

**BOARD BOOK OF
July 14, 2020**



Leslie Bingham, Vice-Chair

Paul Braden, Member

Sharon Thomason, Member

Leo Vasquez III, Member

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT

Fiscal Year 2019 (September 1, 2018, through August 31, 2019)

Owner Financing and Down Payment	
<ul style="list-style-type: none"> 30-year, fixed interest rate mortgage loans Mortgage credit certificates Down payment, closing cost assistance Homebuyer education 	
Programs:	
<ul style="list-style-type: none"> Homebuyer Assistance Program (HBA)* Single Family Homeownership 	
Expended Funds:	\$1,693,834,604
Total Households Served:	9,605

Energy Related Assistance	
<ul style="list-style-type: none"> Utility bill payment assistance Energy consumption education Weatherization for energy efficiency 	
Programs:	
<ul style="list-style-type: none"> Comprehensive Energy Assistance Program (CEAP) Weatherization Assistance Program (WAP) 	
Expended Funds:	\$147,270,662
Total Households Served:	162,668

Multifamily New Construction	
<ul style="list-style-type: none"> Affordable rental units financed and developed 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds Multifamily Direct Loan Program* 	
Expended Funds:	\$108,945,178
Total Households Served:	7,062

Homelessness Services	
<ul style="list-style-type: none"> Shelter building rehabilitation, conversion, operations Essential services e.g., health services, transportation, job training, employment services 	
Programs:	
<ul style="list-style-type: none"> Emergency Solutions Grant Program (ESG) Homeless Housing and Services Program (HHSP) 	
Expended Funds:	\$12,162,959
Total Individuals Served:	71,350

Multifamily Rehab Construction	
<ul style="list-style-type: none"> Affordable rental units financed and rehabilitated 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds 	
Expended Funds:	\$56,792,063
Total Households Served:	2,503

Supportive Services	
Provides administrative support for essential services for low income individuals through Community Action Agencies	
Program:	
<ul style="list-style-type: none"> Community Services Block Grant Program (CSBG) 	
Expended Funds:	\$31,103,729
Total Individuals Served:	561,906

Owner Rehabilitation Assistance	
<ul style="list-style-type: none"> Home rehabilitation, reconstruction Manufactured housing unit replacement Accessibility modifications e.g., ramp, grab bar installation 	
Programs:	
<ul style="list-style-type: none"> Homeowner Rehabilitation Assistance Program (HRA)* Amy Young Barrier Removal Program 	
Expended Funds:	\$11,384,025
Total Households Served:	251

Rental Assistance	
<ul style="list-style-type: none"> Short, long term rent payment help Assistance linked with services Transitional assistance Security, utility deposits 	
Programs:	
<ul style="list-style-type: none"> Tenant-Based Rental Assistance (TBRA)* Section 8 Housing Choice Vouchers Section 811 	
Expended Funds:	\$11,021,909
Total Households Served:	1,932

Single Family Development	
<ul style="list-style-type: none"> Single family development, reconstruction, rehabilitation Do-it-yourself, "sweat equity" construction, rehabilitation Contract for Deed refinance 	
Programs:	
<ul style="list-style-type: none"> Single Family Development Program (SFD)* Contract for Deed (CFD) 	
Expended Funds:	\$3,769,888
Total Households Served:	85

Total Expended Funds:	\$2,076,285,016
Total Households Served:	817,362
All FY2019 data as reported in TDHCA's 2020 State Low Income Housing Plan and Annual Report (SLIHP).	
Note: Some households may have been served by more than one TDHCA program.	

* Administered through the federally funded HOME Investment Partnerships Program

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
GOVERNING BOARD MEETING

A G E N D A
9:00 AM
July 14, 2020

Meeting Location: In light of the March 13, 2020, disaster declaration by the Office of the Governor, and the subsequent waivers of portions of Tex. Gov't Code, Ch. 551*, this meeting of the TDHCA Governing Board will be accessible to the public via the telephone and web link information, below. In order to engage in two-way communication during the meeting, persons must first register (at no cost) to attend the webinar via the link provided. Anyone who calls into the meeting without registering online will not be able to ask questions or provide comments, but the meeting will still be audible. A recording of the meeting will be made available to the public as soon as possible following the meeting.

Governing Board Webinar registration:

<https://attendee.gotowebinar.com/register/8581326923452013835>

Dial-in number: +1 (415) 655-0052, access code 663-666-850 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

If the GoToWebinar terminates prior to adjournment of the meeting (i.e. if the webinar session "crashes") the meeting will be recessed. A new link to the meeting will be posted immediately on the TDHCA Board meetings web page (<https://www.tdhca.state.tx.us/board/meetings.htm>) along with the time the meeting will resume. The time indicated to resume the meeting will be within six hours of the interruption of the webinar. Please note that in this contingency, the original meeting link will no longer function, and only the new link (posted on the TDHCA Board meetings web page) will work to return to the meeting.

CALL TO ORDER

ROLL CALL

Leslie Bingham, Vice Chair

CERTIFICATION OF QUORUM

Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility

* The list of Open Meeting laws subject to temporary suspension effective March 16, 2020, is available at: <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Open%20Meeting%20Laws%20Subject%20to%20Temporary%20Suspension.pdf>

of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

ASSET MANAGEMENT

- a) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

Rosalio Banuelos
Director of Asset Management

17288 Forest Trails Lindale

- b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement

04302 Sierra Royale Robstown

BOND FINANCE

- c) Presentation, discussion, and possible action authorizing the extension of the Mortgage Acquisition, Pooling and Servicing Agreement between the Texas Department of Housing and Community Affairs and the Idaho Housing and Finance Association

Monica Galuski
Director of Bond Finance

SINGLE FAMILY & HOMELESS PROGRAMS

- d) Presentation, discussion, and possible action authorizing extensions to Neighborhood Stabilization Program 1 contracts and Program Income reservation agreements

Abigail Versyp
Director of Single Family & Homeless Programs

- e) Presentation, discussion, and possible action authorizing extensions to Neighborhood Stabilization Program 3 contract and Program Income reservation agreement for Community Development Corporation of Brownsville, Inc

HOUSING RESOURCE CENTER

- f) Presentation, discussion, and possible action on the 2021 Regional Allocation Formula Methodology

Elizabeth Yevich
Director of Housing Resource Center

RULES

- g) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 1, §1.21, Action by Department if Outstanding Balances Exist; an order proposing new 10 TAC Chapter 1, §1.21, Action by Department if Outstanding Balances Exist; and directing their publication for public comment in the Texas Register

Brooke Boston
Deputy Director of Programs

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Report on the Department's Swap Portfolio and recent activities with respect thereto

Monica Galuski
Director of Bond Finance

ACTION ITEMS

ITEM 3: FAIR HOUSING DATA MANAGEMENT & REPORTING

- a) Presentation, discussion, and possible action on a Reasonable Accommodation Request denial in accordance with 10 TAC §1.1(c)(4) relating to Reasonable Accommodation Requests to the Department

Cate Tracz
Manager of Fair Housing Data Management & Reporting

ITEM 4: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on timely filed scoring appeals under 10 TAC §11.902 of the 2020 Qualified Allocation Plan

Marni Holloway
Director of Multifamily Finance

20184 The Heritage at Abilene Abilene
20309 Casitas Los Ebanos Bishop

- b) Presentation, discussion, and possible action on timely filed appeals of application termination under 10 TAC §11.902 of the 2020 Qualified Allocation Plan

20116 Dian Street Villas Houston

- c) Report of Third Party Request for Administrative Deficiency under 10 TAC §11.10 of the 2020 Qualified Allocation Plan for 20177 Avanti Legacy Valor Heights, McAllen

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

Leslie Bingham
Vice Chair

The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

1a

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JULY 14, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Forest Trails (HTC #17288)

RECOMMENDED ACTION

WHEREAS, Forest Trails (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2017 to newly construct 60 units in the City of Lindale in Smith County;

WHEREAS, Lindale Forest Trails, LP (the Development Owner or Owner) is now requesting approval for a change in acreage from 13.611 to 10.247, which results in a 32.83% change in residential density from 4.408 units per acre to 5.855 units per acre;

WHEREAS, the request also includes a notification of other non-material revisions to the site plan represented at Application that affects the placement of the detention pond and the relocation of three residential buildings;

WHEREAS, Board approval is required for a modification of the residential density of at least five percent as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F), and the Owner has complied with the amendment requirements therein; and

WHEREAS, the requested change does not materially alter the Development in a negative manner, was not reasonably foreseeable or preventable by the Owner at the time of Application, and would not have adversely affected the selection of the Application in the Application Round;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment to the Application for Forest Trails is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

BACKGROUND

Forest Trails received an award of 9% Housing Tax Credits in 2017 to newly construct 60 units of multifamily housing serving the elderly population in Lindale, Smith County, on approximately 13.611 acres. The Owner had acquired 14.093 acres, but had indicated at Application that when the two parcels that made up the site were re-platted, that a portion of the site would be dedicated as a right-of-way to the City of Lindale, resulting in a net development site of 13.611 acres. Construction of the Development is complete, and the cost certification documentation has been submitted to the Department.

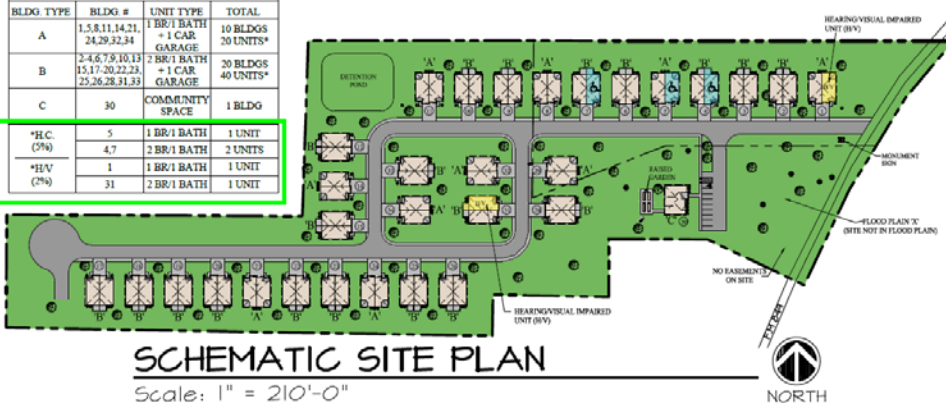
Based on a review of the cost certification, it was determined that the development site had been reduced from 13.611 to 10.247 acres, which represents a reduction of 3.364 acres or 24.72%. The residential density increased from 4.408 units per acre to 5.855 units per acre, which represents a 32.83% increase in residential density. Board approval is required for a modification of the residential density of at least five percent as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F).

In a letter dated June 8, 2020, the Owner's representative (Alyssa Carpenter) requested a material amendment to the Application for the Development. The amendment request letter explained that the acreage represented in the Application only accounted for the formal dedication of a portion along FM 849 for right-of-way to the City of Lindale (the City). The Owner indicated that at Application they believed that all of the drives to the units would be private drives; however, the Owner was informed by the City that the drives were considered to be collector streets, which required the drives to be dedicated to the City as public streets. This change was confirmed by the plat recorded on March 5, 2018.

In addition, the Owner indicated that there was a minor modification of the site plan. Specifically, the detention pond that was originally proposed at Application to be at the most northwest corner of the site was relocated and buildings were re-arranged within the site. Due to the topography of the property, the Development engineer determined that the detention pond would need to be relocated to the south-center portion of the property. This change necessitated the move of three residential building and the clubhouse. The changes to the site plan are reflected in the table below.

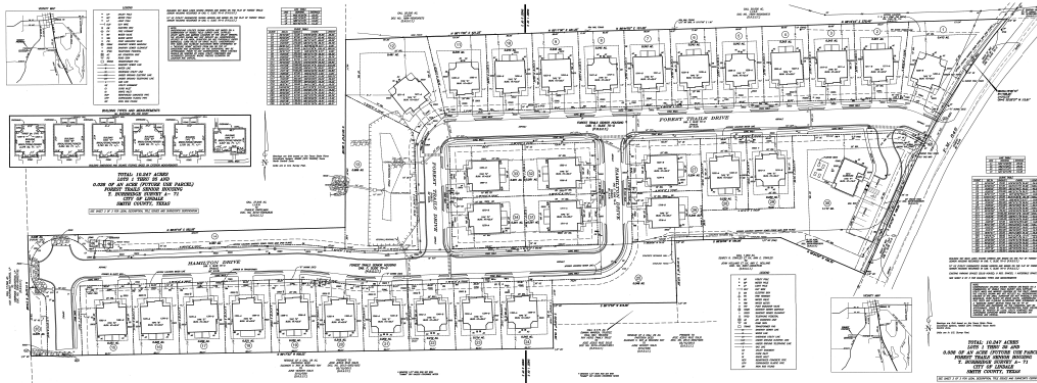
Application

BUILDING MATRIX			
BLDG TYPE	BLDG #	UNIT TYPE	TOTAL
A	1,5,8,11,14,21, 24,29,32,34	1 BR/1 BATH + 1 CAR GARAGE	10 BLDGS 30 UNITS*
B	2-4,6,7,9,10,13, 15,17-20,22,23, 25,26,28,31,33	2 BR/1 BATH + 1 CAR GARAGE	20 BLDGS 40 UNITS*
C	30	COMMUNITY SPACE	1 BLDG
*H.C. (5%)	5	1 BR/1 BATH	1 UNIT
	4,7	2 BR/1 BATH	2 UNITS
*H.V. (2%)	1	1 BR/1 BATH	1 UNIT
	31	2 BR/1 BATH	1 UNIT



Development Site: **13.611 acres**

Amendment



Development Site: **10.247 acres**

Staff has reviewed the original Application and scoring documentation against this amendment request and has concluded that none of the changes would have resulted in selection or threshold criteria changes that would have affected the ultimate selection of the Application in the competitive round. However, the Department has not yet performed a final construction inspection confirming required threshold amenity items or accessibility standards. Furthermore, staff has determined that the reduction in the site acreage due to additional right-of-way requirements by the City of Lindale was not foreseeable or preventable by the Applicant.

Staff recommends approval of the requested material amendment to the Application.

June 8, 2020

Kent Bedell
TDHCA Asset Management Division
PO Box 13941
Austin, TX 78711

RE: Application Amendment for 17288 Forest Trails

Dear Mr. Bedell:

This letter concerns an application amendment for HTC 17288 Forest Trails in Lindale for changes to the development acreage, residential density, and legal description. There is also a minor modification of the site plan that would be a notification item.

Change in Development Acreage and Residential Density

At Application, 14.093 acres were acquired for the development site but would be reduced to 13.611 acres after the formal dedication of a portion of FM 849. The drives through the site were also planned to be private driveways. Subsequent to Application, the development site was platted as individual lots and the City of Lindale considered the drives to be collector streets, which then required that they be dedicated to the City as public streets. After the dedication of the streets, the final development site acreage is 10.247 acres. Please see the attached survey with the final acreage and that also shows the drives as Public ROWs. This change is necessary to comply with City of Lindale requirements and was unforeseen at the time of Application.

Due to this change in acreage, the residential density becomes 5.85 units per acre (60 units/10.247acres).

Change in Legal Description

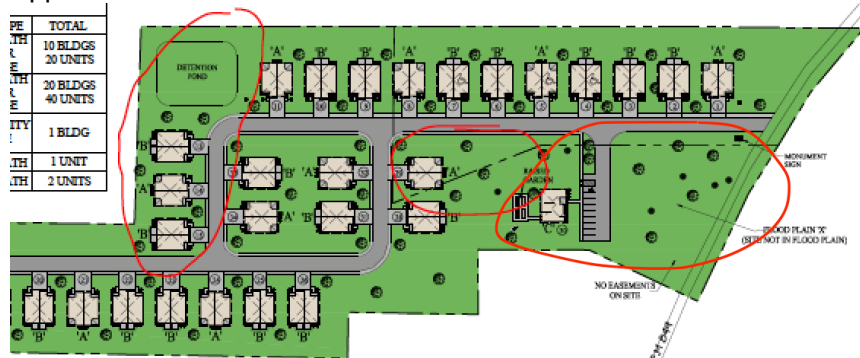
At Application, the legal description was the metes and bounds of the two parcels being acquired. Subsequent to Application, the development site was platted and the driveways became public streets. The final legal description is below.

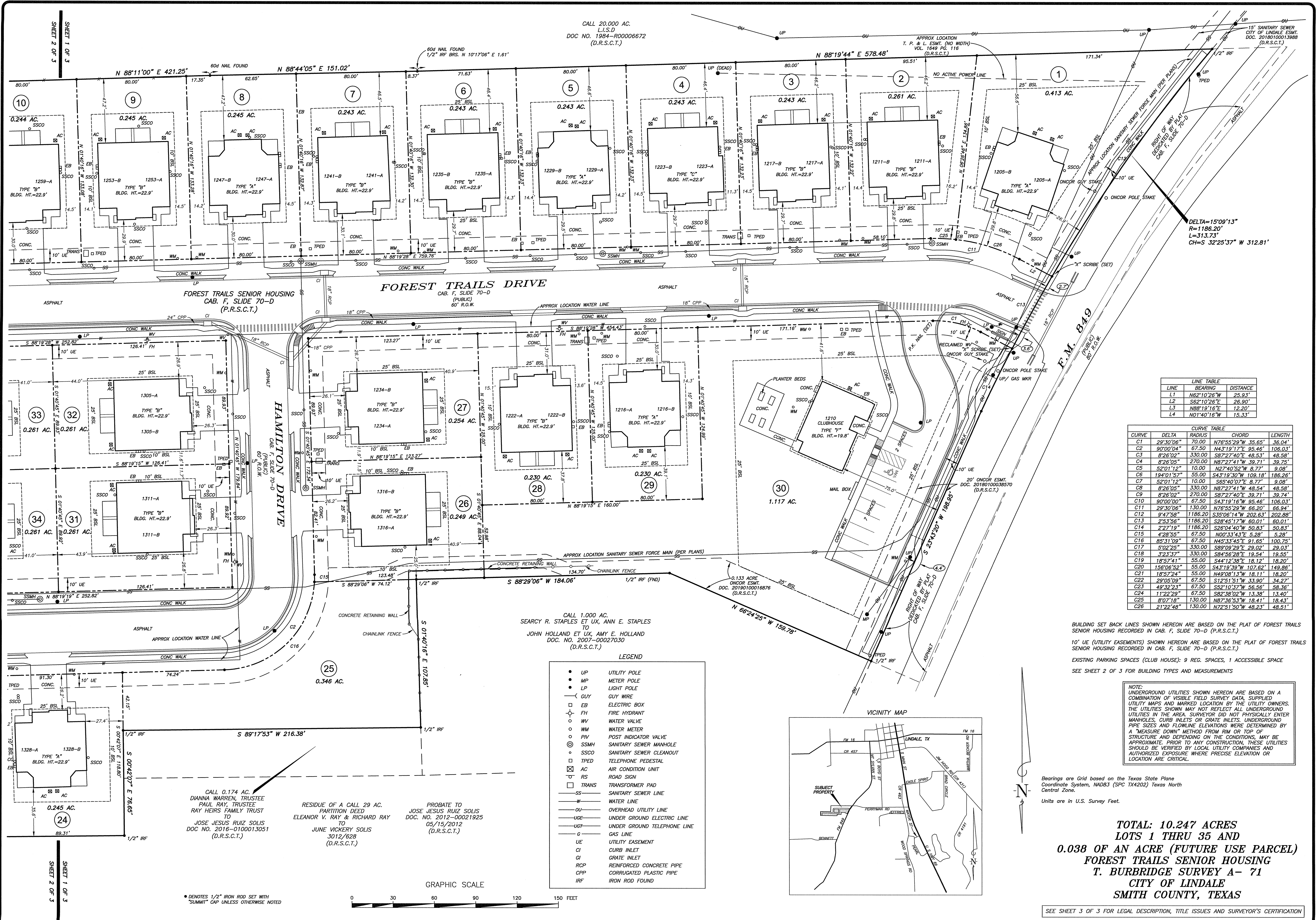
LOTS 1 THROUGH 35 AND 0.038 OF AN ACRE OF FOREST TRAILS SENIOR HOUSING, A PART OF THE T. BURBRIDGE SURVEY, A-71, CITY OF LINDALE, SMITH COUNTY, TEXAS AS SHOWN IN CABINET F, SLIDE 70-D, PLAT RECORDS, SMITH COUNTY, TEXAS

Notification of Minor Modification of Site Plan.

At Application, the detention pond area was proposed to be at the most northwest corner of the site. Subsequent engineering regarding topography required that the detention pond be relocated slightly to the south and therefore three residential buildings in the vicinity were relocated to other areas of the site and the clubhouse was shifted. The changes are depicted below. This is a minor modification of the site plan due to rearrangement of buildings on the site.

Application:





CALL 20,000 AC.
L.I.S.D
DOC NO. 1984-R00006672
(D.R.S.C.T.)

DELTA=15°09'13"
R=1186.20'
L=313.73'
CH=S 32°25'37" W 312.81'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N62°10'26"W	25.83'
L2	S62°10'26"E	26.90'
L3	N88°19'16"E	12.20'
L4	N01°40'16"W	15.33'

CURVE TABLE

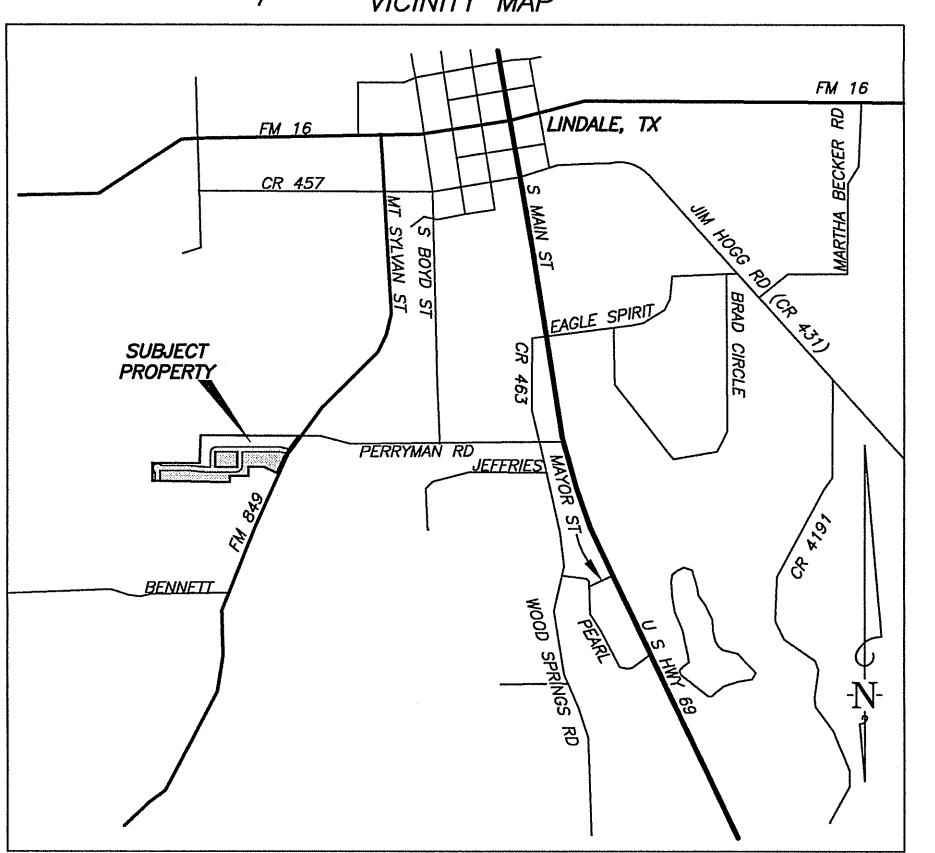
CURVE	DELTA	RADIUS	CHORD	LENGTH
C1	25°50'06"	70.00	N75°55'29"W 35.65'	38.04'
C2	90°00'04"	67.50	N43°19'17"E 95.46'	106.03'
C3	8°26'02"	330.00	S87°27'40"E 48.53'	48.58'
C4	8°26'05"	270.00	N87°27'41"W 39.71'	39.75'
C5	52°01'12"	10.00	N27°40'52"W 8.77'	9.08'
C6	194°01'57"	55.00	S43°19'30"W 109.18'	186.26'
C7	52°01'12"	10.00	S65°40'07"E 8.77'	9.08'
C8	8°26'05"	330.00	N87°27'41"W 48.54'	48.58'
C9	8°26'02"	270.00	S87°27'40"E 39.71'	39.74'
C10	90°00'04"	67.50	S43°19'16"W 95.46'	106.03'
C11	28°30'06"	130.00	N75°55'29"W 66.20'	66.94'
C12	9°47'58"	1186.20	S35°06'14"W 202.63'	202.88'
C13	2°53'56"	1186.20	S28°45'17"W 60.01'	60.01'
C14	2°22'19"	1186.20	S28°04'40"W 50.83'	50.83'
C15	4°28'55"	67.50	N02°33'43"E 5.28'	5.28'
C16	85°31'09"	67.50	N45°33'45"E 91.65'	100.75'
C17	5°02'25"	330.00	S89°09'29"E 29.02'	29.03'
C18	3°23'37"	330.00	S84°56'28"E 19.54'	19.55'
C19	18°57'41"	55.00	S44°12'38"E 18.12'	18.20'
C20	156°06'52"	55.00	S43°19'39"W 107.62'	149.86'
C21	18°57'41"	55.00	N49°08'13"W 18.11'	18.20'
C22	2°05'09"	67.50	S12°51'51"W 33.90'	34.22'
C23	49°32'23"	67.50	S82°10'37"W 56.56'	58.36'
C24	11°22'29"	67.50	S82°38'02"W 13.38'	13.40'
C25	8°07'18"	130.00	N87°36'53"W 18.41'	18.43'
C26	21°22'48"	130.00	N72°51'50"W 48.23'	48.51'

BUILDING SET BACK LINES SHOWN HEREON ARE BASED ON THE PLAT OF FOREST TRAILS SENIOR HOUSING RECORDED IN CAB. F. SLIDE 70-D (P.R.S.C.T.)
10' UE (UTILITY EASEMENTS) SHOWN HEREON ARE BASED ON THE PLAT OF FOREST TRAILS SENIOR HOUSING RECORDED IN CAB. F. SLIDE 70-D (P.R.S.C.T.)
EXISTING PARKING SPACES (CLUB HOUSE): 9 REG. SPACES, 1 ACCESSIBLE SPACE
SEE SHEET 2 OF 3 FOR BUILDING TYPES AND MEASUREMENTS

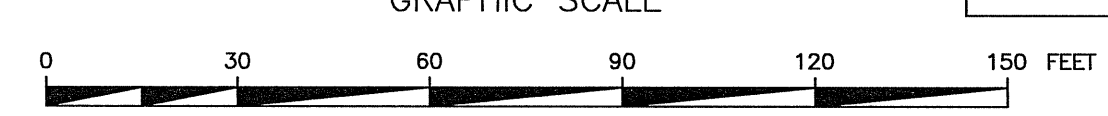
NOTE:
UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON A COMBINATION OF VISIBLE FIELD SURVEY DATA, SUPPLIED UTILITY MAPS AND MARKED LOCATION BY THE UTILITY OWNERS. THE UTILITIES SHOWN MAY NOT REFLECT ALL UNDERGROUND UTILITIES IN THE AREA. SURVEYOR DID NOT PHYSICALLY ENTER MANHOLES, CURB INLETS OR GRATE INLETS. UNDERGROUND PIPE SIZES AND FLOWING ELEVATIONS WERE DETERMINED BY A "MEASURE DOWN" METHOD FROM RIM OR TOP OF STRUCTURE AND DEPENDING ON THE CONDITIONS, MAY BE APPROXIMATE. PRIOR TO ANY CONSTRUCTION, THESE UTILITIES SHOULD BE VERIFIED BY LOCAL UTILITY COMPANIES AND AUTHORIZED EXPOSURE WHERE PRECISE ELEVATION OR LOCATION ARE CRITICAL.

Bearings are Grid based on the Texas State Plane Coordinate System, NAD83 (SPC TX4202) Texas North Central Zone.
Units are in U.S. Survey Feet.

TOTAL: 10.247 ACRES
LOTS 1 THRU 35 AND
0.038 OF AN ACRE (FUTURE USE PARCEL)
FOREST TRAILS SENIOR HOUSING
T. BURBRIDGE SURVEY A-71
CITY OF LINDALE
SMITH COUNTY, TEXAS



- LEGEND
- UP UTILITY POLE
 - MP METER POLE
 - LP LIGHT POLE
 - GUY WIRE
 - EB ELECTRIC BOX
 - ⊕ FH FIRE HYDRANT
 - WV WATER VALVE
 - WM WATER METER
 - PIV POST INDICATOR VALVE
 - ⊙ SSMH SANITARY SEWER MANHOLE
 - SSCO SANITARY SEWER CLEANOUT
 - TPED TELEPHONE PEDESTAL
 - AC AIR CONDITION UNIT
 - RS ROAD SIGN
 - TRANS TRANSFORMER PAD
 - SS SANITARY SEWER LINE
 - W WATER LINE
 - OU OVERHEAD UTILITY LINE
 - UGE UNDER GROUND ELECTRIC LINE
 - UGF UNDER GROUND TELEPHONE LINE
 - G GAS LINE
 - UE UTILITY EASEMENT
 - CI CURB INLET
 - GI GRATE INLET
 - RCP REINFORCED CONCRETE PIPE
 - CPP CORRUGATED PLASTIC PIPE
 - IRF IRON ROD FOUND



• DENOTES 1/2" IRON ROD SET WITH "SUMMIT" CAP UNLESS OTHERWISE NOTED

CALL 0.174 AC.
DIANNA WARREN, TRUSTEE
PAUL RAY, TRUSTEE
RAY HEIRS FAMILY TRUST
TO
JOSE JESUS RUIZ SOLIS
DOC NO. 2016-0100013051
(D.R.S.C.T.)

RESIDUE OF A CALL 29 AC.
PARTITION DEED
TO
ELEANOR V. RAY & RICHARD RAY
TO
JUNE VICKERY SOLIS
3012/628
(D.R.S.C.T.)

PROBATE TO
JOSE JESUS RUIZ SOLIS
DOC. NO. 2012-00021925
05/15/2012
(D.R.S.C.T.)

CALL 1,000 AC.
SEARCY R. STAPLES ET UX, ANN E. STAPLES
TO
JOHN HOLLAND ET UX, AMY E. HOLLAND
DOC. NO. 2007-00027030
(D.R.S.C.T.)

SHEET 1 OF 3
SHEET 2 OF 3

SHEET 1 OF 3
SHEET 2 OF 3

REVISIONS

DATE	BY	REVISIONS
02/14/20	JWC	PRELIMINARY ISSUED
03/05/20	JWC	ADDRESS LEADER'S COMMENTS

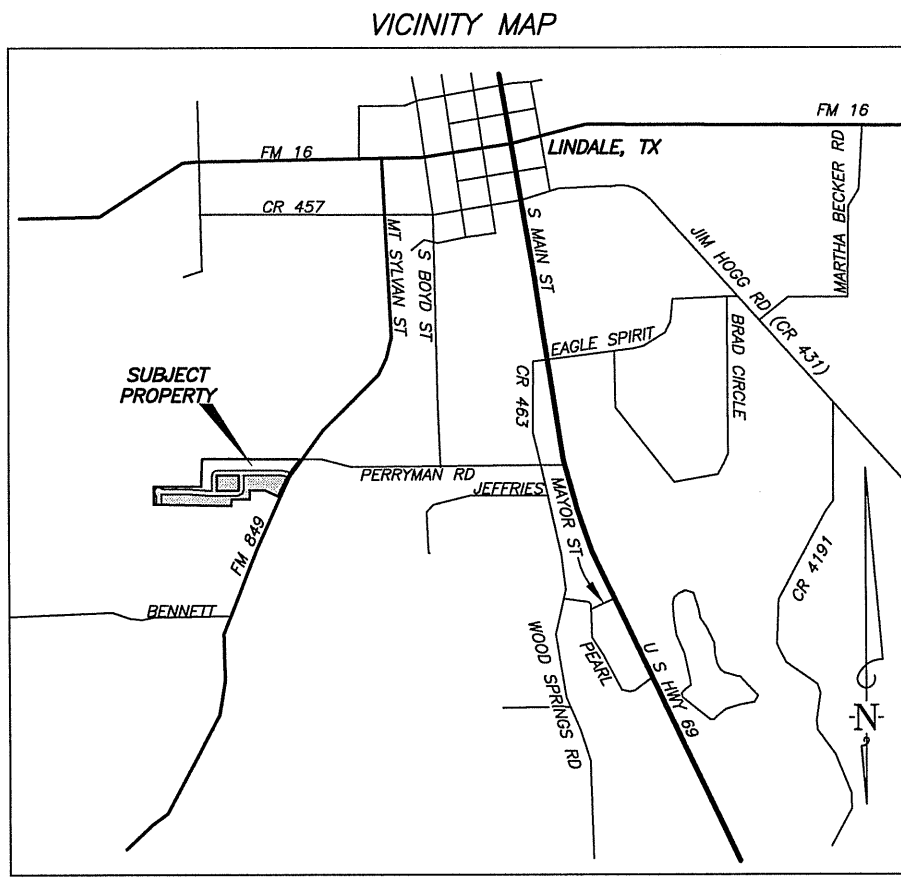
Summit Surveying, Inc.
Land Boundary • Topography • GPS • Geodetic
2040 Deerbrook Drive, Tyler, Texas 75703 • (903)-561-9544
TBPLS Firm No. 10081000

ALTA/NSPS LAND TITLE SURVEY
T. BURBRIDGE SURVEY A-71
CITY OF LINDALE
SMITH COUNTY, TEXAS

THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1989 AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, TEXAS. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC UTILITY COMPANIES AND HAS BEEN ADVISED THAT THE UTILITIES SHOWN ON THIS SURVEY ARE ACCURATE. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE UTILITIES SHOWN ON THIS SURVEY. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE UTILITIES SHOWN ON THIS SURVEY.

PROJECT NO. JWC
PROJECT TITLE JWC
CHECKED BY MLN
JOB NO. 19-011-A

SEE SHEET 3 OF 3 FOR LEGAL DESCRIPTION, TITLE ISSUES AND SURVEYOR'S CERTIFICATION



LEGEND

- UP UTILITY POLE
- MP METER POLE
- LP LIGHT POLE
- GUY WIRE
- EB ELECTRIC BOX
- FH FIRE HYDRANT
- WV WATER VALVE
- WM WATER METER
- PIV POST INDICATOR VALVE
- SSMH SANITARY SEWER MANHOLE
- SSSC SANITARY SEWER CLEANOUT
- TPED TELEPHONE PEDESTAL
- AC AIR CONDITION UNIT
- RS ROAD SIGN
- TRANS TRANSFORMER PAD
- SS SANITARY SEWER LINE
- W WATER LINE
- OU OVERHEAD UTILITY LINE
- UGE UNDER GROUND ELECTRIC LINE
- UGT UNDER GROUND TELEPHONE LINE
- G GAS LINE
- UE UTILITY EASEMENT
- CI CURB INLET
- GI GRATE INLET
- RCP REINFORCED CONCRETE PIPE
- CPP CORRUGATED PLASTIC PIPE
- IRF IRON ROD FOUND

BUILDING SET BACK LINES SHOWN HEREON ARE BASED ON THE PLAT OF FOREST TRAILS SENIOR HOUSING RECORDED IN CAB. F, SLIDE 70-D (P.R.S.C.T.)

10' UE (UTILITY EASEMENTS) SHOWN HEREON ARE BASED ON THE PLAT OF FOREST TRAILS SENIOR HOUSING RECORDED IN CAB. F, SLIDE 70-D (P.R.S.C.T.)

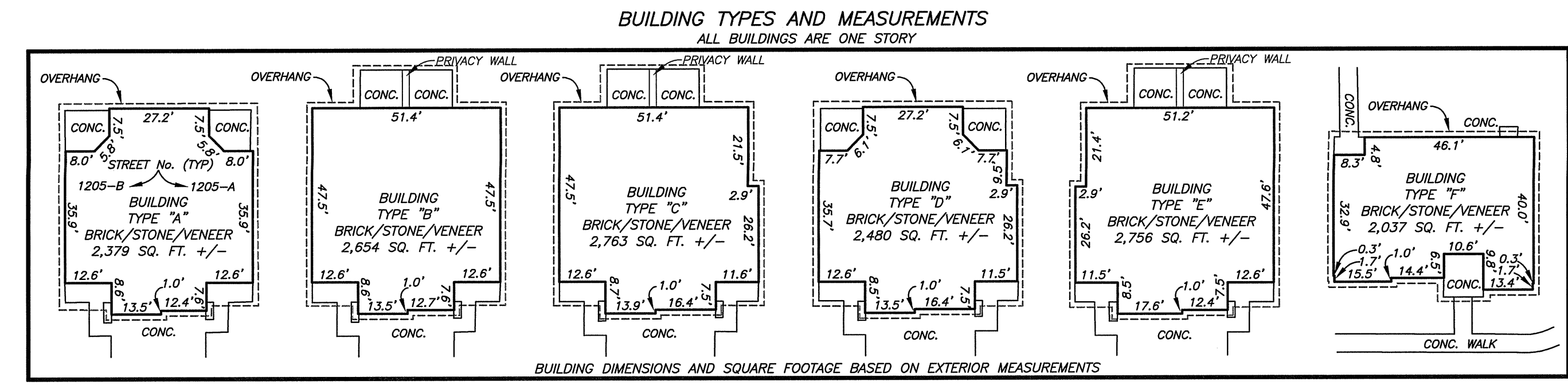
NOTE:
UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON A COMBINATION OF VISIBLE FIELD SURVEY DATA, SUPPLIED UTILITY MAPS AND MARKED LOCATION BY THE UTILITY OWNERS. THE UTILITIES SHOWN MAY NOT REFLECT ALL UNDERGROUND UTILITIES IN THE AREA. SURVEYOR DID NOT PHYSICALLY ENTER MANHOLES, CURB INLETS OR GRATE INLETS. UNDERGROUND PIPE SIZES AND FLOWLINE ELEVATIONS WERE DETERMINED BY A "MEASURE DOWN" METHOD FROM RIM OR TOP OF STRUCTURE AND DEPENDING ON THE CONDITIONS, MAY BE APPROXIMATE. PRIOR TO ANY CONSTRUCTION, THESE UTILITIES SHOULD BE VERIFIED BY LOCAL UTILITY COMPANIES AND AUTHORIZED EXPOSURE WHERE PRECISE ELEVATION OR LOCATION ARE CRITICAL.

LINE TABLE

LINE	BEARING	DISTANCE
L1	N62°10'26"W	25.93'
L2	S62°10'26"E	26.90'
L3	N88°19'16"E	12.20'
L4	N01°40'16"W	15.33'

CURVE TABLE

CURVE	DELTA	RADIUS	CHORD	LENGTH
C1	29°30'06"	70.00	N76°55'29"W 35.65'	36.04'
C2	90°00'04"	67.50	N43°19'17"E 95.46'	106.03'
C3	8°26'02"	330.00	S87°27'40"E 48.53'	48.58'
C4	8°26'05"	270.00	S87°27'41"W 39.71'	39.75'
C5	52°01'12"	10.00	N22°40'52"W 8.77'	9.08'
C6	194°01'52"	55.00	S43°19'30"W 109.18'	186.26'
C7	52°01'12"	10.00	S65°40'07"E 8.77'	9.08'
C8	8°26'05"	330.00	N87°27'41"W 48.54'	48.58'
C9	8°26'02"	270.00	S87°27'40"E 39.71'	39.74'
C10	90°00'00"	67.50	S43°19'16"W 95.46'	106.03'
C11	29°30'06"	130.00	N76°55'29"W 68.20'	68.94'
C12	9°47'58"	1186.20	S35°06'14"W 202.63'	202.88'
C13	2°53'58"	1186.20	S28°45'17"W 60.01'	60.01'
C14	2°27'19"	1186.20	S26°04'40"W 50.83'	50.83'
C15	4°28'55"	67.50	N00°33'43"E 5.28'	5.28'
C16	85°31'09"	67.50	N45°33'45"E 91.65'	100.75'
C17	5°02'25"	330.00	S89°09'29"E 29.02'	29.03'
C18	3°23'37"	330.00	S84°56'28"E 19.54'	19.55'
C19	18°57'41"	55.00	S44°12'38"E 18.12'	18.20'
C20	156°08'52"	55.00	S43°19'39"W 107.62'	149.86'
C21	18°57'24"	55.00	N49°08'13"W 18.11'	18.20'
C22	29°05'09"	67.50	S12°51'51"W 33.90'	34.27'
C23	49°32'23"	67.50	S52°10'37"W 56.56'	58.36'
C24	11°22'29"	67.50	S82°38'02"W 13.38'	13.40'
C25	8°07'18"	130.00	N87°36'53"W 18.41'	18.43'
C26	21°22'48"	130.00	N72°51'50"W 48.23'	48.51'



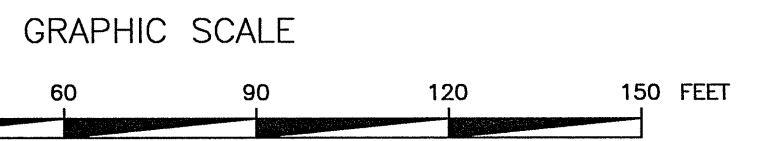
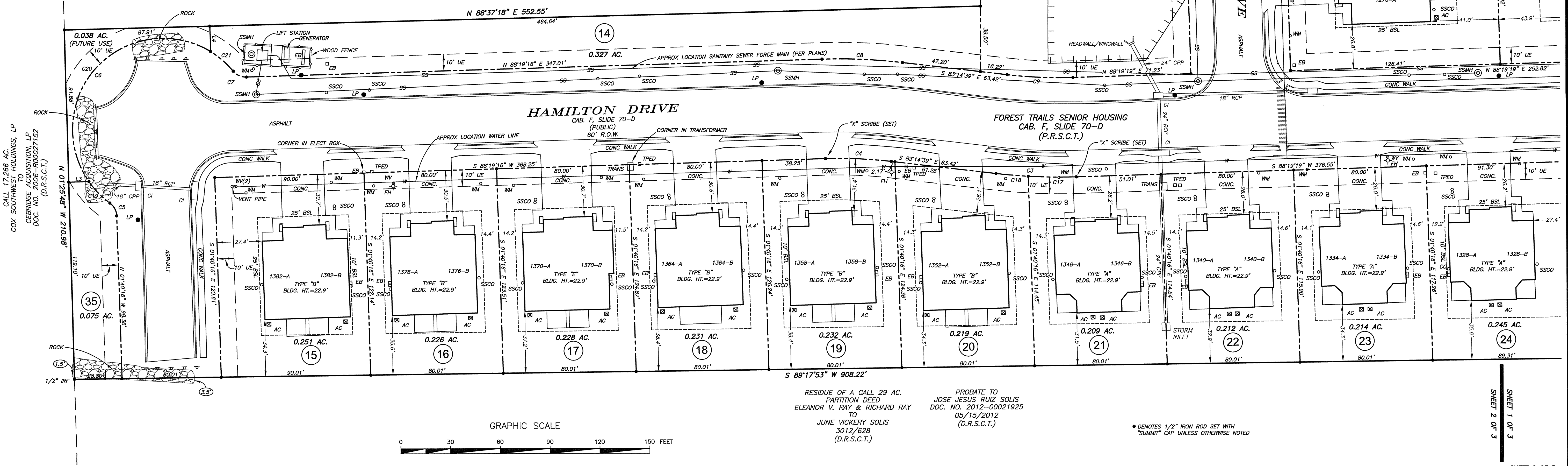
TOTAL: 10.247 ACRES
LOTS 1 THRU 35 AND
0.038 OF AN ACRE (FUTURE USE PARCEL)
FOREST TRAILS SENIOR HOUSING
T. BURBRIDGE SURVEY A-71
CITY OF LINDALE
SMITH COUNTY, TEXAS

SEE SHEET 3 OF 3 FOR LEGAL DESCRIPTION, TITLE ISSUES AND SURVEYOR'S CERTIFICATION

CALL 37.545 AC.
L.I.S.D.
TO
CHARLIE DINTELMAN
DOC. NO. 2010-00042830
(D.R.S.C.T.)

Bearings are Grid based on the Texas State Plane Coordinate System, NAD83 (SPC TX4202) Texas North Central Zone.

Units are in U.S. Survey Feet.



RESIDUE OF A CALL 29 AC.
PARTITION DEED
ELEANOR V. RAY & RICHARD RAY
TO
JUNE VICKERY SOLIS
3012/628
(D.R.S.C.T.)

PROBATE TO
JOSE JESUS RUIZ SOLIS
DOC. NO. 2012-00021925
TO
05/15/2012
(D.R.S.C.T.)

• DENOTES 1/2" IRON ROD SET WITH "SUMMIT" CAP UNLESS OTHERWISE NOTED

CALL 20.000 AC.
L.I.S.D.
DOC. NO. 1984-R00006672
(D.R.S.C.T.)

SHEET 1 OF 3
SHEET 2 OF 3

REVISIONS

NO.	DATE	BY	DESCRIPTION
1	02/14/20	JMC	PRELIMINARY ISSUED
2	03/05/20	JMC	ADDRESS LEADERS COMMENTS

Summit Surveying, Inc.
Land Boundary • Topography • GPS • Geodetic
2040 Deerbrook Drive, Tyler, Texas 75703 • (903)-561-9544
TBPLS Firm No. 10081000

ALTA/NSPS LAND TITLE SURVEY
T. BURBRIDGE SURVEY A-71
CITY OF LINDALE
SMITH COUNTY, TEXAS

THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE STANDARDS AND PRACTICES SET FORTH IN THE ALTA/NSPS SURVEYING MANUAL, 10TH EDITION, 2005. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OFFICE AND HAS FOUND NO OTHER SURVEYS OF RECORD THAT AFFECT THIS SURVEY. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OFFICE AND HAS FOUND NO OTHER SURVEYS OF RECORD THAT AFFECT THIS SURVEY. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OFFICE AND HAS FOUND NO OTHER SURVEYS OF RECORD THAT AFFECT THIS SURVEY.

PROJECT MGR. JMC
PROJECT TEST. JMC
CHECKED BY. JMC
DATE. 03/05/20

Legal Description
10.247 Acres

Being all that land situated in the T. Burbridge Survey Abstract No. 71, City of Lindale, Smith County, Texas, and being all of Lots 1 thru 55 and all of a 0.38 of an acre parcel (future use) as shown on the Plat of Forest Trails Senior Housing, recorded in Cabinet F, Slide 70-D in the Plat Records of Smith County, Texas;

SCHEDULE "B" EXCEPTIONS

BASED ON COMMITMENT FOR TITLE INSURANCE OF # CTH555-8000551800005-JM EFFECTIVE DATE, NOVEMBER 15, 2018, ISSUED NOVEMBER 30, 2018 SUPPLIED BY CHICAGO TITLE INSURANCE COMPANY, AND A "NOTHING FURTHER CERTIFICATION" # HA303706/LINDALEFOREST TRAILS, LP FROM DECEMBER 20, 2018 TO FEBRUARY 7, 2020 THE FOLLOWING INSTRUMENTS PERTAINING TO SURVEY MATTERS HAVE BEEN EXAMINED WITH THE RESULTS SHOWN BELOW:

THE FOLLOWING INSTRUMENTS DO AFFECT THE SUBJECT PROPERTY.

- 10c) CABINET F, SLIDE 70-D - EASEMENTS AND SETBACKS AS SHOWN ON PLAT OF FOREST TRAILS SENIOR HOUSING (SHOWN)
10d) CABINET F, SLIDE 70-D - DEDICATION OF STREETS AS SHOWN ON PLAT OF FOREST TRAILS SENIOR HOUSING (SHOWN)
10g) VOL. 1649 PG. 116 - EASEMENT TO T. P. & L. (SHOWN)
10j) DOC. # 20170100048755 - ORDINANCE OF ANNEXATION INTO THE CITY OF LINDALE
10k) VOL. 918 PG. 334 - EASEMENT TO T. P. & L. (CAN NOT LOCATE BY DESCRIPTION)
10l) VOL. 381 PG. 800 AND VOL. 1054 PG. 405 - EASEMENT TO T. P. & L.
EXCLUSION FROM EASEMENT IN DOC. # 20180100038550 AND DOC. # 20180100038551 (ONCOR ELECTRIC DELIVERY CO. RETAINS NECESSARY EGRESS AND INGRESS RIGHTS)
10v) VOL. 2344 PG. 542 - ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF LINDALE AS AFFECTED BY AFFIDAVIT OF AMENDMENT OF REZONING CLASSIFICATION IN DOC. # 20180100047589 AND DOC. # 20180100048005
10ac) DOC. # 20180100038570 - 20' ONCOR ELECTRIC DELIVERY CO EASEMENT (SHOWN)

THE FOLLOWING DOCUMENTS ARE NOT LISTED IN SCHEDULE "B" AFFECT THE SUBJECT PROPERTY

- DOC. # 20190100016876 - ONCOR ELECTRIC DELIVERY CO EASEMENT (SHOWN)
DOC. # 20190100043870 - DECLARATION OF LAND USE RESTRICTIVE COVENANTS

THE FOLLOWING INSTRUMENT DOES NOT ADVERSELY AFFECT THE SUBJECT PROPERTY.

- 10n) DOC. # 20180100013988 - 15' SANITARY SEWER EASEMENT TO CITY OF LINDALE (PARTIALLY SHOWN)
THIS EASEMENT ADJOINS THE SUBJECT PROPERTY AT THE NORTHEAST CORNER

THE FOLLOWING OIL, GAS & MINERAL RESERVATIONS/INTEREST LISTED IN SCHEDULE "B" WHICH MAY INCLUDE ALL OR PART OF THE SUBJECT PROPERTY, BUT THE CURRENT AFFECT ON THE SUBJECT PROPERTY IS NOT DETERMINED BY THIS SURVEY.

- 10o) VOL. 2969 PG. 802
10p) DOC. # 20170100046719
10q) DOC. # 20170100046717
ZONING CLASSIFICATION: R2 TWO FAMILY RESIDENTIAL DISTRICT PER THE CITY OF LINDALE, TEXAS

SETBACKS:
FRONT - 25'
SIDE - 10'
REAR - 25'
MIN. LOT AREA - 9000 SQ. FT.
MIN. LOT WIDTH - 80'
MAX. LOT COVERAGE 40%

PARKING: 2 PER DWELLING

Table with columns: Street Number, Unit #, Address, City, State, Zip. Lists addresses from 1205 to 1382 along Forest Trails Drive and Hamilton Drive in Lindale, TX.

Surveyor's Certification

To: Merchants Capital Corp., Department of Housing and Urban Development (HUD), Lindale Forest Trails, LP, 42 Equity Partners, LLC, Chicago Title Insurance Company and to each of their successors and/or assigns:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS and includes items 1, 2, 3, 4, 6a, 6b, 7, 8, 9, 10a, 10b, 11, 12, 13, 16, 17, 18 & 19 of Table A thereof. The field work was completed on 02/13/2020.

The undersigned further certifies that:

The survey reflects the same land described as contained in Chicago Title Insurance Company GF No. CTH555-8000551800005-JM, effective date November 15, 2018 Commitment for Title Insurance T-7;

Except as shown hereon and listed below, there are no visible encroachments upon adjoining premises, streets or alleys, or into building setback lines by any of the permanent structures or other visible improvements, and there are no visible encroachments upon the premises described by this survey:

- (1) Concrete walk protrudes onto the right of way of F. M. 849 as shown on sheet 1 of 3.
(2) Rock rip rap protrudes across south and west property lines as shown on sheet 2 of 3.
(3) Rock rip rap, headwall and wingwalls protrude across west property line as shown on sheet 2 of 3.

This Survey correctly shows the location of all visible buildings, structures and other improvements by distances to the perimeter of the premises, established building setback lines or street lines;

All recorded easements listed in the Title Commitment are identified by "Book and Page number on the face to the Survey;

Based upon visual inspection and/or recorded documents listed in the Title Commitment, the Premises does not appear to serve any adjoining property for utilities, or ingress or egress.

Access is provided by way of F. M. 849, Forest Trails Drive and Hamilton Drive which are all publicly dedicated right-of-ways.

All obvious or apparent visible utilities serving the property appear to enter and exit the property from public rights-of-way or through recorded easements for each utility's use.

This property is in Zone X according to the Federal Emergency Management Agency Flood Insurance Rate Map, Community Panel No. 48423C00750, dated, September 26, 2008.

ALTA/NSPS Table A Item Notes:

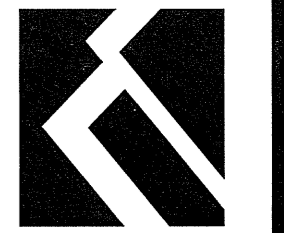
- 6a) No Zoning Report supplied
6b) No Zoning Report supplied
10a) 10b) There are no party walls with respect to adjoining properties.
12) HUD Survey Requirements
16. This is a newly completed addition
17. Surveyor is not aware of any proposed changes in street right-of-way lines. No evidence of street or sidewalk repair.
18. No wetland markers observed at time of initial field survey
19. No offsite easements has been brought to the surveyor's attention

Signature of Joe W. Clark dated 02/13/2020



Table with columns: REVISIONS, DATE, BY, JWC, JWC. Includes PRELIMINARY ISSUED and ADDRESS LENDER'S COMMENTS.

Summit Surveying, Inc.
Land Boundary • Topography • GPS • Geodetic
2040 Deerbrook Drive, Tyler, Texas 75703 • (903)-561-9544
TBPLS Firm No. 10081000



ALTA/NSPS LAND TITLE SURVEY
T. BURBRIDGE SURVEY A-71
CITY OF LINDALE
SMITH COUNTY, TEXAS

PROJECT NO.: 19-011-A
PROJECT: JWC
CHECKED BY: JWC
DATE: 02/13/2020

PROJECT NO.: 19-011-A
PROJECT: JWC
CHECKED BY: JWC
DATE: 02/13/2020

1b

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JULY 14, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Sierra Royale (HTC #04302)

RECOMMENDED ACTION

WHEREAS, Sierra Royale (the Development) received a 9% Housing Tax Credit (HTC) award in 2004 to construct 76 multifamily units in Robstown, Nueces County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

WHEREAS, in 2015, the 84th Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

WHEREAS, Sierra Housing, Ltd. (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

WHEREAS, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Sierra Royale is approved as presented to this meeting, and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Sierra Royale received a 9% LIHTC award in 2004 for the new construction of 76 multifamily units (68 of which are HTC designated) in Robstown, Nueces County. In a letter dated March 19, 2020, the Development Owner, Sierra Housing, Ltd. (Rick J. Deyoe), requested approval to amend the HTC LURA related to the ROFR provision.

In 2004, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Tax Credits recorded in Nueces County on January 12, 2006.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), to a tenant organization or to the Department, if at any time after the 15th year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 16th year of the 40-year Extended Use Period specified in the LURA. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period

In 2015, the 84th Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on June 2, 2020. No public comment was received regarding the requested amendment.

Staff recommends approval of the material LURA amendment as presented herein.

SIERRA ROYALE APARTMENTS

630 Wright Street
Robstown, Texas 78380

March 19, 2020

VIA HAND DELIVERY

Mr. Rene Ruiz
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 04302; Sierra Royale Apartments (the "**Property**")

Dear Mr. Ruiz:

The undersigned, being the Managing General Partner (herein so called) of Sierra Housing, Ltd., a Texas limited partnership (the "**Partnership**") and the current owner of the Property, submits this letter constituting a request for a material LURA amendment in order to modify the two-year Right of First Refusal ("**ROFR**") period.

Request to Amend ROFR Period

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day ROFR period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(E) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the Managing General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the Partnership is delivering a fee in the amount of \$2,500. In addition, the Partnership commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, and lenders regarding these proposed amendments. The Partnership will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Partnership requests staff recommendation in support of this request to be considered at the next available TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

SIERRA HOUSING, LTD.,
a Texas limited partnership

By: Sierra Housing I, LLC,
a Texas limited liability company,
its managing general partner

By: Realtex Development Corporation,
a Texas corporation,
its managing member

By: 
Rick J. Deyde, President

1c

BOARD ACTION REQUEST

BOND FINANCE DIVISION

JULY 14, 2020

Presentation, discussion, and possible action authorizing the extension of the Mortgage Acquisition, Pooling and Servicing Agreement between the Texas Department of Housing and Community Affairs and the Idaho Housing and Finance Association

RECOMMENDED ACTION

WHEREAS, in 2016, the Texas Department of Housing and Community Affairs (the Department) issued a Request for Proposals for Master Servicer for the Department's single family mortgage program, and awarded the contract (the Servicing Contract) to the Idaho Housing and Finance Association (the Master Servicer);

WHEREAS, the Servicing Contract was awarded for a one year term with the option to extend for up to three additional one-year periods, the final expiration of which is October 1, 2020;

WHEREAS, as a result of the COVID-19 pandemic, on March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) which, among other things, contains forbearance and foreclosure moratorium provisions for borrowers impacted by the COVID-19 pandemic and such provisions have a significant economic and operational impact on mortgage loan servicers;

WHEREAS, in the current environment, in order to meet the Department's immediate operational and service delivery needs, staff believes that it is in the best interest of the Department to extend the Servicing Contract for one year, to October 1, 2021, under the authority described herein;

NOW, therefore, it is hereby

RESOLVED, that the Board hereby approves the extension of the Servicing Contract to October 1, 2021, and authorizes the modification of relevant documents, if necessary, to accomplish the extension.

BACKGROUND

The Idaho Housing and Finance Corporation has served as the Department's Master Servicer since October 3, 2016, and currently services over 25,000 first mortgage loans originated through the Department, and almost that many second mortgage loans. They service the Department's mortgage loans in accordance with the requirements of Ginnie Mae and Fannie

Mae, as applicable. In addition to loan servicing responsibilities, they secure MBS commitments from Ginnie Mae and Fannie Mae, review program documents and loan files, provide monthly reporting on processing timelines and delinquencies, purchase the Department's mortgage loans, and issues and delivers mortgage-backed securities (MBS). They also work with borrowers with respect to delinquencies and foreclosures, and are responsible for actions required under the CARES Act, which applies to all first mortgage loans originated through the Department. Staff is currently working with the Master Servicer with respect to loans in forbearance and loans undergoing modification.

Due to extraordinary circumstances resulting from the COVID-19 pandemic, including the CARES Act, staff believes it is in the Department's best interest to extend the existing Servicing Contract for one year, as opposed to undertaking a Request for Proposal (RFP) for services at this time. Before the expiration of the extension, staff intends to publish an RFP for Master Servicer in 2021 to ensure continued service.

While the Board typically does not approve contract extensions, in order to fulfill Comptroller and statutory requirements related to an extension beyond the term of the original contract, in particular the requirements of the General Appropriations Act of the 86th Regular Session at Article IX, §17.10(e), and Tex. Gov't Code §2155.088, Board approval is required.

1d

BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

JULY 14, 2020

Presentation, discussion, and possible action authorizing extensions to Neighborhood Stabilization Program 1 contracts and Program Income reservation agreements

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) entered into Neighborhood Stabilization Program 1 (NSP1) contracts and Neighborhood Stabilization Program 1 Program Income (NSP1-PI) reservation agreements with Administrators which will expire on August 31, 2020;

WHEREAS, Administrators have completed initial phases of their programs and continue to qualify homebuyers and construct units in order to convert vacant properties into their final eligible use, while bringing land bank parcels into final eligible uses;

WHEREAS, in spite of that progress, Administrators have also experienced delays in completing their contractual obligations due to eligibility requirements, local market conditions, competing program demands, and capacity;

WHEREAS, the Department would like to authorize extensions of contracts and reservation agreements for specific NSP1 Administrators;

WHEREAS, the Department continues to work closely with Administrators to provide technical assistance towards contract completion and will continue to monitor their progress; and

WHEREAS, some NSP1 contracts and NSP1-PI reservation agreements have exhausted all extensions that staff may authorize, and only the Governing Board may approve additional extensions;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to approve extensions of not more than one additional year to NSP1 contracts and NSP1-PI reservation agreements to enable full, timely, and compliant contract completion, and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing; and

FURTHER RESOLVED, that these extensions will be for the following NSP1 contracts and NSP1-PI reservation agreements:

- 77090000101 and 77090003101, Texas State Affordable Housing Corporation
- 77090000204, 77090000108, and 77090003108, Affordable Homes of South Texas, Inc.
- 77090000150, Community Development Corporation of Brownsville, and
- 77090000154 and 77090003154, City of Port Arthur

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a U.S. Department of Housing and Urban Development (HUD)-funded program authorized by H.R. 3221, the “Housing and Economic Recovery Act of 2008,” as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop, or acquire and hold, abandoned and foreclosed properties in areas with the greatest need for arresting declining property values resulting from excessive foreclosures.

NSP Administrators progress towards bringing properties to their final eligible use. However, some administrators have experienced difficulties related to fulfilling eligibility requirements, local market conditions (such as Hurricane Harvey recovery in Port Arthur and the impact of the coronavirus statewide), competing program demands, and lack of capacity. Despite this, Administrators have increased the number of annual homebuyer closings in recent years: 37 in 2017, 47 in 2018, 55 in 2019, and 29 to date in 2020. The Department will continue to provide technical assistance and work closely with all Administrators.

The NSP1 contracts and NSP1-PI reservation agreements for purchase and construction activities expire on August 31, 2020, and the Administrators require additional time to identify and qualify homebuyers and construct units on vacant lots.

Contract/Agreement No.	Original Award	Remaining Balance
77090000101, Texas State Affordable Housing Corp.	\$5,353,808.00	\$384,968.66
77090003101, Texas State Affordable Housing Corp.	\$1,400,310.13	\$345,969.75
77090000204, Affordable Homes of South Texas, Inc.	\$2,073,600.00	\$456,056.36
77090000108, Affordable Homes of South Texas, Inc.	\$1,544,404.00	\$183,621.01
77090003108, Affordable Homes of South Texas, Inc.	\$1,500.00	\$75.02
77090000150, Community Development Corp. of Brownsville	\$3,021,866.12	\$137,977.81
77090000154, City of Port Arthur	\$1,797,296.45	\$880,557.83
77090003154, City of Port Arthur	\$50,723.50	\$50,723.50
GRAND TOTAL	\$15,243,508.20	\$2,439,949.94

1e

BOARD ACTION REQUEST

SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION

JULY 14, 2020

Presentation, discussion, and possible action authorizing extensions to Neighborhood Stabilization Program 3 contract and Program Income reservation agreement for Community Development Corporation of Brownsville, Inc.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) entered into a Neighborhood Stabilization Program 3 (NSP3) contract and Neighborhood Stabilization Program 3 Program Income (NSP3-PI) reservation agreement with Community Development Corporation of Brownsville, Inc. (CDCB), which will expire on August 31, 2020;

WHEREAS, CDCB completed the construction of 21 homes on vacant properties purchased through the NSP3 Program and has converted them to their final eligible use, with sufficient funds remaining to construct an additional seven homes;

WHEREAS, the Board approved a \$180,000 contract increase on June 28, 2018, to CDCB's NSP3-PI reservation agreement in order for CDCB to assist the seven additional households with closing costs expenses;

WHEREAS, the Department would like to authorize an extension of CDCB's NSP3 contract and reservation agreement for one year;

WHEREAS, the Department continues to work closely with CDCB to provide technical assistance towards contract completion and will continue to monitor its progress; and

WHEREAS, the NSP3 contract and NSP3-PI reservation agreement have exhausted all extensions that staff may authorize, and only the Governing Board may approve additional extensions;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to approve extensions of not more than one additional year to the NSP3 contract and NSP3-PI reservation agreement to enable full, timely, and compliant contract completion, and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing; and

FURTHER RESOLVED, that these extensions will be for the following NSP3 contract and NSP3-PI reservation agreement:

- 77110000105 and 77110003105, CDCB

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a U.S. Department of Housing and Urban Development (HUD)-funded program authorized by H.R. 3221, the “Housing and Economic Recovery Act of 2008,” as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop, or acquire and hold, abandoned and foreclosed properties in areas with the greatest need for arresting declining property values resulting from excessive foreclosures.

In 2018, CDCB made significant progress in their NSP3 contract to assist 21 households within the original contract budget, and sufficient funding remained to provide an additional seven eligible households with new construction.

CDCB's NSP3 contract and NSP3-PI reservation agreement for purchase and rehabilitation activities expire on August 31, 2020, and CDCB requires additional time to finalize construction and close with the homebuyers.

1f

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
JULY 14, 2020

Presentation, discussion, and possible action on the 2021 Regional Allocation Formula Methodology

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §§2306.1115 and 2306.111(d) require that the Texas Department of Housing and Community Affairs (TDHCA or the Department) use a Regional Allocation Formula (RAF) to allocate its HOME Investment Partnerships (HOME) Program, Housing Tax Credit (HTC) Program, and under certain circumstances, Housing Trust Fund (HTF) Program funding; and

WHEREAS, the proposed RAF Methodology utilizes appropriate statistical data to measure affordable housing needs, available housing resources, and other factors determined by the Department to be relevant to the equitable distribution of housing funds in the urban and rural areas of the 13 State Service Regions used for planning purposes; and

WHEREAS, the proposed RAF Methodology was approved by the Governing Board of the Department at the meeting of May 21, 2020, and was available for public comment through June 26, 2020, and no revisions are being made in response to public comment;

NOW, therefore, it is hereby

RESOLVED, that the 2021 RAF Methodology for the HOME, HTC, and, as applicable, HTF programs, in the form presented at this meeting, are hereby approved.

BACKGROUND

The Regional Allocation Formula (RAF) utilizes appropriate statistical data to measure the affordable housing need and available resources in the 13 State Service Regions that are used for planning purposes. It also allocates funding to rural and urban areas within each region. The Department has flexibility in determining variables to be used in the RAF, per Tex. Gov't Code §2306.1115(a)(3), "the department shall develop a formula that...includes other factors determined by the department to be relevant to the equitable distribution of housing funds."

The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources. The RAF Methodology was updated in the 2014 RAF cycle to refine the use of Metropolitan Statistical Areas (MSAs) by using "MSA counties with urban places" and "Non-MSA counties or counties with only rural places" instead of using just MSA and Non-MSA counties to allocate between urban and rural areas. This accounts for the fact that even though a

county may be a part of an MSA, all the places within that county may meet the definition of rural per Tex. Gov't Code §2306.004(28-a). Based on public comment received in the 2015 RAF cycle, factors for lack of kitchen and plumbing facilities were added to the RAF Methodology to measure housing need for Single Family activities. Similarly, in the 2016 RAF cycle, a new factor called the Regional Coverage Factor was added to the RAF Methodology for Single Family activities. The Regional Coverage Factor takes into account the smaller populations of rural areas as well as scattered locations of single family projects, instead of relying solely on population as an absolute.

The 2021 RAF Methodology explains the use of factors, in keeping with the statutory requirements, which include the need for housing assistance, the availability of housing resources, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state.

The Single Family HOME, Multifamily HOME, HTC, and HTF program RAFs each use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. For example, Tex. Gov't Code §2306.111(c) requires that 95% of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the Single Family and Multifamily HOME RAFs only use need and available resource data for non-PJs.

The draft 2021 RAF Methodology was made available for public comment from Friday, June 5, 2020, through Friday, June 26, 2020, at 5:00 p.m. Austin local time. A public hearing for the draft 2021 RAF Methodology was held on Tuesday, June, 16, at 2:00 p.m. via webinar. Public comments were received and no changes are being made in response to these comments. The public comments and staff's reasoned responses are found in Attachment A.

The following Attachments are provided:

- A. Public Comments on the 2021 RAF Methodology
- B. 2021 RAF Methodology
- C. Example 2021 HTC RAF
- D. Example 2021 HOME MF RAF
- E. Example 2021 HTF RAF
- F. Example 2020 HOME SF RAF

Staff recommends approving the 2021 RAF Methodology as presented at the July 14, 2020, board meeting. Once approved, the 2021 RAF Methodology will be published on the Department's website. **It should be noted with this action that the Board is approving the methodology, not specific allocation amounts. Total available program amounts will be applied to this adopted methodology and regional allocation amounts made available by each program.**

To the extent funds received/proposed to be used fall below the statutory minimum for any program/activity, or if the proposed activities fall into a statutory exception, the RAF will not be used for the program/activity in question.

A. Public Comments on the 2021 RAF Methodology

Comment 1: From Stacy Kirkham

Comment Summary

Ms. Stacy Kirkham commented that she lives in Seadrift, Texas and applied for the HOME program for a single-family home after Hurricane Harvey in 2017. She commented that “the GLO came in and rebuilt a whole bunch of homes down here, but they paid the construction workers more” than the HOME program. She is concerned that “everybody who’s in the HOME program, not just in Calhoun County but other counties, have not been able to get their homes built now for three years.” Ms. Kirkham closed her comment by “wondering if that has been taken into consideration.”

Staff Response

No changes have been made as a result of this comment. The Regional Allocation Formula does not allocate individual awards within TDHCA’s State Service Regions. Nor does it involve the bids or payments related to the Single Family Development Program. Rather, the RAF allocates “funding at the regional and subregional level for multifamily and single-family activities,” as stated on page 1 of the 2021 Regional Allocation Formula Methodology. Awards granted to TDHCA subrecipients for the HOME Single family program are governed by the HOME Single Family Development Program rules. The HOME Division plans to present these rules for public comment later in 2020.

Comment 2: From Patrick Russell, Partnership Manager of the Austin Housing Finance Corporation (AHFC)

Comment Summary

The AHFC commented that “the current RAF Methodology will be nearly 10 years old by 2022” and that this “warrants a complete re-design, which itself warrants an extensive public engagement process.”

Staff Response

Staff disagrees with the comment and no changes have been made as a result of this comment. The RAF was revised and new considerations addressed in 2014, 2015 and 2016. In 2015 the use of Metropolitan Statistical Areas (MSAs) was refined. In the 2015 RAF, factors for lack of kitchen and plumbing facilities were added to the RAF Methodology to measure housing need for Single Family activities. And in 2016, a new factor called the Regional Coverage Factor was added to the RAF Methodology for Single Family activities. The Regional Coverage Factor takes into account the smaller populations of rural areas as well as scattered locations of single family projects, instead of relying solely on population as an absolute.

Since the RAF utilizes datasets from the American Community Survey (ACS) 5-year estimates, its measures maintain their reliability over time. The RAF is also designed to track changes in housing need and availability from year-to-year. This means that the length of time the tool has been in use should not directly affect the results of the RAF, as the formula already accounts for economic and geographic changes in the need and availability of affordable housing. However, changes in the RAF can be made to accommodate improved data sources or new variables that arise over time.

Comment 3: From Patrick Russell, Partnership Manager of the Austin Housing Finance Corporation (AHFC)

Comment Summary

The AHFC commented that the RAF uses the Housing Availability variable to subtract from a region's housing need, "the thinking being that a vacant unit is a potential available unit to a low-income household." The AHFC notes that this is a flawed approach because "the ACS data from which this variable comes from includes market rate vacant units." The AHFC states that this ignores highly stratified rental markets in cities across Texas, "while Class A apartments often have vacancies in Texas' urban markets, Class B and Class C apartments are often 100% leased given their 'natural affordability.' A LIHTC eligible household cannot afford a Class A apartment, and yet the RAF Methodology counts that Class A unit as an available unit."

Staff Response

Staff disagrees with this comment and no changes have been made as a result of this comment. According to Tex. Gov't Code §2306.1115, TDHCA must use a formula to allocate funding for the HOME, HTF, and HTC programs that "(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area." The housing availability measure as included in the 2021 RAF Methodology addresses this requirement by incorporating the latest ACS 5-year estimates on housing vacancies by counties. While this estimate includes both market rate and subsidized units, this ensures that the RAF measures housing availability as whole without limiting itself to certain segments of the housing market. To exclude market rate vacancies would remove the naturally affordable units provided by Class B and Class C properties addressed by the commenter.

Although LIHTC eligible households may not be able to afford a Class A apartment, overall vacancy measures often provide more information about trends in housing availability than more specific measures. For instance, the City of Austin utilizes residential vacancy rates from the ACS 1-year estimates in their Household Affordability Priority Program "to assess the demand for housing, to identify housing turnover within areas, and to better understand the population within the housing market over time."

Comment 4: From Patrick Russell, Partnership Manager of the Austin Housing Finance Corporation (AHFC)

Comment Summary

The AHFC commented that TDHCA should use its own vacancy data from LIHTC Unit Status Reports. They state, "this is the best measure of vacancy for the type of housing most needed by low-income households. TDHCA has CMTS [Compliance Monitoring and Tracking System] data, which is in-house, timely, and highly-targeted, whereas ACS data are not only based on questionable estimates, but also simply flawed."

Staff Response

Staff disagrees with this comment and no changes have been made as a result of this comment. Tex. Gov't Code §2306.1115 requires that TDHCA use a formula to allocate funding HOME, HTF, and HTC programs that "(1) includes as a factor the need for housing assistance and the

availability of housing resources in an urban area or rural area.” This is further supplemented by §2306.111(d), which states that the formula must allocate funds “to all urban areas and rural areas of each uniform state service region.” Using LIHTC vacancy data as the only source for determining housing availability in the 9% Housing Tax Credit RAF would not uphold this statutory requirement, as it would exclude significant portions of Texas from the formula, specifically rural counties that would only have a small amount or no affordable housing developments. It also importantly would exclude a significant amount of affordable units made available through programs other than TDHCA, such as housing authorities, USDA, and local jurisdictions. Although highly targeted, LIHTC vacancy data would only measure the availability of LIHTC resources in locality and not housing availability across an entire county, subregion, or service region.

Additionally, TDHCA’s LIHTC vacancy data are self-reported by HTC developments each quarter. It indicates the immediate availability of subsidized HTC units to the public but does not provide a comprehensive enough pool of units to measure housing availability from year-to-year. Meanwhile, public sector organizations that utilize ACS vacancy data to measure housing availability include the cities of Houston, Austin, and Dallas.

Comment 5: From Patrick Russell, Partnership Manager of the Austin Housing Finance Corporation (AHFC)

Comment Summary

The AHFC commented that the RAF utilizes income to calculate housing need. It does this by taking the number of persons below 200% poverty for each county and dividing it by the average household size for the state of Texas. The resulting number is the number of households below 200% of poverty for each county, which can then be added to other household factors to calculate housing need for that county. The AHFC notes that many regions in the state of Texas have lower than average household sizes for the state and that using the state average for all regions “results in \$100,000s being shifted among Regions, which is not insignificant.” The commenter indicates that “regions 3,6, and 7, have been disproportionately impacted by this particular methodology, since they appear to have lower household sizes.” The AHFC recommends that TDHCA staff use the average household size within each region itself, rather than the state average, to calculate the number of households below 200% of poverty.

Staff Response

Staff disagrees with this comment and no changes have been made as a result of this comment. The 2021 RAF Methodology utilizes the average household size for the state of Texas as a constant, so that it can calculate the number of households below 200% poverty for each urban and rural subregion in the state. The RAF can use the average household size for each subregion to calculate this number, rather than the state average, but then household size would cease to be a constant in the formula. Instead, it would be a variable with a direct effect on the allocations for each region. As a result, including a variable for average household size would disproportionately hurt ethnically diverse regions with low median incomes. Using the state average as a constant intentionally keeps funds from being diverted from these high poverty, large-family areas into higher income, smaller-household size areas.

To demonstrate this affect, staff re-calculated the 2021 HTC RAF Example tables using average household sizes for each rural and urban subregion, rather than state average household size.

The example allocation amount of \$65,000,000 was used. The new example HTC RAF reduced the allocation for Region 11, which has the highest average household size in the state, by over \$1 Million. Of the 8 Texas counties with the highest poverty rates, seven of those are in Region 11 and include such border communities as Brownsville, McAllen and Laredo. Several other regions - 6 (Houston area), 9 (San Antonio area), and 13 (El Paso area) - saw small to moderate decreases. The new allocation did not evenly spread out these increases across the state's more urban regions. Instead, regions 3 and 7 received the largest absolute increases. The resulting tables can be found below:

Original Allocation Using State Average Household Size vs. Adjusted Allocation Using Subregional Average Household Size

Region	Original Allocation	Percent	Adjusted Allocation	Percent	Adjusted Change	Percent Change
1	\$ 1,876,742.83	2.9%	\$ 2,017,831.11	3.1%	\$ 141,088.28	7.5%
2	\$ 1,200,000.00	1.8%	\$ 1,289,487.54	2.0%	\$ 89,487.54	7.5%
3	\$ 16,120,130.23	24.8%	\$ 16,485,879.49	25.4%	\$ 365,749.26	2.3%
4	\$ 2,603,993.84	4.0%	\$ 2,806,541.68	4.3%	\$ 202,547.84	7.8%
5	\$ 1,925,762.06	3.0%	\$ 2,112,591.81	3.3%	\$ 186,829.75	9.7%
6	\$ 14,886,723.81	22.9%	\$ 14,853,842.69	22.9%	- \$ 32,881.12	-0.2%
7	\$ 4,681,093.00	7.2%	\$ 4,905,626.18	7.5%	\$ 224,533.18	4.8%
8	\$ 2,839,021.32	4.4%	\$ 3,039,471.51	4.7%	\$ 200,450.19	7.1%
9	\$ 5,787,505.27	8.9%	\$ 5,683,520.23	8.7%	- \$ 103,985.04	-1.8%
10	\$ 1,960,850.60	3.0%	\$ 2,041,237.41	3.1%	\$ 80,386.81	4.1%
11	\$ 6,785,139.33	10.4%	\$ 5,610,622.69	8.6%	- \$ 1,174,516.64	-17.3%
12	\$ 1,434,329.69	2.2%	\$ 1,445,444.23	2.2%	\$ 11,114.54	0.8%
13	\$ 2,898,708.02	4.5%	\$ 2,707,903.44	4.2%	- \$ 190,804.58	-6.6%
Total	\$ 65,000,000.00	100.0%	\$ 65,000,000.00	100.0%		

Comment 6: From Patrick Russell, Partnership Manager of the Austin Housing Finance Corporation (AHFC)

Comment Summary

The AHFC commented that the RAF public engagement process “be aligned with any public engagement tied to the QAP [Qualified Action Plan], given that there is significant overlap between the two target audiences.” They also hope these comments will shape the 2022 RAF Methodology public engagement process.

Staff Response

Staff agrees with the commenter on the importance of public engagement and the Department is always open to continued public engagement regarding the RAF and possibly aligning those

with future QAP Roundtables as input for the subsequent year's RAF. In the past, the RAF public engagement process coincided with the QAP comment period. However, the two documents serve separate purposes and the RAF serves a far broader audience than only tax credit applicants. This resulted in the RAF public comment period being separated from the QAP to better address specific comments about the RAF itself.

2021 Regional Allocation Formula Methodology

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Introduction

Since 2000, the Texas Department of Housing and Community Affairs (TDHCA or the Department) has used a Regional Allocation Formula (RAF) to allocate funding at the regional and subregional level for multifamily and single-family activities. The RAF is required by Tex. Gov't Code §§2306.111 and 2306.1115. It allocates funding for the following programs:

- Multifamily Programs:
 - Housing Tax Credit (HTC) Program
 - HOME Investment Partnerships Program (HOME) Multifamily (MF)
- Single Family Programs:
 - Housing Trust Fund (HTF) Program*
 - HOME Single Family (SF)

* The RAF is not required to be utilized for HTF as authorized by Tex. Gov't Code §2306.111(d-1). HTF is funded through state general revenue and is not to be confused with the federally funded National Housing Trust Fund (NHTF).

The following methodology explains how the RAF accounts for housing need, housing resource availability, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state, as required by statute.

The methodology also includes example allocation spreadsheets for each of the four programs subject to the RAF. These spreadsheets demonstrate how the methodology affects each program. The provided spreadsheets utilize the following total allocation amounts:

Program	Example Total Allocation
HTC	\$65,000,000
HOME Multifamily	\$12,500,000
HTF	\$3,000,000
HOME Single Family	\$15,000,000

These allocation amounts are only examples. Following approval of the RAF Methodology by the TDHCA Governing Board, Program area staff calculate the final allocation amounts according to the most recent information on funding availability. Even when final total allocation amounts are available, other planning considerations may alter the applicability of the RAF. For example, certain HOME SF activities may not release funds subregionally using the RAF. In addition, per Tex. Gov't Code §2306.111(d-1)(3), if HTF funds administered by the Department (and not otherwise set aside) do not exceed \$3 million, then HTF funds are not required to be allocated using the RAF.

The Draft 2021 RAF Methodology was presented at the May 21, 2020 TDHCA Board meeting and approved to be released for public comment. A public comment period was open from Friday, June 5, 2020, through Friday, June 26, 2020, with a public hearing on Tuesday, June 16, 2020. Public comment was received, however no changes were made. The Final 2021 RAF Methodology will be presented for approval at the Board meeting of July 14, 2020.

Statutory Requirement

Tex. Gov't Code §§2306.111 and 2306.1115 require that TDHCA use a formula to allocate funding for the HOME, HTF, and HTC programs.

Tex. Gov't Code §2306.1115 states:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology detailed in this document considers the need for housing assistance and the availability of housing in urban and rural areas to meet statutory requirements for the HOME SF, HOME MF, HTF, and HTC programs. The methodology also includes a regional coverage factor for single family programs. This coverage factor utilizes inverse population density to help distribute single family program funding to more rural areas of the state in accordance with the statutory requirements.

Urban and Rural Areas

Tex. Gov't Code §2306.004 states:

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

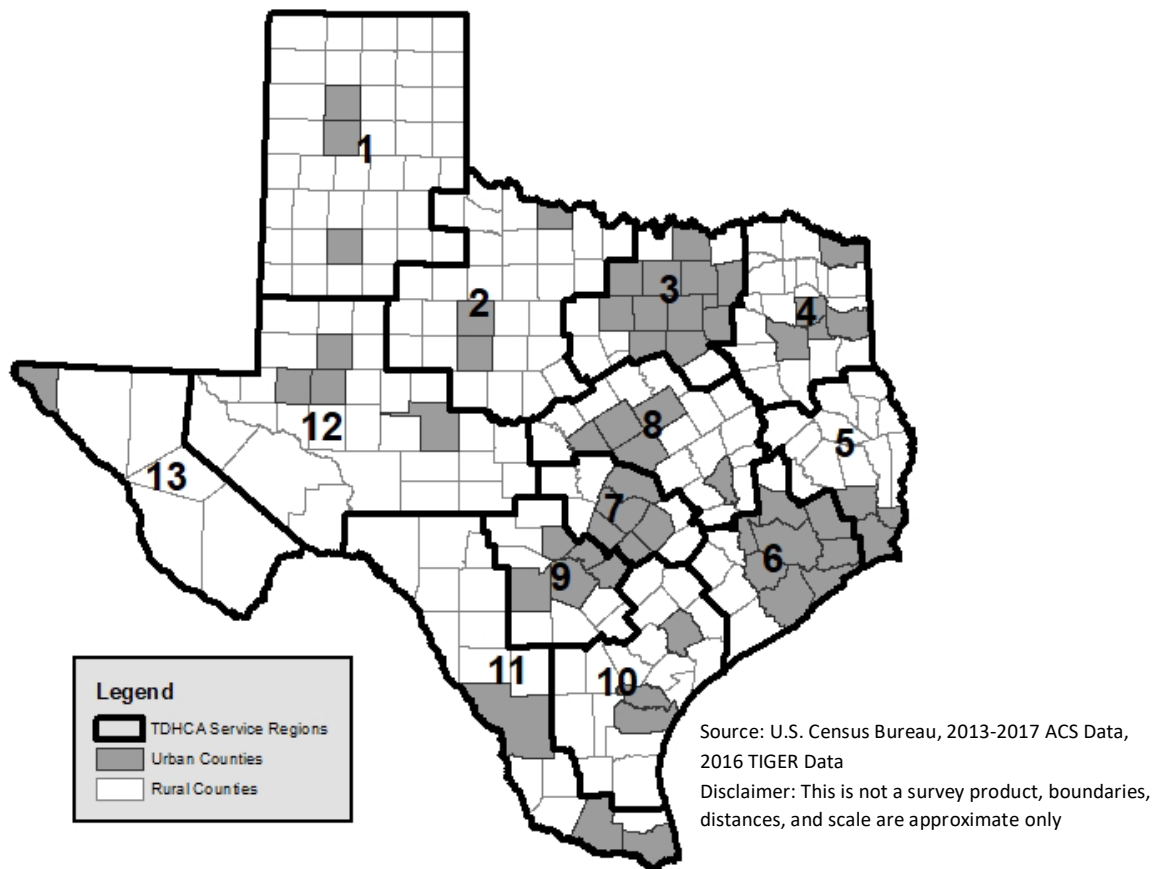
Tex. Gov't Code §2306.004(28-a) is applied to incorporated places and Census Designated Places, as defined by the U.S. Census Bureau, collectively referred to as places. Prior to the development of the RAF each year, the parameters outlined in Tex. Gov't Code are used to determine which places are urban and which are rural. The urban and rural designation for site-specific applications is made at the place level; organizations applying for certain TDHCA-administered funds use the urban and rural place designations to determine which subregional allocation they are eligible to apply for. If a place crosses county or regional boundaries,

the subregional allocation that the place in question is eligible to apply for is determined by the county that contains the majority area and population of the place.

Additionally, the RAF must account for the statewide need and availability of housing. If the RAF only combined data from places, many unincorporated parts of the state would not be included, which would significantly hinder the RAF’s utility as an equitable allocation tool. For this reason, the RAF uses county-level data to measure statewide housing need and to calculate subregional allocations. This allows for a more complete picture of the state’s demographics in determining allocations.

Even if a county contains a Metropolitan Statistical Area (MSA) per the U.S. Office of Management and Budget (OMB) definitions, it’s possible that all the places within that county meet the definition of a rural area per Tex. Gov’t Code §2306.004(28-a). Therefore, if an MSA county has no places designated as urban, the need and availability of the whole county will be counted toward the rural allocation (*i.e.*, the MSA county had no places with a population over 25,000 or places touching a boundary of a place with a population over 25,000). The allocation process outlined in this document refers to “MSA counties with urban places” as “urban counties” and “Non-MSA counties and counties with only rural places” as “rural counties.” The need and availability of “MSA counties with urban places” directs the allocation toward the urban places, and the need and availability of “Non-MSA counties and counties with only rural places” directs the allocation toward the rural places.

Map of Urban and Rural Counties in Texas by Region



Methodology

For many of the RAF's variables, the Department uses the most recent American Community Survey (ACS) 5-Year Estimate data available. Land area data are not available in the annually released ACS; therefore, decennial census data must be used for the Regional Coverage Factor.

Affordable Housing Need

For the purposes of developing an allocation formula, affordable housing need is measured through variables that apply directly to the assistance provided by TDHCA programs. Despite HTF not currently utilizing the RAF, HTF is included in the RAF methodology description if funding levels or programmatic changes require the RAF to be utilized for this program.

Income

Income is the primary measurement of eligibility for housing assistance through TDHCA. HOME, HTC, and HTF serve households that earn less than or equal to 80% Area Median Family Income (AMFI). While eligibility for housing assistance is measured by AMFI, the Comprehensive Housing Affordability Strategy (CHAS) datasets that estimate the number of households in each AMFI category lag behind the poverty data included in the ACS by one year. In order to use the most up-to-date data, the RAF will incorporate ACS data for number of individuals at or below 200% of the poverty level to help calculate affordable housing need. Individuals at or below 200% of the poverty level will qualify for a majority of the housing assistance options offered through TDHCA's HOME, HTC, and HTF programs. To ensure that *individuals* in poverty can be comparatively accurate when combined with cost burdened and overcrowded *households* to calculate affordable housing need, the number of individuals at or below 200% poverty in each subregion is divided by the average size of a household in Texas. The number of individuals at or below 200% poverty is included as a variable in all four program RAFs.

Cost Burden and Overcrowding

Renter and owner need for housing assistance is measured through cost burden and overcrowding conditions. The count of cost burdened renter and owner households used in the RAF measures the number of households in Texas that spend more than 30% of their income on rent or homeowner costs (for homeowners with a mortgage), which is a common measure of unaffordable housing. The count of overcrowded renters and owners measures the number of housing units with more than one person per room, including the kitchen and bathroom. Areas with high cost burden or overcrowding may signify a need for assistance.

Many of TDHCA's programs aim to assist households that are cost-burdened or overcrowded. HTC and HOME MF both offer assistance for reduced-rent apartments. HOME SF offers Tenant-Based Rental Assistance, which pays a portion of a recipient's rent to their landlord. HTF offers the Amy Young Barrier Removal Program, which can serve both renters and homeowners. Therefore, variables representing renters who need assistance are included in the analysis for all four program RAFs.

HOME SF offers homebuyer assistance, home repair assistance, and single family development programs. For home repair, HOME SF offers grants and no-interest loans to homeowners to rehabilitate or reconstruct their homes. For single family development, typically the homes are built by Community Housing Development Organizations (CHDOs) and the homes are purchased by low-income homeowners. HTF offers the Amy Young Barrier Removal Program, which can be used for homeowners and the Bootstrap Loan Program for potential homeowners who use “sweat equity” and low- to no-interest loans to build and secure ownership of their homes. Therefore, variables representing homeowners who need assistance are included in the HOME SF and HTF RAFs.

Lack of Kitchen and Plumbing Facilities

HOME SF offers homeowner rehabilitation or reconstruction assistance. HTF includes activities for rehabilitation, such as the Amy Young Barrier Removal Program. Since TDHCA programs fund rehabilitation, the RAF includes measures for substandard housing. Common definitions of substandard housing include lack of operable indoor plumbing, usable flush toilets, usable bathtub or shower, safe electricity, safe or adequate source of heat, or kitchen facilities. Data regarding total units lacking kitchen facilities or plumbing are the only data available on both an annual basis and at a county level. The count of occupied and unoccupied units lacking kitchen facilities and the count of occupied and unoccupied units lacking plumbing are utilized in the HOME SF and HTF RAFs.

Summary of Affordable Housing Need for Single Family and Multifamily Activities

The extent of Texans needing affordable housing is measured using five variables for single family activities:

1. Cost burdened renter and owner households;
2. Overcrowded renter and owner households;
3. Housing units lacking kitchen facilities;
4. Housing units lacking plumbing; and
5. Individuals at or below 200% of the poverty rate.

The extent of Texans needing affordable housing is measured using three variables for multifamily activities:

1. Cost burdened renter households;
2. Overcrowded renter households; and
3. Individuals at or below 200% of the poverty rate.

Housing Availability

Housing availability is included to measure where existing housing resources are located. Since this includes both market-rate and subsidized units, the RAF uses vacancies as a common measurement for housing availability. A high number of vacancies may indicate that a market has an adequate or potentially abundant supply of housing. Both vacant units for sale and vacant units for rent will be included in the HOME SF and HTF RAFs, while vacant units for rent alone are included in the HOME MF and HTC RAFs.

