

CITY OF FAIR OAKS RANCH
PLANNING & ZONING COMMISSION

Thursday, May 13, 2021 at 6:30 PM
Via Zoom Videoconference

AGENDA

VIRTUAL MEETING NOTICE

There exists a public health emergency related to the COVID-19 VIRUS that necessitates a meeting of the planning and zoning commission to take place via video conference pursuant to government code chapters 551.127, as modified by executive order of the Governor.

Zoom Videoconference Link: <https://www.zoomgov.com/j/1613218853>

Phone in number: US: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Webinar ID: 161 321 8853

If you wish to address the Planning and Zoning Commission via telephone, please select *9 on your phone, this will place you in a queue for speaking. At the appropriate time, the City Secretary will call upon each individual separately. *6 will unmute your phone to allow you to speak.

OPEN MEETING

Roll Call - Declaration of a Quorum

CITIZENS and GUEST FORUM

If you are calling by phone and wish to address the P&Z Commission, select *9 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately. Select *6 to unmute your phone to speak. In accordance with the Open Meetings Act, the P&Z Commission may not discuss or take action on any item which has not been posted on the agenda.

1. Citizens to be heard.

CONSENT AGENDA

All of the following items are considered to be routine by the P&Z Commission, there will be no separate discussion on these items and will be enacted by one motion. Items may be removed by any Commissioner by making such request prior to a motion and vote.

2. Approval of April 8, 2021 Planning and Zoning Commission Regular Meeting Minutes.

Christina Picioccio, City Secretary

3. Approval of April 22, 2021 Planning and Zoning Commission Special Meeting Minutes.

Christina Picioccio, City Secretary

CONSIDERATION / DISCUSSION ITEMS

4. Consideration and possible action recommending the approval for Front Gate Unit 7 Tree Preservation Plan.

Katherine Schweitzer, Manager of Engineering Services

5. Request of Denton Communities to discuss the Noll Tract Development for the proposed Post Oak Ranch Single Family Residential Development. Generally located south-east of the intersection of Ammann Road and Ralph Fair Road and northeast of Setterfeld Estates, along the east side of FM 3351.

Katherine Schweitzer, PE., Manager of Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Gunda Corporation
Lloyd A. "Laddie" Denton, Jr., Denton Communities
Paul Schroeder, P.E., RPLS, Vickrey & Associates, LLC.

WORKSHOP

6. Discussion on the proposed amendments to the Unified Development Code - Session 5.

Katherine Schweitzer, P.E., Manager of Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Gunda Corporation

ADJOURNMENT

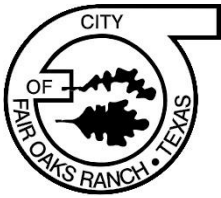
Signature of Agenda Approval: s/Tobin E. Maples

Tobin E. Maples, City Manager

I, Christina Picioccio, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, May 10, 2021 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available.



CITY OF FAIR OAKS RANCH
PLANNING AND ZONING COMMISSION MEETING
 Thursday, April 8, 2021 at 6:30 PM
 Via Zoom Videoconference

MINUTES

OPEN MEETING

Roll Call - Declaration of a Quorum

Present: Chairperson Frank Trapasso and Vice Chairperson Bobbe Barnes
 Commissioners: Linda Tom, David Horwath, Douglas Leonard, Dale Pearson, and
 Lamberto Balli

With a quorum present, the meeting was called to order at 6:30 PM.

CITIZENS and GUEST FORUM / PRESENTATIONS

Citizens to be heard. - There were no citizens to be heard.

CONSENT AGENDA

1. Approval of the March 11, 2021 Planning and Zoning Commission Regular Meeting Minutes.
2. Approval of the March 25, 2021 Planning and Zoning Commission Special Meeting Minutes.

MOTION: Made by Commissioner Balli, seconded by Commissioner Horwath to approve the minutes as written.

VOTE: 7-0, Motion Passed

CONSIDERATION / DISCUSSION ITEMS

3. **Consideration and possible action recommending the approval of a Preliminary Plat request from SA Front Gate, LLC for Front Gate Unit 7 proposing 20 single-family residential lots, generally located on the south side of Van Raub Elementary School and north of Fair Oaks Parkway, City of Fair Oaks Ranch, Texas.**

MOTION: Made by Commissioner Leonard, seconded by Vice Chairperson Barnes to recommend approval of the Preliminary Plat with the following minor conditions:

1. Applicant to correct the plat notes to reflect the revisions related to the addition of street names. All references to the proposed streets should include the street names and not numbers, as indicated by staff on the marked up plat.
2. Applicant needs to remove the term "reserve" from the description of private streets, as indicated by staff on the marked up plat.

VOTE: 7-0, Motion Passed

WORKSHOP**4. Discussion on the proposed amendments of the City of Fair Oaks Ranch Unified Development Code - Session 3.**

Lata Krishnarao, AICP, LEED ND, of Gunda Corporation, guided the Commission through a presentation on amendments to the Fair Oaks Ranch Unified Development Code and answered questions from the Commission.

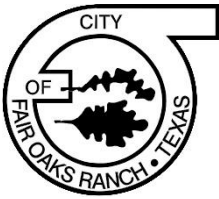
ADJOURNMENT

Chairperson Trapasso adjourned the meeting at 8:29 PM.

ATTEST:

Frank Trapasso, Chairperson

Christina Picioccio, City Secretary



**CITY OF FAIR OAKS RANCH
PLANNING AND ZONING COMMISSION SPECIAL
MEETING**

Thursday, April 22, 2021 at 6:30 PM
Via Zoom Videoconference

MINUTES

OPEN MEETING

Roll Call - Declaration of a Quorum

Present: Chairperson Frank Trapasso and Vice Chairperson Bobbe Barnes
Commissioners: Lamberto Balli, David Horwath, Douglas Leonard and Linda Tom

Absent: Chairperson Dale Pearson

With a quorum present, the meeting was called to order at 6:31 PM.

CITIZENS and GUEST FORUM / PRESENTATIONS

1. **Citizens to be heard.** - There were no citizens to be heard.

WORKSHOP

2. **Discussion on amendment of the City of Fair Oaks Ranch Unified Development Code.**

Lata Krishnarao, AICP, LEED ND, of Gunda Corporation, guided the Commission through a presentation on amendments to the Fair Oaks Ranch Unified Development Code and answered questions from the Commission.

Commissioner Dale Pearson joined the meeting at 7:10 PM.

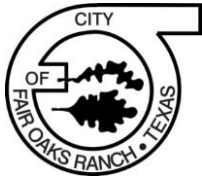
ADJOURNMENT

Chairperson Trapasso adjourned the meeting at 7:54 PM.

Frank Trapasso, Chairperson

ATTEST:

Christina Picioccio, City Secretary



PLANNING & ZONING CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
May 13, 2021

AGENDA TOPIC: Consideration and possible action recommending the approval for Front Gate Unit 7 Tree Preservation Plan

DATE: May 13, 2021

DEPARTMENT: Public Works

PRESENTED BY: Katherine Schweitzer, Manager of Engineering Services

INTRODUCTION/BACKGROUND:

On March 3, 2021, a preliminary plat establishing Front Gate Unit 7 was submitted to the Public Works Department by Vickrey and Associates, Inc. This preliminary plat consists of 7.13 acres of residential development.

Regarding the submission of a preliminary plat, currently vested under the City's previous subdivision ordinance, Article II, Section 1 (C, 13) of said ordinance states, "The submittal shall conform to the requirements of Article III, Section 6 of this ordinance." This section contains a requirement by the Tree and Habitat Protection ordinance which states: "City Council approval is required prior to removal of any tree which is twenty-four inches (24") caliper in size or larger (heritage tree). The tree caliper is to be measured at 4-1/2 feet above the ground."

The submitted Tree Plan shows the following heritage trees:

Tree #340 – 26" Oak – To Be Saved

Tree #380 – 24" Oak – To Be Saved

Tree #385 – 31" Oak – To Be Removed

Tree #386 – 29" Oak – To Be Removed

Tree #399 – 28" Oak – To Be Removed

Tree #411 – 31" Oak – To Be Saved

Tree #464 – 24" Oak – To Be Saved

To mitigate, nine (9) trees with a caliper of at least two and one half - inches (2.5") will be planted. The applicant has been informed that the heritage trees will require City Council approval prior to removal.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Article III Section 6(A) of the previous subdivision ordinance states:

"It shall be unlawful for any person to remove, destroy, or cause the removal or destruction of any tree which is nine - inches (9") caliper in size or larger (protected tree) and which is located on an undeveloped tract of land within the city limits or extraterritorial jurisdiction (ETJ) without submitting a Tree Removal and Preservation Plan with the preliminary plat. City Council approval

is required prior to removal of any tree which is twenty-four inches (24") caliper in size or larger (heritage tree). The tree caliper is to be measured at 4-1/2 feet above the ground."

Furthermore, item "D" of the same section states the following:

"The Public Works Department shall review and recommend approval of the Plan if:

1. The tree(s) is located within ten feet of the perimeter of, the proposed building footprint, the area over a septic tank, areas necessary for site access, or within areas designated for the construction or installation of public facilities such as streets or utilities or
2. The application demonstrates that the denial of the request for tree removal will effect a hardship prohibiting the development of the property in otherwise compliance with the regulations of the City of Fair Oaks Ranch; and,
3. The application demonstrates that three (3) trees with a caliper of at least two and one half - inches (2.5") will be planted on the site or at another approved location for each tree removed that has a caliper of twenty-four - inches (24") or larger (heritage tree)."

LONGTERM FINANCIAL & BUDGETARY IMPACT:

None

LEGAL ANALYSIS:

Not Applicable

RECOMMENDATION/PROPOSED MOTION:

Staff has reviewed the Front Gate Unit 7 Tree Preservation Plan and recommends approval based on conformance with the City's previous subdivision ordinance Article III, Section 6.

Motion: I move to recommend approval of the Front Gate Unit 7 Tree Preservation Plan.

Point #	DESCRIPTION
300	TR 11 AJ 20
301	TR 15 OAK 30
302	TR 14 OAK 25
303	TR 9 OAK 20
304	TR 9 AJ 25
305	TR 10 AJ 25
306	TR 23 OAK 30
307	TR 20 OAK 25
308	TR 9 AJ 20
309	TR 10 AJ 25
310	TR 9 OAK 20
311	TR 9 OAK 20
312	TR 9 OAK 20
313	TR 9 OAK 25
314	TR 11 OAK 30
315	TR 10 OAK 25
316	TR 10 OAK 25
317	TR 16 OAK 40
318	TR 9 OAK 20
319	TR 10 OAK 25
320	TR 9 OAK 25
321	TR 10-5-4-4 AJ 25
322	TR 16 OAK 35
323	TR 21 OAK 30
324	TR 9-4-4 AJ 25
325	TR 10 OAK 25
326	TR 11 OAK 20
327	TR 9 OAK 20
328	TR 14 OAK 25
329	TR 10 OAK 20

Point #	DESCRIPTION
330	TR 11-7 OAK 25
331	TR 10 OAK 20
332	TR 17 OAK 30
333	TR 11 OAK 25
334	TR 11 OAK 30
335	TR 16 OAK 20
336	TR 9 AJ 25
337	TR 9-8 OAK 25
338	TR 9 AJ 25
339	TR 9 AJ 20
340	TR 26 OAK 30
341	TR 15 OAK 20
342	TR 13 OAK 25
343	TR 14 OAK 25
344	TR 12 OAK 25
345	TR 13 OAK 20
346	TR 11 OAK 25
347	TR 17 OAK 30
348	TR 10 OAK 25
349	TR 9 OAK 20
350	TR 16 OAK 40
351	TR 14 OAK 30
352	TR 9 OAK 20
353	TR 18 OAK 30
354	TR 9-7-4 AJ 25
355	TR 15 OAK 35
356	TR 10 AJ 25
357	TR 12-5 AJ 30
358	TR 10 OAK 20
359	TR 12 OAK 25

