

Mayor
Ed Tidwell

Mayor Pro-Tem
Arch Davila



Council Members
David Williams
Kevin Sullivan
Chelaine Marion
Dick Weatherly
Paul Prince

**AGENDA
CITY COUNCIL
REGULAR MEETING**

NOTICE IS HEREBY GIVEN that the Lago Vista City Council will hold a regular meeting on Thursday, October 21, 2021, beginning at 5:30 p.m. with Executive Session, as prescribed by V.T.C.A., Government Code Section §551.041 to consider the following agenda items.

THIS MEETING WILL BE HELD IN CITY COUNCIL CHAMBERS AT 5803 THUNDERBIRD, LAGO VISTA TEXAS AND UTILIZING THE GOTOMEETING VIDEOCONFERENCING TOOL.

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CALL TO ORDER, CALL OF ROLL

EXECUTIVE SESSION

1. Convene into a closed Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551.074 (Personnel), Section 551.087 (Economic Development), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:
 - A. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
 - B. Update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - C. Consultation with Legal Counsel regarding LVPOA Assessments.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. Reconvene from Executive Session into open session to act as deemed appropriate in City Council's discretion regarding:
 - A. To take any necessary action regarding any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
 - B. To take any necessary action regarding update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - C. To take any necessary action regarding LVPOA Assessments.

To participate in the citizens comment portion of the meeting, please submit your questions or comment 10 minutes prior to the beginning of the meeting utilizing the online form found on the City's web page and the link below. Your questions or comments will be read aloud and entered into the minutes of the meeting. The virtual conference meeting will start approximately 10 minutes prior to the meeting which will begin at 6:30 p.m.

<http://www.lagovistatexas.org/Citizen%20Participation%20Form%20-%20City%20Council.pdf>

PLEDGE OF ALLEGIANCE, PLEDGE TO TEXAS FLAG

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

ITEMS OF COMMUNITY INTEREST: Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
- f. Health and safety announcements.

PRESENTATION

3. Presentation of City of Lago Vista Comprehensive Master Plan Accomplishments for 2019-2020.

WORK SESSION

4. Work Session to discuss the Rusty Allen Airport Five-Year Agreement.
5. Work Session to discuss possible options for a City of Lago Vista Municipal Complex.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

6. Approval of the August 5, August 19, and September 2, 2021, regular meeting minutes and the August 10, and August 24, 2021, special called meeting minutes.
7. Approve an Inter-local agreement to provide transportation services to the City of Lago Vista through Capital Metro.

PUBLIC HEARING AND POSSIBLE ACTION (FIRST CONSIDERATION)

8. The Lago Vista City Council will hold a public hearing to discuss and consider an Ordinance of the City of Lago Vista, Texas, to voluntarily annex approximately 109.4251 acres of land adjacent and contiguous territory into the incorporated municipal boundaries of the City of Lago Vista, Texas including the following: findings of fact; effective date; a repealer; severability; and proper notice and meeting.
 - Open public hearing
 - Mayor's presentation
 - Close public hearing
 - Council discussion and possible decision (continue public hearing if no decision results)
9. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing the zoning district for the approximately 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, which fronts on an unimproved section of right-of-way platted as Santa Vista Way, from C-R ("Commercial Resort") to R-1G ("Single-Family Residential").
 - Open public hearing
 - Mayor's presentation
 - Close public hearing
 - Council discussion and possible decision (continue public hearing if no decision results)
10. The Lago Vista City Council will hold a public hearing and consider a modification to an existing conditional use approval pursuant to Section 16.70 of Chapter 14 of the Lago Vista Code of Ordinances regarding a dog grooming service operating as a home-based business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).
 - Open public hearing
 - Mayor's presentation
 - Close public hearing
 - Council discussion and possible decision (continue public hearing if no decision results)

ACTION ITEMS

11. Discussion, consideration and possible action regarding Annexation and Development Agreement with W. Land Development, LLC for, approximately 109.4251 acres of in Travis County, located within the Lago Vista extraterritorial jurisdiction; approving a municipal services agreement for the area and authorizing the City Manager to execute the documents.
12. Discussion, consideration, and possible action regarding Resolution No. 21-1905; A Resolution by the City Council of the City of Lago Vista, Texas that repeals and replaces Resolution No. 21-1900, by rescheduling to a later date the public hearing to consider adoption of impact fees for roadway facilities; directing the City Secretary to publish notice of said public hearing; and establishing an effective date.
13. Discussion, consideration, and possible action regarding Resolution No. 21-1906; a Resolution by the City Council of the City of Lago Vista, Texas that repeals and replaces Resolution No. 21-1901, by rescheduling to a later date the public hearing to consider adoption of impact fees for water and wastewater facilities; directing the City Secretary to publish notice of said public hearing; and establishing an effective date.
14. Discussion, consideration, and possible action regarding Resolution No. 21-1907; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member serving on the Building and Standards Commission; and to otherwise provide with respect thereto.
15. Discussion, consideration, and possible action regarding Resolution No. 21-1908 clarifying the City's authority regarding the Declaration of Restrictive Covenants executed on April 17, 2000, by Marshall's Harbor Limited, Instrument No. 2001100285 of the Official Public Records Travis County, Texas.
16. Discussion, consideration, and possible action regarding Resolution No. 21-1909; A Resolution by the City Council of the City of Lago Vista, Texas designating signatories for the City.
17. Discussion, consideration and possible action regarding a License and Maintenance Agreement with the Hollows Property Owners' Association, authorizing them to construct, maintain, repair, replace and remove a golf cart path and related improvements adjacent to and within the City's right-of-way, and authorizing the City Manager to execute the Agreement.
18. Discussion, consideration, and possible action regarding Resolution No. 21-1910; A Resolution by the City of Lago Vista approving the appointment of Associate Municipal Court Judges and authorizing the Professional Services Agreements between the City and Associate Municipal Court Judges Laurie Drymalla and David Yturri.
19. Discussion, consideration, and possible action regarding Resolution No. 21-1911 approving the Release of the Subdivision Construction Agreement and Development Agreement for the Montechino Subdivision as previously terminated pursuant to the 2018 Mutual Settlement and Release Agreement in Cause No. D-1-GN-16-002483.
20. Discussion, consideration, and possible action on a License Agreement with the Lago Vista Property Owner's Association and authorize the Mayor to execute the agreement.

ADJOURNMENT

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 5:45 p.m. on the 14th day of October 2021.

/s/
Sandra Barton, City Secretary

THIS MEETING SHALL BE CONDUCTED PURSUANT TO THE TEXAS GOVERNMENT CODE SECTION 551.001 ET SEQ. AT ANY TIME DURING THE MEETING THE COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION ON ANY OF THE ABOVE POSTED AGENDA ITEMS IN ACCORDANCE WITH THE SECTIONS 551.071, 551.072, 551.073, 551.074, 551.075 OR 551.076.

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.

AT THIS MEETING AT THE STATED LOCATION, A QUORUM OF THE CITY COUNCIL WILL BE PHYSICALLY PRESENT, AND THIS NOTICE SPECIFIES THE INTENT TO HAVE A QUORUM PRESENT THERE, AND THE MEMBER OF THE CITY COUNCIL PRESIDING OVER THE MEETING WILL BE PHYSICALLY PRESENT AT THAT LOCATION. ONE OR MORE MEMBERS OF THE CITY COUNCIL MAY PARTICIPATE IN THIS MEETING REMOTELY, AND IF SO, VIDEOCONFERENCE EQUIPMENT PROVIDING TWO-WAY AUDIO AND VIDEO DISPLAY AND COMMUNICATION WITH EACH MEMBER WHO IS PARTICIPATING BY VIDEOCONFERENCE CALL WILL BE MADE AVAILABLE.

MEETING DATE: October 21, 2021

CALL TO ORDER:

**AGENDA ITEM: CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE,
INVOCATION**

Comments:

ADJOURN:

TURN RECORDER OFF

Motion by: _____

Seconded by: _____

Content of Motion: _____

Vote: Williams _____ **; Sullivan** _____ **; Davila** _____ **; Marion** _____ **;**

Tidwell _____ **; Weatherly** _____ **; Prince** _____

Motion Carried: Yes _____ **; No** _____

MEETING DATE: October 21, 2021

AGENDA ITEM: EXECUTIVE SESSION

Comments:

- A. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).

- B. Update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)

- C. Consultation with Legal Counsel regarding LVPOA Assessments.

MEETING DATE: February 4, 2021

AGENDA ITEM: RECONVENE FROM EXECUTIVE SESSION

- A. To take any necessary action regarding any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).

- B. To take any necessary action regarding update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)

- C. To take any necessary action regarding LVPOA Assessments.

MEETING DATE: October 21, 2021

AGENDA ITEM: CITIZEN COMMENTS

Comments:



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Mayor Tidwell/Council

Subject: Items of Community Interest

Request: Other

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

This is a new section that we are adding to the Council Agenda.

For this agenda, we have included the items that can be communicated under this section.
Those items are:

- a. Expressions of thanks, gratitude, and condolences
- b. Information regarding holiday schedules
- c. Recognition of individuals, including Proclamations
- d. Reminders regarding City Council Events
- e. Reminders regarding community events
- f. Health and Safety Announcements.

No action is required for these items.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:

Agenda Item Approved by City Manager



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: David Williams, Council Member and Tracie Hlavinka, City Manager

Subject: Presentation of City of Lago Vista Comprehensive Master Plan Accomplishments for 2019-2020.

Request: Other

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

City of Lago Vista subcommittee consisting of City staff, Planning & Zoning, Building & Standards and Council Members worked collaboratively to address several action items in the Comprehensive Master Plan. The attached document is a compilation of accomplishments for staff and Council for 2019-2020.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:**Agenda Item Approved by City Manager****Tracie Hlavinka**

 Digitally signed by Tracie Hlavinka
Date: 2021.10.12 18:25:32 -05'00'

Lago Vista Comprehensive Master Plan

2019 – 2020 Accomplishments

Subcommittee 2021: Roy Jambor, Eric Belaj, Roger Chan (City staff)
Tom Monahan (P&Z), Jim Cason (BSC)
David Williams, Paul Prince, Arch Davila (Council)

Housing & Neighborhood Livability

Scenic City

CMP Action: Apply for and receive the designation of a “Scenic City”

2019: The City started the process of applying for this and received Gold Level designation.

Owner:
PIO

Watershed Master Plan

Description: Develop a watershed master plan that assesses the current drainage demands and provides strategies for storm water management and retention.

CMP Action: Study all creek tributaries, establish flood elevations and boundaries and process LOMR with FEMA.

2019 – 2020: No action during this time frame.

Owner:
PubWks

Land Use

Roads to be vacated

CMP Action: Develop a list/map of specific roads to be vacated and converted into trails that allows maintenance efforts to be targeted toward the more traveled roadways.

Sub-committee assessment: As worded this is not a generally viable action or goal. To be re-focused on new goal and associated actions for “**Network Walkability Plan**”, including ADA considerations. Some very limited opportunities on double-fronted lots where one of the roads is currently undeveloped could be incorporated into this plan (see also Transportation section).

Promote commercial development

CMP Action: Focus economic development activities

2019: Created 380 agreements with LV Village & tenants.

2020: Engaged Retail Strategies

Owner:
DevSvcs

Owner:
EDD

Airport Acquisition

CMP Action: Prioritize the area surrounding the Rusty Allen Airport for land acquisition and assembly.

2019: City has acquired some lots around the airport.

2020: The City had no plan for current or active land acquisitions. There may be an opportunity for public/private partnerships that AAB should explore. The city should initiate rezoning the area East of the

Owner:
DevSvcs

airport from “LI” to commercial zoning. Explore opportunities to acquiring additional land to extend access and taxiway on east side.

Future Development in Key Greenfield Areas

CMP Action: To encourage future development in Greenfield areas, develop long-range infrastructure plans for identified expansion areas and use these areas for desirable development types, such as a hotel, grocery store, or sports complex.

Owner:
EconDev

2020: One Hotel Developer under contract.

Approved Native Plant List – DONE

CMP Action: Develop an approved native plant list to be maintained by the Director

Owner:
DevServ

2020: Approved Ordinance 20-06-04-01: Comprehensive amendment on landscaping and tree preservation, with preferred tree list and Firewise regulations

- ❖ **Firewise Regulations:** All evergreen trees and plants that include significant amounts of resin were removed because they would contribute inordinate amounts of wildfire fuel in comparison to similar deciduous trees and plants.
- ❖ **Preferred tree list** consists of the following: American Elm, American Smoketree, Bald Cypress, Big tooth Maple, Blanco crab apple (ornamental), Bur Oak, Carolina Buckthorn, Cedar Elm, Chinese Flame, Chinese Pistachio, Chinquapin Oak, Crepe Myrtle (ornamental), Chitalpa, Deciduous Holly (ornamental), Desert Willow (ornamental), Elm, Flame leaf Sumac, Lacebark, Live Oak, Mexican Buckeye, Mexican Plum, Monterey Oak, Montezuma Cypress, Pecan, Rough Leaf Dogwood, Texas Persimmon, Texas Red Bud (ornamental), and Western Soapberry.

Conserve or Acquire areas with extreme topography – No Actions

CMP Action: Conserve areas with extreme topography by acquiring the property or assisting property owners in coordinating with nonprofit organizations to accept the land. Determined to not be a short-term priority by sub-committee. No near-term actions planned.

[Land Use – deleted items]

Undeveloped Land Around the Airport – N/A

CMP Action: Develop an inventory of the targeted plats and roadways. Determined to be **N/A** by sub-committee. See “Airport Acquisition” item

Development Incentives – N/A

CMP Action: To encourage infill development, prioritize areas with existing infrastructure through development incentives. Determined to be **N/A** by sub-committee.

The City created a policy to incentivize infill development by paying for the first 150 feet of line extensions for both water and wastewater. That policy was ended in 2019 after the City saw annual new construction in infill lots surpass 120 per year.

3-Year Annexation Plan – N/A

CMP Action: Conduct a detailed analysis to determine whether a 3-year annexation plan is necessary for the desired expansion

Determined to be **N/A** by sub-committee.

State law changed in 2017 to eliminate the ability of municipalities to annex without property owners' consent.

Transportation

Network Walkability Plan

2020 Action: Coordinate with the electric utility company to explore the possibility of adding trails to existing utility easements.

Owner:
DevSvcs

Key Intersection Improvements

CMP Action: Add directed lighting and pedestrian enhancements at key intersections, and a signal at Lohman/Boggy.

Owner:
PW

2019: New signal at Lohman Ford Road/Boggy done.

Street Improvements

CMP Action: Improve roadways per street improvement plan.

Owner:
PW

2019: **Budget \$300K Capital Improvements on 9 Streets**

Streets included 1.Rimrock, 2. Lake Park, 3.Outpost at Turnback, 4.Nantucket, 5.Constitution Square, 6.Bullet Cove, and 7.Luff Ridge. Streets completed by Public Works street department (In House) included 8. Parking Lot at City Hall, and 9.Congress Avenue

2020: Budget \$1.5M Capital Improvements on 21 Streets

❖ Micro surfacing & Slurry Rehab –	September 2020
❖ Thunderbird Rehab PH-2	July 2020
❖ Boggy Rehab – PH-1	June 2020
❖ Boggy Rehab – PH-2	October 2020
❖ Greenpark Drive Paving – Overlay 1000' of Park Drive	August 2020
❖ Farragret Cove – Overlay Street	October 2020
❖ Parksaddle Paving – Overlay	October 2020
❖ Dawn Drive Paving – overlay with HMAC 200' at end of Dawn	August 2020

Streets included: 1. Lago Vista Way, 2. Cowpoke Trail, 3.Pool Drive (by the Pool), 4. Ford Cove, 5.Monroe Cove, 6. Police Dept. parking, 7. American Drive, 8.Boone, 9.Highland Lake, 10.MacArthur, 11.National, 12.Outpost, 13.Bar-K Ranch, 14.Warbonet, 15.Sierra Trail, 16.Navajo Cove, 17.Boggy Ford, 18.Thunderbird, 19.Ford Cove, 20.Boone Drive, and 21..End of Dawn Drive

[Transportation – deleted items]

Sidewalk Plan – N/A

Owner:
DevSvcs

CMP Action: Develop a detailed sidewalk plan that indicates areas that are appropriate for retrofitting efforts. Allocate budget and identify incentive for retrofitting sidewalks in target locations. Changed to "**Network Walkability Plan**".

2019: "Route to School" sidewalk on Bar-K completed. Agreement reached that overall city sidewalk plan is unrealistic.

Parks, Recreation & Open Space

Parks & Recreation Board

CMP Action: Create a parks and recreation board that is made up of members representing the City and members representing all POAs.

2019: Board was formed

Owner:
ParksDir

Parkland & Trail Easement

CMP Action: Begin acquisition of future parkland and trail easements by working with developers to donate parkland or trail easements during the initial phases of development to ensure adequate connection of parks and trail system.

2019: Created policy of new development contributing parkland. The City of Lago Vista coordinated with the non-profit with non-profit "Turnback Canyon Trail Conservancy" organization.

CMP Action: Coordinate with the electrical utility company to explore the possibility of adding trails to existing utility easements.

2020:

- ❖ City has discussed using utility easements with Pedernales Electric Coop.
- ❖ City is currently working with Turnback Canyon Trail Conservancy to develop an integrated citywide trail system.

Owner:
ParksDir

Sunset Park sports complex

CMP Action: Conduct a feasibility study for a multipurpose sports complex to identify the highest demand sports for Lago Vista.

2019: Three-phase plans for Sunset Park created. Phase one started implementation.

2020:

- ❖ Phase one completed, including two baseball diamonds, one soccer field, volleyball court, (and water lines under utility CIP fund).
- ❖ The City hired Chris Mobley as Parks & Recreation Director.
- ❖ City Council has allocated \$350,000 for 3 septic system bathrooms within the Phase 2 expansion program.

Owner:
ParksDir

[Parks, Recreation & Open Space – deleted items]

POA Agreement - N/A

CMP Action: Establish a task force to work toward an agreement with all POAs to allow non-POA residents to access POA parkland (allow at all times, allow on weekends/holidays, or create park pass). Determined to be **N/A** by sub-committee. City presented this request in 2019 to LV POA but no action taken by the LV POA.

POA Membership After Donating Land - N/A

CMP Action: Explore the possibility of allowing the landowners to keep their POA membership after donating the land. Determined to be **N/A** by sub-committee. This is a POA issue and should be removed from the plan.

City Facilities & Services

Staff additions:

CMP Action: Consider the addition of an economic development specialist, either on City staff or as an EDC Director.

Owner:
CM

2019: Hired Eric Zeno as Economic Development Director and Chris Mobley as Parks Director on city staff. Miscellaneous other hires to support growth.

2020: Hired Erin Selvera as City Attorney on staff. Hired Jay Caballero as municipal judge and Jarrod Smith as assistant judge. Miscellaneous other hires to support growth.

Ordinance updates:

CMP Action: Update codes for zoning, subdivision, and design standards (see Code Updates table)

Owner:
DevSvcs
ParksDir

2019: 11 updates & 2020 6 updates

Action 2019:

Update codes for zoning, subdivision, and design standards

- ❖ **Ordinance 19-01-03-01** (Change Building Committee to Building and Standards Commission)
- ❖ **Ordinance 19-01-17-01** (Amend requirements for exterior appearance of principal buildings)
- ❖ **Ordinance 19-01-17-02** (Extend attached prejudice for denials of zoning applications to all application types (not just zoning change applications))
- ❖ **Ordinance 19-01-17-03** (Clarify and amend definitions of yards related to corner lots and multiple frontage lots (including through-lots and double-frontage lots))
- ❖ **Ordinance 19-06-20-01** (Amend procedures for special exception applications to remedy or eliminate applications to rely on substandard or ambiguous ridgepoles)
- ❖ **Ordinance 19-08-01-04** (Add contractor, builder or subcontractor as a listed zoning ordinance use)
- ❖ **Ordinance 19-08-15-03** (Amend Section 7.30 and Table A of Chapter 14 to allow construction on vacant lots with Lago Vista Travis Plaza, a subdivision platted prior to the City ordinances and in a manner otherwise inconsistent with those provisions)
- ❖ **Ordinance 19-11-07-03** (Create design review requirement for all multifamily and non-residential development, in lieu of the recommendation for a non-specific and largely undefined “overlay district” contained in the comprehensive plan)
- ❖ **Ordinance 19-11-21-02** (Increase the number of Board of Adjustment members to 8 from 7 in order that the super-majority required for a quorum or variance approval allows for 2 absent or dissenting members rather than just 1)
- ❖ **Ordinance 19-12-19-01** (Correct an error to the notifications requirement that requires hundred of signs to be posted for zoning applications involving large tracts with existing streets, lots or platted subdivisions)
- ❖ **Ordinance 19-12-19-02** (Update and publish FEMA Maps as required to maintain mandated compliance)
- ❖ **Ordinance 20-01-16-01** (Correct discovered errors in official City Map related to annexations that occurred in 2017)
- ❖ **Ordinance 20-02-06-01** (Amend PDD requirements and procedures, including the option to approve a concept plan and defer the required detail plan to a subsequent application)
- ❖ **Ordinance 20-04-16-01** (Update building, subdivision and zoning fees to help achieve desired outcomes such as earmarking increased permit fees to fund existing street repairs)
- ❖ **Ordinance 20-06-04-01** (Comprehensive amendment to the landscaping and tree preservation ordinances)
- ❖ **Ordinance 20-09-17-05** (Comprehensive amendments to the drainage and erosion control ordinances, including a prohibition against issuing a CO absent completion of provisions)

- ❖ **Ordinance 20-10-01-02** (Comprehensive updates to construction activity regulations to address chronic nuisances and disturbances in existing neighborhoods.

Action 2020: Native Plant List

- ❖ Completed in landscaping and tree preservation ordinance (Ordinance 20-06-04-01).
- ❖ “Firewize”: all evergreen trees and plants that include significant amounts of resin were removed because they would contribute inordinate amounts of wildfire fuel in comparison to similar deciduous trees and plants.
- ❖ Preferred tree list consists of the following: American Elm, American Smoketree, Bald Cypress, Big tooth Maple, Blanco crab apple (ornamental), Bur Oak, Carolina Buckthorn, Cedar Elm, Chinese Flame, Chinese Pistachio, Chinquapin Oak, Crepe Myrtle (ornamental), Chitalpa, Deciduous Holly (ornamental), Desert Willow (ornamental), Elm, Flame leaf Sumac, Lacebark, Live Oak, Mexican Buckeye, Mexican Plum, Monterey Oak, Montezuma Cypress, Pecan, Rough Leaf Dogwood, Texas Persimmon, Texas Red Bud (ornamental), and Western Soapberry.

Site Plan for Municipal Complex

CMP Action: Develop a concept plan followed by a more detailed site plan for the municipal complex.

Action 2020:

Owner: CM

- ❖ Site plan for Library and City Hall expansion and parking lot update developed.
- ❖ Library and City Hall Site Plan completed
- ❖ Town Square Improvements identified such as eliminating the electrical poles in the parking lot and coordination with Pedernales Electric Coop. to bury the lines underground, enhancements to the tree area between City Hall and the library.
- ❖ The expansion of City Hall and the Library controlled by the City Manager and Public Works Department related to the capital improvement projects and the Library Advisory Board
- ❖ Development Services acts as a design professional and offers advice and assistance to the professional of record
- ❖ Professional of Record: Danze-Davis for City Hall and Library Expansion and Cuplin & Associates for the amended plat to accommodate the new buildings and desired parking lot improvements).
- ❖ Waiting on a quote from Danze-Davis for the completion of the mechanical, electrical and plumbing bid documents
- ❖ City Council could then authorize that expense necessary to secure accurate bids for that project.

Purchase Lakefront Property

CMP Action: No action taken in 2019 or 2020. The City of Lago Vista needs to explore options for additional deep-water utility access in the future as the City continues to grow.

Owner: PW

Marketing/image/Tourism Campaign

CMP Action: Expand branding and place making efforts through a marketing/image campaign and/or the development of a tourism plan

Owner: EconDev

2020: Dramatic expansion of Spectrum infrastructure supporting residential areas and home based workers.

PIO - Communication

CMP Action: Employ a subscription-based text blast-messaging program and use email listservs to reach a wider population.

Owner: PIO

2019: Created Text-Blast and Listserv. City mobile app set up.

CMP Action: Develop a shared community calendar of local events and advertise through social media, text messaging, the newsletter, and the designated organization volunteers

CMP Action: Designate a staff member to lead media efforts

2020: Meredith Kuntzsch designated as city PIO. Hired Amanda Harkins as marketing coordinator for Golf Course.

Owner:
PIO

Volunteer Communication

CMP Action: Build a volunteer base to act as information ambassadors to share City information.

2019: Created sign-up system and utilized it for LagoFest. Regular updates to President's Council for their further distribution.

Owner:
PIO

Airport

CMP Action: Coordinate with the actions from TXDOT Airport Action Plan

Facility Upgrades

2019: Airport Lounge completed and operational. City acquired and operating fueling station and east-side tie downs.

2020: The City of Lago Vista hired an Airport Part-Time Attendant that is stationed at the Airport Lounge.

2020: Only regular maintenance of airport grounds conducted. An updated city agreement with RAAPOA to meet TXDOT requirements must be completed before any new elements of the Airport Action Plan can be completed moving forward.

Owner:
CM

Golf Course

CMP Action: Promote "family days" to attract families and support youth interest in golf. Explore related activities to attract a different audience to the golf course.

2020: Conducted youth training at the driving range. Increase activity seen in tennis and pickle ball.

CMP Action: Increase golf branding and advertising.

2020: The City of Lago Vista hired Amanda Harkins as marketing coordinator. Increase sales of branded merchandise, publishing quarterly news through e-mail blasts and providing information to president's council for enhance communication.

CMP Action: Include full service resort amenities, including a restaurant within the golf course services.

2019: Lago Vista Proshop was remodeled which allowed for additional merchandise to be sold. A golf repair station was added to allow for golf club enhancements and repairs.

2020: Contract initiated with new restaurant "The Bunker".

2020: Repaired greens 5, 6, & 7, and rebuilt tee boxes 6 & 8. Removal of all old materials 16" inches underground up to the pulling surface and rebuilding with all new materials.

2020: Restroom Renovation: Complete remodel of the current restrooms on the golf course. Remodel consisted of new paint, flooring, sinks, mirrors, toilets and light fixtures.

2020: Golf Course Revenue: Golf course revenue now trending in the positive direction and ended the 2020 season up \$16,524.15 over previous fiscal year. The Golf Course Fund pulls from the General Fund account was

Owner:
GC Dir

able to decrease funding from the General Fund for a savings of \$227,000. (2019 - \$507,000 versus 2020 - \$280,000)

2020: Irrigation Improvements: Band-Aid situation: replaced some sprinkler heads and fixed pipe breaks as they presented themselves. Reconstruction of the irrigation system will need to be updated in order to redistribute effluent water for the city.

Public Works

2019: Major projects:

- ❖ New Highland Water main – new 8" water main to improve fire pressure
- ❖ Lohman Tank Piping – new upsized 16" piping and Valves for new tank

2020: Major projects:

- ❖ Civic Loop Waterline – August 2020
- ❖ WWTP expansion – August 2020 - Clarifier concrete
- ❖ Leak Survey and Maintenance – August 2020 – leak detection and repair (130Kft pipe)
- ❖ Sunset Park waterline – March 2020 – 6" waterline to Cedar Breaks
- ❖ Pond 17 – October 2020 – LVGC Effluent Bypass
- ❖ Airport Sewer Relocation – December 2020
- ❖ LCRA Grant of \$65K – August 2020 - for leak detection and repairs
- ❖ PUC CCN Certificate – August 2020 - Final CCN Certificate filed with County and PUC
- ❖ Public Works Insulation and Maintenance – August 2020

Owner: PW

CITY COUNCIL ACCOMPLISHMENTS

- ❖ Added Mobile App to enhance citizen communication
- ❖ Activate Lago Radio to enhance more reach into the community
- ❖ Tennis court resurfacing at LVGC and Sports Complex
- ❖ Sold Marshall's Point House (December 2019)
- ❖ Construction contract – Adopted Resolution 19-1817, Texas parks and Wildlife for City Park
- ❖ Waived ESD Impact fees \$124,868 (February 2020)
- ❖ Contract with Gap Strategies for Strategic Plan (March 2020)
- ❖ Awarded Design Contract to Freese-Nichols (Phase 2 of Cedar Breaks project)
- ❖ Tree Preservation Ordinance (June 2020)
- ❖ Contract with Mark Ansier for Dawn Point Artwork project (June 2020)
- ❖ Appointed Singleton, Clark & Co. as Independent City Auditors (May 2020)
- ❖ Awarded \$392 to CAPCOG for Air Quality Program (May 2020)
- ❖ Contract with Freese and Nichols for engineering Water/Wastewater/Road Impact fees.

[City Facilities & Services – deleted items]

Demolition and Construction of New Municipal Facilities - N/A

CMP Action: Allocate funding the Capital Improvement Program for demolition and construction of new municipal facilities. Determined to be **N/A** by sub-committee. Replaced by Library and City Hall expansion plan.

Solar and Wind Energy – N/A

CMP Action: Offer incentives to developers for using solar and wind energy. Determined to be **N/A** by sub-committee. These incentives are state and federal and should be removed from this plan.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Erin Selvera & Tracie Hlavinka

Subject: Work Session to discuss the Rusty Allen Airport Five-Year Agreement.

Request: Other

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

Staff has met with TxDOT and discussed the Rusty Allen Airport Through the Fence Agreement. Staff was made aware of items in the agreement that must be rectified before TxDOT or the FAA will acknowledge the airport has met federal obligations. Without the airport meeting these federal obligations, the airport is in jeopardy of future grant funding eligibility from TxDOT or the FAA.

Staff will present to the City Council the necessary items that must be resolved and a process for how the agreement will be negotiated and finalized during the work session.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:**Agenda Item Approved by City Manager****Tracie Hlavinka**

 Digitally signed by Tracie Hlavinka
Date: 2021.10.13 13:40:02 -05'00'



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: David Williams & Tracie Hlavinka

Subject: Work Session to discuss possible options for a City of Lago Vista Municipal Complex.

Request: Other

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

The City Council developed a subcommittee consisting of Staff, Board Members and City Council to evaluate short-term and long-term options for a municipal complex. The work session will include a PowerPoint presentation by Council member David Williams to illustrate the process and work the subcommittee did to provide the City Council will viable options.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:**Agenda Item Approved by City Manager****Tracie Hlavinka**

 Digitally signed by Tracie Hlavinka
Date: 2021.10.13 13:40:02 -05'00'



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Consent Agenda

Subject: Approval of the August 5, August 19, and September 2, 2021, regular meeting minutes and the August 10, and August 24, 2021, special called meeting minutes.

Request: Consent Agenda

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:

Agenda Item Approved by City Manager

**OFFICIAL MINUTES OF THE CITY COUNCIL
REGULAR MEETING
THURSDAY, AUGUST 5, 2021**

BE IT REMEMBERED that on the 5th day of August, A.D., 2021, the City Council held a regular meeting at 5:30 p.m. via Go to Meeting, there being present via videoconferencing and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Arch Davila	Mayor Pro Tem	Dick Weatherly	Council Member
David Williams	Council Member	Paul Prince	Council Member
Kevin Sullivan	Council Member		

CALL TO ORDER, CALL OF ROLL

Mayor Tidwell called the meeting to order at 5:35 p.m. and recognized that all Councilmembers in attendance.

EXECUTIVE SESSION

1. At 5:37 p.m., Council convened into a closed Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551.074 (Personnel), Section 551.087 (Economic Development), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:
 - A. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. At 6:03 p.m., Council reconvened from Executive Session into open session, and recessed until 6:30 p.m., to act as deemed appropriate in City Council's discretion regarding:
 - A. To take any necessary action regarding any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
No action taken.

Mayor Tidwell led the Pledge of Allegiance and Pledge to the Texas Flag.

8:50 – 10:23

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

None

10:27 – 14:42 Mayor left at 13:25 and returned at 35:51

ITEMS OF COMMUNITY INTEREST: Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations
- d. Reminders regarding City Council events.
- e. Reminders regarding community events.
Lago Vista Lions Club will be holding a blood drive on August 21st from 8:30 – 12:30.
- f. Health and safety announcements.
Mayor announced that we are in Stage 5.
Vaccination event this Saturday, August 7th from 1-3 p.m. at St. Peter's Episcopal Church
3305 Pinnacle Cove.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

14:43 – 16:06

3. Approval of the May 20, 2021, and the June 17, 2021, regular meeting minutes.
4. Approval of the Joint Election Agreement for November 2, 2021, Elections.
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously to approve the consent agenda.

PUBLIC HEARING AND POSSIBLE ACTION (SECOND CONSIDERATION)

16:10 – 1:18:02 Mayor left at 50:49 and returned at 1:22:03

5. The Lago Vista City Council will hold a public hearing and consider Resolution No. 21-1891, A Resolution by the City Council of Lago Vista, Texas adopting an update to the Thoroughfare Plan; and providing for related matters.
 - Public hearing is open
 - Mayor's presentation
 - Consultant's presentation
David Payne with Freese and Nichols appeared and provided an oral presentation.
 - Close public hearing
The public hearing was closed at 7:04 p.m.
 - Council discussion and possible decision
On a motion by Councilmember Sullivan, seconded by Councilmember Marion, Council voted unanimously that we accept Resolution No. 21-1891 with the following modifications, that the Highland Lake Boggy Ford loop be upgraded to a major collector and that the Dawn extension north of the traffic circle be lowered to a minor collector and remove the ferry crossing. Motion carries.

PUBLIC HEARING AND POSSIBLE ACTION (FIRST CONSIDERATION)

1:18:04 – 1:33:33

6. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing Lot 1111, Lot 1112, and Lot 1113 of Lago Vista Estates, Section 4, and generally described as being located at 6805, 6901 and 6903 Redwood Drive, from the C1-C (“Professional, Business Office, Low Density Retail”) zoning district to the C-2 (“Commercial, Large Scale”) zoning district, together with the required design review; and providing for related matters.

- Open public hearing
The public hearing was opened at 7:42 p.m.
- Mayor’s presentation
- Applicant’s presentation
Brad Carter from Lago Vista Marine provided a brief overview.
- Close public hearing
The public hearing was left open.
- Council discussion and possible decision (continue public hearing if no decision results)
No action taken.

1:33:35 – 3:06:46

7. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map regarding the current “Planned Development District” (PDD) known as “The Peninsula,” consisting of an approximately 40.60-acre tract commonly referred to as 1900 American Drive, in order to modify the uses and development regulations established in Ordinance Number 07-02-15-01 and Ordinance Number 08-08-21-02; and providing for related matters.

- Open public hearing
The public hearing was opened at 7:57 p.m.
- Mayor’s presentation
- Applicant’s presentation
Mia Hernandez and Marley Porter appeared and provided an oral presentation.
- Close public hearing
The public hearing was closed at 9:29 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
The developer would no longer like to go forward with the changes, and they will be building the original PDD.
No further action taken.

ACTION ITEMS

3:06:52 – 3:19:17

8. Discussion, consideration and possible action regarding Resolution No. 21-1893; A Resolution by the City Council of the City of Lago Vista, Texas scheduling a public hearing to consider adoption of land use assumptions and a capital improvements plan for roadway facilities under which an impact fee may be imposed for roadways within the City; directing the City Secretary

to publish notice of said public hearing; and directing the Impact Fee Advisory Committee to consider and make recommendations on the roadway facilities land use assumptions and capital improvements plan.

On a motion by Councilmember Sullivan, seconded by Councilmember Prince, Council voted unanimously that we approve Resolution No. 21-1893. Motion carries.

3:19:21 – 3:27:54

9. Discussion, consideration, and possible action regarding Ordinance No. 21-08-05-01; An Ordinance of the City Council of the City of Lago Vista, Texas pursuant to Vernon's Texas Codes Annotated, Local Government Code, Chapter 102, Section 102.007(b) providing for amendments to Ordinance No. 20-09-17-02, for the fiscal year beginning October 1, 2020 and ending September 30, 2021; amendments to said budget by department are set forth in "Exhibit A" attached to this Ordinance.