Regional Coverage Factor

The RAF uses inverse population density to generate a regional coverage factor. Population density measures the average number of people located in a defined area (i.e. persons per square mile). This is calculated by dividing the number of people in a geographic area by the area of the land in that area. In this way, population density can be used to compare the population size of geographic areas with different dimensions. A high population density means that a geographic area has higher population relative to its available land area. Contrarily, inverse population density measures the amount of land in a geographic area per person in that area (i.e. square miles per person). This is calculated by dividing the land area by the number of people that live in that area. A high inverse population density means that a geographic area has more land area relative to its population size. In this way, high population density generally corresponds to urban regions, while high inverse population generally corresponds to more rural regions.

Inverse population density is included in the HOME SF and HTF RAFs as a Regional Coverage Factor to consider the distance between scattered-site single family activities and the dispersed population within the predominantly rural areas where HOME SF and HTF administrators provide assistance. TDHCA's multifamily programs generally focus development to a single site, so the Regional Coverage Factor is not as pertinent to multifamily program allocation. The Regional Coverage Factor assists in redistributing single family program funding from urban areas to more rural parts of the state. This better aligns funding availability with the statutory requirement that 95% of HOME funds be allocated for the benefit of those areas of the state that do not receive HOME funds directly from the U.S. Department of Housing and Urban Development (HUD), primarily smaller cities and rural areas (per Tex. Gov't Code §2306.111).

Summary of Variables

The following chart shows which need, availability, and other variables are used in the RAF Methodology for each of the four applicable programs.

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Need Variables	<i>Cost Burdened Renter Households</i>	✓	✓	✓	✓
	<i>Cost Burdened Owner Households</i>			✓	✓
	<i>Overcrowded Renter Households</i>	✓	✓	✓	✓
	<i>Overcrowded Owner Households</i>			✓	✓
	<i>Units Lacking Kitchen Facilities</i>			✓	✓
	<i>Units Lacking Plumbing Facilities</i>			✓	✓
	<i>Individuals at or Below 200% of Poverty</i>	✓	✓	✓	✓
	<i>Vacant Units for Rent</i>	✓	✓	✓	✓

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Availability Variables	<i>Vacant Units for Sale</i>			✓	✓
Other	<i>Regional Coverage Factor</i>			✓	✓

Exceptions to the RAF

Per Tex. Gov't Code §2306.111, there are certain instances in which the RAF requirement does not apply to HOME MF, HOME SF, HTC, or HTF funds.

Set-Asides

Specific set-asides will not be subject to the RAF per Tex. Gov't Code §2306.111(d-1), including set-asides for contract-for-deed activities and set-asides mandated by state or federal law, if these set-asides are less than 10% of the total allocation of funds or credits. Set-asides for funds allocated to serve persons with disabilities will not be subject to the RAF. The total amount available through the RAF will not include funds for at-risk developments for the HTC Program or other statutorily created set-asides. Also pursuant to Tex. Gov't Code §2306.111(d-1), programmed activities for HTF that do not exceed \$3 million are not subject to the RAF. It is due to these exceptions that the HTF funds, as currently programmed, do not utilize the RAF.

In addition, per Tex. Gov't Code §2306.111(c)(2), 5% of State HOME funds must be spent on activities that serve persons with disabilities in any area of the State. This portion of HOME is not subject to the RAF because it is set-aside for persons with disabilities.

In Tex. Gov't Code §2306.111(d-2), 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation may compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF.

Participating Jurisdictions (PJs)

PJs refer to geographic areas that are under the jurisdiction of local government entities that receive HOME funding directly from HUD. In accordance with Tex. Gov't Code §§2306.111(c)(1), 95% of the funds for HOME must be spent outside PJs. Since 95% of funds cannot be spent within a PJ, the housing need factors, housing availability factors, and Regional Coverage Factor in the PJs are not counted in the HOME MF or HOME SF RAF.

PJ designations are subject to change annually depending on HUD funding. According to HUD's 2019 HOME allocation, 33 of the PJs are cities and eight of the PJs are counties. Five PJ cities fell completely within PJ counties, resulting in a total of 28 PJ cities and eight PJ counties that will be subtracted from the HOME SF and HOME MF RAFs.

Allocation Adjustments

The HOME SF and HTC RAFs have subregional allocation adjustments under certain conditions. Tex. Gov't Code §2306.111(d-3) requires that at least \$500,000 in housing tax credits be allocated to each urban and rural subregion. In the HTC Program's 2019 Qualified Allocation Plan (QAP), the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. In a further effort to meet Tex. Gov't Code §§2306.111(c)(1) and (2), the HOME SF RAF has a minimum subregional allocation of \$100,000. Additional detail regarding the processes used to adjust allocations for the HOME SF RAF and the HTC RAF can be found in the single family and multifamily RAF examples.

Single Family RAF Example

Tables 1, 2, and 3 show the need variables, availability variables, and regional coverage factor used in the HOME SF RAF. The HTF RAF is very similar to the HOME SF RAF with the exception that the HTF RAF includes PJs. Example numbers are used for clarity. The statewide average household size in the following example is 2.82.

Table 1: Example of Need Variables Used for HOME SF, by Subregion

Region	Column A:	Column B:	Column C:	Column D:	Column E:	Column F:	Column G:	Column H:	Column I:	
	Individuals at or below 200% Poverty without PJs	Households (HH) at or below 200% Poverty without PJs	Cost Burdened Owners without PJs	Cost Burdened Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Units Lacking Plumbing without PJs	Units Lacking Kitchen without PJs	Total Need Variables	
MSA Counties with Urban Places	1	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	2	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	3	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	4	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	5	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	6	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	7	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	8	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	9	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	10	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	11	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	12	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	13	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
Non-MSA counties and counties with only rural	1	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	2	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	3	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	4	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	5	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	6	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	7	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	8	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	9	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	10	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	11	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	12	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	13	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	Col A Total	Col B Total	Col C Total	Col D Total	Col E Total	Col F Total	Col G Total	Col H Total	Col I Total	
State Total	2,570,000	911,348	121,500	287,000	62,000	49,000	123,000	149,000	1,702,848	

Table 2: Example of Availability Variables Used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	1,000	3,000	4,000
	3	1,500	2,000	3,500
	4	1,000	3,000	4,000
	5	1,500	2,000	3,500
	6	1,000	3,000	4,000
	7	1,500	2,000	3,500
	8	1,000	3,000	4,000
	9	1,500	2,000	3,500
	10	1,000	3,000	4,000
	11	1,500	2,000	3,500
	12	1,000	3,000	4,000
13	1,500	2,000	3,500	

Non-MSA counties and counties with only rural places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	2,000	2,500	4,500
	3	1,500	2,000	3,500
	4	2,000	2,500	4,500
	5	1,500	2,000	3,500
	6	2,000	2,500	4,500
	7	1,500	2,000	3,500
	8	2,000	2,500	4,500
	9	1,500	2,000	3,500
	10	2,000	2,500	4,500
	11	1,500	2,000	3,500
	12	2,000	2,500	4,500
13	1,500	2,000	3,500	

	Column J Total	Column K Total	Column L Total
State Total	39,000	61,000	100,000

Table 3: Example of Regional Coverage Factor used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	3,000	350,000	0.009
	2	2,000	250,000	0.008
	3	3,000	350,000	0.009
	4	2,000	250,000	0.008
	5	3,000	350,000	0.009
	6	2,000	250,000	0.008
	7	3,000	350,000	0.009
	8	2,000	250,000	0.008
	9	3,000	350,000	0.009
	10	2,000	250,000	0.008
	11	3,000	350,000	0.009
	12	2,000	250,000	0.008
13	3,000	350,000	0.009	

Non-MSA counties and counties with only rural places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	15,000	200,000	0.075
	2	13,000	300,000	0.043
	3	15,000	200,000	0.075
	4	13,000	300,000	0.043
	5	15,000	200,000	0.075
	6	13,000	300,000	0.043
	7	15,000	200,000	0.075
	8	13,000	300,000	0.043
	9	15,000	200,000	0.075
	10	13,000	300,000	0.043
	11	15,000	200,000	0.075
	12	13,000	300,000	0.043
13	15,000	200,000	0.075	

	Column M Total	Column N Total	Column O Total
State Total	216,000	7,150,000	0.893

Compounded Need

To allocate funds, the RAF uses each subregion's ratios of the State's total. All of the variables that measure need are added together before taking each subregion's need as a percentage of the amount of total need in the State. Table 1, Column I, illustrates how the Total Need Variables are derived: households at 200% of poverty, cost burdened owner and renter households, overcrowded owner and renter households, units lacking kitchen facilities, and units lacking plumbing facilities are added together, thereby compounding the need.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights operate in the RAF are in Tables 4 and 5. The column header letters (A, B, C, etc.) will build off the previous table. If column letters are not in alphabetical order, the column header letter refers to a previous table. To apply weights, first the subregional percentage (the subregional share of statewide need), housing availability, and inverse population density must be calculated. Table 4 demonstrates how the percentages are derived. Table 4 shows only Urban Region 1 and the statewide total in order to simplify the example.

Table 4: Percentages Taken

Area	Column I: Total Need Variables	Column P: Percent of State's Total Need	Column L: Total Availability Variables	Column Q: Percent of State's Total Availability	Column O: Regional Coverage Factor	Column R: Percent of State's Total Regional Coverage Factor
Urban Region 1	84,691	5.0%	3,500	3.5%	0.009	1.0%
State Total	1,702,848		100,000		0.893	

Note: Column I is from Table 1, Column L is from Table 2, and Column O is from Table 3.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. Housing availability variables have negative weight to reflect that an abundance of available units might reduce the need for assistance. The housing need variables and the regional coverage factor have positive weights to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category added together, as they represent one variable for the purposes of weighting the variables. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to the total example allocation. The formulas to determine variable weight for the Single Family RAF are as follows:

- Total Need Variables = HH at or below 200% poverty + Cost Burden + Overcrowding + Units Lacking Plumbing + Units Lacking Kitchen
- Total Availability Variables = Unoccupied Units for Sale or Rent
- Regional Coverage Factor = Inverse Population Density
- Total Need Variables – Total Availability Variables + Regional Coverage Factor = 100%

To put it simply (with x representing the weight of each variable): $5x-x+x=100\%$

As a result, each variable is weighted at 20% for Single Family programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 100% weight. Table 5 shows the application of the weights based on a hypothetical statewide availability of \$2,500,000.

Table 5: Weight Application

Area	Column P: Percent of State's Total Need	Column S: Weight of Need Variables	Column T: Need Variable Allocation*	Column Q: Percent of State's Total Availability	Column U: Weight of Availability Variable	Column V: Availability Variable Allocation~	Column R: Percent of State's Total Regional Coverage Factor	Column W: Weight of Regional Coverage Factor	Column X: Regional Coverage Factor Allocation^	Column Y: Total Allocation*
Urban Region 1	5.0%	100%	\$ 124,338	3.5%	-20%	\$ (17,500)	1.0%	20%	\$4,799	\$ 111,637

Note: Column P, Q and R taken from Table 4.

*Column T is calculated as follows: Column P x Column S x statewide availability of funds.

~Column V is calculated as follows: Column Q x Column U x statewide availability of funds.

^ Column X is calculated as follows: Column W x Column R x statewide availability of funds.

*Column Y is calculated as follows: Column T + Column V + Column X.

HOME Subregional Allocation Adjustment

The HOME SF RAF has a subregional floor. This floor ensures sufficient funding to award at least one contract in each subregion. If the RAF results in a subregional funding amount that is less than \$100,000, that subregion’s funding amount is adjusted to provide for at least a minimum of \$100,000. The process does not reallocate funds from subregions with initial funding amounts in excess of \$100,000 to those subregions with initial funding amounts that are less than \$100,000. Funds used to enable the floor are not subject to RAF requirements and are added as a final adjustment to the subregional allocation amounts available for award. The final adjustment adds a supplemental allocation to bring all subregions to a minimum of \$100,000. The process is complete when each subregion has at least \$100,000.

Table 6 shows the process of supplementing funds to subregions that have initial funding amounts that are less than \$100,000. This table builds from the previous tables included in this methodology and Urban Regions 1 and 2 are included. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

Table 6: Subregion amount under \$100,000

Area	Column Y: Initial Subregion amount	Column Z: Amount needed to reach \$100,000	Column AA: Final Subregion Allocation
Urban Region 1	\$111,637	\$-	\$111,637
Urban Region 2	\$84,255	\$15,745	\$100,000

Note: Column Y is from Table 5.

Since the Urban Region 1 initial Subregion amount exceeds \$100,000, no adjustment is made to this sub-allocation. However, because the Urban Region 2 initial Subregion amount is less than \$100,000, a supplemental allocation amount is added to bring the subregion allocation up to the final allocation amount of \$100,000.

Multifamily RAF Example

Table 7 shows the need and availability variables used in the HTC RAF. The HTC RAF is very similar to the HOME MF RAF with the exception that the HTC RAF includes PJs. Example numbers are used for clarity. The statewide average household size in the following example is 2.80.

Table 7: Example of Need and Availability Variables used for HTC, by Subregion

MSA Counties with urban places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	150,000	53,571	25,000	4,000	6,000
	2	100,000	35,714	20,000	2,000	4,000
	3	150,000	53,571	25,000	4,000	6,000
	4	100,000	35,714	20,000	2,000	4,000
	5	150,000	53,571	25,000	4,000	6,000
	6	100,000	35,714	20,000	2,000	4,000
	7	150,000	53,571	25,000	4,000	6,000
	8	100,000	35,714	20,000	2,000	4,000
	9	150,000	53,571	25,000	4,000	6,000
	10	100,000	35,714	20,000	2,000	4,000
	11	150,000	53,571	25,000	4,000	6,000
	12	100,000	35,714	20,000	2,000	4,000
	13	150,000	53,571	25,000	4,000	6,000

Non-MSA counties and counties with only rural places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	40,000	14,286	7,000	700	700
	2	25,000	8,929	2,000	400	500
	3	40,000	14,286	7,000	700	700
	4	25,000	8,929	2,000	400	500
	5	40,000	14,286	7,000	700	700
	6	25,000	8,929	2,000	400	500
	7	40,000	14,286	7,000	700	700
	8	25,000	8,929	2,000	400	500
	9	40,000	14,286	7,000	700	700
	10	25,000	8,929	2,000	400	500
	11	40,000	14,286	7,000	700	700
	12	25,000	8,929	2,000	400	500
	13	40,000	14,286	7,000	700	700

	Column BB Total	Column CC Total	Column DD Total	Column EE Total	Column FF Total
State Total	2,080,000	742,857	356,000	47,300	73,900

Compounded Need

To allocate funds, the RAF uses each subregion's ratio of the State's total. All of the variables that measure need are added together before taking each subregion's need as a percentage of the amount of the total need in the State. Table 8 illustrates how the Total Need Variables are derived: households at or below 200% of poverty, cost burdened renter households, and overcrowded renter households are added together, thereby compounding the need. Table 8 shows only Urban Region 1 and the statewide total, in order to simplify the example.

Table 8: Total Need Variables

Area	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column GG: Total Need Variables
Urban Region 1	53,571	25,000	4,000	82,571
State Total	742,857	356,000	47,300	1,146,157

Note: Columns CC, DD and EE are from Table 7.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights work in the RAF are in Tables 9 and 10. If the letters are not in alphabetical order, the column header letter refers to a previous table.

In order to apply weights, first the subregional percentage availability, and inverse population density must be calculated. Table 9 demonstrates how the percentages are derived.

Table 9: Percentages Taken

Area	Column GG: Total Need Variables	Column HH: Percent of State's Total Need	Column II: Vacant Units for Rent	Column JJ: Percent of State's Total Availability
Urban Region 1	82,571	7.2%	6,000	8.1%
State Total	1,146,157		73,900	

Note: Column GG is from Table 8.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. The housing availability variable has negative weight to reflect that an abundance of available units might reduce the need for assistance, while housing need variables have positive weight to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category are added together, as they represent one variable for the purposes of weighting the variables. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to

the total example allocation. The formulas to determine variable weight for the Multifamily RAF are as follows:

- Total Need Variables = HH at or below 200% poverty + Renter Cost Burden + Renter Overcrowding
- Availability Variable = Unoccupied Units for Rent
- Total Need Variables – Availability Variable = 100%

Simply stated (with x representing the weight of each variable): $3x-x=100\%$

As a result, each variable is weighted at 50% for multifamily programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 150% weight. Table 10 shows the application of the weights based on a statewide availability of \$40,000,000.

Table 10: Weight Application

Area	Column HH: Percent of State's Total Need	Column KK: Weight of Need Variables	Column LL: Need Variable Allocation*	Column JJ: Percent of State's Total Availability	Column MM: Weight of Availability Variable	Column NN: Availability Variable Allocation~	Column OO: Total Allocation+
Urban Region 1	7.2%	150%	\$ 4,322,519	8.1%	-50%	\$ (1,623,816)	\$ 2,698,703

Note: Column HH and JJ taken from Table 9.

*Column LL is calculated as follows: Column HH x Column KK x statewide availability of funds.

~Column NN is calculated as follows: Column JJ x Column MM x statewide availability of funds.

+Column OO is calculated as follows: Column LL + Column NN.

HTC Subregional Allocation Adjustment

Tex. Gov't Code §2306.111(d-3) is a requirement regarding funding and the RAF that applies only to HTC. This provision requires that TDHCA allocate at least 20% of housing tax credits to rural areas and that \$500,000 or more be available for each of the 26 subregions. In the 2019 QAP the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. The overall state rural allocation of funds is ensured to satisfy the minimum of 20% of the credit ceiling amount in rural areas by making any needed adjustments at the time of award, if needed. Usually, the 20% allocation to rural areas occurs through the competitive process, but, if not, one or more applications from rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the subregional funding amount is adjusted to a minimum of \$600,000 if needed. This is a final adjustment to the subregional allocation amounts available for award. The process proportionately takes funds from subregions with initial funding amounts in excess of \$600,000 and reallocates those funds to those subregions with initial funding amounts that are less than \$600,000. The process is complete when each subregion has at least \$600,000.

Tables 11 and 12 show the process of determining the amount to adjust from subregions with more than \$600,000. These tables build from the previous tables included in this methodology and Urban Region 1 and 2 and Rural Region 1 and 2 are included. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

These four subregions are examined because the most common movement for funds during the \$600,000 adjustment is from Urban Counties to Rural Counties. The first step in the \$600,000 adjustment process is to determine the amount by which each subregion is over or under \$600,000 for each subregion. This is illustrated in Table 11.

Table 11: Subregional amount over/under \$600,000

Area	Column OO: Initial Subregion amount	Column PP: Amount needed to reach \$600,000	Column QQ: Amount over \$600,000 that can be reallocated
Urban Region 1	\$2,698,703	\$-	\$2,098,703
Urban Region 2	\$1,938,732	\$-	\$1,338,732
Rural Region 1	\$961,482	\$-	\$361,482
Rural Region 2	\$457,720	\$142,280	\$-
State Total	\$40,000,000	\$853,682.36	\$25,253,682.36

Note: Column OO is from Table 10.

Column QQ in Table 11 is the amount in Column OO minus \$600,000 if the amount in Column OO is over \$600,000. At least \$600,000 is maintained in each subregion before the adjustment process.

The next step in the adjustment process is to determine the percentage to be reallocated. The proportion of the total amount to be reallocated is in Column SS. Finally, Column OO is adjusted by Column SS to equal the final Sub-Amount in Column TT.

Table 12: Proportional adjustment

Area	Column RR: Percent of Total Amount that can be reallocated*	Column SS: Amount to be reallocated~	Column TT: Final Subregion Allocation+
Urban Region 1	8.31%	\$ (70,945)	\$2,627,758
Urban Region 2	5.30%	\$ (45,255)	\$1,893,477
Rural Region 1	1.43%	\$ (12,220)	\$949,262
Rural Region 2	0.00%	\$142,280	\$600,000
State Total	100.00%	\$0	\$40,000,000

*Column RR is calculated as follows: if Column OO is over \$600,000, then $((\text{Column OO} - \$600,000) / (\text{Statewide total for Column QQ}))$

~Column SS is calculated as followed: if Column RR is a percentage, then $(\text{Column RR} * \$853,682.36)$; if Column RR is "%", then Column SS equals Column PP.

+Column TT is calculated as follows: $\text{Column OO} + \text{Column SS}$.

Texas Department of Housing and Community Affairs
Example 2021 HTC Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Renters	Overcrowded Renters	Vacant Units For Rent
MSA Counties with Urban Places	1	198,173	69,291	40,017	4,492	8,591
	2	100,142	35,015	18,125	1,402	3,983
	3	2,233,165	780,827	457,642	77,940	80,382
	4	207,203	72,449	29,251	2,939	6,082
	5	135,302	47,308	19,921	1,630	3,258
	6	2,195,301	767,588	414,865	73,495	81,787
	7	540,304	188,917	143,208	19,996	22,310
	8	338,791	118,458	68,023	6,493	12,962
	9	793,672	277,508	132,528	18,118	24,890
	10	190,242	66,518	32,789	5,462	5,969
	11	875,159	306,000	68,151	23,829	13,172
	12	125,641	43,930	21,504	4,465	4,325
	13	394,954	138,096	46,436	7,585	11,543
	Subtotal	8,328,049	2,911,905	1,492,460	247,846	279,254
Non-MSA Counties and Counties with Only Rural Places	1	121,455	42,467	9,494	2,542	3,047
	2	95,796	33,495	7,681	895	2,764
	3	90,732	31,724	11,549	1,456	2,472
	4	226,381	79,154	21,152	3,284	5,481
	5	154,853	54,144	17,122	2,292	3,340
	6	69,928	24,450	9,609	1,529	1,534
	7	37,023	12,945	3,739	636	581
	8	103,590	36,220	8,971	1,555	1,852
	9	75,555	26,418	6,533	1,585	1,349
	10	108,803	38,043	10,862	2,649	2,736
	11	152,972	53,487	9,071	3,332	2,558
	12	64,820	22,664	5,220	1,110	1,346
	13	12,161	4,252	1,216	222	433
	Subtotal	1,314,069	459,465	122,219	23,087	29,493
Total	9,642,118	3,371,370	1,614,679	270,933	308,747	

Texas Average HH Size: 2.86

Texas Department of Housing and Community Affairs
Example 2021 HTC Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variable	% of Total Availability Variable	Weighted	Initial Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	113,800	2.2%	\$ 2,110,626	8,591	2.8%	\$ (904,325)	\$ 1,206,301.90	1.86%
	2	54,542	1.0%	\$ 1,011,572	3,983	1.3%	\$ (419,267)	\$ 592,304.50	0.91%
	3	1,316,409	25.0%	\$ 24,415,125	80,382	26.0%	\$ (8,461,345)	\$ 15,953,779.45	24.54%
	4	104,639	2.0%	\$ 1,940,707	6,082	2.0%	\$ (640,217)	\$ 1,300,490.63	2.00%
	5	68,859	1.3%	\$ 1,277,119	3,258	1.1%	\$ (342,951)	\$ 934,168.14	1.44%
	6	1,255,948	23.9%	\$ 23,293,766	81,787	26.5%	\$ (8,609,242)	\$ 14,684,524.43	22.59%
	7	352,121	6.7%	\$ 6,530,714	22,310	7.2%	\$ (2,348,444)	\$ 4,182,269.95	6.43%
	8	192,974	3.7%	\$ 3,579,050	12,962	4.2%	\$ (1,364,434)	\$ 2,214,616.07	3.41%
	9	428,154	8.1%	\$ 7,940,865	24,890	8.1%	\$ (2,620,025)	\$ 5,320,839.77	8.19%
	10	104,769	2.0%	\$ 1,943,129	5,969	1.9%	\$ (628,322)	\$ 1,314,807.33	2.02%
	11	397,980	7.6%	\$ 7,381,234	13,172	4.3%	\$ (1,386,540)	\$ 5,994,694.62	9.22%
	12	69,899	1.3%	\$ 1,296,408	4,325	1.4%	\$ (455,268)	\$ 841,140.41	1.29%
	13	192,117	3.7%	\$ 3,563,145	11,543	3.7%	\$ (1,215,064)	\$ 2,348,080.47	3.61%
		Subtotal	4,652,211	88.5%	\$ 86,283,461	279,254	90.4%	\$ (29,395,444)	\$ 56,888,017.68
Non-MSA Counties and Counties with Only Rural Places	1	54,503	1.0%	\$ 1,010,850	3,047	1.0%	\$ (320,740)	\$ 690,110.27	1.06%
	2	42,071	0.8%	\$ 780,283	2,764	0.9%	\$ (290,950)	\$ 489,332.63	0.75%
	3	44,729	0.9%	\$ 829,587	2,472	0.8%	\$ (260,213)	\$ 569,373.94	0.88%
	4	103,590	2.0%	\$ 1,921,263	5,481	1.8%	\$ (576,953)	\$ 1,344,309.88	2.07%
	5	73,558	1.4%	\$ 1,364,270	3,340	1.1%	\$ (351,582)	\$ 1,012,687.98	1.56%
	6	35,588	0.7%	\$ 660,049	1,534	0.5%	\$ (161,475)	\$ 498,573.45	0.77%
	7	17,320	0.3%	\$ 321,232	581	0.2%	\$ (61,158)	\$ 260,073.40	0.40%
	8	46,746	0.9%	\$ 866,992	1,852	0.6%	\$ (194,949)	\$ 672,042.93	1.03%
	9	34,536	0.7%	\$ 640,528	1,349	0.4%	\$ (142,001)	\$ 498,526.53	0.77%
	10	51,554	1.0%	\$ 956,160	2,736	0.9%	\$ (288,003)	\$ 668,157.17	1.03%
	11	65,890	1.3%	\$ 1,222,041	2,558	0.8%	\$ (269,266)	\$ 952,775.15	1.47%
	12	28,994	0.6%	\$ 537,751	1,346	0.4%	\$ (141,686)	\$ 396,065.50	0.61%
	13	5,690	0.1%	\$ 105,533	433	0.1%	\$ (45,579)	\$ 59,953.51	0.09%
		Subtotal	604,771	11.5%	\$ 11,216,539	29,493	9.6%	\$ (3,104,556)	\$ 8,111,982.32
	Total	5,256,982	100.0%	\$ 97,500,000	308,747	100%	\$ (32,500,000)	\$ 65,000,000.00	100.00%

Total Sample Allocation: \$65,000,000
Weight of Need Variables: 150%
Weight of Availability Variables: -50%

Texas Department of Housing and Community Affairs
Example 2021 HTC Regional Allocation Formula

Table 3 - Reallocation

	Region	Initial Subregion Amount	Amount Needed to Reach Subregion Floor	Amount that can be Reallocated	% of Total Amount that can be Reallocated	Amount to be Reallocated	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	\$ 1,206,301.90	\$ -	\$ 606,301.90	1.19%	\$ (17,124.28)	\$ 1,189,177.62	1.83%
	2	\$ 592,304.50	\$ 7,695.50	\$ -	0.00%	\$ 7,695.50	\$ 600,000.00	0.92%
	3	\$ 15,953,779.45	\$ -	\$ 15,353,779.45	30.20%	\$ (433,649.22)	\$ 15,520,130.23	23.88%
	4	\$ 1,300,490.63	\$ -	\$ 700,490.63	1.38%	\$ (19,784.52)	\$ 1,280,706.11	1.97%
	5	\$ 934,168.14	\$ -	\$ 334,168.14	0.66%	\$ (9,438.18)	\$ 924,729.96	1.42%
	6	\$ 14,684,524.43	\$ -	\$ 14,084,524.43	27.71%	\$ (397,800.62)	\$ 14,286,723.81	21.98%
	7	\$ 4,182,269.95	\$ -	\$ 3,582,269.95	7.05%	\$ (101,176.95)	\$ 4,081,093.00	6.28%
	8	\$ 2,214,616.07	\$ -	\$ 1,614,616.07	3.18%	\$ (45,602.91)	\$ 2,169,013.16	3.34%
	9	\$ 5,320,839.77	\$ -	\$ 4,720,839.77	9.29%	\$ (133,334.50)	\$ 5,187,505.27	7.98%
	10	\$ 1,314,807.33	\$ -	\$ 714,807.33	1.41%	\$ (20,188.88)	\$ 1,294,618.45	1.99%
	11	\$ 5,994,694.62	\$ -	\$ 5,394,694.62	10.61%	\$ (152,366.73)	\$ 5,842,327.89	8.99%
	12	\$ 841,140.41	\$ -	\$ 241,140.41	0.47%	\$ (6,810.72)	\$ 834,329.69	1.28%
	13	\$ 2,348,080.47	\$ -	\$ 1,748,080.47	3.44%	\$ (49,372.45)	\$ 2,298,708.02	3.54%
		Subtotal	\$ 56,888,017.68	\$ 7,695.50	\$ 49,095,713.18	96.58%	\$ (1,378,954.46)	\$ 55,509,063.21
Non-MSA Counties and Counties with Only Rural Places	1	\$ 690,110.27	\$ -	\$ 90,110.27	0.18%	\$ (2,545.06)	\$ 687,565.21	1.06%
	2	\$ 489,332.63	\$ 110,667.37	\$ -	0.00%	\$ 110,667.37	\$ 600,000.00	0.92%
	3	\$ 569,373.94	\$ 30,626.06	\$ -	0.00%	\$ 30,626.06	\$ 600,000.00	0.92%
	4	\$ 1,344,309.88	\$ -	\$ 744,309.88	1.46%	\$ (21,022.15)	\$ 1,323,287.73	2.04%
	5	\$ 1,012,687.98	\$ -	\$ 412,687.98	0.81%	\$ (11,655.88)	\$ 1,001,032.10	1.54%
	6	\$ 498,573.45	\$ 101,426.55	\$ -	0.00%	\$ 101,426.55	\$ 600,000.00	0.92%
	7	\$ 260,073.40	\$ 339,926.60	\$ -	0.00%	\$ 339,926.60	\$ 600,000.00	0.92%
	8	\$ 672,042.93	\$ -	\$ 72,042.93	0.14%	\$ (2,034.77)	\$ 670,008.16	1.03%
	9	\$ 498,526.53	\$ 101,473.47	\$ -	0.00%	\$ 101,473.47	\$ 600,000.00	0.92%
	10	\$ 668,157.17	\$ -	\$ 68,157.17	0.13%	\$ (1,925.02)	\$ 666,232.15	1.02%
	11	\$ 952,775.15	\$ -	\$ 352,775.15	0.69%	\$ (9,963.71)	\$ 942,811.43	1.45%
	12	\$ 396,065.50	\$ 203,934.50	\$ -	0.00%	\$ 203,934.50	\$ 600,000.00	0.92%
	13	\$ 59,953.51	\$ 540,046.49	\$ -	0.00%	\$ 540,046.49	\$ 600,000.00	0.92%
		Subtotal	\$ 8,111,982.32	\$ 1,428,101.04	\$ 1,740,083.37	3.42%	\$ 1,378,954.46	\$ 9,490,936.79
	Total	\$ 65,000,000.00	\$ 1,435,796.54	\$ 50,835,796.54	100.00%	\$ -	\$ 65,000,000.00	100.00%

Subregion Allocation Floor: \$600,000.00

Texas Department of Housing and Community Affairs
Example 2021 HOME MF Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Renters	Overcrowded Renters	Vacant Units For Rent
MSA Counties with Urban Places	1	26,148	9,143	3,195	486	590
	2	17,720	6,196	1,840	159	578
	3	473,374	165,515	85,476	10,105	12,355
	4	130,934	45,781	14,625	1,837	2,471
	5	58,640	20,503	6,592	682	1,477
	6	128,041	44,770	18,604	2,469	3,700
	7	256,787	89,786	48,986	6,007	7,622
	8	132,247	46,240	19,770	2,358	4,180
	9	90,944	31,799	12,267	1,766	2,391
	10	73,015	25,530	9,534	2,318	2,032
	11	108,693	38,005	5,710	2,557	2,064
	12	58,405	20,421	8,582	2,881	1,524
	13	86,423	30,218	4,638	1,159	723
	Subtotal	1,641,371	573,906	223,697	33,687	39,834
Non-MSA Counties and Counties with Only Rural Places	1	121,455	42,467	9,494	2,542	3,047
	2	95,796	33,495	7,681	895	2,764
	3	90,732	31,724	11,549	1,456	2,472
	4	226,381	79,154	21,152	3,284	5,481
	5	154,853	54,144	17,122	2,292	3,340
	6	69,928	24,450	9,609	1,529	1,534
	7	37,023	12,945	3,739	636	581
	8	103,590	36,220	8,971	1,555	1,852
	9	75,555	26,418	6,533	1,585	1,349
	10	108,803	38,043	10,862	2,649	2,736
	11	152,972	53,487	9,071	3,332	2,558
	12	64,820	22,664	5,220	1,110	1,346
	13	12,161	4,252	1,216	222	433
	Subtotal	1,314,069	459,465	124,284	22,639	29,945
Total	2,955,440	1,033,371	347,981	56,326	69,779	

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Texas Average HH Size: 2.86

Texas Department of Housing and Community Affairs
Example 2021 HOME MF Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variable	% of Total Availability Variable	Weighted	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	12,824	0.9%	\$ 165,449	590	0.8%	\$ (51,791)	\$ 113,658.21	0.91%
	2	8,195	0.6%	\$ 105,728	578	0.8%	\$ (50,737)	\$ 54,990.80	0.44%
	3	261,096	18.0%	\$ 3,368,627	12,355	17.4%	\$ (1,084,533)	\$ 2,284,094.14	18.27%
	4	62,243	4.3%	\$ 803,052	2,471	3.5%	\$ (216,907)	\$ 586,144.96	4.69%
	5	27,777	1.9%	\$ 358,381	1,477	2.1%	\$ (129,652)	\$ 228,728.79	1.83%
	6	65,843	4.5%	\$ 849,491	3,700	5.2%	\$ (324,789)	\$ 524,701.96	4.20%
	7	144,779	10.0%	\$ 1,867,913	7,622	10.7%	\$ (669,066)	\$ 1,198,847.02	9.59%
	8	68,368	4.7%	\$ 882,077	4,180	5.9%	\$ (366,924)	\$ 515,152.43	4.12%
	9	45,832	3.2%	\$ 591,313	2,391	3.4%	\$ (209,884)	\$ 381,428.45	3.05%
	10	37,382	2.6%	\$ 482,293	2,032	2.9%	\$ (178,371)	\$ 303,922.67	2.43%
	11	46,272	3.2%	\$ 596,989	2,064	2.9%	\$ (181,180)	\$ 415,808.90	3.33%
	12	31,884	2.2%	\$ 411,367	1,524	2.1%	\$ (133,778)	\$ 277,588.83	2.22%
	13	36,015	2.5%	\$ 464,658	723	1.0%	\$ (63,466)	\$ 401,192.48	3.21%
		Subtotal	848,509	58.4%	\$ 10,947,338	41,707	58.6%	\$ (3,661,078)	\$ 7,286,259.63
Non-MSA Counties and Counties with Only Rural Places	1	54,503	3.8%	\$ 703,187	3,047	4.3%	\$ (267,468)	\$ 435,718.49	3.49%
	2	42,071	2.9%	\$ 542,795	2,764	3.9%	\$ (242,626)	\$ 300,168.80	2.40%
	3	44,729	3.1%	\$ 577,093	2,472	3.5%	\$ (216,994)	\$ 360,098.73	2.88%
	4	103,590	7.1%	\$ 1,336,505	5,481	7.7%	\$ (481,127)	\$ 855,378.36	6.84%
	5	73,558	5.1%	\$ 949,040	3,340	4.7%	\$ (293,188)	\$ 655,851.53	5.25%
	6	35,588	2.4%	\$ 459,156	1,534	2.2%	\$ (134,656)	\$ 324,499.75	2.60%
	7	17,320	1.2%	\$ 223,461	581	0.8%	\$ (51,001)	\$ 172,460.74	1.38%
	8	46,746	3.2%	\$ 603,114	1,852	2.6%	\$ (162,570)	\$ 440,543.40	3.52%
	9	34,536	2.4%	\$ 445,576	1,349	1.9%	\$ (118,416)	\$ 327,159.79	2.62%
	10	51,554	3.5%	\$ 665,142	2,736	3.8%	\$ (240,169)	\$ 424,973.68	3.40%
	11	65,890	4.5%	\$ 850,099	2,558	3.6%	\$ (224,544)	\$ 625,555.85	5.00%
	12	28,994	2.0%	\$ 374,081	1,346	1.9%	\$ (118,153)	\$ 255,927.56	2.05%
	13	5,690	0.4%	\$ 73,413	433	0.6%	\$ (38,009)	\$ 35,403.68	0.28%
		Subtotal	604,771	41.6%	\$ 7,802,662	29,493	41.4%	\$ (2,588,922)	\$ 5,213,740.37
	Total	1,453,280	100%	\$ 18,750,000	71,200	100%	\$ (6,250,000)	\$ 12,500,000.00	100.00%

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Total Sample Allocation: \$12,500,000
Weight of Need Variables: 150%
Weight of Availability Variables: -50%

Texas Department of Housing and Community Affairs
Example 2021 HTF Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Owners	Cost-Burdened Renters	Over-crowded Owners	Over-crowded Renters	Total Units Lacking Plumbing	Total Units Lacking Kitchen	Vacant Units For Sale	Vacant Units For Rent	Land Area	Total Population	Inverse Population Density
MSA Counties with Urban Places	1	198,173	69,291	16,273	40,017	2,638	4,492	4,481	7,736	2,004	8,591	2,716	554,828	0.005
	2	100,142	35,015	7,993	18,125	964	1,402	5,182	5,860	1,679	3,983	2,472	288,057	0.009
	3	2,233,165	780,827	260,057	457,642	40,676	77,940	28,175	58,320	18,387	80,382	9,603	7,317,944	0.001
	4	207,203	72,449	15,990	29,251	3,475	2,939	9,713	10,602	3,068	6,082	3,563	549,781	0.006
	5	135,302	47,308	10,110	19,921	1,765	1,630	8,483	7,826	1,849	3,258	2,101	395,636	0.005
	6	2,195,301	767,588	223,640	414,865	40,191	73,495	36,449	56,948	21,535	81,787	7,612	6,749,539	0.001
	7	540,304	188,917	78,425	143,208	9,108	19,996	6,467	12,821	5,939	22,310	4,220	2,058,351	0.002
	8	338,791	118,458	26,570	68,023	4,078	6,493	6,679	10,424	3,270	12,962	4,438	905,887	0.005
	9	793,672	277,508	77,764	132,528	12,101	18,118	14,051	21,870	7,215	24,890	4,498	2,307,415	0.002
	10	190,242	66,518	15,246	32,789	4,022	5,462	7,416	10,023	2,102	5,969	2,414	519,502	0.005
	11	875,159	306,000	44,435	68,151	27,858	23,829	20,154	15,689	4,743	13,172	5,823	1,543,192	0.004
	12	125,641	43,930	11,801	21,504	2,908	4,465	4,535	5,740	1,298	4,325	4,235	445,616	0.010
	13	394,954	138,096	30,743	46,436	6,536	7,585	3,717	7,369	3,267	11,543	1,013	837,654	0.001
	Subtotal	8,328,049	2,911,905	819,047	1,492,460	156,320	247,846	155,502	231,228	76,356	279,254	54,708	24,473,402	0.056
Non-MSA Counties and Counties with Only Rural Places	1	121,455	42,467	6,003	9,494	2,526	2,542	9,533	13,960	1,537	3,047	36,633	313,354	0.117
	2	95,796	33,495	6,775	7,681	1,897	895	11,755	11,822	2,003	2,764	24,831	261,663	0.095
	3	90,732	31,724	8,286	11,549	1,825	1,456	4,114	6,599	1,897	2,472	5,417	257,772	0.021
	4	226,381	79,154	18,249	21,152	4,378	3,284	12,279	16,283	3,130	5,481	11,856	588,995	0.020
	5	154,853	54,144	9,309	17,122	3,079	2,292	12,074	11,633	2,367	3,340	9,910	381,665	0.026
	6	69,928	24,450	4,676	9,609	1,628	1,529	4,794	4,660	912	1,534	4,577	200,420	0.023
	7	37,023	12,945	4,791	3,739	903	636	3,022	4,167	904	581	4,217	119,687	0.035
	8	103,590	36,220	8,170	8,971	2,666	1,555	9,125	9,961	2,036	1,852	12,672	286,246	0.044
	9	75,555	26,418	6,854	6,533	2,144	1,585	5,002	5,060	1,262	1,349	6,857	231,143	0.030
	10	108,803	38,043	5,650	10,862	2,993	2,649	9,634	8,408	1,241	2,736	15,157	274,423	0.055
	11	152,972	53,487	5,243	9,071	4,219	3,332	7,944	6,880	866	2,558	18,214	278,627	0.065
	12	64,820	22,664	3,258	5,220	1,454	1,110	5,546	6,475	881	1,346	35,496	192,886	0.184
	13	12,161	4,252	534	1,216	220	222	1,421	1,487	320	433	20,687	24,912	0.830
	Subtotal	1,314,069	459,465	87,798	122,219	29,932	23,087	96,243	107,395	19,356	29,493	206,524	3,411,793	1.546
	Total	9,642,118	3,371,370	906,845	1,614,679	186,252	270,933	251,745	338,623	95,712	308,747	261,232	27,885,195	1.602

Texas Average HH Size: 2.86

Texas Department of Housing and Community Affairs
Example 2021 HTF Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variables	% of Total Availability Variables	Weighted	Regional Coverage Factor	% of Total Regional Coverage Factor	Weighted	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	144,928	2.1%	\$ 62,645	10,595	2.6%	\$ (15,717)	0.005	0.3%	\$ 1,833	\$ 48,761	1.63%
	2	74,541	1.1%	\$ 32,220	5,662	1.4%	\$ (8,399)	0.009	0.5%	\$ 3,215	\$ 27,035	0.90%
	3	1,703,637	24.5%	\$ 736,395	98,769	24.4%	\$ (146,520)	0.001	0.1%	\$ 492	\$ 590,366	19.68%
	4	144,419	2.1%	\$ 62,425	9,150	2.3%	\$ (13,574)	0.006	0.4%	\$ 2,427	\$ 51,279	1.71%
	5	97,043	1.4%	\$ 41,947	5,107	1.3%	\$ (7,576)	0.005	0.3%	\$ 1,989	\$ 36,360	1.21%
	6	1,613,176	23.2%	\$ 697,293	103,322	25.5%	\$ (153,274)	0.001	0.1%	\$ 422	\$ 544,441	18.15%
	7	458,942	6.6%	\$ 198,377	28,249	7.0%	\$ (41,906)	0.002	0.1%	\$ 768	\$ 157,239	5.24%
	8	240,725	3.5%	\$ 104,053	16,232	4.0%	\$ (24,080)	0.005	0.3%	\$ 1,835	\$ 81,809	2.73%
	9	553,940	8.0%	\$ 239,440	32,105	7.9%	\$ (47,627)	0.002	0.1%	\$ 730	\$ 192,544	6.42%
	10	141,476	2.0%	\$ 61,153	8,071	2.0%	\$ (11,973)	0.005	0.3%	\$ 1,741	\$ 50,921	1.70%
	11	506,116	7.3%	\$ 218,768	17,915	4.4%	\$ (26,576)	0.004	0.2%	\$ 1,414	\$ 193,605	6.45%
	12	94,883	1.4%	\$ 41,013	5,623	1.4%	\$ (8,342)	0.010	0.6%	\$ 3,560	\$ 36,232	1.21%
	13	240,482	3.5%	\$ 103,948	14,810	3.7%	\$ (21,970)	0.001	0.1%	\$ 453	\$ 82,431	2.75%
	Subtotal	6,014,308	86.7%	\$ 2,599,678	355,610	87.9%	\$ (527,534)	0.056	3.5%	\$ 20,879	\$ 2,093,023	69.77%
Non-MSA Counties and Counties with Only Rural Places	1	86,525	1.2%	\$ 37,400	4,584	1.1%	\$ (6,800)	0.117	7.3%	\$ 43,793	\$ 74,393	2.48%
	2	74,320	1.1%	\$ 32,125	4,767	1.2%	\$ (7,072)	0.095	5.9%	\$ 35,548	\$ 60,601	2.02%
	3	65,553	0.9%	\$ 28,335	4,369	1.1%	\$ (6,481)	0.021	1.3%	\$ 7,872	\$ 29,727	0.99%
	4	154,779	2.2%	\$ 66,903	8,611	2.1%	\$ (12,774)	0.020	1.3%	\$ 7,541	\$ 61,670	2.06%
	5	109,653	1.6%	\$ 47,398	5,707	1.4%	\$ (8,466)	0.026	1.6%	\$ 9,726	\$ 48,658	1.62%
	6	51,346	0.7%	\$ 22,194	2,446	0.6%	\$ (3,629)	0.023	1.4%	\$ 8,556	\$ 27,121	0.90%
	7	30,203	0.4%	\$ 13,055	1,485	0.4%	\$ (2,203)	0.035	2.2%	\$ 13,197	\$ 24,050	0.80%
	8	76,668	1.1%	\$ 33,140	3,888	1.0%	\$ (5,768)	0.044	2.8%	\$ 16,584	\$ 43,956	1.47%
	9	53,596	0.8%	\$ 23,167	2,611	0.6%	\$ (3,873)	0.030	1.9%	\$ 11,113	\$ 30,406	1.01%
	10	78,239	1.1%	\$ 33,819	3,977	1.0%	\$ (5,900)	0.055	3.4%	\$ 20,690	\$ 48,609	1.62%
	11	90,176	1.3%	\$ 38,978	3,424	0.8%	\$ (5,079)	0.065	4.1%	\$ 24,488	\$ 58,387	1.95%
	12	45,727	0.7%	\$ 19,766	2,227	0.6%	\$ (3,304)	0.184	11.5%	\$ 68,937	\$ 85,398	2.85%
	13	9,352	0.1%	\$ 4,042	753	0.2%	\$ (1,117)	0.830	51.8%	\$ 311,076	\$ 314,001	10.47%
	Subtotal	926,139	13.3%	\$ 400,322	48,849	12.1%	\$ (72,466)	1.546	96.5%	\$ 579,121	\$ 906,977	30.23%
	Total	6,940,447	100%	\$ 3,000,000	404,459	100%	\$ (600,000)	1.602	100.0%	\$ 600,000	\$ 3,000,000	100.00%

Total Sample Allocation: \$3,000,000
Weight of Need Variables: 100%
Weight of Availability Variables: -20%
Weight of Regional Coverage Factor: 20%

Texas Department of Housing and Community Affairs
 Example 2021 HOME SF Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Owners	Cost-Burdened Renters	Over-crowded Owners	Over-crowded Renters	Total Units Lacking Plumbing	Total Units Lacking Kitchen	Vacant Units For Sale	Vacant Units For Rent	Land Area	Total Population	Inverse Population Density
MSA Counties with Urban Places	1	26,148	9,143	3,223	3,195	450	486	1,321	1,548	331	590	2,494	105,640	0.024
	2	17,720	6,196	2,288	1,840	221	159	1,892	1,924	488	578	2,293	59,887	0.038
	3	473,374	165,515	87,930	85,476	9,660	10,105	10,446	19,538	6,173	12,355	7,665	2,202,296	0.003
	4	130,934	45,781	10,834	14,625	2,368	1,837	8,528	8,453	1,928	2,471	3,453	363,804	0.009
	5	58,640	20,503	5,676	6,592	1,093	682	4,901	4,969	1,260	1,477	1,941	221,755	0.009
	6	128,041	44,770	13,850	18,604	2,973	2,469	4,554	5,036	2,229	3,700	2,606	449,191	0.006
	7	256,787	89,786	47,478	48,986	5,608	6,007	4,418	7,787	3,831	7,622	3,922	1,122,596	0.003
	8	132,247	46,240	13,446	19,770	1,927	2,358	4,198	6,253	1,486	4,180	4,202	434,872	0.010
	9	90,944	31,799	14,471	12,267	1,764	1,766	2,942	4,139	1,561	2,391	3,258	381,550	0.009
	10	73,015	25,530	5,537	9,534	1,513	2,318	4,395	5,484	764	2,032	2,256	194,810	0.012
	11	108,693	38,005	5,034	5,710	3,700	2,557	3,468	2,411	489	2,064	3,991	188,100	0.021
	12	58,405	20,421	5,959	8,582	1,720	2,881	1,865	2,471	526	1,524	4,136	227,400	0.018
	13	86,423	30,218	5,678	4,638	2,418	1,159	1,177	1,846	522	723	757	157,300	0.005
	Subtotal	1,641,371	573,906	221,404	239,819	35,415	34,784	54,105	71,859	21,588	41,707	42,975	6,109,201	0.167
Non-MSA Counties and Counties with Only Rural Places	1	121,455	42,467	6,003	9,494	2,526	2,542	9,533	13,960	1,537	3,047	36,633	313,354	0.117
	2	95,796	33,495	6,775	7,681	1,897	895	11,755	11,822	2,003	2,764	24,831	261,663	0.095
	3	90,732	31,724	8,286	11,549	1,825	1,456	4,114	6,599	1,897	2,472	5,417	257,772	0.021
	4	226,381	79,154	18,249	21,152	4,378	3,284	12,279	16,283	3,130	5,481	11,856	588,995	0.020
	5	154,853	54,144	9,309	17,122	3,079	2,292	12,074	11,633	2,367	3,340	9,910	381,665	0.026
	6	69,928	24,450	4,676	9,609	1,628	1,529	4,794	4,660	912	1,534	4,577	200,420	0.023
	7	37,023	12,945	4,791	3,739	903	636	3,022	4,167	904	581	4,217	119,687	0.035
	8	103,590	36,220	8,170	8,971	2,666	1,555	9,125	9,961	2,036	1,852	12,672	286,246	0.044
	9	75,555	26,418	6,854	6,533	2,144	1,585	5,002	5,060	1,262	1,349	6,857	231,143	0.030
	10	108,803	38,043	5,650	10,862	2,993	2,649	9,634	8,408	1,241	2,736	15,155	274,423	0.055
	11	152,972	53,487	5,243	9,071	4,219	3,332	7,944	6,880	866	2,558	18,214	278,627	0.065
	12	64,820	22,664	3,258	5,220	1,454	1,110	5,546	6,475	881	1,346	35,496	192,886	0.184
	13	12,161	4,252	534	1,216	220	222	1,421	1,487	320	433	20,687	24,912	0.830
	Subtotal	1,314,069	459,465	87,798	122,219	29,932	23,087	96,243	107,395	19,356	29,493	206,522	3,411,793	1.546
	Total	2,955,440	1,033,371	309,202	362,038	65,347	57,871	150,348	179,254	40,944	71,200	249,496	9,520,994	1.713

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Texas Average HH Size: 2.86

Texas Department of Housing and Community Affairs
 Example 2021 HOME SF Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variables	% of Total Availability Variables	Weighted	Regional Coverage Factor	% of Total Regional Coverage Factor	Weighted	Initial Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	19,366	0.9%	\$ 134,644	921	0.8%	\$ (24,638)	0.024	1.4%	\$ 41,343	\$ 151,349	1.01%
	2	14,520	0.7%	\$ 100,952	1,066	1.0%	\$ (28,517)	0.038	2.2%	\$ 67,059	\$ 139,494	0.93%
	3	388,670	18.0%	\$ 2,702,314	18,528	16.5%	\$ (495,648)	0.003	0.2%	\$ 6,096	\$ 2,212,762	14.75%
	4	92,426	4.3%	\$ 642,612	4,399	3.9%	\$ (117,679)	0.009	0.6%	\$ 16,624	\$ 541,558	3.61%
	5	44,416	2.1%	\$ 308,815	2,737	2.4%	\$ (73,218)	0.009	0.5%	\$ 15,329	\$ 250,926	1.67%
	6	92,256	4.3%	\$ 641,427	5,929	5.3%	\$ (158,609)	0.006	0.3%	\$ 10,162	\$ 492,980	3.29%
	7	210,070	9.7%	\$ 1,460,554	11,453	10.2%	\$ (306,383)	0.003	0.2%	\$ 6,119	\$ 1,160,291	7.74%
	8	94,192	4.4%	\$ 654,892	5,666	5.1%	\$ (151,573)	0.010	0.6%	\$ 16,924	\$ 520,242	3.47%
	9	69,148	3.2%	\$ 480,764	3,952	3.5%	\$ (105,721)	0.009	0.5%	\$ 14,956	\$ 389,999	2.60%
	10	54,311	2.5%	\$ 377,607	2,796	2.5%	\$ (74,797)	0.012	0.7%	\$ 20,281	\$ 323,091	2.15%
	11	60,885	2.8%	\$ 423,313	2,553	2.3%	\$ (68,296)	0.021	1.2%	\$ 37,165	\$ 392,181	2.61%
	12	43,899	2.0%	\$ 305,220	2,050	1.8%	\$ (54,840)	0.018	1.1%	\$ 31,856	\$ 282,236	1.88%
	13	47,134	2.2%	\$ 327,708	1,245	1.1%	\$ (33,305)	0.005	0.3%	\$ 8,434	\$ 302,837	2.02%
	Subtotal	1,231,292	57.1%	\$ 8,560,822	63,295	56.4%	\$ (1,693,225)	0.167	9.7%	\$ 292,348	\$ 7,159,945	47.73%
Non-MSA Counties and Counties with Only Rural Places	1	86,525	4.0%	\$ 601,582	4,584	4.1%	\$ (122,628)	0.117	6.8%	\$ 204,754	\$ 683,708	4.56%
	2	74,320	3.4%	\$ 516,726	4,767	4.3%	\$ (127,524)	0.095	5.5%	\$ 166,206	\$ 555,409	3.70%
	3	65,553	3.0%	\$ 455,775	4,369	3.9%	\$ (116,877)	0.021	1.2%	\$ 36,807	\$ 375,706	2.50%
	4	154,779	7.2%	\$ 1,076,136	8,611	7.7%	\$ (230,356)	0.020	1.2%	\$ 35,256	\$ 881,036	5.87%
	5	109,653	5.1%	\$ 762,389	5,707	5.1%	\$ (152,670)	0.026	1.5%	\$ 45,476	\$ 655,195	4.37%
	6	51,346	2.4%	\$ 356,997	2,446	2.2%	\$ (65,434)	0.023	1.3%	\$ 40,001	\$ 331,564	2.21%
	7	30,203	1.4%	\$ 209,994	1,485	1.3%	\$ (39,726)	0.035	2.1%	\$ 61,703	\$ 231,971	1.55%
	8	76,668	3.6%	\$ 533,053	3,888	3.5%	\$ (104,009)	0.044	2.6%	\$ 77,536	\$ 506,580	3.38%
	9	53,596	2.5%	\$ 372,637	2,611	2.3%	\$ (69,848)	0.030	1.7%	\$ 51,956	\$ 354,745	2.36%
	10	78,239	3.6%	\$ 543,974	3,977	3.5%	\$ (106,390)	0.055	3.2%	\$ 96,721	\$ 534,305	3.56%
	11	90,176	4.2%	\$ 626,966	3,424	3.1%	\$ (91,597)	0.065	3.8%	\$ 114,495	\$ 649,865	4.33%
	12	45,727	2.1%	\$ 317,929	2,227	2.0%	\$ (59,575)	0.184	10.7%	\$ 322,312	\$ 580,666	3.87%
	13	9,352	0.4%	\$ 65,022	753	0.7%	\$ (20,144)	0.830	48.5%	\$ 1,454,429	\$ 1,499,308	10.00%
	Subtotal	926,139	42.9%	\$ 6,439,178	48,849	43.6%	\$ (1,306,775)	1.546	90.3%	\$ 2,707,652	\$ 7,840,055	52.27%
	Total	2,157,431	100%	\$ 15,000,000	112,144	100%	\$ (3,000,000)	1.713	100.0%	\$ 3,000,000	\$ 15,000,000	100.00%

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Total Sample Allocation: \$15,000,000
 Weight of Need Variables: 100%
 Weight of Availability Variables: -20%
 Weight of Regional Coverage Factor: 20%

Texas Department of Housing and Community Affairs
 Example 2021 HOME SF Regional Allocation Formula

Table 3 - Supplemental Allocation

	Region	Initial Subregion Amount	Supplemental Amount Needed to Reach Subregion Floor	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	\$ 151,348.75	\$ -	\$ 151,348.75	1.01%
	2	\$ 139,494.46	\$ -	\$ 139,494.46	0.93%
	3	\$ 2,212,761.61	\$ -	\$ 2,212,761.61	14.75%
	4	\$ 541,557.57	\$ -	\$ 541,557.57	3.61%
	5	\$ 250,925.77	\$ -	\$ 250,925.77	1.67%
	6	\$ 492,979.74	\$ -	\$ 492,979.74	3.29%
	7	\$ 1,160,290.61	\$ -	\$ 1,160,290.61	7.74%
	8	\$ 520,242.44	\$ -	\$ 520,242.44	3.47%
	9	\$ 389,998.83	\$ -	\$ 389,998.83	2.60%
	10	\$ 323,091.40	\$ -	\$ 323,091.40	2.15%
	11	\$ 392,181.35	\$ -	\$ 392,181.35	2.61%
	12	\$ 282,235.65	\$ -	\$ 282,235.65	1.88%
	13	\$ 302,836.57	\$ -	\$ 302,836.57	2.02%
	Subtotal	\$ 7,159,944.75	\$ -	\$ 7,159,944.75	47.73%
Non-MSA Counties and Counties with Only Rural Places	1	\$ 683,707.62	\$ -	\$ 683,707.62	4.56%
	2	\$ 555,408.55	\$ -	\$ 555,408.55	3.70%
	3	\$ 375,705.53	\$ -	\$ 375,705.53	2.50%
	4	\$ 881,035.69	\$ -	\$ 881,035.69	5.87%
	5	\$ 655,194.91	\$ -	\$ 655,194.91	4.37%
	6	\$ 331,563.97	\$ -	\$ 331,563.97	2.21%
	7	\$ 231,971.28	\$ -	\$ 231,971.28	1.55%
	8	\$ 506,580.02	\$ -	\$ 506,580.02	3.38%
	9	\$ 354,745.29	\$ -	\$ 354,745.29	2.36%
	10	\$ 534,304.72	\$ -	\$ 534,304.72	3.56%
	11	\$ 649,864.64	\$ -	\$ 649,864.64	4.33%
	12	\$ 580,665.51	\$ -	\$ 580,665.51	3.87%
	13	\$ 1,499,307.53	\$ -	\$ 1,499,307.53	10.00%
	Subtotal	\$ 7,840,055.25	\$ -	\$ 7,840,055.25	52.27%
Total	\$ 15,000,000.00	\$ -	\$ 15,000,000.00	100.00%	

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Subregion Allocation Floor: \$100,000.00

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BOARD ACTION REQUEST

PROGRAMS DIVISION

JULY 14, 2020

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 1, §1.21, Action by Department if Outstanding Balances Exist; an order proposing new 10 TAC Chapter 1, §1.21, Action by Department if Outstanding Balances Exist; and directing their publication for public comment in the Texas Register

RECOMMENDED ACTION

WHEREAS, the current rule relating to action that may be taken by the Department if outstanding balances are owed to the Department, at 10 TAC §1.21, requires re-review;

WHEREAS, staff has determined that the rule is in need of revisions, and such revision is being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place;

WHEREAS, staff recommends to the Board that there is a continuing need for this rule to exist, which is to ensure the Department is taking steps to ensure repayment of outstanding funds prior to taking further actions for the person owing the funds; and

WHEREAS, such proposed rulemaking will be published in the Texas Register for public comment and subsequently returned to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the Texas Register for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

BACKGROUND

10 TAC §1.21, Actions Action by Department if Outstanding Balances Exist, has been identified by staff as needing several minor revisions. The current rule was adopted in December 2016, and staff has recognized the need to make changes to the rule. Changes relate primarily to making it clearer that the awards of new funds are included in the actions that the Board will not take without repayment of funds, or a person being in a current repayment plan, and to delete repetitive language regarding Contract Amendments.

Attachment 1: Preamble, including required analysis, for proposed repeal of §1.21, Action by Department if Outstanding Balances Exist

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC §1.21, Action by Department if Outstanding Balances Exist. The purpose of the proposed repeal is to clarify the applicability of this rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the proposed repeal would be in effect:

1. The proposed repeal does not create or eliminate a government program but relates to changes to an existing activity: previous participation reviews.
2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed repeal does not require additional future legislative appropriations.
4. The proposed repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The proposed repeal will not expand, limit, or repeal an existing regulation.
7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held July 31, 2020, to August 31, 2020, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, August 31, 2020.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

§1.21, Action by Department if Outstanding Balances Exist

Attachment 2: Preamble, including required analysis, for proposed new §1.21, Action by Department if Outstanding Balances Exist

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC of §1.21, Action by Department if Outstanding Balances Exist. The purpose of the proposed new section is to make minor clarifications to the handling of requests to the Department when outstanding balances are due. The proposed new rule clarifies that this rule is applicable to cases of applications for awards, and makes other minor modifications.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the proposed new section would be in effect:

1. The proposed new section does not create or eliminate a government program but relates to changes to an existing activity, previous participation reviews.
2. The proposed new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed new section does not require additional future legislative appropriations.
4. The proposed new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed new section is not creating a new regulation, except that they are replaced sections being repealed simultaneously to provide for revisions.
6. The proposed new section will not expand, limit, or repeal an existing regulation.
7. The proposed new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the proposed new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed new section as to their possible effects on local economies and has determined that for the first five years the proposed new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the proposed new section is in effect, the public benefit anticipated as a result of the new section would be an updated rule. There will not be economic costs to individuals required to comply with the new sections.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed new section is in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held July 31, 2020, to August 31, 2020, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, August 31, 2020.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

§1.21, Action by Department if Outstanding Balances Exist

(a) Purpose. The purpose of this section is to inform Persons or entities requesting awards of new funds or resources, Form(s) 8609, application amendments, LURA amendments, new Contracts (with the exception of a Household Commitment Contract), Contract amendments, ~~Contract extensions, Contract renewals~~ or loan modifications that, with the exceptions noted by this rule, if fees or loan payments (principal or interest) are past due, or Disallowed Costs have not been repaid, to the Department, the request may be denied, delayed, or the Subrecipient/Administrator/Developer/~~'s~~ Owner's Contract(s) terminated.

(b) Definitions.

(1) Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Part that govern the program associated with the request, or assigned by federal or state law.

(2) Disallowed Costs: Expenses claimed by a Subrecipient/Administrator/Developer/Owner, paid by the Department, and subsequently determined by the Department to be ineligible and subject to repayment.

(c) Except in the case of interim construction loans, if Disallowed Costs, fees, or loan payments are past due -the Department will not: issue Form(s) 8609; amend applications, or LURAs; or Contracts, extend or renew Contracts or modify loan documents if fees or loan payments are past due to the Department, related to the subject of the request.

(d) Except in the case of Contracts for CSBG non-discretionary funds, the Department will not make awards of new funds or resources, issue enter into new Contracts, or amend Contracts when Disallowed Costs, fees, or loan payments identified by the Department remain unpaid, unless the entity has entered into, and is complying with, an agreed-upon repayment plan that is approved by the Department's Executive Director or Enforcement Committee.

(e) Once the Department notifies a Person or entity that they are responsible for the payment of a Disallowed Costs, required fee or payment that is past due, if no corrective action is taken within five seven business-days of notification, the Executive Director may deny the requested action for failure to comply with this rule.

(f) Exception for a Work Out Development. If fees (not including application or amendment fees) or payments affiliated with a work out Development are past due, then the past due amounts affiliated with a work out Development may be excepted from this rule, so long as the work out is actively underway by Department staff. In which case, in the Department's sole discretion, LURA or any other kinds of amendments may be considered for the subject Development or Contract.

(g) In accordance with Subchapter C of this Chapter (relating to Previous Participation Reviews), if a Person or entity applies for funding or an award from the Department, any fees, Disallowed Costs, or payment of principal or interest to the Department that is past due beyond any grace period provided for in the applicable loan documents and any past due fees (not just those related to the subject of the request) will be reported to the EARAC.

2a

BOARD REPORT ITEM

BOND FINANCE DIVISION

JULY 14, 2020

Report on the Department's Swap Portfolio and recent activities with respect thereto

BACKGROUND

Between 2004 and 2007, the Department entered into five interest rate swaps to hedge interest rate risk associated with its tax-exempt, single family variable rate mortgage revenue bonds. One swap was terminated in conjunction with a refunding of the underlying bonds, and four swaps remain outstanding, two of which were restructured in 2014.

In accordance with the Department's Interest Rate Swap Policy, the Bond Finance Division has the day-to-day responsibility of managing the swaps. The outstanding bonds associated with each of the swaps are reduced by scheduled redemptions and maturing amounts, and by amounts representing principal and prepayments received on the mortgage-backed securities that secure each bond issue. Under state law, the notional amount of swap outstanding cannot exceed the par amount of related bonds outstanding. To avoid being overswapped, staff closely monitors the amount of swap outstanding, the related outstanding bond amount, and any upcoming bond redemptions to ensure enough swap is called to comply with state law.

In addition to monitoring state law compliance, staff works closely with the Department's Financial Advisor, Stifel, Nicolaus & Company, Incorporated, to identify opportunities to terminate or reduce swaps by exercising par optional terminations, or call rights, on those swaps. Staff analyzes the economic benefit of the proposed termination, and evaluates potential interest rate or other associated risks. When both economically beneficial and prudent to do so, optional termination rights are exercised on portions of the underlying swaps.

The attached report reflects the status of the Department's swaps as of June 1, 2020. Series 2005A and Series 2007A swaps are matched amortization swaps; as such, a reduction in the outstanding swap amount for these series is the direct result of principal payments and prepayments received on the underlying mortgage loans. The reduction of \$575,000 in the outstanding swap for Series 2004B and \$440,000 for Series 2004D was due to principal and prepayments received on the underlying mortgage loans. State law requires that the bonds outstanding equal or exceed the amount of swap outstanding at all times.

Since 2004, when the Department first utilized swaps to hedge variable rate bonds, the total notional amount of swaps has been reduced from an initial \$354,005,000, to the current outstanding amount of \$57,900,000.

Texas Department of Housing and Community Affairs
Swap Portfolio Update
July 14, 2020

Matched Amortization Swaps							
Related Bonds	Swap Counterparty	Effective Date	Maturity Date	Original Notional Amount	Swap Outstanding Notional as of 12/1/2019	Swap Outstanding Notional as of 6/1/2020	CHANGE in Swap Outstanding
2005A	JP Morgan	8/1/2005	9/1/2036	\$ 100,000,000	\$ 17,685,000	\$ 16,285,000	\$ (1,400,000)
2007A	JP Morgan	6/5/2007	9/1/2038	\$ 143,005,000	\$ 17,900,000	\$ 15,835,000	\$ (2,065,000)

Amortizing Swaps with Optionality							
Related Bonds	Swap Counterparty	Effective/Restructured Date	Maturity Date	Original Notional Amount	Swap Outstanding Notional as of 12/1/2019	Swap Outstanding Notional as of 6/1/2020	CHANGE in Swap Outstanding
2004B	BNY Mellon	3/1/2014	9/1/2034	\$ 40,000,000	\$ 15,470,000	\$ 14,895,000	\$ (575,000)
2004D	Goldman Sachs	1/1/2005	3/1/2035	\$ 35,000,000	\$ 11,325,000	\$ 10,885,000	\$ (440,000)
2006H	BNY Mellon	3/1/2014	9/1/2025	\$ 36,000,000	\$ -	\$ -	\$ -

TOTAL SWAPS				\$ 354,005,000	\$ 62,380,000	\$ 57,900,000	\$ (4,480,000)
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2004B - UBS AG was the original counterparty and the original notional at issuance was \$53,000,000.

Variable Rate Bonds Associated with Matched Amortization Swaps							
Related Bonds	Swap Counterparty	Effective Date	Maturity Date	Original Notional Amount	Bonds Outstanding 12/1/2019	Bonds Outstanding 6/1/2020	CHANGE in Bonds Outstanding
2005A	JP Morgan	8/1/2005	9/1/2036	\$ 100,000,000	\$ 17,685,000	\$ 16,285,000	\$ (1,400,000)
2007A	JP Morgan	6/5/2007	9/1/2038	\$ 143,005,000	\$ 17,900,000	\$ 15,835,000	\$ (2,065,000)

Variable Rate Bonds Associated with Amortizing Swaps with Optionality							
Related Bonds	Swap Counterparty	Effective Date	Maturity Date	Original Notional Amount	Bonds Outstanding 12/1/2019	Bonds Outstanding 6/1/2020	CHANGE in Bonds Outstanding
2004B	BNY Mellon	3/1/2014	9/1/2034	\$ 40,000,000	\$ 18,395,000	\$ 16,655,000	\$ (1,740,000)
2004D	Goldman Sachs	1/1/2005	3/1/2035	\$ 35,000,000	\$ 12,425,000	\$ 11,645,000	\$ (780,000)
2006H	BNY Mellon	3/1/2014	9/1/2025	\$ 36,000,000	\$ -	\$ -	\$ -

TOTAL BONDS				\$ 354,005,000	\$ 66,405,000	\$ 60,420,000	\$ (5,985,000)
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3a

BOARD ACTION REQUEST

FAIR HOUSING, DATA MANAGEMENT, AND REPORTING

JULY 14, 2020

Presentation, discussion, and possible action on a Reasonable Accommodation Request denial in accordance with 10 TAC §1.1(c)(4) relating to Reasonable Accommodation Requests to the Department

RECOMMENDED ACTION

WHEREAS, 10 TAC §1.1 establishes the procedures by which a program participant may ask the Department that a Reasonable Accommodation Request be made;

WHEREAS, a Reasonable Accommodation Request was made to the Department by Mr. Edward Smith, a participant in the Section 811 Project Rental Assistance (PRA) program, requesting to transfer from one Section 811 PRA property to another Section 811 PRA property;

WHEREAS, the Section 811 PRA program is not designed to accommodate such a request and there is no contractual vehicle by which a Section 811 PRA property can be required to accept a transfer from other Section 811 PRA property, even in the case of a request for a Reasonable Accommodation;

WHEREAS, staff therefore determined that accommodating the Reasonable Accommodation Request would be a fundamental alteration to the Section 811 PRA program and the request was subsequently denied by the Executive Director; and

WHEREAS, in accordance with 10 TAC §1.1(c)(4), which provides Mr. Smith the right to ask that the request be placed on the agenda at this Board meeting;

NOW, therefore, it is hereby

RESOLVED, that that the Board shall consider the Reasonable Accommodation Request made by Mr. Smith.

BACKGROUND

Brief Program Description

Several key factors about this program give important context for this item. The Section 811 PRA program provides project-based rental assistance for extremely low-income persons with disabilities linked with long term services. All clients in the program are persons with a disability within certain target populations, and no disability type has any greater consideration than any other disability type. The Participation Selection Plan was developed in coordination with the Texas Health and Human Services agencies and has been approved by the U.S. Department of Housing and Urban Development (HUD).

Interested clients are referred by their caseworkers directly to Department staff who then determine initial eligibility, and assist them in being placed on one or more waiting lists for 811 PRA properties. Unlike most Department programs in which assistance is provided to a subrecipient or developer and there is no direct relationship between tenants and the Department, in this program the Department works directly with clients and provides assistance on their behalf.

Reasonable Accommodation Request

In August 2019, Mr. Edward Smith (the Requestor), a tenant of the Section 811 PRA program, emailed staff inquiring about a transfer from his current property of residence to another property participating in the Section 811 program. In response, program staff indicated that Section 811 tenants cannot transfer from one property to another without being placed on the property's waiting list because each property participating in the Section 811 PRA program has executed a triparty Rental Assistance Contract (RAC) with the Department and the HUD specifying its number of designated Section 811 units.

For a property with a RAC in place, all designated Section 811 units are either occupied or have other 811 PRA households waiting for them as evidenced by the property's waiting list. Because of this fundamental program design as administered by HUD and the Department, a transfer from one property to another is not feasible except by first being placed on a waiting list and waiting for their turn. This issue of needing to be on another property's waiting list was relayed to Mr. Smith and he was advised to reapply at another property in order to secure a place on the waitlist. Further, to prevent tenants already stably housed in an 811 PRA unit from delaying access to housing for those still on the waiting list, the program's Participant Selection Plan states: "After an Applicant has moved in and occupies an 811 PRA unit, the Applicant will be removed from all other 811 PRA waiting lists for any other properties to which they applied."

Over the subsequent months, the Requestor communicated with program staff on this issue and on separate issues the Requestor was having with property management. Following the initial communications with program staff about a transfer, the Requestor continued emailing Department staff, Board members, and elected officials indicating his desire to move to another property.

In December 2019, the 811 PRA property in which Mr. Smith resided, issued numerous lease violations to him; he was issued a Notice to Vacate in January 2020. Compliance staff worked with the property to resolve a complaint filed in relation to these violations. Within the complaint, the Requestor indicated that he was still seeking a property transfer, and wished to do so as part of a Reasonable Accommodation request. The lease violations components of the complaint were resolved in February 2020 by Compliance staff and the Reasonable Accommodation request was transferred to program staff for handling.

After careful consideration, staff from the Section 811 PRA, Fair Housing, and Legal Divisions recommended to the Executive Director a denial of the Reasonable Accommodation Request for three primary reasons:

First, a disability-related need for the accommodation has not been provided by the Requestor. A Reasonable Accommodation by definition is "an accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, service, building, or dwelling unit, that will

allow a qualified person with a Disability to: (A) Participate fully in a program; (B) Take advantage of a service; (C) Live in a dwelling; or (D) Use and enjoy a dwelling.” Mr. Smith has not specified defined reason under this definition how his disability can be accommodated by moving.

Second, fulfilling the request would require a fundamental alteration to program administration. The Section 811 PRA currently has no contractual vehicle by which a Section 811 PRA property can be required to accept a transfer from other Section 811 PRA property, even in the case of a request for a reasonable accommodation without the client first being referred from the waiting list. There is no centralized administration of the Section 811 RA participating properties that would allow the Department to require or permit another property to accept a transfer outside of the RAC and waiting list process.

Third, no preference exists that allows an existing tenant of an 811 PRA unit to be placed ahead of others on the waiting list. Even if contractually possible, this change in the Section 811 PRA program would have to be negotiated with the Texas Health and Human Service Agencies and HUD, and likely would not be allowed to be implemented until the existing waitlist is exhausted.

Upon receipt of the denial by the Executive Director in accordance with 10 TAC §1.1(c)(4)(E) the requestor subsequently asked that request be placed on the Board’s agenda.

Staff recommends that the Board deny Mr. Smith’s Reasonable Accommodation Request, completing the process outlined in 10 TAC §1.1(c)(4).

4a

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 14, 2020

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 20184 The Heritage at Abilene.

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 20184 The Heritage at Abilene, which was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for 20184 The Heritage at Abilene is hereby denied.

BACKGROUND

10 TAC §11.9, related to Competitive HTC Selection Criteria, identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 60 Units for the Elderly population in Abilene.

Staff received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan (CRP). 10 TAC §11.9(d)(7) details the requirements for a CRP to be eligible, and staff found that the documentation provided did not meet the rule requirements for a CRP. The previously published application score was reduced by seven points for the scoring item, pending the Applicant's ability to appeal.

The Comprehensive Plan submitted is generalized for the City of Abilene. Per the rule at 10 TAC §11.9(d)(7)(A)(ii):

(ii) A plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The problems identified by staff stem from the fact that the Application did not contain evidence that meets the requirements of this subparagraph. While the Comprehensive Plan describes Abilene neighborhoods *in general*, it includes no documentation of a study or recommendations for "Original Town South" (the location of the development site in the Application) or any other area included in Neighborhood Empowerment Zone #1 – which appears to be a multi-neighborhood area four miles long and a mile wide centered on downtown Abilene.

The appeal states that the "[t]he planning process used by the City of Abilene is one that is similar to many cities across the state. A Comprehensive Plan is produced to give an overview of issues faced by the city, often times with specific geographic areas called out for their needs, which result in future goals and objectives for those areas. Then based on those initial assessments, specific localized plans or policies are introduced to implement the strategies/goals/objectives. These localized plans/policies, in concert with the Comprehensive Plan, constitute revitalization plans." Staff believes that the City of Abilene has not completed the process. The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1. No such document showing such planning was provided in the Application. What has been provided is a resolution creating the zone, and excerpts from the statutory requirements for creating the zone. The resolution creating the zone, itself, is captioned as a resolution of the city council of the City of Abilene that repeals a 2009 "infill development program" and creates "a new infill development incentive program." Though the resolution arguably creates a framework for the City of Abilene to offer building incentives in this large swath of the city, it certainly cannot be said to be a "local planning document that together [with the consolidated plan] create[s] a cohesive agenda for the plan's specific area," as required by the rule.

The appeal further states that "because this scoring item has three point components, we also request that the three components be reviewed individually and that the Applicant receive 3 of the total 7 points for the City Revitalization Resolution (2 points) and Opportunity Index items (1 point)." The rule, as written, describes the nature and composition of the CRP as a predicate, and then discusses the mechanics of how many points can be awarded given certain documentary submissions. In other words, an applicant cannot score CRP points if they have not submitted a CRP in accordance with the rules. Having found that the Application does not sufficiently illustrate a CRP in accordance with the rules, the Executive Director sustained Staff's determination to reduce the score by seven points.

Staff Recommends the Board deny the appeal.

20184 The Heritage at Abilene

Scoring Notification



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

April Engstrom

Phone #: (785) 212-0810

Email: april@ovpgroup.com

Second Email: ajcarpen@gmail.com

Date: June 03, 2020

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for The Heritage at Abilene, TDHCA
Number: 20184**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 20184, The Heritage at Abilene

Section 1:

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):

131

Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):

131

Difference between Requested and Awarded:

0

Section 2:

Points Awarded for §11.9(c)(8) Readiness to Proceed:

0

Points Awarded for §11.9(d)(1) Local Government Support:

17

Points Awarded for §11.9(d)(4) Quantifiable Community Participation:

4

Points Awarded for §11.9(d)(5) Community Support from State Representative:

8

Points Awarded for §11.9(d)(6) Input from Community Organizations:

4

Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:

0

Section 3:

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:

0

Section 4:

Final Score Awarded to Application by Department staff (Including all points):

164

Section 5:

Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:

§11.9(d)(7) Concerted Revitalization Plan. The Application requested seven (7) points but is not eligible for points under this item because the documentation provided does not meet the requirements for a CRP. (Requested 7, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, June 10, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon D. Gamble

Sharon D. Gamble
 Competitive HTC Program Administrator

Appeal Documents

June 10, 2020

Bobby Wilkinson
TDHCA
221 E 11th Street
Austin, TX 78701

Dear Mr. Wilkinson:

Please consider this a formal appeal of the Scoring Notice for The Heritage at Abilene (TDHCA #20184). Per the Notice, "The Application requested seven (7) points but is not eligible for points under this item because the documentation provided does not meet the requirements for a CRP."

We respectfully request that the eligibility of the Abilene Comprehensive Plan and the Abilene Neighborhood Empowerment Zone collectively be considered complementary revitalization documents that meet the CRP requirements and all seven points be reinstated. Additionally, because this scoring item has three point components, we also request that the three components be reviewed individually and that the Applicant receive 3 of the total 7 points for the City Revitalization Resolution (2 points) and Opportunity Index items (1 point).

Overview

The planning process used by the City of Abilene is one that is similar to many cities across the state. A Comprehensive Plan is produced to give an overview of issues faced by the city, often times with specific geographic areas called out for their needs, which result in future goals and objectives for those areas. Then based on those initial assessments, specific localized plans or policies are introduced to implement the strategies/goals/objectives. These localized plans/policies, in concert with the Comprehensive Plan, constitute revitalization plans. This is exactly how the City approached the revitalization needs for the older historic downtown area of Abilene.

Per the City of Abilene, "subsequent to the Comprehensive Plan, the City identified the Original Town South, Original Town North, and North College as meeting the criteria of the "Established Redeveloping Neighborhoods" and created the Abilene Neighborhood Empowerment Zone (NEZ) to "Promote the revitalization of older neighborhoods that have experienced disinvestment." The NEZ makes these areas eligible for development incentives including development fee waivers, municipal property tax abatements, and an infill development program and corresponding economic development incentives were created to go along with the NEZ. The Heritage at Abilene HTC development is located within this NEZ."

Staff Issues with the CRP

Once we received the scoring notice, we requested more detailed information from staff as to why they felt the two plans did not constitute a qualifying Community Revitalization Plan.

Below is a point by point response to the issues raised by staff:

Staff did not find that the Comprehensive Plan and the NEZ resolution amount to complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The Comprehensive plan is generalized to the entire city, and staff found no agenda for the specific area in the NEZ resolution.

The area where the proposed development is located is in Original Town South, which is a neighborhood outlined in the Comprehensive Plan as an “Established Redeveloping Neighborhood” as described on page 63. As outlined in the Plan on page 64, these areas have strategies to address local issues that include providing incentives to encourage infill and redevelopment in distressed neighborhoods, and provide financial incentives, such as rehabilitation loans/grants, offsets of development fees, and tax-advantaged project financing. The creation of the NEZ for the area was a direct result of the issues identified by the Comprehensive Plan.

Because the Comprehensive Plan is general for the entire city, staff did not find evidence that problems in the targeted area were identified through a process in which affected local residents had an opportunity to express their views on problems facing the area targeted for revitalization, and how those problems should be addressed and prioritized.

Both the Comprehensive Plan and the Creations/Approval of the NEZ included public input opportunities for the public and specific neighborhood to express their views. Specifics to public input the Comprehensive Plan can be found in the document pages 5-8. Strategies related to the Established Redevelopment Neighborhoods can be found on pages 63 and 64.

With regard to the input for the NEZ, City staff developed the boundary of NEZ with public input as required by statute after notice was published in the newspaper and holding a public hearing. The public also had the opportunity to give input at the City Council meeting where the NEZ and infill programs were approved. The City write up of the NEZ Agenda item and related Infill Program outline priorities and strategies to address problems.

Staff did not find information about common attributes and problems of the targeted area in either the Comprehensive Plan or the NEZ resolution.

As outlined in the Comprehensive Plan on page 63:

Abilene is a city with many unique older neighborhoods. Some have retained their character and aged gracefully. Others, however, have become run-down with deteriorating housing stock. Vacant houses, lots and boarded structures exacerbate crime problems, deter businesses from locating in older neighborhoods, and perpetuate a cycle of decline. In order to change the momentum from decline to revitalization, City policies propose a multifaceted approach to the revitalization of mature neighborhoods. Policies specifically focus on stabilizing neighborhoods by improving infrastructure, such as streets, schools and parks, housing conditions, and ensuring that Abilene citizens have an opportunity to live in the type of dwelling and location of choice. If an entire block of homes, along with adjacent facilities can be improved, the odds for preserving the neighborhood as a desirable place to live are greatly enhanced. To achieve this end, the City should concentrate its efforts on whole neighborhoods rather than isolated units. Stable neighborhoods

encourage residents to maintain, upgrade, build, and buy housing resulting in a sound, diverse housing stock.

Likewise, the requirements of the NEZ outline the attributes and problems within the targeted area:

- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;
- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

Common attributes include existing neighborhoods that have become run down, deteriorating housing stock, vacant structures, higher rates of crime, and depressed commercial property values.

Staff did not find a description of how the targeted area was once vital but has lapsed into a condition requiring concerted revitalization in either the Comprehensive Plan or the NEZ resolution.

As discussed in the previous response, both the Comprehensive Plan and the NEZ outline general characteristics of this older area of Abilene and the decline that necessitates revitalization and must be present for a NEZ to be created.

In addition to pp. 63-64, pages pp. 22, 56, 61, and 74 of the Comprehensive Plan talk about the need for revitalization, infill, re purposing of empty schools.

Staff did not find information about goals for the targeted area in either the Comprehensive Plan or the NEZ resolution.

Goals for this part of town are outlined in the Comprehensive plan on pages 63-64. (See Attached)

Goals for the NEZ were outlined in the City Write up for the NEZ and is attached.

Regarding the timetable, the 2004 Comprehensive Plan was for 10-15 years, and staff did not find a timetable in the NEZ resolution.

The 2004 Comprehensive Plan is still the current Comprehensive Plan for Abilene. The timetable for the NEZ is statutorily set and expires five years after the date of the designation and may be renewed for an additional five years. This was provided with the statutory requirements and mentioned in the City's letter provided in the Application.

Staff did not find evidence of a history of sufficient, documented and committed funding, and as stated before, no evidence of problems or a timetable for them to be sufficiently addressed and no goals.

Please refer to the letter (See attached) we submitted with the Application which outlined an estimated \$160,000 in fees have been waived for the projects and developments to date.

The attached letter from the City of Abilene addresses many of the issues brought up by staff and confirms among other things that the process including public participation, that the Comprehensive Plan/NEZ are complimentary planning documents, the attributes of the area including decline and need for revitalization, that funds have been expended in the area and will continue to be.

Similarity to TDHCA #20025 (Palladium Fain Street)

We ask that the submission of the Application #20025 Palladium Fain Street be reviewed and compared to our submission. The circumstances behind two CRPs are almost identical, yet 20025 received the full 7 points and this Application received zero points.

The documents used by both Applications are the City's Comprehensive Plan and the resulting NEZ that was created. They both had/met the same public input requirements. They both used similar documentation to identified common elements/attributes. The goals for the NEZ were both listed in the City Agenda item write ups. Each NEZ identified their evidence of problems based on the statutory requirements of the NEZ (20025 was outlined in City letter and this Application by the submission of statutory requirements). They both followed the same statutory timetables for the NEZ.

It should be noted that the City of Fort Worth has had multiple HTC applications in revitalization areas over the past several years and is more experienced than the City of Abilene with regard to TDHCA's Concerted Revitalization scoring item and document requirements. While the City of Fort Worth may have had more comprehensive summaries for agenda items and documentation, the background, process, and proof for the Comprehensive Plan and NEZ plan are analogous and should be treated consistently. Like #20025, this Application has documents that constitute a legitimate CRP.

Application is Eligible for 3 out of 7 Points

This scoring item has three point selections that comprise a total of 7 possible points. Up to 7 points will be awarded based on: (I) 4 points for a letter from a local official providing documentation of improvements in the revitalization area, (II) 2 points for a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, and (III) 1 point if the development is in a location that would score at least five points under the Opportunity Index.

The scoring notice issued for this Application indicated that 0 of 7 points have been awarded for Concerted Revitalization Plan without considering the individual point selections that comprise the scoring item. In the 2020 QAP, the language indicating that the 2-point and 1-point options were awarded "in addition" to the 4-point option was removed, so each point selection should be reviewed.

This Application provided a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, as well as documentation to demonstrate that the development is in a location that would score at least five points under the Opportunity Index. This Application is eligible for these two point selections, which constitutes 3 of the 7 points available under this scoring item.

This would be consistent with the scoring notice for Application 20281 Bayou Bend Apartments, where staff did not award the 4 points for the first point selection but did award the 3 points for the second and third point selections.

Conclusion

The circumstances surrounding the planning for the Abilene Neighborhood Empowerment Zone are indicative of the limitations of the QAP language and the current process for CRP scoring as a whole.

When the scoring item was initially written, there was significant discussion of how local communities do their planning and the problem of the State being the arbiter of what is truly considered to be revitalization. At the time, the development community was assured the language in the QAP was for guidance and that some subjectivity would be used -- that the planning efforts of the city in its totality should show that: 1) an area within the city has been identified as having been vibrant and gone into a decline; 2) that citizens be given the opportunity to weigh in on the issues; and 3) that the city had identified ways to address the needs of the area and were proceeding with implementation. The Department ensured the development community that staff understood that each municipality would do things a little differently and that they would know Community Revitalization efforts “when they saw them.”

Over the course of the last several years, the review of the CRPs has altered with each new reviewer. The original idea of “knowing it when we see it” and being able to talk through the plans and process has been replaced with check boxes.

At the end of the day, the identification of areas in decline in the Comprehensive Plan and creation of the NEZ and resulting funding for revitalization activities in the older parts of downtown Abilene should be sufficient proof of real and true revitalization efforts on the part of the City of Abilene. We understand that documentation should be required to substantiate the nature of the local revitalization and believe that we have met the threshold as outlined in the QAP:

- ✓ Development Site is located in a distinct area that was once vital and lapsed into a condition requiring concerted revitalization, and where a plan has been developed and executed
- ✓ The Plans must create a cohesive agenda for the plan’s specific area
- ✓ The target area for revitalization should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems
- ✓ The Plans were adopted by the municipality
- ✓ The problems in the revitalization area must be identified through a process which allows local residents an opportunity to express their views

- ✓ Goals of the adopted plan must have a history of funding and flowing in accordance with the plan
- ✓ The Plan must be current and continue for three years and have no budgetary or other obstacles to accomplish the purposes of the plan

Documentation provided by the Applicant meets all of the requirements.

We respectfully request that the staff determination of zero points for the CRP scoring item be reversed and the Application receive 7 points: 4 points for documentation of the revitalization plan and targeted efforts, 2 points for a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, and 1 point for a location that would score at least five points under the Opportunity Index.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Johnson", written over a white background.

Brett Johnson

Developer, Heritage at Abilene

June 10, 2020

Bobby Wilkinson
TDHCA
221 E. 11th
Austin, TX 78701



Dear Mr. Wilkinson:

I am writing to provide additional information to you regarding the City of Abilene's revitalization area known as the Abilene Neighborhood Empowerment Zone (NEZ). It is my understanding that TDHCA is currently denying CRP points to the Applicant of The Heritage at Abilene (TDHCA #20184), and I would like to provide clarification regarding this plan.

Abilene has a diverse collection of neighborhoods. Neighborhoods in the northern and central part of the city are older, and these areas face distinctly different challenges than their counterparts in newer areas in southern parts of the city. The Comprehensive Plan identified specific neighborhoods within the City, established three classifications of defining categories for these neighborhoods, and laid out strategies to address problematic issues relative to their needs. The Heritage at Abilene site is within an area called Original Town South as reference in the Super Neighborhood Boundaries on pp. 58-59 of the Comprehensive Plan.

The City identified the Original Town South, Original Town North, and North College as meeting the criteria of the "Established Redeveloping Neighborhoods" described in the Comprehensive Plan and created the Abilene Neighborhood Empowerment Zone (NEZ) with the objective to "Promote the revitalization of older neighborhoods that have experienced disinvestment." The creation of the NEZ made these areas eligible for a variety of development incentives including development fee waivers and municipal property tax abatements. In fact, an infill development program and corresponding economic development incentives was created to go along with the NEZ. The proposed Heritage at Abilene HTC development is located within this NEZ.

As you may be aware, NEZs are allowed under the Texas Local Government Code §378. The statutory purpose of a NEZ is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone.