Point #	DESCRIPTION
360	TR 18 OAK 30
361	TR 14 OAK 30
362	TR 11 AJ 25
363	TR 16 OAK 40
364	TR 10 AJ 25
365	TR 9-7-4 AJ 30
366	TR 9-4-5-3 AJ 25
367	TR 10 AJ 25
368	TR 16 AJ 30
369	TR 11-6-4-3 AJ 30
370	TR 9 AJ 25
371	TR 15 OAK 25
372	TR 12 OAK 30
373	TR 10 OAK 25
374	TR 15 OAK 30
375	TR 15 ASJ 30
376	TR 9 OAK 20
377	TR 21 OAK 40
378	TR 15 ASJ 30
379	TR 15 OAK 30
380	TR 24 OAK 40
381	TR 9 ASJ 20
382	TR 9-8 ASJ 25
383	TR 9-4-4 ASJ 25
384	TR 10 ASJ 20
385	TR 31 OAK 30
386	TR 29 OAK 30
387	TR 9-8 ASJ 20
388	TR 10 ASJ 20
389	TR 11 ASJ 25

Point #	DESCRIPTION
390	TR 10-7-4 ASJ 25
391	TR 9 ASJ 20
392	TR 17 ASJ 30
393	TR 11 ASJ 25
394	TR 13 ELM 20
395	TR 12-8 ELM 25
396	TR 12 ELM 25
397	TR 12 ELM 25
398	TR 9-5-5 ASJ 30
399	TR 28 OAK 25
400	TR 11 ASJ 20
401	TR 10-7 ASJ 25
402	TR 15-7 ELM 25
403	TR 12 ASJ 25
404	TR 11 ELM 20
405	TR 11 ASJ 20
406	TR 18 OAK 25
407	TR 11 ASJ 25
408	TR 9 ASJ 20
409	TR 9 ELM 20
410	TR 9 ASJ 20
411	TR 31 OAK 40
412	TR 9 ASJ 20
413	TR 13 ASJ 25
414	TR 10-8 ASJ 25
415	TR 9 ASJ 20
416	TR 11 ELM 20
417	TR 10 ELM 20
418	TR 9 ASJ 25
419	TR 9-7 ASJ 25

Point #	DESCRIPTION
420	TR 21 ASJ 25
421	TR 10-7-5-6-6 ASJ 30
422	TR 10-6-5-5-6-7 ASJ 30
423	TR 10-7-6-5-7 ASJ 30
424	TR 12 ASJ 20
425	TR 13 OAK 25
426	TR 16 OAK 30
427	TR 9-5 ASJ 25
428	TR 9 OAK 20
429	TR 9 ASJ 20
430	TR 9 ASJ 20
431	TR 13 ASJ 25
432	TR 10-5-5-4 ASJ 25
433	TR 12 ELM 25
434	TR 10 ELM 25
435	TR 12 ASJ 25
436	TR 16 ASJ 30
437	TR 10-6 ASJ 30
438	TR 10-7 ELM 20
439	TR 11-5 ASJ 25
440	TR 10 ASJ 20
441	TR 9 ASJ 20
442	TR 9 ASJ 20
443	TR 10 ELM 20
444	TR 11 ASJ 20
445	TR 15 ASJ 25
446	TR 9 MES 30
447	TR 11 ELM 20
448	TR 15-6 MES 30
449	TR 19 ELM 30

Point #	DESCRIPTION
450	TR 10 ELM 20
451	TR 12 ASJ 25
452	TR 11 MES 25
453	TR 11-6 ASJ 25
454	TR 11-5 ASJ 25
455	TR 10 OAK 20
456	TR 9-8-6-5 OAK 20
457	TR 10 OAK 20
458	TR 9 HCK 20
459	TR 10 OAK 20
460	TR 10 OAK 20
461	TR 9 HCK 20
462	TR 11-7 OAK 20
463	TR 10 OAK 20
464	TR 24 OAK 30

DESCRIPTION KEY

TR 19 OAK 25

SIZE OF EACH TRUNK (IN INCHES)

SIZE OF CANOPY (IN FEET)

TYPE OF TREE

LEGEND

OAK -LIVE OAK

HACK-HACKBERRY

ASJ -ASHIE, JUNIPER

ELM - ELM TREE

HERITAGE TREES

* - TO BE REMOVED

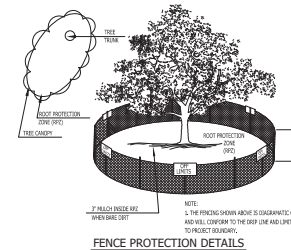
** - TO BE SAVED

HERITAGE TREES TO BE SAVED

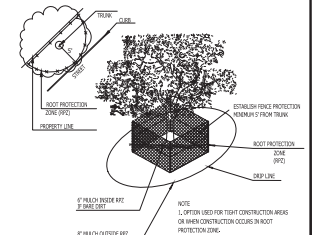
HERITAGE TREES TO BE REMOVED



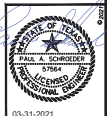
SCALE: 1"=100'



FENCE PROTECTION DETAILS



FENCE PROTECTION DETAILS



DATE: Feb. 2021



Vertical Scale: 1"=4' / A
Horizontal Scale: 1"=100'

SHEET 2 OF 2

PROJ. NO. 2742-2021

TREE PLAN

FRONT GATE UNIT 7

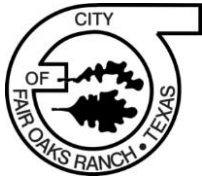
FAIR OAKS RANCH, TEXAS

REVISIONS

1	
2	
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VICKREY & ASSOCIATES, LLC
CONSULTING ENGINEERS
CIVIL • ENVIRONMENTAL • SURVEY
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DATE



PLANNING & ZONING CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
May 13, 2021

AGENDA TOPIC: Request of Denton Communities to discuss the Noll Tract Development for the proposed Post Oak Ranch Single Family Residential Development. Generally located south-east of the intersection of Ammann Road and Ralph Fair Road and northeast of Setterfeld Estates, along the east side of FM 3351.

DATE: May 13, 2021

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Katherine Schweitzer, P.E., Manager of Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Gunda Corporation
Lloyd A. "Laddie" Denton, Jr., Denton Communities
Paul Schroeder, P.E., RPLS, Vickrey & Associates, LLC.

INTRODUCTION/BACKGROUND:

In November 2017 the City entered into a non-annexation Development Agreement (attached) on 170.77 acres (Noll Tract) owned by Emmeline K. Whitworth, Russell T. Noll and Arthur W. Noll. The Tract is undeveloped ranch land located in the city's ETJ, Comal County fronting FM 3351 (Ralph Fair Road) between Setterfeld Estates and Ammann Road. In addition to the 170.77 acres in the City of Fair Oaks Ranch ETJ, the proposed development includes 111.79 acres within the ETJ of the City of San Antonio (CoSA).

The City of Fair Oaks Ranch Land Use Map (FLUM) designates this property as Rural Residential. Rural Residential designation recommends residential development with lots having a minimum size of 5 acres each. A detailed staff report relative to the entire 282 acre development is attached.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Transparency regarding proposed development
2. Obtain feedback from the Planning and Zoning Commission on the conceptual land plan proposed by the developer.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Not applicable at this time.

LEGAL ANALYSIS:

Not applicable at this time.

RECOMMENDATION/PROPOSED MOTION:

No formal action is required but the developer is seeking insight and direction.

STAFF REPORT

AGENDA TOPIC: Request of Denton Communities to discuss the Noll Tract Development for the proposed Post Oak Ranch Single Family Residential Development. Generally located south-east of the intersection of Ammann Road and Ralph Fair Road and northeast of Setterfeld Estates, along the east side of FM 3351.

DATE: May 13, 2021

Summary:

Purpose: The purpose of the request is to gain feedback from the Planning and Zoning Commission on the possibility of developing the Noll Tract (Exhibit A: Location Map) in accordance with the Post Oak Ranch Master Plan (Exhibit B) prepared by the developer. The proposed 282 acre development will include 180 single family residential units on minimum one acre lots. Natural drainage areas are proposed to be maintained for trails, passive parks, and open space. Out of the 282 acres, approximately 170 acres area located within ETJ of the City of Fair Oaks Ranch (CoFOR) and 111 acres within the ETJ of the City of San Antonio (CoSA). Approximately 100 lots are proposed within CoFOR ETJ and 80 lots in CoSA ETJ.

Table 1: Comparison of Densities

For 282 Acres	Minimum Lot Size	Number of lots
Conventional Development	5 acres	40 lots approx.
Conservation Development Alternative	3.75 acres (blended average)	70 lots approx.
Proposed	1 acre	180 lots

Applicant's Proposal: Noll Tract is generally located south-east of the intersection of Ammann Road and Ralph Fair Road. The proposed development includes 111 acres within the ETJ of the City of San Antonio (CoSA) and 170 acres within the ETJ of the City of Fair Oaks Ranch (CoFOR). The proposed Post Oak Ranch Master Plan anticipates water service to be provided by Fair Oaks Ranch or others or split service based on the ETJ and possible annexation area limits. The lots are proposed to be serviced by private septic or aerobic systems. The applicant has indicated that platting in CoSA ETJ would be with Comal County. The development within CoFOR ETJ will be platted through the City of Fair Oaks Ranch. The applicant is in discussions with the City of San Antonio to remove the east portion of the Noll tract from CoSA's ETJ and include it in CoFOR's ETJ.

City's Master Plan: The City's master plans for water and wastewater connections for the area (Exhibit F and G) allow for a maximum of 39 connections to existing systems for the buildout for the portion of this property in Fair Oaks Ranch ETJ.

Non-Annexation Development Agreement: The existing Non-Annexation Development Agreement for Noll Tract was signed by the City and the owners in 2017 (Attachment A: Noll Tract Development

Development Agreement). Based on that agreement, a single-family residential structure and related accessory structures could be built on this property and the City had the ability to annex a portion of the property that included the single-family structure and up to three (3) acres of the land around that structure, while the rest of the land remained in the ETJ. Any other development would trigger the parcel being annexed into the City and zoned pursuant to all applicable laws of the State of Texas and ordinances of the City of Fair Oaks Ranch, said zoning to be at the sole discretion of the City.

Planning and Zoning Commission Action: At this meeting, the applicant would like to get input from Planning and Zoning Commission on the possibility of the City of Fair Oaks Ranch:

- Entering a development and annexation agreement for 170 acre tract in CoFOR ETJ
- Entering a development and annexation agreement for the entire 282-acre tract
- Approving the proposed land plan layout and density (180 lots on 282 acres)
- Providing water service to the area within CoFOR ETJ if the developer will provide for the appropriate additional capacity to be added to the Fair Oaks Ranch system
- Providing water service to the entire tract if the east portion of the tract remains in CoSA ETJ

Location and Surroundings

A summary of the surrounding land uses, and zoning designations (Exhibit C: Zoning Map) can be found in the following table:

Table 2: Surrounding Uses

Zoning/Jurisdiction		Current Land Use
NORTH	CoSA ETJ CoFOR Rural Residential	Vacant-Undeveloped
SOUTH	Camp Bullis	Military Facility
EAST	CoSA ETJ	Vacant-Undeveloped
WEST	Existing Residential 2-0.3 to 1.3 acres	Setterfeld Estates-Single Family Residential – Minimum lot size of 0.4 acres to 1 acre. (212 lots on 242 acres)

Conformance with Future Land Use Map

The Future Land Use Map (FLUM) adopted in June of 2018 designates this property as Rural Residential (RR). The Comprehensive Plan introduced this new zoning category in 2018 and describes RR as “*Rural Residential - The Rural Residential District (RR) is a residential district that includes land subdivided for single-family residential purposes and associated uses (outside Existing Residential districts). The lots are generally large (or have a large average*

Noll Tract Development

size inclusive of conservation areas), and are generally not served by urban infrastructure. For example, City sewer service may not be available – or even scheduled for construction – though this may vary. This district is intended to retain a rural character. Residences in the RR district are appropriate for direct access to primarily Local Rural Residential streets.”

The Comprehensive Plan recommended minimum lot size of five (5) acres for RR District. The proposed development type with a minimum lot size of 1 acre will not be in conformance with the current land use designation (see Exhibit D).

The City’s master plans for water and waste-water connections (Exhibits G and F) show a buildout of 39 single-family homes for the portion of the property COFOR ETJ. The proposed development proposes approximately 100 homes for this portion and therefore is not in conformance with the utility plans.

Further, this development will not be in conformance with the City’s vision stated in the 2017-18 Comprehensive Plan Update regarding annexation that recommends annexed areas to conform to the City’s character and guidelines. The vision states - *“Protect existing neighborhoods, property values, tax base, natural resources, and the City’s unique Hill Country character by bringing adjoining land areas within the extra-territorial jurisdiction into the City proper – and under the City’s development guidelines.”*

Conformance with the Unified Development Code (UDC)

According to the Future Land Use Map and Unified Development Code, the appropriate zoning for this tract is Rural Residential (RR) zoning district. The RR zoning district requires a minimum lot size of 5 acres. The proposed lot sizes of one acre minimum do not meet this requirement.