On a motion by Councilmember Williams, seconded by Councilmember Marion, Council voted unanimously that we approve Ordinance No. 21-08-05-01. Motion carries.

3:27:55 – 3:29:48

10. Discussion, consideration, and possible action regarding the approval and execution of the conditional sale agreement with Yamaha for the purchase/lease of 10 golf carts.

On a motion by Councilmember Weatherly, seconded by Councilmember Marion, Council voted unanimously that we approve the contract for the 10 carts and give the City Manager authorization to sign the contract. Motion carries.

3:29:49 – 3:36:34

11. Discussion consideration and possible action on Contract with Doliver Enterprises, LLC., dba HHW Solutions for household hazardous waste service.

On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we authorize the City Manager to execute this contract with Doliver Enterprises, dba HHW Solutions so we can get this service started. Motion carries.

3:36:42 – 3:40:59

12. Discussion, consideration, and possible action regarding accepting a drainage easement from Hines Limited Partnership and authorize the Mayor to sign the documents.

On a motion by Councilmember Sullivan, seconded by Councilmember Marion, Council voted unanimously that we accept these drainage easements from Hines and authorize either you or the City Manager to sign off on the documents. Motion carries.

3:41:01 – 3:46:44

13. Discussion, consideration, and possible action regarding the acceptance of the Texas Department of Transportation Airport Coronavirus Relief Grant.

On a motion by Councilmember Sullivan, seconded by Councilmember Weatherly, Council voted unanimously that we authorize acceptance and allocation of the Texas Department of Transportation Airport Coronavirus Relief Grant for \$13,000 for the City of Lago Vista Rusty Allen Airport and allow the City Manager to execute the TDTA Coronavirus Relief Grant Agreement. Motion carries.

3:47:07 – 3:51:10

14. Discussion, consideration, and possible action regarding Resolution No. 21-1894; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member of the Golf Course Advisory Committee; and to otherwise provide with respect thereto.

On a motion by Councilmember Weatherly, seconded by Councilmember Williams, Council voted unanimously that we accept Mark Douglas to fill the unexpired term of Tom Voth ending in January of 2022. Motion carries.

3:51:12 – 3:54:31

15. Discussion, consideration, and possible action regarding Resolution No. 21-1895; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member on the Parks and Recreation Advisory Committee.

On a motion by Councilmember Marion, seconded by Councilmember Williams, Council voted unanimously that Council approve the recommendation to name Mandy Carter to fill an unexpired vacant term on the Parks and Recreation Advisory Committee with the term expiring January 1 of 2022. Motion carries.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 10:18 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved this 21st day of October 2021.

**OFFICIAL MINUTES OF THE CITY COUNCIL
REGULAR MEETING
THURSDAY, AUGUST 19, 2021**

BE IT REMEMBERED that on the 19th day of August, A.D., 2021, the City Council held a regular meeting at 5:30 p.m. via Go to Meeting, there being present via videoconferencing and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Arch Davila	Mayor Pro Tem	Dick Weatherly	Council Member
David Williams	Council Member	Paul Prince	Council Member
Kevin Sullivan	Council Member		

CALL TO ORDER, CALL OF ROLL

Mayor Tidwell called the meeting to order at 5:33 p.m. and recognized that all Councilmembers are in attendance.

EXECUTIVE SESSION

1. At 5:34 p.m., Council convened into a closed Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551.074 (Personnel), Section 551.087 (Economic Development), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:
 - A. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
 - B. Consultation with Legal Counsel regarding City/RAAPOA Through the Fence Agreement and associated legal issues.

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. At 6:25 p.m., Council reconvened from Executive Session into open session and recessed until 6:31 p.m., to act as deemed appropriate in City Council's discretion regarding:
 - A. To take any necessary action regarding any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
No action.
 - B. To take any necessary action regarding City/RAAPOA Through the Fence Agreement and associated legal issues.
No action.

The Mayor led the Pledge of Allegiance and Pledge to the Texas Flag.

4:48 – 8:44

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

None

8:46 – 16:25

ITEMS OF COMMUNITY INTEREST: Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
Mayor expressed thanks the candidates who have filed to run for City Council.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations
Councilor Marion recognized Lance Shook for winning the 2021 congressional art competition.
- d. Reminders regarding City Council events.
Council meeting on August 24 for budget and unless something changes everything will be back to in person only after September 1st.
- e. Reminders regarding community events.
Green center will not be open the first Thursday and first Saturday, it will now be the 2nd Thursday and the 2nd Saturday, just for September.
Councilman Sullivan shared that the Lions are having a blood drive Saturday morning at CVS and also the Lions are having a BBQ event for Labor Day.
- f. Health and safety announcements.
County has put out COVID declarations.

16:27 – 17:33

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

3. Approval of the July 1 and July 15, 2021, regular meeting minutes.
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we approve the consent agenda. Motion carries.

ACTION ITEM

17:35 – 53:50

11. Discussion, consideration, and possible action regarding approval of a contract for Homebuilder Sign Plaza Program.
No action taken.

PUBLIC HEARING AND POSSIBLE ACTION (SECOND CONSIDERATION)

53:52 – 1:09:50

4. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing Lot 1111, Lot 1112, and Lot 1113 of Lago Vista Estates, Section 4, and generally described as being located at 6805, 6901 and 6903 Redwood Drive, from the C1-C (“Professional, Business Office, Low Density Retail”) zoning district to the C-2 (“Commercial, Large Scale”) zoning district, together with the required design review; and providing for related matters.

- The public hearing is open
- Mayor’s presentation
- Applicant’s presentation
Mr. Carter appeared and provided additional information.
- Close public hearing
Paul Roberts made comments in favor of the applicant.
The public hearing was closed at 7:36 p.m.
- Council discussion and possible decision
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we approve Ordinance No. 21-08-19-0? with it’s associated Exhibits A and B. Motion carries.

PUBLIC HEARING AND POSSIBLE ACTION (FIRST CONSIDERATION)

1:09:51 – 1:38:59

5. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 2.10 and 11.20 of Chapter 14 of the Lago Vista Code of Ordinances regarding the findings required for the Board of Adjustment to approve a zoning variance; and providing for related matters.

- Open public hearing
The public hearing was opened at 7:42 p.m.
- Mayor’s presentation
- Close public hearing
The public hearing was closed at 8:02 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
On a motion by Councilmember Marion, seconded by Councilmember Sullivan, Council voted unanimously that we accept the edits to amending Sections 2.10 and 11.20 of Chapter 14 of the Lago Vista’s Code of Ordinance regarding the findings required for the Board of Adjustment to approve a zoning variance and providing for related matters with the exception of e and d and leaving those in the document.
Councilmember Prince suggested an amendment to the motion that we accept the proposed changes in 11.20c but that we keep the language in the proposal that was stricken in 11.20d, we keep that in place.
Councilmember Marion and Councilmember Sullivan both accepted the modification.
Motion carries.

1:39:00 – 1:58:52

6. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending various Section 22 of Chapter 14 of the Lago Vista Code of Ordinances regarding the regulations applicable to the location and construction of fences and screening devices; and providing for related matters.

- Open public hearing
The public hearing was opened at 8:11 p.m.
- Mayor's presentation
- Close public hearing
The public hearing was closed at 8:24 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
On a motion by Mayor Pro Tem Davila, seconded by Councilmember Weatherly, Council voted unanimously that we adopt Ordinance 21-08-19-0.
Councilmember Marion made a motion to amend that to note the modification to Section 22.15b1 fixing or moving that word common up earlier in the sentence so at least one half of each common property line of the secondary lot or parcel etc.
Councilmember Prince commented on 22.30a to make both of them consistent in saying higher the high measuring from the higher side.
Mayor Pro Tem Davila and Councilmember Weatherly accepted these amendments. Motion carries.

1:58:53 – 2:11:07

7. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending Sections 4.55 and 4.80 of Chapter 14 of the Lago Vista Code of Ordinances regarding the use regulations and physical restrictions applicable to the C-4 and RR-A zoning districts; and providing for related matters.

- Open public hearing
The public hearing was opened at 8:32 p.m.
- Mayor's presentation
- Close public hearing
The public hearing was closed at 8:38 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we accept Ordinance No. 21-08-19-01 amending Sections 4.55 and 4.80 Chapter 14 of the Lago Vista Code of Ordinances with the changes as noted by Councilor Prince, if he can tell me that section number. Councilor Prince stated it is 4.55e.1.a Section 4 and 5 should be removed from the packet. Councilor Sullivan made that part of his motion. Motion carries.

2:11:08 – 2:25:34

8. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing Lots 15045 through 15083, Lot 15084 and approximately 0.0368 acres of Abstract 2540 of the F.F. Faubion Survey 92, Lots 15085 through 15099, Lots 15130 through 15140, Lots 15143 through 15150, and Lots 15153 through 15163 of Bar-K Ranches, Section 15-A, from the LI ("Light

Industrial”) zoning district to the C-4 (“Commercial, Airport”) zoning district; and providing for related matters.

- Open public hearing
The public hearing was opened at 8:45 p.m.
- Mayor’s presentation
- Applicant’s presentation
- Close public hearing
The public hearing was closed at 8:51 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
On a motion by Councilmember Sullivan, seconded by Councilmember Weatherly, Council voted unanimously that we accept Ordinance No. 21-08-19-0 amending the official zoning map for the light industrial lots up on the east side of the airport to C4. Motion carries.

2:25:35- 2:37:24

9. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing Lots 15001 through 15013 and approximately 0.3561 acres of Abstract 2540 of the F.F. Faubion Survey 92, Lots 15014 through 15034, Lot 15035A, Lot 15036, and Lots 15039 through 15044 of Bark Ranches, Section 15-A, from the R-1B (“Single-Family Residential”) zoning district to the RR-A (“Restricted Single-Family with Aircraft”) zoning district; and providing for related matters.

- Open public hearing
The public hearing was opened at 8:56 p.m.
- Mayor’s presentation
- Applicant’s presentation
- Close public hearing
The public hearing was closed at 9:05 p.m.
- Council discussion and possible decision (continue public hearing if no decision results)
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we approve Ordinance No. 21-08-19-0 in which we are rezoning the lots east of the airport from R-1B to RRA. Motion carries.

ACTION ITEMS

2:37:25 – 2:52:23

10. Discussion, consideration, and possible action regarding Ordinance No. 21-08-19-01; An Ordinance of the City Council of the City of Lago Vista, Texas pursuant to Vernon’s Texas Codes Annotated, Local Government Code, Chapter 102, Section 102.007(b) providing for amendments to Ordinance No. 20-09-17-02, for the fiscal year beginning October 1, 2020, and ending September 30, 2021; amendments to said budget by department are set forth in “Exhibit A” attached to this Ordinance.
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we approve Ordinance No. 21-08-19-01 which is an ordinance to enact a budget amendment as documented in Exhibit A, the stone wall at Dawn point. Motion carries.

2:52:27 – 3:05:28

12. Discussion, consideration, and possible action on the contract award for Sunset Park bathroom facility and authorize the City Manager to execute the contract.

On a motion by Councilmember Williams, seconded by Councilmember Sullivan, Council voted unanimously that we approve the contract award for Sunset Park for the bathroom facilities and authorize the City Manager to execute the contract.

Councilmember Sullivan asked if Mr. Williams would be okay amending his amendment to include that we're also going to authorize the City Manager to expend the \$45,000 for the additional items of septic, ADA ramp, underground utilities, building pad.

Councilman Williams was fine with that. Motion carries.

3:05:32 – 3:17:11

13. Discussion, consideration, and possible action regarding authorizing the purchase from Swagit to upgrade to Council Chambers AV Equipment and authorize the City Manager to execute the agreement.

On a motion by Councilmember Williams, seconded by Councilmember Marion, Council voted unanimously that we authorize the purchase from Swagit to upgrade the Council Chamber AV equipment for the one-time cost of \$51,485 and authorize the City Manager to execute the agreement. Motion carries.

3:17:12 – 3:24:39

14. Discussion, consideration, and possible action regarding Resolution No. 21-1896; A Resolution of the City Council of the City of Lago Vista, Texas adopting a memorandum of understanding between the City of Lago Vista and the Lago Vista Property Owners' Association, Inc.

On a motion by Councilmember Sullivan, seconded by Councilmember Weatherly, Council voted unanimously that we adopt Resolution No. 21-1896. Motion carries.

3:24:40 – 3:51:17

15. Discussion, consideration, and possible action regarding the selection of an interview panel for the Associate Judge position in Municipal Court.

On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we approve the process that the City Manager will use in selecting a Associate Judge to bring forward to the Council as has been described in the executive summary and that we also provide the latitude to her that if she decides she wants to add an additional person or persons to that panel that she has that latitude to do that. Motion carries.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 10:19 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved this 21st day of October 2021.

DRAFT

**OFFICIAL MINUTES OF THE CITY COUNCIL
REGULAR MEETING
THURSDAY, SEPTEMBER 2, 2021**

BE IT REMEMBERED that on the 2nd day of September, A.D., 2021, the City Council held a regular meeting at 5:30 p.m. in City Council Chambers and via Go to Meeting, there being present via videoconferencing and acting the following:

Ed Tidwell	Mayor		
Arch Davila	Mayor Pro Tem	Dick Weatherly	Council Member
David Williams	Council Member	Paul Prince	Council Member
Kevin Sullivan	Council Member		

CALL TO ORDER, CALL OF ROLL

Mayor Tidwell called the meeting to order at 5:33 p.m.

EXECUTIVE SESSION

1. At 5:36 p.m., Council convened into a closed Executive Session pursuant to Sections 551.071 (Advice of Counsel), 551.072 (Real Property), 551.074 (Personnel), Section 551.087 (Economic Development), Texas Government Code and Section 1.05 Texas Disciplinary Rules of Professional Conduct regarding:
 - A. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
 - B. Update on pending litigation *Alicie Reed vs. City of Lago Vista, Robert Mercado and Doyce Smith*: Civil Action No. 21- 464 (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - C. Update on pending litigation *Brittany Henry vs. City of Lago: Vista*, EEOC Charge 451-2020-0181. (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - D. Update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - E. Consultation with City Attorney regarding sale of property at 2805 Bonanza (Sections 551.071 Consultations with Attorney and 551.072 deliberations about Real Property, and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
 - F. Consultation with Legal Counsel and possible action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed). (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)

ACTION ITEMS (action and/or a vote may be taken on the following agenda items):

2. At 6:33 p.m., Council reconvened from Executive Session into open session to act as deemed appropriate in City Council's discretion regarding:
 - A. To take any necessary action regarding any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed).
No action taken.
 - B. To take any necessary action regarding update on pending litigation *Alicie Reed vs. City of Lago Vista, Robert Mercado and Doyce Smith*: Civil Action No. 21- 464 (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct).
No action taken.
 - C. To take any necessary action regarding update on pending litigation *Brittany Henry vs. City of Lago Vista*, EEOC Charge 451-2020-0181. (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
No action taken.
 - D. To take any necessary action regarding update on pending litigation *David Stewart v City of Lago Vista*: Cause No. D-1-GN-20-007701 in the 459th Judicial District Court; Travis County (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
No action taken.
 - E. To take any necessary action regarding sale of property at 2805 Bonanza (Sections 551.071 Consultations with Attorney and 551.072 deliberations about Real Property, and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
No action taken.
 - F. To take any necessary action concerning any regular meeting agenda item requiring confidential, attorney/client advice necessitated by the deliberation or discussion of said item (as needed). (Section 551.071 Consultations with Attorney and Section 1.05 Texas Disciplinary Rules of Professional Conduct)
No action taken.

Mayor Tidwell called the regular session to order and led the Pledge of Allegiance and Pledge to the Texas Flag.

8:44 – 15:23

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

Talitha Wheatley made comments regarding mailboxes and lack of delivery of mail.

15:26 – 19:07

ITEMS OF COMMUNITY INTEREST: Pursuant to Texas Government Code Section 551.0415, the City Council may report on any of the following items:

- a. Expressions of thanks, gratitude, and condolences.
Councilor Williams expressed condolences to Councilor Marion and Tracie Hlavinka.
Congratulations to the football team.
- b. Information regarding holiday schedules.
- c. Recognition of individuals, i.e., Proclamations
- d. Reminders regarding City Council events.
City Hall will be closed on Monday, September 6 for Labor Day.
- e. Reminders regarding community events.
Councilor Sullivan advised that the Lions are having their barbecue fund raiser this weekend.
- f. Health and safety announcements.

CONSENT AGENDA

All matters listed under Consent Agenda, are to be considered routine by the City Council and will be enacted by one motion. There will not be separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

19:10 – 20:28

3. Approval of the July 22, 2021, and July 29, 2021, special called meeting minutes.
4. Acceptance of an easement from Brohn Homes and authorize the Mayor to sign the documents.
On a motion by Councilor Sullivan, seconded by Councilor Williams, Council voted unanimously to approve the consent agenda as modified by Mrs. Barton during the week from some errors that were in one of the meeting minutes. Motion carries.

DISCUSSION ITEM

20:31 – 23:42

5. Discussion of golf carts on city streets, and a possible creation of a City Ordinance to address unlawful operation of golf carts within the Lago Vista city limits by unlicensed persons.
On a motion by Mayor Pro Tem Davila, seconded by Councilor Prince, Council voted unanimously to table this item. Motion carries.

PUBLIC HEARING AND POSSIBLE ACTION (FIRST CONSIDERATION)

23:45 – 1:23:38

6. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map regarding the current “Planned Development District” (PDD) known as “Firefly Cove” and previously described as “Tusikanni Cove” in Ordinance Number 07-10-04-04, to approve an amended concept plan for the entire development consisting of approximately 281.45 acres and to approve a detail plan for everything except the area designated as the location of approximately 45 estate lots; and providing for related matters.

- Open public hearing
The public hearing was opened at 6:54 p.m.
- Mayor's presentation
- Applicant's presentation
Dirk Gosda appeared and provided an oral presentation.
- Close public hearing
The public hearing was closed at 7:48 p.m.
- Council discussion and possible decision
Councilor Sullivan made a motion that we approve this application and the conditions that were set forth in the ordinance that was drafted by staff and one last capsule that it would be inclusive of the changes that I had requested Mr. Jambor earlier in the week, there were three typographical changes that he made that's the one that we're going to approve, this motion was seconded by Councilor Williams.
Councilor Prince made a suggested amendment around this maximum number of homes under the 1500 square foot level and based on that conversation I kind of raised your number a little bit to 20, if it was 25% of the 280 under, that would be 70 units maximum that are under 1500 square feet. I see Mr. Gosda is comfortable with that so I would suggest that as an amendment to the conditions.
Councilor Sullivan and Councilor Williams agree to the amendment. Motion carries unanimous.

1:23:59 – 1:52:16

7. The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing the zoning district for approximately 2.183 acres of land that is not platted, but located within the boundaries of Lago Vista Travis Plaza, a subdivision of record in Book 39, Page 50 of the Plat Records of Travis County, Texas and generally described as being located at 20806 Bonanza Street, from P-2 ("Park and Greenbelt District, Passive") to R-4 ("Multifamily Residential District"); and providing for related matters.
 - Open public hearing
The public hearing was opened at 7:53 p.m.
Dian Tjon-Joe-Pin made comments regarding the rezoning.
Christina Lucero made comments to put this on hold.
Mayor Tidwell read a letter from Laurie Dick.
Mayor Tidwell read a letter from Darci DeVough
Mayor Tidwell read a letter from Letha Guy.
Sarah Teal made comments regarding the rezoning.
Ron Cordsen made comments regarding the rezoning.
 - Mayor's presentation
 - Applicant's presentation
 - Close public hearing
The public hearing was left open.
 - Council discussion and possible decision (continue public hearing if no decision results)
No action taken.

ACTION ITEMS

1:52:20 – 1:55:17

8. Discussion, consideration, and possible action regarding Resolution No. 21-1897; A Resolution by the City Council of the City of Lago Vista, Texas cancelling the regular City Council meeting scheduled for October 7, 2021.

On a motion by Councilor Sullivan, seconded by Councilor Williams, Council voted unanimously to cancel the October 7, 2021, Council meeting. Motion carries.

1:55:18 – 2:01:43

9. Discussion, consideration and possible action regarding the taps and line extension construction contract award and authorize the City Manager to execute the contract.

On a motion by Councilor Sullivan, seconded by Councilor Williams, Council voted unanimously that we award unit price 3-year contract to Cordsen Construction as a primary contractor and that we authorize either yourself or the City Manager to sign that contract once it's been completed properly by staff. Motion carries.

2:01:46 – 2:10:33

10. Discussion, consideration, and possible action regarding a Complaint alleging Ethics Policy violations by Charter Review Committee Chairman, Robert Durbin.

On a motion by Councilor Sullivan, seconded by Councilor Weatherly, Council voted unanimously that we table this item for now and that the staff work with Council and Mr. Durbin to schedule a preliminary hearing. Motion carries.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 8:37 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved this 21st day of October 2021.

**OFFICIAL MINUTES OF THE CITY COUNCIL
SPECIAL CALLED MEETING
TUESDAY, AUGUST 10, 2021**

BE IT REMEMBERED that on the 10th day of August, A.D., 2021, the City Council held a special called meeting at 5:30 p.m. via Go to Meeting, there being present via videoconferencing and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Arch Davila	Mayor Pro Tem	Dick Weatherly	Council Member
David Williams	Council Member	Paul Prince	Council Member
Kevin Sullivan	Council Member		

CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE

Mayor Tidwell called the special called meeting to order at 5:30 p.m. and announced that all Councilmembers were present and led the Pledge of Allegiance and Pledge to the Texas Flag.

1:25 – 2:04

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

None

ACTION ITEMS

2:16 – 4:29

1. Discussion, consideration, and possible action regarding Ordinance No. 21-08-10-01; An Ordinance ordering and establishing procedures for the 2021 General Election in the City of Lago Vista to elect officials for Mayor, Place 1, Place 3 and Place 5; providing for notice of the election; providing election precinct and polling places; providing for early voting; providing an effective date and open meetings clause; and providing for related matters.
On a motion by Councilmember Sullivan, seconded by Councilmember Williams, Council voted unanimously that we accept Ordinance No. 21-08-10-01. Motion carries.

4:32 – 7:21

2. Discussion, consideration, and possible action regarding Ordinance No. 21-08-10-02; An Ordinance of the City of Lago Vista, Texas, ordering a Special Election to be held in the City of Lago Vista, Texas on November 2, 2021, to submit propositions to the registered voters of the City of Lago Vista, Texas, as, for proposed amendments to the City Charter.
On a motion by Councilmember Sullivan, seconded by Councilmember Prince, Council voted unanimously that we accept Ordinance No. 21-08-10-02. Motion carries.

WORK SESSION

7:26 – 2:10:42

3. FY2021/2022 Budget workshop.
No action taken.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 7:41 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by _____, seconded by _____, the above and foregoing instrument was passed and approved this 21st day of October 2021.

**OFFICIAL MINUTES OF THE CITY COUNCIL
SPECIAL CALLED MEETING
TUESDAY, AUGUST 24, 2021**

BE IT REMEMBERED that on the 24th day of August, A.D., 2021, the City Council held a special called meeting at 5:30 p.m. via Go to Meeting, there being present via videoconferencing and acting the following:

Ed Tidwell	Mayor	Chelaine Marion	Council Member
Arch Davila	Mayor Pro Tem	Dick Weatherly	Council Member
David Williams	Council Member	Paul Prince	Council Member
Kevin Sullivan	Council Member		

CALL TO ORDER, CALL OF ROLL, PLEDGE OF ALLEGIANCE

Mayor Tidwell called the special called meeting to order at 5:30 p.m. and announced that all Councilmembers were present and led the Pledge of Allegiance and Pledge to the Texas Flag.

1:11 – 1:47

CITIZEN COMMENTS: In accordance with the Open Meetings Act, Council is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

None

ACTION ITEM

1:49 – 17:23

1. Discussion, consideration, and possible action on the contract award for Sunset Park playground and authorize the city manager to execute the contract.

On a motion by Councilor Sullivan, seconded by Councilor Williams, Council voted unanimously that we approve this contract with Miracle of North and Central Texas aka WeBuildFun and authorize the City Manager to sign this contract. Motion carries.

WORK SESSION

17:32 – 38:55

2. FY2021/2022 Budget workshop.
No action taken.

ADJOURNMENT

Mayor Tidwell adjourned the meeting at 6:09 p.m.

Respectfully submitted,

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by _____, seconded by _____, the above and foregoing instrument was passed and approved this 21st day of October 2021.

DRAFT



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Tracie Hlavinka

Subject: Approve an Inter-local agreement to provide transportation services to the City of Lago Vista through Capital Metro.

Request: Consent Agenda

Legal Document: Contract

Legal Review: ☐

EXECUTIVE SUMMARY:

Capital Metro has developed the Build Central Texas Program – Suburban Communities Program (“BCT Program”) to meet the transportation infrastructure needs of suburban cities and portions of counties in the Capital Metro service area by providing for their transportation system improvement projects. Capital Metro and the City of Lago Vista now desire to enter into a mutually beneficial agreement that meets the transportation mobility needs of both Parties.

This is a four (4) year agreement with the option to extend the for up to two (2) additional one (1) year periods contingent upon the availability of funding and both parties agreeing.

Impact if Approved:

N/A

Impact if Denied:

N/A

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:

General Fund

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:**Agenda Item Approved by City Manager**

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka
Date: 2021.10.13 17:26:03 -05'00'

**INTERLOCAL AGREEMENT BETWEEN
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
AND
THE CITY OF LAGO VISTA
FOR
BUILD CENTRAL TEXAS**

This Interlocal Agreement (“Agreement”) is entered into by and between the City of Lago Vista, (hereinafter “the Suburban Community”) a Texas municipal corporation and political subdivision of the state of Texas and Capital Metropolitan Transportation Authority (“Capital Metro”) a transportation authority and political subdivision organized under Chapter 451 of the Texas Transportation Code. Capital Metro and the Suburban Community are referred to in this Agreement individually as a “Party” and collectively as the “Parties”.

I. Recitals

Whereas, this Agreement is authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code;

Whereas, each Party represents and warrants that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized governmental function that it is authorized to perform individually under the applicable statutes of the State of Texas or its charter;

Whereas, Capital Metro has developed the Build Central Texas Program – Suburban Communities Program (“BCT Program”) to meet the transportation infrastructure needs of suburban cities and portions of counties in the Capital Metro service area by providing for their transportation system improvement projects;

Whereas, the Parties now desire to enter into a mutually beneficial agreement that meets the transportation mobility needs of both Parties; and

NOW THEREFORE, in consideration of mutual covenants and agreements contained herein, the Parties agree to the terms and conditions below as evidenced by the signatures of their respective authorized representatives.

II. BCT Program Funding, Guidelines and Procedures

- A. The Capital Metro Board of Directors (“Capital Metro Board”) is expected to allocate funds for the BCT Program for each fiscal year during the term of this Agreement. There is no guarantee that the Capital Metro Board will allocate any funds in any fiscal year. Capital Metro will review funding of the Program annually to ensure that funding for other major initiatives of Capital Metro is not detrimentally impacted by the Suburban Communities Program. The Capital Metro Board may eliminate funding for the BCT Program as part of its annual budget appropriation for each fiscal year, and in such event, no funds will be available under this Agreement. Elimination of funding of the Program in any one fiscal year does not affect funds previously allocated to the Suburban Community. If any funds are allocated to the BCT Program, Capital Metro staff will notify the Suburban Community of the amounts allocated to the Suburban Community and the terms and conditions of this Agreement will apply.
- B. Once Capital Metro staff notifies the Suburban Community of a fiscal year allocation under this Agreement, the Suburban Community shall submit to Capital Metro a proposed project list for that

fiscal year in accordance with the Suburban Communities Program Procedures and Guidelines attached to this Agreement as **Exhibit A** (the “BCT Guidelines and Procedures”). If a project list for any fiscal year is not submitted to Capital Metro by the end of the calendar year in which funds are allocated, then such fiscal year funds are forfeited.

- C. The Suburban Community will comply with the BCT Guidelines and Procedures, which set out the rules and regulations governing participation in the BCT Program and payments to be made to the Suburban Community under this Agreement. Capital Metro reserves the right, in its sole discretion to make amendments to the BCT Guidelines and Procedures from time to time.

III. Term and Termination

- A. The initial term of this Agreement is from the date of the last Party to sign (“Effective Date”) through September 30, 2024. Capital Metro may, in its sole discretion, exercise the option to extend this Agreement for up to two (2) additional one (1) year periods contingent upon the availability of funding. Any subsequent optional renewal will be mutually agreed to by the Parties. Notwithstanding anything to the contrary, the Parties may mutually agree to terminate this Agreement at any time.
- B. If for any fiscal year, funds are not appropriated or allocated by one of the Parties to this Agreement, for such Party’s performance of its obligations under this Agreement, this Agreement shall become void, without penalty to either Party, and the Party shall promptly give notice to the other Party that funds were not appropriated or allocated.
- C. If Capital Metro becomes subject to a legislative change, revocation of statutory authority, or lack of funds which would render Capital Metro’s performance under this Agreement impossible or unnecessary, this Agreement will be terminated or cancelled and be deemed null and void. In the event of such termination or cancellation, Capital Metro will not be liable to the Suburban Community for any damages, which are caused or associated with such termination, or cancellation.

IV. General Provisions

- A. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns, including without limitation, any receivers, administrators, or trustees in bankruptcy.
- B. Severability. If any provision of the Agreement will, for any reason, be held to violate any applicable law, and so much of the Agreement is held to be unenforceable, then the invalidity of such a specific provision will not be held to invalidate any other provisions, which other provisions will remain in full force and effect unless removal of said invalid provisions destroys the legitimate purpose of the Agreement, in which event the Agreement will be canceled.
- C. Cooperation. The Parties to this Agreement agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.
- D. Independent Contractor. This Agreement will not be construed as creating an employer-employee relationship, a partnership, or a joint venture between the Parties.
- E. Entire Agreement. This Agreement, together with Exhibit A, represents the complete and entire agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the subject of this Agreement.
- F. No Amendment of Other Agreements. Unless otherwise expressly stipulated in this Agreement, this Agreement is separate from and is not an amendment or modification of any other agreement

between the parties.

- G. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, exclusive of its choice of law provisions. Both parties recognize that the Suburban Community and Capital Metro are subject to the Texas Public Information Act ("TPIA") and unless accepted by that Act, documents and information in the Suburban Community's and Capital Metro's possession are subject to public disclosure.
- H. Venue. Venue for any action arising under this Agreement will be in Travis County, Texas.
- I. Interpretation of Laws and Authorities. All federal and state contractual provisions, as applicable, will be included in any corresponding contracts or procurements by the Parties. The Parties shall be responsible for the settlement of all contractual and administrative issues arising out of procurement entered into by the individual Party in support of the contract work. The Parties will retain responsibility for ensuring that the performances rendered under any subcontracts comply with all requirements of this Agreement as if the respective Party, entering into the subcontract, rendered such performances. In no event does this provision relieve each Party of its individual responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Agreement.
- J. Notices. Any notice given hereunder by either Party to the other will be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper Party, at the following addresses:

Suburban Community: City of Lago Vista
Mayor Ed Tidwell
P.O. Box 4727
Lago Vista, TX 78645

Capital Metro: President/CEO
Capital Metropolitan Transportation Authority
700 Lavaca, Suite 1400
Austin, Texas 78701

With a copy to: Chief Counsel
Capital Metropolitan Transportation Authority
700 Lavaca, Suite 1400
Austin, Texas 78701

- K. Liability. **THE PARTIES AGREE THAT EACH GOVERNMENTAL ENTITY IS RESPONSIBLE FOR ITS OWN PROPORTIONATE SHARE OF ANY LIABILITY FOR THE NEGLIGENT ACTS OR OMISSIONS OF ITS EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS ARISING OUT OF, CONNECTED WITH, OR AS A CONSEQUENCE OF ITS PERFORMANCE UNDER THIS AGREEMENT.**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, REVENUE, PROFITS, OR OTHER ECONOMIC ADVANTAGE), HOWEVER IT ARISES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, TORT OR OTHER ACTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

- L. Administrative Approval. The Suburban Community's duly authorized representative and the Capital Metro President/CEO will have the authority to negotiate and execute amendments to this Agreement without further action or action from their respective governing bodies, but only to the extent necessary to implement and further the clear intent of the respective governing bodies' approval, and not in such a way as would constitute a substantive modification of the terms and conditions hereof or otherwise violate Chapter 791 of the Texas Government Code. Any amendments that would constitute a substantive modification to the Agreement must be approved by the governing bodies of the Parties.
- M. Government Immunity. By execution of this Agreement, neither Party waives nor relinquishes any immunity rights available to it by law except as otherwise stipulated by applicable laws.

V. Signatories

This Agreement is hereby accepted and agreed to by the following individuals or officers who are duly authorized to bind the Parties as set forth above:

**Capital Metropolitan
Transportation Authority**

By:_____

Catherine Walker
EVP, Chief Financial & Risk Officer

Date:_____

City of Lago Vista

By:_____

Ed Tidwell
Mayor, City of Lago Vista

Date:_____

EXHIBIT A

THE BUILD CENTRAL TEXAS - SUBURBAN COMMUNITIES PROGRAM PROCEDURES AND GUIDELINES

The Build Central Texas – Suburban Communities Program was established by Capital Metro to finance transportation projects that are of mutual benefit to Capital Metro and the respective communities in the Capital Metro service area. The Capital Metro Board of Directors created the Suburban Communities Program to ensure that the suburban cities and portions of counties in the Capital Metro service area (collectively, the “Suburban Communities”) benefit from the Build Central Texas Program.

The following procedures and guidelines are provided to assist the Suburban Communities in Capital Metro's service area with developing and administering their annual Build Central Texas Program - Suburban Communities Program project proposals. Capital Metro staff will be available to assist with any questions that may arise regarding the program.

Project Criteria

1. The purpose of a project must be for transit related capital improvements and generally will fall into one of the following categories, unless otherwise agreed to by Capital Metro:
 - a. Transit Capital Improvements:
 - i. Includes sidewalks, sidewalk curb ramps, safety signage, electronic pedestrian signals, walkway lighting and hike and bike facilities, passenger amenities such as shelters, benches, landscaping, bus stop lighting, concrete bus pads, and roadway improvements that improve traffic safety or traffic flows.
 - ii. Must be along a transit route or directly leading to a transit route or transit facility, unless otherwise approved by Capital Metro. A statement from the Suburban Community that the project is along or directly leading to a transit route must be included in the proposed project list when submitted to Capital Metro.
 - b. Street Resurfacing and Improvements:
 - i. Includes asphalt and concrete resurfacing of streets, street reconstruction, and construction of new streets which will serve as transit corridors. Street repair and maintenance should focus on current and future transit routes. Street projects may only include non-transit related roadways when all transit roadways are in an improved condition.
 - ii. Transit street projects are given priority for resurfacing over non-transit streets. Funding may be applied to the repair of non-transit streets provided all of a Suburban Community's transit streets have been resurfaced in the last five years and are in good condition, as determined by Capital Metro staff. Written verification of such resurfacing must be submitted.

c. Mobility Improvements:

- i. Includes planning, review, and implementation of programs and projects which have a benefit to transit service and include the planning for, review of, and implementation of intersection improvements, signal timing changes, widening of roadways, signage, lighting, transit-related bicycle and pedestrian improvements, and other mobility enhancement projects and programs. Transit-related bicycle and pedestrian improvements are defined as those projects which use various transportation methods to providing multi-modal access to homes, business, public facilities and which provide improved access to transit facilities or service.
2. Strong preference is given to projects that are directly on a transit route.
3. Strong preference is given to projects that directly improve transit service, traffic safety, or passenger convenience.
4. Joint funding of projects between Capital Metro, the Suburban Community, and other financing sources is encouraged.

