, laundry services, product repair services, barber and beauty shops, etc.:	1 space per 250 sf GFA
Eating and drinking establishments	1 per 100 sf GFA, or 1 space for each 4 seats, whichever is less. Where permanent outdoor seating areas including decks, patios, or other unenclosed spaces are provided, those areas shall be included in the calculation of gross floor area and total number of seats. Establishments having only outdoor dining consisting of fewer than 16 seats shall provide a minimum of 4 parking spaces.
Take-out or drive-through eating establishments having no indoor dining:	1 parking space for each 50 square feet of floor space used or designated as customer service and waiting

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	area, or 4 spaces, whichever is greater.
Hotel or motel:	1 space per sleeping room or suite plus 1 space per 200 sf of commercial floor area contained therein.
Hospital	1 space per bed.
Sanitorium, convalescent home, home for the aged or similar institution	1 space per 2 beds.
Medical or dental clinic	1 per 250 square feet
Bowling alley	5 spaces per alley
Mortuary or funeral home	1 space per 50 sf of floor space in slumber room parlors or individual funeral service rooms.
Day care center or pre-elementary school	1 space per 300 sf GFA, plus a driveway providing separate points of ingress and egress to the premises and having a length sufficient for temporary parking of at least three vehicles that do not block access to the other required off-street spaces.
Manufacturing plants, research laboratories	1 for each 1.5 employees in the maximum work shift.
Warehouses	1 space for each 2,000 SF GFA excluding office space, which shall be determined in accordance with the requirements for office and professional uses as set forth in this table.
Vehicle sales or rental dealer	1 space for employees and customers per 3,000 sf of open sales lot and enclosed floor area devoted to the sale, display, or rental of motor vehicles, mobile homes, or trailers.
Vehicle repair facilities	1 space per 200 sf of floor area devoted to vehicle repair, excluding office space, which shall be determined in accordance with the requirements for

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	office and professional uses as set forth in this table.
Bus depot	1 space per 100 sf GFA
Lumberyard and building material sales and service facility	1 space per 300 sf GFA
Recreation and amusement facilities occurring primarily outdoors, either separately or jointly, as the principal permanent use of the premises, as follows:	
Arcade	1 space per 200 sf GFA
Sport fields, swimming pool, private parks and playgrounds	1 space per 100 sf GFA of indoor facilities plus 1 space per 4 persons design capacity of outdoor facilities, including both participants and spectators as applicable.
Tennis and other sport courts	2 spaces per court
Golf Course	1 space per 150 sf GFA of indoor facilities, plus 5 spaces per green
Miniature Golf	1 space per 200 sf GFA of indoor facilities, plus 1.5 spaces per hole
Driving/archery/shooting range	1 space per 200 sf GFA of indoor facilities, plus 1 space per tee or target
Skateboarding	1 space per 200 sf GFA of indoor facilities, plus 1 space per 2 persons design capacity of outdoor facilities.
Go-carts and all-terrain vehicles	1 space per 2 vehicles, plus 1 space per 4 spectator seats.
Rodeo, circus, auto/motorcycle racing	1 space per 3 spectator seats
Fairground, exhibition, carnival	1 space per 500 sf of outside site area, plus 1 space per

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	4 fixed spectator seats
Any combination of the outdoor uses listed in this subsection on the same premises	The sum of the minimum requirements for the individual uses proportionate to the indoor and outdoor areas allocated for each use.

* Shall not apply to private schools which do not permit students to bring motor vehicles to the institution; however, the educational institution shall be required to provide adequate off-street parking for faculty, administrative personnel, and athletic events including visiting of parents or other personnel. Requirement will be calculated based on the ordinance requirements for the individual uses.

(b) *No Reduction Below Requirement.* Existing parking and loading spaces may not be reduced below the requirements established in this Section without approval of an Alternative Parking Plan by the Director of Development Services or his or her designee.

(c) *Maximum Above Requirement.* If parking is provided in excess of 100 percent of the parking spaces required in the Off-Street Parking Requirements Table, buffer requirements will be increased by 25% in terms of width and tree and shrub plantings.

(d) *Alternative Parking Plans.* An alternative parking standard may be approved by the Director of Development Services or his or her designee for specific developments or uses that are deemed to require a different amount of parking than the standards shown in the Off-Street Parking Requirements Table. The Director shall establish conditions necessary to assure the adequacy of future on-site parking when approving an alternate parking standard. Potential alternative parking plan approaches and specific regulations are described below.

(1) *Parking Study Option.* Parking studies may be required for specific uses that have characteristics that reduce the accuracy of standard requirements. Additionally, as an alternative, applicants for uses that appear on the requirements Table may choose to conduct a parking study to determine appropriate parking requirements. Many uses have widely varying parking demand characteristics, making it impossible to specify a single off-street parking standard. This option is intended to allow development to meet vehicle parking and transportation access needs by means other than providing parking spaces on-site in accordance with the ratios established above.

(2) *Parking Study.* Anyone proposing to develop or expand a use based on this parking study option must submit a parking study that provides justification for the number of off-street parking spaces proposed. A parking study must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

(3) *Eligible Alternatives.* A number of specific parking and access alternatives may be considered, including off-site, shared or valet parking. The Director shall be authorized to consider and approve any alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Director that the proposed plan shall result in a better situation with respect to surrounding neighborhoods, city wide traffic circulation or urban design than would strict compliance with otherwise applicable off-street parking standards.

(4) *Review by Director.* The Director shall review the parking study and any other traffic engineering and ~~planning d~~Data relevant to the establishment of an appropriate off-street parking standard for the proposed use. After reviewing the parking study, the Director shall establish a minimum off-street parking standard for the proposed use.

(e) *Off-Site Parking.* Off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if approved by the Director and if the off-site parking complies with the all of following standards.

(1) *Ineligible Activities.* Off-site parking may not be used to satisfy the off-street parking standards for residential uses (except for guest parking), restaurants (except in the Central Business Area), convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities shall not be located off-site.

(2) *Location.* No off-site parking space may be located more than 600 feet from the primary entrance of the use served unless shuttle bus service is provided to the remote parking area. Off-site parking spaces may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided, or other traffic control or shuttle bus service is provided to the remote parking area.

(3) *Zoning Classification.* Off-site parking areas serving uses located in Non-Residential Zoning Districts must be located in Non-Residential Zoning Districts. Off-site parking areas serving uses located in Residential Zoning Districts may be located in residential or Non-Residential Zoning Districts.

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(4) *Agreement for Off-Site Parking.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement will be required. An attested copy of the agreement between the owners of record must be submitted to the Director for recordation on forms made available by the Director. Recordation of the agreement with the County Clerk must take place before issuance of a Building Permit for any use to be served by the off-site parking area. An off-site parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with this Section.

(f) *Shared Parking.* It is the City's stated intention to encourage efficient use of land and resources by allowing users to share off-street parking facilities whenever feasible. Developments or uses with different operating hours or peak business periods may share off-street parking spaces if approved by the Director and if the shared parking complies with the all of following standards.

(1) *Location.* Shared parking spaces must be located within 600 feet of the primary entrance of all uses served, unless remote parking shuttle bus service is provided.

(2) *Zoning Classification.* Shared parking areas serving uses located in Non-Residential Zoning Districts must be located in Non-Residential Zoning Districts. Shared parking areas serving uses located in Residential Zoning Districts may be located in residential or Non-Residential Zoning Districts. Shared parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area.

(3) *Shared Parking Study.* Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the Director that clearly demonstrates the feasibility of shared parking. The study must be provided in a form established by the Director and made available to the public. It must address, at a minimum, the size and type of the proposed development, the composition of tenants the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

(4) *Agreement for Shared Parking.* A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be submitted to the Director for recordation on forms made available by the Director. Recordation of the agreement with the Recorder of Deeds must take place before issuance of a Building Permit for any use to be served by the off-site parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with this Section.

(5) *Revocation of Permits.* Failure to comply with the shared parking provisions of this Section shall constitute a violation of this Code and shall specifically be cause for revocation of a certificate of zoning compliance and/or Building Permit.

(g) *Transportation Management Plan.* The Director may authorize a reduction in the number of required off-street parking spaces for developments or uses that institute and commit to maintain a transportation management program, in accordance with the standards of this Section.

(1) *Required Study.* The applicant shall submit a study to the Director that clearly indicates the types of transportation management activities and measures proposed. The study shall be provided in a form established by the Director and made available to the public.

(2) *Transportation Management Activities.* There shall be no limitation on the types of transportation management activities for which reductions may be granted from otherwise required off-street parking ratios. The following measures shall serve as a guide to eligible transportation management activities.

(3) *Transportation Coordinator.* The occupant of the development or use may appoint an employee to act as Transportation Coordinator with responsibility for disseminating information on ride-sharing and other transportation options may be cause for a reduction in otherwise applicable off-street parking requirements. In addition to acting as liaisons, Transportation Coordinators must be available to attend meetings and training sessions with the City or transit providers.

(4) *Off-Peak Work Hours.* Employers that institute off-peak work schedules, allowing employees to arrive at times other than the peak morning commute period may be eligible for a reduction in otherwise applicable off-street parking requirements. The peak morning commute period is defined as 7:00—9:00 a.m.

(5) *Preferential Parking.* The provision of specially marked spaces for each registered car pool and van pool may be cause for a reduction in otherwise applicable off-street parking requirements.

(6) *Financial Incentives.* The provision of cash or in-kind financial incentives for employees commuting by car pool, van pool and transit may be cause for a reduction in otherwise applicable parking requirements.

(h) *New or Unclassified Uses.* When a proposed land use is not classified in this Section, the parking requirements will be based on the minimum standard which applies to a specified use which is most closely related to the proposed land use, as determined by the Director.

(i) *Parking on the Same Lot Required.* Except as provided in Chapter 1, Article 2 for circumstances that may be approved by the Zoning Board of Adjustments as a special exception, all required off-street parking spaces shall be located on the same lot or tract as the principal use being served by the parking area. All required parking shall be on a paved surface (see Division 3 of this Article).

(j) *Off-Street Loading Requirements.* In all zoning districts there shall be provided, in connection with appropriate allowable uses, off-street loading facilities in accordance with the following: Any department store, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment, which has an aggregate gross floor area of 10,000 square feet or more, arranged, intended or designed for the use shall be provided with off-street truck loading or unloading berths at least 12 feet wide, 14 feet high and 35 feet long in accordance with the following table. There shall be sufficient space to ensure that all maneuvering required to utilize the loading space will not include street right-of-way.

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DIVISION 1: - OFF-STREET PARKING SPACES REQUIRED

Square Feet of Aggregate Gross Floor Area	Required Number of Berths
10,000 to 40,000	1
40,001 to 100,000	2
100,001 to 160,000	3
160,001 to 240,000	4
240,001 to 320,000	5
320,001 to 400,000	6
400,001 to 490,000	7
For each additional 90,000 over 490,000, additional berth	1

(k) *Off-Street Parking for Small Vehicles.* Any use other than single-family or duplex dwellings may provide up to 25% of the total off-street parking requirement in small or compact vehicle spaces.

(l) *Off-Street Stacking Requirements.* Uses providing services or goods to occupants of vehicles, either parked or operating, and certain auto service uses shall provide adequate vehicle stacking or queing spaces. General design as well as standards for specific uses are found in the Technical Manual.

(Ord. No. 2006-10, § 1, 3-21-06; Ord. No. 2006-45, § 50, 9-19-06; Ord. No. 2009-73, § 23, 12-1-09; Ord. No. 2010-40, § 8, 9-7-10)

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DIVISION 2: - DESIGN AND CONSTRUCTION STANDARDS

Section 6.2.2.1 - Design and Construction Standards

(a) *Public Street Parking.* A public street shall not be classified as off-street parking in computing the parking requirements for any use.

(b) *Truck or Bus Parking Areas.* Parking spaces used for the parking of trucks or buses shall not be counted toward meeting the requirements of this Section.

(c) *Fractional Spaces Resulting from Parking Calculations.* When the computation for the number of parking spaces required under this Chapter results in the requirements of a fractional space, the fractional space requirement shall be satisfied by adding one additional space to the whole space total.

(d) *Dimensional Standards.* All required or provided off-street parking areas shall be designed in accord with the following dimensional standards:

(1) *Standard parking spaces.* A stall or area containing a rectangular space measuring no less than nine feet wide by 18 feet deep, except for parallel spaces which shall be a minimum of eight feet by 23 feet, in accord with the following dimensions or interpolation thereof for parking angles not indicated:

Parking Angle (degrees)	Stall Width (feet)	Aisle Length Per Stall (feet)	Depth of Stall Perpendicular to Aisle (feet)	Aisle Width (feet)	
				One-Way	Two-Way
0 parallel	8.0	23.0	8.0	12.0	24.0
30	9.0	18.0	16.8	11.0	22.0
45	9.0	12.7	19.1	13.0	22.0
60	9.0	10.4	20.1	18.0	23.0
90	9.0	9.0	18.0	24.0	24.0

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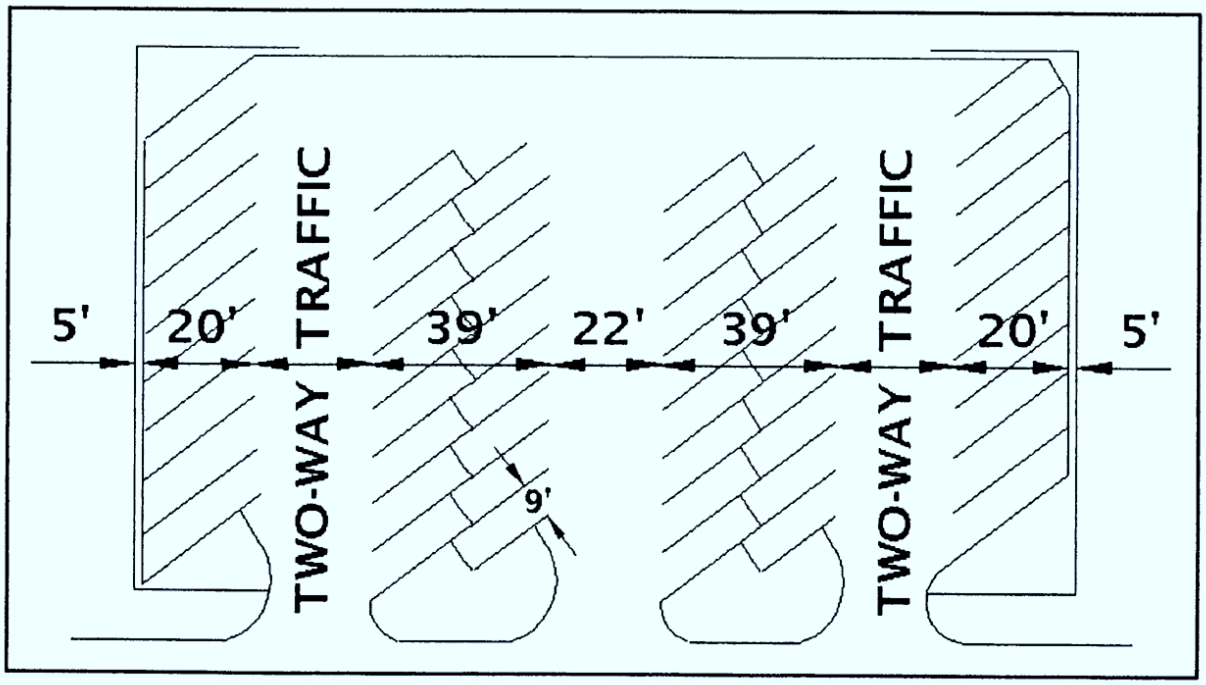

Figure 6-3: Example – 45 Degree Layout with Two-Way Traffic

Figure 6-3

(2) *Small vehicle spaces.* All small vehicle spaces shall be marked and designated as being for the use. A stall or area containing a rectangular space measuring no less than seven-and-one-half feet wide by 15 feet deep, except for parallel spaces which shall be a minimum of 20 feet long, in accordance with the following dimensions or interpolation thereof indicated:

Parking Angle (degrees)	Stall Width (feet)	Aisle Length Per Stall (feet)	Depth of Stall Perpendicular to Aisle (feet)	Aisle Width (feet)	
				One-Way	Two-Way
0 parallel	7.5	20.0	7.5	11.0	20.0
30	7.5	15.0	14.0	10.0	20.0
45	7.5	10.6	15.9	12.0	20.0
60	7.5	8.7	16.7	15.0	20.0

90	7.5	7.5	15.0	20.0	20.0

(3) *Accessible parking spaces for persons with disabilities.*

a. Off-street parking spaces shall be reserved for the physically disabled in an amount not less than that required by the Americans with Disabilities Act accessibility guidelines.

b. Each parking space reserved for the physically disabled shall conform to the identification requirements of the state department of licensing and regulation promulgated under State law, and the design specifications enumerated in the Americans with Disabilities Act accessibility guidelines.

c. Current copies of both the state and federal regulations are available in the Department of Planning and Development Services.

d. State law offenses for improper use of parking spaces reserved for the disabled upon private property shall apply within the City. Any peace officer and the designated City official enforcing parking regulations may issue citations for improper use.

(e) *Parking Spaces/Areas Serving Uses other than Single-family or Duplex.* All parking areas and spaces serving uses other than single-family or duplex dwellings shall be designed and constructed so as to have free ingress and egress at all times.

(f) *Parking Spaces/Areas Serving Residential Uses.* All parking areas and spaces required to serve residential uses shall be maintained such that they are open and accessible for parking use.

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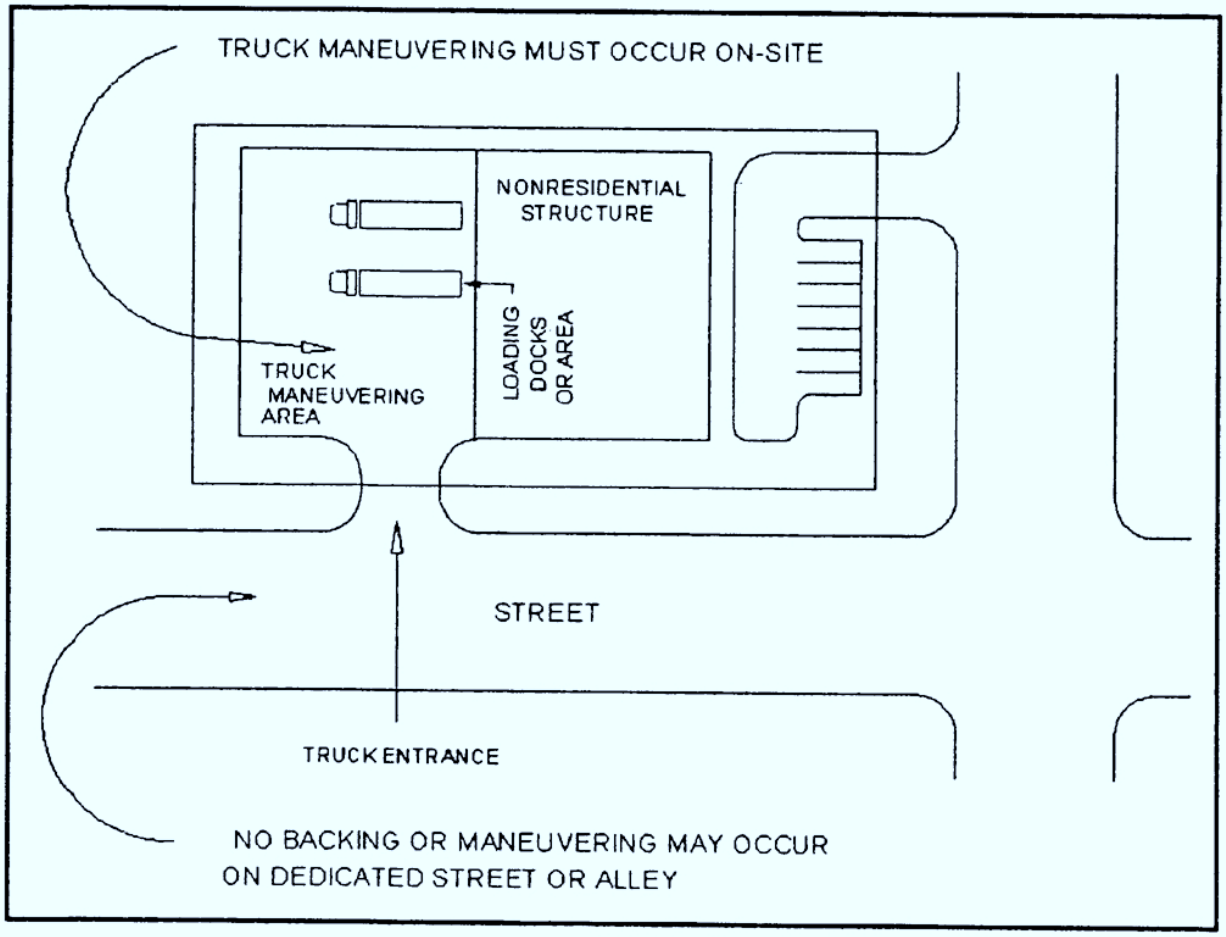

Figure 6-4: Off-Street Maneuvering for Loading

Figure 6-4

(g) *Vehicles Backing Into Public Streets and Sidewalks.* No parking space or parking area shall be designed so as to require a vehicle to back into a public street or across a public sidewalk, except in the case of one- and two-family dwelling units. All maneuvering shall be on-site.

(h) *Parking Space/Area Slope.* No parking space or parking area shall be constructed with a slope of more than six per cent. In those cases where a variance may be granted to construct a parking area with a slope of more than six per cent, which in no instance shall exceed 12 per cent, each parking space shall be constructed at right angles to the slope. If the Zoning Board of Adjustments shall consider a variance, the Zoning Board of Adjustments shall have the authority to impose drainage standards calculated to minimize the effect of the increased slope.

(i) *Maneuvering Areas and Public Alleys.* When off-street parking facilities are located adjacent to a public alley, the width of the alley may be assumed to be a portion of the maneuvering space requirement.

(j) *Off-Street Parking Facilities Not Required Herein.* When off-street parking facilities are provided in excess of minimum amounts specified in this Division, or when off-street parking facilities are provided, but not required by this

Chapter, the off-street parking facilities shall comply with the minimum requirements for parking and maneuvering space specified in this Division.

(k) *Paving of Parking Areas for Permanent, Principal Uses.* All required or provided parking areas for permanent, principal uses, including outdoor display areas for the sale or rental of vehicles, shall be paved according to City standards and specifications for all-weather surfaces as provided in Division 3 of this Article. Parking lanes in parking lots must be clearly marked by paint, buttons, or other approved material, except that areas used solely for display of vehicles for sale or rental are not required to have marked parking lanes. Vehicle storage areas which are fenced or screened, and are not open to the public, are exempt from these requirements.

(l) *Dead Ends and Turnaround Space.* No parking area serving a use other than single-family or duplex dwellings shall be designed or constructed which ends in a dead end, unless turnaround space of at least nine feet in depth is provided.

(m) *Entrances and Exits.* All entrances or exits to a parking area shall be designed and constructed in accordance with Chapter 7, Article 4, Division 2 (Driveways).

(n) *Setback Required.* All parking areas or parking spaces serving uses other than single-family or duplex dwellings shall be set back a minimum of five feet from any public right-of-way.

(o) *Lighting.* Any lighting used to illuminate any off-street parking area shall be designed and constructed so as to be reflected downward and away from any adjoining property or street.

(p) *Nonconforming Uses and Structures.* Any use of property existing at the time of adoption of these regulations and standards that does not conform with the regulations and standards prescribed in this Section 6.2.2.1 shall be deemed a nonconforming use and subject to the terms and conditions of Chapter 1, Article 5, Division 10 of this Code. When any nonconforming structure is structurally altered, adequate parking spaces which meet the requirements of the regulations and standards adopted in this Section shall be required for the entire structure and use.

(q) *Issuance of Occupancy Permit(s).* No occupancy permit shall be issued until the terms and conditions of this Chapter have been met, as approved by the Chief Building official.

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DIVISION 3: - OFF- STREET PARKING LOT CONSTRUCTION

Section 6.2.3.1 - Subbase for Parking Areas

(a) *Generally.* This Section governs the placement and compaction of all materials obtained for utilization in the construction of off-street parking lots.

(b) *Construction Methods.*

(1) The area shall be cleared of stumps, brush, logs, rubbish, trees and shrubs, except trees and shrubs in certain areas designated for preservation. Those trees, shrubs and other landscape features specifically designated by the responsible official for preservation shall be carefully protected from abuse, marring and damage during construction. Trees and shrubs designated for preservation that must be pruned shall be trimmed as directed, and all exposed cuts in Oak trees shall be treated with an approved industry-standard material.

(2) Areas required for parking lot construction shall be cleared and grubbed of all stumps and roots, except for designated trees and shrubs. Stump holes or other small excavations in the limits of the construction shall be backfilled with suitable material and thoroughly tamped by approved methods before commencing embankment construction. The surface of the ground, including plowed loosened ground or surface roughened by small washes or otherwise, shall be restored by blading or other methods, and, where indicated on plans or required by the Engineering Director, the ground surface thus prepared shall be compacted by sprinkling and rolling.

(3) Where indicated on plans or directed by the Engineering Director, the surface of hillsides to receive embankment shall be loosened by scarifying or plowing to a depth of not less than four inches or cut into steps before embankment materials are placed. The embankment shall then be placed in layers, as specified in this Section, beginning at the low side in part width layers and increasing the widths as the embankment is raised. The material that has been loosened shall be recompacted simultaneously with the embankment material placed at the same elevation.

(4) Except as otherwise required by the plans, all parking lots shall be constructed in layers approximately parallel to the finished grade of the roadbed, and unless variations are otherwise specified and approved by the Engineering Director, each layer shall be so constructed as to provide a uniform slope of one-fourth inch per foot.

(c) *Earth Fill.*

(1) Earth fill means a material composed principally of material other than rock which shall consist of accepted material from approved sources.

(2) Except as otherwise specified, earth embankment filling shall be constructed in successive layers for the full width of the individual parking lot cross section and in lengths as are best suited to the sprinkling and compaction methods utilized.

(3) Layers of embankment may be formed by utilizing equipment which will spread the material as it is dumped, or they may be formed by being spread by blading or other acceptable methods from piles or windrows dumped from excavating or hauling equipment in amounts that provide even distribution.

(4) Each layer of earth fill shall be uniform as to material, density and moisture content before beginning compaction. Where layers of unlike materials abut each other, each layer shall be feather-edged for at least 100 feet or the material shall be so mixed as to prevent abrupt changes in the soil. No material placed in the embankment by dumping in a pile or windrow shall be incorporated in a layer in that position, but all piles or windrows shall be moved by blading or similar methods.

(5) Compaction of embankments shall be obtained by the method described as "ordinary compaction".

(d) *Ordinary Compaction.* When the ordinary compaction method is specified, the following shall apply. "Depth" means the depth of material achieved upon compaction until there is no evidence of further compaction, in accordance with

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the provisions governing "rolling". Prior to and in conjunction with the rolling operation, each layer shall be brought to the moisture content ordered by the City's Engineering Department and shall be kept leveled with suitable equipment to ensure uniform compaction over the entire layer.

Section 6.2.3.2 - Flexible Base for Parking Areas

(a) *Generally.* For off-street parking lot pavements, flexible base shall consist of a foundation course of composed of crushed stone or other stone materials six inches in depth for the surface course or other base courses, and shall be constructed as specified in this Section in one or more courses in conformity with the typical sections shown on plans or grades established by a geotechnical engineer. It should be noted that concrete parking lots may not require flexible base.

(b) *Material.* The material shall consist of argillaceous limestone, calcareous or calcareous clay particles, with or without stone, conglomerate, gravel, sand or other granular materials. The material shall be a graded material that has sufficient fine material to bind the base. Pervious cover materials such as Eco-Crete shall also be permitted. The material sources shall be subject to approval by the Engineering Director.

(c) *Construction Methods.*

(1) Immediately before placing the base material, the subgrade shall be checked as to conformity with grade and section.

(2) Materials deposited upon the subgrade shall be spread and shaped the same day unless otherwise approved by the Engineering Director in writing. If inclement weather or other unforeseen circumstances render impractical the spreading of the material during the first 24-hour period, the material shall be scarified and spread in a manner subject to approval by the Engineering Director. The material will be sprinkled, if directed, and will then be bladed, dragged and shaped to conform to typical sections as shown on the plans. All areas and "nests" of segregated coarse or fine material shall be corrected or removed and replaced with well-graded material, as directed by the Engineering Director. If additional binder is considered desirable or necessary after the material is spread and shaped, it shall be furnished and applied in an amount subject to approval by the Engineering Director. The binder material shall be spread by harrowing, brooming or other approved methods.

(3) When the plans indicate that the ordinary compaction method is to be used, the following applies: The course shall be sprinkled as required and rolled as directed until a uniform compaction is secured. Throughout this entire operation, the shape of the course shall be maintained by blading, and the surface upon completion shall be smooth and in conformity with the typical sections shown on plans and to the established lines and grades. In that area on which pavement is to be placed, any deviation in excess of one-fourth inch in cross section and in a length of 16 feet measured longitudinally shall be corrected by loosening, adding or removing material, reshaping and recompacting by sprinkling and rolling to avoid ponding of water. All irregularities, depressions or weak spots which develop shall be corrected immediately by scarifying the areas affected, adding suitable material as required, reshaping and recompacting by sprinkling and rolling.

Section 6.2.3.3 - All-Weather Surface for Parking Areas

(a) *Portland Cement Concrete.* This off-street parking lot surface shall consist of a pavement or base of Portland cement concrete, with or without monolithic curbs, constructed as specified in this Section on the prepared subgrade or other base course in conformity with the thickness and typical cross sections shown on plans and to the lines and grades established subject to approval by the City Engineering Department. Concrete shall be considered of satisfactory quality if it meets the following:

(1) It is designed with the intention of producing a minimum average flexural strength (modulus of rupture) of 650 pounds per square inch at the age of seven days using a standard testing machine in which the load is applied at the center of the beam span; the coarse aggregate factor shall not exceed 0.85; unless otherwise shown on the plans, the concrete shall contain not less than five sacks of cement per cubic yard of concrete; the water-

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cement ratio shall not exceed 6.25 gallons/sack; concrete specimens shall be prepared, cured and tested as outlined in the state transportation department bulletin G-11; and the number of tests required shall be in accordance with the guide schedule of minimum sampling and testing requirements; and

(2) It is mixed, placed, finished and cured in accordance with standard requirements utilized in proper concrete construction.

(b) *Concrete Structure.* The slabs consist of a minimum of four inches of concrete, reinforced with a six-inch by six-inch by ten-gauge wire mesh placed two inches above the prepared subbase or base material.

(c) *Asphaltic Concrete.*

(1) An asphaltic concrete surface shall consist of a base course, a leveling-up course, a surface course or any combination of these courses as shown on the plans, each to be composed of a compacted mixture of mineral aggregate and asphaltic material. The pavement shall be constructed on the previously completed and approved subbase, base or existing pavement (asphaltic or Portland cement) as specified in this Article and in accordance with the construction plans.

(2) The mineral aggregate shall be composed of a coarse aggregate and a fine aggregate bound together by asphalt cement or oil asphalt. The grade of asphaltic material shall be type D of either hot mix-hot lay or hot mix-cold lay variety. The application for surface pavement shall be no less than 1½ inches thick after proper compaction. The contractor shall notify the Engineering Director of the source of the asphaltic material prior to the start of the project, and the source will be subject to the Director's approval.

(3) Proper compaction shall be attained to the satisfaction of the Engineering Director through utilization of specified rollers or other approved rollers.

(d) *Masonry Paving Units.* Pervious or impervious masonry paving units shall be installed and maintained according to the manufacturer's recommendations for the anticipated traffic load. Masonry paving units shall not be used without obtaining a permit from the Building Official based upon review of construction plans and specifications, provided that no separate permit for the use of masonry paving units is required when the use is in connection with a building permit for construction activity on the same lot.

(e) *Other Pervious Materials.* Pervious materials other than those specified herein may be used upon approval by the Engineering Director. See Section 7.5.1.7. for impervious cover calculation methodology.

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DIVISION 4: - LIMITATIONS ON USE OF PARKING LOTS

Section 6.2.4.1 - Limitations on Use of Parking Lots

(a) No required parking space, cueing or drive aisle may be used for outdoor storage of materials or vehicles.

(b) No required parking space, cueing or drive aisle may be used for display of goods or materials of any kind.

(c) No required parking space, cueing or drive aisle may be used for placement of mobile or temporary advertising.

(d) No parking space between the building facade and a public right-of-way may be used for any temporary or accessory use be it mobile or fixed.

(e) No parking space, cueing or drive aisle may be used for any activity that will reduce access for fire, emergency services or access for the disabled.

(Ord. No. 2006-45, § 51, 9-19-06)

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ARTICLE 3: - SIGNS

DIVISION 1: - GENERAL STANDARDS AND REQUIREMENTS

Section 6.3.1.1 - Jurisdiction

This Article governs all signs within the City limits and all off-premise signs within the extraterritorial jurisdiction of the City.

Section 6.3.1.2 - Applicability

All signs shall be erected, displayed, altered and reconstructed in conformance with this Chapter. Where the requirements of this Chapter for a particular sign are different than comparable requirements contained in any other law, ordinance or regulation, the requirements and standards that are more restrictive shall apply.

Section 6.3.1.3 - Enforcement

In addition to the penalty prescribed in the Code, the City Attorney is authorized to institute appropriate action in courts of competent jurisdiction for civil remedies, including injunctive relief, to enforce this Article.

Section 6.3.1.4 - Exempted Signs

See Section 1.9.5.1 for exempted signs and exceptions.

Section 6.3.1.5 - Prohibited Signs

(a) The following signs are prohibited:

(1) Signs having any visible part that moves, swings or rotates, except for banners and flags, and swinging signs up to ten square feet in area constructed of rigid material hanging by hinges or other flexible connection.

(2) Signs emitting odor, visible matter or audible sound.

(3) Permanent portable signs (Non-permanent portable signs are regulated as temporary signs by Section 6.3.3.5).

(4) Inflatable signs and balloons greater than 36 inches in greatest dimension.

(5) Pennants or streamers.

(6) Signs attached to a mobile structure, such as a vehicle or trailer used as an on-premise or off-premise sign, primarily for the purpose of serving as a static display for the advertisement of the sale, storage, or distribution of a product or service.

(7) Bench signs in the public right-of-way.

(8) Animated signs.

(Ord. No. 2008-3, § 1, 3-3-08)

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Section 6.3.1.6 - Address Designation

Each developed premises or occupancy having an assigned street address shall have the street address numerals displayed in a manner that is readable from the street upon which it is addressed.

Section 6.3.1.7 - Location Restrictions

(a) All signs are subject to the following general location restrictions:

(1) No sign shall be maintained at any location where it may interfere with the view of or be confused with any traffic control sign or signal.

(2) No sign shall be located on or project over public property, a street right-of-way, or a public utility easement, except governmental signs, subdivision identification signs, temporary banner signs and permitted signs in the central business area (CBA) zoning district.

(3) All signs shall maintain a clearance of at least eight feet when located over a public sidewalk and at least 12 feet when located over a driveway and shall extend no closer than 18 inches from the curbline of a public street, unless painted or mounted flat on the surface of an existing awning, canopy or marquee.

(4) No sign, except a governmental sign or a single freestanding sign, shall be located within a sight triangle. No portion of a nongovernmental freestanding sign in the sight triangle shall occupy the areas above three feet or below 12 feet from the elevation of the crown of the nearest street, except for a single pole 18 inches or less in diameter.

(5) Only signs required in the interest of public safety may occupy a required off-street parking or loading space or obstruct any driveway or sidewalk.

(6) New signs and signs being structurally altered shall maintain clearance from the public utility facilities, shall not substantially interfere with drainage and shall not be located in a utility or drainage easement. Signs shall maintain ten feet of vertical and horizontal clearance from all electrical lines.

(7) Only governmental signs or temporary holiday signs may be located on the roof of any building or accessory structure.

(8) Lighting for signs shall not produce glare onto adjoining properties or in the eyes of motorists or pedestrians. Bare-bulb illumination is prohibited within 150 feet of any premises containing a residential use, and in other cases is limited to 25-watt bulbs at night and 33-watt bulbs during daylight hours.

(9) Signs on premises within a historic district designated by the City shall be subject to the issuance of a Certificate of Appropriateness by the Historic Preservation Commission and subject to compliance with adopted sign criteria.

(10) Signs are permitted on sidewalks only within the central business area zoning district provided that a minimum path of five feet in width remains clear of any obstacles.

(11) All signs shall be setback a minimum of five feet from all property lines except those in the CBA zoning district.

(b) CEVM signs are subject to the above location restrictions and additionally are prohibited within 350 feet of any residential zoned district, multifamily zoned districts, and any district zoned Neighborhood Commercial, Mixed Use, Historic, Parkland, the River Corridor, or the Central Business Area (CBA). Measurement shall be made by straight line from the nearest boundary of the zoning district to the nearest point of the sign where the nearest point of the sign is determined by dropping a horizontal line from the nearest edge of the sign face to the ground.

(Ord. No. 2008-3, § 2, 3-3-08)

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Section 6.3.1.8 - Abandonment

(a) *Obsolete Sign Copy.* When any sign contains information that is no longer current, the property owner shall remove the sign or the copy, cover the copy, or change the copy to current information within 30 days, except as otherwise provided in this Chapter.