In order to be designated a NEZ by the City Council, an area must meet the following criteria:

- Promote the creation of affordable housing in the zone; or an increase in economic development in the zone; or an increase in the quality of social services, education, or public safety provided to residents in the zone; or the rehabilitation of affordable housing in the zone;
- Meet the criteria for a Reinvestment Zone;
- Be 100% Community Development Block Grant ("CDBG") eligible;
- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;

- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

We would like to emphasize that the Comprehensive Plan and the Neighborhood Empowerment Zone resolution collectively constitute a Community Revitalization Plan with a cohesive agenda. The Comprehensive Plan recognized that there are areas in decline in the older parts of central downtown Abilene and introduced strategies for revitalization for those areas, and the NEZ created target areas and incentives for improvement and revitalization. The creation of the Abilene NEZ and the incentives that go along with it are classic examples of local community revitalization planning. The problems of a declining area were identified by the City through research and an open public process, and incentive programs were created to address those issues.

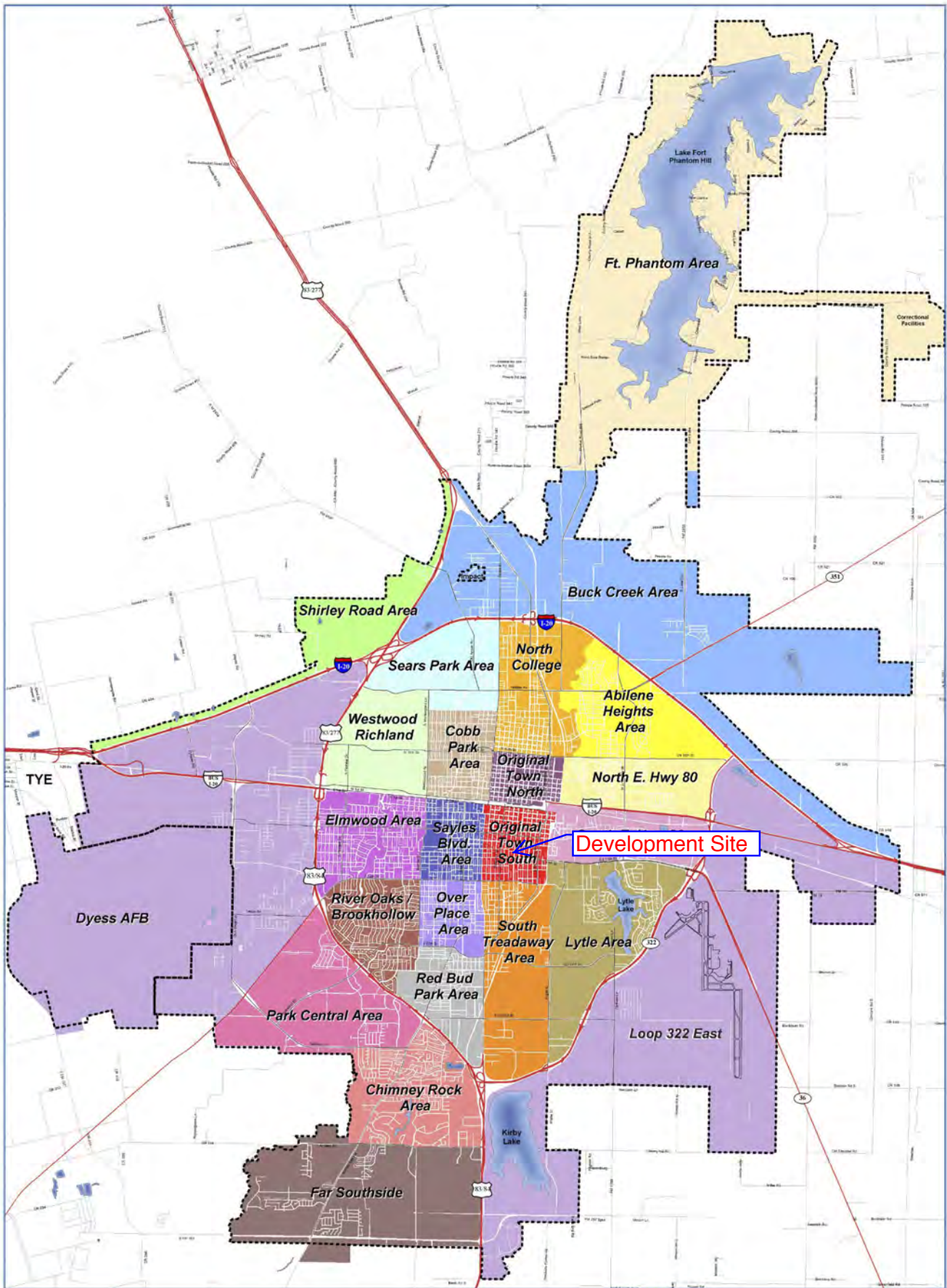
- The Comprehensive Plan and the NEZ resolution are complementary local planning documents that together create a cohesive agenda for the specific area of the Heritage at Abilene.
- Both the Comprehensive Plan and the NEZ were approved by City Council with opportunities for public input through public hearings and city council meetings.
- The Established Redeveloping Neighborhoods contemplated in the Comprehensive Plan, and the target areas of the NEZ overlap older areas of the City that have declined and include the Heritage at Abilene.
- Both the Comprehensive Plan and NEZ are currently active and in effect.
- Funding for the area has been expended and will be spent in the future.

The City of Abilene developed the boundary of NEZ with public input as required by statute after notice was published in the newspaper and a public hearing was held, and the City Council approved the creation of NEZ. When taking the Established Redeveloping Neighborhoods target areas of the Comprehensive Plan together with the NEZ, it is clear that declining areas were identified and strategies and funding were created to improve target areas of the City. The Heritage at Abilene is within a community revitalization area within the City of Abilene and will contribute to the revitalization and housing needs in the area.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Warrix", with a long horizontal flourish extending to the right.

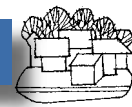
Michael Warrix, AICP
Director of Planning and Development Services



Neighborhoods			Road Type	
Abilene Heights Area	North E. Hwy 80	Shirley Road Area	Aerial Roads	US and State Highways Local or Collector
Buck Creek Area	Original Town North	South E. Hwy 80	Local or Collector	
Chimney Rock Area	Original Town South	South Treadway Area	City Boundary	 January 2003
Cobb Park Area	Over Place Area	Westwood Richland		
Elmwood Area	Park Central Area	Loop 322 East		
Far Southside	Red Bud Park Area	Dyess AFB		
Ft. Phantom Area	River Oaks / Brookhollow	Water Bodies		
Lytle Area	Sayles Blvd. Area			
North College	Sears Park Area			

Super Neighborhood Boundaries





Established Redeveloping Neighborhoods

Discussion: Abilene is a city with many unique older neighborhoods. Some have retained their character and aged gracefully. Others, however, have become run-down with deteriorating housing stock. Vacant houses, lots and boarded structures exacerbate crime problems, deter businesses from locating in older neighborhoods, and perpetuate a cycle of decline. In order to change the momentum from decline to revitalization, City policies propose a multifaceted approach to the revitalization of mature neighborhoods. Policies specifically focus on stabilizing neighborhoods by improving infrastructure, such as streets, schools and parks, housing conditions, and ensuring that Abilene citizens have an opportunity to live in the type of dwelling and location of choice. If an entire block of homes, along with adjacent facilities can be improved, the odds for preserving the neighborhood as a desirable place to live are greatly enhanced. To achieve this end, the City should concentrate its efforts on whole neighborhoods rather than isolated units. Stable neighborhoods encourage residents to maintain, upgrade, build, and buy housing resulting in a sound, diverse housing stock.

Objective: Promote the revitalization of older neighborhoods that have experienced disinvestment.

Strategy 13: Prepare plans for established redeveloping SNAs to identify functional needs and to coordinate redevelopment programs and infrastructure improvements. Figure 14 illustrates a prototypical redevelopment plan.

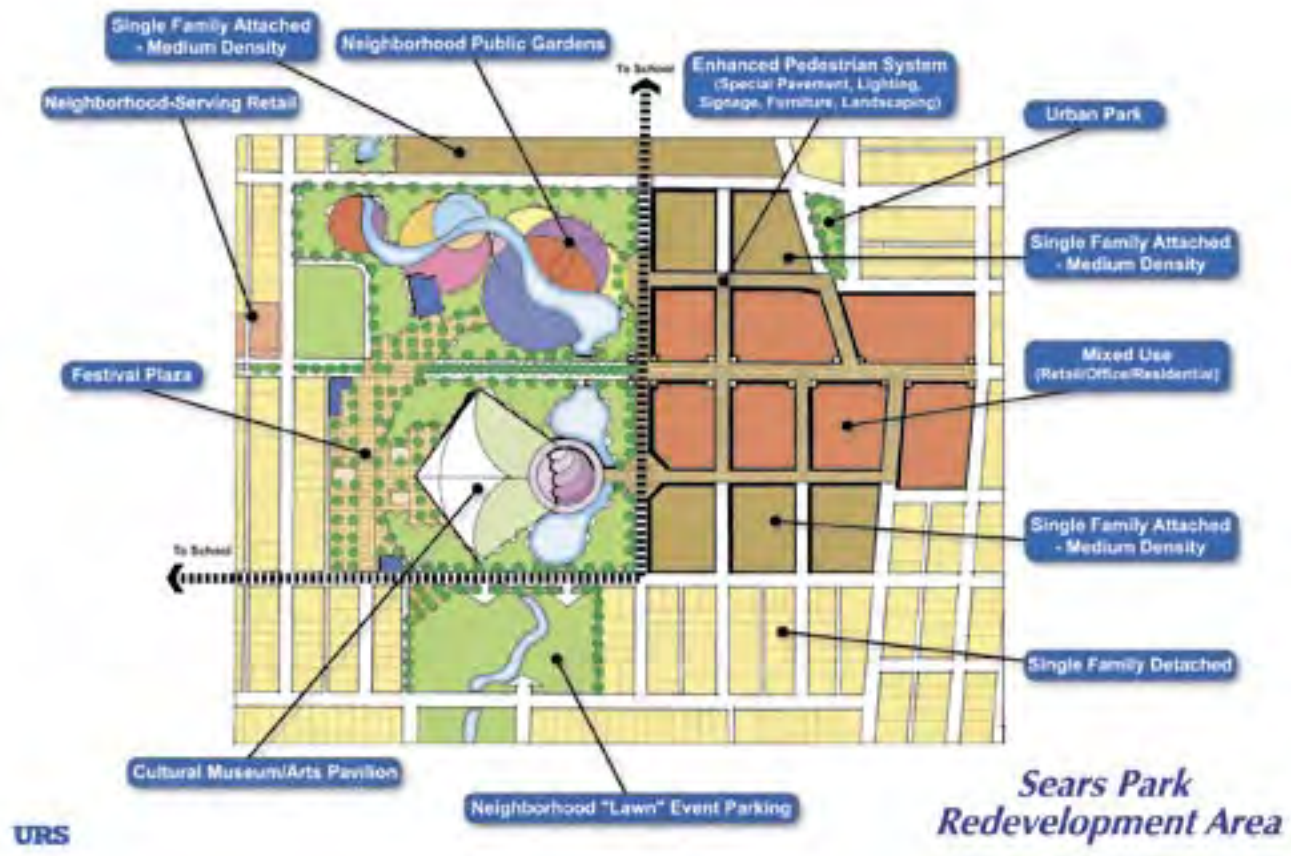


Figure 14: Example of a redevelopment program within the Sears neighborhood.

NEIGHBORHOODS

Strategy 14: Establish performance standards for infill development that respect the scale and character of the neighborhood.

Strategy 15: Provide incentives to encourage infill and redevelopment in distressed neighborhoods. Use the following regulatory and financial tools to leverage additional investment in established redeveloping SNAs and promote homeownership:

- Locally funded exterior rehabilitation programs to improve the structural and aesthetic condition of existing housing.
- Areawide zoning reclassifications when consistent with neighborhood redevelopment plans.
- Financial incentives, such as rehabilitation loans/grants, offsets of development fees, and tax-advantaged project financing.
- Federal, state, and local funds to rehabilitate dilapidated residential structures occupied by lower income residents.

Strategy 16: Revise development regulations to include incentives designed to encourage rehabilitation over demolition.

Strategy 17: Apply environmental code enforcement measures in conjunction with the City's community policing program to arrest patterns of decline.

Strategy 18: Where appropriate, use the siting of public facilities in neighborhoods as a catalyst for increased public investment.

Objective: Maintain and support local schools as community assets that are central to the stability of neighborhoods.

Strategy 19: In consultation with the Abilene Independent School District and Wylie Independent School District, devise small-area plans that strengthen the neighborhood-school link with methods designed to:

- Improve walkability.
- Enhance housing location and transportation choices for low-income and minority populations.
- Arrest and stabilize land use transition.
- Increase residential density in proximity to the school.
- Create opportunities for the school to serve the neighborhood in multiple ways.

Strategy 20: Develop small-area plans for neighborhoods with vacant school facilities that will open up new opportunities for compatible productive reuse of the facility and that forge new links between residents and the former school site.



**City Council
Agenda Memo**

City Council Meeting Date: 5/10/2018

TO: The Honorable Mayor and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: Resolution: Repealing Resolution 1-2009 and Authorizing the creation of an infill development program and corresponding economic development incentives (Robert Hanna)

GENERAL INFORMATION

The City Council adopted six priorities at the FY 2018 Council Retreat. Those priorities include: (1) infill development, (2) downtown hotel, (3) reduce expenditures and create efficiencies, (4) determine total cost of deferred maintenance, (5) street maintenance, and (6) development along I-20.

The attached resolution focuses on infill development and accomplishes two things: (1) it repeals our current infill development program, and (2) it establishes a new infill development program.

The new program authorizes the following incentives with Council approval:

- The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone.
- The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code.
- The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.
- The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone.
- The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

The program authorizes the City Manager to offer the additional incentives without additional Council approval:

- The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees.

- The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City’s actual cost.
- The City Manager may waive or reduce sewer and water tap fees.
- The City Manager may waive or reduce zoning application fees.

In general, the initial boundaries for the zone are bounded on the east and west borders by the flood plains of Elm Creek and Cedar Creek. The northern boundary is I-20 and the southern boundaries are South 7th and South 14th with Butternut as the connector between the two.

These areas were chosen based on a heat map analysis of the total value per total square foot of improvements per parcel. The map (attached) helps to identify those areas where infill development or redevelopment of existing structures may be more successful than other areas.

The proposed boundaries are not meant to be unalterable. As our infill efforts mature, the boundaries of the zone should be amended to address market opportunities. Additionally, other zones may need to be established, and some zones may need to be abolished.

SPECIAL CONSIDERATIONS

The creation of the zone will allow several projects that are under development to receive the incentives they need to move forward.

There are other elements to a successful infill development, and staff will continue to work on those items in cooperation with the private sector as we seek to create a meaningful and effective infill development and redevelopment program.

FUNDING/FISCAL IMPACT

Staff does not anticipate a negative fiscal impact by the creation of this program.

STAFF RECOMMENDATION

Staff recommends approval as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Exhibit A	Cover Memo
☐ Heat map	Backup Material
☐ Resolution 01-2009 Infill Development	Backup Material
☐ Presentation	Presentation

RESOLUTION NO. 78-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REPEALING RESOLUTION NO. 1-2009, AND CREATING A NEW INFILL DEVELOPMENT INCENTIVE PROGRAM

WHEREAS, the City of Abilene (the "City) desires to encourage the investment of private resources in productive business enterprises and single and multi-family housing units in historic and economically distressed areas of the City; and

WHEREAS, the City desires to increase economic development within historic and economically distressed areas of the City; and

WHEREAS, the City has previously adopted Resolution No. 1-2009 setting forth and infill development program; and

WHEREAS, the City now desires to repeal the current program and create a new program; and

WHEREAS, it is necessary and in the best interest of the City to create the Abilene Neighborhood Empowerment Zone No. 1, (the "Zone") pursuant to Chapter 378 of the Texas Local Government Code; and

WHEREAS, in addition to the creation of the Zone, it is necessary and in the best interest of the City to offer certain economic development incentives to promote and encourage new private business development, and the remodeling and new construction of affordable and market rate housing options for the City's historic and economically distressed areas

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

PART 1: That the City designates an area more particularly described and illustrated in "Exhibit A" attached hereto and incorporated herein for designation as the Abilene Neighborhood Empowerment Zone No. 1, and said boundaries shall describe and create the infill development program boundaries.

PART 2: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone will increase economic development within the Zone, increase the rehabilitation and construction of affordable and market rate housing options within the Zone, and increase the quality of social services, education or public safety provided to the residents of the Zone.

PART 3: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone benefits and is for the public purpose of increasing the public health, safety and welfare of the persons in the municipality.

PART 4: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone satisfies the requirements of Section 312.202 of the Tax Code.

PART 5: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives, provided that any agreement using the incentives authorized and set forth below must be adopted by an affirmative vote of four or more members of the City Council before it can be effective.

1. The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone; and
2. The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code; and
3. The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption; and
4. The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone; and
5. The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

PART 6: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives without further Council action.

1. The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees; and
2. The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost; and
3. The City Manager may waive or reduce sewer and water tap fees; and
4. The City Manager may waive or reduce zoning application fees.

PART 7: That Resolution No. 1-2009 is hereby repealed in its entirety.

PART 8: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 10th day of May 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney

EXHIBIT A

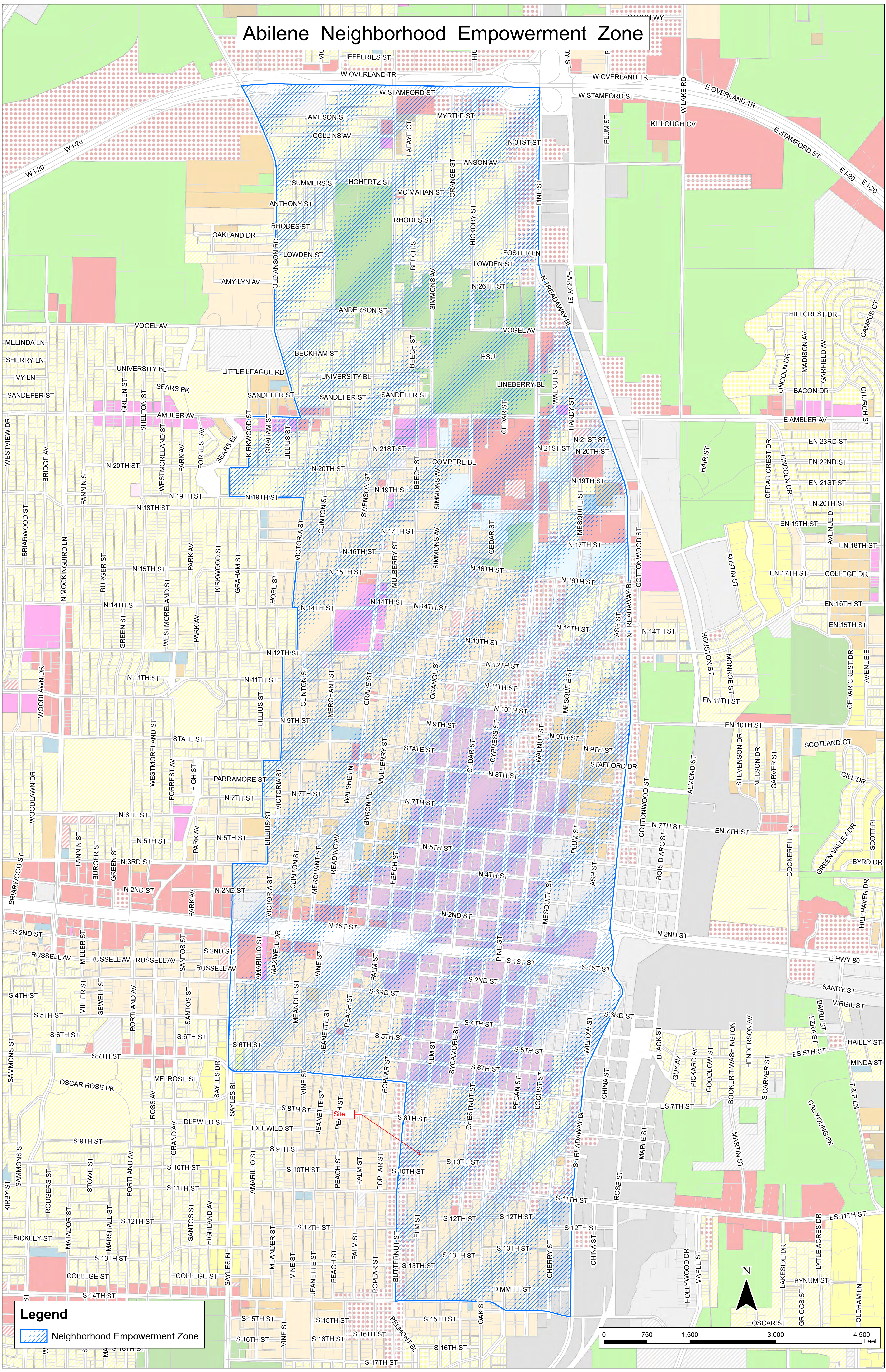
The Abilene Neighborhood Empowerment Zone No. 1 begins at the intersection of South 14th Street and Treadaway Blvd, thence north along Treadaway Blvd to the intersection of Pine Street and Treadaway Blvd, thence north along Pine Street to the intersection of Interstate 20 and Pine Street, thence west along Interstate 20 to the intersection of Old Anson Road and Interstate 20, thence south along Old Anson Road to the intersection of Ambler Avenue and Old Anson Road, thence west along Ambler Avenue to the intersection of Kirkwood Street and Ambler Avenue, thence south along Kirkwood Street to the intersection of North 20th Street and Kirkwood Street, thence west along North 20th Street to the intersection of Kirkwood Street and North 20th Street, thence south along Kirkwood Street to the intersection of North 19th Street and Kirkwood, thence east along North 19th Street to the intersection of Victoria Street and North 19th Street, thence south along Victoria Street to the intersection of North 14th Street and Victoria Street, thence east along North 14th Street to the intersection of Clinton Street and North 14th Street, thence south along Clinton Street to the intersection of North 12th Street and Clinton Street, thence west along North 12th Street to the intersection of Victoria Street and Clinton Street, thence south along Victoria Street to the intersection North 5th Street and Victoria Street, thence west along North 5th Street to the intersection of Lillius Street and North 5th Street, thence south along Lillius Street to the intersection of North 3rd Street and Lillius Street, thence west along North 3rd Street to the intersection of Graham Street and North 3rd Street, thence south along Graham Street to the intersection of North 1st Street and Graham Street, thence south along Sayles Blvd to the intersection of South 7th Street and Sayles Blvd, thence east along South 7th Street to the intersection Butternut Street and South 7th Street, thence south along Butternut Street to the intersection of South 14th Street and Butternut Street, thence east along South 14th Street terminating at the intersection of Treadaway Blvd and South 14th Street.

All properties abutting each boundary street are included within the Zone.

A map of the district is attached and incorporated into this Exhibit "A."



Abilene Neighborhood Empowerment Zone



Legend
Neighborhood Empowerment Zone



LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

- (1) the determination described by Section 378.002;
- (2) a description of the boundaries of the zone;
- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
- (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

- (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;
- (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;
- (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1195 (H.B. 3896), Sec. 2, eff. June 19, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1225 (S.B. 1458), Sec. 2, eff. June 19, 2009.

SUBCHAPTER B. TAX ABATEMENT IN MUNICIPAL REINVESTMENT ZONE

Sec. 312.201. **DESIGNATION OF REINVESTMENT ZONE.** (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 or 312.211 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality;

and

(2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

(e) A notice made under Subsection (d) (2) is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.08(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 2, eff. Sept. 1, 1997.

Sec. 312.2011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under Chapter 2303, Government Code constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by Chapter 2303, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 28, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the

land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority

created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years, except that a reinvestment zone that is a state enterprise zone is designated for the same period as a state enterprise zone as provided by Chapter 2303, Government Code. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 12, eff. Sept. 1, 1995.

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT.

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on taxable or tax-exempt real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory and supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.



February 18, 2020

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Dear Ms. Gamble:

I am writing this letter per the requirements of the 2020 QAP with respect to a concerted revitalization plan/area within the City of Abilene. The Heritage at Abilene development, is proposed for development at 1101 S. 9th Street, within the boundaries of the Abilene Neighborhood Empowerment Zone No. 1. It is within a revitalization area that is identified, discussed, and addressed in the *City of Abilene Comprehensive Plan* and the *Abilene Neighborhood Empowerment Zone No. 1* created pursuant to Chapter 378 of the Texas Local Government Code.

In 2008, in response to objectives within the City's Comprehensive Plan to create policies specifically focused on stabilizing older neighborhoods that had experienced disinvestment, the City created an "Infill Development Area". An associated Infill Development Strategy was also adopted that included financial incentives for developments within these infill areas. The resolution was officially adopted by Council on January 22, 2009 (see attached).

In 2018, the City undertook an expansion of the originally adopted program and developed the current NEZ program. City Council subsequently repealed and replaced the 2009 resolution by: (1) creating the Abilene Neighborhood Empowerment Zone No. 1 (NEZ); and (2) outlining the development incentives including property tax abatements, refunds of municipal sales tax, discounts on water/sewer line extensions within the NEZ through the creation of an Infill Development Incentive Program. These changes were adopted by resolution on May 10, 2018 (see attached)

The purpose of a Neighborhood Empowerment Zone (NEZ) is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone. In order to be designated as a reinvestment zone under state statute, an area must meet the following criteria:

Substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- A substantial number of substandard, slum, deteriorated, or deteriorating structures;
- The predominance of defective or inadequate sidewalks or streets;
- Faulty size, adequacy, accessibility, or usefulness of lots;
- Unsanitary or unsafe conditions;
- The deterioration of site or other improvements;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Defective or unusual conditions of title;
- Conditions that endanger life or property by fire or other cause; or
- Any combination of these factors;

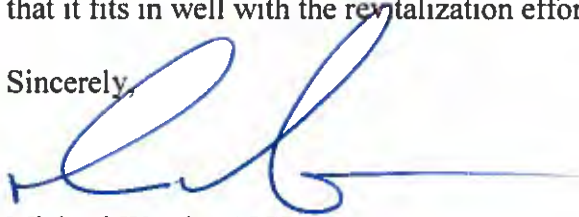
We estimate that approximately \$160,000 in fees have been waived for projects and developments to date within the NEZ, leading to measurable improvements achieved by the City in the revitalization area based on the target efforts outlined in plan.

We believe that these incentives have led to improvements that have increased the livability of the area by: (1) improving neighborhood stability for families and individuals; and (2) preserving the neighborhood character and enhance livability. We believe that all of these projects have led to a safer, more attractive area appropriate for housing.

Both the Comprehensive Plan and the NEZ are still current. The NEZ program is expected to remain operational in future years.

We are excited at the prospect of affordable housing being available in this part of town and believe that it fits in well with the revitalization efforts we have already undertaken.

Sincerely,



Michael Warrix, AICP
Director of Planning and Development Services

community organization objects to or opposes the Application or Development will be added to the Application posted on the [Department's](#) [Department's](#) website.

(A) An Application may receive two (2) points for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. To qualify, the organization must be qualified as tax exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole or of a major aspect of the community such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like. The Applicant must provide evidence that the community or civic organization remains in good standing by providing evidence from a federal or state government database confirming that the exempt status continues. An Organization must also provide evidence of its participation in the community in which the Development Site is located including, but not limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts as described in subparagraph C), or taxing entities.

(B) An Application may receive two (2) points for a letter of support from a property owners association created for a master planned community whose boundaries include the Development Site and that does not meet the requirements of a Neighborhood Organization for the purpose of awarding points under paragraph (4) of this subsection.

(C) An Application may receive two (2) points for a letter of support from a Special Management District [formed under Tex. Local Gov't Code ch. 375](#) whose boundaries, as of the Full Application Delivery Date as identified in §11.2(a) of this chapter, (relating to [Competitive HTC Deadlines](#), Program Calendar for Competitive Housing Tax Credits), include the Development Site.

(D) Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, standing alone, cause staff or the Department to terminate the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.

(7) Concerted Revitalization Plan. An Application may qualify for up to seven (7) points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index.

(A) For Developments located in an Urban Area:

(i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a condition requiring concerted revitalization, and where a concerted revitalization plan (plan or CRP) has been developed and executed.

(ii) A plan may consist of one or ~~multiple~~two, but complementary, local planning documents that together create a cohesive agenda for the ~~plan's~~plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

(iii) The area targeted for revitalization must be larger than the assisted housing footprint and should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems. The Application must include a copy of the plan or a link to the online plan and a description of where specific information required below can be found in the plan. The plan must meet the criteria described in subclauses (I) - (IV) of this clause:

(I) The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located. The resolution adopting the plan, or if development of the plan and budget were delegated, the resolution of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan and budget, must be submitted with the application.

(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. Eligible problems that are appropriate for a concerted revitalization plan may include the following:

(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets infrastructure neglect, and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities; or

(-c-) lack of a robust economy for that neighborhood area, or, if economic revitalization is already underway, lack of new affordable housing options for long-term residents.

(III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

(IV) The plan must either be current at the time of Application and must officially continue for a minimum of three years thereafter OR the work to address the items in need of mitigation or rehabilitation has begun and, additionally, the Applicant must include confirmation from a public official who oversees the plan that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles to accomplishing the purposes of the plan.

(iv) Up to seven (7) points will be awarded based on:

~~(I) Applications will receive four (4) points for~~ **(I)** A letter from the appropriate local official for the municipality (or county if the Development Site is completely outside of a municipality) providing documentation of measurable improvements within the revitalization area based on the targeted efforts outlined in the plan and in reference to the requirements of 10 TAC §11.9(d)(7)(A)(iii)(I-IV). The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing; (4 points); and

(II) ~~Applications may receive (2) points in addition to those under subclause (I) of this clause if the Development is explicitly identified in~~ A resolution by the municipality; (or county if the Development Site is completely outside of a municipality) that explicitly identifies the proposed Development as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable). A municipality or county may only identify one Development per CRP area during each Application Round for the additional points under this subclause, unless the concerted revitalization plan includes more than one distinct area within the city or county, in which case a resolution may be provided for each Development in its respective area. The resolution from the Governing Body of the municipality or county that approved the plan is required to be submitted in the Application. If multiple Applications submit resolutions under this subclause from the same Governing Body for the same CRP area, none of the Applications shall be eligible for the additional points, unless the resolutions address the respective and distinct areas described in the plan; (2 points); and

(III) ~~Applications will receive (1) point in addition to those under subclauses (I) and (II) of this clause if~~ The development is in a location that would score at least ~~4~~**five** (5) points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii). (1 point)

(B) For Developments located in a Rural Area:

~~(i) Applications will receive 4 points for~~ The Rehabilitation, or demolition and Reconstruction, of a Development in a rural area that has been leased at 85% or greater for the six months preceding Application by low income households and which was initially constructed 25 or more years prior to Application submission as either public housing or as affordable housing with support from USDA, HUD, the HOME program, or the CDBG program. The occupancy percentage will not include Units that cannot be occupied due to needed repairs, as confirmed by the [PCASCR](#) or CNA. Demolition and relocation of units must be determined locally to be necessary to comply with the Affirmatively Furthering Fair Housing Rule, or if necessary to create an acceptable distance form Undesirable Site Features or Neighborhood Risk Factors.

(4 points)

~~(ii) Applications may receive (2) points in addition to those under clause (i) of this subparagraph if~~(iii) The Development is explicitly identified in a resolution by the municipality (or county if the Development Site is completely outside of a city) as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable). Where a Development Site crosses jurisdictional boundaries, resolutions from all applicable governing bodies must be submitted. A municipality or county may only identify one single Development during each Application Round for each specific area to be eligible for the additional points under this subclause. If multiple Applications submit resolutions under this subclause from the same Governing Body for a specific area described in the plan, none of the Applications shall be eligible for the additional points; (2 points); and

~~(iii) Applications may receive (1) additional point if~~ The development is in a location that would score at least five (5) points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii). (1 point)

(e) Criteria promoting the efficient use of limited resources and applicant accountability.

(1) Financial Feasibility. (§2306.6710(b)(1)(A)) ~~An Application may qualify to receive a maximum of eighteen (18) points for this item.~~ To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive ~~sixteen (16)~~twenty-four (24) points. If the letter is from the Third Party permanent lender, or if the Development is Supportive Housing and meets the requirements of 10 TAC §11.1(d)(122)(E)(i), and evidences review of the Development and the Principals, it will receive ~~eighteen (18)~~twenty-six (26) points.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Melissa Baughman

Phone #: (281) 419-6114

Email: melissa.baughman@jfieser.com

Second Email: jamie.fieser@jfieser.com

Date: April 22, 2020

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for Bayou Bend Apartments, TDHCA
Number: 20281**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



MULTIFAMILY FINANCE PRODUCTION DIVISION
 Housing Tax Credit Program - 2020 Application Round
 Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 20281, Bayou Bend Apartments

Section 1:

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	123
Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	120
Difference between Requested and Awarded:	3

Section 2:

Points Awarded for §11.9(c)(8) Readiness to Proceed:	5
Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	3

Section 3:

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:	0
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Section 4:

Final Score Awarded to Application by Department staff (Including all points):	161
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Section 5:

Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:

§11.9(c)(6) Residents with Special Housing Needs. The Application requested three (3) points but is only eligible for two (2) points under this item because the application is in the At-risk or USDA Set-aside. (Requested 3, Awarded 2)

§11.9(d)(7) Concerted Revitalization Plan. The Application requested seven (7) points but is only eligible for three (3) points because the development has not been leased at 85% or greater by low income households within the six months preceding application submission. (Requested 7, Awarded 3)

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is only eligible for twenty four (24) points under this item because the letter from the permanent lender did not indicate a review of the Development and the Principals. (Requested 26, Awarded 24)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Tuesday, April 29, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Sharon D. Gamble

Sharon D. Gamble
Competitive HTC Program Administrator



**MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
REVISED-Scoring Notice - Competitive Housing Tax Credit Application**

Appeal Election Form: 20184, The Heritage at Abilene


Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2020 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, June 10, 2020.

If my appeal is denied by the Executive Director:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed  _____

Title Authorized Representative

Date 6/10/20

**Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>**

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

Leslie Bingham, *Vice Chair*
Paul A. Braden, Member
Sharon Thomason, Member
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June 24, 2020

Writer's direct dial: (512) 475-3296
Email: bobby.wilkinson@tdhca.state.tx.us

Brett Johnson
Overland Property Group
5345 W. 151st Terrace
Leawood, KS 66224

RE: SCORING APPEAL RESPONSE FOR 20184 HERITAGE AT ABILENE, ABILENE

Dear Mr. Johnson:

The Texas Department of Housing and Community Affairs received your appeal dated June 10, 2020, regarding scoring for the Application named above. Staff had received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan (CRP). 10 TAC §11.9(d)(7) details the requirements for a CRP to be eligible, and staff found that the documentation provided did not meet the rule requirements for a CRP. The previously published application score was reduced by seven points for the scoring item, pending the Applicant's ability to appeal.

As staff made clear in its June 4, 2020 email response to your questions about staff's scoring of the Application, the Comprehensive Plan submitted is generalized for the City of Abilene. Per the rule at 10 TAC §11.9(d)(7)(A)(ii):

(ii) A plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The



concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The problems identified by staff stem from the fact that the Application did not contain evidence that meets the requirements of this subparagraph. While the Comprehensive Plan describes Abilene neighborhoods *in general*, it includes no documentation of a study or recommendations for “Original Town South” (the location of the development site in the Application) or any other area included in Neighborhood Empowerment Zone #1 – which appears to be a multi-neighborhood area four miles long and a mile wide centered on downtown Abilene.

The appeal states that the “[t]he planning process used by the City of Abilene is one that is similar to many cities across the state. A Comprehensive Plan is produced to give an overview of issues faced by the city, often times with specific geographic areas called out for their needs, which result in future goals and objectives for those areas. Then based on those initial assessments, specific localized plans or policies are introduced to implement the strategies/goals/objectives. These localized plans/policies, in concert with the Comprehensive Plan, constitute revitalization plans.” I agree with this statement, however, I believe that the City of Abilene has not completed the process. The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1. No such document showing such planning was provided in the Application. What has been provided is a resolution creating the zone, and excerpts from the statutory requirements for creating the zone. The resolution creating the zone, itself, is captioned as a resolution of the city council of the City of Abilene that repeals a 2009 “infill development program” and creates “a new infill development incentive program.” Though the resolution arguably creates a framework for the City of Abilene to offer building incentives in this large swath of the city, it certainly cannot be said to be a “local planning documents that together [with the consolidated plan] create[s] a cohesive agenda for the plan's specific area,” as required by the rule.

The appeal further states that “because this scoring item has three point components, we also request that the three components be reviewed individually and that the Applicant receive 3 of the total 7 points for the City Revitalization Resolution (2 points) and Opportunity Index items (1 point).” I find that the rule, as written, describes the nature and composition of the CRP as a predicate, and then discusses the mechanics of how many points can be awarded given certain documentary submissions. In other words, an applicant cannot score CRP points if they have not submitted a CRP in accordance with the rules. Having found that the Application does not sufficiently illustrate a CRP in accordance with the rules, I sustain Staff’s determination to reduce the score by seven points.

You indicated in your appeal that you wish to appeal to the Board of Directors. Your appeal will be placed on the agenda for the July 14, 2020, meeting of the Department’s Governing Board. Please review 10 TAC §11.902 for the appeal process and limitations. If you have any questions or require further information, please contact Sharon Gamble at sharon.gamble@tdhca.state.tx.us.

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II". The signature is fluid and cursive, with the letters "R" and "D" being large and prominent, followed by "Wil" and a double underline for the Roman numeral "II".

Bobby Wilkinson
Executive Director

Board Appeal Documents

Francis S. Ainsa, Jr.

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July 7, 2020

Ms. Leslie Bingham, Vice Chair
Mr. Paul A. Braden, Member
Ms. Sharon Thomason, Member
Mr. Leo Vasquez, Member
Board of Directors
Texas Department of Housing and
Community Affairs
221 East 11th Street
Austin, Texas 78711

Re: Application No. 20184, Heritage at Abilene, Abilene, Texas

Dear Vice Chair Bingham and Board Members:

I represent Overland Property Group, LLC in connection with the referenced Application. Overland's Application was reduced by 7 points by staff. Overland appealed that decision to the Executive Director who affirmed the staff's decision by letter, dated June 24, 2020, a copy of which is attached for your reference. Overland is now appealing to you to overturn the Executive Director's decision and to award Overland the 7 points that have been deducted from its Application.

The crux of the Executive Director's decision process is focused on whether the City of Abilene's Comprehensive Plan and its Neighborhood Empowerment Zone #1 (NEZ #1) together constitute a Concerted Revitalization Plan (CRP) as that term is defined in 10 TAC §11.9(d)(7)(A)(ii).

The Executive Director noted that:

staff found that the documentation provided did not meet the rule requirements for a CRP. . . . The problems identified by staff stem from the fact that the Application did not contain evidence that meets the requirements of this subparagraph. While the Comprehensive Plan describes Abilene neighborhoods in general, it includes no documentation of a study or recommendations for "Original Town South" (the location of the development site in the Application) or any other area included in

Neighborhood Empowerment Zone #1 – which appears to be a multi-neighborhood area four miles long and a mile wide centered on downtown Abilene

The Executive Director concluded that:

The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1. No such document showing such planning was provided in the Application. What has been provided is a resolution creating the zone, and excerpts from the statutory requirements for creating the zone. The resolution creating the zone, itself, is captioned as a resolution of the city council of the City of Abilene that repeals a 2009 “infill development program” and creates “a new infill development incentive program.” Though the resolution arguably creates a framework for the City of Abilene to offer building incentives in this large swath of the city, it certainly cannot be said to be a “local planning documents that together [with the consolidated plan] create[s] a cohesive agenda for the plan’s specific area,” as required by the rule..

The Executive Director’s conclusion that Overland failed to submit appropriate documentation to create a CRP is based on an erroneous application of the rule. The test for creation of a CRP is set out in 10 TAC §11.9(d)(7)(A)(ii):

(ii) A plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan’s specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

As applied to this case, the test focuses on whether there were “***local planning documents that together create a cohesive agenda for the plan’s specific area***”. The test is further informed by the second to last sentence: “***The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan.***”

The Executive Director’s conclusions undoubtedly reflect what the staff would like to see in an Application, but the staff and the Executive Director’s preferences must be consistent with 10

TAC §11.9(d)(7)(A)(ii). Interpretations of 10 TAC §11.9(d)(7)(A)(ii) may be necessary but they cannot stray from the plain language of the rule and have to be consistently applied by staff and the Executive Director.

In evaluating Overland's Application, the staff and the Executive Director decided that "***The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1.***" In fact, the rule has no such requirement. The rule only requires that the "***plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area.***"

No one can seriously argue that the City of Abilene's Comprehensive Plan and its NEZ #1 are not planning documents. In particular, a NEZ resolution supplemented by the letter from the City of Abilene are local planning documents. These planning documents may not contain all of the detail that the staff believes should be submitted, but the staff cannot require more information than what is called for in the plain language of the rule. If the staff is not constrained by the terms of 10 TAC §11.9(d)(7)(A)(ii), it would literally be able to dictate terms and conditions for an Application that are not required by the plain language of 10 TAC §11.9(d)(7)(A)(ii). This is the case here.

The staff and the Executive Director apparently failed to review in detail the City of Abilene's Comprehensive Plan and the relevant passages that were provided in the Application. Specifically, those passages deal with how the City of Abilene would in the future, through their Neighborhood Planning, categorize the identified Super Neighborhoods (including Original Town North) and then proceed with specific incentives to address the needs of the neighborhoods.

The Comprehensive Plan states on page 61 that Neighborhood Planning involves the following objective and strategy:

Objective: Create Super Neighborhood Areas (SNAs) that are manageable units for land use, transportation, facility, demographic, and growth analysis and planning.

Strategy 7: Distinguish the resource needs of the Super Neighborhood Areas (SNAs) by classifying them into three defining categories: Established Stable; Established Redeveloping; and, New and Developing.

Contrary to what the Executive Director has stated, Original Town South was included in the Super Neighborhood Map in Abilene's Comprehensive Plan.

Subsequent to Abilene's adoption of its Comprehensive Plan, Original Town South, Original Town North, and North College were identified as areas that were Established Redeveloping Neighborhoods that:

have become run-down with deteriorating housing stock. Vacant houses, lots and boarded structures exacerbate crime problems, deter businesses from locating in older neighborhoods, and perpetuate a cycle of decline. In order to change the momentum from decline to revitalization, City policies propose a multifaceted approach to the revitalization of mature neighborhoods. Policies specifically focus on stabilizing neighborhoods by improving infrastructure, such as streets, schools and parks, housing conditions, and ensuring that Abilene citizens have an opportunity to live in the type of dwelling and location of choice.

To address these issues the Comprehensive Plan outlines the following specific Objective and Strategy:

Objective: Promote the revitalization of older neighborhoods that have experienced disinvestment.

Strategy 15: Provide incentives to encourage infill and redevelopment in distressed neighborhoods. Use the following regulatory and financial tools to leverage additional investment in established redeveloping SNAs and promote homeownership:

- ***Locally funded exterior rehabilitation programs to improve the structural and aesthetic condition of existing housing.***
- ***Areawide zoning reclassifications when consistent with neighborhood redevelopment plans.***
- ***Financial incentives, such as rehabilitation loans/grants, offsets of development fees, and tax-advantaged project financing.***
- ***Federal, state, and local funds to rehabilitate dilapidated residential structures occupied by lower income residents.***

The creation of NEZ #1 and the associated infill development program was a direct result of these assessments.

Please note that there is nothing in 10 TAC §11.9(d)(7)(A)(ii) that requires that both the City of Abilene's Comprehensive Plan and NEZ #1 to outline or name a certain area. The only requirements are that these two planning documents complement each other and work together to create a cohesive agenda for the plan's specific area. In this case, the Comprehensive Plan is the planning document that examined the characteristics and needs of neighborhood (including Original Town South), outlined strategies for revitalization, and then the NEZ is the

complementary document that further addresses revitalization in the immediate area of the Heritage at Abilene application.

The City of Abilene has confirmed that its Comprehensive Plan and the NEZ #1 resolution are complementary and work together to create a plan for the revitalization area. This point is made crystal clear on the second page of the City of Abilene’s letter dated June 10, 2020, a copy of which is attached. The City of Abilene’s letter confirms that the process of creating NEZ#1 complied with public participation requirements, and that the area is in decline and needs revitalization. These confirmatory statements were overlooked by the Executive Director and the staff when they decided that Overland had failed provided adequate documentation.

Overland’s appeal to the Executive Director referenced the Palladium Fain Street Application in Ft. Worth for comparison purposes. The Palladium Application contains the same type of documentation as was submitted by Overland to support the creation of a CRP, namely the Ft. Worth Comprehensive Plan and its NEZ creation documents. Even though there are more NEZ related documents in the Palladium Application, their substance does not differ from the NEZ documentation in Overland’s Application. The points claimed in Palladium’s Application were not reduced by staff action. Overland is bringing this to the attention of the board because it is axiomatic that all substantially similar applications should be evaluated and treated equally. A comparison of documentation supporting the Palladium and the Overland Applications appears below:

Palladium Fain Street	Heritage
Council Action Creating NEZ	Council Action Creating NEZ
Tax Abatement Policy: reiteration of NEZ Govt Code enabling statutes	Council Action Creating NEZ/Infill Program: Govt Code citations (actual code provided in Application for reference)
Administrative Procedures: outlines NEZ requirements and who will administer program.	Council Action Creating NEZ/Infill Program: Cites codes (requirements) and who will administer program/incentives
NEZ Policy Statement: outlines incentives and how program will be run.	Council Action Creating NEZ/Infill Program: outlines incentives and how program will be run.
Comprehensive Plan: pages regarding citywide housing need – NEZ referenced as a housing program.	Comprehensive Plan: pages referenced outline Neighborhood Planning process with Super Neighborhood Areas (includes Original Town South), identifies neighborhood types and lists goals and objectives for these neighborhoods.

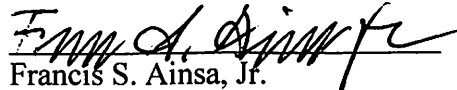
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Overland is not raising an indirect objection to the Palladium Application. However, Overland's Application must be evaluated by the test in 10 TAC §11.9(d)(7)(A)(ii) and not by staff preferences that are not consistent with the law.

Overland's Application meets the statutory test for the creation of a CRP. For all of the reasons set forth above, Overland asks that you reverse the decision of the Executive Director and award Overland the 7 points that were deducted.

In addition to the attached letter from the City of Abilene, I will upload to the TDHCA FTP site certain communications between Overland, staff and the Executive Director that I have asked to be included in the Board Book for your reference.

Very truly yours,


Francis S. Ainsa, Jr.

FSA/

cc: Overland Property Group, LLC
Sharon Gamble: sharon.gamble@tdhca.state.tx.us
Marni Holloway: marni.holloway@tdhca.state.tx.us
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Brooke Boston: brooke.boston@tdhca.state.tx.us
Sarah Anderson: sarah@sarahandersonconsulting.com
Alyssa Carpenter: ajcarpen@gmail.com

Letter from City of Abilene

June 10, 2020

Bobby Wilkinson
TDHCA
221 E. 11th
Austin, TX 78701



Dear Mr. Wilkinson:

I am writing to provide additional information to you regarding the City of Abilene's revitalization area known as the Abilene Neighborhood Empowerment Zone (NEZ). It is my understanding that TDHCA is currently denying CRP points to the Applicant of The Heritage at Abilene (TDHCA #20184), and I would like to provide clarification regarding this plan.

Abilene has a diverse collection of neighborhoods. Neighborhoods in the northern and central part of the city are older, and these areas face distinctly different challenges than their counterparts in newer areas in southern parts of the city. The Comprehensive Plan identified specific neighborhoods within the City, established three classifications of defining categories for these neighborhoods, and laid out strategies to address problematic issues relative to their needs. The Heritage at Abilene site is within an area called Original Town South as reference in the Super Neighborhood Boundaries on pp. 58-59 of the Comprehensive Plan.

The City identified the Original Town South, Original Town North, and North College as meeting the criteria of the "Established Redeveloping Neighborhoods" described in the Comprehensive Plan and created the Abilene Neighborhood Empowerment Zone (NEZ) with the objective to "Promote the revitalization of older neighborhoods that have experienced disinvestment." The creation of the NEZ made these areas eligible for a variety of development incentives including development fee waivers and municipal property tax abatements. In fact, an infill development program and corresponding economic development incentives was created to go along with the NEZ. The proposed Heritage at Abilene HTC development is located within this NEZ.

As you may be aware, NEZs are allowed under the Texas Local Government Code §378. The statutory purpose of a NEZ is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone.

In order to be designated a NEZ by the City Council, an area must meet the following criteria:

- Promote the creation of affordable housing in the zone; or an increase in economic development in the zone; or an increase in the quality of social services, education, or public safety provided to residents in the zone; or the rehabilitation of affordable housing in the zone;
- Meet the criteria for a Reinvestment Zone;
- Be 100% Community Development Block Grant ("CDBG") eligible;
- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;

- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

We would like to emphasize that the Comprehensive Plan and the Neighborhood Empowerment Zone resolution collectively constitute a Community Revitalization Plan with a cohesive agenda. The Comprehensive Plan recognized that there are areas in decline in the older parts of central downtown Abilene and introduced strategies for revitalization for those areas, and the NEZ created target areas and incentives for improvement and revitalization. The creation of the Abilene NEZ and the incentives that go along with it are classic examples of local community revitalization planning. The problems of a declining area were identified by the City through research and an open public process, and incentive programs were created to address those issues.

- The Comprehensive Plan and the NEZ resolution are complementary local planning documents that together create a cohesive agenda for the specific area of the Heritage at Abilene.
- Both the Comprehensive Plan and the NEZ were approved by City Council with opportunities for public input through public hearings and city council meetings.
- The Established Redeveloping Neighborhoods contemplated in the Comprehensive Plan, and the target areas of the NEZ overlap older areas of the City that have declined and include the Heritage at Abilene.
- Both the Comprehensive Plan and NEZ are currently active and in effect.
- Funding for the area has been expended and will be spent in the future.

The City of Abilene developed the boundary of NEZ with public input as required by statute after notice was published in the newspaper and a public hearing was held, and the City Council approved the creation of NEZ. When taking the Established Redeveloping Neighborhoods target areas of the Comprehensive Plan together with the NEZ, it is clear that declining areas were identified and strategies and funding were created to improve target areas of the City. The Heritage at Abilene is within a community revitalization area within the City of Abilene and will contribute to the revitalization and housing needs in the area.

Sincerely,



Michael Warrix, AICP
Director of Planning and Development Services

Attachment A

Original CRP Submission with Application

2020 HTC Full Application

Part 2 Tab 10

Supporting Documents:
Concerted Revitalization Plan



Concerted Revitalization Plan (“CRP”) Application Packet

The purpose of the packet is to formalize the process by which Concerted Revitalization Plans (“CRP”) are described and submitted pursuant to 10 TAC §11.9(d)(7) of the Qualified Allocation Plan (“QAP”). The CRP and all supporting documentation must be uploaded to the Department’s ServU system along with this packet, as a separate document from the Application. Refer to the Multifamily Programs Procedures Manual posted at <http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm> for an explanation of the process to set-up a Serv-U Account if needed.

Application # 20184 Development Name Heritage at Abilene

Development City Abilene Development County Taylor

The Application claims no points under 10 TAC §11.9(c)(4) related to Opportunity Index.

My Development Site is located in an area that is:

Urban

Rural (skip to page 4 of the packet)

My Development Site is located in a distinct area known locally as (or named by the CRP as) **Abilene Neighborhood Empowerment Zone No. 1** that is larger than the assisted housing footprint.

This packet includes a description of the area targeted for revitalization, including common attributes and problems, which can be found at (document name, page number(s), etc) **Comp Plan: pp. 56-64, p. 58-59 map of Super Neighborhood Boundaries from Comp Plan attachment below./ NEZ Plan p. 6-8. / Statutory Criteria p.**

4.

This packet includes a description of how this area was once vital and how it has lapsed into a condition requiring concerted revitalization, which can be found at (document name, page number(s), etc) **Comp Plan: pp. 22, 56, 61, 63-64, 74./ NEZ Plan p. 3. / Statutory Criteria p. 4.**

A CRP covering the area mentioned above has been developed and executed. The CRP consists of the following local planning document(s):

City of Abilene Comprehensive Plan 2004 (Comp Plan)

Abilene Neighborhood Empowerment Zone No. 1 Resolution/Plan (NEZ Plan)

The document(s) is included in its entirety. **Abilene Neighborhood Empowerment Zone No. 1 Resolution/Plan**

The document(s) can be found online at **City of Abilene Comprehensive Plan 2004:** <https://www.abilenetx.gov/DocumentCenter/View/3477/Comprehensive-Plan-PDF>

NOTE: Per the requirements of 10 TAC §11.9(d)(7)(A)(ii), a plan may consist of one or multiple, but complementary, local planning documents that together create a cohesive agenda for the plan’s specific area. **No more than two (2)**

local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements, unless evidence is presented that additional efforts have been undertaken to meet the requirements in the QAP. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (“TIRZ”) or Tax Increment Finance (“TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The URBAN CRP meets the following criteria as required by 10 TAC §11.9(d)(7)(A)(iii)(I-IV):

1. The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located.
 This packet includes the resolution(s) adopting the plan or local planning documents that compose the plan;
or
 This packet includes the resolution(s) of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan(s) and budget(s).

2. The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. A description of eligible problems for a CRP are found at 10 TAC §11.9(d)(7)(A)(iii)(II)(a) through (c).
 A description of the process for public input on the problems in the plan can be found at (document name, page number(s), etc). **Comp Plan: pp. 5-8 / Statutory Criteria for Reinvestment Zone Designation Attachment p. 3**
 A description of the problems identified by the process can be found at (document name, page number(s), etc) **Comp Plan: pp. 14, 18-20, 22, 26, 28, 30, 36, 39, 42, 51, 56-57, 61-63, 70, 74 / NEZ Resolution/Plan: pp. 1,2 3. / Statutory Criteria for Reinvestment Zone Designation Attachment p. 1,3, 4.**
 A description of how the process determined how the problems should be addressed and prioritized can be found at (document name, page number(s), etc) **Comp Plan: pp. 15, 18-20 ,22-23, 26-27, 28-29, 30-31, 36-37, 39, 43, 51, 57, 61-64, 70, 74. / NEZ Plan: pp. 1-5. / Statutory Criteria for Reinvestment Zone Designation Attachment: pp. 1, 5**

3. The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.
 A description of the goals of the plan can be found at (document name, page number(s), etc) **Comp Plan: pp. 15, 18-20, 22-23, 26-27, 28-29, 30-31, 36-37, 39, 43, 51, 57, 61-64, 70, 74. / NEZ Plan: pp. 1-5. / Statutory Criteria for Reinvestment Zone Designation Attachment: pp. 1, 5.**
 A description of the plan’s timetable can be found at (document name, page number(s), etc) **Comp Plan p. 4, 7, 106. / Statutory Criteria for Reinvestment Zone Designation Attachment p. 5**
 A description of sufficient, documented and committed funding for the plan can be found at (document name, page number(s), etc) **Letter from City of Abilene, p.1**, which documents at least \$160,000 in funding for the plan.
 Evidence that the funding has been flowing to address the problems identified in the plan, or that the problems have been sufficiently addressed, can be found at (document name, page number(s), etc) **Letter from City of Abilene, p. 1.**

4. The plan must either be current at the time of Application and must officially continue for a minimum of three years thereafter OR the work to address the items in need of mitigation or rehabilitation has begun and, additionally, the Applicant must include confirmation from a public official who oversees the plan that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles to accomplishing the purposes of the plan.

- The plan is current at the time of Application, and the effective period for the plan **May 10, 2018 for five years** and can be found at (document name, page number(s), etc) **City of Abilene letter p. 2, NEZ Plan p. 1, Statutory Criteria for Reinvestment Zone Designation Attachment p. 4**; or
- Evidence that the work to address problems in the plan has begun can be found at (document name, page number(s), etc); AND.
- Confirmation from a public official that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles can be found at (document name, page number(s), etc).

Provide any comments or additional information in the box below, if applicable.

The City of Abilene Comprehensive Plan outlined issues related to the older neighborhoods in the center city and their need for revitalization. In response to these issues, a Neighborhood Empowerment Zone (NEZ) was created to incentivize development and revitalization in this area. Funding in the form of tax incentives were made available to encourage investment in this area. The NEZ was created per state statute and tax laws, which lay out the existing conditions that must be present to qualify for the designation, in addition to the public process that must be followed to implement the plan. Documentation related to these items is included in this packet.

URBAN CRP Requested Scoring. Points may be selected under 1, 2, and 3 below for no more than a total of 7 points.

1. Applications will receive four (4) points for a letter from the appropriate local official providing documentation of measurable improvements within the revitalization area based on the targeted efforts outlined in the plan and in reference to the requirements of 10 TAC §11.9(d)(7)(A)(iii)(I-IV). The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing.
 - A letter from a public official is included in this packet (an adopted resolution may be submitted in place of a letter).

2. Applications may receive (2) points in addition to those above if the Development is explicitly identified in a resolution by the municipality or county as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable).
 - An adopted resolution from the city of **Abilene** is included in this packet (a letter MAY NOT be submitted in place of a resolution).
 - An adopted resolution from _____ county is included in this packet (a letter MAY NOT be submitted in place of a resolution).

NOTE: A municipality or county may only identify one Development per CRP area during each Application Round for the additional points under this subclause, unless the concerted revitalization plan includes more than one distinct area within the city or county, in which case a resolution may be provided for each Development in its respective area. The resolution from the Governing Body of the municipality or county that approved the plan is required to be submitted in the Application. If multiple Applications submit resolutions under this subclause from the same Governing Body for the same CRP area, none of the Applications shall be eligible for the additional points, unless the resolutions address the respective and distinct areas described in the plan.

3. Applications will receive (1) point in addition to those under 1. and 2. above if the development is in a location that would score at least 4 points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii).
 - Development Site is within the required radius of the eligible amenities and/or services listed below, pursuant to §11.9(c)(4)(B)(i) of the QAP.

A map showing the Development Site, location of and distance to the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

III Cash Saver (grocery)	VI Day Nursery of Abilene (licensed child care)
VIII Abilene Public Library (library)	IX McMurry University (accredited university)
XI Frontier Texas! (indoor recreation facility)	XII Oscar Rose Park (outdoor recreation)
XIV Meals on Wheels	XV Cooper High School

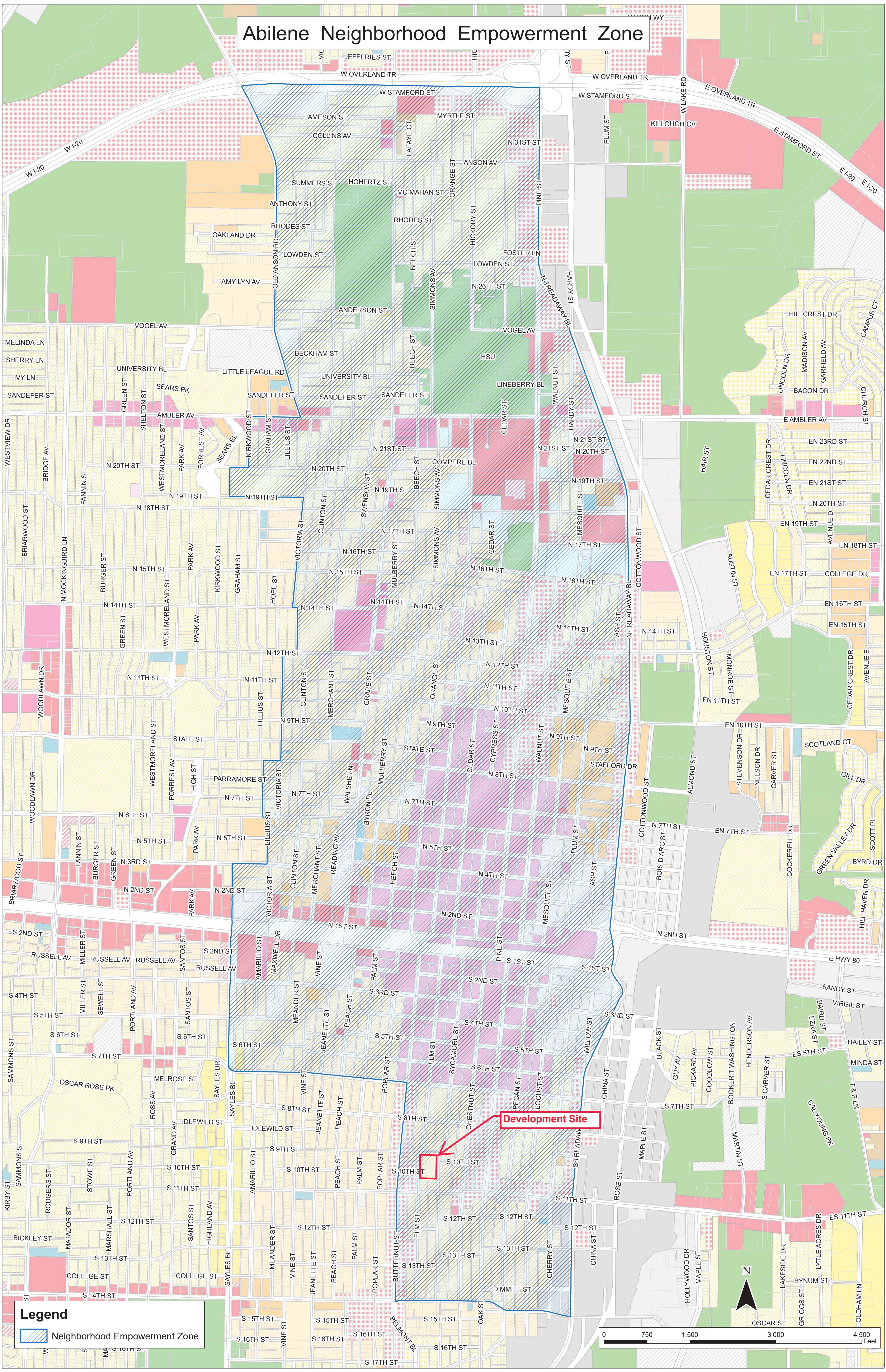
Provide any comments or additional information in the box below, if applicable.

See attached map and documentation of high opportunity items.

**CRP Packet – TDHCA #20184
Heritage at Abilene**

Proof that the Site is Within the Plan's Boundary

Abilene Neighborhood Empowerment Zone



Legend
Neighborhood Empowerment Zone

0 750 1,500 3,000 4,500 Feet

**CRP Packet – TDHCA #20184
Heritage at Abilene**

Letter from City of Abilene



February 18, 2020

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Dear Ms. Gamble:

I am writing this letter per the requirements of the 2020 QAP with respect to a concerted revitalization plan/area within the City of Abilene. The Heritage at Abilene development, is proposed for development at 1101 S. 9th Street, within the boundaries of the Abilene Neighborhood Empowerment Zone No. 1. It is within a revitalization area that is identified, discussed, and addressed in the *City of Abilene Comprehensive Plan* and the *Abilene Neighborhood Empowerment Zone No. 1* created pursuant to Chapter 378 of the Texas Local Government Code.

In 2008, in response to objectives within the City's Comprehensive Plan to create policies specifically focused on stabilizing older neighborhoods that had experienced disinvestment, the City created an "Infill Development Area". An associated Infill Development Strategy was also adopted that included financial incentives for developments within these infill areas. The resolution was officially adopted by Council on January 22, 2009 (see attached).

In 2018, the City undertook an expansion of the originally adopted program and developed the current NEZ program. City Council subsequently repealed and replaced the 2009 resolution by: (1) creating the Abilene Neighborhood Empowerment Zone No. 1 (NEZ); and (2) outlining the development incentives including property tax abatements, refunds of municipal sales tax, discounts on water/sewer line extensions within the NEZ through the creation of an Infill Development Incentive Program. These changes were adopted by resolution on May 10, 2018 (see attached)

The purpose of a Neighborhood Empowerment Zone (NEZ) is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone. In order to be designated as a reinvestment zone under state statute, an area must meet the following criteria:

Substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- A substantial number of substandard, slum, deteriorated, or deteriorating structures;
- The predominance of defective or inadequate sidewalks or streets;
- Faulty size, adequacy, accessibility, or usefulness of lots;
- Unsanitary or unsafe conditions;
- The deterioration of site or other improvements;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Defective or unusual conditions of title;
- Conditions that endanger life or property by fire or other cause; or
- Any combination of these factors;

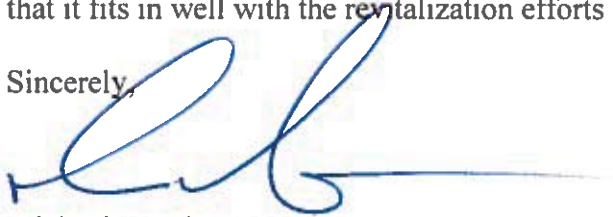
We estimate that approximately \$160,000 in fees have been waived for projects and developments to date within the NEZ, leading to measurable improvements achieved by the City in the revitalization area based on the target efforts outlined in plan.

We believe that these incentives have led to improvements that have increased the livability of the area by: (1) improving neighborhood stability for families and individuals; and (2) preserving the neighborhood character and enhance livability. We believe that all of these projects have led to a safer, more attractive area appropriate for housing.

Both the Comprehensive Plan and the NEZ are still current. The NEZ program is expected to remain operational in future years.

We are excited at the prospect of affordable housing being available in this part of town and believe that it fits in well with the revitalization efforts we have already undertaken.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Warrix', with a long horizontal line extending to the right.

Michael Warrix, AICP
Director of Planning and Development Services

**CRP Packet – TDHCA #20184
Heritage at Abilene**

Revitalization Resolution from City of Abilene

RESOLUTION NO. 41-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, SUPPORTING A HOUSING TAX CREDIT APPLICATION SUBMITTED FOR HERITAGE AT ABILENE AND COMMITTING DEVELOPMENT INCENTIVES

WHEREAS, OPG Heritage Partners, LLC has proposed the development of affordable rental housing located at 1101 S. 9th Street, and named Heritage at Abilene in the City of Abilene, Taylor County, Texas;

WHEREAS, there is a need for affordable housing for Abilene residents of modest means;

WHEREAS, OPG Heritage Partners, LLC, has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2020 Competitive 9% Housing Tax Credits for the proposed development; and

WHEREAS, Heritage at Abilene is located within the revitalization area known as Abilene Neighborhood Empowerment Zone No. 1.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE:

PART 1. That the City of Abilene, acting through its governing body, hereby confirms that it supports the application for Heritage at Abilene, located at 1101 S. 9th Street, and that this formal action has been taken to put on record the opinion expressed by the City of Abilene on February 27, 2020.

PART 2. That this Resolution affirms that Heritage at Abilene has been identified as contributing most significantly to the concerted revitalization efforts of the City of Abilene as outlined in Abilene Empowerment Zone No. 1.

PART 3. That the City of Abilene does hereby commit to provide a loan, grant, reduced fees, or contribution of other value that equals \$500.00, conditioned upon Heritage at Abilene receiving a commitment of 2020 Competitive 9% Housing Tax Credits from the Texas Department of Housing and Community Development.

PART 4. That for and on behalf of the Governing Body of the City of Abilene, Mr. Robert Hanna, City Manager, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PART 5. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Abilene, and it is accordingly so resolved.

ADOPTED this 27th day of February 2020.

ATTEST:



Shawna Atkinson, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley E. Smith, City Attorney



**CRP Packet – TDHCA #20184
Heritage at Abilene**

Neighborhood Empowerment Zone Resolution/Plan



**City Council
Agenda Memo**

City Council Meeting Date: 5/10/2018

TO: The Honorable Mayor and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: Resolution: Repealing Resolution 1-2009 and Authorizing the creation of an infill development program and corresponding economic development incentives (Robert Hanna)

GENERAL INFORMATION

The City Council adopted six priorities at the FY 2018 Council Retreat. Those priorities include: (1) infill development, (2) downtown hotel, (3) reduce expenditures and create efficiencies, (4) determine total cost of deferred maintenance, (5) street maintenance, and (6) development along I-20.

The attached resolution focuses on infill development and accomplishes two things: (1) it repeals our current infill development program, and (2) it establishes a new infill development program.

The new program authorizes the following incentives with Council approval:

- The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone.
- The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code.
- The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.
- The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone.
- The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

The program authorizes the City Manager to offer the additional incentives without additional Council approval:

- The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees.

- The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost.
- The City Manager may waive or reduce sewer and water tap fees.
- The City Manager may waive or reduce zoning application fees.

In general, the initial boundaries for the zone are bounded on the east and west borders by the flood plains of Elm Creek and Cedar Creek. The northern boundary is I-20 and the southern boundaries are South 7th and South 14th with Butternut as the connector between the two.

These areas were chosen based on a heat map analysis of the total value per total square foot of improvements per parcel. The map (attached) helps to identify those areas where infill development or redevelopment of existing structures may be more successful than other areas.

The proposed boundaries are not meant to be unalterable. As our infill efforts mature, the boundaries of the zone should be amended to address market opportunities. Additionally, other zones may need to be established, and some zones may need to be abolished.

SPECIAL CONSIDERATIONS

The creation of the zone will allow several projects that are under development to receive the incentives they need to move forward.

There are other elements to a successful infill development, and staff will continue to work on those items in cooperation with the private sector as we seek to create a meaningful and effective infill development and redevelopment program.

FUNDING/FISCAL IMPACT

Staff does not anticipate a negative fiscal impact by the creation of this program.

STAFF RECOMMENDATION

Staff recommends approval as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Exhibit A	Cover Memo
☐ Heat map	Backup Material
☐ Resolution 01-2009 Infill Development	Backup Material
☐ Presentation	Presentation

RESOLUTION NO. 78-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REPEALING RESOLUTION NO. 1-2009, AND CREATING A NEW INFILL DEVELOPMENT INCENTIVE PROGRAM

WHEREAS, the City of Abilene (the “City”) desires to encourage the investment of private resources in productive business enterprises and single and multi-family housing units in historic and economically distressed areas of the City; and

WHEREAS, the City desires to increase economic development within historic and economically distressed areas of the City; and

WHEREAS, the City has previously adopted Resolution No. 1-2009 setting forth and infill development program; and

WHEREAS, the City now desires to repeal the current program and create a new program; and

WHEREAS, it is necessary and in the best interest of the City to create the Abilene Neighborhood Empowerment Zone No. 1, (the “Zone”) pursuant to Chapter 378 of the Texas Local Government Code; and

WHEREAS, in addition to the creation of the Zone, it is necessary and in the best interest of the City to offer certain economic development incentives to promote and encourage new private business development, and the remodeling and new construction of affordable and market rate housing options for the City’s historic and economically distressed areas

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

PART 1: That the City designates an area more particularly described and illustrated in “Exhibit A” attached hereto and incorporated herein for designation as the Abilene Neighborhood Empowerment Zone No. 1, and said boundaries shall describe and create the infill development program boundaries.

PART 2: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone will increase economic development within the Zone, increase the rehabilitation and construction of affordable and market rate housing options within the Zone, and increase the quality of social services, education or public safety provided to the residents of the Zone.

PART 3: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone benefits and is for the public purpose of increasing the public health, safety and welfare of the persons in the municipality.

PART 4: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone satisfies the requirements of Section 312.202 of the Tax Code.

PART 5: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives, provided that any agreement using the incentives authorized and set forth below must be adopted by an affirmative vote of four or more members of the City Council before it can be effective.

1. The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone; and
2. The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code; and
3. The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption; and
4. The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone; and
5. The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

PART 6: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives without further Council action.

1. The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees; and
2. The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost; and
3. The City Manager may waive or reduce sewer and water tap fees; and
4. The City Manager may waive or reduce zoning application fees.

PART 7: That Resolution No. 1-2009 is hereby repealed in its entirety.

PART 8: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 10th day of May 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney

EXHIBIT A

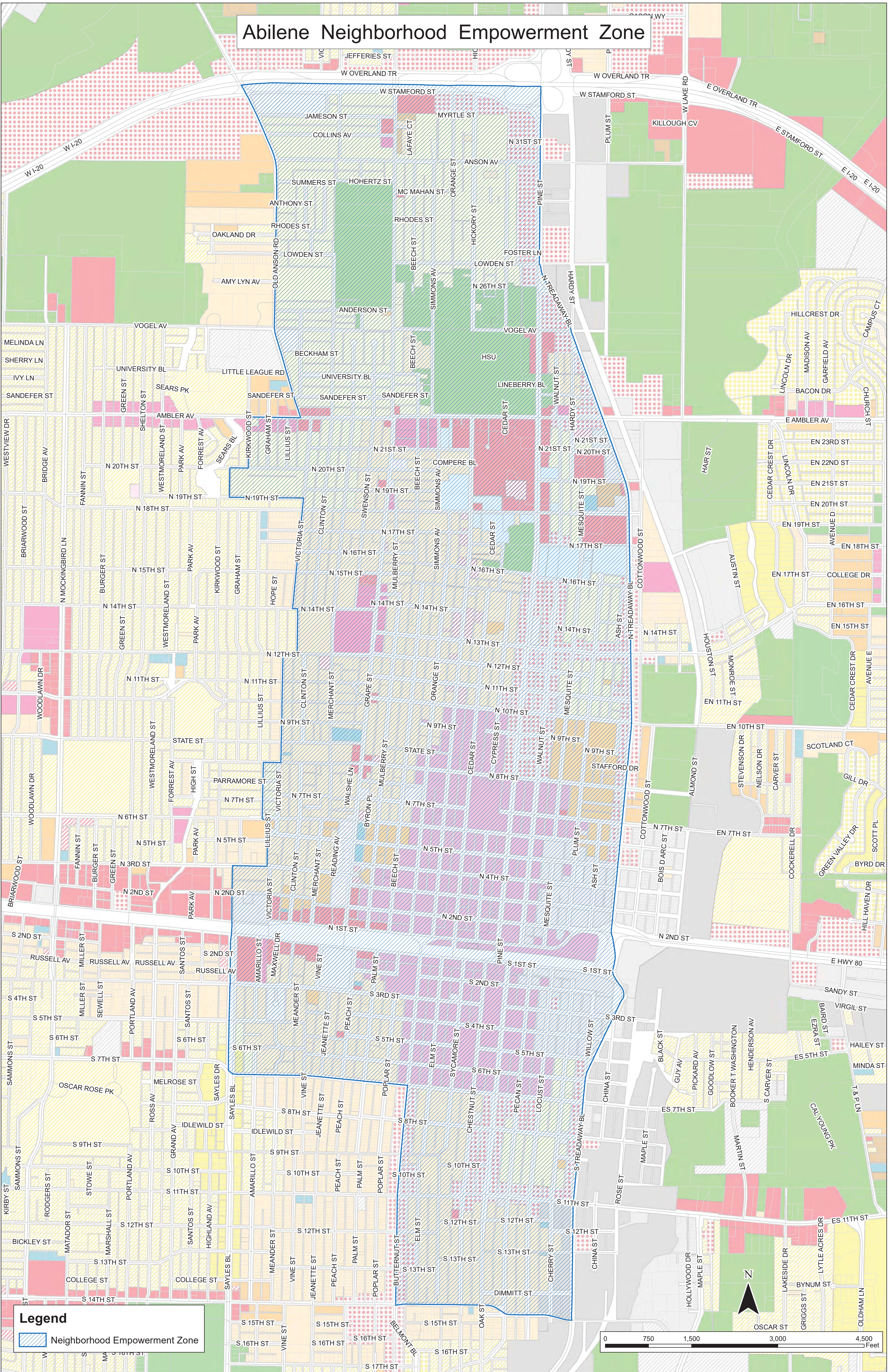
The Abilene Neighborhood Empowerment Zone No. 1 begins at the intersection of South 14th Street and Treadaway Blvd, thence north along Treadaway Blvd to the intersection of Pine Street and Treadaway Blvd, thence north along Pine Street to the intersection of Interstate 20 and Pine Street, thence west along Interstate 20 to the intersection of Old Anson Road and Interstate 20, thence south along Old Anson Road to the intersection of Ambler Avenue and Old Anson Road, thence west along Ambler Avenue to the intersection of Kirkwood Street and Ambler Avenue, thence south along Kirkwood Street to the intersection of North 20th Street and Kirkwood Street, thence west along North 20th Street to the intersection of Kirkwood Street and North 20th Street, thence south along Kirkwood Street to the intersection of North 19th Street and Kirkwood, thence east along North 19th Street to the intersection of Victoria Street and North 19th Street, thence south along Victoria Street to the intersection of North 14th Street and Victoria Street, thence east along North 14th Street to the intersection of Clinton Street and North 14th Street, thence south along Clinton Street to the intersection of North 12th Street and Clinton Street, thence west along North 12th Street to the intersection of Victoria Street and Clinton Street, thence south along Victoria Street to the intersection North 5th Street and Victoria Street, thence west along North 5th Street to the intersection of Lillius Street and North 5th Street, thence south along Lillius Street to the intersection of North 3rd Street and Lillius Street, thence west along North 3rd Street to the intersection of Graham Street and North 3rd Street, thence south along Graham Street to the intersection of North 1st Street and Graham Street, thence south along Sayles Blvd to the intersection of South 7th Street and Sayles Blvd, thence east along South 7th Street to the intersection Butternut Street and South 7th Street, thence south along Butternut Street to the intersection of South 14th Street and Butternut Street, thence east along South 14th Street terminating at the intersection of Treadaway Blvd and South 14th Street.

All properties abutting each boundary street are included within the Zone.

A map of the district is attached and incorporated into this Exhibit "A."



Abilene Neighborhood Empowerment Zone



Legend

- Neighborhood Empowerment Zone



**CRP Packet – TDHCA #20184
Heritage at Abilene**

Resolution Adopting Plans

AN ORDINANCE ADOPTING A COMPREHENSIVE PLAN FOR THE CITY OF ABILENE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That pursuant to Section 84 of the City Charter of the City of Abilene the Planning and Zoning Commission has forwarded to the City Manager and City Council a new Comprehensive Plan containing its recommendations for growth, improvement, and beautification of the city.

PART 2: That in accordance with Local Government Code Section 213.003 a public hearing on the adoption of said Plan has been held for the purpose of giving the public the opportunity to give testimony and present written evidence regarding the Plan.

PART 3: That the proposed Comprehensive Plan reflects the goals, objectives and strategies of the City Council for the long-range development of the municipality.

PART 4: That the proposed Comprehensive Plan as presented and amended is hereby adopted and supercedes all other general plans previously adopted. Small-area plans now in effect shall be administered and construed in harmony with the Comprehensive Plan.

PASSED ON FIRST READING this 8 day of January, A.D. 2004.

A notice of the time and place where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 31st day of December, 2003, the same being more than twenty-four (24) hours prior to a public hearing to be held in the Civic Center of the City of Abilene, Texas, at 8:30 a.m., on the 8th day of January, 2004, to permit the public to be heard prior to final consideration of the ordinance. Said ordinance shall take effect immediately upon final passage thereof.

PASSED ON SECOND AND FINAL READING this 22 day of January, A.D. 2004.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

RESOLUTION NO. 78-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REPEALING RESOLUTION NO. 1-2009, AND CREATING A NEW INFILL DEVELOPMENT INCENTIVE PROGRAM

WHEREAS, the City of Abilene (the “City”) desires to encourage the investment of private resources in productive business enterprises and single and multi-family housing units in historic and economically distressed areas of the City; and

WHEREAS, the City desires to increase economic development within historic and economically distressed areas of the City; and

WHEREAS, the City has previously adopted Resolution No. 1-2009 setting forth and infill development program; and

WHEREAS, the City now desires to repeal the current program and create a new program; and

WHEREAS, it is necessary and in the best interest of the City to create the Abilene Neighborhood Empowerment Zone No. 1, (the “Zone”) pursuant to Chapter 378 of the Texas Local Government Code; and

WHEREAS, in addition to the creation of the Zone, it is necessary and in the best interest of the City to offer certain economic development incentives to promote and encourage new private business development, and the remodeling and new construction of affordable and market rate housing options for the City’s historic and economically distressed areas

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

PART 1: That the City designates an area more particularly described and illustrated in “Exhibit A” attached hereto and incorporated herein for designation as the Abilene Neighborhood Empowerment Zone No. 1, and said boundaries shall describe and create the infill development program boundaries.

PART 2: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone will increase economic development within the Zone, increase the rehabilitation and construction of affordable and market rate housing options within the Zone, and increase the quality of social services, education or public safety provided to the residents of the Zone.

PART 3: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone benefits and is for the public purpose of increasing the public health, safety and welfare of the persons in the municipality.

PART 4: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone satisfies the requirements of Section 312.202 of the Tax Code.

PART 5: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives, provided that any agreement using the incentives authorized and set forth below must be adopted by an affirmative vote of four or more members of the City Council before it can be effective.

1. The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone; and
2. The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code; and
3. The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption; and
4. The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone; and
5. The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

PART 6: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives without further Council action.

1. The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees; and
2. The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost; and
3. The City Manager may waive or reduce sewer and water tap fees; and
4. The City Manager may waive or reduce zoning application fees.

PART 7: That Resolution No. 1-2009 is hereby repealed in its entirety.

PART 8: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 10th day of May 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney

EXHIBIT A

The Abilene Neighborhood Empowerment Zone No. 1 begins at the intersection of South 14th Street and Treadaway Blvd, thence north along Treadaway Blvd to the intersection of Pine Street and Treadaway Blvd, thence north along Pine Street to the intersection of Interstate 20 and Pine Street, thence west along Interstate 20 to the intersection of Old Anson Road and Interstate 20, thence south along Old Anson Road to the intersection of Ambler Avenue and Old Anson Road, thence west along Ambler Avenue to the intersection of Kirkwood Street and Ambler Avenue, thence south along Kirkwood Street to the intersection of North 20th Street and Kirkwood Street, thence west along North 20th Street to the intersection of Kirkwood Street and North 20th Street, thence south along Kirkwood Street to the intersection of North 19th Street and Kirkwood, thence east along North 19th Street to the intersection of Victoria Street and North 19th Street, thence south along Victoria Street to the intersection of North 14th Street and Victoria Street, thence east along North 14th Street to the intersection of Clinton Street and North 14th Street, thence south along Clinton Street to the intersection of North 12th Street and Clinton Street, thence west along North 12th Street to the intersection of Victoria Street and Clinton Street, thence south along Victoria Street to the intersection North 5th Street and Victoria Street, thence west along North 5th Street to the intersection of Lillius Street and North 5th Street, thence south along Lillius Street to the intersection of North 3rd Street and Lillius Street, thence west along North 3rd Street to the intersection of Graham Street and North 3rd Street, thence south along Graham Street to the intersection of North 1st Street and Graham Street, thence south along Sayles Blvd to the intersection of South 7th Street and Sayles Blvd, thence east along South 7th Street to the intersection Butternut Street and South 7th Street, thence south along Butternut Street to the intersection of South 14th Street and Butternut Street, thence east along South 14th Street terminating at the intersection of Treadaway Blvd and South 14th Street.

All properties abutting each boundary street are included within the Zone.

A map of the district is attached and incorporated into this Exhibit "A."



**CRP Packet – TDHCA #20184
Heritage at Abilene**

Pertinent Statutes Including:

- **Chapter 378 of the Texas Local Government Code**
- **Sections 312.201-204 of the Tax Code**

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

- (1) the determination described by Section 378.002;
- (2) a description of the boundaries of the zone;
- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
- (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

- (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;
- (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;
- (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1195 (H.B. 3896), Sec. 2, eff. June 19, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1225 (S.B. 1458), Sec. 2, eff. June 19, 2009.

SUBCHAPTER B. TAX ABATEMENT IN MUNICIPAL REINVESTMENT ZONE

Sec. 312.201. **DESIGNATION OF REINVESTMENT ZONE.** (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 or 312.211 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality;

and

(2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

(e) A notice made under Subsection (d) (2) is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.08(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 2, eff. Sept. 1, 1997.

Sec. 312.2011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under Chapter 2303, Government Code constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by Chapter 2303, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 28, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the

land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority

created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years, except that a reinvestment zone that is a state enterprise zone is designated for the same period as a state enterprise zone as provided by Chapter 2303, Government Code. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 12, eff. Sept. 1, 1995.

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT.

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on taxable or tax-exempt real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory and supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

Attachment B

CRP Deficiency Response

Below are the responses to the Community Revitalization Plan deficiency received on 4/27/20.

1. Provide the Abilene Neighborhood Empowerment Zone #1 (NEZ 1) Plan

Similar to application 19008 and 20025, Palladium Fain Street, the “Plan” is made up of the assessments of the area made through the Comprehensive Plan, and multiple complementary City Council actions taken as a result of a City Review of the NEZ Program internally – specifically the City Resolution authorizing the NEZ area 1 approved on May 10, 2019.

We believe that these two documents represent the “Plan” and meet the requirement that:

“A Plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan’s specific area.”

The documents taken together outline issues of the area, take into account public input, were formally adopted, address the need for concerted revitalization in a very specific area, and created a funding mechanism to address the identified problems.

This documentation was provided in the Application pp. 90-98 and the Comprehensive Plan pp. 14, 18-20, 22, 26, 28, 30-31, 36-37, 39, 43, 51, 57, 61-64, 70, 74 as outlined in the CRP form on page 79 of the Application.

2. The general information memo related to the May 10, 2018 resolution establishing NEZ 1 states that the “areas were chosen based on a heat map analysis of the total value per total square foot of improvements per parcel. The map (attached) helps to identify those areas where infill development or redevelopment of existing structures may be more successful than other areas.” Meetings on the comprehensive plan were held in 2004, and a restatement of the statutory requirements is not sufficient evidence. Explain how the problems in the NEZ 1 area were identified through a process in which affected local residents had an opportunity to express their views on problems facing the area and how those problems should be addressed and prioritized.

The public process on page 5 and 6 on the Comprehensive Plan outlines the way the problems in the NEZ area 1 were identified in a way that gave local residents an opportunity to express their views on problems facing the area and how those problems should be addressed and prioritized:

In the eighteen months that followed, the City engaged a diverse group of citizens from throughout the community in a collaborative planning process. Neighborhood representatives, interest groups, business and development interests, City staff, members of the Planning and Zoning Commission and City Council, and the general public were all involved at various levels in developing the Plan. The process allowed participants an opportunity to ask -- What do we want for Abilene? And how will we achieve it?

Throughout the process, a twenty-three member Steering Committee helped shape the Future Land Use and Development Plan and its supporting policies. The Steering Committee was composed of a broad spectrum of community interests including representatives from neighborhood, business, education, civic, and development organizations. The Committee met in a series of six workshops between September 2001 and February 2003 to provide input, recommendations, and feedback as the plan evolved.

The general public received project information and provided input into the planning process through a variety of means, including public workshops, surveys, newspaper articles and editorials, a project information booth at downtown Artwalk, billboards, and a project web site. The project web site at www.abilenecompplan.com was maintained and regularly updated with all major work products available on the site for review. It also offered a forum for citizens to discuss land use and planning issues on-line.

Additionally, there was a public hearing by the City Council related to the initial creation of the NEZ on January 22, 2009. Another public hearing was held by the City Council on May 10, 2018 for the creation of the most recent version of the NEZ. Both of these hearings were opportunities for citizens to give public input into the issues of the area and how the City was looking to address them.

The City Council Agendas and Resolutions were included in the Application on pp. 91-91 and 101. Also attached you will find the minutes showing that the hearings took place.

Please attached letter from the City of Abilene confirming the public hearings.

3. Provide further information about the \$160,000 of investment in the zone, including what projects have been completed, when and where.

The program used to expend these funds has recently been implemented. Per the attached letter from the City of Abilene, the funds were used for Building Permit/Plan Review Fees, and Zoning Application Fees. At this time they are in the process of implementing a tracking system for these incentives, but do not have the ability to provide more specific information at this time. Please see attached letter from the City of Abilene.

We believe that the original documentation provided by the City meets the QAP requirements as it shows that funding has been flowing per the Plan and that measurable improvements in the area were outlined by the city in their original Application letter.



April 30, 2020

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs
21 East 11th Street
Austin, Texas 78701

Re: Additional Information Requested for #20184

Dear Ms. Gamble:

We are in receipt of your request for additional information related to the Community Revitalization Plan submitted for TDHCA Application #20184.

1. "Plan" is made up of the assessments of the area made through the Comprehensive Plan, and multiple complementary City Council actions taken as a result of a City Review of the NEZ Program internally – specifically the City Resolution authorizing the NEZ area 1 approved on May 10, 2019.

We believe that these two documents represent the "Plan" and meet the requirement that:

"A Plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area."

The documents taken together outline issues of the area, take into account public input, were formally adopted, address the need for concerted revitalization in a very specific area, and created a funding mechanism to address the identified problems.

2. The estimate \$160,000 that has been allocated to developments within the NEZ 1 area of Abilene, TX was specifically used for Building Permit/Plan Review Fees, and Zoning Application Fees. Unfortunately, no detailed information on these incentives such as you have requested has been compiled. We are in the process of implementing a tracking and reporting system for NEZ incentives that will provide detailed information for each fee waiver. That process is not complete yet.
3. Additionally, we would like to confirm that per statutory guidelines there was significant public process regarding the creation of the NEZ. The public process on page 5 and 6 on the Comprehensive Plan outlines the way the problems in the NEZ area 1 were identified

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in a way that gave local residents an opportunity to express their views on problems facing the area and how those problems should be addressed and prioritized.

Additionally, there was a public hearing by the City Council related to the initial creation of the NEZ on January 22, 2009. Another public hearing was held by the City Council on May 10, 2018 for the creation of the most recent version of the NEZ. Both of these hearings were opportunities for citizens to give public input into the issues of the area and how the City was looking to address them.

Sincerely,



Michael Warrix, AICP
Director of Planning and Development Services

Cc Sarah Anderson
Brett Johnson
File

CITY COUNCIL MEETING
January 22, 2009, 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas, met in Regular Session on January 22, 2009, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Stormy Higgins, Robert O. Briley, and Councilwoman Laura Moore. Absent: Councilmen Spano and Williams. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Clark Neil; he is 11 years old and a 5th grader at College Heights Elementary School. Clark led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

Mayor Archibald shared that he had received a letter from Bishop Michael D. Pfeifer asking that February 8th a day of Prayer for rain.

May 25th will be the dedication of the new Texas State Veterans Cemetery located at Lake Fort Phantom Hill.

Mayor Archibald introduced Gene Reed the new Executive Director for the Abilene Housing Authority.

DISPOSITION OF MINUTES

5.0 No minutes to present.

CONSENT AGENDA

Councilman Higgins made a motion to approve consent agenda items 6.1 through 6.5 as presented. Councilman Chase seconded the motion, the motion carried.

