

**AGENDA**  
**PLANNING AND ZONING COMMISSION MEETING**  
**BOERNE CITY HALL**  
**RONALD C. BOWMAN CITY COUNCIL CHAMBERS**  
**447 North Main Street**  
**Monday, November 6, 2023 – 6:00 p.m.**

EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: THE PLANNING AND ZONING COMMISSION MAY, AS PERMITTED BY LAW, ADJOURN INTO EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED BELOW AS AUTHORIZED BY TEXAS GOVERNMENT CODE §551.071 (CONSULTATION WITH ATTORNEY)

1. CALL TO ORDER – 6:00 PM

Pledge of Allegiance to the United States Flag  
Pledge of Allegiance to the Texas Flag  
(Honor the Texas flag, I pledge allegiance to thee, Texas – one state under God, one and indivisible.)

2. CONFLICTS OF INTEREST

3. PUBLIC COMMENTS: This is the opportunity for visitors and guests to address the Planning and Zoning Commission on any issue. The Planning and Zoning Commission may not discuss any presented issue, nor may any action be taken on any issue at this time. (Attorney General opinion – JC-0169)

4. CONSENT AGENDA: All items listed below within the consent agenda are considered routine by the Planning and Zoning Commission and may be enacted with one motion. There will be no separate discussion of items unless a commission member or citizen so requests, in which event the item may be moved to the general order of business and considered in its normal sequence.

- 4.A. [2023-774](#) Consider approval of the Minutes of the Special Called Planning and Zoning Commission meeting of July 18, 2023 (Ethics Training) and of the Planning and Zoning Commission meeting of October 02, 2023.

**Attachments:** [23-0718 Official Meeting Minutes - Special Called Meeting - Ethics](#)  
[23-1002 Official Meeting Minutes](#)

- 4.B. [2023-776](#) A request for a 30-day time extension for the Preliminary Plat of Esperanza Subdivision Phase 4B, generally located northeast of

southeast of Galisteo Avenue and Splendido Drive.  
(Extraterritorial Jurisdiction)

**Attachments:**    [AIS - Esperanza 4B 231030](#)  
                              [Att 1 - Location and Aerial Map](#)  
                              [Att 2 - 30-Day Time Extension Esperanza Phase 4B Preliminary Plat](#)

- 4.C.    [2023-777](#)    A request for the approval for the Preliminary Plat of Esperanza Subdivision Phase 3E, generally located northeast of Esperanza Boulevard and Fortuna Street. (Extraterritorial Jurisdiction)

**Attachments:**    [AIS - Esperanza 3E 231030](#)  
                              [Att 1 - Location Map](#)  
                              [Att 2 - Esperanza 3E Preliminary Plat](#)  
                              [Att 3 - Esperanza Pod GDP Ph 3 and 4](#)

5. REGULAR AGENDA:

- 5.A.    [2023-778](#)    POSTPONED - Consider a special use permit for a drive-through coffee shop on a C1 - HC (Neighborhood Commercial Heritage Corridor Overlay District), located at 12 Herff Road (KAD 15815).

**Attachments:**    [POSTPONED 12 Herff Road - SUP Drive-thru](#)

- 5.B.    [2023-779](#)    Consider the proposed amendments to the Unified Development Code adopted on November 24, 2020, to Chapter 8 Environmental Design, Section 8.1 Floodplain Management and Appendix A: Definitions relating to requirements for construction within a floodplain and to Chapter 2 Procedures, by creating a new Section 2.13 Extraterritorial Jurisdiction relating to petition for release from the ETJ.

- I. Staff Presentation
- II. Public Hearing
- III. Make Recommendation

**Attachments:**    [Combined Floodplain and ETJ AIS](#)  
                              [Att 1 - Proposed Flood Code Updates \(Redlines\)](#)  
                              [Att 2 - Propsoed Flood Code Updates \(Clean\)](#)  
                              [Att 3 - Texas-2023-SB2038](#)  
                              [Att 4 - ETJ Release Ord](#)

- 5.C. [2023-781](#) Establish 2024 Planning and Zoning Commission meeting dates.

**Attachments:** [AIS - 2024 PZ Meeting Dates](#)  
[Proposed 2024-Planning Calendar](#)

6. COMMENTS FROM COMMISSION/LEGAL COUNSEL/STAFF - No discussion or action may take place

7. ADJOURNMENT

s/s Nathan Crane

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Administrative Officer

CERTIFICATION

I herby certify that the above notice of meeting was posted on the 3rd day of  
November, 2023 at 5:00 p.m.

s/s Heather Wood

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Secretary

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS**

**The City Hall Complex is wheelchair accessible. Access to the building and special parking is available at the front entrance of the building. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the Planning and Community Development Department at 830-248-1501.**

Pursuant to Section 30.06 Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Pursuant to section 30.07 Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

## MINUTES

### **SPECIAL CALLED JOINT TRAINING WORKSHOP OF THE CITY COUNCIL, PLANNING AND ZONING COMMISSION, HISTORIC LANDMARK COMMISSION, ETHICS REVIEW COMMISSION, VISIT BOERNE ADVISORY BOARD, BOERNE PUBLIC LIBRARY ADVISORY BOARD, ZONING BOARD OF ADJUSTMENTS, AND THE DESIGN REVIEW COMMISSION**

**City Hall**

**Ronald C. Bowman Council Chambers**

**447 N. Main Street**

**Boerne, TX 78006**

**July 18, 2023 – 5:00 PM**

Minutes of the Special Called City Council, Zoning Board of Adjustments, Planning and Zoning Commission, Historic Landmark Commission, Visit Boerne Advisory Board, Ethics Review Commission, Patrick Heath Public Library Advisory Board, and Design Review Commission.

**Present:** 6 - Chairman Bannwolf, Commissioner Bill Bird, Commissioner Bob Cates, Commissioner Susan Friar, Commissioner Lucas Hiler, Commissioner Carlos Vecino

**Absent:** 1 - Commissioner Terry Lemoine

**Staff Present:** Ben Thatcher, Siria Arreola, Lori Carroll, Nathan Crane, Mike Mann, Mick McKamie, Mike Raute, Kelly Skovbjerg, Andrea Snouffer, Jeanette Teague, Heather Wood, and Larry Woods.

#### 1. CALL TO ORDER – 5:00 PM

The meeting was called to order at 5:01 p.m.

2. PUBLIC COMMENTS: This is the opportunity for visitors and guests to address the Planning and Zoning Commission on any issue. The Planning and Zoning Commission may not discuss any presented issue, nor may any action be taken on any issue at this time. (Attorney General opinion – JC-0169)

No Public Comments were received.

#### 3. DISCUSSION ITEMS:



A. ANNUAL ETHICS TRAINING

I. ETHICS ORDINANCES

B. OPEN GOVERNMENT LAWS – OPEN MEETINGS ACT AND PUBLIC INFORMATION ACT

C. OTHER IMPORTANT STATUTES

City Attorney Mick McKamie presented an overview of the City's Ethics Ordinance covering the purpose of the Ordinance, who it applies to, various types of ethical conflicts, and the comparable state statutes on ethics.

4. ADJOURNMENT

The meeting was adjourned at 6:00 p.m.

Approved:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**BOERNE CITY HALL**  
**RONALD C. BOWMAN CITY COUNCIL CHAMBERS**  
**447 North Main Street**  
**Monday, October 2, 2023 – 6:00 p.m.**

MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING OF  
OCTOBER 2, 2023 AT 6:00 P.M.

PRESENT: CHAIRMAN TIM BANNWOLF, VICE CHAIR LUCAS HILER,  
COMMISSIONER BILL BIRD, COMMISSIONER CARLOS VECINO,  
COMMISSIONER BOB CATES, COMMISSIONER SUSAN FRIAR,

ABSENT: COMMISSIONER TERRY LEMOINE

STAFF PRESENT: MICK MCKAMIE, BARRETT SQUIRES, HEATHER WOOD,  
SARA SERRA-BENNETT, REBECCA PACINI, CHERYL ROGERS, ANDREW  
WILKINSON, NATHAN CRANE

RECOGNIZED AND REGISTERED GUESTS: ALEX RUDD, JENNY BINGHAM,  
FEDERICO CAVAZOS, GUILLERMO CAVAZOS

EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: THE  
PLANNING AND ZONING COMMISSION MAY, AS PERMITTED BY LAW, ADJOURN INTO  
EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED BELOW AS  
AUTHORIZED BY TEXAS GOVERNMENT CODE §551.071 (CONSULTATION WITH  
ATTORNEY)

1. CALL TO ORDER – 6:00 PM

Chairman Bannwolf called the Planning and Zoning Commission to order  
at 6:00 p.m.

2. ACKNOWLEDGEMENT OF FORMER PLANNING AND ZONING COMMISSIONER  
PATRICK COHOON’S SERVICE TO THE COMMUNITY.

Pledge of Allegiance to the United States Flag

Pledge of Allegiance to the Texas Flag

(Honor the Texas flag, I pledge allegiance to thee, Texas – one state under God, one and indivisible.)

### 3. CONFLICTS OF INTEREST

No conflicts were declared.

4. PUBLIC COMMENTS: This is the opportunity for visitors and guests to address the Planning and Zoning Commission on any issue. The Planning and Zoning Commission may not discuss any presented issue, nor may any action be taken on any issue at this time. (Attorney General opinion – JC-0169)

No comments were received.

### 5. CONSENT AGENDA

A MOTION WAS MADE BY COMMISSIONER HILER, SECONDED BY COMMISSIONER FRIAR, TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION CARRIED BY THE FOLLOWING VOTE:

**YEA: 6 -** CHAIRMAN BANNWOLF, COMMISSIONER HILER, COMMISSIONER FRIAR, COMMISSIONER VECINO, COMMISSIONER CATES, COMMISSIONER BIRD

**NAY: 0**

**APPROVED: 6-0**

5.A. [2023-702](#) THE MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING OF SEPTEMBER 11, 2023.

5.B. [2023-705](#) A REQUEST FOR A 30-DAY TIME EXTENSION FOR THE PRELIMINARY PLAT OF ESPERANZA PHASE 3E, GENERALLY LOCATED NORTHEAST OF NORTHEAST OF ESPERANZA BOULEVARD AND FORTUNA. (EXTRA-TERRITORIAL JURISDICTION)

5.C. [2023-706](#) A REQUEST FOR A 30-DAY TIME EXTENSION FOR UPPER CIBOLO MAJOR DEVELOPMENT PLAT GENERALLY LOCATED AT 3 UPPER CIBOLO CREEK ROAD. (EXTRA-TERRITORIAL JURISDICTION)

### 6. REGULAR AGENDA

- 6.A. [2023-703](#) CONSIDER REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A 90 UNIT ONE- AND TWO-BEDROOM MULTI-FAMILY DWELLING PROJECT ON 5.0 ACRES (17.82 DU/AC) LOCATED AT 318 WATER STREET (KAD 42514) AND 319 WATER STREET (KAD 42515) IN THE C3 (COMMUNITY COMMERCIAL) AND THE SCENIC INTERSTATE CORRIDOR OVERLAY (IC) DISTRICTS.

I. STAFF PRESENTATION

II. PUBLIC HEARING

III. MAKE RECOMMENDATION

Rebecca Pacini, City Planner III, presented the proposed special use permit.

Chairman Bannwolf opened the public hearing at 6:16 p.m.

Alex Rudd spoke regarding concerns with density, traffic, multi-family projects, and water supply.