UDC also permits Conservation Development Alternative (CDA) for low impact developments. As per the UDC - “A Conservation Development is a development of land, occupying ten (10) contiguous acres or more, that is developed in a manner generally consistent with low impact development (LID) principles, is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may cover more than one parcel as long as all parcels are contiguous, but the entirety of each included parcel will be included in the gross area of the development.”

The CDA allows a blended average of 3.75 acres for RR zone. Based on this approximately 70 lots would be permitted with 90 acres of open space in the 280 acre tract. Based on this proposed density, the proposed development with 180 lots would not meet the CDA requirements. Also, it is not clear if the LID principles, as required for CDA development, are being proposed.

Table 3: Conservation Development Alternative Density Incentive (UDC section 8.1)

Zoning District	Neighborhood Residential	Rural Residential
Conventional Lot Size Minimum	1 Acre	5 Acre
Conservation Development Alternative Minimum	.75 Acre (blended average)	3.75 Acre (blended average)

Conformance with the Character of the Area

The proposed density will allow for development that may not be compatible with the surroundings, especially Camp Bullis on the south. The adjacent single-family residential developments of Setterfeld Estates and The Enclave at Fair Oaks Ranch that consist of one acre lots predate the current Comprehensive Plan and Unified Development Code. When the Comprehensive Plan was updated in 2018, the Rural Residential (RR) classification was added to preserve and enhance the “scenic, rural palette” and preserve the “City’s unique Hill Country character” to direct future development. Other abutting properties are undeveloped and are also designated as Rural Residential with a minimum lot size of five (5) acres in the Future Land Use Map. The proposed development would not be in congruence with the community’s vision for the character of the area.

Availability of Utilities

The tract is currently not serviced by City water or sewer. The City’s water and sewer Certificate of Convenience and Necessity (CCN) encompass the property within the City’s ETJ and there is an overlapping water CCN on the entire tract with SJWTX Inc. (Canyon Lake Water Service Company).

Conformance with the Transportation Map

Staff believes that the proposed development will have a significant impact on the current roads. All the traffic generated by the proposed development will be using CoFOR streets. As per the Transportation Map (Exhibit E), Ralph Fair Road is an arterial road that is programmed for major improvements. Additional rights-of-way and improvements may be required for this development.

Findings

1. The proposed development is not in conformance with the Comprehensive Plan and Future Land Use Map
2. The proposed development does not meet the requirements of the RR zone, that is recommended for this tract.
3. The proposed development will result in a denser development resulting in more connections than that stipulated in the City’s master plans for water and wastewater.
4. The proposed development will have a significant impact on the surrounding roads.

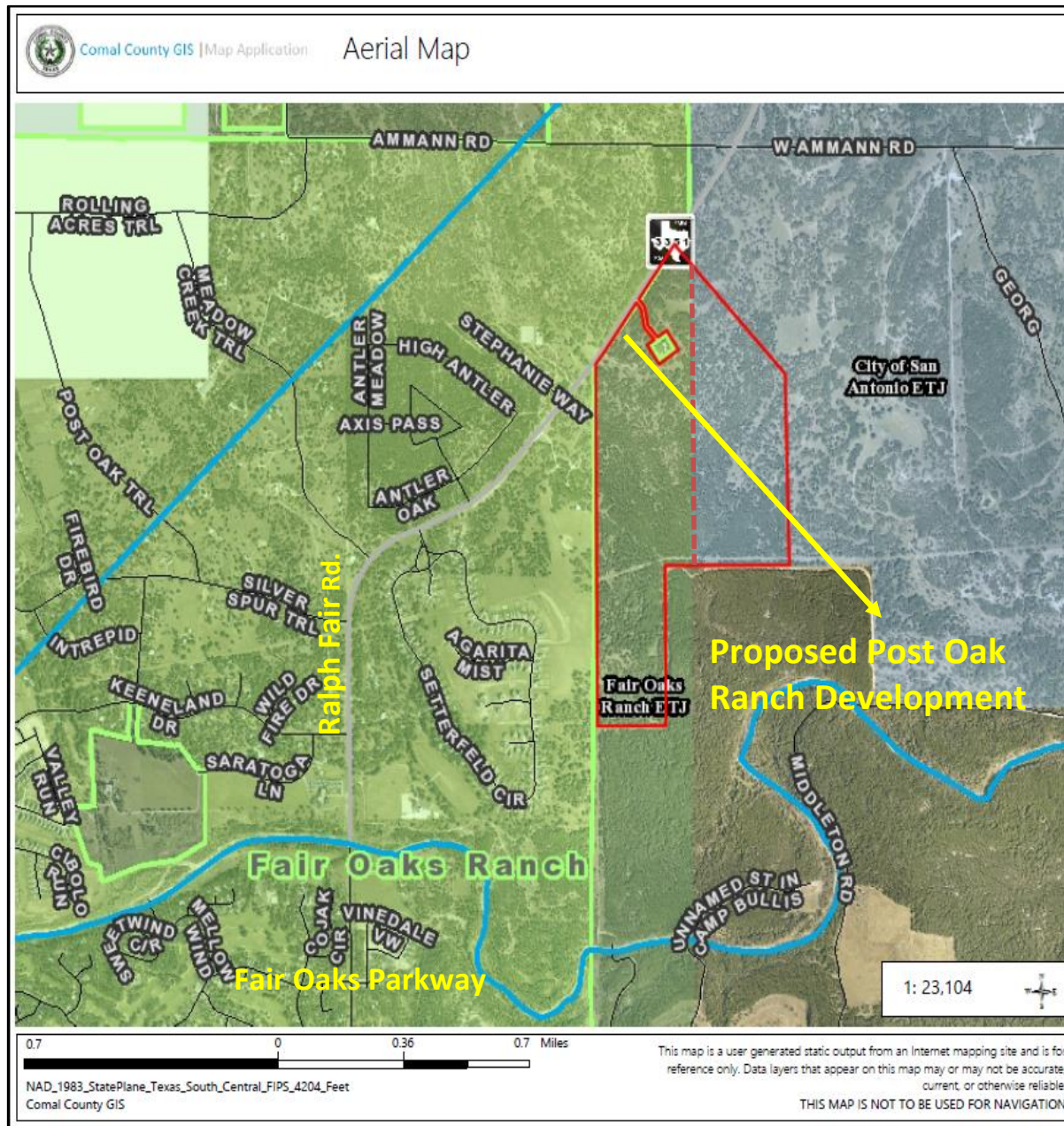
Exhibits

- A. Location Map
- B. Post Oak Ranch Master Plan
- C. Zoning Map
- D. Future Land Use Map (FLUM)
- E. Transportation Map
- F. Master Plan Water Connections By Planning Area (City of Fair Oaks Ranch)
- G. Master Plan Waste-water Connections By Planning Area (City of Fair Oaks Ranch)