(b) *Conformance.* When an on-premises sign is nonconforming with respect to any section of this Article and use of the premises ceases for a period of six months, the sign shall be brought into conformance by the property owner.

(c) *Leased Copy.* When an off-premise sign has copy which is subject to a lease for a specified period and the lease is purchased in advance, the copy may remain through the contract period if it is maintained in good condition.

Section 6.3.1.9 - Nonconforming Signs

(a) *Signs in Existence Prior to This Code.* A sign existing on the effective date of the ordinance from which this Article was derived that violates this Article or any other ordinance, and a sign that comes under the jurisdiction of this Chapter due to the expansion of the City, is a legal nonconforming sign and may be continued, repaired and maintained in good condition, but may not be otherwise altered.

(b) *Voluntary Removal.* Voluntary removal of a nonconforming sign for purposes other than maintenance terminates nonconforming rights for the sign.

(c) *Legal, Nonconforming Off-Premise Signs.* An off-premise sign existing on July 24, 2003 that violates a spacing or location restriction in Section 6.3.3.4, and an existing off-premise sign that thereafter becomes in violation of a spacing or location restriction in Section 6.3.3.4, is a legal nonconforming sign and may be continued, repaired and maintained in good condition, but may not be otherwise altered. A nonconforming off-premise sign will have its nonconforming status terminated if the sign, or a substantial part of it, is blown down or otherwise destroyed, or dismantled for any purpose other than routine maintenance or for changing the letters, symbols, or other matter on the sign. For purposes of this subsection, a sign is considered to have been destroyed only if the cost of repairing the sign is more than 60 per cent of the cost of erecting a new sign of the same type, material, and dimensions at the same location.

(d) *CEVM signs in operation as of [March 3,] 2008.* A CEVM sign in operation as of the above date shall be considered a legal nonconforming sign as to location, size and height restriction; however, said signs shall be subject to the operational standards of this Code as they exist or shall be amended in the future.

(Ord. No. 2008-3, § 2, 3-3-08)

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DIVISION 2: - ADMINISTRATION

Section 6.3.2.1 - Permit

(a) *Required.* It is unlawful to display, erect, rebuild, expand or relocate any sign without first filing an application and obtaining a sign permit, in accordance with this Section and Chapter 1, Article 9, Division 5. Electrical permits are also required for electric signs, except those designed to be plugged into an existing electric outlet.

Section 6.3.2.2 - Contractor's License

(a) *Generally.* Electric signs and all permanent signs involving structural requirements of the building code (as adopted and amended) shall be erected only by a sign contractor licensed by the City in accordance with this Section.

(b) *Application.* Applications for sign contractor's licenses shall be on forms furnished by the City. The ~~Planning D~~Director shall, within five working days of the date of application for a sign contractor's license, approve or deny the application or return it to the applicant when insufficient information has been furnished. Each license issued shall be assigned a number which will be recorded on all applications submitted by the license holder for sign permits.

(c) *Renewal.* Sign contractor's licenses shall expire on December 31 following the date of issuance and shall be renewed annually. New licenses issued within 60 calendar days before December 31 are exempt from renewal until the following year.

(d) *Fees.* An initial fee and an annual renewal fee established by the City Council shall be charged for sign contractor licenses.

(e) *Revocation and Suspension.* A sign contractor's license may be revoked or temporarily suspended by the ~~Planning D~~Director upon notice in writing to the licensee, if it is found that the license was issued on the basis of information that was incorrect or misleading or if the contractor has violated any section of this Chapter.

(f) *Exemption.* The following persons are not required to obtain a sign contractor's license or bond, but shall comply with all other sections of this Chapter:

(1) Persons who install, construct, paint or incorporate a sign as an integral part of the facade or structure of a permitted building, accessory structure, wall or fence;

(2) Persons who install or erect a temporary sign or any sign not requiring a permit; and

(3) Persons who erect a sign on the premises of a business or property under their ownership, provided the sign does not overhang public right-of-way.

Section 6.3.2.3 - Inspection

(a) *Circumstances.* Signs are subject to inspection by the ~~Planning D~~Director in the following circumstances:

(1) *New signs.* All signs or operations requiring a permit constitute a new sign for the purpose of this Section. Footing inspections are required on the day of excavation for all freestanding signs, and the permit holder or authorized agent shall notify the Building Inspection Division by 5:00 p.m. on the workday prior to the day when footings will be ready for inspection. Electrical inspection of electric signs may be separate from structural inspections. All completed electric signs and signs projecting over the public right-of-way shall be labeled to indicate the name of the person responsible for its installation.

(2) *Signs over public right-of-way.* All signs overhanging a public right-of-way may be inspected once each year by the ~~Planning D~~Director or upon observation of any deficiency in the sign or structure supporting the sign that

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poses a threat to public safety. The sign owner will be notified of the deficiencies and given 30 calendar days to make the necessary repairs, unless the deficiency is an immediate hazard.

(3) *Complaint.* The ~~Planning D~~Director will inspect any existing sign upon receipt of a complaint by a citizen or public official that the sign is dangerous or defective, has been constructed or altered without approval or is located on public property without proper authorization.

Section 6.3.2.4 - Removal

(a) *Safety Hazard.* The ~~Planning D~~Director or any police officer may cause to be removed and impounded any sign determined to be an immediate safety hazard.

(b) *Unlawfully Situated Signs.* Any sign unlawfully situated in public right-of-way, on a utility pole, on public property other than right-of-way or in a required sight triangle or any temporary sign exceeding the permitted size or time limits shall be removed immediately. The ~~Planning D~~Director or any police officer may remove and impound the sign without notice.

(c) *Interference with Removal.* It is unlawful for any person to interfere with employees or agents of the City who are removing a sign under this Section.

(d) *Impounded Signs.* All impounded signs (except disposable signs) shall be stored and, upon proper identification thereof by the owner, may be redeemed upon payment of reasonable charges incurred by the City for removal, transportation, storage and administrative costs resulting from the impoundment. All signs not redeemed within 30 calendar days are subject to disposal in the manner provided by law for the disposition of abandoned property. Disposable signs, such as garage sale signs, may be disposed of immediately.

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DIVISION 3: - STANDARDS

Section 6.3.3.1 - Construction and Maintenance

(a) *Compliance with Codes.* All permanent signs shall comply with the City building and electrical codes.

(b) *Certification Required.* The design of freestanding signs over 25 feet in height above ground level shall be certified by a professional engineer for structural integrity.

(c) *Electric Signs.* Electric signs shall have an accessible disconnect switch and shall be labeled to indicate the voltage and amperage of electrical circuits connected to the sign.

(d) *Maintenance Required.* Signs shall be maintained in good condition, including replacement of defective or missing parts, painting and cleaning, and replacement or covering of sign faces that exhibit damage or deterioration.

(e) *Safety Hazard.* A sign determined to be a hazard to public health and safety shall be subject to enforcement under Section 6.3.2.4 of this Article.

(f) *CEVM Signs.* Each CEVM sign shall be certified by the manufacturer that it does not exceed the standards established by this Chapter or the Technical Manual and the sign owner or operator shall accept, construct, maintain, and operate the sign within the established standards as a condition of maintaining the sign permit.

(g) *Enforcement.* When a sign is determined to be out of compliance, the sign's owner or agent will be provded 30 days to repair the sign. After the 30 days the sign is a nonconforming sign and shall be removed either by the owner, or by the City at the owner's expense. These remedies are in addition to any removal expenses, penalties, fines, or court costs the City may assess or incur as a result of the enforcement of these regulations and may include liens and forfeiture of any conditional use permits or other remedies available to the City.

(Ord. No. 2008-3, § 2, 3-3-08)

Section 6.3.3.2 - On-Premises Attached Signs

(a) *Standards.* Permanent on-premises attached signs are subject to the following standards:

(1) Attached signs shall not extend vertically above the highest point of the roofline above the facade. Attached signs shall not extend into a required building setback area.

(2) The area of attached signs is limited according to the land use of the premises as follows. The allowances may be increased by 50 per cent when the premises will have no freestanding signs.

a. Single-family, two-family and mobile home residential uses may have only those signs exempted in Section 6.3.1.4 and permitted signs advertising a home occupation authorized by Section 4.3.3.1(b)(13) (CEVM signs prohibited);

b. Multifamily residential uses, residential condominiums and group quarters (lodging houses and boarding houses, dormitories, fraternity and sorority houses) may have identification signs having a total aggregate area of up to five per cent of the area of the facade on which they are located (CEVM signs prohibited);

c. Office/professional, agricultural, business park, industrial and institutional uses may have signs with a total aggregate area of up to ten per cent of the area of the facade on which they are located;

d. All other nonresidential uses may have signs, including window signs, with a total aggregate area of up to ten per cent of the area of the facade on which they are located; and

e. Premises containing two or more uses having different standards under this Section shall have the allowable area determined by the use allowing the greater area.

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f. CEVM signs may be incorporated into an on-premises attached sign, however, it shall not exceed 25 per cent of the total area allowed.

(Ord. No. 2006-45, § 52, 9-19-06; Ord. No. 2008-3, § 2, 3-3-08)

Section 6.3.3.3 - On-Premises Freestanding Signs

(a) *Standards.* Permanent on-premises freestanding signs are subject to the following standards:

(1) The number of these signs on a premises is limited to one per street frontage. The following are not counted in this limitation:

a. Directional signs up to 12 square feet in area, provided the number of these signs does not exceed the number of driveways; and

b. Subdivision identification signs in accordance with this Section.

(2) Construction of on-premises CEVM signs is limited to major and minor arterials, state and federal highways in accordance with these regulations and other state and federal guidelines.

(3) Along Wonder World Drive, Clovis Barker, McCarty Lane, SH110, Hunter Road, Centerpoint Road, Staples Road, future extensions of these roadways and other major or minor arterials, new CEVM's are restricted to monument signs only.

(4) Maximum height.

a. The maximum height (see illustration 6-5) of any on-premises signs shall not exceed the following:

1. 42½ feet along Interstate Highway 35.

2. 30 feet along Highways 123, 21, and 80.

3. 25 feet along all other roadways.

4. Lots/businesses with street frontage in excess of 400 linear feet may have one additional ground/monument sign per street frontage. Ground/monument signs shall not exceed seven feet in height.

a. Frontage in this instance means each lot shall have at least 50 feet of adjacent, direct access to the roadway right-of-way.

b. CEVM signs or the area of a sign containing the CEVM shall not exceed 25 feet in height.

c. Freestanding signs over four feet in height shall not be located within ten feet of any property line unless displayed on a permitted fence or wall. Signs greater than six feet in height must be reviewed by the City electric utility for proper clearance from power lines.

d. Monument CEVM signs shall not exceed seven feet in height as illustrated in Figure 6-6.

(5) Maximum sign area.

a. The maximum effective sign area per side per sign shall not exceed the following:

1. 260 square feet along Interstate Highway 35.

2. 160 square feet along Highways 123, 21, and 80.

3. 120 square feet along all other roadways.

4. 80 square feet for ground/monument signs.

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5. A CEVM sign or the portion of a sign comprised by a CEVM shall not exceed 25 per cent of maximum allowable area as noted above.

b. On-premises freestanding signs that contain a frame that makes up less than 2.5% of the total area of the sign will not have the area of the frame count towards the overall sign area of the sign.

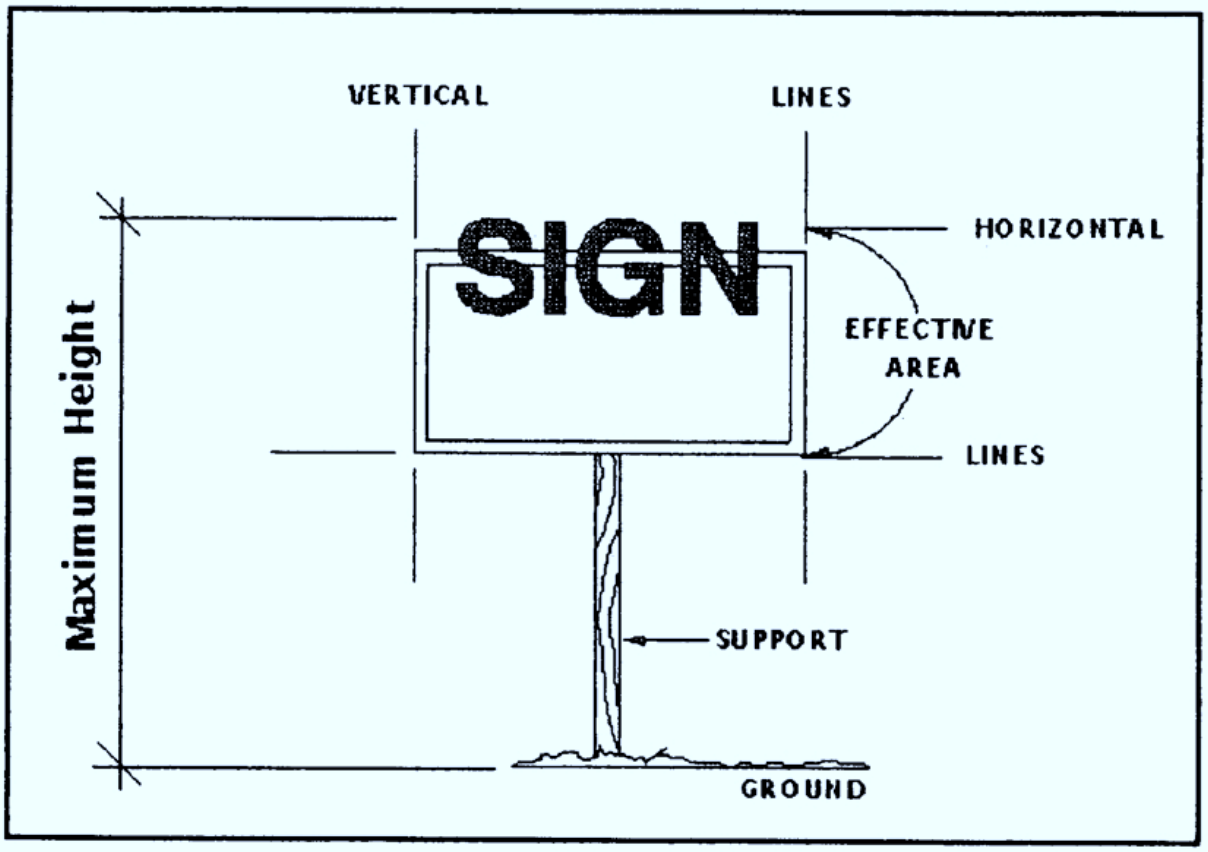

Figure 6-5: Method of Measuring a Pole Sign

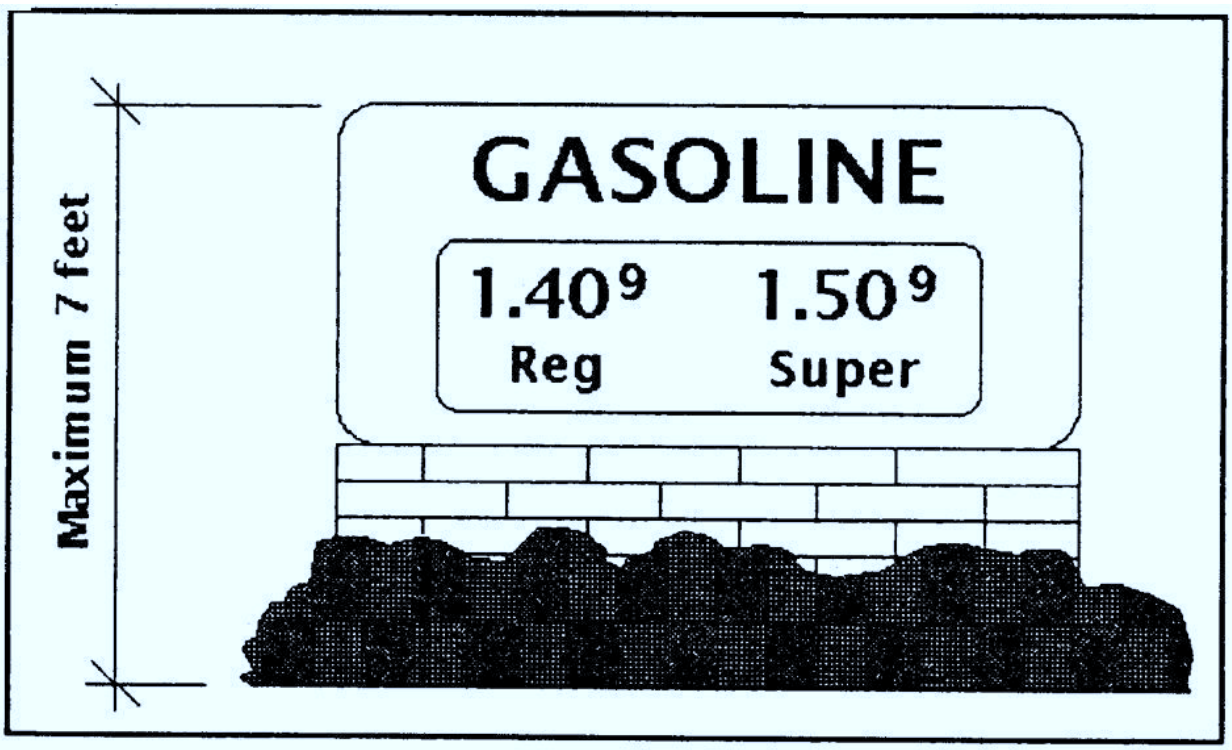

Figure 6-6: Monument Sign Measurement

(6) Agricultural uses and single-family, two-family and manufactured home residential uses may have only those signs exempted in Section 6.3.1.4 and subdivision identification signs in accordance with this Section.

(7) A multiple-occupancy premises may have a sign having an area up to:

a. Eighty square feet, plus 20 square feet per tenant advertised on the sign, or 260 square feet, whichever is greater, when located in the highway corridor; or

b. Fifty square feet, plus ten square feet per tenant advertised on the sign, or 160 square feet, whichever is greater, in all other locations.

c. Each tenant may have a different size sign; each sign does not have to be the same size.

(8) A subdivision identification sign up to 96 square feet in area and four feet in height may be displayed on private property or in the public right-of-way at a street entrance to the subdivision, in addition to other freestanding signs permitted by this Section. If located in the right-of-way, the sign is subject to the following:

a. The sign may not encroach into the right-of-way of an intersecting street;

b. The sign shall be constructed of wood at least two inches thick or of masonry or metal;

c. The size and location of the sign shall be indicated on the construction plans for the subdivision and should be indicated on the Final Subdivision Plat or Final Development Plat; and

d. A written agreement pertaining to the sign shall be entered into with the City.

(9) No on-premise freestanding sign shall be located within the San Marcos River Corridor, except for monument signs, community information signs, and government signs.

(Ord. No. 2006-45, § 53, 9-19-06; Ord. No. 2008-3, § 2, 3-3-08; Ord. No. 2009-73, § 24, 12-1-09)

Section 6.3.3.4 - Off-Premises Signs

(a) *Signs in the City and ETJ.* Off-premises signs within the City and within the extraterritorial jurisdiction of the City are subject to all provisions of this Section 6.3.3.4. Any requirement, standard or prohibition not specifically outlined in this Section is regulated by applicable provisions of V.T.C.A, Transportation Code Chapter 391 and regulations issued under that chapter.

(b) *Sign Faces.* For each sign location, a maximum of two sign faces, front and back, are permitted. Multiple sign faces, whether stacked or side-by-side, at the same location and facing the same direction are prohibited. Existing signs with more than two faces may continue as nonconforming signs, subject to the provisions of Section 6.3.1.9

(c) *Restructuring Permitted.* Existing off-premise signs having wooden pole supports in locations where new off-premises signs are allowed may be restructured to a metal monopole support.

(d) *New and Restructured Sign Compliance.* New and restructured signs shall comply with the following:

(1) *Maximum area.* 480 square feet or, for restructured signs, the area of the existing sign, whichever is less.

(2) *Maximum height.* 25 feet for signs with an area of less than 75 square feet, and 42½ feet for signs with an area of 75 square feet to 480 square feet (see illustration 6-5).

(3) *Setback.* A minimum setback of ten feet is required from all property lines for all off-premise signs.

(4) *Location and spacing restrictions.* New or restructured off-premise signs are permitted only along the following highways and they shall comply with the following minimum spacing requirements with respect to other off-premise signs on the same side of the street or highway, and with all applicable provisions of V.T.C.A, Transportation Code Chapter 391 and regulations issued under that chapter with respect to sign placement regulations not otherwise established in this Chapter:

a. In the highway corridor, new and restructured off-premise signs are permitted throughout the City and its extraterritorial jurisdiction, with a minimum spacing of 1,500 feet.

b. Along the following roadways, new and restructured off-premise signs are permitted in the City and its extraterritorial jurisdiction, subject to a minimum spacing of 500 feet in the City limits and 750 feet in the extraterritorial jurisdiction:

1. State Highway 123.
2. State Highway 21, and along planned future extensions.
3. State Highway 80.
4. State Highway Loop 82 from Martin Luther King Jr. Drive to IH-35.
5. RM 12 from Thorpe Lane to IH 35.

(5) *Animated and CEVM signs prohibited.* No new or restructured sign may include an Animated or CEVM sign.

(e) *Restrictions on New Signs.*

(1) This subsection applies to new off-premises signs in all areas of the City and the City's extraterritorial jurisdiction. It is the intent of this subsection that the total number and total area of off-premises signs not be increased in areas of the City and the City's extraterritorial jurisdiction above the total number and total area of off-premises signs that are lawfully in existence and listed on the initial registration forms filed under subsection (h) by September 30, 2003.

(2) A permit will be issued to erect a new off-premises sign in a permissible location only if the applicant first removes one or more existing off-premises signs with a total area equal to or greater than the total area

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proposed for the new sign. If an applicant for a new off-premises sign has one or more existing nonconforming off-premises signs, the existing off-premises sign or signs removed by the applicant must be nonconforming signs. If an applicant for a permit for a new off-premises sign has no existing nonconforming signs, the existing off-premises sign or signs removed by the applicant may be any conforming off-premises signs.

(3) A new off-premises sign that replaces an existing off-premises sign or signs within the highway corridor must be located in a permissible location within the highway corridor. An existing off-premises sign in a location outside the highway corridor may be replaced with a new off-premises sign in a permissible location within the highway corridor or outside the highway corridor.

(4) A new off-premises sign in a location outside the highway corridor shall not exceed the height of the existing sign it replaces. A new off-premises sign in the highway corridor is subject to the height restrictions in subsection (d)(2) of this Section, and is not limited to the height of the existing sign it replaces.

(5) New and restructured off-premises signs shall not be located on property designated as a residential or agricultural district by Chapter 4 if the property is inside the City limits, or as ~~a residential or~~ an open space or~~/floodplain land use within~~ an Area of Stability on the Preferred Scenario Map of the ~~Master~~Comprehensive Plan if outside the City limits.

(f) *Off-Premises Signs with an Existing Principal Structure or Use.* Except within the highway corridor, off-premises signs erected or restructured on premises that have an existing principal structure or use are subject to the same requirements that apply to permanent on-premises signs in the same location.

(g) *Changing a Sign from Off-Premises to On-Premise.* The changing of an off-premises sign to an on-premises sign by a change in the copy, except for messages advertising the sign for sale or lease, and the changing of an on-premises sign to an off-premise sign requires a permit. Except within the highway corridor, changed signs shall comply with all regulations pertaining to the new use of the signs.

(h) *Off-Premises Sign Registration.*

(1) A person who owns any off-premises sign within the City or its extraterritorial jurisdiction shall file with the ~~Planning D~~Director a complete listing, on a registration form provided by the ~~Planning D~~Department, of all off-premises signs owned by the person as required by this subsection. An initial listing as of January 1, 2003 shall be filed by September 30, 2003. An updated listing as of January 1, 2006 and each three-year period thereafter must be filed with the Director by February 1 of the applicable year.

(2) No fee is required in connection with the filing of a registration form.

(3) It is unlawful for a person who owns an off-premises sign to fail to file a complete registration form in a timely manner as required by subsection (1). A separate offense is deemed to be committed for each sign owned by the person that is not properly registered, and for each day a sign owned by the person is not properly registered.

(Ord. No. 2006-45, § 54, 9-19-06; Ord. No. 2008-3, § 2, 3-3-08)

Section 6.3.3.5 - Temporary Signs

(a) *General.* Temporary signs are subject to the limitations indicated in this Section, as well as the location restrictions in Section 6.3.1.7

(b) *Area Limitations.* Temporary signs shall not exceed the following area limitations:

(1) 96 square feet each for premises within the highway corridor;

(2) 12 square feet each for premises occupied by single- or two-family residential uses; and

(3) 32 square feet each on all other premises.

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(c) *Number of Temporary Signs Permitted on a Premises.* The number of temporary signs other than political signs displayed on a premises at any given time is limited to one sign per street frontage and a maximum of two signs per lot.

(d) *Permits Not Required.* Permits are not required for temporary signs, except for banner signs over public rights-of-way, which shall be limited to community information signs. A completed information form is required for all temporary signs greater than 12 square feet.

(e) *Time Durations Permitted.* Temporary signs are subject to the following limitations of the duration of their use:

(1) Construction signs. During the period of construction.

(2) Real estate signs. During the period in which the subject property is for sale or lease. This shall not apply to residential uses that have individual units for sale or lease on a continuous basis, such as multiple-family uses.

(3) All other temporary signs. Ninety days within a calendar year.

Section 6.3.3.6 - Signs on Utility Poles

(a) *Placement of Signs on Utility Poles Prohibited.* It is unlawful for any person to attach or cause to be attached any advertisement, handbill, circular, poster or piece of paper to any public utility pole located within the City.

(b) *Presumption Regarding Person Attaching Sign.* In any prosecution charging a violation of this Section, it is presumed that the primary beneficiary of any advertisement, handbill, circular, poster or piece of paper attached to any public utility pole is the person who attached or caused the attachment to the pole. The term "primary beneficiary" means a person or legal entity that is intended to benefit from the advertisement, handbill, circular, poster or piece of paper.

(c) *Authority to Remove.* The ~~Planning D~~Director shall have the authority to remove any advertisement, handbill, circular, poster or piece of paper attached to any public utility pole within the City.

Section 6.3.3.7 - CEVM Signs

General. CEVM signs are subject to the limitations indicated in this section, as well as the location, height and area restrictions in this chapter.

(a) *Luminance.*

(1) Maximum brightness of 7,000 NITs in day light.

(2) Maximum brightness of 500 NITs for night use.

(b) Provide for auto dimming/brightening based on natural ambient light conditions.

(c) Provide and maintain a photo cell and dimmer control to assure the luminance standard is met and not exceeded.

(d) Present a static display with no special effect transitions between messages.

(e) Message shall be illuminated for at least 60 seconds with a two second pause between messages.

(f) Contructed such that they do not face, shine, or reflect light into a residentially classified neighborhood whether single-family, multi-family, townhouse, or mixed use where residential housing is permitted.

(g) Display no more than four colors—each in a static pattern.

(Ord. No. 2008-3, § 2, 3-3-08)

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ARTICLE 4: - PUBLIC HEALTH RELATED PERFORMANCE STANDARDS

DIVISION 1: - GENERAL

Section 6.4.1.1 - Purpose

In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, State or Federal agencies. All uses, including those which may be allowed by PD or CUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

Section 6.4.1.2 - Requirements for Toxic Waste Disposal

All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed. See Section 86.122 of the City Code for industrial waste disposal regulations.

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DIVISION 2: - STANDARDS

Section 6.4.2.1 - Noise

(a) *Noise Level Maximums.* A person commits an offense by operating sound equipment at a business that produces sound:

(1) In excess of 85 decibels for a period exceeding one minute between the hours of 11:00 a.m. and 10:00 p.m., as measured at the property line of the business or beyond.

(2) In excess of 75 decibels for a period exceeding one minute between the hours of 10:00 p.m. and 11:00 a.m. as measured at the property line of the business or beyond.

(3) In excess of 63 decibels at any time as measured from within the property line of any residential zoning or use.

(b) *Noise Measurements.* Measurement of noise shall be made with a sound level meter using the "A" weighting network as specified by the American National Standards Institute.

(c) *Exemptions.* The following uses and activities shall be exempt from the noise level regulations herein specified.

(1) Noises not directly under control of the property user.

(2) Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 9:00 p.m. (daytime hours).

(3) Noises of safety signals, warning devices and emergency pressure relief valves.

(4) Transient noise of moving sources, such as automobiles, trucks, and airplanes (see other City of San Marcos ordinances for regulation of transient noise).

(Ord. No. 2006-45, § 55, 9-19-06; Ord. No. 2010-49, § 9, 9-7-10)

Section 6.4.2.2 - Smoke and Particulate Matter

(a) *Standards.* No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property:

(1) Are of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM, except when the presence of uncombined water is the only reason for failure to comply, or when such contaminants are emitted inside a building which prevents their escape into the atmosphere;

(2) Exceed 0.5 pounds per acre of property within the plant site;

(3) Exceed four grains of dust or particulate matter per 1,000 cubic feet of air at any boundary line of the tract on which the use is located, as a result of open storage or open processing operations, including on-site transportation movements which are the source of wind or air borne dust or other particulate matter, or operations such as paint spraying, grain handling, sand or gravel processing or storage or sand blasting.

Section 6.4.2.3 - Odorous Matter

(a) *Odorous Matter Limited.* No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter is clearly detectable at the bounding property line or any point beyond the tract on which such use or operation is located.

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(b) *General Method and Procedures.* The odor threshold as herein set forth shall be determined by observation by the responsible official. In any case where uncertainty may arise, or where the operator or owner of an odor emitting use disagrees with the responsible official, or where specific measurement of odor concentration is required, the method and procedures specified by the ASTM shall be utilized.

Section 6.4.2.4 - Fire or Explosive Hazard Material

(a) *Limits on Manufacture and Storage.* No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the City Fire Chief.

(b) *Storage of Flammable Liquids and Materials.* The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when the storage or use conforms to the standards and regulations of the City Fire Prevention Code or are approved by the Fire Marshal.

Section 6.4.2.5 - Toxic and Noxious Matter

No operation or use shall emit a concentration of toxic or noxious matter across the bounding property line of the tract on which the operation or use is located which will exceed ten per cent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health Services in "Threshold Limit Values Occupational Health Regulation No. 3".

Section 6.4.2.6 - Vibration

No operation or use shall at any time create earthborne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency (Cycles Per Second)	Displacement (Inches)
0 to 10	0.001
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

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ARTICLE 5: - LIGHTING AND GLARE STANDARDS [1]

FOOTNOTE(S):

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Editor's note— Ord. No. 2006-45, § 56, adopted Sept. 19, 2006, repealed Art. 5, in its entirety and enacted a new Art. 5 to read as set out herein. Former Art. 5 pertained to similar subject matter and derived from Ord. No. 2004-92, adopted Dec. 13, 2004. (Back)

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DIVISION 1: - GENERAL

Sec. 6.5.1.1 - Purpose

Standards for controlling lighting and glare are set forth to reduce hazards to motorists and annoyance and inconvenience from light trespass upon the residents, drivers, pedestrians, businesses and other elements of the community. Standards are also established in order to ensure that citizens and visitors to San Marcos are able to continue to enjoy the night sky, natural environment and traditional character of the community. These standards are intended to allow reasonable enjoyment of adjacent and nearby property by their owners and occupants while requiring adequate levels of lighting of parking areas, internal drives, service and pedestrian areas.

(Ord. No. 2006-45, § 56, 9-19-06)

Sec. 6.5.1.2 - Applicability

(a) *Applicability.* The standards and criteria contained within this article are deemed to be minimum standards and shall apply to all new construction, and to alterations or repairs if the value of the work is more than 50% of current value of the existing improvements on the property.

(b) *Exemption.* The following properties are exempt from standards applied to exterior lighting:

(1) Property located within a single family zoned district and used for a single-family residence.

(Ord. No. 2006-45, § 56, 9-19-06)

Sec. 6.5.1.3 - Review Procedure

(a) *Proof of Compliance Required.* Detailed drawing(s) verifying compliance with the requirements of this section shall be submitted, in detail sufficient to show compliance, at both the time of Site Preparation Permit and Building Permit application submittal. The compliance shall be illustrated, along with calculations or specifications of how areas shown on the Site Preparation and Building permit applications will meet the requirements for lighting and design.

(b) *Alternative Compliance.* All requests for alternative lighting design compliance and specific use exceptions shall be clearly written, specifically noted, and described on the Site Preparation Permit and Building Permit applications. If requested, supporting documents may be required to be submitted in response to plan review. No Site Preparation Permit or Building Permit shall be approved until such requests are determined as provided for in this code.

(c) *Plan Submittal.* A photometric plan shall be prepared by a lighting professional that is certified by the National Council of Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect or land surveyor, and shall contain the information listed in the Technical Manual.

(Ord. No. 2006-45, § 56, 9-19-06)

Sec. 6.5.1.4 - Procedure for Determining Alternative Compliance and Variance from Lighting and Glare Standards

(a) *Administrative Approval.* The ~~Planning D~~Director may administratively approve specific exceptions from overall lighting levels, if required materials conform to the standards set forth in Section 6.5.2.4 of this Article.

(b) *Process for Variance.* Variances from the standards set forth in this article may be granted by the Zoning Board of Adjustments. Such determinations shall be based solely on the criteria and procedures outlined by the Illuminating Engineering Society of North America in Guidelines for Security Lighting for People Property and Public Places

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(IESNA G-1-03) and referenced herein. An applicant for variance shall provide the results from a security survey as set forth in IESNA G-1-03 and its appendices A-G.

(1) In addition to requirements for granting a variance as set forth in this code, the granting of a variance for lighting shall be made in two steps. The ZBOA must make an initial finding must be made that there is a special condition of the site or proposed project for security that is unique. Data substantiating that this unique condition exists and is sufficient enough to be a mitigating factor to compliance with the code shall be presented by the applicant. This submittal shall be made at the time of application for a variance and include:

A. History of relevant crime activity in the surrounding area (See IESNA-annex A);

B. Nature of the site — type of business or activity, hours of operation accessibility, and surrounding conditions (See IESNA - annex B);

C. Degree of obstruction — landscape design, building layout, fencing, etc.;

D. Ambient luminance of surrounding area — sources and quality of offsite ambient lighting; and

E. Impacts on surrounding area — environmental performance zone objectives, disability glare, traffic movement, controls and signage.

(2) When security is determined to be a relevant issue, consideration of a requested variance shall include discussion of alternative steps to address security as noted in IESNA — annex E. Any variance granted shall be limited, to the extent possible, to specific areas of concern rather than blanket, property-wide variances. In no case shall a variance be granted in excess of levels and guidelines set forth in IESNA G-1-03.

(Ord. No. 2006-45, § 56, 9-19-06)

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DIVISION 2: - STANDARDS

Section 6.5.2.1 - Overall Operational Lighting Levels

(a) *Environmental Performance Zones.* Lighting for an individual project should be evaluated in the context of the overall environment and the goals set for the surrounding community. For this purpose, maximum outdoor lighting averages are established for geographic areas distinguished as environmental lighting performance zones. The general relationship of properties to these zones and the maximum permissible average lighting levels are provided in the Technical Manual.

(b) *Determination of Designation.* Determination of an individual property's designation shall occur after all subdivision and legislative actions have been completed. The criteria for determining the zone are found in the Technical Manual.

(c) *Maximum Intensities.* For a given property the appropriate lighting levels for all pedestrian, parking, and driveway illumination shall be no greater than the maximum levels stated above. Landscape, detention ponds, storage, equipment and other unoccupied areas shall be no greater than one half of the performance zone maximum average. Portions of properties within 350 feet of areas designated as open space on the ~~Future Land Use~~Preferred Scenario Map shall reduce lighting levels by one half.

(d) *Minimum Intensities.* No lighting plan shall show point-by-point foot-candle readings less than .03 in areas utilized for travel, parking or routine use by people.

(e) *Light Trespass.* No lighting plan shall distribute light greater than .25 fc across a lot line unless all lots are included in the site preparation permit. No lighting plan shall distribute light onto a residentially (SF or MF) lot.

(Ord. No. 2006-45, § 56, 9-19-06)

Section 6.5.2.2 - Nonresidential Lighting Curfew

(a) *Requirement.* After hours lighting shall begin no later than one-half hour after closing to the public or closing of normal operations.

(b) *Performance.* Lighting systems shall be designed to enable and be operated at levels no greater than one-half of the maximum level during operating hours after hours. This may be attained by either turning off certain fixtures or utilizing dimmer controls to achieve the desired reduction.

(Ord. No. 2006-45, § 56, 9-19-06)

Section. 6.5.2.3 - Universal Luminary Standards

(a) Specific standards for luminaries are set forth to minimize negative outcomes of commercial lighting applications.

(b) Luminaries meeting the criteria set forth in the Technical Manual shall be used exclusively in submitting photometric plans and installation on new development or expansion of current outdoor lighting systems.

(c) Maintenance, replacement or minor expansion of currently existing lighting systems, that constitute less than 50% of the value of the existing system, are exempt from this requirement.

(Ord. No. 2006-45, § 56, 9-19-06)

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Section 6.5.2.4 - Specific Use Exceptions

(a) *Exceptions Permitted.* Certain uses or facilities may require lighting intensities greater than the overall performance lighting standards for the property. These uses and facilities and their appropriate lighting levels are illustrated in the Technical Manual.