AYES: Councilmen Chase, Higgins, Briley, Councilwoman Moore and Mayor Archibald
NAYS: None

Oral Resolution:

6.1 Approval of a Temporary Airport Use Agreement with Big County AirFest, Inc.; and authorize the City Manager to execute the Agreement. Big Country AirFest is scheduled to occur May 2009. The Agreement gives AirFest the ability to conduct activities associated

with aircraft displays, performances and public admittance for the event on the northwest general aviation ramp.

- 6.2** Ordinance Case No. **Z-2009-01**, First Reading on a request from Nick Coates to rezone property from RS-8 (Single-Family Residential) to RS-8/PH (Single-Family Residential with Patio Home Overlay) zoning, located at the southern 7.62 acres of Lot 201, Block A, Section 7, of the Hillcrest Addition; and setting a public hearing for February 12, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Bid Awards:

- 6.3** Bid #CB-9011 – Annual Purchase of Oil Products. City Council awarded the following bid to Western Marketing, the sole bidder, for all the items on the bid, for a one (1) year period with the City reserving the option to renew for four (4) additional one-year terms at the same terms and conditions.
- 6.4** Bid #CB-9012 – Purchase Firefighting Protective Clothing. City Council awarded the following bid to Ferrara Fire Apparatus, Inc. on a per unit price of \$1,350.00. This price is for a one year period with the option to renew up to three (3) additional one (1) year periods under the same terms and conditions with the agreement of all parties.

- 6.5** Bid #CB-9009 – Purchase of roll-off containers. City Council awarded the following bid to N.E.O. Fabricating for:

30 CY Open top container	QTY 6	Unit Price \$5,162.00	Total \$30,972.00
40 CY Open top container	QTY 4	Unit Price \$5,579.00	Total \$22,716.00
30 CY Tub Style container	QTY 5	Unit Price \$4,818.00	Total \$24,090.00
27.5 CY Recycle container	QTY 3	Unit Price \$5,224.00	Total \$15,672.00
40 CY Tub Style Container	QTY 3	Unit Price \$6,524.00	Total \$19,572.00

REGULAR AGENDA

- 7.1** Jon James Director of Planning and Development Services briefed the council on the final reading to amend the City of Abilene Zoning Ordinance, Section 23-312, regarding building restrictions in AO zoning.

Upon review of the City's regulations pertaining to building restrictions in the AO (Agricultural Open Space) zoning district, staff concluded that the existing regulations may be overly restrictive with regard to height and side setbacks. This amendment comes from the discussion with Wylie ISD in reference to the new construction on the Press Box at the football stadium.

Staff is proposing an amendment to Section 23-312 in the Zoning Ordinance to eliminate the maximum height within the AO zoning district and to only require a side setback of 25 feet. Additionally, staff is proposing increased setbacks for buildings and/or structures taller than 45 feet in height to protect adjacent properties.

Council and Staff discussion included: 1) Wylie received a variance from the Board of Adjustment for the upgrade of the press box; 2) no height limit – with the exceptions that fall under other regulations set by the city in reference to Cell Towers and Wind turbines etc.; 3) Airport zoning is in place for other regulations in reference to height of towers etc.; 4) FAA also would be involved in the construction of anything with some height; 5) setbacks on the property will address the issue or potential problem with height of construction after 45 feet; and 6) some of the permitted uses in AO (Agricultural Open Space) Schools, Churches, Race track and the Expo.

Mayor Archibald opened the public hearing on this item and there being no one present and desiring to be heard the public hearing was closed.

Councilman Briley made a motion to approve the Ordinance to amend the City of Abilene Zoning Ordinance, Section 23-312, regarding building restrictions in AO zoning. Councilwoman Moore seconded the motion, motion carried.

AYES: Councilman Chase, Higgins, Briley, Councilwoman Moore and Mayor Archibald
NAYS: None

The Ordinance is numbered #5-2009 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, “ZONING,” OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

7.2 Jon James Director of Planning and Development Services briefed the council on Infill Development Area boundaries.

Council had directed staff to seek input and a recommendation from the Planning and Zoning Commission on these boundaries. The Planning and Zoning Commission discussed the topic at their November 3, 2008 and January 5, 2009 meetings and have forwarded a recommendation. The Commission’s recommendation was based in part on the following criteria, which they believed to be important to the consideration:

- Designated areas should not be overly broad so that the incentives and benefits are focused on a few selected areas.
- The focus should be primarily on downtown, both north and south, as well as a few select, high-profile corridors.

Council and Staff discussion included: 1) boundaries would incorporate a north downtown and a south downtown areas; 2) a corridor approach for Treadaway north to I-20 and south to Industrial, Butternut Street, Pine Street and US Highway 80 corridor defined as the properties with frontage on US Highway 80/South 1st Street from US Highway 277 to Loop 322 (i.e., inside the “loop”); 3) if the area was broad it could water down the programs; 4) focus on small areas will be more effective; 5) boundaries to be reviewed annually by council and can be changed if council sees that other areas need to be added etc.; 6) Neighborhood Improvement Zone – would allow for council to zero in on areas and allow for Tax abatement; 7) fees – and the possibility of offering other fee reductions in other areas inside the loop; 8) Planning and Zoning discussed fees – they have found that fees are a small portion of construction fees. Business are impacted greater than residential in the area of fees.

Proposed Strategies

- Reduce planning and building fees within the infill area (2008)
 - Already approved as part of 2008-2009 budget
 - 50% fee reduction for qualifying projects
 - *Will be effective when infill boundary is determined*
 - Primary purpose of today’s item is to recommend this boundary
 - Secondary purpose is to define area within which future incentives are made available

Other Proposed Strategies

- Establish a Land Bank (2009)
- Revise pro-rata fees for water and sewer improvements related to new development (2009)
- Adopt a Transportation Impact Analysis (TIA) as part of the Land Development Code (2009)
- CIP Project for Infill Funding (2013)
- Sidewalk Construction Project (2012-2013)
- Overlay Zoning & “Neighborhood Empowerment Zone” for Tax Abatements (2009-2010)
- New Tax Increment Finance (TIF) District (2010-2011)

There being no further business the meeting was adjourned at 11:14 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor

RESOLUTION NO. 1-2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE DESIGNATING AN “INFILL DEVELOPMENT AREA”

WHEREAS, the City’s adopted Comprehensive Plan identifies six guiding principles for future development in the City, three of which encourage and promote the concept of infill development and redevelopment in underutilized areas of the City, particularly in areas where existing infrastructure and services are available to serve that development; and

WHEREAS, the City’s Fee Schedule for Planning and Building Permits includes an incentive, in the form of fee reductions, for designated infill areas; and

WHEREAS, the City’s Infill Development Strategy proposes to implement other incentive strategies to encourage development and redevelopment in designated infill areas; and

WHEREAS, the Planning and Zoning Commission has determined that a limited number of focused areas and corridors best furthers the City’s goals; and

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

PART 1: That there is hereby established an Infill Development Area” as defined by the following:

- North Downtown Area bounded by North 10th Street on the north, North Treadaway Blvd on the east, railroad tracks on the south, and Grape Street on the west.
- South Downtown Area bounded by the railroad tracks on the north, South Treadaway Blvd on the east, South 7th Street on the south, and Butternut Street on the west.
- Pine Street Corridor defined as the properties with frontage on Pine Street from North 10th Street to Interstate 20.
- Butternut Street Corridor defined as the properties with frontage on Butternut Street from South 1st Street to South Treadaway Blvd.
- Treadaway Corridor defined as the properties with frontage on Treadaway Blvd from Pine Street to Industrial Blvd.
- Highway 80 Corridor defined as the properties with frontage on US Highway 80/South 1st Street from US Highway 277 to Loop 322 (i.e., inside the “loop”).

PART 2: That this Infill Development Area is the designated infill area as referenced on the City’s Building and Planning Fee Schedules, which provide for reduced fees in some cases for development permits within this area, as well as for all other infill strategies that are implemented.

PART 3: That the Infill Development Area shall be reviewed annually to monitor progress on the adopted strategies, and may be amended by the City Council upon recommendation of the Planning and Zoning Commission as needed to further the City's goals and strategies for infill development.

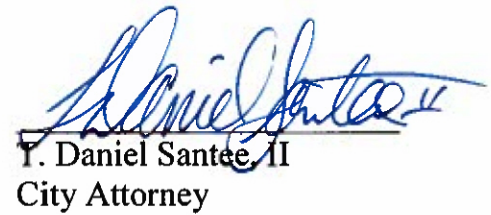
ADOPTED this 22nd day of January 2009.

ATTEST:


Danette Dunlap, City Secretary


Norman Archibald, Mayor

APPROVED:


T. Daniel Santee, II
City Attorney

CITY COUNCIL MEETING
May 10, 2018 at 4:30 p.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL

The City Council of the City of Abilene, Texas met in Regular Session on May 10, 2018, at 4:30 p.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding with Mayor Pro-tem Shane Price, Deputy Mayor Pro-tem Steve Savage, and Councilmembers Bruce Kreitler, Donna Albus, Weldon Hurt, and Kyle McAlister. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, City Secretary Rosa Rios, and various members of the City staff.

EXECUTIVE SESSION

Mayor Williams called the meeting to order and recessed into Executive Session at 4:30 p.m. pursuant to the following of the Open Meetings Act, with the following issues discussed during the closed session, as listed under the noted agenda item:

27.A 551.071 (Consultation with Attorney)

- (6) City of Abilene and Development Corporation of Abilene v. Texas Municipal League Governmental Risk Pool, Cause No. 11018-D In the 350th Judicial District Court, Taylor County, Texas, filed January 9, 2017

27.B 551.072 (Deliberations about Real Property)

- (1) Weatherbee Development and Dyess Air Force Base

27.D 551.074 (Personnel Matters)

- (1) Any action, if needed, on annual evaluation of the city secretary and municipal judge (Agenda Item 29 – city secretary and municipal judge)

27.E 551.087 (Deliberations about business prospects and economic development)

- (1) Hotel Proposals

The closed session ended at 5:23 p.m. after which the City Council recessed and reconvened to Open Session at 5:30 p.m., as noted on the posted agenda. Mayor Williams reported no votes or action were taken in Executive Session.

Brendan Lambert, 8th grader at Craig Middle School, delivered the invocation and led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Proclamations
 - Bicycle Awareness Month and Ride of Silence Day was accepted by Mark Spurlock with the Steamboat Cycling Club
 - National Salvation Army Week was accepted by Shelley Futrelle, Public Relations and Community Development Director of the Salvation Army of Abilene
 - Destination Imagination Teams Day was accepted by Kim Cheek, Wylie ISD Destination Imagination Director
 - National Hospital Week was accepted by Delores Cox, Abilene Regional Medical Center Director of Marketing

MINUTES

4. Approval of the minutes from the Regular Meeting held April 26, 2018

Deputy Mayor Pro-tem Savage moved to approve the minutes as presented. Councilmember Kreitler seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage, and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

CONSENT AGENDA

Items pulled for individual consideration were as follows:

- Deputy Mayor Pro-tem Savage: Item 5

Deputy Mayor Pro-tem Savage moved to approve the consent agenda, now consisting of items 6-9. Councilmember Hurt seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage, and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

6. Resolution: Authorizing combined purchases of water meters, parts, and services from Aqua Metric
[ASSIGNED RESOLUTION NO. 64-2018]
7. Resolution: Authorizing the City Manager to hire two shelter attendants for Abilene Animal Services
[ASSIGNED RESOLUTION NO. 65-2018]
8. Resolution: DCOA's Phase I Development of the Access Business Park and Contract with Epic Construction
[ASSIGNED RESOLUTION NO. 66-2018]
9. Resolution: Adopting names of Internal access ways for 911 and other addressing purposes on the Texas State Technical College campus.
[ASSIGNED RESOLUTION NO. 67-2018]

ITEM PULLED FROM CONSENT FOR INDIVIDUAL CONSIDERATION

5. Resolution: Authorizing combined purchases of pumps, parts, and services from Pierce Pump Company
[ASSIGNED RESOLUTION NO. 63-2018]
Deputy Mayor Pro-tem Savage pulled the item.

Deputy Mayor Pro-tem Savage inquired about the City's vendor selection process (local versus non-local). Staff clarified the competitive bid process is used for standardized parts; and the City does give preference to local vendors when possible.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Councilmember Hurt seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage, and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

Note: Agenda item 16 and 17 were considered at this time. The details of action taken are available within those items.

REGULAR AGENDA

10. Ordinance & Public Hearing: (Final Reading) OAM-2018-01 A request to amend Abilene's Land Development Code (LDC) regarding Section 3.1.1.3 in Chapter 3, Article 1 and pertaining to subdivision procedures and, specifically, concerning exemptions from platting requirements on certain properties adjoining Lake Ft. Phantom Hill
[ASSIGNED ORDINANCE NO. 22-2018]

Michael Rice, Assistant City Manager, presented the item. Adoption of the item would allow the six existing leaseholders at Lake Ft. Phantom Hill properties to purchase those homes and their continued use of on-site sewerage (septic) facilities for wastewater disposal.

Mayor Williams opened the public hearing. With no speakers coming forward, Mayor Williams closed the public hearing.

Councilmember Krietler moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

11. Ordinance & Public Hearing: (Final Reading) SNC-2018-01 A request from LTG Real Estate Group, Agent eHT to change the name of Corley Drive to Cason Way as it extends east to west from Plum Street to West Lake Road (aka FM 600)
[ASSIGNED ORDINANCE NO. 23-2018]

Ken Flynn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would allow the name change from Corley Drive to Cason Way. Signage would be installed once the name change is adopted and the property is developed.

Mayor Williams opened the public hearing. The following addressed the city council:

- David Todd, applicant – clarified the street has been there three years; and signage was on hold until the name change was accomplished

With no other speakers coming forward, Mayor Williams closed the public hearing.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Councilmember Kreitler seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

12. Ordinance & Public Hearing: (Final Reading) TC-2018-03 A request from Hardin Simmons University, agent Jacob and Martin, to abandon the portion of Sandefer Street running west to east between Pine Street and Walnut Street
[ASSIGNED ORDINANCE NO. 24-2018]

Ken Flynn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would abandon a 30-foot-wide street pavement presently lying within the segment of Sandefer Street's right-of-way.

Mayor Williams opened the public hearing. The following addressed the city council:

- Tal Fillingham – outlined the purpose of the abandonment and proposed development

With no other speakers coming forward, Mayor Williams closed the public hearing.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

13. Ordinance & Public Hearing: (Final Reading) Z-2018-08 A request from Edwin and Martin McDonald, to amend the terms and conditions of PD95 (Planned Development 95) to allow for the permanent placement and use of Recreational Vehicles (RV's) within the Planned Development located at 402 Arnold Boulevard
[ASSIGNED ORDINANCE NO. 25-2018]

Ken Flynn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would allow permanent placement and occupancy of Recreational Vehicles (RV's) within the existing manufactured (mobile) home park. Non-mobile or dilapidated RV's are treated as junk vehicles. Enforcement is difficult as an RV could be moved from place to place within the permitted property.

Mayor Williams opened the public hearing. With no speakers coming forward, Mayor Williams closed the public hearing.

Councilmember Kreitler moved to approve the item as presented. Deputy Mayor Pro-tem Savage seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

14. Ordinance & Public Hearing: (Final Reading) Z-2018-09 A request from Jonathan and Jared Sharp to rezone property from Residential Single-Family/Corridor Overlay (RS-8/COR) to Neighborhood Office/Corridor Overlay (NO/COR) located at 5629 Buffalo Gap Road
[ASSIGNED ORDINANCE NO. 26-2018]

Ken Flynn, Interim Director of Planning & Development Services, presented the item. Adoption of the item would allow conversion of the property for occupancy by offices and/or personal services.

Mayor Williams opened the public hearing. With no speakers coming forward, Mayor Williams closed the public hearing.

Mayor Pro-tem Price moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

The City Council recessed the meeting for a short break at 6:39 p.m. and reconvened at 6:47 p.m.

15. Ordinance & Public Hearing: (Final Reading) Z-2018-10 A request from Barbara Tucker, to rezone property from Agricultural Open Space/Corridor Overlay (AO/COR) and Residential Single-Family/Corridor Overlay (RS-8/COR) to General Retail/Corridor Overlay (GR/COR), and a Conditional Use Permit (CUP) to allow for an Automobile Wash on the same properties located at 6110 and 6118 Buffalo Gap Road
[ASSIGNED ORDINANCE NO. 27-2018]

Zack Rainbow, Planning Services Manager Planning & Development Services, presented the item. Adoption of the item would (1) rezone the property and (2) allow automobile car wash on the properties. Permitting use of portable signs would require a decision at another meeting as well as a formal review/approval process.

Mayor Williams opened the public hearing. The following addressed the city council:

- Ed Emerson, developer – overview of service to be provided

With no other speakers coming forward, Mayor Williams closed the public hearing.

Mayor Pro-tem Price moved to approve the item as presented. Councilmember Kreitler seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

16. Resolution: (Remove from Table) Authorizing the City Manager to Execute a Lease Agreement with the Abilene Youth Sports Authority (AYSA)
[ASSIGNED RESOLUTION NO. 68-2018]

Mayor Pro-tem Price moved to remove the item from the table. Councilmember Albus seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

Howdy Wayne Lisenbee, Director of Facilities & Capital Improvements, presented the item. Adoption of the item would provide for a lease agreement between the City and Abilene Youth Sports Authority (AYSA) for construction of a youth sports facility at Grover Nelson Park. Staff clarified the City would maintain all infrastructure (water, sewer, streets to/from, and some parking maintenance). Landscape items would be the responsibility of the lessee.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

17. Resolution: (Remove from Table) Authorizing the City Manager to execute a Professional Services Agreement with Jacob & Martin for site work in support of the Abilene Youth Sports Authority project at Nelson Park
[ASSIGNED RESOLUTION NO. 69-2018]

Mayor Pro-tem Price moved to remove the item from the table. Councilmember Kreitler seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

Howdy Wayne Lisenbee, Director of Facilities & Capital Improvements, presented the item. Adoption of the item would meet the City's requirement, resulting from the adoption of the lease agreement with AYSA (Agenda Item 16 above), to participate in the site and civil improvements necessary to support the successful construction and operation of the youth sports facility at Grover Park.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, Hurt, and McAlister
NAYS (0): None

18. Resolution: Authorizing the award of Bid No. CB-1837 (Sale of Land, 401 Plum St.) to YUMS, Inc.
[ASSIGNED RESOLUTION NO. 70-2018]

Howdy Wayne Lisenbee, Director of Facilities & Capital Improvements, presented the item. Adoption of the item would authorize the sale of 401 Plum to the highest bidder, YUMS, Inc.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Councilmember Albus seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

19. Resolution: (Remove from Table) Expressing official intent to reimburse costs of Park and Recreational Improvements
[ASSIGNED RESOLUTION NO. 71-2018]

Mayor Pro-tem Price moved to remove the item from the table. Deputy Mayor Pro-tem Savage seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

Mike Rains, Director of Finance, presented the item. Adoption of the item would allow the City to reimburse itself when bonds are issued for costs incurred for the construction of the sports complex at Nelson Park.

Mayor Pro-tem Price moved to approve the item as presented. Deputy Mayor Pro-tem Savage seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Albus, and McAlister

NAYS (1): Councilmember Kreitler

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

20. Resolution & Public Hearing: Authorizing the Mayor to execute the Oil & Gas Drilling Permit with Teal Exploration, LLC for "El Guapo #2" located at 3350 N. Clack St.
[ASSIGNED RESOLUTION NO. 72-2018]

Andy Anderson, Interim Director of Public Works, presented the item. Adoption of the item would authorize the issuance of a drilling permit within property located in the vicinity of Elm Creek and US 83/84 north of Interstate 20. Councilmember Kreitler requested he be informed when the BPO testing is being conducted so that he can attend.

Mayor Williams opened the public hearing. With no speakers coming forward, Mayor Williams closed the public hearing.

Councilmember Kreitler moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

21. Resolution: Authorizing the award of Bid #CB-1836 SODA Roadway Improvements Phase II to Contract Paving Co.

[ASSIGNED RESOLUTION NO. 73-2018]

Andy Anderson, Interim Director of Public Works, presented the item. Adoption of the item would authorize the bid award to Contract Paving Co. for the mill and overlay of S. 3rd St. from Oak St. to S. Treadaway Blvd., S. 6th St. from Butternut St. to S. Treadaway Blvd., Chestnut St. from S. 7th St. to S. 1st St., and Oak St. from S. 7th St. to S. 1st St.

Mayor Pro-tem Price moved to approve the item as presented. Councilmember Kreitler seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

22. Resolution: Authorizing the award of Bid #CB-1840 Central Business District West Side Rehabilitation Project to Bontke Brothers Construction Co., Inc.

[ASSIGNED RESOLUTION NO. 74-2018]

Andy Anderson, Interim Director of Public Works, presented the item. Adoption of the item would authorize the bid award to Bontke Brothers construction Co., Inc. to the rehabilitation of N. 2nd St., N. 3rd St., N. 4th St., & N. 5th St. from Grape St. to Hickory St. also for the rehabilitation is Mulberry St. from N. 1st St. to N. 6th St. The contract also includes a mill and overlay section on N. 6th St. from Grape St. to Hickory St., Beech St. and Orange St. from N. 1st St. to N. 6th St., and Hickory St. from N. 1st St. to N. 3rd St., including curb and gutter, valley gutters, and curb ramps. Staff confirmed that any changes in the number of lanes of travel for vehicles would be brought to the City Council for approval before instructing contractor to make such changes.

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

23. Resolution: Authorizing the City Manager to execute an Advance Funding Agreement for a Transportation Alternatives Set-Aside (TASA) Program Project with the Texas Department of Transportation for construction of various sidewalks, pedestrian signal enhancements, ADA ramps and safe access to bus stops
[ASSIGNED RESOLUTION NO. 75-2018]

Andy Anderson, Interim Director of Public Works, presented the item. Adoption of the item commits the City to providing a local funding match of at least 50% of the allowable costs of the project. City Manager Hanna stated he would meet with the Chair of the new Citizens Advisory Board for People with Disabilities about the planning stages for this project to ensure the City considered their needs before bidding of the project(s).

Deputy Mayor Pro-tem Savage moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

24. Resolution: Authorizing expenditures of up to \$111,820 as budgeted for FY-2018 under the terms of an agreement entered into with TIBH Industries (Goodwill West Texas), executed on August 15, 2017 and in effect for 3 years
[ASSIGNED RESOLUTION NO. 76-2018]

Andy Anderson, Interim Director of Public Works, presented the item. Adoption of the agreement provides for mowing, weed eating and litter removal in various designated rights-of-way.

Councilmember McAlister moved to approve the item as presented. Mayor Pro-tem Price seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Price and Councilmembers Kreitler, Albus, and McAlister

NAYS (1): Deputy Mayor Pro-tem Savage

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

25. Resolution: Authorizing the City Manager to execute a contract with Schindler Elevator Corporation to repair Exterior Escalators and establish a preventive maintenance contract for up to three years
[ASSIGNED RESOLUTION NO. 77-2018]

Don Green, Director of Transportation Services, presented the item. Adoption of the contract provides for repair of the Airport Terminal's two exterior escalators to like-new condition.

Mayor Pro-tem Price moved to approve the item as presented. Deputy Mayor Pro-tem Savage seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler and McAlister

NAYS (1): Councilmember Albus

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

26. Resolution: Repealing Resolution 1-2009 and authorizing the creation of an infill development program and corresponding economic development incentives
[ASSIGNED RESOLUTION NO. 78-2018]

Robert Hanna, City Manager, presented the item. Adoption of the item would authorize (1) repeal of the current infill development program; and (2) establish a new infill development program which includes certain incentives.

Councilmember McAlister moved to approve the item as presented. Councilmember Kreitler seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

28. Resolution: Appointing members to various Boards & Commissions per the City Charter
[ASSIGNED RESOLUTION NO. 79-2018]

Deputy Mayor Pro-tem Savage moved to approve (re)appointment of the following:

Board	Term End Date
<i>Board of Adjustment</i>	
Bob Thomas (Alternate) [New]	November 2018 <small>[Unexpired]</small>
Landmarks Commission	
James Wagstaff (Rep. Abilene Preservation League) [New]	November 2020 <small>[Unexpired]</small>
Library Board	
Christine Curtis-Carr [New]	November 2019 <small>[Unexpired]</small>
Office of Neighborhood Services Advisory Board	
Kenneth Bowles (At-Large) [New]	November 2018 <small>[Unexpired]</small>

Mayor Pro-tem Price seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Price, Deputy Mayor Pro-tem Savage and Councilmembers Kreitler, Albus, and McAlister

NAYS (0): None

ABSENT WHEN VOTE TAKEN (1): Councilmember Hurt

29. Resolution: Any action, if needed, on the annual evaluation for the city secretary and municipal judge

Earlier in the meeting, under Section 551.074 (Personnel Matters) of the Open Meetings Act, the item was discussed during the Executive Session, which started at 4:30 p.m. and ended at 5:23 p.m. No action was taken at that time.

The item was not considered.

PUBLIC COMMENT

Mayor Williams opened the public comment period. With no speakers coming forward, Mayor Williams closed the public comment period.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:55 p.m.

Rosa Rios, TRMC
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____

RESOLUTION NO. 78-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REPEALING RESOLUTION NO. 1-2009, AND CREATING A NEW INFILL DEVELOPMENT INCENTIVE PROGRAM

WHEREAS, the City of Abilene (the "City) desires to encourage the investment of private resources in productive business enterprises and single and multi-family housing units in historic and economically distressed areas of the City; and

WHEREAS, the City desires to increase economic development within historic and economically distressed areas of the City; and

WHEREAS, the City has previously adopted Resolution No. 1-2009 setting forth and infill development program; and

WHEREAS, the City now desires to repeal the current program and create a new program; and

WHEREAS, it is necessary and in the best interest of the City to create the Abilene Neighborhood Empowerment Zone No. 1, (the "Zone") pursuant to Chapter 378 of the Texas Local Government Code; and

WHEREAS, in addition to the creation of the Zone, it is necessary and in the best interest of the City to offer certain economic development incentives to promote and encourage new private business development, and the remodeling and new construction of affordable and market rate housing options for the City's historic and economically distressed areas

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

PART 1: That the City designates an area more particularly described and illustrated in "Exhibit A" attached hereto and incorporated herein for designation as the Abilene Neighborhood Empowerment Zone No. 1, and said boundaries shall describe and create the infill development program boundaries.

PART 2: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone will increase economic development within the Zone, increase the rehabilitation and construction of affordable and market rate housing options within the Zone, and increase the quality of social services, education or public safety provided to the residents of the Zone.

PART 3: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone benefits and is for the public purpose of increasing the public health, safety and welfare of the persons in the municipality.

PART 4: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone satisfies the requirements of Section 312.202 of the Tax Code.

PART 5: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives, provided that any agreement using the incentives authorized and set forth below must be adopted by an affirmative vote of four or more members of the City Council before it can be effective.

1. The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone; and
2. The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code; and
3. The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption; and
4. The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone; and
5. The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

PART 6: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives without further Council action.

1. The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees; and
2. The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost; and
3. The City Manager may waive or reduce sewer and water tap fees; and
4. The City Manager may waive or reduce zoning application fees.

PART 7: That Resolution No. 1-2009 is hereby repealed in its entirety.

PART 8: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 10th day of May 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney

EXHIBIT A

The Abilene Neighborhood Empowerment Zone No. 1 begins at the intersection of South 14th Street and Treadaway Blvd, thence north along Treadaway Blvd to the intersection of Pine Street and Treadaway Blvd, thence north along Pine Street to the intersection of Interstate 20 and Pine Street, thence west along Interstate 20 to the intersection of Old Anson Road and Interstate 20, thence south along Old Anson Road to the intersection of Ambler Avenue and Old Anson Road, thence west along Ambler Avenue to the intersection of Kirkwood Street and Ambler Avenue, thence south along Kirkwood Street to the intersection of North 20th Street and Kirkwood Street, thence west along North 20th Street to the intersection of Kirkwood Street and North 20th Street, thence south along Kirkwood Street to the intersection of North 19th Street and Kirkwood, thence east along North 19th Street to the intersection of Victoria Street and North 19th Street, thence south along Victoria Street to the intersection of North 14th Street and Victoria Street, thence east along North 14th Street to the intersection of Clinton Street and North 14th Street, thence south along Clinton Street to the intersection of North 12th Street and Clinton Street, thence west along North 12th Street to the intersection of Victoria Street and Clinton Street, thence south along Victoria Street to the intersection North 5th Street and Victoria Street, thence west along North 5th Street to the intersection of Lillius Street and North 5th Street, thence south along Lillius Street to the intersection of North 3rd Street and Lillius Street, thence west along North 3rd Street to the intersection of Graham Street and North 3rd Street, thence south along Graham Street to the intersection of North 1st Street and Graham Street, thence south along Sayles Blvd to the intersection of South 7th Street and Sayles Blvd, thence east along South 7th Street to the intersection Butternut Street and South 7th Street, thence south along Butternut Street to the intersection of South 14th Street and Butternut Street, thence east along South 14th Street terminating at the intersection of Treadaway Blvd and South 14th Street.

All properties abutting each boundary street are included within the Zone.

A map of the district is attached and incorporated into this Exhibit "A."



Attachment C

Scoring Notice Appeal

June 10, 2020

Bobby Wilkinson
TDHCA
221 E 11th Street
Austin, TX 78701

Dear Mr. Wilkinson:

Please consider this a formal appeal of the Scoring Notice for The Heritage at Abilene (TDHCA #20184). Per the Notice, "The Application requested seven (7) points but is not eligible for points under this item because the documentation provided does not meet the requirements for a CRP."

We respectfully request that the eligibility of the Abilene Comprehensive Plan and the Abilene Neighborhood Empowerment Zone collectively be considered complementary revitalization documents that meet the CRP requirements and all seven points be reinstated. Additionally, because this scoring item has three point components, we also request that the three components be reviewed individually and that the Applicant receive 3 of the total 7 points for the City Revitalization Resolution (2 points) and Opportunity Index items (1 point).

Overview

The planning process used by the City of Abilene is one that is similar to many cities across the state. A Comprehensive Plan is produced to give an overview of issues faced by the city, often times with specific geographic areas called out for their needs, which result in future goals and objectives for those areas. Then based on those initial assessments, specific localized plans or policies are introduced to implement the strategies/goals/objectives. These localized plans/policies, in concert with the Comprehensive Plan, constitute revitalization plans. This is exactly how the City approached the revitalization needs for the older historic downtown area of Abilene.

Per the City of Abilene, "subsequent to the Comprehensive Plan, the City identified the Original Town South, Original Town North, and North College as meeting the criteria of the "Established Redeveloping Neighborhoods" and created the Abilene Neighborhood Empowerment Zone (NEZ) to "Promote the revitalization of older neighborhoods that have experienced disinvestment." The NEZ makes these areas eligible for development incentives including development fee waivers, municipal property tax abatements, and an infill development program and corresponding economic development incentives were created to go along with the NEZ. The Heritage at Abilene HTC development is located within this NEZ."

Staff Issues with the CRP

Once we received the scoring notice, we requested more detailed information from staff as to why they felt the two plans did not constitute a qualifying Community Revitalization Plan.

Below is a point by point response to the issues raised by staff:

Staff did not find that the Comprehensive Plan and the NEZ resolution amount to complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The Comprehensive plan is generalized to the entire city, and staff found no agenda for the specific area in the NEZ resolution.

The area where the proposed development is located is in Original Town South, which is a neighborhood outlined in the Comprehensive Plan as an "Established Redeveloping Neighborhood" as described on page 63. As outlined in the Plan on page 64, these areas have strategies to address local issues that include providing incentives to encourage infill and redevelopment in distressed neighborhoods, and provide financial incentives, such as rehabilitation loans/grants, offsets of development fees, and tax-advantaged project financing. The creation of the NEZ for the area was a direct result of the issues identified by the Comprehensive Plan.

Because the Comprehensive Plan is general for the entire city, staff did not find evidence that problems in the targeted area were identified through a process in which affected local residents had an opportunity to express their views on problems facing the area targeted for revitalization, and how those problems should be addressed and prioritized.

Both the Comprehensive Plan and the Creations/Approval of the NEZ included public input opportunities for the public and specific neighborhood to express their views. Specifics to public input the Comprehensive Plan can be found in the document pages 5-8. Strategies related to the Established Redevelopment Neighborhoods can be found on pages 63 and 64.

With regard to the input for the NEZ, City staff developed the boundary of NEZ with public input as required by statute after notice was published in the newspaper and holding a public hearing. The public also had the opportunity to give input at the City Council meeting where the NEZ and infill programs were approved. The City write up of the NEZ Agenda item and related Infill Program outline priorities and strategies to address problems.

Staff did not find information about common attributes and problems of the targeted area in either the Comprehensive Plan or the NEZ resolution.

As outlined in the Comprehensive Plan on page 63:

Abilene is a city with many unique older neighborhoods. Some have retained their character and aged gracefully. Others, however, have become run-down with deteriorating housing stock. Vacant houses, lots and boarded structures exacerbate crime problems, deter businesses from locating in older neighborhoods, and perpetuate a cycle of decline. In order to change the momentum from decline to revitalization, City policies propose a multifaceted approach to the revitalization of mature neighborhoods. Policies specifically focus on stabilizing neighborhoods by improving infrastructure, such as streets, schools and parks, housing conditions, and ensuring that Abilene citizens have an opportunity to live in the type of dwelling and location of choice. If an entire block of homes, along with adjacent facilities can be improved, the odds for preserving the neighborhood as a desirable place to live are greatly enhanced. To achieve this end, the City should concentrate its efforts on whole neighborhoods rather than isolated units. Stable neighborhoods

encourage residents to maintain, upgrade, build, and buy housing resulting in a sound, diverse housing stock.

Likewise, the requirements of the NEZ outline the attributes and problems within the targeted area:

- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;
- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

Common attributes include existing neighborhoods that have become run down, deteriorating housing stock, vacant structures, higher rates of crime, and depressed commercial property values.

Staff did not find a description of how the targeted area was once vital but has lapsed into a condition requiring concerted revitalization in either the Comprehensive Plan or the NEZ resolution.

As discussed in the previous response, both the Comprehensive Plan and the NEZ outline general characteristics of this older area of Abilene and the decline that necessitates revitalization and must be present for a NEZ to be created.

In addition to pp. 63-64, pages pp. 22, 56, 61, and 74 of the Comprehensive Plan talk about the need for revitalization, infill, re purposing of empty schools.

Staff did not find information about goals for the targeted area in either the Comprehensive Plan or the NEZ resolution.

Goals for this part of town are outlined in the Comprehensive plan on pages 63-64. (See Attached)

Goals for the NEZ were outlined in the City Write up for the NEZ and is attached.

Regarding the timetable, the 2004 Comprehensive Plan was for 10-15 years, and staff did not find a timetable in the NEZ resolution.

The 2004 Comprehensive Plan is still the current Comprehensive Plan for Abilene. The timetable for the NEZ is statutorily set and expires five years after the date of the designation and may be renewed for an additional five years. This was provided with the statutory requirements and mentioned in the City's letter provided in the Application.

Staff did not find evidence of a history of sufficient, documented and committed funding, and as stated before, no evidence of problems or a timetable for them to be sufficiently addressed and no goals.

Please refer to the letter (See attached) we submitted with the Application which outlined an estimated \$160,000 in fees have been waived for the projects and developments to date.

The attached letter from the City of Abilene addresses many of the issues brought up by staff and confirms among other things that the process including public participation, that the Comprehensive Plan/NEZ are complimentary planning documents, the attributes of the area including decline and need for revitalization, that funds have been expended in the area and will continue to be.

Similarity to TDHCA #20025 (Palladium Fain Street)

We ask that the submission of the Application #20025 Palladium Fain Street be reviewed and compared to our submission. The circumstances behind two CRPs are almost identical, yet 20025 received the full 7 points and this Application received zero points.

The documents used by both Applications are the City's Comprehensive Plan and the resulting NEZ that was created. They both had/met the same public input requirements. They both used similar documentation to identified common elements/attributes. The goals for the NEZ were both listed in the City Agenda item write ups. Each NEZ identified their evidence of problems based on the statutory requirements of the NEZ (20025 was outlined in City letter and this Application by the submission of statutory requirements). They both followed the same statutory timetables for the NEZ.

It should be noted that the City of Fort Worth has had multiple HTC applications in revitalization areas over the past several years and is more experienced than the City of Abilene with regard to TDHCA's Concerted Revitalization scoring item and document requirements. While the City of Fort Worth may have had more comprehensive summaries for agenda items and documentation, the background, process, and proof for the Comprehensive Plan and NEZ plan are analogous and should be treated consistently. Like #20025, this Application has documents that constitute a legitimate CRP.

Application is Eligible for 3 out of 7 Points

This scoring item has three point selections that comprise a total of 7 possible points. Up to 7 points will be awarded based on: (I) 4 points for a letter from a local official providing documentation of improvements in the revitalization area, (II) 2 points for a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, and (III) 1 point if the development is in a location that would score at least five points under the Opportunity Index.

The scoring notice issued for this Application indicated that 0 of 7 points have been awarded for Concerted Revitalization Plan without considering the individual point selections that comprise the scoring item. In the 2020 QAP, the language indicating that the 2-point and 1-point options were awarded "in addition" to the 4-point option was removed, so each point selection should be reviewed.

This Application provided a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, as well as documentation to demonstrate that the development is in a location that would score at least five points under the Opportunity Index. This Application is eligible for these two point selections, which constitutes 3 of the 7 points available under this scoring item.

This would be consistent with the scoring notice for Application 20281 Bayou Bend Apartments, where staff did not award the 4 points for the first point selection but did award the 3 points for the second and third point selections.

Conclusion

The circumstances surrounding the planning for the Abilene Neighborhood Empowerment Zone are indicative of the limitations of the QAP language and the current process for CRP scoring as a whole.

When the scoring item was initially written, there was significant discussion of how local communities do their planning and the problem of the State being the arbiter of what is truly considered to be revitalization. At the time, the development community was assured the language in the QAP was for guidance and that some subjectivity would be used -- that the planning efforts of the city in its totality should show that: 1) an area within the city has been identified as having been vibrant and gone into a decline; 2) that citizens be given the opportunity to weigh in on the issues; and 3) that the city had identified ways to address the needs of the area and were proceeding with implementation. The Department ensured the development community that staff understood that each municipality would do things a little differently and that they would know Community Revitalization efforts "when they saw them."

Over the course of the last several years, the review of the CRPs has altered with each new reviewer. The original idea of "knowing it when we see it" and being able to talk through the plans and process has been replaced with check boxes.

At the end of the day, the identification of areas in decline in the Comprehensive Plan and creation of the NEZ and resulting funding for revitalization activities in the older parts of downtown Abilene should be sufficient proof of real and true revitalization efforts on the part of the City of Abilene. We understand that documentation should be required to substantiate the nature of the local revitalization and believe that we have met the threshold as outlined in the QAP:

- ✓ Development Site is located in a distinct area that was once vital and lapsed into a condition requiring concerted revitalization, and where a plan has been developed and executed
- ✓ The Plans must create a cohesive agenda for the plan's specific area
- ✓ The target area for revitalization should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems
- ✓ The Plans were adopted by the municipality
- ✓ The problems in the revitalization area must be identified through a process which allows local residents an opportunity to express their views

- ✓ Goals of the adopted plan must have a history of funding and flowing in accordance with the plan
- ✓ The Plan must be current and continue for three years and have no budgetary or other obstacles to accomplish the purposes of the plan

Documentation provided by the Applicant meets all of the requirements.

We respectfully request that the staff determination of zero points for the CRP scoring item be reversed and the Application receive 7 points: 4 points for documentation of the revitalization plan and targeted efforts, 2 points for a resolution from the City that identifies the development as contributing more than any other to the concerted revitalization efforts, and 1 point for a location that would score at least five points under the Opportunity Index.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Johnson", written over a white background.

Brett Johnson

Developer, Heritage at Abilene

June 10, 2020

Bobby Wilkinson
TDHCA
221 E. 11th
Austin, TX 78701



Dear Mr. Wilkinson:

I am writing to provide additional information to you regarding the City of Abilene's revitalization area known as the Abilene Neighborhood Empowerment Zone (NEZ). It is my understanding that TDHCA is currently denying CRP points to the Applicant of The Heritage at Abilene (TDHCA #20184), and I would like to provide clarification regarding this plan.

Abilene has a diverse collection of neighborhoods. Neighborhoods in the northern and central part of the city are older, and these areas face distinctly different challenges than their counterparts in newer areas in southern parts of the city. The Comprehensive Plan identified specific neighborhoods within the City, established three classifications of defining categories for these neighborhoods, and laid out strategies to address problematic issues relative to their needs. The Heritage at Abilene site is within an area called Original Town South as reference in the Super Neighborhood Boundaries on pp. 58-59 of the Comprehensive Plan.

The City identified the Original Town South, Original Town North, and North College as meeting the criteria of the "Established Redeveloping Neighborhoods" described in the Comprehensive Plan and created the Abilene Neighborhood Empowerment Zone (NEZ) with the objective to "Promote the revitalization of older neighborhoods that have experienced disinvestment." The creation of the NEZ made these areas eligible for a variety of development incentives including development fee waivers and municipal property tax abatements. In fact, an infill development program and corresponding economic development incentives was created to go along with the NEZ. The proposed Heritage at Abilene HTC development is located within this NEZ.

As you may be aware, NEZs are allowed under the Texas Local Government Code §378. The statutory purpose of a NEZ is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone.

In order to be designated a NEZ by the City Council, an area must meet the following criteria:

- Promote the creation of affordable housing in the zone; or an increase in economic development in the zone; or an increase in the quality of social services, education, or public safety provided to residents in the zone; or the rehabilitation of affordable housing in the zone;
- Meet the criteria for a Reinvestment Zone;
- Be 100% Community Development Block Grant ("CDBG") eligible;
- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;

- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

We would like to emphasize that the Comprehensive Plan and the Neighborhood Empowerment Zone resolution collectively constitute a Community Revitalization Plan with a cohesive agenda. The Comprehensive Plan recognized that there are areas in decline in the older parts of central downtown Abilene and introduced strategies for revitalization for those areas, and the NEZ created target areas and incentives for improvement and revitalization. The creation of the Abilene NEZ and the incentives that go along with it are classic examples of local community revitalization planning. The problems of a declining area were identified by the City through research and an open public process, and incentive programs were created to address those issues.

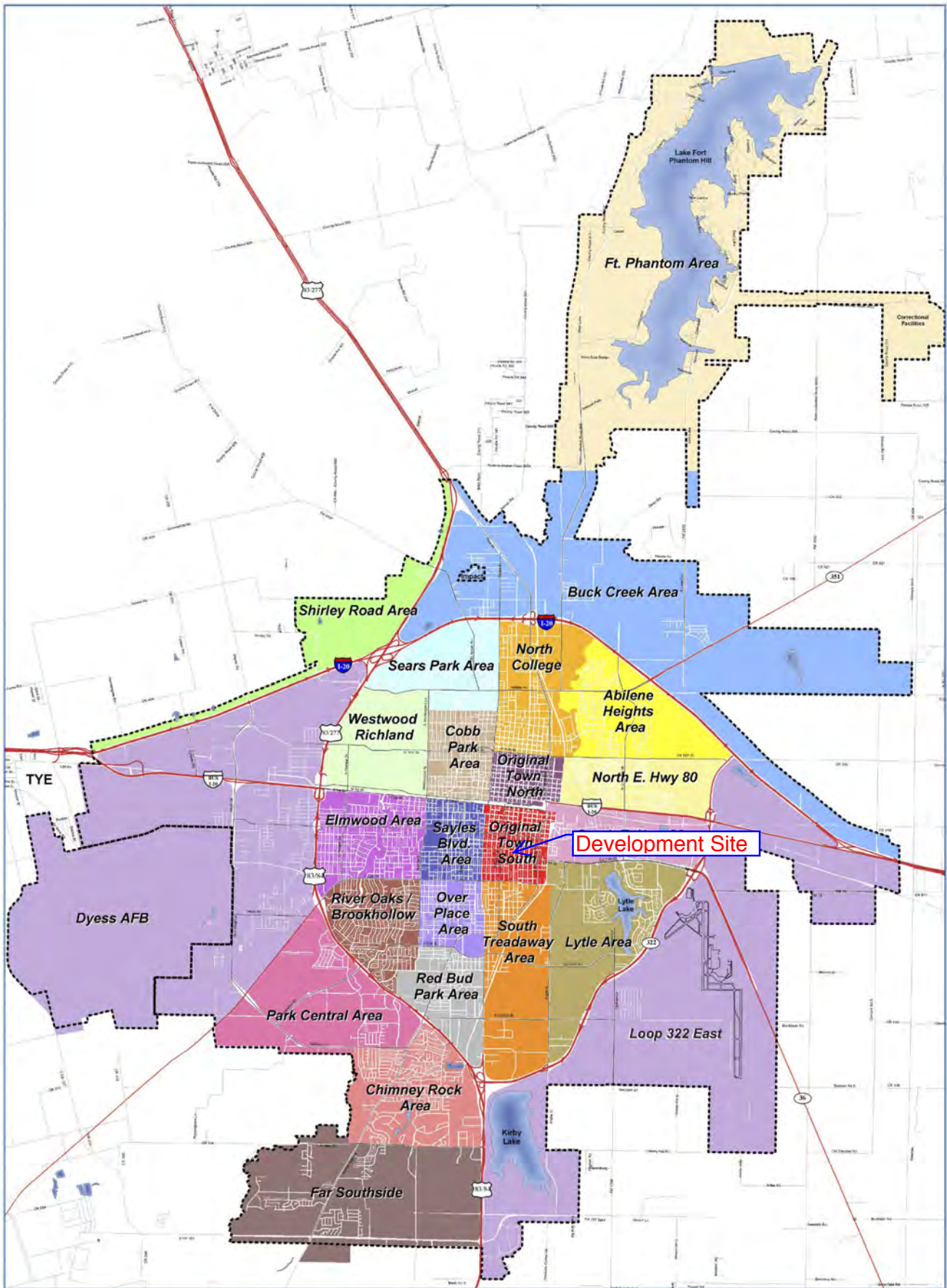
- The Comprehensive Plan and the NEZ resolution are complementary local planning documents that together create a cohesive agenda for the specific area of the Heritage at Abilene.
- Both the Comprehensive Plan and the NEZ were approved by City Council with opportunities for public input through public hearings and city council meetings.
- The Established Redeveloping Neighborhoods contemplated in the Comprehensive Plan, and the target areas of the NEZ overlap older areas of the City that have declined and include the Heritage at Abilene.
- Both the Comprehensive Plan and NEZ are currently active and in effect.
- Funding for the area has been expended and will be spent in the future.

The City of Abilene developed the boundary of NEZ with public input as required by statute after notice was published in the newspaper and a public hearing was held, and the City Council approved the creation of NEZ. When taking the Established Redeveloping Neighborhoods target areas of the Comprehensive Plan together with the NEZ, it is clear that declining areas were identified and strategies and funding were created to improve target areas of the City. The Heritage at Abilene is within a community revitalization area within the City of Abilene and will contribute to the revitalization and housing needs in the area.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Warrix', with a long horizontal flourish extending to the right.

Michael Warrix, AICP
Director of Planning and Development Services

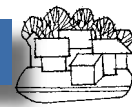


Neighborhoods			Road Type	
Abilene Heights Area	North E. Hwy 80	Shirley Road Area	Aerial Roads	US and State Highways Local or Collector
Buck Creek Area	Original Town North	South E. Hwy 80	City Boundary	
Chimney Rock Area	Original Town South	South Treadway Area	Water Bodies	
Cobb Park Area	Over Place Area	Westwood Richland		
Elmwood Area	Park Central Area	Loop 322 East		
Far Southside	Red Bud Park Area	Dyess AFB		
Ft. Phantom Area	River Oaks / Brookhollow			
Lytle Area	Sayles Blvd. Area			
North College	Sears Park Area			

0 0.5
 Miles
 January 2003

Super Neighborhood Boundaries





Established Redeveloping Neighborhoods

Discussion: Abilene is a city with many unique older neighborhoods. Some have retained their character and aged gracefully. Others, however, have become run-down with deteriorating housing stock. Vacant houses, lots and boarded structures exacerbate crime problems, deter businesses from locating in older neighborhoods, and perpetuate a cycle of decline. In order to change the momentum from decline to revitalization, City policies propose a multifaceted approach to the revitalization of mature neighborhoods. Policies specifically focus on stabilizing neighborhoods by improving infrastructure, such as streets, schools and parks, housing conditions, and ensuring that Abilene citizens have an opportunity to live in the type of dwelling and location of choice. If an entire block of homes, along with adjacent facilities can be improved, the odds for preserving the neighborhood as a desirable place to live are greatly enhanced. To achieve this end, the City should concentrate its efforts on whole neighborhoods rather than isolated units. Stable neighborhoods encourage residents to maintain, upgrade, build, and buy housing resulting in a sound, diverse housing stock.

Objective: Promote the revitalization of older neighborhoods that have experienced disinvestment.

Strategy 13: Prepare plans for established redeveloping SNAs to identify functional needs and to coordinate redevelopment programs and infrastructure improvements. Figure 14 illustrates a prototypical redevelopment plan.



Figure 14: Example of a redevelopment program within the Sears neighborhood.

NEIGHBORHOODS

Strategy 14: Establish performance standards for infill development that respect the scale and character of the neighborhood.

Strategy 15: Provide incentives to encourage infill and redevelopment in distressed neighborhoods. Use the following regulatory and financial tools to leverage additional investment in established redeveloping SNAs and promote homeownership:

- Locally funded exterior rehabilitation programs to improve the structural and aesthetic condition of existing housing.
- Areawide zoning reclassifications when consistent with neighborhood redevelopment plans.
- Financial incentives, such as rehabilitation loans/grants, offsets of development fees, and tax-advantaged project financing.
- Federal, state, and local funds to rehabilitate dilapidated residential structures occupied by lower income residents.

Strategy 16: Revise development regulations to include incentives designed to encourage rehabilitation over demolition.

Strategy 17: Apply environmental code enforcement measures in conjunction with the City's community policing program to arrest patterns of decline.

Strategy 18: Where appropriate, use the siting of public facilities in neighborhoods as a catalyst for increased public investment.

Objective: Maintain and support local schools as community assets that are central to the stability of neighborhoods.

Strategy 19: In consultation with the Abilene Independent School District and Wylie Independent School District, devise small-area plans that strengthen the neighborhood-school link with methods designed to:

- Improve walkability.
- Enhance housing location and transportation choices for low-income and minority populations.
- Arrest and stabilize land use transition.
- Increase residential density in proximity to the school.
- Create opportunities for the school to serve the neighborhood in multiple ways.

Strategy 20: Develop small-area plans for neighborhoods with vacant school facilities that will open up new opportunities for compatible productive reuse of the facility and that forge new links between residents and the former school site.



**City Council
Agenda Memo**

City Council Meeting Date: 5/10/2018

TO: The Honorable Mayor and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: Resolution: Repealing Resolution 1-2009 and Authorizing the creation of an infill development program and corresponding economic development incentives (Robert Hanna)

GENERAL INFORMATION

The City Council adopted six priorities at the FY 2018 Council Retreat. Those priorities include: (1) infill development, (2) downtown hotel, (3) reduce expenditures and create efficiencies, (4) determine total cost of deferred maintenance, (5) street maintenance, and (6) development along I-20.

The attached resolution focuses on infill development and accomplishes two things: (1) it repeals our current infill development program, and (2) it establishes a new infill development program.

The new program authorizes the following incentives with Council approval:

- The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone.
- The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code.
- The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.
- The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone.
- The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

The program authorizes the City Manager to offer the additional incentives without additional Council approval:

- The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees.

- The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City’s actual cost.
- The City Manager may waive or reduce sewer and water tap fees.
- The City Manager may waive or reduce zoning application fees.

In general, the initial boundaries for the zone are bounded on the east and west borders by the flood plains of Elm Creek and Cedar Creek. The northern boundary is I-20 and the southern boundaries are South 7th and South 14th with Butternut as the connector between the two.

These areas were chosen based on a heat map analysis of the total value per total square foot of improvements per parcel. The map (attached) helps to identify those areas where infill development or redevelopment of existing structures may be more successful than other areas.

The proposed boundaries are not meant to be unalterable. As our infill efforts mature, the boundaries of the zone should be amended to address market opportunities. Additionally, other zones may need to be established, and some zones may need to be abolished.

SPECIAL CONSIDERATIONS

The creation of the zone will allow several projects that are under development to receive the incentives they need to move forward.

There are other elements to a successful infill development, and staff will continue to work on those items in cooperation with the private sector as we seek to create a meaningful and effective infill development and redevelopment program.

FUNDING/FISCAL IMPACT

Staff does not anticipate a negative fiscal impact by the creation of this program.

STAFF RECOMMENDATION

Staff recommends approval as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Exhibit A	Cover Memo
☐ Heat map	Backup Material
☐ Resolution 01-2009 Infill Development	Backup Material
☐ Presentation	Presentation

RESOLUTION NO. 78-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, REPEALING RESOLUTION NO. 1-2009, AND CREATING A NEW INFILL DEVELOPMENT INCENTIVE PROGRAM

WHEREAS, the City of Abilene (the "City) desires to encourage the investment of private resources in productive business enterprises and single and multi-family housing units in historic and economically distressed areas of the City; and

WHEREAS, the City desires to increase economic development within historic and economically distressed areas of the City; and

WHEREAS, the City has previously adopted Resolution No. 1-2009 setting forth and infill development program; and

WHEREAS, the City now desires to repeal the current program and create a new program; and

WHEREAS, it is necessary and in the best interest of the City to create the Abilene Neighborhood Empowerment Zone No. 1, (the "Zone") pursuant to Chapter 378 of the Texas Local Government Code; and

WHEREAS, in addition to the creation of the Zone, it is necessary and in the best interest of the City to offer certain economic development incentives to promote and encourage new private business development, and the remodeling and new construction of affordable and market rate housing options for the City's historic and economically distressed areas

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

PART 1: That the City designates an area more particularly described and illustrated in "Exhibit A" attached hereto and incorporated herein for designation as the Abilene Neighborhood Empowerment Zone No. 1, and said boundaries shall describe and create the infill development program boundaries.

PART 2: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone will increase economic development within the Zone, increase the rehabilitation and construction of affordable and market rate housing options within the Zone, and increase the quality of social services, education or public safety provided to the residents of the Zone.

PART 3: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone benefits and is for the public purpose of increasing the public health, safety and welfare of the persons in the municipality.

PART 4: The City Council, as the governing body of the City of Abilene, Texas finds that the creation of the Zone satisfies the requirements of Section 312.202 of the Tax Code.

PART 5: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives, provided that any agreement using the incentives authorized and set forth below must be adopted by an affirmative vote of four or more members of the City Council before it can be effective.

1. The City may enter into agreements for a period of not more than ten (10) years, for the purpose of benefiting the zone, refunds of municipal sales tax on sales made within the zone; and
2. The City may enter into agreements abating municipal property taxes on property within the Zone subject to the duration limits of Section 312.204 of the Tax Code; and
3. The City may set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption; and
4. The City may participate in up to 50% of the cost of water or sewer line extensions necessary to serve property being developed within the Zone; and
5. The City may choose to authorize these incentives through a Chapter 380 Economic Development agreement.

PART 6: The City Council as the governing body of the City of Abilene, Texas does hereby create and establish the following economic development incentive program within the Zone and authorizes the City Manager or his or her designee to negotiate agreements offering the following enumerated incentives without further Council action.

1. The City Manager may waive or reduce fees related to the construction or remodel of buildings in the Zone, including fees related to the inspection of buildings or impact fees; and
2. The City Manager may authorize the provision of roll-off containers and associated haul-on, haul-off and tipping charges at the City's actual cost; and
3. The City Manager may waive or reduce sewer and water tap fees; and
4. The City Manager may waive or reduce zoning application fees.

PART 7: That Resolution No. 1-2009 is hereby repealed in its entirety.

PART 8: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 10th day of May 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney

EXHIBIT A

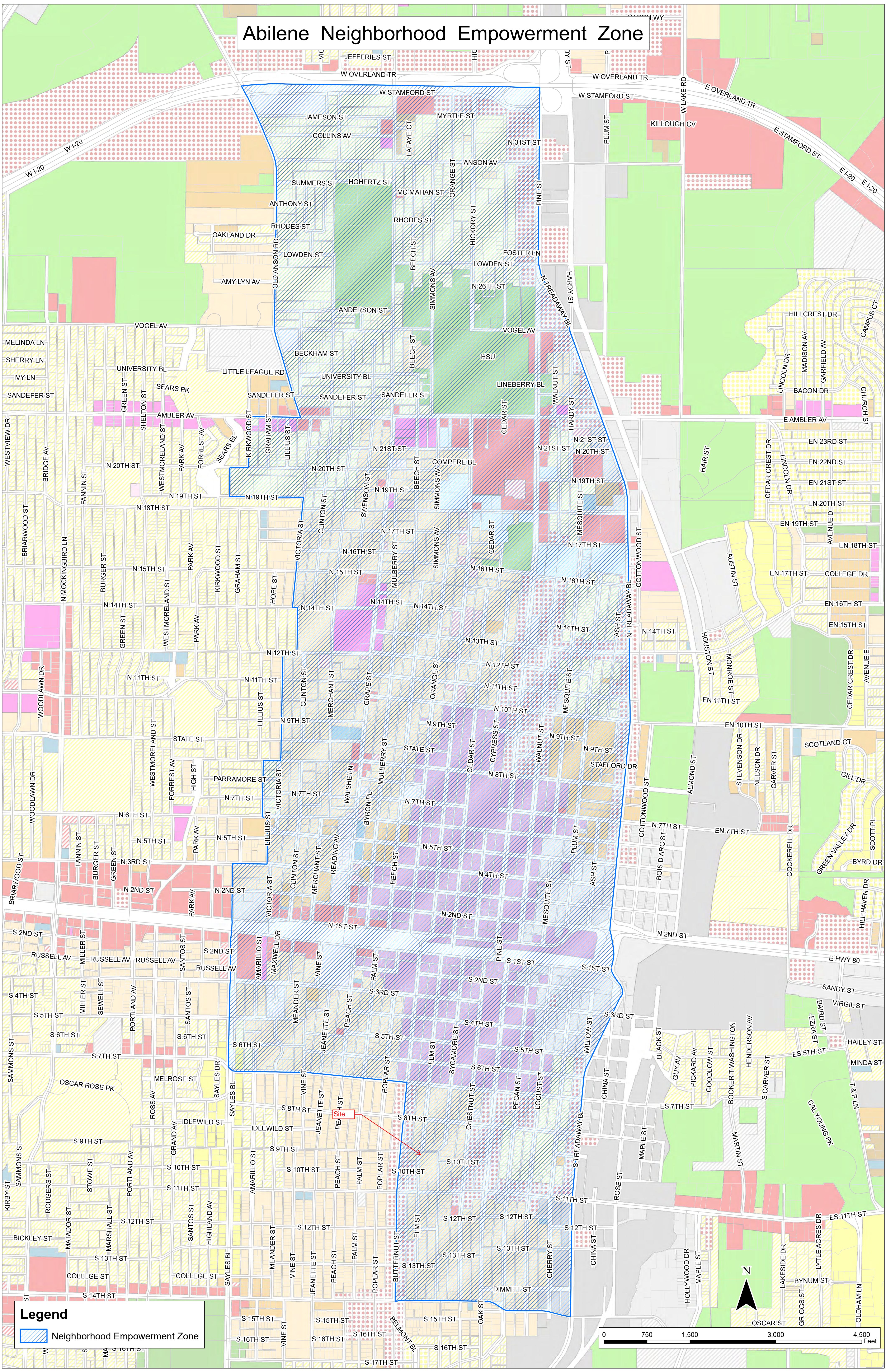
The Abilene Neighborhood Empowerment Zone No. 1 begins at the intersection of South 14th Street and Treadaway Blvd, thence north along Treadaway Blvd to the intersection of Pine Street and Treadaway Blvd, thence north along Pine Street to the intersection of Interstate 20 and Pine Street, thence west along Interstate 20 to the intersection of Old Anson Road and Interstate 20, thence south along Old Anson Road to the intersection of Ambler Avenue and Old Anson Road, thence west along Ambler Avenue to the intersection of Kirkwood Street and Ambler Avenue, thence south along Kirkwood Street to the intersection of North 20th Street and Kirkwood Street, thence west along North 20th Street to the intersection of Kirkwood Street and North 20th Street, thence south along Kirkwood Street to the intersection of North 19th Street and Kirkwood, thence east along North 19th Street to the intersection of Victoria Street and North 19th Street, thence south along Victoria Street to the intersection of North 14th Street and Victoria Street, thence east along North 14th Street to the intersection of Clinton Street and North 14th Street, thence south along Clinton Street to the intersection of North 12th Street and Clinton Street, thence west along North 12th Street to the intersection of Victoria Street and Clinton Street, thence south along Victoria Street to the intersection North 5th Street and Victoria Street, thence west along North 5th Street to the intersection of Lillius Street and North 5th Street, thence south along Lillius Street to the intersection of North 3rd Street and Lillius Street, thence west along North 3rd Street to the intersection of Graham Street and North 3rd Street, thence south along Graham Street to the intersection of North 1st Street and Graham Street, thence south along Sayles Blvd to the intersection of South 7th Street and Sayles Blvd, thence east along South 7th Street to the intersection Butternut Street and South 7th Street, thence south along Butternut Street to the intersection of South 14th Street and Butternut Street, thence east along South 14th Street terminating at the intersection of Treadaway Blvd and South 14th Street.

All properties abutting each boundary street are included within the Zone.

A map of the district is attached and incorporated into this Exhibit "A."



Abilene Neighborhood Empowerment Zone



Legend
Neighborhood Empowerment Zone

0 750 1,500 3,000 4,500 Feet

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

- (1) the determination described by Section 378.002;
- (2) a description of the boundaries of the zone;
- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
- (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

- (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;
- (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;
- (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1195 (H.B. 3896), Sec. 2, eff. June 19, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1225 (S.B. 1458), Sec. 2, eff. June 19, 2009.

SUBCHAPTER B. TAX ABATEMENT IN MUNICIPAL REINVESTMENT ZONE

Sec. 312.201. **DESIGNATION OF REINVESTMENT ZONE.** (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 or 312.211 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality;

and

(2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

(e) A notice made under Subsection (d) (2) is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.08(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 2, eff. Sept. 1, 1997.

Sec. 312.2011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under Chapter 2303, Government Code constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by Chapter 2303, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 28, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the

land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority

created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years, except that a reinvestment zone that is a state enterprise zone is designated for the same period as a state enterprise zone as provided by Chapter 2303, Government Code. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 12, eff. Sept. 1, 1995.

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT.

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on taxable or tax-exempt real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory and supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.



February 18, 2020

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Dear Ms. Gamble:

I am writing this letter per the requirements of the 2020 QAP with respect to a concerted revitalization plan/area within the City of Abilene. The Heritage at Abilene development, is proposed for development at 1101 S. 9th Street, within the boundaries of the Abilene Neighborhood Empowerment Zone No. 1. It is within a revitalization area that is identified, discussed, and addressed in the *City of Abilene Comprehensive Plan* and the *Abilene Neighborhood Empowerment Zone No. 1* created pursuant to Chapter 378 of the Texas Local Government Code.

In 2008, in response to objectives within the City's Comprehensive Plan to create policies specifically focused on stabilizing older neighborhoods that had experienced disinvestment, the City created an "Infill Development Area". An associated Infill Development Strategy was also adopted that included financial incentives for developments within these infill areas. The resolution was officially adopted by Council on January 22, 2009 (see attached).

In 2018, the City undertook an expansion of the originally adopted program and developed the current NEZ program. City Council subsequently repealed and replaced the 2009 resolution by: (1) creating the Abilene Neighborhood Empowerment Zone No. 1 (NEZ); and (2) outlining the development incentives including property tax abatements, refunds of municipal sales tax, discounts on water/sewer line extensions within the NEZ through the creation of an Infill Development Incentive Program. These changes were adopted by resolution on May 10, 2018 (see attached)

The purpose of a Neighborhood Empowerment Zone (NEZ) is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone. In order to be designated as a reinvestment zone under state statute, an area must meet the following criteria:

Substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- A substantial number of substandard, slum, deteriorated, or deteriorating structures;
- The predominance of defective or inadequate sidewalks or streets;
- Faulty size, adequacy, accessibility, or usefulness of lots;
- Unsanitary or unsafe conditions;
- The deterioration of site or other improvements;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Defective or unusual conditions of title;
- Conditions that endanger life or property by fire or other cause; or
- Any combination of these factors;

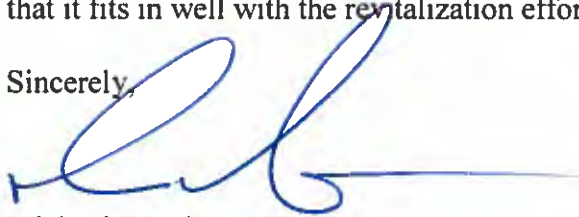
We estimate that approximately \$160,000 in fees have been waived for projects and developments to date within the NEZ, leading to measurable improvements achieved by the City in the revitalization area based on the target efforts outlined in plan.

We believe that these incentives have led to improvements that have increased the livability of the area by: (1) improving neighborhood stability for families and individuals; and (2) preserving the neighborhood character and enhance livability. We believe that all of these projects have led to a safer, more attractive area appropriate for housing.

Both the Comprehensive Plan and the NEZ are still current. The NEZ program is expected to remain operational in future years.

We are excited at the prospect of affordable housing being available in this part of town and believe that it fits in well with the revitalization efforts we have already undertaken.

Sincerely,



Michael Warrix, AICP
Director of Planning and Development Services

community organization objects to or opposes the Application or Development will be added to the Application posted on the [Department's](#) [Department's](#) website.

(A) An Application may receive two (2) points for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. To qualify, the organization must be qualified as tax exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole or of a major aspect of the community such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like. The Applicant must provide evidence that the community or civic organization remains in good standing by providing evidence from a federal or state government database confirming that the exempt status continues. An Organization must also provide evidence of its participation in the community in which the Development Site is located including, but not limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts as described in subparagraph C), or taxing entities.

(B) An Application may receive two (2) points for a letter of support from a property owners association created for a master planned community whose boundaries include the Development Site and that does not meet the requirements of a Neighborhood Organization for the purpose of awarding points under paragraph (4) of this subsection.

(C) An Application may receive two (2) points for a letter of support from a Special Management District [formed under Tex. Local Gov't Code ch. 375](#) whose boundaries, as of the Full Application Delivery Date as identified in §11.2(a) of this chapter, (relating to [Competitive HTC Deadlines](#), Program Calendar for Competitive Housing Tax Credits), include the Development Site.

(D) Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, standing alone, cause staff or the Department to terminate the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.

(7) Concerted Revitalization Plan. An Application may qualify for up to seven (7) points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index.

(A) For Developments located in an Urban Area:

(i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a condition requiring concerted revitalization, and where a concerted revitalization plan (plan or CRP) has been developed and executed.

(ii) A plan may consist of one or ~~multiple~~two, but complementary, local planning documents that together create a cohesive agenda for the ~~plan's~~plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

(iii) The area targeted for revitalization must be larger than the assisted housing footprint and should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems. The Application must include a copy of the plan or a link to the online plan and a description of where specific information required below can be found in the plan. The plan must meet the criteria described in subclauses (I) - (IV) of this clause:

(I) The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located. The resolution adopting the plan, or if development of the plan and budget were delegated, the resolution of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan and budget, must be submitted with the application.

(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. Eligible problems that are appropriate for a concerted revitalization plan may include the following:

(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets infrastructure neglect, and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities; or

(-c-) lack of a robust economy for that neighborhood area, or, if economic revitalization is already underway, lack of new affordable housing options for long-term residents.

(III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

(IV) The plan must either be current at the time of Application and must officially continue for a minimum of three years thereafter OR the work to address the items in need of mitigation or rehabilitation has begun and, additionally, the Applicant must include confirmation from a public official who oversees the plan that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles to accomplishing the purposes of the plan.

(iv) Up to seven (7) points will be awarded based on:

~~(I) Applications will receive four (4) points for~~ **(I)** A letter from the appropriate local official for the municipality (or county if the Development Site is completely outside of a municipality) providing documentation of measurable improvements within the revitalization area based on the targeted efforts outlined in the plan and in reference to the requirements of 10 TAC §11.9(d)(7)(A)(iii)(I-IV). The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing; (4 points); and

(II) ~~Applications may receive (2) points in addition to those under subclause (I) of this clause if the Development is explicitly identified in~~ A resolution by the municipality; (or county if the Development Site is completely outside of a municipality) that explicitly identifies the proposed Development as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable). A municipality or county may only identify one Development per CRP area during each Application Round for the additional points under this subclause, unless the concerted revitalization plan includes more than one distinct area within the city or county, in which case a resolution may be provided for each Development in its respective area. The resolution from the Governing Body of the municipality or county that approved the plan is required to be submitted in the Application. If multiple Applications submit resolutions under this subclause from the same Governing Body for the same CRP area, none of the Applications shall be eligible for the additional points, unless the resolutions address the respective and distinct areas described in the plan; (2 points); and

(III) ~~Applications will receive (1) point in addition to those under subclauses (I) and (II) of this clause if~~ The development is in a location that would score at least ~~4~~**five** (5) points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii). (1 point)

(B) For Developments located in a Rural Area:

~~(i) Applications will receive 4 points for~~ The Rehabilitation, or demolition and Reconstruction, of a Development in a rural area that has been leased at 85% or greater for the six months preceding Application by low income households and which was initially constructed 25 or more years prior to Application submission as either public housing or as affordable housing with support from USDA, HUD, the HOME program, or the CDBG program. The occupancy percentage will not include Units that cannot be occupied due to needed repairs, as confirmed by the [PCASCR](#) or CNA. Demolition and relocation of units must be determined locally to be necessary to comply with the Affirmatively Furthering Fair Housing Rule, or if necessary to create an acceptable distance form Undesirable Site Features or Neighborhood Risk Factors.

(4 points)

~~(ii) Applications may receive (2) points in addition to those under clause (i) of this subparagraph if~~(ii) The Development is explicitly identified in a resolution by the municipality (or county if the Development Site is completely outside of a city) as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable). Where a Development Site crosses jurisdictional boundaries, resolutions from all applicable governing bodies must be submitted. A municipality or county may only identify one single Development during each Application Round for each specific area to be eligible for the additional points under this subclause. If multiple Applications submit resolutions under this subclause from the same Governing Body for a specific area described in the plan, none of the Applications shall be eligible for the additional points; (2 points); and

~~(iii) Applications may receive (1) additional point if~~ The development is in a location that would score at least five (5) points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii). (1 point)

(e) Criteria promoting the efficient use of limited resources and applicant accountability.

(1) Financial Feasibility. (§2306.6710(b)(1)(A)) ~~An Application may qualify to receive a maximum of eighteen (18) points for this item.~~ To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive ~~sixteen (16)~~twenty-four (24) points. If the letter is from the Third Party permanent lender, or if the Development is Supportive Housing and meets the requirements of 10 TAC §11.1(d)(122)(E)(i), and evidences review of the Development and the Principals, it will receive ~~eighteen (18)~~twenty-six (26) points.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Melissa Baughman

Phone #: (281) 419-6114

Email: melissa.baughman@jfieser.com

Second Email: jamie.fieser@jfieser.com

Date: April 22, 2020

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for Bayou Bend Apartments, TDHCA
Number: 20281**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 20281, Bayou Bend Apartments

Section 1:

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	123
Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	120
Difference between Requested and Awarded:	3

Section 2:

Points Awarded for §11.9(c)(8) Readiness to Proceed:	5
Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	3

Section 3:

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:	0
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Section 4:

Final Score Awarded to Application by Department staff (Including all points):	161
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Section 5:

Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:

§11.9(c)(6) Residents with Special Housing Needs. The Application requested three (3) points but is only eligible for two (2) points under this item because the application is in the At-risk or USDA Set-aside. (Requested 3, Awarded 2)

§11.9(d)(7) Concerted Revitalization Plan. The Application requested seven (7) points but is only eligible for three (3) points because the development has not been leased at 85% or greater by low income households within the six months preceding application submission. (Requested 7, Awarded 3)

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is only eligible for twenty four (24) points under this item because the letter from the permanent lender did not indicate a review of the Development and the Principals. (Requested 26, Awarded 24)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Tuesday, April 29, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Sharon D. Gamble

Sharon D. Gamble
Competitive HTC Program Administrator

Attachment D

ED Response to Scoring Appeal



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

Leslie Bingham, *Vice Chair*
Paul A. Braden, Member
Sharon Thomason, Member
Leo Vasquez, Member

June 24, 2020

Writer's direct dial: (512) 475-3296
Email: bobby.wilkinson@tdhca.state.tx.us

Brett Johnson
Overland Property Group
5345 W. 151st Terrace
Leawood, KS 66224

RE: SCORING APPEAL RESPONSE FOR 20184 HERITAGE AT ABILENE, ABILENE

Dear Mr. Johnson:

The Texas Department of Housing and Community Affairs received your appeal dated June 10, 2020, regarding scoring for the Application named above. Staff had received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan (CRP). 10 TAC §11.9(d)(7) details the requirements for a CRP to be eligible, and staff found that the documentation provided did not meet the rule requirements for a CRP. The previously published application score was reduced by seven points for the scoring item, pending the Applicant's ability to appeal.

As staff made clear in its June 4, 2020 email response to your questions about staff's scoring of the Application, the Comprehensive Plan submitted is generalized for the City of Abilene. Per the rule at 10 TAC §11.9(d)(7)(A)(ii):

(ii) A plan may consist of one or two, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area. The plan and supporting documentation must be submitted using the CRP Application Packet. No more than two local plans may be submitted for each proposed Development. A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause, unless evidence is presented that additional efforts have been undertaken to meet the requirements in clause (iii) of this subparagraph. The



concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The problems identified by staff stem from the fact that the Application did not contain evidence that meets the requirements of this subparagraph. While the Comprehensive Plan describes Abilene neighborhoods *in general*, it includes no documentation of a study or recommendations for “Original Town South” (the location of the development site in the Application) or any other area included in Neighborhood Empowerment Zone #1 – which appears to be a multi-neighborhood area four miles long and a mile wide centered on downtown Abilene.

The appeal states that the “[t]he planning process used by the City of Abilene is one that is similar to many cities across the state. A Comprehensive Plan is produced to give an overview of issues faced by the city, often times with specific geographic areas called out for their needs, which result in future goals and objectives for those areas. Then based on those initial assessments, specific localized plans or policies are introduced to implement the strategies/goals/objectives. These localized plans/policies, in concert with the Comprehensive Plan, constitute revitalization plans.” I agree with this statement, however, I believe that the City of Abilene has not completed the process. The rule requires documentation of a planning process that resulted in a plan document associated with the specific area, in this case Neighborhood Empowerment Zone #1. No such document showing such planning was provided in the Application. What has been provided is a resolution creating the zone, and excerpts from the statutory requirements for creating the zone. The resolution creating the zone, itself, is captioned as a resolution of the city council of the City of Abilene that repeals a 2009 “infill development program” and creates “a new infill development incentive program.” Though the resolution arguably creates a framework for the City of Abilene to offer building incentives in this large swath of the city, it certainly cannot be said to be a “local planning documents that together [with the consolidated plan] create[s] a cohesive agenda for the plan's specific area,” as required by the rule.

The appeal further states that “because this scoring item has three point components, we also request that the three components be reviewed individually and that the Applicant receive 3 of the total 7 points for the City Revitalization Resolution (2 points) and Opportunity Index items (1 point).” I find that the rule, as written, describes the nature and composition of the CRP as a predicate, and then discusses the mechanics of how many points can be awarded given certain documentary submissions. In other words, an applicant cannot score CRP points if they have not submitted a CRP in accordance with the rules. Having found that the Application does not sufficiently illustrate a CRP in accordance with the rules, I sustain Staff’s determination to reduce the score by seven points.

You indicated in your appeal that you wish to appeal to the Board of Directors. Your appeal will be placed on the agenda for the July 14, 2020, meeting of the Department’s Governing Board. Please review 10 TAC §11.902 for the appeal process and limitations. If you have any questions or require further information, please contact Sharon Gamble at sharon.gamble@tdhca.state.tx.us.

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II". The signature is fluid and cursive, with the letters "R" and "D" being large and prominent, followed by "Wil" and a double horizontal line at the end.

Bobby Wilkinson
Executive Director

Attachment E

Fain Street CRP Submission



Concerted Revitalization Plan (“CRP”) Application Packet

The purpose of the packet is to formalize the process by which Concerted Revitalization Plans (“CRP”) are described and submitted pursuant to 10 TAC §11.9(d)(7) of the Qualified Allocation Plan (“QAP”). The CRP and all supporting documentation must be uploaded to the Department’s ServU system along with this packet, as a separate document from the Application. Refer to the Multifamily Programs Procedures Manual posted at <http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm> for an explanation of the process to set-up a Serv-U Account if needed.

Application # 20025 Development Name Palladium Fain Street Apartments

Development City Fort Worth Development County Tarrant

The Application claims no points under 10 TAC §11.9(c)(4) related to Opportunity Index.

My Development Site is located in an area that is:

Urban

Rural (skip to page 4 of the packet)

My Development Site is located in a distinct area known locally as (or named by the CRP as) NEZ AREA 4 that is larger than the assisted housing footprint.

This packet includes a description of the area targeted for revitalization, including common attributes and problems, which can be found at (document name, page number(s), etc) City Letter pp 83-85; Council Res 5042-01-2019 p 113; Council Agenda Summary p 135; NEZ Policy Statement pp 137-138, 140; NEZ Administrative Procedures 141; Comp Plan pp 158-160.

This packet includes a description of how this area was once vital and how it has lapsed into a condition requiring concerted revitalization, which can be found at (document name, page number(s), etc) City Letter pp 84-85; Comp Plan pp 157-163.

A CRP covering the area mentioned above has been developed and executed. The CRP consists of the following local planning document(s):

- 1) NEZ Area 4 Plan - Council Action through Resolutions & Ordinances; A Basic Incentives and Tax Abatement Policy, Administrative Procedures, and NEZ Program Policy Statement
- 2) City of Fort Worth 2020 Comprehensive Plan

The document(s) is included in its entirety.

The document(s) can be found online at: <https://fortworthtexas.gov/comprehensiveplan/>

NOTE: Per the requirements of 10 TAC §11.9(d)(7)(A)(ii), a plan may consist of one or multiple, but complementary, local planning documents that together create a cohesive agenda for the plan’s specific area. **No more than two (2) local plans may be submitted for each proposed Development.** A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements, unless evidence is presented that additional efforts have been undertaken to meet the requirements in the QAP. The concerted revitalization plan may

be a Tax Increment Reinvestment Zone (“TIRZ”) or Tax Increment Finance (“TIF) or similar plan. A city- or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The URBAN CRP meets the following criteria as required by 10 TAC §11.9(d)(7)(A)(iii)(I-IV):

1. The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located.
 - This packet includes the resolution(s) adopting the plan or local planning documents that compose the plan; or
 - This packet includes the resolution(s) of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan(s) and budget(s).

2. The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. A description of eligible problems for a CRP are found at 10 TAC §11.9(d)(7)(A)(iii)(II)(a) through (c).
 - A description of the process for public input on the problems in the plan can be found at (document name, page number(s), etc) City Letter pp 83-85, 93; Council Communication p 100; Council Communication pp 111, Ordinance No. 23552-01-2019 p 129-130; Council Agenda Summary p 134; Comp Plan p 159.
 - A description of the problems identified by the process can be found at (document name, page number(s), etc) City Letter pp 83-85, Council Ordinance 23551-01-2019 p 130; Council Communication p 135; Resolution No 5042-01-2019 p 94; NEZ Policy Statement pp 137-138, 140-141; Comp Plan 157-163.
 - A description of how the process determined how the problems should be addressed and prioritized can be found at (document name, page number(s), etc) City Letter pp 83-85; Council Communication p 100; Council Communication p 111; Ordinance No. 23552-01-2019 pp 128, 130-131; Council Communication p 134; Comp Plan pp 159, 165.

3. The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.
 - A description of the goals of the plan can be found at (document name, page number(s), etc) City Letter pp. 83, 85; Resolution No 5042-01-2019 pp 113-114; Ordinance No 23552-01-2019 p 128; NEZ Incentive Policy p 137; Comp Plan pp 165-167.
 - A description of the plan’s timetable can be found at (document name, page number(s), etc) City Letter p 84; Resolution No 5042-01-2019 p 114; Ordinance No 23552-01-2019 p 131.
 - A description of sufficient, documented and committed funding for the plan can be found at (document name, page number(s), etc) City Letter pp 85-93, which documents at least \$952,681.08 in incentive investments since 2009 not including water/sewer and street capital improvements detailed in the City Letter in funding for the plan.
 - Evidence that the funding has been flowing to address the problems identified in the plan, or that the problems have been sufficiently addressed, can be found at (document name, page number(s), etc) City Letter pp 85-93.

4. The plan must either be current at the time of Application and must officially continue for a minimum of three years thereafter OR the work to address the items in need of mitigation or rehabilitation has begun and, additionally, the Applicant must include confirmation from a public official who oversees the plan that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles to accomplishing the purposes of the plan.
 - The plan is current at the time of Application, and the effective period for the plan is 5 years and can be found at (document name, page number(s), etc) City Letter p 84; Resolution No 5042-01-2019 p 114; Ordinance No 23552-01-2019 p 131 or

Evidence that the work to address problems in the plan has begun can be found at (document name, page number(s), etc) City Letter p 85-93; AND.

Confirmation from a public official that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles can be found at (document name, page number(s), etc) City Letter p 93.

Provide any comments or additional information in the box below, if applicable.

The City letter details and confirms the NEZ Area 4 is a concerted revitalization plan area and meets the TDHCA requirements for a qualified CRP. The City's Comprehensive Plan details existing conditions, summarizes goals for community revitalization, and describes existing and recommended policies and strategies to achieve the goals including the "Use of Neighborhood Empowerment Zones to promote development of designated urban villages and revitalization of surrounding neighborhoods". Collectively, the Comprehensive Plan and the City's NEZ Area 4 plan, multiple but complementary City Council authorized documents, is the City of Fort Worth's concerted revitalization plan where the development site is located.

URBAN CRP Requested Scoring. Points may be selected under 1, 2, and 3 below for no more than a total of 7 points.

1. Applications will receive four (4) points for a letter from the appropriate local official providing documentation of measurable improvements within the revitalization area based on the targeted efforts outlined in the plan and in reference to the requirements of 10 TAC §11.9(d)(7)(A)(iii)(I-IV). The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing.

A letter from a public official is included in this packet (an adopted resolution may be submitted in place of a letter).

2. Applications may receive (2) points in addition to those above if the Development is explicitly identified in a resolution by the municipality or county as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable).

An adopted resolution from the city of Fort Worth is included in this packet (a letter MAY NOT be submitted in place of a resolution).

An adopted resolution from _____ county is included in this packet (a letter MAY NOT be submitted in place of a resolution).

NOTE: A municipality or county may only identify one Development per CRP area during each Application Round for the additional points under this subclause, unless the concerted revitalization plan includes more than one distinct area within the city or county, in which case a resolution may be provided for each Development in its respective area. The resolution from the Governing Body of the municipality or county that approved the plan is required to be submitted in the Application. If multiple Applications submit resolutions under this subclause from the same Governing Body for the same CRP area, none of the Applications shall be eligible for the additional points, unless the resolutions address the respective and distinct areas described in the plan.

3. Applications will receive (1) point in addition to those under 1. and 2. above if the development is in a location that would score at least 4 points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii).

Development Site is within the required radius of the eligible amenities and/or services listed below, pursuant to §11.9(c)(4)(B)(i) of the QAP.

A map showing the Development Site, location of and distance to the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

Grocery: Super Walmart-3851 Airport Freeway, Fort Worth 76111	School Rating: Nathan Howell Elementary "B"
Pharmacy: Super Walmart-3851 Airport Freeway, Fort Worth 76111	Licensed Childcare: Children's Early Development Center-3328 East Belknap, Fort Worth 76111
Pharmacy: CVS-1201 North Beach St., Fort Worth 76111	Outdoor Recreation: Sylvania Park-3700 East Belknap, Fort Worth 76111
Community Center: Sylvania Park Riverside Community Center-3700 East Belknap, Fort Worth 76111	Library: Riverside Library-2913 Yucca Avenue, Fort Worth 76111
College: Tarrant County Community College-Trinity River Campus-300 Trinity Campus Circle, Fort Worth 76102	Indoor Recreation: Zumba Queen Studio: 4045 East Belknap, Fort Worth 76111

Provide any comments or additional information in the box below, if applicable.

This site is also served by Meals on Wheels of Tarrant County.



February 25, 2020

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Concerted Revitalization Plan for 2020 Application for 9% Housing Tax Credits

Dear Director Wilkinson,

I am writing to provide additional information to you regarding the City of Fort Worth's revitalization area known as Neighborhood Empowerment Zone (NEZ) Area 4. The City developed its NEZ plan in 2001, which adopted criteria for specific areas of the City to be designated as Neighborhood Empowerment Zones and made those areas eligible for a variety of development incentives including development fee waivers and municipal property tax abatements. As you are aware, NEZs are allowed under the Texas Local Government Code §378 and Fort Worth was the first Texas city to create NEZs in 2001 when the statute was first passed. The statutory purpose of a NEZ is to create or rehabilitate affordable housing; increase economic development; or increase the quality of social services, education, or public safety in the zone. On January 29, 2019, after a lengthy review of the NEZ program by City staff and after various community stakeholder meetings to receive input on the City's NEZ program, the City Council authorized the consolidation of its 20 NEZs into 6 NEZ areas (M&C G-19469, Ordinance No. 23552-01-2019, and Resolution No. 5042-01-2019).

In order to be designated a NEZ by the City Council, an area must meet the following criteria:

- Promotes the creation of affordable housing in the zone; or an increase in economic development in the zone; or an increase in the quality of social services, education, or public safety provided to residents in the zone; or the rehabilitation of affordable housing in the zone;
- Meets the criteria for a Reinvestment Zone;
- Be 100% Community Development Block Grant ("CDBG") eligible;
- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;
- Contain a predominance of substandard homes/aged housing stock;

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- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values; and
- May contain areas targeted for revitalization.

City staff developed the boundary of NEZ Area 4 with public input. After notice was published in the newspaper and holding a public hearing, the City Council approved the creation of NEZ Area 4 along with the other new NEZ areas.

The City Council determined the NEZ designation with complementary designations of Reinvestment Zones provides the City with the best municipal planning strategy for concerted community revitalization in designated neighborhoods and specifically NEZ Area 4 in which the proposed Palladium Fain Street Apartments site is located. The City believes that NEZ Area 4 meets the 2020 QAP *Revitalization Plan* requirements. The paragraphs in italics are excerpts from the QAP and information on how NEZ Area 4 meets the QAP's requirements is below the relevant section of the QAP.

- (I) *An application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a condition requiring concerted revitalization, and where a concerted revitalization plan ("plan" or "CRP") has been developed and executed.*

NEZ Area 4 was once a vibrant neighborhood connected to downtown by a bridge across the Trinity River in the early 1900s. By the 1980s the neighborhoods in this area began to experience a decline in part because middle income families from the central city began moving to the new suburban neighborhoods. The income and demographic profile of NEZ Area 4 began to change in the 1990s. Aging homes and once new apartments became attractive to families with less income which burdened the businesses serving the community. By 2000, residents in the neighborhood worked with the City on strategies that could lead to community revitalization. This public engagement and new State legislative policies offered options for the City to put into place a concerted revitalization plan for NEZ Area 4 and Reinvestment Zone 4R.

- (I) *The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located. The resolution adopting the plan, or if development of the plan and budget were delegated, the resolution of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan and budget, must be submitted with the application.*

As shown in the attached Resolutions and M&C, NEZ Area 4 was adopted by City Council in 2019 for a period of 5 years.

- (II) *The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. Eligible*

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problems that are appropriate for a concerted revitalization plan may include the following:

Stakeholder meetings were held in 2017 and throughout 2018 on all of the City's NEZs and its NEZ policy. On January 29, 2019, the City Council held a final public hearing regarding the designation of the six new NEZ areas including NEZ Area 4. This lengthy series of City-wide meetings and public hearings afforded a reasonable opportunity for all interested persons to speak.

(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets infrastructure neglect, and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities;

(-c-) lack of a robust economy for that neighborhood area, or, if economic revitalization is already underway, lack of new affordable housing options for long-term residents.

The 2019 City's *Comprehensive Plan* states, "Neighborhood Empowerment Zone (NEZ) Program is a City Council initiative encouraging central city revitalization. Development incentives such as tax abatements and fee waivers, authorized by state law, have been approved by the City Council." NEZ Area 4 qualified as a NEZ because it met the criteria for Reinvestment Zone designation including the following:

1. The area is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the area and that would contribute to the economic development of the City; and
2. The area is substantially arresting and impairing the sound growth of the municipality creating the zone because of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures.
3. The area be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality.

Progress Since NEZ Designation

Since the adoption of the former Riverside NEZ in 2003 (now incorporated in NEZ Area 4), City staff has worked to attract reinvestment into this neighborhood. Numerous single family houses have been renovated or redeveloped through NEZ incentives revitalizing an aging neighborhood and attracting new residential development to the area. In addition, a new 8,000 square foot medical and dental professional office building located at 3825 Yucca Avenue utilized the NEZ incentives. Numerous restaurants including McDonalds and KFC, as well as several locally

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owned full-service restaurants, have invested in the Riverside NEZ area in addition to a CVS Pharmacy, a Walgreens and an El Rancho supermarket. New market rate apartments and townhouses are being developed in the area as well other new locally owned businesses. The continued revitalization of NEZ Area 4 with its proximity to downtown as well as access to Highway 121 makes it an appropriate area for the placement of much needed affordable housing. The NEZ program provides the means to revitalize the neighborhoods by providing for incentives, water/wastewater utility capital improvements and street improvements. Below is documented evidence to support the City's NEZ Program efforts by funding commitments in these areas.

Collectively, the table below details the Fee Waivers and Tax Abatements from 2009-2016 and from 2017-2018 for Riverside and Six Points together which make up the new NEZ Area 4.