Attachments

- A. Development Agreement 2017

Exhibit A: Location Map



Noll Tract Development

Exhibit B: Post Oak Ranch Master Plan

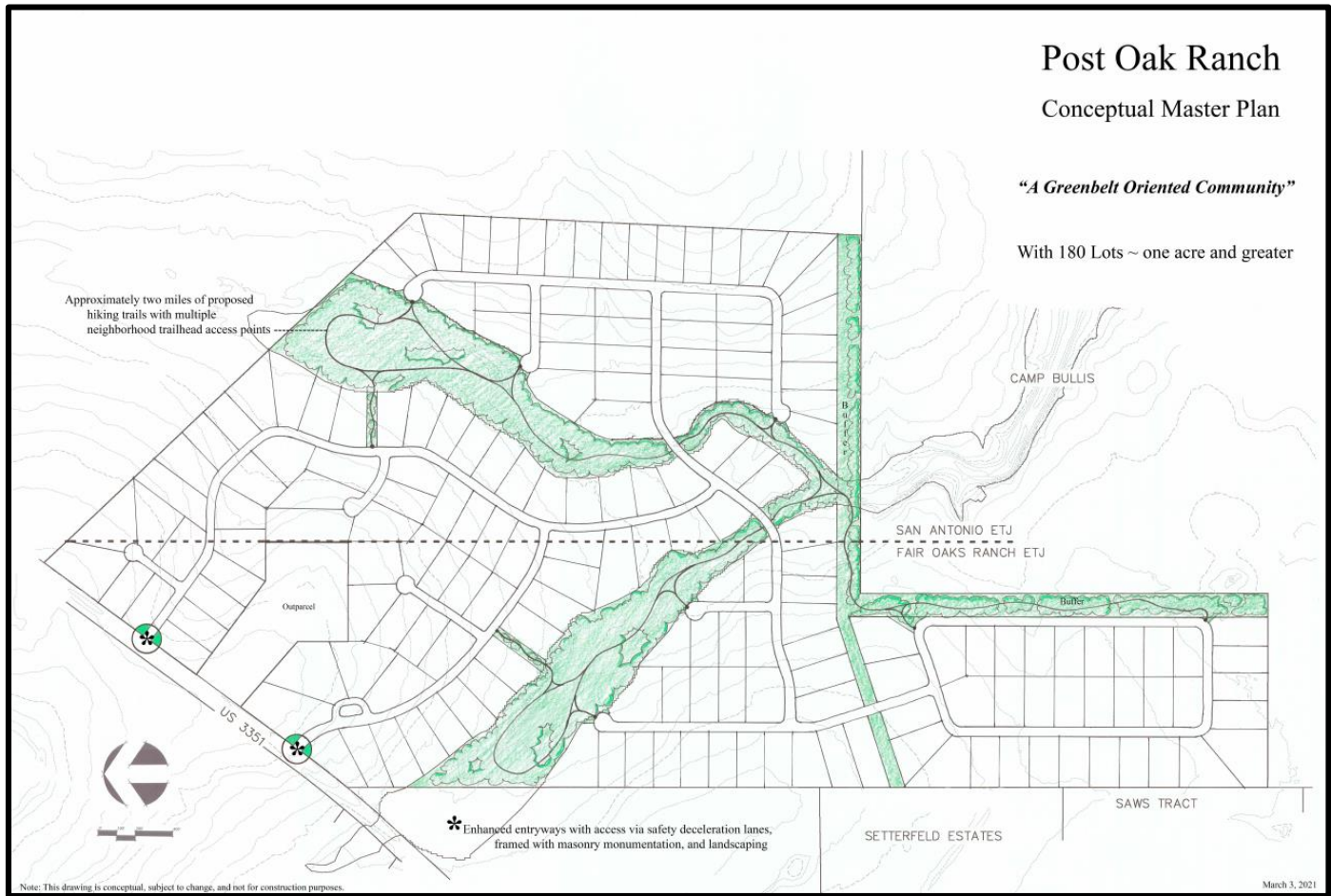
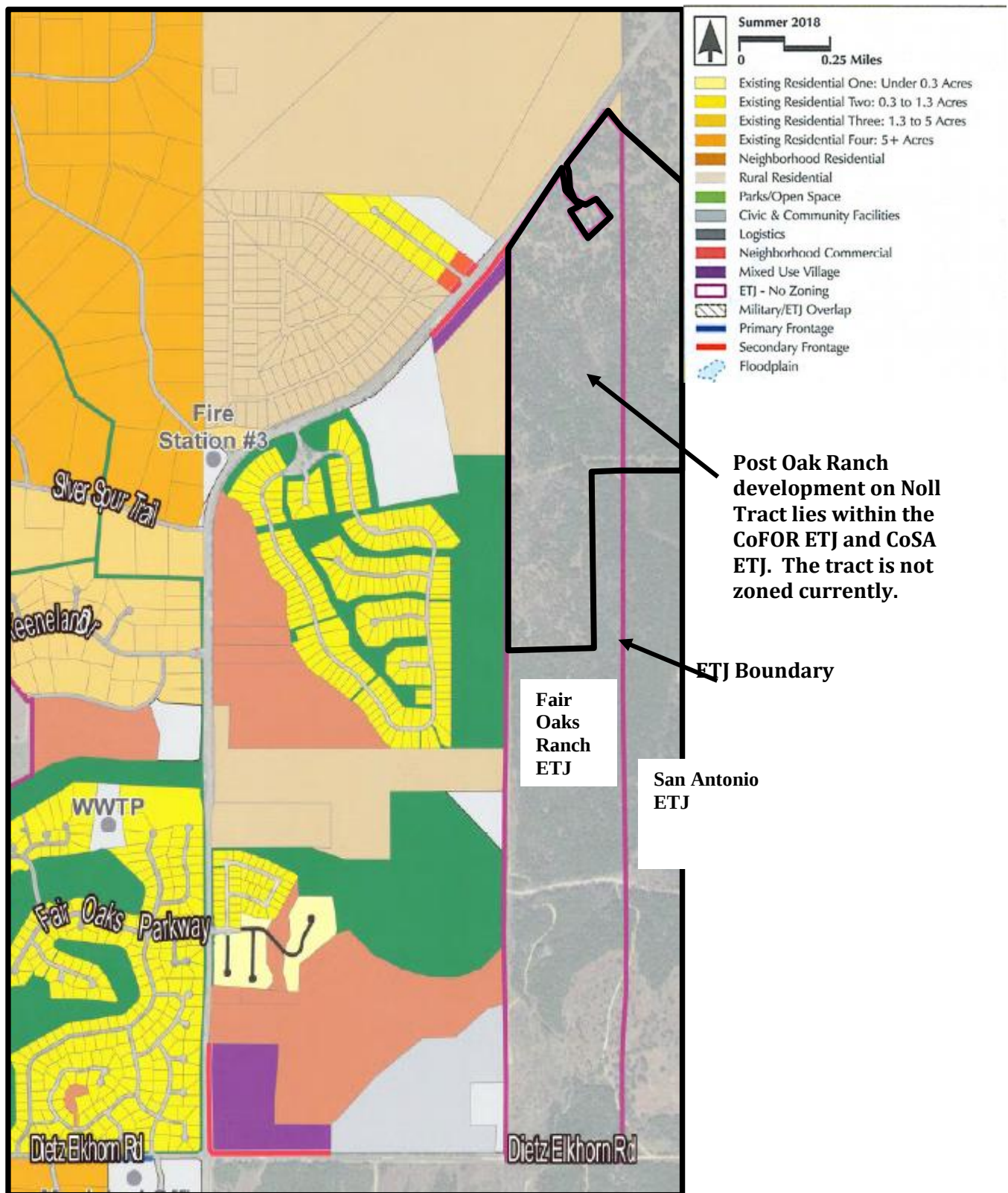
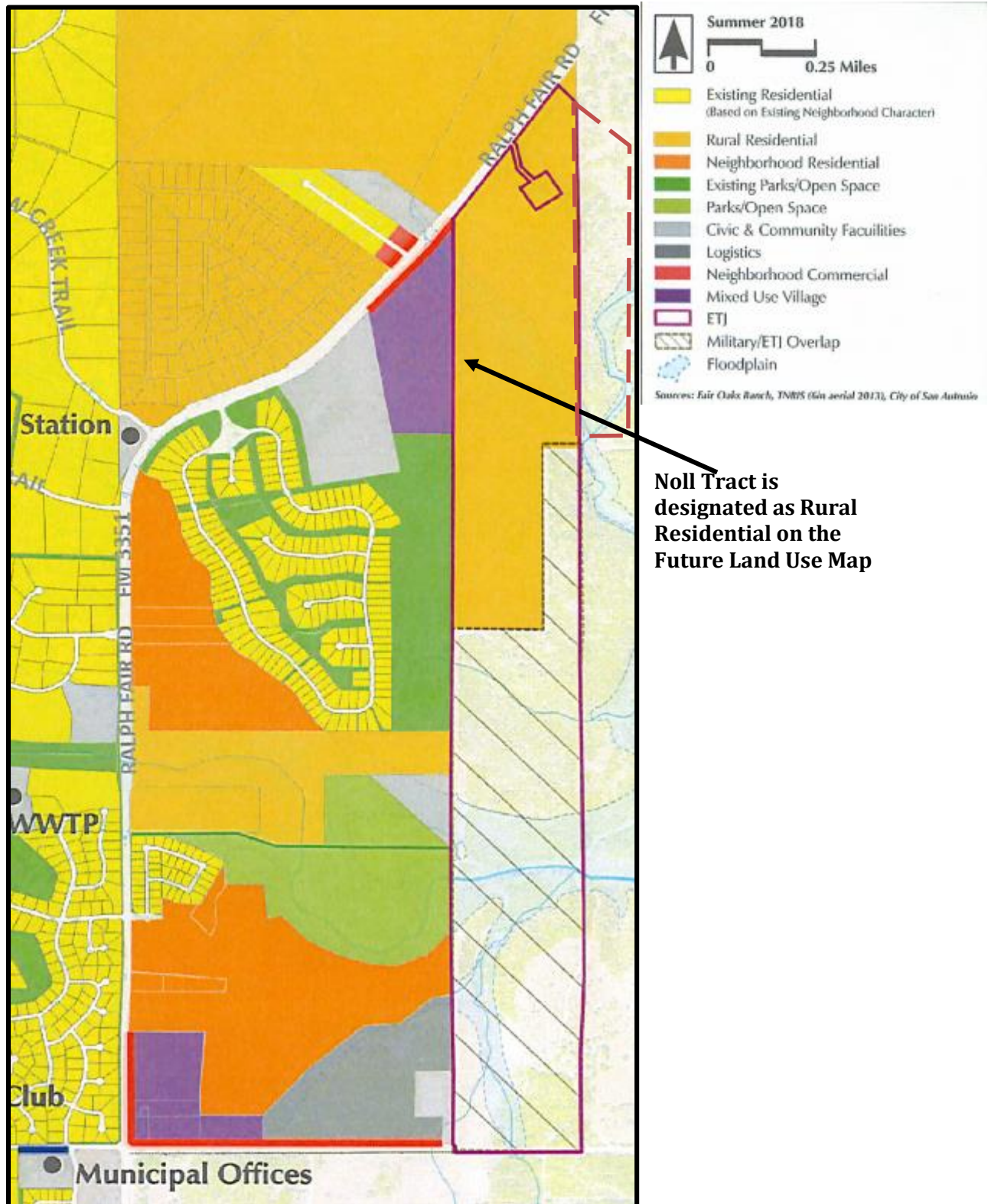


Exhibit C : Zoning Map



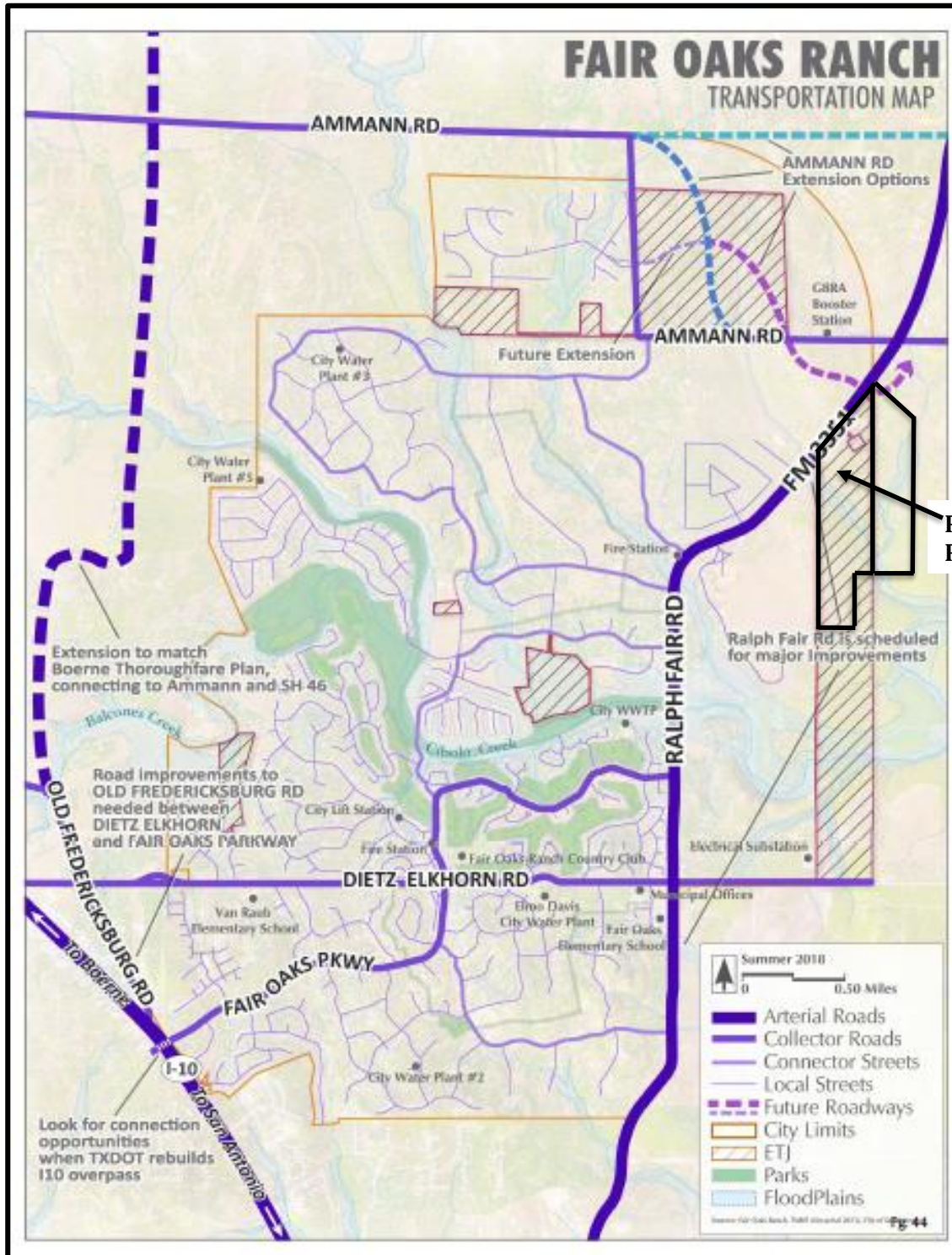
Noll Tract Development

Exhibit D: Future Land Use Map



Noll Tract Development

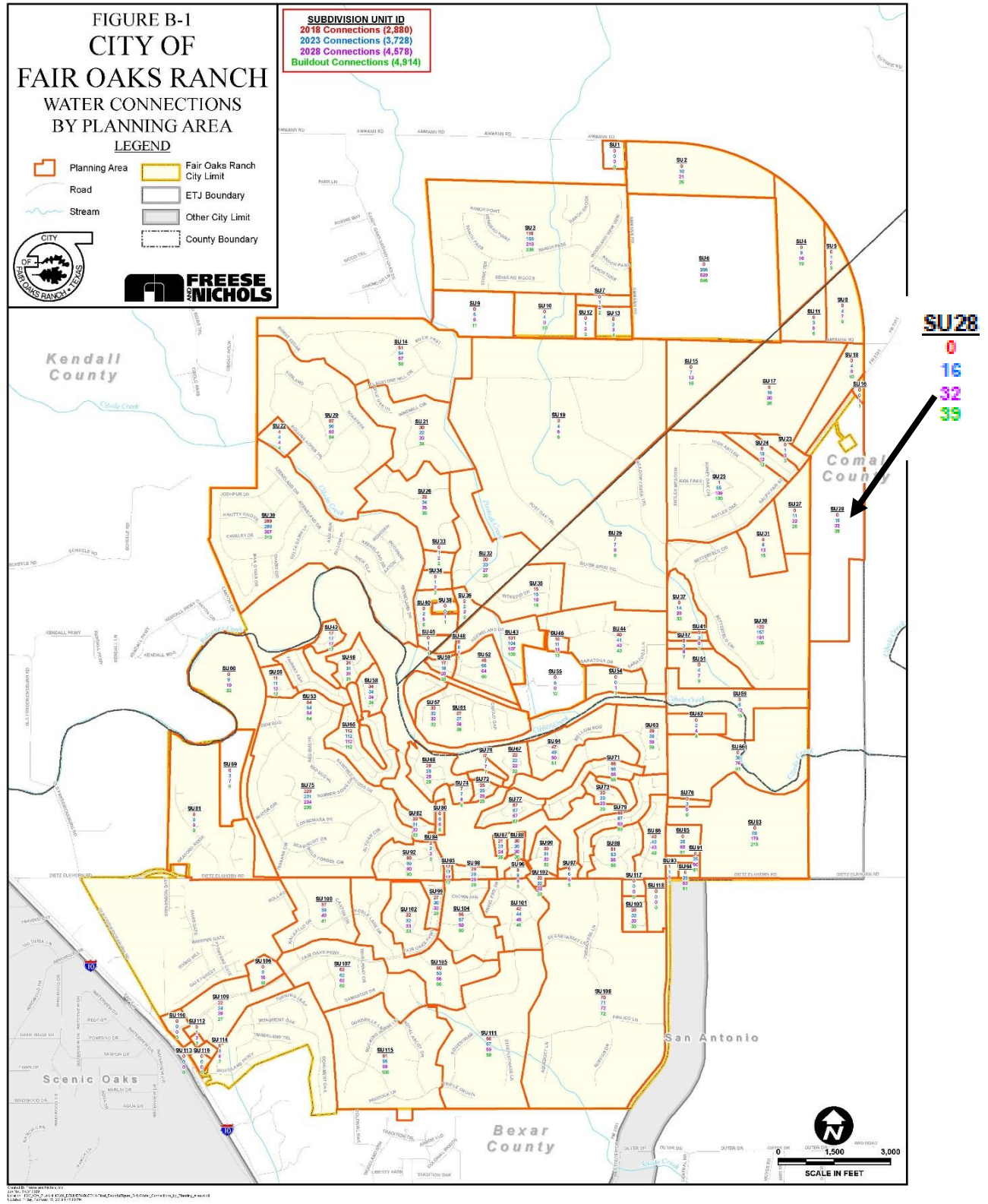
Exhibit E: Transportation Map



Proposed Post Oak Ranch Development

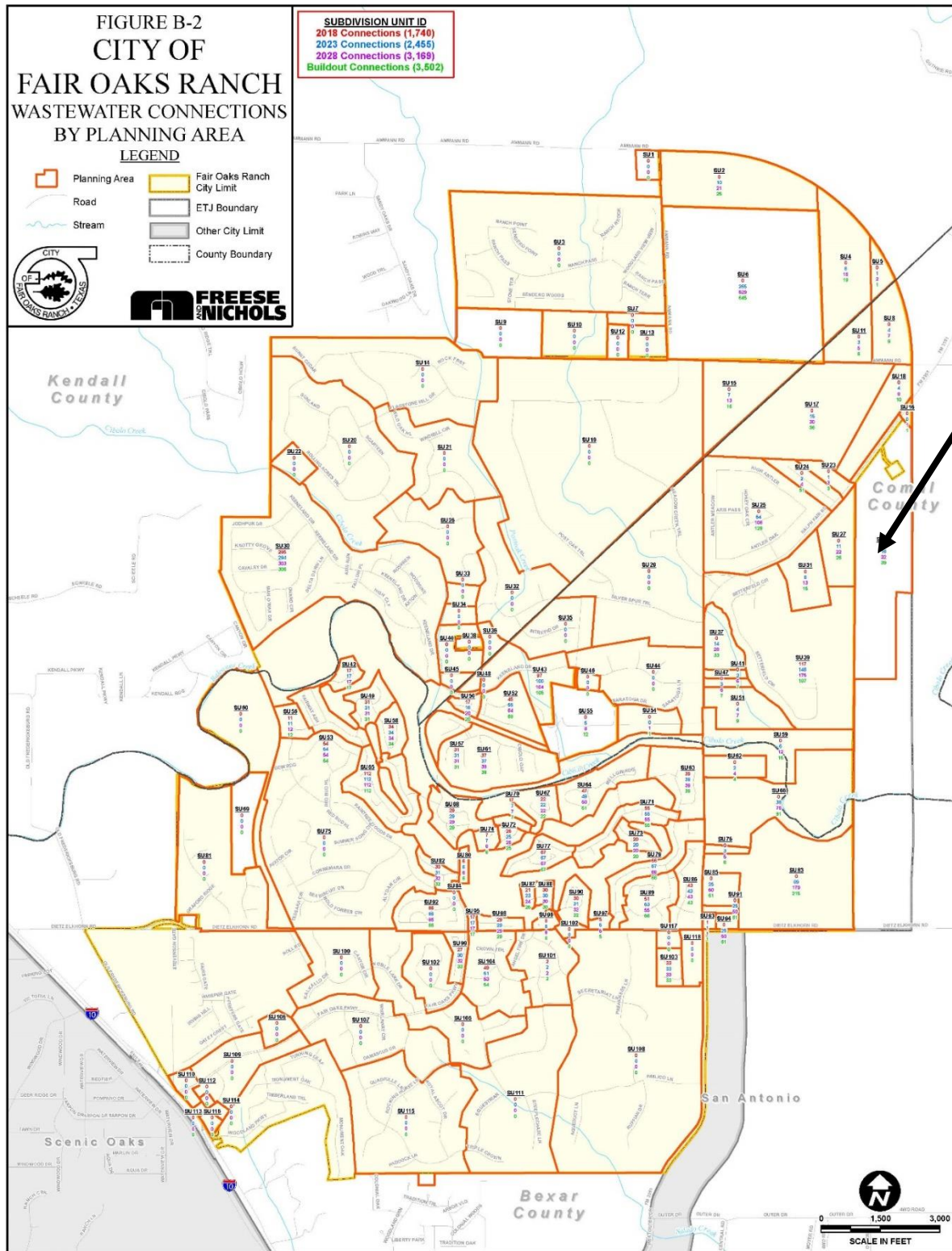
Noll Tract Development

Exhibit F: Master Plan Water Connections By Planning Area



Noll Tract Development

Exhibit G: Master Plan Wastewater Connections By Planning Area



Noll Tract Development



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CITY OF FAIR OAKS RANCH NON- ANNEXATION DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement"), dated Nov 14, 2017 ("Effective Date"), made by and between the CITY OF FAIR OAKS RANCH, TEXAS, a home rule municipality located in Bexar, Comal and Kendal County, Texas ("City"), and EMMELINE K. WHITWORTH ("Landowner");

RUSSEL T. NOII ARTHUR W. NOII
WHEREAS, Landowner owns certain real property located in Comal County, Texas that is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter of the Tax Code ("Tax Exemptions") and such real property being more particularly depicted in **Exhibit A** attached hereto and incorporated into this agreement (the "Property");

WHEREAS, Texas Local Government Code Section 43.035 requires that before unilateral annexation of a property which is appraised for Tax Exemptions that a municipality must offer a development agreement to said property owner pursuant to Texas Local Government Code Section 212.172 that guarantees the continuation of the extraterritorial status of the area for a certain time and authorizes the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

WHEREAS, City and Landowner agree that this Agreement satisfies the requirements of Texas Local Government Code Sections 43.035 and 212.172; and

WHEREAS, in recognition of the mutual benefits to be derived from the controlled development of the Property and its guaranteed continued extra territorial status for a certain time, Landowner and City desire to enter into this agreement, pursuant to §§212.172 and 43.035 of the Local Government Code of the State of Texas, to evidence their agreements with respect to guaranteeing the continuation of the extraterritorial status of the land and its immunity from annexation by the City for a period years, extending the municipality's regulatory authority over the land by providing for all regulations and planning authority of the City that do not interfere with the use of the area for its currently appraised purpose, authorizing enforcement by the City of certain regulations in the same manner the regulations are enforced within the City's boundaries and authorizing enforcement by the City of certain agreed upon land use and development regulations; and

WHEREAS, the City of Fair Oaks Ranch City Council authorized and approved this agreement at a regularly scheduled council meeting in compliance with the Texas Open Meetings Act in

compliance with the laws of the State of Texas and the ordinances and Charter of the City of Fair Oaks Ranch on Nov 29 2017

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained or referred to herein, the receipt and sufficiency of which is hereby acknowledged by the City and the Landowner, the parties hereto agree as follows:

1. The Landowner covenants and agrees not to file a development document, master plan or for plat approval or a permit, not to include permits for uses existing on the date of this agreement ("Existing Uses"), on their respective property until such property has been annexed into the City and zoned pursuant to all applicable laws of the State of Texas and ordinances of the City of Fair Oaks Ranch, said zoning to be at the sole discretion of the City.
2. Land Use. The Landowner further covenants and agrees not use the Property for any use other than the Existing Uses, without the prior written consent of the City, said Existing Uses specifically being uses that allow the Property Owner to retain its current applicable tax exemptions to the Property on the Effective Date of this agreement or those other Existing Uses as listed in **Exhibit B** attached hereto.
3. Municipal Regulations. Those municipal regulations listed in the **Exhibit C** attached hereto and incorporated by reference into this agreement, which both Landowner and City agree do not interfere with the Existing Uses of the Property, are hereby extended to the Property. The Landowner further covenants, agrees and authorizes enforcement by the City of these regulations in the same manner the regulations are enforced within the City's boundaries.
4. Permits and Vested Rights. Pursuant to Texas Local Government Code Section 43.035 this Agreement is not a permit for purposes of Chapter 245 of the Texas Government Code. Additionally, the Landowner and all Landowner's heirs, successors and assigns hereby specifically waive any and all vested rights including rights and claims that they may have under common law, federal case law or Section 43.002 of the Texas Local Government Code related to uses, anticipated uses or potential uses of the Property, other than the Existing Uses.
5. Municipal Services Before and After Annexation. The City shall not be obligated to provide the landowner with any municipal services (such as police protection, fire protection, drainage and street construction, or maintenance), with respect to the Property for the duration of this Agreement. Upon annexation of the Property the City and Landowner hereby agree that the attached **Exhibit D** to this Agreement represents the services to be provided to the Property upon it's annexation, that the municipal services provided for herein after annexation were negotiated between the City and the Landowner and that this Agreement and **Exhibit D** to this Agreement represents compliance with Texas Local Government Code Section 43.0672 enacted by S.B. NO. 6, 85th Legislative Session, 1st C.S., Section 26.

6. Extraterritorial Status. The City hereby guarantees the extraterritorial status of the Property and that it shall not annex the Property for the duration of this agreement. Except that, regardless of how the area is then currently appraised for ad valorem tax purposes, should the Landowner or the Landowner's heirs, successors or assigns file for any type of development document, master plan, plat approval or permit for the area with a governmental entity that has jurisdiction over the area, or change the existing use to a use not allowed hereunder then this provision of the Agreement shall be void pursuant to Texas Local Government Code Section 43.035. Plat is defined as any plat authorized by Chapters 212 or 232 of the Texas Local Government Code, or their successor statutes. Permit is defined the same as in Local Government Code Chapter 245. *CONTINUED ON SIGNATURE PAGE*
7. Voluntary Annexation. Should the Landowner, heirs, successors or assigns file for any type of development document, master plan, plat approval or permit for the area with a governmental entity that has jurisdiction over the area, or change the existing use to a use not allowed hereunder this provision then said action shall be deemed a request for annexation by the City with this agreement serving as the request and the Property shall, at the discretion of the City, be annexed into the City. The Landowner and Landowner's heirs, successors and assigns covenant and agree that such annexation is voluntarily made and is requested. 
8. Amendments. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated except by an agreement in writing signed by all parties hereto.
9. Law Governing. This agreement shall be deemed to be a contract under the laws of the State of Texas which is performable in Pomala, County, Texas, and for all purposes shall be construed and enforced in accordance with and governed by the laws of the State of Texas.
10. Assignment; Binding Effect. The parties may not assign this Agreement to any other person or entity without the prior written consent of the other; provided, however, that no such assignment shall operate to release the assigning party from its obligations hereunder. This Agreement and all of its terms and provisions shall be binding upon and inure to the benefit of the City and the Landowner and their respective successors and assigns, including all future owners of the Property. *ATN 4.5.2017 AWW*
11. Duration; Expiration. This Agreement shall be in effect for ~~15~~ years from the date signed by the parties. Upon the expiration of this Agreement, the Landowner and Landowner's successors, heirs or assigns agree that this Agreement represents a request for annexation and further agree that such annexation is voluntarily made and is requested.
12. Counterparts. To facilitate execution, this Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof. A facsimile transmission shall be deemed to be an original signature.

EXECUTED by the parties hereto to be effective as of the date first set forth above.

City of Fair Oaks Ranch, a home rule
Municipality located in Bexar, Comal and
Kendall County, Texas

By: Tobin E. Maples
Tobin E. Maples
City Manager

Date: 11-29-2017

Landowner:

By: Emmeline K. Whitworth
Signature: Emmeline K. Whitworth

Address: P O Box 392

City: Boerne

State/Zip: Texas 78006

Date: November 14, 2017

By: Arthur W. Noll

Signature: Arthur W. Noll

Address: 13419 Vista del Prado

City: San Antonio

State/Zip: Texas 78216

Date: November 14, 2017

By: Russell T. Noll

Signature: Russell T. Noll

Address: P O Box 77

City: Boerne

State/Zip: Texas 78006

Date: November 14, 2017

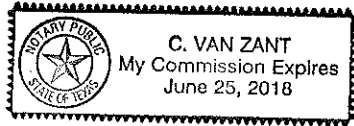


Paragraph 6 Continued: "Notwithstanding the foregoing, the Landowner may construct or cause to be constructed a single-family residential structure and related accessory structures on the Property. If a single-family residential structure is constructed on the Property, the City may annex a portion of the Property that includes the single-family structure and up to three (3) acres of the Property. The configuration of the area around the single-family structure shall be established by a survey prepared by the Landowner in coordination with the City."

STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before on the 29th day of November 2017, by Tobin E. Maples.

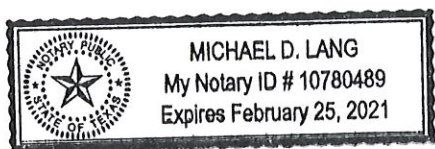


C. Van Zant
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF KENDALL §

This instrument was acknowledged before me on the 14 day of November, 2017, by Emmeline K. Whitworth.

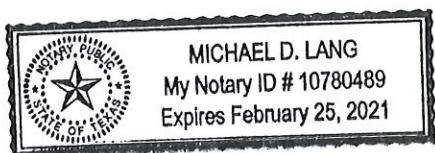


Michael D. Lang
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF KENDALL §

This instrument was acknowledged before me on the 14 day of November, 2017, by Arthur W. Noll.

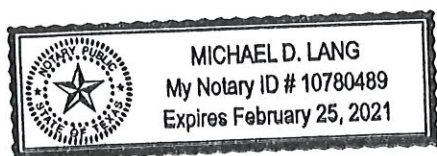


Michael D. Lang
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF KENDALL §

This instrument was acknowledged before me on the 14 day of November, 2017, by Russell T. Noll.



Michael D. Lang
Notary Public, State of Texas

Exhibit A

Subject: Property

WHITWORTH EMMELINE K ET AL

County:	Comal	Exemption:	N/A
Appraisal District Identification Number:	75032	State Code:	D2
Total Acreage:	282.56		
Acres / % in San Antonio ETJ:	111.79 / 39.56%		
Acres / % in Fair Oaks Ranch ETJ:	170.77 / 60.44%		
Site Address:	FM 3351 BOERNE, TX 78006		
Contact Address:	c/o PO BOX 392 BOERNE, TX, 78006		

92

RECORDER'S MEMORANDUM
THIS DOCUMENT WAS OF POOR
QUALITY AT THE TIME OF RECORDING
AND MAY NOT REPRODUCE

Exhibit "B"

- State Tax Code "D2"

ADDED TO EFFECT SCANNING
PER COMAL COUNTY CLERK

ADDED TO EFFECT SCANNING
PER COMAL COUNTY CLERK

Exhibit "C"

- Fair Oaks Ranch, TX Code of Ordinances

ADDED TO EFFECT SCANNING
PER COMAL COUNTY CLERK

ADDED TO EFFECT SCANNING
PER COMAL COUNTY CLERK

CITY OF FAIR OAKS RANCH, TEXAS

SERVICE PLAN FOR 2017 ANNEXATION

AREA ANNEXED

Approximately 282.56 +/- acres of Land, located in Comal County, Texas, as shown on the map attached hereto as "Subject Property".

INTRODUCTION

This service plan has been prepared in accordance with Local Government Code Section 43.056. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the City at the following levels and in accordance with the following schedule.

SERVICES PROVIDED BY THE EFFECTIVE DATE OF ANNEXATION

1. **Police Protection**

The City of Fair Oaks Ranch, Texas and its Police Department will provide police protection to newly annexed areas at the same or similar level of service now being provided to other areas of the City with like topography, land use and population density as those found within the newly annexed areas. The Police Department will have the responsibility to respond to all dispatched calls for service or assistance within the newly annexed areas.

2. **Fire Protection and Emergency Medical Services**

The City of Fair Oaks Ranch, Texas contracts with Leon Springs Volunteer Fire Department for Fire and Emergency Response services and will provide fire protection and emergency response services through that contract to newly annexed areas at the same or similar level of service now being provided to other areas of the City, with like topography, land use and population density as those found within the newly annexed areas.

The City of Fair Oaks Ranch, Texas contracts with Acadian for EMS services and will provide EMS services through that contract to newly annexed areas at the same or similar level of service now being provided to other areas of the City, with like topography, land use and population density as those found within the newly annexed areas.

3. **Maintenance of Water and Wastewater Facilities**

All of the newly annexed properties are/or may be within the service area of Fair Oaks Ranch, Aqua Texas Inc., Enchanted Oaks Water Systems, San Antonio Water System, SJWTX Inc.

All wastewater facilities owned or maintained by the City of Fair Oaks Ranch at the time of the proposed annexation shall continue to be maintained by the City of Fair Oaks Ranch. All wastewater facilities which may be acquired subsequent to the annexation of the proposed areas shall be maintained by the City of Fair Oaks Ranch to the extent of its ownership. The now existing wastewater mains at existing locations shall be available for the point of use extension based upon the City of Fair Oaks Ranch standard extension policy now existing or as may be amended. On-site sewerage systems may be maintained in accordance with the City's Code of Ordinances.

4. **Solid Waste Collection**

The City of Fair Oaks Ranch, Texas contracts with Republic Services for the collection of residential solid waste, refuse, and recycling within the corporate limits of the City and will provide residential solid waste, refuse, and recycling services through that contract to citizens in the newly annexed areas at the same or similar level of service now being provided to other areas of the City with like topography, land use and density as those found within the newly annexed areas. The City may

negotiate with annexed areas to allow continued services with an existing solid waste management provider. After the second anniversary of the annexation date, the City will impose fees and provide the service.

If areas with private roads and/or gates are arranged so that garbage may be collected without creating a safety hazard, the City, at its discretion, may collect the garbage provided proper indemnification is received from the community association or individual property owners. The City will then impose fees and provide the service. Garbage collection locations shall be subject to the approval of the Sanitation Manager. In the event the City does not collect garbage within the areas with private roads and/or gates, residents of these areas will not be billed for service after the two-year date.

5. **Maintenance of Roads and Streets**

Any and all public roads, streets or alleyways shall be maintained to the same degree and extent that other public roads, streets, and alleyways are maintained in areas of the City with like topography, land use and density as those found within the newly annexed areas. Private roads will remain under the ownership of the homeowners association and as such maintained by the association.

6. **Maintenance of Parks, Playgrounds, and Swimming Pools**

The City of Fair Oaks Ranch, Texas is not aware of the existence of any publicly owned parks, playgrounds or swimming pools now located in the proposed areas of annexation. In the event any such parks, playgrounds, or swimming pools do exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas. Private facilities will remain under the ownership of the homeowners association and as such maintained by the association.

7. **Maintenance of any Publicly owned Facility, Building or Municipal Service**

The City of Fair Oaks Ranch, Texas is not aware of the existence of any publicly owned facility, building, or other municipal service now located in the proposed areas of annexation. In the event any publicly owned facility, building, or other municipal service does exist and are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with like topography, land use and density as those found within the newly annexed areas.

8. **Other Services**

The City of Fair Oaks Ranch, Texas finds and determines that such services as planning, code enforcement, animal control, library, parks and recreation, court and general administration will be made available after the effective date of annexation at the same or similar level of service now being provided to other areas of the City with similar topography, land use and density as those found within the newly annexed areas.

CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS TO BE COMPLETED WITHIN 2 ½ YEARS

1. **Police and Fire Protection and Solid Waste Collection**

The City of Fair Oaks Ranch, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas for the purpose of providing police protection, fire protection, emergency medical services or solid waste collection. The City finds and determines that it has at the present time adequate facilities and other resources to provide the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of Fair Oaks Ranch, Texas with like topography, land use and population density as those found within the newly annexed areas.

2. **Wastewater Facilities**

For the next 2 ½ years, the City of Fair Oaks Ranch finds and determines that there is sufficient capacity for wastewater to provide services to the annexed areas pursuant to the City of Fair Oaks Ranch's extension policies. The construction of any capital improvements necessary to extend water and wastewater services to an annexed area will be completed pursuant to Chapter 43 of the Texas Local Government Code, as amended and the City Code of Ordinances.

3. **Roads and Streets**

The City of Fair Oaks Ranch, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas.

4. **Maintenance of Parks, Playgrounds, and Swimming Pools and Any Other Publicly Owned Facility, Building, or Service**

The City of Fair Oaks Ranch, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed areas for the purpose of parks maintenance, playgrounds, swimming pools and other publicly owned facility, building or service.

SPECIFIC FINDINGS

The City of Fair Oaks Ranch, Texas, finds and determines that this proposed service plan will not provide any fewer services and will not provide a lower level of service in the areas being considered for annexation that were in existence in the proposed areas at the time immediately preceding the annexation process. Given the proposed annexation areas' topography, land utilization and population density, the service levels to be provided in the newly annexed areas will be equivalent to those provided to other areas of the City with similar characteristics.

TERMS

This plan shall be valid for a term of ten (10) years. Renewal of the Service Plan is at the discretion of the City of Fair Oaks Ranch.

LEVEL OF SERVICE

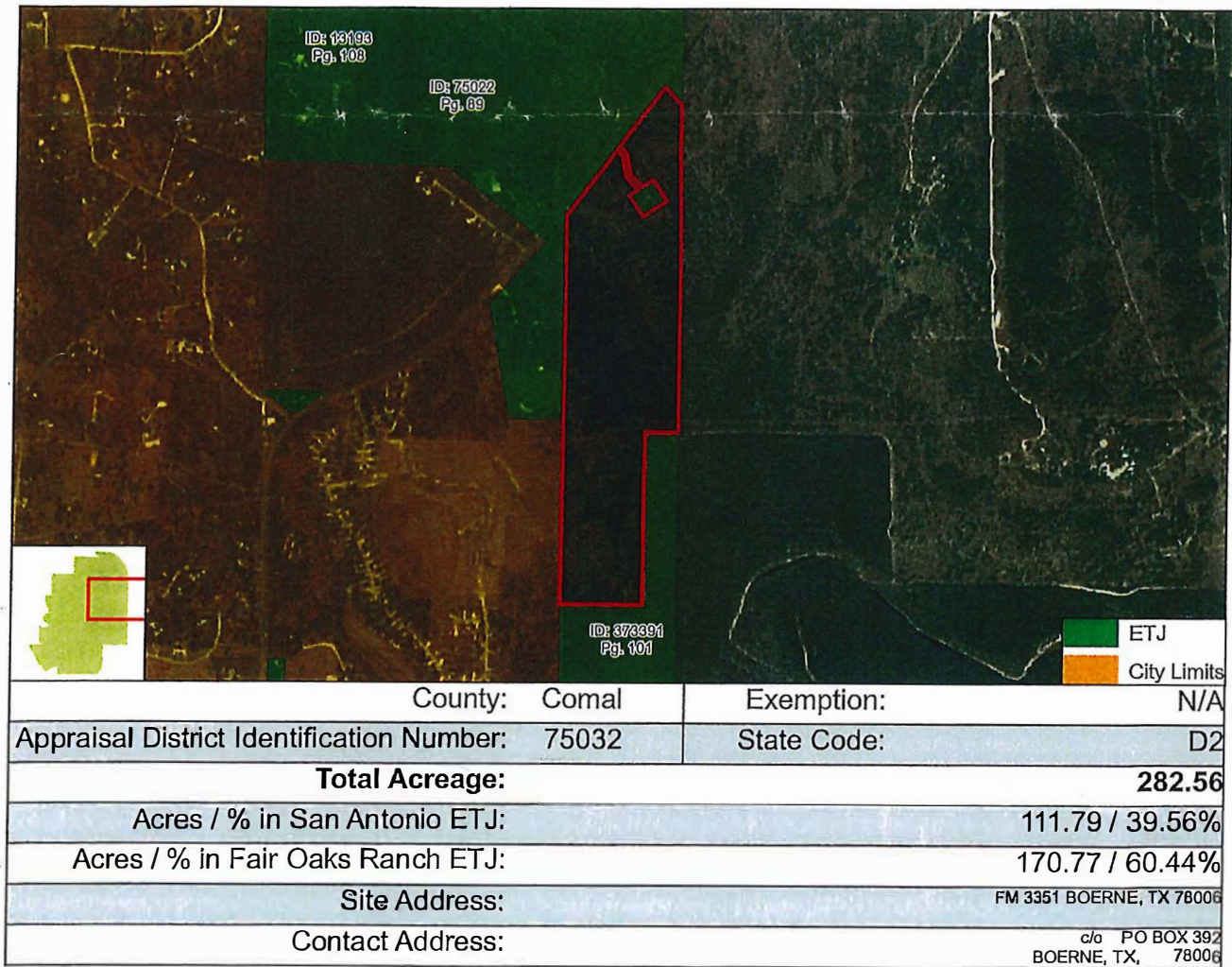
Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

AMENDMENTS

The plan shall not be amended unless public hearings are held in accordance with Chapter 43 of the Texas Local Government Code.

Exhibit A

Subject: Property

WHITWORTH EMMELINE K ET AL

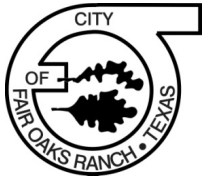
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RECORDER'S MEMORANDUM
THIS DOCUMENT WAS OF POOR
QUALITY AT THE TIME OF RECORDING
AND MAY NOT REPRODUCE

Filed and Recorded
Official Public Records
Bobbie Koepp, County Clerk
Comal County, Texas
12/11/2017 03:10:34 PM
LAURA 13 Page(s)
201706053598



Bobbie Koepp



PLANNING & ZONING CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
May 13, 2021

AGENDA TOPIC: Discussion on the proposed amendments to the Unified Development Code – Session 5

DATE: May 13, 2021

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Katherine Schweitzer, P.E., Manager of Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Gunda Corporation

INTRODUCTION/BACKGROUND:

This is Session 5 of the discussion on the proposed amendments to the Unified Development Code. Prior work sessions were held on March 11, 2021, March 25, 2021, April 8, 2021, and April 22, 2021.

Tonight's discussion will focus on the proposed amendments items listed in the attached memo.

LEGAL ANALYSIS

Legal has reviewed and provided input.

RECOMMENDATION/PROPOSED MOTION:

Provide input on the proposed.

City of Fair Oaks Ranch
Proposed Unified Development Code Amendments
Session 5

1. Subdivision/Platting
 - a. Observation – Alignment of Review and Approval Authority with State Statutes – Platting Procedures and Others
 - b. Observation – Exception to Standard Review Period
 - c. Observation – Completion of Public Improvements
 - d. Observation – Easements and Encroachments
 - e. Observation – Establishment of Engineering Standards
2. Nonconforming Uses
Observation – Clarity on Nonconforming Uses and Buildings
3. Requirements for Drainage Review
Observation – Clarity of Elevation Certificate Requirement
4. Special Exception
 - a. Observation – Contradictory Language on Approval Authority
 - b. Observation – City Manager’s Recommendation on Special Exceptions
5. Overlapping Authority
6. Unclear and Missing Definitions
7. Comprehensive Plan Objectives

1. Subdivision/Platting

a. **Observation** - Alignment of Review and Approval Authority with State Statutes – Platting Procedures and Others.

Currently, as per Section 2.3 – Administrative Officials and Review Entities - Planning & Zoning Commission, the City Council takes final action on preliminary plats. This additional step lengthens the development permit timeline and is not required. According to Texas Local Government Code (TXLGC) Chapter 212.006, “the municipal authority responsible for approving plats under this subchapter is the municipal planning commission, or if the municipality has no planning commission, the governing body of the municipality. The governing body by ordinance may require the approval of the governing body in addition to that of the municipal planning commission.”

✓ **Recommendation**

Adopt more efficient and streamlined processes where permitted by state statutes and reduce City Staff “touch-time” on applications. Consider eliminating City Council approvals for plats. Ensure consistency in all chapters regarding procedures.

- i. A plat submittal schedule has been prepared and is being used by staff over the past few months. The schedule includes submittal deadlines, completeness checks, review times, and approval dates, in conformance with the requirements of the Texas Local Government Code (TXLGC).
- ii. Currently, the approval process for plats, not approved administratively, requires final approval from the City Council, after a recommendation from the P & Z. It was previously discussed that the TXLGC has a provision for P & Z to be the final authority on the approval of plats, and not require City Council approval. As per the outcome of that discussion, no changes are proposed to the current process.

b. **Observation** – Exception to Standard Review Period

Exceptions to standard review periods for Preliminary and Development Plat, as written in Section 3.5 (3), indicate that the approval of a 30-day extension period is deemed as a denial.

✓ **Recommendation**

Deeming a plat “denied” only serves to complicate the process, as it would require the applicant to reapply, pay the application fees, and restart the application process. This provision may also be in conflict with TXLGC requirements. Removal of this sentence would ensure that there is no confusion and TXLGC requirements are followed.

3.5 (3) Exception to Standard Review Period

- a) *The standard review period for any application may be extended one time for a period not to exceed thirty (30) days if a review body or final action authority requests additional studies or*

information concerning the application. Such an extension may not be granted after an applicant has requested final action. ~~**For purposes of a Preliminary Plat or Development Plat, when a 30-day extension has been issued, the application is deemed to have been denied but still subject to review by the City of the applicable review authority.**~~

c. Observation - Completion of Public Improvements

Section 3.8 does not address the timelines for preliminary and final plat approvals, and the approval, construction, and acceptance of public improvements in a clear manner. Additionally, the surety requirements are ambiguous. It is not clear that all private improvements are required to be built to City standards.

✓ **Recommendation**

Modify this section to clarify the process is a sequential manner, while clearly explaining the surety option and requirements. Clarify that all private improvements are required to be built to City standards. Add definition to clarify public and private improvements. Incorporate the shot clock provisions.

Section 3.8 Subdivision and Property Development Related Applications

g. The Commission will act on a plat within 30 days after the date a complete application for the plat is filed. A plat is considered approved by the Commission unless it is disapproved within that period. The City Council will act on the plat within 30 days after the date ~~the Plat is acted on by the Commission.~~ a complete submission is received and after a recommendation has been made by the Planning and Zoning Commission. A plat is considered approved by the City Council unless it is disapproved within that period.

Section 3.8 Subdivision and Property Development Related Applications

(1) Preliminary Plat Review.

a. Applicability:

- i. Other than for an Administrative Plat Review identified in Section 3.8(2) Preliminary Plat approval will be required before any land is subdivided.*
- ii. Preliminary Plats are required for land being divided into separate parcels, plats with five or more lots, and any plats that require a dedication of land to the City.*
- iii. It will be unlawful to offer and cause to be recorded any Preliminary Plat of land within the City limits or extraterritorial jurisdiction of City with the appropriate County Clerk by any party other than the City Manager or another duly authorized representative of the City.*

b. Preliminary Plat Application Requirements:

- i. Engineering Information. Submission requirements for the Preliminary Plat will be established by the Administrative*

- Procedures Manual** ~~City Manager~~, and will include basic engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision (Detailed engineering information will be required for the Final Plat).
- ii. **Signature Block**. A plat submitted for consideration as a Preliminary Plat is not required to have an area or signature block for any endorsement and approval by the City Council, as is required to file the Final Plat with the appropriate County Clerk.
 - iii. **Approved Concept Plan**. No Preliminary Plat for a project requiring a Concept Plan may be submitted without a copy of the approved Concept Plan.
- c. **Approval Criteria**. Subdivisions and plats of land will be reviewed using the criteria specified or referenced in this Code.
 - d. **Waivers**. The Commission may recommend to City Council the approval, approval with conditions, or disapproval of waivers of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9.
 - e. **Responsibility for Final Action**. The Commission will make recommendations regarding Preliminary Plat approval and forward its recommendation to the City Council for final action.
 - f. **Action Following Preliminary Plat Approval**. After approval of a Preliminary Plat, the Subdivider will prepare and submit a Final Plat.
- (2) Final Plat Approval.
- a. **Applicability**:
 - i. **Preliminary Plat**. Final Plats are technically complete versions of an already approved Preliminary Plat. No Final Plat may be considered or approved unless the Preliminary Plat for the same land has been approved **and the City Manager (or designee) has approved the construction plans**.
 - ii. **Review**. Final Plat review is required to ensure that a final recorded plat includes final engineering diagrams and descriptions that conform to the Preliminary Plat as approved by the City Council. The Final Plat must incorporate all changes from the Preliminary Plat that were considered and approved by the City Council.
 - b. **Final Plat Application Requirements**:
 - i. ~~**Engineering Information**~~ ~~**Submission requirements for the Final Plat will be developed by the City Manager, and will include detailed engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision.**~~ **Construction Plan**. The City Manager (or designee) must approve a construction plan **for all public or private improvements (as defined in this UDC) in compliance with this Code and any required or agreed upon improvements prior to**

submittal of Final Plat for consideration.

- ii. Support Documentation. When filed, the Final Plat must also provide all support documentation required by the appropriate County Clerk's office for recordation.
- iii. Signature Block. A plat submitted for consideration as a Final Plat must have an area or signature block for any endorsement and approval by the City Council, as required to file the Final Plat with the appropriate County Clerk.
- iv. Fiscal Security. **If public improvements are not completed and accepted prior to a** plat submitted for consideration as a Final Plat, **e** Estimates for posting fiscal surety for landscaping requirements, maintenance, erosion and sedimentation control, roads, and utilities are also required for Final Plat review.
- c. Approval Criteria:
 - i. Review. Subdivisions and plats of land will be reviewed using the criteria in this Code and any technical criteria referenced by this Code.
 - ii. Preliminary Plat. A Final Plat must be determined to be consistent with a previously approved Preliminary Plat.
 - iii. **Construction Plan. A Final Plat must be determined to be consistent with a previously approved Construction Plan.**
 - iv. **Construction Plan. The City Manager (or designee) must approve a construction plan for compliance with this Code and any required or agreed upon improvements prior to consideration of Final Plat for approval.**
- d. Responsibility for Final Action. The Commission will make recommendations regarding Final Plat approval and forward those recommendations to the City Council for final action.

Recordation. If the City Council has approved the plat, the City Manager (or designee) has approved the construction plans, and the Subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements **that have been accepted by the City**, the Final Plat becomes the instrument to be recorded in the Office of the appropriate County Clerk when all requirements have been met. The Subdivider will pay **all associated fees the record filing fee and the City will file the Final Plat prior to the final plat being recorded** with the appropriate County Clerk within 60 days.

Add the following definition:

Section 13.2

Public or Private, Improvements - May also be referred to as Public or Private Facilities. - A water, wastewater, roadway, drainage, electric or park facility or amenity that is a part of one or more of the City's public facilities systems or private facilities system tied to the infrastructure network or system that serve the general public, and which are required to be designed to the specifications and standards

outlined in the City of Fair Oaks Ranch Engineering Design Standards Manual . These are distinguished from private service systems which solely serve a structure or private property, and which are typically constructed under the issuance of a building or trade (plumbing, electrical, etc.) permits.

d. Observation – Establishment of Engineering Standards

Plat submittals require inclusion of engineering standards established by the City Manager with the submission. Engineering standards need to be established within this document, not by the City Manager.

✓ **Recommendation**

Frame and adopt engineering standards (Engineering Design Standards Manual) as part of the UDC with input from staff, PI &Z, and City Council.

Section 3.8 Subdivision and Property Development Related Applications

(3) *Preliminary Plat Review.*

a. Applicability:

- i. *Other than for an Administrative Plat Review identified in Section 3.8(2) Preliminary Plat approval will be required before any land is subdivided.*
- ii. *Preliminary Plats are required for land being divided into separate parcels, plats with five or more lots, and any plats that require a dedication of land to the City.*
- iii. *It will be unlawful to offer and cause to be recorded any Preliminary Plat of land within the City limits or extraterritorial jurisdiction of City with the appropriate County Clerk by any party other than the City Manager or another duly authorized representative of the City.*

b. Preliminary Plat Application Requirements:

- i. Engineering Information. *Submission requirements for the Preliminary Plat will be established by the City Manager, and will include basic engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision (Detailed engineering information will be required for the Final Plat). **Refer to the City's adopted Engineering Design Standards Manual contained in this UDC.***

e. Observation – Easements and Encroachments

The UDC does not require that the easements be established during platting. Currently, easements are routinely established as a separate instrument after the recordation of a plat, resulting in confusion, misrepresentation of development rights, and encroachments. Additionally, the process of permitting encroachment or width of easements are not addressed.

✓ **Recommendation**

Consider requiring all necessary on-site easements to be established during the platting process and discourage establishment of easements by a separate instrument.

Section 5.6 Easements:

*(1) Dedication Required. Where necessary to adequately serve a subdivision with public utilities, the Subdivider will dedicate or grant easements for poles, wires, conduits, drainage channels, stormwater, water, wastewater and other utilities. **These easements shall be at least 15 feet wide, except that where an easement contains multiple utilities and the City determines that a greater width is necessary, the City may require a minimum width of up to 20 feet. In certain circumstances, additional width may be required if necessary, by the City or the utility provider. All necessary on-site easements should be established during the platting process and establishment of easements by a separate instrument is discouraged.***

(2) Location of Easements. The easements required under this Section will be continuous for the entire length of the block. These easements will parallel as closely as possible the street line frontage of the block. Easements may not straddle but may cross property lines, and they may cross lots other than along lot boundary lines, if in the opinion of the City Manager (or designee), such locations are needed.

(3) Access to Easements. Drainage easements are not permitted to be enclosed by a fence or gate, except to contain a basin or pond in accordance with TCEQ. All fences crossing an easement will have double swing gates to allow ready access to the easement. The minimum width of the opening will be no less than 12 feet.

(4) Additional Easements for Guy Wires. Where aboveground utility easements or alleys are not straight within each block, or if they do not connect on a straight course with the utility easements or alleys of adjoining blocks, then additional easements will be provided for the placing of guy wires on lot division lines in order to support poles set on the curving or deviating easement lines or alley ROW.

(5) Encroachments on Easements. No structure or equipment shall be placed within any easement dedicated pursuant to this UDC unless the person or entity wishing to place such structure or equipment has first obtained written consent to encroach from all holders of the right to use said easement. A fence or screen shall be permitted over any utility easement only if approved by the City Manager or designee and provided that the easement remains fully accessible to the City for maintenance and repair purposes. A fence or screen shall be permitted over any drainage easement if the water flow within the easement is not adversely affected by the fence or screen. In addition to all other remedies provided by this Unified Development Code, the City may summarily remove any 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 fence or screen.

(6) Overhang Easements. Where utilities are not located in alleys, an overhang easement at least six feet wide must be provided on the

opposing side of the 15-foot easement strip, at a height at and above 10 feet. In all alleys, overhang easements at least six feet wide must be provided on each side of the alley for electric and telephone lines, at a height at and above 10 feet.

2. Nonconforming Uses

Observation – Clarity on Nonconforming Uses and Buildings

The treatment of nonconforming uses and nonconforming buildings is not adequately distinguished and clarified. Expansions and change of nonconforming uses are not addressed. The UDC provides limited guidance on nonconforming uses and structures.

✓ **Recommendation**

Distinguish between nonconforming use and nonconforming buildings. Address reconstruction of nonconforming buildings, re-establishing nonconforming uses, reuse of existing nonconforming buildings, and expansions in a clear manner. Establish standards for nonconforming uses, nonconforming structures, and nonconforming lots, and add triggers that require compliance for proposed improvements.

Section 4.14 Nonconforming Uses

(1) Purpose

*Nonconforming uses are lawful uses within a zoning district that do not conform to the requirements of this UDC when it **is was** adopted, or when any amendments thereto, take effect. The purpose of this section is to provide for recognition of such uses and procedures for bringing such uses into conformance.*

(2) Description

a. Any use of property existing at the time of the passage of this section of the UDC or that exists when land is annexed into the city that does not conform with the regulations prescribed in the preceding sections of this UDC shall be deemed a nonconforming use, except that any single-family use existing at the time of passage of this UDC shall be thereafter deemed a conforming use.

b. A nonconforming use of land may be continued, but if said nonconforming use is discontinued for a period of time in excess of six (6) consecutive months, any future use of said premises shall be in conformance with the provisions of this UDC.

c. A nonconforming use of a building may be continued although such does not conform to the provisions hereof, and such use may be extended throughout the building provided no structural alterations except those required by law or ordinance are made therein.

~~e.d.~~ The right to maintain the nonconforming use shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, in the judgment of the Zoning Board of Adjustment, be reasonably required for the protection of adjacent property.

***f.e.** A nonconforming use **or building** shall not be extended or rebuilt in case of obsolescence **as per Section 4.14 (2)(d) above** or total destruction by fire or*

other cause. In cases of partial destruction by fire or other causes, not exceeding fifty (50) per cent of its value, the building inspector shall issue a permit for reconstruction **and continuation of the previously existing non-conforming use where no expansion or changes are proposed to the foot print.** If greater than fifty (50) per cent and less than the total, the Zoning Board of Adjustment, may grant a ~~permit~~ **Special Exception** for repair after public hearing **(similar to a variance)** and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and of the conservation and preservation of property.

g.f. A violation of this UDC provision and a request for a nonconforming designation or request for relief under this designation shall not create an estoppel of the trial of any lawsuit which may be filed in any court.

h.g. Notwithstanding any other provisions of this chapter, any legal nonconforming use of property existing as of March 1, 2018, that does not conform to the regulations prescribed in the UDC of the City of Fair Oaks Ranch, shall be deemed a non-conforming use, subject to the provisions contained in this section.

i. A non-conforming use and/or a non-conforming structure shall not be expanded or enlarged. The Zoning Board of Adjustment may grant a Special Exception for expansion of a non-conforming use and/or enlargement of a non-conforming structure after a public hearing (similar to a variance) and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and/or structure and of the conservation and preservation of property.

3. Requirements for Drainage Review

Observation – Clarity of Elevation Certificate Requirement

The UDC is not clear on when an elevation certificate is required - when the structure is built in the 100 year flood plain or when there is any flood plain shown on the property. City's practice has been to require an elevation certificate when there is flood plain on the property. Also, Section 9.7 (1)(b)(iii) contains duplication and incomplete sentences.

✓ **Recommendation**

Clarify the requirement.

Section 9.7 (1)(b)(iii) For properties that contain any flood plain as per FEMA maps a completed Elevation Certificate with the necessary base flood elevations, hydrological and hydraulic data as needed, and a letter of No-Adverse-Impact, prepared by a professional engineer or surveyor, must be submitted when the structure is completed ~~completed~~ and ready for habitation. ~~for residential structures~~

4. Special Exception

a. Observation – Section 3.9 (5) on Special Exception has contradictory language on

the approval authority.

✓ **Recommendation**

Change the text to indicate that Zoning Board of Adjustment has the authority to approve Special Exceptions.

Section 3.9 (5) Special Exception

a. Applicability:

- i. Application. The City Manager **or designee will** ~~may~~ request that the Zoning Board of Adjustment consider a Special Exception if an application for one is received.
- ii. Circumstances. In order to provide a method by which human error (e.g., miscalculations) may be corrected, Special Exceptions may be permitted. Special Exceptions are specified deviations from otherwise applicable development standards where development is proposed that would be:
 1. Compatible with surrounding land uses.
 2. Harmonious with the public interest.
 3. Consistent with the purposes of this Code.
- iii. The Board will have the authority to authorize an adjustment of up to ten (10) percent of any numerical standard.
- iv. Special Exceptions require compliance with all other elements of this Code not specifically excused or permitted by the Special Exception.
- b. Application Requirements for Special Exceptions. Applications for Special Exceptions must be made in a format consistent with requirements established by the City Manager or designee. Applications must include all materials determined necessary by the City Manager **or designee**.
- c. Approval Criteria. To approve an application for a Special Exception, the **City Council Zoning Board of Adjustment** must determine that granting the Special Exception will:
 - i. Serve an obvious and necessary purpose,
 - ii. Ensure an equal or better level of land use compatibility than the otherwise applicable standards,
 - iii. Not materially or adversely affect adjacent land uses or the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks or other land use considerations.
 - iv. Not adversely affect adjoining property values in any material way.
 - v. Generally consistent with the purposes and intent of this Code.
- ~~d-ii.~~ Responsibility for Final Action. The Zoning Board of Adjustment is responsible for final action.

b. Observation – City Manager’s Recommendation on Special Exceptions

Section 3.9(9)(a)(iv) – Minimum or Maximum Measurement indicates that any Variance request up to 10% of any minimum or maximum measurement may be treated as Special Exception, upon the City Manager’s approval. It is not clear if requiring City Manager’s approval is in conformance with TXLGC or a desirable administrative discretion.

✓ **Recommendation**

Remove the sentence requiring City Manager’s recommendation and refer to the Special Exception process in the UDC.

Section 3.9(9) Variance

a. Applicability:

- ii. Judicial Variance. *The Zoning Board of Adjustment will have the authority to hear and grant requests for a Variance or exception to the zoning-related terms of this Code.*
- iii. Policy Variance. *The City Council will have the authority to hear and grant requests for a Variance from all other development standards (except use standards) of this Code upon the recommendation of the Planning and Zoning Commission.*
- iv. Waivers. *Waivers of the standards required for plat approval are not considered Variances and must be requested from the Planning and Zoning Commission and then the City Council during the plat review process.*
- v. Minimum or Maximum Measurement. *Any Variance request up to ten (10) percent of any minimum or maximum measurement required by this Code may be treated as a Special Exception **as per Section 3.9 of this Unified Development Code** if the City Manager agrees to recommend the Special Exception.*
- vi. Precedent. *A Variance to the development standards of this Code will be considered an exception to the regulations contained herein. Granting of a Variance in one case does not set a precedent for a subsequent case. Each Variance request will be judged on its own merit based on subparagraph (b) below.*

5. Overlapping Authority

Observation - The UDC does not sufficiently delineate approval authority between the City Manager, Planning & Zoning Commission, and Zoning Board of Adjustment. The City Manager and Staff should have minimal authority to create or frame policy decisions. Staff’s job is to implement the policy as adopted by the City Council and as per the authority granted to appropriate boards and/or commissions. There are several instances in which the Planning and Zoning Commission has overlapping authority with other officials such as the City Manager, City Engineer, and City Council.

✓ **Recommendation**

Ensure that the appropriate procedures are followed, and appropriate parties are acting on applications. For example, modify Table 3.1 to add Pre-Application Conference as required for certain applications, add missing application types such as Conservation Development Alternative, etc.

6. Unclear and Missing Definitions

Observation - Some definitions need to be clarified or added. For example, the definition of “Buildings” in Section 5.3(3) includes tents as defined in Chapter 13. This definition may be problematic because it captures uses outside of its intended scope. Another example is that the term “Hill Country Design” aesthetic is referenced throughout the UDC. There are no guidelines to help developers and homeowners embrace definitive architectural and design features that are prevalent throughout Fair Oaks Ranch and this “Hill Country Design” aesthetic. Additionally, various terms are missing definitions such as Restriction Committees (Chapter 5 – Subdivision Design Standards), transom, bay window, window glazing, Visible Transmittance (Chapter 7), etc.

✓ Recommendation

Clarify and add definitions as needed.

7. Comprehensive Plan Objectives

Observation - The City’s Comprehensive Plan is the policy guide for developing the UDC. The community’s priorities can more holistically be reflected in the UDC to achieve the vision of the Comprehensive Plan. Some of the areas mentioned in the Comprehensive Plan includes:

1. Preservation of character and quality of life.
2. Incorporation of greenery and open space into a new development to preserve the “Hill Country” character.
3. Consideration of multi-modal, context-sensitive, and landscaped mobility options.
4. Incorporation of superior standards for residential and non-residential development that result in a high return on investment for future areas annexed into the City.
5. Adoption of guidelines and standards for future development that recognize the emerging need for multi-generational housing, active and passive recreation, neighborhood retail, civic gathering spaces, and conservation of natural assets and resources.
6. Consideration of proactive and cost-effective infrastructure and utility planning to accommodate system resilience and future growth.
7. Protection of water resources, natural resources, and wildlife.
8. Examination of areas to ensure compatibility with adjacent military installations.
9. Designation of historic districts, provisions, and historic structures (Section 2.3 of the UDC).

✓ Recommendation

These elements of the vision will be discussed at the workshop with Planning and Zoning Commission to explore recommendations that can be codified.