(b) *Utilization.* Specific use exceptions must be requested as outlined in Section 6.5.1.2 (b) and approved as per Section 6.5.1.3(a). The location of the specific use or facility must be shown on the plans and include separate lighting calculations. The overall site calculations may then exclude this area but must attain no more than the maximum average lighting level on the remainder of the property.

(c) *Standards for New Uses.* Standards for new or unlisted uses or facilities may be considered upon submittal of supporting documentation and proposed standards. An amendment to the Technical Manual to establish standards may be made if the Planning and Zoning Commission determines that the standards would benefit the City.

(Ord. No. 2006-45, § 56, 9-19-06)

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ARTICLE 6: - EASEMENTS

DIVISION 1: - GENERAL

Section 6.6.1.1 - Easements for New Development

For new development, all necessary on-site easements shall be established on the Final Subdivision Plat or Final Development Plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided. Examples include, but are not limited to, the following: A water, wastewater or drainage easement, which is dedicated to the City for a water or wastewater line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and fire suppression and emergency medical service providers for access purposes; and an electrical, gas or communications easement, which is dedicated to the specific utility provider that requires the easement; and so on.

Section 6.6.1.2 - Fencing

A wall, fence or screen shall be permitted over any utility easement provided that the easement remains fully accessible to the City for maintenance and repair purposes. A wall, fence or screen shall be permitted over any drainage easement if the water flow within the easement is not adversely affected by the wall, fence or screen. In addition to all other remedies provided by Chapter 1, Article 3, Division 7 of this Land Development Code, the City may summarily remove any wall, fence or screen erected in violation of this Section, and the City shall not incur any liability or assume any duty to compensate the owner or replace the wall, fence or screen.

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DIVISION 2: - STANDARDS

Section 6.6.2.1 - Utility Easements

(a) *Minimum Width.* The minimum width for City utility easements shall be ten feet or as otherwise required by the Engineering Director or by the TCSS Manual. The minimum width for City drainage easements shall be as required by the Engineering Director. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies (also see Chapter 7, Article 10). Wherever possible, easements shall be centered on the property line or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.

(b) *Location.* Where alleys are not provided in a residential subdivision, a minimum ten-foot wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line, for the potential placement of utility facilities.

Section 6.6.2.2 - Drainage Easements

Where a subdivision is traversed by a waterway, drainageway or channel, there shall be provided a drainage easement or right-of-way conforming substantially with the waterway, drainageway or channel, the width of which shall be subject to approval by the Engineering Director in accordance with proper engineering considerations, and with the requirements set forth in other regulations of this Land Development Code, the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, or the City of Austin Drainage Criteria Manual. Parallel streets, parkways, or easements shall be required adjacent to certain portions of creeks or drainageways to provide maintenance access or public access and visibility into public open space or recreation areas (also see Chapter 5, Article 2). The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be severely limited, and possibly prohibited, such that public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage easement only if approved by the Engineering Director and any other applicable entity requiring the drainage easement.

Section 6.6.2.3 - Lot Area

A lot's area shall be computed inclusive of all required public and utility easements. However, the area of required easements on a lot shall in no case exceed one-half of the lot size. If the property owner disputes the total easement area required for any lot, the owner shall submit a written computation of the per centage of the lot occupied by easements to the Engineering Director. The Engineering Director shall, in coordination with affected entities, consider a reduction in the area of required easements for the lot.

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ARTICLE 7: - LOT DESIGN AND IMPROVEMENT STANDARDS

DIVISION 1: - BLOCKS

Section 6.7.1.1 - Determination and Regulation of Size

(a) *Determination Criteria.* The length, width and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits); and

(3) Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.

(b) *Streets.* Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices.

(c) *Block Lengths.* Where no existing subdivision or topographical constraints control, the block lengths shall not exceed 1,600 feet in length along major thoroughfares and 1,200 feet along other streets. Where no existing subdivision or topographical constraints control, the blocks shall not be less than 600 feet in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through issuance of a variance with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

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DIVISION 2: - LOTS

Section 6.7.2.1 - Determination and Regulation of Size

(a) *Zoning District Requirements if Applicable.* Lots shall conform to the minimum requirements of the established zoning district, if located within the City's corporate limits.

(b) *Street Frontage Required.* Each lot on a plat shall front onto a dedicated, improved public street in accordance with this Code. In all cases, single-family residential lots, except townhome lots, shall have a minimum of 35 feet of frontage, and nonresidential lots shall have a minimum of 50 feet of frontage, along a dedicated, improved street.

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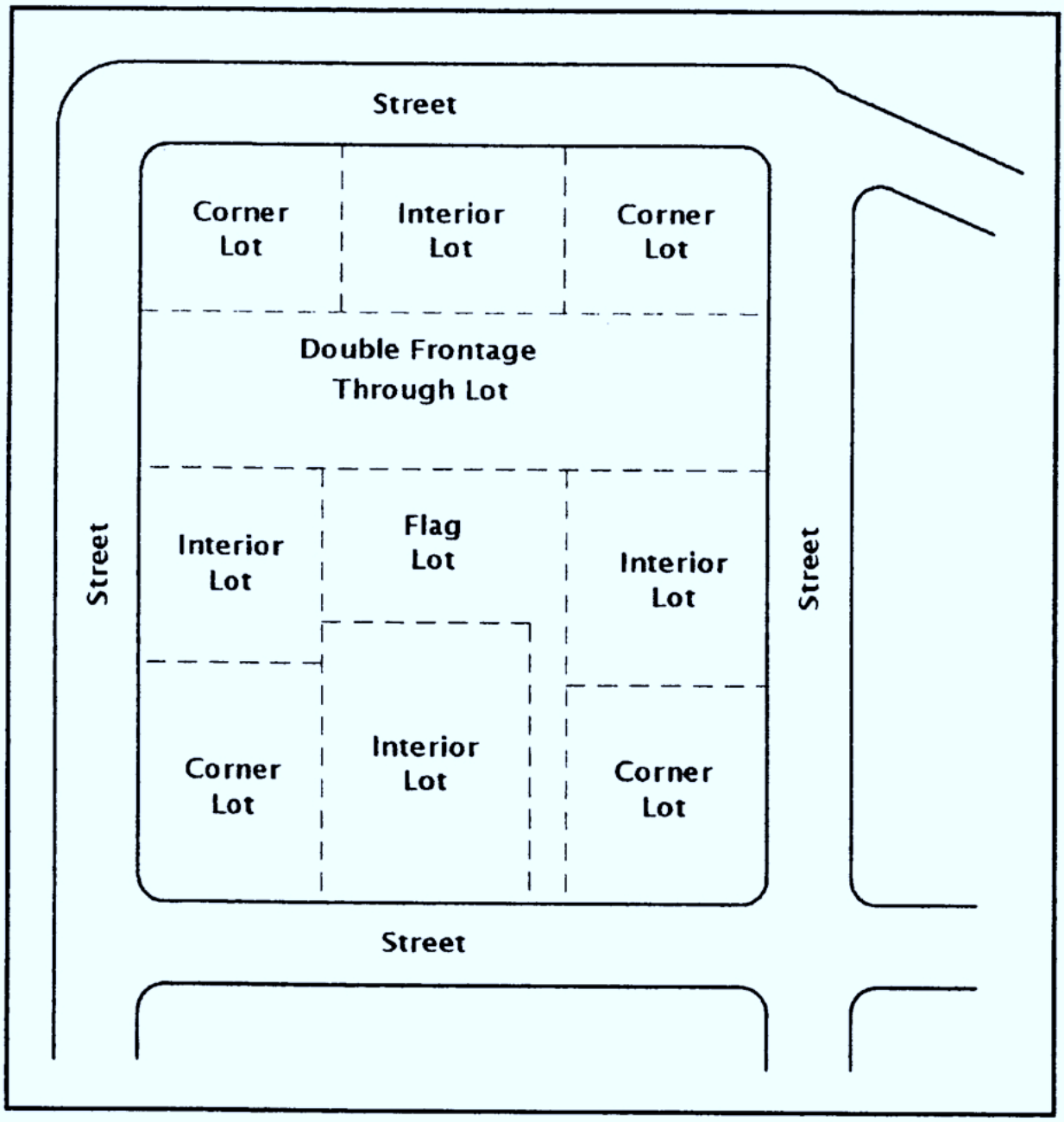

Figure 6-7: Types of Lots

(c) *Irregularly-Shaped Lots.* Irregularly-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the City's limits), and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated (in excess of a three to one length to width ratio) or tapered, or flag lots shall be not be permitted, and the City reserves

the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended or which is so oddly shaped as to create a hinderance to the logical lot layout of surrounding properties.

(d) *Side Lot Line Configuration.* Side lot lines shall be at 90 degree angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.

(e) *Double Frontage Lots.* Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as required in Section 7.4.1.4(d), or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided in accordance with Chapter 6, Article 1. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than one-half of its perimeter boundaries along streets.

(f) *Extra Depth and Width in Certain Cases.* Additional depth shall be required by the Planning and Zoning Commission when a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil or gas pipeline, an electric transmission line (69 kv or higher), an arterial street, an industrial area, or other land use that has a depreciating effect on the residential use of the property and where no marginal access street or other street is provided at the rear of the lot. A depth in excess of 140 feet shall not be required. Where a lot sides to any of the uses listed in this subsection, additional width shall be required by the Commission, but a width in excess of 75 feet shall not be required.

(g) *Lots Adjacent to or in Floodplains.* Subdivision of property in a designated floodplain must meet the requirements for floodplain management in Chapter 5

(h) *Landscaping and Buffering.* The design of lots shall take into consideration the requirements of Article 1 of Chapter 6 pertaining to landscaping and buffering, specifically in situations where the subdivision will be adjacent to areas of different land uses or when residential densities or different land uses or various residential densities will be developed within the subdivision.

(i) *Residential Developments.* Under conditions specified in Article 1 of Chapter 6, approval of a Residential Compatibility Site Plan shall be required when property being subdivided is zoned SF-6 and is adjacent to an existing platted single-family residential development, whereby the proposed new lots along the common boundary are smaller or narrower than the abutting or nearest lots in the existing subdivision.

(j) *[Lot Depth.]* Lot depth shall not exceed three times the lot width for lots platted after March 10, 1975, except for lots with a zoning designation of (TH) Townhouse Residential District.

(Ord. No. 2006-45, § 57, 9-19-06; Ord. No. 2010-49, § 10, 9-7-10; Ord. No. 2011-55, § 15, 11-1-11)

Section 6.7.2.2 - Townhouse Lots

(a) *Conditions for Creating.* Townhouse lots may be created where each townhouse lot is to be served by a public wastewater system, subject to the conditions in this subsection, in addition to those conditions applicable to all other subdivisions in this Chapter:

(b) *Service Drives.*

(1) For townhouse lots that have a service drive, private alley or public alley abutting the rear lot line, each townhouse lot will be provided with a rear entry garage. The service drive or alley will have a minimum right-of-way width of 25 feet, a minimum paved surface width of 22 feet and shall be developed in accordance with City standards. Service drives, private alleys or public alleys shall have a minimum centerline curve and corner radius of 25 feet, and shall have a turn-around located at any dead-end. Service drives, private alleys or public alleys shall not exceed 900 feet in length without providing access at the midsection of the alley to a public street. Dead-end service drives serving more than eight units shall not be permitted. Service drives shall not be

dedicated to the City, and maintenance of the service drives shall be the responsibility of the owners within the subdivision, subject to a cooperative maintenance agreement.

(2) Alleys must be accepted by the Planning and Zoning Commission, at the time of final plat approval, before they can become public alleys. Otherwise, they shall be treated as service drives or private alleys, and the developer or owners' association shall be responsible for maintenance.

(c) *Sidewalks.* In addition to installing streets, curbs, drives and utilities as a requirement of final plat approval, the subdivider shall install sidewalks along all public streets where the streets border upon common open space, communal parking areas and any other areas that will not be under individual ownership. The sidewalks shall be on public property along the property lines, shall be built according to City standards and shall be approved by the Director of Public Services before their acceptance.

(d) *Deed Restrictions and Maintenance Agreements.* The subdivider shall furnish two copies of any deed restrictions, including those providing disposition and maintenance covenants on all open space or other common ownership areas. These restrictions shall be recorded by the City at the time of final plat recordation. In addition to the required plat filing fee, an additional fee shall be provided by the subdivider to pay the county recording cost of the restrictive covenants.

(e) *Partition of Townhouse Common Areas.* All areas that are owned in common among the owners within the development shall remain undivided and shall not be the object of an action for partition or division so long as the townhouse subdivision exists.

(f) *Property Ownership.*

(1) Ownership of each dwelling unit and the lot upon which it sits is by an individual, while ownership of common open space and any service drives, communal parking areas and any other common elements is under cooperative ownership with the other owners within the development.

(2) Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, as shown on the final plat or expressed in the declaration or bylaws, without hindering or encroaching upon the lawful rights of the other co-owners.

(g) *Legal Opinion of Rights and Duties for Townhouse Lots.* If an owners' association or condominium regime is provided for, a legal opinion by an attorney licensed to practice law in the state, accurately describing and defining the rights and duties of the owners, the legal status of common areas and facilities and provisions for taxation and maintenance of the areas, shall accompany each subdivision with townhouse lots. The document shall be reviewed by the City Attorney, and a report on the opinion shall be provided to the Planning and Zoning Commission prior to final approval.

(h) *Plat Description.* Townhouse developments in the extraterritorial jurisdiction shall have the description "townhouse subdivision" prominently indicated on all associated plats and a statement that restricts all lots included in the subdivision to be limited to townhouse use.

(Ord. No. 2006-45, § 58, 9-19-06; Ord. No. 2009-73, § 25, 12-1-09)

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DIVISION 3: - RESIDENTIAL COMPATIBILITY STANDARDS

Section 6.7.3.1 - Purpose

This Division is intended to supplement the requirements of Chapter 4 and to implement the applicable policies of the ~~Master~~Comprehensive Plan with regard to harmonious transition between developments of differing densities and to protect the character and value of existing single-family residential properties.

Section 6.7.3.2 - Applicability and Adjacency Criteria

(a) *Applicable to Proposed Subdivision(s).*

(1) This Section applies to any proposed subdivision of land consisting of at least six lots or a total of one acre, which is zoned SF-6 single-family dwelling district or contains 6,000-square-foot lots or smaller and which abuts any existing, platted single-family residential development, whether the existing subdivision is inside or outside the City limits, so that either of the following conditions exist with respect to the lots which abut one another or are separated only by a street or alley along the common boundary between the two subdivisions:

a. The average size of lots abutting or nearest the common boundary in the proposed subdivision is less than two-thirds the average size of lots abutting or nearest the common boundary in the existing subdivision; or

b. The average width of lots abutting or nearest the common boundary in the proposed subdivision is less than three-fourths the average width of lots abutting or nearest the common boundary in the existing subdivision.

c. Criteria - Approval of the Residential Compatibility Site Plan required by this Section shall be based on a determination that the conditions and measures documented on the Residential Compatibility Site Plan adequately address a degree of transitional buffering consistent with the purposes stated in this Section. Only the physical characteristics required on the Residential Compatibility Site Plan shall be relevant considerations. Building aesthetics and value and assumed social, economic or demographic characteristics of potential occupants of the proposed subdivision shall not determine whether or not the Residential Compatibility Site Plan is approved. If disapproved, the reasons for the action shall be stated in the motion to disapprove the Residential Compatibility Site Plan.

(2) This Section does not apply if all the proposed lots abutting the existing subdivision are at least 11,000 square feet in size and are at least 75 feet wide at the front building setback line.

(b) *Responsibility of the Subdivider.* It is the responsibility of the subdivider to determine whether this Section is applicable to the proposed subdivision.

Section 6.7.3.3 - Enforcement

No building permit shall be issued for construction on any lot regulated by this Article unless the plans for the construction are in compliance with the requirements of the approved Residential Compatibility Site Plan, and no Certificate of Occupancy may be issued until all measures, including landscaping and screening, have been installed or constructed in accordance with the plans.

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DIVISION 4: - MONUMENTS AND LOT MARKERS

Section 6.7.4.1 - Placement and Requirements

(a) *Placement.* Four monuments shall be set along the right-of-way boundary and two monuments shall be visible from each other. Permanent lot markers shall be placed at each lot corner. Monuments and lot markers shall be set immediately after completion of utility installations and street construction or as the Engineering Director may require.

(b) *Requirements for Monuments and lot markers.* Four monuments should be set on subdivision corners along the right-of-way. A monument shall be made of an iron stake one-half inch in diameter and 24 inches long. For lot markers, stakes shall be 24 inches long and set with cap and stamp. Longer stakes should be used in softer soils. Where there are areas of rock and caliche, surveyors should analyze and use a specified length for stability of the monument. For monuments, a sono tube six inches in diameter and six inches deep should be filled in with concrete and a stake should be left one-half inch above the concrete with a surveyors' aluminum or plastic cap, stamped with the surveyors' registered number or firm.

(c) *Requirements for Subdivision Monuments.* Subdivisions less than five acres shall have at least two monuments installed. Subdivisions between five and ten acres shall have at least four monuments installed. Any subdivision greater than ten acres shall have more than four monuments installed along the right-of-way boundary for the subdivision as determined by the Engineering Director. The location of all monuments is subject to approval by the Engineering Director.

(d) *Continuously Operating Reference Station.* The City now has a Continuously Operating Reference Station (CORS) and has been designated "CSM1". New monuments shall be established and tied into "only" the City's CORS. Each monument should have grid coordinates established upon the Final Subdivision Plat or Final Development Plat. Survey monument description and information are available at the engineering department. The Engineering Director may be contacted for more information.

(e) *Responsibility.* It is the responsibility of the developer's surveyor to apply each survey value in its proper context. The accuracy of survey observations is the responsibility of the developer's surveyor, and depends on the standards and procedures, methods and techniques, and classification and order of both the horizontal and vertical controls used.

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ARTICLE 8: - MANUFACTURED HOMES, MOBILE HOMES, RECREATIONAL VEHICLES PARKS

DIVISION 1: - REGULATIONS AND REQUIREMENTS

Section 6.8.1.1 - Jurisdiction

This Article is applicable to the City limits and the extraterritorial jurisdiction of the City.

Section 6.8.1.2 - Site Design Requirements

(a) *Site Requirements.* Any mobile home or manufactured housing park constructed after the effective date of the ordinance from which this Section derives and for any extension or addition to any existing mobile home or manufactured housing park shall be done in compliance with the following site requirements:

(1) Location. A mobile home or manufactured housing park within the City limits shall be located only on sites having the applicable zoning classification as defined in Chapter 8 pertaining to zoning.

(2) Minimum requirements.

a. *Space requirements.* Each mobile home or manufactured home space shall provide a minimum area of 3,200 square feet; however, no mobile home or manufactured home space shall have dimensions less than 40 feet on the narrow dimension or 80 feet on the long dimension.

b. *Open space requirements.*

1. The minimum front yard setback shall be ten feet from the nearest corner of the mobile home or manufactured home to the front line of the mobile home or manufactured home space.

2. No mobile home or manufactured home shall be closer than five feet to any end lot line nor closer than ten feet to the lot line adjoining a public street.

3. For other structures on each space, the minimum front yard setback shall be at least ten feet.

4. The minimum distances between mobile homes shall be ten feet end-to-end and 20 feet side-to-side.

c. *Height regulations.*

1. The height limit for any structure intended for occupancy in the mobile home or manufactured housing park shall be 25 feet.

2. The average height of the mobile home or manufactured home frame above the ground elevation will conform to Section 5.a of the state mobile home or manufactured home tiedown standards and the building code.

d. *Soil and ground cover.* Exposed ground surfaces in all parts of every mobile home or manufactured housing park shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.

e. *Drainage.* The ground surface in all parts of a manufactured housing park shall be graded and equipped to drain all surface water away from pad sites.

f. *Accessory buildings.* An accessory building is a subordinate building, detached from the main building, without separate utilities and not used for commercial purposes or rented. In a residential district, it may be used as a washroom, a storage room for domestic storage belonging to the owner or tenant only or a space for one or more automobiles owned by the owner, tenant or guests. In districts other than residential, an accessory building is a subordinate building, the use of which is incidental to and used only in conjunction with the main building.

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Section 6.8.1.3 - Access and Traffic Circulation and Parking

(a) *Internal Streets and Signage.* Internal streets, no-parking-area signs, and street name signs in a mobile home or manufactured home park shall be privately owned, built and maintained. Streets shall be designed for safe and convenient access to all spaces and to facilities for common use of the manufactured housing park's residents. Internal streets shall be kept open and free of obstruction in order that police and fire vehicles may have access to any areas of the mobile home or manufactured housing park.

(b) *Signs Prohibiting Parking Required.* On all sections of internal streets on which parking is prohibited under this Article, the owner or agent shall erect metal signs; type, size, height and location shall be approved by the Director of Public Services prior to installation.

(c) *Internal Street Construction and Maintenance.* All internal streets shall be constructed and maintained by the owner or agent. All internal streets shall be free of cracks, holes and other hazards. Internal streets shall be constructed on hard-surfaced, all-weather material and shall be approved by the Director of Public Services.

(d) *Access to Each Home or Space.* An internal street or common access route shall be provided to each mobile home or manufactured home space. This street shall have a minimum width of 30 feet if off-street parking is provided in the ratio of two parking spaces for each mobile home or manufactured home space. The internal street shall be continuous and connect with other internal streets or with a public street or shall be provided with a cul-de-sac having a minimum diameter of 95 feet.

(e) *Parking Requirements.* Two spaces per mobile home or manufactured home space shall be provided for parking, and each parking space shall be hard-surfaced with all-weather material, located to eliminate interference with access to parking areas provided for other mobile homes or manufactured homes and for public parking in the park.

(f) *Unobstructed Access.* Internal streets shall permit unobstructed access to within at least 200 feet of any portion of each mobile home or manufactured home. Speed bumps constructed to maintain safe speed of vehicles moving within the manufactured housing park shall not be considered as obstructions. Speed bumps are to be constructed at four to one inclination, not to exceed four inches in height. Speed bumps shall be painted with fluorescent paint.

(g) *Intersections with Public Streets.* Interior streets shall intersect adjoining public streets at approximately 90 degrees with a curbline radius of 20 feet at a location which will eliminate or minimize interference with traffic on those public streets.

(h) *Common Area Parking Area Required.* A minimum parking area of 150 square feet per mobile home or manufactured home space shall be provided in a common area for storage of boats or vehicles in excess of two per mobile home or manufactured home space and for visitors' vehicles to minimize on-street parking and to facilitate movement of emergency vehicles into and through the park.

(Ord. No. 2009-73, § 26, 12-1-09)

Section 6.8.1.4 - Street Lighting

Street lighting within the mobile home or manufactured housing park shall be provided by the developer along internal streets. Light standards shall have a height and spacing to ensure that an average illumination level of not less than two-tenths footcandles shall be maintained.

Section 6.8.1.5 - Fire Safety Standards

(a) *Storage and Handling of Liquefied Petroleum Gases.* In mobile home or manufactured housing parks in which liquefied petroleum gases are stored and dispensed, their handling and storage shall comply with requirements of the City plumbing and fire codes as applicable.

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(b) *Storage and Handling of Flammable Liquids.* In parks in which gasoline, fuel, oil or other flammable liquids are stored or dispensed, their handling and storage shall comply with the City fire code.

(c) *Access for Fire Fighting.* Approaches to all mobile homes shall be kept clear for fire fighting.

(d) *Fire Fighting Instruction.* The mobile home or manufactured housing park owner or agent shall be responsible for instructing the owner's staff in the use of the manufactured housing park's fire protection equipment and in their specific duties if a fire occurs.

(e) *Water Supply Facilities for Fire Department Operation.* The manufactured housing park owner shall provide standard City fire hydrants located within 500 feet of all mobile home or manufactured home spaces, measured along the driveways or streets.

(f) *Rubbish Disposal.* The mobile home or manufactured housing park owner or agent shall provide an adequate system of collection and safe disposal of rubbish, approved by the Director.

(g) *Removal of Dry Brush, Leaves and Weeds.* The mobile home or manufactured housing park owner or agent shall be responsible for maintaining the entire area of the manufactured housing park free of dry brush, leaves and weeds.

Section 6.8.1.6 - Recreational Area

All mobile home or manufactured housing parks shall have a recreational area amounting to five per cent total area of the park.

Section 6.8.1.7 - Water Supply

(a) *Required.* An accessible, adequate, safe and potable supply of water shall be provided in each mobile home or manufactured housing park. Connection shall be made to the public supply of water. The public supply shall be adequate both for domestic requirements and for fire fighting requirements established by the City.

(b) *Water Distribution System.*

(1) The water supply system of the mobile home or manufactured housing park shall be connected by pipes to all mobile homes, buildings and other facilities requiring water.

(2) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and City regulations and requirements.

(c) *Individual Connections.* Individual connections shall be in accordance with requirements of the City plumbing code, as applicable.

Section 6.8.1.8 - Sewage Disposal

(a) *Requirements.* For sewage disposal in a mobile home or manufactured housing park, the following shall apply:

(1) *Approval required.* All proposed sewage disposal facilities shall be approved by the Environmental Health Department and Director of Water and Wasterwater prior to construction. The use of septic tanks for the disposal of sewage shall not be approved except when City wastewater facilities are not available.

(2) *Wastewater Lines.* All wastewater lines shall be in accordance with the City plumbing code, as applicable.

(3) *Individual Wastewater and Water Connections.*

a. All materials used for wastewater connections shall be in accordance with City plumbing code, as applicable.

b. Provision shall be made for plugging the wastewater riser when no mobile home or manufactured home occupies the space. Surface drainage shall be diverted away from the riser.

Section 6.8.1.9 - Electrical and Telephone Distribution System

All electrical wiring in the mobile home or manufactured housing park shall be in accordance with the electrical code as amended and the requirements of the electric utility provider. All telephone lines in the manufactured housing park shall be installed underground.

Section 6.8.1.10 - Service Buildings and Other Community Service Facilities.

(a) *Applicability.* This Division shall apply to service buildings, recreation buildings and other community service facilities in a mobile home or manufactured housing park, such as:

(1) Management offices, repair shops and storage areas;

(2) Sanitary facilities;

(3) Laundry facilities;

(4) Indoor recreation areas; and

(5) Commercial uses supplying essential goods or services for the benefit and convenience of manufactured housing park occupancy.

(b) *Barbecue Pits, Fireplaces, Stoves and Incinerators.* Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be located, constructed, maintained and used so as to minimize fire hazards and smoke nuisance, both on the property on which it is used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

Section 6.8.1.11 - Fuel Supply and Storage

Liquefied petroleum gas systems shall be installed only if an available natural gas system is more than 1,000 feet from the mobile home or manufactured housing park. The liquefied petroleum gas systems shall be maintained in accordance with applicable codes of the City governing these systems and regulations of the State Railroad Commission pertaining thereto.

Section 6.8.1.12 - Register of Occupancy

(a) *Maintenance of a Register.* The owner or agent of a mobile home or manufactured housing park shall maintain a register of park occupancy which shall contain the following information:

(1) Name and park address of manufactured housing park residents.

(2) Dates of arrival and departure.

Section 6.8.1.13 - Skirting Required; Maintenance of Additions

Skirting shall be required for each mobile home or manufactured home in a mobile home or manufactured housing park. Skirting and other additions, when installed, shall be maintained in good repair.

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DIVISION 2: - RECREATIONAL VEHICLE PARKS

Section 6.8.2.1 - Size and Marking of Units or Sites

Each unit or site reserved for the accommodation of any recreational vehicle shall have an area of not less than 576 square feet, exclusive of driveways, and shall be at least 24 feet wide. It shall be defined clearly by proper markers at each corner, shall be level, paved, and well drained. Any area in the City limits proposed for use as a recreational vehicle park must be zoned for a district that permits the use of land for a recreation vehicle park.

Section 6.8.2.2 - Location

No recreational vehicle shall be placed or erected closer than five feet from the property line separating the recreational vehicle park from adjoining property, measuring from the nearest point of the recreational vehicle.

Section 6.8.2.3 - Drainage

All land used as a recreational vehicle park shall be located on well-drained sites of ample size, free from heavy or dense growth or brush or weeds. The land shall be free from marsh and shall be graded or storm sewered to ensure rapid drainage during and following rain.

Section 6.8.2.4 - Water Supply

Each site used as a recreational vehicle park shall be provided with a connection and an adequate supply of water of safe, sanitary quality, approved by the Environmental Health Department. Where water from other sources than that of the municipal supply is proposed to be used, the source of the supply shall first be approved by the Environmental Health Department.

Section 6.8.2.5 - Collection and Removal of Waste and Garbage; Wastewater System

Each recreational vehicle park shall be provided with safe and adequate facilities for the collection and removal of waste and garbage and shall provide a proper and acceptable wastewater system, either by connection to the City wastewater system where it is available or to a septic tank, all of which shall comply with all on-site sewage facility rules. If individual wastewater connections at each park space are not provided, then a centralized dump station for disposal of waste and garbage shall be provided.

Section 6.8.2.6 - Sanitary Facilities

(a) *Requirements.* Each recreational vehicle park upon which two or more recreational vehicles are erected or placed and where private conveniences for each site are not provided shall provide, at locations described in this Section, toilets, urinals, washbasins, slop basins, showers or baths, water faucets or spigots in accordance with the following:

(1) One toilet or stool for the female sex for every ten units or fractions thereof.

(2) One toilet or stool and one urinal stall for the male sex for every 20 units or fractions thereof.

(3) One lavatory or washbasin for each toilet room having three toilets or fractions thereof shall be provided.

(4) One shower or bathtub shall be provided for each sex for each ten units or fractions thereof.

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(5) All toilets, basins and showers shall be placed in properly constructed buildings located not more than 300 feet from any recreational vehicle unit served.

(6) Buildings shall be well lighted at all times, day or night, well ventilated with screened openings, and constructed of moisture-proof material to permit rapid and satisfactory cleaning, scouring and washing.

(7) The floors shall be of concrete or other impervious material, elevated not less than four inches above grade, and each room shall be provided with floor drains.

(8) Slop sinks or basins with water supply shall be provided to serve each four units and shall be constructed in accordance with design, size and material approved by the health officer.

(b) *Toilet and Bathing Facilities.* Toilet and bathing facilities shall be in separate rooms or partitioned apart in any manner as to provide privacy and promote cleanliness. Each toilet provided in a community toilet house shall be partitioned apart from any other toilet in the same room. The floor surface around the commode shall not drain onto the shower floor.

(c) *Materials and Cleanliness Requirements.* Toilet and bathroom floors shall be of impervious material, painted white or a light color and kept clean at all times. Shower stalls shall be of tile, plaster, cement or some other impervious material and shall be kept clean at all times.

Section 6.8.2.7 - Registration of Guests

(a) *Each Person Must Register.* Each person engaging accommodations for any recreational vehicle shall register and give the following information to the manager, operator or person in charge thereof:

(1) Name.

(2) Residence.

(3) Automobile and recreational vehicle license plate number and the state in which each is registered.

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Chapter 7 - PUBLIC FACILITIES STANDARDS

ARTICLE 1: - ADEQUATE PUBLIC FACILITIES

DIVISION 1: - GENERAL STANDARDS

Section 7.1.1.1 - General Policy

(a) *Adequate Service for Areas Proposed for Development.* Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or offsite.

(b) *Responsibilities of the Developer.* The developer shall be responsible for:

(1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;

(2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities;

(3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site);

(4) Providing proof to the City of adequate public facilities;

(5) Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable;

(6) Providing for all operations and maintenance of the public facilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the facilities;

(7) Providing all fiscal security required for the construction of the public facilities;

(8) Obtaining approvals from the applicable utility providers other than the City; and

(9) Complying with all requirements of the utility providers, including the City.

Section 7.1.1.2 - Conformance to Plans

(a) *Conformance.* Proposed capital improvements serving new development shall conform to and be properly related to the ~~public facilities~~ appropriate plan elements of the City's adopted ~~Master~~Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

(b) *Final Plat Approval After Water and Wastewater Provided for.* No final plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary wastewater system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary wastewater system to serve the subdivision shall be in conformance with the City's Master Plans for water and wastewater facilities and with the Technical Construction Standards and Specifications (TCSS), and shall be subject to approval by the Director of Engineering.

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Section 7.1.1.3 - Water

All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection. Additional standards and requirements are defined in Article 2 of this Chapter 7.

Section 7.1.1.4 - Wastewater

All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The Director of Engineering shall be responsible for determining the approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in Article 3 of this Chapter 7.

Section 7.1.1.5 - Roads

Proposed roads serving new development shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network. Additional standards and requirements are defined in Article 4 of this Chapter 7.

Section 7.1.1.6 - Drainage

Drainage improvements serving new development shall accommodate potential runoff from the entire upstream drainage area under developed conditions and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, the construction of off-site drainage improvements, or drainage impact fees in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in Article 5 of this Chapter 7.

Section 7.1.1.7 - Other Facilities

Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the City's ~~Master~~Comprehensive Plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this Chapter 7.

Section 7.1.1.8 - City Options

In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site capital improvements for water, wastewater, road, drainage or park facilities to serve a proposed development, or require the payment of fees in lieu thereof consistent with Article 7 of this Chapter 7, or both. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the City may deny the development until the public facilities and services can be provided, or require that the development be phased so that the delivery of facilities and services coincides with the demands for the facilities created by the development.

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Section 7.1.1.9 - Conflicts Among Standards

Whenever there is a conflict between a City of Austin manual or standard and any other technical standard included or referenced in this Chapter, the other technical standard shall prevail.

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DIVISION 2: - DEDICATION AND CONSTRUCTION REQUIREMENTS

Section 7.1.2.1 - Findings on Necessity for Right-of-Way Dedication and Construction as a Condition of Development Approval

(a) *Support for New Development.*

(1) New development must be supported by adequate levels of public facilities and services.

(2) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.

(3) Requirements for dedication and construction of capital improvements to serve a proposed new development should be attached as conditions of approval of any development application that contains a specific layout of the development.

(b) *Essential Nexus.* There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.

(c) *Mitigation of Development Impacts; Fair Share.* The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a development project contribute not more than its fair share of such costs.

Section 7.1.2.2 - Property Owner's Obligation

(a) *Dedication and Construction of Improvements*. The property owner shall dedicate all rights-of-way and easements for, and shall construct, capital improvements within the rights-of-way or easements for those water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.

(b) *Adjacent Road Improvements*. In the case of adjacent or abutting roads, the City may require that the entire right-of-way be dedicated and improved to City design standards, depending on factors such as the impact of the development on the road, the timing of development in relation to need for the road, and the likelihood that adjoining property will develop in a timely manner. In the case of frontage or service roads for state and federally designated highways, the entire abutting right-of-way shall be dedicated and improved to applicable design standards.

(c) The City may reserve the right-of-way along a roadway designated in the Transportation Master Plan, Thoroughfare Plan, an approved collector plan or an established capital improvement project located in the planning jurisdiction of the City to protect a transportation corridor from development. The Director of Engineering shall determine the alignment of reserved right-of-way based upon the Transportation Plan, collector plan or capital improvement project and engineering criteria, including grade, curvature and the existence of a floodplain. In an area designated for a state roadway project, the Texas Department of Transportation may establish alignment.

(d) *Substandard Road Improvements*. Where an existing road that does not meet the City's right-of-way or design standards abuts a proposed development, the City may require the property owner to dedicate the right-of-way for a standard width, and to improve the street according to the dimensions and specifications in the applicable Thoroughfare Plan, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to the need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.

(e) *Facilities Impact Studies*. The City may require that a property owner prepare a comprehensive traffic impact study, drainage study or other public facilities study in order to assist the City in determining whether a proposed

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development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the Director of Engineering. The City also may require, at the time of approval of a subordinate development application, an update of a public facilities study approved in connection with a priority development application.

Section 7.1.2.3 - Timing of Dedication and Construction

(a) *Initial Provision for Dedication or Construction*. The City shall require an initial demonstration that a proposed development shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; a petition for an annexation agreement or a development agreement; an application for a cluster development plan; an application for a subdivision concept plat, or an application for a preliminary or final subdivision or development plat. As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development.

(b) *Deferral of Obligation*. The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subordinate development permit, or, in the case of a development proposed to be developed in phases, until a subsequent phase of the development, on the sole discretion of the City, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City may require that the developer enter into a capital improvements agreement pursuant to 7.7.1.14 of this Land Development Code, specifying the time for dedication of rights-of-way for or construction of capital improvements serving the development.

Section 7.1.2.4 - Relief from Obligations

In order to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the City may participate in the costs of capital improvements in accordance with Division 3 of this Article 1, credit or offset the obligations against payment of impact fees, or relieve the property owner of some or part of the obligations in response to a petition for relief from a dedication or construction requirement pursuant to Chapter 1, Article 10, Division 3.

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DIVISION 3: - CITY FACILITIES PARTICIPATION AND UTILITY EXTENSION AND CONNECTION POLICIES

Sec. 7.1.3.1 - City Facilities Oversize Participation

(a) *Facilities within Development.* The developer shall, at the request of the Engineering Director, dedicate rights-of-way and easements, and construct roadway, drainage, wastewater, water and other public facilities, of a size greater than the City's minimum standards or the size needed to serve the area being developed, whichever is greater. In connection with the request, the City shall enter into an agreement with the developer under which the City reimburses the developer for the increase in the cost of the facilities within one year after the date the construction plans for the facilities are approved, or within 60 days after the construction has been completed, whichever is later. The agreement will be subject to approval by the City Attorney, and (if the amount of the reimbursement exceeds the City Manager's authority to approve) the City Council.