Project Submittal

1. If Capital Metro staff notifies the Suburban Community of a fiscal year allocation, the Suburban Community shall submit to Capital Metro a proposed project list for that fiscal year (October 1-September 30). The proposed project list must be submitted on or before March 31 of each fiscal year that funds are allocated provided the project list does not exceed the fiscal year allocation. The project list shall define the scope of work for the services to be provided by the Suburban Community.
2. Upon request, the Suburban Community may be required to submit to Capital Metro additional project details and timelines. Capital Metro has the right to reject any submitted project. Any project not rejected by Capital Metro shall be deemed approved.
3. The Suburban Community's projects list must include all new projects as well as any previously approved unfinished projects and their status. Capital Metro will review the proposed projects and provide guidance to the respective Suburban Communities as applicable. Final project proposals should be in letter form and directed to Capital Metro at the following address:

Capital Metropolitan Transportation Authority
Attn: Finance
2910 East Fifth Street
Austin, Texas 78702

4. Projects that are not competitively contracted will only be reimbursed for directly related costs. No indirect costs will be covered. It is a requirement under this Agreement that the Suburban Community will so state in their submitted projects list that all projects will be competitively bid noting any exceptions for emergency projects. Direct costs that are covered include the categories of project development, project design, and project construction. A letter or agreement detailing eligible costs will be required for projects that are not competitively contracted before final payment is released. Notwithstanding the foregoing, emergency projects deemed by the Suburban Community to be of grave

public necessity and necessary to meet unusual and unforeseen conditions are exempt from the competitive contracting requirement.

5. In order to advance efforts by Capital Metro and the Suburban Community to increase the participation of small businesses in publicly funded projects, Small Business Enterprise (“SBE”) participation is strongly encouraged. Each Suburban Community may set SBE goals on procurements using its own “Small Business Program” or the Suburban Community may follow Capital Metro’s SBE program.
6. If a project list for any fiscal year that funds are allocated is not submitted to Capital Metro by the end of the calendar year in which funds are allocated, then such fiscal year funds are forfeited.
7. Requests for modifications to project lists or any substitution of the projects previously approved must be submitted in writing to Capital Metro. Written approval by Capital Metro of proposed changes is required.

Project Administration

Throughout the term of any project, the Suburban Community will:

1. Maintain regular communication with Capital Metro.
2. If requested, provide Capital Metro with all requested documentation needed to conduct a project audit. In the event Capital Metro determines that fiscal year funds were not spent on an approved project, then upon demand, the Suburban Community shall reimburse Capital Metro for any funds identified by in such audit as not spent on an approved project.
3. Ensure all pedestrian projects and policies developed through the BCT Program are developed in accordance with the requirements of the Americans with Disabilities Act.
4. Notify Capital Metro or its representative when the project is complete or substantial completed.
5. Upon request, arrange a site visit to allow Capital Metro or its representative an opportunity to inspect a project.

Invoicing and Payment

1. The Suburban Community is responsible for invoicing Capital Metro upon completion or substantial completion of the project in accordance with the terms of the Agreement. The invoices should be in letter form to Capital Metro and have attached photocopies of any documentation pertaining to the cost of the project such as construction contracts, supply invoices, timesheets, change orders, contractor pay vouchers, etc.
2. The Suburban Community shall provide Capital Metro with any documentation pertaining to any approved project, including pre-construction or construction meeting minutes, copies of pay applications, change orders, progress reports, photographs, payment vouchers, and project close-out documents if requested by Capital Metro.
3. The Suburban Community is responsible for informing Capital Metro in a timely manner of any substantial delays or alterations in the project scope of work.
4. Capital Metro shall make payments to the Suburban Community, under this Agreement, as

follows: a check for fifty percent (50%) of each fiscal year allocation under this Agreement shall be mailed to the Suburban Community upon submittal of an approved project list for the fiscal year in which funds are allocated and an invoice on the Communities' letterhead. A check for the remaining fifty percent (50%) of the allocated amount for any fiscal year shall be mailed to the Suburban Community upon submission of an invoice from the Suburban Community, together with satisfactory documentation of completion of all approved projects for which funds have been allocated. Capital Metro shall pay all invoices in accordance with Texas Prompt Payment Act, Chapter 2251, Texas Government Code.

5. Capital Metro shall pay all invoices from revenue that is currently available to Capital Metro.
6. Payments to Suburban Community are expressly contingent upon the Suburban Community's strict compliance with this Agreement, including the BCT Guidelines and Procedures.
7. All interest that may accrue to program funding held by the Suburban Community must be allocated toward program projects. The local Suburban Community administrator will propose the projects to which the funding will be allocated and submit in writing a project modification request to Capital Metro.



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October 2021

From: Erin Selvera, City Attorney

Subject: The Lago Vista City Council will hold a public hearing to discuss and consider an Ordinance of the City of Lago Vista, Texas, to voluntarily annex approximately 109.4251 acres of land adjacent and contiguous territory into the incorporated municipal boundaries of the City of Lago Vista, Texas including the following: findings of fact; effective date; a repealer; severability; and proper notice and meeting.

Request: Other

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

W. Land Development, LLC submitted a request to annex approximately 109.4251 acres of property that fronts Boggy Ford and Lohman Ford Road, currently part of the City's extraterritorial jurisdiction or ETJ.

The request, submitted in accordance with Texas Local Government Code Chapter 43 Subchapter C-3, requires a public hearing and a written agreement regarding services. Notice of the public hearing was published in the Hill Country News on November 7, 2021.

Annexation of the property will promote orderly growth by facilitating long-range planning for the provision of municipal services to the development, allow the application of appropriate land use regulations, development and property maintenance standards, fire and construction codes and environmental regulations; increase the tax base for the City, and extend voting rights to those who will inhabit the property.

Impact if Approved:

Annexation of the property and approval of the Annexation and Development Agreement will allow the applicant to seek zoning and platting approval from the City and allow City staff to continue discussions with the Developer regarding improvements to the property.

Impact if Denied:

Development of the property could proceed primarily under Travis County regulations. The property owners would be required to comply with the City's signage and dark sky regulations and they would be required get a driveway permit from the City. Platting would require both City and County approval.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to	Approve Item	N/A	-	N/A	-	N/A
Motion to	Deny Item	N/A	-	N/A	-	N/A
Motion to	Table Item	N/A	-	N/A	-	N/A

Known as:

Annexation of approximately 109.4251 acres requested by property owner Groseclose and W. Land Development, LLC.

Agenda Item Approved by City Manager

CITY OF LAGO VISTA, TEXAS**ORDINANCE NO. 21-10-21-__****ANNEXATION ORDINANCE**

AN ORDINANCE OF THE CITY OF LAGO VISTA, TEXAS, TO VOLUNTARILY ANNEX APPROXIMATELY 109.4251 ACRES OF LAND ADJACENT AND CONTIGUOUS TERRITORY INTO THE INCORPORATED MUNICIPAL BOUNDARIES OF THE CITY OF LAGO VISTA, TEXAS INCLUDING THE FOLLOWING: FINDINGS OF FACT; EFFECTIVE DATE; A REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS, Chapter 43, Subchapter C-3 of the Texas Local Government Code authorizes a municipality to extend the boundaries of the municipality and annex area adjacent to the municipality in on request of the owners of such property; and

WHEREAS, the City of Lago Vista, Texas (“City”) is a home rule municipality with the rights and privileges thereto; and

WHEREAS, the City received a written request of the property owners requesting the voluntary annexation of the area consisting of approximately 109.4251 acres of land described in Exhibit “A”; and

WHEREAS, the approximately 109.4251 acres of land identified in Exhibit “A,” are adjacent and contiguous to the city limits; and

WHEREAS, the City entered into a written agreement with the property owner regarding services to be provided upon annexation; and

WHEREAS, the City Council of the City of Lago Vista (“City Council”) has conducted a public hearing on October 21, 2021, regarding the annexation of the area and has provided all required notices within the timeframes established under Chapter 43 of the Texas Local Government Code; and

WHEREAS, the City Council deems it to be in the best interest of the citizens of the City to annex said territory into the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the Lago Vista, Texas, and are hereby approved and incorporated into the body of this Ordinance as if copied herein in their entirety.

2. ANNEXATION OF TERRITORY

- A.** The properties in the area described in Exhibit “A”, which is attached hereto and incorporated herein for all purposes, is hereby annexed and brought into the municipal boundaries (i.e., corporate limits) of the City of Lago Vista, and is made an integral part, hereof.
- B.** The official map and boundaries of the City of Lago Vista are hereby amended and revised so as to include the area annexed, and to reflect the expansion of the City’s extraterritorial jurisdiction resulting from such annexation.
- C.** The owners and inhabitants of the area herein annexed are entitled to all of the rights and privileges of other citizens of the City of Lago Vista and are hereby bound by all acts, ordinances and other legal actions now in full force and effect and those that may be hereafter adopted or enacted.

3. EFFECTIVE DATE

This ordinance is effective and the annexation achieved herein shall be final and complete upon adoption of this Ordinance on the date set forth below.

4. FILING

- A.** The City Secretary is hereby instructed to include this Ordinance in the records of the City.
- B.** The City Secretary is hereby instructed to have prepared maps depicting the new municipal boundaries and extraterritorial jurisdiction.
- C.** The City Secretary is hereby instructed to file a certified copy of this Ordinance with the Travis County Clerk.

5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

6. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this the ____ day of _____ 2021, by a vote of ____ (ayes) to ____ (nays) to ____ (abstentions) of the City Council of the City of Lago Vista, Texas.

THE CITY OF LAGO VISTA:

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

Exhibit “A”
DESCRIPTION OF AREA TO BE ANNEXED

**CRICHTON AND ASSOCIATES
LAND SURVEYORS**

6448 HIGHWAY 290 EAST
SUITE B-105 AUSTIN, TEXAS 78727
PH. (512) 244-3395

FIELD NOTES

FIELD NOTES FOR 109.4251 ACRES OUT OF THE RICHARD CRAIG SURVEY NO. 1867, A-2754 AND THE DALLAS AND WICHITA RAILROAD SURVEY NO. 99, A-247 IN TRAVIS COUNTY, TEXAS AND BEING THE SAME TRACT CONVEYED TO LINDA GROSECLOSE 1998 INTERVIVOS TRUST AND LINDA GROSECLOSE ET AL BY DEED RECORDED IN DOCUMENT NO. 2002229115, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, SAID 109.4251 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the Southwesterly R.O.W. line of Lohman Ford Road, being the most northerly corner of a 60.048 acre tract conveyed to Michael and Mary Cadigan by deed recorded in Document No. 2000123186, Official Public Records, Travis County, Texas, for the most easterly corner of this tract and the **POINT OF BEGINNING**:

THENCE with the common line of this tract and said 60.048 acre tract the following four (4) courses:

- 1) **N81°00'02"W** a distance of **806.33** feet to a ½" iron rod found;
- 2) **S28°33'29"W** a distance of **1242.82** feet to a ½" iron rod found for the most southerly corner of this tract;
- 3) **N62°09'19"W** a distance of **1187.90** feet to a ½" iron rod found;
- 4) **S28°27'31"W** a distance of **99.96** feet to a ½" iron rod found in the north line of a 17.953 acre tract conveyed to Old Farm Property Owners Association by deed recorded in Document No. 2015053192, Official Public Records, Travis County, Texas, for the most southerly southwest corner of this tract;

THENCE N62°00'37"W with the common line of this tract and said 17.953 acre tract a distance of **88.34** feet to an iron pipe found in the east line of a 289.40 acre tract conveyed to Travis Meadow LP by deed recorded in Document No. 2006125525, Official Public Records, Travis County, Texas, for the most westerly Southwest corner of this tract;

THENCE with the common line of this tract and said 289.40 acre tract the following two (2) courses:

- 1) **N28°23'10"E** a distance of **3709.31** feet to a ½" iron rod found;
- 2) **N42°20'16"E** a distance of **108.81** feet to a ½" iron rod found in the southerly R.O.W. line of Boggy Ford Road;

THENCE with the southerly R.O.W. line of said Boggy Ford Road and the north line of this tract the following four (4) courses:

- 1) With a curve to the left whose elements are $R = 242.46$ feet, $L = 25.73$ feet whose chord bears **N84°45'29"E** a distance of **25.72** feet to a ½" iron rod found;
- 2) With a curve to the left whose elements are $R = 120.24$ feet, $L = 66.36$ feet whose chord bears **N65°43'11"E** a distance of **65.52** feet to a ½" iron rod set;

- 3) With a non-tangent curve to the left whose elements are $R = 348.31$ feet, $L = 78.69$ feet whose chord bears **N69°10'48"E** a distance of **78.52** feet to a $\frac{1}{2}$ " iron rod set;
- 4) **N62°43'04"E** a distance of **25.72** feet to a $\frac{1}{2}$ " iron rod set at the intersection of the southerly R.O.W. line of said Boggy Ford Road and the West R.O.W. line of said Lohman Ford Road, for the northeast corner of this tract;

THENCE with the west R.O.W. line of said Lohman Ford Road the following six (6) courses:

- 1) **S27°17'12"E** a distance of **536.92** feet to a nail found;
- 2) **N62°43'44"E** a distance of **15.06** feet to a $\frac{1}{2}$ " iron rod found;
- 3) With a curve to the right whose elements are $R = 1030.52$ feet, $L = 513.05$ feet whose chord bears **S12°59'19"E** a distance of **507.77** feet to a $\frac{1}{2}$ " iron rod found;
- 4) **S01°16'24"W** a distance of **1317.51** feet to a $\frac{1}{2}$ " iron rod found;
- 5) With a curve to the left whose elements are $R = 990.25$ feet, $L = 461.54$ feet whose chord bears **S12°05'56"E** a distance of **457.37** feet to a $\frac{1}{2}$ " iron rod found;
- 6) **S25°30'42"E** a distance of **250.68** feet to the **POINT OF BEGINNING** and containing 109.4251 acres, more or less.

BEARING BASIS IS TEXAS STATE PLANE COORDINATES (NAD 83), TEXAS CENTRAL ZONE (4203)

I hereby certify that the foregoing field notes are based on a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal July 30, 2017
Revised March 19, 2018

Herman Crichton, R.P.L.S. 4046
17_135



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October, 2021

From: Roy Jambor, AICP / PA (Development Services Director)

Subject: The Lago Vista City Council will hold a public hearing and consider an Ordinance of the City Council of Lago Vista, Texas amending the official zoning map by changing the zoning district for the approximately 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, which fronts on an unimproved section of right-of-way platted as Santa Vista Way, from C-R ("Commercial Resort") to R-1G ("Single-Family Residential").

Request: Public Hearing

Legal Document: Ordinance

Legal Review: ☐

EXECUTIVE SUMMARY:

Following this cover sheet and summary and a draft version of the ordinance recommended by the Planning and Zoning Commission, is an attached "Staff Land Use Report" specifically prepared for the City Council for considering this application. It precedes the packet that included a very similar "Staff Land Use Report" that was presented to the Planning and Zoning Commission for use in formulating their recommendation at their September 9, 2021 meeting.

There was a home builder who owned property on Santa Monica Avenue who was present at the public hearing and spoke in opposition to the application due to the desired height. Strangely enough, that property is in the R-4 district and therefore has a height limit of 25 feet for a single-family residence and 35 feet for three or more attached units. Nonetheless, the Commission members thought a more appropriate change would be to the R-1G ("Single-Family Residential") zoning district. It has a maximum height limit of 18 feet and a minimum living area of 1,800 square feet. The members thought it would limit the height in a manner similar to the property immediately to the west (in the R-1E district), but with the same minimum living area as the original application. In this manner, each individual request for additional height would be required to seek a special exception approval to ensure that neighboring views and the surrounding context would not be negatively impacted by a proposed residence. The applicant did not object to that recommendation.

With the consent of the applicant, the recommended alternative of a change to the R-1G district was unanimously approved by the Planning and Zoning Commission. Six of the seven members were present at the meeting and participated in the recommendation.

Impact if Approved:

The property owners will be able to pursue their plan to purchase one or more existing lots on the south side of Santa Monica Avenue which would be subdivided to yield access to the subject property, which would then be developed for single-family residences.

Impact if Denied:

Although access from Santa Monica Avenue would still likely be the most cost-effective method of accessing the subject property, development would be regulated by the current CR zoning district. Townhouses (980 square feet, minimum) and condominiums (700 square feet, minimum) along with various commercial enterprises are permitted by-right with a height of 28 feet.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☒ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to	Enact Ordinance	N/A	-	N/A	-	N/A
Motion to	Deny Ordinance	N/A	-	N/A	-	N/A
Motion to	Table Ordinance	N/A	-	N/A	-	N/A

Known as:

The property is described by TCAD as "0 Highland Lake Drive."

Agenda Item Approved by City Manager

ORDINANCE NO. 21-10-21-0 🗣️

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE ZONING DISTRICT FOR THE APPROXIMATELY 32.42-ACRE TRACT KNOWN AS ABSTRACT 2152, SURVEY 35 OF THE H & O.B. RAILROAD COMPANY, WHICH FRONTS ON AN UNIMPROVED SECTION OF RIGHT-OF-WAY PLATTED AS SANTA VISTA WAY, FROM C-R (“COMMERCIAL RESORT”) TO R-1G (“SINGLE-FAMILY RESIDENTIAL”); AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the owners of the approximately 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, which fronts on an unimproved section of right-of-way platted as Santa Vista Way, have filed an application requesting the change in zoning of this property from the CR (“Commercial Resort”) to the R-1T (“Single-Family, Tall”) residential zoning district; and

WHEREAS, the Property currently resides within the corporate limits of the City of Lago Vista;

WHEREAS, after giving ten (10) days written notice to the owners of land in and within 200-feet of the area being rezoned, as well as having published notice to the public at least fifteen (15) days prior to the date of such hearings, the Planning and Zoning Commission and City Council each held separate public hearings on the proposed rezoning of the Property included in this Ordinance; and

WHEREAS, the Planning and Zoning Commission at its public hearing held on September 9, 2021 reviewed the request and the circumstances of the Property, and find that a substantial change in the circumstances of the Property sufficient to warrant a change in the zoning of the Property has transpired, but that the R-1G (“Single-Family Residential”) zoning district is instead preferable, a recommendation that the property owners did not object to; and

WHEREAS, the City Council at its public hearing held on October 21, 2021, has reviewed the request, the recommendation of the Planning and Zoning Commission and the circumstances of the Property, and find that a substantial change in the circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired; and

WHEREAS, the City, by and through its legislative discretion, has adopted a comprehensive plan for the City of Lago Vista, and having considered and reviewed such comprehensive plan, the City Council finds the rezoning approved herein is consistent with the comprehensive plan which shall not be interpreted as inconsistent with this rezoning; and

WHEREAS, the City desires that development within its corporate limits occur in an orderly manner in order to protect the health, safety, and welfare of its present and future citizens, protect property values and provide for the growth of the City’s tax base; and

WHEREAS, the City desires to control the development standards for the Property, protect third party property owners in the City, and to ensure the benefits of planned development and an enhanced tax base that are achieved through rezoning the Property; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Lago Vista to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact. The Planning and Zoning Commission and City Council find that this Ordinance satisfies the requirements of Section 13 of the City of Lago Vista Zoning Ordinance, codified under Ordinance No. 98-04-27-03, as amended (the “Zoning Code”).

Section 2. Enactment. The Zoning Ordinance and the Official Zoning Map and other applicable ordinances are hereby modified and amended by rezoning the approximately 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company, which fronts on an unimproved section of right-of-way platted as Santa Vista Way, from the CR (“Commercial Resort”) to the R-1G (“Single-Family Residential”) zoning district.

Section 3. Repealer. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

Section 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Penalty. Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

Section 6. Publication Clause. The City Secretary of the City of Lago Vista is hereby directed to publish in the Official Newspaper of the City of Lago Vista the Caption, and Effective Date Clause of this Ordinance as required by Section 52.013 of the *Texas Local Government Code*.

Section 7. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below in accordance with the provisions of the *Texas Local Government Code* and the City's Charter.

Section 8. Change of Zoning Map. The City Manager is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Lago Vista, Texas.

Section 9. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551, Texas Local Government Code*.

AND IT IS SO ORDERED.

PASSED AND APPROVED this ____ day of ____, 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilman _____, seconded by Councilman _____, the above and foregoing ordinance was passed and approved.

**LAGO VISTA CITY COUNCIL
STAFF LAND USE REPORT – OCTOBER 21, 2021**



P&Z CASE NO:	21-1873-R-REZ: Santa Vista Way (Highland Lake Drive)
APPLICANT:	Casey and Megan Simmons
LANDOWNER:	Same
LOCATION:	Inaccessible 32.42-acre tract south of Santa Monica Avenue
ZONING:	CR (“Commercial Resort”) to R-1T (“Single-Family, Tall”)
PROPOSED USE:	Future subdivision of single-family residential lots

GENERAL INFORMATION / LOCATION:

- The subject property is currently inaccessible from an improved publicly dedicated right-of-way. As such, it is probably best described as a 32.42-acre tract of lakefront property (not platted) south of Highland Lake Drive that is located between Cardinal Avenue and Santa Monica Avenue.
- The property (parcel ID 158142) is erroneously described in the TCAD database as having a site address on Highland Lake Drive. That error is included on the current application which lists the municipal address of the subject property as “0 Highland Lake Drive.” The source of that particular error is seemingly a number of real estate listings that describe the property in that manner and that remain accessible using internet search engines.
- Even our GIS data, shared between a variety of governmental entities and agencies, includes some confusing and likely erroneous information that the staff will endeavor to research and correct in the near future. It labels the short length of unimproved but dedicated right-of-way between Highland Lake Road and Canary Way as “Santa Vista Way.” The label does not appear in the Travis County 911 addressing database of reserved street names and it is not included on the recorded plats on which this short section of dedicated right-of-way appears (Emerald Bend, Section 1; Highland Lake Estates, Section 26; or Highland Lake Estates, Section 30).
- Those plats instead describe this relatively abrupt and short ninety-degree dedicated right-of-way connection to Highland Lake Drive as Canary Way. Unlike “Santa Vista Way,” Canary Way is found in the Travis County 911 addressing database of reserved street names, notwithstanding the fact that is not yet improved and there is no property currently listed as fronting on that street.

SITE PLAN / CONTEXT CONSIDERATIONS:

- Unfortunately, most Lago Vista residents are far too familiar with intersections that fall below established design and construction guidelines published and readily available in the AASHTO (American Association of State Highway and Transportation Officials) manual. Two very elementary and simple requirements that are commonly ignored locally are the need for streets to intersect at or near an angle of 90 degrees and for there to be sufficient distance between intersections (as determined by all relevant factors) to avoid potential unsafe “turning conflicts.”
- “Turning conflicts” are simply the result of poor street design that requires a driver to look for potential oncoming traffic from more locations and sources than is physically possible in the required timeframe. The required timeframe is determined by a number of factors such as the speed of the traffic and the existence of sight obstructions such as curves, hills, vegetation and structures. Notwithstanding the attempted correction that resulted in the unusual geometry of lot located at 21303 Highland Lake Drive (notification ID #1 and marked by the staff on the existing right-of-way detail), there is no safe location for a new public street or private drive along the existing Canary Way right-of-way that can serve as access to this property.
- There is no good explanation why plats with these types of streets were approved by the County prior to the incorporation of the City. For whatever reason, it seems likely that their staff members responsible for reviewing the plats did not have convenient access to the transportation planners or engineers employed in other departments. Regardless, even the acquisition of additional adjacent property will not allow a safe connection to the existing Canary Way right-of-way.

- When the cost of additional property is added to the cost of constructing the entirety of Canary Way in accordance with our current public street standards, access from this location also seems financially unfeasible. The staff informed the property owners of these problems shortly after receiving the application. They seemed to appreciate that a more practical solution would be to purchase an adjacent vacant lot that also fronts on Santa Monica Avenue or Cardinal Avenue.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- Nonetheless, like a recent similar case involving lakefront property west of Lago Vista Way and Country Club Drive (the former “Sunset Harbor PDD”), this zoning change request is not strictly dependent on the ability to identify the specific final access solution. As long as an acceptable solution is possible that does not also require a zoning change, the issue can be rationally deferred until the subdivision approval is considered.
- Like the recent application mentioned immediately above, the current requested change from the approved CR (“Commercial Resort”) zoning district to the R-1T (“Single-Family, Tall”) residential zoning district would seem to be an application to “down-zone” the property (to abandon existing and “more intense” development rights). The following are uses currently permitted by the existing zoning approval that would be eliminated by this application if successful: apartments, condominiums or townhomes; hotel, motel or a bed and breakfast with associated retail or commercial uses; arcades (SUP approval required); restaurants, bars, nightclubs, billiard parlors or taverns; commercial marinas included all associated uses including outside boat storage; an RV park; community centers, commercial recreational facilities or health clubs including spas; a Laundromat or dry cleaning facility; a wholesale greenhouse; and a vocational or private school.
- However, because the current request specifically includes the R-1T single-family residential zoning district, the rights to increased maximum heights might be relevant. Since the existing CR zoning district allows a maximum height of 28 feet, the increase to 35 feet is less significant than it might be if the change was from another single-family residential district. While the currently vacant lakefront property fronting on Cardinal Avenue to the west (limited in height to 18 feet) might be impacted by even a moderate increase of up to 7 feet, the remainder of the surrounding property is located in zoning districts that enjoy maximum height limits of either 25 or 28 feet.
- Although it seemingly rarely occurs, the most recently adopted Future Land Use Map appears to be consistent with this request to “down-zone” the property from the existing CR district approval. It recommends all of the existing nearby CR property, including some that is not vacant and currently developed in accordance with the CR district requirements, to be used to accommodate either high density or low-density residential development. Since the R-1T single-family residential district request is consistent with the “low density residential” use recommended for the subject property, the provisions of Section 13.20(d) of Chapter 14 are not applicable.
- For those familiar with the term and its prohibition by our current subdivision regulations, rest assured that the subject property, if platted, would be considered a classic example of a non-conforming “flag lot.” Even with some common use needs, like a congregate mail delivery facility, it is likely that some of the unusual and narrow portions of the property cannot be included in an approved plat. It will be incumbent upon the City and the property owner to arrive at an acceptable disposition of this property to make sure we don’t create an attractive nuisance or invite code enforcement and property standard violations.
- Based on some non-compliant preliminary attempts by a surveyor engaged by the applicant, there is a desire for this 32.42-acre tract to yield approximately 10 or 11 single-family residential lots. Since it is less than the 20-lot threshold, a “subdivision concept plan” approved by the City Council (following a recommendation by the Planning and Zoning Commission) in accordance with Chapter 10 would not be required.

- Instead, the required subdivision approvals will include both a preliminary plat and final plat submitted to the Planning and Zoning Commission only, absent an appeal of either decision to the City Council. Those two approvals will be surrounded by the staff review and approval of the construction plans in accordance with all applicable state and local requirements. That required construction plan approval will include a review of the engineering design for all required drainage improvements, water quality improvements, and infrastructure (public or private streets and utilities). That specifically includes a review to ensure compliance with the Highland Lakes Watershed Ordinance (HLWO) in accordance with our agreement with the Lower Colorado River Authority (LCRA). Unlike the final plats approved by the County prior to the incorporation of the City, those improvements will have been completed and inspected by the City or secured by a performance and payment bond prior to submitting a final plat application.
- In addition to the requirements related to the improvements reviewed in the construction plans, the final plat approval requires prior compliance with the parkland dedication provisions in Section 5 of the subdivision regulations (Chapter 10). Since all of this property is within the 100-year floodplain, Section 5.12 mandates the payment of the fee specified in Section 5.10 (\$1,050 for each dwelling unit) in lieu of the parkland dedication unless nearby suitable property is included on the plat. While that result is not too much of an aberration in the current instant, the Commission members should take note that the fee in lieu of parkland dedication in our current ordinance equates to an assumed land value of only \$31,500 per acre, well below current market values.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

- There was a home builder who owned property on Santa Monica Avenue who was present at the public hearing and spoke in opposition to the application due to the desired height. Strangely enough, that property is in the R-4 district and therefore has a height limit of 25 feet for a single-family residence and 35 feet for three or more attached units.
- Nonetheless, the Commission members thought a more appropriate change would be to the R-1G ("Single-Family Residential") zoning district. It has a maximum height limit of 18 feet and a minimum living area of 1,800 square feet. The members thought it would limit the height in a manner similar to the property immediately to the west (in the R-1E district), but with the same minimum living area as the original application. In this manner, each individual request for additional height would be required to seek a special exception approval to ensure that neighboring views and the surrounding context would not be negatively impacted by a proposed residence. The applicant did not object to that recommendation.
- With the consent of the applicant, the recommended alternative of a change to the R-1G district was unanimously approved by the Planning and Zoning Commission. Six of the seven members were present at the meeting and participated in the recommendation.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Approve the change to the R-1G ("Single-Family Residential") zoning district.
 - B. Approve the change to the R-1T ("Single-Family, Tall") residential zoning district.
 - C. Deny the application for a zoning change.
-

**LAGO VISTA PLANNING AND ZONING COMMISSION
STAFF LAND USE REPORT – SEPTEMBER 9, 2021**



P&Z CASE NO:	21-1873-R-REZ: Santa Vista Way (Highland Lake Drive)
APPLICANT:	Casey and Megan Simmons
LANDOWNER:	Same
LOCATION:	Inaccessible 32.42-acre tract south of Santa Monica Avenue
ZONING:	CR (“Commercial Resort”) to R-1T (“Single-Family, Tall”)
PROPOSED USE:	Future subdivision of single-family residential lots

GENERAL INFORMATION / LOCATION:

- The subject property is currently inaccessible from an improved publicly dedicated right-of-way. As such, it is probably best described as a 32.42-acre tract of lakefront property (not platted) south of Highland Lake Drive that is located between Cardinal Avenue and Santa Monica Avenue.
- The property (parcel ID 158142) is erroneously described in the TCAD database as having a site address on Highland Lake Drive. That error is included on the current application which lists the municipal address of the subject property as “0 Highland Lake Drive.” The source of that particular error is seemingly a number of real estate listings that describe the property in that manner and that remain accessible using internet search engines.
- Even our GIS data, shared between a variety of governmental entities and agencies, includes some confusing and likely erroneous information that the staff will endeavor to research and correct in the near future. It labels the short length of unimproved but dedicated right-of-way between Highland Lake Road and Canary Way as “Santa Vista Way.” The label does not appear in the Travis County 911 addressing database of reserved street names and it is not included on the recorded plats on which this short section of dedicated right-of-way appears (Emerald Bend, Section 1; Highland Lake Estates, Section 26; or Highland Lake Estates, Section 30).
- Those plats instead describe this relatively abrupt and short ninety-degree dedicated right-of-way connection to Highland Lake Drive as Canary Way. Unlike “Santa Vista Way,” Canary Way is found in the Travis County 911 addressing database of reserved street names, notwithstanding the fact that is not yet improved and there is no property currently listed as fronting on that street.

SITE PLAN / CONTEXT CONSIDERATIONS:

- Unfortunately, most Lago Vista residents are far too familiar with intersections that fall below established design and construction guidelines published and readily available in the AASHTO (American Association of State Highway and Transportation Officials) manual. Two very elementary and simple requirements that are commonly ignored locally are the need for streets to intersect at or near an angle of 90 degrees and for there to be sufficient distance between intersections (as determined by all relevant factors) to avoid potential unsafe “turning conflicts.”
- “Turning conflicts” are simply the result of poor street design that requires a driver to look for potential oncoming traffic from more locations and sources than is physically possible in the required timeframe. The required timeframe is determined by a number of factors such as the speed of the traffic and the existence of sight obstructions such as curves, hills, vegetation and structures. Notwithstanding the attempted correction that resulted in the unusual geometry of lot located at 21303 Highland Lake Drive (notification ID #1 and marked by the staff on the existing right-of-way detail), there is no safe location for a new public street or private drive along the existing Canary Way right-of-way that can serve as access to this property.
- There is no good explanation why plats with these types of streets were approved by the County prior to the incorporation of the City. For whatever reason, it seems likely that their staff members responsible for reviewing the plats did not have convenient access to the transportation planners or engineers employed in other departments. Regardless, even the acquisition of additional adjacent property will not allow a safe connection to the existing Canary Way right-of-way.

- When the cost of additional property is added to the cost of constructing the entirety of Canary Way in accordance with our current public street standards, access from this location also seems financially unfeasible. The staff informed the property owners of these problems shortly after receiving the application. They seemed to appreciate that a more practical solution would be to purchase an adjacent vacant lot that also fronts on Santa Monica Avenue or Cardinal Avenue.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- Nonetheless, like a recent similar case involving lakefront property west of Lago Vista Way and Country Club Drive (the former “Sunset Harbor PDD”), this zoning change request is not strictly dependent on the ability to identify the specific final access solution. As long as an acceptable solution is possible that does not also require a zoning change, the issue can be rationally deferred until the subdivision approval is considered.
- Like the recent application mentioned immediately above, the current requested change from the approved CR (“Commercial Resort”) zoning district to the R-1T (“Single-Family, Tall”) residential zoning district would seem to be an application to “down-zone” the property (to abandon existing and “more intense” development rights). The following are uses currently permitted by the existing zoning approval that would be eliminated by this application if successful: apartments, condominiums or townhomes; hotel, motel or a bed and breakfast with associated retail or commercial uses; arcades (SUP approval required); restaurants, bars, nightclubs, billiard parlors or taverns; commercial marinas included all associated uses including outside boat storage; an RV park; community centers, commercial recreational facilities or health clubs including spas; a Laundromat or dry cleaning facility; a wholesale greenhouse; and a vocational or private school.
- However, because the current request specifically includes the R-1T single-family residential zoning district, the rights to increased maximum heights might be relevant. Since the existing CR zoning district allows a maximum height of 28 feet, the increase to 35 feet is less significant than it might be if the change was from another single-family residential district. While the currently vacant lakefront property fronting on Cardinal Avenue to the west (limited in height to 18 feet) might be impacted by even a moderate increase of up to 7 feet, the remainder of the surrounding property is located in zoning districts that enjoy maximum height limits of either 25 or 28 feet.
- Although it seemingly rarely occurs, the most recently adopted Future Land Use Map appears to be consistent with this request to “down-zone” the property from the existing CR district approval. It recommends all of the existing nearby CR property, including some that is not vacant and currently developed in accordance with the CR district requirements, to be used to accommodate either high density or low density residential development. Since the R-1T single-family residential district request is consistent with the “low density residential” use recommended for the subject property, the provisions of Section 13.20(d) of Chapter 14 are not applicable.
- For those familiar with the term and its prohibition by our current subdivision regulations, rest assured that the subject property, if platted, would be considered a classic example of a non-conforming “flag lot.” Even with some common use needs, like a congregate mail delivery facility, it is likely that some of the unusual and narrow portions of the property cannot be included in an approved plat. It will be incumbent upon the City and the property owner to arrive at an acceptable disposition of this property to make sure we don’t create an attractive nuisance or invite code enforcement and property standard violations.
- Based on some non-compliant preliminary attempts by a surveyor engaged by the applicant, there is a desire for this 32.42-acre tract to yield approximately 10 or 11 single-family residential lots. Since it is less than the 20-lot threshold, a “subdivision concept plan” approved by the City Council (following a recommendation by the Planning and Zoning Commission) in accordance with Chapter 10 would not be required.

- Instead, the required subdivision approvals will include both a preliminary plat and final plat submitted to the Planning and Zoning Commission only, absent an appeal of either decision to the City Council. Those two approvals will be surrounded by the staff review and approval of the construction plans in accordance with all applicable state and local requirements. That required construction plan approval will include a review of the engineering design for all required drainage improvements, water quality improvements, and infrastructure (public or private streets and utilities). That specifically includes a review to ensure compliance with the Highland Lakes Watershed Ordinance (HLWO) in accordance with our agreement with the Lower Colorado River Authority (LCRA). Unlike the final plats approved by the County prior to the incorporation of the City, those improvements will have been completed and inspected by the City or secured by a performance and payment bond prior to submitting a final plat application.
- In addition to the requirements related to the improvements reviewed in the construction plans, the final plat approval requires prior compliance with the parkland dedication provisions in Section 5 of the subdivision regulations (Chapter 10). Since all of this property is within the 100-year floodplain, Section 5.12 mandates the payment of the fee specified in Section 5.10 (\$1,050 for each dwelling unit) in lieu of the parkland dedication unless nearby suitable property is included on the plat. While that result is not too much of an aberration in the current instant, the Commission members should take note that the fee in lieu of parkland dedication in our current ordinance equates to an assumed land value of only \$31,500 per acre, well below current market values.