Rebecca Pacini introduced the applicant Federico Cavasos who gave a presentation on the proposed project.

Chairman Bannwolf closed the public hearing at 6:27 p.m.

Commission discussion ensued regarding concerns with traffic, impact on local school districts, the survivability rate of proposed relocation of trees, additional water consumption generated by multi-family dwellings, and supply and demand for multi-family developments.

Ryan Bass, City Environmental Planner / Urban Forester, explained that he spoke with a local tree relocation company and it is feasible to safely relocate trees but it is very expensive. Relocated trees are likely to have a higher survivability rate under normal rainfall patterns; drought stressed trees present more complications and currently the city does not have regulations in place to enforce proper tree relocation. However, it is possible that the city may be able to issue a two-year warranty bond to ensure survivability of relocated trees. He clarified that the city has

not received a tree inventory at this time so the size, health, or growth pattern of the trees onsite are unknown. He also explained that the current site plan could potentially run into some issues with space requirements for fire access (depending on where trees are relocated).

A MOTION WAS MADE BY COMMISSIONER CATES, SECONDED BY COMMISSIONER HILER, TO MAKE A RECOMMENDATION TO CITY COUNCIL TO DENY A SPECIAL USE PERMIT TO ALLOW A 90 UNIT ONE- AND TWO-BEDROOM MULTI-FAMILY DWELLING PROJECT ON 5.0 ACRES (17.82 DU/AC) LOCATED AT 318 WATER STREET (KAD 42514) AND 319 WATER STREET (KAD 42515) IN THE C3 (COMMUNITY COMMERCIAL) AND THE SCENIC INTERSTATE CORRIDOR OVERLAY (IC) DISTRICTS. THE MOTION CARRIED BY THE FOLLOWING VOTE:

**YEA:** 6 - CHAIRMAN BANNWOLF, COMMISSIONER HILER, COMMISSIONER FRIAR, COMMISSIONER VECINO, COMMISSIONER CATES, COMMISSIONER BIRD

**NAY:** 0

**DENIED:** 6-0

- 6.B. [2023-704](#) A REQUEST FOR APPROVAL FOR THE FINAL PLAT OF RANCHES AT CREEKSIDE UNIT 6, GENERALLY LOCATED AT 125 STATE HIGHWAY 46.

Sara Serra-Bennett, City Planner II., presented the final plat and confirmed that there is no commercial zoning in this subdivision; it is strictly residential.

Commission discussion ensued regarding concerns brought to the Commission from residents of the Ranches at Creekside subdivision at a past meeting; concerns were specific to drainage, the amenity center being completed, and construction of a few roads that created some flooding issues.

Cheryl Rogers, City Engineer, spoke regarding drainage concerns; there is a drainage easement where water is being collected and channeled so that water will not flow to neighbors behind the amenity center. She explained that they are under construction of three units and no

concerns with infrastructure at this time - everything is going smoothly. She confirmed that the amenity center plans have been reviewed and approved. They have their building permit for the amenity center and from City standpoint they are released to begin construction.

Applicant, Jeff Hutzler with Greenland Ventures, spoke regarding Boulder Creek and Cold Water Creek (the roads have been fixed and homeowners are satisfied). He clarified that they are in compliance with no deviation from approved infrastructure plans reviewed by city staff. He explained that they plan to begin construction of the amenity center within 7-10 days. It should take 7-8 months, with a goal of May 1, 2024 for completion.

A MOTION WAS MADE BY COMMISSIONER HILER, SECONDED BY COMMISSIONER FRIAR, TO APPROVE THE FINAL PLAT OF RANCHES AT CREEKSIDE UNIT 6, GENERALLY LOCATED AT 125 STATE HIGHWAY 46. THE MOTION CARRIED BY THE FOLLOWING VOTE:

**YEA: 6** - CHAIRMAN BANNWOLF, COMMISSIONER HILER, COMMISSIONER FRIAR, COMMISSIONER VECINO, COMMISSIONER CATES, COMMISSIONER BIRD

**NAY: 0**

**APPROVED: 6-0**

## 7. DISCUSSION ITEM

### 7.A. [2023-722](#) PLANNING AND ZONING COMMISSION REGULAR SCHEDULED MEETING DATES

Nathan Crane, Interim Planning Director, presented a few options for possibly changing regular Planning and Zoning Commission meeting dates in order for commissioners to have more time to review meeting packet details. Overall the commission decided to keep the regular meeting dates on the first Monday of each month, but would like the information to go out sooner than 5 p.m. the Friday prior to the meeting.

## 8. COMMENTS FROM COMMISSION/LEGAL COUNSEL/STAFF - No discussion or action may take place

There were no further comments.

9. ADJOURNMENT

Chairman Bannwolf adjourned the Planning and Zoning Commission at 7:11 p.m.

Approve:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary



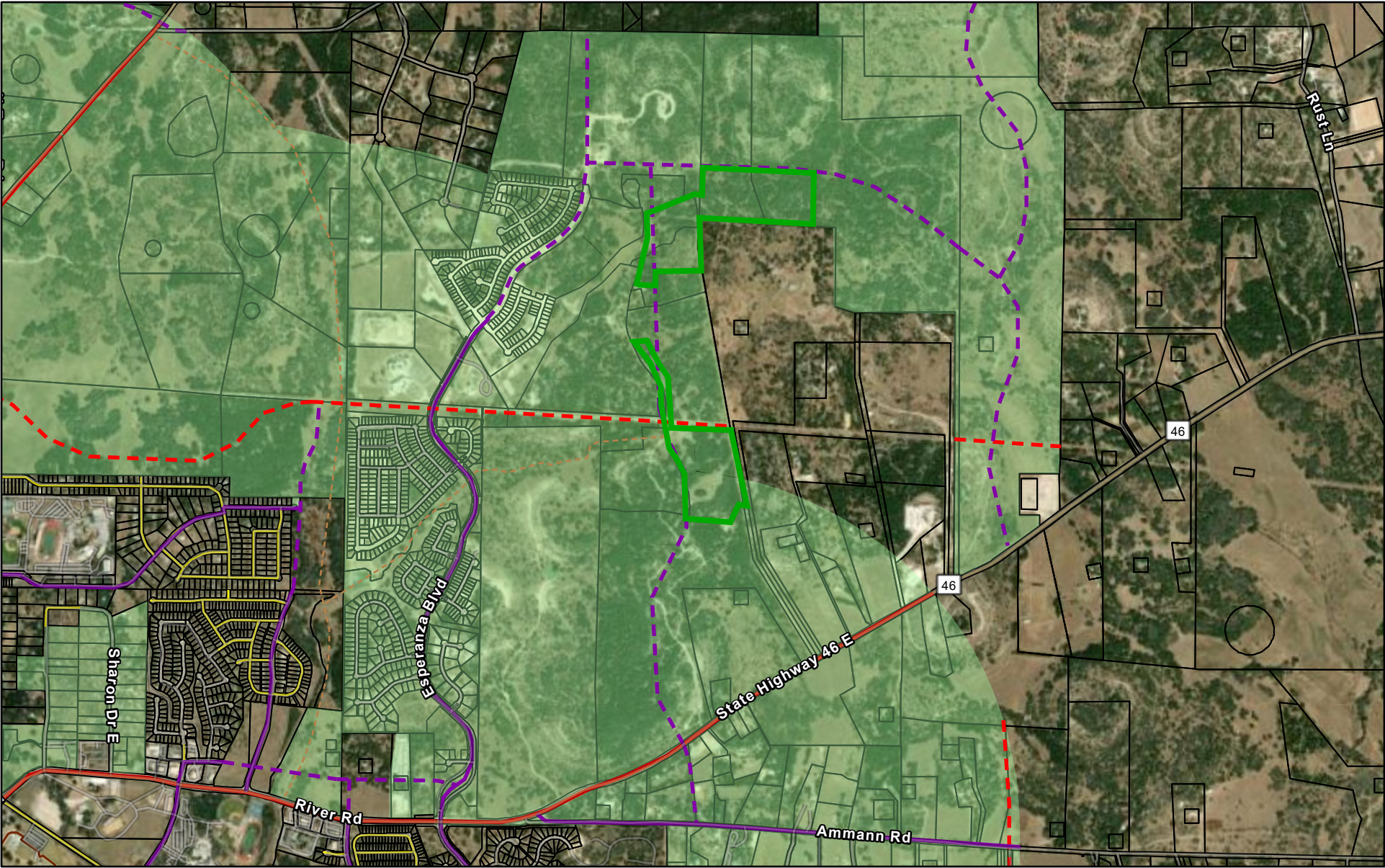
## AGENDA ITEM SUMMARY

<b>Agenda Date</b>	November 6, 2023
<b>Requested Action</b>	A request for a 30-Day Time Extension for the Preliminary Plat of Esperanza Phase 4B, generally located northeast of southeast of Galisteo Ave and Splendido Drive. (Extra-Territorial Jurisdiction)
<b>Contact Person</b>	Martha E Bernal, Planner II (830) 816-2040, mbernal@boerne-tx.gov
<b>Background Information</b>	<p><b>BACKGROUND:</b></p> <p>The property is owned by Lookout Development Group, LP. The applicant is Mike Siefert, P.E.</p> <p>The property is not within the city limits but is within the Extra-Territorial Jurisdiction (ETJ). The city has subdivision authority but does not have zoning authority in the ETJ. Additionally, this project is covered by a Development Agreement approved in 2008 and amended in 2023.</p> <p>The review of a plat is an administrative action. The project is vested to regulations in effect as of February 12, 2008, and is limited to conformance with Subdivision Ordinance No. 2007-56.</p> <p>The Pod General Development Plan (GDP) was approved May 3, 2021.</p> <p><b>REQUEST:</b></p> <p>Mr. Mike Siefert has requested a 30-day time extension. The plat may be considered at the next P&amp;Z meeting as requested by the applicant.</p>

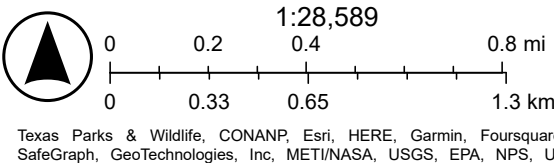


<b>Item Justification</b>	<input checked="" type="checkbox"/> Legal/Regulatory Obligation <input type="checkbox"/> Infrastructure Investment <input type="checkbox"/> Reduce Costs <input checked="" type="checkbox"/> Customer Pull <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Service Enhancement <input type="checkbox"/> Mitigate Risk <input type="checkbox"/> Process Efficiency <input checked="" type="checkbox"/> Master Plan Recommendation <input type="checkbox"/> Other:
<b>Strategic Alignment</b>	B2 – Advancing master plan recommendations. C1 – Offering quality customer experiences. C3 – Collaborating with community partners to enhance quality of life.
<b>Financial Considerations</b>	N/A
<b>Citizen Input/Board Review</b>	Public hearings and notifications are not required for this request.
<b>Legal Review</b>	At the request of the applicant, the Commission may approve a 30-day extension (Texas Local Government Code Section 212.009). Staff or the Commission may not initiate or seek an extension.
<b>Alternative Options</b>	Subdivision Ord. 2007-56, Sec. 2.02.006, the Commission must approve, approve with conditions, or disapprove the plat. Each condition or reason for denial must be directly related to requirements of city regulations and may not be arbitrary.
<b>Supporting Documents</b>	Attachment 1 – Location/Aerial Map Attachment 2 – 30-Day Extension Request from Mike Siefert

# Esperanza 4B-Preliminary Plat



10/31/2023



**From:** [Martha Bernal](#)  
**To:** [Mike Siefert](#)  
**Subject:** RE: Esperanza 4B, Preliminary Plat  
**Date:** Monday, October 30, 2023 3:18:00 PM  
**Attachments:** [image002.png](#)

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Mike,

Thank you for the update,

Respectfully,



**Martha E Bernal**  
Planner II, Planning Department  
447 N. Main Street  
830-816-2040 X 1055

[www.boerne-tx.gov](http://www.boerne-tx.gov)

**INTEGRITY • COLLABORATION • RESPECT • SERVICE • EXCELLENCE**

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**From:** Mike Siefert <mike@thelookoutgroup.com>  
**Sent:** Monday, October 30, 2023 1:42 PM  
**To:** Martha Bernal <mbernal@boerne-tx.gov>  
**Cc:** Patrick Murphy, P.E. <wmurphy@cudeengineers.com>; Kyle Hudek <khudek@cudeengineers.com>  
**Subject:** Re: Esperanza 4B, Preliminary Plat

Martha- Yes we would like to go ahead and request 30 day extension for 4B extending the potential approval from November meeting to December meeting. Please provide comments back by Monday 11/6. So Cude can work to get 4B prelim plat approval back to COB in time to obtain approval at December P and Z.

Thanks  
Mike





## AGENDA ITEM SUMMARY

<b>Agenda Date</b>	November 6, 2023
<b>Requested Action</b>	A request for the approval of the Preliminary Plat of Esperanza Subdivision, Phase 3E, generally located northeast of Esperanza Boulevard and Fortuna Street. (Extra Territorial Jurisdiction)
<b>Contact Person</b>	Martha E Bernal, Planner II (830) 816-2040, mbernal@boerne-tx.gov
<b>Background Information</b>	<p><b>PRIOR REVIEW:</b></p> <ul style="list-style-type: none"> <li>30-day time extensions were approved by the P&amp;Z on September 11, 2023, and October 2, 2023, as part of the consent agenda.</li> </ul> <p><b>BACKGROUND:</b></p> <p>The property is owned by Lookout Development Group, LP. The applicant is Michael Scholze, Kimley-Horn.</p> <p>The property is not within the city limits but is within the Extra-Territorial Jurisdiction (ETJ). The city has subdivision authority but does not have zoning authority in the ETJ. Additionally, this project is covered by a Development Agreement approved in 2008 and amended in 2023.</p> <p>Plat review is an administrative action. The project is vested to regulations in effect as of February 12, 2008, and is limited to conformance with Subdivision Ordinance No. 2007-56.</p> <p>The Pod General Development Plan (GDP) was approved May 3, 2021.</p> <p><b>REQUEST:</b></p> <p>Esperanza Phase 3E includes 70 residential lots and 4 open space lots on 20.90 acres. The density is 3.35 residential lots per acre. Lot sizes range from 0.134 acres to 0.388 acres.</p> <p>The approved Pod General Development Plan indicates the lots in this area to be approved at a minimum of 45, 55, and 65 feet of frontage. All lots meet the minimum lot size.</p> <p>The plat includes a total of 1.325 acres of open space. Open space has been primarily provided east of Block 104 and 105 and south of Block 103. Open space lots will also be used for drainage, pedestrian access,</p>

	<p>and utility easements. Lot 104, Block 106, will also be used for drainage, emergency secondary access, pedestrian access, and utility easement.</p> <p>Water and sewer services are provided by the water improvement district. Reclaimed water is provided by the City of Boerne.</p> <p><b>ANALYSIS:</b></p> <p>The Master Plan designates the Future Land Use for this property as Neighborhood Residential. The plat is consistent with the Comprehensive Plan.</p> <p>Primary access to the subdivision will be provided from a continuation of Galisteo Drive which is a primary collector and will connect to Splendido Drive. The secondary point of access shall be thru Lot 104, Block 106, along the proposed Galisteo Drive.</p> <p>All necessary right-of-way dedications and street improvements are part of this development.</p> <p>The plat meets all the requirements of the Esperanza Master Plan, subdivision ordinance as well as the development agreement.</p>
<b>Item Justification</b>	<div> <div>[X] Legal/Regulatory Obligation</div> <div>[ ] Reduce Costs</div> <div>[ ] Increase Revenue</div> <div>[ ] Mitigate Risk</div> <div>[X] Master Plan Recommendation</div> </div> <div> <div>[ ] Infrastructure Investment</div> <div>[X] Customer Pull</div> <div>[ ] Service Enhancement</div> <div>[ ] Process Efficiency</div> <div>[ ] Other:</div> </div>
<b>Strategic Alignment</b>	<p>B2 – Advancing master plan recommendations.</p> <p>C1 – Offering quality customer experiences.</p> <p>C3 – Collaborating with community partners to enhance quality of life.</p>
<b>Financial Considerations</b>	N/A
<b>Citizen Input/Board Review</b>	Public hearings and notifications are not required for this request.
<b>Legal Review</b>	N/A

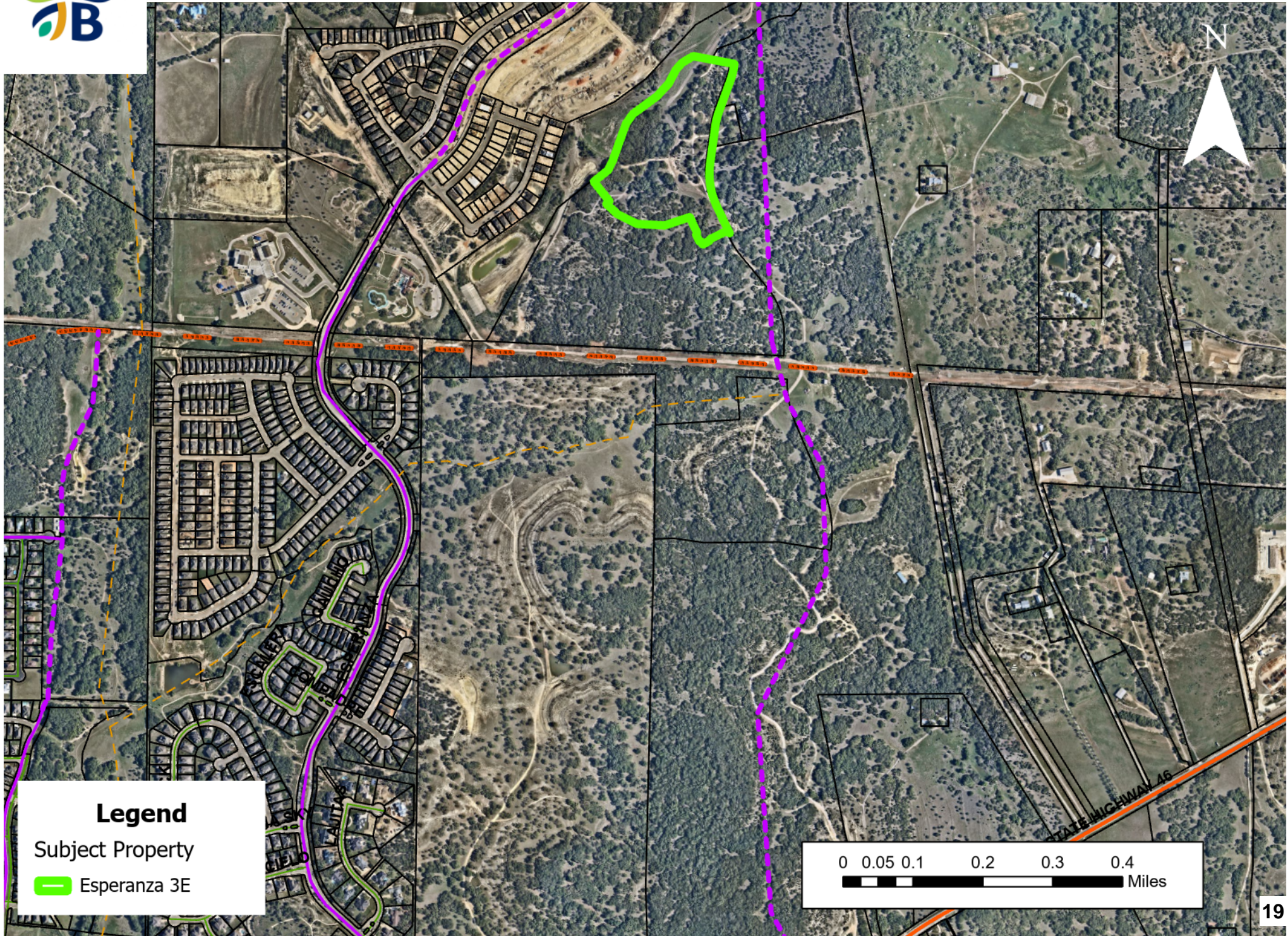
<b>Alternative Options</b>	Subdivision Ord. 2007-56, Sec. 2.02.006, the Commission must approve, approve with conditions, or disapprove the plat. Each condition or reason for denial must be directly related to requirements of city regulations and may not be arbitrary.
<b>Supporting Documents</b>	Attachment 1 – Location/Aerial Map Attachment 2 – Preliminary Plat Attachment 3 – Approved Master Plan





# LOCATION MAP

Esperanza 3E



## Legend

Subject Property

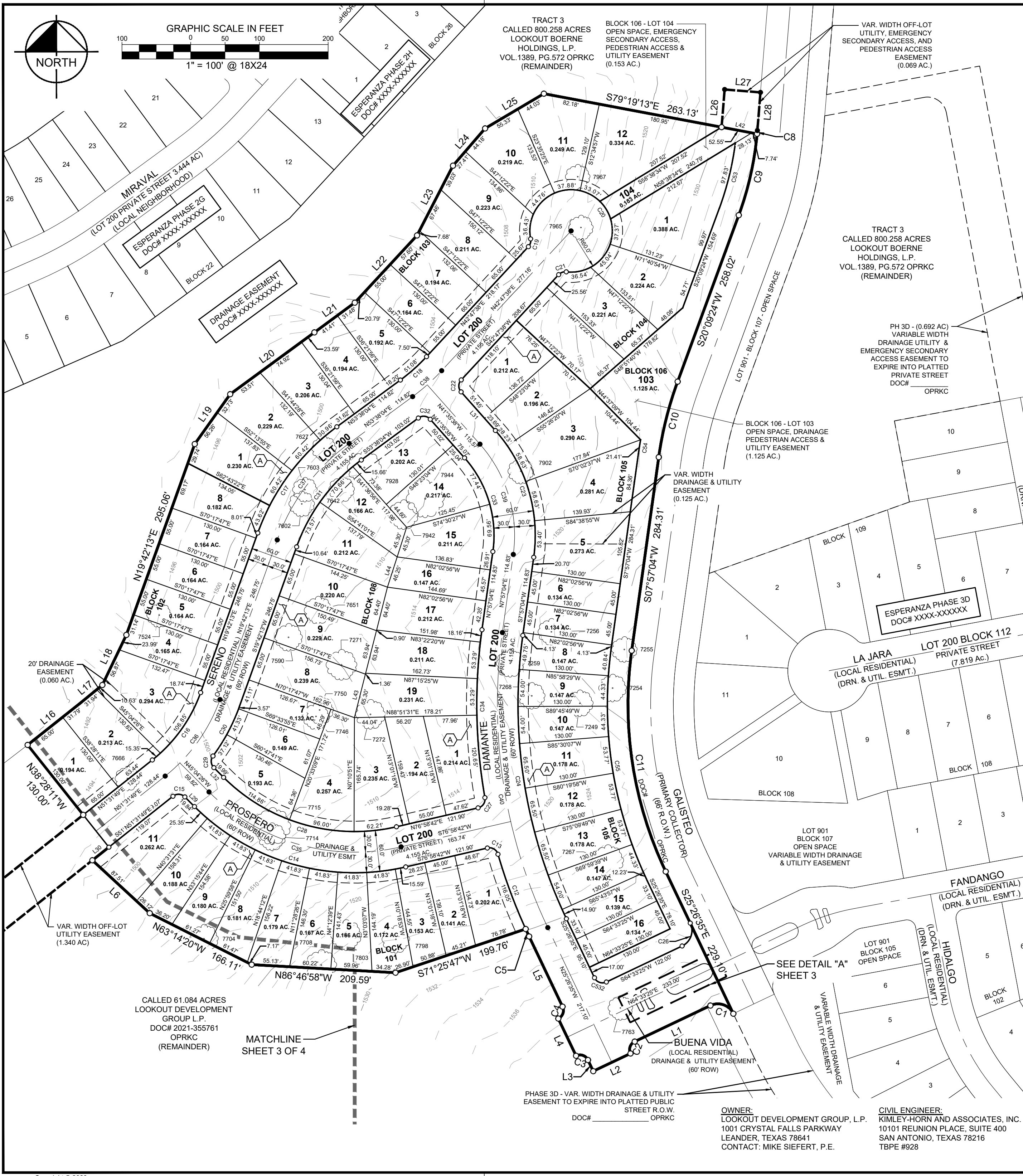
Esperanza 3E

0 0.05 0.1 0.2 0.3 0.4 Miles







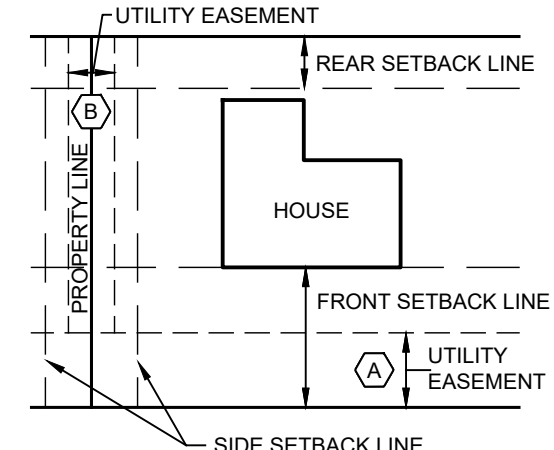


BUILDING SETBACKS							
PER DA AMENDED 2/16/2023 & PER CITY COUNCIL 2/14/2023 APPROVAL							
RESIDENTIAL TYPE	MINIMUM LOT WIDTH	MINIMUM LOT SQ. FEET	MINIMUM SIDE YARD SETBACK - PER SIDE(c)	MINIMUM SIDE YARD SETBACK ON STREET FACING CORNER LOT	MINIMUM FRONT FACING GARAGE FRONT SETBACK	MINIMUM FRONT YARD SETBACK	MINIMUM REAR YARD SETBACK
GARDEN	45' (a)	4,500	0'-10' (b)	10'	25'	15'	15'
SINGLE FAMILY	50'	5,500	5'	10'	25'	15'	15'
GARDEN	55'	6,000	0'-10' (b)	10'	25'	20'	15'
SINGLE FAMILY	60'	6,500	5'	10'	25'	20'	15'
GARDEN	65'	7,000	0'-10' (b)	10'	25'	20'	15'
SINGLE FAMILY	65'/70'	8,000	5'	10'	25'	20'	15'

TYPICAL BUILDING SETBACK ON INTERIOR PROPERTY LINE  
N.T.S.

Perimeter:  
Block 101 - 1,469 LF  
Block 102 - 1,291 LF  
Block 103 - 2,067 LF  
Block 104 - 1,012 LF  
Block 105 - 2,140 LF  
Block 106 - 3,289 LF  
Block 107 - 308 LF  
Block 108 - 1,646 LF

(a) Add 5 additional feet of frontage for a corner lot.  
(b) The total combined side yard setbacks must be a minimum of 10 feet.  
(c) Setbacks less than 5' are allowed, including 0-lot line development provided a minimum 10' separation between buildings and any necessary maintenance easements are indicated on a recorded final plat.



TYPICAL BUILDING SETBACK AND EASEMENT LOCATIONS  
N.T.S.

Surveyors Notes:

- Property corners are monumented with 1/2" iron rod with a plastic cap stamped "KHA" prior to lot sales unless noted otherwise.
- The bearings shown hereon are the Texas State Plane System, South Central Zone (FIPS 4204) (NAD'83). All distances shown hereon are on the Surface. The Grid to Surface Scale Factor is 1.000090 feet. The unit of linear measurement is U.S. Survey Feet.

LEGEND	
○ 1/2" IRF	1/2" IRON ROD FOUND
○ IRSC	1/2" IRON ROD W/ "KHA" CAP SET
○ IRFC	1/2" IRON ROD FOUND W/ CAP
— B.S.L.	BUILDING SETBACK LINE
— OPRKC	OFFICIAL PUBLIC RECORDS OF KENDALL COUNTY, TEXAS
BLOCK 24 BLOCK IDENTIFICATION	
⬢ A	15' UTILITY EASEMENT
⬢ B	5' UTILITY EASEMENT CENTERED ON PROPERTY LINE
—	PROPOSED PLAT BOUNDARY
—	ADJACENT PROPERTY BOUNDARY
	EXISTING SLOPES 15%-25%
	EXISTING SLOPES >25%

PRELIMINARY PLAT ESTABLISHING  
**ESPERANZA  
PHASE 3E**  
20.909 ACRES  
4.155 (PRIVATE) RIGHT-OF-WAY  
70 RESIDENTIAL LOTS  
4 OPEN SPACE LOTS

BEING A PORTION OF THAT CERTAIN TRACT 3 - 800.258 ACRE TRACT RECORDED IN VOLUME 1389, PAGE 572, PORTION OF THAT CERTAIN 61.084 ACRE TRACT RECORDED DOCUMENT NO. 2021-355761, IN THE OFFICIAL PUBLIC RECORDS OF KENDALL COUNTY, TEXAS  
JUAN ORTIZ SURVEY NO. 190, ABSTRACT NO. 363  
KENDALL COUNTY, TEXAS

**Kimley»Horn**

10101 Reunion Place, Suite 400 San Antonio, Texas 78216		FIRM # 10193973		Tel. No. (210) 541-9166 www.kimley-horn.com	
Scale AS SHOWN	Drawn by SAL	Checked by JGM	Date 10/23/2023	Project No. 068686334	Sheet No. 2 OF 4

OWNER:  
LOOKOUT DEVELOPMENT GROUP, L.P.  
1001 CRYSTAL FALLS PARKWAY  
LEANDER, TEXAS 78641  
CONTACT: MIKE SIEFERT, P.E.

CIVIL ENGINEER:  
KIMLEY-HORN AND ASSOCIATES, INC.  
10101 REUNION PLACE, SUITE 400  
SAN ANTONIO, TEXAS 78216  
TBPE #928

SURVEYOR:  
KIMLEY-HORN AND ASSOCIATES, INC.  
10101 REUNION PLACE, SUITE 400  
SAN ANTONIO, TEXAS 78216



CURVE TABLE						CURVE TABLE						CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD	NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD	NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	90°00'00"	25.00'	39.27'	N70°26'35"W	35.36'	C21	53°54'40"	13.00'	12.23'	S69°44'57"W	11.79'	C41	90°00'00"	12.00'	18.85'	S19°33'25"W	16.97'
C2	90°00'00"	13.00'	20.42'	S19°33'25"W	18.38'	C22	84°23'16"	13.00'	19.15'	S00°36'00"W	17.46'	C42	180°00'00"	12.00'	37.70'	N25°26'35"W	24.00'
C3	90°00'00"	13.00'	20.42'	N70°26'35"W	18.38'	C23	49°32'42"	230.00'	198.89'	S16°49'17"E	192.75'	C43	90°00'00"	12.00'	18.85'	S70°26'35"E	16.97'
C4	90°00'00"	13.00'	20.42'	N19°33'25"E	18.38'	C24	33°23'39"	726.00'	423.14'	S08°44'45"E	417.18'	C44	116°30'23"	3.00'	6.10'	S15°48'14"W	5.10'
C5	0°52'36"	786.00'	12.03'	N25°00'17"W	12.03'	C25	90°00'00"	13.00'	20.42'	S70°26'35"E	18.38'	C45	80°30'06"	2.00'	2.81'	N65°41'35"W	2.58'
C6	27°40'42"	170.00'	82.12'	S37°41'28"W	81.33'	C26	90°00'00"	25.00'	39.27'	N19°33'25"E	35.36'	C46	80°30'00"	2.00'	2.81'	N14°48'25"E	2.58'
C7	27°40'42"	230.00'	111.11'	N37°41'28"E	110.03'	C27	86°54'54"	13.00'	19.72'	N33°31'15"E	17.88'	C47	116°30'23"	3.00'	6.10'	S66°41'24"E	5.10'
C8	0°35'09"	467.00'	4.77'	S04°56'08"W	4.77'	C28	57°56'52"	270.00'	273.07'	S74°02'52"E	261.58'	C48	34°00'46"	40.50'	24.04'	S25°26'35"E	23.69'
C9	14°55'42"	467.00'	121.68'	S12°41'33"W	121.33'	C29	81°33'39"	13.00'	18.51'	S04°17'37"E	16.98'	C49	99°30'00"	2.00'	3.47'	S24°18'25"W	3.05'
C10	12°12'20"	533.00'	113.54'	S14°03'14"W	113.33'	C30	16°47'00"	280.00'	82.02'	S28°05'43"W	81.73'	C50	80°30'00"	3.00'	4.21'	N65°41'35"W	3.88'
C11	33°23'39"	566.00'	329.89'	S08°44'45"E	325.24'	C31	33°55'51"	270.00'	159.90'	S36°40'08"W	157.57'	C51	80°30'00"	3.00'	4.21'	N14°48'25"E	3.88'
C12	8°27'35"	786.00'	116.05'	N20°20'11"W	115.95'	C32	84°46'18"	13.00'	19.23'	N83°58'47"W	17.53'	C52	99°30'00"	2.00'	3.47'	S75°11'35"E	3.05'
C13	86°54'54"	13.00'	19.72'	N59°33'51"W	17.88'	C33	49°32'42"	170.00'	147.00'	N16°49'17"W	142.47'	C53	12°49'34"	437.00'	97.83'	N13°44'37"E	97.62'
C14	57°56'52"	330.00'	333.75'	N74°02'52"W	319.71'	C34	17°53'16"	786.00'	245.39'	N00°59'34"W	244.40'	C54	2°10'44"	563.00'	21.41'	N09°02'26"E	21.41'
C15	83°23'45"	13.00'	18.92'	N86°46'19"W	17.30'	C35	57°56'52"	300.00'	303.41'	N74°02'52"W	290.65'	C55	33°23'39"	596.00'	347.37'	N08°44'45"W	342.48'
C16	31°49'36"	220.00'	122.21'	N35°37'01"E	120.64'	C36	31°49'36"	250.00'	138.87'	N35°37'01"E	137.09'						
C17	33°55'51"	330.00'	195.43'	N36°40'08"E	192.58'	C37	33°55'51"	300.00'	177.66'	N36°40'08"E	175.08'						
C18	10°50'26"	270.00'	51.08'	N48°12'51"E	51.01'	C38	10°50'26"	300.00'	56.76'	N48°12'51"E	56.68'						
C19	53°54'40"	13.00'	12.23'	N15°50'18"E	11.79'	C39	49°32'42"	200.00'	172.95'	N16°49'17"W	167.61'						
C20	287°49'19"	60.00'	301.41'	S47°12'22"E	70.68'	C40	33°23'39"	756.00'	440.63'	N08°44'45"W	434.42'						

LINE TABLE			LINE TABLE			LINE TABLE		
NO.	BEARING	LENGTH	NO.	BEARING	LENGTH	NO.	BEARING	LENGTH
L1	S64°33'25"W	122.00'	L16	N51°31'49"E	96.79'	L31	S41°35'38"E	75.14'
L2	S64°33'25"W	60.00'	L17	N50°38'06"E	42.57'	L32	S45°04'26"E	19.99'
L3	N25°26'35"W	18.00'	L18	N25°37'19"E	80.86'	L33	S64°33'25"W	48.00'
L4	N25°26'35"W	60.00'	L19	N35°24'40"E	88.99'	L34	N64°33'25"E	48.00'
L5	N25°26'35"W	113.10'	L20	N53°43'31"E	152.02'	L35	S74°03'25"W	4.30'
L6	N47°17'05"W	113.63'	L21	N53°38'04"E	72.89'	L36	N25°26'35"W	26.00'
L7	S23°51'07"W	63.71'	L22	N42°47'38"E	133.39'	L37	N55°03'25"E	4.30'
L8	N79°03'12"W	14.84'	L23	N27°15'33"E	114.17'	L38	S74°03'25"W	1.18'
L9	N89°59'19"W	3.83'	L24	N40°45'45"E	71.60'	L39	N25°26'35"W	19.96'
L10	N23°51'07"E	71.34'	L25	N59°22'36"E	99.36'	L40	N55°03'25"E	1.18'
L11	N86°40'43"W	9.92'	L26	N04°38'30"E	55.00'	L41	S25°26'35"E	22.32'
L12	N03°23'54"E	65.00'	L27	S85°21'26"E	52.28'	L42	N79°19'13"W	52.55'
L13	N50°03'48"E	72.45'	L28	S04°38'34"W	55.75'	L43	S14°13'21"W	65.30'
L14	S66°08'53"E	145.00'	L29	N45°04'26"W	19.84'	L44	S17°44'30"W	46.25'
L15	N23°51'07"E	23.71'	L30	N51°31'49"E	30.66'			

TREE TABLE		
NO.	DESCRIPTION	TREE TAG
7249	26" LIVE OAK (TC 82")	(3683)
7254	27" LIVE OAK (TC 85")	(3688)
7255	25" LIVE OAK (TC 79")	(3689)
7256	26" LIVE OAK (TC 82")	(3690)
7259	27" LIVE OAK (TC 85")	(3693)
7267	31" LIVE OAK (TC 97")	(3701)
7268	26" LIVE OAK (TC 82")	(3702)
7271	30" LIVE OAK (TC 94")	(3705)
7272	29" LIVE OAK (TC 91")	(3706)
7524	24" LIVE OAK (TC 75")	(3741)
7590	27" LIVE OAK (TC 85")	(3806)
7602	25" LIVE OAK (TC 79")	(3818)
7603	24" LIVE OAK (TC 75")	(3819)
7627	24" LIVE OAK (TC 75")	(3843)
7642	25" LIVE OAK (TC 79")	(3858)
7651	27" LIVE OAK (TC 85")	(3867)
7666	24" LIVE OAK (TC 75")	(3882)
7704	28" LIVE OAK (TC 88")	(3920)
7708	30" LIVE OAK (TC 94")	(3924)
7714	27" LIVE OAK (TC 85")	(3930)

TREE TABLE		
NO.	DESCRIPTION	TREE TAG
7715	36" LIVE OAK (TC 113")	(3931)
7746	26" LIVE OAK (TC 82")	(3959)
7750	27" LIVE OAK (TC 85")	(3963)
7763	24" LIVE OAK (TC 75")	(3976)
7798	27" LIVE OAK (TC 85")	(5974)
7803	30" LIVE OAK (TC 94")	(5979)
7902	25" LIVE OAK (TC 79")	(3463)
7928	33" LIVE OAK (TC 104")	(3489)
7942	29" LIVE OAK (TC 91")	(2303)
7944	37" LIVE OAK (TC 116")	(2305)
7965	24" LIVE OAK (TC 75")	(2326)
7967	24" LIVE OAK (TC 75")	(2328)

PRELIMINARY PLAT ESTABLISHING  
**ESPERANZA**  
**PHASE 3E**  
20.909 ACRES  
4.155 (PRIVATE) RIGHT-OF-WAY  
70 RESIDENTIAL LOTS  
4 OPEN SPACE LOTS  
BEING A PORTION OF THAT CERTAIN TRACT 3 - 800.258 ACRE  
TRACT RECORDED IN VOLUME 1389, PAGE 572, PORTION OF  
THAT CERTAIN 61.084 ACRE TRACT RECORDED DOCUMENT NO.  
2021-355761, IN THE OFFICIAL PUBLIC RECORDS  
OF KENDALL COUNTY, TEXAS  
JUAN ORTIZ SURVEY NO. 190, ABSTRACT NO. 363  
KENDALL COUNTY, TEXAS

**Kimley»Horn**  
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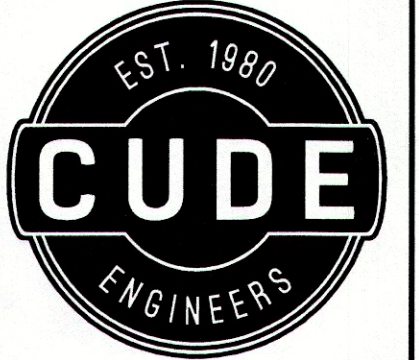
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
AS SHOWN	SAL	JGM	10/23/2023	068686334	4 OF 4

OWNER:  
LOOKOUT DEVELOPMENT GROUP, L.P.  
1001 CRYSTAL FALLS PARKWAY  
LEANDER, TEXAS 78641  
CONTACT: MIKE SIEFERT, P.E.

CIVIL ENGINEER:  
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TBPE #928

SURVEYOR:  
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4122 Pond Hill Road, Suite 101  
San Antonio, Texas 78231  
P:(210) 681.2951 F:(210) 523.7112

# ESPERANZA SUBDIVISION PHASE 3 & 4

POD GENERAL DEVELOPMENT PLAN (GDP)

DATE  
6/4/2021

PROJECT NO.  
03156.006.1

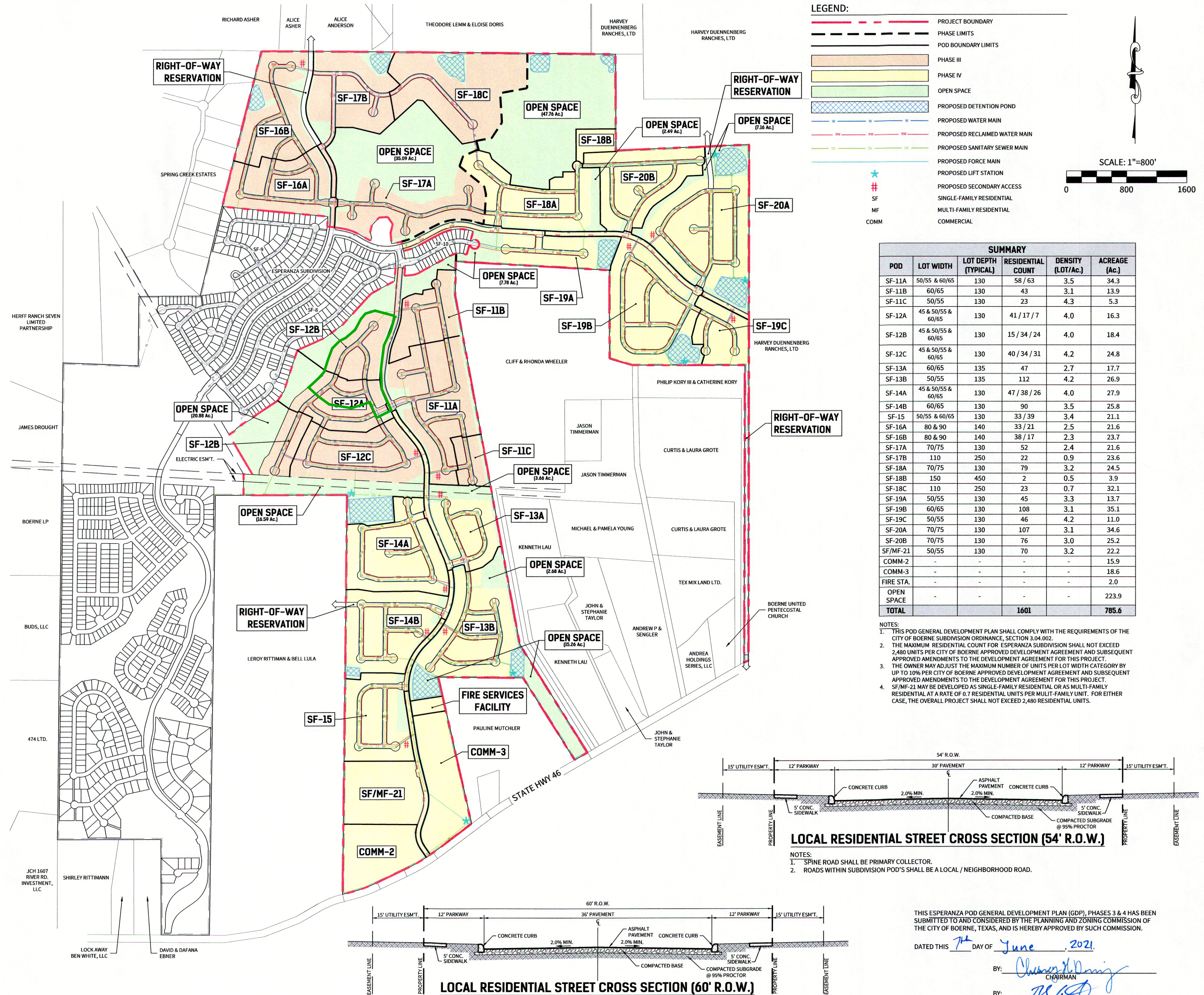
DRAWN BY  
J.R.T.

CHECKED BY  
W.P.M.

CUDE ENGINEERS  
TBPE No. 0455

M-1

1 OF 1







## AGENDA ITEM SUMMARY

<b>Agenda Date</b>	November 6, 2023
<b>Requested Action</b>	Postponed - Consider a special use permit for a drive-through coffee shop on a C1 – HC (Neighborhood Commercial Heritage Corridor Overlay District), located at 12 Herff Road (KAD 15815)
<b>Contact Person</b>	Sara Serra-Bennett, Planner II (830) 248-1628, <a href="mailto:sbennett@boerne-tx.gov">sbennett@boerne-tx.gov</a>
<b>Background Information</b>	<b>REQUEST:</b> The applicant is requesting that this item be postponed to this item to December 4 <sup>th</sup> , Commission meeting to hold another B.O.N.D. with the surrounding residents.

<b>Item Justification</b>	<input checked="" type="checkbox"/> Legal/Regulatory Obligation <input type="checkbox"/> Infrastructure Investment <input type="checkbox"/> Reduce Costs <input checked="" type="checkbox"/> Customer Pull <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Service Enhancement <input type="checkbox"/> Mitigate Risk <input type="checkbox"/> Process Efficiency <input checked="" type="checkbox"/> Master Plan Recommendation <input type="checkbox"/> Other:
<b>Strategic Alignment</b>	B2 – Advancing master plan recommendations. C1 – Offering quality customer experiences. C3 – Collaborating with community partners to enhance quality of life.
<b>Financial Considerations</b>	N/A
<b>Citizen Input/Board Review</b>	N/A
<b>Legal Review</b>	N/A
<b>Alternative Options</b>	N/A
<b>Supporting Documents</b>	Attachment 1 – Postponement Request

**Nathan Crane**

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**From:** Brandi Dosch <bdosch@woodmont.com>  
**Sent:** Friday, November 3, 2023 3:43 PM  
**To:** Sara Serra; Cheryl Rogers; Nathan Crane  
**Cc:** Andrew Wilkinson; Grant Gary  
**Subject:** RE: BOND

Good afternoon,

We would like to postpone our P&Z Meeting to December. We would like to have another BOND Meeting to address the neighbors directly.

Thank you,

**Brandi Dosch**  
Development Manager  
(817) 732-4000 Main  
(817) 377-7193 Direct  
2100 West 7<sup>th</sup> Street  
Fort Worth, TX 76107  
[bdosch@woodmont.com](mailto:bdosch@woodmont.com)  
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## AGENDA ITEM SUMMARY

<b>Agenda Date</b>	November 6, 2023
<b>Requested Action</b>	HOLD A PUBLIC HEARING TO CONSIDER THE PROPOSED AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE ADOPTED ON NOVEMBER 24, 2020, TO CHAPTER 8 ENVIRONMENTAL DESIGN, SECTION 8.1 FLOODPLAIN MANAGEMENT AND APPENDIX A: DEFINITIONS RELATING TO REQUIREMENTS FOR CONSTRUCTION WITHIN A FLOODPLAIN. AND TO CHAPTER 2 PROCEDURES, BY CREATING A NEW SECTION 2.13 EXTRATERRITORIAL JURISDICTION RELATING TO PETITION FOR RELEASE FROM THE ETJ.
<b>Contact Person</b>	Jeffrey Carroll – Engineering & Mobility Director (830) 248-1638, <a href="mailto:jcarroll@boerne-tx.gov">jcarroll@boerne-tx.gov</a> Nathan Crane – Planning Director (830) 248-1501, <a href="mailto:ncrane@boerne-tx.gov">ncrane@boerne-tx.gov</a>
<b>Background Information</b>	<p><b>BACKGROUND:</b></p> <p><u><i>Floodplain Management Amendment</i></u> There are many residential structures and vacant lots that were developed prior to the adoption of the current floodplain ordinances. With recent updated flood models additional parcels that had not previously been within the 100-year floodplain will now be in the floodplain. City staff, as well as council members, have recently received questions on the floodplain ordinances impact to these residential parcels.</p> <p>After holding a discussion item at City council meeting on September 26, 2023, staff has prepared code updates that would allow additions to existing residential structures in the floodplain as well as allow new residential construction on lots created prior to the 2020 code updates.</p> <p><u><i>ETJ Amendment</i></u> During the 88<sup>th</sup> Legislative Session this past year, Senate Bill 2038 was passed and subsequently signed into law. This Bill created a process in which property within the Extraterritorial Jurisdiction (ETJ) can be removed from the ETJ. The Bill became effective on September 1, 2023. The purpose of this amendment is to establish the application process for these requests.</p>



	<p>Since September 1, there have been fourteen requests for removal from the ETJ. Ten of the requests have been approved.</p> <p><b>REQUEST:</b></p> <p><u><i>Floodplain Management Amendment</i></u>  The proposed amendment amends Section 8.1 Floodplain Management. It allows for additions to existing residential structures in the floodplain as well as new residential construction on lots created prior to 2020. To mitigate the risk of flooding, the proposed amendment also includes:</p> <ul style="list-style-type: none"> <li>• increase in finished floor height above the BFE.</li> <li>• increase requirements for substantial improvements.</li> <li>• increase requirements for substantial damages.</li> <li>• new requirements for critical structures.</li> <li>• new requirements for material storage.</li> </ul> <p><u><i>ETJ Amendment</i></u>  The proposed amendment creates Section 2.13 Extraterritorial Jurisdiction. A summary of the amendment is as follows:</p> <ul style="list-style-type: none"> <li>• Requires a landowner to file request for release from the ETJ.</li> <li>• The City may voluntarily release the area or hold an election.</li> <li>• City Secretary's office will review the petition.</li> <li>• Requires a decision to be made within 45 days.</li> <li>• Designates the following areas as not eligible for removal from the ETJ. <ul style="list-style-type: none"> <li>○ In an area designated as an Industrial District; or</li> <li>○ In an area subject to a strategic partnership agreement with the City; or</li> <li>○ An area within five miles of the boundary of a military base, as defined by Section 43.0117 of the Texas Local Government Code, at which an active training program is conducted; or</li> <li>○ Any other exceptions to release of an area by petition of a landowner or resident as described by Chapter 42 of the Local Government Code.</li> </ul> </li> </ul> <p><b>ANALYSIS:</b></p> <p><u><i>Floodplain Management Amendment</i></u>  Cities may pass floodplain ordinances to protect the public health, safety, and general welfare and to minimize public and private losses due to flood conditions.</p> <p>The 2018 Comprehensive Masterplan recommended that the City review</p>
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	<p>and update drainage codes. A stormwater committee was formed and spent 12+ months discussing changes to floodplain ordinances as well as codes to protect the city's riparian zones and improve water quality from new development. The committee's recommendations were incorporated into the February 2020 updates to the Flood Damage Prevention and Subdivision Ordinances. Later with the adoption of the UDC in 2022, these previously approved drainage codes were included within the UDC.</p> <p>As the initial FEMA floodplain maps were not created until the late 70's, much of the older parts of Boerne were developed without the benefit of floodplain maps or floodplain ordinances. With the adoption of floodplain maps, FEMA provided minimum floodplain rules that are required to be adopted such that the City is eligible to participate in the national flood insurance program. However, FEMA does encourage cities to adopt higher standards to further protect the City's public from flooding events. With the 2020 code updates Boerne adopted higher standards regarding the finished floor height above the 1% annual chance (100-year) Base Flood Elevation (BFE). In addition, Boerne code requirements have additional higher standards for new construction in the floodplain as well as limiting improvements to any existing residential structures.</p> <p>Starting in Fiscal Year 2024, the City of Boerne participates in FEMA's Community Rating System (CRS) program. Boerne is rated CRS category seven (7) which allows our residents who purchase flood insurance to receive a 15% discount. The proposed floodplain ordinance changes that will allow new residential structures on previously platted lots or additions to existing residential structures within the 100-year floodplain has potential to reduce our City's CRS score.</p> <p>To mitigate the reduction in CRS credits staff has prepared additional code requirements.</p> <p>Staff believes the proposed floodplain ordinance updates are a fair balance of protecting the public health/safety and allowing landowners of residential lots/structures created prior to the 2020 code updates a path to improve their lots or existing structures.</p> <p><u><i>ETJ Amendment</i></u></p> <p>The proposed amendment is needed to be in compliance with Texas Local Government Code.</p> <p>The proposed text amendment will establish a formal review process for these applications.</p>
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	The proposed text amendment is consistent with the purpose of the Unified Development Code and will not adversely affect the community.
<b>Item Justification</b>	<input checked="" type="checkbox"/> Legal/Regulatory Obligation <input type="checkbox"/> Infrastructure Investment <input type="checkbox"/> Reduce Costs <input checked="" type="checkbox"/> Customer Pull <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Service Enhancement <input checked="" type="checkbox"/> Mitigate Risk <input type="checkbox"/> Process Efficiency <input checked="" type="checkbox"/> Master Plan Recommendation <input type="checkbox"/> Other:
<b>Strategic Alignment</b>	Safety & Security Environmental Responsibility
<b>Financial Considerations</b>	<u>Floodplain Management Amendment</u> Additional residential structures within the 100-year floodplain increase the city's potential for rescue and relief efforts associated with flooding at the expense of the general public.  <u>ETJ Amendment</u> N/A
<b>Citizen Input/Board Review</b>	Notice for the Planning and Zoning Commission was published in the Boerne Star on 10/26/2023.
<b>Legal Review</b>	This amendment meets the statutory requirements of the Texas Local Government Code.
<b>Alternative Options</b>	Leave current code as-is which does not allow any residential improvements in the 100-year floodplain, except for rebuilding due to fire or flood.  To meet state law, there is not an alternative option for the ETJ Amendment.
<b>Supporting Documents</b>	Attachment 1 – Floodplain Management Redline Ordinance Attachment 2 – Floodplain Management Clean Ordinance Attachment 3 – ETJ Amendment

## 8.1 Floodplain Management

### D. PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 1. General Standards

...

j. For all construction (residential and non-residential) and substantial improvements within, where allowed, or within 100' of the 1% annual chance (100-year) local or FEMA floodplain limits, the lowest floor (including basements), shall be elevated to two (2) feet above the base flood elevation as follows:

Basis of Study	Minimum building slab elevation
Atlas 14 Rainfall	1.0 foot above the Base Flood Elevation
Rainfall other than Atlas 14 Evaluation	2.0 feet above the Base Flood Elevation Evaluation

A registered professional engineer, architect, or land surveyor shall submit a FEMA Elevation Certificate to the Floodplain Administrator as described in the permit procedures, section 8.1 (C)(3) that the standard of this subsection is satisfied.

k. Filling or the disposal of any materials which will diminish the natural floodplain storage water flow capacity of any waterway or floodplain defined by this ordinance must be compensated with remedial action. An equal amount of storage volume must be created in another location of the same local watershed to compensate for the storage capacity lost, as approved by the Floodplain Administrator. Any reduction in floodplain storage or conveyance capacity within the 1% (i.e. 100-Year) floodplain must be offset with a hydraulically equivalent (one-to-one) volume of mitigation sufficient to offset the reduction. Such mitigation shall be within the same watershed and shall be provided on the same property or within the same hydrologic sub-watershed or at an alternate site meeting the approval of the Floodplain Administrator."

l. The landowner owner shall sign City prepared letter acknowledging the risks in building within the floodplain, acknowledging the possible delay in emergency response to the site, and indemnify the City of Boerne against damages resulting from flooding on the owner's property or subject site.

m. All new construction (residential and commercial), or substantial improvements, within the floodplain shall require a no-rise/no-impact certification as described in Chater 5 of the Engineering Desgin Manual (EDM). This requirement may be waived by the Floodplain Administrator for open style fences, additions to existing buildings within a conveyance shadow, or other minor improvements that the floodplain administrator determines will be insignificant to the floodplain.

n. The Floodplain Administrator may deny a permit for new or substantially improved habitable structures if the project site or vicinity has a history of high-water rescues, repetitive losses, or other historical flooding issues.

o. Depending on the proposed design and the building type, the applicant must meet all FEMA requirements related to crawl space, enclosures, openings, etc. Reference the FEMA NFIP Elevation Certificate and Instructions, 2019 Edition or subsequent updates.

## 2. Specific standards for A & AE zones

In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

### a. Residential or Other Habitable Construction

i. New platted lots shall comply with 8.1(D)(3)

ii. New Construction of a habitable ~~primary dwelling structure~~ on existing platted lots, platted prior to the February 11, 2020, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. ~~effective date of this ordinance, is allowed if the proposed structure is located outside the 1% annual chance (100-year) local or FEMA floodplain. New~~ Construction must be in compliance with the above General Standards, 8.1(D)(1).

iii. Modifications (additions, redevelopment, etc.) and substantial improvements of existing habitable structure, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. ~~other than rebuilding activity due flood or fire damage, within the 1% annual chance (100-year) local or FEMA floodplain limits is not allowed. Rebuilding activity shall raise the finished floor above the Base Flood elevation as described in the above General Standards, Chapter 8.1(D)(1).~~ Construction must be in compliance with the above General Standards, 8.1(D)(1).

ii. ~~New accessory dwelling structures, other than rebuilding activity due to flood or fire damage, within the 1% annual chance (100-year) local and FEMA floodplain limits is not allowed.~~

....

### g. Mixed Use Construction

i. Where allowed by zoning, new mixed use (habitable and commercial, parking garage, etc.) structure may be constructed under the following conditions:

(a) Parking garages cannot accept surface flow from outside the structure.

(b) Construction must be in compliance with the above General Standards, 8.1(D)(1).

...

#### 9. Critical Facilities

Construction of critical facilities (see definition in appendix A) shall be, to the extent possible, located outside the limits of the 0.2% annual chance (500-year) flood plain (Shaded Zone X) and any "A" Zone. Construction of new critical facilities shall be permissible within the base flood plain if no feasible alternative site is available.

a. Construction of critical facilities on land located in the 0.2% (500-year) flood plain or within the 1 percent or 100-year flood plain shall have the lowest floor elevated to three feet or more above the 0.2% annual chance (500- year) elevation, or twenty-four (24) inches above the crown of the adjacent road, whichever ever results in a higher elevation.

b. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

c. Access routes elevated to or above the level of the base flood shall be provided to all critical facilities to the extent possible.

#### 10. Materials Storage

The following uses are prohibited within a designated floodplain:

a. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.

b. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas.

Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation. Dumpsters shall be located in an enclosure designed to withstand flood conditions. The enclosure shall be constructed to prevent the dumpster from becoming buoyant and a flood hazard. Dumpsters used during construction activities shall be anchored or located in an enclosure.

119. Severability If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

1240. Penalties for noncompliance No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1000 for each violation, and in addition shall pay all costs and expenses involved in the case. E Nothing herein contained shall prevent the City of Boerne from taking such other lawful action as is necessary to prevent or remedy any violation.

|

Appendix A: Definitions

Commented [JC1]: New ### for new definition.

### Critical Development: Critical development is that which is critical to the community's public health and safety, are essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, daycare facilities, public electric utilities, fire stations, emergency operation centers, police facilities, nursing homes, wastewater treatment facilities, water plants, gas/oil/propane storage facilities, hazardous waste handling and storage facilities and other public equipment storage facilities.

### Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

If any nonconforming use or structure is substantially damaged or experiences a repetitive loss, as defined in this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance.

497. **Substantial Damage:** 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. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

498. **Substantial improvement:** Any 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 "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. When the combined total of all improvements or repairs made after the adoption of this regulation equals or exceeds 50 percent of a structure's market value, that structure is considered to be substantially improved. The term does not, however, include either:

(1) 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 local Permitting and Code Compliance official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(3) Ordinary maintenance and repairs, not part of larger project.



## 8.1 Floodplain Management

### D. PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 1. General Standards

...

j. For all construction (residential and non-residential) and substantial improvements within, where allowed, or within 100' of the 1% annual chance (100-year) local or FEMA floodplain limits, the lowest floor (including basements), shall be elevated to two (2) feet above the base flood elevation.

A registered professional engineer, architect, or land surveyor shall submit a FEMA Elevation Certificate to the Floodplain Administrator as described in the permit procedures, section 8.1 (C)(3)

k. Filling or the disposal of any materials which will diminish the natural floodplain storage capacity of any waterway or floodplain defined by this ordinance must be compensated with remedial action. Any reduction in floodplain storage or conveyance capacity within the 1% (i.e. 100-Year) floodplain must be offset with a hydraulically equivalent (one-to-one) volume of mitigation sufficient to offset the reduction. Such mitigation shall be within the same watershed and shall be provided on the same property or within the same hydrologic sub-watershed or at an alternate site meeting the approval of the Floodplain Administrator."

l. The landowner shall sign City prepared letter acknowledging the risks in building within the floodplain, acknowledging the possible delay in emergency response to the site, and indemnify the City of Boerne against damages resulting from flooding on the owner's property or subject site.

m. All new construction (residential and commercial), or substantial improvements, within the floodplain shall require a no-rise/no-impact certification as described in Chapter 5 of the Engineering Design Manual (EDM). This requirement may be waived by the Floodplain Administrator for open style fences, additions to existing buildings within a conveyance shadow, or other minor improvements that the floodplain administrator determines will be insignificant to the floodplain.

n. The Floodplain Administrator may deny a permit for new or substantially improved habitable structures if the project site or vicinity has a history of high-water rescues, repetitive losses, or other historical flooding issues.

o. Depending on the proposed design and the building type, the applicant must meet all FEMA requirements related to crawl space, enclosures, openings, etc. Reference the FEMA NFIP Elevation Certificate and Instructions, 2019 Edition or subsequent updates.

#### 2. Specific standards for A & AE zones

In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

- a. Residential or Other Habitable Construction
  - i. New platted lots shall comply with 8.1(D)(3)
  - ii. New Construction of a habitable primary dwelling on existing platted lot, platted prior to the February 11, 2020, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. Construction must be in compliance with the above General Standards, 8.1(D)(1).
  - iii. Modifications (additions, redevelopment, etc.) and substantial improvements of existing habitable structure, shall have the lowest floor (including basement), elevated to a minimum of two feet above the base flood elevation together with all HVAC and supporting mechanical, electrical, and sanitary facilities. Construction must be in compliance with the above General Standards, 8.1(D)(1).  
New accessory dwelling structures, other than rebuilding activity due to flood or fire damage, within the 1% annual chance (100-year) local and FEMA floodplain limits is not allowed.

....

- g. Mixed Use Construction
  - i. Where allowed by zoning, new mixed use (habitable and commercial, parking garage, etc.) structure may be constructed under the following conditions:
    - (a) Parking garages cannot accept surface flow from outside the structure.
    - (b) Construction must be in compliance with the above General Standards, 8.1(D)(1).

...

## 9. Critical Facilities

Construction of critical facilities (see definition in appendix A) shall be, to the extent possible, located outside the limits of the 0.2% annual chance (500-year) flood plain (Shaded Zone X) and any "A" Zone. Construction of new critical facilities shall be permissible within the base flood plain if no feasible alternative site is available.

- a. Construction of critical facilities on land located in the 0.2% (500-year) flood plain or within the 1 percent or 100-year flood plain shall have the lowest floor elevated to three feet or more above the 0.2% annual chance (500- year) elevation, or twenty-four (24) inches above the crown of the adjacent road, which ever results in a higher elevation.
- b. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- c. Access routes elevated to or above the level of the base flood shall be provided to all critical facilities to the extent possible.

## 10. Materials Storage

The following uses are prohibited within a designated floodplain:

- a. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.
- b. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas.

Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation. Dumpsters shall be located in an enclosure designed to withstand flood conditions. The enclosure shall be constructed to prevent the dumpster from becoming buoyant and a flood hazard. Dumpsters used during construction activities shall be anchored or located in an enclosure.

11. Severability If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

12. Penalties for noncompliance No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1000 for each violation, and in addition shall pay all costs and expenses involved in the case. E Nothing herein contained shall prevent the City of Boerne from taking such other lawful action as is necessary to prevent or remedy any violation.

## Appendix A: Definitions

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### Critical Development: Critical development is that which is critical to the community's public health and safety, are essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, daycare facilities, public electric utilities, fire stations, emergency operation centers, police facilities, nursing homes, wastewater treatment facilities, water plants, gas/oil/propane storage facilities, hazardous waste handling and storage facilities and other public equipment storage facilities.

### Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

If any nonconforming use or structure is substantially damaged or experiences a repetitive loss, as defined in this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance.

497. **Substantial Damage:** 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. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

498. **Substantial improvement:** Any 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 "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. When the combined total of all improvements or repairs made after the adoption of this regulation equals or exceeds 50 percent of a structure's market value, that structure is considered to be substantially improved. The term does not, however, include either:

- (1) 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 local Permitting and Code Compliance official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (3) Ordinary maintenance and repairs, not part of larger project.

## AN ACT

relating to release of an area from a municipality's extraterritorial jurisdiction by petition or election.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 42, Local Government Code, is amended by adding Subchapters D and E to read as follows:

SUBCHAPTER D. RELEASE OF AREA BY PETITION OF LANDOWNER OR RESIDENT  
FROM EXTRATERRITORIAL JURISDICTION

Sec. 42.101. APPLICABILITY. This subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044; or

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751.

Sec. 42.102. AUTHORITY TO FILE PETITION FOR RELEASE. (a) A resident of an area in a municipality's extraterritorial jurisdiction may file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

(b) The owner or owners of the majority in value of an area consisting of one or more parcels of land in a municipality's extraterritorial jurisdiction may file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

Sec. 42.103. APPLICABILITY OF OTHER LAW. Chapter 277, Election Code, applies to a petition requesting removal under this subchapter.

Sec. 42.104. PETITION REQUIREMENTS. (a) A petition requesting release under this subchapter must be signed by:

(1) more than 50 percent of the registered voters of the area described by the petition as of the date of the preceding uniform election date; or

(2) a majority in value of the holders of title of land in the area described by the petition, as indicated by the tax rolls of the applicable central appraisal district.

(b) A person filing a petition under this subchapter must satisfy the signature requirement described by Subsection (a) not later than the 180th day after the date the first signature for the petition is obtained.

(c) A signature collected under this section must be in writing.

(d) The petition must include a map of the land to be released and describe the boundaries of the land to be released by:

- (1) metes and bounds; or
- (2) lot and block number, if there is a recorded map or plat.

Sec. 42.105. RESULTS OF PETITION. (a) A petition requesting removal under this subchapter shall be verified by the municipal secretary or other person responsible for verifying signatures.

(b) The municipality shall notify the residents and landowners of the area described by the petition of the results of the petition. The municipality may satisfy this requirement by notifying the person who filed the petition under Section 42.102.

(c) If a resident or landowner obtains the number of signatures on the petition required under Section 42.104 to release the area from the municipality's extraterritorial jurisdiction, the municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

(d) If a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.

(e) Notwithstanding any other law, an area released from a municipality's extraterritorial jurisdiction under this section may not be included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

#### SUBCHAPTER E. RELEASE OF AREA BY ELECTION FROM EXTRATERRITORIAL JURISDICTION

Sec. 42.151. APPLICABILITY. This subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044; or

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751.

Sec. 42.152. AUTHORITY TO REQUEST ELECTION FOR RELEASE.

(a) A resident of an area in a municipality's extraterritorial jurisdiction may request the municipality to hold an election in accordance with this subchapter to vote on the question of whether to release the area from the municipality's extraterritorial jurisdiction by filing with the municipality a petition that includes the signatures of at least five percent of the registered voters residing in the area as of the date of the preceding uniform election date.

(b) A resident may not request another election on the question of releasing the same or substantially same area from the municipality's extraterritorial jurisdiction before the second anniversary of the date the municipality receives a petition filed under Subsection (a).

(c) The petition must include a map of the land to be released and describe the boundaries of the land to be released by:

(1) metes and bounds; or

(2) lot and block number, if there is a recorded map or plat.

Sec. 42.153. ELECTION. (a) Except as provided by Section 42.156, a municipality shall order an election on the question of whether to release an area from the municipality's extraterritorial jurisdiction to be held on the first uniform election date that falls on or after the 90th day after the date the municipality receives a petition that complies with Section 42.152.

(b) The municipality shall hold the election ordered under this section in the area described by the petition at which the qualified voters of the area described by the petition may vote on the question of the release.

(c) An election ordered under this section must be held in the same manner as general elections of the municipality. The municipality shall pay for the costs of holding the election.

Sec. 42.154. RESULTS OF ELECTION. (a) The governing body of a municipality shall canvass the election returns for an election held under this subchapter in accordance with Chapter 67, Election Code.

(b) Not later than 48 hours after the canvass of an election held under this subchapter, the municipality shall notify the residents of the area proposed to be released from the municipality's extraterritorial jurisdiction of the results of the election. The municipality may satisfy this requirement by notifying the person who filed the petition under Section 42.152.

Sec. 42.155. RELEASE OF AREA AS RESULT OF ELECTION. (a) If at the election held under this subchapter a majority of qualified voters of the area to be released approve the proposed release, the municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

(b) If the municipality fails to take action to release the area under Subsection (a) by the later of the next meeting of the municipality's governing body or the 15th day after the canvass date for the election, the area is released by operation of law.

(c) Notwithstanding any other law, an area released from a municipality's extraterritorial jurisdiction under this section may not be included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

Sec. 42.156. VOLUNTARY RELEASE. Instead of holding an election under Section 42.153, the municipality may voluntarily release the area for which the election is to be held from the municipality's extraterritorial jurisdiction before the date on which the election would have been held under Section 42.153(a).

SECTION 2. Section 42.021, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) An annexation commenced after January 1, 2023, does not expand the extraterritorial jurisdiction of a municipality unless contemporaneously with the annexation the owner or owners of the area that would be included in the municipality's extraterritorial jurisdiction as a result of the annexation request that the area be included in the municipality's extraterritorial jurisdiction.

SECTION 3. Section 242.001, Local Government Code, is amended by adding Subsection (j) to read as follows:

(j) If an area subject to an agreement under Subsection (c).

is removed from a municipality's extraterritorial jurisdiction, the agreement is terminated as to the area and the county is the political subdivision authorized to regulate subdivisions in the removed area.

SECTION 4. A municipality shall release extraterritorial jurisdiction acquired from an annexation commenced after January 1, 2023, as necessary to comply with Section 42.021(e), Local Government Code, as added by this Act.

SECTION 5. This Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 2038 passed the Senate on April 27, 2023, by the following vote: Yeas 20, Nays 11; and that the Senate concurred in House amendments on May 8, 2023, by the following vote: Yeas 20, Nays 11.

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Secretary of the Senate

I hereby certify that S.B. No. 2038 passed the House, with amendments, on May 3, 2023, by the following vote: Yeas 127, Nays 18, one present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF BOERNE, TEXAS, AMENDING THE CODE OF ORDINANCES TO PROVIDE A PROCESS FOR PETITIONS FOR RELEASE FROM THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Boerne, Texas is a Home Rule municipal corporation located in Kendall County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the Texas Legislature passed Senate Bill 2038, which allows residents of a city's extraterritorial jurisdiction to petition for release from the municipality's extraterritorial jurisdiction; and

**WHEREAS**, Senate Bill 2038 provides a timeline for approving the release of property from the extraterritorial jurisdiction after a petition is filed with the municipality; and

**WHEREAS**, the City Council deems it appropriate to provide procedures for establishing when a petition is considered filed; and

**WHEREAS**, a petition requesting release must comply with the petition requirements of Chapter 277 of the Texas Election Code; and

**WHEREAS**, Senate Bill 2038 requires the City Secretary, or designee, to verify the petition signatures; and

**WHEREAS**, City Council finds it necessary to establish a procedure for the City Secretary to verify the signature of corporate owners; and

**WHEREAS**, the City Council finds that the amendments as outlined herein are in the best interest of the health, safety, and general welfare of the citizens of the City and the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS THAT:**

**Section 1.** All the above premises are true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified, and incorporated into the body of this ordinance as if copied in their entirety.

**Section 2.** The Code of Ordinances is hereby amended by adding the following:

Petitions for Release from Extraterritorial Jurisdiction.

- (a) A petition for release or a petition to hold an election for release from the City's extraterritorial jurisdiction may be filed by a resident or land owner

within the extraterritorial jurisdiction, as provided by Chapter 42 of the Texas Local Government Code, as amended.

- (b) A petition either for release or requesting an election is considered filed when it meets the following requirements:
  - (1) The petition must comply with the signature requirements of Chapter 42 of the Texas Local Government Code, as amended, and Chapter 277 of the Texas Election Code, as amended;
  - (2) The petition must include a map of the land to be released and describe the boundaries of the land by either:
    - i. Metes and bounds, or
    - ii. Lot and block number, if there is a recorded map or plat; and
  - (3) To permit the City Secretary to verify the petition, the petition of a corporate owner must be accompanied by the following:
    - i. Date of birth of the signor;
    - ii. Personal residence address of the signor;
    - iii. Business entity's Certificate of Good Standing from the Texas Secretary of State;
    - iv. Business entity's Articles of incorporation, certificate of formation, partnership agreement, or other corporate formation document;
    - v. Business entity's Bylaws; and
    - iv. Resolution of the business entity authorizing the petition for release be executed and filed by the entity representative.
- (c) Upon receipt of a petition, the City must verify the petition.
  - (1) The City shall notify the resident and landowners of the area described by the petition of its results. This may be satisfied by notifying the party who filed the petition.
- (d) If the petition for release contains the requisite number of signatures, the City shall release the area from its extraterritorial jurisdiction by the later of the 45th day after the date the petition was filed or the next meeting of the City Council that occurs after the 30th date after the petition was filed.
- (e) If the resident or landowner submits a verified petition to hold an election for release, the city may either:
  - (1) Voluntarily release the area for which the election is to be held from the City's extraterritorial jurisdiction before the date on which the election would have been held; or
  - (2) Order an election for release, which must comply with Texas Election Code and Chapter 42 of the Local Government Code, as amended.
- (f) This section does not apply to the following properties in the extraterritorial jurisdiction:
  - (1) In an area designated as an Industrial District under Section 42.044 of the Texas Local Government Code, as amended;
  - (2) In an area subject to a strategic partnership agreement with the city; or
  - (3) An area within five miles of the boundary of a military base, as defined by Section 43.0117 of the Texas Local Government Code,

- at which an active training program is conducted; or
- (4) Any other exceptions to release of an area by petition of a landowner or resident as described by Chapter 42 of the Local Government Code.”

**Section 3.** This Ordinance shall be cumulative of all provisions of Ordinances of the City of Boerne, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 4.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 5.** This Ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED on this the \_\_\_\_ day of November 2023, at a Regular Meeting of the City Council of the City of Boerne, Texas.

\_\_\_\_\_  
Frank Ritchie, Mayor

ATTEST:

\_\_\_\_\_  
Lori A. Carroll, TRMC  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
William M. McKamie  
City Attorney



## AGENDA ITEM SUMMARY

<b>Agenda Date</b>	November 6, 2023
<b>Requested Action</b>	Establish 2024 Planning and Zoning Commission meeting dates.
<b>Contact Person</b>	Nathan Crane – Planning Director (830) 248-1501, <a href="mailto:ncrane@boerne-tx.gov">ncrane@boerne-tx.gov</a>
<b>Background Information</b>	<p>The Planning and Zoning Commission regular scheduled meetings are held the first Monday of each month at 6:00 p.m. In 2024 there are two City holidays that fall on the first Monday of the month (January 1<sup>st</sup> - New Year's and September 2<sup>nd</sup> – Labor Day) creating a conflict for the regular scheduled meetings.</p> <p>Therefore, we would like to propose the following special called meeting dates:</p> <ul style="list-style-type: none"> <li>Monday, January 8<sup>th</sup> for the New Year's holiday in conflict; and</li> <li>Monday, August 26<sup>th</sup> <b>or</b> Monday, September 9<sup>th</sup> for the Labor Day holiday in conflict.</li> </ul>
<b>Item Justification</b>	<div> <div> <input checked="" type="checkbox"/> Legal/Regulatory Obligation           <input type="checkbox"/> Reduce Costs           <input type="checkbox"/> Increase Revenue           <input type="checkbox"/> Mitigate Risk           <input type="checkbox"/> Master Plan Recommendation         </div> <div> <input type="checkbox"/> Infrastructure Investment           <input type="checkbox"/> Customer Pull           <input checked="" type="checkbox"/> Service Enhancement           <input checked="" type="checkbox"/> Process Efficiency           <input type="checkbox"/> Other:         </div> </div>
<b>Strategic Alignment</b>	B3 – Providing streamline and efficient processes.
<b>Financial Considerations</b>	N/A

<b>Citizen Input/Board Review</b>	N/A
<b>Legal Review</b>	N/A
<b>Alternative Options</b>	
<b>Supporting Documents</b>	Attachment 1 - Proposed Calendar

# 2024 Planning Calendar



JANUARY							FEBRUARY							MARCH						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3						1	2
7	8	9	10	11	12	13	4	5	6	7	8	9	10	3	4	5	6	7	8	9
14	15	16	17	18	19	20	11	12	13	14	15	16	17	10	11	12	13	14	15	16
21	22	23	24	25	26	27	18	19	20	21	22	23	24	17	18	19	20	21	22	23
28	29	30	31				25	26	27	28	29			24	25	26	27	28	29	30
														31						

APRIL							MAY							JUNE						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6				1	2	3	4							1
7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8
14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15
21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22
28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						

JULY							AUGUST							SEPTEMBER						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3	1	2	3	4	5	6	7
7	8	9	10	11	12	13	4	5	6	7	8	9	10	8	9	10	11	12	13	14
14	15	16	17	18	19	20	11	12	13	14	15	16	17	15	16	17	18	19	20	21
21	22	23	24	25	26	27	18	19	20	21	22	23	24	22	23	24	25	26	27	28
28	29	30	31				25	26	27	28	29	30	31	29	30					

OCTOBER							NOVEMBER							DECEMBER						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5						1	2	1	2	3	4	5	6	7
6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				

Planning & Zoning Commission

Historic Landmark Commission

City Council

Design Review Committee

Boerne Open Neighborhood Discussion

Holiday

O- Reschedule due to holiday conflict:

Jan. 1<sup>st</sup> New Years - Possibly January 8<sup>th</sup>

Sept. 2<sup>nd</sup> Labor Day - Possibly August 26<sup>th</sup> or September 9<sup>th</sup>