(b) *Off-site Facilities.* When off-site roadway, drainage, wastewater, water and other public facility improvements are necessary in connection with a development, the developer shall, at the request of the Engineering Director, dedicate rights-of-way and easements, and construct roadway, drainage, wastewater, water and other public facilities, of a size greater than the City's minimum standards or the size needed to serve the area being developed, whichever is greater. In this event, the developer and the City shall enter into an agreement under which the City reimburses the developer for the increase in the cost of the facilities within one year after the date the construction plans for the facilities are approved, or within 60 days after the construction has been completed, whichever is later. The agreement will be subject to approval by the City Attorney, and (if the amount of the reimbursement exceeds the City Manager's authority to approve) the City Council.

(c) *Determination of Reimbursement Amount.* Before a developer is entitled to reimbursement under this section, the developer shall furnish the Engineering Director with a construction cost estimate for the facilities prepared by the developer's engineer, or a signed copy of the construction contractor's bid for construction of the facilities. The cost estimate or the bid must clearly delineate the difference in cost between the facilities the developer is required to install and the oversize facilities requested by the City. The amount of the reimbursement shall be subject to review and approval by the Engineering Director.

(Ord. No. 2005-29, § 4, 8-16-05)

Section 7.1.3.2 - Utility Extensions and Connections—General Standards.

(a) *Extensions/Connections to the City's Water and Wastewater Systems.* All extensions of and connections to the City's water and wastewater systems shall be in accordance with Chapter 86 of the City Code.

(b) *Connections to Existing City Water or Wastewater System Outside the City Limits.* Applications for connection to existing portions of the City water or wastewater system for uses located outside the City limits will be granted only with the approval of the City Manager. Each such application must be accompanied by a written request for annexation of the applicant's property.

(c) *Extensions of City Water or Wastewater System Outside the City Limits.* Applications for extensions of City water or wastewater mains to serve a property located outside the city limits will be granted only with the approval of the City Council. An application for approval of such an extension must be accompanied by a written request for annexation of the applicant's property. If the property is not contiguous to the city limits, the application must be accompanied by a written request for annexation of an area at least 15 feet in width from each property owner or, for public right-of-way, the entity having jurisdiction over the right-of-way, along the intended route of the line extension.

(d) Annexation requests must be submitted on forms approved by the City.

(Ord. No. 2005-59, § 4, 8-16-05)

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DIVISION 4: - PERIMETER ROAD REQUIREMENTS AND PARTICIPATION

Section 7.1.4.1 - Improvement of Adjacent (Perimeter) Roads and Utilities

(a) *Improvement of Fair Share of an Adjacent Substandard Road.* When an area within a proposed subdivision or development plat, whether residential or nonresidential, abuts on one or both sides of an existing substandard road or utility facility, or a planned or future road or utility facility as shown on the City's Thoroughfare Plan and/or adopted plans related to water and wastewater, the developer shall be required to improve its reasonable share of the road (including appurtenant sidewalks, barrier-free ramps, storm drainage facilities, screening and landscaping, median openings, left turn lanes, and water quality or erosion controls) and utility facilities, to bring the facilities to City standards, or to replace them with standard City road or utility facilities as determined by a traffic or other public facilities impact study, if required, at no cost to the City.

(b) *Calculation of Fair Share.* The developer's share of improvements to a substandard perimeter road is 24 feet of pavement (not including curb), or the equivalent of one-half of a collector street, along the entire front footage of the subdivision, unless the Thoroughfare Plan identifies the perimeter road as a divided arterial or if the traffic impact analysis indicates that some other pavement width is needed to achieve and maintain an acceptable level of service on the roadway.

The developer's share of improvements to a roadway identified as a divided arterial is one half of the roadway or a pavement width of 35 feet, not including curb, that can be safely used as a two lane street. If the subdivision is to be located on both sides of the roadway, the full width of 70 feet of pavement, not including curbs, shall be constructed by the developer on each side of the road along the entire perimeter of the subdivision, unless the traffic impact analysis determines otherwise. Design and construction of the roadway shall be in accordance with the City's Thoroughfare Plan (with respect to right-of-way width and general location), the TCSS Manual, and with any other applicable City codes and ordinances.

Depending upon the specific roadway in question, and the traffic impact analysis results, if required, any oversizing above the 24-foot width or the 35-foot width for a divided arterial shall be borne by the City, the county, the State or by some other entity. The developer may also be entitled to a roadway impact fee credit, if applicable. The Planning and Zoning Commission may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway, and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

(c) *Participation in Construction of Other Necessary Facilities.* The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/pedestrian pathways, abutments, safety railings and crossarms, median areas, etc.) shall be in accordance with the City of San Marcos' or the City of Austin's policies for the construction of such facilities, whichever is the most stringent.

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DIVISION 5: - INTERLOCAL AGREEMENTS

Section 7.1.5.1 - Interlocal Cooperation Agreements Between San Marcos and Hays, Comal and Guadalupe Counties

The City has executed separate interlocal cooperation agreements as authorized under Chapter 242 of the Texas Local Government Code. These agreements are with Hays, Comal and Guadalupe Counties. Each county has assigned the City its respective authority to approve subdivision plats in the City's ETJ. The agreements generally provide for the City to enforce its subdivision regulations, together with specified regulations of the respective counties, within the ETJ. (For specific responsibilities, see the separate interlocal agreements found in the Technical Manual.)

(Ord. No. 2006-45, § 59, 9-19-06)

Section 7.1.5.2 - Interlocal Cooperation Agreements Between San Marcos and Caldwell County

The City has executed a separate interlocal agreement as authorized under Chapter 242 of the Texas Local Government Code with Caldwell County. Caldwell County has assigned its authority to approve subdivision plats in the City's ETJ to the City. The agreement generally provides for the City to enforce its subdivision regulations and authority within the ETJ, with the exception that Caldwell County shall continue to administer its on-site sewage and floodplain regulations and assume maintenance responsibility for all public streets, roads, and drainage systems upon their completion within subdivisions in the City's ETJ. (For specific responsibilities, see the separate interlocal agreements found in the Technical Manual.)

(Ord. No. 2006-45, § 59, 9-19-06)

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ARTICLE 2: - WATER

DIVISION 1: - FACILITIES

Section 7.2.1.1 - The City System

(a) *Installation of Water Facilities.* Where water is to be provided through the City system, the developer shall install adequate water facilities, including fire hydrants, in accordance with the current Rules and Regulations for Public Water Systems of the TCEQ, and the firefighting standards of the Texas Board of Insurance, and the standards and specifications of the City.

(b) *Facilities for Health and Safety Emergencies; Alternative Water Sources*. All water facilities connected to the City's water system shall be capable of providing water for health and emergency purposes, including fire protection. An alternative source of water within a development may be used for irrigation purposes, subject to City approval and the obtaining of all appropriate permits from the U.S. Army Corps of Engineers, the TCEQ, and any other applicable agency. An alternative water source may not be used for potable (i.e., drinking) water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the following standards:

(1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the TCEQ.

(2) Design and construction of water service from the City shall be in accordance with the standards in the City's TCSS Manual.

(3) Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS Manual, and in accordance with the City's Fire Department and Fire Code (also see Chapter 86 of the City Code for cross-connection control and backflow prevention).

Section 7.2.1.2 - Location; Performance Guarantees

(a) *Location and Cost of Installation.* The location of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, indicating all improvements proposed to be served, shall be shown on the construction plans. The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.

(b) *Extension of Lines.* Extension of water lines shall be made along the entire frontage of the subdivision or development plat adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Engineering may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.

(c) *Compliance with Other Regulations.* Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ, and with any other applicable State rules and regulations, whichever is the most stringent requirement.

(Ord. No. 2009-73, § 27, 12-1-09)

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Section 7.2.1.3 - Individual Wells

(a) *Within the City Limits.* The provision of water supply to a new development served by individual wells within the City limits is prohibited.

(b) *Within the ETJ.* Individual wells within the ETJ shall be subject to approval by the county health official, and this approval shall be documented by the health official's signature on the water system statement on the plat. The developer must submit with the plat application a certificate from a professional engineer registered in this state or a geoscientist licensed to practice in this state verifying the adequacy of the proposed source of well supply prior to plat approval.

(c) *Compliance with Other Regulations.* Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the TCEQ, any other applicable State rules and regulations, and applicable regulations of groundwater conservation districts. In the event of conflict among these regulations, whichever is the most stringent shall apply.

(Ord. No. 2006-45, § 60, 9-19-06)

Section 7.2.1.4 - Central Water Systems

(a) *Design and Construction.* All water facilities within a subdivision shall be designed and constructed to City standards and to all State laws, policies, standards, rules and regulations for an approved public water system, including those covering the preparation, submittal and approval of plans and specifications for water systems and acceptable operating practices, and in conformance with all laws, policies, standards and rules and regulations for establishing the fire insurance key rate of the standard City. The entire water system may not meet these standards, but the part that serves the subdivision must meet these standards in order to be approved by the City.

(b) *Other Water Systems.* For water systems other than the City system, the following apply:

(1) If the water system that will serve a proposed development is not to be a part of the City water system, the developer must submit with the application for approval of the preliminary plat a current letter from the TCEQ certifying that the public water system that will serve the subdivision is in compliance with TCEQ rules and regulations. For a development in the ETJ, the developer must obtain the approval and signature of the county health official on the water system statement on the plat before the Planning and Zoning Commission approves the plat. The owner or manager of the water system shall sign the water system statement on the plat, which indicates that the subdivision will be served by a water system meeting the City standards, as noted in subsection 7.2.1.4(a) or 7.2.1.4(c) of this Section, and the applicable standards of the water purveyor, before the Commission approves the plat. Plans and specifications for the subdivision's water system that will be built to serve the subdivision shall be submitted as part of the subdivision's construction plans.

(2) The developer must submit a letter from the TCEQ verifying that the public water system proposed to serve the development holds a current valid certificate of convenience and necessity (CCN) for the area proposed for development. The letter must be accompanied by a map showing the boundaries of the water system CCN in the vicinity of the development.

(c) *Standards May Be Met Upon Annexation.* If a water system cannot meet the standards of subsection 7.2.1.4(a) of this Section, at the Planning and Zoning Commission's discretion, the subdivision may be approved, if arrangements have been made for an approved water system that will meet City standards to serve the subdivision upon annexation by the City. This shall be arranged by means of a mutually acceptable contract with the City, unless a contract with another entity ensures compliance with the technical requirements of this Chapter, as determined by the City Attorney.

Section 7.2.1.5 - Water Taps (see Chapter 86.026 of the City Code)

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ARTICLE 3: - WASTEWATER

DIVISION 1: - FACILITIES

Section 7.3.1.1 - The City System

Establishment of a private wastewater utility district within the City of San Marcos or within the City's extraterritorial jurisdiction shall be prohibited (see Chapter 70 of the City Code).

Section 7.3.1.2 - Centralized Wastewater System; Connection to Existing System

(a) *Design Requirements.* Where wastewater is to be provided through a centralized system, the developer shall install adequate facilities, subject to the standards and specifications of the City and state design criteria for wastewater systems.

(b) *Extensions of Lines.* Extension of wastewater lines shall be made along the entire frontage of the subdivision or development plat adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Engineering may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.

(c) *Existing System.* Where insufficient capacity exits downstream of a proposed connection, the replacement and upsizing of the existing main is required of the developer. The installation of a parallel main is prohibited.

(Ord. No. 2009-73, § 28, 12-1-09)

Section 7.3.1.3 - Location; Performance Guarantees

(a) *Location and Cost of Installation.* The location of all wastewater improvements and the boundary lines of special districts, private systems and certified areas, indicating all improvements proposed to be served, shall be shown on construction plans. The cost of installing all wastewater improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.

(b) *Future Extension of Lines.* Pipe stub-outs shall be located in manholes to facilitate the future extension of wastewater lines. The Director of Engineering will determine the location and size of the stub-outs.

Section 7.3.1.4 - Wastewater Taps (see Chapter 86.091 of the City Code)

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DIVISION 2: - ON-SITE SEWAGE FACILITIES

Section 7.3.2.1 - Adoption of Procedures

(a) *Adoption and Authorization.* The On-Site Sewage Facility Rules are adopted, and shall conform to Chapter 86 of the City Code and all state regulations.

Section 7.3.2.2 - Wastewater Connections When Platting is Not Required

All wastewater connections to be made in connection with development for which a plat is not required shall be in accordance with Chapter 86 of the City Code.

Section 7.3.2.3 - Rule Conflicts

Where this Division or other provisions of this Code are more stringent than the On-Site Sewage Facility Rules, the local regulations take precedence over the corresponding provisions of the Rules.

Section 7.3.2.4 - Penalties

The City will enforce these rules as provided in V.T.C.A., Health and Safety Code, Sections 306.091, Criminal Penalties, 366.092, *Injunction or Civil Suit*, 366.0921, *Civil Penalty,* and by any other remedies provided by State Law.

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ARTICLE 4: - ROADS, SIDEWALKS AND ALLEYS

DIVISION 1: - GENERAL STANDARDS

Section 7.4.1.1 - Conformance with Regulations and Circulation and Safety Needs

(a) *Conformance with Plans and Regulations.* The arrangement, character, extent, width, grade and location of all streets shall conform to the City's Thoroughfare Plan and the City's Technical Construction Standards and Specifications (TCSS), and shall be considered in their relation to existing and planned streets or driveways (whether within the City limits, the ETJ area, or adjacent municipal or county areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by the streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements, shall not be permitted in any subdivision unless they are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with this Section and with the City's TCSS.

(b) *Establishment of a Safe, Convenient and Functional System.* Proposed streets shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation, shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times. The layout of the street network shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction, thereby helping to reduce storm water runoff, protect aquifers, and preserve natural, scenic characteristics of the land.

Section 7.4.1.2 - Adequacy of Streets and Thoroughfares

(a) *Responsibility for Adequacy of Streets and Thoroughfares.* The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.

(b) *General Adequacy Policy.* Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular, bicycle and pedestrian traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

(c) *Road Network.* New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of 200 or more dwelling units, or for developments generating 2,000 or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation and submission, prior to or along with the preliminary plat application, of a traffic impact analysis prepared in accordance with Article 4, Division 2, Traffic Impact Analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the Director of Engineering may require a demonstration of adequacy pursuant to this Article for additional phases or portions of the property as a condition of approval for the proposed preliminary plat.

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If a proposed development seeks access from an existing residential or neighborhood collector street, and if the proposed development will add more than 300 vehicle trips per day to the existing traffic volumes, then a neighborhood traffic impact analysis shall be required, as set forth in Article 4, Division 2 of this Chapter.

(d) *Approach Roads and Access*. All subdivisions with 75 or more lots must have at least two points of vehicular access (primarily for emergency vehicles), and must be connected with improved roadways to the City's improved thoroughfare and street system by one or more approach roads of the dimensions and standards hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if the need is demonstrated by traffic impact analysis.

(1) "Two points of vehicular access" shall be construed to mean that the subdivision has at least two improved roads accessing the subdivision from the City's improved thoroughfare system, and the subdivision has at least two road entrances. The Planning and Zoning Commission may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City's improved thoroughfare system, if the median extends into the subdivision for an unbroken length of at least 100 feet to an intersecting internal street which provides at least two routes to the interior of the subdivision. For example, the entrance street cannot be a dead-end or cul-de-sac, and it cannot create a "bottleneck" allowing only one emergency route into the interior of the subdivision. Residential lots may not front onto any median-divided street section, and residential driveways may not be located in front of a median.

(2) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning, or 25 feet, whichever is greater, unless other provisions have been authorized through planned development approval. Each nonresidential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or 50 feet, whichever is greater, unless other provisions have been authorized through planned development approval.

(e) *Off-Site Improvements*. Where traffic impact analysis demonstrates the need for the facilities, or where the City believes public safety is at risk, the property owner shall make improvements to off-site collector and arterial streets and intersections necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The City may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the City's cost participation policies on oversized improvements based on Chapter 7, Article 7 (Impact Fees).

(f) *Street Dedications*.

(1) *Dedication of right-of-way.* The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan and as required by the TCSS or by other valid development plans approved by the Planning and Zoning Commission.

(2) *Slope easements.* The dedication of slope easements, in addition to dedicated rights-of-way, shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet horizontal run to one foot vertical height, or a three-to-one slope.

(g) *Street Construction*. All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and this Article, and in accordance with the TCSS and other City standards as may be from time to time amended or adopted in the Technical Manual.

(h) *Intersection Improvements and Traffic Control Devices.* Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by Article 4, Division 2 of this Chapter, or as may be required by the City for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the TCSS.

(i) *Phased Development*. Where a subdivision is proposed to be developed in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a schedule of development (see Section 7.4.1.2.c).

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(j) *Private Streets*. New subdivisions shall not be constructed with private streets, nor may an existing subdivision's public streets be converted to private ownership. Any private streets in subdivisions that were in existence (i.e., platted of record) on the effective date of this Ordinance shall be allowed to remain as private streets. The City will not assist in enforcing deed restrictions. The City may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.

(1) *Private streets: Construction and maintenance cost*. The City shall not pay for any portion of the cost of constructing or maintaining a private street.

(2) *Private streets: Traffic control devices*. All private traffic control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to City standards.

(3) *Private streets: Restricted access*. The subdivision homeowners association shall clearly mark entrances to all private streets with a sign, placed in a prominent and visible location, indicating that the streets within the subdivision are private, and not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned 24 hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method used to ensure City and emergency access into the subdivision shall be approved by the City's Fire Department and by any other applicable emergency service providers. If the association fails to maintain reliable access as required herein, the City may enter the private street subdivision and remove any gate or device which is a barrier to access, and bill the expense to the association. If the bill is not paid, the City may file a lien for the expense against any property owned by the association.

(4) *Private streets: Waiver of services*. Certain City services may not be provided for private street subdivisions. Among the services which may not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending on the characteristics of the development and access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided as well.

(5) *Private streets: Petition to convert to public streets*. The property owners association may petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept the streets as public. The City, as a condition of accepting a private street, may impose a requirement either for repairs and improvements to a street at private expense prior to acceptance, or a written agreement by all property owners along the street to payment of a prorata assessment of the costs for repairs or improvements to the street by the City prior to acceptance. The City shall be the sole judge of the nature and extent of repairs or improvements needed. The City may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street or other common area prior to City acceptance.

(6) *Private streets: Hold harmless*. The property owners association, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity.

Section 7.4.1.3 - Escrow Policies and Procedures

(a) *Request for Escrow.* Whenever this Land Development Code requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may petition the City to construct the improvement at a later time, in exchange for deposit of escrow as established in (b) below, if unusual circumstances

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exist, such as a timing issue due to pending improvements by another agency such as TxDOT or the county, that would present undue hardships or that would impede public infrastructure coordination or timing. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, the ~~Planning D~~Director may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of the affected roadways. The ~~Planning D~~Director shall review the particular circumstances involved and may require a traffic impact analysis. The ~~Planning D~~Director shall determine whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare.

(b) *Escrow Deposit with the City.* Whenever the City Council agrees to accept escrow deposits in lieu of construction by the property owner, the property owner shall deposit in escrow with the City an amount equal to the owner's share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. This amount shall be reviewed and approved by the ~~Planning D~~Director and by the Engineering Director, and shall be paid prior to recording of the final plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

(1) *Determination of escrow amount.* The amount of the escrow shall be determined by using comparable "turnkey" costs for construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). The determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the ~~Planning D~~Director and the Engineering Director.

(2) *Termination of escrow.* Escrows, or portions of escrowed amounts, which have been placed with the City under this Section and which have been held for a period of ten years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner or applicant who originally paid the escrow amount, along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot(s) or if a new building permit(s) is applied for.

(3) *Refund.* If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

(4) *Interest limitation.* If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

Section 7.4.1.4 - Specific Street Standards

(a) *Arrangement of Streets Not Shown on the Thoroughfare Plan*. For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

(1) Provide for the continuation or appropriate projection of existing streets from or into surrounding areas - every 1,200 feet, there shall be a projection that would allow for such continuation;

(2) Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

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(3) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and

(4) Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).

(b) *Discouragement of Through Traffic on Residential Streets.* Residential collector streets and local residential streets shall be laid out such that their use by "cut through" traffic will be discouraged, with the development of a hierarchical street system and such measures as circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.

(c) *Transitions of ROW Width.* Wherever the right-of-way width of a residential local or collector street must transition to a greater or lesser width, the transition shall not occur within an intersection but within the street ROW so that the ROW shall be the same on both sides of the street intersection.

(d) *Subdivisions Abutting or Containing Arterial Streets.* Where a subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning Commission may require marginal access streets, shared driveway access on commercial lots, reverse or double-lot frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Construction of residential driveways onto major and minor arterials shall be prohibited, except in the FD and AR zoning districts.

(e) *Reserve Strips.* Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the Planning and Zoning Commission.

(f) *Configuration Shall Reduce Minimal Offsets*. Intersecting, undivided streets with centerline offsets (or jogs) of less than 125 feet shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).

(g) *Intersections.* A street intersection with a classification of minor arterial or above shall be at a 90 degree angle and shall be tangent to the intersecting street for at least 100 feet. All other street intersections shall be laid out so as to intersect as nearly as possible at a 90 degree angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least 50 feet. No street shall intersect at an angle that is less than 85 degrees.

(h) *Right-of-Way Widths.* Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan and in the City's TCSS Manual.

(i) *Half Streets.* Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Code and the Thoroughfare Plan, and where the Planning and Zoning Commission makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The Planning and Zoning Commission may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed.

(j) *Maximum Length of a Block or Street Segment.* The maximum length of any block or street segment (including a looped street) shall be 1,200 feet except 1,600 feet shall be permitted along major thoroughfares, and the minimum length of any block or street segment shall be 600 feet, as measured along the street centerline and between the point(s) of intersection with other through streets (i.e., not dead-end streets or cul-de-sacs).

(k) *Maximum Length of a Cul-De-Sac Street.* A cul-de-sac street shall not be longer than 500 feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 100 feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the

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centerline of the cul-de-sac bulb. In nonresidential areas, the turnaround shall have a minimum right-of-way diameter of 100 feet and a paving surface with a minimum width of 90 feet.

(l) *Variances for Overlength Streets or Cul-De-Sacs.* The Planning and Zoning Commission may approve variances for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

(1) Alternative designs which would reduce street or cul-de-sac length;

(2) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and

(3) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

(m) *Dead-End Streets.* Except when recommended by the City Engineer, no dead-end streets will be approved unless they are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in subsection (k) above. A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a 50-foot distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.

(n) *Names of Extensions of Existing Streets.* New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

(o) *Construction of Streets.* All streets shall be constructed in accordance with paving widths and specifications as set forth in the TCSS of the City of San Marcos at the time at which the preliminary plat application is officially submitted and deemed a complete application.

(p) *Street Grades and Horizontal Curves.* Minimum and maximum street grades and horizontal curves will conform to standards set forth in the TCSS Manual.

(q) *Pavement Widths and Rights-of-Way.* Pavement widths and rights-of-way shall be as specified in the City's Major Thoroughfare Plan (see the Technical Manual).

(r) *Curbs and Gutters.* Curbs and gutters, or ribbon curbs, where approved, shall be installed in the subdivision on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision, according to the TCSS.

(s) *Street Names.*

(1) New streets in a subdivision shall be named in a way that will provide continuity of street names and prevent conflict or confusion with existing street names in the City, in the City's extraterritorial jurisdiction or in a neighboring jurisdiction. A proposed new street name is in conflict with this subsection where:

a. It duplicates or sounds phonetically similar to the name of a street already in use within the City or the City's extraterritorial jurisdiction or designated as a future extension in the current thoroughfare plan;

b. It differs from an existing street name in the City or the City's extraterritorial jurisdiction by the addition of an auxiliary designation including "avenue", "way", "boulevard", etc.; or

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c. The street to be named is an extension of or is in substantial alignment with an existing street in the City, the City's extraterritorial jurisdiction or a neighboring jurisdiction and the proposed street name is different from the existing street name.

(2) Renaming of existing streets shall be in accordance with Section 74.041 of the City Code.

(t) *Street Signs.* Street signs shall be installed by the developer at all intersections within and abutting the subdivision. These signs shall be of a type approved by the City, and shall be installed according to City standards.

(u) *Streetlights.* Streetlights shall be installed by the developer at all intersections and at the ends of culs-de-sac, and shall have no greater distance than 400 feet between them within or abutting the subdivision. Street Lighting inside the City Limits shall be installed and suitable to accept power by the developer or property owner of new residential, commercial, or industrial developments at all intersections and at the end of culs-de-sac, and shall have no greater distance than 400 feet between the fixtures within or abutting the subdivision. Poles shall be located a minimum of two feet behind existing or planned curbs or sidewalks on public rights-of-way. Street lighting structures shall comply with the City of San Marcos Electric Utilities Underground Installation Specifications. Street lights shall be fully shielded in such a manner that light emitted by the fixture, either from the lamp or indirectly from the luminaire, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. All street light installations shall be in accordance with the National Electrical Code and National Electrical Safety Code, and shall also conform to City laws, codes and specifications governing such work. Alternative standards for street lighting installations will be considered by the Electric Utility Division of the City of San Marcos Public Services Department on a case by case basis. All street lights shall be connected by the serving utility, to the permanent power supply and function properly prior to final acceptance. Service to locations where City electric utility facilities are not available will be made at the discretion of the Electric Utility Division of the City of San Marcos Public Services Department and at an additional charge, subject to existing tariffs, to the developer or property owner to cover the costs of installation and maintenance, including appropriate overheads, additional poles, conductors, other facilities and increased maintenance expenses. Applicable state or federal street lighting requirements in conflict with this ordinance supersede this ordinance.

(v) *Access Management.* Access management standards and requirements related to TXDOT roadways shall be in accordance with the standards adopted in the TXDOT Access Manual. Access management standards and requirements related to City roadways shall be in accordance with the TCSS Manual and Chapter 7, Article 4, Division 2 (Driveways) of this Land Development Code.

(w) *Screening Along Arterial Roadways.* Screening requirements for arterial roadways shall be in accordance with Section 6.1.2.3

(Ord. No. 2005-59, § 7, 8-16-05; Ord. No. 2006-45, § 62, 9-19-06; Ord. No. 2011-55, § 16, 11-1-11)

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DIVISION 2: - ALLEYS, DRIVEWAYS AND SIDEWALKS [1]

Section 7.4.2.1 - General Requirements for Alleys

(a) *Alleys in Nonresidential Districts.* Service alleys in nonresidential districts, if provided or constructed by the developer, shall be a minimum right-of-way width of 20 feet and a pavement width of 20 feet.

(b) *Alleys in Residential Districts.* In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Two-way alleys in residential districts shall provide a minimum of 20 feet of right-of-way and 20 feet of pavement. One-way alleys shall provide a minimum of 16 feet of right-of-way and 15 feet of pavement.

(Ord. No. 2006-45, § 63, 9-19-06)

Section 7.4.2.2 - General Design Standards for Alleys

(a) Alleys shall be paved in accordance with the City of San Marcos's TCSS and construction standards that are in effect at the time the preliminary plat application is officially submitted and deemed a complete application.

(b) Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.

(c) Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the City Engineer.

(d) Alleys may not exceed a maximum length of 1,600 feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). Any request for a variance of alley length shall be considered based on the following:

(1) Alternative designs which would reduce alley length;

(2) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and

(3) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.

(e) Alley intersections shall be perpendicular and at a 90 degree angle or radial to the intersecting alley centerline for the full alley right-of-way width, and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible, and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

(Ord. No. 2006-45, § 63, 9-19-06)

Section 7.4.2.3 - General Requirements for Sidewalks

(a) *Required in Subdivisions.* Sidewalks are required in all subdivisions except in residential areas where all lots are equal to or exceed one acre.

(b) *Installation.* Sidewalks shall be installed as follows:

(1) Sidewalks shall be located on the front of lots and along the street sides of corner lots.

(2) Sidewalks shall be constructed in compliance with the width and location requirements indicated in the TCSS.

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(c) *Requirements for Sidewalks in Existing Platted Subdivisions.* Sidewalks are required in accordance with subsection (b) above, and construction of sidewalks shall be completed prior to the issuance of a certificate of occupancy for the following types of development:

(1) A new single family residential dwelling.

(2) All nonresidential development except where the only improvements planned are the remodeling or renovation of an existing building.

(d) *Site Layout, Construction and Drainage of Sidewalks.* Sidewalks shall be constructed in accordance with the TCSS, and as required by the Engineering Director. Where sidewalks are installed, the following minimum requirements shall be met:

(1) *Sidewalk permits required.* Unless sidewalk construction plans are approved as part of subdivision construction plans or building permit plans, a separate permit shall be issued by the Engineering Director for all sidewalk construction installed within City right-of-way, easements or property.

(2) *Widths and location.* Where sidewalks are installed, the following minimum widths and locations shall be required:

a. Sidewalks shall be in constructed in compliance with the width and location specifications indicated in the TCSS.

b. Wherever water from roof or adjacent buildings is drained or conducted under sidewalks through aqueducts or concrete troughs, any openings in the sidewalks shall be fitted with strong metal covers which shall be securely held in place with screws or other fasteners that will not rust or corrode. The covers shall be set flush with the surface of the sidewalk and securely bolted, fastened or so constructed that they cannot slip, shift or lose alignment with the surface of the sidewalk. Downspouts shall not drain across the surface of sidewalks or pedestrian ways.

(e) *Sidewalk Ramps.* Sidewalks constructed to the requirements in this section shall include a standard sidewalk pedestrian ramp whenever a curb return or other structure may present an architectural barrier to handicapped access within a pedestrian path or at street/sidewalk intersections constructed in accordance with ADA requirements.

(f) *Fee in Lieu of Dedication.* A cash fee for the installation of off-site sidewalks may be paid in lieu of all or part of the sidewalks required under Section 7.4.2.3(b)(1). The cash fee in lieu of sidewalk installation shall be set by resolution of the City Council (see the Technical Manual). All fees in lieu of installation shall be paid prior to the issuance of a building permit. Fees in lieu of installation may be accepted if the Director consents. In evaluating the request, the Director shall consider:

(1) Proximity to the nearest existing sidewalk;

(2) Proximity to public facilities, such as public or private schools, libraries and other government buildings;

(3) Whether any public sidewalk improvements are planned or contemplated in the area; and

(4) Any other information deemed appropriate in the professional judgment of the Director.

(g) *Sidewalk Benefit Areas.* The City shall establish a separate sidewalk account. The funds in the account shall be earmarked solely for the development of sidewalks either in the same sector in which the lot is located, or for regional sidewalk connectivity that will benefit all of the citizens of San Marcos. The City shall expend cash contributions within ten years of the date any such contribution is made.

(Ord. No. 2006-45,§ 63, 9-19-06; Ord. No. 2010-49, § 11, 9-7-10; Ord. No. 2011-55, § 17, 11-1-11)

Section 7.4.2.4 - General Requirements for Driveways

(a) Sidewalks, driveway approaches, curbs, gutters, pavements and appurtenances on public property and other facilities to provide access to abutting properties in the City and ETJ in connection with platting or building

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construction shall be constructed, provided, altered or repaired in accordance with the "City of San Marcos Standard Specifications" and as prescribed by the standards outlined within this division.

(b) Sidewalks, driveway approaches, curbs, gutters, pavements and appurtenances on public property and other facilities to provide access to abutting properties in the City that are not connected with platting or building construction shall be subject to the provisions of article 5 of chapter 74 of the City Code.

(Ord. No. 2006-45,§ 63, 9-19-06)

Section 7.4.2.5 - Driveway Site Layout and Construction Standards

(a) *Type I Driveway Approaches.* Type I driveway approaches shall comply with the following standards (See Table 7-1):

(1) *Width of driveway approach.* Width of driveway approaches shall conform to the dimensions as required by Table 7-1.

(2) *Radius.* Driveway approaches shall be constructed with either winged side slopes or with return curbs having a rolled face disappearing at the sidewalks and joining the street curb with a radius to conform to the dimensions as required by Table I. Winged side slopes shall be used whenever a curb return may present an architectural barrier within a pedestrian path.

(3) *Removal of sidewalk.* Where a driveway approach is designed to cross an existing sidewalk, the sidewalk included in the driveway approach area shall be removed and reconstructed as a driveway approach, unless the City Engineer has determined that the section of sidewalk fully complies with the requirements of this section for driveway approaches.

(4) *Removal of curb and gutter.* Where a driveway approach is to be constructed at a location where a curb and gutter is in place, the curb and gutter shall be removed to the nearest existing construction joint or a new construction joint formed by other methods, as may be approved by the City Engineer. The driveway approach shall be constructed monolithically with the new curb and gutter section and shall extend back to the property line. If the existing curb and gutter is found to be of satisfactory condition and strength, as determined by the City Engineer, a one-inch minimum depth longitudinal and vertical saw cut or equal cut along the face of the curb may be required for curb removal. Curb removal shall extend to the bottom of the cut. The new concrete driveway approach, at the cut, shall be a minimum of two inches thick.

(5) *Drainage.* Driveway approaches shall be designed to prevent the entrance of water from the street onto private property, except that a drainage system may be provided within the property to handle water coming from the street. Driveway approaches constructed below the street curb grade shall be deemed substandard, and the permit applicant/property owner shall be required to provide a certificate by a state-registered professional engineer certifying to the adequacy of the drainage system provided within the property to handle water coming from the street as a result of the substandard construction.

(6) *Release of City.* In consideration for the approval of substandard construction, the applicant/property owner is required to release and acquit the City from any and all damages that may result from substandard construction. The form of release shall be as approved by the City Attorney.

(b) *Type II Driveway Approaches.* Type II driveway approaches shall comply with the following standards (See Table 7-1):

(1) *Width of driveway approach.* The width of any driveway approach shall conform to the dimensions as required by Table 7-1, and the width shall be as measured along the property line, except that driveway approaches for motor vehicle docks, within a building, shall not exceed 60 feet in width at the property line. Where more dock space is required, the driveway approaches shall be separated by a traffic island meeting the standards set out in subsection (b)4 of this section.

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(2) *Maximum space to be occupied by driveway approaches.* Driveway approaches shall not occupy more than 70% of the roadway abutting frontage of the tract of ground devoted to one particular use, except as noted in subsection (b)15 of this section.

(3) *Number of driveway approaches allowed.* Not more than two driveway approaches shall be permitted on any parcel of property with a frontage of 150 feet or less, except that additional openings may be permitted with the approval of the City Engineer for the necessity and convenience of the public.

(4) *Separation between driveway approaches.* When more than one driveway approach is required to serve a parcel of property, the driveway approaches shall be separated by a minimum distance, as measured at the property line, as required by Table 7-1.

(5) *Requirements for safety curb or secured parking block.* Where the grade at the property line may result in part of the vehicle extending into the pedestrian way, a safety curb or secured parking blocks shall be located so that no part of a vehicle shall extend over the property line into the right-of-way. The safety curb or parking blocks shall be constructed or arranged to end 24 inches from the intersection of the driveway approach with the property line.

(6) *Joint approaches.* Driveway approaches shall be located entirely within the frontage of the premises abutting the work, except that joint driveway approaches with adjoining property holders may be permitted provided joint application is made by all interested parties and the required width, as measured at the property line, is not exceeded.

(7) *Angle of driveway approach.* The angle of the driveway approach with the curbline shall be approximately 90 degrees for two-way driveways, or 45 degrees to 90 degrees for one-way driveways.

(8) *Radius.* Driveway approaches shall be constructed with either winged side slopes or with return curbs having a rolled face disappearing at the sidewalks and joining the street curb with a radius to conform to the dimensions as required by Table 7-1. Winged side slopes shall be used whenever a curb return may present an architectural barrier within a pedestrian path.

(9) *Sidewalk to be removed.* Where a driveway approach is designed to cross an existing sidewalk, the sidewalk included in the driveway approach area shall be removed and reconstructed as a driveway approach unless the City Engineer has determined that the section of sidewalk fully complies with the requirements of this section for driveway approaches.

(10) *Removal of curb and gutter.* Where a driveway approach is to be constructed at a location where a curb and gutter is in place, the curb and gutter shall be removed to the nearest existing construction joint or a new construction joint formed by other methods as may be approved by the City Engineer. The driveway approach shall be constructed monolithically with the new curb and gutter section and shall extend back to the property line. If the existing curb and gutter is found to be of satisfactory condition and strength, as determined by the City Engineer, a one-inch minimum depth longitudinal and vertical saw cut or equal cut along the face of the curb may be required for curb removal. Curb removal shall extend to the bottom of the cut. The new concrete driveway approach, at the cut, shall be a minimum of two inches thick.

(11) *Driveway approaches at intersections.* Along either side of any parcel, the driveway approaches shall be located no closer than 100 feet to the corner of the intersecting right-of-way. Corner parcels less than 150 feet in length along the right-of-way shall combine access with adjoining property, wherever possible. Where it can be shown that access is effectively denied a corner parcel because of the 100-foot distance from the corner of the intersecting right-of-way and combined access is not available from adjoining property, a variance to the requirement may be granted by the City Engineer, provided the applicant demonstrates that a variance will not create a traffic hazard.