POTENTIAL ALTERNATIVE RECOMMENDATIONS:

- A. Recommend approval of a change to the R-1T ("Single-Family, Tall") residential zoning district.
 - B. Recommend denial of the application for a zoning change.
-

21-1873-R-REZ

Canary Way (Highland Lake Drive)

Attachment 1

Application



CITY OF LAGO VISTA
BUILDING AND DEVELOPMENT SERVICES
5803 THUNDERBIRD, LAGO VISTA, TEXAS 78645
OFFICE 512-267-5259 FAX 512-267-5265

ZONING CHANGE REQUEST APPLICATION

Name of Owner(s): Megan and Casey Simmons
Owner's Address: 1800 Harvest Dance Drive, Leander, TX 78641
Contact Person: Casey Simmons
Email Address: mc.Simmons08@gmail.com
Contact Phone Numbers: 512-809-0970

COMPLETE LEGAL DESCRIPTION OF PROPERTY:

Subdivision: N/A Section: Lot No:
Property Address: 0 Highland Lake Drive, Lago Vista, TX 78645
Volume and Page: 12790 / pg. 2082 - "Tract 5"
Where Deed is Filed:

ZONING REQUEST INFORMATION:

Current zoning designation: Resort Zoning
Requested zoning designation: Residential - (Single-Family) R-1T
Purpose of zoning change: create single-family housing on
estate lots 1+ acres.

In the event I cannot attend the Public Hearing, I designate the following person to act on my behalf:

Name of Agent: Lauren Harlow
Address:
Phone Number(s): 512-369-2920

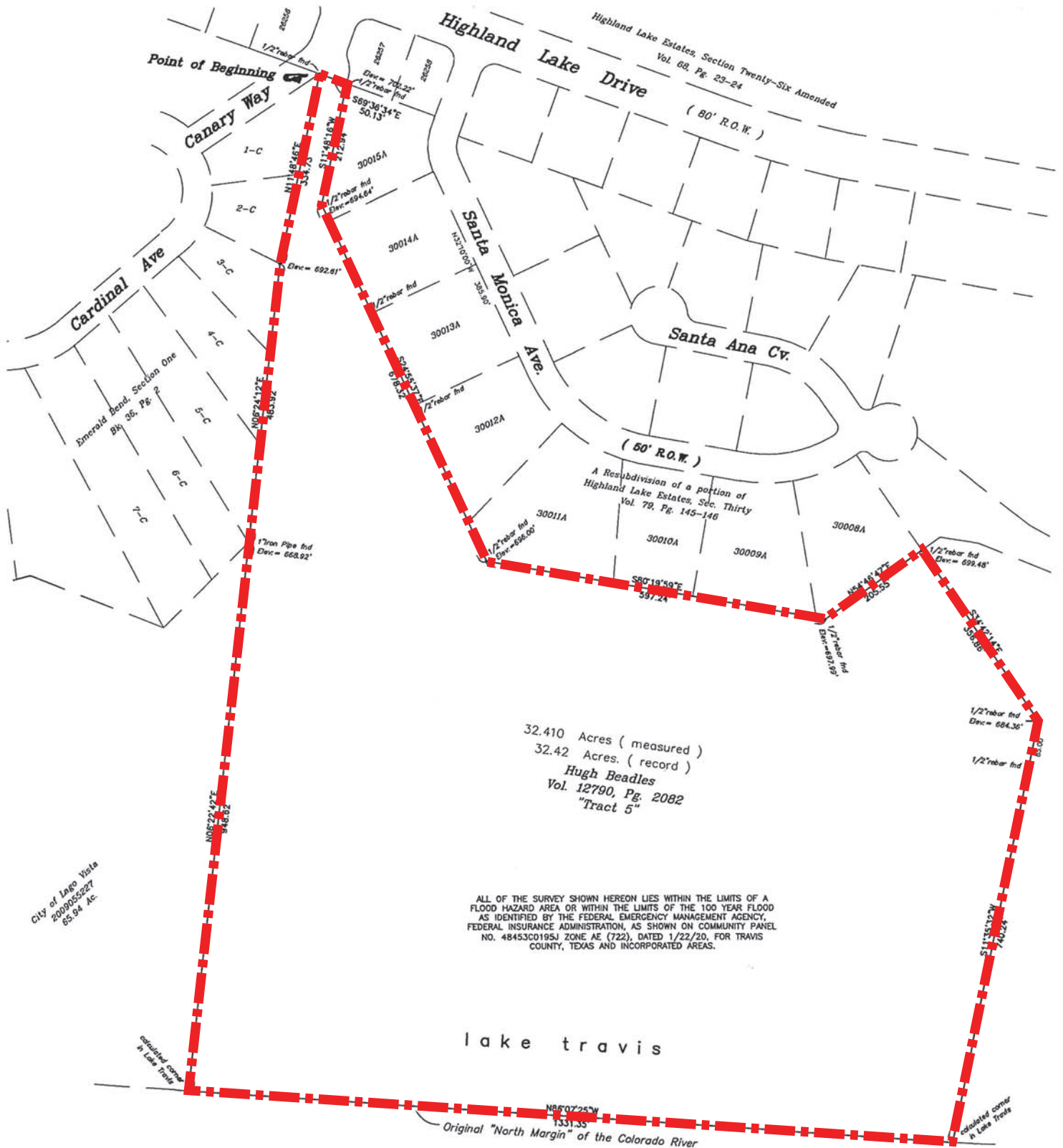
Signature of Applicant: Megan Simmons Date: 6/16/21

21-1873-R-REZ

Canary Way (Highland Lake Drive)

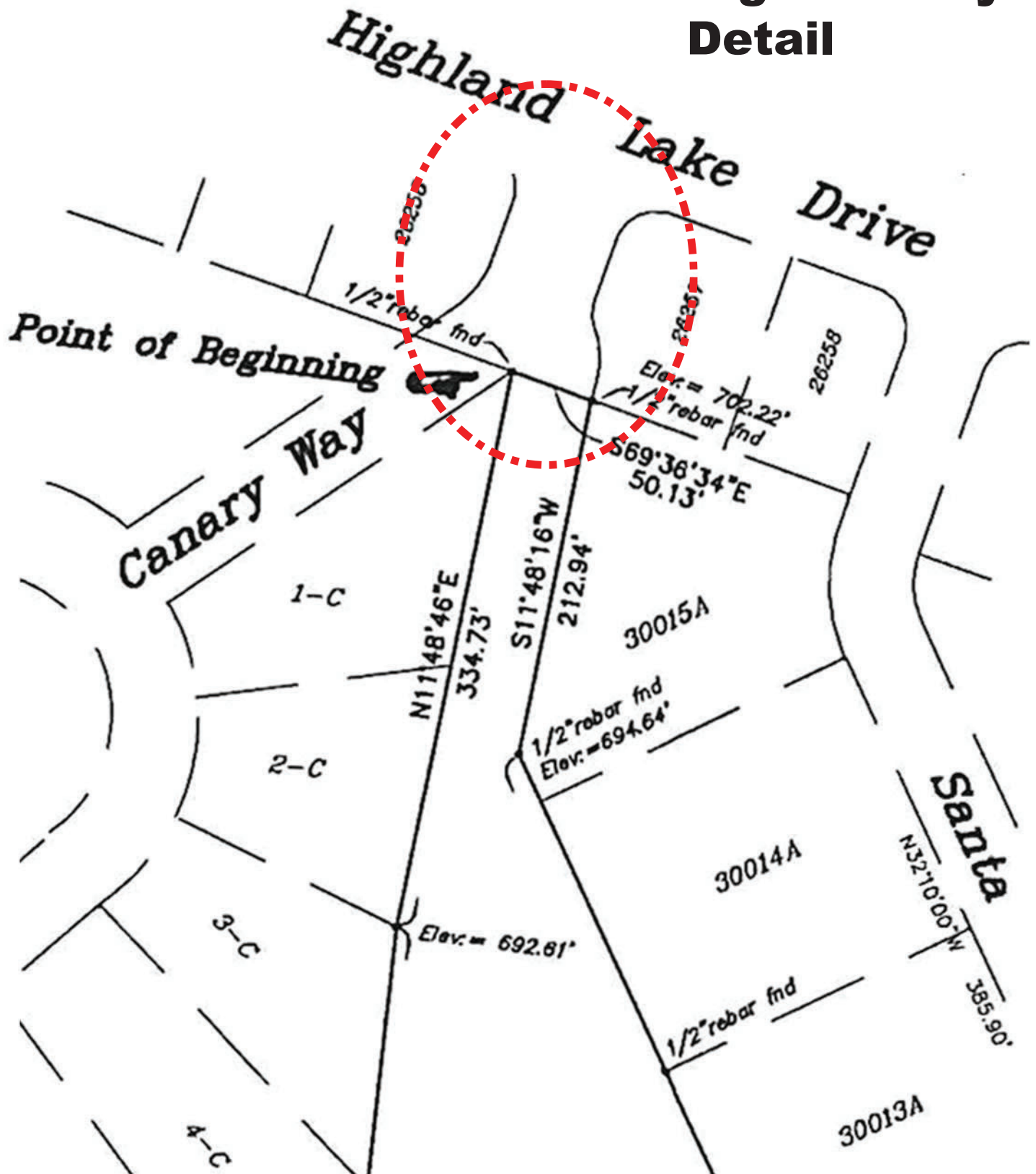
Attachment 2

Site Plan



Site Plan

Existing Right-of-Way Detail

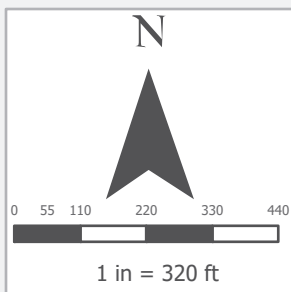


21-1873-R-REZ

Canary Way (Highland Lake Drive)

Attachment 3

Maps



32.42 Acre Tract

Request Type	Zoning Change	Project	21-1873-R-REZ
Change Requested	C-R to R-1T	Date	8/5/2021
Map Purpose	Aerial & Topo Map	Drawn By	cmartinez

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

Contours

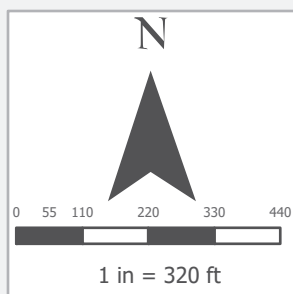
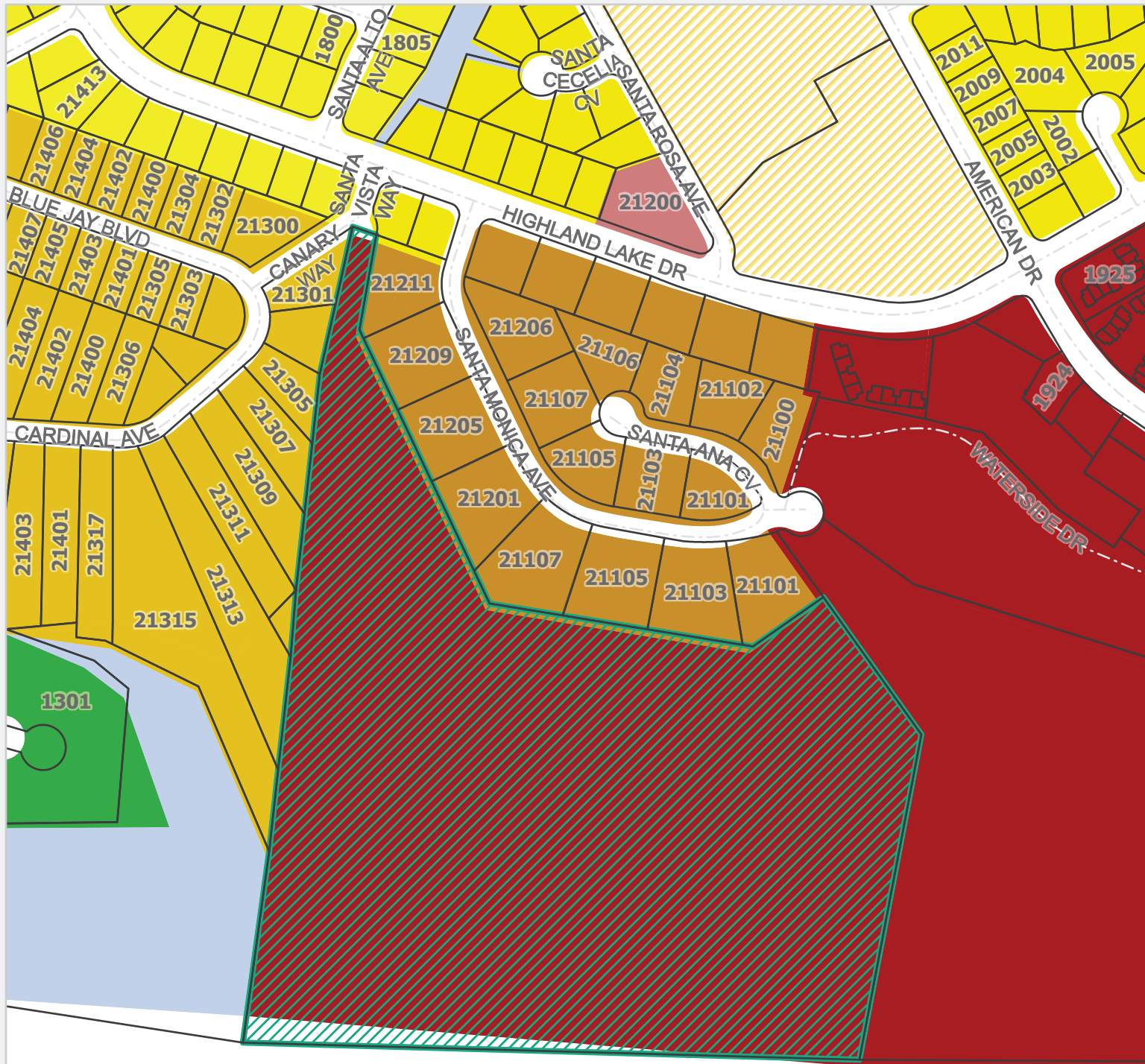
— 10 ft

— 50 ft

--- Street

□ Tax Parcels (TCAD)

▨ Requestor Property

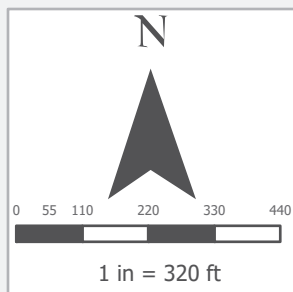
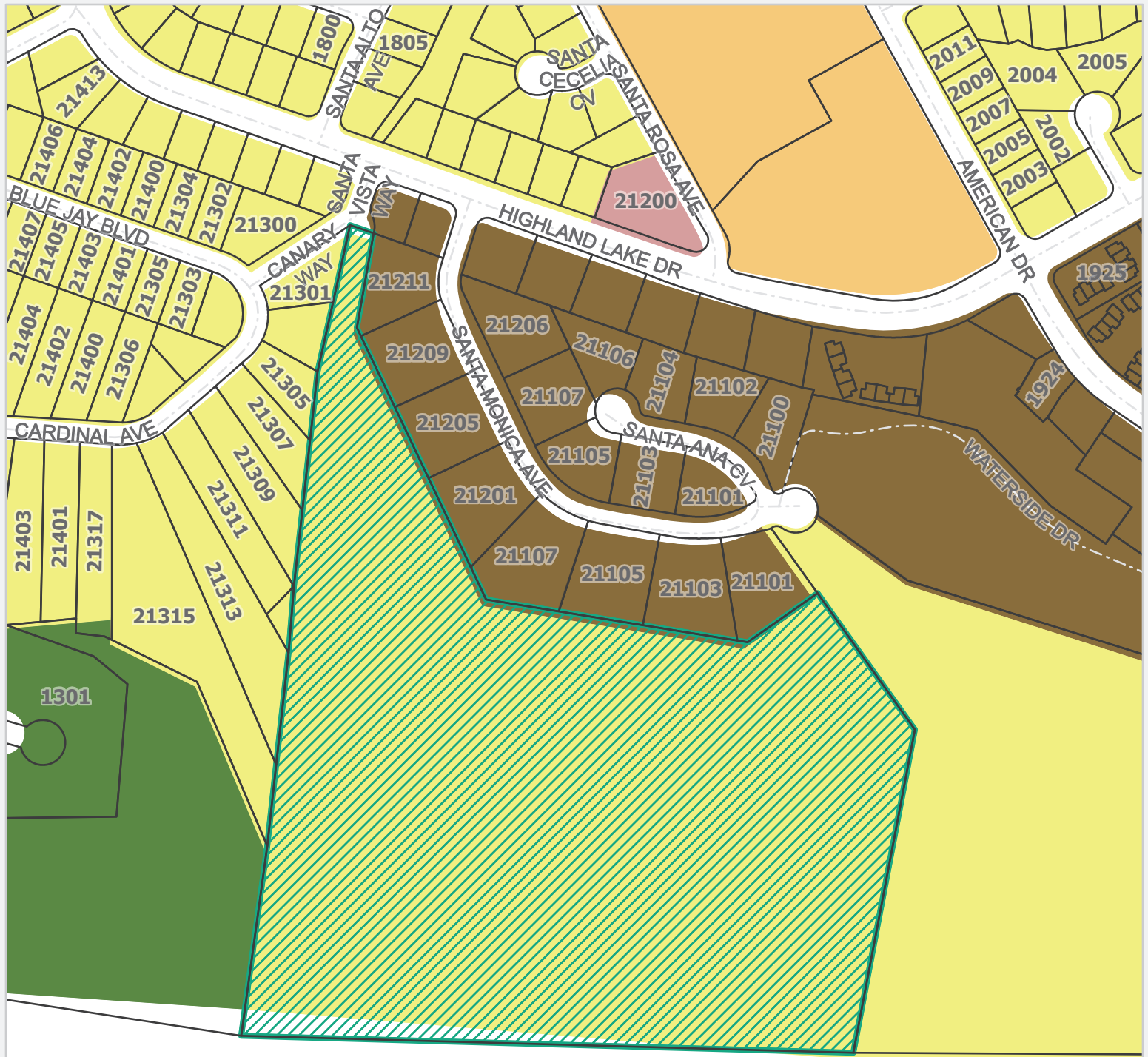


32.42 Acre Tract

Request Type	Zoning Change	Project	21-1873-R-REZ
Change Requested	C-R to R-1T	Date	8/5/2021
Map Purpose	Zoning Map	Drawn By	cmartinez

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

—	Street
□	Tax Parcels (TCAD)
■	Requestor Property
Zoning Districts	
■	C-1C
■	CR
■	P-1A
■	PDD
■	R-1B
■	R-1C
■	R-1E
■	R-4
■	TR-1



32.42 Acre Tract

Request Type	Zoning Change	Project	21-1873-R-REZ
Change Requested	C-R to R-1T	Date	8/5/2021
Map Purpose	Future Land Use Map	Drawn By	cmartinez

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

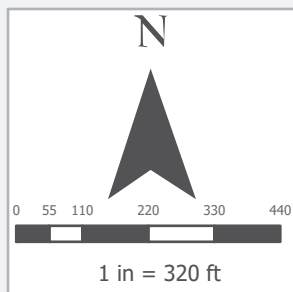
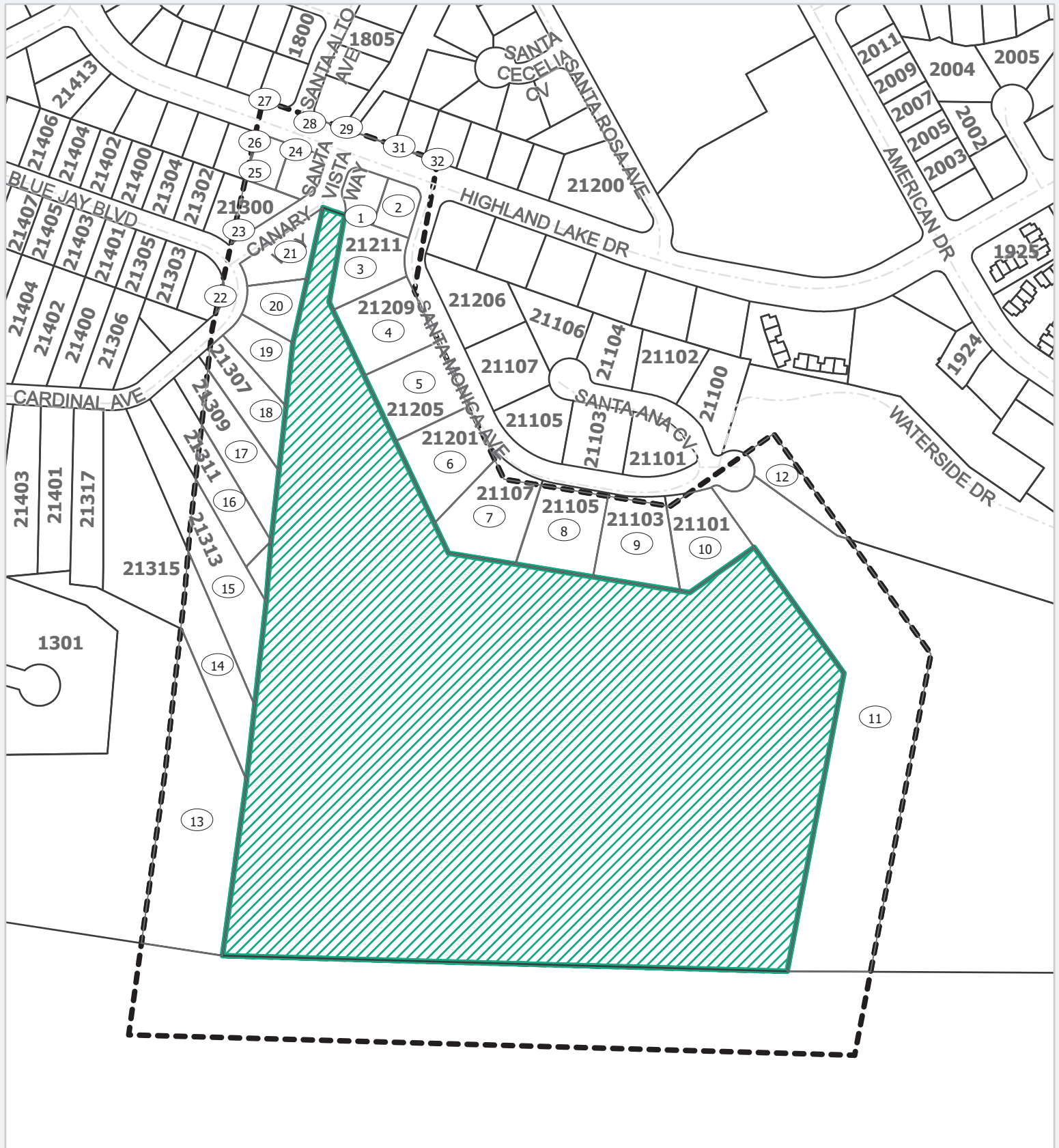
—	Street
□	Tax Parcels (TCAD)
■	Requestor Property
■	High Density Residential
■	Low Density Residential
■	Medium Density Residential
■	Neighborhood Retail/Office/Commercial
■	POA Park

21-1873-R-REZ

Canary Way (Highland Lake Drive)

Attachment 4

Notice Comments



32.42 Acre Tract

Request Type	Zoning Change	Project	21-1873-R-REZ
Change Requested	C-R to R-1T	Date	7/27/2021
Map Purpose	Notification Boundary Map	Drawn By	cmartinez

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

-  Requestor Property
-  200ft Notice Boundary
-  Street
-  Tax Parcels (TCAD)



Project #: 21-1873-R-REZ

Hearing Date: Thursday, August 12, 2021, at 7:00 P.M. in Council Chambers in City Hall located at 5803 Thunderbird St., Lago Vista, TX 78645

Project Property Location: 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

200' Notification Mailing ID: 17

July 28, 2021

WINDON RONALD JOSEPH JR & KIMBERLY VAUGHN
6 COMBELL GARDEN
MISSOURI CITY, TX 77459

The Planning and Zoning Commission will make a consideration of a recommendation regarding a request for a zoning change from C-R ("Commercial Resort") to R-1T ("Single-Family, Tall") for the approximately 32.42-acre tract known at Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

☐ In Favor; ☒ Opposed

Comments:

We purchased the lot at 21309 Cardinal Ave because of the unobstructed views of the water. We are currently building a home and have adhered to the City of Lago's height restrictions which forced

Signed: Rebecca Dwyer August 5, 2021

This whole page may be returned as follows:

E-mail: development@lago-vista.org

Fax: 512-267-5265

Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645

In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.

our living area to be restricted to one level. We want our waterfront views protected like the City of Lago protected others during our building and permitting process. This rezoning significantly risks obstructing our views since the land juts out further than our property. We strongly oppose any rezoning that has the potential to obstruct our views. Having a home on Lake Travis has been a dream of ours for years. Please don't take our dream away.



Notice of Public Hearing

Project #: 21-1873-R-REZ

Hearing Date: Thursday, September 9, 2021, at 7:00 P.M. in Council Chambers in City Hall located at 5803 Thunderbird St., Lago Vista, TX 78645

Project Property Location: 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Drive, but which actually fronts on an unimproved section of right-of-way platted as Santa Vista Way.

200' Notification Mailing ID: 17

August 30, 2021

WINDON RONALD JOSEPH JR & KIMBERLY VAUGHN
6 COMBWEILL GARDEN
MISSOURI CITY, TX 77459

The Planning and Zoning Commission will make a consideration of a recommendation regarding a request for a zoning change from C-R ("Commercial Resort") to R-1T ("Single-Family, Tall") for the approximately 32.42-acre tract known at Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Drive, but which actually fronts on an unimproved section of right-of-way platted as Santa Vista Way.

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☐ In Favor; ☐ Opposed

Comments:

Please see Attached

"Conditional approval" pending certain conditions

Signed:

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Fax: 512-267-5265
Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.

September 8, 2021

Dear City of Lago Planning and Zoning Commission,

We are writing in response to Project# 21-1873-R-REZ regarding rezoning the 32.42 acre tract known as abstract 2152, Survey 35 of the H & O.B. Railroad Company. My husband and I previously submitted an opposition to this rezoning. After further discussion, **our opposition is contingent on the rezoning not impacting our waterfront view of Lake Travis.** Our property is located at 21309 Cardinal Avenue. We have secured all of the necessary building permits, our foundation has been poured, and we are in the process of building the stem wall. Throughout our build process so far, the City of Lago has protected the view of our neighbors. We can fully appreciate why and are grateful that the City is considering all of its residents as the area continues to grow. This is a small, intimate community. We all want what is best.

We redesigned our home to both meet the City's requirements while also maximizing our waterfront views. Our initial plan was to build a two story home, but with the City's height restrictions for how high the roof could be combined with the flood plain height, we were forced to restrict our living area to one level.

We purchased this lot because of its unobstructed views of the water and because it has been our dream for years to own a home along the Lake Travis waterfront. All we ask of the City of Lago is to do the same for us in protecting our view. There is nothing presently sitting on the land that is being requested for rezoning, so your decision here is crucial for us.

Our home orientation is aligned with the orientation of our 21319 Cardinal Avenue lot, so it sits at an angle. This means that our line of sight to the waterfront goes through the tip / point of 32.42 acre tract that is closest to the lake. What is shown on the map provided is not all land. Some of the property plotted on the map provided extends into the lake, which is why I mentioned a tip / point within our viewshed.

We would be in favor of this rezoning *if* our waterfront view remains intact. **If our view would be obstructed by the rezoning, then we strongly oppose.** Our sincerest hope is that you would protect our Lake Travis waterfront views like you have for others and not take away our dream. Please let us know if you have any questions, and thank you for your consideration and help in saving our views.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kimberly and Ronald Windon, Jr.', written in a cursive style.

Kimberly and Ronald Windon, Jr.



Notice of Public Hearing

Project #: 21-1873-R-REZ

Hearing Date: Thursday, August 12, 2021, at 7:00 P.M. in Council Chambers in City Hall located at 5803 Thunderbird St., Lago Vista, TX 78645

Project Property Location: 32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

200' Notification Mailing ID: 26

July 28, 2021

HAMLEY JACK D
3020 CAJUILES DR
PFLUGERVILLE, TX 78660

The Planning and Zoning Commission will make a consideration of a recommendation regarding a request for a zoning change from C-R ("Commercial Resort") to R-1T ("Single-Family, Tall") for the approximately 32.42-acre tract known at Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org

Phone Number: 512-267-5259

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☒ In Favor; ☐ Opposed

Comments:

CONTINGENT ON ATTACHED CONCERNS AND
QUESTIONS.

Signed:

Jack D. Hamley (21403 Highland Lakes Dr)

This whole page may be returned as follows:

E-mail: development@lago-vista.org

Fax: 512-267-5265

Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645

In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.

August 3, 2021

Lago Vista Development Department,

My property (21403 Highland Lakes Dr) is in close conjunction to the proposed development, I need additional details on this proposed development in order to assess impact.

My concerns and questions:

1. Infrastructure enhancements to support development (streets, drainage etc.)?
2. Lifestyle amenities planned for the development that would be accessible to property owners? Greenspace, hiking/biking trails, parks etc.
3. Timeframe for construction and effect on nearby properties?
4. Residences and support facilities included in development with applicable price ranges and dimensions (images)?
5. Environmental impact on Homeowners, Property Owners and surrounding Lago Vista community.
6. Risk vs. Benefits assessment by the City of Lago Vista and Developers completed prior to any initial construction.

Any other relevant information that will be helpful to assess impact on lifestyle (loss of wooded landscape/lake living) and financial considerations (property values)?



Jack D. Hamley – 21403 Highland Lakes Dr



Notice of Public Hearing

Project #: 21-1873-R-REZ

Hearing Date: Thursday, August 12, 2021, at 7:00 P.M. in Council Chambers in

Project Property Location: City Hall located at 5803 Thunderbird St., Lago Vista, TX 78645
32.42-acre tract known as Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

200' Notification Mailing ID: 28

July 28, 2021

ARANGO CESAR OSORIO & GLADIS ELENA
5624 MANOWAR STRETCH DR
DEL VALLE, TX 78617

The Planning and Zoning Commission will make a consideration of a recommendation regarding a request for a zoning change from C-R ("Commercial Resort") to R-1T ("Single-Family, Tall") for the approximately 32.42-acre tract known at Abstract 2152, Survey 35 of the H & O.B. Railroad Company commonly referred to as being located on Highland Lake Road, but which actually fronts on an unimproved section of right-of-way platted as Canary Way.

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Phone Number: 512-267-5259

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☒ In Favor; ☐ Opposed

Comments:

Signed:

8-4-2021

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Fax: 512-267-5265
Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October, 2021

From: Roy Jambor, AICP / PA (Development Services Director)

Subject: The Lago Vista City Council will hold a public hearing and consider a modification to an existing conditional use approval pursuant to Section 16.70 of Chapter 14 of the Lago Vista Code of Ordinances regarding a dog grooming service operating as a home-based business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

Request: Public Hearing

Legal Document: Other

Legal Review: ☐

EXECUTIVE SUMMARY:

Following this cover sheet and summary is an attached "Staff Land Use Report" specifically prepared for the City Council for considering this application. It precedes the packet that included a very similar "Staff Land Use Report" that was presented to the Planning and Zoning Commission for use in formulating their recommendation at their September 30, 2021 meeting.

The entirety of the discussion was related to the staff concern about the improvements to the garage and its potential negative impact on off-street parking. The applicant confirmed that they use professional grooming tables (electrical) that accommodate large breeds and are not really capable of being moved out of the way to make room for a vehicle at the end of the work day. However, they confirmed that they are a one-vehicle family and that both she and her husband currently work in their business during the day. There is room for that one vehicle in the driveway during normal business hours which would allow another space in the driveway for patron vehicles so that they would not be forced to use the right-of-way for parking. At the end of the business day, the applicant's one vehicle can be stored in the garage without moving the grooming tables.

The request for the ability to allow the addition of a staff member that was not a member of the household was to allow the applicant's husband the flexibility of taking another position if it ever became desirable. However, there are no immediate plans for him to do so. If he did, their one vehicle would no longer be at this location during normal business hours and that space in the driveway would be available for that potential new staff member.

Given that information, the Planning and Zoning Commission was comfortable that the desired improvements to the garage were not a problem or an ordinance violation so long as the overhead door remained functional. There was no opposition present at the public hearing, although there was a written comment that mentioned barking. However, we have not received a complaint from that property owner, which is a prerequisite to a favorable recommendation from the Planning and Zoning Commission. As such, they unanimously recommended the desired changes to the existing conditional use approval. Five of the seven members were present at the meeting and participated in the recommendation.

Impact if Approved:

The applicant would be free to seek permits for the desired changes and could operate under these modified conditions. They would still be obligated to renew their certificate of occupancy (CO) for the home-based business and the associated inspection would help ensure compliance with all conditions.

Impact if Denied:

The applicant could still operate under the conditions of their existing approval (without the use of the existing garage or the ability to add staff that is not a member of the immediate household).

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☒ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Michelle Morgan doing business as "Doggo Vista Grooming," a home-based business operating at 2502 Newton Drive.

Agenda Item Approved by City Manager

**LAGO VISTA CITY COUNCIL
STAFF LAND USE REPORT – OCTOBER 21, 2021**



P&Z CASE NO:	21-1887-CO-U: 2502 Newton Drive
APPLICANT:	Michelle Morgan (dba Doggo Vista Grooming)
LANDOWNER:	Stuart and Judy MacKay (grandparents)
LOCATION:	West side of street ± 40 feet north of Nantucket Cove
ZONING:	Conditional Use Permit in the R-1B zoning district
PROPOSED USE:	Modify Conditions of Approved Dog Grooming Business

GENERAL INFORMATION / LOCATION:

- Following a favorable recommendation from six of the seven members of the Planning and Zoning Commission in consideration of 20-1647-CO-U (all were in attendance at the meeting), the Lago Vista City Council unanimously approved a conditional use approval for this home-based dog grooming business at their meeting on September 3, 2020. At the time, no relief was sought from any of the use limitations enumerated in Section 16.20. Instead the only reason the conditional use approval was required (as opposed to merely a certificate of occupancy for a home-based business) was due to the fact that dog grooming is listed in the ordinance as a use for which it is required, notwithstanding full compliance with all limitations.
- The recommendation and approval were both subject to the following stipulations:
 1. that the grooming services would be available by appointment only;
 2. that the operation would be limited in size to three holding kennels; and
 3. that in accordance with the authority of Section 16.70(e)(3), the certificate of occupancy (CO) for the home based business would require renewal every two years and would require an additional conditional use approval if future relief was desired from any one or more of the enumerated use limitations.
- The applicant (whose grandparents are the property owner) recently filed this application for relief from one prohibition (participation in the business activity by someone other than a family member) and another practice that “is discouraged” (the use of a garage or accessory building in the business activity). Perhaps more significantly, it appears the applicant intends to make improvements to the existing garage that might tend to discourage its use for storage of the family vehicles when it not being used for dog grooming during the evenings or weekends when the home-based business is not open.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The staff is aware of one other home based business on Newton Drive, a brokerage business that arranges for the procurement of firearms and ammunition, although none of those products are ever stored or received at that location. Pursuant to the previous application, the staff received opposition from the owner of a vacant lot within the 200 foot notification boundary, who also owns an adjacent residence that is immediately outside of that same boundary. However, the nature of the opposition seems to be based on predictions of future negative impacts without realizing that the business had already been operating for several months on the basis of a COVID-19 related emergency approval.
- Potential improvements to the garage described by the applicant include an epoxy floor coating, heating and cooling, plumbing for the grooming tub in a location that would not displace either of the two required vehicle spaces, and perhaps a new window. There is also mention of additional insulation. The only other provisions in the garage that are mentioned in the current application are the grooming tables and what appears to be writing surface. The applicant confirmed that the grooming tables are incapable of being easily moved at the end of each work day and that they would preclude the use of the entire existing garage.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- It is essential that the proposed improvements to the garage not preclude its use for vehicle storage whenever the home-based business is closed. Otherwise the approval would represent an ordinance violation as a minimum 400 square foot garage (not a carport) is required in this zoning district by Section 4.20(c) of Chapter 14. TCAD records indicate that it includes a 478 square foot garage despite the notation in the application about some portion consisting of 261.15 square feet.
- The staff is not aware of any complaint, valid or otherwise, involving either this location or this home-based business. The lack of a valid complaint from a property owner within two hundred feet of the subject property is a prerequisite to a favorable recommendation by the Planning and Zoning Commission in accordance with Section 16.70(d).