Fee Waivers and Tax Abatements 2009 - 2016

NEZ	Adopted	Total of All Fees Waived	Value of Improvements Requesting Tax Abatement	Taxes Abated	Total Incentives
Stop Six	2001	\$ 637,430	\$ 40,141,793	\$ 343,212	\$ 900,642
Ridgelea/Como **	2002	\$ 419,990	\$ 383,231,474	\$ 3,276,029	\$ 3,716,019
Evans & Rosedale	2002	\$ 398,785	\$ 4,270,564	\$ 36,513	\$ 435,298
Hemphill/Berry	2002	\$ 435,522	\$ 9,595,048	\$ 82,038	\$ 517,560
Magnolia Village	2002	\$ 1,685,642	\$ 17,818,311	\$ 152,347	\$ 1,837,989
Polytechnic/Wesleyan	2002	\$ 237,097	\$ 2,074,177	\$ 17,734	\$ 254,831
Rolling Hills	2003	\$ 467,429	\$ 29,936,546	\$ 255,957	\$ 723,386
Woodhaven	2003	\$ 73,431	\$ 29,831,102	\$ 255,056	\$ 328,487
Hendley	2003	\$ 75,827	\$ 152,308	\$ 1,902	\$ 77,129
Riverside	2003	\$ 89,513	\$ 8,759,835	\$ 74,897	\$ 164,410
Berry/University	2004	\$ 751,836	\$ 273,748,661	\$ 2,340,551	\$ 3,092,387
Trinity Park	2004	\$ 520,242	\$ 5,488,684	\$ 46,928	\$ 567,170
Lake Arlington	2004	\$ 122,379	\$ 24,627,423	\$ 230,561	\$ 332,943
Berryhill/Mason Heights	2005	\$ 522,195	\$ -	\$ -	\$ 522,195
Oakland Corners	2007	\$ 70,501	\$ 2,485,267	\$ 21,150	\$ 91,651
Northside	2010	\$ 48,135	\$ 937,018	\$ 8,012	\$ 56,147
28 th St/Meacham	2010	\$ 185,957	\$ -	\$ -	\$ 185,957
Six Points	2011	\$ 295,558	\$ 720,138	\$ 6,137	\$ 301,715
Northeast 820/I-30	2013	\$ 26,198	\$ 206,642	\$ 2,280	\$ 28,478
Highland Hills	2015	\$ 25,378	\$ -	\$ -	\$ 25,378
Totals	--	\$ 7,109,045	\$ 834,094,991	\$ 7,131,527	\$ 14,215,194

** Boundary has changed and NEZ renamed to Como/Sunset Heights

NEZ/Year	Total of All Fees Waived	Value of Improvements Requesting Tax Abatement	Actual Taxes Abated	Total Incentives
2017 Riverside	\$33,493.00	\$367,183.00	\$2,995.82	\$36,488.82
2018 Riverside	\$4,367.59	\$0	\$0	\$4,367.59
2017 Six Points	\$27,976.00	\$834,120.00	\$6,714.67	\$34,690.67
2018 Six Points	\$177,237.26	\$29,779,865.00	\$233,771.94	\$411,009.20

The tables above summarize the success of the NEZ Area 4 Plan (Riverside and Six Points).

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On January 29, 2019 the Council also terminated certain NEZ Areas it determined had reached their revitalization goals. By this action, the NEZ areas which had reached their community revitalization goals and no longer required or met the criteria for NEZ designation further evidences the NEZ Plan as a concerted revitalization plan works.

In addition to the Fee Waivers and Tax Abatements, the City has also committed public investment in NEZ Area 4 through public improvements. Below is a summary of those improvements and corresponding maps detailing the location of the improvements in NEZ Area 4.

City Water/Sewer Capital Improvements in NEZ Area 4

The City has also made significant public investment to upgrade, reconstruct and enhance the public infrastructure in NEZ Area 4. The public investment is part of the community revitalization plan for the neighborhoods making up NEZ Area 4.

Below is a list of on-going water projects in design and construction followed by a map illustrating the location for the projects in the NEZ Area 4 map.

Project Name	CPN	Street	From_Street	To_Street	Status	Project Type
Sanitary Sewer Main M-245 Parallel Relief Pipeline	100997	S Sylvania Ave	Sylvania Ct	Riverside	Design	Sewer
Sanitary Sewer Main M-245 Parallel Relief Pipeline	100997	Riverside	S Sylvania Ave	12th	Design	Sewer
Water, Sewer & Paving Improvements for 2018 CIP Year 2, Contract 15 and Year 3, Contract 16	101476	4th	Denair	Brandies	Design	Water Sewer
2018 CIP Year 3, Contracts 7	101453	Seaman	Clary	Dalford	Proposed	Water Sewer
Sanitary Sewer Rehab, Contract 104	2724	Barclay(Alley)	Bird	Clary	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Lillian (Alley)	Sylvania	1,070 ft West	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Dell(Alley)	Sylvania	Sylvania	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Blandin(Alley)	Virginia	Bird	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Virginia(Alley)	Blandin	342 ft West	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Akers (Alley)	Sylvania	415 ft West	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Alley	Sylvania	Grace	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Retta	Damon	Noble	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Chandler	Noble	Race	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Damon	Chandler	150 ft West	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Blandin	Pittsburg	Noble	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Emma	Airport Fwy	Noble	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Airport Fwy	Grace	Emma	Proposed	Sewer
Sanitary Sewer Rehab, Contract 104	2724	Rayner	Terrance	Airport Fwy	Proposed	Sewer
SS Contract 103		1st (Alley)	Grace	Emma	Proposed	Sewer
SS Contract 103		1st	Judkins	Chandler	Proposed	Sewer
SS Contract 103		Chenault (Alley)	Judkins	Chandler	Proposed	Sewer
SS Contract 103		4th (Alley)	Judkins	Chandler	Proposed	Sewer
SS Contract 103		Galvez (Alley)	Paradise	Judkins	Proposed	Sewer
SS Contract 103		Ennis	Baurline	Judkins	Proposed	Sewer
SS Contract 103		La Salle	Sylvania	Retta	Proposed	Sewer
SS Contract 103		12th	Sylvania	Baurline	Proposed	Sewer
SS Contract 103		Vanhorn	Retta	Baurline	Proposed	Sewer
SS Contract 103		Baurline	Vanhorn	Glipson	Proposed	Sewer
SS Contract 103		Paradise (Alley)	Galvez	Rail Line	Proposed	Sewer
Trinity River Vision Program - Water and Sewer	969	Trinity River			<Null>	Water Sewer

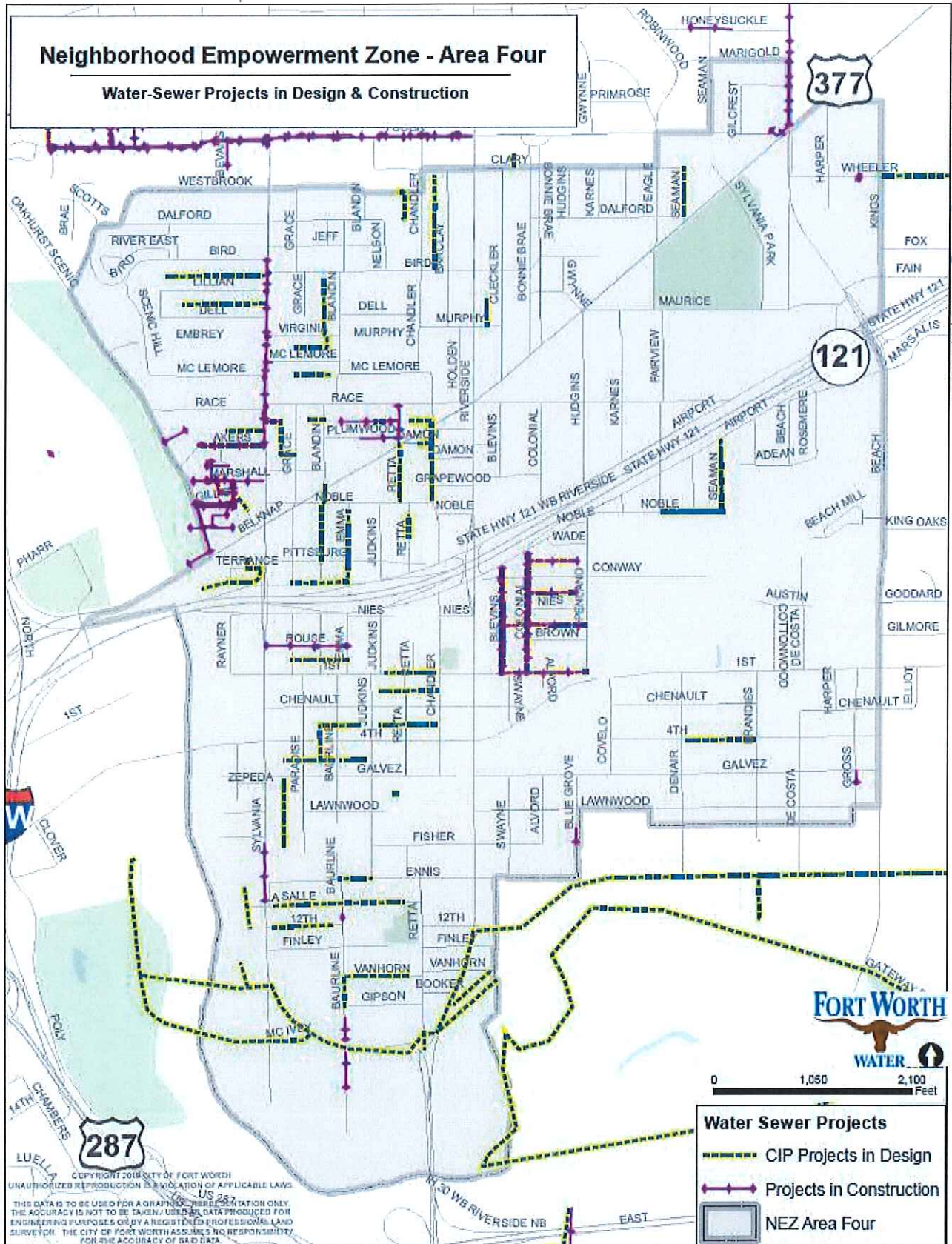
Source: City of Fort Worth Water Department, December 2019

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Neighborhood Empowerment Zone - Area Four

Water-Sewer Projects in Design & Construction



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City Water/Sewer Capital Improvements in NEZ Area 4 Continued:

The City's NEZ Area 4 has a history of documented and committed funding to accomplish the City's purposes of revitalizing the area within its established timeline. The list of capital improvement projects in NEZ Area 4 was provided by the City's Worth Water Department.

INSTALLDATE	PROJ_DESC	Orig Rec
7/1/2008	OAKHURST SCENIC 8" WTR EXT LOOP TO 6" WTR IN RACE ST	10/23/2008
5/13/2005	GRACE ST, COLONIAL AVE, N. CHANDLER DR. & RACE ST.	11/17/2003
8/20/2018	344' OF 8" PVC REPLACEMENT ON M-51@2700 GALVEZ AVE	5/3/2018
5/31/2018	642' OF 8" PVC REPLACEMENT ON L-1059 @ 2800 GALVEZ AVE	
12/29/2015	696' OS SS L-2179@ 3753 LAWNWOOD ST	12/30/2015
10/30/2010	SS REHAB CONT 52, UT 1; MONTCLAIR, BARNETT, CALUMET, BLUERIDGE	3/26/2009
3/27/2014	DAMON AVE, HOLDEN ST, MCLEMORE AVE, MURPHY ST	9/28/2012
2/28/2012	ARNOLD CT, BELVINS ST, CLARENCE ST E, CLARENCE ST W	3/24/2011
2/21/2014	CONTRACT 2008 CIP 4A	5/16/2013
7/1/2019	WATER AND SANITARY SEWER REPLACEMENT	11/8/2016
8/14/2018	WATER AND SANITARY SEWER REPLACEMENT	3/5/2015
2/22/2017	BIRD STREET REHABILITATION	9/1/2016
11/30/2013	CLARY AVE, BIRD ST, BONNIE BRAE ST, BONNIE BRAE	9/28/2012
5/8/2012	WTR/SS REPLC CONTR 2005 WSM-J; AUSTIN LN, COTTONWOOD ST;	
5/4/2005	L-1806 SCROLL	
9/5/2008	4TH ST WTR MAIN REPLC & LOWERING FROM BEACH ST TO	1/20/2009
6/4/2014	CONTRACT 2008 CIP 2D	
1/14/2008	BIRD ST, GWYNNE ST, KIMBO Ct; BIRD ST, GWYNNE ST,	9/10/2007
9/14/2006	DRY BRANCH CREEK DRAINAGE IMPROVEMENTS-WTR & SWR	3/20/2003
9/8/2014	SANITARY SEWER REPLACEMENT CONTRACT 73	12/18/2012
7/21/2015	REPLACE 648' PVC ON L-3066 @ 3901 GALVEZ AVE	8/31/2015
6/1/2018	SCENIC VILLAGE	5/3/2018
8/6/2018	SOUTH FOURTH RIVERWALK RESIDENCES PHASE 1	4/27/2018
6/22/2018	THE BLUFFS AT RIVER EAST	8/15/2017
5/22/2012	WATER/SANITARY SEWER REPLACE CONT 2009 WSM-F	6/3/2011
7/16/2004	MAURICE AVE, FAIRVIEW STREET, 121	2/9/2004
2/7/2011	JEFF ST AND NELSON AVE CONTRACT 43	11/20/2009
2/9/2007	Beach W, Beach N, Maurice, wheeler, king's hwy	12/14/2006
6/26/2008	HANSON ROOF TILE, WATER/SEWER; FISHER AVE	8/7/2007
10/8/2010	FAIN ST, FAIRVIEW ST, HARPER ST, KARNES ST, PRIMROSE AVE	3/23/2011
5/29/2014	CONTRACT 2008 CIP 8D ; PENLAND ST, WADE AVE	4/10/2013
12/23/2013	EAST FIRST STREET ; BEACH TO OAKLAND	12/23/2013

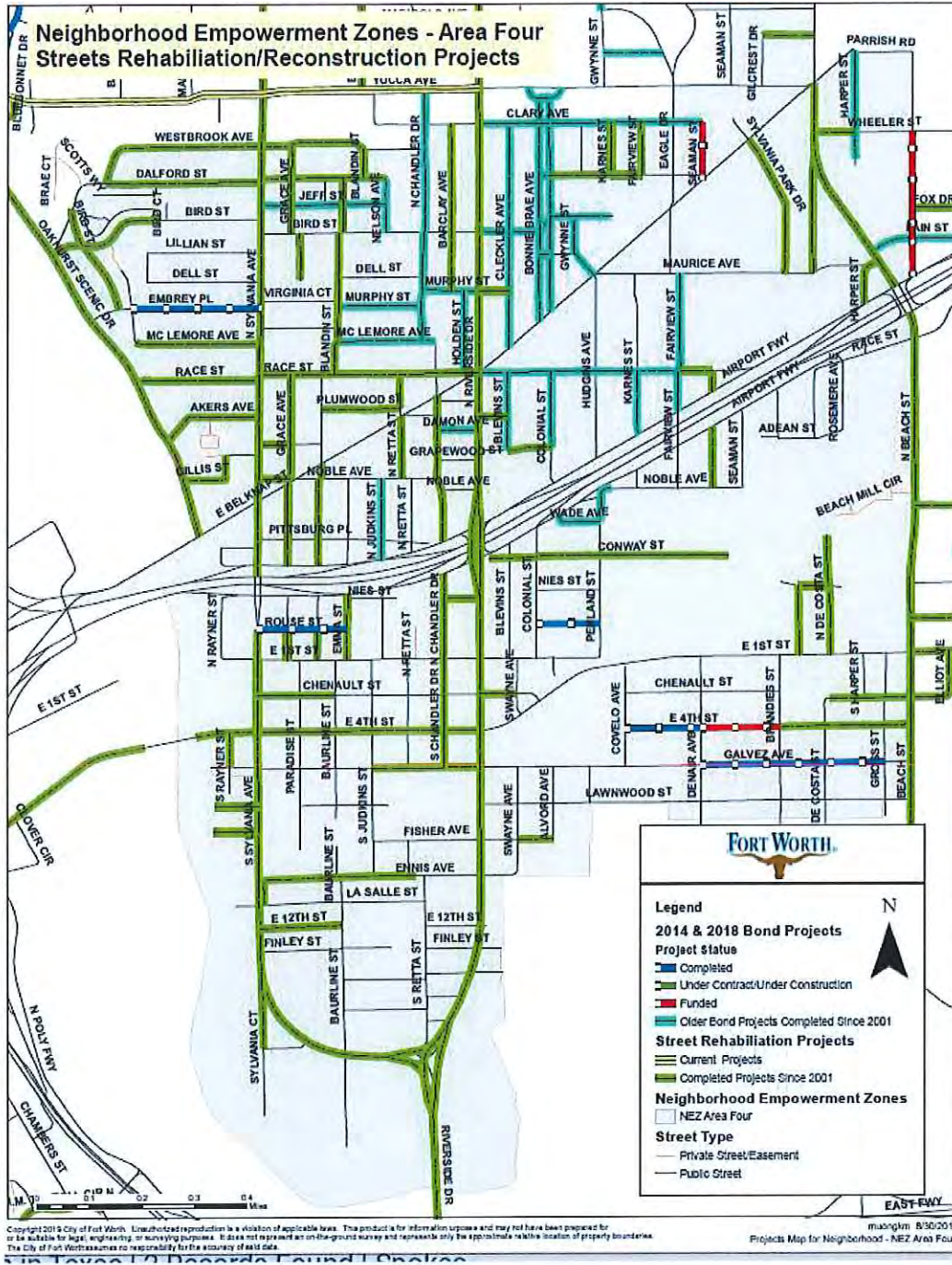
Source: City of Fort Worth Water Department, December 2019

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Street Rehabilitation/Reconstruction Projects in NEZ Area 4

The City has made significant investments in Street Rehabilitation/Reconstruction projects in NEZ Area 4. Below is a map illustrating public works improvements in NEZ Area 4 and the list of those projects.



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**Neighborhood Empowerment Zones - Area Four
Streets Rehabilitation/Reconstruction Projects Since 2001**

Project Name	Block Limit	Street Limit	Map	Program	Procedure	Status	Finish Date	Qty	Units	Classification
Akers Ave	2400-2599	Oakhurst Scenic Dr-N Sylvania Ave	63Q	PayGo 2002	Rehabilitation	Completed	04/2002	0.41	LM	Residential
Austin Ln	3806-3817	Cottonwood St-N De Costa St	64S	PayGo 2012	Rehabilitation	Completed	01/2013	0.07	LM	Residential
Barclay Ave	900-1199	Murphy St-Clary Ave	63R	PayGo 2002	Rehabilitation	Completed	07/2002	0.63	LM	Residential
Beach St	100-499	E 1st St-Lawnwood St	64S	PayGo 2004	Rehabilitation	Completed	07/2004	1.36	LM	Major Arterial
Beach St	500-1799	Lawnwood St-Ih 30 Wb Beach Ramp	78A	PayGo 2006	Rehabilitation	Completed	03/2006	4.40	LM	Major Arterial
Bird St	2100-2199	Oakhurst Scenic Dr-Bluebonnet Dr	63P	PayGo 2008	Rehabilitation	Completed	06/2008	0.14	LM	Residential
Bird St	2200-2320	Bluebonnet Dr-E Dead End	63Q	PayGo 2004	Rehabilitation	Completed	09/2004	0.30	LM	Residential
Bird St	2320-2322	150' W Of W Dead End-W Dead End	63Q	PayGo 2003	Rehabilitation	Completed	08/2003	0.08	LM	Residential
Bird St	3100-3299	N Riverside Dr-Bonnie Brae St	63R	Bond 2007	Reconstruction	Completed	11/2013	0.31	LM	Residential
Bird St	3300-3499	Bonnie Brae St-E Dead End	63R	Bond 2004	Reconstruction	Completed	01/2008	0.25	LM	Residential
Blandin St	100-199	E 1st St-Airport Fwy	63U	PayGo 2011	Rehabilitation	Completed	08/2011	0.23	LM	Residential
Blandin St	200-299	Airport Fwy-Pittsburg Pl	63Q	PayGo 2004	Rehabilitation	Completed	07/2002	0.12	LM	Residential
Blandin St	300-409	Pittsburg Pl-E Belknap St	63U	PayGo 2002	Rehabilitation	Completed	05/2002	0.33	LM	Residential
Blandin St	700-1199	Race St-Westbrook Ave	63Q	PayGo 2002	Rehabilitation	Completed	05/2002	0.99	LM	Residential
Blevins St	500-699	Grapewood St-Race St	63V	Bond 2007	Reconstruction	Completed	03/2012	0.38	LM	Residential
Bluebonnet Dr	1000-1099	Bird St-Dalford St	63P	PayGo 2004	Rehabilitation	Completed	09/2004	0.16	LM	Residential
Bluebonnet Dr	800-999	Embrey Pl-Bird St	63Q	PayGo 2004	Rehabilitation	Completed	09/2004	0.30	LM	Residential
Bonnie Brae St	800-1299	E Belknap St-Yucca Ave	63R	Bond 2007	Reconstruction	Completed	05/2013	2.54	LM	Residential
Brown Ave	3400-3499	Colonial St-Penland St	63V	Bond 2014	Rehabilitation	Completed	09/2016	0.25	LM	Residential
Cartwright Ave	400-599	Noble Ave-Airport Fwy	64N	PayGo 2017	Rehabilitation	Completed	09/2016	0.25	LM	Residential
Cartwright Ave	600-699	Airport Fwy-Race St	64N	PayGo 2009	Rehabilitation	Completed	05/2010	0.09	LM	Residential
Chenault St	2600-2799	S Sylvania Ave-Baurline St	63Q	PayGo 2012	Rehabilitation	Completed	10/2012	0.34	LM	Residential
Chenault St	3200-3299	Riverside Dr-Swayne Ave	63V	PayGo 2007	Rehabilitation	Completed	08/2007	0.13	LM	Residential
Chenault St	3900-4023	S De Costa St-Beach St	64S	PayGo 2007	Rehabilitation	Completed	08/2008	0.37	LM	Residential
Clary Ave	3100-3799	N Riverside Dr-Seaman St	64J	Bond 2007	Reconstruction	Completed	10/2012	0.97	LM	Residential
Cleckler Ave	800-1199	E Belknap St-Clary Ave	63R	Bond 2008	Reconstruction	Completed	01/2014	0.88	LM	Residential
Colonial St	500-699	Grapewood St-Race St	63R	Bond 1998	Reconstruction	Completed	01/2005	0.36	LM	Residential
Concord St	3200-3299	Bonnie Brae St-Bonnie Brae St	63R	Bond 2007	Reconstruction	Completed	05/2013	0.04	LM	Residential
Conway St	3200-3799	W Dead End-E Dead End	64S	PayGo 2007	Rehabilitation	Completed	08/2007	1.09	LM	Residential
Cottonwood St	100-199	E 1st St-Austin Ln	64S	PayGo 2012	Rehabilitation	Completed	01/2013	0.28	LM	Residential
Dalford St	2220-2599	Westbrook Ave-N Sylvania Ave	63Q	PayGo 2011	Rehabilitation	Completed	06/2012	0.64	LM	Residential
Dalford St	2600-2999	N Sylvania Ave-Nelson Ave	63Q	PayGo 2002	Rehabilitation	Completed	05/2002	0.19	LM	Residential
Dalford St	3200-3299	Bonnie Brae St-Bonnie Brae St	63R	Bond 2007	Reconstruction	Completed	05/2013	0.04	LM	Residential
Dalford St	3200-3499	Bonnie Brae St-Kames St	63R	PayGo 2004	Rehabilitation	Completed	11/2004	0.29	LM	Residential
Dalford St	3500-3599	Kames St-Fairview St	63R	PayGo 2004	Rehabilitation	Completed	11/2004	0.12	LM	Residential
Damon Ave	3100-3199	N Chandler Dr-N Riverside Dr	63R	Bond 2007	Reconstruction	Completed	10/2014	0.18	LM	Residential
Damon Ave	3200-3299	N Riverside Dr-Blevins St	63R	PayGo 2004	Rehabilitation	Completed	08/2004	0.12	LM	Residential
E 12th St	2600-2799	S Sylvania Ave-Baurline St	63Y	PayGo 2004	Rehabilitation	Completed	10/2004	0.31	LM	Residential
E 4th St	2400-3199	End Bridge-Riverside Dr	63V	PayGo 2013	Restoration	Completed	09/2013	242	SY	Major Arterial
E 4th St	3600-3699	Covelo Ave-Denair Ave	63V	Bond 2014	Rehabilitation	Completed	08/2016	0.34	LM	Residential
E 4th St	3700-3799	Denair Ave-Brandies St	64S	Bond 2018	Rehabilitation	Funded		0.35	LM	Residential
E 4th St	3800-3999	Brandies St-Gross St	64S	PayGo 2005	Rehabilitation	Completed	02/2008	0.42	LM	Residential
E 4th St	4000-4099	Gross St-Beach St	64S	PayGo 2007	Rehabilitation	Completed	09/2009	0.09	LM	Residential
Embrey Pl	2300-2599	Scenic Hill Dr-N Sylvania Ave	63Q	Bond 2014	Rehabilitation	Completed	09/2016	0.57	LM	Residential
Emma St	100-232	E 1st St-Airport Fwy	63U	PayGo 2011	Rehabilitation	Completed	08/2011	0.27	LM	Residential
Ennis Ave	2600-2999	La Salle St-S Retta St	63Y	PayGo 2005	Rehabilitation	Completed	06/2005	0.67	LM	Residential
Fain St	4000-4299	N Beach St-Airport Fwy	64N	Bond 2004	Reconstruction	Completed	03/2010	0.50	LM	Residential

Neighborhood Services Department

City of Fort Worth ★ 200 Texas Street ★ Fort Worth, Texas 76102
817-392-7540 ★ Fax 817-392-7328

**Neighborhood Empowerment Zones - Area Four
Streets Rehabilitation/Reconstruction Projects Since 2001**

Project Name	Block Limit	Street Limit	Map	Program	Procedure	Status	Finish Date	Qty	Units	Classification
Fairview St	1100-1199	Dalford St-Clary Ave	63M	PayGo 2013	Rehabilitation	Completed	08/2013	0.21	LM	Residential
Fairview St	525-899	Airport Fwy-Maurice Ave	64N	Bond 2004	Reconstruction	Completed	09/2010	0.66	LM	Residential
Fisher Ave	2500-2599	W Dead End-S Sylvania Ave	63V	PayGo 2009	Rehabilitation	Completed	08/2010	0.17	LM	Residential
Fisher Ave	3300-3399	Swayne Ave-Alvord Ave	63Z	PayGo 2007	Rehabilitation	Completed	04/2008	0.10	LM	Residential
Galvez Ave	2900-3199	S Judkins St-Riverside Dr	63V	PayGo 2013	Rehabilitation	Completed	06/2013	0.44	LM	Residential
Galvez Ave	3700-3999	Denair Ave-Gross St	64S	Bond 2014	Rehabilitation	Completed	06/2018	1.07	LM	Residential
Gillis St	2400-2499	Oakhurst Scenic Dr-Juanita St	63U	PayGo 2011	Rehabilitation	Completed	07/2011	0.14	LM	Residential
Grace Ave	100-149	E 1St St-Rouse St	63U	PayGo 2009	Rehabilitation	Completed	10/2009	0.11	LM	Residential
Grace Ave	200-399	Airport Fwy-E Belknap St	63U	PayGo 2002	Rehabilitation	Completed	07/2002	0.33	LM	Residential
Grace Ave	400-499	Noble Ave-Marshall Ave	63U	PayGo 2002	Rehabilitation	Completed	07/2002	0.15	LM	Residential
Grace Ave	500-699	Marshall Ave-Race St	63Q	PayGo 2018	Rehabilitation	Completed	03/2019	0.29	LM	Residential
Grace Ave	900-1199	S Cui-De-Sac-Westbrook Ave	63L	PayGo 2009	Rehabilitation	Completed	08/2010	0.53	LM	Residential
Grapewood St	3300-3399	Blevins St-Colonial St	63R	PayGo 2013	Rehabilitation	Completed	07/2013	0.26	LM	Residential
Gwynne St	800-999	E Belknap St-Bird St	63R	Bond 2004	Reconstruction	Completed	01/2008	0.25	LM	Residential
Harper St	1100-1399	S Dead End-Parish Rd	64J	Bond 2004	Reconstruction	Completed	09/2010	0.60	LM	Residential
Harper St	800-899	Airport Fwy-N Beach St	64N	PayGo 2007	Rehabilitation	Completed	08/2008	0.22	LM	Residential
Holden St	700-899	Race St-Murphy St	63R	Bond 2007	Reconstruction	Completed	03/2014	0.40	LM	Residential
Jeff St	2600-2899	N Sylvania Ave-Nelson Ave	63Q	Bond 2004	Reconstruction	Completed	12/2010	0.54	LM	Residential
Kames St	1100-1199	Dalford St-Clary Ave	63R	PayGo 2004	Rehabilitation	Completed	08/2004	0.30	LM	Residential
Kames St	500-699	Airport Fwy-Race St	63R	Bond 2004	Reconstruction	Completed	09/2010	0.30	LM	Residential
Kings Hwy	900-1299	Airport Fwy-Wheeler St	64N	Bond 2018	Rehabilitation	Funded		0.56	LM	Residential
Lawwood St	2500-2599	W Dead End-S Sylvania Ave	63Y	PayGo 2009	Rehabilitation	Completed	08/2010	0.15	LM	Residential
Marshall Ave	2600-2699	N Sylvania Ave-Grace Ave	63Q	PayGo 2018	Rehabilitation	Completed	03/2019	0.13	LM	Residential
Mc Lemore Ave	2300-2599	Scenic Hill Dr-N Sylvania Ave	63Q	PayGo 2013	Rehabilitation	Completed	05/2013	0.51	LM	Residential
Mc Lemore Ave	2800-3099	Blandin St-N Chandler Dr	63Q	Bond 2007	Reconstruction	Completed	03/2014	0.43	LM	Residential
Murphy St	2800-3099	Blandin St-N Riverside Dr	63R	Bond 2007	Reconstruction	Completed	03/2014	0.62	LM	Residential
Murphy St	3100-3199	N Riverside Dr-Clecker Ave	63R	PayGo 2002	Rehabilitation	Completed	06/2002	0.12	LM	Residential
N Beach St	100-849	E 1St St-Airport Fwy	64S	PayGo 2004	Rehabilitation	Completed	07/2004	3.04	LM	Major Arterial
N Beach St	900-1299	Airport Fwy-E Belknap St	64N	PayGo 2004	Rehabilitation	Completed	08/2004	1.90	LM	Major Arterial
N Chandler Dr	100-299	E 1St St-Airport Fwy	63V	PayGo 2013	Rehabilitation	Completed	08/2013	0.45	LM	Residential
N Chandler Dr	300-622	Airport Fwy-E Belknap St	63V	PayGo 2004	Rehabilitation	Completed	10/2004	0.86	LM	Residential
N Chandler Dr	800-1299	Mc Lemore Ave-Yucca Ave	63R	Bond 1998	Reconstruction	Completed	01/2005	1.10	LM	Residential
N De Costa St	100-299	E 1St St-N Dead End	64S	PayGo 2012	Rehabilitation	Completed	01/2013	0.48	LM	Residential
N De Costa St	200-299	Austin Ln-N Dead End	64S	PayGo 2001	Rehabilitation	Completed	09/2001	0.18	LM	Residential
N Judkins St	233-399	Airport Fwy-Noble Ave	63U	Bond 2008	Reconstruction	Completed	05/2014	0.37	LM	Residential
N Retta St	400-599	Noble Ave-Damon Ave	63R	PayGo 2012	Rehabilitation	Completed	10/2012	0.25	LM	Residential
N Retta St	608-699	Plumwood St-Race St	63R	PayGo 2017	Rehabilitation	Completed	02/2018	0.20	LM	Residential
N Riverside Dr	100-299	Riverside Dr-Airport Fwy	63V	PayGo 2002	Rehabilitation	Completed	06/2002	0.95	LM	Major Arterial
N Riverside Dr	1040-2399	Bird St-Ne 28Th St	63V	PayGo 2000	Rehabilitation	Completed	07/2001	5.32	LM	Minor Arterial
N Riverside Dr	300-1040	Airport Fwy-Primrose Ave	63R	PayGo 2002	Rehabilitation	Completed	06/2002	2.58	LM	Major Arterial
N Sylvania Ave	100-119	E 1St St-Rouse St	63U	PayGo 2009	Rehabilitation	Completed	11/2009	0.19	LM	Minor Arterial
N Sylvania Ave	194-1299	State Hwy 121-Yucca Ave	63Q	PayGo 2003	Rehabilitation	Completed	03/2004	3.12	LM	Minor Arterial
Nelson Ave	1000-1099	Bird St-Dalford St	63R	Bond 2004	Reconstruction	Completed	12/2010	0.21	LM	Residential
Nies St	3100-3199	N Chandler Dr-N Riverside Dr	63V	PayGo 2005	Rehabilitation	Completed	06/2006	0.14	LM	Residential
Noble Ave	2600-2703	N Sylvania Ave-E Belknap St	63U	PayGo 2008	Rehabilitation	Completed	01/2009	0.15	LM	Residential
Oakhurst Scenic Dr	300-1299	E Belknap St-Yucca Ave	63K	PayGo 2008	Rehabilitation	Completed	06/2008	2.90	LM	County Road
Penland St	300-399	Wade Ave-Noble Ave	63V	Bond 2008	Reconstruction	Completed	07/2014	0.15	LM	Residential

**Neighborhood Empowerment Zones - Area Four
Streets Rehabilitation/Reconstruction Projects Since 2001**

Project Name	Block Limit	Street Limit	Map	Program	Procedure	Status	Finish Date	Qty	Units	Classification
Plumwood St	2800-2998	Blandin St-N Retta St	63Q	PayGo 2009	Rehabilitation	Completed	09/2009	0.32	LM	Residential
Primrose Ave	3700-3899	Gilcrest Dr-N Beach St	64J	PayGo 2004	Rehabilitation	Completed	11/2004	0.21	LM	Residential
Race St	2300-2599	Oakhurst Scenic Dr-N Sylvania Ave	63Q	PayGo 2015	Rehabilitation	Completed	05/2016	0.72	LM	Residential
Race St	2300-2599	Oakhurst Scenic Dr-N Sylvania Ave	63Q	PayGo 2002	Rehabilitation	Completed	06/2002	0.65	LM	Residential
Race St	2600-3199	N Sylvania Ave-N Riverside Dr	63R	PayGo 2013	Rehabilitation	Completed	09/2013	1.74	LM	Collector
Race St	2600-3199	N Sylvania Ave-N Riverside Dr	63Q	PayGo 2002	Rehabilitation	Completed	06/2002	1.63	LM	Collector
Race St	3200-3649	N Riverside Dr-Fairview St	63R	Bond 1998	Reconstruction	Completed	07/2005	0.87	LM	Collector
Race St	3650-3705	Fairview St-Cartwright Ave	64N	PayGo 2009	Rehabilitation	Completed	05/2010	0.15	LM	Collector
Riverside Dr	100-1399	E 1St St-S Sylvania Ave	77D	PayGo 2002	Rehabilitation	Completed	06/2002	3.92	LM	Major Arterial
Riverside Dr	1400-1999	S Sylvania Ave-Ih 30 Wb Riverside Sb Ramp	77D	PayGo 2001	Rehabilitation	Completed	08/2001	2.16	LM	Major Arterial
Riverside Dr	240-1199	Chenault St-Booker St	77M	Bond 1998	Reconstruction	Completed	01/2005	0.30	LM	Major Arterial
Rouse St	2600-2799	N Sylvania Ave-Emma St	63U	Bond 2014	Rehabilitation	Completed	03/2019	0.40	LM	Residential
S Chandler Dr	100-299	E 1St St-E 4Th St	63V	PayGo 2013	Rehabilitation	Completed	08/2013	0.37	LM	Residential
S Chandler Dr	300-399	E 4Th St-Galvez Ave	63V	PayGo 2011	Rehabilitation	Completed	04/2012	0.19	LM	Residential
S Rayner St	300-399	E 4Th St-Galvez Ave	63U	PayGo 2009	Rehabilitation	Completed	08/2010	0.14	LM	Residential
S Sylvania Ave	100-299	E 1St St-E 4Th St	63U	PayGo 2009	Rehabilitation	Completed	11/2009	0.46	LM	Minor Arterial
S Sylvania Ave	1500-1699	Baurline St-Riverside Dr	63Z	PayGo 2004	Rehabilitation	Completed	08/2004	1.17	LM	Minor Arterial
S Sylvania Ave	300-1499	E 4Th St-Baurline St	63U	PayGo 2012	Rehabilitation	Completed	09/2012	3.22	LM	Minor Arterial
Seaman St	1000-1199	E Belknap St-Clary Ave	64J	Bond 2018	Rehabilitation	Funded		0.25	LM	Residential
Sylvania Ct	1200-1399	S Sylvania Ave-Sylvania Ct Ramp	63Y	PayGo 2009	Rehabilitation	Completed	05/2010	0.22	LM	Residential
Sylvania Park Dr	800-1199	Maurice Ave-E Belknap St	64N	PayGo 1999	Rehabilitation	Completed	09/2009	0.63	LM	Residential
W Beach St	900-3798	Maurice Ave -N Beach St	64N	PayGo 2008	Rehabilitation	Completed	07/2008	0.43	LM	Residential
Wade Ave	3400-3499	Airport Fwy-Penland St	63V	Bond 2008	Reconstruction	Completed	07/2014	0.18	LM	Residential
Westbrook Ave	2200-2599	Dalford St-N Sylvania Ave	63L	PayGo 2011	Rehabilitation	Completed	06/2012	0.73	LM	Residential
Westbrook Ave	2600-2899	N Sylvania Ave-Blandin St	63L	PayGo 2017	Rehabilitation	Completed	02/2018	0.46	LM	Residential
Wheeler St	3900-3999	N Beach St-Harper St	64J	PayGo 2004	Rehabilitation	Completed	12/2004	0.15	LM	Residential

Neighborhood Services Department

City of Fort Worth ★ 200 Texas Street ★ Fort Worth, Texas 76102
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The City's NEZ program is designed to revitalize an area of the city that once was a vibrant community. Council action on January 29, 2019 was the result of a thorough analysis of the City's NEZ program. The study and public input process were lengthy and provided for the recommendations that resulted in the consolidation of the City's NEZs and adoption of amendments to the City's NEZ policies. The Palladium Fain Street Apartments, a NEZ certified project, is an important private investment in NEZ Area 4 that will continue the City's community revitalization goals and objectives.

I confirm that the accomplishment of our revitalization objectives is on schedule and I do not foresee obstacles to accomplishing the purposes of the NEZ Area 4 Plan.

If you have any questions or concerns regarding this matter please contact Chad LaRoque, Neighborhood Services Department, at (817) 392-2661.

Sincerely,



Victor T. Turner, Director
Neighborhood Services Department

CC: Chad LaRoque, Neighborhood Services Department
Amy C. Connolly, Assistant Director
Jo Ann Pate, Assistant City Attorney
Vicki Ganske, Senior Assistant City Attorney

A Resolution

NO. 5041-01-2019

DISSOLUTION OF ALL DESIGNATED NEIGHBORHOOD EMPOWERMENT ZONES

WHEREAS, on April 25, 2000 (M&C G-12897), the City of Fort Worth City Council (“City Council”) approved the Policy Statement on the Creation of Local Neighborhood Empowerment Zones (NEZ) in accordance with Chapter 378 of the Texas Local Government Code and authorized the City Manager to identify areas eligible for NEZ designation and develop administrative procedures for establishment of a NEZ; and

WHEREAS, on October 3, 2000 (M&C G-13030), the City Council approved an amendment to the Policy Statement on the Creation of Local Neighborhood Empowerment Zones to revise the criteria used in determining a NEZ eligible area, amending the population criterion at the time of designation and require the area be at least 50% Community Development Block Grant (CDBG) eligible within the Central City; and

WHEREAS, on June 26, 2001, by Resolution No. 2742, the City Council designated the Stop Six Area as a Neighborhood Empowerment Zone and renewed the NEZ on April 15, 2014, by Resolution No. 4315 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, by Resolution No. 2893, the City Council designated the Magnolia Village Area as a Neighborhood Empowerment Zone and renewed the NEZ on December 7, 2010, by Resolution No. 3947 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 27, 2004, by Resolution No. 3039, the City Council designated the Trinity Park Area as a Neighborhood Empowerment Zone and renewed the NEZ on December 7, 2010, by Resolution No. 3950 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 19, 2002, by Resolution No. 2889, the City Council designated the Evans & Rosedale Area as a Neighborhood Empowerment Zone and renewed the NEZ on November 6, 2012, by Resolution No. 4143 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, by Resolution No. 2894, the City Council designated the Polytechnic/Wesleyan Area as a Neighborhood Empowerment Zone and renewed the NEZ on November



Resolution No. 5041-01-2019

6, 2012, by Resolution No. 4144 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, by Resolution No. 2892, the City Council designated the Hemphill/Berry Area as a Neighborhood Empowerment Zone and renewed the NEZ on December 7, 2010, by Resolution No. 3946 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 21, 2003, by Resolution No. 2908, the City Council designated the Rolling Hills Area as a Neighborhood Empowerment Zone and renewed the NEZ on December 7, 2010, by Resolution No. 3949 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on May 27, 2003, by Resolution No. 2950, the City Council designated the Historic Handley Area as a Neighborhood Empowerment Zone and renewed the NEZ on December 7, 2010, by Resolution No. 3945 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on May 27, 2003, by Resolution No. 2951, the City Council designated the Woodhaven Area as a Neighborhood Empowerment Zone and renewed the NEZ on May 21, 2013, by Resolution No. 4210 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on August 19, 2003, by Resolution No. 2984, the City Council designated the Riverside Area as a Neighborhood Empowerment Zone and renewed the NEZ on August 20, 2013, by Resolution No. 4233 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 6, 2004, by Resolution No. 3030, the City Council designated the Berry/University Area as a Neighborhood Empowerment Zone and renewed the NEZ on April 15, 2014, by Resolution No. 4313 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on February 3, 2004, by Resolution No. 3041, the City Council designated the Lake Arlington Area as a Neighborhood Empowerment Zone and renewed the NEZ on April 15, 2014, by Resolution No. 4314 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and



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WHEREAS, on March 27, 2007, by Resolution No. 3468, the City Council designated the Berryhill/Mason Heights Area as a Neighborhood Empowerment Zone and renewed the NEZ on August 15, 2017, by Resolution No. 4832 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 6, 2009, by Resolution No. 3704, the City Council designated the Oakland Corners Area as a Neighborhood Empowerment Zone and renewed the NEZ on April 22, 2014, by Resolution No. 4317 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 7, 2010, by Resolution No. 3948, the City Council designated the Northside Area as a Neighborhood Empowerment Zone to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 7, 2010, by Resolution No. 3944, the City Council designated the 28th Street/Meacham Area as a Neighborhood Empowerment Zone and renewed the NEZ on November 12, 2013, by Resolution No. 4260 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on April 5, 2011, by Resolution No. 3981, the City Council designated the Six Points Area as a Neighborhood Empowerment Zone to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on September 24, 2013, by Resolution No. 4248, the City Council designated the Northeast 820/I-30 Area as a Neighborhood Empowerment Zone to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 15, 2015, by Resolution No. 4553, the City Council designated the Highland Hills Area as a Neighborhood Empowerment Zone to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on April 11, 2017, by Resolution No. 4769, the City Council designated the Como/Sunset Heights Area as a Neighborhood Empowerment Zone to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and



WHEREAS, on January 29, 2019 (M&C G-19469), the City Council approved an amendment to Policy Statement on the Creation of Local Neighborhood Empowerment Zones to revise the criteria used in determining a NEZ eligible area to include that the area be 100% CDBG eligible, have a low median household income, contain a predominance of substandard homes/aged housing stock, have higher than average vacancy rates and crime rates and have low commercial values and to provide that NEZs will be reviewed every five years and those areas no longer meeting the criteria to create a NEZ will be dissolved and terminated; and

WHEREAS, using the revised Policy, staff has determined that two NEZs, Trinity Park and Northeast 820/I-30 should be dissolved and terminated and all remaining designated NEZs should be dissolved and terminated to allow those areas to be re-designated into larger NEZ areas to provide for greater efficiency in the administration of the NEZ Policy and the Basic Incentives and Tax Abatement Policy; and

WHEREAS, the City Council finds that the Trinity Park and Northeast 820/I-30 areas have achieved the public purpose of increasing public health, safety and welfare and neighborhood empowerment zones are no longer necessary to achieve these public purposes and the aforementioned NEZs should be dissolved and terminated; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Fort Worth to dissolve and terminate the remaining aforementioned NEZ areas to allow those areas to be reconfigured into six neighborhood empowerment zones to provide for greater efficiency in the administration of the NEZ program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

Section 1. The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. The following NEZs, as shown in Attachment A, are dissolved and terminated as of the date of this Resolution:

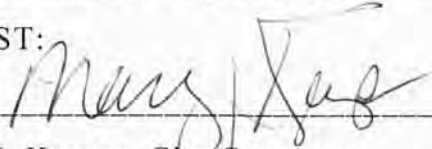
- | | |
|---------------------------|-----------------------------------|
| - Stop Six/Sunset Heights | - Trinity Park |
| - Evans & Rosedale | - Lake Arlington |
| - Magnolia Village | - Berryhill/Mason Heights |
| - Polytechnic/Wesleyan | - Oakland Corners |
| - Hemphill/Berry | - Northside |
| - Rolling Hills | - 28 th Street/Meacham |
| - Historic Handley | - Six Points |
| - Woodhaven | - Northeast 820/I-30 |
| - Riverside | - Highland Hills |
| - Berry/University | - Como/Sunset Heights |



Adopted this 29th day of January 2019.

ATTEST:

By: _____

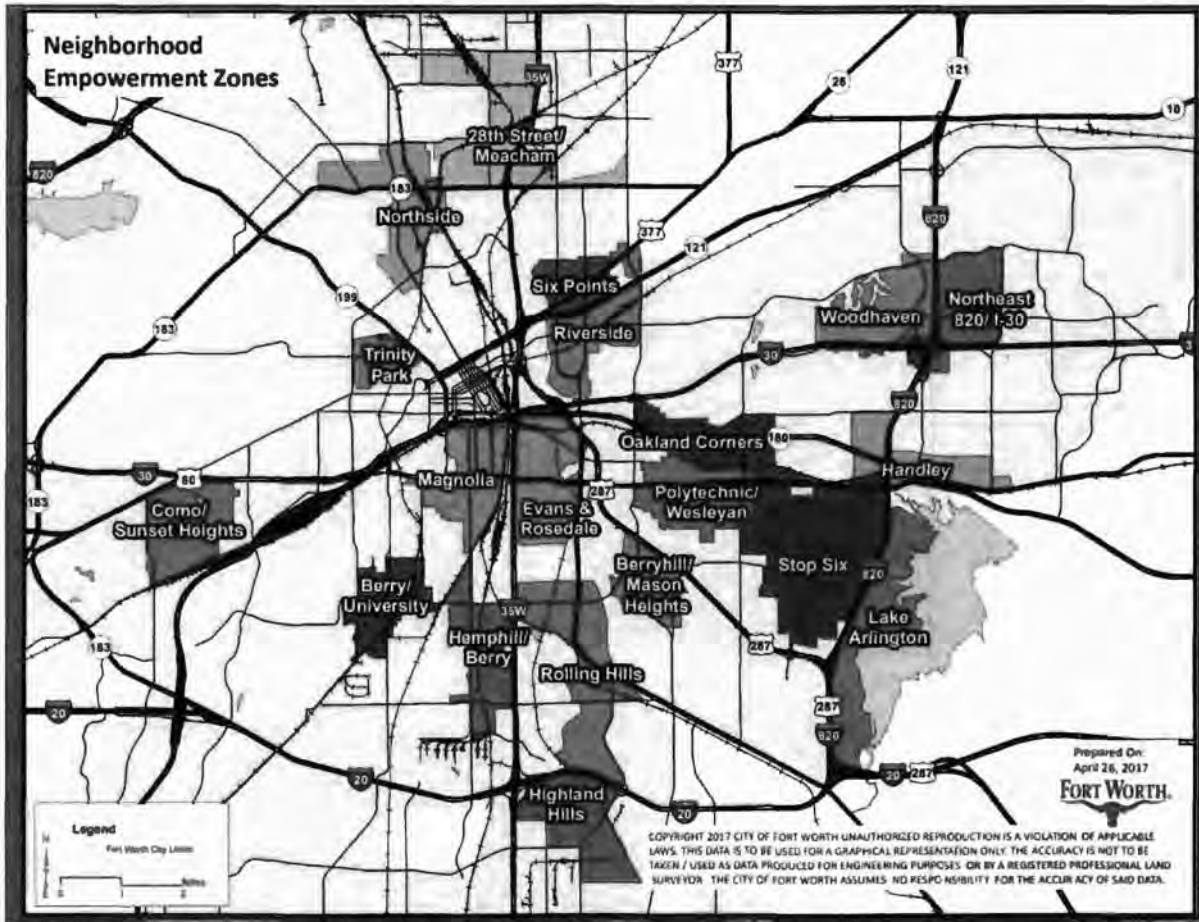


Mary J. Kayser, City Secretary



EXISTING NEIGHBORHOOD EMPOWERMENT ZONES

ATTACHMENT A



City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 1/29/2019 - Ordinance No. 23551-01-2019 & Resolution No. 5041-01-2019

DATE: Tuesday, January 29, 2019

REFERENCE NO.: G-19468

LOG NAME: 19NEZTERMINATIONALL

SUBJECT:

Adopt Resolution to Dissolve and Terminate all Existing Neighborhood Empowerment Zones and Adopt Ordinance to Terminate and Repeal all Existing Neighborhood Empowerment Reinvestment Zones (COUNCIL DISTRICTS 2, 3, 4, 5, 8 and 9)

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached Resolution to dissolve and terminate the twenty Neighborhood Empowerment Zones listed in the Resolution; and
 2. Adopt the attached Ordinance to terminate and repeal the twenty Neighborhood Empowerment Reinvestment Zones listed in the Ordinance.
-

DISCUSSION:

In November 2017, Mayor and Council Communication (M&C G-19157) was brought forward to terminate the Berry/University, Magnolia Village and Trinity Park Neighborhood Empowerment Zones (NEZ). After discussions with community stakeholders, the terminations of the three NEZs were withdrawn from City Council action on April 17, 2018. The City Council then directed staff to conduct a comprehensive study of the Neighborhood Empowerment Zone Program.

The City of Fort Worth entered into a professional services agreement City Secretary Contract (CSC No. 50753) with Ricker/Cunningham LLC to evaluate the NEZ Program and determine the feasibility of maintaining, modifying or eliminating certain Neighborhood Empowerment Zone areas with the City. Ricker/Cunningham and the Neighborhood Services staff held several meetings throughout 2018 with various community stakeholders to receive input on the NEZ program. Reports on the study and stakeholder input were presented to the City Council in May and again in September 2018. After final input from City Council and community stakeholders, staff is proposing changes to the NEZ Program Policy and administration processes and changes to the boundaries of neighborhood empowerment zones. A separate Mayor and Council Communication will be presented to the City Council for consideration of changes to the NEZ Program, Policy and administrative procedures.

The changes recommended to the boundaries for neighborhood empowerment zone boundaries include the termination of twenty existing NEZ areas and the corresponding NEZ Reinvestment Zones and the designation of six neighborhood empowerment zones and adoption of six neighborhood empowerment reinvestment zones. The attached resolution and ordinance will dissolve the existing twenty NEZs in the City and repeal and terminate the existing NEZ Reinvestment Zones as shown in attachment A. Those NEZs and NEZ Reinvestment Zones are as follows:

- (1) 28th Street-Meacham
- (2) Berryhill – Mason Heights
- (3) Berry/University
- (4) Como/Sunset Heights
- (5) Evans/Rosedale
- (6) Six Points
- (7) Stop Six
- (8) Handley
- (9) Hemphill/Berry
- (10) Highland Hills
- (11) Lake Arlington
- (12) Magnolia Village
- (13) Northeast 820 and I-30
- (14) Northside
- (15) Oakland Corners
- (16) Polytechnic/Wesleyan
- (17) Riverside
- (18) Rolling Hills
- (19) Trinity Park
- (20) Woodhaven

A separate Mayor and Council Communication will be presented to the City Council to designate six new Neighborhood Empowerment Zones and NEZ Reinvestment Zones.

This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of the above recommendations will have no material effect on the Fiscal Year 2019 budget. Any tax abatement approved under the future policy shall be incorporated into the City's long-term financial forecast.

FUND IDENTIFIERS (FIDs):

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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CERTIFICATIONS:

Submitted for City Manager's Office by:

Fernando Costa (6122)

Originating Department Head:

Aubrey Thagard (8187)

Additional Information Contact:

Sarah Odle (7316)

ORDINANCE NO. 23551-01-2019

AN ORDINANCE REPEALING AND TERMINATING ALL DESIGNATED NEIGHBORHOOD EMPOWERMENT REINVESTMENT ZONES IN THE CITY OF FORT WORTH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the City Council’s adoption on May 16, 2017, by Resolution No. 4782-05-2017 (M&C G-19010), as it may be amended from time to time, the City of Fort Worth, Texas (the “City”) has elected to be eligible to participate in tax abatement and has established guidelines and criteria governing tax abatement agreements entered into between the City and various third parties, as authorized by and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the “Code”); and

WHEREAS, on April 17, 2001, Resolution No. 2721, the City Council elected to participate in tax abatements in the Stop Six Neighborhood Empowerment Reinvestment Zone and on April 22, 2003, Resolution No. 2938, the City Council elected to be eligible to participate in tax abatement authorized by Chapter 312 of the Texas Tax Code in all designated Neighborhood Reinvestment Zones and established a Neighborhood Empowerment Zone Tax Abatement Policy governing tax abatement agreements for properties located in Neighborhood Empowerment Zones; and

WHEREAS, on April 17, 2001, the City Council designated the Stop Six Area as a Neighborhood Empowerment Zone by Resolution No. 2721 (re-designated April 15, 2014 by Resolution No. 4315-04-2014) and as Neighborhood Empowerment Reinvestment Zone No. 1 by Ordinance Number 14767 (re-designated April 15, 2014 by Ordinance No. 21206-04-2014) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 19, 2002, the City Council designated the Evans & Rosedale Area as a Neighborhood Empowerment Zone by Resolution No. 2889 (re-designated November 6, 2012 by Resolution No. 4143) and as Neighborhood Empowerment Reinvestment Zone No. 4 by Ordinance No. 15377 (re-designated December 12, 2017 by Ordinance No. 23049-12-2017) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in

economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, the City Council designated the Magnolia Village Area as a Neighborhood Empowerment Zone by Resolution No. 2893 (re-designated December 7, 2010 by Resolution No. 3947-12-2010) and as Neighborhood Empowerment Reinvestment Zone No. 5R by Ordinance No. 15343 (re-designated January 26, 2016 by Ordinance No. 22066-01-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 6, 2004, the City Council designated the Berry/University Area as a Neighborhood Empowerment Zone by Resolution No. 3030 (re-designated April 15, 2014 by Resolution No.4313-04-2014) and as Neighborhood Empowerment Reinvestment Zone No. 13 by Ordinance No. 15815 (re-designated April 15, 2014 by Ordinance No. 21204-04-2014) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, the City Council designated the Polytechnic/Wesleyan Area as a Neighborhood Empowerment Zone by Resolution No. 2894 (re-designated November 6, 2012 by Resolution No. 4144) and as Neighborhood Empowerment Reinvestment Zone No. 6 by Ordinance No. 15344 (re-designated December 12, 2017 by Ordinance No. 23050-12-2017) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on November 26, 2002, the City Council designated the Hemphill/Berry Area as a Neighborhood Empowerment Zone by Resolution No. 2892 (re-designated December 7, 2010 by Resolution No. 3946-12-2010) and as Neighborhood Empowerment Reinvestment Zone No. 7R by Ordinance No. 19462-12-2010 (re-designated January 26, 2016 by Ordinance No. 22067-01-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 21, 2003, the City Council designated the Rolling Hills Area as a Neighborhood Empowerment Zone by Resolution No. 2908 (re-designated December 7, 2010 by Resolution No. 3949-12-2010) and as Neighborhood Empowerment Reinvestment Zone No. 8R by Ordinance No. (re-designated March 1, 2016 by Ordinance No. 22113-03-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on May 27, 2003, the City Council designated the Historic Handley Area as a Neighborhood Empowerment Zone by Resolution No. 2950 (re-designated December 7, 2010 by Resolution No. 3945-12-2010) and as Neighborhood Empowerment Reinvestment Zone No. 9R by Ordinance No. 19461-12-2010 (re-designated January 26, 2016 by Ordinance No. 22069-01-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on May 27, 2003, the City Council designated the Woodhaven Area as a Neighborhood Empowerment Zone by Resolution No. 2951 (re-designated May 21, 2013 by Resolution No. 4210-05-2013) and as Neighborhood Empowerment Reinvestment Zone No. 10 by Ordinance No. 20760-05-2013 (re-designated May 15, 2018 by Ordinance No. 23223-05-2018) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on August 19, 2003, the City Council designated the Riverside Area as a Neighborhood Empowerment Zone by Resolution No. 2984 (re-designated August 20, 2013 by Resolution No. 4233-08-2013) and as Neighborhood Empowerment Reinvestment Zone No. 11 by Ordinance No. 15645 (re-designated August 21, 2018 by Ordinance No. 23345-08-2018) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 27, 2004, the City Council designated the Trinity Park Area as a Neighborhood Empowerment Zone by Resolution No. 3039 (re-designated December 7, 2010 by

Resolution No. 3950-12-2010) and as Neighborhood Empowerment Reinvestment Zone No. 15R by Ordinance No. 15841 (re-designated January 26, 2016 by Ordinance No. 22070-01-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on February 3, 2004, the City Council designated the Lake Arlington Area as a Neighborhood Empowerment Zone by Resolution No. 3041 (re-designated April 15, 2014 by Resolution No. 4314-04-2014) and as Neighborhood Empowerment Reinvestment Zone No. 16 by Ordinance No. 15854 (re-designated April 15, 2014 by Ordinance No. 21205-04-2014) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on March 27, 2007, the City Council designated the Berryhill/Mason Heights Area as a Neighborhood Empowerment Zone by Resolution No. 3468 (re-designated August 15, 2017 by Resolution No. 4832-08-2017) and as Neighborhood Empowerment Reinvestment Zone No. 34 by Ordinance No. 17460 (re-designated August 15, 2017 by Ordinance No. 22840-08-2017) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 6, 2009, the City Council designated the Oakland Corners Area as a Neighborhood Empowerment Zone by Resolution No. 3704 (re-designated April 22, 2014 by Resolution No. 4317-04-2014) and as Neighborhood Empowerment Reinvestment Zone No. 36 by Ordinance No. 18425 (re-designated April 22, 2014 by Ordinance No. 21218-04-2014) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 7, 2010, the City Council designated the Northside Area as a Neighborhood Empowerment Zone by Resolution No. 3948 and as Neighborhood Empowerment Reinvestment Zone No. 39 by Ordinance No. 19464 (re-designated January 26, 2016 by Ordinance No. 22072-01-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone,

or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 7, 2010, the City Council designated the 28th Street/Meacham Area as a Neighborhood Empowerment Zone by Resolution No. 3944 (re-designated November 12, 2013 by Resolution No. 4260-11-2013) and as Neighborhood Empowerment Reinvestment Zone No. 37 by Ordinance No. 19460 (re-designated March 1, 2016 by Ordinance No. 22112-03-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on April 5, 2011, the City Council designated the Six Points Area as a Neighborhood Empowerment Zone by Resolution No. 3981 and as Neighborhood Empowerment Reinvestment Zone No. 38 by Ordinance Number (re-designated June 21, 2016 by Ordinance No. 22285-06-2016) to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on September 24, 2013, the City Council designated the Northeast 820/I-30 Area as a Neighborhood Empowerment Zone by Resolution No. 4248 and as Neighborhood Empowerment Reinvestment Zone No. 40 by Ordinance Number 20974-09-2013 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on December 15, 2015, the City Council designated the Highland Hills Area as a Neighborhood Empowerment Zone by Resolution No. 4553 and as Neighborhood Empowerment Reinvestment Zone No. 92 by Ordinance Number 22005-12-2015 to promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on April 11, 2017, the City Council designated the Como/Sunset Heights Area as a Neighborhood Empowerment Zone by Resolution No. 4769 and as Neighborhood Empowerment Reinvestment Zone No. 2 by Ordinance No. 22671-04-2017 to promote (1) the

creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; and

WHEREAS, on January 29, 2019, the City Council approved an amendment to the Basic Incentives and Tax Abatement Policy applicable to Neighborhood Empowerment Reinvestment Zones (NERZ) to amend project eligibility requirements for commercial, industrial, multi-family, mixed-use and community facility projects, clarification of design requirements for eligible projects, clarification of ineligible projects and clarification of fees not waived; and

WHEREAS, the City Council finds that the Trinity Park and Northeast 820/I-30 NERZ areas have achieved the public purpose of increasing public health, safety and welfare and neighborhood empowerment zones are no longer necessary to achieve these public purposes and the aforementioned NERZs should be dissolved and terminated; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Fort Worth to dissolve and terminate the remaining aforementioned NERZ areas to allow those areas to be reconfigured into six NERZ areas to provide for greater efficiency in the administration of the NERZ Basic Incentives and Tax Abatement Policy program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

**Section 1.
FINDINGS.**

The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

**Section 2.
TERMINATION.**

The following NERZs, listed below and as shown in Attachment A, are dissolved and terminated as of the date of this Ordinance:

- Stop Six/Sunset Heights
- Trinity Park
- Evans & Rosedale
- Lake Arlington

- Magnolia Village
- Polytechnic/Wesleyan
- Hemphill/Berry
- Rolling Hills
- Historic Handley
- Woodhaven
- Riverside
- Berry/University

- Berryhill/Mason Heights
- Oakland Corners
- Northside
- 28th Street/Meacham
- Six Points
- Northeast 820/I-30
- Highland Hills
- Como/Sunset Heights

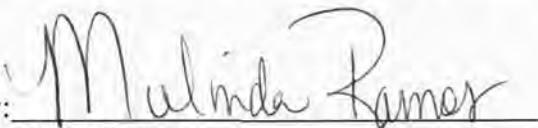
**Section 5.
IMMEDIATE EFFECT.**

That this Ordinance shall take effect and be in full force and effect from and after its adoption.


AND IT IS SO ORDAINED.

ADOPTED AND EFFECTIVE: January 29, 2019

APPROVED AS TO FORM AND LEGALITY:

By: 
 Melinda Ramos
 Sr. Assistant City Attorney

ATTEST:

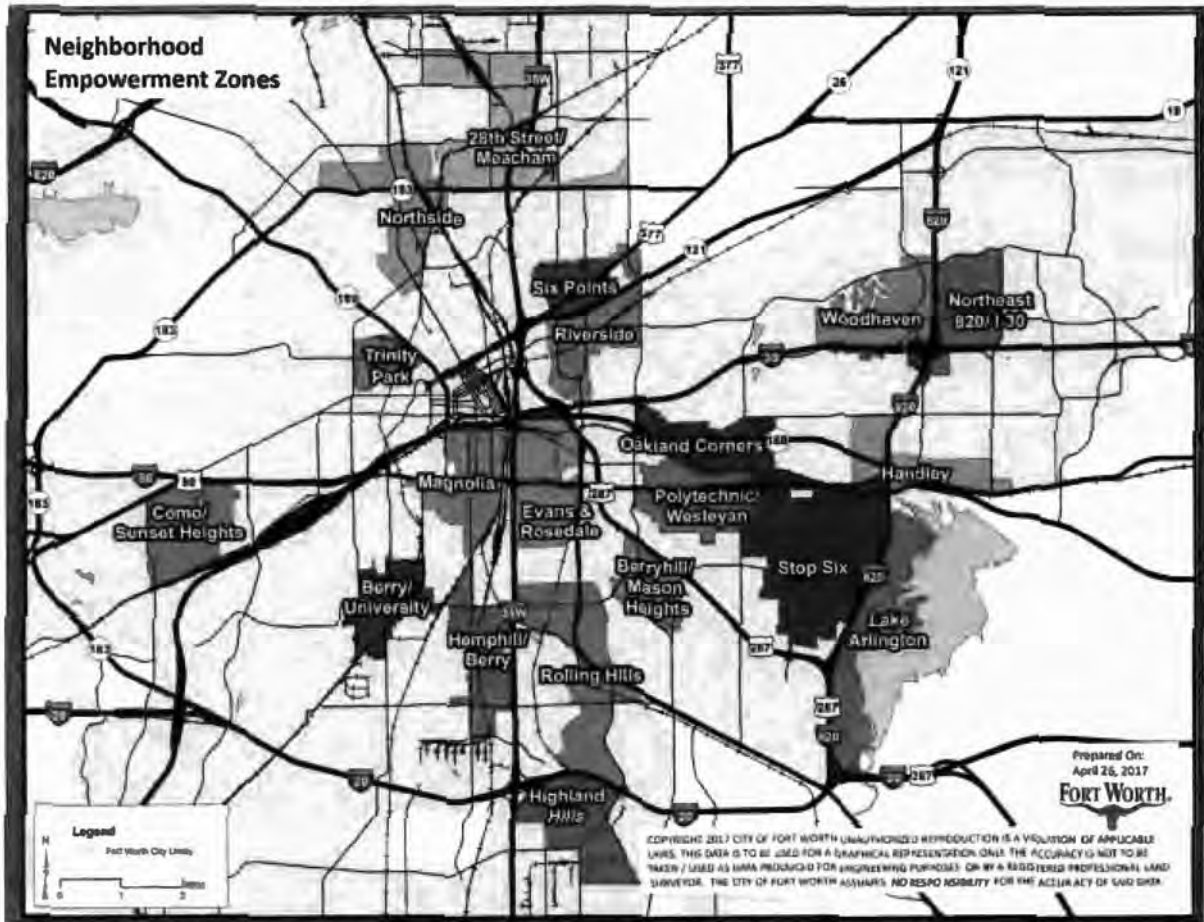

 Mary J. Kayser

M&C: G-19468

EXHIBIT A

EXISTING NEIGHBORHOOD EMPOWERMENT ZONES

ATTACHMENT A



City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 1/29/2019 - Ordinance No. 23551-01-2019 & Resolution No. 5041-01-2019

DATE: Tuesday, January 29, 2019

REFERENCE NO.: G-19468

LOG NAME: 19NEZTERMINATIONALL

SUBJECT:

Adopt Resolution to Dissolve and Terminate all Existing Neighborhood Empowerment Zones and Adopt Ordinance to Terminate and Repeal all Existing Neighborhood Empowerment Reinvestment Zones (COUNCIL DISTRICTS 2, 3, 4, 5, 8 and 9)

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached Resolution to dissolve and terminate the twenty Neighborhood Empowerment Zones listed in the Resolution; and
 2. Adopt the attached Ordinance to terminate and repeal the twenty Neighborhood Empowerment Reinvestment Zones listed in the Ordinance.
-

DISCUSSION:

In November 2017, Mayor and Council Communication (M&C G-19157) was brought forward to terminate the Berry/University, Magnolia Village and Trinity Park Neighborhood Empowerment Zones (NEZ). After discussions with community stakeholders, the terminations of the three NEZs were withdrawn from City Council action on April 17, 2018. The City Council then directed staff to conduct a comprehensive study of the Neighborhood Empowerment Zone Program.

The City of Fort Worth entered into a professional services agreement City Secretary Contract (CSC No. 50753) with Ricker/Cunningham LLC to evaluate the NEZ Program and determine the feasibility of maintaining, modifying or eliminating certain Neighborhood Empowerment Zone areas with the City. Ricker/Cunningham and the Neighborhood Services staff held several meetings throughout 2018 with various community stakeholders to receive input on the NEZ program. Reports on the study and stakeholder input were presented to the City Council in May and again in September 2018. After final input from City Council and community stakeholders, staff is proposing changes to the NEZ Program Policy and administration processes and changes to the boundaries of neighborhood empowerment zones. A separate Mayor and Council Communication will be presented to the City Council for consideration of changes to the NEZ Program, Policy and administrative procedures.

The changes recommended to the boundaries for neighborhood empowerment zone boundaries include the termination of twenty existing NEZ areas and the corresponding NEZ Reinvestment Zones and the designation of six neighborhood empowerment zones and adoption of six neighborhood empowerment reinvestment zones. The attached resolution and ordinance will dissolve the existing twenty NEZs in the City and repeal and terminate the existing NEZ Reinvestment Zones as shown in attachment A. Those NEZs and NEZ Reinvestment Zones are as follows:

- (1) 28th Street-Meacham
- (2) Berryhill – Mason Heights
- (3) Berry/University
- (4) Como/Sunset Heights
- (5) Evans/Rosedale
- (6) Six Points
- (7) Stop Six
- (8) Handley
- (9) Hemphill/Berry
- (10) Highland Hills
- (11) Lake Arlington
- (12) Magnolia Village
- (13) Northeast 820 and I-30
- (14) Northside
- (15) Oakland Corners
- (16) Polytechnic/Wesleyan
- (17) Riverside
- (18) Rolling Hills
- (19) Trinity Park
- (20) Woodhaven

A separate Mayor and Council Communication will be presented to the City Council to designate six new Neighborhood Empowerment Zones and NEZ Reinvestment Zones.

This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of the above recommendations will have no material effect on the Fiscal Year 2019 budget. Any tax abatement approved under the future policy shall be incorporated into the City's long-term financial forecast.

FUND IDENTIFIERS (FIDs):

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

CERTIFICATIONS:

Submitted for City Manager's Office by: Fernando Costa (6122)
Originating Department Head: Aubrey Thagard (8187)
Additional Information Contact: Sarah Odle (7316)

A Resolution

NO. 5042-01-2019

DESIGNATION OF NEIGHBORHOOD EMPOWERMENT ZONE AREAS ONE THROUGH SIX AS NEIGHBORHOOD EMPOWERMENT ZONES

WHEREAS, on April 25, 2000 (M&C G-12897), the City of Fort Worth City Council (“City Council”) approved the Policy Statement on the Creation of Local Neighborhood Empowerment Zones (NEZ) in accordance with Chapter 378 of the Texas Local Government Code and authorized the City Manager to identify areas eligible for NEZ designation and develop administrative procedures for establishment of a NEZ; and

WHEREAS, on October 3, 2000 (M&C G-13030), the City Council approved an amendment to the Policy Statement on the Creation of Local Neighborhood Empowerment Zones to revise the criteria used in determining a NEZ eligible area, amending the population criterion at the time of designation and require the area be at least 50% Community Development Block Grant (CDBG) eligible within the Central City; and

WHEREAS, on January 29, 2019 (M&C G-19469), the City Council approved an amendment to Policy Statement on the Creation of Local Neighborhood Empowerment Zones to revise the criteria used in determining a NEZ eligible area to include that the area be 100% CDBG eligible, have a low median household income, contain a predominance of substandard homes/aged housing stock, have higher than average vacancy rates and crime rates and have low commercial values and to provide that NEZs will be reviewed every five years and those areas no longer meeting the criteria to create a NEZ will be dissolved and terminated; and

WHEREAS, the City Council desires to create six neighborhood empowerment zones as authorized by Chapter 378 of the Texas Local Government Code and in accordance with the Policy Statement on the Creation of Local Neighborhood Empowerment Zones; and

WHEREAS, the City Council finds that the creation of the Neighborhood Empowerment Zone Areas One (“NEZ Area One”), Two (“NEZ Area Two”) , Three (“NEZ Area Three”), Four (“NEZ Area Four”) , Five (“NEZ Area Five”) , Six (“NEZ Area Six”) and the granting of NEZ incentives to certain zoning districts would promote (1) the creation or rehabilitation of affordable housing in the zone, or (2) an increase in economic development in the zone, or (3) an increase in the quality of social services, education or public safety provided to the residents of the zone; (4) be 100% Community Development Block Grant (CDBG) eligible (5) be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries (6) may encompass an existing neighborhood or several neighborhoods (7) have a concentration of population at or below poverty level (8) have a low median household income and per capita income (9) contain a predominance of substandard homes/aged housing stock (10) have a higher than average vacancy rate (11) have a higher than average rate of crimes against persons or property (12) have low commercial permit values; and (13) may contain areas targeted for revitalization; and



WHEREAS, the City Council finds that the creation of NEZ Areas One through Six benefits and is for the public purpose of increasing public health, safety and welfare of the citizens of Fort Worth; and

WHEREAS, the City Council finds that NEZ Areas One through Six satisfies the requirements of §312.202 of the Tax Code to permit tax abatements for eligible properties.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

Section 1. The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. NEZ Areas One through Six are hereby created as defined by the legal descriptions and maps attached as Exhibit A.

Section 3. The City Council adopts all basic incentives as described in the Neighborhood Empowerment Zone Basic Incentives and Tax Abatement Policy, as amended.

Section 4. The designation shall expire on January 29, 2024.

Adopted this 29th day of January 2019.

ATTEST:

By: _____

Mary J. Kayser, City Secretary



Exhibit A

NEIGHBORHOOD EMPOWERMENT ZONE AREA ONE AND FORT WORTH NEIGHBORHOOD EMPOWERMENT REINVESTMENT ZONE NO. 1R

GENERAL DESCRIPTION

The area to be designated as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 1R for tax abatement purposes, containing approximately 7.087 square miles of land and is within the area described below:

BEGINNING at the intersection of the centerline of Ross Avenue and Northwest Thirty Eighth Street;

THENCE easterly with said centerline of Northwest Thirty Eighth Street, to its intersection with the centerline of North Main Street;

THENCE northerly with said centerline, to its intersection with the centerline of Northeast Thirty Eighth Street;

THENCE easterly with said centerline, to its intersection with the centerline of Decatur Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of Terminal Road;

THENCE westerly with said centerline, to its intersection with the centerline of Blue Mound Road;

THENCE northerly with said centerline, to its intersection with the centerline of De Ridder Avenue;

THENCE easterly with said centerline, to its intersection with the centerline of Decatur Avenue;

THENCE northerly with said centerline, to its intersection with said centerline of Mineola Avenue;

THENCE easterly with said centerline, to its intersection with said centerline of Hardy Street;

THENCE southerly with said centerline, to its intersection with the centerline of De Ridder Avenue;

THENCE easterly with said centerline, to its intersection with the centerline of Webber Street;

THENCE southerly with said centerline, to its intersection with the centerline of Terminal Road;

THENCE easterly with said centerline, to its intersection with said centerline of Dean Road;

THENCE southerly with said centerline, to its intersection with the centerline of Leming Street;

THENCE easterly with said centerline, to its intersection with the centerline of Ray Simon Drive;

THENCE southerly with said centerline, to its intersection with the centerline of Dewey Street;

THENCE westerly with said centerline, to its intersection with the centerline of Dean Road;

THENCE southerly with said centerline, to its intersection with the centerline of Northeast Twenty Eighth Street;

THENCE westerly with said centerline, to its intersection with the centerline of Ellis Avenue;

THENCE southerly with said centerline, to its intersection with the centerline of Twenty Sixth Street;

THENCE westerly with said centerline, to its intersection with the centerline of North Houston Street;

THENCE southerly with said centerline, to its intersection with the centerline of Twentieth Street;

THENCE westerly with said centerline, to its intersection with the centerline of Clinton Avenue;

THENCE southeasterly with said centerline, to its intersection with said centerline of Grand Avenue;

THENCE southwesterly with said centerline, to its intersection with the centerline of Harrington Avenue;

THENCE southerly with said centerline, to its intersection with the centerline of Terrace Avenue;

THENCE westerly with said centerline, to its intersection with the centerline of West Northside Drive;

THENCE southwesterly with said centerline, to its intersection with said centerline of
Jacksboro Highway;

THENCE northwesterly with said centerline, to its intersection with the centerline of Rockwood Park Drive;

THENCE westerly and southerly with said centerline, to its intersection with the bank of the West Fork Trinity
River;

THENCE northerly, northwesterly and southwesterly with said bank, to its intersection with centerline of White
Settlement Road;

THENCE westerly with said centerline, to its intersection with the centerline of Churchill Road;

THENCE northeasterly with said centerline, to its intersection with the centerline of Barbara Road;

THENCE easterly with said centerline, to its intersection with the centerline of Isbell Road;

THENCE northerly with said centerline, to its intersection with the centerline of White Oak Lane;

THENCE westerly with said centerline, to its intersection with the centerline of Churchill Road;

THENCE northerly with said centerline, to its intersection with the southwest projection of the most southwest
corner and easterly along said line to its intersection to the southeast projection of the most southeast corner and
northerly along said line to its intersection to the most northeast corner and westerly along said line of Lot 5,
Block F of Westside Acres Addition, an Addition to the City of River Oaks, Tarrant County, Texas, according to
the map thereof recorded in Volume 388-9, Page 229, of the Plat Records of Tarrant County, Texas, recorded at
County Clerks Instrument number D205155643, to its intersection with the centerline of Churchill Road;

THENCE northerly with said centerline, to its intersection with the centerline of Ohio Garden Road;

THENCE easterly with said centerline, to its intersection with the centerline of Tyra Lane;

THENCE northerly with said centerline, to its intersection with the centerline of Quail Trail;

THENCE northwesterly with said centerline, to its intersection with the centerline of Meeker Boulevard;

THENCE southwesterly with said centerline, to its intersection with the centerline Churchill Road;

THENCE northwesterly with said centerline, to its intersection with the centerline of River Oaks Boulevard;

THENCE northeasterly with said centerline, to its intersection with the centerline of Jacksboro Highway;

THENCE northwesterly with said centerline, to its intersection with the centerline of Beverly Hills Drive;

THENCE northerly with said centerline, to its intersection with the centerline of McCandless Street;

THENCE northeasterly with said centerline, to its intersection with the centerline of Twenty Third Street;

THENCE southeasterly with said centerline, to its intersection with the centerline of Menefee Avenue;

THENCE southwesterly with said centerline, to its intersection with the centerline of Twenty First Street;

THENCE southeasterly with said centerline, to its intersection with the centerline of Ephriham Avenue;

THENCE northeasterly with said centerline, to its intersection with the centerline of McKinley Avenue;
THENCE northerly with said centerline, to its intersection with the centerline Thirtieth Street;
THENCE easterly with said centerline, to its intersection with the centerline of Mckinley Avenue;
THENCE northerly with said centerline, to its intersection with the centerline of Thirty First Street;
THENCE easterly with said centerline, to its intersection with the centerline of Roosevelt Avenue;
THENCE northerly with said centerline, to its intersection with the centerline of Long Avenue;
THENCE easterly with said centerline of Long Avenue, to its intersection with the centerline of Angle Avenue;
THENCE southeasterly with said centerline, to its intersection with the centerline of Northwest Thirty First Street;
THENCE easterly with said centerline, to its intersection with the centerline of Gould Avenue;
THENCE northwesterly with said centerline, to its intersection with Pearl Avenue;
THENCE northerly with said centerline, to its intersection with West Long Avenue;
THENCE easterly with said centerline, to its intersection with the centerline of Clinton Avenue;
THENCE northerly with said centerline, to its intersection with the centerline of Northwest Thirty Fifth Street;
THENCE westerly with said centerline, to its intersection with the centerline of Ross Avenue;
THENCE northerly with said centerline to the PLACE OF BEGINNING.

**NEIGHBORHOOD EMPOWERMENT ZONE AREA TWO AND
FORT WORTH NEIGHBORHOOD EMPOWERMENT REINVESTMENT
ZONE NO. 2R**

GENERAL DESCRIPTION

The area to be designated as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 2R for tax abatement purposes, containing approximately 1.23 square miles of land and is within the area described below:
BEGINNING at the intersection of the centerline of North Normandale Street and West Loop 820 South SR NB;
THENCE northeasterly with said centerline of West Loop 820 South SR NB into West Freeway SR EB and easterly to its intersection with the centerline of South Cherry Lane;
THENCE southerly with said centerline, to its intersection with the centerline of Camp Bowie West Boulevard;
THENCE westerly with said centerline, to its intersection with the centerline of Francis Drive;
THENCE northerly with said centerline, to its intersection with the centerline of Mary Dean Avenue;
THENCE westerly with said centerline, to its intersection with the centerline of Phoenix Drive;
THENCE northerly with said centerline, to its intersection with the centerline of El Retirio Road;
THENCE westerly with said centerline, to its intersection with the centerline of Cortez Drive;
THENCE northerly with said centerline, to its intersection with said centerline of Mojave Trail;
THENCE westerly and southwestly with said centerline, to its intersection with said centerline of Las Vegas Trail;

THENCE southerly with said centerline, to its intersection with the centerline of Camp Bowie West Boulevard;
THENCE westerly with said centerline, to its intersection with the centerline of West Normandale Street;
THENCE northwesterly with said centerline, to its intersection with the centerline of South Normandale Street;
THENCE east northeasterly with said centerline, to its intersection with said centerline of Encino Drive;
THENCE northwesterly with said centerline, to its intersection with the centerline of Elsinor Drive;
THENCE northwesterly with said centerline, to its intersection with the centerline of Softwind Trail;
THENCE west southwesterly and south with said centerline, to its intersection with the centerline of Chamita Lane;
THENCE westerly with said centerline, to its intersection with the centerline of West Normandale;
THENCE northerly with said centerline, to its intersection with the centerline of North Normandale;
THENCE westerly with said centerline to the PLACE OF BEGINNING.

**NEIGHBORHOOD EMPOWERMENT ZONE AREA THREE AND
FORT WORTH NEIGHBORHOOD EMPOWERMENT REINVESTMENT
ZONE NO. 3R**

GENERAL DESCRIPTION

The area to be designated as Neighborhood Empowerment Zone Area Three and as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 3R for tax abatement purposes contains 1.54 square miles of land and is described below:

BEGINNING at the intersection of the centerline of Camp Bowie Boulevard and the eastbound service road of Interstate 30 West;

THENCE easterly with said centerline, to its intersection with the centerline of Sanguinet Street;

THENCE southerly with said centerline, to its intersection with the centerline of northwest corner of Lot 1R1, Block 1 of the Lena Pope Home Addition. Thence east along said centerline of the northern property line of Lot 1R1, Block 1, of the Lena Pope Home Addition to the northeast corner. Thence south along said centerline of the eastern property line of Lot 1R1, Block 1, of the Lena Pope Home Addition to the southeast corner. Thence west along said centerline of the southern property line of Lot 1R1, Block 1 to Sanguinet Street;

THENCE southerly with said centerline, to its intersection with the centerline of Bonnell Street;

THENCE westerly with said centerline, to its intersection with the northeastern corner of Lot 1, Block 70 of the Chamberlain-Arlington Heights Subdivision, Second Addition. Thence south along the eastern property lines of Lots 1 and 40, Block 70; Lots 1 and 40, Block 73; Lots 1 and 40, Block 88; Lots 1 and 40, Block 91; Lots 1 and 40, Block 106; Lots 1 and 40, Block 109; Lot 1, Block 124, of the Chamberlain-Arlington Heights Subdivision, Second Addition, as recorded in Volume 63, Page 44; and of Lots 3A and 37R, Block 124R, as recorded in Volume 388-139, Page 96 of the Tarrant County plat records, to the centerline of Vickery Boulevard;

THENCE easterly with said centerline, to its intersection with the centerline of the paved surface of Ridglea Lane;

THENCE northerly with said centerline to its termination at the northeastern corner of Lots 9R through 11B of the Ridglea Park Addition, as recorded in Volume 388-178, Page 56 of the Tarrant County plat records. Thence continue north along the rear property lines of lots 11R-4-2 through 11R-7, Block 51, all recorded in Volume 388-178, Page 56 of the Tarrant County plat records, to the paved surface of Ridglea Lane;

THENCE northeasterly with said centerline, to its intersection with Bryant Irvin Road;

THENCE northerly along said centerline of Bryant Irvin Road to its intersection with Camp Bowie Boulevard;

THENCE northeasterly along said centerline of Camp Bowie Boulevard to the PLACE OF BEGINNING.

**NEIGHBORHOOD EMPOWERMENT ZONE AREA FOUR
AND NEIGHBORHOOD EMPOWERMENT REINVESTMENT
ZONE NO. 4R**

GENERAL DESCRIPTION

The area to be designated as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 4R for tax abatement purposes, containing approximately 2.40 square miles of land and is within the area described below:

BEGINNING at the intersection of the centerline of Dalford Street and the centerline of Oakhurst Scenic Drive;

THENCE north easterly with said centerline, to its intersection with the centerline of Westbrook Avenue;

THENCE north and easterly with said centerline, to its intersection with the centerline of Chandler Drive;

THENCE north with said centerline, to its intersection with the centerline of Clary Avenue;

THENCE easterly with said centerline, to its intersection with the centerline of Eagle Drive;

THENCE northerly with said centerline, to its intersection with the centerline of Yucca Avenue;

THENCE easterly with said centerline, to its intersection with the centerline of Seaman Street;

THENCE northerly with said centerline, to its intersection with the centerline of Marigold Avenue;

THENCE easterly with said centerline, to its intersection with the centerline of North Beach Street;

THENCE southerly with said centerline, to its intersection with the centerline of East Belknap Street;

THENCE northeasterly with said centerline, to its intersection with the centerline of Parrish Road;

THENCE easterly with said centerline, to its intersection with the centerline of Kings Highway;

THENCE southerly with said centerline, to its intersection with the centerline of State Highway 121 WB Beach;

THENCE southwesterly with said centerline, to its intersection with the centerline of North Beach Street;

THENCE southeasterly and southerly with said centerline, to its intersection with the centerline of Lawnwood Street;

THENCE westerly with said centerline, to its intersection with the centerline of Gross Street;

THENCE southerly with said centerline, to the southeast corner of Lot 6R, Block 20, Page East Side #2, being a revision of Lots 6 through 20 as recorded in Volume 309, Page 3 of the Tarrant County Plat Records, thence west along the length of the southern property lines of Lots 5 through 1, Block 20, Page East Side #2 to the southwest corner of Lot 1, Block 20, Page East Side #2, as recorded in Volume 309, Page 3 of the Tarrant County Plat

Records. Thence continuing west across De Costa Street to the southeast corner of Lot 8, Block 19, Page East Side #2, as recorded in Volume 309, Page 3 of the Tarrant County Plat Records, thence continuing west along the southern property lines of Lots 8 through 1, Block 19, Page East Side #2 to the southwest corner of Lot 1, Block 19, Page East Side #2, as recorded in Volume 309, Page 3 of the Tarrant County Plat Records, thence continuing west across Brandies Street to the southeast corner of Lot 15, Block 68, Riverside Addition, as recorded in Volume 204-A, Page 114 of the Tarrant County Plat Records. Thence continuing west along the southern property lines of Lots 15, 14, 13, 12, 11 10, 9R, 7R, 6, 5, 4, 3, 2, and 1, Block 68, Riverside Addition, to the southwest corner of Lot 1, Block 68, Riverside Addition, as recorded in Volume 204-A, Page 114 of the Tarrant County Plat Records, thence continuing west across Denair Avenue to the southeast corner of Lot 14, Block 67, Riverside Addition, as recorded in Volume 204-A, Page 114 of the Tarrant County Plat Records, thence continuing west along the southern property lines of Lots 14 through 9, Block 67, Riverside Addition, to the southwest corner of Lot 9, Block 67, Riverside Addition, as recorded in Volume 204-A, Page 114 of the Tarrant County Plat Records, thence north along the western property line of Lot 9, Block 67, Riverside Addition, to the intersection with the centerline of Lawnwood Street;

THENCE westerly with said centerline, to its intersection with the northeast corner of Lot 1R, Block 65, Riverside Addition, as recorded in Volume 388-70, Page 6 of the Tarrant County Plat Records, thence south along the eastern property line of Lot 1R, Block 65, Riverside Addition, to the southeast corner of Lot 1R, Block 65, Riverside Addition, thence west along the southern property line of Lot 1R, Block 65, Riverside Addition, to the northeast corner of Lot 1, Block 72R, Riverside Addition, as recorded in Volume 388-132, Page 80 of the Tarrant County Plat Records, thence south along the eastern property line of Lot 1, Block 72R, Riverside to the southeast corner of Lot 1, Block 72R, Riverside Addition, thence west along the southern property line of Lot 1, Block 72R, Riverside Addition, to the southwest corner of Lot 1 block 72R, Riverside Addition, thence continuing west to the intersection of Swayne Avenue and Ennis Avenue, thence continuing west along Ennis Avenue to the northeast corner of Lot 1R, Block IA, Adams Mary Heirs Subdivision, as recorded in Volume 388-107, Page 21 of the Tarrant County Plat Records, thence south along the eastern property line of Lot 1R, Block IA, Adams Mary Heirs Subdivision, thence west along the southern property line of Lot 1R, Block IA, Adams Mary Heirs Subdivision, to the northeast corner of Lot 10, Lincoln Place, as recorded in Volume 1627, Page 351 of the Tarrant County Plat Records. Thence south along the eastern property line of Lot 10, Lincoln Place to the southeast corner of Lot 10, Lincoln Place, as recorded in Volume 1594, Page 475 of the Tarrant County Plat Records, thence continuing south across East 12th Street to the northeast corner of Lot 11, Lincoln Place, as recorded in Volume 1594, Page 475 of the Tarrant County Plat Records, thence south along the eastern property line of Lot 11, Lincoln Place to the northeast corner of Lot 9, Carver Place, as recorded in Volume 1594, Page 475 of the Tarrant County Plat Records, thence continuing south along the eastern property line of Lot 9, Carver Place, to the southeast corner of Lot 9, Carver Place, thence continuing south across Finley Street to the northeast corner of Lot 10R, Carver Place, as recorded in Volume 1594, Page 475 of the Tarrant County Plat Records, thence continuing south along the eastern property lines of Lot 10R and 32, Carver Place, to the southeast corner of Lot 32, Carver Place, as recorded in Volume 9631, Page 244 of the Tarrant County Plat Records, thence continuing south across VanHorn Street to the northeast corner of Lot 33, Carver Place, as recorded in Volume 1594, Page 475 of the Tarrant County Plat Records, thence continuing south to the southeast corner of Lot 33, Carver Place, thence east along the northern property line of Lot 1, Block 1, Material Control Subdivision, as recorded in Volume 00109, Page 0072 of the Tarrant County Plat Records, to the northeast corner of Lot 2, Block 1, Material Control Subdivision, as recorded in Volume 00159, Page 0026 of the Tarrant County Plat Records, thence south along the eastern property line of Lot 2, Block 1, Material Control Subdivision, to the northeast corner of Tract 24, Waller, Benjamin E Survey, as recorded in Volume 005244, Page 0477 of the Tarrant County Deed Records, thence continuing south along the eastern property line of Tract 24, Waller, Benjamin E Survey, to the northeast corner of Lot 1, Block 1, Adams Heirs Subdivision, as recorded in Volume A, Page 877 of the Tarrant County Plat Records, thence continuing south along the eastern property line of Lot 1, Block 1, Adams Heirs Subdivision to the northeast corner of Tract

21, Waller Benjamin E Survey, as recorded in Volume 005244, Page 0477 of the Tarrant County Deed Records, thence continuing south along the eastern property line of Tract 21, Waller Benjamin E Survey, to the southeast corner of Tract 21, Waller Benjamin E Survey, thence continuing south to the west fork of the Trinity River to its intersection with Riverside Drive, thence continuing west along the West Fork of the Trinity River to its intersection with Sylvania Court and the West Fork of the Trinity River, thence north along the West Fork of the Trinity River to its intersection with the centerline of State Highway 121;

THENCE westerly with said centerline, to its intersection with the centerline of East Belknap Street;

THENCE northeasterly with said centerline, to its intersection with the centerline of Oakhurst Scenic Drive;

THENCE northwesterly with said centerline, to its intersection with the centerline of Dalford Street to the PLACE OF BEGINNING.