(12) *Driveway approaches at roadway facilities.* Driveway approaches at or near traffic interchanges, grade separations and traffic circles shall be so located that traffic entering or leaving the street will not impede, confuse, imperil or otherwise interfere with vehicular traffic.

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(13) *Driveway approaches in existing on-street angle or head-in parking areas.* Driveway approaches shall not be constructed in existing on-street angle or head-in parking areas unless all curb is restored to a standard location along the roadway in front of the premises.

(14) *Obstruction of driveway approaches.* Driveway approaches shall not be constructed or designed so that standing or parked vehicles may obstruct the driveway.

(15) *Premises used as motor bank.* Premises used as a motor or drive-through bank may have driveway approaches as approved by the City Engineer. The approaches shall be utilized for drive facilities and shall not be utilized for angle or head-in parking.

(16) *Drainage.* Driveway approaches shall be designed to prevent the entrance of water from the street onto private property, except that a drainage system may be provided within the property to handle water coming from the street. Driveway approaches constructed below the street curb grade shall be deemed substandard, and the permit applicant/property owner is required to provide a certificate by a state-registered professional engineer certifying to the adequacy of the drainage system provided within the property to handle water coming from the street as a result of the substandard construction.

(17) *Release of City.* In consideration for the approval of substandard construction, the applicant/property owner shall be required to release and acquit the City from any and all damages that may result from substandard construction. The form of release shall be as approved by the City Attorney.

(c) *Standards for One-Way Driveways.* One-way driveways shall have the same standards as two-way driveways, except for width, which shall be a minimum of 12 feet and a maximum of 25 feet. The minimum spacing between drives shall be twice the curb radius.

Table 7-1: Two-Way Driveway Standards

Driveway	Type of Development	Curb				Minimum Spacing Between Drives
		Width (ft)		Radius (ft)		
		Min.	Max.	Min.	Max.	
Type I	Single-Family	10	20	5	5	10
	Duplex and Townhomes	15	25	5	10	20
	Multi-Resident Apartments	24	30	5	10	20
Type II	Office, Commercial, and Parking Lots	24	35	10	15	20
	Industrial	24	45	10	15	20
	Banks, Service Stations, and Convenience Stores with Fuel Pumps	25	45	10	15	1/3 × Frontage

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DIVISION 2: - ALLEYS, DRIVEWAYS AND SIDEWALKS

(Ord. No. 2006-45, § 63, 9-19-06; Ord. No. 2009-73, § 29, 12-1-09)

FOOTNOTE(S):

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Editor's note— Ord. No. 2006-45, § 62, adopted Sept. 19, 2006, deleted Div. 2 in its entirety and enacted a new Div. 2 to read as set out herein. Former Div. 2 pertained to similar subject matter and derived from Ord. No. 2004-92, adopted Dec. 13, 2004; and Ord. No. 2005-59, § 5, adopted Aug. 16, 2005. (Back)

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DIVISION 3: - TRAFFIC IMPACT ANALYSIS

Section 7.4.3.1 - Purpose and Applicability

(a) *Purposes and Findings.*

(1) New development must be supported by an adequate network of thoroughfares.

(2) Thoroughfares are an essential component of the City's street network and are necessary to accommodate the continuing growth and development of the City.

(3) It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting or development of the land.

(4) The City desires to assure both that development impacts are mitigated through contributions of thoroughfare rights-of-way and improvements and that a development project is not required to contribute more than its fair share of thoroughfare costs.

(5) It is the City's intent to assure that dedications of thoroughfare rights-of-way and thoroughfare construction requirements are proportional to the traffic demands created by a new development.

(6) It is the intent of the City that a road adequacy determination be made concurrent with approval of development applications.

(b) *Applicability*. New developments or expansions of existing developments within the City limits or within the City's extraterritorial jurisdiction that are expected to generate traffic in excess of 2,000 average daily trips, based upon the latest edition of the Institute of Transportation engineers (ITE) Trip Generation Manual must perform a traffic impact study in compliance with the standards of this article. Also, any development project expected to generate more than 300 vehicle trips per day on an existing residential street or neighborhood collector street will require a neighborhood traffic impact analysis, in accordance with City of Austin standards. In the event that land uses and intensities of use for the development are not identified in a development application, the daily trip generation rate shall be computed based upon the maximum land use intensity allowed under the ~~Horizon Master~~Comprehensive Plan ~~-~~for the land to be subdivided or developed.

(Ord. No. 2006-45, § 64, 9-19-06)

Section 7.4.3.2 - Standards for and Timing of Traffic Impact Study

(a) *Initial Study and Update Required*. An initial traffic impact study shall be submitted with a petition to establish a planned development or other overlay zoning district, an application for a cluster development plan or the first plat application for the development. An updated traffic impact study shall be submitted with each subsequent plat application submitted for approval and shall be generally consistent with the initial traffic impact study. The initial traffic impact study shall be updated whenever the plan for development within the overlay zoning district, cluster development plan or plat application is modified to authorize more intensive development.

(b) *Contents*. The traffic impact study shall identify or determine the following: (1) trips to be generated by the proposed development; (2) assignment of such trips to the road network analyzed; (3) the capacity of affected thoroughfares before and after the proposed development; (4) deficient thoroughfares; (5) specific recommendations for thoroughfare improvements and traffic control modifications needed to mitigate the traffic from the proposed development; and (6) the development project's proportionate share of the costs of such improvements and modifications. The method of preparing the traffic impact study shall be determined by the Director of Engineering. The Director shall specify at a minimum the level of service and the measure of capacity and demand to be assumed and the scope of the study, and shall include the prescribed contents in the Technical Manual for this Chapter 7

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(c) *Capital Improvements Plan Roads.* The capacity of a thoroughfare may be considered adequate for purposes of traffic impact analysis if a needed improvement is included, funded, and approved in the City's, county's or State's two-year capital improvements plan for roads, or, if the improvement is included, funded, and approved in the City's, county's or State's three to five-year capital improvements plan for roads, provided that the applicant agrees to phase development to conform to such scheduled improvement. This Section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a traffic impact study in order to determine a development project's proportionate costs of improvements.

(d) *Initial Study and Update Required.* An initial traffic impact study shall be submitted with the first of the following actions: a petition to establish a planned development or other overlay zoning district, an application for a cluster development plan, any plat application or site preparation permit for the development. An updated traffic impact study shall be submitted with each subsequent plat application or site preparation permit submitted for approval and shall be generally consistent with the initial traffic impact study. The initial traffic impact study shall be updated whenever the any plan for development within the project is modified to authorize more intensive development.

(Ord. No. 2006-45, § 64, 9-19-06)

Section 7.4.3.3 - City Evaluation and Action

(a) *Criteria*. The Director of Engineering shall evaluate the adequacy of the traffic impact study prepared by the applicant. Based upon such evaluation, the Director shall make recommendations concerning (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and (2) the extent of the applicant's obligations to make such dedications or improvements. The Director may recommend and the final decision-maker may attach conditions to the approval of the development application, based on one or more of the following performances by the applicant:

(1) Delay or phasing of development until thoroughfares with adequate capacity or intersection improvements are constructed;

(2) A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;

(3) The dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development; or

(4) Any combination of techniques that would assure that the traffic impacts of the development will be mitigated.

(b) *Deferral of Obligation*. Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on a development application may be deferred until the City's action on a subordinate development application. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be in the sole discretion of the City. The City shall require the developer to execute a subdivision improvement agreement specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares.

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ARTICLE 5: - DRAINAGE

DIVISION 1: - STORM WATER COLLECTION AND DRAINAGE CONVEYANCE SYSTEMS

Section 7.5.1.1 - System Design Requirements

(a) *Design Based on Maximum Build-Out Configuration.* Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" condition, and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No storm water collection system shall be constructed unless it is designed in accordance with the City's TCSS Manual by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer. All plans submitted to the City Engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system. (Also see Chapter 5.)

(b) *Design Storm Event.* All drainage facilities (including street curbs, gutters, inlets and storm wastewaters) shall be designed to intercept and transport runoff from a 25-year frequency storm. The drainage system shall be designed to convey those flows greater than a 25-year frequency, up to and including a 100-year frequency storm within defined rights-of-way or drainage easements. Peak flows shall not be increased at any location for the 2-, 5-, 10-, 25-, 50- or 100-year storm frequency which causes increased inundation of any building or roadway surface.

(c) *Easements.* Easements or right-of-way shall be dedicated to the City by the owner of property to be developed for the purpose of containing all drainage facilities, open or enclosed, and all storm water flows to the limits of the 100-year floodplain as determined by fully developed conditions. No easement or right-of-way for such purposes shall be less than 25 feet in width for open drainage systems and 15 feet for enclosed drainage systems. Additional easements or right-of-way shall be provided as necessary to allow continuous access for operation, maintenance and rehabilitation of all drainage facilities.

(d) *Street Drainage.* No lowering of the standard height of street crown shall be allowed for the purposes of obtaining additional hydraulic capacity. For bridges and culverts in residential streets, runoff from the 100-year frequency flow shall not produce a headwater depth at the roadway greater than either 12-inches above the roadway crown or any top of upstream curb elevation, whichever is lower. For bridges and culverts in streets other than residential areas, the 100-year headwater depth is limited to six-inches.

(e) *Conformance with the TCSS Manual.* All erosion and sedimentation controls shall conform to the TCSS Manual.

(f) *Permit Required.* No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining a Site Preparation Permit from the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The Director of Engineering may, at his or her discretion, require preparation and submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

(g) *Layout Should Use Natural Contour Lines.* In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.

(h) *Design of Storm Water Retention or Detention Facilities.* All storm water retention or detention facilities shall be designed using materials and techniques as established in the City's TCSS Manual or as may be approved by the Engineering Director.

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Section 7.5.1.2 - Velocity Attenuation and Surface Drainage Channels

(a) *Drainage Channels Generally.* All drainage channels to be constructed or to be altered for drainage purposes shall conform to the criteria of this Article.

(b) *Surface Drainage Channels.* Surface drainage channels shall be designed to minimize potential erosion and to increase the bottom width to flow depth ratio as follows: Channel cross sections shall be trapezoidal in configuration.

(1) Side slopes of channels shall be no steeper than four horizontal to one vertical.

(2) For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four inches and design flow velocity shall not exceed 2½ feet per second.

(3) All constructed and altered drainage channels shall be stabilized and vegetated as soon as practicable after final grading.

(4) The Director of Engineering may allow exceptions to the design flow velocities or depths in the following situations in conformance with the purpose of Section 5.3.2.5

a. On lands with greater than 15 percent slope, provided that the design flow velocity shall never be greater than three feet per second.

b. In limited transitional channel sections (including culverts, culvert entries and exits, drop sections, sharp bends and water quality basin entries).

Section 7.5.1.3 - Street and Drainage Improvements

Plans for street and drainage improvements located within developments requiring compliance with this Article shall be designed on the basis of a 25-year frequency rainfall, in accordance with the City of Austin Drainage Criteria Manual.

Section 7.5.1.4 - Impervious Cover Limitations

(a) No person shall develop land, a tract, a parcel or a lot, requiring compliance with this Article, in the City that has a slope of 15 percent gradient or greater or that has highly erodible soils, as identified in this Section, so as to create impervious cover in excess of 35 percent on slopes from 15 percent gradient to 25 percent gradient or in excess of 20 percent on slopes over 25 percent gradient. The maximum impervious cover percentage requirement shall only apply to those areas on a parcel of land that are not covered with impervious cover as of May 6, 1982. The impervious cover requirement will pertain to all area within the development which is shown to be on 15 percent slope or greater by topographical survey performed by a registered surveyor. Those areas within the development that are not on slopes of 15 percent or greater may be developed to the maximum allowed under applicable laws.

(b) Slope contours will be based on existing topography prior to the initiation of grading or fill work at the site.

Section 7.5.1.5 - Drainage Easement Dedication Requirements

(a) Public drainage easements shall be dedicated to the City by the owner of property to be developed for the purpose of containing all drainage improvements, open or enclosed, and all storm water flows to the limits of the 100-year floodplain as determined in accordance with anticipated fully-developed contributing area land use conditions, and to allow continuous access for operation, maintenance and rehabilitation of all drainage improvements. Drainage improvements that serve streets or other public property may be dedicated in a public street right-of-way rather than a drainage easement, subject to the approval of the Director of Engineering.

(b) Drainage easements must be at least 25 feet in width for open drainage systems, or 15 feet in width for enclosed drainage systems.

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Section 7.5.1.6 - Drainage Improvements Maintenance Criteria

(a) Drainage improvements constructed or installed under this Article shall be maintained in accordance with the following:

(1) Drainage improvements located in the public rights-of-way that have been accepted by the City will be maintained by the appropriate jurisdiction.

(2) All drainage improvements located on private property and which are publicly dedicated easements shall be maintained by the property owner.

(b) During the course of development under an approved Watershed Protection Plan or Site Preparation Permit, and until final inspection of completed drainage improvements, the permit holder shall provide for the following:

(1) Maintaining of an onsite inspection and repair log for all drainage and erosion control features and facilities required under this Article. This log shall be open to inspection by City inspectors at reasonable times.

(2) Maintaining rock covered points of ingress and egress sufficient to permit inspection of all drainage and erosion control features and facilities required under this Article.

(3) Daily cleanup of paved streets and of drainage areas impacted by onsite or offsite construction.

(c) Duly authorized City inspectors may lawfully enter onto the land or premises where property owners are required to maintain drainage facilities, at reasonable times, for the purpose of inspection of the maintenance required. Where noncompliance is found, the City shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If, within the period of time specified in the notice, the maintenance required is not accomplished, the City may take one or more of the following actions:

(1) Bring an action in a court of competent jurisdiction to require the property owner to accomplish the necessary maintenance.

(2) Perform the required maintenance, bill the property owner for the cost of the maintenance, and record a lien against the property served by the drainage facilities.

Section 7.5.1.7 - Calculation of Impervious Cover

(a) Under this Article, roads, sidewalks, parking areas, buildings and other impermeable construction covering the natural land surface shall be considered as impervious cover. To estimate the percent of impervious cover created by the development of a parcel or tract of land, the following methods should be used:

(1) *Roadways (except cul-de-sacs):*

(Wr + 2Wc) x (lf) = square feet

Where:

Wr	=	width of roadway pavement
Wc	=	width of curb
lf	=	linear feet

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(2) *Cul-de-sacs (use either subsection a or subsection b of this Section, as is applicable)*:

a. (P/2 + 10) (Wr + 2Wc) = square feet

Where:

P	=	perimeter of right-of-way
Wr	=	width of roadway
Wc	=	width of curb

b. (Wr + 2Wc) x (lf) + (r + Wc)2 = square feet

Where:

Wr	=	width of roadway
Wc	=	width of curb
lf	=	3.142 (linear feet to point of tangency with cul-de-sac turnaround
r	=	radius of turnaround pavement

(3) *Driveway approaches*:

(16) x (9.5) x (N) = square feet

Where:

16	=	average driveway width in feet
9.5	=	length of driveway approach for standard ten-foot curb base minus curb. (This factor may vary depending on ROW and resulting curb base.)
N	=	total number of lots

(4) *Single-family residential areas*:

(3,000) (N) = square feet

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Where:

3,000	=	average impervious cover for single-family residential lots
N	=	number of lots

(5) *Multifamily, commercial and industrial land uses*: The impervious cover for other land uses, including multifamily, commercial and industrial, shall be determined by addressing the following factors:

a. Ground floor building square footage of all structures.

b. Estimated square footage of off-street parking.

c. Driveways and/or roadways on-site.

(b) If alternative surfaces for parking or other related uses are proposed, adjustment factors have been established that should be multiplied by the total acres of actual impervious cover. The use of any alternative surfaces, including those not listed here, must be authorized by the Engineering Department. Adjustment factors for any surfaces not listed here shall be established by the Engineering Department. Adjustment factors for use with specific surface coverage are as follows:

Proposed Alternative Surface	Coverage Factor
Gravel walks or driveways	0.25
Rolled base or gravel driveways	0.55
Stone, brick, or wood block with open joints	0.60
Stone, brick, or wood block with cemented joints	0.80
Grass-crete (or equivalent)	0.70
Concrete or asphaltic concrete	1.00

(Ord. No. 2009-73, § 30, 12-1-09)

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Section 7.5.1.8 - Erodible Soils

The following is a list of those soils located within the area that have a high potential for erosion based on soil conservation service data:

(a) Branyon clay
(b) Houston black clay
(c) Heiden clay
(d) Anhalt clay
(e) Ferris clay
(f) Lewisville silty clay
(g) Sunev silty clay loam
(h) Seawillow clay loam
(i) Denton silty clay
(j) Bular clay loam
(k) Altoga silty clay
(l) Oakalla soils
(m) Tinn clay
(n) Oakalla silty clay loam
(o) Oris soils
(p) Austin-Castephen complex
(q) Tarpley clay
(r) Castephen clay loam
(s) Purves clay
(t) Gruene clay
(u) Doss silty clay
(v) Krum clay
(w) Pedernales pine sandy loam.

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ARTICLE 6: - PARKS AND OPEN SPACE

DIVISION 1: - PARKLAND DEDICATION AND FEES

Section 7.6.1.1 - Areas for Public Use

(a) *Application.* This Division shall apply to areas inside the City limits and the City's ETJ.

(b) *Suitable Sites; Area(s) Indicated on Submittals.* The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations of the City's adopted Parks Plan, as amended.

(1) Any provision for parks and public open space areas shall be indicated on the construction drawings and final plat, and shall be subject to a recommendation by the City's Park and Recreation Board and approval by the Planning and Zoning Commission.

(2) Suitable park sites include those that can be used for active recreation (such as playgrounds and areas for organized sports) and passive recreation (such as hiking and picnic areas) as defined and discussed within the City's adopted Parks Plan, as amended.

(c) *Permit Required for Park Site Manipulation.* No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway proposed for a park without first obtaining written permission of the City and any other agency having jurisdiction.

Section 7.6.1.2 - Parkland Dedication

(a) *Generally.* The City of San Marcos has determined that recreational areas in the form of public parks and open spaces are necessary for the well being of the residents of the City. The City has further determined that a reasonable connection exists between the subdivision of residential property and the need for additional parkland to serve new residents of the community. It is the intent of this Section, therefore, to require a reasonable method for the dedication of public parkland, or the payment of a fee in lieu of property dedication, that is directly related to the need for high quality park land and open space sites for the use and enjoyment of the citizens of San Marcos.

(b) *Criteria for land dedication*. All residential subdivisions, regardless of type, shall be required to dedicate suitable land for park or open space development in the amount of five acres per 1,000 ultimate residents of the subdivision. For purposes of calculating the ultimate number of residents of the subdivision, the following number of persons per unit shall be used:

(1) 2.7 residents per single-family dwelling;

(2) 2.5 residents per townhouse, duplex or condominium unit; and

(3) 2.1 residents per multifamily residential unit

(c) *Calculation.* Residential units shall be calculated based on the actual number of single-family, duplex and townhouse lots platted in the subdivision. Multiple-family and condominium units shall be calculated on the maximum allowed density of the zoning district in which the lot is located. If the subdivision is located outside of the City limits, multiple-family units shall be calculated at the rate of 24 dwelling units per acre, and condominium units shall be calculated at the rate of 12 dwelling units per acre, unless deed restrictions are filed restricting the property to a lesser density. The formula shall therefore be: Five acres *(multiplied by)* #units *(multiplied by)* residents per unit *(divided by)* 1,000.

(d) *Exemption from Dedication Requirements.* Parkland dedication requirements shall not apply to either the subdivision of commercial, industrial or other nonresidential lots, or to the replatting of previously platted residential lots, where such lots were subject to parkland dedication requirements at the time of the prior subdivision.

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(e) *Criteria for park and open space dedication.* Land dedicated for parks or open spaces shall be appropriate for the intended purpose. The following criteria shall apply to land proposed for parkland or open space dedication:

(1) At least 50% of the parkland that is required to be dedicated (based on the previously described calculation) shall be acceptable in terms of design, location, etc., for use as an area of active recreation.

(2) Drainage ditches, detention ponds, power line easements, steep slopes and similar sites shall not be accepted for parkland dedication, unless the Commission finds, after consultation with the Director of Community Services, that the land has exceptional recreational value that warrants its acceptance as parkland or open space.

(3) The dedication of land within the 100-year floodplain is acceptable, provided the land consists of the native floodplain that is unaltered by channelization or other man-made stormwater control facilities.

(4) All parkland and open space dedication shall be consistent with the goals, objectives and policies of the City's adopted Park Plan (as amended).

(f) *Fee in Lieu of Dedication.* A cash fee for the purchase of offsite parkland may be paid in lieu of all or part of the dedication of onsite parkland. The cash fee in lieu of parkland dedication shall be set by resolution of the City Council (see the Technical Manual). All fees in lieu of dedication shall be paid prior to the recordation of the final plat or prior to the issuance of a building permit where a plat is not required. Applicant's applying for approval of a minor administrative plat in which the property is zoned Mixed Use and where the following note has been placed on the plat will be allowed to wait until the issuance of a residential building permit to pay the parkland dedication fee: "Parkland Dedication fees are required to be paid prior to the issuance of any residential building permits." Fees in lieu of dedication may be accepted if either of the following conditions apply:

(1) If requested by the subdivider, and reviewed by the Director of Community Services, the Planning and Zoning Commission may allow the option of the payment of a fee over the dedication of land within the subdivision; or

(2) If the Director of Community Services recommends to the Planning and Zoning Commission that land proposed for dedication by the subdivider is either unsuitable for parkland due to its size or general physical characteristics, or the proposed dedication is not consistent with the goals, policies and objectives of the City's adopted Parks Plan, as amended.

(g) *Park Benefit Areas.* The City shall establish a separate parkland and open space account. The funds in the account shall be earmarked solely for the acquisition and development of parkland either in the same park benefit area in which the subdivision is located, or for regional parks and open space that will benefit all of the citizens of San Marcos. The City shall expend cash contributions within ten years of the date any such contribution is made.

(h) *Parkland Conveyance*. Land proposed for dedication as public parkland or open space shall be designated on the final plat and shown as "Parkland dedicated to the City of San Marcos." The acreage of the land included in the dedication shall also be shown on the plat. All land designated as parkland shall be included in a separate lot, or multiple lots, that are shown on the plat. The subdivider shall be obligated to survey corner markers at the corners of all parkland lots in accordance with the standards set forth in Chapter 6, Article 7, Division 3. Prior to the City's acceptance of the subdivision improvements, the subdivider shall deliver a warranty deed to the City conveying fee simple title of all parkland shown on the final plat.

(i) *Parkland Improvements.* The City shall be responsible for making any improvements, as it deems necessary, to parkland after it is dedicated and conveyed by the subdivider. Park improvements shall be consistent with the intended use of the park and the overall goals, policies and objectives of the City, as stated in the adopted parks plan of the City, as amended. During the platting of the subdivision, the subdivider may elect to fund certain park improvements that would benefit the character and quality of the subdivision. Where this is done, the subdivider shall be entitled to a partial credit on the total amount of parkland that is required for dedication. The Directors of Development Services and the Director of Community Services shall determine the total dollar value of the proposed parkland improvements and advise the Commission regarding a suggested equivalent acreage reduction in parkland dedication. Financial guarantees for the completion of parkland improvements by the subdivider shall be handled in the same manner as infrastructure improvements, as outlined in Section 1.6.6.4

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(Ord. No. 2006-45, § 65, 9-19-06; Ord. No. 2009-73, § 31, 12-1-09)

Section 7.6.1.3 - Public Park Access

Parkland shall be easily accessible for the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses. All public parkland must be accessible, and any proposed development adjacent to a public park or open space area shall not be designed to restrict reasonable access or visibility into the park (for example, shall not have many lots backing to the parkland). Street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas. Land dedication for public use and maintenance shall have a minimum of 150 feet of frontage on a local or collector street. Land shall not be dedicated for parkland along a major thoroughfare unless the Director of Community Services determines that the proposed park use is compatible with, and sufficiently buffered from, the adjacent thoroughfare, and that the parkland can be safely accessed by pedestrians, especially children. Proposed access and public availability, both physical and visual, of parkland shall be reviewed the City's Community Services Director and approved by the Planning and Zoning Commission.

(Ord. No. 2009-73, § 32, 12-1-09)

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ARTICLE 7: - IMPACT FEES

DIVISION 1: - ADMINISTRATION OF IMPACT FEE PROGRAM

Section 7.7.1.1 - Purpose

(a) *Adequate Facilities Policy*. This Article is intended to assure the provision of adequate public facilities to serve new development in the City by requiring each new development to contribute payments towards its share of the costs of the capital improvements necessitated by and attributable to the new development.

(b) *Supplemental Regulation*. Impact fees established by this Article are additional and supplemental to, and not in substitution of, any other requirements imposed by the City on the development or subdivision of land, the issuance of building permits, or the connection of water or wastewater facilities. Impact fees are intended to be consistent with and to further the policies of the City's ~~Master~~Comprehensive Plan, its capital improvements plans, public facilities regulations and other City policies by which the City seeks to ensure the provision of adequate public facilities in conjunction with the development of land. This Article is not intended to replace or supersede the City's public facilities standards and other regulations requiring the dedication, extension or construction of capital improvements serving new development, and is intended to be interpreted consistently with such regulations.

(c) *Proportionality Determination*. The cost per service unit for any category of capital improvement under this Article may be used in determining whether a City regulation requiring the dedication or construction of that type of capital improvement is proportional to the nature and extent of the impacts of a new development on the City's public facilities system pursuant to a petition for relief under Chapter 1, Article 10, Division 3 of this Land Development Code.

Section 7.7.1.2 - Authority

This Article is adopted pursuant to Texas Local Government Code Chapter 395 and the City charter. The provisions of this Article shall not be construed to limit the power of the City to utilize other methods authorized under state law or pursuant to other City powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this Article. Guidelines may be developed and approved by ordinance, resolution, or otherwise to implement and administer this Article.

Section 7.7.1.3 - Applicability and Exceptions

(a) *Applicability*. The provisions of this Article pertaining to water and wastewater impact fees apply to all new, non-exempt development within the City limits and its extraterritorial jurisdiction within the applicable service areas. The provisions of this Article shall apply uniformly within each service area.

(b) *Exceptions*.

(1) To encourage affordable housing, the City shall refund a percentage of the impact fees paid for construction of a new single-family dwelling that qualifies for the refund under affordable housing guidelines approved by the City Council.

(2) Impact fees shall not be collected from any local taxing unit, as defined in the State Tax Code, that is authorized to impose and currently is imposing ad valorem taxes on property.

(3) No wastewater impact fee shall be charged for an irrigation meter.

(4) No impact fee shall be charged for a fire line meter that serves only a fire suppression system.

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(5) To encourage water-efficient development, the City shall refund 50% of the water system impact fee for a new single-family dwelling that meets City standards for substantial reduction in water demand, including demand for landscape watering. The refund will be made to the purchaser's primary lender, if the dwelling is purchased with a loan, or to the purchaser. A written request for the refund must be submitted to the City within three months of the date of purchase by the homeowner.

Section 7.7.1.4 - Impact Fees Per Service Unit

(a) *Assessment Rate*. The maximum impact fee per service unit for each service area shall be established by category of capital improvements, and shall be as set forth in Schedule 1 included in this Article by reference. The maximum impact fee per service unit for each service area for each category of capital improvement shall be computed in the following manner:

(1) Calculate the total projected costs of capital improvements identified in the capital improvements plan for each category of capital improvements;

(2) From such amounts, subtract a credit equal to 50% of the such total projected costs; and

(3) Divide the resulting amounts by the total number of service units anticipated in the respective service area, based on the land use assumptions for that service area.

(b) *Alternative Method of Computing Assessment Rate*. As an alternative to the 50% discount referenced in subsection (a)(2) above, the City may incorporate within the capital improvements plan for any category of capital improvements a discount against the total costs of capital improvements, in the amount of that portion of ad valorem tax and utility service revenues, if any, including the payment of debt, to be generated by new service units during the period the capital improvements plan is in effect, including the payment of debt, associated with the capital improvements in the plan.

(c) *Collection Rate*. The impact fee per service unit which is to be paid by each new development shall be established by ordinance by the City Council, and shall be as set forth in Schedule 2 included in this Article by reference. The impact fee per service unit to be collected shall be an amount less than or equal to the maximum impact fee per service unit calculated under subsection (a).

Section 7.7.1.5 - Assessment of Impact Fee

(a) *Assessment of Fees*. The assessment of the amount of the impact fee per service unit for each category of capital improvements for a new development shall be made as follows and as detailed in the Technical Manual:

(1) For a new development on land which is unplatted at the time of a building permit, plumbing permit or utility application and for which platting is not required, or for a new development which had final plat recordation before June 20, 1987 and for which replatting is not required, the assessment shall occur at the time a building permit, plumbing permit, or utility application is submitted, whichever first occurs, and shall be the amount of the maximum impact fee per service unit then in effect.

(2) For a new development which had final plat recordation after June 20, 1987, or for which replatting results in an increase in the number of service units after such date, the assessment shall occur at the time of final plat recordation, and shall be the amount of the maximum impact fee per service unit in effect on the date of recordation.

(b) *No Increase in Fees*. Following assessment under subsection (a), the amount of the assessment per service unit for a development cannot be increased, unless the owner replats all or part of the area covered by the recorded plat that proposes to change the approved development by the submission of a new application for final plat approval that results in approval of additional service units, in which case a new assessment for the replatted area shall occur at the Schedule 1 rate in effect at the time of final plat recordation for the replatted area for such additional service units.

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(c) *Plat Vacation*. Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with subsections (a) and (b).

(d) *Amending Plat*. Approval of an amending plat pursuant to Chapter 1, Article 6, Division 8 of this Land Development Code shall not change the assessment for new development subject to the amending plat, unless conditions under subsection 7.7.1.6(f) apply.

(Ord. No. 2006-45, § 66, 9-19-06)

Section 7.7.1.6 - Computation and Collection of Impact Fees

(a) *Time of Collection*. Impact fees shall be collected at the time the City issues a building permit for land within the City limits, or at the time a plumbing permit or utility application is approved for land located outside the City limits.

(b) *Water Meter Equivalent*. The amount of impact fees to be collected will be determined by water meter size as listed in the Technical Manual. The City Council may approve an agreement with a property owner for a different time and manner of payment of impact fees for new development on the owner's property.

(c) *Amount to be Collected*. The City shall compute the impact fees for a new development in the following manner:

(1) The amount of each impact fee shall be determined by multiplying the number of service units required for the new development by the impact fee per service unit using the Technical Manual. The number of service units shall be determined with reference to the land use equivalency table. The appropriate size of the water meter proposed for the new development is subject to review and approval by the Director of Water and Wastewater Utilities, using best water utility industry and engineering practices and standards.

(2) The amount of each impact fee shall be reduced by any allowable offsets or credits for that category of capital improvements, in the manner provided in Section 7.7.1.7

(3) The total amount of the impact fees for the new development shall be calculated and attached to the permit or utility application as a condition of approval.

(4) The computation of the quantity of service units required for a new development will be as follows:

a. For new development subject to assessment under Section 7.7.1.5(a)(1), and for new development subject to assessment under Section 7.7.1.5(a)(2) with plat recordation on or after October 5, 2002, the quantity of service units will be determined by water meter size and type as listed in the Technical Manual. The appropriate size and type of the water meter proposed for a new development is to be determined initially by the applicant and is subject to review and approval by the Director of Water and Wastewater, using best water utility industry and engineering practices and standards. The Director of Water and Wastewater may require an applicant to provide building plans, plumbing layouts, flow calculations and other information to support a request for use of a specific size or type of water meter.

b. For new development subject to assessment under Section 7.7.1.5. with plat recordation on or before October 4, 2002, the quantity of service units will be determined by reference to the service unit computation criteria stated in the Technical Manual which is included by reference in this section.

(d) *Limit on Fees*. The amount of each impact fee for a new development shall not exceed an amount computed by multiplying the assessment amount per service unit under Section 7.7.1.5 by the number of service units for the development determined under this Section.

(e) *Expiration of Permit*. If a building or plumbing permit or an approved utility application for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using the the Technical Manual then in effect, with credits for previously paid fees being applied against the newly determined amount.

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(f) *Increase in Service Units.* Whenever a property owner proposes to increase the number of service units for a new development, the additional impact fees collected for the new service units shall be determined by using the the Technical Manual then in effect, and the additional fees shall be collected at the times prescribed by this Section.

(g) *Written Notice for New Development.* For new development served by the City wastewater system and by a water system other than the City's, the operator of the water system shall provide written notice to the City of each application for new water service or a change in meter size within ten days of the date the application is received. This requirement is satisfied by the submission of a legible copy of the application or other information that identifies the applicant and indicates the proposed land use and the meter size.

(Ord. No. 2006-45, § 67, 9-19-06)

Section 7.7.1.7 - Offsets and Credits Against Impact Fees

(a) *Offset or Credit Authorized*. The City shall offset or credit the present value of any system facility which has been dedicated or contributed to by a property owner and accepted by the City, including the value of off-site rights-of-way or capital improvements constructed under an agreement with the City, against the amount of the impact fee due for that category of capital improvement. The offset or credit shall be associated with the plat of the property that is to be served by the system facility.

(b) *Calculation of Offset or Credit*. All offsets or credits against impact fees shall be based upon standards promulgated by the City, which may be adopted as administrative guidelines, including the following standards:

(1) An offset or credit shall not be given for the dedication or construction of facilities needed to meet the greater of a) the City's minimum standards for water or wastewater facilities, or b) the needs of the property being developed including, where development is being phased, all property and uses described in the subdivision concept plan for the area being developed.

(2) An offset shall not exceed an amount equal to the eligible costs of the improvement multiplied by a fraction, the numerator of which is the impact fee per service unit due for the new development computed using Schedule 2, and the denominator of which is the maximum impact fee per service unit for the new development as computed using the Technical Manual.

(3) The unit costs used to calculate offsets and credits shall not unreasonably exceed those assumed for the capital improvements included in the impact fees capital improvements plan for the category of facility for which the impact fee is imposed.

(4) An offset or credit for an oversized improvement or facility shall not exceed the incremental increase in the cost of the improvement or facility over the cost of an improvement or facility needed to meet the greater of a) the City's minimum standards for water or wastewater facilities or b) the needs of the property being developed including, where development is being phased, all property and uses described in the subdivision concept plan for the area being developed.

(5) An offset or credit shall not be given for an oversized facility which is not identified within the capital improvements plan, unless the Director of Engineering determines that the facility supplies capacity to other new developments, and provisions for offsets or credits are incorporated in a capital improvements agreement under Section 7.7.1.14

(6) An offset or credit shall not be given a) when no impact fees for a new development can be collected under this Article, b) for any amount exceeding the total impact fees due for a new development for that category of capital improvements, unless expressly agreed to by the City in writing, or c) for any oversized facility where the City executes an oversize reimbursement agreement with the property owner for the oversize cost.

(7) Offsets or credits for system facilities dedicated to and accepted by the City for a new development prior to the effective date of this Article shall be prorated among the total number of service units within the development, and reduced by an amount equivalent to the number of existing service units within the development, and

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further reduced by the amount of any participation funds received from the City and by any payments received from other developments that utilize the system facility.

(8) The City may participate in the costs of a system facility to be dedicated to the City in connection with a new development, including costs that exceed the amount of the impact fees due for the development under the Technical Manual for that category of capital improvements, in accordance with the City's subdivision regulations. The amount of any offset shall not include the amount of the City's participation.

(d) *Expiration of Offset or Credit*. Offsets or credits created after the effective date of this Article shall expire ten years from the date the offset or credit was created. Offsets or credits arising prior to that effective date shall expire ten years from the date the offset or credit was created.

(e) *Application of Offset or Credit*. An offset or credit associated with a new development shall be applied to reduce the impact fee for the first building or plumbing permit or utility application for the property at the applicable time for collection of the fee, and thereafter to each subsequent building or plumbing permit or utility application, until the offset or credit is exhausted.

(Ord. No. 2006-45, § 67, 9-19-06)

Section 7.7.1.8 - Establishment of Accounts

(a) *Interest Bearing Account*. The City Finance Department shall establish an account to which interest is allocated for each category of capital improvement for which an impact fee is imposed under this Article. Each impact fee collected for that category shall be deposited in that account.

(b) *Use of Interest*. Interest earned on an impact fee account is considered funds of the account and shall be used solely for the purposes authorized in Section 7.7.1.9

(c) *Disbursement of Funds*. The finance department shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in Section 7.7.1.9. Disbursement of funds shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this Article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.

(d) *Records*. The finance department shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended from each account. The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Section 7.7.1.9 - Use of Proceeds of Impact Fee Accounts

(a) *Authorized Uses*. The impact fees collected under this Article may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the capital improvements plan for the applicable category of capital improvements, including but not limited to the construction contract price, surveying and engineering costs, and land acquisition costs (including purchase price, court awards and costs, attorney's fees, and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance capital improvements or facility expansions. Impact fees also may be used to pay fees paid to an independent qualified engineer or financial consultant for preparing or updating the capital improvements plan.

(b) *Prohibited Expenditures*. Impact fees collected under this Article shall not be used to pay for any of the following expenses:

(1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the capital improvements plan for the applicable category of capital improvements;

(2) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;

(3) Upgrade, expansion or replacement of existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(4) Upgrade, expansion, or replacement of existing capital improvements to provide better service to existing development; provided, however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for capital improvements generated by new development; or

(5) Administrative and operating costs of the City.