PLANNING AND ZONING COMMISSION RECOMMENDATION:

- There was no opposition present at the public hearing and the entirety of the discussion was related to the impact of the desired improvements and the use of the garage on any potential parking problems, both during and after normal business hours. The staff remained concerned about effective reduction in the size of the garage to below the ordinance required minimum.
- The applicant confirmed that they are a one-vehicle family and that both she and her husband currently work in their business during the day. There is room for that one vehicle in the driveway during normal business hours which would allow another space in the driveway for patron vehicles so that they would not be forced to use the right-of-way for parking. At the end of the business day, the applicant's one vehicle can be stored in the garage without moving the grooming tables.
- The request for the ability to allow the addition of a staff member that was not a member of the household was to allow the applicant's husband the flexibility of taking another position if it ever became desirable. However, there are no immediate plans for him to do so. If he did, their one vehicle would no longer be at this location during normal business hours and that space in the driveway would be available for that potential new staff member.
- Given that information, the Planning and Zoning Commission were comfortable with the desired improvements to the garage and the possible addition of a groomer that was not a member of the household so long as the overhead door remained functional. They saw no difference between this partial use of an existing garage and other residents that use at least half of their garages for excessive storage. They unanimously recommended the desired changes to the existing conditional use approval. Five of the seven members were present at the meeting and participated in the recommendation.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Approve the application subject to the following conditions:
 - 1. an existing or new overhead door to the garage will remain in place and operational; and
 - 2. in accordance with the authority of Section 16.70(e)(3), the certificate of occupancy (CO) for the home based business shall require renewal every two years and require an additional conditional use approval if relief from any other enumerated use limitations are desired.
 - B. Approve the application with no conditions.
 - C. Deny the application.
-

**LAGO VISTA PLANNING AND ZONING COMMISSION
STAFF LAND USE REPORT – SEPTEMBER 30, 2021**



P&Z CASE NO:	21-1887-CO-U: 2502 Newton Drive
APPLICANT:	Michelle Morgan (dba Doggo Vista Grooming)
LANDOWNER:	Stuart and Judy MacKay (grandparents)
LOCATION:	West side of street ± 40 feet north of Nantucket Cove
ZONING:	Conditional Use Permit in the R-1B zoning district
PROPOSED USE:	Modify Conditions of Approved Dog Grooming Business

GENERAL INFORMATION / LOCATION:

- Following a favorable recommendation from six of the seven members of the Planning and Zoning Commission in consideration of 20-1647-CO-U (all were in attendance at the meeting), the Lago Vista City Council unanimously approved a conditional use approval for this home-based dog grooming business at their meeting on September 3, 2020. At the time, no relief was sought from any of the use limitations enumerated in Section 16.20. Instead the only reason the conditional use approval was required (as opposed to merely a certificate of occupancy for a home-based business) was due to the fact that dog grooming is listed in the ordinance as a use for which it is required, notwithstanding full compliance with all limitations.
- The recommendation and approval were both subject to the following stipulations:
 1. that the grooming services would be available by appointment only;
 2. that the operation would be limited in size to three holding kennels; and
 3. that in accordance with the authority of Section 16.70(e)(3), the certificate of occupancy (CO) for the home based business would require renewal every two years and would require an additional conditional use approval if future relief was desired from any one or more of the enumerated use limitations.
- The applicant (whose grandparents are the property owner) recently filed this application for relief from one prohibition (participation in the business activity by someone other than a family member) and another practice that “is discouraged” (the use of a garage or accessory building in the business activity). Perhaps more significantly, it appears the applicant intends to make improvements to the existing garage that might tend to discourage its use for storage of the family vehicles when it not being used for dog grooming during the evenings or weekends when the home-based business is not open.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The staff is aware of one other home based business on Newton Drive, a brokerage business that arranges for the procurement of firearms and ammunition, although none of those products are ever stored or received at that location. Pursuant to the previous application, the staff received opposition from the owner of a vacant lot within the 200 foot notification boundary, who also owns an adjacent residence that is immediately outside of that same boundary. However, the nature of the opposition seems to be based on predictions of future negative impacts without realizing that the business had already been operating for several months on the basis of a COVID-19 related emergency approval.
- Potential improvements to the garage described by the applicant include an epoxy floor coating, heating and cooling, plumbing for the grooming tub in a location that would not displace either of the two required vehicle spaces, and perhaps a new window. There is also mention of additional insulation, yet is hard to imagine that either the walls or the attic above the garage are not already insulated to the same extent as the rest of the residence. The only likely improvement in the energy efficiency of the space might require a more heavily insulated overhead door, a fairly significant expense unless the existing door is already damaged and needs replacing.

- The only other provisions in the garage that are mentioned in the current application are the grooming tables and what appears to be writing surface. The staff would strongly recommend the use of folding tables so they can be easily stored out of the way and the space used as the garage required by the zoning ordinance after the close of business each day.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- It is essential that the proposed improvements to the garage not preclude its use for vehicle storage whenever the home-based business is closed. Otherwise the approval would represent an ordinance violation as a minimum 400 square foot garage (not a carport) is required in this zoning district by Section 4.20(c) of Chapter 14. Coincidentally, the notation within the current application about some portion of the existing garage consisting of 261.15 square feet is somewhat curious. Although the residence was constructed in 2010 before our use of digital permit document storage, TCAD records indicate that it includes a 478 square foot garage.
- The staff strongly advises the applicant to closely monitor parking demands of this home-based business and provide additional paved parking on the subject property if necessary. If included, the additional parking must be located well beyond the existing public right-of-way and any existing dedicated utility or drainage easement. Section 16.20(k)(2) specifically prohibits “curbside or edge-of-street parking” related to a home-based business.
- The staff is not aware of any complaint, valid or otherwise, involving either this location or this home-based business. The lack of a valid complaint from a property owner within two hundred feet of the subject property is a prerequisite to a favorable recommendation by the Planning and Zoning Commission in accordance with Section 16.70(d).

POTENTIAL ALTERNATIVE RECOMMENDATIONS:

A. Recommend approval of the application subject to the following conditions:

1. an existing or new overhead door to the garage will remain in place and operational;
2. all grooming tables or other equipment located in the vehicle storage area of the garage will be removed at the conclusion of each work day and its use as a garage maintained whenever the home-based business is not in operation;
3. provide additional paved off-street parking spaces to avoid the need for any vehicles along or within the Newton Drive right-of-way; and
4. in accordance with the authority of Section 16.70(e)(3), the certificate of occupancy (CO) for the home based business shall require renewal every two years and require an additional conditional use approval if relief from any other enumerated use limitations are desired.

B. Recommend approval of the application with no conditions.

C. Recommend denial of the application.

21-1887-CO-U
2502 Newton Drive

Attachment 1

Application



CITY OF LAGO VISTA

Conditional Use Permit

Conditional Use Permit Fee: \$250.00

Applicant Information:

Name: Michelle Morgan
Address: 2502 Newton DR. Lago Vista TX 78645
Telephone #: 512-653-6508
E-mail: missmichelletm@gmail.com
Date of Application: 7/11/21
Signature: Michelle J. Morgan

Request:

Conditional Use Permit is being sought for:

Legal Description: _____

(Subdivision) (Section) (Lot)

Please attach a to-scale drawing of the improvements that would be provided.

From: Michelle Morgan <missmichelletm@gmail.com>
Sent: Sunday, July 11, 2021 2:13 PM
To: Roy Jambor <RJambor@lago-vista.org>
Subject: Re: Application for changes to my home based business

Hello,

My name is Michelle Morgan. I would like to apply to amend my conditional use permit. I would like to move my home-based grooming salon from within the home to the garage. I would be adding heating and cooling to the garage & plumbing for the grooming tub.

I would also like to request permission to hire. At this point I do not have plans to hire but would like to have the option of doing so. If I were to hire, I would not increase the number of dogs coming to and from the salon but would like the option of having help with larger breeds to take some wear and tear off of my body.

Here is a rough sketch of my garage conversion. You can see the tub added to the rear wall near the water heater. The rest of the additions are just grooming tables and storage areas.

Thank you for your consideration.

Michelle Morgan

Owner – Doggo Vista Grooming, Lago Vista TX



21-1887-CO-U
2502 Newton Drive

Attachment 2
Desired Changes

CITY OF LAGO VISTA
APPLICATION FOR HOME OCCUPATION PERMIT

Applicant's Name: Michelle Morgan Business Name: Doggo Vista
Lago Vista Address: 2502 Newton Dr Phone Number: 512-653-6508
Email Address: MissMichelleTM@gmail.com
Date Business Began or Will Begin: 8-14-21

ORDINANCE NO. 97-07-17-04
(An Amendment to Zoning Ordinance No. 93-03-18-01)

This ordinance contains all the provisions relating to the use of Home Occupations. Some of the more important provisions are shown below as a guide to the applicant.

DEFINITION

A "Home Occupation" is an accessory use of a dwelling unit for gainful employment involving the manufacture, assembly, provision or sale of goods and/or services.

USE LIMITATIONS

- (a) Such occupation shall be conducted solely by family members residing in the residence plus no more than one nonresident assistant or employee.
- (b) No more than twenty-five (25) percent of the gross living area of said residence shall be used for such purpose. Use of garage or accessory buildings for these purposes is discouraged. There must be ample off-street parking space provided for vehicles.
- (c) No use shall require external structural alteration or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure. No alteration or change in the premises or building shall be made that will make, result in or cause the main structure to appear in any way to be anything but a residential dwelling unit.
- (d) There shall be no outside storage of any kind related to the home occupation.
- (e) There shall be no display of products or material visible in any manner from the outside of the dwelling.
- (f) No use shall create noise, dust, vibration, smell, smoke, flare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in a residential zoned district.
- (g) No advertising, display or other signs shall be permitted on the premises.
- (h) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted material are used or stored on the site.
- (i) No process is used which is in violation of any city, state or federal rule, regulation or law.
- (j) No advertisement shall be placed in any media containing the address of the property if the business is one which involves traffic or customers to purchase goods or services.
- (k) Parking for home occupations: the business shall not generate vehicular traffic requiring parking spaces beyond those normally allotted to residential use. Curb-side or edge-of-street parking related to a home occupation is prohibited.

PERMITTED AND PROHIBITED USES

These uses are listed under Section 16.30 and 16.40 of the ordinance.

INFORMATION REQUESTED FROM APPLICANT

Describe the proposed Home Occupation such as (a) activities involved, (b) materials/equipment used, (c) methods of operation: dog grooming - one on one - by appointment only.

Explain what type or product will be produced, serviced or repaired: pretty haircuts on pretty puppies

Describe any alterations to the home or premises that might be required to facilitate the proposed Home Occupation:

insulating garage, heating & air conditioning
garage epoxy floors in garage plumbing in garage
possibly a window added to side of garage?

Describe what rooms will be used in the conduct of the Home Occupation and how these rooms will be used:

Garage used for bathing and grooming dogs

Describe the mechanical and/or electrical equipment necessary to conduct the proposed Home Occupation:

clippers, blow dryers, stainless steel tub, electric
grooming table

Describe how, where and in what amounts material, supplies and/or equipment related to the proposed Home Occupation will be stored: in cabinets

Will people come to your home to obtain any product or utilize any service connected with this Home Occupation?

YES ☒ NO ☐ If yes, explain: clients park in driveway
pets are collected from parked vehicle.

If trucks or similar equipment will be used, where will they be parked? N/A

Will commercial vehicles be used for delivery of materials? YES ☐ NO ☒ If yes, explain:

CERTIFICATION

I certify I am a bona fide resident at the address given. I agree to comply with all Use Limitations. I further certify all the information supplied is complete and correct to the best of my knowledge.

Michelle L. Margo
Signature of Applicant

7/13/21
Date

BUILDING OFFICIAL COMMENTS

Building Official

Date

APPROVAL

This home occupation permit is issued for _____ in reliance on the above representations and becomes void upon termination of the above named applicant's residency of such premises. This permit is not transferable to any other resident, address or any other occupation. A violation of the Use Conditions or Ordinance provisions will be cause for revocation of this permit.

City Manager

Approval Date

Permit Number

DENIAL

This application was denied on _____ for the following reasons. The appeal process is explained in the ordinance. _____

City Manager

Date

I would also like to apply for the option of adding an employee or a booth renter to my permit. I do not intend to increase the volume of my salon I just need additional help with my day to day operations.

please let me know if you will approve 1 or more of the following.

1. Garage based dog grooming salon
2. one employee or ~~one booth renter~~.
3. booth renter

21-1887-CO-U
2502 Newton Drive

Attachment 3
Existing Site Plan / Existing Approval

**LAGO VISTA CITY COUNCIL
STAFF LAND USE REPORT – SEPTEMBER 3, 2020**



P&Z CASE NO:	20-1647-CO-U: 2502 Newton Drive
APPLICANT:	Michelle Morgan
LANDOWNER:	Stuart and Judy Mackay
LOCATION:	West side of Newton Dr. approx. 40' north of Nantucket Cove
ZONING:	Conditional Use Permit in the R-1E zoning district
PROPOSED USE:	Home based business (dog grooming by appointment)

GENERAL INFORMATION / LOCATION:

- The applicant is the granddaughter and tenant of the owners of the subject property.
- The home based business has recently begun operating, allegedly pursuant to the emergency provisions established following the COVID-19 outbreak.
- The staff received a significant number of emails in support of the application from current patrons, in addition to the owner of the subject property (the applicant's grandparent). None of them however received notification forms as all were outside of the 200 foot notification boundary, although several owned property and resided nearby. The owner of the subject property also does not receive a notification form. In accordance with the consistent policy of our department, only written comments from within the notification boundary are included in the packet. Others are instead described in staff reports, available upon request and preserved as part of the public record related to this application.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The staff is aware of one other home based business on Newton Drive, a brokerage business that arranges for the procurement of firearms and ammunition, although none of those products are ever stored or received at that location.
- Opposition was received from the owner of a vacant lot within the 200 foot notification boundary, who also owns an adjacent residence that is immediately outside of that same boundary. However, the nature of the opposition seems to be based on predictions of future negative impacts without realizing that the business has been in operation for several months.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- The staff is not aware of any complaint, valid or otherwise, involving either this location or this home-based business. The lack of a valid complaint from a property owner within two hundred feet of the subject property is a prerequisite to a favorable recommendation by the Planning and Zoning Commission in accordance with Section 16.70(d).
- According to the information supplied by the applicant and verified by the staff, the operation of the home-based business is compliant with all of the use limitations enumerated in Section 16.20 of the Zoning Ordinance.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

- The Planning and Zoning Commission recommended approval of the application. All seven members participated and six of them voted in favor of the approval recommendation.
- The member that voted in opposition to the recommendation did not articulate specific reasons during the discussion and deliberation with the remaining members. However, he earlier expressed a general concern about the potential increases in home based businesses, particularly in light of the current pandemic. He specifically asked about how someone would inquire about permitted home based businesses in a particular area. While home based businesses are included in our

monthly reports available on the City website, it would probably much easier to obtain the results for specific streets by making a formal request for that information from the staff. We can generate that information fairly easily using our web-based permitting software (MyPermitNow), using the same methods we use to supply that same information for these land use reports.

POTENTIAL ALTERNATIVE DECISIONS:

A. Approve the application subject to the following stipulations:

1. Grooming services shall be available by appointment only;
2. The operation shall be limited in size to three holding kennels; and
3. In accordance with the authority of Section 16.70(e)(3), the certificate of occupancy (CO) for the home based business shall require renewal every two years, but shall only require a subsequent conditional use permit application for failure to comply with one or more of the use limitations enumerated in Section 16.20.

B. Deny the application.

C. Approve the application with no stipulations or conditions.

Executive Summary

Opportunity

Problem

Lago Vista is in need of a quality, professional pet groomer. Our options for groomers here include the vet and 2 mobile groomers. High quality grooming at an affordable rate is something I offer and you can not find here in town.

Solution

I offer high quality, one-on-one grooming services locally here in Lago Vista. The service is provided in the comfort of my own home. Pet owners can be assured that their pets will receive a personalized grooming experience without the distraction and potential stress of other dogs around. Grooms will be done sequentially, allowing for one household at a time at the residence. Owners will benefit greatly by being able to pick up their dogs in a timely and coordinated manner, sometimes not possible at local salons. Owners will also find that the quality of services will be above and beyond what they are used to, and that dogs and their owners tend to feel more comfortable in a home environment.

Market

My ideal client is any dog owner living in the Lago Vista area with a need for quality, accessible grooming. There is a surplus of owners with dogs here in town that are looking for grooming options, which are not currently available. I anticipate seeing approximately 5 dogs daily at my household which on average typically amounts to 3 households per day.

Competition

The residents of Lago Vista are seeking options in dog grooming. The local veterinarian offers grooming, however many residents choose to use a vet out of town and do not wish to bring their pets there simply for grooming. Mobile groomers are an option, but their price point is approximately 40% higher than that of stationary salons. During these times many clients are looking for the most cost effective option, which are very limited if not nonexistent in the community. My service would be one-on-one, with the focus being solely their pet. Many pet owners prefer this method of grooming due to the subjective behaviors of their respective pets.

Why Us?

I have been professionally grooming dogs for 8 years. It is my passion and that is reflected in my work. I am well versed in breed standard cuts, hand scissoring, and pet trims. All pet owners receive updates and photographs as their pet is being groomed to put them at ease. I use top of the line all-natural pet products and state of the art equipment. Due to the virus, working from home allows me the time to sanitize all equipment thoroughly in between each household. Many high-volume salons in Cedar Park have dozens of clients coming in and out of the salon each day and the groomers do not have the time allotted to properly sanitize all the equipment on any given day. Customers can expect high quality grooms, gentle handling of their pets, and be assured that all tools were properly sanitized before their pets arrived. Some pets tend to have an aversion to going inside a busy salon. This is because there are many pets in a salon at any given time. The presence of other pets can have a stressful, sometimes lasting impact on them because dogs feed off of each other's energy. In my home, pets will experience a calm, stress-free environment. A place where they are the only ones in the home, which in turn makes a clients pet notably more comfortable. Pets would always be under direct supervision at all times, making an at-home salon the safest option for the community.

Problem & Solution

Problem Worth Solving

Potential increase in traffic in the community.

Our solution

We understand that there is a concern for an increase in traffic to the community. However, we have looked into and would like to address these concerns. My husband and I would be fully operating this salon from home as our full time occupations. The two of us working from home alleviates us from having to commute out of town for work. Just by us commuting to work we would be traveling 4 times through a greater extent of the town. Also pet owners that now take their pets to Cedar Park or Leander for grooming would also be traveling through a greater portion of the town therefore creating more traffic. I would be the only groomer at my home based salon and my typical day is 5 dogs per day. Most households have 2 or more pets therefore I would be seeing approximately 3 households per day, sometimes less. This equates to 6 trips coming and going on a

typical day. Customers would have access to my driveway for parking as we are a one car, 2 person household with a garage and could have the driveway available solely to clients. The way I schedule my pick ups and drop offs would be structured and thought out in a way that there would never be more than one car at my household at a time. With living close to the golf course I expect many of my clients would use their golf carts for pick up and drop off as well. My grooming services would be by appointment only, therefore walk-in services would not be allowed. Drop offs and pick ups typically take 1-5 minutes.

Problem Worth Solving

Noise caused by a pet care business

Our solution

We understand that our neighbors expect to live peacefully in their community without the unnecessary annoyance of barking dogs. With my business model being a one-on-one experience for pets, pets will only be kept for a short period of time, therefore not needing access to my yard. This will not be a kennel or a boarding facility. All pets will be kept inside at all times. Pet owners will be required to drop off and pick up in a timely manner so that their pets will not need access to potty breaks.

Conclusion

Owning and operating my own salon has been my dream since I began working as a dog bather nearly 8 years ago. It is necessary to our family to receive this approval so we can continue to afford our rent and reside in this beautiful town of Lago Vista. With many businesses failing at this time due to mandatory closures it is pertinent to support new, small businesses. With the virus ravaging through our county I am no longer comfortable working at a high volume salon where I put myself and others at risk daily. My grandparents, who I adore greatly should be at ease knowing I am doing everything in my power to not put them and others at risk. My mission statement is to provide the utmost professional care to pets. I promise to always put the pet's best interest first and provide the greatest quality of services. Every pet owner deserves to be not only satisfied, but thrilled with the quality of care provided to their pet. I'm just an animal lover with a dream and I hope to share my skills and knowledge with the community of Lago Vista.

My home based business will be conducted inside my home in my spare room. Clients will not need access to the inside the home. No modifications to the property will be made.

Google Maps 2502 Newton Dr



Image capture: Apr 2011 © 2020 Google

Hello Roy,

Hope you are well. Here is the information you requested. Please let me know if there are any issues with my answers as I am happy to make any necessary changes.

Thank you,

Michelle

1. We need an aerial view of your property or a site plan, and within your property we need:

See attached photo.

- a. To know where customers will park, and

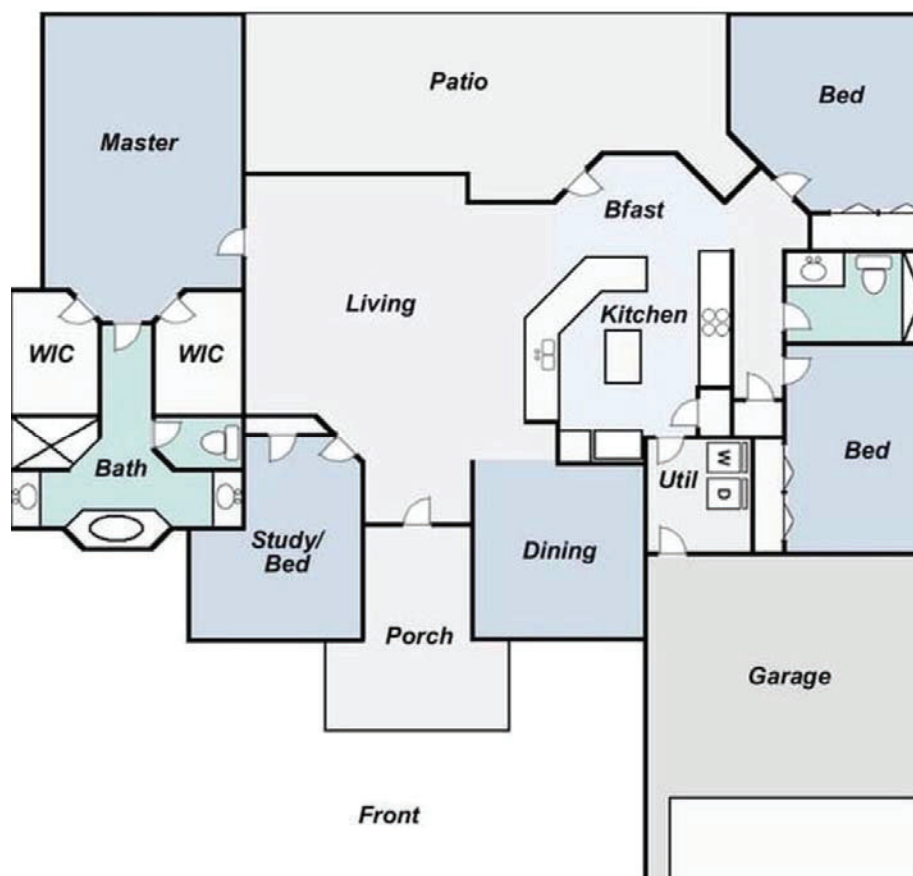
In driveway

- b. Where the customers will enter your house from.

Customers will not need to enter the home. In the rare circumstance that a client would like a tour, they may enter through front door.

2. Which room of your house will be used for your business (floor plan will be needed).

Dining room and small portion of second bath (shower stall). See attached photo of floor plan



3. The percentage of your work space in relation to your total square footage that the business will need.

Total square footage: 1922

Square footage used for business: 119

Percentage: 16%

4. Number of customers at any given time will be at your business

One

5. Will there be kennels or a holding pen if a customer failed to arrive and the next customer arrives for their appointment?

1 XL professional grade kennel and 2 medium professional-grade kennels (See attached photo)



6. Rest room facilities for customers, waiting area for customers

Not applicable, will meet clients either from their car in the driveway or in the front yard.

7. Procedures and equipment for emergencies,

Smoke detectors, fire extinguisher, and first aid kit. In the case of an emergency, there will be multiple sturdy slip leads and harnesses to safely transport animals out of the home. There will be carriers in my vehicle if I need to transport an animal to the vet. I have 3 possible exits from my home depending on the type of emergency. Client contact info and one emergency contact will be kept on file as well as the pet's veterinary contact info. My operating hours will match that of the local vet and emergency veterinary hospital contact info will be readily available. I am also Pet CPR and First Aid Certified through the Red Cross.

8. Bonding and insurance information

Will send as soon as I hear back from my agent.

9. Texas Secretary of State Business license, Travis County Business license

According to my business mentor he cannot find a license requirement for dog grooming. A DBA is a registration that I can obtain, I was planning on waiting until approval to obtain my DBA but will go ahead and apply for it through Travis County. If you have anything in mind that I haven't thought of please let me know as I want to satisfy any requirements.

10. Copy of any Contracts with customers

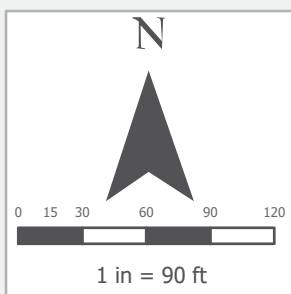
Non applicable at this time.

11. Will any K-9 or Feline medicines be on site?

No.

21-1887-CO-U
2502 Newton Drive

Attachment 4
Maps



2502 Newton

Request Type	Conditional Use Permit	Project	21-1887-CO-U
Change Requested	Home-based business	Date	9/14/2021
Map Purpose	Aerial & Topo Map	Drawn By	cmartinez

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

Contours

— 10 ft

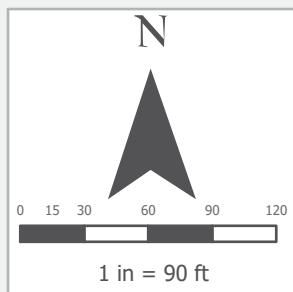
— 50 ft

--- Street

□ Tax Parcels (TCAD)

▨ Requestor Property

122



2502 Newton

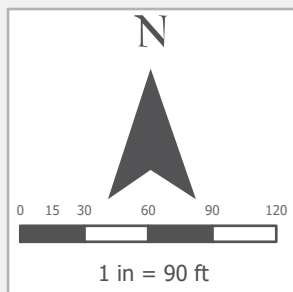
Request Type	Conditional Use Permit	Project	21-1887-CO-U
Change Requested	Home-based business	Date	9/14/2021
Map Purpose	Zoning Map	Drawn By	cmartinez

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

---	Street
	Tax Parcels (TCAD)
	Requestor Property
Zoning Districts	
	R-1B
	R-1C
	TR-1

21-1887-CO-U
2502 Newton Drive

Attachment 5
Notice Comments



2502 Newton			
Request Type	Conditional Use Permit	Project	21-1887-CO-U
Change Requested	Home-based business	Date	9/14/2021
Map Purpose	Notification Boundary Map	Drawn By	cmartinez
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.			

--- Street
 □ Tax Parcels (TCAD)
 ■ Requestor Property
 ■ 200ft Notice Boundary

126



Notice of Public Hearing

Project #: 21-1887-CO-U

Hearing Date: Thursday, September 9, 2021, at 7:00 P.M. utilizing an online videoconferencing tool. Planning and Zoning Commission members, staff and members of the public will participate in this manner only. Additional information, details and instructions on how to participate will be posted as part of the agenda on the city website (lagovistatexas.org) approximately seven days prior to the scheduled meeting date.

Project Property Location: 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).
200' Notification Mailing ID: 1

August 25, 2021

DIXON T STERLING II
21010 NASHVILLE CV
LAGO VISTA, TX 78645

The Planning and Zoning Commission will make a consideration of a recommendation regarding conditional use permit application pursuant to Section 16 of Chapter 14 of the Lago Vista Code of Ordinances to allow modifications of the condition associated with a previously approved home-based dog grooming business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

☒ In Favor; ☐ Opposed

Comments:

Signed: 

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Fax: 512-267-5265
Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.



Notice of Public Hearing

Project #: 21-1887-CO-U

Hearing Date: Thursday, September 9, 2021, at 7:00 P.M. utilizing an online videoconferencing tool. Planning and Zoning Commission members, staff and members of the public will participate in this manner only. Additional information, details and instructions on how to participate will be posted as part of the agenda on the city website (lagovistatexas.org) approximately seven days prior to the scheduled meeting date.

Project Property Location: 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).
200' Notification Mailing ID: 4

August 25, 2021

KUDRNA DUSTIN & LESLIE
21008 NANTUCKET CV
LAGO VISTA, TX 78645

The Planning and Zoning Commission will make a consideration of a recommendation regarding conditional use permit application pursuant to Section 16 of Chapter 14 of the Lago Vista Code of Ordinances to allow modifications of the condition associated with a previously approved home-based dog grooming business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

☒ In Favor; ☐ Opposed

Comments:

Grooming business has not been a issue!
Very excited for their success and looking forward to watching them have continued success!

Signed:

Leslie Kudrna

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Fax: 512-267-5265
Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.



Notice of Public Hearing

Project #: 21-1887-CO-U

Hearing Date: Thursday, September 9, 2021, at 7:00 P.M. utilizing an online videoconferencing tool. Planning and Zoning Commission members, staff and members of the public will participate in this manner only. Additional information, details and instructions on how to participate will be posted as part of the agenda on the city website (lagovistatexas.org) approximately seven days prior to the scheduled meeting date.

Project Property Location: 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).
200' Notification Mailing ID: 16

August 25, 2021

BURROW WILLIAM HARRY &
SANDRA GALE BURROW
2403 WILSON AVE
LAGO VISTA, TX 78645



The Planning and Zoning Commission will make a consideration of a recommendation regarding conditional use permit application pursuant to Section 16 of Chapter 14 of the Lago Vista Code of Ordinances to allow modifications of the condition associated with a previously approved home-based dog grooming business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

☐ In Favor; ☒ Opposed

Comments:

Too many dogs barking - sometimes all day

Signed:

Sandra Burrow William H. Burrow

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Fax: 512-267-5265
Postal Address: Development Services Dept., P.O. Box 4727
Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.



Notice of Public Hearing

Project #: 21-1887-CO-U

Hearing Date and Time: Thursday, September 30, 2021, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird Street, Lago Vista, Texas

Project Property Location: 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

200' Notification Mailing ID: 18

September 15, 2021

DE ARMAS ISKANDER GENER &
MARIA ANTONIETA IBARRA REYES
8704 VANTAGE PT
AUSTIN, TX 78737

The Planning and Zoning Commission will make a consideration of a recommendation regarding a conditional use permit application pursuant to Section 16 of Chapter 14 of the Lago Vista Code of Ordinances to allow modifications of the condition associated with a previously approved home-based dog grooming business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. **Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above.** Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. **Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.**

☒ In Favor; ☐ Opposed

Comments:

Signed: _____

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Postal Address: City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall
5803 Thunderbird St.



Notice of Public Hearing

Project #: 21-1887-CO-U

Hearing Date and Time: Thursday, September 30, 2021, at 7:00 P.M. in the Council Chambers at City Hall, 5803 Thunderbird Street, Lago Vista, Texas

Project Property Location: 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

200' Notification Mailing ID: 20

September 15, 2021

ODONNELL MICHAEL
PO BOX 11465
COSTA MESA, CA 92627

The Planning and Zoning Commission will make a consideration of a recommendation regarding a conditional use permit application pursuant to Section 16 of Chapter 14 of the Lago Vista Code of Ordinances to allow modifications of the condition associated with a previously approved home-based dog grooming business at 2502 Newton Drive (Highland Lake Estates, Section 32, Lot 32162).

For additional information, please contact us as follows and include the above highlighted project # with all inquiries:

E-mail: development@lago-vista.org
Phone Number: 512-267-5259

Please return your comments as soon as possible. Comments received at least seven calendar days prior to the scheduled public hearing will be included in the packets distributed to the members of the body listed above. Individuals who do not own property within the notification boundary or those unable to deliver written comments within the required deadline must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

☐ In Favor; ☒ Opposed

Comments:

Signed: _____

Michael O'Donnell

This whole page may be returned as follows:

E-mail: development@lago-vista.org
Postal Address: City of Lago Vista, Development Services Dept., P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services Dept., Lago Vista City Hall 5803 Thunderbird St.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October 2021

From: Erin Selvera, City Attorney

Subject: Discussion, consideration and possible action regarding Annexation and Development Agreement with W. Land Development, LLC for, approximately 109.4251 acres of in Travis County, located within the Lago Vista extraterritorial jurisdiction; approving a municipal services agreement for the area and authorizing the City Manager to execute the documents.

Request: Other

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

W. Land Development, LLC is acquiring approximately 109.4251 acres of property that fronts Boggy Ford and Lohman Ford Road from the Groseclose family and is seeking an Annexation and Development Agreement for the property. Currently the property is part of the City's extraterritorial jurisdiction or ETJ and is subject to the Interlocal Agreement between Lago Vista and the City of Austin regarding development in the ETJ release area not codified in City Ordinance.

The developer intends to develop the property as a multifamily residential development. As indicated in the proposed plan, the developer has designated a portion of the property, approximately 5.2 acres, for potential commercial development. The Agreement sets out the proposed land uses and densities for the property and indicates what type of zoning they will seek; outlines the development standards and review process for the project; establishes the vesting of rights for the project; and allows for the property owner to seek disannexation of the property should the City not be able to provide the municipal services specified in the Municipal Services Agreement attached thereto.

If approved and annexed into the City, in addition to the City's standard subdivision regulations, as noted above this property is subject to additional regulations as part of a special planning area located in the former Austin ETJ. As such, the property has some additional limitations regarding, among other things, impervious cover and density that at this time require a significant amount of open space to accommodate the proposed uses and development. The topography of the property has also likely driven the proposed consolidation of the development to the center of the property and closer to Lohman Ford Road.

Impact if Approved:

The council will have for public hearing and consideration the property owner's annexation request.

Impact if Denied:

Development of the property could proceed primarily under Travis County regulations. The property owners would be required to comply with the City's signage and dark sky regulations and they would be required get a driveway permit from the City. Platting would require both City and County approval.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Development and Annexation Agreement with W. Land Development, LLC.

Agenda Item Approved by City Manager



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October, 2021

From: Roy Jambor, AICP / PA (Development Services Director)

Subject: Discussion, consideration, and possible action regarding Resolution No. 21-1905; a Resolution by the City Council of the City of Lago Vista, Texas that repeals and replaces Resolution No. 21-1900, by rescheduling to a later date the public hearing to consider adoption of impact fees for roadway facilities; directing the City Secretary to publish notice of said public hearing; and establishing an effective date.

Request: Business Item

Legal Document: Resolution

Legal Review: ☐

EXECUTIVE SUMMARY:

This public hearing is a requirement of the process mandated by the Texas Local Government Code for the City Council to begin collecting impact fees for roadway facilities. It was originally scheduled for Thursday, November 4, 2021 by adoption of Resolution No. 21-1900. However, shortly thereafter the staff recommended that the City Council fund additional work by our consultants (FNI) referred to as a "detailed credit analysis." This added service would allow the City Council to consider adoption of impact fees that are based on a higher percentage of the eligible costs. Without the analysis, impact fees cannot be based on more than fifty percent of the costs according to applicable state statutes.

The current extraordinarily high growth rate causes those costs to be amortized by an increased number of anticipated permits, but lowering them for each permit that is actually issued. While we expect growth to continue at a substantial rate, we are concerned that construction material costs will continue to be volatile and will periodically cause significant lulls in the permit volume. Those types of trends are already detectable. The "detailed credit analysis" will allow the City Council the latitude to consider impact fees at a higher level. The fees for roadway facilities will be relatively low because they are based only on newly platted lots.

Unfortunately, the time required to secure the authorization of the Council for the additional expenditure that is included in the current budget interrupted the progress of the consultants. We could no longer have their report available pursuant to a request on October 4, 2021, thirty days in advance of the scheduled public hearing as required by statute. This resolution would reschedule the public hearing for December 2, 2021, allowing FNI sufficient time to complete their report and have it available on or before November 2, 2021.