**NEIGHBORHOOD EMPOWERMENT ZONE AREA FIVE AND
FORT WORTH NEIGHBORHOOD EMPOWERMENT REINVESTMENT
ZONE NO. 5R**

GENERAL DESCRIPTION

The area to be designated as Neighborhood Empowerment Zone Area Three and as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 5R for tax abatement purposes contains 1.49 square miles of land and is described below:

On the North: Beginning at the intersection of Interstate Highway 820 East and the northeast corner of the 4.879 acre-Tract 1A, W N Ray Survey, Abstract A-1353, as recorded in the Tarrant County Deed Records in Volume 14668 Page 303, thence west along the northern property line of said tract to the northeast corner of tract 1F, James F Redding Survey, Abstract A-1302, as recorded in the Tarrant County Deed Records in Volume 14668, page 303, thence west along the northern property line of the said tract 1F and tract 1E to Handley-Ederville Rd, thence east across Handley-Ederville Rd continuing east along the northern boundary of the James F Redding Survey to the northwest corner of tract 1C, James F Redding Survey, Abstract A-1353, south along the western property line of said tract 1C to the northwest corner of tract 1A, thence south along the western property line of said tract 1A to Randol Mill Rd, thence across Randol Mill Rd to the northeast corner of lot 6A Block 32, Sunset Oak Addition as recorded in the Tarrant County Plat Records in Volume 388-28 page 55, thence south along the western property line of lots 6A, 6B, 5, 4r, and 7 to the southwest corner of lot 7, thence west across the Oncor Electric Delivery Co. easement to southeast corner of lot 18, Block 15, Woodhaven Country Club Estates as recorded in the Tarrant County Plat Records in Volume 388-76 page 13, thence north along the eastern property line of lots 18 through 21 Block 15 and lot 1 Block 19 of the Woodhaven Country Club Estates Subdivision to Randol Mill Rd, thence west along Randol Mill to the northwest corner of lot 70 Block 17, Woodhaven Country Club Estates subdivision, thence south along the western property line of lots 70 through 61 and then 56 through 46 Block 16 to Cholla Dr, thence west on Cholla Dr to the southeast corner of lot 45, Block 16, thence north along the western property line of lots 45 through 39 to the northwest corner of lot 39 Block 16, thence south along the property line of lots 38 through 30, Block 16 to the southeast corner of said lot 30, thence north along the eastern property line of said lot 30 to Cholla Dr, thence along Cholla Dr to northwest corner of lot 29 Block 16, thence south along the western property line of said lot 29 to its southwest corner, thence east along southern property line of lot 29 and 28 to the northwest corner of lot 26, Block 16, thence south along the western property line of lot 26 to its southwest corner, thence west along the northern property line of lots 25 through 15 and 14R to the northwest corner of lot 14R Block 16, thence south along the western property line of lots 14R, 13, and 12 Block 16 to the northwest corner of Block 14 B, Woodhaven Country Club Estates Subdivision as recorded in Tarrant County Plat Records in Volume 388-97 page 25, thence east along the northern property line of Block 14A and

lot 7 Block 10, Woodhaven Country Club Subdivision as recorded in the Tarrant County Plat Records in Volume 388-56 page 33 to Oakmont Lane,

THENCE north along Oakmont Lane to the southeast corner of lot 1 Block 22, Woodhaven Country Club Estates as recorded in the Tarrant County Plat Records in Volume 388-61 Page 60, thence north along the eastern property line of lots 1 through 17 to the northwest corner of lot 17, thence south along the eastern property line of lots 17 through 20, thence west along the northern property line of lots 21 through 26 Block 22 to the northwest corner of lot 26, thence south along the western property line of lots 26 through 36 to Oakmont Lane, thence west along Oakmont Lane to the southeast corner of lot 1 Block 23, Woodhaven Country Club Estates as recorded in the Tarrant County Plat Records in Volume 388-61 Page 60, thence north along the eastern property line of lots 1 through 9 Block 23, to Oakmont Lane, thence north along Oakmont Lane to the southwest corner of TR 2H1, J F Redding Survey Abstract A-1302 as recorded in the Tarrant County Deed Records in Volume 14472 page 526, thence east along the southern property line of said tract to the southern property line of Tract 2H, J F Redding Survey Abstract A-1302 as recorded in the Tarrant County Deed Records in Volume 13341 page 470, thence east along the southern property line of Tract 2H and Lot 2 Block 1 of Riverchase Addition, and Tr 1B, George W Main Survey Abstract A-A1097 as recorded in the Tarrant County Deed Records in Volume 13521 Page 557 to Randol Mill Rd, thence west on Randol Mill Rd to the northeast corner of tract 2H, thence south along the western property line of Tract 2H and Tract 2H2 to the northwest corner of lot 10, Block 25 Woodhaven Country Club Estates Addition volume 388-61 Page 60, thence south along the western property line of lots 10 through 2 Block 25 to the northwest corner of lot 1UR, Woodhaven Golf Villas, thence south on the western property line of lots 1UR, 1TR, 1S, 1R, 1Q, 1P, 1O, 1N, 1M, 1L, 1K, 1J, 1I, 1ER, 1DR, 1CR, to Oakmont Lane, thence east along Oakmont Lane to northwest corner of lot 23, Block 20, Havenwood Golf Villas Addition, thence south along the western property line of lots 23 through 20, Havenwood Villas Addition, to the northwest corner of lot 28 Lot 1, Havenwood Golf Villas Addition, thence south along the western property line of lots 28 through 18 and 16R to the southwest corner of lot 16R, thence east along the southern property line of lots 16R and 15 through 4, 3R, 2R of Block 1, thence continuing north along the eastern property line of lots 7, 6, 5, 1, Block 20 Woodhaven Country Club Estates to Oakmont Lane, thence south along Oakmont Lane to lot 16, thence west along the northern property line of lot 16 Block 9 to the northwest corner of lot 16, thence south along the western property line of lots 16 through 1 Block 9, Woodhaven Country Club Estates to the southeast corner of lot 1 Block 30, thence north along the eastern boundary of lot 1, Block 30 to the eastern side of lot Block ZR of Woodhaven Heights Addition, thence north along the eastern boundary line of the block ZR to the northeast corner of Block ZR, thence west along the northern property line of Block ZR to the northwest corner of Block ZR, thence south along the boundary of Block ZR to the southwest corner of Block 1R, thence south along the western boundary of lot 1R to the northwest corner of lot 39 Block 6, Woodhaven Country Club Estates, thence south along the property western property line of lots 39 through 30 to the southwest corner of lot 30, thence east to Country Club Lane, thence to the northeast corner of lot 28 Block 6, thence west along the northern property line of lots 28 through 22, thence north along eastern property line of lots 20B, 20A, 12, thence west along the northern property line of lots 12, 11, 10 to the northwest corner of lot 10, thence south along the western property line of lots 10, 9, 8, 7, 5, 4 to the southwest corner of lot 4 Block 6, thence west along the northern property line of Block 1R to the southeast corner of lot 1B, Block 36 Woodhaven Country Club Estates, thence north along the eastern property line of lots 1B and 1AR to the northeast corner of Block 36, thence west along the northern boundary of Block 36 to Woodhaven Blvd, thence north on Woodhaven Blvd to Randol Mill, thence west along Randol Mill to the northwest corner of Lakewood Village Condos Addition.

On the West: Beginning from the northwest corner of Lakewood Villas Condos Addition, thence south along the western boundary of Lakewood Village Condos Addition, to the southwest corner of Lakewood Village Condos Addition, thence east along the southern boundary of Lakewood Village Condos Addition to the southeast boundary of Lakewood Village Condos Addition, thence south along western boundary of Lots 1, Block 35, Lots 4, 4B, 4A, and 5 of Block 34 to Bridge Street.

On the South: Beginning at the southwest corner of lot 5 Block 34, Woodhaven Country Club Estates and Bridge St., thence east along Bridge Street to the intersection of Bridge St. and Oncor Electric Delivery Co. easement, thence south along the said electric easement to the frontage of Interstate Highway 30, thence east along the frontage of Interstate Highway 30 to the frontage of Interstate Highway 820East.

On the East: Beginning at the intersection of Interstate Highway 30 and Interstate Highway 820, thence north to Randol Mill Rd to the point of beginning.

**NEIGHBORHOOD EMPOWERMENT ZONE AREA SIX AND
FORT WORTH NEIGHBORHOOD EMPOWERMENT REINVESTMENT
ZONE NO. 6R**

GENERAL DESCRIPTION

The area to be designated as Fort Worth Neighborhood Empowerment Reinvestment Zone No. 6R for tax abatement purposes, containing approximately 34.78 square miles of land and is within the area described below:

BEGINNING at the intersection of the centerline of Lipscomb Street and West Vickery Boulevard;

THENCE easterly with said centerline, to its intersection with the centerline of Jennings Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of the eastbound service road of Interstate 30 West;

THENCE easterly and southeasterly with said centerline, to its intersection with the centerline of East Vickery Boulevard;

THENCE easterly with said centerline, to its intersection with the centerline of the northbound service road of South Freeway/Interstate Highway 35W;

THENCE northerly with said centerline, to its intersection with the centerline of Interstate Highway 30 eastbound/US Highway 287 southbound;

THENCE easterly and southeasterly with said centerline, to its intersection with the centerline of Interstate Highway 30 eastbound/Lancaster Avenue eastbound;

THENCE easterly with said centerline, to its intersection with the centerline of US Highway 287;

THENCE northerly with said centerline, to its intersection with the centerline of Riverside southbound US Highway 287 northbound;

THENCE northerly with said centerline, to its intersection with the centerline of Riverside northbound Interstate Highway 30 eastbound service road;

THENCE easterly with said centerline, to its intersection with the centerline of Interstate Highway 30 eastbound Beach exit right-of-way;

THENCE easterly with said said right-of-way, the following courses and distances; North 84 degrees 27 minutes East, 104 feet; North 74 degrees 29 minutes East, 744 feet; and, North 78 degrees 47 minutes East, 129 feet, to its intersection with a line 35 foot east of the west line of Lot 1, Block 17, Sycamore Heights Addition, according to plat thereof recorded in Volume 309, Page 11, of the Plat Records of Tarrant County, Texas;

THENCE east northeasterly along the north end of the property line of Lots 2 through 15, Block 17, Sycamore Heights Addition to its intersection with the northeast corner of Lot 15, Block 17, Sycamore Heights Addition; as recorded in Volume 13859, Page 549, of the Deed Records of Tarrant County, Texas;

THENCE southerly from said corner along the east line of Lot 15, Block 17, Sycamore Heights Addition to its intersection with the centerline of Scott Avenue;

THENCE easterly with said centerline, to its intersection with the northeast corner of Lot 20, Block 17, Sycamore Heights Addition; According to the Plat thereof recorded in Volume 309, Page 11, Plat Records of Tarrant County, Texas;

THENCE southerly from said corner along the east line of Lot 20, Block 17, Sycamore Heights Addition, to its intersection with the centerline of Young Street;

THENCE easterly with said centerline, to its intersection with the centerline of Barron Street;

THENCE southerly with said centerline, to its intersection with the centerline of View Street;

THENCE easterly with said centerline, to its intersection with the centerline of Ayers Avenue;

THENCE southerly with said centerline, to its intersection with the centerline of Meadowbrook Drive;

THENCE easterly, northeasterly and easterly with said centerline, to its intersection with the centerline of East Loop 820 south right-of-way southbound;

THENCE southerly with said centerline, to its intersection with the centerline of Craig Street;

THENCE easterly with said centerline, to its intersection with the centerline of Sandy Lane;

THENCE southerly with said centerline, to its intersection with the centerline of Buttercup Lane;

THENCE easterly with said centerline, to its intersection with the centerline of Boswell Drive;

THENCE southerly with said centerline, to its intersection with the centerline of East Lancaster Avenue;

THENCE westerly with said centerline, to its intersection with Rosehill Street, thence south across East Lancaster Avenue to the Union Pacific Railroad right-of-way, thence continuing directly south across the Union Pacific Railroad right-of-way to the city limits of Arlington, also being a point on the southern boundary of the Union Pacific Railroad right-of-way, thence west along said southern boundary of the Union Pacific Railroad right-of-way, to a point that is the boundary line of the city limits of Fort Worth and the city limits of Arlington, thence south along the boundary line of the city limits of Fort Worth and Arlington to its intersection with East Rosedale Street;

THENCE westerly with said centerline, to its intersection with the centerline of East Loop 820 South, SR northbound;

THENCE southerly with said centerline of the northbound frontage road, to its intersection with the northwest corner of Lot 1, Block 26, Carver Heights subdivision, as recorded in Volume 388-6, Page 96, of the Plat Records, Tarrant County, Texas;

THENCE eastwardly along the northern property lines of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, Block 26, Carver Heights subdivision, as recorded in the Tarrant Plat Records in Volume 388-6, Page 96;

THENCE southeasterly along the northeastern property lines of Lots 11, 12, 13, Block 26, Carver Heights subdivision, as recorded in the Tarrant Plat Records in Volume 388-6, Page 96;

THENCE southeasterly along the northeastern property line of Tract A, Block 26, Carver Heights subdivision, as recorded in the Tarrant Plat Records in Volume 388-15, Page 626;

THENCE southeasterly along the northeastern property line of Lots 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, Block 26, Carver Heights subdivision, as recorded in the Tarrant Plat Records in Volume 388-6, Page 96;

THENCE southeasterly to Lot 41R1, Block 26, Carver Heights subdivision, as recorded in the Tarrant Plat Records in Volume 388-15, Page 598;

THENCE southeasterly to Tract B, Lot 26, as recorded in the Tarrant Plat Records in Volume 388-15, Page 598 to the northeast corner of Tract B, Block 26, Carver Heights subdivision;

THENCE east across Lake Arlington to Abstract 269, Tract 1D, J A Creary Survey, as recorded in the Tarrant Deed Records in Volume 15635, Page 383;

THENCE continuing eastward crossing Abstract 269, Tract 1D, J A Creary Survey to the Fort Worth City limit;

THENCE south along the Fort Worth City limit line to the northern right-of-way of Interstate 20 westbound frontage road;

THENCE westerly along the westbound frontage road of Interstate 20 to the east Interstate Highway 20 eastbound crossover to the centerline of east loop Interstate Highway 20;

THENCE southwesterly with said centerline, to its intersection with the centerline of Mansfield Highway;

THENCE west northwesterly with said centerline, to its intersection with the centerline of Horton Road;

THENCE southeasterly with said centerline, to its intersection with the centerline of East Seminary Drive;

THENCE westerly with said centerline, to its intersection with the centerline of Campus Drive;

THENCE southerly with said centerline, to its intersection with the centerline of the main track of the Union Pacific Railroad;

THENCE southeasterly with said centerline, to its intersection with the northerly projection of the most east line of Block 13, Shelby County School Land Survey, Abstract 1375, Tract 13A01A, according to the plat thereof recorded at County Clerks Instrument number D198102510;

THENCE southeasterly with said projection, to and along said east line, to its intersection with the northerly projection of the most north east line of Block 13, Shelby County School Land Addition, Abstract 1375, Tract 13A02, according to the plat thereof recorded at County Clerks Instrument number D198102510;

THENCE southeasterly with said projection, to and along said east line, to its intersection with the northerly projection of the most north east line of Block 13, Shelby County School Land Addition, Abstract 1375, Tract 13J, according to the plat thereof recorded at County Clerks Instrument number D206079862;

THENCE southeasterly with said centerline, to and along said east line, and its projection southerly to its intersection with the centerline of Joel East Road;

THENCE westerly with said centerline, to its intersection with the centerline of Oak Grove Road;

THENCE northerly with said centerline, to its intersection with the centerline of Altamesa Boulevard;

THENCE westerly with said centerline, to its intersection with the southerly projection of the most south west line of Tract 1, Hudson, James Survey, Abstract 739 according to the plat thereof recorded at County Clerks Instrument number D201238868;

THENCE northerly with said projection, to and along said west line, to its intersection with the southerly projection of the most south west line of Tract 3, Garrison, Mitchell Survey Abstract 598, according to the plat thereof recorded at County Clerks Instrument number D201238868;

THENCE northerly with said projection, to and along said west line, to and along most north west line, to its intersection with the southerly projection of the most east south line of Tract 1j, Oldham, Leigh Survey Abstract 1198, School Boundary Split, according to the plat thereof recorded at County Clerks Instrument number D195009946;

THENCE westerly with said projection, to and along said south line, and its projection westerly to its intersection with the centerline of Interstate Highway 35W / South Freeway Service Road North Bound;

THENCE northerly with said centerline, to its intersection with the centerline of Interstate Highway 20 / Southeast Loop 820 East Bound Service Road;

THENCE northeasterly with said centerline, to its intersection with the centerline of Interstate Highway 20 eastbound service road to Oak Grove Road;

THENCE northwesterly with said centerline, to its intersection with the centerline of East Felix Street;

THENCE westerly and southwesterly with said centerline, to its intersection with the centerline of College Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of West Seminary Drive;

THENCE westerly with said centerline, to its intersection with the centerline of South Henderson Street;

THENCE northerly with said centerline, to its intersection with the centerline of Flint Street;

THENCE easterly with said centerline, to its intersection with the centerline of College Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of Flint Street;

THENCE easterly with said centerline, to its intersection with the centerline of Travis Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of West Bolt Street;

THENCE easterly with said centerline, to its intersection with the centerline of Travis Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of West Biddison Street;

THENCE westerly with said centerline, to its intersection with the centerline of McCart Avenue;

THENCE southerly with said centerline, to its intersection with the centerline of West Dickson Street;

THENCE westerly with said centerline, to its intersection with the centerline of Merida Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of West Pafford Street;

THENCE westerly with said centerline, to its intersection with the centerline of Granbury Road;

THENCE northeasterly with said centerline, to its intersection with the centerline of Benbrook Drive;

THENCE northeasterly with said centerline, to its intersection with the centerline of West Devitt Street;

THENCE westerly with said centerline, to its intersection with the centerline of Forest Park Boulevard;

THENCE northerly with said centerline, to its intersection with the centerline of West Lowden Street;

THENCE easterly with said centerline, to its intersection with the centerline of Stanley Avenue;

THENCE southerly with said centerline, to its intersection with the centerline of West Bowie Street;

THENCE easterly with said centerline, to its intersection with the northwest corner of Lot 14R, Block 32 Ryan Place Addition as recorded in Volume 16559, Page 103, Deed Records, Tarrant County Texas;

THENCE southeasterly along the northeast property line, to its intersection with the centerline of the Atchison Topeka & Santa Fe Railroad, Abstract 1562, Tract 4, WB Tucker Survey, Tarrant County Texas;

THENCE northeasterly along the Atchison Topeka & Santa Fe Railroad, Abstract 1562, Tract 4, WB Tucker Survey, Tarrant County Texas, to its intersection with the centerline of Hemphill Street;

THENCE northerly with said centerline, to its intersection with the centerline of West Jessamine Street;

THENCE westerly with said centerline, to its intersection with the centerline of Lipscomb Street;

THENCE northerly with said centerline, to its intersection with the centerline of West Rosedale Street;

THENCE easterly with said centerline, to its intersection with the centerline of Travis Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of West Terrell Avenue;

THENCE westerly with said centerline, to its intersection with the centerline of Travis Avenue;

THENCE northerly with said centerline, to its intersection with the centerline of Pennsylvania Avenue;

THENCE westerly with said centerline, to its intersection with the centerline of Lipscomb Street;

THENCE northerly with said centerline to the PLACE OF BEGINNING.

“This document does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights or interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.”

ORDINANCE NO. 23552-01-2019

AN ORDINANCE DESIGNATING CERTAIN AREAS IN THE CITY OF FORT WORTH AS “NEIGHBORHOOD EMPOWERMENT REINVESTMENT ZONES NO. 1R THROUGH 6R, CITY OF FORT WORTH, TEXAS; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONES AND A MECHANISM FOR RENEWAL OF THE ZONES; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, pursuant to the City Council’s adoption on May 16, 2017, by Resolution No. 4782-05-2017 (M&C G-19010), as it may be amended from time to time, the City of Fort Worth, Texas (the “City”) has elected to be eligible to participate in tax abatement and has established the Basic Incentives and Tax Abatement Policy to provide guidelines and criteria governing tax abatement agreements entered into between the City and various third parties, as authorized by and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the “Code”); and

WHEREAS, on January 29, 2019, the City Council approved an amendment to the Basic Incentives and Tax Abatement Policy applicable to Neighborhood Empowerment Reinvestment Zones to amend project eligibility requirements for commercial, industrial, multi-family, mixed-use and community facility projects, clarification of design requirements for eligible projects, clarification of ineligible projects and clarification of fees not waived; and

WHEREAS, on January 29, 2019, the City Council adopted Resolution No. 5042-01-2019 designating Neighborhood Empowerment Zone Areas One through Six as neighborhood empowerment zones in accordance with Sections 378.002 and 378.003 of the Texas Local Government Code; and

WHEREAS, the City Council desires to promote the development of the areas in the City more specifically described in Exhibit “A” of this Ordinance through the creation of neighborhood empowerment reinvestment zones (the “Zones”) for purposes of granting residential and commercial-industrial tax abatements, as authorized by and in accordance with Chapter 312 of the Texas Tax Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 1R is located within NEZ Area One and meets the criteria set forth in Section 312.202(a)(1),(2) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 2R is located within NEZ Area Two and meets the criteria set forth in Section 312.202(a)(1) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 3R is located within NEZ Area Three and meets the criteria set forth in Section 312.202(a)(1), (2) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 4R is located within NEZ Area Four and meets the criteria set forth in Section 312.202(a)(1), (2) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 5R is located within NEZ Area Five and meets the criteria set forth in Section 312.202(a)(1) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zone No. 6R is located within NEZ Area Six and meets the criteria set forth in Section 312.202(a)(1), (2) and (6) of the Code; and

WHEREAS, the Neighborhood Empowerment Reinvestment Zones No. 1R through 6R will promote the creation of affordable housing in the zones and an increase in economic development in the zones; and

WHEREAS, on January 29, 2019, the City Council held a public hearing regarding the creation of the Zones which afforded a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zones (“Public Hearing”), as required by Section 312.201(d) of the Code; and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on January 17, 2019, which satisfies the requirement of Section 312.201(d)(1) of the Code that publication of the notice occur not later than the seventh day before the date of the public hearing; and

WHEREAS, in accordance with Sections 312.201(d)(2) and (e), notice of the Public Hearing was delivered in writing not later than the seventh day before the date of the public hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed Zones;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

**Section 1.
FINDINGS.**

That after reviewing all information before it regarding the establishment of the Zones and after conducting the Public Hearing and affording a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zones, the City Council hereby makes the following findings of fact:

- 1.1. The statements and facts set forth in the recitals of this Ordinance are true and correct. Therefore, the City has met the notice and procedural requirements established by the Code for creation of reinvestment zones under Section 312.202 of Chapter 312 of the Code; and
- 1.2. That the boundaries of the Zones shall be the areas as described in Exhibit "A" which is attached hereto and made a part hereof;

1.3. The Zones, as defined in Exhibit "A" meet the criteria for the designation of reinvestment zones as set forth below:

1.3.1. TEX. TAX CODE, Section 312.202 (1) "substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of: a. "the deterioration of the site or other improvements;" and/or b. "defective or unusual conditions of title;" and c. "any combination of these factors;"

1.3.2. TEX. TAX CODE, Section 312.202 (2) "be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; and/or

1.3.3. TEX. TAX CODE, Section 312.202 (6) "be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

- 1.4. That the Zones as defined in Exhibit "A" meet the criteria for the creation of a reinvestment zone as set forth in the Basic Incentives and Tax Abatement Policy; and
- 1.5. Future improvements in the Zones will benefit the land included in the Zones as well as the City for a period in excess of ten (10) years, which is the statutory maximum term of any tax abatement agreement entered into under the Chapter 312 of the Code.

**Section 2.
DESIGNATION OF ZONES.**

That the City Council hereby designates the Zones described in the boundary description attached hereto as Exhibit "A" and made a part of this Ordinance for all purposes as reinvestment zones for purposes of granting residential and commercial-industrial tax abatement, as authorized by and in accordance with Chapter 312 of the Code. The Zones shall be known as "Neighborhood Empowerment Reinvestment Zones Nos. 1R through 6R, City of Fort Worth, Texas." The area within the Zones are eligible for residential and commercial-industrial tax abatement pursuant to Resolution No. 4782-05-2017.

**Section 3.
TERM OF ZONES.**

That the Zones shall take effect upon the effective date of this Ordinance and expire five (5) years thereafter. The Zones may be renewed by the City Council for one or more subsequent terms of five (5) years or less.

**Section 4.
SEVERABILITY.**

That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall not in any way be impaired or affected by such decision, opinion or judgment.

**Section 5.
EFFECT.**

That this Ordinance shall take effect upon its adoption.

AND IT IS SO ORDAINED.

ADOPTED AND EFFECTIVE: January 29, 2019

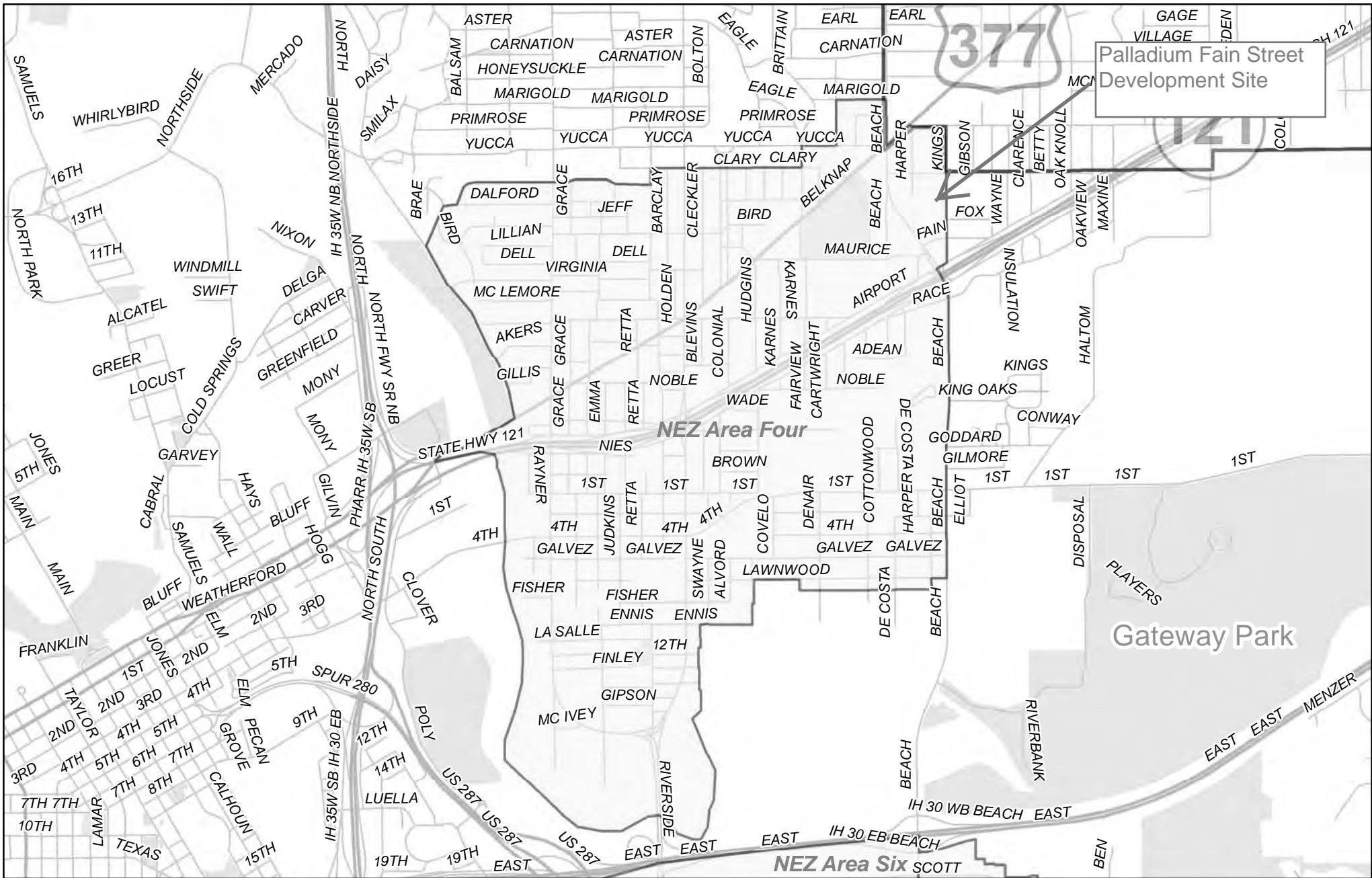
APPROVED AS TO FORM AND LEGALITY:

By: Melinda Ramos
Melinda Ramos
Sr. Assistant City Attorney



ATTEST:

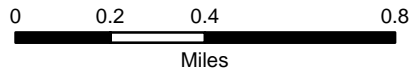
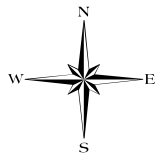
Mary J. Kayser
Mary J. Kayser
City Secretary

M&C: G-19469



Proposed NEZ Areas

-  Proposed NEZ Areas
-  City Limits



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CITY COUNCIL AGENDA



COUNCIL ACTION: Approved on 1/29/2019

DATE:	1/29/2019	REFERENCE NO.:	G-19467	LOG NAME:	19NEZPOLICYAMEND
CODE:	G	TYPE:	NON-CONSENT	PUBLIC HEARING:	NO
SUBJECT:	Adopt Amendments to the Neighborhood Empowerment Zone Program Basic Incentives and Tax Abatement Policy, the Neighborhood Empowerment Zone Program Administrative Procedures and the Neighborhood Empowerment Zone Program Policy Statement (ALL COUNCIL DISTRICTS)				

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt amendments to the Neighborhood Empowerment Zone Program (NEZ) Basic Incentives and Tax Abatement Policy;
2. Adopt amendments to the NEZ Program Administrative Procedures;
3. Adopt amendments to the NEZ Program Policy Statement; and
4. Authorize the City Manager to implement NEZ Program policy amendments.

DISCUSSION:

In November 2017, an M&C was brought forward to terminate the Berry/University, Magnolia Village and Trinity Park areas as Neighborhood Empowerment Zones (NEZ). After discussions with community stakeholders, the terminations were put on hold for further study of the NEZ program. The City of Fort Worth hired Ricker Cunningham to evaluate the NEZ program and held several meetings throughout 2018 with various community stakeholders to receive input on the program. Reports on the study and stakeholder input were presented to the City Council in May and September 2018. After final input from City Council and community stakeholders, decisions were reached on recommended changes to the NEZ program. The changes to the NEZ program include termination and revision of some NEZ areas, and identification of new areas for inclusion in the NEZ. Additional changes are being made to the NEZ program policy to address project certification processes and provide for the implementation of LEAN study recommendations to address the application process. Based on the eligibility criteria discussed with City Council and community stakeholders, the current NEZ areas will be dissolved and new NEZ areas will be put in place.

Staff is recommending adoption of the following amendments to the NEZ Program.

Amendments to NEZ Program Basic Incentives and Tax Abatement Policy, the NEZ Program Administrative Procedures, and the NEZ Program Policy Statement:

- A. Basic Incentives and Tax Abatement Policy Amendments
 1. Design Requirements for Certification

Amend policy to address issues of design consistency and compatibility and remove Councilmember approval for project certification. All applications for NEZ incentives must meet the following design requirements for certification:

- No metal buildings except for industrial projects.
- All new construction projects must contain 70% masonry product.
- Exceptions will be made at the City's discretion for design district overlays (where applicable) and approved planned development projects.
- Compliance with design guidelines for adopted NEZ Strategic Plans is required for certification.
- Attached garages for new single family homes may not extend more wall.

2. Ineligible Projects

- Sexually Oriented Businesses
- Non-residential mobile structures
- Standalone bars (Bars as part of a mixed use project may apply for NEZ incentives)
- Single family investor owned projects
- Package stores or liquor stores
- Projects to be constructed on property purchased or to be purchased under a contract for deed

3. Tax Abatement Changes Eligibility requirements for Commercial, Industrial, Multi-Family, Mixed-Use and Community Facilities project tax abatements must meet the following:

- Possess an economic gap (but-for)
- Furthers community revitalization

Residential owner occupied tax abatements

- Will be capped at the annual median home value as reported by the National Association of Realtors for Tarrant County. This value will be updated annually.

4. Housekeeping Items

- NEZ policy reformatted for easier flow and understanding
- Clarification that Fire inspection and permit fees are not waived with NEZ certification

Clarification of Public Notice requirements to provide dual track notification to Councilmember and registered neighborhood organizations

B. NEZ Program Administrative Procedures Amendments

1. Eligibility Criteria for New NEZ Areas/Terminations/Boundary Revisions Creation of a NEZ area shall meet the following guidelines:

- Be 100% Community Development Block Grant (CDBG) eligible;
- Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- May encompass an existing neighborhood or several neighborhoods;
- Have a concentration of population at or below poverty level;
- Have a low median household income and per capita income;
- Contain a predominance of substandard homes/aged housing stock;
- Have a higher than average vacancy rate;
- Have a higher than average rate of crimes against persons or property;
- Have low commercial permit values: • May contain areas targeted for revitalization

Clarify language on Urban Villages within NEZ area.

Termination and Boundary Revision of a NEZ Area

- NEZ areas will be reviewed every 5 years to coincide with the renewal of the Reinvestment Zones;
- Areas no longer meeting the creation guidelines will be terminated;
- Any area added to an existing NEZ must meet the creation guidelines.

2. Designation Process

Replacing Neighborhood Application with staff identification for NEZ designation

City staff will identify areas eligible for NEZ designation. The City Council may select one or more NEZ areas from staff recommendations; the City Council shall specify the incentives available in the NEZ area based on staff's recommendation and the adoption of the NEZ Basic Incentives and Tax Abatement Policy; the City may seek input from stakeholders composed of representatives from neighborhood groups in the NEZ areas, non-profit organizations, foundations, private businesses, education and faith institutions to provide input on the NEZ program.

C. NEZ Program Policy Statement Amendments

1. Housekeeping Items

Clarify language on Urban Villages within a NEZ area;
Remove language for incentives provided through other programs.

In accordance with Section 312.002(c) of the Texas Tax Code, the attached amendments to the Basic Incentives and Tax Abatement Policy may be amended by seven members of the City Council voting in favor of adoption.

This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION/CERTIFICATION:

The Director of Finance certifies that approval of the above recommendations will have no material effect on the Fiscal Year 2019 budget. Any tax abatement approved under the future policy shall be incorporated into the City' s long-term financial forecast.

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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Submitted for City Manager's Office by: Fernando Costa (6122)

Originating Department Head: Aubrey Thagard (8187)

Additional Information Contact: Sarah Odle (7316)

ATTACHMENTS

[Adopted Administrative Procedures 1-29-19 Draft.pdf](#)

[Adopted Policy Statement 1-29-2019.pdf](#)

[NEZ Basic Incentives Adopted 1-29-19 Draft.pdf](#)

CITY OF FORT WORTH

POLICY STATEMENT ON THE CREATION AND ELIMINATION OF LOCAL NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM (NEZ) AREAS

I. GENERAL PURPOSE AND OBJECTIVES

- A. A Neighborhood Empowerment Zone area (NEZ) must be established for the public purpose of increasing public health, safety, and welfare of the citizens of Fort Worth in accordance with Chapter 378 of the Texas Local Government Code (“Statute”).
- B. NEZ areas must promote:
 - 1. The creation of affordable housing in the zone;
 - 2. An increase in economic development in the zone;
 - 3. An increase in the quality of social services, education, or public safety provided to residents in the zone; or
 - 4. The rehabilitation of affordable housing in the zone.

II. CREATION OF A NEIGHBORHOOD EMPOWERMENT ZONE AREA (NEZ)

- A. **Adoption by the City Council.** The City Council shall create a NEZ area by adopting a Resolution that will contain:
 - 1. The determination that the proposed NEZ area meets the requirements in I.B. above;
 - 2. A description of the NEZ area boundaries;
 - 3. A finding that the creation of the NEZ area benefits and is for the public purpose of increasing the public health, safety and welfare of the people of Fort Worth; and
 - 4. A finding that the creation of the NEZ area satisfies the requirements of Sec. 312.202 of the Tax Code – Criteria for Reinvestment Zone (Attachment A).

B. Local Selection Criteria

In order for a Neighborhood Empowerment Zone area to be designated by the City Council, the proposed Neighborhood Empowerment Zone area must meet the following criteria:

- 1. In accordance with Chapter 378 of the Texas Local Government Code, the proposed Neighborhood Empowerment Zone area must promote:
 - a. The creation of affordable housing in the zone;
 - b. An increase in economic development in the zone;
 - c. An increase in the quality of social services, education, or public safety provided to residents in the zone; or
 - d. The rehabilitation of affordable housing in the zone.

- 2. Creation of a NEZ area shall meet the following guidelines:
 - a. Be 100% Community Development Block Grant (CDBG) eligible;
 - b. Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
 - c. May encompass an existing neighborhood or several neighborhoods;

- d. Have a concentration of population at or below poverty level;
- e. Have a low median household income and per capita income;
- f. Contain a predominance of substandard homes/aged housing stock;
- g. Have a higher than average vacancy rate;
- h. Have a higher than average rate of crimes against persons or property;
- i. Have low commercial permit values;
- j. May contain areas targeted for revitalization.

3. If a proposed NEZ boundary includes an urban village as defined in the Comprehensive Plan, a logical, defensible area of the urban village as determined by the City of Fort Worth must be zoned mixed-use or form-based code district as defined in the City of Fort Worth Zoning Ordinance.

4. Meet the criteria for a Reinvestment Zone as attached in Exhibit A.

C. Selection Process

1. Based on the requirements and criteria set forth above, City staff will identify areas eligible for NEZ designation. The City Council may select one or more NEZ areas from staff recommendation.
2. The City Council shall specify the incentives available in the NEZ areas based on City staff's recommendation and the adoption of the NEZ Program Basic Incentives and Tax Abatement Policy.
3. The City Council may seek input from stakeholders composed of representatives from neighborhood groups in the NEZ areas, non-profit organizations, foundations, private businesses, educational and faith institutions to provide feedback on the NEZ Program.

III. INCENTIVES

The City Council shall specify the incentives for each NEZ area in the resolution creating such NEZ. The following are the incentives that may be provided in the NEZ areas:

A. Incentives to be Considered for NEZ Areas in Accordance with the Statute:

1. Waive or adopt fees related to the construction or rehabilitation of buildings in the zone, including fees related to the inspection of buildings and impact fees.
2. Waive of City of Fort Worth liens.
3. Enter into agreements abating municipal property tax on property in the zone for a period not more than 5 years.

B. Existing Incentives and Funding

If the NEZ area or a section thereof overlays with areas designated as state or federal enterprise zone, Model Blocks, or other special districts, all incentives and funding available under these districts remain applicable.

IV. TERMINATION AND BOUNDARY REVISION OF A NEZ

A. NEZ areas will be reviewed every 5 years to coincide with the renewal of the Reinvestment Zones. Areas no longer meeting the creation guidelines will be terminated. Any area added to an existing NEZ must meet the creation guidelines.

V. ADMINISTRATION

The City Manager is authorized to develop the administrative and procedural guidelines in the implementation of this policy.

VI. AMENDMENTS TO THE POLICY

The City Council may amend this policy from time to time to further the purposes and objectives of the Statute.

Attachment A

Sec. 312.202. Criteria for Reinvestment Zone.

- (a) To be designated as a reinvestment zone under this subchapter, an area must:
- (1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (B) the predominance of defective or inadequate sidewalks or streets;
 - (C) faulty size, adequacy, accessibility, or usefulness of lots;
 - (D) unsanitary or unsafe conditions;
 - (E) the deterioration of site or other improvements;
 - (F) tax or special assessment delinquency exceeding the fair value of the land;
 - (G) defective or unusual conditions of title;
 - (H) conditions that endanger life or property by fire or other cause; or
 - (I) any combination of these factors;
 - (2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;
 - (3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;
 - (4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);
 - (5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or
 - (6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.
- (b) For purposes of this section, a federally assisted new community is a federally assisted area:
- (1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and
 - (2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

**NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM
ADMINISTRATIVE PROCEDURES**

I. Eligible Areas

Neighborhood areas shall meet the following criteria to be eligible for Neighborhood Empowerment Zone area (NEZ) designation:

- A. The area is 100% Community Development Block Grant (CDBG)-eligible.
- B. Meets the criteria for Reinvestment Zone – Section 312.202 of the Tax Code (Attachment A);
- C. Distress factors as included in Section 312.202 (A)(1) of the Tax Code (Attachment A);
- D. Housing or economic development opportunities;
- E. Be bounded by clearly defined boundaries (streets, railroads, creeks or other logical boundaries);
- F. May encompass an existing neighborhood or several neighborhoods;
- G. Have a concentration of population at or below poverty level;
- H. Have a low median household income and per capita income;
- I. Contain a predominance of substandard homes/aged housing stock;
- J. Have a higher than average vacancy rate;
- K. Have a higher than average rate of crimes against persons or property;
- L. Have low commercial permit values;
- M. May contain areas targeted for revitalization; and
- N. If a proposed NEZ boundary includes an urban village as defined in the Comprehensive Plan, a logical, defensible area of the urban village as determined by the City of Fort Worth must be zoned mixed-use or form-based code district as defined in the City of Fort Worth Zoning Ordinance.

II. Designation Process

- A. A NEZ area may be created through:
 - 1. City Council proposal and designation; or
 - 2. Approval by the City Council of staff identified areas, as defined below.
- B. Staff Identification for NEZ area designation.
 - 1. City staff will identify areas eligible for NEZ designation. The City Council may select one or more NEZ areas from staff recommendations.
 - 2. The City Council shall specify the incentives available in the NEZ areas based on City staff's recommendation and the adoption of the NEZ Basic Incentives and Tax Abatement Policy.
 - 3. The City may seek input from stakeholders composed of representatives from neighborhood groups in the NEZ areas, non-profit organizations, foundations, private businesses, educational and faith institutions to provide input on the NEZ Program.
 - 4. Adoption of a NEZ. The City Council shall by resolution, in accordance with Section 378.003, Chapter 378 of the Texas Local Government Code and Policy Statement on the Creation of Local Neighborhood Empowerment Zones (M&C G-_____, January 29, 2019), designate the NEZ area, and by ordinance designate the NEZ as a Reinvestment Zone in accordance with Section 312.201 of the Property Redevelopment and Tax Abatement Act.

III. Termination or Boundary Change Process

- A. NEZ areas will be reviewed every 5 years to coincide with the renewal of the Reinvestment Zones. Areas no longer meeting the creation guidelines will be terminated. Any area added to an existing NEZ must meet the creation guidelines.

IV. Administration of Neighborhood Empowerment Zone Program (NEZ)

- A. The Neighborhood Services Department shall monitor NEZ implementation. Specifically, its responsibilities include the following:
 - 1. Certify homeowners, businesses, or developers qualified to receive tax abatement;
 - 2. Coordinate with federal, state, local agencies, or other City departments that administer NEZ tax abatement and other programs available to NEZ areas;
 - 3. Monitor homeowners, businesses or developers granted NEZ tax abatement to insure compliance with terms of agreement.

- B. The Planning & Development Department shall coordinate the NEZ application process. Specifically, its responsibilities include the following:
 - 1. Receive and review NEZ Program applications for certification;
 - 2. Certify homeowners, businesses, or developers qualified to receive development and impact fee waivers, release of City liens and other incentives; and
 - 3. Provide an annual report on NEZ Program development activity.

- C. The following basic incentives shall be administered by City departments:
 - 1. Municipal property tax abatement: Neighborhood Services Department.
 - 2. Development fee waiver: Planning & Development Department (all building permit related fees including plans review and inspections, plat application fee including concept plan, preliminary plat, final plat, short form replat, Board of Adjustment application fee, demolition fee, structure moving fee, zoning application fee, street and utility easement vacation application fee), Ordinance Inspection Fees, Urban Forestry Application Fees, Consent/Encroachment Agreement Application Fees, Transportation and Public Works Department (Community Facility Agreement application fee) Transportation Impact Fees, and Sign Fees.
 - 3. Impact fee waiver: Water Department.
 - 4. Release of City liens: Code Compliance Department, with the assistance of the Planning and Development Department, will request the release of eligible liens on property/projects certified for NEZ basic incentives after the project has been completed and passed final inspection or received a final certificate of occupancy. The Transportation and Public Works Department will (request the release of paving liens) and the Neighborhood Services Department will request the release of eligible liens on NEZ tax abatement projects after the project has been completed and passed final inspection or received a final certificate of occupancy.

V. Amendment of Administrative Procedures

The City Manager or his designee is authorized to amend the administrative procedures as needed to achieve the NEZ Program goals provided that the amendment is within the scope of the NEZ Program Policy Statement and in compliance with applicable laws and regulations.

Attachment A

Sec. 312.202. Criteria for Reinvestment Zone.

- (a) To be designated as a reinvestment zone under this subchapter, an area must:
- (1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (B) the predominance of defective or inadequate sidewalks or streets;
 - (C) faulty size, adequacy, accessibility, or usefulness of lots;
 - (D) unsanitary or unsafe conditions;
 - (E) the deterioration of site or other improvements;
 - (F) tax or special assessment delinquency exceeding the fair value of the land;
 - (G) defective or unusual conditions of title;
 - (H) conditions that endanger life or property by fire or other cause; or
 - (I) any combination of these factors;
 - (2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;
 - (3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;
 - (4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);
 - (5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or
 - (6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.
- (b) For purposes of this section, a federally assisted new community is a federally assisted area:
- (1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and
 - (2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.). Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

CITY OF FORT WORTH

NEIGHBORHOOD EMPOWERMENT ZONE PROGRAM (NEZ) BASIC INCENTIVES AND TAX ABATEMENT POLICY

I. GENERAL PURPOSE AND OBJECTIVES

Chapter 378 of the Texas Local Government Code allows a municipality to create a Neighborhood Empowerment Zone (NEZ) when a "...municipality determines that the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone."

The City, by adopting the following NEZ Program Basic Incentives and Tax Abatement Policy, will promote affordable housing and economic development in Neighborhood Empowerment Zones. NEZ incentives will not be granted after the NEZ expires as defined in the resolution designating the NEZ. For each NEZ, the City Council may approve additional terms and incentives as permitted by Chapter 378 of the Texas Local Government Code or by City Council resolution. However, any tax abatement awarded before the expiration of a NEZ shall carry its full term according to its tax abatement agreement approved by the City Council.

As mandated by state law, the property tax abatement under this policy applies to the owners of real property. Nothing in the policy shall be construed as an obligation by the City of Fort Worth to approve any tax abatement application.

II. DEFINITIONS

"Abatement or Tax Abatement" means a full or partial exemption from City of Fort Worth ad valorem taxes on eligible real property located in a NEZ for a specified period on the difference between (i) the amount of increase in the appraised value (as reflected on the certified tax roll of the appropriate county appraisal district) resulting from improvements begun after the execution of a written Tax Abatement Agreement and (ii) the appraised value of such real estate prior to execution of a written Tax Abatement Agreement (as reflected on the most recent certified tax roll of the appropriate county appraisal district for the year prior to the date on which the Tax Abatement Agreement was executed).

"Affordable Units" means affordable to persons earning less than 80% Area Median Family Income (AMFI) as defined by U.S. Department of Housing and Urban Development (HUD) for single family housing and under 60% AMFI as defined by HUD for rental and multi-family.

"Base Value" is the value of the Real Property Improvements, excluding land, as determined by the Tarrant County Appraisal District, during the year rehabilitation occurs.

"Building Standards Commission" is the commission created under Sec. 7-77, Article IV. Minimum Building Standards Code of the Fort Worth City Code.

"Capital Investment" includes only Real Property Improvements such as new facilities and structures, site improvements, facility expansion, and facility modernization. Capital Investment does NOT include land acquisition costs and/or any existing improvements on the property prior to the City Council's authorization, or personal property (such as machinery, equipment, and/or supplies and inventory).

"City of Fort Worth Tax Abatement Policy Statement" means the policy adopted by City Council.

“Commercial/ Development Project” is a development project which proposes to construct or rehabilitate commercial facilities on property that is (or meets the requirements to be) zoned commercial as defined by the City of Fort Worth Zoning Ordinance.

“Industrial Development Project” is a development project which proposes to construct or rehabilitate industrial facilities on property that is appropriately zoned for industrial use as defined by the City of Fort Worth Zoning Ordinance and meets the criteria for industrial use as put forth in the City’s Comprehensive Plan.

“Community Facility Development Project” is a development project which proposes to construct or rehabilitate community facilities on property that allows such use as defined by the City of Fort Worth Zoning Ordinance.

“Eligible Rehabilitation” includes only physical improvements to Real Property Improvements. Eligible Rehabilitation does NOT include personal property (such as furniture, appliances, equipment, and/or supplies). Eligible Rehabilitation costs must be 30% or more of the current Base Value Improvements as defined by Tarrant Appraisal District at the time of application in order for a rehabilitation project to apply for any NEZ incentives.

“Gross Floor Area” is measured by taking the outside dimensions of the building at each floor level, except that portion of the basement used only for utilities or storage, and any areas within the building used for off-street parking.

“Minimum Building Standards Code” is Article IV of the Fort Worth City Code adopted pursuant to Texas Local Government Code, Chapters 54 and 214.

“Minority Business Enterprise (MBE)” and *“Women Business Enterprise (WBE)”* is a minority or woman owned business that has received certification as either a certified MBE or certified WBE by either the North Texas Regional Certification Agency (NTRCA) or the Texas Department of Transportation (TxDot), Highway Division.

“Mixed-Use Development Project” is a development project which proposes to construct or rehabilitate mixed-use facilities in which residential uses constitute 20 percent or more of the total gross floor area, and office, eating and entertainment, and/or retail sales and service uses constitute 10 percent or more of the total gross floor area and is on property that is (or meets the requirements to be) zoned mixed-use as described by the City of Fort Worth Zoning Ordinance.

“Multi-family Development Project” is a development project which proposes to construct or rehabilitate 3 or more multi-family residential living units on a property that is (or meets the requirements to be) zoned multi-family or mixed use as defined by the City of Fort Worth Zoning Ordinance.

“New Construction” is a newly constructed habitable structure improvement requiring a permanent foundation. This excludes accessory structures such as sheds, incidental out buildings and detached garages.

“Primary Residence” is the residence that has a Homestead Exemption on file with Tarrant County Appraisal District.

“Project” means a *“Residential Project”*, *“Commercial/Industrial Development Project”*, *“Community Facility Development Project”*, *“Mixed-Use Development Project”*, or a *“Multi-family Development Project.”*

“Real Property Improvements” – means a habitable structure as defined by the Fort Worth Building Code.

“Reinvestment Zone” is an area designated as such by the City of Fort Worth in accordance with the Property Redevelopment and Tax Abatement Act codified in Chapter 312 of the Texas Tax Code, or an

area designated as an enterprise zone pursuant to the Texas Enterprise Zone Act, codified in Chapter 2303 of the Texas Government Code.

“Residential Project” – means less than 3 residential units.

III. PROCEDURAL STEPS

A. APPLICATION FEE

1. An application fee of \$25.00 for all basic incentives, excluding tax abatements. The Application Fee shall not be credited or refunded to any party for any reason.
2. The application fee for residential tax abatements is \$100.00 for each residential unit. The Application Fee shall not be credited or refunded to any party for any reason.
3. The application fee for tax abatements for multi-family, commercial, industrial, community facilities and mixed-use development projects is one-half of one percent (0.5%) of the proposed Project’s Capital Investment, with a \$200 minimum not to exceed \$2,000. The Application Fee shall not be credited or refunded to any party for any reason.

B. APPLICATION SUBMISSION

1. The applicant applying for any NEZ incentives must complete and submit a City of Fort Worth "Application for NEZ Incentives" and pay the appropriate application fee for certification of basic incentives to the Planning and Development Department. Incomplete applications will not be accepted or processed.
2. The applicant applying for Tax Abatement will pay the appropriate abatement application fee to the Neighborhood Services Department after Project certification for basic incentives by the Planning and Development Department. The application fee, review, evaluation and approval will be governed by City of Fort Worth Neighborhood Empowerment Zone Basic Incentives and Tax Abatement Policy for qualifying Development Projects.
3. All NEZ certifications for incentives will expire after five years and are project specific. Minor modifications to an existing certification may be made with correct documentation. Minor modifications will not change or extend the original certification date. New or additional projects at the same address or in the same development will require a new application for project certification.
4. City Council may change NEZ boundaries or terminate NEZ areas. Projects that have been certified eligible for basic incentives will maintain eligibility for the original five years from the date of certification. The certification date will not be modified or extended.

C. CERTIFICATIONS FOR APPLICATIONS

1. In order for a property owner/developer to be eligible to apply for any NEZ incentives for a Project, the property owner/developer:
 - a. Must submit a complete application to the City with all required documentation;
 - b. Must not be delinquent in paying property taxes for any property owned by the owner/developer or applicant;
 - c. Must not be responsible for City of Fort Worth liens on the project property;
 - d. Must not have any City liens filed against any property owned by the applicant or property owner/developer, including the project property. “Liens” includes but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens; and

- e. Must not have been subject to a Building Standards Commission's Order of Demolition where the property was demolished within the last five (5) years;
2. The Planning and Development Department will review all NEZ applications for accuracy and completeness. A complete application must include:
 - a. Proof that the Project is located in a NEZ;
 - b. A completed NEZ application;
 - c. Attachment of all items on the NEZ Application Submittal Requirement Checklist; and
 - d. Compliance with the design guidelines under Section III D.

Once the Planning and Development Department determines that the application is complete, the Planning and Development Department will certify the property owner/developer's eligibility to receive basic incentives and/or tax abatement based on the criteria set forth in this policy. Ineligible applications will be denied. Once an applicant's project is certified, the Planning and Development Department will inform appropriate departments administering the incentives.

Approval of the application and Project certification shall not be deemed to be approval of any aspect of the Project. Before construction, the applicant must ensure that the project is located in the correct zoning district.

D. PUBLIC NOTIFICATION

In order for an owner/developer to apply to receive any incentives provided for under the NEZ Program Basic Incentives and Tax Abatement Policy, Planning and Development staff will send a complete Project application packet dually for notification purposes to the following persons and organizations:

1. The neighborhood associations or community based organizations registered with the city located within 300 feet of the proposed Project. The measurement of the distance between the proposed project and Neighborhood Associations or Community Based Organizations shall be along the property lines of the street fronts and from front door to front door, and in direct line across the intersections. If recipients wish to comment on the Project, all comments must be received within 14 days/two weeks of notification; and
2. The Council Member for the District in which the Project is located. Any comments received within 14 days of notification from the registered neighborhood associations or community based organizations within 300 feet of the proposed Project will be sent to the Council Member for informational purposes.

E. DESIGN GUIDELINES

1. All applications for NEZ incentives must meet the following design requirements for certification.
 - a. No metal buildings except for industrial projects.
 - b. All new construction projects must contain 70% masonry product
 - c. Exceptions to the masonry product will be made at the City's discretion for design district overlays (where applicable) and approved planned development projects.
 - d. Compliance with design guidelines for Council adopted NEZ Strategic Plans is required for certification.
 - e. Attached garages for new single family homes may not extend more than 4 feet past the front building wall.

F. REFUND POLICY

In order for an owner/developer of a Project in a NEZ to receive a refund of development fees or impact fees, the conditions set forth in the *Refund of Development and Impact Fee Policy*, attached as Attachment "A", must be satisfied.

IV. FEE WAIVERS

A. ELIGIBLE RECIPIENTS/PROPERTIES

1. In order for a property owner/developer to be eligible to apply for any fee waivers for a Project, the property owner/developer:
 - a. Must submit an application to the City and receive NEZ certification for the project;
 - b. Must be in compliance with Section III, A, B, C, D and E.

B. DEVELOPMENT FEES

1. The following fees for services are waived for eligible, certified NEZ Projects:
 - a. All Building Permit related Fees (including Plans Review and Inspections) except as stated in IV B. 2. below
 - b. Plat Application Fee (including Concept Plan, Preliminary Plat, Final Plat, Short Form Replat)
 - c. Board of Adjustment Application Fee
 - d. Demolition fee
 - e. Structure Moving Fee
 - f. Community Facilities Agreement (CFA) Application Fee
 - g. Zoning Application Fee
 - h. Street and Utility Easement Vacation Application Fee
 - i. Ordinance Inspection Fees
 - j. Consent/Encroachment Agreement Application Fees
 - k. Transportation Impact Fees
 - l. Urban Forestry Application Fees
 - m. Sign Permit Fees
2. If a permit or application listed in B (1) is expired, the fee to reactivate, renew or reapply shall not be waived. In addition, penalties and extension fees or re-permitting fees will not be waived.
3. Fire inspection and permit fees will not be waived.
4. Fees for special services, such as simultaneous plan and plat review or expedited plan review will not be waived.
5. Infrastructure Plan Review Center fees will not be waived.
6. Development Fees not specifically listed in the policy and the project certification letter will not be waived or reduced.
7. Other development related fees not specified in this policy may be brought forward to City Council on a case-by-case basis as determined by staff analysis.

C. IMPACT FEES

1. Single family and multi-family residential development projects in the NEZ. Automatic 100% waiver of water and wastewater impact fees will be applied.
2. Commercial, industrial, mixed-use, or community facility development projects in the NEZ.
 - a. Automatic 100% waiver of water and wastewater impact fees up to \$55,000 or equivalent to two 6-inch meters for each commercial, industrial, mixed-use or community facility development project; whichever is less.
 - b. If the project requests an impact fee waiver exceeding \$55,000 or requesting a waiver for larger and/or more than two 6-inch meter exceeding \$55,000, then City Council approval is required. Applicant may request the additional amount of impact fee waiver through the Planning and Development Department.

V. RELEASE OF CITY LIENS

A. ELIGIBLE RECIPIENTS/PROPERTIES

1. In order for a property owner/developer to be eligible to apply for release of any City liens for a Project, the property owner/developer:
 - a. Must submit an application to the City and receive NEZ certification for the project;
 - b. Must be in compliance with Section III, A, B, C, D and E.
 - c. Liens listed in this Policy shall be released once the Project Improvements have been made to the property. Applicants must contact City after project completion for lien releases.
 - d. Any liens filed after the initial certification of the property shall not be released.

For certified applicants of Projects requesting release of City liens, the Neighborhood Services Department will request the release of the appropriate liens on NEZ tax abatement Projects. The Planning & Development Department will request the release of the appropriate liens on NEZ basic incentives Projects.

B. WEED LIENS

The following are eligible to apply for release of weed liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing new multi-family, commercial, industrial, mixed-use or community facility development projects.

C. DEMOLITION LIENS

Builders or developers developing or rehabilitating a property for a Project are eligible to apply for release of demolition liens for up to \$30,000. Releases of demolition liens in excess of \$30,000 are subject to City Council approval.

D. BOARD-UP/OPEN STRUCTURE LIENS

The following are eligible to apply for release of board-up/open structure liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new single family homes on vacant lots.

3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

E. PAVING LIENS

The following are eligible to apply for release of paving liens:

1. Single unit owners performing rehabilitation on their properties.
2. Builders or developers constructing new homes on vacant lots.
3. Owners performing rehabilitation on multi-family, commercial, industrial, mixed-use, or community facility properties.
4. Developers constructing multi-family, commercial, industrial, mixed-use, or community facility projects.

ALL OTHER CITY LIENS WILL NOT BE WAIVED

VI. MUNICIPAL PROPERTY TAX ABATEMENTS

A. ABATEMENT GUIDELINES

1. Staff will review and evaluate each Residential, Multi-Family, Commercial, Industrial, Community Facilities and Mixed-Use tax abatement application prior to submission to the City Council. The City Council has designated certain areas of the City as Tax Increment Reinvestment Zones (TIFs). If a NEZ is located in a TIF, a person or entity seeking Tax Abatement on property owned or leased in a TIF shall not be granted a NEZ Tax Abatement.
2. A tax abatement shall not be granted for any development project in which a building permit application, excluding grading and/or demolition, has been filed with the City's Planning and Development Department. In addition, the City will not abate taxes on the value of real property improvements for any period of time prior to the year of execution of a Tax Abatement Agreement with the City.
3. Tax Abatements for a new construction project will automatically terminate two years after Council approval of the tax abatement if a building permit has not been pulled and a foundation has not been poured (unless otherwise specified in the tax abatement agreement).
4. Tax Abatements for a rehabilitation project will automatically terminate two years after Council approval of the tax abatement if the project is not complete (unless otherwise specified in the tax abatement agreement).
 - a. Abatements for Residential, Commercial, Industrial, Mixed-Use, Multi-Family and Community Facilities Projects for up to 5 years are subject to City Council approval. The applicant may apply with the Neighborhood Services Department for such abatement after project certification. In order to be eligible to apply for a tax abatement, the property owner/developer must:
 - b. Submit an application to the City and receive NEZ certification for the project;
 - c. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
 - d. Real Property Improvements are newly constructed or rehabilitated after NEZ designation and City Council approval of the tax abatement is granted before improvements are made;
 - e. Property is not in a tax-delinquent status when the abatement application is submitted;
 - f. Property is in conformance with the City of Fort Worth Zoning Ordinance however, a property use that is legal non-conforming shall not be eligible to receive a tax abatement.

5. Once a NEZ property owner of a residential property (including multi-family) in the NEZ satisfies the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, and applies for an abatement, a property owner may enter into a tax abatement agreement with the City of Fort Worth. The tax abatement agreement shall automatically terminate if the property subject to the tax abatement agreement is in violation of the City of Fort Worth's Minimum Building Standards Code and the owner is convicted of such violation.
6. A tax abatement granted under the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable, can only be granted once for a property in a NEZ for a maximum term as specified in the agreement. If a property on which tax is being abated is sold, the City may assign the tax abatement agreement for the remaining term as allowed by the tax abatement agreement, once the new owner submits an application so long as the new owner complies with all of the terms of the tax abatement agreement.
7. A property owner/developer of a multifamily development, commercial, industrial, community facilities and mixed-use development project in the NEZ who desires a tax abatement must:
 - a. Satisfy the criteria set forth in Section III, A, B, C, D and E and Section VI, A, B, C and D, as applicable, and
 - b. Submit an application to the City and receive NEZ certification for the project;
 - c. The property owner must enter into a tax abatement agreement with the City of Fort Worth. In addition to the other terms of agreement, the tax abatement agreement shall provide that the agreement shall automatically terminate if the owner receives one conviction of a violation of the City of Fort Worth's Minimum Building Standards Code regarding the property subject to the abatement agreement during the term of the tax abatement agreement; and
 - d. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement.
8. If the terms of the tax abatement agreement are not met, the City Council has the right to cancel or amend the abatement agreement. In the event of cancellation, the recapture of abated taxes shall be limited to the year(s) in which the default occurred or continued.
9. The terms of the agreement shall include the City of Fort Worth's right to: (1) review and verify the applicant's financial statements in each year during the life of the agreement prior to granting a tax abatement in any given year, (2) conduct an on-site inspection of the project in each year during the life of the abatement to verify compliance with the terms of the tax abatement agreement, (3) terminate the agreement if the Project contains or will contain an ineligible Project as defined in Section VII 1 through 6.
10. Upon completion of construction of the Project, the City shall no less than annually evaluate each project receiving abatement to insure compliance with the terms of the agreement. Any incidents of non-compliance will be reported to the City Council.
11. On or before February 1st of every year during the life of the agreement, any individual or entity receiving a tax abatement from the City of Fort Worth shall provide information and documentation which details the property owner's compliance with the terms of the respective agreement and shall certify that the owner is in compliance with each applicable term of the agreement. Failure to report this information and to provide the required certification by the above deadline shall result in cancellation of agreement and any taxes abated in the prior year being due and payable.
12. If a property in the NEZ on which tax is being abated is sold, the new owner may enter into a tax abatement agreement on the property for the remaining term as allowed by the tax abatement agreement. Any sale, assignment or lease of the property which is not permitted in

the tax abatement agreement results in automatic cancellation of the agreement and recapture of any taxes abated after the date on which an unspecified assignment occurred.

13. All Multi-Family, commercial, industrial, community facilities and mixed use tax abatements will be capped at 150 percent of the Capital Investment.
14. Residential owner occupied tax abatements will be capped at the annual median home value as reported by the National Association of Realtors for Tarrant County. This value will be updated annually.

B. APPLICATION REVIEW AND EVALUATION FOR APPLICATIONS

1. Property Tax Abatement for Residential Properties, Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects
 - a. For a completed and certified application for no more than five years of tax abatement, with Council approval, the City Manager shall execute a tax abatement agreement with the applicant.
 - b. Tax abatement applications will be reviewed by staff prior to submission to the City Council. Commercial, Industrial, Mixed Use, Community Facilities and Multi-family Development Projects must provide evidence of:
 - i. Production of development with no net additional cost to the City while producing a positive economic impact to the tax paying citizens of Fort Worth;
 - ii. Promotion of quality, affordable housing and/or mixed income development;
 - iii. Advancement of high quality development or redevelopment opportunities on nearby or adjacent properties in a manner that supports the establishment of a cohesive, distinctive and walkable district or neighborhood;
 - iv. Effectively leverage private investment;
 - v. Possesses economic gap “but-for”;
 - vi. Furthers community revitalization.
2. Consideration by the City Council
 - a. The City Council retains sole authority to approve or deny any tax abatement agreement and is under no obligation to approve any tax abatement application or tax abatement agreement. The City of Fort Worth is under no obligation to provide tax abatement in any amount or value to any applicant.
 - b. Effective Date for Approved Agreements
 - i. All tax abatements approved by the City Council will become effective on January 1 of the year following the year in which a Certificate of Occupancy (CO) is issued for the qualifying development project (unless otherwise specified in the tax abatement agreement). Unless otherwise specified in the agreement, taxes levied during the construction of the project shall be due and payable.
 - ii. Owners/developers are responsible for informing the City when a certified Project is complete.

C. RESIDENTIAL PROPERTIES LOCATED IN A NEZ- FULL ABATEMENT FOR 5 YEARS

1. A homeowner or developer of residential single family property developed for a homeowner, shall be eligible to apply for a tax abatement by meeting the following after certification of the project:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;

- b. For rehabilitated Real Property Improvements, Eligible Rehabilitation costs on the Real Property Improvements shall be equal to or in excess of 30% of the Base Value of the Real Property Improvements and City Council approval of the tax abatement is granted before improvements are made.

D. MULTI-FAMILY AND MIXED-USE DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS

1. A developer of a Multi-Family or Mixed-Use Development Project shall be eligible to apply for a tax abatement by meeting the following after project certification:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable.
 - b. For a multi-family development project newly constructed, the project must provide at least five (5) residential living units OR have a minimum Capital Investment of \$200,000;
 - c. For a multi-family rehabilitation project, the Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements. Such Eligible Rehabilitation costs must come from the rehabilitation of at least five (5) residential living units or a minimum Capital Investment of \$200,000;
 - d. Residential uses in a mixed-use project must constitute 20 percent or more of the total Gross Floor Area of the project;
 - e. Office, eating and entertainment, and/or retail sales and service uses in a mixed-use project must constitute 10 percent or more of the total Gross Floor Area of the project; and
 - i. A mixed-use development project newly constructed must have a minimum Capital Investment of \$200,000; or
 - ii. For a rehabilitation project, Eligible Rehabilitation costs on the Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$200,000, whichever is greater.
2. Multi-family and mixed-use projects must satisfy one of the following:
 - a. At least ten percent (10%) of the total residential units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below eighty percent (80%) of area median income based on family size and at least another ten percent (10%) of the total units constructed or rehabilitated shall be affordable (as defined by the U. S. Department of Housing and Urban Development) and set aside to persons with incomes at or below sixty percent (60%) of area median income based on family size; or
 - b. If specifically permitted by the City Council, in its sole discretion, and as specified in the tax abatement agreement, pay the Fort Worth Housing Finance Corporation an annual sum equal to \$200.00 for each rental residential unit located on the property which is subject to the tax abatement. The Fort Worth Housing Finance Corporation is a housing finance corporation created pursuant to authorization by the City Council of the City of Fort Worth in accordance with Chapter 394, Texas Local Government Code, to assist in the financing of the costs of residential development and ownership for citizens of decent, safe and sanitary housing at affordable prices. An applicant's choice as to whether to commit to an affordable housing set-aside or to an annual payment to the Fort Worth Housing Finance Corporation must be made prior to execution of the tax abatement agreement and may not be changed during the term of the agreement. This annual payment will be due on or before February 1 of each year in which a tax abatement is granted (or such other date that may be agreed to in the tax abatement agreement). Failure to pay the annual payment to the Housing Finance Corporation when due will result in the forfeiture of the entire tax abatement for the tax year in which payment was due. Additional terms and conditions

governing this annual payment requirement will be set forth in the tax abatement agreement.

3. In addition at least 5% of the total residential units constructed or rehabilitated shall be compliant with the Americans with Disability Act (ADA) in accordance with Section 504 of the Rehabilitation Act, and must be fully accessible and 2% of the total units constructed must be fully accessible to persons with sensory impairments.

E. COMMERCIAL, INDUSTRIAL AND COMMUNITY FACILITIES DEVELOPMENT PROJECTS LOCATED IN A NEZ – 100% ABATEMENT FOR 5 YEARS

1. A developer of a Commercial, Industrial or Community Facilities Development Projects shall be eligible to apply for a tax abatement by meeting the following after project certification:
 - a. Be in compliance with Section III, A, B, C, D and E and Section VI, A, B, C and D as applicable;
 - b. have a minimum capital investment of \$75,000 for a proposed new construction project; or
 - c. for a rehabilitation project, Eligible Rehabilitation costs on Real Property Improvements shall be at least 30% of the Base Value of the Real Property Improvements, or \$75,000, whichever is greater.

VII. INELIGIBLE PROJECTS

The following Projects or Businesses shall not be eligible for any incentives under the City' of Fort Worth's Neighborhood Empowerment Zone (NEZ) Basic Incentives and Tax Abatement Policy:

1. Sexually Oriented Businesses
2. Non-residential mobile structures
3. Stand-alone bars (Bars as part of a mixed use project may apply for NEZ incentives)
4. Single family investor owned projects
5. Package stores or liquor stores
6. Projects to be constructed on property purchased or to be purchased under a contract for deed

VIII. DENIED APPLICATIONS

1. NEZ applications will be denied 30 days after submission if all required or additionally requested documentation is not received by the City.
2. The applicant will have 90 days after the date of denial to resubmit the NEZ application without paying a new application fee.

REFUND OF DEVELOPMENT AND IMPACT FEES POLICY

PURPOSE

This refund policy is for the purpose of establishing the conditions under which the City may refund development and impact fees, normally waived through the Neighborhood Empowerment Zone (NEZ).

APPLICABILITY

Unless expressly accepted, this policy applies to all development and impact fees waived by the City through the NEZ.

CONDITIONS FOR REFUNDS

The City will consider refunds only when circumstances beyond the developers/owners control prevent them from obtaining the certification letter from the Planning and Development Department.

A property owner and/or developer may qualify for a refund if the proposed development project meets all criteria to receive a fee waiver under the NEZ Program Basic Incentives and Tax Abatement Policy and:

1. The owner and/or developer was not made aware of the NEZ incentives at the time the fees were paid; or
2. The owner and/or developer was mistakenly told that his/her property was not in a designated NEZ; or
3. The owner and/or developer has put funds in an escrow account with a City Department while awaiting certification of his/her project; or
4. City Council authorizes a City Department to issue a refund to the owner/developer.

REFUND CHARGE

A refund charge will be assessed to help defray administration cost associated with the processing of refund check. The charge shall be 20% of the amount of the refund. This charge will be automatically deducted from the total refund amount.

STATUTE OF LIMITATIONS

Any request, action or proceeding concerning the refund of fees normally waived through the NEZ must be filed within ninety days following the date that the fees were paid. An applicant who does not submit a refund request within 90 days of the transaction shall not qualify for a refund.

To obtain a refund the applicant needs to:

- submit a NEZ application to the Planning and Development Department for determination of the eligibility for NEZ fee waivers, and
- submit a written request to the Department in which the fees were paid. Upon receiving a confirmation from the Planning and Development Department that the project meets all NEZ fee waiver criteria, that Department shall process the request based on the qualifications discussed in this policy.

EXEMPTIONS

The provisions of this policy do not apply to:

1. Fees that are not waived through the NEZ program; and
2. Taxes and special assessments; and
3. City liens such as mowing, board-up, trash, demolition and paving liens.

An applicant shall not qualify for any refund if:

1. The applicant was made aware of the NEZ incentives before he/she pays the fees; or
2. The applicant does not meet the requirements for NEZ incentives at the time he/she paid the fees;
or
3. The applicant paid the fees before the refund policy was put in place; or
4. The applicant paid the fees before the designation date of the NEZ.

DISCLAIMER

In the event of any conflict between the City's ordinances or regulations and this policy, such ordinances or regulations shall control. In the event of any conflict between this policy and other policies or regulations adopted by the City Department issuing the refund, such department policies or regulations shall control. The City reserves the right to deny any or all request for refunds.

CHAPTER 5: HOUSING

Provision of adequate and appropriate housing for all residents is essential to building strong neighborhoods. The City of Fort Worth's key housing goals are increasing the supply of quality affordable accessible housing; expanding homeownership opportunities; revitalizing neighborhoods; creating mixed-income communities; and better aligning housing choice options with multimodal transportation opportunities, as typically occurs in Transit-Oriented Developments.

A broad-based housing policy adopted by the City Council in 1999 guides the City in achieving many of its housing goals and objectives. Housing policy is also strongly influenced by Annual and Five-Year Consolidated Plans, which the City Council adopts for submission to the U.S. Department of Housing & Urban Development (HUD), as local housing activities have traditionally been funded only through CDBG, HOME, and ESG grants from that federal agency. These HUD-required plans focus primarily on the housing needs of low- and moderate-income residents and special needs or homeless populations.

Very recently, HUD has joined the U.S. Department of Transportation and the U.S. Environmental Protection Agency in a strategic partnership intended to jointly promote and fund innovative approaches that combine transportation, environmental, and housing solutions in the same projects. This silo-busting federal partnership is expected to create a new emphasis on addressing housing choice needs in combination with the provision of genuine transportation options.

EXISTING CONDITIONS AND TRENDS

Over the past ten years, the Fort Worth housing market has been characterized by rapid growth, decreasing affordability for new housing, and central city redevelopment.

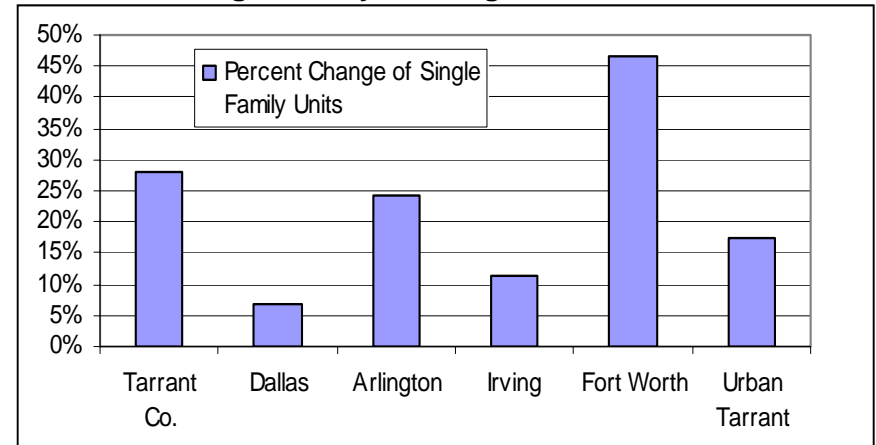
Number of Housing Units

In 2000, Fort Worth had 211,035 housing units, of which 32 percent were multifamily units. By 2010, the total number of housing units grew 39.9 percent to 295,283 and the multifamily percentage had fallen to 28.7 percent. From 2008 to 2010 the growth rate for single-family and duplex housing was almost 7.1 percent (with the addition of 13,660 units). While some of this growth can be attributed to annexations, much of it is from new construction.

The northeast and northwest quadrants have seen the most recent growth in single-family units, while Downtown and the south and southwest regions have experienced the most growth in multifamily development. Downtown housing will play a critical role in the success of the City's broad vision for central city revitalization.

According to the 2010 Census, there are an estimated 4,589 people living Downtown in approximately 2,582 housing units. A goal of the Downtown Fort Worth Strategic Action Plan 2003 (updated every 10 years) is to develop over 10,000 new residential units by 2013.

Single-Family Housing Growth Rates



From 2000 to 2010, Fort Worth's rapid rate of growth in single-family housing exceeded that of other cities in the region. Urban Tarrant represents all of Tarrant County outside Arlington and Fort Worth, and includes such cities as Bedford, Grapevine, and Southlake. (Source: North Central Texas Council of Governments Annual Housing Estimates, 2011.)

Single-Family Housing Development



New single-family housing developments in far north Fort Worth. (Source: Planning and Development Department, 2011.)

Central City areas outside of Downtown are also attracting urban housing development. In 2001, the City adopted a mixed-use zoning ordinance (updated in 2011) that encourages higher density, pedestrian-oriented housing development in mixed-use growth centers, designated urban villages, and Transit-Oriented Development areas. The urban village initiative and its housing elements are discussed further in Chapter 10: Economic Development. In addition, the City Council recently adopted new development standards and guidelines that support high density residential development in the Trinity Uptown and Near Southside form-based code districts adjacent to Downtown. The development standards and guidelines for Trinity Uptown and Near Southside are discussed in Chapter 14: Urban Design. Starting in 2012, the City will begin developing and implementing Transit-Oriented Development plans with a strong emphasis on providing housing choices with access to rail transit and other transportation options.

Vacancy History

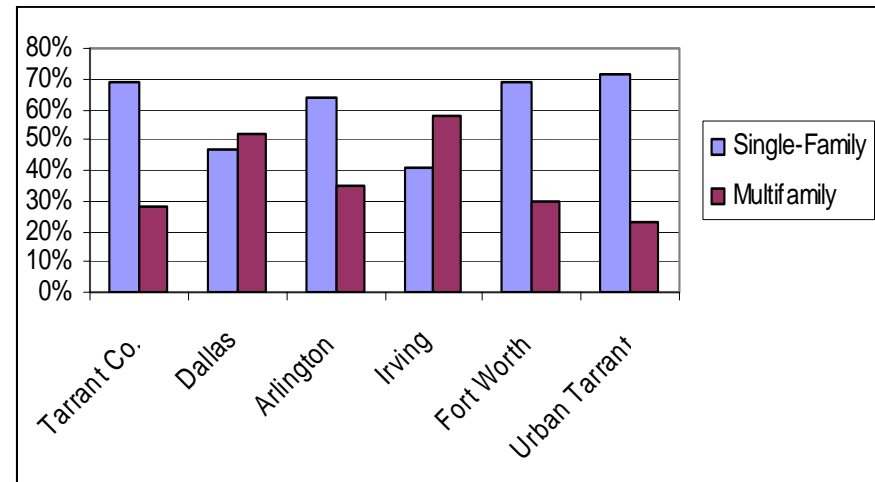
Of the total 286,526 housing units in Fort Worth in 2009, 30,837 (10.8 percent) were vacant. While only 2.9 percent of owner-occupied units were vacant, there was a 14.8 percent vacancy rate among rental units.

Over the last several years, foreclosure rates in Fort Worth and the rest of Texas remained much lower than communities on the east and west coasts. Like the remainder of the state, Fort Worth has been relatively immune to the dramatic reduction in home values facing much of the nation due to significantly slower housing appreciation rates in Texas. However, some of the city's homeowners have still experienced foreclosure, due primarily to their receiving mortgages that were beyond their ability to repay, dropping property values, and rising unemployment. A review of pending foreclosures in Fort Worth noted 317 single-family homes in foreclosure status, 124 for auction, and 8 in pre-foreclosure. Of these, 223 were valued below \$60,000, 117 were valued between \$60,000-\$100,000, and 78 were valued between \$100,000-\$150,000. Many of these homes could be affordable for low- and moderate-income households, especially with down payment and closing cost assistance.

Housing Conditions

In general, housing condition is related directly to housing age. Without adequate maintenance, older housing stock deteriorates. Most structures begin to need significant repairs 30 years after construction. According to 2009 American Community Survey data, 37.8 percent of the city's housing was built prior to 1970, with units built before 1960 making up 27.7 percent. This older housing is naturally concentrated in the central city. Units with the greatest repair needs are generally in lower-income neighborhoods, where households have had fewer resources to perform maintenance. As of October 2009, the Code Compliance Department found nearly 226 housing units in danger of collapse and about 2,730 dwelling units in need of repair, out of a total of 3,192 outstanding structures with code violations. Based on a review of data from HUD, it is estimated that \$1.8 billion is needed to address local housing needs, including \$1.1 billion for rehabilitation of single-family and \$200 million for rehabilitation of multifamily housing.

Percentages of Single-Family and Multifamily Housing



Fort Worth has a higher proportion of single family housing than Dallas, Arlington, and Irving. (Source: North Central Texas Council of Governments Annual Housing Estimates, 2011.)

Firestone Apartments



Firestone Apartments on the west side of Downtown opened in 1999 in an area that was primarily vacant land. The apartment business office and community center at the southwest corner of W. 7th and Henderson Streets is a restored Firestone Service Store built in 1930. (Source: Planning and Development Department, 2011.)

Quality Affordable Housing

In October, 2006, the Fort Worth City Council adopted a resolution creating a Fort Worth Mayor's Advisory Task Force on Quality Affordable Housing. The purpose of the task force was to seek ongoing input and recommendations of experts in the fields of housing development, affordable housing finance, and the housing needs of low-and moderate-income families. In 2008, the Task Force presented the results of a Housing Needs Assessment indicating the following:

- 11,000 new rental units are needed for low-income households.
- 1,700 new supportive housing units are needed for disabled homeless persons.
- 9,500 rental units built prior to 1970 need repair to remain quality and affordable.
- 11,000 owner units built before 1950 need major repair/upgrade.
- 11,500 owner units built between 1950 and 1970 need major repair/upgrade.

In addition, the Task Force indicated an additional need for the repair, rehab, or new construction of an additional 44,022 units at an estimated cost of \$1.85 billion.

In addressing the City Council's priority for mixed-income housing and dispersion of assisted housing, the Mayor's Housing Task Force made recommendations for amendments to the City's Consolidated Plan. Changes require a project to meet the following: 1) Promotes dispersion of publicly assisted housing (PAH) units; or 2) Promotes mixed-income objectives by including market rate housing units and PAH units within the project; and 3) Project location is consistent with the City's Future Land Use policies, and must be: a) within two miles of a major employment center; or b) within 1/4 mile of existing/proposed rail and transit stations or bus route; or c) in an urban village, growth center, neighborhood empowerment zone, or special district.

Mixed-Income/Mixed-Use Developments

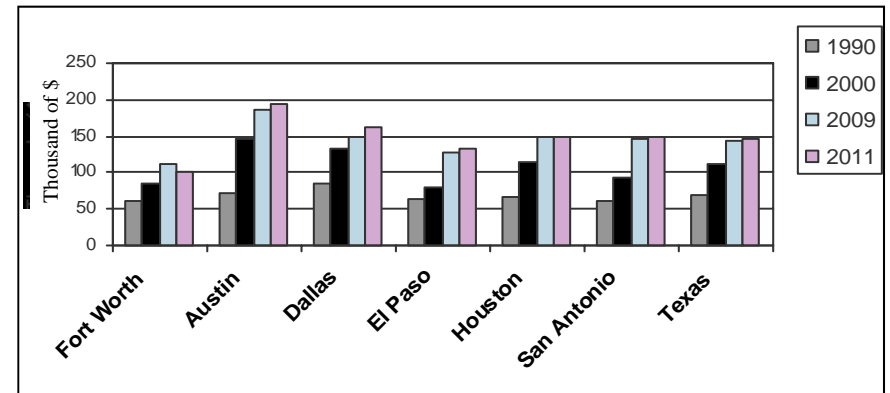
Promotion of mixed-income and mixed-use developments has been a trend nationally as well as in Fort Worth in recent years, yielding new development near Downtown and in designated urban villages and neighborhood empowerment zones (NEZs). The West Seventh development is part of the city's most successful urban village to date. It boasts low vacancy rates for residential units, as well as an energetic vibrancy in a formerly run-down industrial district.

Other areas with very strong potential for accommodating mixed-income residential development within vibrant mixed-use neighborhoods are identified as Transit-Oriented Development (TOD) sites along the TEX Rail Corridor. Located at planned commuter rail stations all along the corridor, TOD sites are being planned and zoned specifically to accommodate higher density residential projects with mixed-income components—all within walking distance of the commuter rail stations. As these TOD sites develop, they will generate extensive redevelopment opportunities and ultimately create, attractive and sought-after neighborhood centers where living, shopping, dining, entertainment, and jobs all can be found just steps from a train station that connects residents to Downtown, DFW Airport, and other job and activity centers.

Homeownership Costs

Relative to most cities in Texas and elsewhere in the nation, Fort Worth is considered

Median Housing Prices in Selected Cities, 1990 to 2011



While housing prices have risen substantially statewide, Fort Worth housing has remained relatively affordable, but this affordability gap is shrinking. In 2011, the median price of a house in Fort Worth was \$101,300, a 20.2 percent increase from the 2000 median of \$83,900. Importantly, as the chart above depicts, Fort Worth is alone among major Texas cities in experiencing a noticeable reduction in median housing price between 2009 and 2011. (Source: Real Estate Center at Texas A&M, 2011.)

Single-Family Housing Development



Single-family housing in far north Fort Worth. (Source: Star-Telegram, 2011.)

to have excellent housing affordability. In the fourth quarter of 2010, the Texas A&M Real Estate Center estimated that the local median household income was 3.66 times the amount necessary for purchasing the city's median-priced home. This compares more favorably than the statewide affordability index of 2.42 and the national index of 2.29. However, due to the economic downturn, newly-constructed homes are 13 percent less expensive than the April 2010 median price of \$116,100. As of June 2009, the median annual income for a family of four in Fort Worth was \$66,000 according to the U.S. Department of Housing and Urban Development (HUD).

Housing affordability is affected by many factors, such as construction costs, land values, interest rates, and regional market demand. Low mortgage interest rates in recent years have helped make homeownership possible for many low-income and moderate-income families.

In 2011, the median sale price for a Fort Worth home was \$101,300. Fort Worth homes are still more affordable than in neighboring cities such as Dallas and Arlington, where median prices were \$161,100 and \$122,500 respectively. Though sales of homes priced under \$80,000 represented fully 46 percent of all homes sold in 2000, by 2010 this proportion had shrunk to 26.8 percent. During the same time period, the proportion of homes selling for over \$160,000 increased from 14 percent of the market to 26.2 percent of all homes sold in 2010.

At the higher end of the affordability scale, Fort Worth has both a limited supply of high-end housing for upper income households, and a limited number of very-high-income buyers seeking such housing. Over 30 percent of homes sold in 2010 were priced over \$140,000, according to the Real Estate Center at Texas A&M. At the time of the 2009 American Community Survey, households with incomes over \$100,000 (the market for "executive" housing) represented 17.1 percent of Fort Worth, with homes valued at \$300,000 or more representing only 7.2 percent of single-family owner-occupied dwellings. It appears that some higher income households may choose not to purchase residences commensurate with their incomes, as the ratio of highly priced housing to high incomes varies throughout Texas cities. Also, area suburbs with more varied and plentiful high-end newer housing with updated amenities effectively compete with Fort Worth in attracting newly arriving high-income families.

One tool to promote mixed-income development is NEZ tax abatements. NEZ incentives also encourage repairs and improvements to existing housing stock. NEZ areas represent 29.5 square miles within the central city. From 2001 to mid-2010, the NEZ program provided \$3.9 million in basic incentives (permit or development fee waivers and lien forgiveness), approximately \$2.1 million in actual taxes abated on projects totaling over \$239 million, and approximately 2,500 projects supporting nearly \$1.7 billion in investments by the end of 2010. The greatest volume of activity has been seen in the Magnolia Village and Berry/University NEZ areas. Other areas with strong NEZ activity are Stop Six, Rolling Hills, Trinity Park, and Ridglea/Como.

Mixed-Use Development



The West Seventh development near downtown provides a walkable environment to live, work, and play. (Source: WEST 7TH, 2011.)

Rental Housing Costs

The local rental market since 2000 has been relatively affordable due to two key factors: slow formation of new households in a fluctuating economy, and low interest rates which have given many renters the opportunity to become homebuyers. Though rental prices increased over the past year according to ALN Systems, the overall occupancy rate in Fort Worth apartments in 2009 was still low at 87 percent, with the average rent only \$673. The Fair Market Rent (FMR) set by HUD in the Fort Worth/Arlington area is presently \$689 for a 1-bedroom, \$838 for a 2-bedroom, and \$1,120 for a 3-bedroom. MPF Research reported the citywide average rents for early 2008 were \$588, \$761, and \$972 for these unit sizes, indicating an affordable rental market.

Though apartment rental is less expensive in Fort Worth than in many other areas, analysis of special tabulations of Census data provided by HUD indicate that there is a significant mismatch between affordable housing and low-income households. That is, many of the affordable units in the Fort Worth rental market are occupied by higher income households.

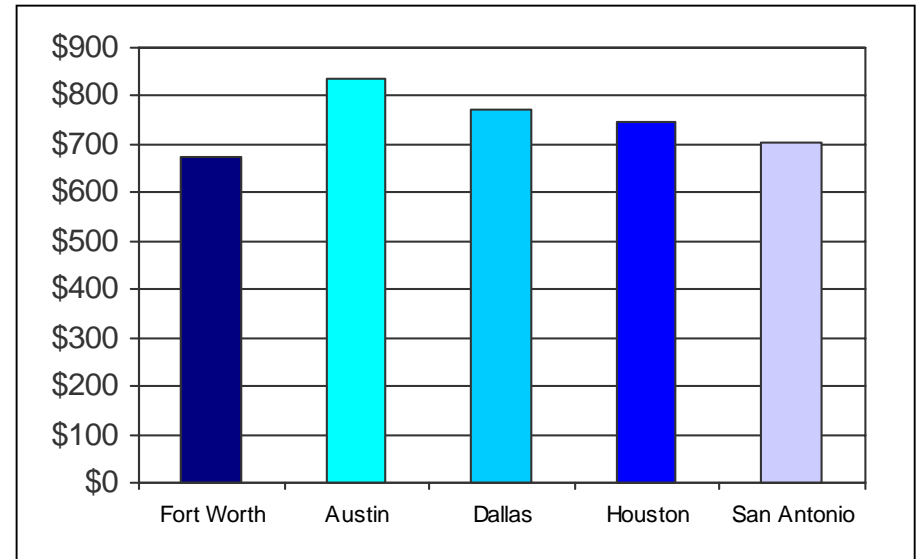
Analysis of the HUD data also indicates that there are particular household types that are likely to have significant housing problems such as excessive cost (relative to the family’s income), overcrowding, and substandard physical conditions. These household types include large families, particularly those with low incomes; renters with incomes under 50 percent of the area median (over 70 percent reporting housing problems); and very low income owners (69 percent in this category reported housing problems). Minority and disabled populations are particularly likely to have difficulty finding quality affordable housing to rent.

Housing cost burden is the fraction of a household’s total gross income spent on housing costs. For renters, housing costs include rent paid by the tenant plus utilities. For owners, housing costs include mortgage payments, taxes, insurance, and utilities. Of all households, 25.7 percent, report a housing cost burden greater than 30 percent and 11 percent report a severe cost burden greater than 50 percent of income. A housing problem defined as having a cost burden greater than 30 percent of their income and/or overcrowding (1.01 or more persons per room) and/or without complete kitchen or plumbing facilities (substandard conditions) and is experienced by 33.9 percent of all households. The City of Fort Worth uses cost burden to prioritize applications for housing projects such as minor rehabilitation on home, emergency repair, weatherization, and homebuyer resources.

Assisted Housing

Assisted housing in Fort Worth includes those units managed by the Fort Worth Housing Authority (FWHA), and other units subsidized by federal and state programs such as the state’s Low Income Housing Tax Credit (LIHTC) and bond programs, or HUD’s multifamily loan and insurance programs. A total of 16,863 such assisted units are located within Fort Worth (not including FWHA rental assistance vouchers). Including Housing Choice Vouchers and Shelter Plus Care rental assistance vouchers, there are approximately 22,160 assisted housing units in Fort Worth representing 7.6 percent of Fort Worth’s 2009 total of 287,896 housing units, and approximately 26 percent of all multifamily housing.

Average Apartment Rent, 2011



In 2011, Fort Worth’s average apartment rent of \$675 was less than average rents in Austin, Dallas, and Houston. (Source: www.ALNsystems.com, 2011.)

2009 Fair Market Rents (FMR) by Unit Bedrooms

Efficiency	1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
\$648	\$689	\$838	\$1,120	\$1,240

(Source: City of Fort Worth 2010-2013 Consolidated Plan, 2011.)

Lower Income Distribution Among 4-Person Households

Extremely Low-Income		Low-Income		Moderate-Income	
30,084 households		26,733 households		41,390 households	
15 percent of total		14 percent of total		21 percent of total	
Renter	Owner	Renter	Owner	Renter	Owner
19,139	10,945	15,186	11,547	21,432	19,958

(Source: City of Fort Worth 2010-2013 Consolidated Plan, 2011.)

FWHA currently manages 1,354 units of public housing and 1,381 units of affordable housing, in addition to administering 5,620 Housing Choice Vouchers. FWHA owns and administers five conventional public housing complexes: Butler Place Apartments, J.A. Cavile Place Apartments, Hunter Plaza Apartments, Fair Oaks Apartments, and Fair Park Apartments. These projects were built between 1941 and 1988, and have benefited from extensive capital improvement and renovation between 2005 and 2009. FWHA also manages seven mixed-income sites. Many residents within these complexes are in need of supportive services. Services are designed to assist residents in achieving self-sufficiency so that they can live independently and enhance their quality of life.

The Housing Choice Voucher Program operated by FWHA provides rental subsidies to 5,620 low-income tenants who lease eligible properties owned by private landlords. The tenants pay no more than 30% of their monthly adjusted income for rent and utilities, and the voucher subsidy pays the remainder of the rent directly to the landlords. The subsidy is granted to the tenant – when they move, the rental subsidy goes with them.

Additionally, the FWHA provides subsidies for or manages Program (formerly Section 8) vouchers, 1320 public housing units, 454 Shelter + Care slots, 70 Single Room Occupancy units, and 200 FEMA or HUD funded Disaster Housing Assistance Program and Disaster Voucher Program vouchers.

Like most larger older cities, Fort Worth is faced with the challenges of integrating residents into the larger community and physically improving traditional, older developments. The FWHA is pursuing de-concentration of publicly assisted housing through redevelopment of older public housing sites, creation of mixed-income communities, and acquisition/rehabilitation of existing multi-family properties to preserve existing affordable housing while improving its quality and sustainability. Funds obtained from the sale of the Ripley Arnold development in Downtown were used for the Overton Park and Stonegate Villa projects, and Low Income Housing Tax Credits were used for the Candletree, Cambridge Court, and Samuels Avenue projects.

Project-based rental assistance helped 1,800 eligible families at specific multifamily complexes in Fort Worth in 2006. The FWHA manages 344 such units at six complexes in the city, as well as 384 units in two Affordable Housing Disposition Program (AHDP) properties. AHDP tenants pay a fixed rental amount, regardless of income, without rental subsidy. In addition, the FWHA owns two mixed-income properties: Overton Park Townhomes with 54 public housing units and Stonegate Villas with 58 public housing units. FWHA also has an agreement with the owner/developer of Sycamore Center Villas for 47 units that will be maintained as public housing units for 50 years.

Although FWHA has significantly increased the availability of affordable housing over the past decade, the economic downturn beginning in 2008 has led to an increase in demand that threatens to outpace these achievements. Despite adding 213 public housing units, 1,120 Housing Choice Vouchers (HCV), and 209 Special Programs

Cost Burdens and Housing Problems by Income Group

	Extremely Low-Income		Low-Income		Moderate-Income	
	Renter	Owner	Renter	Owner	Renter	Owner
Cost Burden	72.8%	66.1%	62.3%	43.4%	21.1%	25%
25.7 percent of all Fort Worth households report a housing <i>cost burden</i> greater than 30 percent, and 11 percent report a cost burden greater than 50 percent.						
Severe Cost Burden	55.8%	45.4%	13.8%	14.9%	2.3%	5.1%
A <i>severe cost burden</i> exists when households spend more than 50 percent of their income on housing. 33.9 percent of all households report a severe cost burden.						
Housing Problem	77.1%	70.1%	73.3%	52.0%	35.3%	37.2%
A <i>Housing problem</i> is defined as having a cost burden greater than 30 percent of their income and/or overcrowding (1.01 or more persons per room) and/or without complete kitchen or plumbing facilities.						

(Source: City of Fort Worth 2010-2013 Consolidated Plan, 2011.)

Central City Redevelopment



One way of increasing housing units in the Central City is by creating and promoting new single-family developments using vacant lots in existing neighborhoods. (Source: Housing and Economic Development Department, 2011.)

units, 7,698 families and individuals remain on the FWHA waiting list: 3,394 for public housing, 4,265 for HCV assistance, and 40 for Special Programs (clients who were formerly homeless).

Homelessness

In 2011, the Tarrant County Homeless Coalition, with Tarrant County Community Development and the cities of Fort Worth and Arlington, counted 2,169 homeless persons in Tarrant County. This number includes persons who are unsheltered—including, for example, persons living on the streets, under bridges, or in structures not intended for human habitation—as well as those living in emergency shelters (e.g., the Presbyterian Night Shelter), Transitional Housing programs, and Safe Haven at the Presbyterian Night Shelter. More than 85 percent of Tarrant County’s homeless reside in Fort Worth. Over 80 percent of the transitional and permanent supportive housing units for the homeless are in Fort Worth as well.

Chronic homelessness—a HUD definition that includes disabled, unaccompanied individuals who have either been homeless for more than a year or homeless more than four times in three years—is on the rise in Fort Worth and Tarrant County. The 2009 Point in Time survey estimated that, at minimum, 16 percent of the homeless in Tarrant County are chronic. This is a high priority population for both HUD grant funding and the City of Fort Worth because they are the most likely to have a significant impact on neighborhood quality of life and local government emergency response systems, including police, fire, public health, and hospital emergency rooms.

Services for homeless persons in Fort Worth are generally provided by non-profit or faith-based organizations, with significant assistance from federal grant funding administered by Fort Worth and Tarrant County. The operation of local homeless shelters and small homelessness prevention programs are supported with HUD Emergency Shelter Grants. Tarrant County provides staffing support to the Homeless Coalition for the annual Continuum of Care grant proposal—the Continuum received over \$9.5 million for 2008. These funds pay for transitional or permanent housing for formerly homeless persons, and accompanying support services. The Continuum of Care grant includes “Shelter Plus Care” assistance administered by the Fort Worth Housing Authority on behalf of over 500 disabled individuals and families, as well as two non-profit Single Room Occupancy (SRO) facilities for homeless persons with special needs: the 52-unit Samaritan House and the 18-unit New Life Center.

In January 2008, the Corporation for Supportive Housing, a non-profit organization which specializes in homeless needs, produced a Permanent Supportive Housing Model for Tarrant County, Texas. The housing approach assumed that 544 units of permanent supportive housing were needed for the chronically homeless singles, singles at risk of being homeless and chronically homeless families. The units were expected to come from existing privately owned apartments (82 units); units that would be newly constructed and/or substantial rehabilitation of 1-3 bedroom units (452 units); and units which would be newly constructed and/or substantial rehabilitation of 3 bedroom units (10 units). At the end of 2009, through the City of Fort Worth General Fund and HUD funds through the FWHA, 162 units intended for the chronically homeless were filled.

Homeless Population Characteristics

	2007	2009	2011	Change 2009-2011	Change 2007-2011
Unsheltered	203	195	136	-30.3%	-33.0%
Emergency Shelter	1,246	1,117	1,127	-0.9%	-8.1%
Safe Haven	20	20	20	0%	0%
Transitional Housing	953	838	853	1.8%	-30.5
TOTALS	2,676	2,181	2,169	-0.6%	-18.9%

There was a decrease in the overall homeless population in Tarrant County in 2011. (Source: Tarrant County Homeless Coalition, 2011.)

On June 17, 2008 the Fort Worth City Council adopted a 10-year Homelessness Plan, *Directions Home: Making Homelessness Rare, Short-Term and Non-Recurring in Fort Worth, Texas Within Ten Years*. The seven key strategies to the Plan are:

- Increase the Supply of Permanent Supportive Housing
- Expand Opportunities and Services Linked with Accountability
- Develop and Operate a Central Resource Facility
- Coordinate and Expand Homelessness Prevention Initiatives
- Support and Strengthen Existing Public, Private and Faith-based efforts
- Mitigate the Negative Community Impacts of Homelessness
- Lead, Educate, and Advocate for Change.

Fair Housing

In 1992, the City of Fort Worth adopted a Fair Housing Ordinance with an enforcement mechanism "substantially equivalent" to that of HUD. The Fort Worth Human Relations Unit (HRU) is responsible for enforcement of the City's anti-discrimination ordinance and federal housing, employment and accommodation laws. The HRU also provides:

- Education for nonprofit and for-profit entities regarding predatory lending.
- Fair housing education to landlords, lenders, realtors, developers and other housing-related businesses.
- Housing resource handbooks for residents and housing providers.
- A multi-lingual, multimedia fair housing and fair employment education campaign and information resources.

GOALS AND OBJECTIVES

Preserve and improve existing affordable owner-occupied housing units.

- Rehabilitate 43 units in FY12 through the grant-funded Home Improvement Program.
- Construct approximately six single-family infill housing units in FY12.
- Provide emergency and weatherization repair assistance to 320 low- and very low-income homeowners in FY12.
- Through the Cowtown Brush-Up program, paint 150 existing owner-occupied housing units in 2011.
- Provide lead controls to 75 owner-occupied homes.

Increase homeownership in Fort Worth.

- Provide homebuyer assistance including closing cost assistance for 60 low- and very low-income homebuyers in FY12.
- Provide homeownership information, budget, and credit counseling to 100 families throughout Tarrant County in FY12.

Increase the number of quality affordable rental units for low-income renters.

- Increase affordable rental housing by 15 units in FY12.
- In FY12, implement a proposed Crime Free Multi-housing ordinance by verifying the city's 500+ apartment complexes have complied with the new regulations.

Multifamily Rehabilitation



One of the key goals of the Mayor's Advisory Commission on Quality Affordable Housing is to encourage rehabilitation of older multifamily housing. The pictures above show the front and back facades of an existing building needing rehabilitation. The sketch portrays proposed rehabilitated complex. The rehabilitation is achieved using Low Income Housing Tax Credits leveraged with HOME grant funds from the City of Fort Worth. (Source: *Housing and Economic Development Department, 2011.*)

Provide a range of housing options for populations with special needs, including the elderly, persons with disabilities, and homeless.

- Support at least one project application per year from non-profit or for-profit developers for new special needs housing for elderly, disabled, or the homeless.
- By year 2014, assist in the development of 544 permanent supportive housing units and 1,088 units by year 2018 as identified in Directions Home.
- Assist non-profit service providers in removing architectural barriers for 105 housing units in FY12.

Ensure equal housing opportunity in Fort Worth for all citizens.

- Provide housing counseling programs for homeowners and renters, serving 1,200 clients annually.

- Provide landlord and lender education on fair housing, serving 400 each year.

The 2003 Downtown Fort Worth Strategic Action Plan, sponsored by the City of Fort Worth, Downtown Fort Worth, Inc., and the Fort Worth Housing Authority, has the following goals and objectives:

- Significantly increase the amount of housing available in the Downtown core, core edge, and adjoining neighborhoods such as Trinity Uptown and the Near Southside.
- Create strong neighborhoods close to Downtown where family housing already exists, offering a mixture of income levels and housing types, while enhancing access to parks and river amenities.
- Create a Downtown Community Development Corporation to coordinate public funds and leverage private sector funds, encouraging central city housing.
- Continue to promote specific public incentives to encourage Downtown and central city housing development.

POLICIES AND STRATEGIES

The existing and recommended policies and strategies listed below will be instrumental in achieving the above goals:

Policies

- Ensure equal housing opportunity in Fort Worth for all citizens.
- Promote the development of high-quality market-rate and affordable housing using appropriate design standards to ensure lasting value.
- Encourage and provide support for higher density, mixed-use, mixed-income developments in Transit-Oriented Developments, mixed-use growth centers, and urban villages.
- Use Neighborhood Empowerment Zones to promote development of designated urban villages and revitalization of surrounding neighborhoods.
- Promote the rehabilitation of older housing stock to increase housing values within the central city.
- Promote neighborhood stability through a comprehensive and coordinated strategy that includes housing, neighborhood economic development, infrastructure, parks, safety, and human services.
- Enhance capacity to address affordable housing needs by partnering with the

Key Near-Term Housing Objectives

- ❑ Rehabilitate 43 units in FY12 through the grant-funded Home Improvement Program.
- ❑ By year 2014, assist in the development of 544 permanent supportive housing units and 1,088 units by year 2018 as identified in Directions Home.
- ❑ Provide homebuyer assistance including closing cost assistance for 60 low- and very low-income homebuyers in FY12.
- ❑ In FY12, implement a proposed Crime Free Multi-housing ordinance by verifying the city's 500+ apartment complexes have complied with the new regulations.

Samaritan Housing for Special Needs



Samaritan Housing Inc. developed affordable housing in the Near Southside using Low Income Housing Tax Credits from the Texas Department of Housing and Community Affairs. (Source: *Housing and Economic Development Department, 2011.*)

- private sector and neighborhoods.
- Foster the preservation, improvement, and development of affordable rental and ownership housing in accordance with the City’s Comprehensive Plan.
- Fund and implement strategies outlined in the City’s Homelessness Plan, Directions Home.
- Provide a range of housing options for the elderly, with special focus on low-income households.
- Provide a continuum of housing options and support services for persons with disabilities.
- Integrate and disperse affordable housing and low income housing into neighborhoods throughout the City.
- Support neighborhood initiatives to regulate the design of industrialized and site-built housing so as to preserve neighborhood character.

Strategies

- Aggressively expand land assembly for infill housing, particularly in designated urban villages, mixed-use growth centers, rail station areas that support Transit-Oriented Development, and Neighborhood Empowerment Zones.
- Support Fort Worth Housing Authority efforts to improve public housing, including mixed-income and mixed-use developments.
- Encourage high quality infill and mixed-income housing development, both single-family and multifamily, within the central city.
- Support Southeast Fort Worth Inc. in its efforts to encourage single-family residential development in southeast Fort Worth.
- Support new housing development in the Lake Arlington area, particularly new development of high quality in accordance with Council-endorsed Lake Arlington Master Plan.
- Evaluate incentives and ordinances affecting the availability of all price levels of housing; work with developers and community leaders to identify and address impediments to creation of middle and upper income housing in the central city.
- Work with lenders to provide low-interest loans for rehabilitation of owner-occupied housing units.
- Develop strategies to expedite the foreclosure of tax delinquent properties.
- Expand rehabilitation of older housing by providing gap financing for both single-family and multifamily housing.
- Strengthen and expand CDC capacity through structured training and technical assistance and increased funding.
- Implement strategies and action items in the City’s Homelessness Plan, Directions Home, to facilitate the homeless population’s transition into housing.
- Help coordinate the City’s development process for priority housing development projects.
- Where concentrations of low-income housing are high, support rehabilitation and stabilization of existing units and replacement of substandard housing with a mix of affordable and market-rate units, and undertake a demonstration mixed-income housing project. In other areas of the City, support development of new affordable housing.

**Neighborhood Empowerment Zone
Tax Abatement Incentives**



These projects within the Ridglea/Como Neighborhood Empowerment Zone (NEZ) are examples of the type of high-quality new development that is encouraged by the NEZ program. In accordance with guidelines, 20 percent of the rental units in these projects are affordable to households whose incomes are at or below 80 percent of the area median income. (Source: Housing and Economic Development Department, 2011.)

- Conduct an assessment of housing conditions and treat houses with the presence of lead, specifically in households with children under the age of six.
- Provide support for small, local, minority, and women-owned businesses to participate in implementing housing and related programs.

PROGRAMS AND PROJECTS

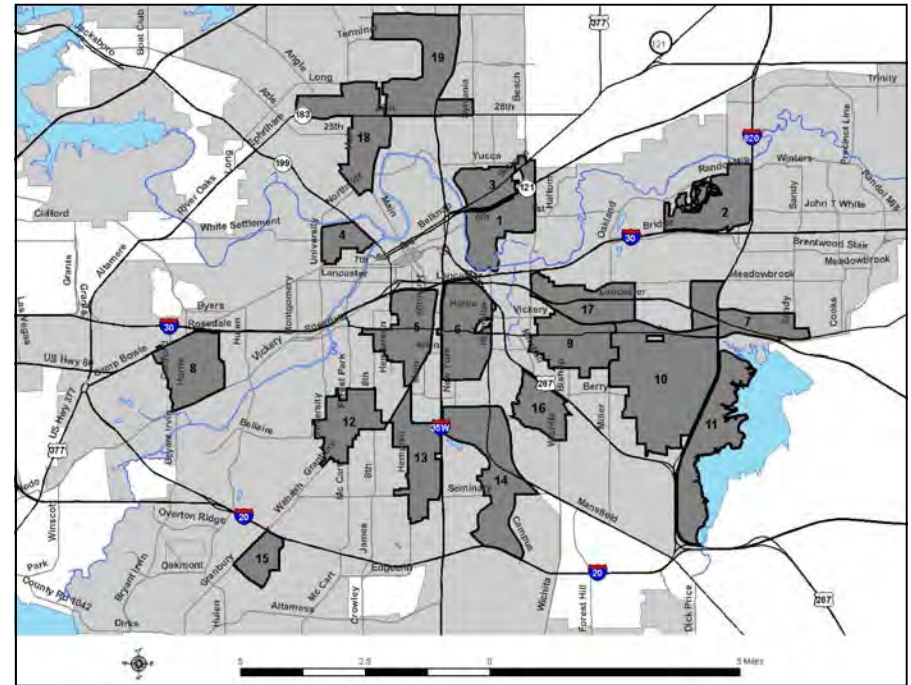
The housing programs listed below are offered by the City’s Housing and Economic Development Department, often in partnership with entities such as the Fort Worth Housing Authority, neighborhoods, non-profit organizations, developers, and lending institutions.

- Home Improvement Loans to make repairs on existing owner-occupied housing units.
- Closing Cost and Soft Second Mortgage Assistance Program provides subsidies to low-income first time homebuyers. The maximum amount of the subsidy is determined by location of the home within or outside a target area.
- Neighborhood Empowerment Zone (NEZ) Program is a City Council initiative encouraging central city revitalization. Development incentives such as tax abatements and fee waivers, authorized by state law, have been approved by the City Council. There are currently 19 NEZs in Fort Worth.
- Emergency Repair Program removes immediate threats to homeowner health and safety such as urgent plumbing deficiencies and heating emergencies.
- Cowtown Brush-Up helps qualified elderly, disabled, and low-income residents. Pre-selected homes are painted by teams of volunteers, using donated paint and supplies, in a one-day blitz.
- Weatherization Assistance Program assists very low-income households throughout Tarrant County by providing insulation, energy-efficient windows and appliances, caulking, and installation of other energy saving devices.
- Community Housing Development Organization (CHDO) program offers certified eligible housing non-profits financial support from City HOME funds for operating costs, predevelopment loans, or affordable housing project funding on a loan or a grant basis based on project feasibility.
- Housing Finance Corporation has authority to issue single-family or multifamily mortgage revenue bonds to support housing development as appropriate projects are identified.

Capital Improvement Projects

Capital improvements are listed in Appendices D and E, along with potential funding sources. The listed projects are ongoing housing projects undertaken by the Housing and Economic Development Department that involve multiple projects and partners throughout the City.

Neighborhood Empowerment Zones



- | | |
|---------------------|-------------------------------|
| 1. Riverside | 11. Lake Arlington |
| 2. Woodhaven | 12. Berry/University |
| 3. Six Points | 13. Berry/Hemphill |
| 4. Trinity Park | 14. Rolling Hills |
| 5. Magnolia | 15. Wedgwood |
| 6. Evans/Rosedale | 16. Berryhill/Masonic Heights |
| 7. Historic Handley | 17. Oakland Corners |
| 8. Ridglea/Como | 18. Northside |
| 9. Polytechnic/TWU | 19. 28th Street/Meacham |
| 10. Stop Six | |

The Neighborhood Empowerment Zone (NEZ) program encourages Central City revitalization through development incentives. The most recently created NEZs are Six Points, Northside, and 28th Street/Meacham. (Source: Housing and Economic Development Department, 2011.)



****Please bring a copy of this letter and the attached Approved Plans with you upon permit submittal to ensure your fees will be waived****

ALL contractors and sub-contractors are required to provide a copy of the NEZ Certification letter and/or number for any permitting fees to be waived. Refunds will not be given if this information was not provided at the time of permit application

November 4, 2019

**Palladium USA International, Inc / Palladium Fain Street LTD / Palladium USA, Inc
Thomas Huth
13455 Noel Rd Ste 400
Dallas, Tx 75240**

Re.: Neighborhood Empowerment Zone (NEZ) Project Certification NZ19-00833

Dear Mr. Huth,

We are pleased to inform you that your NEZ project certification application for the following properties has been approved.

**Address: 4001 FAIN ST CFW; GREEN ACRES ADDITION-FT WORTH Block 1 Lot 1E
TAD Acct 04972457**

NEZ Area: NEZ Area Four

Scope of Work: New Construction of Multi-family Development (108 Units) -Maintenance and Clubhouse are included in certification. Applicant has confirmed that the project we will be using masonry and cementitious siding on the exterior

NEZ certifications are specific to the project and owner(s) of the property. If the property is sold, the NEZ certification does not transfer to the new owner. If the original scope of work has changed or an additional scope of work is added, secondary approvals may apply.

The above property is eligible for the following applicable NEZ incentives based on plans & scope of work approved; any fees not listed below will not be waived.

- Waiver of all building permit related fees (including plans review and inspections)
- Waiver of plat application fee (including preliminary plat, final plat, short form replat)
- Waiver of Board of Adjustment application fee
- Waiver of demolition fee

- Waiver of structure moving fee
- Waiver of Community Facilities Agreement (CFA) application fee
- Waiver of zoning application fee
- Waiver of street and utility easement vacation application fee
- Ordinance Inspection fees
- Consent/Encroachment agreement application fees
- Transportation Impact Fees
- Urban Forestry Application Fees
- Sign Permit Fees
- Waiver of some Impact fees: The maximum water/wastewater impact fee waiver amount for a commercial, industrial, mixed-use, or community facility development project is equivalent to the water/wastewater impact fee of two 6-inch meters or a maximum of \$55,000.00; whichever is less

If you are not applying for a tax abatement, you may visit the Planning and Development department to apply for your permits. All building permits must be applied by **11/4/2024**.

For applicants who requested the Tax Abatement incentive:

By this letter, the City is not approving any tax abatement for the certified project or property/properties. To receive your tax abatement, the owner will need to enter into a tax abatement agreement with the City of Fort Worth through the Neighborhood Services Department **before submitting for building permits**. Please contact 817-392-7540 and ask to speak to a Tax Abatement staff person.

Please be aware of your permit expiration dates and contact us before they expire to avoid penalty fees.

Please call 817-392-7540 or 817-392-7744 or email nez_ns@fortworthtexas.gov if you have any questions regarding this information.

Sincerely,

Victoria Rainbow-Jackson

Neighborhood Empowerment Zone Program

A Resolution

NO. 5190-02-2020

SUPPORTING A HOUSING TAX CREDIT APPLICATION FOR PALLADIUM FAIN STREET APARTMENTS, COMMITTING DEVELOPMENT FUNDING, DETERMINING THAT PALLADIUM FAIN STREET APARTMENTS CONTRIBUTES MORE THAN ANY OTHER DEVELOPMENT TO THE CITY'S CONCERTED REVITALIZATION EFFORTS IN NEIGHBORHOOD EMPOWERMENT ZONE AREA FOUR, AND ACKNOWLEDGE THAT PALLADIUM FAIN STREET APARTMENTS IS LOCATED ONE LINEAR MILE OR LESS FROM A DEVELOPMENT THAT SERVES THE SAME TARGET POPULATION

WHEREAS, the City's 2019 Comprehensive Plan is supportive of the preservation, improvement, and development of quality, affordable, accessible housing;

WHEREAS, the City's 2018-2022 Consolidated Plan makes the development of quality, affordable, accessible rental housing units for low income residents of the City a high priority;

WHEREAS, Palladium Fain Street, Ltd., an affiliate of Palladium USA, Inc., has proposed a development for affordable multifamily rental housing named Palladium Fain Street Apartments to be located at 4001 Fain Street in the City of Fort Worth;

WHEREAS, Palladium Fain Street, Ltd. has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs ("**TDHCA**") for 2020 Competitive (**9%**) Housing Tax Credits for the Palladium Fain Street Apartments, a new complex consisting of approximately **90** units, of which at least ten percent (**10%**) of the total units will be set aside for households earning at or below 30% Area Median Income and at least ten percent (**10%**) of the total units will be market rate units;

WHEREAS, TDHCA's 2020 Qualified Allocation Plan ("**QAP**") provides that an application for Housing Tax Credits may receive seventeen (**17**) points for a resolution of support from the governing body of the jurisdiction in which the proposed development site is located;

WHEREAS, the QAP also states that an application may receive one (**1**) point for a commitment of development funding from the city in which the proposed development site is located;

WHEREAS, the QAP also provides that an application may qualify for an additional two (**2**) points if a development is explicitly identified in a resolution as "contributing more than any other to the concerted revitalization efforts" of a municipality;

WHEREAS, the City created Neighborhood Empowerment Zones ("**NEZ**") beginning in 2001 in accordance with Chapter 378 of the Texas Local Government Code in order to promote affordable housing and economic development in the designated zones. The City consolidated its 20 NEZs into (**6**) NEZs in January 2019 (M&C G-19469). All of the City's NEZs are included in the City's annual

Comprehensive Plan as part of its goal of revitalizing central city neighborhoods and commercial districts (2019 Comprehensive Plan, Part II, Chapter 5:Housing);

WHEREAS, the Palladium Fain Street Apartments are located in NEZ Area Four; and

WHEREAS, the City has determined that the application for Palladium Fain Street Apartments submitted to TDHCA by Palladium Fain Street, Ltd. qualifies as the development contributing more than any other to the concerted revitalization efforts of the City in NEZ Area Four; and

WHEREAS, the QAP states that the governing body of the appropriate municipality where the development is to be located must by vote specifically allow the construction of a new development located within one (1) linear mile or less from a development which serves the same target population.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

The City of Fort Worth, acting through its City Council, hereby confirms that it supports the application of Palladium Fain Street, Ltd. to the Texas Department of Housing and Community Affairs for 2020 Competitive (9%) Housing Tax Credits for the purpose of the development of the Palladium Fain Street Apartments to be located at 4001 Fain Street (TDHCA Application No. 20025), and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.

The City of Fort Worth, acting through its City Council, additionally confirms that it will commit to fee waivers in an amount not exceed **\$2,500.00** to Palladium Fain Street, Ltd. conditioned upon its receipt of Housing Tax Credits. The City Council also finds that the waiver of such fees serves the public purpose of providing quality, accessible, affordable housing to low and moderate income households in accordance with the City's Comprehensive Plan and Action Plan, and that adequate controls are in place through the City's Neighborhood Services Department to carry out such public purpose.

The City of Fort Worth, acting through its City Council, hereby identifies Palladium Fain Street Apartments (TDHCA Application No. 20025) as the development in the 2020 Competitive (9%) Housing Tax Credit Application round that contributes more than any other to the concerted revitalization efforts of the City in Neighborhood Empowerment Zone Area Four, and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.

The City of Fort Worth acknowledges that Palladium Fain Street Apartments is located one (1) linear mile or less from a development that serves the same target population as the proposed Palladium Fain Street Apartments and has received an allocation of Housing Tax Credits for new construction and adaptive reuse after **January 3, 2017**.

The City of Fort Worth, acting through its City Council, further confirms that the City has not first received any funding for this purpose from the applicant, affiliates of the applicant, consultant, general

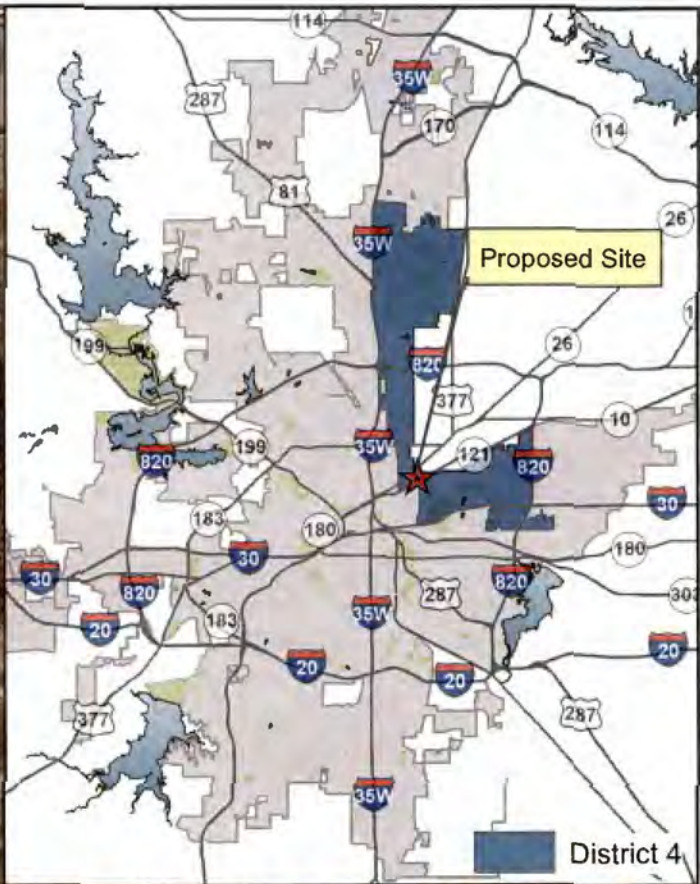
contractor or guarantor of the proposed development or any party associated in any way with the applicant, Palladium Fain Street, Ltd.

Adopted this 18th day of February 2020.

ATTEST:

By: 
Mary J. Kayser, City Secretary





Palladium Fain Street Apartments | District 4

 Palladium Fain Street Apartments



0 0.0425 0.085 Miles

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Mayor and Council Communication

DATE: 02/18/20

M&C FILE NUMBER: M&C 20-0083

LOG NAME: 192020CHTC

SUBJECT

Consider and Adopt Resolutions of Support and Resolutions of No Objection for 2020 Competitive Housing Tax Credit Applications, Approve Commitments of Development Funding, Determine which Developments Contribute More than any Others to the City's Concerted Revitalization Efforts, Acknowledge the One Mile Three Year Rule and Make Related Determinations (COUNCIL DISTRICTS 2, 3, 4, 5, 6, 8 and 9)

RECOMMENDATION:

It is recommended that the City Council:

1. Acknowledge the receipt of requests for City support for applications to the Texas Department of Housing and Community Affairs for 2020 Competitive (9%) Housing Tax Credits from various developers;
 2. Consider and adopt the attached Resolutions of Support and Resolutions of No Objection for 2020 applications for Competitive (9%) Housing Tax Credits for the multifamily housing developments listed below to be located at various sites throughout the City;
 3. Approve fee waivers in an amount not to exceed \$2,500.00 as the City's commitment of development funding for each of the developments that receive a Resolution of Support, find that the fee waivers for these developments serve the public purpose of providing quality, accessible, affordable housing for low to moderate income households in accordance with the City's Comprehensive Plan and Annual Action Plan, and find that adequate controls are in place through the Neighborhood Services Department to carry out such public purpose;
 4. Determine that The St. Giles, The Park Tower, Crossroads Apartments, Cowan Place, Avenue at Sycamore Park, and Palladium Fain Street Apartments are the developments that contribute more than any others to the City's concerted revitalization efforts either in an Urban Village, a Tax Increment Financing District, a Neighborhood Empowerment Zone, a distinct area within a Neighborhood Empowerment Zone with a Strategic Plan, or an adopted Transformation Plan;
 5. Acknowledge that the Crossroads Apartments and Cowan Place are each located in a census tract with a poverty rate above 40 percent for individuals, and authorize these developments to move forward with their applications for tax credits; and
 6. Acknowledge that Crossroads Apartments and the Palladium Fain Street Apartments are each located one linear mile or less from developments that serve the same target population and which received an allocation of Housing Tax Credits for new construction and adaptive reuse after **January 3, 2017**.
-

DISCUSSION:

On November 19, 2019, the City Council adopted a policy for City support of applications to the Texas Department of Housing and Community Affairs (TDHCA) for Noncompetitive (4%) and Competitive (9%) Housing Tax Credits and for City commitments of development funding (M&C 19-0318). This year the City received eleven applications from developers requesting Resolutions of Support for proposed 9% tax credit developments in Fort Worth. Staff has reviewed the applications for consistency with the City's policy.

Resolutions of Support:

Staff requests that the City Council consider and adopt Resolutions of Support for the following developments as they have met the unit set aside criteria and notification requirements outlined in the City's policy. Additionally, all of these developments are located in close proximity to jobs, retail, transit and services.

Resolutions of Support, Local Development Funding, Concerted Revitalization Plan:

The following developments are also recommended to receive local Commitments of Development Funding and are the ones that contribute more than any other to the City's Concerted Revitalization Plans:

- **The St. Giles** to be developed by HTG St. Giles, LLC, an affiliate of Housing Trust Group, to be located at 2707 Decatur Avenue (Council District 2). The site for the proposed development is zoned "K" - Heavy Industrial, proposed to be changed to "PD" - planned development. The proposed development will not be tax exempt.
- **The Park Tower** to be developed by HTG Jacksboro, LLC, an affiliate of Housing Trust Group, to be located at 1209 Jacksboro Highway (Council District 2). The site for the proposed development is zoned "F" - General Commercial, proposed to be changed to "C" - Medium Density Multifamily. The proposed development will not be tax exempt.
- **Avenue at Sycamore Park** to be developed by CSH Avenue at Sycamore Park, Ltd., an affiliate of Brompton Community Housing Development Corporation, to be located at 2601 Avenue J (Council District 8). The site for the proposed development is zoned "UR" - Urban Residential. The proposed development will not be tax exempt.
- **Crossroads Apartments** to be developed by Crossroads Apartments, LP, an affiliate of Union Gospel Mission of Tarrant County, and to be

located at 1105 East Lancaster (Council District 8). The site for the proposed development is zoned "MU-2" - High Intensity Mixed Use, proposed to be changed to "PD" - Planned Development. The proposed development will not be tax exempt.

- **Cowan Place** to be developed by FW Cowan Place, LP, an affiliate of Fort Worth Housing Solutions, and to be located at 5400 East Rosedale (Council District 5). The site for the proposed development is zoned "PD" - Planned Development. The proposed development will be exempt from property taxes.
- **Palladium Fain Street Apartments** to be developed by Palladium Fain Street, Ltd., an affiliate of Palladium USA, Inc. to be located at 4001 Fain Street (Council District 4). The site for the proposed development is zoned "PD" – Planned Development for all uses in "D" High Density Multifamily. The proposed development will not be tax exempt.

Resolution of Support and Local Development Funding:

The following developments are also recommended to receive local Commitments of Development Funding:

- **Gala at Ridgmar** to be developed by Gala at Ridgmar, LP, an affiliate of Gardner Capital, to be located at the northeast corner of Plaza Parkway and Lands End Boulevard (Council District 3). The site for the proposed development is zoned "MU-1" – Low Intensity Mixed Use. The proposed development will not be tax exempt.
- **Provision at Fort Worth** to be developed by Provision Fort Worth, LP, an affiliate of Gardner Capital, to be located on the north side of east Rendon Crowley Road east of Old Highway 1187 (Council District 6). The site for the proposed development is zoned "CR" – Low Density Multifamily. The proposed development will not be tax exempt.
- **Azalea West** to be developed by Azalea West, LLC, an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC, to be located at 2700 - 2708 Azalea Avenue (Council District 9). The site for the proposed development is zoned "MU-1, A-5" – Low Intensity mixed Use One Family, proposed to be changed to "PD" - Planned Development. The proposed development will not be tax exempt.
- **The Lex on Jessamine** to be developed by The Lex on Jessamine, LLC, an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC, to be located at 2260 and 2274 Hemphill and 710 Jessamine Street (Council District 9). The site for the proposed development is zoned "E" – Neighborhood Commercial, proposed to be changed to "PD" - Planned Development. The proposed development will not be tax exempt.

Commitment of Development Funding:

The policy allows a local commitment of development funding at City Council discretion. This commitment of development funding qualifies tax credit applicants for an additional point and increases the competitiveness of their applications to TDHCA. Staff requests that City Council approve commitments of development funding in the form of fee waivers in an amount not to exceed \$2,500.00 for each development recommended for a Resolution of Support. The fee waiver amount may be applied to (a) building permit related fees (including Plans Review, Inspections and Re-inspection Fees); (b) Plat/Replat Application Fees; (c) Board of Adjustment Application Fees; (d) Demolition Fees; (e) Structure Moving Fees; (f) Zoning Fees; (g) Street/Alley and Utility Easement Vacation Application Fees; (h) Temporary Encroachment Fees; (i) Consent/Encroachment Agreement Application Fees; (j) Urban Forestry Application Fees; (k) Sign Permit Fees; (l) Community Facilities Agreement (CFA) Application Fees; and (m) Street Closure Fees.

Fee waivers will be conditioned upon the development receiving an award of tax credits from TDHCA. The City's Neighborhood Services Department will be responsible for verifying that the public purpose for the fee waivers is carried out. Upon approval, permitting and related fees will be waived in an amount up to \$2,500.00 to assist in facilitating the goals of the City's Comprehensive Plan and Annual Action Plan.

Concerted Revitalization Plan:

TDHCA rules state that an application may receive additional points if the proposed development is identified in a resolution as contributing more than any other development to a city or county's concerted revitalization efforts. The City has created Urban Villages to help promote central city revitalization. They are districts which are more compact, contain a greater mix of land uses, and give greater emphasis to pedestrian and transit access. The City has created 12 Tax Increment Financing zones (TIFs) as authorized by the Texas Tax Code. TIFs allow local governments to publicly finance needed structural improvements and enhanced infrastructure within defined areas. The City's Neighborhood Empowerment Zones (NEZs) were created to promote affordable housing and economic development in the designated zone. Four NEZs have adopted Strategic Plans for certain distinct areas located in the larger NEZ to guide the rebuilding neighborhoods with compatible quality infill housing and appropriate mixed use development in commercial areas. The City Council adopted the Cavile Place/Historic Stop Six Transformation Plan in 2014. The City's Transformation Plans are comprehensive strategies to revitalize specific areas or neighborhoods. All of the City's Urban Villages, TIFs, NEZs, and Transformation Plans are included in the City's annual Comprehensive Plan as part of its goal of revitalizing central city neighborhoods and commercial districts (2019 Comprehensive Plan, Part II, Chapter 5: Housing, and Part III, Chapter 10: Economic Development). The Cavile Place/Historic Stop Six Transformation Plan is located in Appendix A of the Comprehensive Plan.

The St. Giles, The Park Tower, Crossroads Apartments, Cowan Place, Avenue at Sycamore Park, and Palladium Fain Street Apartments are developments located either in an Urban Village, a TIF, a NEZ created by City Council, a distinct area within a NEZ with a Strategic Plan, or an area that has an adopted Transformation Plan. Staff determined that these developments will significantly contribute to the City's ongoing revitalization efforts in each of the Urban Villages, TIFs, NEZs or Transformation Plan areas in which they will be located since the recommended developments are new affordable housing for households earning at or below 80 per cent of Area Median Income. In addition, the increased density of this new housing will support the new retail, office and other housing development located or being developed in each Urban Village, TIF, NEZ, or Transformation Plan area. Staff recommends that the City Council adopt the attached Resolutions determining that the St. Giles, The Park Tower, Crossroad Apartments, Cowan Place, Avenue at Sycamore Park, and Palladium Fain Street Apartments are developments that contribute more than any other developments to the City's concerted revitalization efforts underway in the Urban Villages, TIFs, NEZs, or Transformation Plan areas in which they are located.

Limitations on Developments With Certain Neighborhood Risk Factors:

TDHCA rules state that if a proposed development will be located in a census tract with a poverty rate above 40 percent for individuals, the governing body of the appropriate jurisdiction must acknowledge the high poverty rate and authorize the development to move forward with its application for tax credits.

The Crossroads Apartments and Cowan Place will each be located in a census tract with a poverty rate above 40 percent for individuals. Staff recommends that City Council vote to acknowledge the high poverty rate and authorize both of these developments to move forward with their tax credit applications.

One Year Three Mile Rule

The Crossroads Apartments and Palladium Fain Street Apartments are each located one linear mile or less from developments that serve the same target population and which received an allocation of Housing Tax Credits for new construction and adaptive reuse after January 3, 2017. The governing body of the municipality where the proposed development is to be located must specifically vote to allow the construction of a new development that is within one linear mile or less from a development that serves the same target population.

These proposed developments are subject to all applicable City laws, ordinances, policies and procedures including those pertaining to zoning changes and annexation. Councilmember support for purposes of approving these Resolutions does not constitute approval of any required zoning change or annexation.

The proposed developments are located in COUNCIL DISTRICTS 2, 3, 4, 5, 6, 8 and 9

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will have no material effect on City funds.

Submitted for City Manager's Office by: Fernando Costa 6122

Originating Business Unit Head: Victor Tumer 8187

Additional Information Contact: Chad LaRoque 2661

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 14, 2020

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 20309 Casitas Los Ebanos.

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 20309 Casitas Los Ebanos, which was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected, but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for 20309 Casitas Los Ebanos is hereby denied.

BACKGROUND

10 TAC §11.9, related to Competitive HTC Selection Criteria, identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 50 Units for the general population in Bishop.

Staff received public comment indicating that the resolution of support from the City of Bishop included in the Application was not appropriately adopted, and was thus not eligible for 8.5 points. Staff review found that the Application did not qualify for 26 points under 10 TAC §11.9(e)(1) related to Financial Feasibility. The previously published application score was reduced by 40.5 points, including the loss of six points under 10 TAC §11.9(e)(3) related to Pre-application Participation, pending the Applicant's ability to appeal.

The appeal correctly cited the statutory rule that quantifiable community participation is based on a resolution concerning the development that is "voted on and adopted" by the governing body of a municipality. Although there was evidence submitted that the Bishop City Council has

since had numerous agenda postings following the application deadline seeking to “ratify” the February 24, 2020, resolution in support of the application, the mere fact that such ratifications were posted does not legally void the February resolution. Nor does the anecdotal evidence that the Council “repealed” the resolution in June, only to then ratify its support at a meeting two weeks later, alter the fact that a statutorily sufficient demonstration of quantifiable community participation was submitted with the Application. Although the Executive Director was concerned by the relevant Bishop municipal protocols and the appearance of unseemly gamesmanship between competitors, he found that the resolution submitted with the Application meets the requirements for 8.5 points under Local Government Support.

Regarding Financial Feasibility, the salient portion of 10 TAC §11.9(e)(1) is as follows:

1) Financial Feasibility. (§2306.6710(b)(1)(A)) To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive twenty-four (24) points. If the letter is from the Third Party permanent lender . . . and evidences review of the Development and the Principals, it will receive twenty-six (26) points.

The appeal asserts that in its letter, BBVA Compass’ statement in a letter provided with the Application that “[t]he following terms and conditions were based upon a review of the Borrower’s 2020 TDHCA Housing Tax Credit Application” should qualify the Application for the 26 points. In a deficiency notice, staff had asked the Applicant to “identify the documentation in the application as originally submitted that entitles the applicant to score the 26 points claimed for Financial Feasibility.” In response, the Applicant submitted an “addendum” to the Application letter from BBVA Compass. The letter states the assumptions that were missing from the original letter, and states that their review of Come dream. Come build. (CDCB) and its Principals was done “in association with” prior deals that they have closed.

Viewed through the lens of Administrative Deficiency, the evidence from BBVA Compass submitted with the Application constitutes considerable evidence of financial feasibility; and following the deficiency letter from staff, the letter containing the lender approval letter assumptions noted in the Application Templates could constitute clarification of the evidence of financial feasibility. That said, the Executive Director found that the letter submitted with the Application did not evidence review of the Principals, and thus is only eligible for 24 points. The Executive Director determined that 38.5 of the 40.5 points subtracted by Staff would be restored.

Staff recommends the Board deny the appeal as to the remaining two points subtracted from the financial feasibility score.

20309 Casitas Los Ebanos

Scoring Notification



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Mark Moseley

Phone #:

Email: mmoseley@cddb.org

Second Email: cdotson@cddb.org

Date: June 16, 2020

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2020 Competitive Housing Tax Credit (HTC) Application for Casitas Los Ebanos, TDHCA Number:
20309**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2020 Qualified Allocation Plan (QAP). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that six scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the six scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(c)(8) Readiness to Proceed in Disaster Impacted Counties, §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) and/or §11.201(7)(B) of the QAP.

Section 4 provides the final cumulative score in bold.

Section 5 includes, as applicable, notes and an explanation of any differences between the requested and awarded score, as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §11.902 of the 2020 QAP. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board. If the score of an Application changes, a revised scoring notice will be provided to the Applicant.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 20309, Casitas Los Ebanos

Section 1:

Score Requested by Applicant (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	132
Score Awarded by TDHCA (Not including points for §11.9(c)(8) or (d)(1), (4), (5), (6) or (7) of the 2020 QAP):	106
Difference between Requested and Awarded:	26

Section 2:

Points Awarded for §11.9(c)(8) Readiness to Proceed:	5
Points Awarded for §11.9(d)(1) Local Government Support:	8.5
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) and/or §11.201(7)(B) of the QAP:	6
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Section 4:

Final Score Awarded to Application by Department staff (Including all points):	129.5
---	--------------

Section 5:

Notes and explanation for difference between points requested and points awarded by the Department, as well as penalties assessed:

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is not eligible for points under this item because the Application did not include a letter from a third party lender indicating a review of the Development or a letter from a permanent lender indicating a review of the Development and the Principals. (Requested 26, Awarded 0)

§11.9(d)(1) Local Government Support. The Application requested seventeen (17) points but is only eligible for 8.5 points under this item because staff has received evidence that the resolution from the City of Bishop was not ratified prior to Application submission. (Requested 17, Awarded 8.5)

§11.9(e)(3) Pre-application Participation. The Application requested six (6) points but is not eligible for points under this item because the Application final score (inclusive of only scoring items reflected on the self score form) varies by more than four (4) points from what was reflected in the preapplication self score. (Requested 6, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §11.902 of the 2020 QAP. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Tuesday, June 23, 2020. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2020 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon D. Gamble

Sharon D. Gamble
Competitive HTC Program Administrator

Appeal Documents

June 23, 2020

Via Email

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Casitas Los Ebanos, TDHCA No. 20309 - **Appeal for Scoring**

Dear Bobby:

We represent the Applicant¹ for the Development referenced above, which has applied for 2020 Housing Tax Credits. This letter appeals a scoring notice, showing a reduction of points for the following.

Local Government Support

The scoring notice rescinds 8.5 points claimed by the Applicant:

§11.9(d)(1) Local Government Support. The Application requested seventeen (17) points but is only eligible for 8.5 points under this item because staff has received evidence that the resolution from the City of Bishop was not ratified prior to Application submission (Requested 17, Awarded 8.5)

The City Council for the City of Bishop conducted a meeting on February 24, 2020. Representatives of the Applicant were in attendance and presented information about the Development. At the meeting, the City Council approved a resolution supporting the Development, a copy of which is attached as **Exhibit A** and was included in the Application (the “**Resolution**”). Subsequently, a Request for Administrative Deficiency filed by a competitor alleged that the Resolution was not duly authorized because the City did not post notice of the meeting on its website and did not subsequently ratify the Council’s action. **The Department’s assumption that the Resolution is invalid is inconsistent with Texas law, and the points should be restored.**

¹ Capitalized terms used but not defined in this letter shall have the meanings given them in the 2020 QAP.

The Resolution supporting the Development is a valid and enforceable City Council action, which should be considered in evaluating the Application and awarding the Tax Credits. On its face, the Resolution was duly adopted by the City Council of the City of Bishop with signatures and recitals attesting to its accuracy and to its compliance with the law. The Texas Open Meetings Act (“**TOMA**”) requires meetings of governmental bodies to be open to the public. TEX. GOV’T CODE § 551.001 et seq. A government action taken in violation of TOMA is voidable, but remains valid “until adjudicated and declared void.” Id. § 551.1411; *Love Terminal Partners, L.P. v. City of Dallas*, 256 S.W.3d 893, 897 (Tex.App.—Dallas 2008, no pet.). An interested person may bring an action by mandamus or injunction to stop, prevent, or reverse a violation of TOMA. TEX. GOV’T CODE § 551.142(a). A Texas Court of Appeals laid out this concept in a 2011 opinion:

Even assuming the manner in which the contract was approved violated TOMA, the approval of the contract in the executive session of the Board is not necessarily null or void Rather, the approval is merely voidable at the instance of someone with standing to complain The approval remains valid “until adjudicated and declared void.” . . . Thus, even a contract procured by a potentially voidable act is still a valid contract

Hous. Auth. of City of Dallas v. Killingsworth, 331 S.W.3d 806, 812 fn. 5 (Tex. App.—Dallas 2011, pet. denied) (internal citations omitted). Therefore, an action taken pursuant to an officially adopted resolution by a city council during its meeting should be considered valid until, and only until, a court of competent jurisdiction has found that the action was void.

Here, the Resolution was approved at a public meeting following the posting of a public notice on a bulletin board at City Hall. The enacted Resolution expresses the action and will of the Council during that February 24 meeting. The Department may not put itself in the place of a court and unilaterally declare the action void. Any violation of TOMA related to the February 24 meeting would simply make the action voidable, not void. Thus, until this government action is considered by a court, the Resolution must be presumed valid and should be considered in the evaluation and award of the Tax Credits. In addition, the inaction of the City of Bishop at a subsequent meeting does not function to declare the February 24 Resolution void.

In addition to the Resolution remaining valid until a court finds otherwise, the February 24 meeting may not have even violated TOMA. TOMA requires the agenda to be posted in city hall. TEX. GOV’T CODE § 551.050. In addition, the agenda should be posted on the website of the city, if the city maintains such a website. Id. § 551.056(a), (b). However, there is an exception to the website posting requirement which states that if there is a technical issue despite a good faith attempt by the government to post, then this TOMA requirement is satisfied. Id. § 551.056(d) (“The validity of a posted notice of a meeting or an agenda by a governmental body . . . subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body . . .”).

Here, the meeting notice was properly posted at City Hall. While it currently appears that the agenda was not posted on the City of Bishop’s website, additional facts need to be evaluated before a court could determine whether the error resulted from a technical issue associated with the website. Moreover, any additional facts such as these need to be considered by a court, not by

TDHCA. The City of Bishop has confirmed that it used a third party to post its agendas to the City website, and that it believes there was a technological problem that prevented the vendor from making the posting. The City of Bishop avers that it acted in good faith to post the agenda and notification. See the letter attached as **Exhibit B**.

The meeting in question occurred 4 months ago. That is sufficient time for a party with standing to apply to the court to void the City Council's action. Because the action of the City Council has not been held void by a Texas court and because the website posting requirement may have been legally satisfied in this instance, TDHCA must accept the Resolution at face value and presume it is valid. The Applicant's 8.5 points should be restored.

Financial Feasibility

The scoring notice rescinds 26 points claimed by the Applicant:

§11.9(e)(1) Financial Feasibility. The Application requested twenty six (26) points but is not eligible for points under this item because the Application did not include a letter from a a [sic] third party lender indicating a review of of [sic] the Development or a letter from a permanent lender indicating a review of the Development and the Principals. (Requested 26, Awarded 0)

This rule has two-part scoring as follows:

. . . a lender approval letter must be submitted. . . . If the letter evidences review of the Development alone it will receive twenty-four points. If the letter is from the Third Party permanent lender . . . and evidences review of the Development and the Principals, it will receive twenty-six (26) points.

The Applicant submitted evidence to comply with this rule, and points should be restored.

The Application included a letter from BBVA Compass, the construction and permanent lender, a copy of which is attached as **Exhibit C**. The letter commences:

The following terms and conditions were based upon a review of the Borrower's 2020 TDHCA Housing Tax Credit Application.

This statement, in and of itself, should qualify for the Financial Feasibility points. The Tax Credit Application includes all the information about the Development and the Principals that a lender could possibly need. By stating that it has reviewed the Tax Credit Application, the lender indicates that it has reviewed the Development the Principals. To the extent the lender's statement is unclear, the lender responded to an Administrative Deficiency to confirm its intent. In that letter, which was duly submitted pursuant to the QAP, the lender indicates that it reviewed the 15-year pro forma for the Development, along with the credit worthiness of Community

Development Corporation of Brownsville, the Principal. A copy of this letter is attached as **Exhibit D**.

Pre-application Participation

The scoring notice removes the points for Pre-application participation:

§11.9(e)(3) Pre-application Participation. The Application requested six (6) points but is not eligible for points under this item because the Application final score (inclusive of only scoring items reflected on the self score form) varies by more than four (4) points from what was reflected in the preapplication self score. (Requested 6, Awarded 0)

If the points for Local Government Support and Financial Feasibility are restored, the points for Pre-application Participation must be restored, as well.

Conclusion and Request

For all of the reasons cited above, we respectfully request that you grant the Applicant's appeal and restore the points to which it is entitled.

Sincerely,



Cynthia L. Bast

cc: Community Development Corporation
of Brownsville

- Exhibit A - Resolution
- Exhibit B - Letter from City Regarding Efforts to Post Notice
- Exhibit C - BBVA Letter from Application
- Exhibit D - BBVA Response to Administrative Deficiency

EXHIBIT A
Resolution

**CITY OF BISHOP
RESOLUTION NO. 2-24-20A**

WHEREAS, CDCB – come dream, come build, formally known as Community Development Corporation of Brownsville (CDCB) has proposed to construct and operate a development for affordable rental housing named Casitas Los Ebanos, to be located at North of County Road 70 on County Road 81A in Nueces County, Texas; and

WHEREAS, The CDCB has advised that it intends to submit an application of the Texas Department of Housing and Community Affairs for 2020 Competitive 9% Housing Tax Credits for the Casitas Los Ebanos development; and

Whereas, the City Council of the City of Bishop finds that the development will be of benefit to the City;

Wherefore, it is hereby RESOLVED by the City Council of the City of Bishop, Texas:

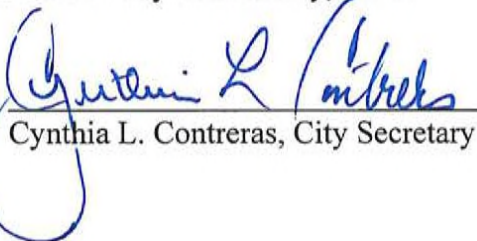
1. That the City Council further confirms that it supports the proposed development named Casitas Los Ebanos to be located at North of County Road 70 on County Road 81A in Nueces County, Texas TDHCA application #20309 and that this formal action has been taken to put on record the opinion expressed by the City of Bishop on February 24, 2020, and
2. The City Council further confirms to provide an in-kind contribution of a minimum amount of \$250.00 for furtherance of the Casitas Los Ebanos development; and
3. The City Secretary is hereby authorized to certify this Resolution to all persons and agencies as may be needed or appropriate to the purpose hereof; and
4. That Charles N. Mitchell, Executive Director of CDCB - come dream. come build formally known as Community Development Corporation of Brownsville, or his agent, is hereby authorized, empowered, and directed to certify these Resolutions to the Texas Department of Housing and Community Affairs on behalf of the City of Bishop.

Approved by Mayor: The foregoing Resolution is hereby approved by the Mayor of the City of Bishop this 24th day of February, 2020.



Tem Miller, Mayor

Certificate of Adoption: The foregoing Resolution was duly adopted by the City Council of the City of Bishop at a meeting duly noticed and held on the 24th day of February, 2020.



Cynthia L. Contreras, City Secretary



EXHIBIT B
Letter from City Regarding Efforts to Post Notice

GERALD L. BENADUM, P.C.

ATTORNEY AT LAW

P. O. BOX 2586 * CORPUS CHRISTI, TEXAS 78403 * TELEPHONE: (361) 881-6078 * TELECOPIER: (361) 881-6080
email: gibenadum2@gmail.com
Board Certified Civil Trial Law * Texas Board of Legal Specialization

June 23, 2020

Ms. Chloe' Dotson
Director of Real Estate Development
Come Dream, Come Build
901 E. Levee Street
Brownsville, Texas 78520

cdotson@cdcb.org

Dear Ms. Dotson:

I am writing to you in my capacity as City Attorney for the City of Bishop, Texas. The Mayor has authorized me to send you this report on my inquiry into the validity of the City Council Resolution No. 2-24-20-A that was adopted on February 24, 2020, in support of the proposed Los Ebanos Development by CBDC.

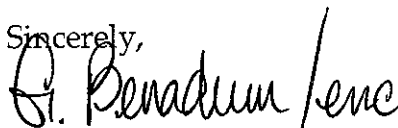
A question arose regarding the adequacy of the public posting of the notice for that meeting, and the Mayor requested I look into that matter. The form and content of the public notice were proper and legally adequate. I was in attendance at the meeting and it was properly conducted. Resolution No. 2-24-20-A was duly and properly adopted.

The public notice of the meeting was properly posted on the City's bulletin board, in accordance with the Texas Open Meetings Act. The City Secretary transmitted a copy of that meeting notice to the City's service contractor for posting to the website, in accordance with her customary practice. However, an inspection of the City's website after the meeting did not show that notice. It has now been discovered that, perhaps because of some defect in the website program, some items posted on that site later disappear. Thus, I am unable to determine at this time whether the notice was not posted on the website or, instead, was posted but later dropped.

All the evidence I have indicates that the City Secretary acted in good faith in attempting to post the notice, and the City Council acted in good faith in holding the meeting. If the notice was not posted to the website, that would leave the Resolution subject to being invalidated if it were challenged in court and if the court were to hold that the City failed to act in good faith with regard to holding that meeting. In my opinion, it is not probable that the Resolution would be invalidated. However, the question does exist.

There is an item on tomorrow's Council agenda for adoption of a new Resolution reconfirming the Council's support for the Los Ebanos project.

Sincerely,



Gerald L. Benadum

GLB:lmc

C: Mr. Tem Miller, Mayor
Ms. Cynthia Contreras, City Secretary



City of Bishop
PO Box 356
Bishop, Texas 78343
Phone: 361-584-2567 (106) - Fax: 361-584-3253
email: cynthia.contreras@cityofbishoptx.com

Texas Department of Housing and Community Affairs
Attn: Sharon Gamble
221 E. 11th Street
Austin, Texas 78701

Reference: Los Ebanos Housing Project


To Whom It May Concern:

This letter is will confirm that the City of Bishop followed the State's posting requirements for our Agenda dated February 24, 2020. It was brought to the City's attention that the Agenda for February 24, 2020 was not on the City's website – www.cityofbishoptx.com . At the time the City hired a 3rd party company to post all necessary notices to the city's website. The City in good fair thought that all posting requirements were made. Council's Regular meeting was scheduled for February 26th and that being Ash Wednesday and Mayor Tem Miller knowing ahead of time that a quorum wouldn't be present for February 26th called a Special Meeting for February 24, 2020. All City meetings are open to the public.

Upon further investigation as to why the agenda wasn't on the City's website, there appears to be a glitch with the website and some questions have been raised as to whether or not the February 24th agenda could have been posted to the website by the 3rd party company.

Enclosed, is a certification certifying the action taken by Council on the Resolution to support the community development of Affordable Housing to be called Los Ebanos; copy of the agenda; copy of the minutes and a copy of the Resolution.

If any other documents are needed, please notify me by email at cynthia.contreras@cityofbishoptx.com or by phone at .361-584-2567 ext. 106

Respectfully,

Cynthia L. Contreras
City Secretary
City of Bishop

THE STATE OF TEXAS §

COUNTY OF NUECES §

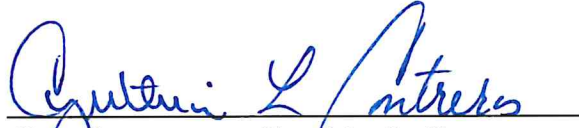
CERTIFICATION

I, Cynthia L. Contreras, City Secretary of the City of Bishop, Texas, do hereby certify that I am the custodian of the records of the City of Bishop, Texas, and hereby certify that the foregoing statement is a true copy of the motion made at a duly called meeting held on February 24, 2020.

Item 2: Discuss and consider adopting a Resolution in support of the community development of Brownsville's application of Housing Tax Credits for the development of Affordable Housing just north of Bishop, Texas to be called Los Ebanos:

Council Member Boswell motioned to approve Resolution No. 2-24-20A; a Resolution in support of the community development of Brownsville's application of Housing Tax Credits for the development of Affordable Housing to be called Los Ebanos. Council Member Guajardo seconded the motion, Mayor Miller polled the votes and all members present voted yes, motion carried.

Witness my hand and Official Seal of the City of Bishop, Texas this 23rd day of June, 2020.


City Secretary: Cynthia L. Contreras
City of Bishop, Texas



**NOTICE OF PUBLIC MEETING
BISHOP CITY COUNCIL
MONDAY, FEBRUARY 24, 2020 AT 5:30 P.M.**

THE BISHOP CITY COUNCIL WILL MEET IN SPECIAL SESSION IN THE LEEROY KIESCHNICK COUNCIL CHAMBER, LOCATED AT CITY HALL, 203 EAST MAIN STREET, BISHOP, TEXAS (PUBLIC MUST USE THE EAST SIDE ENTRANCE OF THE BUILDING).

A G E N D A

OPENING: MAYOR TEM MILLER

PRAYER:

PLEDGE OF ALLEGIANCE:

THE CITY COUNCIL MAY DELIBERATE AND TAKE ACTION ON ANY OF THE FOLLOWING SUBJECTS:

1. CITIZEN'S COMMENTS.
2. DISCUSS AND CONSIDER ADOPTING A RESOLUTION IN SUPPORT OF THE COMMUNITY DEVELOPMENT OF BROWNSVILLE'S APPLICATION OF HOUSING TAX CREDITS FOR THE DEVELOPMENT OF AFFORDABLE HOUSING JUST NORTH OF BISHOP, TEXAS TO BE CALLED LOS EBANOS.
3. ANNOUNCEMENTS AND MISCELLANEOUS INFORMATION.
4. **EXECUTIVE SESSION:** THE CITY COUNCIL WILL ADJOURN INTO A CLOSED SESSION PURSUANT TO THE TEXAS OPEN MEETINGS ACT (SECTION §551.071 OF THE TEXAS GOVERNMENT CODE) TO CONSULT WITH THE CITY ATTORNEY ON PENDING AND CONTEMPLATED LITIGATION; A SETTLEMENT OFFER; OR ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

THE COUNCIL MAY RECESS THIS MEETING AND CONDUCT A CLOSED MEETING WITH REGARD TO ANY SUBJECT, WHETHER OR NOT THE SUBJECT IS LISTED IN THIS AGENDA, TO THE FULL EXTENT ALLOWED BY THE TEXAS OPEN MEETINGS ACT, PROVIDED THAT THE PRESIDING OFFICER DURING THE OPEN MEETING WILL ANNOUNCE THAT A CLOSED MEETING WILL BE HELD AND WILL IDENTIFY THE SECTIONS OF THE ACT OR SUBJECTS OF THE ACT UNDER WHICH THE CLOSED MEETING WILL BE HELD.

THE COUNCIL MAY DELIBERATE AND TAKE ACTION ON ADMINISTRATIVE MATTERS CONCERNING THIS OR FUTURE MEETINGS, INCLUDING BUT NOT LIMITED TO THE SCHEDULING AND AGENDA OF MEETINGS, ATTENDANCE AND LEAVES OF ABSENCE OF COUNCIL MEMBER AND OTHER OFFICERS, AND RULES AND PROCEDURES FOR THE CONDUCT OF MEETINGS. THE COUNCIL MAY RECEIVE FROM THE CITY'S STAFF, AND A MEMBER OF THE COUNCIL MAY MAKE A REPORT, ABOUT ITEMS OF COMMUNITY INTEREST DURING THE MEETING. NO ACTION WILL BE TAKEN AND POSSIBLE ACTION REGARDING THE INFORMATION PROVIDED IN THE REPORT WILL NOT BE DISCUSSED. IF A MEMBER OF THE PUBLIC OR THE COUNCIL INQUIRES ABOUT A SUBJECT NOT INCLUDED IN THIS NOTICE, THERE MAY BE PRESENTED A STATEMENT OF SPECIFIC FACTUAL INFORMATION OR A RECITATION OF EXISTING POLICY IN RESPONSE TO THE INQUIRY. A DELIBERATION OF OR DECISION ABOUT THE SUBJECT OF THE INQUIRY WILL BE LIMITED TO A PROPOSAL TO PLACE THE SUBJECT ON THE AGENDA FOR A SUBSEQUENT MEETING.

I CERTIFY THAT THE ABOVE NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 203 EAST MAIN STREET, BISHOP, TEXAS ON FRIDAY, FEBRUARY 21, 2020 AT 11:30 A.M., ONE OF WHICH IS ACCESSIBLE TO THE PUBLIC AT ALL TIMES.


CYNTHIA L. CONTRERAS
CITY SECRETARY

IF YOU PLAN TO ATTEND THIS PUBLIC MEETING AND YOU HAVE A DISABILITY THAT REQUIRES SPECIAL ARRANGEMENTS AT THE MEETING, PLEASE CONTACT OUR OFFICE AT 361-584-2567. REASONABLE ACCOMMODATIONS WILL BE MADE TO ASSIST YOU NEEDS.

FEB 21 AM 10:29



**CITY OF BISHOP
RESOLUTION NO. 2-24-20A**

WHEREAS, CDCB – come dream, come build, formally known as Community Development Corporation of Brownsville (CDCB) has proposed to construct and operate a development for affordable rental housing named Casitas Los Ebanos, to be located at North of County Road 70 on County Road 81A in Nueces County, Texas; and


WHEREAS, The CDCB has advised that it intends to submit an application of the Texas Department of Housing and Community Affairs for 2020 Competitive 9% Housing Tax Credits for the Casitas Los Ebanos development; and

Whereas, the City Council of the City of Bishop finds that the development will be of benefit to the City;

Wherefore, it is hereby RESOLVED by the City Council of the City of Bishop, Texas:

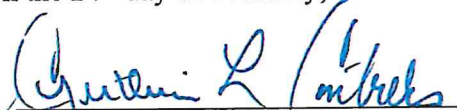
1. That the City Council further confirms that it supports the proposed development named Casitas Los Ebanos to be located at North of County Road 70 on County Road 81A in Nueces County, Texas TDHCA application #20309 and that this formal action has been taken to put on record the opinion expressed by the City of Bishop on February 24, 2020, and
2. The City Council further confirms to provide an in-kind contribution of a minimum amount of \$250.00 for furtherance of the Casitas Los Ebanos development; and
3. The City Secretary is hereby authorized to certify this Resolution to all persons and agencies as may be needed or appropriate to the purpose hereof; and
4. That Charles N. Mitchell, Executive Director of CDCB - come dream. come build formally known as Community Development Corporation of Brownsville, or his agent, is hereby authorized, empowered, and directed to certify these Resolutions to the Texas Department of Housing and Community Affairs on behalf of the City of Bishop.

Approved by Mayor: The foregoing Resolution is hereby approved by the Mayor of the City of Bishop this 24th day of February, 2020.



Tem Miller, Mayor

Certificate of Adoption: The foregoing Resolution was duly adopted by the City Council of the City of Bishop at a meeting duly noticed and held on the 24th day of February, 2020.



Cynthia L. Contreras, City Secretary



Special Session
February 24, 2020

The Bishop City Council met in Special Session on Wednesday, February 24, 2020 at Bishop City Hall 203 East Main Street. Mayor Miller opened the meeting at 5:30 p.m. and offered the prayer. Mayor Miller led the Pledge of Allegiance. Present at the meeting were: Mayor, Tem Miller; Council Member Place 1, Janie Dominguez; Council Member Place 2, Bill Boswell; Council Member Place 5, Albert Guajardo; City Attorney, Gerald L. Benadum; Director of Public Works, Panfilo Flores and City Secretary, Cynthia L. Contreras. Others present were: Judy Gonzalez and Chloe Dotson and Nick Bennett – Come Dream Come Build.

Item One: Citizen's Comments: No comments were made:

Item Two: Discuss and consider adopting a resolution in support of the community development of Brownsville's application of Housing Tax Credits for the development of Affordable Housing just north of Bishop, Texas to be called Los Ebanos: Mr. Nick Bennett, Executive Director and Ms. Chloe Dotson, Director of Real Estate Development with CDCB – (Come Dream Come Build) address the Council and stated that CDBG (fka – CDC Brownsville) is a private, 501 © (3) non-profit, community housing development organization (CHDO). Mr. Bennett stated that their organization serves the nation's southernmost region-Cameron, Willacy and now most recently Nueces County. Mr. Bennett informed the Council that CDCB is opening a new office in Corpus Christi, Texas. At this time Ms. Dotson reviewed a slideshow with the Council which showed previous multifamily projects such as Casitas Los Olmos in Raymondville, Texas; Casita Azucar in Santa Rosa, Texas and La Hacienda Casitas in Harlingen, Texas. Ms. Dotson stated that CDCB's mission is to be a multifaceted, affordable housing organization devoted to utilizing collaborative partnerships to create sustainable communities across South Texas through quality education, model financing, efficient home design and superior construction. Our mission is to create model communities, where every person will be valued, provided options, interconnected within sustainable communities across South Texas. Ms. Dotson presented the Council with the proposed locations of the development of Casitas Los Ebanos located North of 70 and West of 77; which is located outside the city limits but within Nueces County. The proposed housing project will consist of 50 single family style one- and two-story homes. Mr. Bennett stated that the site of the proposed housing complex is approximately 8.0 acres and at this time there is a 3-inch rural waterline that comes off of HWY 70. This waterline does not have enough pressure for fire protections. CDCB would like to tie into the city's water and sewer lines that are located on West Oregon Street. Council stated the city will contact LNV to do a water and wastewater capacity study for this location and see what will be needed. Council stated they wanted to inform Ms. Dotson that this area is prone to flooding. Ms. Dotson stated that the plans for the development include several bio swells around the development. These swells have worked with flooding issues on our other developments. Council thanked Mr. Bennett and Ms. Dotson for the presentation and stated they were excited about the proposed housing development which is greatly needed within the City of Bishop. Mayor Miller stated that our other housing project which consists of 60 units are full and have a waiting list. Council Member Boswell motioned to approve Resolution No. 2-24-20A; a Resolution in support of the community development of Brownsville's application of Housing Tax Credits for the development of Affordable Housing to be called Los Ebanos. Council Member Guajardo seconded the motion, Mayor Miller polled the votes and all members present voted yes, motion carried.

Item Three: Announcements and Miscellaneous Information: No announcements were made.

Item Four: Executive Session: The City Council will adjourn into a Closed Session pursuant to the Texas Open Meetings Act (Section §551.071 of the Texas Government Code) to consult with the City Attorney on pending and contemplated litigation; a settlement offer; or on a matter in which the duty of the attorney to the governmental body under the Texas disciplinary rules of professional conduct of the State Bar of Texas clearly conflicts with this chapter.

Mayor Miller stated it is now 5:58 p.m. and the City Council will adjourn into a Closed Session.

Mayor Miller stated it is now 6:32 p.m. and the City Council will reconvene into Open Session.

There being no further business to come before the Council, Mayor Miller adjourned the meeting at 6:32 ½ p.m.



Mayor: Tem Miller

ATTEST:



City Secretary: Cynthia L. Contreras

EXHIBIT C
BBVA Compass Letter from Application

**CITY OF BISHOP
RESOLUTION NO. 2-24-20A**

WHEREAS, CDCB – come dream, come build, formally known as Community Development Corporation of Brownsville (CDCB) has proposed to construct and operate a development for affordable rental housing named Casitas Los Ebanos, to be located at North of County Road 70 on County Road 81A in Nueces County, Texas; and

WHEREAS, The CDCB has advised that it intends to submit an application of the Texas Department of Housing and Community Affairs for 2020 Competitive 9% Housing Tax Credits for the Casitas Los Ebanos development; and

Whereas, the City Council of the City of Bishop finds that the development will be of benefit to the City;

Wherefore, it is hereby RESOLVED by the City Council of the City of Bishop, Texas:

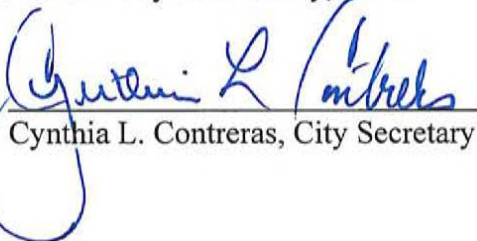
1. That the City Council further confirms that it supports the proposed development named Casitas Los Ebanos to be located at North of County Road 70 on County Road 81A in Nueces County, Texas TDHCA application #20309 and that this formal action has been taken to put on record the opinion expressed by the City of Bishop on February 24, 2020, and
2. The City Council further confirms to provide an in-kind contribution of a minimum amount of \$250.00 for furtherance of the Casitas Los Ebanos development; and
3. The City Secretary is hereby authorized to certify this Resolution to all persons and agencies as may be needed or appropriate to the purpose hereof; and
4. That Charles N. Mitchell, Executive Director of CDCB - come dream. come build formally known as Community Development Corporation of Brownsville, or his agent, is hereby authorized, empowered, and directed to certify these Resolutions to the Texas Department of Housing and Community Affairs on behalf of the City of Bishop.

Approved by Mayor: The foregoing Resolution is hereby approved by the Mayor of the City of Bishop this 24th day of February, 2020.



Tem Miller, Mayor

Certificate of Adoption: The foregoing Resolution was duly adopted by the City Council of the City of Bishop at a meeting duly noticed and held on the 24th day of February, 2020.



Cynthia L. Contreras, City Secretary



EXHIBIT B
Letter from City Regarding Efforts to Post Notice

GERALD L. BENADUM, P.C.

ATTORNEY AT LAW

P. O. BOX 2586 * CORPUS CHRISTI, TEXAS 78403 * TELEPHONE: (361) 881-6078 * TELECOPIER: (361) 881-6080
email: gibenadum2@gmail.com
Board Certified Civil Trial Law * Texas Board of Legal Specialization

June 23, 2020

Ms. Chloe' Dotson
Director of Real Estate Development
Come Dream, Come Build
901 E. Levee Street
Brownsville, Texas 78520

cdotson@cdcb.org

Dear Ms. Dotson:

I am writing to you in my capacity as City Attorney for the City of Bishop, Texas. The Mayor has authorized me to send you this report on my inquiry into the validity of the City Council Resolution No. 2-24-20-A that was adopted on February 24, 2020, in support of the proposed Los Ebanos Development by CBDC.

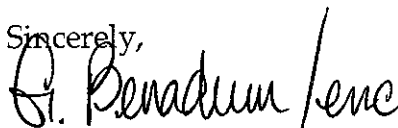
A question arose regarding the adequacy of the public posting of the notice for that meeting, and the Mayor requested I look into that matter. The form and content of the public notice were proper and legally adequate. I was in attendance at the meeting and it was properly conducted. Resolution No. 2-24-20-A was duly and properly adopted.

The public notice of the meeting was properly posted on the City's bulletin board, in accordance with the Texas Open Meetings Act. The City Secretary transmitted a copy of that meeting notice to the City's service contractor for posting to the website, in accordance with her customary practice. However, an inspection of the City's website after the meeting did not show that notice. It has now been discovered that, perhaps because of some defect in the website program, some items posted on that site later disappear. Thus, I am unable to determine at this time whether the notice was not posted on the website or, instead, was posted but later dropped.

All the evidence I have indicates that the City Secretary acted in good faith in attempting to post the notice, and the City Council acted in good faith in holding the meeting. If the notice was not posted to the website, that would leave the Resolution subject to being invalidated if it were challenged in court and if the court were to hold that the City failed to act in good faith with regard to holding that meeting. In my opinion, it is not probable that the Resolution would be invalidated. However, the question does exist.

There is an item on tomorrow's Council agenda for adoption of a new Resolution reconfirming the Council's support for the Los Ebanos project.

Sincerely,



Gerald L. Benadum

GLB:lmc

C: Mr. Tem Miller, Mayor
Ms. Cynthia Contreras, City Secretary

CITY OF BISHOP
RESOLUTION NO. 6-24-20A

WHEREAS, at a public meeting held on February 24, 2020, the City Council of the City of Bishop, Texas heard a proposal by CDCB, formerly known as Community Development Corporation of Brownsville (CDCB), to construct and operate a development for affordable rental housing named Casitas Los Ebanos, to be located North of County Road 70 on County Road 81A in Nueces County, Texas, within the Extraterritorial Jurisdiction of the City of Bishop; and

WHEREAS, at that meeting, the City Council invited public comments, and deliberated upon and unanimously adopted resolution No. 2-24-20A stating its support for the development proposed by CDCB; and

WHEREAS, at a meeting held on June 10, 2020, it was brought to the attention of the Council that there exists a question whether public notice of the meeting of February 24, 2020 had been adequately posted on the City's website and the council wished to cure any legal deficiency which might be found in the procedures under which Resolution No. 2-24-20A was adopted; and

WHEREAS, at that meeting of June 10, 2020 the Council having received presentations by opponents of the proposed Los Ebanos development, and also by proponents of a competing project in another jurisdiction, alleging defects in other developments by CBCD; the Council tabled further action on this subject, pending further investigation of allegations made by the opponents; and

WHEREAS, representatives of this Council and City staff subsequently have personally inspected other developments by CBCD and have determined that the allegations against those projects were false and that, in fact, those developments appear to be excellent in design and condition; and

WHEREAS, at a public meeting duly noticed and held on 6-24-20A the Council again deliberated the proposed development, received public comments, and received reports from the representatives of this Council and City staff who inspected other developments by CBCD; and

WHEREAS, the Council finds that the proposed Los Ebanos development will be advantageous to this community and the Council continues in its full support of the proposed development.

WHEREFORE, it is hereby RESOLVED by the City Council of the City of Bishop, Texas:

1. That the City Council hereby reconfirms this City Council's action taken on February 24, 2020 adopting Resolution No. 2-24-20A, stating this Council's support for the proposal by CDCB to construct affordable rental housing named Casitas Los Ebanos; and
2. That the City Council adopts this Resolution No. 6-24-20A reiterating this Council's support for the proposal by CDCB to construct affordable rental housing named Casitas Los Ebanos, to be located North of County Road 70 on County Road 81A in Nueces County, Texas, which location lies within the Extraterritorial Jurisdiction of the City of Bishop; and
3. That the City Council further reconfirms the City's intent to provide an in-kind contribution of a minimum amount of \$250.00 for furtherance of the Casitas Los Ebanos development; and

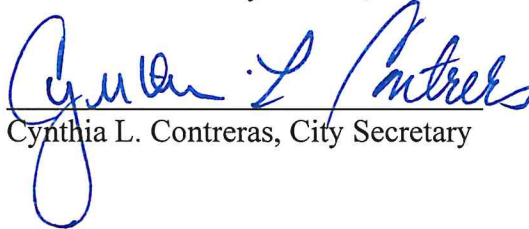
4. The City Secretary is hereby authorized to certify this Resolution No. 6-24-20A to all persons and agencies as may be needed or appropriate to the purpose hereof; and
5. That the Mayor or his designee, or Charles N. Mitchell, Executive Director of CDCB - Come Dream. Come build formerly known as Community Development Corporation of Brownsville, or his agent, is hereby authorized, empowered, and directed to certify these Resolutions to the Texas Department of Housing and Community Affairs on behalf of the City of Bishop.

Approved by Mayor: The foregoing Resolution No. 6-24-20A is hereby approved by the Mayor of the City of Bishop this 24th day of June, 2020.



Tem Miller, Mayor

Certificate of Adoption: The foregoing Resolution No. 6-24-20A was duly adopted by the City Council of the City of Bishop at a meeting duly noticed and held on the 24th day of June, 2020.



Cynthia L. Contreras, City Secretary



Bishop City Council
Special Session

June 10, 2020

(PLEASE PRINT NAME)

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|-----|-----------------|-----|--|
| 1. | TERRY FITZWATER | 30. | |
| 2. | RICHARD BRAND | 31. | |
| 3. | Cesyle Servato | 32. | |
| 4. | Louis Morales | 33. | |
| 5. | Aida Gonzales | 34. | |
| 6. | SARA NGUYEN | 35. | |
| 7. | RIK DEYOE | 36. | |
| 8. | | 37. | |
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Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

Leslie Bingham, *Vice Chair*
Paul A. Braden, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 6, 2020

Writer's direct dial: (512) 475-3296
Email: bobby.wilkinson@tdhca.state.tx.us

Cynthia Bast
Locke Lord, LLP
600 Congress, Ste. 2200
Austin, Texas 78701

RE: SCORING APPEAL RESPONSE FOR 20309 CASITAS LOS EBANOS, BISHOP

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs received your appeal dated June 23, 2020, regarding scoring for the Application named above. Staff had received public comment indicating that the resolution of support from the City of Bishop included in the Application was not appropriately adopted, and staff review of the Application found that it did not qualify for 26 points under 10 TAC §11.9(e)(1) related to Financial Feasibility. The previously published application score was reduced by 40.5 points, including the loss of six points under 10 TAC §11.9(e)(3) related to Pre-application Participation, pending the Applicant's ability to appeal.

The appeal correctly cited the statutory rule that quantifiable community participation is based on a resolution concerning the development that is "voted on and adopted" by the governing body of a municipality. Although there was evidence submitted that the Bishop City Council has since had numerous agenda postings following the application deadline seeking to "ratify" the February 24, 2020, resolution in support of the application in question, the mere fact that such ratifications were posted does not legally void the February resolution. Nor does the anecdotal evidence that the Council "repealed" the resolution in June, only to then ratify its support at a meeting two weeks later, alter the fact that a statutorily sufficient demonstration of quantifiable community participation was submitted with the Application. Although I am concerned by the relevant Bishop municipal protocols and the appearance of unseemly gamesmanship between competitors, I find that the resolution submitted with the Application meets the requirements for 8.5 points under Local Government Support.



Regarding Financial Feasibility, the salient portion of 10 TAC §11.9(e)(1) is as follows:

1) Financial Feasibility. (§2306.6710(b)(1)(A)) To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive twenty-four (24) points. If the letter is from the Third Party permanent lender . . . and evidences review of the Development and the Principals, it will receive twenty-six (26) points.

The appeal asserts that in its letter, BBVA Compass' statement in a letter provided with the Application that "[t]he following terms and conditions were based upon a review of the Borrower's 2020 TDHCA Housing Tax Credit Application" should qualify the Application for the 26 points. In a deficiency notice, staff had asked the Applicant to "identify the documentation in the application as originally submitted that entitles the applicant to score the 26 points claimed for Financial Feasibility." In response, the Applicant submitted an "addendum" to the Application letter from BBVA Compass. The letter states the assumptions that were missing from the original letter, and states that their review of CDCB and its Principals was done "in association with" prior deals that they have closed.

Viewed through the lens of Administrative Deficiency, the evidence from BBVA Compass submitted with the Application constitutes considerable evidence of financial feasibility; and following the deficiency letter from staff, the letter containing the lender approval letter assumptions noted in the Application Templates could constitute clarification of the evidence of financial feasibility. That said, I find that the letter submitted with the Application did not evidence review of the Principals, and thus is only eligible for 24 points.

I find that 8.5 points will be added back to the score for Local Government Support, and that staff was correct to withhold two of the 26 points under Financial Feasibility. Including the accompanying six points under Pre-application Participation, I therefore have determined to restore 38.5 of the 40.5 points subtracted by Staff. You indicated in your appeal that you wish to appeal to the Board of Directors. Your appeal will be placed on the agenda for the July 14, 2020, meeting of the Department's Governing Board. Please review 10 TAC §11.902 for the appeal process and limitations. If you have any questions or require further information, please contact Sharon Gamble at sharon.gamble@tdhca.state.tx.us.

Sincerely,



Bobby Wilkinson
Executive Director

4b

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

4c

BOARD REPORT ITEM

MULTIFAMILY FINANCE DIVISION

JULY 14, 2020

Report of Third Party Request for Administrative Deficiency under 10 TAC §11.10 of the 2020 Qualified Allocation Plan for 20177 Avanti Legacy Valor Heights, McAllen

BACKGROUND

At the June 23, 2020, Governing Board meeting, regarding a Third Party Request for Administrative Deficiency (RFAD) addressing Application 20177, the board asked staff to further analyze the issue of whether the site was ineligible because of its proximity to an undesirable site feature. More particularly, the RFAD challenged whether the property at approximately 125 E. 1st Street in McAllen is a "junkyard" per the QAP. Staff had concluded that the property in question did not satisfy the relevant definition of "junkyard," and that the RFAD had not provided sufficient evidence of such. Upon further analysis, staff maintains its conclusion that no deficiency is required in this matter and that the site is not ineligible.

The rule: 10 TAC §11.101(a)(2)

2. Undesirable Site Features

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Texas Transportation Code §396.001;

The definitions in Transportation Code

Sec. 396.001. DEFINITIONS. In this chapter:

- (1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.
- (2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.
- (3) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

...

(5) "Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

The RFAD states that the property in question contains a large number of wrecked vehicles, but also has enough other "junk" that it should be considered a "junkyard" per the QAP/Transportation Code definition. The response by the Applicant to the RFAD describes that the Eastside Auto Clinic was initially leased by the property owners and used as an automotive repair shop, but it is now privately held and used, and is no longer in business. It is further stated that the current property owners are not in the business of storing, buying or selling junk, and that the Municipality has confirmed that the property in question is not a "junkyard," and that the zoning for the property would not allow it to be used as such. Both the Applicant and the Requestor have submitted further letters regarding their respective positions. Requestor states that since the property is zoned for General Business, "it is a fair conclusion that the Junkyard Site is used to conduct business" Applicant states that the site of the former Eastside Auto Clinic is privately owned (not business owned) and is not operating as a business.

No evidence submitted suggests that the Eastside Auto Clinic is currently operating as a business. Indeed, all evidence suggests that the Eastside Auto Clinic at one time operated as an automotive repair business, and, thus, that the yard is where vehicles were stored for purposes of dismantling or wrecking the vehicles to remove parts for sale or use in automotive repair or rebuilding. Thus, the alleged "junkyard" adjoining the Eastside Auto Clinic was, in fact, an "automotive wrecking and salvage yard" per the same section of definitions in the Texas Transportation Code.

There are two criteria posed by the definition of "junkyard" relevant to this matter: First, does a business "own" the contents of the yard; and, second, does this same business "operate to store, buy, or sell junk." Though the area is zoned as Commercial, there is no evidence that has been presented that there is a business that owns and operates the contents of the yard as a business, as opposed to it being the privately-maintained residue of a defunct business. As the definitions in the Transportation Code make clear, a "person" may operate an automotive wrecking and salvage yard, but a "business" is required in the definition of a junkyard.

Hidalgo County property records show the address in question is part of a sizeable lot (Property ID 267066) that is owned by various members of the Scalise family, and some of the land appears to be used for doing business as Mama Mia Pizzeria. On Google Maps, the north-most third of the lot appears to be Mama Mia Pizzeria restaurant and an adjacent parking lot, the middle third is the defunct Eastside Auto Clinic and adjacent wrecking yard, and the south-most third appears to be undeveloped. Accordingly, the only business that is being done on the broader property is a restaurant and adjacent parking, one third of the property is a privately held wrecking yard, and one third is laying fallow. Again, no evidence has been presented that Mama Mia Pizzeria (or any business) owns or operates the structure or yard contents of the former Eastside Auto Clinic. It is important to note that the RFAD rule (10 TAC §11.10) requires that Requestors

“provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request.” Such evidence was not provided by the Requestor at the time of the RFAD.

Theoretically, the RFAD questions whether a business that used to operate an automotive wrecking and salvage yard ceases to operate, does that automotive wrecking and salvage yard convert into a “junkyard” under Tex. Transp. Code §396.001(3)? It is Staff’s conclusion that the definition of “Junk” in the same section of the Transportation Code is conclusive: “junk” expressly “does not include a wrecked vehicle,” which is defined as “a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.” Even beyond the critical legal question of whether the property formerly operating as Eastside Auto Clinic is currently operating as a business, the rule does not provide enough guidance to determine how much “junk” in a yard would constitute a “junkyard” – especially considering that wrecked vehicles are not considered “junk.”

Although it is not apparent from the photographs submitted whether the contents of the yard can be seen from the street, it is clear that the yard does contain elements of what can be defined as “junk.” Therefore, staff considered whether this former business could be considered “blight” as a Neighborhood Risk Factor under §11.101(a)(3)(B)(iii):

(iii) the Development Site is located within 1,000 feet (measured from nearest boundary of the Site to the nearest boundary of blighted structure) of **multiple** vacant structures that have fallen into such significant disrepair, overgrowth, and/or vandalism that they would commonly be regarded as blighted or abandoned. (emphasis added)

In this instance, the structure of the former Eastside Auto Clinic might be considered “blighted.” However, the rule is not triggered unless the Development Site is located near “multiple” blighted structures. Furthermore, the question before Staff is not the condition of the structure, but whether the defunct Eastside Auto Clinic is being operated as a “junkyard” per the statutory definition. Accordingly, the address in question does not satisfy the blight definition of a neighborhood risk factor.

CONCLUSION

As was argued by the Requestor, it may be that the presence of a nearby auto wrecking and salvage yard creates the same impression of an undesirable site feature as a junkyard. If that is the case, then the Board may certainly issue guidance to consider expanding the definition in 10 TAC §11.101(a)(2) in next year’s QAP to include proximity to automotive wrecking and salvage yards along with junkyards. As the rule currently reads, though, the definition of “junkyard” can be particularly distinguished from “automotive wrecking and salvage yards.” Accordingly, staff stands on its conclusion that this site is not ineligible under 10 TAC §11.101(a)(2) on the basis of its proximity to the former Eastside Auto Clinic located at approximately 125 E. 1st Street in McAllen.

Texas Transportation Code §396.001

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE H. HIGHWAY BEAUTIFICATION

CHAPTER 396. AUTOMOBILE WRECKING AND SALVAGE YARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

(2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

(3) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

(4) "Recycling business" means a business primarily engaged in the business of:

(A) converting metal or other material into raw material products that have:

- (i) prepared grades; and
- (ii) an existing or potential economic value;

(B) using raw material products described by Paragraph (A) in the production of new products; or

(C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

(5) "Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Requester's Board Documents



A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS & COUNSELORS

Michelle J. Snedden
9201 N. Central Expressway
Fourth Floor
Dallas, Texas 75231
(214) 780-1413 (Direct)
(214) 780-1401 (Fax)
msnedden@shackelford.law

July 1, 2020

Via Email

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing
& Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA Application No. 200177; Avanti Legacy Valor Heights
Our File No. 30081.2

Dear Mr. Wilkinson:

This law firm represents Pendleton Square, LP (“Pendleton”) an applicant in Region 11 with the project known as Pendleton Square. I have been requested by Justin Zimmerman, an authorized representative of Pendleton, to provide this letter for the purpose of confirming the existence of an Undesirable Site Feature, specifically a junkyard (the “Junkyard Site”) located within 49 feet (violating the 300 feet rule) of proposed Application No. 20177, Avanti Legacy Valor Heights (“Avanti”). Please accept this letter, in accordance with §11.10 of the 2020 Qualification Action Plan (“QAP”), as testimony for the Board’s consideration prior to taking formal action at the July 14, 2020 Board meeting.

BACKGROUND

At the June 25, 2020 Board meeting, staff provided to the Board a written report summarizing the RFAD submitted by Pendleton and the deficiency response submitted by Avanti. Please see attached RFAD at Exhibit “A” and Avanti’s response to deficiency at Exhibit “B” hereto. As you are aware, after presentations at the June Board meeting by Michael Beard and Jeff Beckler on behalf of Pendleton, the Board reviewed and discussed the materials presented and decided to table this item for further consideration. Based on those discussions by the Board, we do not believe there is any dispute that the items stored on the Junkyard Site are classified as “junk”, as defined by the Transportation Code. The issue hinges on if the alleged junkyard comes within the definition of “junkyard” under §396.001 of Texas Transportation Code (the “Transportation Code”), specifically, if it is a “business operated to store junk”.

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The evidence provided clearly shows this is a junkyard. As aptly noted by Mr. Vasquez at the June 25th Board meeting, if it “looks like a duck, walks like a duck, quacks like a duck...” and “this is clearly a junkyard”. Mr. Braden also stated “sounds like its hinging upon whether they’re in the business of being a junkyard...it’s clearly a bunch of junk in the yard...whether they’re in the business of it...DOT says they have to be in the business of it to be defined as junkyard.” We feel the need to clarify, and as further noted below, “to be in the business of it” does not require the buying or selling of junk, the Transportation Code definition of junkyard requires storing, buying, OR selling of junk.

LEGAL ARGUMENT

§11.101(A)(2)(A) OF THE QAP:

“Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Texas Transportation Code §396.001.”

TEXAS TRANSPORTATION CODE §396.001 provides the following definition of junkyard:

“Junkyard” means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

At the June 25, 2020 Board meeting, Mr. Eccles stated that (*emphasis added*) “the Texas Transportation Code defines junkyard as a place where a business owns junk and is operated to store, buy, or sell junk, which keeps all or part of the junk outdoors until the business disposes of the junk, so as executive director Bobby Wilkinson mentioned, it’s not just that it’s a business that stores, buys, or sells it, *it has to be a business that owns it and is operated to store, buy or sell junk.*

As described below, the Junkyard Site is (i) used as a business and (ii) is operated to store junk. The owner of the Junkyard Site need not also buy and/or sell junk to meet the definition of a junkyard under the Transportation Code.

(i) A business. Avanti provided letters from the Mayor of the City of McAllen attached hereto as Exhibit “C”. In the letter, the Mayor states “Our staff determined that the property is zoned C-3 general business, and under Section 138-277 of the McAllen Code of Ordinances, we expressly prohibit any wholesale trade or wholesale trade accessory of ‘metals and minerals’ and ‘scrap or junk waste materials’ within C-3 general business zoning. Staff then verified that the property in question was being used by the owners as a private automotive shop and was in compliance with local zoning ordinances.”

We bring your attention to the following observations related to the letter provided by the Mayor:

- (a) §11.101(A)(2)(A) requires that TDHCA defer to the definition of a junkyard in the Transportation Code, not how the City of McAllen staff defines a junkyard.

(b) The junkyard is zoned C-3 general business. The applicable zoning ordinance is attached at Exhibit “D” hereto and was also attached to Avanti’s deficiency response. If, as stated by the Mayor, City staff determined the Junkyard Site is in compliance with the “C-3 General Business” zoning ordinance, then it is a fair conclusion that the Junkyard Site is used to conduct “business” for City staff to make that determination. We do not see anything in the ordinance that allows anything other than a business be located on the Junkyard Site. If the Junkyard Site was not operated as a business, it would not be in compliance with the zoning ordinance. The fact that the ordinance also prohibits wholesale trade of certain items noted above is irrelevant and has no bearing on §11.101(A)(2)(A) and the definition of a junkyard under the Transportation Code. Representative R.D. ‘Bobby’ Guerra also confirms in his letter, attached at Exhibit “E”, that City staff confirmed the Junkyard Site remains in compliance with local zoning ordinance. We find it interesting that the Avanti deficiency response included the City ordinance but, rather than arguing it is not used as a business to store junk, highlights exceptions to certain business activities under the C-3 General Business zoning ordinance:

(9) Any wholesale trade of wholesale trade accessory to any permitted retail operating, **except the following**: raw cotton, grain, hide, skins and raw furs, tobacco, wool, mohair, livestock, **commercial or industrial machinery or supplies, metals and minerals**, petroleum stations and terminals, **scrap or junk waste materials**.

By including this language (as does the City Mayor in his letter), this would seem to concede that the Junkyard Site is in fact used for business, and focuses more on zoning compliance (rather than the Transportation Code definition of a junkyard) and the fact that the business is prohibited from buying or selling the underlined items above. However, as noted above, the definition of a “junkyard” in the Transportation Code, which TDHCA is required to follow under the QAP, does not require that a business is operated to buy or sell junk, only that it is operated to buy, sell OR store the junk, which does not seem to be in dispute that the Junkyard Site does in fact store junk.

(ii) **that owns junk, and is operated to store, buy, or sell junk**

Based on the discussion above and the photographs provided by Pendleton in the RFAD at Exhibit “A”, the Junkyard Site clearly owns and stores junk. The Avanti applicant and the Mayor both note that Junkyard Site was initially leased and used as an auto repair shop and is currently be used by the owners as a private automotive repair shop. It is clear from the photographs in Exhibit “A” that the Junkyard Site is storing at least twenty (20) vehicles without any sign of those vehicles being repaired or worked on, in fact, many of the vehicles are being used to store additional junk (for example, a toilet in the back of one truck). There is also evidence of overgrown vegetation around the vehicles and the various other items

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of junk that seems to indicate storage for several months and/or years. Again, we bring your attention to the fact that TDHCA is required by the QAP to determine if a property is a "junkyard" based on the definition in the Transportation Code, not the determination of City staff. There is no dispute that the owners of the Junkyard Site "store" junk. Additionally, the Transportation Code does not require that the business be operated SOLELY to buy, sell or store junk. Whether the owners of the Junkyard Site also operate a private auto repair shop or in fact any type of business or private activities at the site, the Junkyard Site is (i) a business, as confirmed by the City and (ii) operated to store a junk, as quite clearly shown by the photographic evidence at Exhibit "A".

CONCLUSION

The QAP requires that TDHCA rely on the definition of "junkyard" as set forth in the Transportation Code. The Junkyard Site meets that definition as it is a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk. Based on our interpretation of the discussions at the June 25th Board meeting, it seems the Board decided to table and further consider this issue due only to lack of clarity on whether the Junkyard Site is used to operate a business. The information above and more importantly the letters provided from both the City Mayor and Representative R.D. 'Bobby' Guerra confirms that the Junkyard Site complies with C-3 General Business zoning requirements which indicates that the City considers the Junkyard Site to be used as a business.

Finally, it's important to remind ourselves why TDHCA deems a junkyard to be an undesirable site feature and the reason for §11.101(a)(2)(A). TDHCA considers accumulation of junk, if within 300 feet of a proposed development, an undesirable site feature for any proposed development and, more importantly, any prospective tenant. This specific accumulation of junk is within 49 feet of the proposed development.

It is for these reasons that we urge the Board to determine that the Avanti project site is burdened with an undesirable site feature in accordance with §11.101(a)(2)(A).

Very truly yours,


Michelle J. Snedden

MJS:tlw
Enclosure

cc: Beau Eccles (via email)
Marni Holloway (via email)
Sharon Gamble (via email)
Jamie McDonald (via email)

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Lora Myrick (*via email*)

John C. Shackelford (*via email*)

Michael Beard (*via email*)

Jeff Beckler (*via email*)

R:\SHACKLAW\30081\2\Wilkinson Letter.docx

EXHIBIT "A"

JZ – LZ R2K, LLC
1329 East Lark Street
Springfield, MO 65804

Date: 5/1/2020

Marni Holloway, Director of Multifamily Finance
Sharon Gamble, 9% HTC Administrator

Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, Texas 78701

Re: §11.10. Third Party Request for Administrative Deficiency;
TDHCA Application #20177 – Avanti Legacy Valor Heights, McAllen, Texas;

Dear Ms. Holloway and Gamble,

Pursuant to §11.10 of the 2020 Qualified Allocation Plan (the “QAP”), please let this letter serve as our Third-Party Request for Administrative Deficiency (“RFAD”) with regards to Application # 20177 (the “Avanti Legacy Valor Heights Application”). A copy of this request is being delivered concurrently to representatives of the Avanti Legacy Valor Heights Application.

Under §11.101(a)(2) of the QAP associated with undesirable site features (“Undesirable Site Features”), a proposed development is required to disclose, and where applicable, mitigate any Undesirable Site Features that fall within the applicable distance of this subsection. Specifically, §11.9(a)(2) of the QAP states the following:

“Undesirable Site Features. Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (VA) may be granted an exemption; however, depending on the undesirable site feature(s) staff may recommend mitigation still be provided as appropriate. Such an exemption must be requested at the time of or prior to the filing of an Application. Historic Developments that would otherwise qualify under §11.9(e)(6) of this chapter may be granted an exemption, and such exemption must be requested at the time of or prior to the filing of an Application. The distances are to be measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the undesirable feature, unless otherwise noted below. Where there is a local ordinance that specifies the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included in the Application. Pre-existing zoning does not meet the requirement for a local ordinance. If a state or federal cognizant agency would require a new facility under its jurisdiction to have a minimum separation from housing, the Department will defer to that agency and require the same separation for a new housing facility near an existing regulated or registered facility. In addition to these limitations, a Development Owner must ensure that the proposed Development Site and all construction thereon comply with all applicable state and federal requirements regarding separation for safety purposes. If Department staff identifies what it believes would constitute an undesirable site feature not listed

in this paragraph or covered under subparagraph (K) of this paragraph, staff may issue a Deficiency.

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Texas Transportation Code §396.001;

(B) Development Sites located within 300 feet of a solid waste facility or sanitary landfill facility or illegal dumping sites (as such dumping sites are identified by the local municipality);

(C) Development Sites located within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined in Local Government Code §243.002, or as zoned, licensed and regulated as such by the local municipality;

(D) Development Sites in which any of the buildings or designated recreational areas (including pools) are to be located within 100 feet of the nearest line or structural element of any overhead high voltage transmission line, support structures for high voltage transmission lines, or other similar structures. This does not apply to local service electric lines and poles;

(E) Development Sites located within 500 feet of active railroad tracks, measured from the closest rail to the boundary of the Development Site, unless:

(i) the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone; covering the area within 500 feet of the Development Site;

(ii) the Applicant has engaged a qualified Third Party to perform a noise assessment and the Applicant commits to perform sound mitigation in accordance with HUD standards as if they were directly applicable to the Development; or

(iii) the railroad in question is commuter or light rail;

(F) Development Sites located within 500 feet of heavy industry (i.e. facilities that require extensive use of land and machinery, produce high levels of external noise such as manufacturing plants, or maintains fuel storage facilities (excluding gas stations);

(G) Development Sites located within 10 miles of a nuclear plant;

(H) Development Sites in which the buildings are located within the accident potential zones or the runway clear zones of any airport;

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids or Development Sites located adjacent to a pipeline easement (for a pipeline carrying highly volatile liquids), the Application must include a plan for developing near the pipeline(s) and mitigation, if any, in accordance with a report conforming to the Pipelines and Informed Planning Alliance (PIPA);

(J) Development Sites located within 2 miles of refineries capable of refining more than 100,000 barrels of oil daily; or

(K) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. If staff believe that a Site should be deemed unacceptable under this provision due to information that was not included in the Application, it will provide the Applicant with written notice and an opportunity to respond.

The Avanti Legacy Valor Heights Application provided mitigating support for being within 500 feet of active railroad tracks as required under §11.101(a)(2)(E)(ii) of the QAP, but failed to provide any disclosure or mitigating support as it relates to the potential Undesirable Site Feature identified in

Exhibits A and B (attached) which identifies a potential junkyard that falls within 300 feet of the development site. Per the QAP, a junkyard is defined in §396.001 of the Texas Transportation Code, which states the following:

“(1) “Automotive wrecking and salvage yard” means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

(2) “Junk” means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

(3) “Junkyard” means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

(4) “Recycling business” means a business primarily engaged in the business of:

(A) converting metal or other material into raw material products that have:

(i) prepared grades; and

(ii) an existing or potential economic value;

(B) using raw material products described by Paragraph (A) in the production of new products; or

(C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

(5) “Wrecked vehicle” means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.”

As can be seen in Exhibit C (attached), there are multiple items that are “junk”, as defined in §396.001 of the Texas Transportation Code, that have been identified on the site in question. These items include: tires, a broken vending machine, a dilapidated jet ski, discarded toilets, scrap metal, broken shelves, an old shower tub, and discarded appliances. Even though the identified site in question contains a large component of what could be considered “wrecked vehicles” as defined in §396.001 of the Texas Transportation Code, we believe that the site contains enough items that are not “wrecked vehicles” and are considered “junk” that the site should be considered a junkyard in spite of the component of “wrecked vehicles”. It should also be noted that if the site was originally intended to operate as an “automotive wrecking and salvage yard”, as defined in §396.001 of the Texas Transportation Code, then it could reasonably be concluded that the site in question no longer operates as an “automotive wrecking and salvage yard” for the following reasons:

- When you search “Eastside Auto Clinic McAllen Texas”, nothing about this location comes up;
- When you search “Automotive wrecking and salvage yard McAllen Texas”, nothing about this location comes up;
- When you search “Eastside Auto Clinic” in the Comptroller’s database, nothing about this location comes up; and
- Based on the amount of overgrowth that is occurring around the wrecked vehicles on site, it appears as though the wrecked vehicles are no longer being utilized in a pick and pull capacity.

Furthermore, this site is clearly an undesirable site feature that if determined by staff doesn't satisfy criteria for being a "junkyard", then at the very least it should have been disclosed to staff for consideration due to the fact that the site also satisfies the City of McAllen's definition of an "illegal dumping site" (see Exhibit D). However, there was no predetermination provided in the application that supports staff's position regarding the potential Undesirable Site Feature in close proximity to the development site. Therefore, because of the lack of disclosure or predetermination of the Undesirable Site Feature, we believe the Avanti Legacy Valor Heights

Application failed to satisfy threshold requirements under §11.101(a)(2)(A) of the QAP which would render the development site ineligible for a tax credit award.

If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at (417) 885-3500 or via email at mforster@wilhoitproperties.com any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna L. Zimmerman", with a long horizontal flourish extending to the right.

Donna L. Zimmerman, Member
JZ - LZ R2K, LLC

Exhibit A

Ruler

Line Path Polygon Circle 3D path 3D poly

Measure the circumference or area of a circle on the ground

Radius: 242.38 Feet

Area: 4.22 Acres

Circumference: 1,519.71 Feet

Mouse Navigation Save Clear

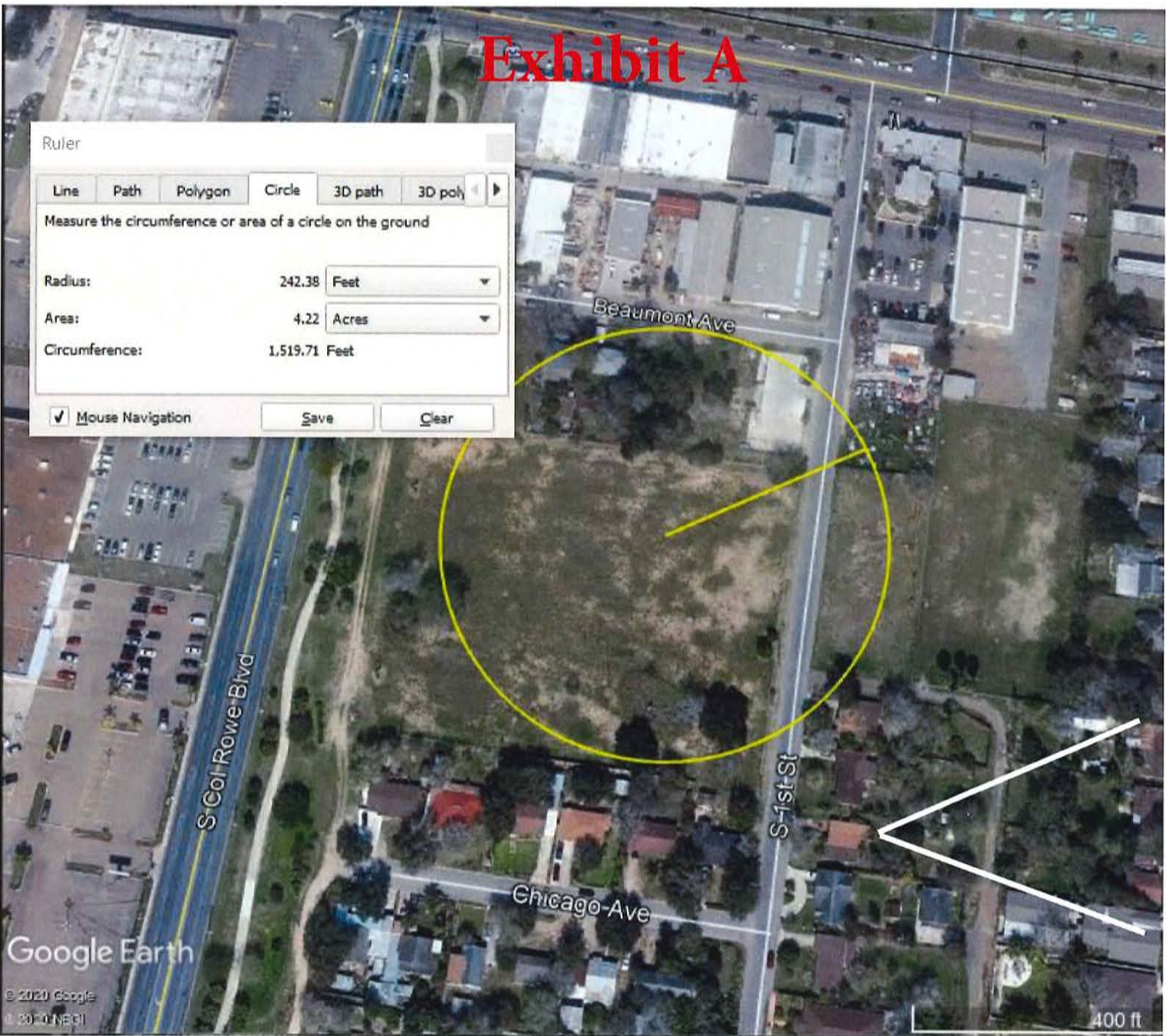


Exhibit B

Undesirable Site Features

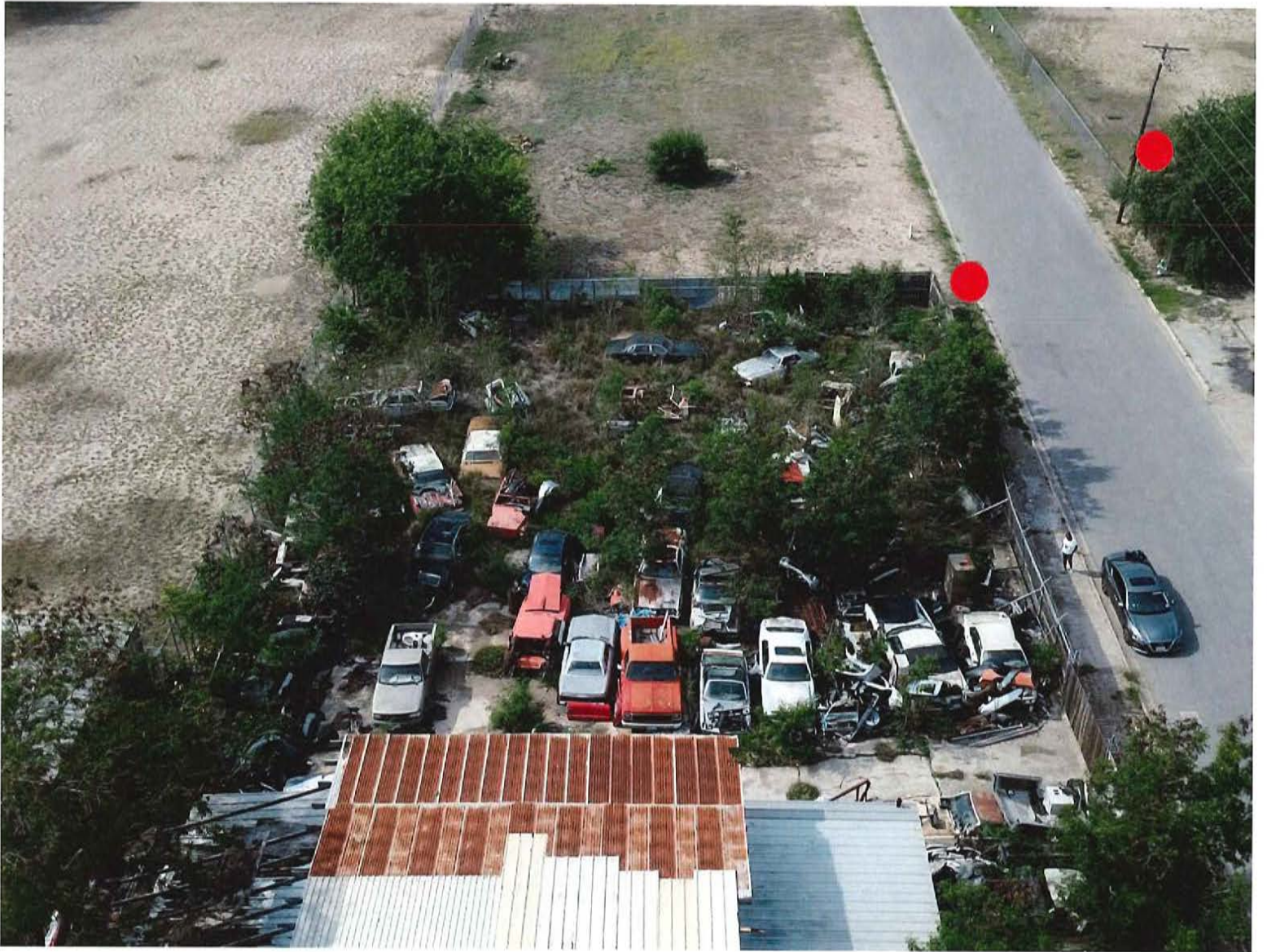
Avanti Legacy Valor
Heights Project Site





#20177 Site

Approximately 50 FT from Avanti Legacy Valor Heights Project Site





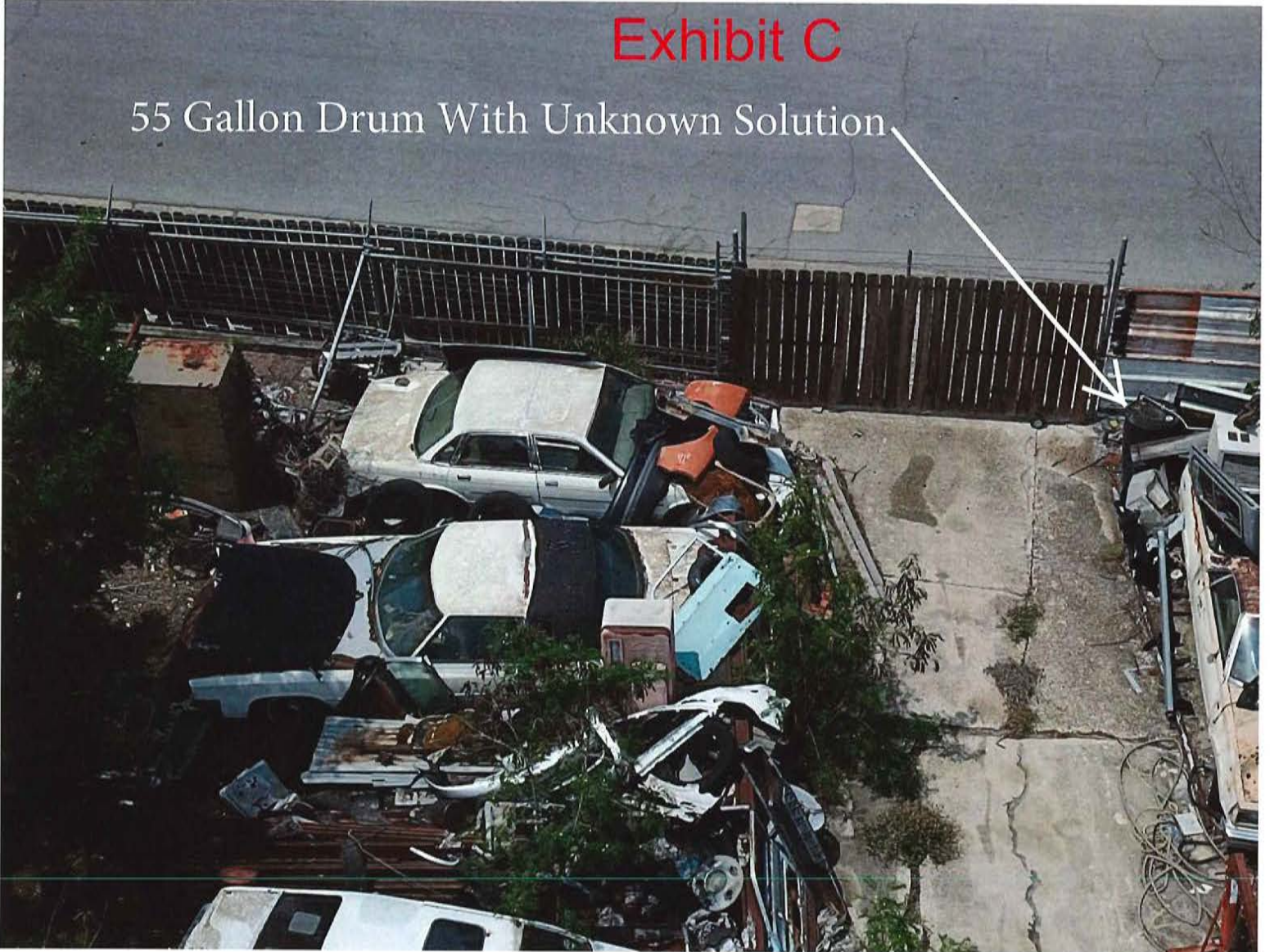
SEASIDE AUTO CLINIC

682-4197-682-4198

DASHBOARD ONLY

Exhibit C

55 Gallon Drum With Unknown Solution



Old Appliances With Tall Growth



Coke Machine With Tires and Parts



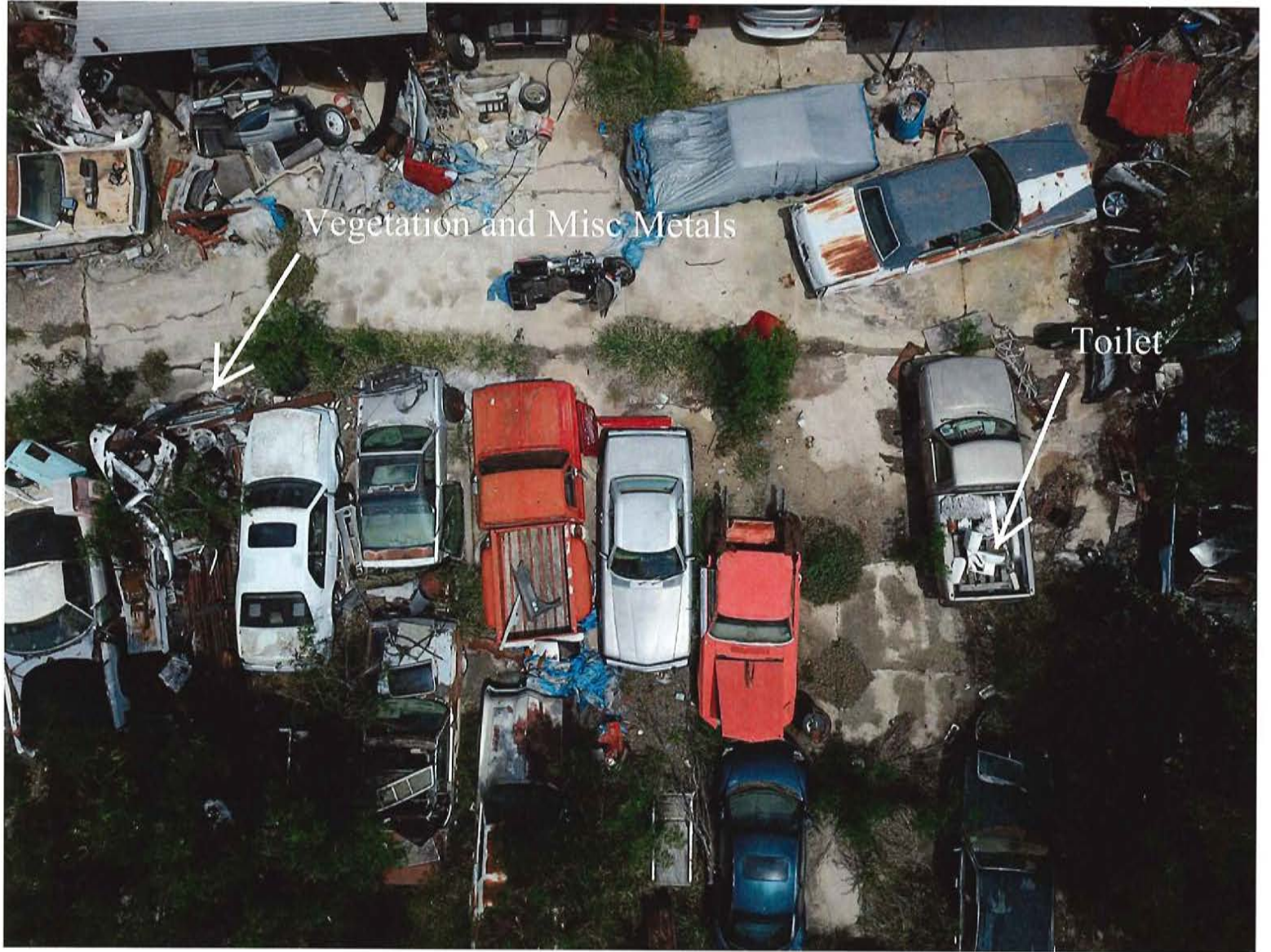


Trashed Jet Ski

Tires

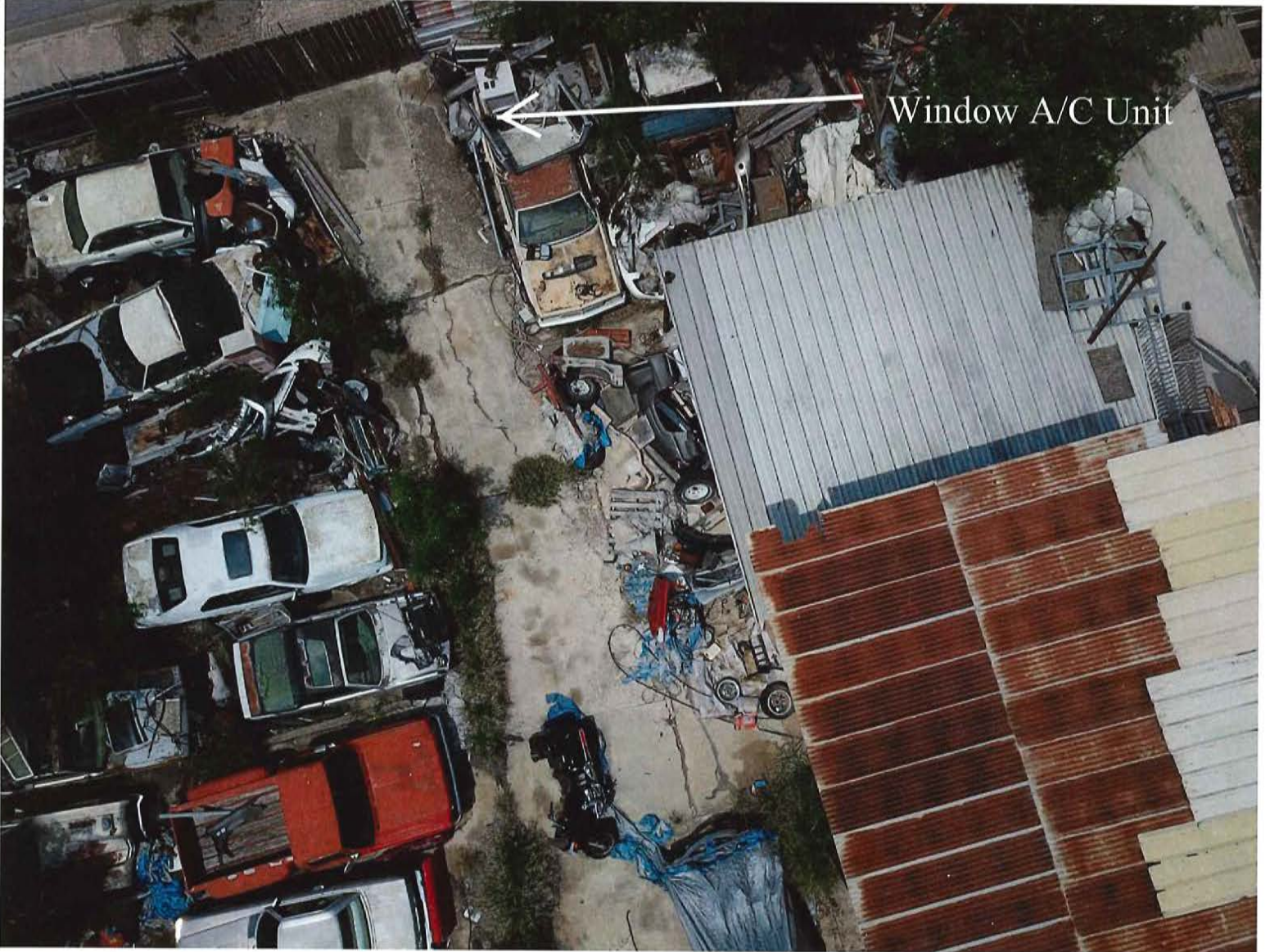


Braces Holding Fence Upright



Vegetation and Misc Metals

Toilet



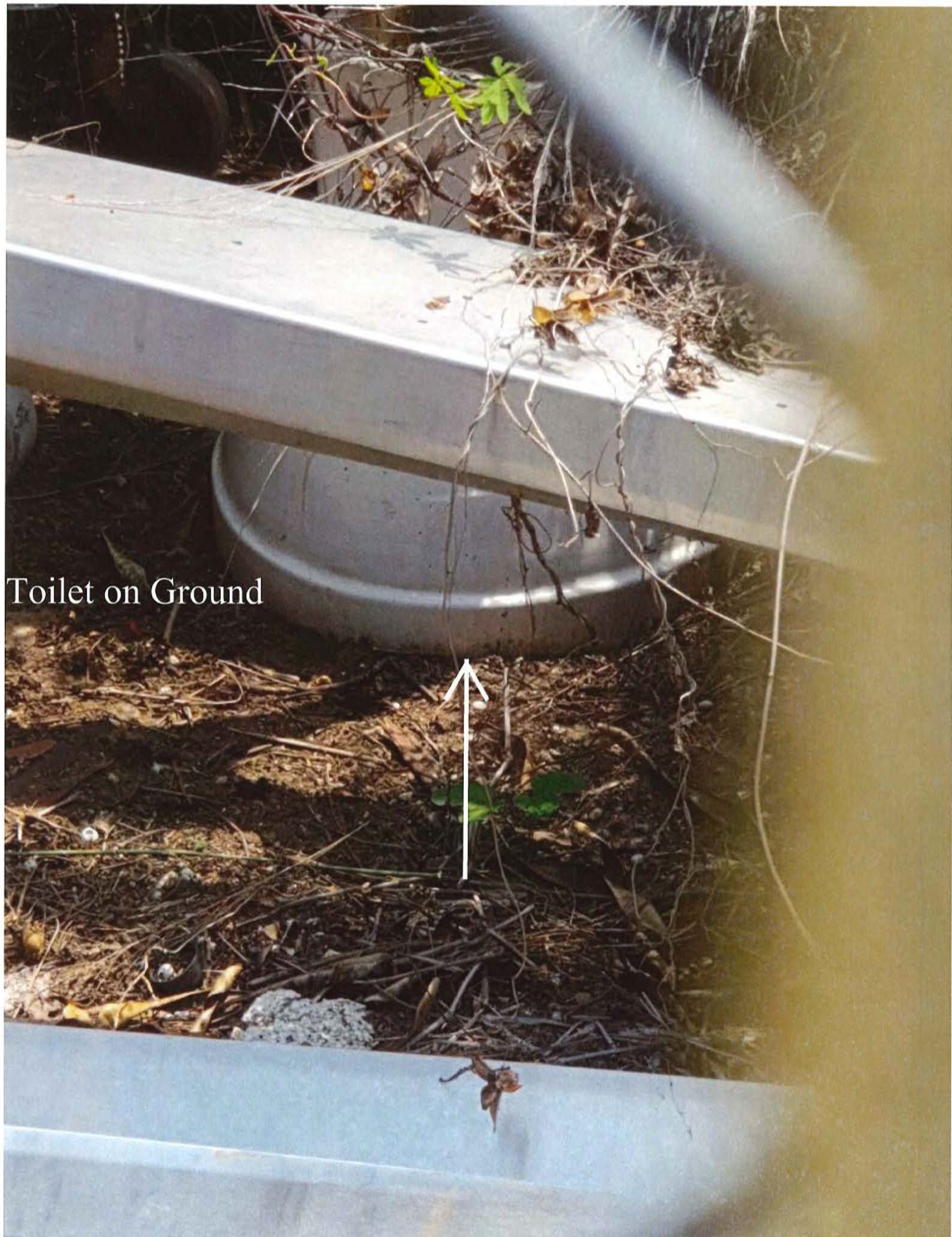
Window A/C Unit



Major Vegetation
Indicating No Activity



Old Vending Machine



Toilet on Ground

Tub on Ground - Random Metal Parts



Corner of Junkyard Nearest to Project Site



Exhibit D

TO REPORT ILLEGAL DUMPING IN MCALLEN CONTACT:

City of McAllen Health & Code Enforcement (956) 681-1900 or
McAllen 3-1-1 Customer Service Call Center (956) 681-3111

Monday through Friday, 8:00 a.m. – 5:00 p.m.

Report online by clicking [here](#)

Q: WHAT IS ILLEGAL DUMPING?

A: Illegal dumping is the improper disposal of waste at any location other than a permitted landfill or special facility. It is against the law and can pose serious threats to our rivers, creeks, and the overall environment. It typically happens in open areas such as fields or empty lots, abandoned industrial sites, along rural roads, in wooded areas, near irrigation canals, in alleys, along railroads, and near storm drains or other drainage ditches in neighborhoods. Illegal dumping often happens late at night while people are asleep so as to avoid detection.

Q: WHAT KINDS OF THINGS ARE ILLEGALLY DUMPED?

A: Examples of waste that are illegally dumped include:

- construction and demolition debris (drywall, shingles, lumber, bricks, concrete, siding)
- large appliances
- abandoned vehicles, automobile parts and tires
- old, used, or soiled furniture
- leaf, brush, palm leaves, and grass clippings
- household garbage
- medical waste
- Household hazardous waste products (cleaners, paint, motor oil, asbestos, etc.)

Q: WHO TYPICALLY DUMPS THESE THINGS ILLEGALLY?

A: Illegal dumpers can be anyone. Typical offenders can include:

- construction contractors (demolition, remodelers, roofers, landscapers)
- automobile repair employees or tire shop owners
- trash hauling contractors
- scrap collectors
- do-it-yourself home renovators
- local residents

Q: WHY DO THEY DUMP THESE THINGS ILLEGALLY IF IT'S AGAINST THE LAW?

A: Illegal dumpers may not be aware that what they are doing is illegal, or they may be trying to avoid costs and steps associated with proper disposal. Some will illegally dump materials in places where other dumping has previously happened. Sometimes, property owners will even try to earn some profit for themselves by charging others to dump on their properties, which is also illegal. Illegal dumping can also happen following clearing of properties for

development – the owners may transfer clearing debris such as rocks, wood, or earth to fill low areas on their property without getting required permits.

Q: WHAT ARE THE EFFECTS OF ILLEGAL DUMPING IN OUR RIVERS, CANALS, DRAIN DITCHES, AND IRRIGATION CANALS?

A: Debris and chemicals which are illegally dumped directly into rivers, creeks, and nearby areas can pollute and destroy the health of the water and the native fish, plant, and animal species which depend on it. The pollutants can also make the water unsafe for human use and consumption. Debris and chemicals from illegally dumped items can attract rodents and insects, which in turn can create breeding grounds in stagnant water for mosquitoes and harmful bacteria. Debris can also impact drainage and water flow, increasing the risk of flooding and further pollution.

Q: ARE CAMERAS AVAILABLE TO MONITOR THE ILLEGAL DUMP SITE?

A: Yes, there are cameras available and on a rotating schedule throughout the city.

Q: WHERE MAY I PLACE OR WHERE IS THE PROPER AREA TO PLACE ITEMS?

A: Check your neighborhood pick-up schedule and separate items by brush piles or bulky waste. Place items on the week of collection and in the area where the black and blue bins are set out for collection. Items must be separated and at least 3 feet from any meters or fencing.

B: McAllen residents can drop off items at no cost by simply showing a current utility bill at the City of McAllen Recycling Center located at 4101 North Bentsen Rd. Allowed items for drop-off include; furniture, carpet, bulky toys, wood, tires, and appliances. For detailed information, please call 956.681.4050.

Residents can also drop off items at the City of Edinburg Landfill, 8601 Jasman Road Edinburg 956-381-5652. McAllen Residents are required to bring Valid Texas ID along with a most current utility bill. Charge to drop-off include \$11.67 per cubic yard with a minimum fee of \$25 dollars.

C: Dumpsters from the City of McAllen Public Works (for brush only) can be requested by residents on a first come, first serve basis.

D: Project Clean Neighborhoods is designed to assist in helping to clean and beautify neighborhoods. Dumpsters will be provided at no cost so that citizens may dispose of any broken appliances, bulky items, trash, or debris. Construction material, food waste, or dangerous chemicals will not be accepted. For more information call Keep McAllen Beautiful 956-681-4562.

Q: WHO TO CALL

A: To report illegal dumping in McAllen contact the City of McAllen Health & Code Enforcement at (956) 681-1900 or call the McAllen 3-1-1 Customer Service Call Center at 681-3111, Monday through Friday, 8:00 a.m. – 5:00 p.m.

Q: HOW DO I REQUEST AN ILLEGAL DUMPING SIGN FROM THE CITY?

A: Call the Health & Code Enforcement (956) 681-1900

Q: WHAT ARE THE CONSEQUENCES FOR ILLEGAL DUMPING?

A: Consequences include a citation to appear at the City of McAllen Municipal Court. Fines are up to \$500.00.



CONTACT INFO

**1300 HOUSTON AVENUE
CITY HALL - 2ND FLOOR
MCALLEN, TX 78501
PHONE : [956] 681-1900**

From: [Matthew Griego](mailto:Matthew.Griego)
To: henry@madhousedevlopment.net
Cc: [Sharon Gamble](mailto:Sharon.Gamble)
Subject: 20177 Avanti Valor Heights- 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Monday, May 11, 2020 3:37:27 PM

****All deficiencies must be corrected or clarified by 5 pm Austin local time on May 18, 2020. Please respond to this email as confirmation of receipt.****

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §11.1(d)(2) and described in §11.201(7), §11.201(7)(A) and §11.201(7)(B) of the 2020 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

The Department has received a Third Party Request for Administrative Deficiency (RFAD) regarding HTC Application **20177 Avanti Valor Heights**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please refer to the copy of the request that you received from the requestor.

The request states the development site is within less than 300 feet from a junkyard, which would be considered an Undesirable Site Feature under 10 TAC §11.101(a)(2)(A).

1. Please provide evidence that the disclosed site from the requestor would not be considered a junkyard in close proximity to the development site.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on May 18, 2020. Please respond to this email as confirmation of receipt.****

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §11.201(7)(B) of the 2020 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be resolved to the

satisfaction of the Department by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day will be suspended from further processing, and the Applicant will be notified to that effect, until the deficiencies are resolved. If, during the period of time when the Application is suspended from review, Direct Loan funds become oversubscribed, the Applicant will be informed that unless the outstanding item(s) are resolved within one business day the Application will be terminated. For purposes of priority under the Direct Loan set-asides, if the outstanding item(s) are resolved within one business day, the date by which the item is submitted shall be the new received date pursuant to §13.5(c) of the 2020 Multifamily Direct Loan Rule. Applicants should be prepared for additional time needed for completion of staff reviews.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 11.1(h) of the 2020 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Matthew Griego
Multifamily Policy Research Specialist
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
(512)475-0927

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §11.2(a)).

Reminder for Direct Loan Borrowers: TDHCA will not close earlier than 30 days after receipt of complete due diligence documents. We will not honor closings scheduled without our confirmation.

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

EXHIBIT "B"

AVANTI LEGACY VALOR HEIGHTS, LP

5/18/2020

Texas Department of Housing and Community Affairs
Multifamily Division
221 East 11th Street
Austin, Texas 78701
Attention: Sharon Gamble

RE: Avanti Legacy Valor Heights – 2020 Application Deficiency Notice for TDHCA #20177

Dear Ms. Gamble,

This letter is in response to your application deficiency email received on May 11, 2020. Below, please find our response and additional information.

Deficiency: The Avanti Legacy Valor Heights Application failed to disclose or provide mitigating support as it relates to the Junkyard.

Response:

The Property known as Eastside Auto Clinic (the "Property") which was the subject of the Third Party Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC, is not an Undesirable Site Feature. The Property is not a Junkyard as defined by Texas Transportation Code §396.001, nor does the City of McAllen consider it a Junkyard. Therefore, the Property does not warrant any disclosure. Consequently, we did not violate Section 11.101(a)(2) of the 2020 Qualified Allocation Plan ("QAP") and should not be subject to a deficiency based on the following supporting analysis.

TDHCA Rule: Section 11.101(a)(2) of the QAP requires a proposed development to disclose, and where applicable, mitigate any Undesirable Site Features if a development site is (A) ... *located within 300 feet of Junkyards*. For purposes of this paragraph, a Junkyard shall be defined as stated in Texas Transportation Code §396.001.

- Texas Transportation Code §396.001(3): "**Junkyard**" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

Analysis:

1. The Property does not meet the definition of a "Junkyard" as referenced in Section 11.101(a)(2)(A) of the QAP and as defined by Texas Transportation Code §396.001.
 - The Property is zoned C-3 General Business, and under Section 138-277 of the McAllen Code of Ordinances, the City of McAllen expressly prohibits any wholesale trade or wholesale trade accessory of "metals and minerals" and "scrap or junk waste materials" within C-3 General Business zoning (**See Exhibit A**).

Avanti Legacy Valor Heights, LP
8500 Shoal Creek Blvd, Bldg. 4, Ste. 208, Austin, TX 78757
Phone – (512) 982-1342 | Fax – (512) 900-2860
contact@madhousedevlopment.net

- The Property owner is not in the business of storing, buying, or selling “junk” as defined by Texas Transportation Code §396.001. The Property was initially leased and used as an automotive repair shop and is currently being used by the owners as a private automotive repair shop for their personal collection of vehicles and personal property. The third-party requestor was unable to find any business or online presence associated with the Property because the owner is maintaining the Property for personal use and not to store, buy, or sell junk.
 - The Comptrollers database resulted in no positive search results because the Property is currently being used as a private automotive repair shop for the owner’s collection of vehicles and personal property.
 - We have provided additional photos from street level view that were not included by the third-party requestor which show the Property from the view of a passing person or vehicle and not a helicopter or drone. (See Exhibit B).
2. **Local Municipality Statement** - On September 5th, 2019, Henry Flores, the authorized representative of Avanti Legacy Valor Heights, LP, met with Michelle Rivera, the City of McAllen’s Assistant City Manager, to discuss the Property and ascertain whether the city considered the Property to be a Junkyard. After investigating the Property, the City of McAllen confirmed that **the Property was and is not a Junkyard**. Additionally, the city provided the Applicant with a letter explaining its findings and its reasonings for the determination that the Property is not a Junkyard (See Exhibit C). For convenience, we have summarized the facts of the letter below.
- Staff determined that the Property was zoned C-3 General Business, and under Section 138-277 of the McAllen Code of Ordinances, the City of McAllen expressly prohibits any wholesale trade or wholesale trade accessory of “metals and minerals” and “scrap or junk waste materials” within C-3 General Business zoning.
 - Staff then verified that the Property in question was being used by the owners as a private automotive repair shop and was following local zoning ordinances.
 - The City of McAllen assured the Applicant that the Property was currently being used by the owners as a private automotive repair shop and is in compliance with local ordinances. The city notes they plan to continue monitoring the Property for ongoing compliance.
3. **State Representative Statement** – Texas State Representative Robert “Bobby” Guerra of District 41, whose district boundaries encompass the Property in question, has provided the applicant with a letter stating that he has been assured by the City of McAllen staff that it is not a Junkyard. He also provides continued support for the development (See Exhibit D).

Conclusion:

In conclusion, the Property does not meet the definition of a Junkyard as defined by Texas Transportation Code §396.001 or the local municipality code in which the proposed development is located. Based on the facts presented above, the Applicant was not required to disclose the Property as an Undesirable Site Feature and requests that staff clear the administrative deficiency.

Upon your review, should you have any questions or require additional information, please do not hesitate to contact us at your convenience.

Respectfully,

A handwritten signature in blue ink that reads "Enrique Flores". The signature is written in a cursive, slightly slanted style.

Enrique Flores,
Authorized Representative of Avanti Legacy Valor Heights, LP
8500 Shoal Creek Blvd., Bldg. 4, Ste. 208
Austin, TX 78757
(512) 982-1342 Phone
(512) 900-2860 Fax
henry@madhousedevlopment.net

EXHIBIT "C"



JAMES E. DARLING
MAYOR

May 13, 2020

Sharon D. Gamble, MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

RE: Avanti Legacy Valor Heights, TDHCA #20177

Dear Ms. Gamble:

Please allow this letter to serve as a response to the Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC. In its request, JZ – LZ R2K, LLC, wrongly claims that the property located on the corner of South 1st Street and Beaumont Avenue in McAllen, Texas, is a “junkyard.” In fact, the property was leased to Eastside Auto Clinic, an automotive repair shop, and is currently being used by the owners to store and repair their private collection of vehicles and personal property.

On September 5th, 2019, Henry Flores, the authorized representative of Avanti Legacy Valor Heights, LP, met with Michelle Rivera, Assistant City Manager, to discuss the property and ascertain whether the city considered the property to be a junkyard. Our staff determined that the property is zoned C-3 general business, and under Section 138-277 of the McAllen Code of Ordinances, we expressly prohibit any wholesale trade or wholesale trade accessory of “metals and minerals” and “scrap or junk waste materials” within C-3 general business zoning. Staff then verified that the property in question was being used by the owners as a private automotive shop and was in compliance with local zoning ordinances. We assured Mr. Flores that the site was not a junkyard and pledged that the city would monitor the property to ensure the owner’s continued compliance with state and local laws. Additionally, staff spoke with the owner of the property and requested the owner improve the fence and maintain the grounds in a neat and orderly fashion.

Our goal in monitoring the property is to guarantee the site does not become an Undesirable Site Feature as defined by the Texas Department of Housing and Community Affairs (TDHCA) 2020 Qualified Allocation Plan. We believe the site proposed by Avanti Legacy Valor Heights, LP, is an ideal location for multifamily housing and look forward to the proposed high-quality senior living development. We will continue to facilitate this development in order to provide quality housing to our growing senior population. Please let me know if you have any questions or if I can provide additional information.

Sincerely,

A handwritten signature in blue ink, reading "Jim Darling". The signature is stylized with a large, looping initial "J" and a long, sweeping underline that extends to the right.

Jim Darling
Mayor

EXHIBIT "D"

Sec. 138-277. - Permitted uses.

The uses permitted in the C-3 general business districts are as follows:

- (1) All uses listed as permitted uses in C-1 and C-2 zoning districts.
- (2) Any retail businesses, personal services or business services except the following: lumberyard or contractor yards, farm equipment or other heavy equipment sales or service, farm products warehousing and storage or stockyards, general warehousing and storage. Household goods warehousing and storage in individually rented storage units is permitted.
- (3) Hospitals.
- (4) Hotels, motels.
- (5) Restaurants, eating places.
- (6) Printing, publishing and allied products manufacturing.
- (7) Rail and motor vehicle transportation passenger terminals.
- (8) Telephone, telegraph, television, radio or similar media stations, centers, studios, but not including public microwave, radio and television towers.
- (9) Any wholesale trade or wholesale trade accessory to any permitted retail operation **except the following:** raw cotton, grain, hide, skins and raw furs, tobacco, wool, mohair, livestock, **commercial or industrial machinery or supplies, metals and minerals,** petroleum bulk stations and terminals, **scrap or junk waste materials.**
- (10) Signs in accordance with adopted ordinances.
- (11) Automotive repair as an accessory use to a permitted retail use, such as retail sale of automobiles or retail sale of automobile parts.

(Code 1966, § 32-43(2))

Sec. 138-277 expressly prohibits the wholesale trade or wholesale trade accessory of commercial or industrial machinery or supplies, metals and minerals, and scrap or junk waste materials.

EXHIBIT "E"

State of Texas
House of Representatives

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
VOICE: (512) 463-0578
FAX: (512) 463-1482
E-MAIL: bobbyguerra@house.state.tx.us



DISTRICT OFFICE:
10213 NORTH 10TH STREET
SUITE B
MCALLEN, TEXAS 78504
VOICE: (956) 292-0407
FAX: (956) 292-0418

R.D. "Bobby" Guerra
STATE REPRESENTATIVE
DISTRICT 41

Sharon D. Gamble, MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

Re: Avanti Legacy Valor Heights, TDHCA #20177

Dear Ms. Gamble:

Please allow this letter to serve as a response to the Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC. In its request, JZ – LZ R2K, LLC, wrongly claims that the property located on the corner of South 1st Street and Beaumont Avenue in McAllen, Texas, is a "junkyard." I have been assured by the City of McAllen staff that the property remains in compliance with local zoning ordinances and it is not a junkyard. As I understand, city staff will continue to monitor the property to ensure its continued compliance with state and local laws.

I would also like to express my continued support for the application for housing tax credits concerning the proposed Avanti Legacy Valor Heights senior community. The proposed development is located in my district near the SEC 2nd St & Business 83, McAllen, Hidalgo County, Texas 78501. The site is an ideal location for the development and will greatly benefit the community by providing quality affordable housing to those living on low to moderate incomes. The Avanti Legacy Valor Heights community will give seniors the opportunity to reside in a decent, safe, and affordable community.

If I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to be "R.D. Guerra".

Representative R.D. 'Bobby' Guerra
House District 41



Applicant's Board Documents



600 Congress, Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

July 2, 2020

Via Email

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Avanti Legacy Valor Heights, TDHCA No. 20177 - **Staff Remand**

Dear Bobby:

We represent the Applicant¹ for the Development referenced above, which has applied for 2020 Housing Tax Credits. At its meeting on June 25, the Department's Board heard testimony about an RFAD filed by a competitor with respect to this Application. The competitor suggested that the Application should be deemed ineligible for proximity to a junkyard, in accordance with 10 TAC §11.101(a)(2)(A). The staff correctly determined that the Applicant submittal responded with sufficient evidence to conclude that the neighboring site does not qualify as a junkyard under the QAP. Based upon testimony presented, the Board asked the staff to revisit the matter. The purpose of this letter is to recap information already provided to the Department, to ensure that the record is clear.

The QAP relies upon a concise, statutory definition of junkyard for the determination of an undesirable site feature. A junkyard is defined in the Transportation Code as "a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk." (emphasis added) In its response to the RFAD, the Applicant presented evidence that the neighboring site labeled "Eastside Auto Clinic" (the "**Neighboring Site**") fails to meet the definition of a junkyard and cannot be considered an undesirable site feature under the rule.

- The Neighboring Site is not a business. As noted in our client's response to the RFAD, the Neighboring Site previously operated as a business but is now private property. This is consistent with the fact that the Eastside Auto Clinic does not have a visible internet presence.

¹ Capitalized terms used but not defined in this letter shall have the meanings given them in the 2020 QAP.

- Because the Neighboring Site is not a business, it is not operated to store, buy, or sell junk. Just because someone might be able to approach the property owner and request to buy something on the site does not mean the Neighboring Site is operated as a junkyard.

Failure of the Neighboring Site to meet the statutory definition of a junkyard is supported by third party evidence, as well:

- The City of McAllen investigated the Neighboring Site in September 2019 and May 2020, concluding the site complies with local ordinances, including zoning. The Neighboring Site is zoned C-3, which expressly prohibits wholesale trade in “scrap or waste junk materials.”
- The owner of the private property stored at the Neighboring Site confirms its use of the property does not meet the definition of a junkyard, as attached on Exhibit A.

In its effort to disqualify this Application, the competitor presents overhead pictures that do not reflect the perspective that will be experienced by the residents of the Development. Street-level pictures, provided by the Applicant in its RFAD response and re-attached here as Exhibit B, show high fencing through which the contents of the Neighboring Site are not readily visible. The competitor endeavors to classify the Neighboring Site as an “illegal dumping” location, which is refuted by the Applicant’s presentation of a letter from the City and evidence that the materials on the Neighboring Site belong to the property owner and are not being “dumped.”

The QAP utilizes a definition of junkyard found in statute to provide staff with an objective tool to analyze these situations, without speculation. The Applicant was diligent in its initial evaluation of the Neighboring Site and provided staff with appropriate evidence in its response to the RFAD. With this evidence, staff must conclude that the Development Site does not have an undesirable site feature as defined by the QAP. If additional information is required for the staff’s consideration, we trust you will contact the Applicant.

Sincerely,



Cynthia L. Bast

cc: Madhouse Development Services

Exhibit A

July 2, 2020

Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

RE: Eastside Auto Clinic Property

Dear Ms. Holloway,

I am the owner of the private property located at 119 S. 1st Street also referenced as the Eastside Auto Clinic. I do not operate a business that stores, buys, or sells junk at the Eastside Auto Clinic. Furthermore, the Eastside Auto Clinic is not operated as a “junkyard” as defined by the Texas Transportation Code §396.001. It is private property and not “a business that owns junk, and is operated to store, buy, or sell junk.” No commercial business activity was conducted at this site as of February 28, 2020 to the present time.

Thank you,

Carl Edward Scalise

Email: prowler361@sbcglobal.net

Exhibit B

Side of repair shop facing S. 1st Street



Wooden fence surrounding repair shop



Back of repair shop



20177
Request for Administrative Deficiency

JZ – LZ R2K, LLC
1329 East Lark Street
Springfield, MO 65804

Date: 5/1/2020

Marni Holloway, Director of Multifamily Finance
Sharon Gamble, 9% HTC Administrator

Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, Texas 78701

Re: §11.10. Third Party Request for Administrative Deficiency;
TDHCA Application #20177 – Avanti Legacy Valor Heights, McAllen, Texas;

Dear Ms. Holloway and Gamble,

Pursuant to §11.10 of the 2020 Qualified Allocation Plan (the “QAP”), please let this letter serve as our Third-Party Request for Administrative Deficiency (“RFAD”) with regards to Application # 20177 (the “Avanti Legacy Valor Heights Application”). A copy of this request is being delivered concurrently to representatives of the Avanti Legacy Valor Heights Application.

Under §11.101(a)(2) of the QAP associated with undesirable site features (“Undesirable Site Features”), a proposed development is required to disclose, and where applicable, mitigate any Undesirable Site Features that fall within the applicable distance of this subsection. Specifically, §11.9(a)(2) of the QAP states the following:

“Undesirable Site Features. Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (VA) may be granted an exemption; however, depending on the undesirable site feature(s) staff may recommend mitigation still be provided as appropriate. Such an exemption must be requested at the time of or prior to the filing of an Application. Historic Developments that would otherwise qualify under §11.9(e)(6) of this chapter may be granted an exemption, and such exemption must be requested at the time of or prior to the filing of an Application. The distances are to be measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the undesirable feature, unless otherwise noted below. Where there is a local ordinance that specifies the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included in the Application. Pre-existing zoning does not meet the requirement for a local ordinance. If a state or federal cognizant agency would require a new facility under its jurisdiction to have a minimum separation from housing, the Department will defer to that agency and require the same separation for a new housing facility near an existing regulated or registered facility. In addition to these limitations, a Development Owner must ensure that the proposed Development Site and all construction thereon comply with all applicable state and federal requirements regarding separation for safety purposes. If Department staff identifies what it believes would constitute an undesirable site feature not listed

in this paragraph or covered under subparagraph (K) of this paragraph, staff may issue a Deficiency.

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Texas Transportation Code §396.001;
(B) Development Sites located within 300 feet of a solid waste facility or sanitary landfill facility or illegal dumping sites (as such dumping sites are identified by the local municipality);

(C) Development Sites located within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined in Local Government Code §243.002, or as zoned, licensed and regulated as such by the local municipality;

(D) Development Sites in which any of the buildings or designated recreational areas (including pools) are to be located within 100 feet of the nearest line or structural element of any overhead high voltage transmission line, support structures for high voltage transmission lines, or other similar structures. This does not apply to local service electric lines and poles;

(E) Development Sites located within 500 feet of active railroad tracks, measured from the closest rail to the boundary of the Development Site, unless:

(i) the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone; covering the area within 500 feet of the Development Site;

(ii) the Applicant has engaged a qualified Third Party to perform a noise assessment and the Applicant commits to perform sound mitigation in accordance with HUD standards as if they were directly applicable to the Development; or

(iii) the railroad in question is commuter or light rail;

(F) Development Sites located within 500 feet of heavy industry (i.e. facilities that require extensive use of land and machinery, produce high levels of external noise such as manufacturing plants, or maintains fuel storage facilities (excluding gas stations);

(G) Development Sites located within 10 miles of a nuclear plant;

(H) Development Sites in which the buildings are located within the accident potential zones or the runway clear zones of any airport;

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids or Development Sites located adjacent to a pipeline easement (for a pipeline carrying highly volatile liquids), the Application must include a plan for developing near the pipeline(s) and mitigation, if any, in accordance with a report conforming to the Pipelines and Informed Planning Alliance (PIPA);

(J) Development Sites located within 2 miles of refineries capable of refining more than 100,000 barrels of oil daily; or

(K) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. If staff believe that a Site should be deemed unacceptable under this provision due to information that was not included in the Application, it will provide the Applicant with written notice and an opportunity to respond.

The Avanti Legacy Valor Heights Application provided mitigating support for being within 500 feet of active railroad tracks as required under §11.101(a)(2)(E)(ii) of the QAP, but failed to provide any disclosure or mitigating support as it relates to the potential Undesirable Site Feature identified in

Exhibits A and B (attached) which identifies a potential junkyard that falls within 300 feet of the development site. Per the QAP, a junkyard is defined in §396.001 of the Texas Transportation Code, which states the following:

“(1) “Automotive wrecking and salvage yard” means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

(2) “Junk” means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

(3) “Junkyard” means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

(4) “Recycling business” means a business primarily engaged in the business of:

(A) converting metal or other material into raw material products that have:

(i) prepared grades; and

(ii) an existing or potential economic value;

(B) using raw material products described by Paragraph (A) in the production of new products; or

(C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

(5) “Wrecked vehicle” means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.”

As can be seen in Exhibit C (attached), there are multiple items that are “junk”, as defined in §396.001 of the Texas Transportation Code, that have been identified on the site in question. These items include: tires, a broken vending machine, a dilapidated jet ski, discarded toilets, scrap metal, broken shelves, an old shower tub, and discarded appliances. Even though the identified site in question contains a large component of what could be considered “wrecked vehicles” as defined in §396.001 of the Texas Transportation Code, we believe that the site contains enough items that are not “wrecked vehicles” and are considered “junk” that the site should be considered a junkyard in spite of the component of “wrecked vehicles”. It should also be noted that if the site was originally intended to operate as an “automotive wrecking and salvage yard”, as defined in §396.001 of the Texas Transportation Code, then it could reasonably be concluded that the site in question no longer operates as an “automotive wrecking and salvage yard” for the following reasons:

- When you search “Eastside Auto Clinic McAllen Texas”, nothing about this location comes up;
- When you search “Automotive wrecking and salvage yard McAllen Texas”, nothing about this location comes up;
- When you search “Eastside Auto Clinic” in the Comptroller’s database, nothing about this location comes up; and
- Based on the amount of overgrowth that is occurring around the wrecked vehicles on site, it appears as though the wrecked vehicles are no longer being utilized in a pick and pull capacity.

Furthermore, this site is clearly an undesirable site feature that if determined by staff doesn't satisfy criteria for being a "junkyard", then at the very least it should have been disclosed to staff for consideration due to the fact that the site also satisfies the City of McAllen's definition of an "illegal dumping site" (see Exhibit D). However, there was no predetermination provided in the application that supports staff's position regarding the potential Undesirable Site Feature in close proximity to the development site. Therefore, because of the lack of disclosure or predetermination of the Undesirable Site Feature, we believe the Avanti Legacy Valor Heights

Application failed to satisfy threshold requirements under §11.101(a)(2)(A) of the QAP which would render the development site ineligible for a tax credit award.

If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at (417) 885-3500 or via email at mforster@wilhoitproperties.com any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna L. Zimmerman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Donna L. Zimmerman, Member
JZ - LZ R2K, LLC

Exhibit A

Ruler

Line Path Polygon Circle 3D path 3D poly

Measure the circumference or area of a circle on the ground

Radius: 242.38 Feet

Area: 4.22 Acres

Circumference: 1,519.71 Feet

Mouse Navigation

Save Clear



Exhibit B

Undesirable Site Features

Avanti Legacy Valor
Heights Project Site

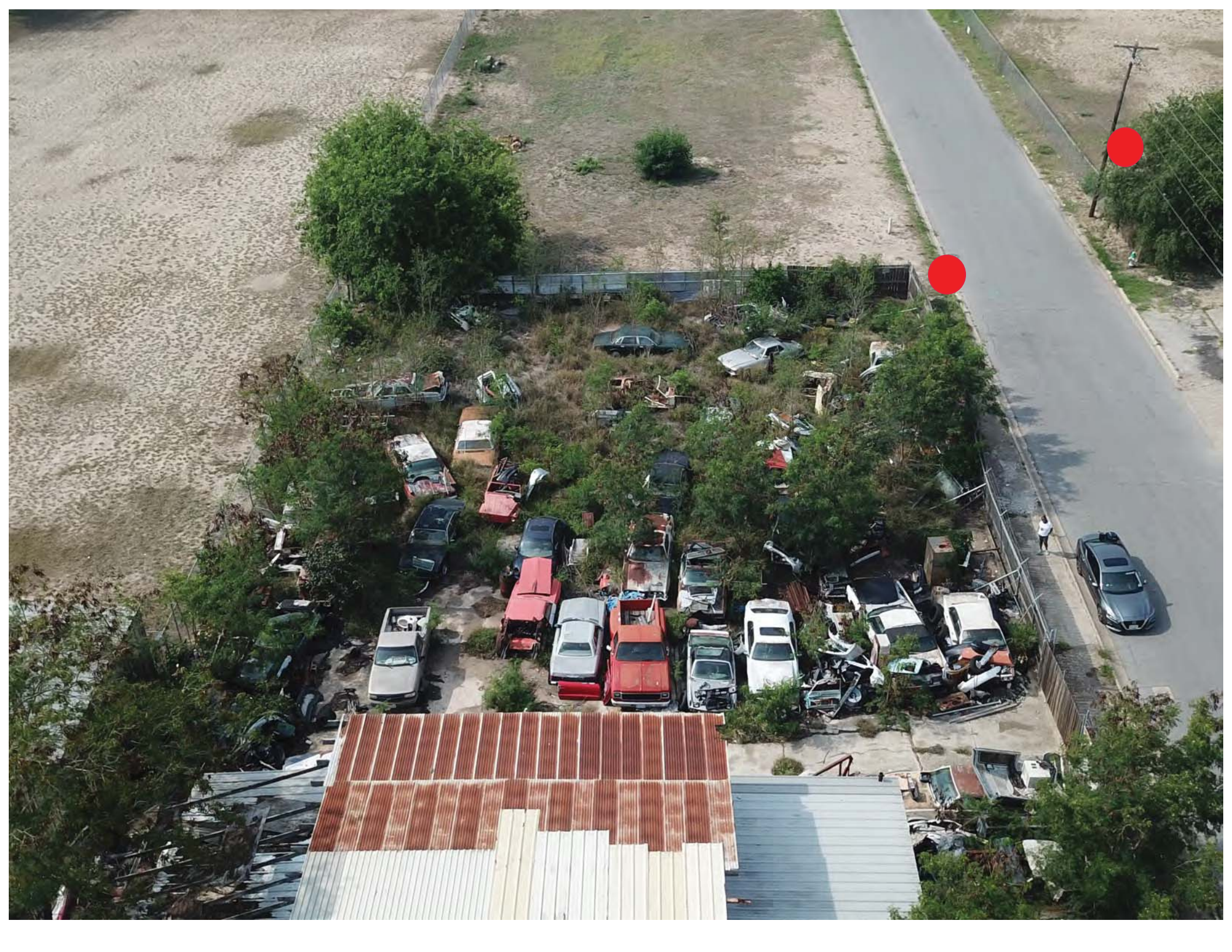


#20177 Site



Approximately 50 FT from Avanti Legacy Valor Heights Project Site





STSIDE AUTO CLINIC
682-4197-682-4198

DBOARD ONLY

Exhibit C

55 Gallon Drum With Unknown Solution



Old Appliances With Tall Growth



Coke Machine With Tires and Parts





Trashed Jet Ski

Tires





Braces Holding Fence Upright

Vegetation and Misc Metals



Toilet



Window A/C Unit





Major Vegetation
Indicating No Activity

Old Vending Machine



Toilet on Ground



Tub on Ground - Random Metal Parts



An aerial photograph showing a corner of a junkyard. A black chain-link fence runs along the top and right sides of the area. Inside the fence, there is a large pile of green bushes and trees. Several vehicles are visible: a yellow car in the center, a white car with significant rust on the roof and rear in the bottom right, and a red car partially obscured by debris in the bottom left. The ground is a mix of dirt, grass, and scattered trash. A paved road is visible in the top right corner.

Corner of Junkyard Nearest to Project Site

Exhibit D

TO REPORT ILLEGAL DUMPING IN MCALLEN CONTACT:

City of McAllen Health & Code Enforcement (956) 681-1900 or
McAllen 3-1-1 Customer Service Call Center (956) 681-3111
Monday through Friday, 8:00 a.m. – 5:00 p.m.
[Report online by clicking here](#)

Q: WHAT IS ILLEGAL DUMPING?

A: Illegal dumping is the improper disposal of waste at any location other than a permitted landfill or special facility. It is against the law and can pose serious threats to our rivers, creeks, and the overall environment. It typically happens in open areas such as fields or empty lots, abandoned industrial sites, along rural roads, in wooded areas, near irrigation canals, in alleys, along railroads, and near storm drains or other drainage ditches in neighborhoods. Illegal dumping often happens late at night while people are asleep so as to avoid detection.

Q: WHAT KINDS OF THINGS ARE ILLEGALLY DUMPED?

A: Examples of waste that are illegally dumped include:

- construction and demolition debris (drywall, shingles, lumber, bricks, concrete, siding)
- large appliances
- abandoned vehicles, automobile parts and tires
- old, used, or soiled furniture
- leaf, brush, palm leaves, and grass clippings
- household garbage
- medical waste
- Household hazardous waste products (cleaners, paint, motor oil, asbestos, etc.)

Q: WHO TYPICALLY DUMPS THESE THINGS ILLEGALLY?

A: Illegal dumpers can be anyone. Typical offenders can include:

- construction contractors (demolition, remodelers, roofers, landscapers)
- automobile repair employees or tire shop owners
- trash hauling contractors
- scrap collectors
- do-it-yourself home renovators
- local residents

Q: WHY DO THEY DUMP THESE THINGS ILLEGALLY IF IT'S AGAINST THE LAW?

A: Illegal dumpers may not be aware that what they are doing is illegal, or they may be trying to avoid costs and steps associated with proper disposal. Some will illegally dump materials in places where other dumping has previously happened. Sometimes, property owners will even try to earn some profit for themselves by charging others to dump on their properties, which is also illegal. Illegal dumping can also happen following clearing of properties for

development – the owners may transfer clearing debris such as rocks, wood, or earth to fill low areas on their property without getting required permits.

Q: WHAT ARE THE EFFECTS OF ILLEGAL DUMPING IN OUR RIVERS, CANALS, DRAIN DITCHES, AND IRRIGATION CANALS?

A: Debris and chemicals which are illegally dumped directly into rivers, creeks, and nearby areas can pollute and destroy the health of the water and the native fish, plant, and animal species which depend on it. The pollutants can also make the water unsafe for human use and consumption. Debris and chemicals from illegally dumped items can attract rodents and insects, which in turn can create breeding grounds in stagnant water for mosquitoes and harmful bacteria. Debris can also impact drainage and water flow, increasing the risk of flooding and further pollution.

Q: ARE CAMERAS AVAILABLE TO MONITOR THE ILLEGAL DUMP SITE?

A: Yes, there are cameras available and on a rotating schedule throughout the city.

Q: WHERE MAY I PLACE OR WHERE IS THE PROPER AREA TO PLACE ITEMS?

A: Check your neighborhood pick-up schedule and separate items by brush piles or bulky waste. Place items on the week of collection and in the area where the black and blue bins are set out for collection. Items must be separated and at least 3 feet from any meters or fencing.

B: McAllen residents can drop off items at no cost by simply showing a current utility bill at the City of McAllen Recycling Center located at 4101 North Bentsen Rd. Allowed items for drop-off include; furniture, carpet, bulky toys, wood, tires, and appliances. For detailed information, please call 956.681.4050.

Residents can also drop off items at the City of Edinburg Landfill, 8601 Jasman Road Edinburg 956-381-5652. McAllen Residents are required to bring Valid Texas ID along with a most current utility bill. Charge to drop-off include \$11.67 per cubic yard with a minimum fee of \$25 dollars.

C: Dumpsters from the City of McAllen Public Works (for brush only) can be requested by residents on a first come, first serve basis.

D: Project Clean Neighborhoods is designed to assist in helping to clean and beautify neighborhoods. Dumpsters will be provided at no cost so that citizens may dispose of any broken appliances, bulky items, trash, or debris. Construction material, food waste, or dangerous chemicals will not be accepted. For more information call Keep McAllen Beautiful 956-681-4562.

Q: WHO TO CALL

A: To report illegal dumping in McAllen contact the City of McAllen Health & Code Enforcement at (956) 681-1900 or call the McAllen 3-1-1 Customer Service Call Center at 681-3111, Monday through Friday, 8:00 a.m. – 5:00 p.m.

Q: HOW DO I REQUEST AN ILLEGAL DUMPING SIGN FROM THE CITY?

A: Call the Health & Code Enforcement (956) 681-1900

Q: WHAT ARE THE CONSEQUENCES FOR ILLEGAL DUMPING?

A: Consequences include a citation to appear at the City of McAllen Municipal Court. Fines are up to \$500.00.



CONTACT INFO

**1300 HOUSTON AVENUE
CITY HALL - 2ND FLOOR
MCALLEN, TX 78501
PHONE : [956] 681-1900**



City Hall

City Commission

City Manager

City Secretary

City Auditor

Finance

Grant Administration

Vital Statistics

Risk Management

Management & Budget

Advisory Boards

Public Utility Board

City Jobs

City Access

Job Listings

Volunteer Opportunities

Emergency Management

Bridge Cameras

City Maps (GIS)

[Pay Water Bill](#)
[Commission Meetings](#)
[Parks and Recreation](#)
[Pay Tickets Online](#)
[Bid Notices](#)

City Sites

[Airport](#)
[Convention Center](#)
[ExploreMcAllen.com](#)
[Library](#)
[Quinta Mazatlan](#)
[BuildMcAllen.com](#)
[McAllen Public Utility](#)
[Smugmug Photo Gallery](#)

Site Access

[Search](#)
[City Directory](#)
[Site Map](#)
[Employee Portal](#)



City of McAllen
1300 Houston Avenue
McAllen, TX 78501
Phone : [956] 681-3111

20177
Administrative Deficiency Notice(s)

From: [Matthew Griego](#)
To: henry@madhousedevlopment.net
Cc: [Sharon Gamble](#)
Subject: 20177 Avanti Valor Heights- 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Monday, May 11, 2020 3:37:27 PM

****All deficiencies must be corrected or clarified by 5 pm Austin local time on May 18, 2020.**

Please respond to this email as confirmation of receipt.**

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §11.1(d)(2) and described in §11.201(7), §11.201(7)(A) and §11.201(7)(B) of the 2020 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

The Department has received a Third Party Request for Administrative Deficiency (RFAD) regarding HTC Application **20177 Avanti Valor Heights**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please refer to the copy of the request that you received from the requestor.

The request states the development site is within less than 300 feet from a junkyard, which would be considered an Undesirable Site Feature under 10 TAC §11.101(a)(2)(A).

1. Please provide evidence that the disclosed site from the requestor would not be considered a junkyard in close proximity to the development site.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on May 18, 2020.**

Please respond to this email as confirmation of receipt.**

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §11.201(7)(B) of the 2020 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be resolved to the

satisfaction of the Department by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day will be suspended from further processing, and the Applicant will be notified to that effect, until the deficiencies are resolved. If, during the period of time when the Application is suspended from review, Direct Loan funds become oversubscribed, the Applicant will be informed that unless the outstanding item(s) are resolved within one business day the Application will be terminated. For purposes of priority under the Direct Loan set-asides, if the outstanding item(s) are resolved within one business day, the date by which the item is submitted shall be the new received date pursuant to §13.5(c) of the 2020 Multifamily Direct Loan Rule. Applicants should be prepared for additional time needed for completion of staff reviews.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 11.1(h) of the 2020 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Matthew Griego
Multifamily Policy Research Specialist
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
(512)475-0927

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §11.2(a)).

Reminder for Direct Loan Borrowers: TDHCA will not close earlier than 30 days after receipt of complete due diligence documents. We will not honor closings scheduled without our confirmation.

20177
Deficiency Response(s)

AVANTI LEGACY VALOR HEIGHTS, LP

5/18/2020

Texas Department of Housing and Community Affairs
Multifamily Division
221 East 11th Street
Austin, Texas 78701
Attention: Sharon Gamble

RE: Avanti Legacy Valor Heights – 2020 Application Deficiency Notice for TDHCA #20177

Dear Ms. Gamble,

This letter is in response to your application deficiency email received on May 11, 2020. Below, please find our response and additional information.

Deficiency: The Avanti Legacy Valor Heights Application failed to disclose or provide mitigating support as it relates to the Junkyard.

Response:

The Property known as Eastside Auto Clinic (the “Property”) which was the subject of the Third Party Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC, is not an Undesirable Site Feature. The Property is not a Junkyard as defined by Texas Transportation Code §396.001, nor does the City of McAllen consider it a Junkyard. Therefore, the Property does not warrant any disclosure. Consequently, we did not violate Section 11.101(a)(2) of the 2020 Qualified Allocation Plan (“QAP”) and should not be subject to a deficiency based on the following supporting analysis.

TDHCA Rule: Section 11.101(a)(2) of the QAP requires a proposed development to disclose, and where applicable, mitigate any Undesirable Site Features if a development site is (A) ... *located within 300 feet of Junkyards*. For purposes of this paragraph, a Junkyard shall be defined as stated in Texas Transportation Code §396.001.

- Texas Transportation Code §396.001(3): “**Junkyard**” means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

Analysis:

1. The Property does not meet the definition of a “Junkyard” as referenced in Section 11.101(a)(2)(A) of the QAP and as defined by Texas Transportation Code §396.001.
 - The Property is zoned C-3 General Business, and under Section 138-277 of the McAllen Code of Ordinances, the City of McAllen expressly prohibits any wholesale trade or wholesale trade accessory of “metals and minerals” and “scrap or junk waste materials” within C-3 General Business zoning (**See Exhibit A**).

Avanti Legacy Valor Heights, LP
8500 Shoal Creek Blvd, Bldg. 4, Ste. 208, Austin, TX 78757
Phone – (512) 982-1342 | Fax – (512) 900-2860
contact@madhousedevlopment.net

- The Property owner is not in the business of storing, buying, or selling “junk” as defined by Texas Transportation Code §396.001. The Property was initially leased and used as an automotive repair shop and is currently being used by the owners as a private automotive repair shop for their personal collection of vehicles and personal property. The third-party requestor was unable to find any business or online presence associated with the Property because the owner is maintaining the Property for personal use and not to store, buy, or sell junk.
 - The Comptrollers database resulted in no positive search results because the Property is currently being used as a private automotive repair shop for the owner’s collection of vehicles and personal property.
 - We have provided additional photos from street level view that were not included by the third-party requestor which show the Property from the view of a passing person or vehicle and not a helicopter or drone. **(See Exhibit B).**
2. **Local Municipality Statement** - On September 5th, 2019, Henry Flores, the authorized representative of Avanti Legacy Valor Heights, LP, met with Michelle Rivera, the City of McAllen’s Assistant City Manager, to discuss the Property and ascertain whether the city considered the Property to be a Junkyard. After investigating the Property, the City of McAllen confirmed that **the Property was and is not a Junkyard**. Additionally, the city provided the Applicant with a letter explaining its findings and its reasonings for the determination that the Property is not a Junkyard **(See Exhibit C)**. For convenience, we have summarized the facts of the letter below.
- Staff determined that the Property was zoned C-3 General Business, and under Section 138-277 of the McAllen Code of Ordinances, the City of McAllen expressly prohibits any wholesale trade or wholesale trade accessory of “metals and minerals” and “scrap or junk waste materials” within C-3 General Business zoning.
 - Staff then verified that the Property in question was being used by the owners as a private automotive repair shop and was following local zoning ordinances.
 - The City of McAllen assured the Applicant that the Property was currently being used by the owners as a private automotive repair shop and is in compliance with local ordinances. The city notes they plan to continue monitoring the Property for ongoing compliance.
3. **State Representative Statement** – Texas State Representative Robert “Bobby” Guerra of District 41, whose district boundaries encompass the Property in question, has provided the applicant with a letter stating that he has been assured by the City of McAllen staff that it is not a Junkyard. He also provides continued support for the development **(See Exhibit D)**.

Conclusion:

In conclusion, the Property does not meet the definition of a Junkyard as defined by Texas Transportation Code §396.001 or the local municipality code in which the proposed development is located. Based on the facts presented above, the Applicant was not required to disclose the Property as an Undesirable Site Feature and requests that staff clear the administrative deficiency.

Upon your review, should you have any questions or require additional information, please do not hesitate to contact us at your convenience.

Respectfully,



Enrique Flores,
Authorized Representative of Avanti Legacy Valor Heights, LP
8500 Shoal Creek Blvd., Bldg. 4, Ste. 208
Austin, TX 78757
(512) 982-1342 Phone
(512) 900-2860 Fax
henry@madhousedevlopment.net

EXHIBIT A

Attachment

Sec. 138-277. - Permitted uses.

The uses permitted in the C-3 general business districts are as follows:

- (1) All uses listed as permitted uses in C-1 and C-2 zoning districts.
- (2) Any retail businesses, personal services or business services except the following: lumberyard or contractor yards, farm equipment or other heavy equipment sales or service, farm products warehousing and storage or stockyards, general warehousing and storage. Household goods warehousing and storage in individually rented storage units is permitted.
- (3) Hospitals.
- (4) Hotels, motels.
- (5) Restaurants, eating places.
- (6) Printing, publishing and allied products manufacturing.
- (7) Rail and motor vehicle transportation passenger terminals.
- (8) Telephone, telegraph, television, radio or similar media stations, centers, studios, but not including public microwave, radio and television towers.
- (9) Any wholesale trade or wholesale trade accessory to any permitted retail operation **except the following:** raw cotton, grain, hide, skins and raw furs, tobacco, wool, mohair, livestock, **commercial or industrial machinery or supplies, metals and minerals,** petroleum bulk stations and terminals, **scrap or junk waste materials.**
- (10) Signs in accordance with adopted ordinances.
- (11) Automotive repair as an accessory use to a permitted retail use, such as retail sale of automobiles or retail sale of automobile parts.

(Code 1966, § 32-43(2))

Sec. 138-277 expressly prohibits the wholesale trade or wholesale trade accessory of commercial or industrial machinery or supplies, metals and minerals, and scrap or junk waste materials.

EXHIBIT B

Attachment

Side of repair shop facing S. 1st Street



Side of repair shop facing S. 1st Street



Wooden fence surrounding repair shop



Back of repair shop



EXHIBIT C

Attachment



JAMES E. DARLING
MAYOR

May 13, 2020

Sharon D. Gamble, MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

RE: Avanti Legacy Valor Heights, TDHCA #20177

Dear Ms. Gamble:

Please allow this letter to serve as a response to the Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC. In its request, JZ – LZ R2K, LLC, wrongly claims that the property located on the corner of South 1st Street and Beaumont Avenue in McAllen, Texas, is a “junkyard.” In fact, the property was leased to Eastside Auto Clinic, an automotive repair shop, and is currently being used by the owners to store and repair their private collection of vehicles and personal property.

On September 5th, 2019, Henry Flores, the authorized representative of Avanti Legacy Valor Heights, LP, met with Michelle Rivera, Assistant City Manager, to discuss the property and ascertain whether the city considered the property to be a junkyard. Our staff determined that the property is zoned C-3 general business, and under Section 138-277 of the McAllen Code of Ordinances, we expressly prohibit any wholesale trade or wholesale trade accessory of “metals and minerals” and “scrap or junk waste materials” within C-3 general business zoning. Staff then verified that the property in question was being used by the owners as a private automotive shop and was in compliance with local zoning ordinances. We assured Mr. Flores that the site was not a junkyard and pledged that the city would monitor the property to ensure the owner’s continued compliance with state and local laws. Additionally, staff spoke with the owner of the property and requested the owner improve the fence and maintain the grounds in a neat and orderly fashion.

Our goal in monitoring the property is to guarantee the site does not become an Undesirable Site Feature as defined by the Texas Department of Housing and Community Affairs (TDHCA) 2020 Qualified Allocation Plan. We believe the site proposed by Avanti Legacy Valor Heights, LP, is an ideal location for multifamily housing and look forward to the proposed high-quality senior living development. We will continue to facilitate this development in order to provide quality housing to our growing senior population. Please let me know if you have any questions or if I can provide additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Darling". The signature is stylized with a large loop at the beginning and a long horizontal stroke.

Jim Darling
Mayor

EXHIBIT D

Attachment

State of Texas
House of Representatives

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
VOICE: (512) 463-0578
FAX: (512) 463-1482
E-MAIL: bobby.guerra@house.state.tx.us



DISTRICT OFFICE:
10213 NORTH 10TH STREET
SUITE B
MCALLEN, TEXAS 78504
VOICE: (956) 292-0407
FAX: (956) 292-0418

R.D. "Bobby" Guerra
STATE REPRESENTATIVE
DISTRICT 41

Sharon D. Gamble, MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

Re: Avanti Legacy Valor Heights, TDHCA #20177

Dear Ms. Gamble:

Please allow this letter to serve as a response to the Request for Administrative Deficiency for Avanti Legacy Valor Heights, TDHCA #20177, as requested by JZ – LZ R2K, LLC. In its request, JZ – LZ R2K, LLC, wrongly claims that the property located on the corner of South 1st Street and Beaumont Avenue in McAllen, Texas, is a "junkyard." I have been assured by the City of McAllen staff that the property remains in compliance with local zoning ordinances and it is not a junkyard. As I understand, city staff will continue to monitor the property to ensure its continued compliance with state and local laws.

I would also like to express my continued support for the application for housing tax credits concerning the proposed Avanti Legacy Valor Heights senior community. The proposed development is located in my district near the SEC 2nd St & Business 83, McAllen, Hidalgo County, Texas 78501. The site is an ideal location for the development and will greatly benefit the community by providing quality affordable housing to those living on low to moderate incomes. The Avanti Legacy Valor Heights community will give seniors the opportunity to reside in a decent, safe, and affordable community.

If I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to be "R.D. Guerra".

Representative R.D. 'Bobby' Guerra
House District 41