Section 7.7.1.10 - Refunds

(a) *Request for Refund*. Upon written request, any impact fee or portion thereof collected under this Article, which has not been expended within ten years from the date of payment, shall be refunded to the record owner of the property for which the impact fee was paid, or to a governmental entity, if the entity paid the fee, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002 of the Texas Finance Code, or its successor statute. The application for refund under this Section shall be submitted within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first out basis.

(b) *First In, First Out Rule*. An impact fee collected under this Article shall be considered expended if the total expenditures for capital improvements or facility expansions authorized in Section 7.7.1.9 within ten years after the date of payment exceeds the total fees collected for such improvements or expansions during that period.

(c) *Refund for Lack of Service*. Upon written request, all or part of an impact fee collected under this Article shall be refunded if:

(1) Existing service is available and service is denied;

(2) Service was not available when the fee was collected, and the City has failed to commence construction of facilities to provide service within two years of fee payment; or

(3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event this period shall not extend more than five years from the date of fee payment.

(d) *Computation of Refund*. If a refund is due under subsections (a), (b), or (c), the City shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

Section 7.7.1.11 - Rebates

(a) *Replat*. If a tract of land for which an impact fee has been paid is replatted pursuant to Chapter 1, Article 6, Division 8 of this Land Development Code, resulting in a reduction in the number of service units, and the new impact fee to be collected is less than that paid, the City shall rebate the difference, if water meters to serve the area being replatted have not been installed.

(b) *Expiration of Permit*. If a building or plumbing permit or an approval of a utility application in a new development expires after an impact fee has been paid, no utility connection for the applicable category of capital improvements has been made under the permit or approval, and a modified or new application has not been filed within six months of the expiration, the City shall, upon written request, rebate the amount of the impact fee to the record owner of the property for which the impact fee was paid. If no application for rebate under this subsection has been filed within this period, no rebate shall become due.

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Section 7.7.1.12 - Updates to Plans and Revision of Fees

(a) *Periodic Update*. The City shall update the land use assumptions and capital improvements plan at least every five years, commencing from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in Local Government Code Chapter 395, or in any successor statute.

(b) *Interim Update*. The City may review its land use assumptions, impact fees, capital improvements plan and other factors, such as market conditions, more frequently than provided in subsection (a) to determine whether the land use assumptions and the capital improvements plan should be updated and the impact fees recalculated accordingly, or whether Schedules 1 or 2 should be changed. Schedule 2 may be amended without revising the land use assumptions and the capital improvements plan at any time prior to the update described in subsection (a), as long as the impact fees to be collected do not exceed the impact fees assessed under standards set forth in the Technical Manual.

(c) *No Change Determination*. If the City Council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed at the time of an update under subsection (a), the Council may dispense with the update in accordance with Local Government Code Section 395.0575.

(d) *Amendment of Equivalency Table*. The City may amend the land use equivalency table by resolution at any time prior to the update provided for in subsection (a); provided that the number of service units associated with a particular land use is not increased.

(Ord. No. 2006-45, § 67, 9-19-06)

Section 7.7.1.13 - Functions of the Impact Fee Advisory Committee

(a) *Duties*. The advisory committee shall perform the following functions:

(1) Advise and assist the City in adopting land use assumptions;

(2) Review the Capital Improvements Plan and file written comments on the plan;

(3) Monitor and evaluate implementation of the Capital Improvements Plan;

(4) Advise the City of the need to update or revise the land use assumptions, Capital Improvements Plan and impact fees, and file written comments concerning the same; and

(5) File a semiannual report evaluating the progress of the Capital Improvements Plan and identifying perceived inequities in implementing the plans or administering the impact fees.

(b) *Reports Available*. The City shall make available to the advisory committee any professional reports prepared in the development or implementation of the Capital Improvements Plan.

Section 7.7.1.14 - Agreement for Capital Improvements

(a) *Necessity for Agreement*. The property owner for a new development may construct or finance a capital improvement or facility expansion designated in the capital improvements plan, if required or authorized by the City Council, by entering into a capital improvements agreement with the City prior to the issuance of any building permit for the development. The capital improvements agreement shall be prepared in accordance with Section 1.6.7.3 of this Land Development Code.

(b) *Offset and Credit Provisions.* The capital improvements agreement shall provide for the method to be used to determine the amount of the offset or credit to be given against impact fees due for the development. The City and the property owner may agree that the costs incurred or funds advanced will be 1) offset or credited against the impact fees otherwise due from the new development, or 2) reimbursed to the owner from impact fees paid from other new developments that will use the capital improvements or facility expansions, or from other funding sources.

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In the event the City elects to reimburse an owner for the dedication, construction or financing of a capital improvement or facility expansion designated in the capital improvements plan, the terms of reimbursement shall be incorporated in the agreement required by subsection (a). Reimbursement agreements shall further be based on the availability of City funds from all sources including current and projected impact fee fund accounts.

Section 7.7.1.15 - Use of Other Financing Mechanisms

(a) *Use of Other Funds*. The City may finance capital improvements or facility expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public utility districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.

(b) *Impact Fees Supplemental*. Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

(c) *Exemptions*. The City Council may decide that the City shall waive all or a part of impact fees due for a new development under duly adopted criteria.

Section 7.7.1.16 - Land Use Assumptions

(a) *Incorporation of Assumptions*. A current copy of the adopted system-wide land use assumptions shall be kept at the office of the Director of Engineering and shall be the document used to administer the impact fee standards in this Article for water and wastewater impact fees. Upon amendment pursuant to Section 7.7.1.12, a copy of each amended schedule shall be retained in the office of the Director of Engineering upon the effective date of the amendatory ordinance and thereafter shall become the official copy for purposes of administering the regulations in this Article for water and wastewater impact fees.

(b) *Amendment*. The system-wide land use assumptions may be amended from time to time, under the procedures in Section 7.7.1.12. Upon amendment pursuant to Section 7.7.1.12, a copy of the amended land use assumptions shall be retained in the office of the Director of Engineering upon the effective date of the amendatory ordinance and thereafter shall become the official copy for purposes of administering the regulations in this Article for water and wastewater impact fees.

Section 7.7.1.17 - Impact Fee Schedules

(a) *Assessment Schedule.* The impact fee schedules in the Technical Manual shall establish the maximum impact fees per service unit for water and wastewater facilities, which shall be the assessment rate for such impact fees.

(b) *Collection Schedule.* The impact fee collection schedule in the Technical Manual shall govern the collection of impact fees for water and wastewater facilities.

(c) *Official Schedules.* A current copy of the adopted Technical Manual shall be kept at the office of the Director of Engineering and shall be used to administer the impact fee standards in this article for water and wastewater impact fees. Upon amendment pursuant to Section 7.7.1.12, a copy of the amended Technical Manual provisions shall be retained in the office of the Director of Engineering upon the effective date of the amendatory ordinance and thereafter shall become the official copy for purposes of administering the regulations in this article for water and wastewater impact fees.

(Ord. No. 2006-45, § 67, 9-19-06)

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Section 7.7.1.18 - Water Impact Fees

(a) *Service Area*. The water service area shall consist of the land within the City limits and within portions of the City's extraterritorial jurisdiction, as depicted on the current service area boundary map on file at the office of the Director of Engineering.

(b) *Improvements Plan*. A current copy of the adopted Water Improvements Plan shall be kept at the office of the Director of Engineering and shall be the document used to administer the impact fee standards in this Article for water impact fees.

(c) *Assessment Rate.* The maximum impact fee per service unit for water facilities, which shall be used to assess water impact fees and which shall be known as the assessment rate, shall be the amount in the impact fee provisions of the Technical Manual.

(d) *Collection Rate.* The amount of the impact fee per service unit for water facilities to be collected, which shall be known as the collection rate, shall be the amount in the impact fee provisions of the Technical Manual.

(e) *Amendment*. The service area, Capital Improvements Plan, assessment rate and collection rate for water impact fees may be amended from time to time under the procedures in Section 7.7.1.12. A copy of each amended document shall be retained in the office of the Director of Engineering upon the effective date of the amendatory ordinance and thereafter shall become the official copy for purposes of administering the regulations in this Article for water impact fees.

(Ord. No. 2006-45, § 67, 9-19-06)

Section 7.7.1.19 - Wastewater Impact Fees

(a) *Service Area*. The wastewater service area shall consist of the land within the City limits and within portions of the City's extraterritorial jurisdiction, as depicted on the current service area boundary map on file at the office of the Director of Engineering.

(b) *Improvements Plan*. A current copy of the adopted wastewater improvements plan shall be kept at the office of the Director of Engineering and shall be the document used to administer the impact fee standards in this Article for wastewater impact fees.

(c) *Assessment Rate*. The maximum impact fee per service unit for wastewater facilities, which shall be used to assess wastewater impact fees and which shall be known as the assessment rate, shall be the amount in the official Schedule 1 adopted pursuant to Section 7.7.1.17

(d) *Collection Rate*. The amount of the impact fee per service unit for wastewater facilities to be collected, which shall be known as the collection rate, shall be the amount in the impact fee provisions of the Technical Manual.

(e) *Amendment*. The service area, Capital Improvements Plan, assessment rate and collection rate for wastewater impact fees may be amended from time to time under the procedures in Section 7.7.1.12. A copy of each amended document shall be retained in the office of the Director of Engineering upon the effective date of the amendatory ordinance and thereafter shall become the official copy for purposes of administering the regulations in this Article for wastewater impact fees.

(Ord. No. 2006-45, § 67, 9-19-06)

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ARTICLE 8: - RESERVED

Secs. 7.8.1.1—7.8.2.2 - Reserved

Editor's note—

Ord. No. 2006-45, § 68, adopted Sept. 19, 2006, repealed Art. 8 in its entirety. Former Art. 8 pertained to sidewalks and alleys and derived from Ord. No. 2004-92, § 2, adopted Dec. 13, 2004.

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ARTICLE 9: - RESERVED

DIVISION 1: - RESERVED

Secs. 7.9.1.1—7.9.1.2 - Reserved.

Editor's note—

Ord. No. 2009-73, § 33, adopted Dec. 1, 2009, deleted Ch. 7, Art. 9, in its entirety. Former Ch. 7, Art. 9, pertained to fire lanes and fire department access. For a complete history of former Ch. 7, Art. 9, see the Code Comparative Table.

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Chapter 8 - DEFINITIONS

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Chapter shall have the meanings shown when used in this Land Development Code. For all other words, the definition in the latest edition of Webster's Dictionary shall be used. For words used in combination, or where the Webster's Dictionary does not define a word, the book A Planners' Dictionary, published in 2004 by the American Planning Association, shall be used. As a supplemental resource, *The New Illustrated Book of Development Definitions*, published by Rutgers University in 1993, shall also be consulted.

ARTICLE 1: - GENERAL DEFINITIONS

1. *Abandonment*, as related to nonconforming uses and structures, see Section 4.5.3.6 of this Land Development Code.
2. *Accessory* means being secondary or subordinate to something else.
3. *Accessory structure* means a detached building or other structure enclosing or covering usable space where the use of the building or structure is incidental and subordinate to one or more principal buildings.
4. *Accessway* means a paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off-street parking area or loading area.
5. *Addition* means an extension or increase in floor area or height of an existing building or structure.
6. *Agent* means a person authorized by a property owner to represent the owner in the development or management of property or in a real estate transaction. In the context of a of a mobile home or manufactured housing park, *agent* means any person authorized by the owner of the park to operate or maintain the park.
7. *Alley* means a public access easement, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.
8. *Altered* or *alteration* means any change, modification or transformation.
9. *Antenna, commercial* means an antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet in diameter shall also be considered as a commercial antenna.
10. *Antenna, non-commercial* or *amateur* means an antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A satellite dish antenna not exceeding six feet in diameter shall also be considered as a non-commercial antenna.
11. *Antenna, satellite dish* or *direct broadcast*, means an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit radio, television or microwave signals from a terrestrial or orbitally located transmitter or transmitter relay.
12. *Antenna support structure* is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennas or microwave reflectors.
13. *Apartment* or *multifamily dwelling* means a collection of family residences grouped together in one building, each family residence being a section of the building.
14. *Appeal* means a request for review of and relief from any decision applying a provision of this Land Development Code and which is authorized under Chapter 1, Article 10.
15. *Approved water system* means a public water supply system that meets or exceeds the minimum acceptable standards of the TSDHS for public water supply systems.

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16. *Appurtenant features* are the physical features which define the design of a building or property. *Appurtenant features* include porches, railings, columns, shutters, steps, fences, attic vents, sidewalks, driveways, fences, garages, carports, outbuildings, gazebos, arbors, ponds, and pools.

17. *Aquifer* means a geologic formation, group of formations, or part of a formation capable of yielding, storing or transmitting groundwater to wells or springs.

18. *Area*, for purposes of signs, means the largest area of a sign visible at any one time from any one point and enclosed by a single rectangle, including any framing or trim, but not including any structural parts lying outside the limits of the sign and which do not form an integral part of the display. If the copy of a sign is enclosed by a box, outline or frame, *area* is the total area of the enclosure. If the sign consists of individual letters, numbers or symbols, on a surface or having no frame, *area* shall be the sum of the areas of the rectangles which can encompass each portion of the copy. The area of four-side signs is considered the same as two double-faced signs.

19. *Area of shallow flooding* means a designated AO, AH or VO zone on the flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. The flooding is characterized by ponding or sheet flow.

20. *Area of special flood hazard* is the land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year. This area is shown as zones A, AE, AH, AO, A1—99, VO, V1—30, VE or V on the FIRM.

21. *ASTM* means American Society of Testing Materials.

22. *Backflow* means the reversal of flow of water and/or mixtures of water and other liquids or gases, or other substances from a customer's side of a water service connection into a public water supply system. Backflow may occur under either a backpressure or back siphonage condition.

23. *Backflow prevention assembly* means a device or aggregation of devices designed to prevent backflow, including reduced pressure backflow assemblies, double-check valve assemblies, atmospheric vacuum breakers, pressure vacuum breaker assemblies or an air gap.

24. *Bank* means the area contiguous to the floodway, where a continuous slope of 35 percent or more ends and becomes less steeply sloped, or the edge of the average annual water line of a waterway, whichever is greater. The location of the bank is determined by the Engineering Director, based on this definition.

25. *Bar* means a structure or premises where alcoholic beverages are sold for on-premises consumption.

26. *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

27. *Base zoning* or *base zoning district* means the zoning district, or combination of zoning districts, which will be applied to the subject property contained in a PD district.

28. *Best management practices* or *BMPs* means activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the level of pollutants in surface water runoff. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

29. *Block length* means the distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary which surround one or more lots. A block adjacent to a cul-de-sac shall not be counted as a block.

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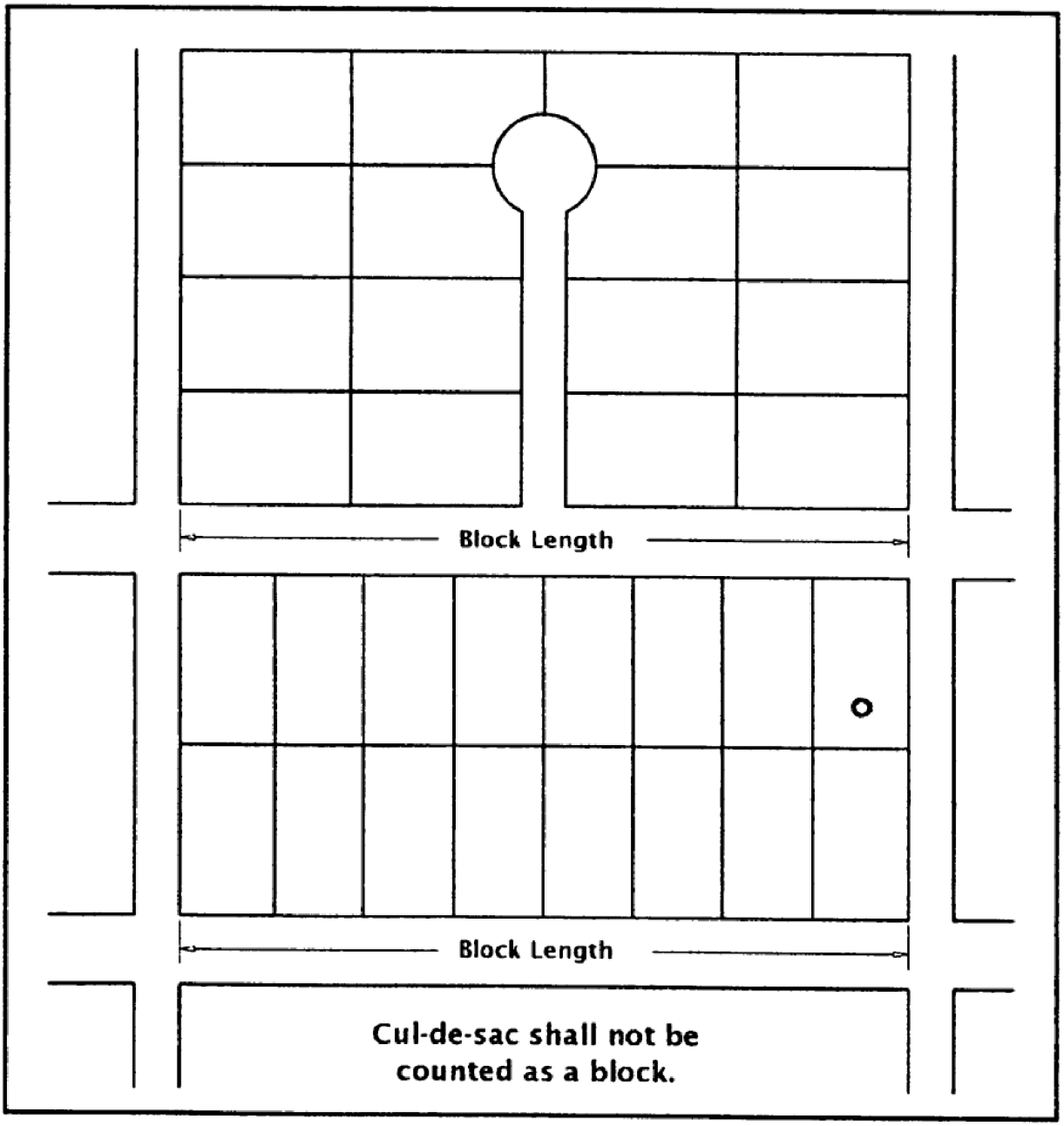

Figure 8-1: Block Length

Figure 8-1

30. *Blocking* means the foundation for leveling and supporting a mobile home or manufactured home, as required by V.T.C.A., Occupations Code, Chapter 1201.

31. *Boardinghouse* means a place where a person obtains food or lodging or both in another's house for a stipulated price.

32. *Building, main or primary* means a building in which the principal use of the lot on which it is situated is conducted. In a residential zoning district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

33. *Buffer* means a visual screen constructed of wood, masonry and/or landscape material in a manner so that adjacent property will be screened from the use contemplated so noise, solid waste or other objectionable influences will be avoided.

34. *Buffer zone* means an area of land adjacent to a water quality zone for a waterway that serves a function of filtering contaminants from water that drains across the area.

35. *Bufferyards* means a land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. Bufferyards may be required to include fences, walls, berms, as well as shrubs and trees.

36. *Building official* means the person designated as the building official in the building code adopted in Chapter 14 of the City Code.

37. *Building permit* means a permit issued by the City's building official or building inspection officer under Chapter 1, Article 9, Division 2 of this Land Development Code.

38. *Building setback line* means a line defining an area on the building lot between the street right-of-way line and the building line within which no building shall be constructed, encroach or project, except as specifically authorized in an adopted City ordinance.

(a) *Front building setback line* means a line parallel to the street right-of-way line which the building faces and takes its primary access from.

(b) *Side building setback line* means a line parallel to an adjacent lot or street right-of-way on a corner lot, which the building sides up to.

(c) *Rear building setback line* means a line parallel to an adjacent lot, alley or street, for double frontage lots, which the building backs up to and has its rear or secondary access from.

(d) *Build-to lines* or *maximum setbacks* are maximum-distance setbacks; placing a building farther from the right-of-way or property line than the established build-to or maximum setback line is not permitted.

39. *Caliper* means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured six inches above the ground for trees up to and including four inches caliper size, and as measured at 12 inches above the ground for larger sizes. If the tree has been severed at less than 12 inches above the soil line, then the caliper shall be measured across the stump.

40. *Canopy* means the outermost branchy layer of a tree or a stand of trees.

41. *CBOA* means Construction Board of Adjustments.

42. *CCN* means a Certificate of Convenience and Necessity issued by a state agency to a utility service provider authorizing the provision of utility service in a defined geographic area.

43. *Certificate of Appropriateness* means a certificate issued under Chapter 1, Article 5, Division 6 of this Land Development Code for the construction, alteration, restoration, relocation, or demolition of a structure, or alterations to the site or appurtenances, in a historic district or at a historic landmark.

44. *Certificate of Occupancy* means a certificate issued under Chapter 1, Article 9, Division 3 of this Land Development Code for the use of a building, structure or land, when the building, structure or land complies with all applicable City ordinances and regulations.

45. *Channelization* means alteration of the natural cross sectional area or profile of a waterway to increase the hydraulic efficiency or carrying capacity of the waterway.

46. *City* means the City of San Marcos, Texas, or any authorized person acting in its behalf.

47. *City standards* means all of the the City's standards and specifications that apply to development, together with all tables, drawings and other attachments. All City standards described or referred to in this Land Development Code

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are adopted by referenced and are a part of this Land Development Code in the same way as if they were set out at length herein. See also TCSS.

48. *City water system* means the entire potable water distribution system of the City, including, without limitation, all pipes, facilities, valves, pumps, conduits, tanks, receptacles and fixtures and appurtenances between the water supply sources and the points of delivery, used by the City to produce, convey, deliver, measure, treat or store potable water for public consumption or use.

49. *Cluster development* means a method of development for land that permits variation in lot sizes without an increase in the overall density of population or development.

50. *Cluster Development Plan* means a plan submitted in conjunction with a proposed cluster development that authorizes such development when approved under Chapter 1, Article 5, Division 8 of this Land Development Code.

51. *Collocation* means the use of a single antenna support structure and/or site by more than one communications provider.

52. *Commence construction* or *commencing construction* means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.

53. *Commission* means the City Planning and Zoning Commission.

54. *Common access route* means a private way which affords the principal means of access to individual mobile home or manufactured home lots or auxiliary buildings.

55. *Communications operations, commercial* means the transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain.

56. *Communications operations, non-commercial/amateur* means the transmission, retransmission and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.

57. *Compatibility* means the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict.

58. *Comprehensive ~~Master~~ Plan* ~~(see Master Plan)~~ means the ~~comprehensive~~ Comprehensive ~~Master~~ Plan, or ~~Horizon Plan~~Vision San Marcos: A River Runs Through Us, of the City and includes any unit or a part of any unit separately adopted and any amendment to the plan or parts thereof.

59. *Concept Plan* means a component of the regulations for a) a Planned Development District under Chapter 1, Article 5, Division 3 of this Land Development Code that illustrates the proposed location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development, and b) the Transfer of Development Rights and Development Agreement processes.

60. *Conditional Use Permit (CUP)* means a permit authorizing the establishment of a use that may be suitable only in certain locations in a zoning district, or that is allowed only when subject to standards and conditions that assure compatibility with adjoining uses. See under Chapter 1, Article 5, Division 7 of this Land Development Code.

61. *Condominium* means a multifamily dwelling unit, within which title is conveyed to designated units or apartments, with an undivided interest in the building's common elements, such as halls, stairs, elevators, roofs, parking spaces, and the land when the building is not constructed on leased land.

62. *Connection* means each and every joining of a wastewater line leading from any building or structure with a part of the City wastewater system, provided that if there are two or more buildings or structures on the same lot or adjoining lots and their respective wastewater lines join on that lot or either adjoining lot and one line joins the City wastewater system, each building or structure is considered as having a separate connection to the City wastewater system.

63. *Construction*, with respect to a building, means the assembly of materials into a structure, or the rehabilitation or replacement of a structure which has been damaged, altered or removed or which is proposed to be altered or

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removed to an extent exceeding 50 percent of the area of the structure at the time of the damage, alteration or removal. For the purposes of this definition, *construction* includes the installation of a parking lot.

64. *Construction plans* means the drawings and technical specifications, including bid documents and contract conditions, where applicable, providing a graphic and written description of the character and scope of the work to be performed in construction of a development.

65. *Contiguous* means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

66. *Contributing property* is a property 50 years old or older which contributes to a historic district's historical significance through location, setting, design, construction, workmanship, or association with historical persons or events, based on guidelines set forth by the National Park Service in the National Register of Historic Places Criteria for Evaluation.

67. *Copy* means the letters, numbers, symbols or geometric shapes, either in permanent or changeable form, on the surface of a sign.

68. *Council* means the City Council.

69. *Council of Neighborhood Associations (CONA)* means the nonprofit organization with the general purpose of bringing together representatives of the various neighborhoods, and to protect and advance the interest of neighborhoods in the City. CONA is not a City board or commission.

~~69~~70. *Coverage, building* means the lot area that is covered by all buildings located thereon, including the area covered by all overhanging roofs and canopies. See also *impervious cover*.

71~~0~~. *Creek* means an area where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include storm water runoff devices or other entirely artificial waterways unless they are used to store or convey pass-through stream flows naturally occurring prior to construction of such devices.

72~~1~~. *Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

73~~2~~. *Critical water quality zone* means the area along minor, intermediate or major waterways where no development or disturbance of native vegetation is allowed, other than approved road and utility crossings.

74~~3~~. *Cross connection* means any physical connection between the City water system and another water system or source through which backflow may occur.

75~~4~~. *Crosswalk way* means a public right-of-way, six feet or more in width between property lines, which provides pedestrian circulation.

76~~5~~. *Cul-de-sac* means a short, minor street having but one outlet to another street and terminating on the opposite end by a vehicular turnaround.

77~~6~~. *CUP* means Conditional Use Permit.

78~~7~~. *Dead-end street* means a street, other than a cul-de-sac, with only one outlet.

79~~8~~. *Density* means the number of dwelling units per gross acre of a subdivision, excluding any areas that are nonresidential in use.

80~~79~~. *Developed area* means that portion of a plot or parcel upon which a building, structure, pavement or other improvements have been placed.

81~~0~~. *Developer* means an individual, partnership, corporation or governmental entity undertaking the division or improvement of land and other activities covered by this Land Development Code, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The

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term "developer" is intended to include the term "subdivider," even though personnel in successive stages of a development project may vary.

821. *Development* means initiation of any activities related to the platting of land or construction of buildings or structures, the construction of impervious surfaces, the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, clearing, filling, or removal of soil.

832. *Development application* means either a petition for a legislative decision or an application for a development permit.

843. *Development permit* means a decision by the commission, board or responsible official designated by this Land Development Code, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under the Land Development Code. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.

854. *Development standards* mean all regulations, design standards, requirements and restrictions that apply to a development.

865. *Director, Engineering* means the Director of the City Department of Environment and Engineering, or the Director's designee.

876. *Director~~, Planning~~of Planning and Development Services or Director* means the Director of the City Department of Planning and Development Services, or the Director's designee.

887. *Discharge* means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

898. *Drainage* means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial waterways.

9089. *Driveway* means a minor private entranceway off the common access route into an off-street parking area.

910. *DT district* means a Development Transfer District.

921. *DTG* means a Development Transfer Granting site, in relation to a Development Transfer District.

932. *DTR* means a Development Transfer Receiving site, in relation to a Development Transfer District.

943. *Dwelling unit* means a room or suite or set of rooms occupied and suitable for occupancy as a family residence and having kitchen, bath and sanitary facilities, together with appropriate appurtenances to that occupancy.

(a) *Single-family detached dwelling unit* means a building designed for and occupied exclusively by one family which is a structurally separated building on a lot that is unoccupied by any other dwelling unit.

(b) *Single-family attached dwelling unit* means a building designed for and occupied exclusively by one family which is attached to one or more other single-family dwelling units along a property boundary.

(c) *Duplex* means a building designed for and occupied exclusively by two families living independently of each other. A duplex sharing a lot with another residentially used structure falls under the definition of a multiple-dwelling unit and is not considered a duplex for the purposes of this Land Development Code.

(d) *Multiple-family dwelling unit* means a building designed for and/or occupied exclusively by two or more dwelling units. Also known as multifamily dwelling unit.

954. *Easement* means an interest in land granted to the City, to the public generally and/or to a private utility corporation.

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965. *Edwards Aquifer* means the portion of an arcuate belt of porous, waterbearing, predominantly carbonate rocks known as the Edwards (Balcones Fault Zone) Aquifer trending from southwest to northeast in Hays and adjacent counties.

976. *Electric sign* means a sign connected to an electric power source for any purpose.

987. *Elevated building* means, with respect to flood damage prevention regulations, a nonbasement building (i) built, in the case of a building in zones A1—30, AE, A, A99, AO, AH, B, C, X and D, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; (ii) built to have the finished floor elevation one foot above the floodplain elevation; and (iii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In zones A1—30, AE, A, A99, AO, AH, B, C, X, D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter wells with openings sufficient to facilitate the unimpeded movement of floodwaters. In zones V1—30, VE, or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

998. *Engineer* means a person duly licensed under the Texas Engineering Registration Act to practice the profession of engineering.

10099. *Environmental Health Department* means the City department entrusted with the regulation, control and supervision of matters pertaining to the general health of the citizens and the community.

1010. *Environmental Protection Agency* or *EPA* means the U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.

1021. *Erect* means to construct, reconstruct, install or build.

1032. *ETJ* means extraterritorial jurisdiction. See the definition of e*xtraterritorial jurisdiction*.

1043. *Excavation* means any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet or more, other than soil disturbance incidental to the removal of trees or vegetation.

1054. *Existing construction* means, for the purposes of determining flood insurance rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "*existing construction*" may also be referred to as "*existing structures*".

1065. *Existing manufactured home park or subdivision* means, for flood damage prevention purposes, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, was completed prior to the adoption of the City's original floodplain ordinance on November 25, 1974.

1076. *Expansion to an existing manufactured home park or subdivision* means, for flood damage prevention purposes, the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

1087. *Exterior features* include the architectural style, general design and general arrangement of the exterior of a building or other structure, including, the kind and texture of the building material and the type and style of all windows, doors, walls, roofs, light fixtures, signs, other appurtenant features and significant trees. For signs, the term *exterior feature*s means the style, material, size, and location of all signs. For the purposes of this Land Development Code, a change in exterior color is not deemed to be a change in exterior features.

1098. *Extraterritorial jurisdiction* (E.T.J.) means the unincorporated area, not a part of any other City, which is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distances as may be stipulated in Chapter 42 of the Texas Local Government Code in accordance with the population of the City, and in which area the City may enjoin violation of certain provisions of

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this Land Development Code. The ETJ on the Preferred Scenario Map of the Comprehensive Plan, unless otherwise marked as an intensity zone, is considered an Area of Stability.

110~~09~~. *FAA* means the Federal Aviation Administration.

111~~0~~. *Facade* means a side of a building or accessory structure which consists of a separate architectural elevation as viewed horizontally from the ground, street or other nearby location. The area of a facade is defined by the outer limits of all of its visible exterior elements. Separate faces of a building oriented in the same direction or within 45 degrees of each other are considered part of the same facade.

112~~1~~. *Family* means any number of individuals living together as a single housekeeping unit who are related by blood, legal adoption, marriage, or conservatorship.

113~~2~~. *FCC* means the Federal Communications Commission.

114~~3~~. *FEMA* means the Federal Emergency Management Agency.

115~~4~~. *Final Development Plat* means the plat for a development (other than a subdivision) for which platting is required which, when approved under Chapter 1, Article 6, Division 5 of this Land Development Code, will be recorded in the official public records.

116~~5~~. *Final Subdivision Plat* means the plat of a subdivision for which platting is required which, when approved under Chapter 1, Article 6, Division 5 of this Land Development Code, will be recorded in the official public records.

117~~6~~. *FIRM* means "flood insurance rate map". See the definition for *flood insurance rate map*.

118~~7~~. *Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

119~~8~~. *Flood insurance rate map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

120~~19~~. *Flood insurance study* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

121~~0~~. *Flood protection system* means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. The system includes dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

122~~1~~. *Floodplain (No. 100)* means an area of land that is subject to a one percent or greater chance of flooding in any given year, based on developed conditions existing as of the date a development application is accepted for filing, and not based on projected or anticipated future build-out for a watershed.

123~~2~~. *Floodplain permit* means a permit issued under Chapter 1, Article 9, Division 4 of this Land Development Code that authorizes the construction, location, alteration or change of use for a structure in an area of special flood hazard or in any other 100-year floodplain.

124~~3~~. *Floodway* means the channel of a river, creek, stream or other waterway, and the adjacent land areas that are reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Unless otherwise approved by the Engineering Director, the area of a *floodway* will be as depicted on official maps of the Federal Emergency Management Agency, subject to site-specific interpretation in a manner approved by the Engineering Director.

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ARTICLE 1: - GENERAL DEFINITIONS

125~~4~~. *Freeway* means a divided arterial highway designed with full control of access and grade separation at all intersections. Freeways provide movement of high volumes of traffic at relatively high speeds. This system carries most of the trips entering and leaving the city, as well as most of the through movement by-passing the central city.

126~~5~~. *Frontage* means lineal distance measured along all abutting street rights-of-way.

127~~6~~. *Functionally dependent use* means, for flood damage prevention purposes, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

128~~7~~. *Geologic assessment* means a report prepared by a qualified geologist describing site-specific geology.

129~~8~~. *Geologic feature* means a feature including, but not limited to, closed depressions, sinkholes, caves, faults, fractures, bedding planes, interconnected vugs, reef deposits and springs.

130~~29~~. *Glass wall(s)* includes glass curtain walls or glass block construction. *Glass curtain wall* is an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

131~~0~~. *Granting zones* means land from which development rights will be transferred.

132~~1~~. *Ground cover* means low growing plants planted in a manner so as to form a continuous cover over the ground, including liriope, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

133~~2~~. *Heavy load vehicle:* A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

134~~3~~. *Height, sign* means the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the greatest elevation of the ground at the base of or below the sign.

135~~4~~. *Height, building* means the distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennas.

136~~5~~. *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

137~~6~~. *Highway corridor* means, for purposes of off-premise sign regulations, all property located within 350 feet of a right-of-way line of an interstate highway, but not including any property classified by Chapter 4 as a residential district or designated by the adopted Master Plan as future residential land use in the extraterritorial jurisdiction.

138~~7~~. *Historic District* means a zoning overlay district intended to preserve and protect historic structures, streets and neighborhoods that serve as visible reminders of the history and cultural heritage of the City, the State and the United States.

139~~8~~. *Historic structure* means any structure that is:

(a) Listed individually in the National Register of Historical Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; and/or

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; and/or

(c) Individually listed on a local or state inventory of historic places.

140~~39~~. *Holder* means the person who applied for and obtained approval of a Watershed Protection Plan for a development, or the successor-in-interest of such person.

~~140. *Horizon Master Plan (*also referred to as the *Master Plan)* means the City's adopted comprehensive plan, as amended.~~

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ARTICLE 1: - GENERAL DEFINITIONS

141. *HUD-Code manufactured home* (see definition of *manufactured housing*).

142. *Illuminated or lit sign* means a sign exposed to artificial lighting by light sources located on or in the sign or specifically directed toward the sign.

143. *Impervious cover* means impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil and bedrock.

144. *Improved lot or tract* means a lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

145. *Industrialized home (single-family, also called modular prefabricated structure or modular home)* means a structure or building module, as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code, Chapter 1201), nor does it include a recreational vehicle as that term is defined by this Land Development Code.

146. *Interested person* means a person who is impacted by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the general public. An interested person includes any officer or agency of the City.

147. *Intermediate waterway* means any river, creek, stream, channel, or other waterway that drains a watershed of at least 250 acres and no more than 1,000 acres.

148. *Internal street* means the same as common access route.

149. *ITE* means Institute of Transportation Engineers.

150. *Land division* means

(1) The following when done for the purpose of sale or building development:

a. The division of any tract of land into two or more tracts or lots; or

b. The assembly of two or more tracts of land into one tract or lot.

(2) The following changes to a recorded subdivision plat:

a. A resubdivision of all or part of the subdivision;

b. Any change of lot size or lot lines; or

c. The relocation of any street.

151. *Landscape development* means trees, shrubs, ground cover, vines or grass installed in planting areas for the purpose of fulfilling the requirements of this Article.

152. *Land Use Intensity Matrix* means the tool found in the Comprehensive Plan Figures Appendix which provides guidance on the uses permitted in each intensity zone or area of stability on the Preferred Scenario Map

153. *Land Use Suitability Map* means the map of development constraints which indicates land that is suitable for development..

154. *LDC* means Land Development Code (this document).

155~~3~~. *Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

156~~4~~. *Levee system* means a flood protection system which consists of a levee and associated structures including closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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ARTICLE 1: - GENERAL DEFINITIONS

157~~5~~. *Light load vehicle:* A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

158~~6~~. *Livestock use* means cattle, horses, sheep, goats, wild game and other animals.

159~~7~~. *Lot* (also see Section 4.5.2.3 of this Land Development Code) means an undivided tract or parcel of land having frontage on a public street, or an approved open space having direct street access, and which is or may be offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract, or lot number or symbol in a duly approved subdivision plat that has been properly filed of record.

(a) *Lot depth* means the length of a line connecting the midpoints of the front and rear lot lines.