Impact if Approved:

The process to consider the imposition of roadway impact fees will continue in accordance with the Texas Local Government Code, but on a schedule that is slightly delayed from the original.

Impact if Denied:

If desired in the future, roadway impact fees can be considered again when the next mandated impact fee update is undertaken.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☒ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Resolution to reschedule the required public hearing to consider the adoption of impact fees for roadway facilities.

Agenda Item Approved by City Manager

**CITY OF LAGO VISTA, TEXAS
RESOLUTION NO. 21-1905**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS THAT REPEALS AND REPLACES RESOLUTION NO. 21-1900, BY RESCEDULING TO A LATER DATE THE PUBLIC HEARING TO CONSIDER ADOPTION OF IMPACT FEES FOR ROADWAY FACILITIES; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE OF SAID PUBLIC HEARING; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 395 of the Texas Local Government Code provides procedures for preparing land use assumptions and a capital improvements plan for the consideration of imposing roadway impact fees within the municipal limits of a city; and

WHEREAS, the City Council of Lago Vista has authorized an impact fee study in accordance with Chapter 395, Texas Local Government Code Texas Local Government Code; and

WHEREAS, the City Council has previously approved land use assumptions and capital improvements plans for roadway; and

WHEREAS, Chapter 395 Texas Local Government Code requires the City Council to set a public hearing to consider whether to impose impact fees for roadways; and

WHEREAS, the City of Lago Vista City Council had previously established the date of that public hearing as Thursday November 4, 2021, in Resolution No. 21-1900; and

WHEREAS, the City of Lago Vista City Council subsequently determined that they wished to consider what is referred to as a detailed credit analysis that would allow them to adopt impact fees that are based on a higher percentage of costs; and

WHEREAS, the time required to complete that detailed credit analysis would force the City of Lago Vista City Council to postpone the date of the public hearing originally established in Resolution No. 21-1900.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LAGO VISTA, TEXAS:**

Section 1. The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.

Section 2. The City Council hereby reschedules the public hearing on the land use assumptions and roadway capital improvements plan to occur on Thursday December 2, 2021, at 5:30 p.m., accessible online as a virtual meeting and in the Council Chambers within City Hall, 5803 Thunderbird, Lago Vista, Texas, for the purpose of considering amendments to the capital improvements plans and impact fees for water and wastewater utility infrastructure.

Section 3. The City Secretary is directed to have notice, as described herein, of such public hearing published in the official newspaper for the City of Lago Vista, Texas prior to the 30th day before the date set for the hearing.

Section 4. That this Resolution shall take effect immediately upon execution by the Mayor.

AND, IT IS SO RESOLVED.

PASSED AND APPROVED this ____ day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved.



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council

Council Meeting: 21 October, 2021

From: Roy Jambor, AICP / PA (Development Services Director)

Subject: Discussion, consideration, and possible action regarding Resolution No. 21-1906; a Resolution by the City Council of the City of Lago Vista, Texas that repeals and replaces Resolution No. 21-1901, by rescheduling to a later date the public hearing to consider adoption of impact fees for water and wastewater facilities; directing the City Secretary to publish notice of said public hearing; and establishing an effective date.

Request: Business Item

Legal Document: Resolution

Legal Review: ☐

EXECUTIVE SUMMARY:

This public hearing is a requirement of the process mandated by the Texas Local Government Code for the City Council to be able to continue collecting impact fees for water and wastewater facilities. It was originally scheduled for Thursday, November 4, 2021 by adoption of Resolution No. 21-1901. However, shortly thereafter the staff recommended that the City Council fund additional work by our consultants (FNI) referred to as a "detailed credit analysis." This added service would allow the City Council to consider adoption of impact fees that are based on a higher percentage of the eligible costs. Without the analysis, impact fees cannot be based on more than fifty percent of the costs according to applicable state statutes.

The current extraordinarily high growth rate causes those costs to be amortized by an increased number of anticipated permits, but lowering them for each permit that is actually issued. While we expect growth to continue at a substantial rate, we are concerned that construction material costs will continue to be volatile and will periodically cause significant lulls in the permit volume. Those types of trends are already detectable. The "detailed credit analysis" will allow the City Council the latitude to consider impact fees at a level consistent with those that are established by the current ordinance.

Unfortunately, the time required to secure the authorization of the Council for the additional expenditure that is included in the current budget interrupted the progress of the consultants. We could no longer have their report available pursuant to a request on October 4, 2021, thirty days in advance of the scheduled public hearing as required by statute. This resolution would reschedule the public hearing for December 2, 2021, allowing FNI sufficient time to complete their report and have it available on or before November 2, 2021.

Impact if Approved:

The process to update the basis for and to continue collecting impact fees for water and wastewater facilities will continue on the modified schedule.

Impact if Denied:

It is possible that the failure to adopt this resolution could be interpreted as an interruption in the progress mandated by the statutes. Our ability to continue collecting impact fees might be in jeopardy as we are beyond five years from the date Ordinance No. 16-05-05-01 was adopted.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☒ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Resolution to reschedule the required public hearing to consider the adoption of impact fees for water and wastewater facilities.

Agenda Item Approved by City Manager

**CITY OF LAGO VISTA, TEXAS
RESOLUTION NO. 21-1906**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS THAT REPEALS AND REPLACES RESOLUTION NO. 21-1901, BY RESCEDULING TO A LATER DATE THE PUBLIC HEARING TO CONSIDER ADOPTION OF IMPACT FEES FOR WATER AND WASTEWATER FACILITIES; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE OF SAID PUBLIC HEARING; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Lago Vista City Council has authorized an impact fee study to determine whether to adopt updated land use assumptions, capital improvements plans, and updated impact fees for water and wastewater utility infrastructure in accordance with Texas Local Government Code Chapter 395; and

WHEREAS, Texas Local Government Code Chapter 395 requires the City Council to set a date for and conduct a public hearing to consider whether to adopt updated land use assumptions, capital improvements plans and updated impact fees for water and wastewater utility infrastructure; and

WHEREAS, the City of Lago Vista City Council had previously established the date of that public hearing as Thursday November 4, 2021, in Resolution No. 21-1901; and

WHEREAS, the City of Lago Vista City Council subsequently determined that they wished to consider what is referred to as a detailed credit analysis that would allow them to adopt impact fees that are based on a higher percentage of costs; and

WHEREAS, the time required to complete that detailed credit analysis would force the City of Lago Vista City Council to postpone the date of the public hearing originally established in Resolution No. 21-1901.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LAGO VISTA, TEXAS:**

Section 1. The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.

Section 2. The City Council hereby reschedules the public hearing on the land use assumptions and roadway capital improvements plan to occur on Thursday December 2, 2021, at 5:30 p.m., accessible online as a virtual meeting and in the Council Chambers within City Hall,

5803 Thunderbird, Lago Vista, Texas, for the purpose of considering amendments to the capital improvements plans and impact fees for water and wastewater utility infrastructure.

Section 3. The City Secretary is directed to have notice, as described herein, of such public hearing published in the official newspaper for the City of Lago Vista, Texas prior to the 30th day before the date set for the hearing.

Section 4. That this Resolution shall take effect immediately upon execution by the Mayor.

AND, IT IS SO RESOLVED.

PASSED AND APPROVED this ____ day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 10/21/2021

From: Arch Davila, Mayor Pro Tem

Subject: Discussion, consideration, and possible action regarding Resolution No. 21-1907; A Resolution by the City Council of the City of Lago Vista, Texas appointing an individual to fill an unexpired vacant term as a member serving on the Building and Standards Commission; and to otherwise provide with respect thereto.

Request: Appointments

Legal Document: Resolution

Legal Review: ☐

EXECUTIVE SUMMARY:

A vacancy exists on the Building and Standards Commission requiring the nomination of a qualified candidate for a non-expiring term which ends on 31 Jan 2023. After review of the list of applicants indicating interest in serving on BSC, the nomination of AMADEO PEREZ to fill the vacancy will be presented for City Council approval.

Impact if Approved:

Building and Standards Commission vacancy will be filled.

Impact if Denied:

The vacancy on Building and Standards Commission will continue.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:**Agenda Item Approved by City Manager**

CITY OF LAGO VISTA, TEXAS

RESOLUTION 21-1907

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS
APPOINTING AN INDIVIDUAL TO FILL AN UNEXPIRED VACANT TERM AS A
MEMBER SERVING ON THE BUILDING AND STANDARDS COMMISSION; AND
TO OTHERWISE PROVIDE WITH RESPECT THERETO**

WHEREAS, the Building and Standards Commission has a vacancy due to a recent death; and

WHEREAS, it is important to appoint individuals who are objective, knowledgeable and that have acquired relevant experience; and

WHEREAS, it is prudent to fill the vacancies on the Board to maximize opportunities for a quorum and conducting business.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF LAGO VISTA, TEXAS:**

THAT, the City Council of the City of Lago Vista, Texas, does hereby appoint _____
as a member with a term that expires in January of 2023.

AND, IT IS SO RESOLVED.

PASSED AND APPROVED this 21st day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Mayor Pro Tem Davila, seconded by Councilmember _____, the above and foregoing instrument was passed and approved.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 19 August 2021

From: Erin Selvera, City Attorney

Subject: Discussion, consideration and possible action regarding Resolution No. 21-1908 clarifying the City's authority regarding the Declaration of Restrictive Covenants executed on April 17, 2000 by Marshall's Harbor Limited, Instrument No. 2001100285 of the Official Public Records Travis County, Texas.

Request: Other

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

On April 17, 2000, Steve Morse, President of Marshall's Harbor Ltd. executed a Declaration of Restrictive Covenants for the Marshall's Harbor subdivision.

Without City consent or request, the agreement contains a provision requiring collective action of at least 50 percent of the members of the City Councils of the Cities of Austin and Lago Vista to modify, amend, or terminate the Declaration.

Restrictive Covenants, also known as deed restrictions are private agreements applicable to the owners of property in the applicable area. Unless a property owner subject to the covenants, the City has no jurisdiction or authority to enforce, approve, modify or affect the private agreement.

Purchasers of the property have sought clarification regarding the City's authority with regard to the subject document and thus it is reasonable and prudent to adopt a resolution clarifying the City's position.

Impact if Approved:

Current owners and any future purchasers would be on notice that the City of Lago Vista does not have authority or jurisdiction to take action regarding the Declaration or any provision therein.

Impact if Denied:

Authority to modify the Declaration would remain in question due to the unenforceable provision, which in turn may create a cloud on title for the property.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Resolution 21-1908 clarifying the City's authority regarding the Declaration of Restrictive Covenants for Marshall's Harbor subdivision.

Agenda Item Approved by City Manager

CITY OF LAGO VISTA, TEXAS

RESOLUTION No. 21-1908

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS CLARIFYING THE CITY'S AUTHORITY REGARDING THE DECLARATION OF RESTRICTIVE COVENANTS EXECUTED ON APRIL 17, 2000, BY MARSHALL'S HARBOR LIMITED, INSTRUMENT NO. 2001100285 OF THE OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS.

WHEREAS, On April 17, 2000, Steve Morse, President of Marshall's Harbor Ltd. executed a Declaration of Restrictive Covenants (Declaration) for the Marshall's Harbor subdivision, recorded as instrument 2001100285 in the Travis County Deed Records; and

WHEREAS, the Declaration contains a provision requiring collective action of at least 50 percent of the members of the City Council of the City of Lago Vista to modify, amend, or terminate the Declaration; and

WHEREAS, the Declaration is a private agreement applicable to the property owners of the subject area; and

WHEREAS, the City of Lago Vista was not and is not a party to the Declaration; and

WHEREAS, the City of Lago Vista did not consent to or request the provision in the Declaration; and

WHEREAS, the City of Lago Vista takes no position regarding the enforceability, modification or termination of the Declaration.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

THAT, the facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

THAT, the City Council of the City of Lago Vista, Texas does hereby confirm that it has no authority or jurisdiction to require the City's consent or approval for modification or termination of the Declaration as specified in the Declaration.

THAT it is hereby officially found and determined that the meeting at which this resolution passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

AND IT IS SO RESOLVED.

PASSED AND APPROVED this ____ day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by _____, seconded by _____, the
above and foregoing instrument was passed and approved.

DECLARATION OF RESTRICTIVE COVENANTS

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

TRV 2001100285
13 pgs

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "Declaration") is made on this 17th day of April, 2000 by Marshall's Harbor Limited, a Texas Limited Partnership hereinafter referred to as "Declarant"

WHEREAS, Declarant is the fee simple owner of two contiguous tracts of land comprising in total 462.785 acres out of the D&W R.R. CO Survey, No. 99, Abstract 246, D&W R.R. CO Survey No. 101, Abstract 247, and the W.B. Corwin Survey, No. 189, Abstract 2634 Travis County, Texas, more particularly described in Exhibit A-1 and A-2 attached hereto and incorporated herein by reference (the "Property"), and

WHEREAS, Declarant has agreed to subject the Property to certain covenants, conditions and restrictions as more specifically set forth in this Declaration,

NOW THEREFORE, ~~intending to bind itself~~, its assigns and successors and all other persons hereafter having an interest in the Property to Declarant does hereby declare, impose and subject the Property as follows

- 1 Development and Maintenance Standards The Property shall be developed and/or maintained in accordance with each of the following
 - (1) All single family development will be set back at least 75 feet from the 681-foot contour line above mean sea level, as established by the United States Geological Survey in effect as of the date hereof. All condominium units and commercial buildings (excluding any marinas) will be set back at least 100 feet from said 681-foot contour line.
 - (2) Temporary erosion and sedimentation controls as required by the LCRA under Section 5(c) of the Lake Travis Nonpoint Source Pollution Control Ordinance in effect as of the date hereof, and the City of Austin under Section 25-8-181 of the City of Austin Land Development Code in effect as of the date hereof, will be implemented.
 - (3) Permanent water quality controls equivalent to or better than that required under the City of Austin Land Development Code in effect as of the date hereof will be implemented, designed, constructed and maintained according to the City Environmental Criteria Manual, as determined by comparing calculations under the City of Austin's requirements with those under the

proposed controls

- (4) Impervious cover will be limited to twenty percent (20%) of the net site area, as defined in City of Austin Land Development Code Section 25-8-62, over the Property for any lot developed with any retail or office commercial uses
- (5) A minimum average lot size of two (2) acres shall be maintained on all residential lots in the Subdivision
- (6) Cut and fill is limited to four feet (4') maximum, provided that cut and fill over four feet (4') shall be permitted if the cut/fill slope is terraced to control erosion and sedimentation
- (7) Detention of the 2-year storm for erosion control, or, as an alternative, non-erosive conveyance of storm water to Lake Travis, will be provided, as required under City of Austin Land Development Code Chapter 25-7 (Drainage) and the City of Austin Drainage Criteria Manual
- (8) A building envelope that encompasses the limits of building disturbances will be established and required for residential construction on any lot
- (9) All of the 100-year flood plain located within the Property shall be dedicated to the City of Lago Vista as a drainage easement in accordance with the City of Lago Vista's development rules
- (10) Declarant shall provide notice of all site plan or subdivision plat approvals by the City of Lago Vista to the City of Austin within 72 hours of such approval

- 2 Binding Effect Third Parties. It is intended that the provisions of this Declaration shall be binding on all successors and assigns and run with the land. No rights, privileges or immunities, however, shall inure to the benefit of the public, any adjoining property owner or other third party (other than the Cities of Austin and Lago Vista) as a result of this Declaration, nor shall any adjoining property owner or other third party (other than the Cities of Austin and Lago Vista) be deemed to be a beneficiary of any of the provisions contained herein. The provisions of this Declaration shall be enforceable by the City of Austin and/or the City of Lago Vista. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin and/or the City of Lago Vista to prosecute proceedings at law or inequity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

If at any time the City of Austin and/or the City of Lago Vista fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver of estoppel of the right to enforce it

- 3 Modification. This Declaration may be modified, amended, or terminated only by the collective action of (a) at least fifty percent (50%) of the members of the City Council of the City of Austin, (b) at least fifty percent (50%) of the members of the City Council of the City of Lago Vista, and (c) by the owner(s) of at least fifty percent (50%) of the gross land area of the Property at the time of such modification, amendment or termination
- 4 Counterparts. This Declaration may be executed in multiple counterparts, which shall be considered on instrument when taken together

MARSHALL'S HARBOR LTD.

**BY: Marshall's Point Management, Inc.,
Its General Partner**

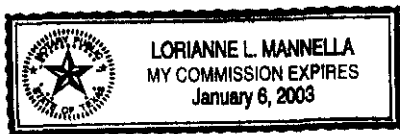


Steven Morse, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Steven Morse, President of Marshall's Point Management, Inc., general partner to Marshall's Harbor, Ltd. on behalf of said limited partnership

GIVEN UNDER MY HAND AND SEAL of office this 17th day of April, 2000





Notary Public in and for the
State of Texas

DESCRIPTION

DESCRIBING 445 355 ACRES OF LAND SITUATED IN THE D & W R.R. CO SURVEY NO. 99, ABSTRACT 246, DSW R.R. CO. SURVEY NO. 101, ABSTRACT 247 AND THE W. B. CORWIN SURVEY NO. 189, ABSTRACT 2634, TRAVIS COUNTY, TEXAS, SAID 445.355 ACRES BEING A PART OF THE 434.662 ACRE TRACT OF LAND DESCRIBED IN A DEED TO SHORELINE JOINT VENTURE IN VOL. 12321, PAGE 1588 AND THOSE CERTAIN TRACTS OF LAND DESCRIBED AS TRACT I (0.632 ACRES), TRACT II (10.804 ACRES) AND TRACT III (1.253 ACRES) IN A DEED TO SHORELINE JOINT VENTURE IN VOL. 12952, PAGE 220 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 445 355 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING at an iron rod found in the easterly right of way line of Lohman Ford Road, said point being the northwest corner of said 434.662 acres, and the southwest corner of a 101.00 acre tract described in a deed to Lago Vista Independent School District in Vol. 13174, Page 3008 of the Deed Records of Travis County, Texas;

THENCE, along the northeast line of said 434.662 and the southeast line of said 101.00 acre tract, the following twelve (12) courses:

- 1) N34°13'07"E, a distance of 17.79 feet to an iron rod found;
- 2) N33°46'18"E, a distance of 121.89 feet to an iron rod found;
- 3) N30°26'06"E, a distance of 563.78 feet to an iron rod found;
- 4) N24°29'58"E, a distance of 52.96 feet to an iron rod found;
- 5) N27°13'44"E, a distance of 77.97 feet to an iron rod found;
- 6) N29°52'48"E, a distance of 258.54 feet to an iron rod found;
- 7) N31°15'13"E, a distance of 79.99 feet to an iron rod found;
- 8) N30°37'12"E, a distance of 635.89 feet to an iron rod found at Fence Post, same being on the north line of the said Survey No. 99 and the south line of the said Survey No. 101;
- 9) N31°39'44"E, a distance of 154.24 feet to an iron rod found;
- 10) N31°18'50"E, a distance of 397.58 feet to an iron rod found;
- 11) N31°57'28"E, a distance of 127.36 feet to a 60d nail found;
- 12) N27°49'14"E, a distance of 116.64 feet to an iron rod found at the northeast corner of said 434.662 acres, same being the northwest corner of a 533.82 acre tract as described in a deed to George K. Marshall III and Warner Croft in Vol. 12685, Page 1436 of the Deed Records of Travis County, Texas;

THENCE, along the common line of said 434.662 acre tract and the said 533.82 acre tract the following five (5) courses

EXHIBIT

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- 1) S51°50'43"E, a distance of 1736.11 feet to an iron rod found,
- 2) S62°33'14"E, passing an iron rod found at a distance of 164 32 feet , then for a total distance of 1736.11 feet to an iron rod found;
- 3) Along a curve to the right having a radius of 850 00 feet, central angle of 39°25'53" and whose chord bears S42°50'48"E, a distance of 573 50 feet to an iron rod found;
- 4) S56°24'40"E, a distance of 518.91 feet to a point,
- 5) N79°24'24"E, a distance of 81.88 feet to a point for a corner of the herein described tract, same being the northwest corner of a 1 815 acre tract as described in Vol. _____, Page _____ of the Deed Records of Travis County, Texas;

THENCE, S06°03'05"E, a distance of 141.59 feet to a point,

THENCE, S39°18'08"E, a distance of 224.01 feet to a point,

THENCE, S15°35'40"E, a distance of 387.69 feet to a point on the northwest line of the W. B. Corwin Survey No 189, Abstract 2634, same being the northeast corner of the D and W R.R. Co. Survey No. 99, Abstract No. 246 and the southeast corner of D and W R.R. Co Survey No 101, Abstract 247 from which an iron rod found bears N29°59'17"E, a distance of 157 65 feet

THENCE, S29°59'17"W, along the common line of said Survey No. 99 and Survey No. 189, a distance of 151.47 feet to a point from which an iron rod found which bears S29°59'17"W, a distance of 63 70 feet,

THENCE, along the southeasterly line of the said 434.662 acre tract and the northwesterly line of a 128 61 acre tract as described in a deed to Shoreline Joint Venture in Vol 12321, Page 1588 of the Deed Records of Travis County, Texas, the following eighteen (18) courses:

- 1) S30°58'58"E, a distance of 5.95 feet to a point,
- 2) S25°10'17"E, a distance of 55.26 feet to a point;
- 3) S33°15'08"E, a distance of 63 97 feet to a point;
- 4) S00°38'49"E, a distance of 49 37 feet to a point,
- 5) S08°40'16"E, a distance of 164 30 feet to a point,
- 6) S49°32'15"E, a distance of 127.93 feet to a point;
- 7) S24°13'53"E, a distance of 34.38 feet to a point,
- 8) S10°08'52"W, a distance of 28.76 feet to a point,
- 9) S17°52'45"W, a distance of 122 94 feet to a point,
- 10) S16°59'57"W, a distance of 96 44 feet to a point;
- 11) S45°09'04"W, a distance of 41 91 feet to a point,
- 12) S69°40'51"W, a distance of 39.29 feet to a point,
- 13) N71°33'36"W, a distance of 32.11 feet to a point,

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- 14) N40°11'56"W, a distance of 98.47 feet to a point;
- 15) N39°11'06"W, a distance of 57.07 feet to a point;
- 16) N55°43'48"W, a distance of 49.24 feet to a point;
- 17) N47°08'34"W, a distance of 151.03 feet to a point;
- 18) N63°30'08"W, a distance of 36.32 feet to a point on the common line of said Survey No. 99 and said Survey No. 189,

THENCE, S29°59'17"W along the common line of the said Survey No. 99 and said Survey No. 189, a distance of 400.10 feet to an iron rod found,

THENCE, continuing along said common line and along the northwest line of a 2.26 acre tract as described in a deed to Kurt Barff in Vol. 8635, Page 111 of the Deed Records of Travis County, Texas, the following three (3) courses.

- 1) S29°20'51"W, a distance of 289.82 feet to an iron rod found,
- 2) N76°58'04"E, a distance of 74.15 feet to an iron rod found;
- 3) S10°30'11"E, a distance of 127.54 feet to an iron rod found, same being the northeast corner of a 3.54 acre tract as described in a deed to Albert B. Horn III and Terry Aldrich in Vol. 8900, Page 176 of the Deed Records of Travis County, Texas;

THENCE, along the common line of said 434.662 acre tract and said 3.54 acre tract the following two (2) courses:

- 1) N89°48'21"W, a distance of 217.40 feet to an iron rod found;
- 2) S80°04'24"W, passing an iron rod found at a distance of 163.41 feet and for a total distance of 223.47 feet to an iron rod found, same being the northeast corner of a 4.52 acre tract as described in a deed to Paul W. Gudgell in Vol. 6556, Page 1977 of the Deed Records of Travis County, Texas;

THENCE, along the common line of 434.662 acre tract and said 4.52 acre tract, the following three (3) courses:

- 1) S81°24'56"W, 218.76 feet to an iron rod found;
- 2) S33°54'42"W, 144.74 feet to a 60d nail found;
- 3) S00°05'19"E, a distance of 65 feet to an iron rod set, same being the northeast corner of a 1.95 acre tract as described in a deed to John D. Culp and Kateryne N. Culp in Vol. 4501, Page 1933 of the Deed Records of Travis County, Texas;

THENCE, along the common line of the said 434.66 acre tract and said 1.95 acre tract and a 2.26 acre tract as described in a deed to John D. Culp and Kateryne N. Culp in Vol. 4501, Page 2271 of the Deed Records of Travis County, Texas, the following three (3) courses:

- 1) S08°03'58"W, crossing Austin Boulevard a distance of 425.48 feet to an iron rod found,
- 2) S30°40'54"W, a distance of 278.63 feet to an iron pipe found, same being the northwest corner of said 2.26 acre tract;
- 3) S49°21'40"E, a distance of 216.01 feet to an iron rod found on the common line of said Survey No. 99 and Survey No. 189, same point being the northwest corner of Lot 1 of the Resubdivision Lakeshore Ranch Subdivision No. 1 as recorded in Book 15, Page 34 of the Plat Records of Travis County, Texas,

THENCE, S29°27'55"W, crossing Austin Boulevard a distance of 60.12 feet to an iron rod found at the northeast corner of Lot 92A of the Amended Plat of Lots 79 and 92 Resubdivision Lakeshore Ranch Subdivision No. 1 as recorded in Book 96, Page 283-284 of the Plat Records of Travis County, Texas;

THENCE, S29°56'49"W, along the common line of said 434.662 acre tract and said Lot 92A, a distance of 419.21 feet to an iron rod found, said point being the common corner of said Lot 92A and Lot 79A of said Amended Plat of Lots 79 and 92 Resubdivision Lakeshore Ranch Subdivision No. 1,

THENCE, S29°56'43"W, along the common line of said 434.662 acre tract and said Lot 79A, a distance of 395.44 feet to an iron rod found at a common corner of said Lot 79A and the northeast corner of Ridge Road, a 60 foot right of way dedicated by plat of said Resubdivision Lakeshore Ranch Subdivision No. 1,

THENCE, S29°53'52"W, along the common line of said 434.662 acre tract and said Ridge Road, a distance of 81.21 feet to an iron rod found, same point being the northeast corner of Lot 78A of the Amended Plat of Lots 77 and 78 Resubdivision Lakeshore Ranch Subdivision as recorded in Book 86, Page 1760 of the Plat Records of Travis County, Texas;

THENCE, S30°01'50"W, along the common line of said 434.662 acre tract and said Lot 78A, a distance of 328.15 feet to an iron rod found at the northeast corner of Lot 77A of said Amended Plat of Lots 77 and 78 Resubdivision Lakeshore Ranch Subdivision,

THENCE, S30°07'42"W, along a common line of said Lot 77A and said 434.662 acre tract, a distance of 384.36 feet to an iron pipe found at a corner of said 434.662 acre tract, from which an iron rod found with a LCRA cap bears S30°16'55"W, a distance of 0.23 feet,

THENCE, S30°01'46"W, a distance of 74.27 feet to a point, same being the southwest corner of a 1.253 acre tract described in a deed to Shoreline Joint Venture recorded in Vol. 12952, Page 220 of the Deed Records of Travis County, Texas, same being the northeast corner of a 2.673 acre tract as described in a deed to Victoria Hammond and Husband Robert Hammond in Vol. 12960, Page 732 of the Deed Records of Travis County, Texas,

THENCE, along the common line of the 1 253 acre tract and the 2 673 acre tract the following eight (8) courses

- 1) N35°44'52"W, a distance of 120.95 feet to an iron rod found with an LCRA cap;
- 2) N29°11'23"W, a distance of 186.99 feet to an iron rod found with an LCRA cap;
- 3) N05°29'48"E, a distance of 99.67 feet to an iron rod found with an LCRA cap,
- 4) N34°11'45"E, a distance of 146.28 feet to an iron rod found with an LCRA cap;
- 5) N17°15'50"E, a distance of 84.45 feet to an iron rod found with an LCRA cap,
- 6) N20°20'29"W, a distance of 109.29 feet to an iron rod found with an LCRA cap,
- 7) N64°43'36"W, a distance of 77.26 feet to an iron rod found with an LCRA cap;
- 8) N14°13'55"E, a distance of 52.69 feet to an iron rod found in a fence line for a corner of the said 434.662 acres from which an iron rod found with an LCRA cap bears N27°58'33"W, a distance of 2.17 feet,

THENCE, along a fence line, the southerly line of said 434 662 acre tract, the following three (3) courses:

- 1) N60°23'13"W, a distance of 438.36 feet to an iron rod found at a fence post,
- 2) N60°13'44"W, a distance of 883.75 feet to an iron rod found in a fence line;
- 3) N60°38'07"W, a distance of 1419.49 feet to an iron rod found at a fence corner being the common corner of the said 434 662 acre tract and a 7.00 acre tract as described in a deed to Jesse J. Butler and Diane E. Butler in Volume 12988, Page 2373 of the Deed Records of Travis County, Texas, said iron rod being in the east right of way line of Lohman Ford Road;

THENCE, along the east right of way line of said Lohman Ford Road and the westerly line of said 434 662 acre tract, the following five (5) courses

- 1) N02°54'51"E, a distance of 1579.82 feet to an iron rod set,
- 2) N18°25'51"W, a distance of 318.02 feet to an iron rod set,
- 3) N26°05'08"W, a distance of 751.10 feet to an iron rod set,
- 4) N07°27'26"W, a distance of 27.65 feet to a Pk nail set,
- 5) N15°52'00"W, a distance of 25.09 feet to an iron rod found for the POINT OF BEGINNING containing 445 355 acres of land.

Surveyed by
URBAN DESIGN GROUP
3660 Stoneridge Road, Suite E101
Austin, Texas 78746
(512) 347-0040

John Noell, R P L S. #2433

Date _____

Sketch or map attached

.C:\Jobs\Goodwin Tract\Goodwin Field Notes.wpd

EXHIBIT

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EXHIBIT 157 - 1" pg 6 of 6

FIELD NOTES

DESCRIBING A 17.43 ACRE TRACT OF LAND SAME BEING
A PORTION OF A 128.61 ACRE TRACT OF LAND DESCRIBED
IN A DEED TO SHORELINE J.V. AND RECORDED IN VOLUME
12321, PAGE 1588 OF THE DEED RECORDS OF TRAVIS
COUNTY TEXAS, SAID 17.43 ACRES BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a point at the northeast corner of the D&W Railroad Company Survey No. 99, said point being the southeast corner of the D&W Railroad Company Survey No. 101, said point being inundated by the waters of Lake Travis in Travis County, Texas,

THENCE, S33°48'48"E, 417.89 feet to a point,

THENCE, S04°15'26"E, 463.83 feet to a point,

THENCE, S12°04'16"W, 24.67 feet to a point;

THENCE, S86°30'59"E, 185.70 feet to a point;

THENCE, S00°53'20"W, 126.84 feet to a point,

THENCE, S09°38'20"W, 171.11 feet to a point;

THENCE, S10°21'40"E, 146.39 feet to a point;

THENCE, S32°12'40"E, 113.33 feet to a point,

THENCE, S79°30'09"W, 714.16 feet to a point in a southwesterly line of said 128.61 acre tract,

THENCE, N00°09'20"E, 169.17 feet to a point;

THENCE, N34°23'40"W, 473.61 feet to a point,

THENCE, N59°03'40"W, 73.33 feet to a point in the east line of said D&W Railroad Company Survey No. 99;

THENCE, with said east line, N29°57'49"E, 427.78 feet to a point;

EXHIBIT

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page 1 of 3

THENCE, continuing with a west line of said 128.61 acres the following five courses;

- 1) S53°03'30"E, 304.63 feet to a point;
- 2) N38°42'20"E, 157.50 feet to a point;
- 3) N25°44'40"W, 182.50 feet to a point;
- 4) N08°15'40"W, 168.89 feet to a point;
- 5) N19°56'40"W, 90 feet to a point in the west line of said D&W Railroad Company Survey No. 99;

THENCE with said east line N29°57'49"E, 215.23 feet to the POINT OF BEGINNING and containing 17.43 acres.



1"=200'

POINT
OF BEGINNING

WARNER CROFT
2 751 ACRES
VOL PG

SAM PAYNE
TRACT 5
0.894 ACRES
VOL 13104 PG 644

PAYNE
1.259 AC.
VOL. 13023 PG. 374

1.271 AC
VOL. 11163 PG. 934

0.861 AC.
VOL. 11407
PG. 1371

0.759 AC.
VOL. 9904
PG. 427

0.801 AC.
VOL. 7510
PG 347

JOSEPH WINKLEY
3.701 ACRES
VOL. 7590 PG 353

CHARLES B. POWERS
AND WIFE
FRANCES R. POWERS
0.385 ACRES
RECORD 0 433 ACRES
VOL. 13286 PG 1772

NORRIS KURRIO
AND
MARY C. KURRIO
0.815 ACRES
RECORD 0 80 ACRES
VOL. 13104 PG 639

KURT BANFF
2 26 ACRES
VOL 8635 PG 111
VOL 9513 PG 908

ALBERT B HORN III
AND
TERRY ALDRICH
3 54 ACRES
VOL 8900 PG 176

SHORELINE J V,
128 610 ACRES
VOL 12321 PG 1588

LINE #	BEARING	LENGTH
L38	N00° 09' 20" E	169.17'
L39	N59° 03' 40" W	73.33'
L40	N38° 42' 20" E	157.50'
L41	N25° 44' 40" W	182.50'
L42	N08° 15' 40" W	168.89'
L43	N19° 56' 40" W	90.00'
L200	N00° 53' 20" E	126.84'
L53	N09° 38' 20" E	171.11'
L54	N10° 21' 40" W	146.39'
L55	N32° 12' 40" W	113.33'

EXHIBIT

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Return Original to

Terrence L. Irion
3880 Stone Ridge Rd. #B-102
Austin, Texas 78746

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

[Signature]

06-20-2001 03:42 PM 2001100285
BENAVIDESV \$38.00
DANA DEBEAUVOUR, COUNTY CLERK
TRAVIS COUNTY, TEXAS

Recorders Memorandum-At the time of recording this instrument was found to be inadequate for the best reproduction because of illegibility, carbon or photocopy, discolored paper etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Starr Lockwood, Finance Director

Subject: Discussion, consideration, and possible action regarding Resolution No. 21-1909; A Resolution by the City Council of the City of Lago Vista, Texas designating signatories for the City.

Request: Business Item

Legal Document: Resolution

Legal Review: ☐

EXECUTIVE SUMMARY:

The authorized signatories for the City need to be updated with Security State Bank & Trust to reflect changes with Council and Staff. Those changes include:

1. Removing all previous signers.
2. Adding the following Staff and Council Members as signers to Security State Bank & Trust bank accounts:

Tracie Hlavinka, City Manager
Starr Lockwood, Finance Director
Edward Tidwell, Mayor
Kevin Sullivan, Council Member
Paul Prince, Council Member
Chelaine Marion, Council Member

Impact if Approved:

Bank signatories will reflect current Mayor, Council, and designated Staff.

Impact if Denied:

Bank signatories will remain as they were when last updated.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☒ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Approval of Resolution No. 18-1737 - A Resolution of the City Council of the City of Lago Vista, Texas designating signatories for the City.

Agenda Item Approved by City Manager

CITY OF LAGO VISTA, TEXAS

RESOLUTION 21-1909

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS DESIGNATING SIGNATORIES FOR THE CITY

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

THAT, the City Council of the City of Lago Vista, Texas hereby authorizes _____;
_____; _____;
_____ to have signature authority to
co-sign checks on behalf of the City.

AND, IT IS SO RESOLVED.

PASSED AND APPROVED this 21st day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by _____, seconded by _____, the above and foregoing resolution was passed and approved.



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 19 August 2021

From: Erin Selvera, City Attorney

Subject: Discussion, consideration and possible action regarding a License and Maintenance Agreement with the Hollows Property Owners' Association, authorizing them to construct, maintain, repair, replace and remove a golf cart path and related improvements adjacent to and within the City's right-of-way, and authorizing the City Manager to execute the Agreement.

Request: Other

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

Due to the street layout in The Hollows subdivision, there are areas where installation of a golf cart path completely outside of the City's right-of-way (ROW) is infeasible. Given this, The Hollows has approached the City asking for permission to install some parts of the cart path in city ROW. This necessitates establishment of an agreement to authorize the use and to outline the roles and responsibilities of the parties. If approved, the agreement would require The Hollows POA to construct the golf cart path according to city requirements and to maintain the improvements.

Installation of the cart path would benefit the City by allowing for a place for golf carts to traverse the subdivision in a safer manner than if they used city streets. The path could also be used by pedestrians, which is an added public safety benefit for the residents.

Impact if Approved:

Once executed, construction of the cart path could begin.

Impact if Denied:

It is unlikely that a cart path would be constructed, forcing golf carts to use city streets.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

License and Maintenance Agreement for golf cart path in City ROW in The Hollows.

Agenda Item Approved by City Manager

LICENSE AND MAINTENANCE AGREEMENT

The City of Lago Vista, Texas, a home-rule city, municipal corporation and political subdivision of the State of Texas situated in Travis County, Texas ("City") and The Hollows Property Owners Association, Inc. ("Licensee") enter into this License Agreement ("Agreement") to be effective beginning on the _____ day of _____, 2021, upon the terms and conditions set forth below.

ARTICLE I.

PURPOSE OF LICENSE AGREEMENT

The City grants to Licensee, its successors and assigns, license and permission to occupy by encroachment and to use the areas described in this paragraph for the following purposes only:

To construct, maintain, repair, replace and remove a golf cart path and related improvements (collectively, the "Improvements") on the portions of Destination Way depicted on EXHIBIT A attached hereto and incorporated herein (the "Licensed Property"), such areas being adjacent to, but not included in, the paved area of the road right-of-way used for vehicular traffic.

The City makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

Licensee agrees that all construction and maintenance permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal police, traffic, building, health and safety ordinances, laws and regulations.

ARTICLE II.

ANNUAL FEE

The City, its governing body, and its respective successors and assigns agrees to waive an annual fee for the license and permission herein granted to Licensee.

ARTICLE III.

CITY'S RIGHTS TO LICENSED PROPERTY

This Agreement is expressly subject and subordinate to the present and future right of the City, its successors, assigns, grantees, and licensees, to construct, install, establish, maintain, use, operate, and/or renew any public utility facilities, roadways or streets on, beneath or above the surface of the Licensed Property described in Article I.

Said uses of the Licensed Property by the City are permitted, provided that they do not substantially interfere with or destroy Licensee's use of the Licensed Property, or any property or improvements placed thereon or therein by Licensee. In case of an officially declared emergency, however, damage to or destruction of Licensee's property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

Nothing in this Agreement shall be construed to limit, in any way, the power of the City to widen, alter, or improve the Licensed Property subject to this Agreement pursuant to official action by the governing body of the City, or its successors. The City does, however, agree to cooperate

with Licensee to effect the relocation of Licensee's installations and improvements in the event of such widening, altering or improvement of such street areas and, further, to cooperate with Licensee wherever possible, to effect such widening, altering or improving of such street areas so that Licensee's operations and improvements on the Licensed Property will not be materially affected thereby.

Notwithstanding any provision in this Agreement to the contrary, the City retains the right to enter upon the Licensed Property, at any time and without notice, assuming no obligation to Licensee, to remove any of the licensed improvements or alterations thereof whenever such removal is deemed necessary for: (a) exercising the City's rights or duties with respect to the Licensed Property; (b) protecting persons or property; or (c) the public health or safety with respect to the Licensed Property.

ARTICLE IV. INSURANCE

Licensee shall, at its sole expense, provide commercial general liability insurance coverage, written by a company acceptable to the City and licensed to do business in Texas, in the amounts, at a minimum, of \$500,000 for property damage and \$500,000 for personal injury and death, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically name the City of Lago Vista as an additional insured. This insurance coverage shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement. Licensee shall be responsible for any deductibles stated in the policy. A true copy of each instrument effecting such coverage shall be delivered to the City at 5803 Thunderbird, Lago Vista, TX 78645, within thirty (30) days prior to the effective date of this Agreement.

Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until thirty (30) days after the City has received written notice thereof.

ARTICLE V. INDEMNIFICATION

Licensee shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the Licensee's construction, maintenance or use of the Licensed Property. This indemnification provision, however, shall not apply to any claims, suits, damages, costs, losses, or expenses (i) for which the City shall have been compensated by insurance provided under Article IV., above, or (ii) arising solely from the negligence of the City (or any other indemnified party) except for the City's negligence, if any, in entering into this Agreement.

ARTICLE VI. CONDITIONS

A. Licensee's Responsibilities. Licensee will be responsible for any damage to or relocation of existing facilities within the Licensed Property resulting from Licensee's use of the Licensed Property. Further, Licensee shall reimburse the City for all costs of replacing or repairing any property of the City or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.

B. Maintenance. Licensee shall construct the Improvements and any repairs or replacement in a good and workmanlike manner, and in accordance with all applicable laws. Licensee shall keep the Improvements in good condition, normal wear and tear excepted, and shall keep the Licensed Property reasonably free of debris and litter resulting from Licensee's use or activities. All such construction and maintenance shall be at Licensee's sole expense.

C. Removal or Modification. Licensee agrees that removal or modification of any Improvements now existing or to be later replaced shall be at Licensee's expense. Said removal or modification shall be at Licensee's sole discretion, except where otherwise provided by this Agreement. However, complete removal of all such Improvements must be preceded by at least thirty (30) days' written notice to any adjoining landowners.

D. Default. In the event that Licensee fails to maintain the Licensed Property or to otherwise comply with the terms or conditions as set forth herein, then the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the City may perform the work and Licensee agrees to pay, within thirty (30) days of written demand by the City, all costs and expenses incurred by the City in completing the work plus 20 percent. Should payment of all amounts due to the City not be paid within thirty (30) days of the demand, a lien will be placed on Licensee's property. The foregoing notwithstanding, if the action required to cure the default cannot reasonably be completed within 30 days, the Licensee will not be deemed in default of this Agreement as long as the Licensee commences the cure within the 30-day period and diligently pursues it to completion.

ARTICLE VII. TERMINATION

A. Termination By Licensee. This Agreement may be terminated by Licensee by delivering written notice of termination to the City not later than thirty (30) days before the effective date of termination. If Licensee so terminates, then it may remove installations that it made from the Licensed Property within the thirty-day notice period. Any installations not removed within said period are agreed to be the property of the City.

B. Termination By City. This Agreement may be revoked at any time by resolution of the City Council if such revocation is reasonably required by the public interest, after providing written notice to Licensee.

Subject to prior written notification to Licensee or its successors in interest, this Agreement is revocable by the City if:

1. The Improvements, or a portion of them, interfere with the City's right-of-way;
2. Use of the Licensed Property becomes necessary for a public purpose that is not consistent with Licensee's permitted use;
3. The Improvements, or a portion of them, constitute a danger to the public which the City deems not to be remediable by alteration or maintenance of such Improvements;
4. Licensee is in default under the terms of this Agreement beyond the required cure period; or
5. Licensee abandons or fails to maintain the Licensed Property, and the City receives no substantive response within thirty (30) days following written notification to Licensee.

If the City terminates this Agreement, the City will have the right to remove and/or replace all Improvements not removed by the Licensee within the 30-day period, and collect from Licensee the City's actual expenses incurred in connection therewith. If the City fails to remove the Improvements within a reasonable period of time after termination, such Improvements shall become the property of the City.

ARTICLE VIII.

EMINENT DOMAIN

If eminent domain is exerted on the Licensed Property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the relocation of Licensee's affected installations and improvements thereon, at Licensee's sole expense. Licensee shall be entitled to retain all moneys paid by the condemning authority for installations taken, if any.

ARTICLE IX.

INTERPRETATION

This Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for nor against either party. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior oral or written agreements. There are no agreements or understandings between the parties, or implied or express warranties regarding the subject matter hereof that are not set forth herein.

ARTICLE X.

APPLICATION OF LAW

This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

ARTICLE XI.

VENUE

Venue for all lawsuits concerning this Agreement will be courts of competent jurisdiction in Travis County, Texas.

ARTICLE XII.

COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT

This License Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

ARTICLE XIII.

ASSIGNMENT

Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City, which consent shall not be unreasonably withheld. Subject to the assignee's compliance with the insurance requirement set forth herein, Licensee shall furnish to the City a copy of any such assignment or transfer of any of Licensee's rights in this Agreement, including the name, date, address, and contact person.

[Signature pages follow.]

City:

The City of Lago Vista, Texas

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF _____ §

 This instrument was acknowledged before me on this the ____ day of _____, 2021
by _____, as _____ of the City of Lago Vista, Texas, a municipal
corporation, on behalf of said corporation.

Notary Public, State of Texas

Licensee:

The Hollows Property Owners Association,
Inc., a Texas nonprofit corporation

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

 §

COUNTY OF _____ §

 This instrument was acknowledged before me on this the ____ day of _____, 2021
by _____, _____ of The Hollows Property Owners Association, Inc.
a Texas nonprofit corporation, on behalf of said corporation.

Notary Public, State of Texas

EXHIBIT A
Licensed Property

9225 Bee Caves Road
Bldg. A, Suite 200
Austin, Texas 78733

Telephone: (512)502-8333
Toll Free: (800)821-9112
Fax: (512)502-8334
MOODYENGINEERING.COM

June 9th, 2021

Mr. Eric Belaj, P.E.
City of Lago Vista – Development Services
P.O. Box 4727
Lago Vista, TX 78645

RE: The Hollows – Destination Way Cart Path, Letter of Intent
Address: Destination Way, Lago Vista, Texas
MEI Job No. 2018.209.01

Mr. Belaj,

It is the intent of The Hollows on Lake Travis, LLC to install an eight (8) foot wide cart path along Destination Way starting from Ming Trail, south to an existing cart path at the intersection of Destination Way and Splendor Court, approximately 5,500 feet in length. This cart path will connect to the existing cart path at Leisure Lane and allow homeowners to access the amenity center and other Hollows open space areas, while reducing automobile traffic on Destination Way.

The design is intended to stay out of the right of way as much as possible. There are areas where it becomes necessary to be within the right of way. Those areas are due to utility conflicts and steep slopes. When necessary for the cart path to be in the right of way, the path would be installed at a minimum 3 feet away from the waterline that runs along Destination Way. There are also two areas where we are proposing the cart path run along the top of the berm and around water quality ponds.

We are working with LCRA regarding any required water quality controls.

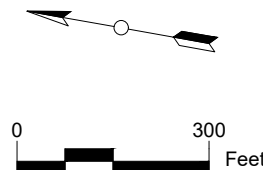
Please see the attached exhibits for the proposed cart path location. We look forward to your response and guidance as to what type of plans, applications, and/or other steps needed to permit this design.

Please call should you have any questions or need additional information.

Sincerely,



Joshua F. Henke, P.E.
Project Manager



MOODY ENGINEERING, INC.

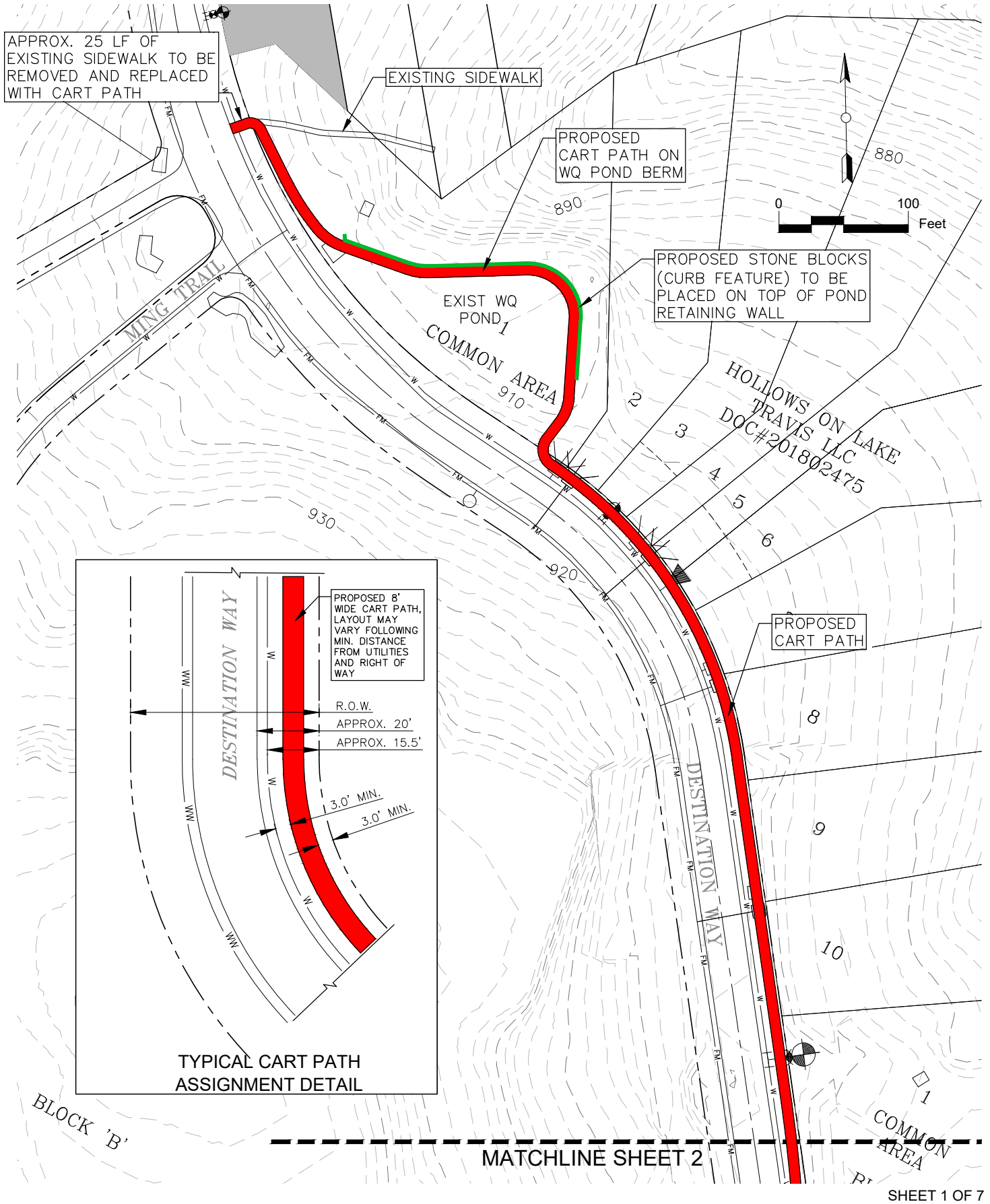
9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333

TBPE FIRM REG. NO. F-18320

**EXHIBIT
OVERALL PLAN**
THE HOLLOWS AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

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MOODY ENGINEERING, INC.

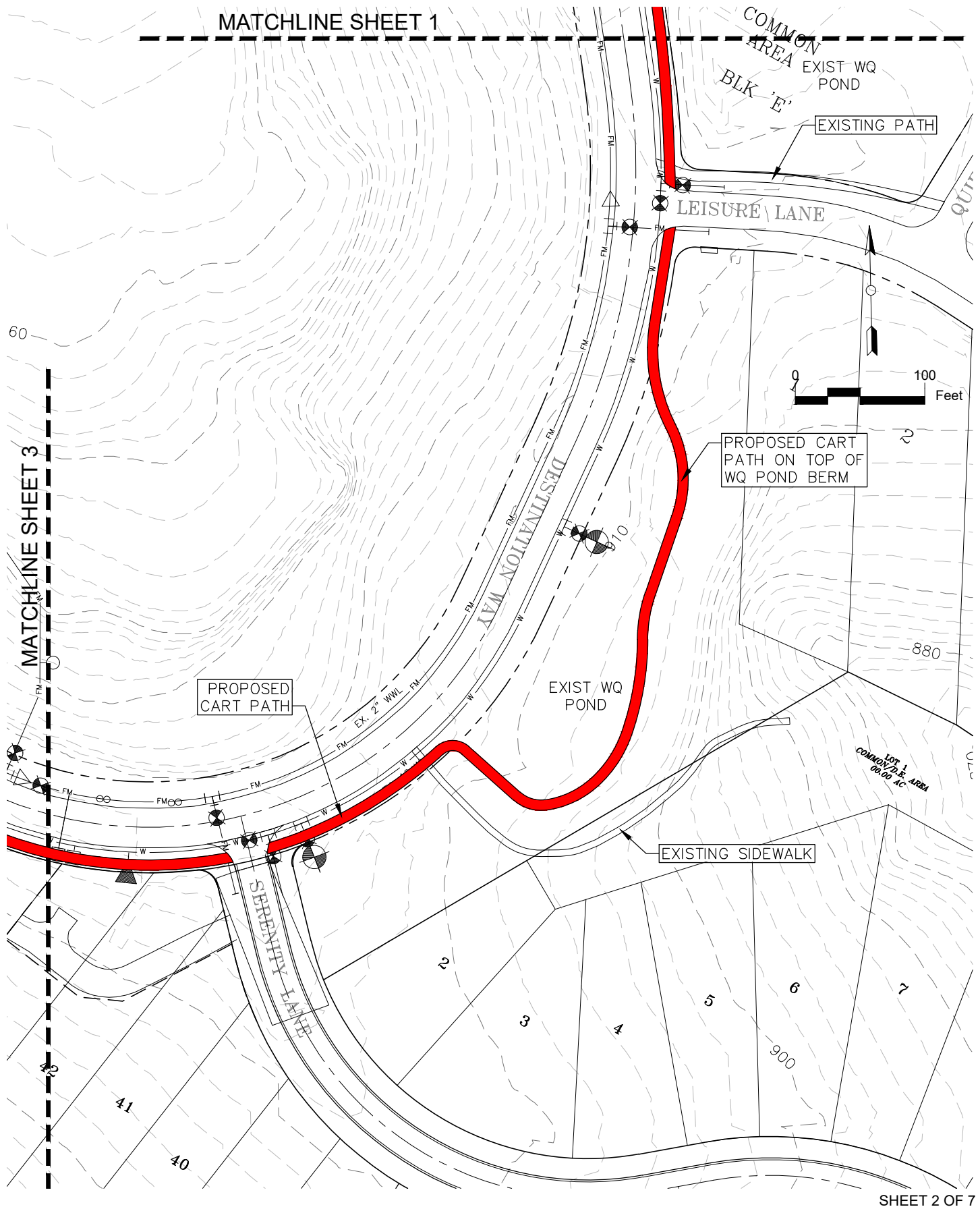
9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

**EXHIBIT
CART PATH CONCEPT LAYOUT**

THE HOLLOWAYS AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

177
PROJECT #2018-209



SHEET 2 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

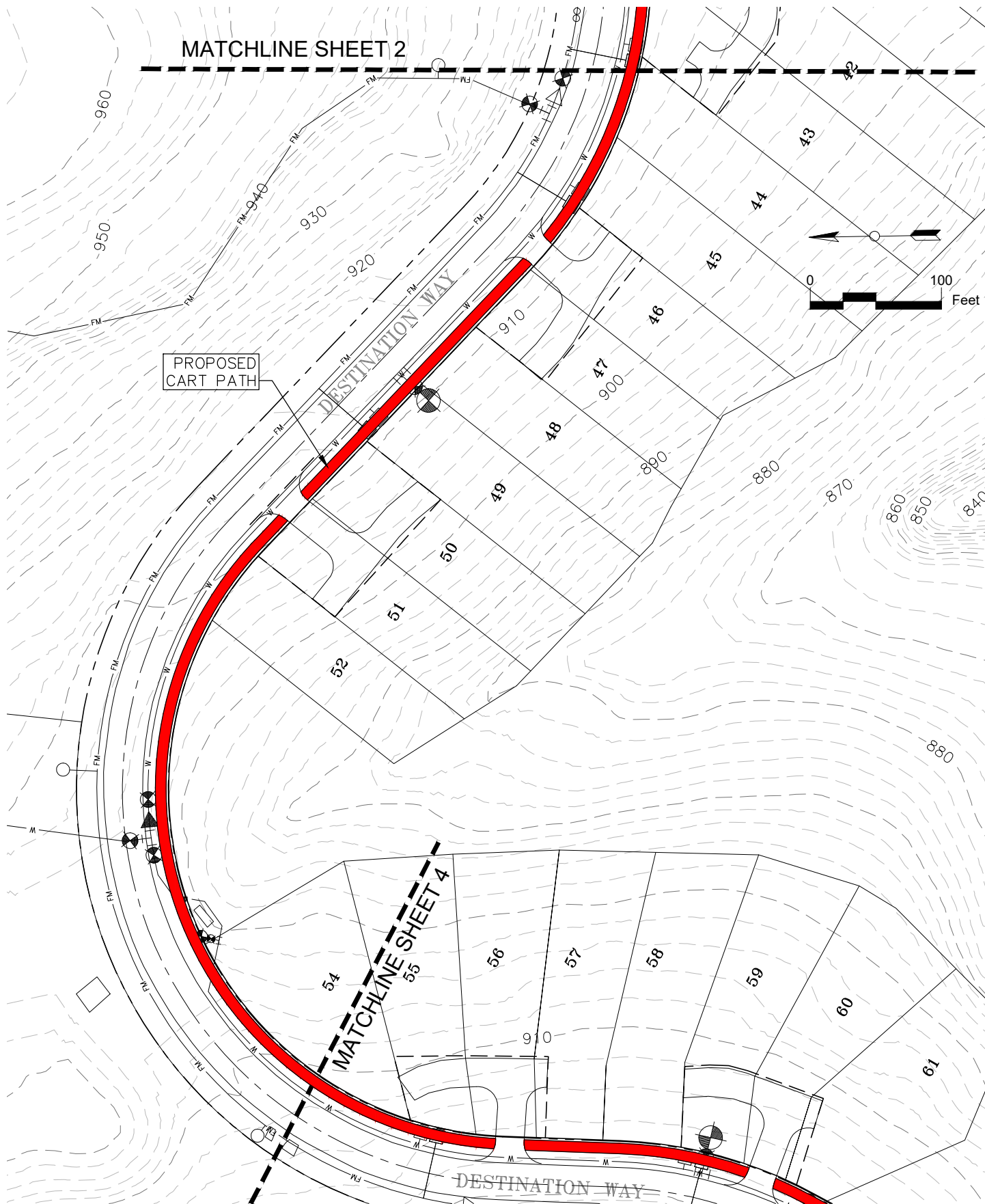
**EXHIBIT
CART PATH CONCEPT LAYOUT**

THE HOLLOWES AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

178
PROJECT #2018-209

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SHEET 3 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

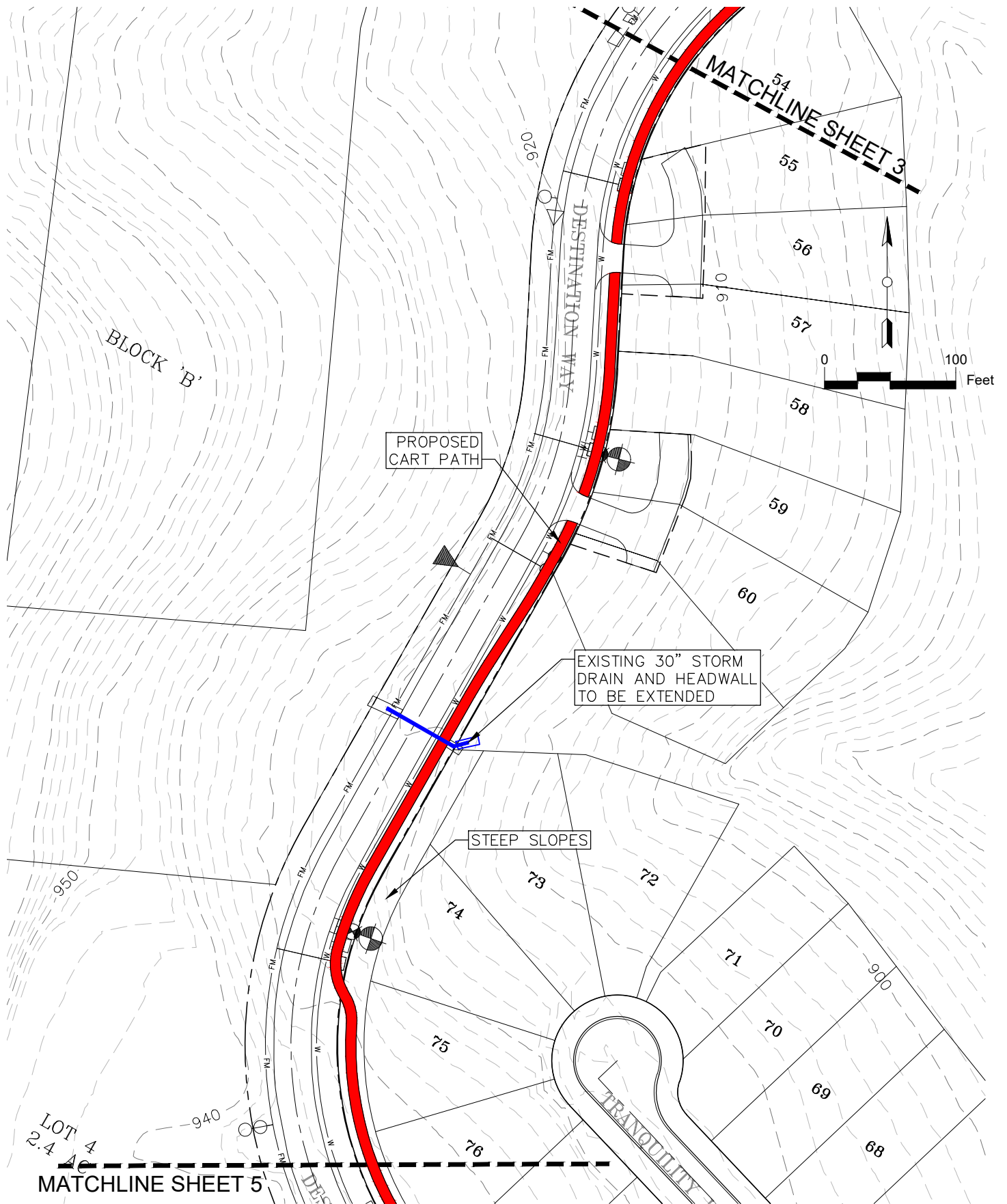
**EXHIBIT
CART PATH CONCEPT LAYOUT**

THE HOLLOWES AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

179
PROJECT #2018-209

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SHEET 4 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

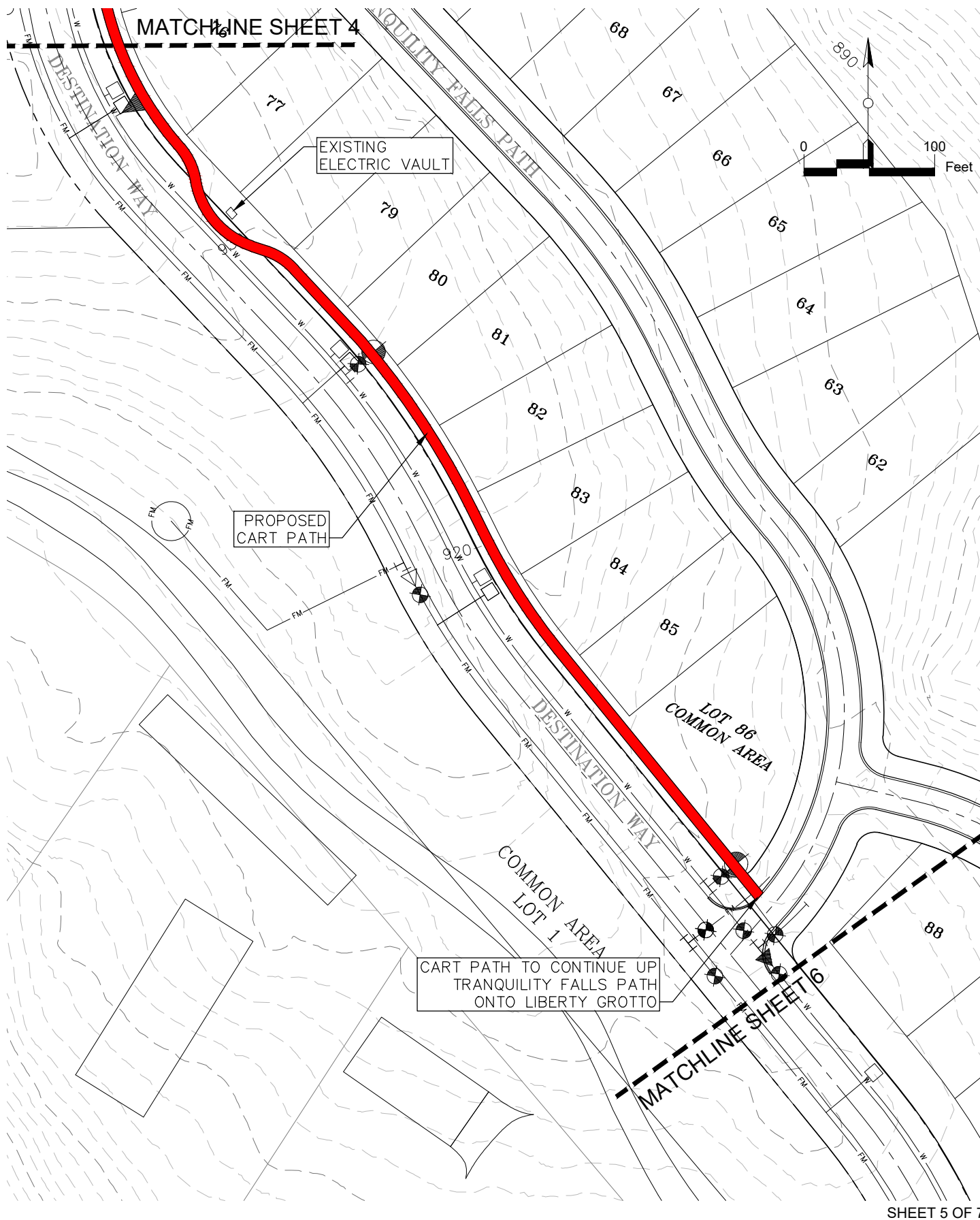
**EXHIBIT
CART PATH CONCEPT LAYOUT**

THE HOLLOWs AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

180
PROJECT #2018-209

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SHEET 5 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

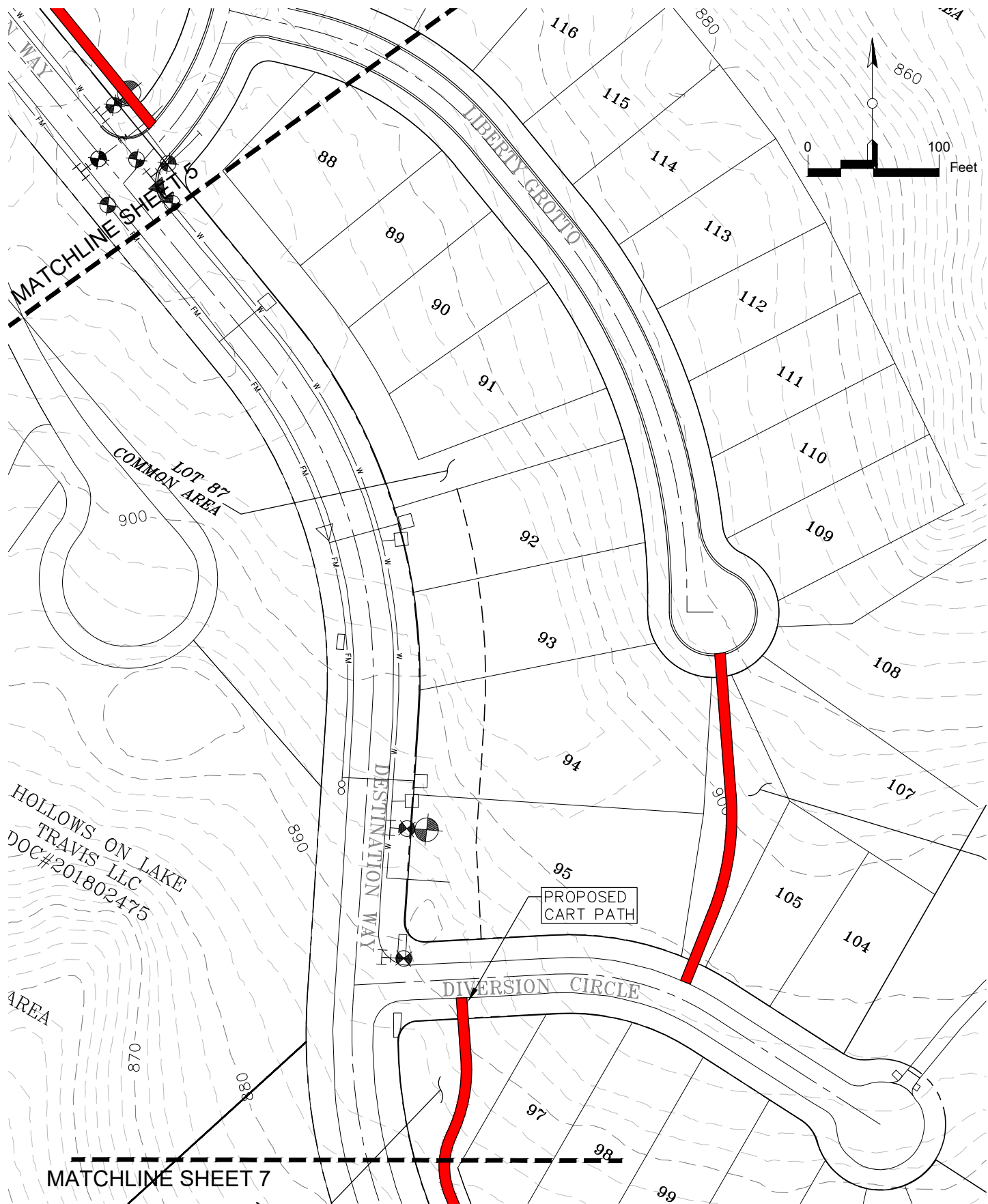
EXHIBIT CART PATH CONCEPT LAYOUT

THE HOLLOWES AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

181
PROJECT #2018-209

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SHEET 6 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

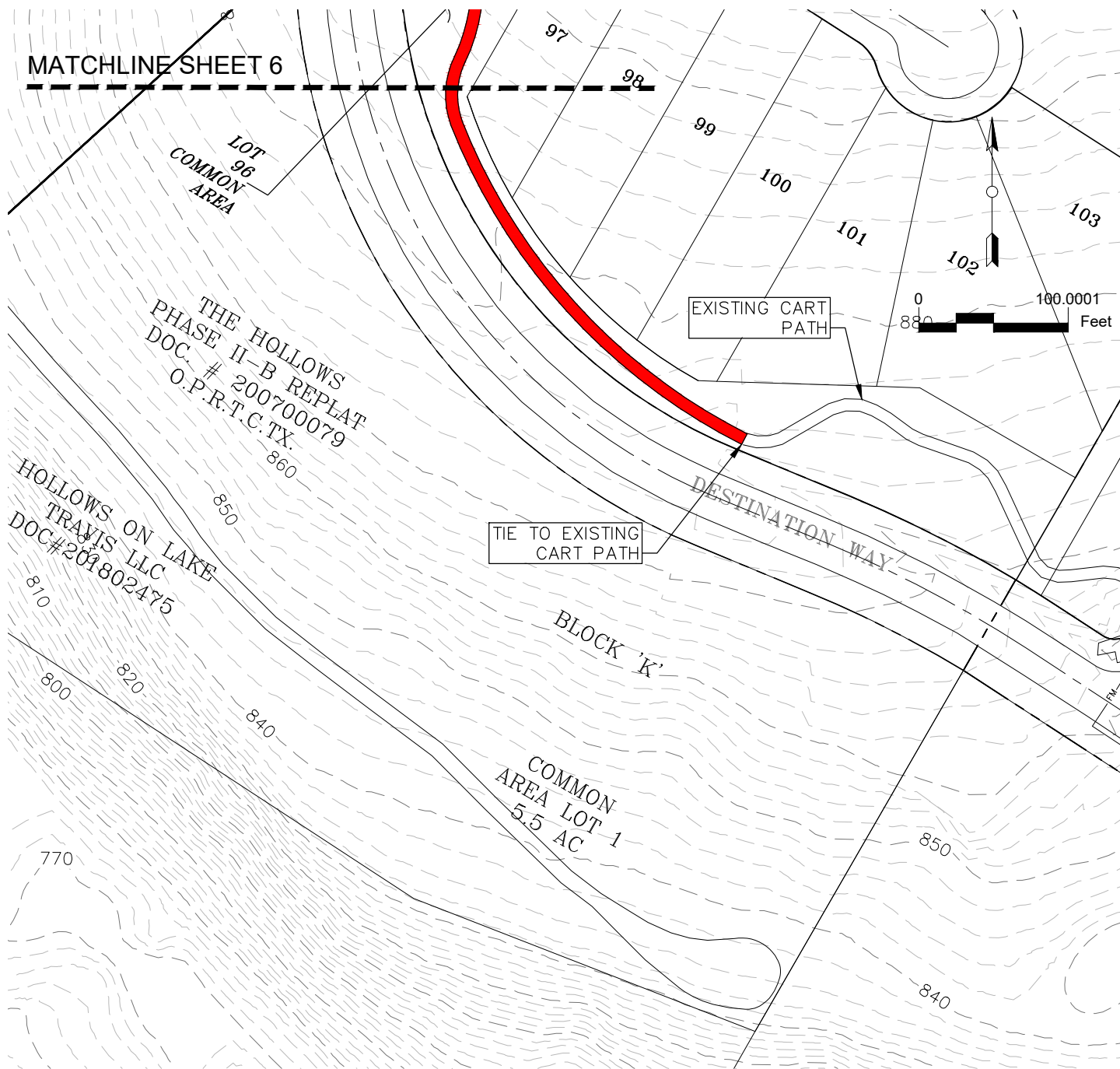
EXHIBIT CART PATH CONCEPT LAYOUT

THE HOLLOWES AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

182
PROJECT #2018-209

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SHEET 7 OF 7



MOODY ENGINEERING, INC.

9225 BEE CAVES ROAD
BLDG A, SUITE 200
AUSTIN, TEXAS 78733
(512) 502-8333
TBPE FIRM REG. NO. F-18320

EXHIBIT CART PATH CONCEPT LAYOUT

THE HOLLOWES AT LAKE TRAVIS
LAGO VISTA, TEXAS

APRIL 2021

183
PROJECT #2018-209



AGENDA ITEM

City of Lago Vista

To: Mayor & City Council

Council Meeting: October 21, 2021

From: Tracie Hlavinka, City Manager

Subject: Discussion, consideration, and possible action regarding Resolution No. 21-1910; A Resolution by the City of Lago Vista approving the appointment of Associate Municipal Court Judges and authorizing the Professional Services Agreements between the City and Associate Municipal Court Judges Laurie Drymalla and David Yturri.

Request: Business Item

Legal Document: Resolution

Legal Review: ☒

EXECUTIVE SUMMARY:

The City of Lago Vista Home Rule Charter approved November 6, 2018, states: "The Municipal Judge and any Associate Judges deemed necessary shall be appointed by the City Manager, subject to approval by the Council."

On August 19, 2021, the City Council approved the creation of an interview panel board to interview for the Associate Judge. The interview panel consisted of the Police Chief, City Attorney, Municipal Judge, Court Administrator, Human Resource Director and City Manager. There were five (5) applicants at the beginning of the process. Three (3) applicants withdrew from the process before interviews for personal reasons. Interviews were conducted with the remaining two (2) applicants; Laurie Drymalla and David Yturri on September 16, 2021.

Laurie Drymalla is a graduate of Baylor Law School and began in the criminal county courts of San Antonio, Texas. She served in Bexar County District Attorney's Office in San Antonio, Travis County's Attorney's Office, McLennan County District Attorney's Office in Waco, Texas, and back to Travis County District Attorney's Office serving as the chief of two (2) major units (Chief of the 167th District Court and Chief of the Critical Incident Unit). During the next several years Ms. Drymalla prosecuted several levels of crimes including: serious felony offenses, white collar cases, police officer use of force cases, police misconduct and officer involved shootings.

David Yturri is a graduate of Texas Tech University School of Law with a Doctorate of Jurisprudence. Mr. Yturri has worked in several courts including: Wise County, Bexar County, Dallas County, Collin County and Burnet County. While in Bexar County, Mr. Yturri joined the Specialized Crimes Division in the District Attorney's Office. During his career, he has prosecuted insurance, fraud, real estate fraud, public integrity cases, criminal (misdemeanor and felony) and DWI cases.

Appointing two (2) associate judges will provide better customer service for the Police Department and Municipal Court when needing a magistrate.

Impact if Approved:

Both Laurie Drymalla and David Yturri will be appointed Associate Judges for the City of Lago Vista, Texas.

Impact if Denied:

The Municipal Court will continue to operate with one Municipal Judge to handle all Court responsibilities.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:

General Fund, Municipal Court

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:

Resolution XXX to affirm two (2) Associate Judges of the Municipal Court.

Agenda Item Approved by City Manager

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka
Date: 2021.10.13 11:56:23 -05'00'

CITY OF LAGO VISTA

RESOLUTION NO. 21-1910

A RESOLUTION BY THE CITY OF LAGO VISTA APPROVING AND AUTHORIZING THE PROFESSIONAL SERVICES AGREEMENTS BETWEEN THE CITY AND ASSOCIATE MUNICIPAL COURT JUDGES LAURIE DRYMALLA AND DAVID YTURRI

RECITALS

WHEREAS, in accordance with Section 4.03 of the City Charter and Ordinance No. 20-12-17-02, on October 21, 2021, the City Council of the City of Lago Vista ("City") appointed Laurie Drymalla and David Yturri to serve as Associate Municipal Court Judges for the two-year terms effective October 21, 2021; and

WHEREAS, an agreement for the court services to be performed and compensation for those services is proper for the operation of the municipal court and for the good government of the City pursuant to Texas Local Government Code Section 51.001.

NOW, THEREFORE, BE IT RESOLVED by the City Council the City of Lago Vista, Texas, that:

1. The foregoing Recitals are hereby adopted as facts and are incorporated fully herein.
2. The City Council of the City of Lago Vista hereby approves, authorizes and directs the City Manager to execute on behalf of the City, the Professional Services Agreements between the City of Lago Vista and Laurie Drymalla and David Yturri, individually, to serve as Associate Municipal Court Judges, attached hereto and incorporated fully herein as *Attachment A* and *Attachment B*.
3. This Resolution shall be effective immediately upon passage.

CITY OF LAGO VISTA, TEXAS

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing instrument was passed and approved.

Resolution No. ____

PROFESSIONAL SERVICES AGREEMENT
between the
City of Lago Vista and Laurie Drymalla, Associate Municipal Court Judge

THIS AGREEMENT is made and entered into between the City of Lago Vista, Texas, a home rule municipality ("City") and Laurie Drymalla ("Judge"). This Agreement is effective on the date of the last to execute below, (the "Effective Date").

RECITALS

WHEREAS, on October 21, 2021, the City Council of the City of Lago Vista appointed Laurie Drymalla as Associate Municipal Court Judge of the City of Lago Vista for a Term to begin on October ___, 2021; and

WHEREAS, the Parties agree that the Judge shall perform the full duties and responsibilities as Associate Municipal Court Judge for the City upon the terms and conditions set forth below and in accordance with state law.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

SECTION 1. RECITALS

The foregoing recitals are adopted as facts and are incorporated fully herein for all purposes.

SECTION 2. TERM

- A. Initial Term. The initial term under this Agreement shall commence and be effective on the "Effective Date", and shall continue through October ___, 2023, unless terminated as provided herein.
- B. Renewal. At the expiration of the initial term, and on the anniversary thereafter of the renewal term, as described herein, unless otherwise notified of non-renewal of appointment by the City, this Agreement shall automatically renew for a successive two-year term of office. This "renewal term" shall begin on the date the previous term of office expired, in accordance with Ordinance No. 20-12-17-02 as codified in Article 7.100 of the Lago Vista Code of Ordinances.

SECTION 3. TERMINATION

This Agreement may be terminated:

- (a) at the end of the term should the judicial appointment not be renewed by City Council; or
- (b) on removal of the Judge as provided by Section 1-a, Article V of the Texas Constitution; or
- (c) on removal of the Judge for the reasons and by the procedure provided in Subchapter B, Chapter 21, Texas Local Government Code; or

(d) at the option of either Party upon 30 days advance written notice to the other Party.

Termination of this Professional Services Agreement impacts only the compensation and duties specified under the contract and not the appointment or ability to continue to serve as the judge as is governed by state law, City Charter and City Ordinance.

SECTION 4. DUTIES

- A. The Judge shall perform all duties and responsibilities of the Office of the Associate Municipal Court Judge including, but not limited to, those contained under state and federal law, the Texas Local Government Code, state and federal regulations, municipal ordinances and the Texas Code of Judicial Conduct.
- B. The Judge shall be on call to perform such obligations 24 hours per day, seven (7) days per week, subject to his reasonable availability.
- C. The Judge shall conduct court sessions as needed at the location, time and days set by the Presiding Judge.
- D. The Judge shall perform on-call magistrate duties as required.

SECTION 5. LIMITATION ON LAW PRACTICE AND CONFLICTS

- A. The Judge shall refrain from any activity or employment that might place them in a position of conflict of interest with their duties for the City.

SECTION 6. COMPENSATION

- A. The Judge shall be compensated at a rate of \$60 per hour, for services performed.
- B. Express Exception: No compensation will be paid for the administration of statutorily required oaths to new council members of the City of Lago Vista City Council.
- C. The Judge shall invoice the City monthly and report the hours billed and the work conducted in those hours. City shall make payment to the Judge within thirty days upon receipt of the invoice.
- D. The Judge shall pay all applicable local, state, federal taxes, including income tax, withholding tax, and social security tax.
- E. The Judge is not a City employee for purposes of City employee benefits.
- F. The City will be responsible for fees incurred by the Judge for continuing education up to a maximum of \$500 per year.

SECTION 7. MISCELLANEOUS

- A. This Agreement may be modified or amended, in writing, signed by both Parties.
- B. This Agreement shall be governed by the laws of the State of Texas. Venue is proper in Travis County, Texas.
- C. This Agreement sets forth the entire agreement of the parties and supersedes and renders null and void any and all prior or contemporaneous oral or written understandings, statements, representations or promises. There are no other oral or written agreements between the parties.
- D. Severability. If for any reason any clause, sentence, paragraph, section or part of this Agreement is held invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not affect any valid provisions of this Agreement.
- E. Headings. The section headings in this agreement are used for convenience and reference purposes only.
- F. Non-Waiver. The failure on the part of either the City or the Judge at any time to require the performance by either the City or the Judge of any portion of this agreement shall not be deemed a waiver of or in any way affect either the City's or the Judge's rights to enforce such provision or any other provision in the future. Any waiver by either the City or the Judge of any provision herein shall not be taken or held to be a waiver of any other provision or any other breach. Any waiver of any provision herein shall be in writing and signed by both parties.
- G. Cooperative Drafting. This Agreement is the product of a cooperative drafting effort by the Parties and shall not be construed or interpreted against either Party solely on the basis that one Party or its attorney drafted this Agreement or any portion of it.

SECTION 8. NOTICE

Any notice and/or statement required or permitted by this Agreement, shall be deemed to be given and delivered when deposited in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate Party at the following addresses, or such other address as amended by providing notice to the other party at the addresses below:

For CITY:

City of Lago Vista
City Manager
5803 Thunderbird Drive
Lago Vista, Texas 78645

For JUDGE:

Laurie Drymalla
Associate Municipal Court Judge
Judge's confidential home address
provided under separate cover

SECTION 9. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original instrument, and all of which, when taken together, shall constitute one and the same instrument. Evidence of execution will be acceptable by original signature, email, PDF or facsimile transmission and shall be given the same force and effect as original signatures.

IN WITNESS WHEREOF, this Agreement is **AGREED TO AND ACCEPTED** and executed by the Parties on the dates indicated below.

CITY OF LAGO VISTA, TEXAS

Ed Tidwell, Mayor

Date

Attest: _____
Sandra Barton, City Secretary

ASSOCIATE MUNICIPAL COURT JUDGE

Laurie Drymalla

Date

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the instrument for the purposes in consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2021

Notary Public in and for the
State of TEXAS

PROFESSIONAL SERVICES AGREEMENT
between the
City of Lago Vista and David Yturri , Associate Municipal Court Judge

THIS AGREEMENT is made and entered into between the City of Lago Vista, Texas, a home rule municipality ("City") and David Yturri ("Judge"). This Agreement is effective on the date of the last to execute below, (the "Effective Date").

RECITALS

WHEREAS, on October 21, 2021, the City Council of the City of Lago Vista appointed David Yturri as Associate Municipal Court Judge of the City of Lago Vista for a Term to begin on October ___, 2021; and

WHEREAS, the Parties agree that the Judge shall perform the full duties and responsibilities as Associate Municipal Court Judge for the City upon the terms and conditions set forth below and in accordance with state law.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

SECTION 1. RECITALS

The foregoing recitals are adopted as facts and are incorporated fully herein for all purposes.

SECTION 2. TERM

- A. Initial Term. The initial term under this Agreement shall commence and be effective on the "Effective Date", and shall continue through October ___, 2023, unless terminated as provided herein.
- B. Renewal. At the expiration of the initial term, and on the anniversary thereafter of the renewal term, as described herein, unless otherwise notified of non-renewal of appointment by the City, this Agreement shall automatically renew for a successive two-year term of office. This "renewal term" shall begin on the date the previous term of office expired, in accordance with Ordinance No. 20-12-17-02 as codified in Article 7.100 of the Lago Vista Code of Ordinances.

SECTION 3. TERMINATION

This Agreement may be terminated:

- (a) at the end of the term should the judicial appointment not be renewed by City Council; or
- (b) on removal of the Judge as provided by Section 1-a, Article V of the Texas Constitution; or
- (c) on removal of the Judge for the reasons and by the procedure provided in Subchapter B, Chapter 21, Texas Local Government Code; or

(d) at the option of either Party upon 30 days advance written notice to the other Party.

Termination of this Professional Services Agreement impacts only the compensation and duties specified under the contract and not the appointment or ability to continue to serve as the judge as is governed by state law, City Charter and City Ordinance.

SECTION 4. DUTIES

- A. The Judge shall perform all duties and responsibilities of the Office of the Associate Municipal Court Judge including, but not limited to, those contained under state and federal law, the Texas Local Government Code, state and federal regulations, municipal ordinances and the Texas Code of Judicial Conduct.
- B. The Judge shall be on call to perform such obligations 24 hours per day, seven (7) days per week, subject to his reasonable availability.
- C. The Judge shall conduct court sessions as needed at the location, time and days set by the Presiding Judge.
- D. The Judge shall perform on-call magistrate duties as required.

SECTION 5. LIMITATION ON LAW PRACTICE AND CONFLICTS

- B. The Judge shall refrain from any activity or employment that might place them in a position of conflict of interest with their duties for the City.

SECTION 6. COMPENSATION

- A. The Judge shall be compensated at a rate of \$60 per hour, for services performed.
- B. Express Exception: No compensation will be paid for the administration of statutorily required oaths to new council members of the City of Lago Vista City Council.
- C. The Judge shall invoice the City monthly and report the hours billed and the work conducted in those hours. City shall make payment to the Judge within thirty days upon receipt of the invoice.
- D. The Judge shall pay all applicable local, state, federal taxes, including income tax, withholding tax, and social security tax.
- E. The Judge is not a City employee for purposes of City employee benefits.
- F. The City will be responsible for fees incurred by the Judge for continuing education up to a maximum of \$500 per year.

SECTION 7. MISCELLANEOUS

- H. This Agreement may be modified or amended, in writing, signed by both Parties.

- I. This Agreement shall be governed by the laws of the State of Texas. Venue is proper in Travis County, Texas.
- J. This Agreement sets forth the entire agreement of the parties and supersedes and renders null and void any and all prior or contemporaneous oral or written understandings, statements, representations or promises. There are no other oral or written agreements between the parties.
- K. Severability. If for any reason any clause, sentence, paragraph, section or part of this Agreement is held invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not affect any valid provisions of this Agreement.
- L. Headings. The section headings in this agreement are used for convenience and reference purposes only.
- M. Non-Waiver. The failure on the part of either the City or the Judge at any time to require the performance by either the City or the Judge of any portion of this agreement shall not be deemed a waiver of or in any way affect either the City's or the Judge's rights to enforce such provision or any other provision in the future. Any waiver by either the City or the Judge of any provision herein shall not be taken or held to be a waiver of any other provision or any other breach. Any waiver of any provision herein shall be in writing and signed by both parties.
- N. Cooperative Drafting. This Agreement is the product of a cooperative drafting effort by the Parties and shall not be construed or interpreted against either Party solely on the basis that one Party or its attorney drafted this Agreement or any portion of it.

SECTION 8. NOTICE

Any notice and / or statement required or permitted by this Agreement, shall be deemed to be given and delivered when deposited in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate Party at the following addresses, or such other address as amended by providing notice to the other party at the addresses below:

For CITY:

City of Lago Vista
City Manager
5803 Thunderbird Drive
Lago Vista, Texas 78645

For JUDGE:

David Yturri
Municipal Court Judge
Judge's confidential home address
provided under separate cover

SECTION 9. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original instrument, and all of which, when taken together, shall constitute one and the same instrument. Evidence of execution will be acceptable by original signature, email, PDF or facsimile transmission and shall be given the same force and effect as original signatures.

IN WITNESS WHEREOF, this Agreement is **AGREED TO AND ACCEPTED** and executed by the Parties on the dates indicated below.

CITY OF LAGO VISTA, TEXAS

Ed Tidwell, Mayor

Date

Attest: _____
Sandra Barton, City Secretary

ASSOCIATE MUNICIPAL COURT JUDGE

David Yturri

Date

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the instrument for the purposes in consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2021

Notary Public in and for the
State of TEXAS



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 19 August 2021

From: Erin Selvera, City Attorney

Subject: Discussion, consideration and possible action regarding Resolution No. 21-1911 approving the Release of the Subdivision Construction Agreement and Development Agreement for the Montechino Subdivision as previously terminated pursuant to the 2018 Mutual Settlement and Release Agreement in Cause No. D-1-GN-16-002483.

Request: Other

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

The City of Lago Vista entered into two agreements with Brian Atlas on behalf of Villa Montechino, a Subdivision Construction Agreement executed in November 2006 and a Development Agreement executed in September 2014. Both agreements were filed in the Travis County Deed records and recorded as instruments 2006248234 and 2014145046 respectively.

In 2018 the City, Brian Atlas, and others executed a Mutual Settlement and Release Agreement in Cause No D-1-GN-16-002483, wherein the parties agreed to termination of all development agreements and agreements of any kind related to Plaintiff's project. However, no documents were filed with Travis County reflecting the Settlement Agreement terms.

Currently, Mr. Atlas is in the process of selling the subject property and the agreements, although now terminated, remain an encumbrance on the title. Release of the agreements is necessary to clear title to the property and reflect the current status of the agreements in the county records.

Impact if Approved:

The release will be filed in the deed records and will be used by a title company to show release of this encumbrance on the title for the property.

Impact if Denied:

The agreements, although void would remain as an encumbrance on the title to the property.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☐ Yes ☐ No ☐ N/A

Indicate Funding Source:**Suggested Motion/Recommendation/Action**

Motion to - -

Motion to - -

Motion to - -

Known as:

Resolution 21-19-11 Release of Subdivision Construction Agreement and Development Agreement

Agenda Item Approved by City Manager

CITY OF LAGO VISTA, TEXAS

RESOLUTION No. 21-1911

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS APPROVING THE RELEASE OF THE SUBDIVISION CONSTRUCTION AGREEMENT AND DEVELOPMENT AGREEMENT FOR THE MONTECHINO SUBDIVISION AS PREVIOUSLY TERMINATED PURSUANT TO THE 2018 MUTUAL SETTLEMENT AND RELEASE AGREEMENT IN CAUSE NO. D-1-GN-16-002483.

WHEREAS, on November 30, 2006, the City executed a Subdivision Construction Agreement with Brian Atlas on behalf of Villa Montechino LP recorded in the Travis County Records as instrument 2006248234; and

WHEREAS, on September 26, 2014, the City executed a Development Agreement with Brian Atlas on behalf of Villa Montechino recorded in the Travis County Records as instrument 2014145046; and

WHEREAS, on October 4, 2018 the City, Brian Atlas and others executed a Mutual Settlement and Release Agreement in Cause No. D-1-GN-16-002483, wherein as consideration the parties agreed to termination of all development agreements and agreements of any kind related to Plaintiff's project; and

WHEREAS, the Agreements, although previously terminated remain as an encumbrance on the title to the Villa Montechino Property until an instrument is filed in the deed records reflecting release of such agreements; and

WHEREAS, the City finds it necessary and proper to execute the Release of Subdivision Construction Agreement and Development Agreement for the Montechino Subdivision to reflect the previously agreed Settlement Agreement terms.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

THAT, the facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

THAT, the City Council of the City of Lago Vista, Texas does hereby authorize execution of the Release of Subdivision Construction Agreement and Development Agreement for the Montechino Subdivision.

THAT it is hereby officially found and determined that the meeting at which this resolution passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

AND IT IS SO RESOLVED.

PASSED AND APPROVED this ____ day of October 2021.

Ed Tidwell, Mayor

ATTEST:

Sandra Barton, City Secretary

On a motion by _____, seconded by _____, the
above and foregoing instrument was passed and approved.

**RELEASE OF SUBDIVISION CONSTRUCTION AGREEMENT AND DEVELOPMENT
AGREEMENT FOR THE MONTECHINO SUBDIVISION**

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS
COUNTY OF TRAVIS §

WHEREAS VILLA MONTECHINO, LP, a Texas limited partnership ("**Villa Montechino**"), BRIAN S. ATLAS ("**Atlas**"), and the CITY OF LAGO VISTA, TEXAS (the "**City**") entered into that certain Subdivision Construction Agreement recorded under Document No. 2006248234 of the Official Public Records of Travis County, Texas (as modified or amended from time to time, the "**Construction Agreement**").

WHEREAS Villa Montechino, Atlas, and the City subsequently entered into that certain Development Agreement for Montechino Subdivision recorded under Document No. 2014145046 of the Official Public Records of Travis County, Texas (as modified or amended from time to time, the "**Development Agreement**"). The Construction Agreement and the Development Agreement are sometimes each referred to herein individually as an "**Agreement**" and collectively as the "**Agreements**".

WHEREAS the Construction Agreement has terminated for all purposes and is no longer in force and effect.

WHEREAS, the Development Agreement has terminated for all purposes and is no longer in force and effect.

WHEREAS Villa Montechino, Atlas and the City desire to enter into this Release of Subdivision Construction Agreement and Development Agreement for the Montechino Subdivision (this "**Release**") to (a) evidence their agreement that each Agreement has terminated for all purposes and is no longer in force and effect and (b) release and discharge all real property encumbered by the Agreements (collectively, the "**Property**") from the Agreements.

NOW THEREFORE, as of August 24, 2021 (the "**Effective Date**"), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Villa Montechino, Atlas, and the City each agrees as follows:

1. The above recitals serve as the basis for this Release, are incorporated herein and made a part hereof for all purposes, and are true and correct.
2. Villa Montechino, Atlas, and the City each hereby: (a) agree that each Agreement has terminated for all purposes and is no longer in force and effect; and (b) fully, unconditionally, and irrevocably release and discharge all of the Property from the Agreements for all purposes.

[Signature Page Follows]

EXECUTED to be effective as of the Effective Date.

VILLA MONTECHINO:

VILLA MONTECHINO, LP,
a Texas limited partnership

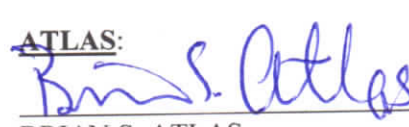
By: BSA DEVELOPMENT, LLC,
a Texas limited liability company,
its General Partner

By: 

Name: BRIAN S. ATLAS

Title: MANAGER

ATLAS:



BRIAN S. ATLAS

CITY:

CITY OF LAGO VISTA, TEXAS

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

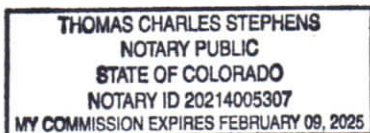
Title: _____

[Notary Pages Follow]

STATE OF ~~TEXAS~~ Colorado
COUNTY OF Summit

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This instrument was acknowledged before me on the 24 day of Aug,
2021, by Brian Smith Atlas, _____ of BSA
DEVELOPMENT, LLC, a Texas limited liability company, General Partner VILLA MONTECHINO, LP,
a Texas limited partnership, on behalf of said limited partnership.



[Signature]
Notary Public, State of ~~Texas~~ Colorado

02/09/2025

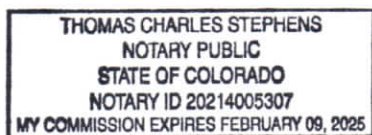
My Commission Expires

[NOTARY STAMP]

STATE OF ~~TEXAS~~ Colorado
COUNTY OF Summit

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This instrument was acknowledged before me on the 24 day of Aug,
2021, by BRIAN S. ATLAS.



[Signature]
Notary Public, State of ~~Texas~~ Colorado

02/09/2025

My Commission Expires

[NOTARY STAMP]

STATE OF TEXAS

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§
§

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____,
20____, by _____, _____ of CITY OF
LAGO VISTA, TEXAS, on behalf of said city.

Notary Public, State of Texas

My Commission Expires

[NOTARY STAMP]

STATE OF TEXAS

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COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____,
20____, by _____, _____ of CITY OF
LAGO VISTA, TEXAS, on behalf of said city.

Notary Public, State of Texas

My Commission Expires

[NOTARY STAMP]



AGENDA ITEM
City of Lago Vista

To: Mayor & City Council

Council Meeting: 10/21/21

From: Eric Belaj, PE, CFM

Subject: Discussion, consideration and possible action on a License Agreement with the Lago Vista Property Owner's Association and authorize the Mayor to execute the agreement.

Request: Business Item

Legal Document: Other

Legal Review:



EXECUTIVE SUMMARY:

The City is currently working on implementing the smart water meter system, a contract that was awarded by City Council in August of this year. As part of the contract, the contractor will provide seven (7) meter radio repeaters at City owned areas throughout town. The contractor has installed 5 already, and determined the best location for the 6th one is near a property owned by Lago Vista Property Owner's Association (LVPOA). Since these repeaters have to be installed on towers or poles, staff is proposing utilizing an existing LVPOA light pole near their gym, at the intersection of American and Boggy Ford.

The proposed agreement has been given to LVPOA for review. The proposed agreement allows the City to install the repeater, and utilize the electric power at the pole. In return, the City will maintain the pole for the duration of it's usage. There is no additional cost to the City or LVPOA.

The Staff has also evaluated other options should the LVPOA not give written authorization to utilize their pole. These options require additional cost, therefore this is the preferred option.

Impact if Approved:

The approval will allow the City to move forward with the install.

Impact if Denied:

City staff will look at other alternatives.

Is Funding Required? ☐ Yes ☒ No If Yes, Is it Budgeted? ☒ Yes ☐ No ☐ N/A

Indicate Funding Source:

CIP Utility Fund

Suggested Motion/Recommendation/Action

Motion to - -

Motion to - -

Motion to - -

Known as:

Approve the License Agreement with the Lago Vista Property Owner's Association and authorize the City Manager to execute the Agreement.

Agenda Item Approved by City Manager

Tracie Hlavinka

 Digitally signed by Tracie Hlavinka
Date: 2021.10.13 17:41:10 -05'00'

LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into by and among the Lago Vista Property Owners' Association, Inc., a Texas non-profit association operating in accordance with the Chapter 22 of the Texas Business Organizations Code ("the Association"), and the City of Lago Vista, Texas, a home-rule city, municipal corporation and political subdivision of the State of Texas situated in Travis County, Texas ("City" or "Licensee"). The City and the Association may be referred to herein as the "Parties" or each individually as a "Party".

NOW, THEREFORE, for good and valuable consideration paid by Grantee to Grantor and the mutual covenants, terms, and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I.

PURPOSE OF LICENSE AGREEMENT

The Association grants to Licensee, its successors and assigns, license and permission to occupy by installation of Improvements on Association property, to provide access thereto, and to use the areas described in this paragraph for the following purposes only:

To install, maintain, repair, replace and remove a meter reader repeater and related improvements (collectively, the "Improvements") on the light pole depicted on EXHIBIT A attached hereto and incorporated herein (the "Licensed Property"), such areas being adjacent to, but not including the paved parking area adjacent to the Improvements.

The Association makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

Licensee agrees that all installation, construction and maintenance permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal police, traffic, building, health and safety ordinances, laws and regulations.

Licensee agrees to maintain the improvements and the pole to which it is attached, including repairs to the pole, for the duration of this Agreement.

The Association agrees to allow the Licensee to connect to the existing electrical power affixed to the pole to power the improvements for the duration of this agreement.

ARTICLE II.

ANNUAL FEE

The Association, its governing body, and its respective successors and assigns agrees to waive an annual fee for the license and permission herein granted to Licensee.

ARTICLE III.

ASSOCIATION'S RIGHTS TO LICENSED PROPERTY

This Agreement is expressly subject and subordinate to the present and future right of the Association, its successors, assigns, grantees, and licensees, to construct, install, establish, maintain, use, operate, and/or renew the light pole or area beneath or above the surface of the Licensed Property described in Article I.

Said uses of the Licensed Property by the City are permitted, provided that they do not substantially interfere with or destroy Licensee's use of the Licensed Property, or any property or improvements placed thereon or therein by Licensee.

Nothing in this Agreement shall be construed to limit, in any way, the power of the Association to alter, or improve the Licensed Property subject to this Agreement pursuant to official action by the governing body of the Association, or its successors. The Association does, however, agree to cooperate with Licensee to effect the relocation of Licensee's installations and improvements in the event of such altering or improvement of such pole or surrounding area and, further, to cooperate with Licensee wherever possible, to effect such altering or improving of such pole or surrounding area so that Licensee's operations and improvements on the Licensed Property will not be materially affected thereby.

ARTICLE IV.

INDEMNIFICATION

To the extent allowed by law, Licensee shall indemnify, defend, and hold harmless the Association and its officers, agents and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the Licensee's construction, maintenance or use of the Licensed Property. This indemnification provision, however, shall not apply to any claims, suits, damages, costs, losses, or expenses (i) for which the Association shall have been compensated by insurance provided under Article IV., above, or (ii) arising solely from the negligence of the Association (or any other indemnified party) except for the Association's negligence, if any, in entering into this Agreement.

ARTICLE V.

CONDITIONS

A. Licensee's Responsibilities. Licensee will be responsible for any damage to or relocation of Improvements within the Licensed Property resulting from Licensee's use of the Licensed Property. Further, Licensee shall reimburse the Association for all costs of replacing or repairing any property of the Association or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.

B. Association's Responsibilities. Association shall at no cost to the Licensee, provide sufficient power to the Improvements as necessary to ensure functionality of the Improvements.

C. Maintenance. Licensee shall construct the Improvements and maintain the pole on which Licensee's improvements are located. Licensee is responsible for any repairs or replacement in a good and workmanlike manner, and in accordance with all applicable laws. Licensee shall keep the Improvements in good condition, normal wear and tear excepted. All such construction and maintenance shall be at Licensee's sole expense.

D. Removal or Modification. Licensee agrees that removal or modification of any Improvements now existing or to be later replaced shall be at Licensee's expense. Said removal or modification shall be at Licensee's sole discretion, except where otherwise provided by this Agreement. However, complete removal of all such Improvements must be preceded by at least thirty (30) days' written notice to the Association.

E. Default. In the event that Licensee fails to maintain the Licensed Property or to otherwise comply with the terms or conditions as set forth herein, then the Association shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the Association may file suit for specific performance. In addition, Licensee agrees to pay, within thirty (30) days of written demand by the Association, all costs and expenses incurred by the Association in completing the work. The foregoing notwithstanding, if the action required to cure the default cannot reasonably be completed within 30 days, the Licensee will not be deemed in default of this Agreement as long as the Licensee commences the cure within the 30-day period and diligently pursues it to completion.

ARTICLE VI.

NOTICES

Any notice given under this Agreement shall be in writing, and may be effected by personal delivery, by certified mail, return receipt requested or by any other means agreed upon by the parties, at the addresses of the respective parties indicated below:

ASSOCIATION

Lago Vista Property Owner's Association
20503 Dawn Drive
Lago Vista, Texas 78645
Telephone (512) 267-2895
Attn: General Manger

CITY

City of Lago Vista
5803 Thunderbird
Lago Vista, Texas 78645
Telephone (512) 267-1155
Attn: City Manager

ARTICLE VII.

TERM AND TERMINATION

A. Term. The Term of this Agreement shall begin on the Effective Date and shall continue annually until terminated by one or both parties in accordance with this Article VII.

B. Termination By Licensee. This Agreement may be terminated by Licensee by delivering written notice of termination to the Association not later than thirty (30) days before the effective date of termination. If Licensee so terminates, then it may remove installations that it made from the Licensed Property within the thirty-day notice period. Any installations not removed within said period are agreed to be the property of the Association.

C. Termination By Association. This Agreement may be terminated at any time by vote of the Board of the Association, after providing ninety (90) days written notice to Licensee.

Subject to prior written notification to Licensee or its successors in interest, this Agreement is revocable by the Association if:

1. The Improvements, or a portion of them, interfere with the Association's use of the Licensed Property;
2. The Improvements, or a portion of them, constitute a danger to the public which the Association deems not to be remediable by alteration or maintenance of such Improvements;
3. Licensee is in default under the terms of this Agreement beyond the required cure period; or
4. Licensee abandons or fails to maintain the Licensed Property, and the Association receives no substantive response within thirty (30) days following written notification to Licensee.

If the Association terminates this Agreement, the Association will have the right to remove and/or replace all Improvements not removed by the Licensee within the 30-day period, and collect from Licensee the Association's actual expenses incurred in connection therewith. If the Association fails to remove the Improvements within a reasonable period of time after termination, such Improvements shall become the property of the Association.

ARTICLE VIII.

INTERPRETATION

This Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for nor against either party. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior oral or written agreements. There are no agreements or understandings between the

parties, or implied or express warranties regarding the subject matter hereof that are not set forth herein.

ARTICLE IX.

APPLICATION OF LAW

This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

ARTICLE X.

VENUE

Venue for all lawsuits concerning this Agreement will be courts of competent jurisdiction in Travis County, Texas.

ARTICLE XI.

COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT

This License Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

ARTICLE XII.

ASSIGNMENT

Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the Association, which consent shall not be unreasonably withheld.

ARTICLE XIII.

AMENDMENTS

No alteration, change, modification or amendment of the terms of this Agreement shall be valid or effective unless made in writing and signed by both Parties hereto and approved by appropriate action of the governing body of each Party.

**ARTICLE XIV.
SEVERABILITY**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**ARTICLE XV.
EFFECTIVE DATE**

This Agreement shall be effective (“the Effective Date”) on the date of the last to execute below.

**ARTICLE XVI.
COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Thereafter, the Parties shall promptly exchange original versions of this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement that were executed and exchanged by electronic transmission.

[Signature pages follow.]

LICENSEE:

The City of Lago Vista, Texas

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this the ____ day of _____, 2021
by _____, as _____ of the City of Lago Vista, Texas, a municipal
corporation, on behalf of said corporation.

Notary Public, State of Texas

ASSOCIATION:

the Lago Vista Property Owners'
Association, Inc., a Texas nonprofit
corporation

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2021
by _____, _____ of the Lago Vista Property Owners' Association,
Inc. a Texas nonprofit corporation, on behalf of said corporation.

Notary Public, State of Texas

EXHIBIT A
Licensed Property

Exhibit "A"

2601 AMERICAN DR
Light Pole Usage Agreement

Legend

- ? ? LVPOA Fitness Center
- Feature 1

LVPOA Property

Location of Light Pole
Licensed Property

LVPOA Fitness Center

Patton Ave

American Dr

Patton Dr

Thurber Ln

Boggy Ford Rd

Google Earth

© 2021 Google

216

300 ft