(b) *Lot, double frontage* means any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

(c) *Lot, flag shaped* means an irregularly shaped lot that takes its sole access via a long, narrow strip of land connecting the principal building site to a public street.

(d) *Lot frontage* means the length of street frontage between property lines.

(e) *Lot, irregular* means any lot not having equal front and rear lot lines or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

(f) *Lot width* means the shortest average distance between the side lot lines, which is normally that distance measured along a straight line connecting the midpoint of the two side lot lines.

160~~58~~. *Lowest floor* means, for flood damage prevention purposes, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

161~~59~~. *Major recharge feature* means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, is likely to cause a significant quantity of direct recharge of surface water to the Edwards Aquifer, and has a contributing drainage area of greater than ten acres and/or occurs within a floodplain or streambed.

162~~0~~. *Major waterway* means any river, creek, stream, channel or other waterway that drains a watershed of 1,000 acres or more.

163~~1~~. *Manmade feature* means a feature, including but not limited to, closed depressions, wells, borings and excavations.

164~~2~~. *Manufactured housing* means any one of three types of prefabricated housing products which are typically manufactured or assembled at a location other than the end user's permanent site, and which are regulated by the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code, Chapter 1201). For the purpose of this Ordinance, there are two types of manufactured homes:

(a) *Mobile home* means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. The term does not include a recreational vehicle as that term is defined by this Land Development Code.

(b) *HUD-code manufactured home* means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, and V.T.C.A., Occupations Code, Chapter 1201, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent

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chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. The term does not include a recreational vehicle as that term is defined by this Land Development Code.

165~~3~~. *Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

166~~4~~. *Master Plan* means the ~~City's adopted comprehensive plan, as amended, which is also referred to and defined herein as the *Horizon Master Plan*.~~units of the Comprehensive Plan which address planning for specific topics. Examples of Master Plans are Transportation, Parks, Water and / or Wastewater or any other specific plans meant to guide the City's growth or operations.

167~~5~~. *Mean sea level* means, for flood damage prevention purposes, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the City's flood insurance rate map are referenced.

168~~6~~. *Minor plat* is a plat dividing land into no more than four lots that may be administratively approved under certain circumstances under Chapter 1, Article 6, Division 7 of this Land Development Code.

169~~7~~. *Minor recharge feature* means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, may cause small quantities of surface water to recharge the Edwards Aquifer, and has a contributing drainage area of less than 1.6 acres.

170~~68~~. *Minor waterway* means, with respect to areas other than the Edwards Aquifer Recharge Zone, any river, creek, stream, channel or other waterway that drains a watershed of at least 120 acres and no more than 250 acres.

171~~69~~. *Minor waterway* means, with respect to the Edwards Aquifer Recharge Zone, any river, creek, stream, channel or other waterway that drains a watershed of at least 50 acres and no more than 250 acres.

172~~0~~. *Mixed Residential Areas* is a term used in the Land Use Intensity Matrix of the Comprehensive Plan to categorize areas as Redevelopment ~~/~~or Infill. Mixed residential means any zoning district that may include a residential use but is not single family (SF). ~~Zoning districts that would contribute to a~~ M~~m~~ixed residential areas are D, DR, TH, PH-ZL, MF-12, MF-18, MF-24, MR, MH, MU and VMU.

173. *Mobile home* (see manufactured housing).

174. *Mobile home parking space, off-street* means a minimum space, 8½ feet in width by 20 feet in length, located within the boundary of a mobile home or manufactured home space or in a common parking and storage area having unobstructed access to an internal street.

175~~2~~. *Moderate recharge feature* means a sensitive geologic feature or manmade feature that, because of its characteristics and setting, is likely to cause small quantities of surface water to directly recharge the Edwards Aquifer, and has a contributing drainage area between 1.6 acres and 10 inclusive.

176~~3~~. *Multiple-occupancy* means one or more adjacent premises containing two or more occupancies, each having main entrances directly from the exterior of a common building or complex of buildings and utilizing common facilities for vehicular access, parking, landscaping, etc.

177~~4~~. *Natural drainage* means the characteristics of surface drainage where no disturbance of natural features, soils, or vegetation has occurred.

178~~5~~. *Natural state* means substantially the same conditions of the land which existed prior to its development, including but not limited to the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

179~~6~~. *Neighborhood Character Study* means the analysis of the existing character in a specific neighborhood study area and standards to guide and govern development and redevelopment patterns adopted as amendments to the Comprehensive Plan.

180 *New construction* means, for flood damage prevention purposes, a structure for which the start of construction commenced on or after December 19, 1977, and includes any subsequent improvements to the structure. For the

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purposes of determining insurance rates, new construction means structures for which the start of construction commenced on or after January 1, 1975, and includes any subsequent improvements to the structures.

18~~77~~. *New manufactured home park or subdivision* means, for flood damage prevention purposes, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after adoption of the City's original floodplain ordinance on November 25, 1974.

18~~78~~. *Nonconforming sign* means any sign lawfully existing on the effective date of the ordinance from which the sign regulations in this Land Development Code derive which does not conform to all the standards and requirements of this Land Development Code.

18~~79~~. *Nonconforming lot* means a lot that does not conform to the regulations of Chapter 4 of this Code. See Section 4.5.2.3 for further information.

18~~0~~. *Nonconforming structure* means a structure that does not conform to the regulations of Chapter 4 of this Code. See Section 4.5.2.2 for further information.

18~~1~~. *Nonconforming use* means a use of property that does not conform to the regulations of Chapter 4 of this Code. See Section 4.5.2.1 for further information.

18~~2~~. *Occupancy* means a dwelling unit, nonresidential building or portion of a building, which is designed and intended for a single tenant or use.

18~~3~~. *Omnibus relief petition* means a petition for relief from the application of the standards in this Land Development Code to a Watershed Protection Plan (Phase 1, Phase 2, or Qualified) or Floodplain Permit and related development applicationsunder. See Chapter 1, Article 10, Division 5 for further information.

18~~4~~. *On-site sewage facility* or *OSSF* means a septic tank, sewage holding tank, or other system, facility or method used for the disposal of sewage on the site on which the sewage originates.

18~~5~~. *On-site Sewage Facility Rules* means the state regulations that apply to on-site sewage facilities, including without limitation the latest edition or supplement to the TCEQ regulations contained in 30 TAC 285.1-285.91 as amended and the design criteria included in these regulations.

190~~86~~. *Open space* means private property under common ownership designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment of property owners within a subdivision. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

191~~87~~. *Overland flow* means stormwater runoff that is not confined by any natural or manmade channel, including but not limited to creeks, drainage ditches and storm sewers.

192~~88~~. *Overlay zoning district* means a zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

193~~89~~. *Park* means land dedicated to or purchased by the City for the purpose of providing public recreational and/or open areas. Also see *Open space*.

194~~0~~. *Park Benefit Area* The area that a park, based on it's size, location, and facilities, is intended to serve.

195~~1~~. *Parkway* means a freeway which does not have continuous frontage roads. Parkways have a green space buffer between the roadway and adjacent development. Parkways preserve and enhance the natural landscape as much as possible.

196~~2~~. *Paved area* means any paved ground surface area, excepting public right-of-way, used for the purpose of driving, parking, storing or displaying of vehicles, boats, trailers or mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages shall not be considered as paved ground surface areas.

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197~~3~~. *Pavement width* means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

198~~4~~. *PD district* means planned development district (also referred to as a PDD).

199~~5~~. *Pennant* - A type of temporary signage that is generally constructed of lightweight plastic, fabric or a similar material; that is mounted/tethered to a pole(s), building or other structure by a rope, wire, string or similar device, usually in series (i.e., more than one on a string); and that is designed to move in the wind to attract attention. Pennant signage may exhibit a text message or symbol, and may be a single color or several colors. For the purposes of this Land Development Code, a string of multiple pennants (also commonly referred to as streamers) of any length shall also be considered pennant signage.

200~~196~~. *Permanent BMPs* means best management practices used to prevent and control storm water runoff pollution from development after construction is completed.

201~~197~~. *Permanent sign* means a sign designed to be anchored to the ground, a building or other structure for the duration of the use of the premises.

202~~198~~. *Petition for development agreement* means a request to authorize negotiation of a binding contract incorporating a plan of development for land located in the City's extraterritorial jurisdiction under Chapter 1, Article 2, Division 2 of this Land Development Code.

203~~199~~. *Petition for development transfer* means a request to authorize the simultaneous transfer of residential densities, impervious cover or nonresidential square footage from one development site that is to be limited permanently in whole or in part to open space (the granting site) to another development site that is not subject to such constraints (the receiving site), and that is reviewed and decided under Chapter 1, Article 5, Division 4 of this Land Development Code.

204~~0~~. *Petition for a legislative decision* means a request for approval of an action authorized under this Land Development Code requiring action by the City Council acting in its legislative capacity.

205~~1~~. *Petition for change in nonconforming status* means a request by a property owner to the Zoning Board of Adjustments under Chapter 1, Article 5, Division 10 of this Land Development Code for a change in the status of a nonconforming use or structure to allow for modification to the use or property owned.

206~~2~~. *Petition for relief from dedication or construction requirement* means a request for relief from a requirement imposed under this Land Development Code to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under Chapter 1, Article 10, Division 3 of this Land Development Code.

207~~3~~. *Petition for Planned Development District (PDD)* means a petition for the City to establish a special overlay zoning district in accordance with an approved conceptual plan and development standards under Chapter 1, Article 5, Division 3 of this Land Development Code.

208~~4~~. *Petition for utility extension* means a request to extend water or wastewater facilities to provide services to a development located outside of the City limits and that is reviewed and decided under Chapter 1, Article 4, Division 3 of this Land Development Code.

209~~5~~. *Plat* means a map, drawing, chart or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Land Development Code and which a subdivider shall submit for approval in accordance with this Land Development Code.

210~~06~~. *Plumbing code* means the current version of the plumbing code adopted by the City.

211~~07~~. *Plumbing fixture* means a water closet, bathtub, separate shower, lavatory, urinal, kitchen sink, household laundry, drain of any type or other similar receptacle that discharges wastes into the wastewater system.

212~~08~~. *Plumbing permit* means any plumbing permit issued by the City Building Inspection Division.

213~~09~~. *Pollutant* means any gaseous, liquid or solid material capable of causing pollution of surface waters or groundwaters.

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ARTICLE 1: - GENERAL DEFINITIONS

214~~0~~. *Pollution* or *polluting* means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of the natural environment that renders it harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the public enjoyment of the natural environment for any lawful or reasonable purpose.

215~~1~~. *Portable sign* means a transportable sign of durable construction, including a trailer used for advertising or promotional purposes, which is not designed to be permanently affixed to a building, other structure or the ground.

216~~2~~. *Potable water* means water that complies with TCEQ rules for drinking water and other domestic uses.

217~~3~~. *Preferred Scenario Map* means the map adopted along with the Comprehensive Plan to guide growth and development in the City.

218. *Preliminary Development Plat* means a plat that illustrates and thereby assures the adequacy of public facilities needed to serve the intended development and the overall compliance of such development with applicable requirements of the Land Development Code and that is reviewed and decided prior to approval of a Final Development Plat under Chapter 1, Article 6, Division 4 of this Land Development Code.

219~~4~~. *Preliminary Subdivision Plat* means a plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the land division with applicable requirements of the Land Development Code and that is reviewed and decided prior to approval of a Final Subdivision Plat under Chapter 1, Article 6, Division 3 of this Land Development Code.

220~~15~~. *Premises* means a parcel or tract of land or one or more platted lots under the same ownership and use, together with the buildings and structures located thereon.

221~~16~~. *Pretreatment requirements* means any substantive or procedural requirement, other than a national pretreatment standard, imposed on an industrial user.

222~~17~~. *Private sewage facilities* means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks and all other facilities, systems and methods used for the disposal of sewage other than disposal systems operated under a waste discharge permit issued by the state.

223~~18~~. *Public right-of-way* means a strip of land used or intended to be used, wholly or in part, as a public street, alley, crosswalk way, sidewalk or drainageway.

224~~19~~. *Public view* means areas that can be seen from any public street.

225~~0~~. *Qualified geologist* means a person who has received a baccalaureate or graduate degree in the natural science of geology from an accredited university and has training and experience in groundwater hydrology or Edwards Limestone karst geology, or has demonstrated such qualifications by registration or licensing through a state or professional organization that certifies their background of training and experience in groundwater hydrology or Edwards Limestone karst geology.

226~~1~~. *Qualified Watershed Protection Plan* means a watershed protection plan that proposes mitigation, variation from environmental standards or other special development circumstances requiring approval by the Planning and Zoning Commission.

227~~2~~. *Radio, television or microwave tower* - see "Antenna, Microwave Reflector and Antenna Support Structure".

228~~3~~. *Receiving zones* means land to which development rights will be transferred.

229~~4~~. *Recharge zone* means the area where the stratigraphic units constituting the Edwards Aquifer outcrop, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other geologic features and manmade features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as such on official TCEQ maps, which are incorporated in this Land Development Code by reference. The recharge zone includes all areas defined as water quality zones for the Edwards Aquifer in this Land Development Code.

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2302~~5~~. *Reconstruction* means rehabilitation or replacement of a structure which either has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding 50 percent of the replacement cost of the structure at the time of the damage, alteration or removal.

2312~~6~~. *Recorded Plat* means a development plat or a subdivision plat that has been finally approved by the City and that has been filed with the applicable county after meeting all City requirements for recordation under Chapter 1, Article 6, Division 5 of this Land Development Code.

2322~~7~~. *Recreational vehicle* means a vehicle that is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light-duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

2332~~8~~. *Recreational vehicle park* means any lot, tract or parcel of land upon which accommodation is provided for two or more recreational vehicles used as living or sleeping quarters by the day, week or month where a charge is or is not made.

2342~~9~~. *Remainder tract* means land that is part of a larger parcel that is not subject to a Subdivision Concept Plat or Watershed Protection Plan affecting the parcel.

235~~0~~. *Remodeling* means renovation, alteration or repair of an existing structure that is not an addition.

236~~1~~. *Repair* means to restore or mend to sound working condition after damage, decay or failure.

237~~2~~. *Replacement* means the act of moving one structure from its existing location or site and replacing it with another structure.

238~~3~~. *Reserve strip* means a privately owned strip of land, normally one foot in depth, adjacent to the public right-of-way or easement preventing the extension of the right-of-way or easement without the expressed consent of the owner.

239~~4~~. *Residential Compatibility Site Plan* means a plan that must be submitted with a subdivision plat or development plat application in circumstances where the proposed density under the plat is substantially different than the density of abutting subdivisions, and which is reviewed under the standards in Chapter 1, Article 6, Division 1 of this Land Development Code.

2403~~5~~. *Residential unit* means a structure, or a portion of a structure, that is designed to house a person or group of persons. A residential unit is deemed occupied when either water or domestic light and power service is being supplied to it. A townhouse, apartment, fourplex, duplex and condominium, whether of single or multilevel construction, and a mobile home or manufactured home, is treated as a residential unit.

2413~~6~~. *Responsible official* means the director of the City department who has been designated to accept a type of development application for filing, to review and make recommendations concerning such applications, and where authorized, to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Land Development Code with respect to such development applications.

2423~~7~~. *Restaurant* means a building or portion of a building where the primary business is the on-premises sale of prepared food, with kitchen facilities for the preparation of the food to be sold.

2433~~8~~. *Restoration* means, for water quality regulation purposes, the establishment of plants, grasses and vegetation native to a particular site for the purposes of erosion control and preservation or restoration of biological and physical habitat.

2443~~9~~. *Restructure* means, for sign regulation purposes, the replacement of structural members of a sign for the purpose of extending the life of a sign.

245~~0~~. *Roominghouse* means a house or building where there are two or more bedrooms rented to persons for lodging.

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ARTICLE 1: - GENERAL DEFINITIONS

246~~1~~. *ROW* means right-of-way.

247~~2~~. *Satellite* see Antenna.

248~~3~~. *Screening / Sceening Wall* see Buffer.

~~244. *Sector Plan* means an element of the Master Plan that covers a specific subarea of the city or ETJ. The Sector Plans provide basic information on the natural features, resources, and physical constraints that affect development of the planning area. They also specify land use designations used to review development, consider rezonings, and to plan for services and facilities.~~

249~~5~~. *Sensitive feature* means a permeable geologic feature or manmade feature located on the recharge zone or transition zone where:

(a) A potential for hydrologic connection between the surface and the aquifer exists;

(b) Rapid infiltration to the subsurface may occur; and

(c) The feature has a sensitivity rating, according to TCEQ rating criteria, of 25 points or more on a geologic assessment prepared to TCEQ standards by a qualified geologist.

NOTE: Each *sensitive feature* is categorized as either a minor recharge feature, a moderate recharge feature, or a major recharge feature based on its potential for recharge into the aquifer.

250~~46~~. *Sensitive feature protection zone* means the area surrounding sensitive features where no development or disturbance of native vegetation is allowed.

251~~47~~. *Service connection* means the terminal end of a service connection from the City water system, i.e., where the City loses jurisdiction and sanitary control over the water at the point of delivery to the customer. If a meter is installed at the point of delivery, the service connection means the point at which the terminal end on the discharge side of the water meter connects to the customer's system.

252~~48~~. *Shrub* means any self-supporting woody evergreen and/or deciduous species.

253~~49~~. *Sidewalk* means a paved pedestrian way generally located within public street right-of-way but outside the roadway.

254~~0~~. *Sight triangle* means a triangle-shaped area adjacent to the intersection of two streets, formed by two lines.

255~~1~~. *Sign* shall mean and include every device, structure, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, projection, symbol, logo, trademark, or reading situated outdoors, or indoors affixed to a window, or located within 12 inches from a window facing the exterior, which is used, or intended to be used, to attract attention, convey information, identify or advertise any establishment, product, goods, or service when the same is placed in view of the off-premises general public. The term sign shall not include the flag or pennant or insignia of any state, city or other political unit or of any charitable, educational, philanthropic, civic, or religious organization.

(a) *Sign, animated* means any sign that uses flashing lights, movement, changing of lighting, or any other means to depict motion, an illusion of motion, create a special effect or scene through the use of patterns of lights, changes in color or light intensity, computerized special effects, video displays or through any other method, including holographic displays, which create a three dimensional image through projection or television screens and which the message does not include a CEVM sign as defined below in subsection (d) or a community information sign.

(b) *Sign, attached* means any sign attached to, applied on or supported by any part of a building or accessory structure or moveable panels.

(c) *Sign, automatic changing* means a sign which automatically changes the sign copy on a preprogrammed cycle through the use of illumination.

(d) *Sign, Changeable Electronic Variable Message (CVEM)* means a sign that is activated electronically or by other means, whose message, content, or display, either in whole or in part, may be changed by means of electronic,

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computerized programming, or any other means, and which the message is in text, alpha-numeric characters, symbols, logos, or static image. There shall be no more than one message or static image displayed at any time and the message, image or background shall not change more often than once every 60 seconds. Monument signs on which the sole message is the grade and price of fuel, or time and temperature or a drive through menu board are not considered CEVM signs.

(e) *Sign, community information* means any sign which promotes items of community interest including time, temperature, date, atmospheric conditions and upcoming noncommercial events or charitable causes.

(f) *Sign, freestanding* means any sign affixed to the ground or mounted on a fence or wall which is not an integral part of a building or accessory structure.

(g) *Sign, ground or monument* means a sign which is situated on the ground and not supported by a pole(s) over seven feet in height.

(h) *Sign, idenfication* means a sign containing the name, adress and recognized symbol or logo of a subdivision, building or complex of buildings containing multiple occupancies or of any nonprofit, civic, religious, educational or governmental institution. Identification signs for multiple occupancies may also contain the names, addresses and recognized symbol or logo of two or more of the individual tenants or businesses.

(i) *Off-premises* means a sign which does not exclusively refer to the name, location, products, persons, services or activities of or on the premises where it is located, except for certain permitted multiple-occupancy business centers.

(j) *Sign, on-premises* means any sign which relates exclusively to the name, location, products, persons, services or activities of or on the premises where it is located.

(k) *NIT* means Candelas per Square meter used to measure luminance or brightness.

256~~2~~. *Sign permit* means a City-issued permit that authorizes the display, erection, rebuilding, expansion or relocation of any on-premises or off-premises sign.

257~~3~~. *Site* means a tract of property that is the subject of a development application.

258~~4~~. *Site plan* means a detailed plan showing the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the approved land use plan and development standards.

259~~5~~. *Site Preparation Permit* means a permit that is issued under Chapter 1, Article 8 of this Land Development Code, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.

260~~56~~. *SMRC* means the San Marcos River Corridor.

261~~57~~. *Solid waste* means any garbage, refuse, sludge and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, municipal, commercial and agricultural operations and from community and institutional activities.

262~~58~~. *Space* means a plot of ground within a mobile home or manufactured housing park designed for the accommodation of one mobile home or manufactured home, together with the open space as required by this Article. This term also includes the terms "lot", "stand" and "site". *Space* may also mean any plot or parcel of ground upon which is erected any accommodation for any recreational vehicle or structures of a temporary nature for living and sleeping purposes.

263~~59~~. *Special exception* means a City-authorized modification of zoning standards applicable to particular types of development within any zoning district in a manner consistent with the overall intent of the zoning ordinance and for which express standards are prescribed.

264~~0~~. *Specimen trees* are those which measure 24 caliper inches four feet above the ground, or those which are identified with historic personages or important events in local, State or national history.

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ARTICLE 1: - GENERAL DEFINITIONS

265~~1~~. *Start of construction* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, including the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, including clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings including garages or sheds not occupied as dwelling units or not a part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

266~~2~~. *Steep slope* means areas that contain slopes over 15 percent grade and that are characterized by increased runoff, erosion and sediment hazards.

267~~3~~. *Steep slope* means a slope of 15 percent or greater.

268~~4~~. *Storm sewer* means any sewer or open drainage channel designed to carry stormwater and surface water, street wash and drainage water.

269~~5~~. *Story* means that portion of a building above grade, other than a basement, that is included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. The average height for a story shall be defined as 12 feet. The definition of a story does not include parapets, gables and other normal roof structures. In cases where the site has a significant slope, the number of stories of a building shall be measured from the point representing the average slope from front to back, or side to side, of the building.

270~~66~~. *Street* means a public right-of-way that provides primary vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive or however otherwise designated.

(a) *Street, arterial* means a major arterial street or a minor arterial street.

(b) *Street, commercial / multifamily collector* means a street to serve as principal access to commercial or multifamily developments. Large vehicles such as delivery trucks utilize these streets. Driveway access is limited to accommodate higher traffic volumes and larger vehicles. On-street parking is restricted on these streets. Multifamily developments can front on these roads, provided adequate off-street parking is available. Typically, multifamily developments, schools, local retail developments and public facilities are located adjacent to commercial/multifamily collector streets.

(c) *Street, industrial* means a street which serves as the principal access to an industrial development. Large vehicles such as WB-50s utilize these streets, thereby requiring greater area for circulation and movement. Driveway access is limited to accommodate higher traffic volumes and larger vehicles. On-street parking is generally limited or restricted on these streets.

(d) *Street, marginal access* means a street parallel and adjacent to an arterial street and which primarily provides vehicular access to abutting properties and protection from through traffic.

(e) *Street, major arterial* means a street, including freeway service roads, whose main purpose is to serve as a major route into, out of, or across an urban area. Typically, neither parking nor access to residential uses is permitted.

(f) *Street, minor arterial* means a street whose main purpose is to serve as a minor route through and between centers in urban areas. Typically, neither parking nor access to residential uses is permitted.

(g) *Street, neighborhood collector* means a street to serve between subdivisions or districts. These streets provide limited access to abutting properties. On-street parking is restricted on these streets.

(h) *Street, private or service drive* means a vehicular accessway under private ownership and maintenance that has not been dedicated to the City and accepted by the City.

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ARTICLE 1: - GENERAL DEFINITIONS

(i) *Street, residential* means a street used primarily for access to abutting residential property and circulation of traffic within residential neighborhoods. It is of a width and design to discourage through traffic, thereby protecting the residential area. A local street serves the same purpose in a commercial or industrial district.

271~~67~~. *Street line* means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

272~~68~~. *Structural alteration* means, for purposes of sign regulation, any relocation, replacement or enlargement of the structure of a sign or change in the overall height, width, size or orientation of a sign. Routine maintenance of nonstructural parts including removable faces, copy and electrical fixtures shall not be considered structural alterations.

273~~69~~. *Structural improvement* means any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the chief building official and which are the minimum necessary to ensure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

274~~0~~. *Structure* means anything constructed, erected or artificially built up or composed of parts and joined together in a permanent manner. Also refer to Section 4.5.2.2 of this Land Development Code.

275~~1~~. *Subdivider* means any person or any agent of the person dividing or proposing to divide land so as to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider"' is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided.

276~~2~~. *Subdivision* - as to land for which a plat has been recorded, *subdivision* means an area of subdivided lots; as to the act of subdividing land, see the definition of *land division*.

277~~3~~. *Subdivision Concept Plat (*also referred to as *concept plat)* means the initial plat for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision, and that is reviewed and decided under Chapter 1, Article 6, Division 2 of this Land Development Code.

278~~4~~. *Submittal date* means the date upon which the responsible City staff person makes a determination that a zoning or development application is complete, or when a fee receipt is issued by the City for the required application fee.

279~~5~~. *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

280~~76~~. *Superstation* means any nonlocal broadcast signal secondarily transmitted by satellite.

281~~77~~. *Surveyor* means a licensed state land surveyor or a registered professional land surveyor, as authorized by state statutes, to practice the profession of surveying.

282~~78~~. *TABC* means the Texas Alcohol and Beverage Commission.

283~~79~~. *TCEQ* means the Texas Commission on Environmental Quality.

284~~0~~. *TCEQ BMP guidance manual* means TCEQ document RG-348, "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices".

285~~1~~. *TCEQ Edwards Aquifer rules* means the TCEQ rules for the Edwards Aquifer, 30 TAC Chapter 213, Subchapter A, as amended.

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ARTICLE 1: - GENERAL DEFINITIONS

286~~2~~. *TCSS* means the City's design and construction standards for the installation and construction of subdivision or public improvements that are associated with developing a piece of property. TCSS is an acronym for *Technical Construction Standards and Specifications*.

287~~3~~. *TSDHS* means the Texas State Department of Health Services.

288~~4~~. *Telecommunications Tower or Structure* - see "Antenna, Microwave Reflector and Antenna Support Structure".

289~~5~~. *Temporary BMPs* means best management practices used to prevent and control pollution from development during construction.

290~~86~~. *Temporary sign* means a sign which is displayed for a limited period of time only and which is typically associated with an activity or event of limited duration.

291~~87~~. *Temporary/mobile antenna* means an antenna and any associated support structure/equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed and/or used on a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.

292~~88~~. *Thoroughfare Plan* means a street plan that is part of the Comprehensive Plan.

293~~89~~. *Tiedown* means any device designed for the purpose of anchoring a mobile home or manufactured home to ground anchors, as required by V.T.C.A., Occupations Code, Chapter 1201.

294~~0~~. *Townhouse* means a single-family dwelling unit constructed in a series or a group of units, having common walls, each on a separate lot.

295~~1~~. *Townhouse* or *row house* means one of a group of no less than two nor more than eight adjoining single-family dwelling units sharing a common wall with one or more of the adjoining dwelling units, each dwelling unit located on a separate lot.

296~~2~~. *Trailer, hauling* means a vehicle or device which is pulled behind an automobile or truck and which is designed for hauling animals, produce, goods or commodities, including boats.

297~~3~~. *Transition zone* means the area adjoining the recharge zone where faults, fractures, or other geologic features or manmade features would present a possible avenue for recharge of surface water to the Edwards Aquifer. The transition zone is identified as such on official TCEQ maps, which are incorporated in this Land Development Code by reference.

298~~4~~. *Tree* means any living, self-supporting woody plant species which normally grows to an overall minimum height of 15 feet.

299~~5~~. *Tributary* means any waterway, having a drainage area of 120 acres or more, that drains directly into Purgatory Creek or Sink Creek or the Blanco River. A tributary is measured from its confluence with the creek or river upstream to a point at which the contributing area is less than 64 acres.

300~~296~~. *Truck* see Heavy load vehicle.

301~~297~~. *TXDOT* means the Texas Department of Transportation.

302~~298~~. *Underbrush* means low-growing vegetation, brush and trees with a caliper less than three inches.

303~~299~~. *Upland zone* means any area within the recharge zone or the transition zone that is not part of a water quality zone, buffer zone or sensitive feature protection zone.

304~~0~~. *Use* means the classification of the purpose or activity for which land or buildings are designated, arranged, intended, occupied or maintained.

305~~1~~. *User* means the person who owns or occupies a benefitted property.

306~~2~~. *Variance* means authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided under Chapter 1, Article 10, Division 2 of this Land Development Code.

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ARTICLE 1: - GENERAL DEFINITIONS

307~~3~~. *Vested Rights Petition* means a request for relief from one or more standards of this Land Development Code based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Land Development Code, under Chapter 1, Article 10, Division 4.

308~~4~~. *Vines* means any of a group of woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

309~~5~~. *Violation* means the failure of a structure or other development to fully comply with this Article.

310~~06~~. *Vision San Marcos: A River Runs Through Us* (also referred to as the Comprehensive Plan) is the City's adopted Comprehensive Plan, as amended

311. *VTCA* means Vernon's Texas Codes Annotated.

312~~07~~. *Wastewater* means waterborne waste normally discharging from the sanitary conveniences of dwellings, hotels, office buildings, retail establishments, factories, and institutions that is free from storm and surface water.

313~~08~~. *Wastewater service* means the collection of wastewater that requires treatment prior to its return to nature.

314~~09~~. *Wastewater system* means a system of pipes, conduits, lift stations and treatment facilities owned, controlled or subject to the jurisdiction of the City, designed to collect and transport wastewater and industrial waste.

315~~0~~. *Water facilities* means any or all of the individual components of a water system taken together.

316~~1~~. *Water quality zone* means an area of land along a minor waterway, intermediate waterway, major waterway, or along a river, stream or waterway in which development is prohibited or limited.

317~~2~~. *Water surface elevation* means, for flood damage regulation purposes, the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, where specified, of floods of various magnitudes and frequencies in the floodplain.

318~~3~~. *Water system* or *central water system* means the water facility infrastructure for the collection, treatment, storage and distribution of potable water from the source of supply to one or more consumers.

319~~4~~. *Waterway* means any natural or artificial channel in which a flow of water, either continuously or intermittently, occurs.

320~~15~~. *Watershed Protection Plan* means a plan that is submitted that establishes terms and conditions for approval of applications for plats and site preparation permits relating to environmental standards in Chapter 5 of this Land Development Code, and that is reviewed and decided in phases under Chapter 1, Article 7 of this Land Development Code.

321~~16~~. *Yard* means a required open space, other than a courtyard, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture are not deemed to be obstructions if height limitations and requirements limiting obstruction of visibility are observed.

322~~17~~. *ZBOA* means Zoning Board of Adjustment.

(Ord. No. 2008-3, § 3, 3-3-08; Ord. No. 2010-49, § 12, 9-7-10; Ord. No. 2011-55, § 18, 11-1-11)

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ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

1. *Accessory dwelling:* A secondary living space that is on-site with a primary living space and that may be contained within the space structure as the primary, or may be contained in a separate structure. A guest house and a garage loft are examples of accessory dwellings. Occupants of secondary living spaces typically include a caretaker, servant, or farm worker employed by the owner/occupant, or a guest or family member of the owner/occupant.

2. *Accessory use:* A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s) and that is located upon the same lot therewith (i.e., the land/building area that is used for the accessory use must be less than that used for the primary use).

3. *Agricultural activity/use:* Farming, including plowing, tillage, cropping, seeding, cultivating, or harvesting for the production of food and fiber products. Accessory uses may include packing, treating, storing, preparing, and/or preserving agricultural goods.

4. *Agricultural building:* A structure that is designed, constructed, and used to house farm implements, livestock, or agricultural goods and that is used by the owner, immediate family of the owner, and/or persons engaged in the pick-up or delivery of agricultural goods grown or raised on the premises. This definition shall not include a structure used as a dwelling.

5. *Amusement devices/arcade (Also Video arcade):* Any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent of the public floor area is devoted to three or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. However, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

6. *Amusement services (indoors):* An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball or handball club, indoor tennis courts or club, indoor swimming pool or scuba diving facility, and other similar types of uses.

7. *Amusement services (outdoors):* An amusement enterprise offering entertainment or games of skill to the general public for a fee wherein any portion of the activity takes place outdoors and including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, amusement parks, and other similar types of uses.

8. *Artisans shop:* A shop in which goods such as jewelry, sculpture, pottery, and hand-woven articles are custom produced in small quantities, often one of a kind. The use may include the sale or production of such goods or may be a place where a small number of persons are engaged in arts and crafts activities in a class or studio.

9. *Artist/artisan studio:* A work space for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft. This is differentiated from an *Artisans Shop* due to the fact that there are no retail sales in an *artist studio*.

10. *Assisted living facility:* A congregate residence facility for ten or more handicapped persons or persons over 55 years of age, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational activities and hairdressing, may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility, but may be privately arranged for by individual residents on a part-time or temporary basis.

11. *Auto laundry or car wash:* Washing, waxing or cleaning of automobiles or light duty trucks.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

(a) *Attended auto laundry or car wash* - The owner of the vehicle does not actually wash the vehicle. Instead, he either leaves the vehicle and comes back to retrieve it later, or he waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.

(b) *Unattended auto laundry or car wash* - The owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

12. *Auto supply store for new and rebuilt parts:* The use of any building or other premise for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

13. *Auto sales (new):* Retail sales of new automobiles or light load vehicles, including, as a minor part of the business, the sales of used automobiles or light load vehicles and the service of new or used vehicles.

14. *Auto sales (used):* Retail sales of, or the offering for sale of, used automobiles or light load vehicles.

15. *Auto storage or auto auction:* The storage or impoundment, on a lot or tract which is paved in accordance with parking lot paving requirements set forth in this ordinance, of operable automobiles for the purpose of holding such vehicles for sale, distribution and/or storage. This definition shall not include the storage of wrecked or inoperable vehicles (see "Wrecking Yard").

16. *Automobile accessory installation (minor):* Minor installation of minor automobile accessories such as car alarms, radio and stereo equipment, window tinting, pin striping, cellular telephones and similar accessories.

17. *Automobile repair, major:* General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under "Automobile repair, minor"; and other similar uses.

18. *Automobile repair, minor:* Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile repair, major" or any other similar use.

19. *Barn:* A structure intended for the purpose of storing farming and ranching related equipment or housing livestock; such a structure shall be no more than 240 square feet in size, and shall conform to all construction and design standards of the district in which it is constructed.

20. *Base zoning* or *base zoning district* means the zoning district, or combination of zoning districts, which will be applied to the subject property contained in a PD district.

21. *Bed and breakfast inn or facility(s):* A dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in not more than 15 rooms or unattached units (e.g., cabins) for transient guests for compensation. For the purpose of this definition, "transient guests" shall mean persons who rent a room for fewer than 30 consecutive days.

22. *Building, dangerous* means a building that, due to its condition, poses a threat to the public's health, safety, and welfare.

23. *Building materials sales:* Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales. Sometimes referenced as a "home improvement center".

24. *Carport:* A structure that is open on a minimum of 2 sides and designed or used to shelter not more than 3 vehicles and not to exceed 24 feet on its longest dimension.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

24.1. *Charitable gaming facility:* Any building, structure, establishment or facility of which up to 25 percent of the floor area is devoted to the use of any computerized video game machine owned, leased, controlled or operated by an Internal Revenue Service section 501(c)(3) tax-exempt charitable organization or an Internal Revenue Service section 501(c) tax-exempt veterans organization that, upon payment or charitable contribution, is available to play a video game or a sweepstakes authorized by the State of Texas, and which uses a video display and microprocessor in which, by chance, the player may receive, prizes, free games or credits that can be redeemed for cash.

25. *Child day care (business):* A commercial institution or place designed for the care or training of seven to 12 unrelated children under 14 years of age for less than 24 hours a day.

26. *Church/place of religious assembly:* A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises, that is tax exempt as defined by State law. For the purposes of this Article, Bible study and other similar activities which occur in a person's primary residence shall not apply to this definition.

27. *Commercial use:* A type of nonresidential land use that has one or more of the following characteristics: 1) the use is service-oriented; 2) the use does not primarily sell retail items; 3) the use sells goods or products on a wholesale basis; or 4) the use has or has the need for open storage areas or warehouses its products. Such uses include motels, auto dealerships, welding shops, manufactured home sales, mini-warehouses, funeral homes, auto body repair shops, and air conditioning and/or heating services.

28. *Community home:* A place where not more than six physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Human Resources Code - Community Homes for Disabled Persons Location Act). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

29. *Concrete or asphalt batching plant (permanent):* A permanent manufacturing facility for the production of concrete or asphalt.

30. *Concrete or asphalt batching plant (temporary):* A temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

31. *Conference center:* A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees.

32. *Continuing care retirement community:* A housing development designed to provide a full range of accommodations for adults of age 55 or more, including independent living, assisted living and skilled full-time nursing or medical care. Residents may move from one level to another as their needs change.

33. *Contractor's office/sales (with outside storage):* A building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

34. *Convenience store with (or without) gasoline sales:* Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly gasoline, if pumps are provided. Does not include or offer any automobile repair services.

35. *Convention center:* A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, sport activities, and entertainment functions.

36. *CUP* means a Conditional Use Permit.

37. *DT district* means a Development Transfer District.

38. *DTG* means a Development Transfer Granting site, in relation to a Development Transfer District.

39. *DTR* means a Development Transfer Receiving site, in relation to a Development Transfer District.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

39.1. *Efficiency Apartment or Studio Unit* means a small apartment consisting of a single room used both as a living room and as a bedroom, together with a kitchen alcove and a bathroom. Some units may use partial partitions, or room dividers including pocket doors and rolling dividers, to separate living, kitchen, and dining area from sleeping quarters, sanitary facilities and storage closets. Efficiencies are typically between 200 and 400 square feet in size.

40. *Family home (adult care in place of residence):* A facility that regularly provides care in the caretaker's own residence for not more than six adults at any given time. No outside employment is allowed at the facility. This facility shall conform to Chapter 42 of the Human Resources Code of the State of Texas, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

41. *Family home (child care in place of residence):* A facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care. However, the number of children, including the caretaker's own, provided care at such facility shall not exceed 12 at any given time. No outside employment is allowed at the facility. This facility shall conform to Chapter 42 of the Texas Human Resources Code, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

42. *Fraternal building:* Any building occupied and maintained by a social club, organization or association other than college students, and not including residential facilities or sleeping quarters.

43. *Fraternity or sorority building:* Any building occupied and maintained by a social association of college students.

44. *Group home:* A specialized lodging house and boarding house which provides longterm supervised housing in a conventional residential setting for no more than six persons who are physically or mentally handicapped, developmentally disabled or are victims of crime, and having no more than two supervisory personnel in residence at the same time.

45. *Heavy machinery sales and storage:* A building or open area used for the display, sale, rental or storage of heavy machinery, tractors or similar machines, or a group of machines which function together as a unit.

46. *Home occupation:* An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes and does not change the character thereof. A home occupation is carried out by a member of the family who resides on the premises.

47. *Household care facility:* A dwelling unit which provides residence and care to not more than nine persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition is subject to V.T.C.A., Health and Safety Code, Chapter 247 (Assisted Living Facility Licensing Act) and V.T.C.A., Human Resources Code, Chapter 123 (Community Homes for Disabled Persons Location Act) as they presently exist or may be amended in the future.

48. *Household care institution:* A facility which provides residence and care to ten or more persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; or temporarily homeless due to fire, natural disaster, or financial setback together with supervisory personnel.

49. *HUD-Code manufactured home:* See *Manufactured housing* in the previous section of definitions.

50. *Industrial, manufacturing:* Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

51. *Industrialized home:* See the previous section of definitions.

52. *Institution for alcoholic, narcotic or psychiatric patients:* An institution offering out-patient treatment to alcoholic, narcotic or psychiatric patients.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

53. *Kennels (indoor pens):* An establishment with indoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

54. *Kennels (outdoor pens):* An establishment with outdoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

55. *Kiosk (providing a service):* A small, free-standing, one-story accessory structure having a maximum floor area of 100 square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

56. *Kitchen, residential:* Generally, that portion of a residential dwelling that is devoted to the preparation or cooking of food for the purpose of consumption by residents of the dwelling. A kitchen, as referred to within this Ordinance, generally indicates the presence of complete cooking facilities as differentiated from a "kitchenette" which provides limited cooking facilities limited to a single-burner hot plate, under-counter refrigerator and microwave oven.

56.1. *Large Renewable Energy System* means any facility or installation which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use.

57. *Light manufacturing* or *light industrial use:* Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

58. *Loft apartments:* See *Residential loft* definition.

59. *Manufactured home display or sales (new):* The offering for sale, storage, or display of new manufactured housing units, including mobile homes or trailers, HUD-Code homes and industrialized homes, on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

60. *Manufactured home display or sales (Used):* The offering for sale, storage, or display of previously owned (used), movable manufactured housing units, including mobile homes or trailers and HUD-Code manufactured homes on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

61. *Medical facilities:*

(a) *Medical clinic* or *office* - A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.

(b) *Dental office* or *doctor's office* - Same as medical clinic.

(c) *Hospital* - An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

(d) *Massage establishment* - Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy", as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage, petrissage, tapotement, compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body message. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

(e) *Public health center* - A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

(f) *Sanitarium* - An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

(g) *Surgical out-patient facility* - An establishment offering any type of surgical procedures and related care which, in the opinion of the attending physician, can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.

(h) *Medical laboratory* - An indoor establishment that includes laboratories and/or experimental equipment for medical testing, prototype design and development, and product testing.

62. *Mezzanine:* An intermediate or fractional story between the floor and ceiling of a main story, and usually located just above the ground or main floor and extending over only part of the main floor.

63. *Mini-warehouse/self-storage:* Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

64. *Model home:* A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

65. *Modular home:* See definition of *Industrialized home* in the previous section of definitions.

66. *Motor freight company:* A company using trucks or other heavy load vehicles to transport goods, equipment and similar products. Includes companies that move residential or commercial belongings.

67. *Offices, professional and general business:* A room or group of rooms used for the provision of executive, management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

68. *Office showroom:* An establishment with no more than 25 percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

69. *Office warehouse:* An establishment with more than 25 percent of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

70. *Outside display:* Outside temporary display of finished goods that are specifically intended for retail sale.

71. *Open/outside storage:* The keeping, displaying or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract for more than 24 hours. Also referred to as outside storage.

72. *Overlay zoning district* means a zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

73. *Patio home (zero-lot-line dwelling):* A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet in order to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side of such dwelling placed on the side property line.

74. *Pawn shop:* An establishment where money is loaned on the security of personal property pledged in the keeping of the owners. The retail sale of primarily used items is also allowed, provided that the sale of such items complies with local, State and Federal regulations.

75. *PD district* means planned development district (also referred to as a PDD).

76. *Personal service shop or custom personal services:* Establishments less than 2,000 square feet in gross floor area, primarily engaged in providing services generally involving the care of the person or his apparel and including, but not limited to, barber and beauty shops, dressmaking, shoe shining and repair, dry-cleaning and laundry pick-up stations, tailor or seamstress services, and other similar types of uses, with no outside storage.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

77. *Portable building sales (outdoor display):* An establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

78. *Private club:* An establishment providing social or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of Title 3, Chapter 32, Vernon's Texas Codes Annotated, Alcoholic Beverage Code, as the same may be hereafter amended, and as it pertains to the operation of private clubs.

79. *Propane sales (retail):* Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

80. *Rehabilitation care facility (halfway house):* A dwelling unit which provides residence and care to not more than nine persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

81. *Rehabilitation care institution:* A facility which provides residence and care to ten or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

82. *Residential care facility:* A specialized lodging house and boarding house which provides long-term supervised housing for more than six persons who are physically or mentally handicapped, developmentally disabled, or are victims of crime, or any number of persons under supervision as a halfway house providing residence in lieu of institutional sentencing for correctional, mental, or substance abuse problems.

83. *Residential loft:* A residential living space that is located on the second floor (or above) of a structure that has a nonresidential use, such as an office or retail shop, operating on the first floor. This definition includes a similarly located space (but may include the first floor) within a structure that has been converted into a residential living area from some other originally intended use.

84. *Restaurant (with drive-through service):* An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window(s).

85. *Restaurant (with no drive-through service):* An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

86. *Restaurant (drive-in service):* An eating establishment where food or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

87. *Sand/gravel/stone sales (storage):* The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

88. *School, business:* A for-profit business that offers instruction and training in a profession, service or art such as a secretarial or court reporting school, barber or beauty college or commercial art school, but not including commercial trade schools.

89. *School, commercial trade:* A for-profit business that offers vocational instruction and training in trades such as welding, brick laying, machinery operation/repair, and similar trades.

90. *School, private (primary or secondary):* A school under the sponsorship of a private agency or corporation, other than a religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

91. *School, public or parochial:* A school under the sponsorship of a public or religious agency which provides elementary or secondary curricula, but not including private business or commercial trade schools.

92. *Seasonal uses:* Seasonal uses include the sales of items such as Christmas trees, pumpkins, snow cones, fresh produce, and other items that are typically only available at certain times of the year.

ARTICLE 2: - LAND USE DEFINITIONS FOR ZONING CHAPTER 4

93. *Sexually oriented business:* See Section 18.241 of the San Marcos City Code.

93.1. *Small Renewable Energy System* means any facility or installation which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for onsite use.

94. *Special exception* means a City-authorized modification of zoning standards applicable to particular types of development within any zoning district in a manner consistent with the overall intent of the zoning ordinance and for which express standards are prescribed.

95. *Stable, commercial:* A stable used for the rental of stall space or for the sale or rental of horses, mules or ponies; such a stable shall meet all provision and requirements of the zoning district in which it is constructed.

96. *Stable, private:* An area used solely for the owner's private purposes for the keeping of horses, mules or ponies that are not kept for remuneration, hire or sale.

97. *Studio, tattoo or body piercing:* A building or portion of a building used for selling or applying tattoos, by injecting dyes/inks into the skin, and/or for piercing the skin with needles, jewelry or other paraphernalia, primarily for the purpose of ornamentation of the human body.

98. *Temporary field office or construction yard or office:* A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits that are valid for a period of one year from a specific time and for a specific location may be issued by the City and shall be subject to review and renewal for reasonable cause.

98.1. *Treatment Room* means a private or semi-private room in which a medical professional performs a procedure on a patient or patients, including routine examinations such as capturing vital signs.

99. *Truck stop:* A facility for the parking, refueling or minor repair of heavy load tractor-trailer trucks. These facilities may also include retail sales of food or other items, restaurant(s), restroom/showers facilities, and/or temporary sleeping quarters.

100. *Truck terminal:* An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

101. *Use, nonconforming:* See Section 4.5.2.1 of this Land Development Code.

102. *Wrecking yard (junkyard* or *auto salvage):* Any lot upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

(Ord. No. 2009-73, § 34, 12-1-09; Ord. No. 2010-72, § 2, 12-14-10; Ord. No. 2011-27, § 9, 6-21-11)

ARTICLE 3: - IMPACT FEE DEFINITIONS

1. *Advisory committee* means the capital improvements advisory committee on impact fees designated by the City Council in accordance with Local Government Code Chapter 395.
2. *Assessment* means the determination of the amount of the maximum impact fee per service unit which can be imposed on new development under this ordinance.
3. *Capital improvement* means either a water facility or a wastewater facility, with a life expectancy of three or more years, to be owned and operated by or on behalf of the City.
4. *Capital Improvements Plan* means the adopted plan, as amended from time to time, that identifies water and wastewater capital improvements or facility expansions and their associated costs which are necessitated by and attributable to new development and will be financed in whole or in part through water or wastewater impact fees imposed under this ordinance. The *Capital Improvements Plan* includes the wastewater improvements plan and the water improvements plan.
5. *Credit* means the amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.
6. *Facility expansion* means an expansion of the capacity of any existing water or wastewater facility, as applicable, for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing water or wastewater facility to the extent that it serves existing development.
7. *Final plat recordation* means the date the final plat of a development is filed in the appropriate county records.
8. *Impact fee* means a fee either for water facilities or for wastewater facilities imposed on new development in order to generate revenue to fund or recoup all or part of the costs of capital improvements or facility expansions necessitated by and attributable to the new development. *Impact fees* do not include 1) the dedication of rights-of-way or easements for water facilities or wastewater facilities, 2) a requirement for the construction of such facilities imposed under the City's zoning or platting regulations, 3) fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains, 4) pro rata fees for reimbursement of the City's costs for extending water or wastewater mains, or 5) charges for water or wastewater services to a wholesale customer such as a water district, political subdivision of the state, or other wholesale utility customer.
9. *Land use assumptions* means the projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the City, as amended from time to time, upon which the capital improvements plan is based.
10. *Land use equivalency table* means the table included by reference in this Article as Exhibit 1, as amended from time to time, that converts the demands for capital improvements generated by various land uses to numbers of service units.
11. *New development* means an activity involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which 1) has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by the activity, 2) requires the approval of a plat, the issuance of a building permit, or connection to the City's water or wastewater system, and 3) is not exempted from impact fees by the provisions of this Article.
12. *Offset* means a reduction of an impact fee designed to fairly reflect the value of system facilities provided by a developer under the City's platting regulations or other requirements, in accordance with this ordinance or Council-approved administrative guidelines.
13. *Plumbing permit* means any plumbing permit issued by the City Building Inspection Division.
14. *Property owner* means any person, corporation, legal entity or agent thereof having a legal or equitable interest in the land for which an impact fee becomes due. *Property owner* includes the developer for a new development.
15. *Recoupment* means the imposition of an impact fee to reimburse the City for capital improvements which the City has previously oversized to serve new development.

ARTICLE 3: - IMPACT FEE DEFINITIONS

16. *Service area* means either an impact fee water service area or an impact fee wastewater service area within the City or the City's extraterritorial jurisdiction, within which impact fees may be collected for new development, and within which the impact fees will be expended for the types of facility improvements or expansions identified in the capital improvements plan.

17. *Service unit* means a living unit equivalent based upon a 5/8 inches by ¾ inches water meter, which serves as the standardized measure of consumption, use or generation attributable to new development.

18. *Site-related facility* means an improvement or facility which 1) is for the primary use or benefit of a new development, or for the primary purpose of safe and adequate provision of water or wastewater facilities to serve a new development (including improvements and facilities needed to meet the City's minimum standards for water or wastewater facilities), 2) is not included in the impact fees capital improvements plan, and 3) the developer or property owner is solely responsible for constructing or installing under platting or other applicable regulations.

19. *System facility* means a capital improvement or facility expansion which is designated in the capital improvements plan and is not a site-related facility. *System facility* may include a capital improvement which is located offsite, or within or on the perimeter of the development site.

20. *Utility application* includes 1) any request for connection of a new development to the City water or wastewater system, 2) any request to replace or increase the size or capacity of an existing water meter to serve new development, or 3) any report, including a report from a property owner, a City employee or official, or another provider of water or wastewater services, of an additional connection to, or an increase in the use of, City water or wastewater facilities.

21. *Wastewater facility* means a wastewater interceptor or main, lift station, treatment facility or other facility included within and comprising an integral component of the City's collection, transmission and treatment system for wastewater. *Wastewater facility* includes land, easements or structures associated with such facilities. *Wastewater facility* excludes a site-related facility.

22. *Water facility* means a water transmission line or main, pump station, storage tank, water supply facility, treatment facility or other facility included within and comprising an integral component of the City's water production, supply, storage or distribution system. *Water facility* includes land, easements or structures associated with such facilities. *Water facility* does not include site-related facilities.

23. *Water meter* means a device for measuring the flow of water to a development, whether for domestic or for irrigation purposes.

Agenda Information

AGENDA CAPTION:

LDC-13-04 (Multi-family Unit Definition) Hold a public hearing and consider revisions to Chapter 8 of the Land Development Code to modify the definition of "Dwelling Unit" and make associated changes.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: na

Account Number: na

Funds Available: na

Account Name: na

CITY COUNCIL GOAL:

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

BACKGROUND:

The City has seen a trend in apartment developments with rent by the bedroom units consisting of four, five, or more bedrooms per unit.

This has led to a number of challenges including:

- Several development regulations assume fewer people per unit. The population and ultimate impact of these developments are greater than anticipated.
    - Traffic Impact Analysis
    - Zoning – density, compatibility
    - Parkland dedication
- Impacts on surrounding properties are greater
- Parking (particularly for visitors) – although parking is calculated per bedroom, the final amount of parking required is much more than originally anticipated for the zoning district.
- The ability of these developments to adapt over time and maintain viability is questionable. This type of development is a relatively recent trend.

After evaluating the challenges and various other cities' regulations, Staff recommends short-term and long-term solutions. In the short term, the revised Land Development Code language attached would address some of the concerns regarding development regulations by changing the way units are calculated as outlined below.

Three-bedroom unit = one unit;

Four-bedroom unit = one and one-half units;

Five-bedroom unit = two units;

Every second bedroom above the fifth bedroom = one additional unit

For the broader challenges associated with these developments, Staff recommends a holistic review of multifamily design, development, and locational criteria in the upcoming Land Development Code revisions.

ATTACHMENTS:
Memo
Summary of Other Cities' Information

DEVELOPMENT
SERVICES-PLANNING

MEMO

TO: **PLANNING AND ZONING COMMISSION**
FROM: JOHN FOREMAN, AICP, CNU-A, PLANNING MANAGER
DATE: JUNE 13, 2013
RE: **MULTIFAMILY "UNIT" DEFINITION**

Background

The City has seen a trend in apartment developments with rent by the bedroom units consisting of four, five, or more bedrooms per unit. Traditionally the number of people per unit has been much less. For instance, according to the 2010 Census, the average number of persons per households in renter-occupied units in San Marcos was 2.16. This has led to a number of challenges including:

- Several development regulations assume fewer people per unit. The population and ultimate impact of these developments are greater than anticipated.
    - Traffic Impact Analysis
    - Zoning – density, compatibility
    - Parkland dedication
- Impacts on surrounding properties are greater because of this.
- Parking (particularly for visitors) – although parking is calculated per bedroom, the final amount of parking required is much greater than originally anticipated for the zoning district.
- The ability of these developments to adapt over time and maintain viability is questionable. This type of development is a relatively recent trend.

Research

Staff contacted various other towns with large universities to see how they defined terms such as "unit" and "multifamily," as well as to learn about how they regulate the impacts of these developments on their towns. The most common tool used was to limit occupancy to four or five unrelated adults in multi-family developments. Other regulations include calculating units by the number of bedrooms, rental property registration, and others. See attached documentation.

Solutions

After evaluating the challenges and various other cities' regulations, Staff recommends short-term and long-term solutions. In the short term, the revised Land Development Code language below would address some of the concerns regarding development regulations by changing the way units are calculated. This is applicable to new development and would avoid the enforcement challenges of a new occupancy restriction.

For the broader challenges associated with these developments, Staff recommends a holistic review of multifamily design, development, and locational criteria in the upcoming Land Development Code revisions resulting from the implementation of *Vision San Marcos*. Developing a code that supports well-designed dense housing in appropriate locations can help drive economic development in the City and to shift the conversation from "How do we stop it?" to "How do we harness it as an opportunity for sustainable economic growth?"

Draft Revised Code

Chapter 8 - DEFINITIONS

ARTICLE 1: - GENERAL DEFINITIONS

Dwelling unit means a room or suite or set of rooms occupied and suitable for occupancy as a family residence and having kitchen, bath and sanitary facilities, together with appropriate appurtenances to that occupancy.

(d) *Multiple-family dwelling unit* means a dwelling unit within a building designed for and/or occupied exclusively by two or more dwelling units. Also known as multifamily dwelling unit.

(e) *Dwelling unit equivalent* (DUE) means a density value for multiple-family dwelling units based upon the number of bedrooms in the unit. This value shall be applied to the units per acre measurement in order to meet the dwelling unit requirement.

Three-bedroom unit = one unit;

Four-bedroom unit = one and one-half units;

Five-bedroom unit = two units;

Every second bedroom above the fifth bedroom = one additional unit

Coding Student Housing:
Responses from Other Growing College Towns

Amherst, MA	
Number of related persons allowed in one unit	There is no limit (beyond basic health and building code requirements) in zoning on the number of related people (with relation defined inclusively) who can reside in a dwelling unit.
Number of unrelated persons allowed in one unit	No more than four unrelated people can occupy a dwelling unit. That does not limit occupancy on the basis of who the people are (i.e. students), but on whether all occupants have a familial relation and obligation to one another. The courts have recognized this distinction as legitimate in zoning.
Summary	**In MA, identifying "student housing" as a land use category is discriminatory and illegal. Instead, there are limits on unrelated residents/unit. In addition, some communities have non-zoning regulations for rental properties, such as requiring registration with the municipality.**

Bloomington, IN	
Dwelling Unit	One or more rooms containing cooking, living, sanitary and sleeping facilities, occupied by not more than one family (see definition of "family"). The dwelling unit shall be characterized by but not limited to: 1. A single house number with a single mailbox for the receipt of materials send through the US Mail; 2. A single kitchen adequate for the preparation of meals; 3. A tenancy based upon a legal relationship of a unitary nature, i.e., single lease, mortgage, or contractual sales agreement for the entire premises.
Family definition for single-family districts	Unrelated adult limit of 3 people
Family definition for multi-family districts	Maximum unrelated adult limit of 5 people per unit
Counting dwelling units based on number of bedrooms	If someone wants to construct a 5 bedroom dwelling unit, we actually count this as 2 dwelling units. For a 4 bedroom unit, we count this as 1.5 units. The goal is to penalize developers who want to construct student housing projects by counting 4-5 bedroom units differently than lower bedroom count units. We have one Council member who has talked about banning all 5 bedroom units, but no ordinance proposal has been brought forward.
Summary	**5 unrelated persons per unit. For developments, number of bedrooms is factored into the unit count. Discussion of student housing moratorium or specific student housing plan (like Fort Collins, CO).**
Notes	*Currently working on comprehensive plan update*

Boulder, CO	
Dwelling Unit	One room or rooms with internal connections for residential occupancy and including bathroom and kitchen facilities. Multiple dwelling units exist if there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, or rooms with no internal connections.
Boarding House	An establishment where, for direct or indirect compensation, lodging, with or without meals, is offered for one month or more. A boarding house does not include a fraternity or sorority.
Kitchen	Any part of a room or dwelling unit that can be used for the preparation of food that includes one or more of the following: a refrigerator, cooking device, food storage cabinet, kitchen sink, or dishwasher.

Kitchen Sink	A kitchen sink shall be no smaller than twenty inches by sixteen inches, with a minimum uniform depth of six inches and a maximum uniform depth of twenty inches. Laundry tubs, lavatory basins or bathtubs are not acceptable substitutes for required kitchen sinks.
Group Quarters	Boarding houses, fraternities and sororities; allowed at a 3 room to 1 dwelling unit density allowance
Rental licensing program	Requires all non-owner occupied rental units (single or multi-family) to be licensed with the city. This does help to clarify the number and type of units authorized.
Summary	**Enforcement of units relies heavily on kitchen and kitchen sink definitions; rental licensing program helps keep track of units**

Champaign, IL	
Family	"shall mean a person living alone, or two (2) or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a rooming house, motel, hotel, fraternity, or sorority house, provided, however, that for the purposes of definition, "family" shall not include more than four (4) persons unrelated to each other by blood, marriage, or legal adoption. "Family" shall include members of the service dependent population living in community living facilities and recovery homes as herein defined."
Single Family Dwelling	Dwelling, single-family shall mean one detached dwelling unit on an individual lot.
Multifamily Dwelling	Dwelling, multifamily shall mean a structure or portion of a building containing three (3) or more dwelling units.
Summary	**A multifamily unit is limited to 4 people, related or not**
Notes	*Interested in results; also has phenomenon of "rent by the room"*

Chapel Hill, NC	
Dwelling	Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.
Dwelling units, single-family	A detached dwelling consisting of a single dwelling unit only. A single-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.
Dwelling units, two-family	A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units. Any dwelling unit that is part of a two-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.
Dwelling units, single-family—with accessory apartment	A dwelling or combination of dwellings on a single zoning lot consisting of two (2) dwelling units, provided the floor area of one of the dwelling units does not exceed fifty (50) per cent of the floor area of the other dwelling unit, nor is greater than seven hundred fifty (750) square feet and further provided the dwelling's exterior design and entry locations give the dwelling the appearance of a single-family dwelling. Any dwelling unit that is part of a two-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.
Dwelling units, two-family—duplex	A single dwelling consisting of two (2) dwelling units (other than a "two-family dwelling - including accessory apartment"), provided the two dwelling units are connected by or share a common floor-to-ceiling wall, or, if the two units are arranged vertically, that they share a common floor/ceiling and not simply by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling contains no more than six (6) bedrooms per structure. Any dwelling unit that is part of a two-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling units, multifamily	A dwelling or combination or dwellings on a single lot consisting of three (3) or more dwelling units.
Dwelling unit	A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.
Summary	**Multifamily and Student Housing are not separate land uses. Units are limited to 4 persons, related or not.**
Notes	*Interested in results*

Clemson, SC	
Multi-family densities	RM 3: density of 18 bedrooms per acre; RM 4: density of 56 bedrooms per acre
Single-family occupancy	Maximum number of unrelated is 2 occupants (one family unit = 1 occupant)
Multi-family occupancy	In RM – 3 district the maximum number of unrelated is 3 and in RM 4 and commercial districts the maximum occupancy is 4.
Parking calculation	Based on number of bedrooms
Summary	**Units for density calculations are determined by bedrooms; different occupancy restrictions for SF and MF of different densities**

College Station, TX	
Unit	Based on the shared/common living space (such as a kitchen)
Summary	**Typical unit definition**
Notes	*Interested in results, as College Station has the same issue*

Corvallis, OR	
Dwelling Unit	One or more rooms, with bathroom and kitchen facilities (limited to one kitchen only), designed for occupancy by one family.
Family	An individual or two or more persons related by blood, adoption, or marriage, or a group of not more than five unrelated adults.
Parking requirement increase	Increased on-site parking requirements has reduced the trend of 4- and 5-bedroom projects as land costs become prohibitive
University partnership	The City is engaged in a multi-year collaboration effort with Oregon State University to address growth issues in the areas of Parking and Traffic, Neighborhood Planning, and Neighborhood Livability (focused on behavioral issues).
Summary	**Family can be up to 5 unrelated adults. Unit defined by kitchen/bathroom.**
Notes	*Interested in results; Corvallis is experiencing similar growing pains with student enrollment*

Denton, TX	
Dwelling/Dwelling Unit	A structure or portion thereof that provides living, sleeping, eating, cooking, and sanitation accommodations.
Boarding or rooming house	A dwelling in which meals and lodging or just lodging are furnished for compensation to more than four (4) but fewer than twenty (20) persons. Provision for meals may be made, provided cooking is done in a central kitchen and not in individual rooms or suites.
Summary	**Student housing is not a land use. City is working to redefine families, as well as add boarding house as a land use. Details in attachment.**
Notes	*Interested in results*

Gainesville, FL	
Dwelling Unit	Dwelling unit means a room or rooms, in a dwelling other than a rooming house or dormitory, comprising the essential elements of a single housekeeping unit. Facilities for the preparation, storage and keeping of food for consumption within the premises shall cause a unit to be construed as a single dwelling unit. Each area with separate facilities for the preparation, storage and keeping of food for consumption within the premises shall be considered as a separate dwelling unit.
Parking requirement for high density multi-family zoning districts	1 space per bedroom (instead of 1 space per unit)
Summary	**Unit defined by kitchen; parking is biggest concern**

Harrisonburg, VA	
Dwelling, unit	One (1) or more rooms located within a building and forming a singular unit with facilities which are used or intended to be used for living, sleeping and dining purposes. A dwelling unit shall have customary kitchen facilities. An efficiency apartment unit is defined as a dwelling unit. Dwelling units which will be occupied for predetermined periods of time of more than one (1) month in succession shall be termed nontransient dwelling units.
Dwelling, single-family	A building occupied by or designed for occupancy by one (1) family or occupancy as described by the specific zoning district.
Dwelling, multi-family	A building comprised of at least three (3) dwellings, not separated by a property line, where each unit is designed for one (1) family or occupancy as described by the specific zoning district.
Summary	**Typical unit definition**
Notes	*Definitions of duplex, quadraplex, townhouse, and units in the CBD are included in the full email as well*

Kalamazoo, MI	
RM-15C (Residential, Multi-Family, Campus Area)	This zoning classification has specific requirements for parking and design which don't apply to a more general multi family zoning classification. Here is a link to our zoning code, if you are interested in looking at the specifics: http://ecode360.com/documents/KA2666/KA2666 App%20A%20Zoning%20Ord.pdf
Summary	**Traditional unit definition (with kitchen). Additional zoning classification for multi-family near campus.**

Lawrence, KS	
Dwelling Unit	"One room, or a suite of two or more rooms, designed for living and sleeping purposes and having only one kitchen or kitchenette"
Congregate Living	A Dwelling Unit that contains sleeping units where 5 or more unrelated residents share a kitchen and communal living areas and/or bathing rooms and where lodging is provided for compensation for persons who are not transient guests. Congregate Living is commonly referred to as lodging house, boarding house, rooming house, or cooperative but is not considered a dormitory, fraternity or sorority house, assisted living, extended care facility, group home or similar group living use.
MF Parking Calculation	1 parking space per bedroom plus 1 space per 10 units
Congregate Living Parking Calculation	1 space per bedroom
Summary	**No "student housing" land use; typical unit definition; additional "congregate living" land use**

Murfreesboro, TN	
Dwelling Unit	Any building or portion thereof providing complete independent permanent facilities for living, sleeping, cooking, eating, and sanitation designed for or used exclusively as living quarters by one family but not including a tent, seasonal quarters, travel trailer, a room in a hotel, motel, or boarding house.
Dwelling, Multi-Family	A dwelling designed for or occupied by more than two families.
Family	In addition to customary domestic servants, either (a) an individual or two or more persons related by blood, marriage or adoption, maintaining a common household in a
Parking standard for Multi-Family	1.1 spaces per bedroom
Summary	**Family definition is limited to 4 unrelated persons**
Notes	*My experience with student oriented housing is that it is very important that there be a strong management program or else there will be problems.*

Stillwater, OK	
Dwelling Unit	Dwelling unit means one or more rooms in a residential building or residential portion of a building forming a single habitable unit with provisions for cooking, sleeping and sanitary facilities for the exclusive use of a single family maintaining a household.
High-Rises	New to Stillwater are (what we consider) high-rises that are allowed up to 150 units per acre and 100 feet tall. These are only allowed in certain areas of the campus periphery and so far, we have 1 built, 1 under construction and 1 proposed that has the zoning in place.
Corridor Redevelopment Plan	The Corridor Redevelopment Plan for the City of Stillwater is developed to identify and encourage innovation thinking when evaluating development proposals and/or opportunities in the area immediately south and east of the Oklahoma State University campus. Adopted one year ago. http://stillwater.org/document/stillwater_corridor_redevelopment_plan_2012.php
Summary	**Zoning and plans adjacent to campus are designed to cope with student housing needs.**
Notes	Recently adopted "C3" plan: Comprehensive, Continuous, Cooperative

Agenda Information

AGENDA CAPTION:

Presentation, Staff update and discussion regarding the Impact Fee Review Project and the responsibilities of the Capital Improvements Advisory Committee (CIAC).

Meeting date: June 25, 2013

Department: Development Services

Funds Required: **Account Number:**

Funds Available: **Account Name:**

CITY COUNCIL GOAL:

BACKGROUND:

On December 18, 2012, staff made a presentation to City Council regarding the City's current Impact Fee program and received direction from Council to move forward with a complete Impact Fee review. The presentation detailed a short term (6 mos) and long term (18 mos) action plan for the project. Since then, a project committee made up of staff from Development Services, Finance, Engineering-Capital Improvements, Legal and Public Services has worked with HDR Engineering, Inc. to gather data and begin draft fee calculations. Since the Comprehensive Plan has been completed and Water/Wastewater modeling was underway, HDR recommended that the City complete a comprehensive update now rather than an abbreviated short term update. This presentation will provide a project overview and a proposed calendar for completing the comprehensive Impact Fee update prior to November 2013, as well as detail the responsibilities of the Capital Improvements Advisory Committee (CIAC) which is comprised of the members of the Planning & Zoning Commission.

ATTACHMENTS:

Impact Fee Presentation

Status of Water & Wastewater Impact Fee Update

Council Agenda Packet Meeting

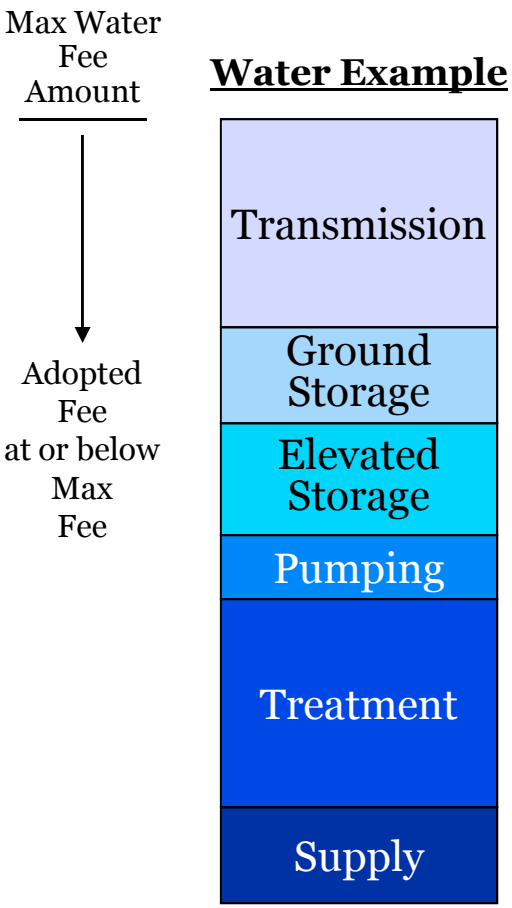
June 14, 2013

What is an Impact Fee?

- A one-time, up-front payment levied on new or expanded development for its capital cost impact being placed on the utility system and *helps* make growth pay for itself.
- The real issue underlying impact fees and rates is "*Who pays for utility capacity related to growth?*"
  - If there are no fees, rate-payers carry all of the costs.
  - If there are fees, the costs are shared.
- Impact fees in Texas are statutorily addressed in Chapter 395 of the Local Government Code.

Fee Design

- Overall fees are made up of component fees:
  - Water
    - Supply/Treatment
    - Storage
    - Transmission
  - Wastewater
    - Treatment
    - Pumping
    - Interceptors
- The process calculates a <u>maximum</u> fee amount, subject to Council decision on that *or a lesser amount*.



Maximum Fee Determination

1. Define Impact Fee Service Area & Land Uses.
2. Project Water & Wastewater Service Demands.
3. Compare to existing capacity.
4. Identify amount and cost of existing available capacity and new facility needs (10-Yr CIP).
5. Allocate current and future service demands to the facilities.

Maximum Fee Determination

6. Calculate weighted cost of *existing and new capacity* per Living Unit Equivalent (LUE).
7. Determine amount of capital being funded through rates per LUE.
8. Weighted Capacity Cost per LUE
   <u>– Rate Credit per LUE</u>
   = Maximum Impact Fee per LUE

New customers pay for capital two ways (rates and fee), and this must be considered.

Capital Improvements Advisory Committee (CIAC) Actions

- Chapter 395 requires a public process for the determination and consideration of impact fees, including input from an appointed Advisory Committee and a noticed Public Hearing.
- The CIAC must decide before the Public Hearing:
  - land use basis and Capital Improvements Program have been reasonably defined.
  - maximum impact fee has been reasonably calculated and that the resultant maximum fee is $X per LUE.
  - whether or not to recommend a fee amount to the City Council (optional).

Council Actions

- Advisory Committee makes recommendations to City Council.
- City Council sets Public Hearing date.
- Provide Public Notice of Hearing.
- Conduct Public Hearing
- Council Action on Ordinance

Current Update Status

- Data gathering and compilation about 80%.
- Should be calculating draft Maximum Fee Amounts in the next few weeks.
- Have scheduled initial Impact Fees 101 briefing with the CIAC for end of this month.

Anticipated Schedule

Activities	Month																							
	May				June				July				August				September				October			
Notice to Proceed	X																							
Task 1 - Update Planning and Financial Data																								
Task 2 - Update CIP Data*																								
Task 2 - Impact Fee Calculation and Application												cmt. report												
Task 3 - Revise Ordinance																								
Task 4 - Coordination																								
Meet with City Staff & Engineering Consultants	S1								S2				S3											
Meet with Advisory Committee								25		9		23		13										
Public Hearing																25					1			
City Council Meeting															20						1		15	

S1 - Meet w/staff & engineering consultants on planning and financial data and needed format of CIP data.
S2 - Meet w/staff & engineering consultants on CIP data.
S3 - Meet w/staff & engineering consultants on draft fee calculations.
Jun 25 - Review impact fee and process with the CIAC
Jul 9 - Present draft report to CIAC.
Jul 23 - Comments due from CIAC; HDR reviews/revises report.
Aug 13 - CIAC considers adoption and filing of Committee report to Council.
Aug 20 - Council adopts order for public hearing.
Aug 25 - Public Notice published
Oct 1 - Council conducts Public Hearing on amended data and fee.
Oct 1 - Council 1st reading of ordinance (not as an emergency measure).
Oct 15 - Council 2nd Reading of ordinance.

Anticipated Schedule - CIAC and Council Actions

- Jun 25 – Review Impact Fees & Process w/CIAC
- Jul 9 – Present draft report to CIAC
- Jul 23 – Comments due from CIAC
- Aug 13 – CIAC considers adoption of report

- Aug 20 – Council adopts order for Public Hearing
- Aug 25 – Public Notice published
- Oct 1 – Council conducts Public Hearing
- Oct 1 – Council's 1st reading of the Ordinance
- Oct 15 – Council's 2nd reading of the Ordinance

Questions?

Agenda Information

AGENDA CAPTION:

Development Services Report
a. Update from staff on implementation of Comprehensive Master Plan.

Meeting date: June 25, 2013

Department: Development Services

Funds Required: **Account Number:**

Funds Available: **Account Name:**

CITY COUNCIL GOAL:

BACKGROUND: