



PLANNING & ZONING COMMISSION REGULAR MEETING

City of Dripping Springs
Council Chambers, 511 Mercer St, Dripping Springs, TX
Tuesday, October 27, 2020 at 6:30 PM

VIDEOCONFERENCE MEETING

This meeting will be held via videoconference and the public is encouraged and welcome to participate. Public comment may be given during the videoconference by joining the meeting using the information below. Public comment for this meeting may also be submitted to the City Secretary at acunningham@cityofdrippingsprings.com no later than 4:00 PM on the day the meeting will be held.

The Planning & Zoning Commission respectfully requests that all microphones and webcams be disabled unless you are a member of the Commission. City staff, consultants and presenters, please enable your microphone and webcam when presenting to the Commission.

Amended Agenda

Amended for Join Zoom Meeting Link, Meeting ID and Passcode

MEETING SPECIFIC VIDEOCONFERENCE INFORMATION

Join Zoom Meeting

<https://us02web.zoom.us/j/81051052533?pwd=cGJ2UmVMV1hOU2haWDhUeHpHUDJNQT09>

Meeting ID: 810 5105 2533

Passcode: 503597

Dial Toll Free:

888 475 4499 US Toll-free

877 853 5257 US Toll-free

Find your local number: <https://us02web.zoom.us/u/kdlLt2SmMn>

Join by Skype for Business: <https://us02web.zoom.us/skype/81051052533>

CALL TO ORDER AND ROLL CALL

Commission Members

Mim James, Chair

James Martin, Vice Chair

Christian Bourguignon

John McIntosh

Roger Newman

Evelyn Strong

Tammie Williamson

Staff, Consultants & Appointed/Elected Officials

City Administrator Michelle Fischer

Deputy City Administrator Ginger Faught
City Attorney Laura Mueller
City Secretary Andrea Cunningham
Senior Planner Amanda Padilla
City Engineer Chad Gilpin
Planning Consultant Robyn Miga

PLEDGE OF ALLEGIANCE

PRESENTATION OF CITIZENS

A member of the public who desires to address the Commission regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the Commission's consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are allowed two (2) minutes to speak during presentation of citizens or during each public hearing. Speakers may not cede or pool time. Members of the public requiring the assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the Commission. It is the request of the Commission that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speakers are encouraged to sign in. Anyone may request a copy of the City's policy on presentation of citizens from the city secretary. By law no action may be taken during Presentation of Citizens.

BUSINESS

- 1. Approval of the September 22, 2020 Planning & Zoning Commission regular meeting minutes.**
- 2. Discuss and consider approval of the Planning & Zoning Commission 2021 annual meeting calendar.**
- 3. Discuss and consider recommendation regarding the City of Dripping Springs Development Density.**
- 4. Discuss and consider recommendation for a Municipal Utility District Policy.**

EXECUTIVE SESSION

- 5. Consultation with City Attorney related to legal issues regarding Zoning Ordinance updates, Development Agreements, and density of development. *Consultation with City Attorney, 551.071***
- 6. Consultation with City Attorney related to legal issues regarding Municipal Utility Districts and a MUD Policy. *Consultation with City Attorney, 551.071***

UPCOMING MEETINGS

Planning & Zoning Commission Meetings

November 15, 2020 at 6:30 p.m.

December 16, 2020 at 6:30 p.m.

City Council & Board of Adjustment Meetings

November 10, 2020 at 6:00 p.m.

November 17, 2020 at 6:00 p.m.

December 8, 2020 at 6:00 p.m.

ADJOURN

TEXAS OPEN MEETINGS ACT PUBLIC NOTIFICATION & POSTING OF MEETING

All agenda items listed above are eligible for discussion and action unless otherwise specifically noted. This notice of meeting is posted in accordance with Chapter 551, Government Code, Vernon's Texas Codes. Annotated. In addition, the Commission may consider a vote to excuse the absence of any Commissioner for absence from this meeting.

Due to the Texas Governor Order, Hays County Order, City of Dripping Springs Disaster Declaration, and Center for Disease Control guidelines related to COVID-19, a quorum of this body could not be gathered in one place, and this meeting will be conducted through videoconferencing. Texas Government Code Sections 551.045; 551.125; and 551.127.

*I certify that this notice of meeting was posted at the City of Dripping Springs City Hall and website, www.cityofdrippingsprings.com, on **October 23, 2020 at 3:00 PM.***

City Secretary

This facility is wheelchair accessible. Accessible parking spaces are available. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling (512) 858-4725.



PLANNING & ZONING COMMISSION REGULAR MEETING

City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX

Tuesday, September 22, 2020 at 6:30 PM

MINUTES

MEETING SPECIFIC VIDEOCONFERENCE INFORMATION

Join Zoom Meeting

<https://us02web.zoom.us/j/85842339524?pwd=aDhXa1J6Y2RVM2lTaG85Yk0zTFptZz09>

Meeting ID: 858 4233 9524

Passcode: 222242

Dial Toll Free:

877 853 5257 US Toll-free

888 475 4499 US Toll-free

Find your local number: <https://us02web.zoom.us/j/85842339524>

Join by Skype for Business: <https://us02web.zoom.us/skype/85842339524>

CALL TO ORDER AND ROLL CALL

Commission Members present were:

Mim James, Chair

James Martin, Vice Chair

Christian Bourguignon

John McIntosh

Roger Newman

Evelyn Strong

Tammie Williamson (arrived at 6:40 p.m.)

Staff, Consultants, & Elected/Appointed Officials present were:

City Attorney Laura Mueller

City Secretary Andrea Cunningham

Senior Planner Amanda Padilla

City Engineer Chad Gilpin

Mayor Pro Tem Taline Manassian

With a quorum of the Commission present, Chair James called the meeting to order at 6:31 p.m.

PLEDGE OF ALLEGIANCE

Chair James led the Pledge of Allegiance to the Flag.

PRESENTATION OF CITIZENS

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No one spoke during Presentation of Citizens.

CONSENT AGENDA

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of Planning & Zoning Commission meetings, it is intended that these items will be acted upon by the Planning & Zoning Commission with a single motion because no public hearing or determination is necessary. However, a Planning & Zoning Commission Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the Planning & Zoning Commission voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the Planning & Zoning Commission may add additional items that are listed elsewhere on the same agenda.

Via unanimous consent, the Commission considered Consent Agenda items individually.

1. Approval of the August 25, 2020 Planning & Zoning Commission regular meeting minutes.

A motion was made by Vice Chair Martin to approve the August 25, 2020 Planning & Zoning Commission regular meeting minutes. Commissioner Bourguignon seconded the motion which carried unanimously 6 to 0.

Amanda Padilla presented the staff reports for Consent Agenda Items 3 and 4, which are on file. Staff recommends denial of SUB2020-0022 and approval of SUB2020-0011.

2. Recommendation of disapproval of Preliminary Plat Amendment for SUB2020-0022: Preliminary Plat Amendment for Big Sky Ranch to add an additional 41 lots (211.4 acres) to the approved Preliminary Plat as addressed in staff report. The property is generally located at the intersection of Founders Park Road and Lone Peak Way. Applicant: Christopher Reid, P.E. Doucet & Associates, INC.

A motion was made by Vice Chair Martin to recommend disapproval of SUB2020-0022: Preliminary Plat Amendment for Big Sky Ranch to add an additional 41 lots (211.4 acres) to the approved Preliminary Plat as addressed in staff report, and regarding property generally

located at the intersection of Founders Park Road and Lone Peak Way. Commissioner Bourguignon seconded the motion which carried unanimously 6 to 0.

- 3. Approval of a plat with a condition set forth in the item SUB2020-0011: a Preliminary Plat for an approximately 190.317 acre tract of land situated in the Philip Smith Survey, Abstract No. 415, the City of Dripping Springs, Hays County, Texas. The property is generally located off Sportsplex Drive. Applicant: Alex Granados, P.E. Kimley-Horn**

A motion was made by Vice Chair Martin to approve SUB2020-0011: a Preliminary Plat for an approximately 190.317 acre tract of land situated in the Philip Smith Survey, Abstract No. 415, the City of Dripping Springs, Hays County, Texas, and regarding property generally located off Sportsplex Drive with conditions set forth in the staff report. Commissioner Bourguignon seconded the motion which carried unanimously 6 to 0.

BUSINESS

- 4. Public hearing and consideration of approval regarding SUB2020-0021: An application to consider a Replat with a Partial Vacation for the Parten Ranch Phase 2 Subdivision for the property generally located 1.5 miles southwest of the intersection of Nutty Brown Road and FM 1826 (R167464, R167463). The applicant is proposing to vacate an Open Space/ Drainage Lot and replat two (2) lots. Applicant: HM Parten Ranch Development, INC.**

a) Presentation – no presentation was given.

b) Staff Report

Amanda Padilla presented the staff report which is on file. Staff recommends denial of the replat with partial vacation.

c) Public Hearing – no one spoke during the Public Hearing.

d) Partial Vacation

e) Replat

A motion was made by Vice Chair Martin to deny approval of SUB2020-0021: An application to consider a Replat with a Partial Vacation for the Parten Ranch Phase 2 Subdivision for the property generally located 1.5 miles southwest of the intersection of Nutty Brown Road and FM 1826 (R167464, R167463), and proposing to vacate an Open Space/Drainage Lot and replat two (2) lots with staff recommendation. Commissioner Newman seconded the motion which carried unanimously 7 to 0.

- 5. Public hearing and consideration of recommendation regarding ZA2020-0006: an application for a Zoning Amendment to consider a proposed zoning map amendment with a Conditional Use Overlay for two (2) tracts generally located northwest of the intersection of Bluff Street and Hays Street, within the Hays Street Historic District. Tracts 1 and 2 are requesting to rezone from Two-Family Residential - Duplex (SF-4) to Single-Family Attached Residential - Town Home (SF-5). The Conditional Use Overlay would prohibit certain uses that are allowed by right in the SF-5. Applicant: Jon Thompson**

a) *Presentation – no presentation given.*

b) *Staff Report*

Amanda Padilla presented the staff report which is on file. Staff recommends postponement of the item to the October 27th Commission meeting, as requested by the applicant, so that staff and the applicant can work through the conditional overlay.

c) *Public Hearing – no one spoke during the Public Hearing.*

d) *Zoning Amendment with Conditional Overlay*

A motion was made by Vice Chair Martin to postpone ZA2020-0006: an application for a Zoning Amendment to the October 27, 2020 Planning & Zoning Commission regular meeting with staff direction to re-notice the item with changes in the newspaper, on the City's website and on the on-site property signage. Commissioner McIntosh seconded the motion which carried unanimously 7 to 0.

Laura Mueller clarified that when an application for Site Development Permit is submitted for the subject property, an application for Certificate of Appropriateness will be required because the subject property is located within the Hays Historical District.

6. Public hearing and consideration of recommendation regarding VAR2020-0013: Variance Application to consider a variance to encroach within the setback defined in Chapter 30, Exhibit B, Planned Development District 10, 2.4.5 (b) and the Public Utility Easement for two (2) corner lots within the Planned Development District No. 10 (PDD 10) at the properties located at 133 Dome Peak Terrace and 159 Delaware Mountains Terrace (Lot 9, Block 9 and Lot 9, Block 10 of Big Sky Ranch, Phase 1). Applicant: Christopher A. Reid, PE

a) *Presentation*

Applicant Chris Reid and representatives John Doucet and Rob Archer were present and informed the Commission that they have withdrawn the Variance Application.

b) *Staff Report*

Amanda Padilla's staff report and the applicants notice of withdrawal are on file.

c) *Public Hearing – no one spoke during the Public Hearing.*

d) *Variance*

A motion was made by Vice Chair Martin to accept the withdrawal of VAR2020-0013, an Application for Variance regarding properties located at 133 Dome Park Terrace and 159 Delaware Mountains Terrace. Commissioner McIntosh seconded the motion which carried unanimously 7 to 0.

7. Public hearing and consideration of recommendation regarding an Ordinance Amending the Dripping Springs City-Wide Trails Plan Map.

a) Staff Report

Amanda Padilla presented the staff report which is on file. Staff and the Parks & Recreation Commission recommend approval of the amendment.

b) Public Hearing – no one spoke during the Public Hearing.

c) Amendment Ordinance

A motion was made by Vice Chair Martin to recommend City Council approval of an Ordinance Amending the Dripping Springs City-Wide Trails Plan Map. Commissioner Williamson seconded the motion which carried unanimously 7 to 0.

8. Public hearing and consideration of recommendation regarding VAR2020-0015: An application to consider a variance to Chapter 28 Exhibit A Subdivision Ordinance Section 15 Sidewalks for a property located at 31430 Ranch Road 12, Dripping Springs TX (R 169001) The applicant is requesting to not provide sidewalks along Ranch Road 12. Applicant: Jon Thompson

a) Presentation – no presentation was given.

b) Staff Report

Amanda Padilla's staff report and the applicants notice of withdrawal are on file.

c) Public Hearing – no one spoke during the Public Hearing.

d) Variance

A motion was made by Vice Chair Martin to accept the withdrawal of VAR2020-00015, an Application for Variance regarding property located at 31430 Ranch Road 12. Commissioner Newman seconded the motion which carried unanimously 7 to 0.

REPORTS OF STAFF AND AGENCIES

9. September Planning Projects

The Planning Projects report is on file and available for review by request.

EXECUTIVE SESSION

The Planning and Zoning Commission for the City of Dripping Springs has the right to adjourn into executive session any time during the course of this meeting to discuss any matter as authorized by Texas Local Government Code Sections 551.071 (Consultation with City Attorney), 551.072 (Deliberation of Real Property), 551.073 (Deliberation about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The Planning and Zoning Commission for the City of Dripping Springs may act on any item listed in Executive Session or move any item from Executive to Open Session for action.

The Commission did not meet in Executive Session.

UPCOMING MEETINGS

Planning & Zoning Commission Meetings

October 27, 2020 at 6:30 p.m.

November 18, 2020 at 6:30 p.m.

December 16, 2020 at 6:30 p.m.

City Council & Board of Adjustment Meetings

October 13, 2020 at 6:00 p.m.

October 20, 2020 at 6:00 p.m.

November 10, 2020 at 6:00 p.m.

ADJOURN

A motion was made by Vice Chair Martin to adjourn the meeting. Commissioner Bourguignon seconded the motion which carried unanimously 7 to 0.

This regular meeting adjourned at 7:01 p.m.



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Andrea Cunningham, City Secretary

Commission Meeting Date: October 27, 2020

Agenda Item Wording: **Discuss and consider approval of the Planning & Zoning Commission 2021 annual meeting calendar.**

Agenda Item Requestor: Andrea Cunningham, City Secretary

Summary/Background: Annually the City prepares the meeting calendar for Boards, Commissions and Committees. The attached calendar for the Planning & Zoning Commission considers the approved City of Dripping Springs Holiday Calendar and additional observed holidays by DSISD.

The Planning & Zoning Commission meets the 4th Tuesday of each month at 6:30 p.m. The attached calendar for the Commission has no conflicts with City Holidays or City Hall closures; however, the November and December meetings fall within the Thanksgiving and Christmas holidays respectively. Traditionally the Commission has moved these meetings to the 3rd week.

Recommended Commission Actions: Staff recommends approval of the attached Planning & Zoning Commission 2021 meeting calendar; and it is the at the Commission's pleasure to reschedule the November and December 2021 meeting.

Attachments:

1. Approved City Hall Holiday Calendar
2. Proposed PZC 2021 Meeting Calendar

Next Steps/Schedule:

1. Prepare 2021 meeting calendar for review and approval by City Council.
2. Upon City Council approval meetings will be updated on the City website and calendar invites will be forwarded to Commission Members.

2021

Holidays

JANUARY

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FEBRUARY

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Holidays - City Hall Closures

- January 1 - New Year's Day
- January 18 - Martin Luther King Day
- February 15 - Presidents Day
- May 31 - Memorial Day
- July 5 - Independence Day (observed)
- September 6 - Labor Day
- October 11 - Columbus Day
- November 11 - Veterans Day
- November 25 & 26 - Thanksgiving Day
- December 24 - Christmas Eve
- December 31 - New Year's Eve

DSISD Holidays & Breaks

- Spring Break, March 15 - 19
- April 2 - Staff/Student Holiday
- Thanksgiving Break, November 23 - 26
- Winter Break, December 20 - January 4

2021 Planning & Zoning Commission

City Hall Closure, DSISD Break

JANUARY

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JUNE

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JULY

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AUGUST

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SEPTEMBER

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OCTOBER

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NOVEMBER

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DECEMBER

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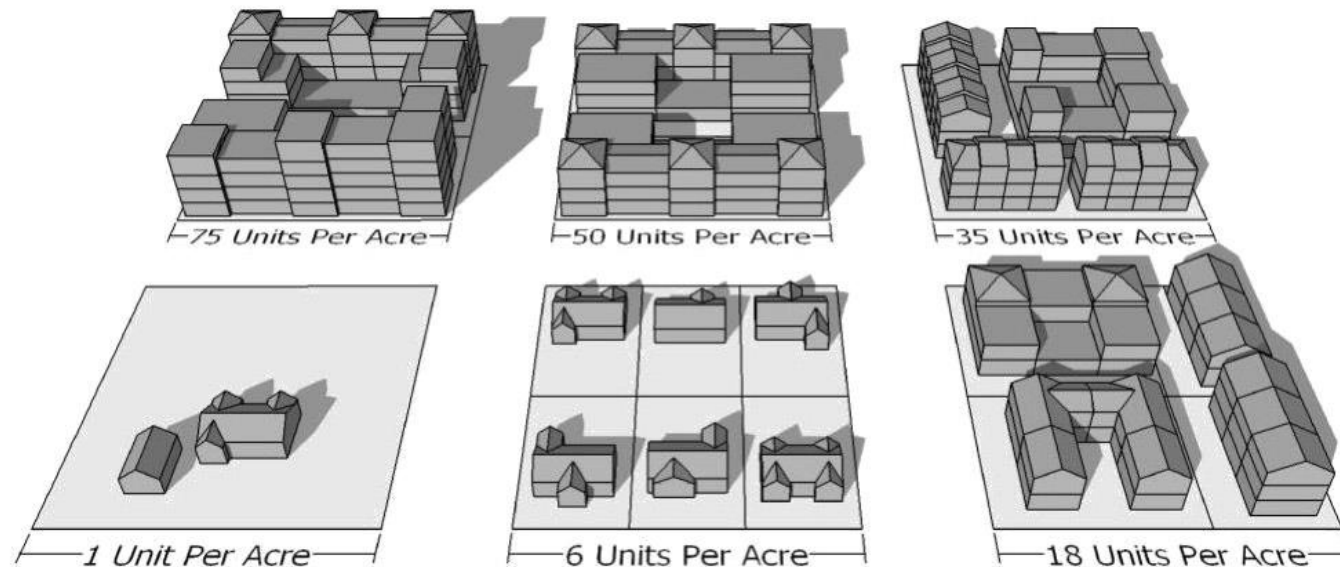
- January**
26 - PZC @ 6:30 p.m.
- February**
23 - PZC @ 6:30 p.m.
- March**
23 - PZC @ 6:30 p.m.
- April**
27 - PZC @ 6:30 p.m.
- May**
25 - PZC @ 6:30 p.m.
- June**
22 - PZC @ 6:30 p.m.
- July**
27 - PZC @ 6:30 p.m.
- August**
24 - PZC @ 6:30 p.m.
- September**
28 - PZC @ 6:30 p.m.
- October**
26 - PZC @ 6:30 p.m.
- November**
23 - PZC @ 6:30 p.m.
- December**
28 - PZC @ 6:30 p.m.

BUSINESS AGENDA

3. Discussion and consideration of recommendation regarding the City of Dripping Springs Development Density.

What is Residential Density

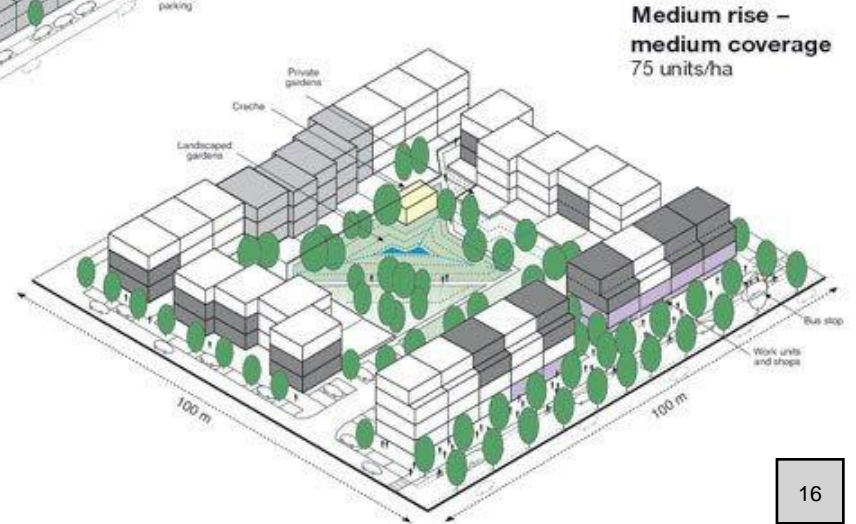
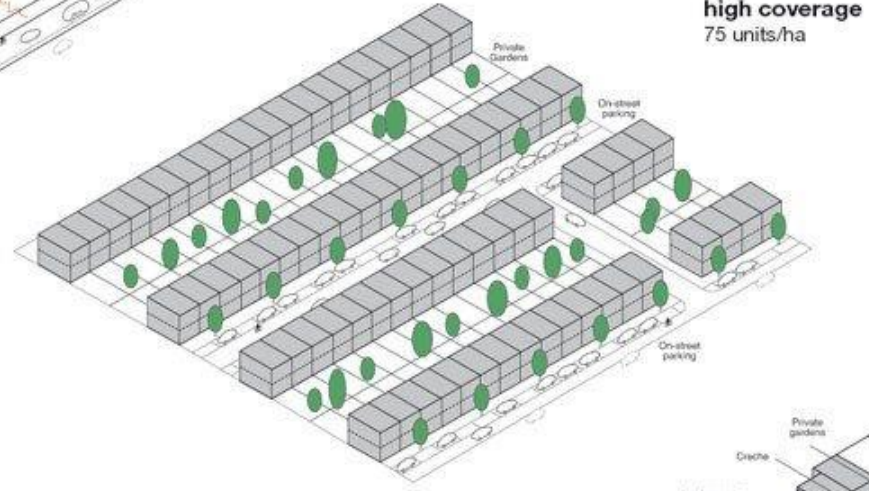
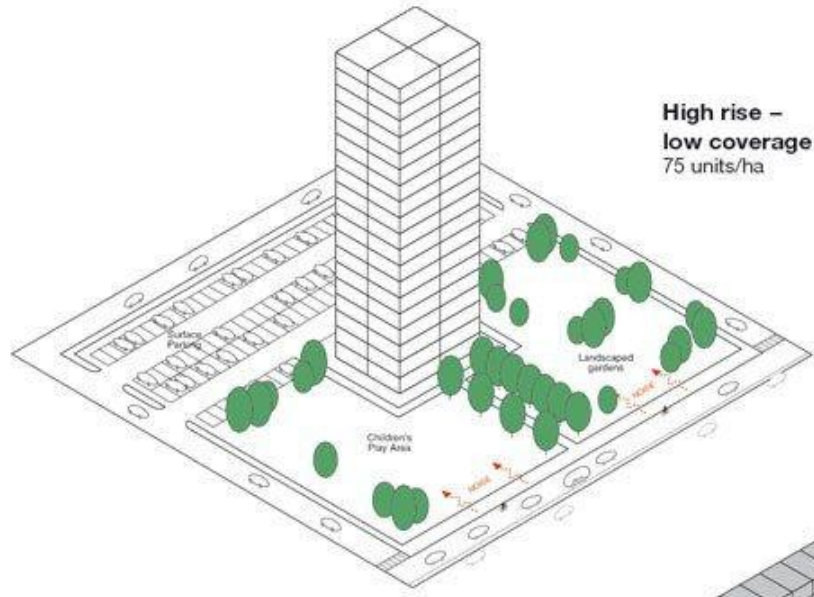
- Residential density refers to the number of dwelling units per acres of land (DU/Acres)
- Density is used in planning for new residential development to measure the amount of new housing to go on a specific site.



Calculating Density

- There are two ways to calculate density
 1. Gross Density is the number of units divided by the acreage of the entire area
 2. Net Density is the number of units divided by the acreage of residential area

Gross density can result in the same traffic congestion that can be a major concern of density



- Key**
Target a mix of activities
Include a variety of house types
- Community facilities
 - Shops and workspaces
 - Maisonettes
 - Houses
 - Apartments

- Badly designed high density can lead to various issues
 - Cramped
 - Traffic congestion
 - Increased parking demand
 - Lack of privacy
 - Reduced open space
 - Inability to fit in with the surrounding community
- Low Density can lead to
 - Urban Sprawl
 - Feelings of isolation
 - Car dependency
 - Difficulties in offering a wider range of housing options
 - Affordability issues

Ways density is observed

- Visually
- Height
- Setbacks
- Impervious cover
- Open space
- Traffic congestion

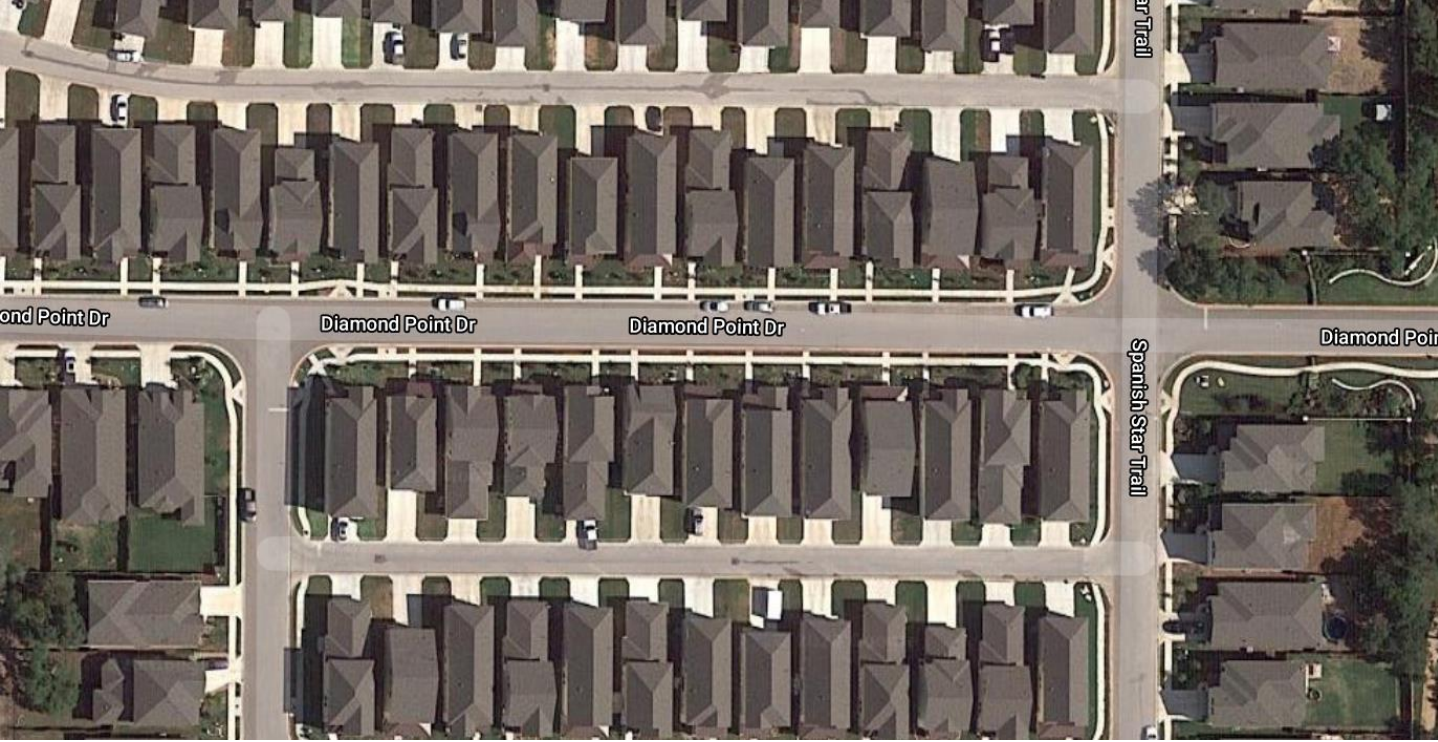
High Density – Texas Heritage



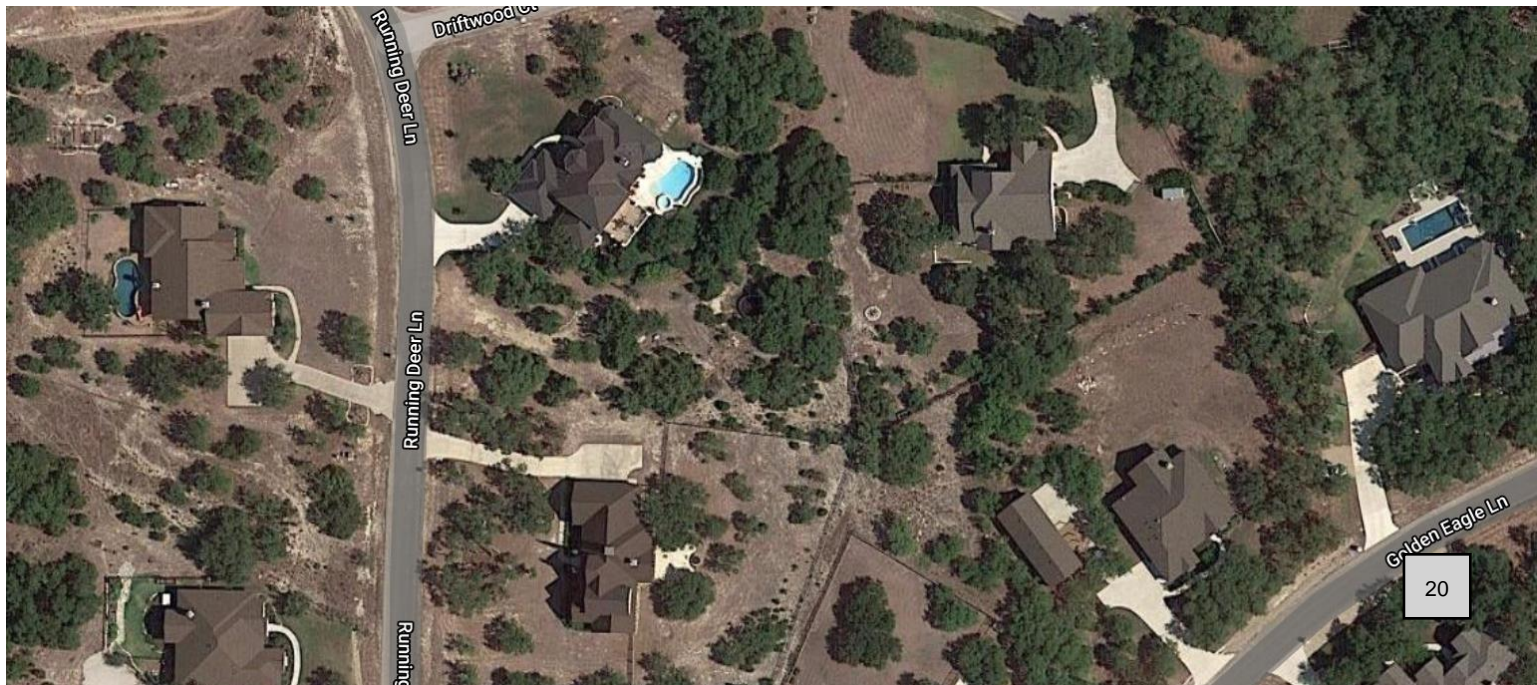
Low Density – Hidden Springs

Item 3.

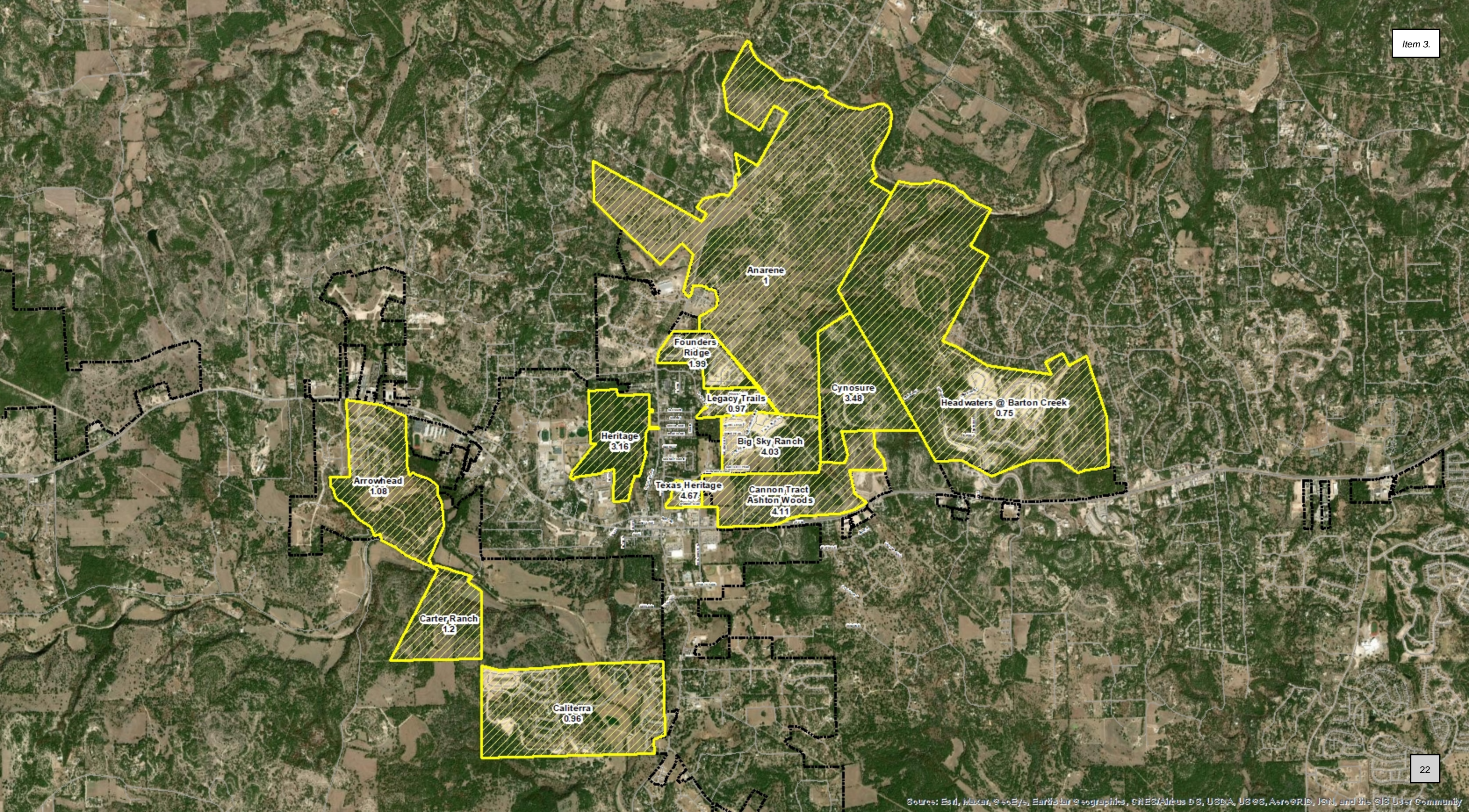




Item 3.



Density Map



Development	City Limits/ETJ	Single Family Lot or LUEs	Wastewater	Acreage	Density per Acreage	34/35	40	45	50	60	65/70
Anarene	ETJ	1677	WW-CODS	1677.61	1				X		
Arrowhead	City Limits	403	WW-CODS	374.2	1.08				X	X	X
Big Sky Ranch	City Limits	805	WW-CODS	200	4.03	X		X		X	
Caliterra	ETJ	567.7	WW-CODS	592	0.96				X		
Cannon Tract	City Limits	400	WW-CODS	97.049	4.12		X	X			
Carter Tract	ETJ	235	WW-CODS	196.8	1.19				X		
Cynosure	ETJ	985	WW-CODS (Proposed)	283	3.48		X		X	X	
Founders Ridge	City Limits	204	WW-CODS	102.479	1.99						X
Headwaters	ETJ	1000	WW-MUD	1336.7	0.75				X	X	X
Heritage	City Limits	595	WW-CODS	188.13	3.16	X	X	X	X	X	
Legacy Trails	City Limits	54	Septic	55.7026	0.97						
Texas Heritage	City Limits	139	WW-CODS	29.784	4.67	X		X			

Zoning Districts	Lot Size	Units per acre*	parkland per acre**
SF-1	1 acre	1	0.04
SF-2	0.5 acre	2	0.08
SF-3	3,500 sq ft	12.5	0.5
SF-4	10,000 sq ft	4.35	0.174
SF-5	2,500 sq ft	16.67	0.6668
MF	1,815 sq ft	24	0.96

1 acre= 43,560 sq ft

*Maximum density a subdivision can build to

** Based on SF= 1 LUE

ETJ Minimum Lot and Unit Sizes

Wastewater System	Aquifer Zone	Surface or Rainwater	Public Water Supply	Private Well
Public Sewer	Recharge	1.5	1.5	2
	Contributing	0.75	0.75	1.5
	WQBZ	2.0/Av 3.0	2.0/Av 3.0	2.0/Av 3.0
Private Septic	Recharge	2	2	2
	Contributing	1.5	1.5	2
	CWQZ	2	2	2
	WQBZ	2.0/Av 3.0	2.0/Av 3.0	2.0/Av 3.0

City of Dripping Springs, Texas

Policy and Procedures for Municipal Utility Districts

PURPOSE

A Municipal Utility District (“MUD”) is a type of District that functions as an independent, limited government. The purpose of a MUD is to provide a developer an alternate way to finance infrastructure, such as water, sewer, drainage, and road facilities. Managed by a board elected by property owners within the MUD, a MUD may issue bonds to reimburse a developer for authorized improvements and the MUD will utilize property tax revenues and user fees received from water and sewer services operated by the MUD to repay the debt. As the MUD pays off its debt, more of its tax revenue can be directed to other services.

The following outlines the Policy for creation of MUDs within Dripping Springs City limits and ETJ. The City may support or oppose any MUDs regardless of how they are created, whether they meet this Policy or if the City finds the proposed project can be served by City utilities. Notwithstanding any provision herein to the contrary, consent to a municipal utility district is within and will remain within the ultimate discretion of the City Council and no provision herein shall be construed to obligate the City Council to grant or deny its consent to any specific petition.

CONDITIONS FOR CITY CONSENT OF MUDS

To be considered by the City Council, the real estate development project supported by the MUD must meet the following minimum requirements:

1. The MUD must be designed to achieve at least three of the priorities for Community Benefits:
 - a. Improvements or services that advance or exceed the City's code of ordinances, take into consideration environmentally sensitive areas, lighting, or natural features within the area for development.
 - b. Projects that create or enhance parks, trails, recreational facilities, open space benefits that exceed what is required by applicable development and parkland dedication regulations.
 - c. Projects that improve environmental protection, storm water quality, drainage, and flood control benefits that meet or exceed what is required by applicable development regulations.

- d. Projects that provide enhanced benefits to improve the public roadway and sidewalk network in the City or the City's ETJ.
 - e. Projects that provide enhanced water and wastewater infrastructure in the City or the City's ETJ.
2. Include a Limited Purpose Annexation for commercial areas, allowing the City to impose and collect sales and use tax generated within the MUD.
 3. Upon annexation, all water, wastewater, drainage, sidewalks, and road infrastructure constructed by the MUD will become City owned and operated infrastructure unless the City Council grants an exemption. Therefore, public infrastructure plans shall be prepared and reviewed by the City in compliance with the City's development regulations as relates to land use, infrastructure design, permitting, and inspections and applicants shall seek City development approvals prior to the commencement of any construction of public water, wastewater, drainage and road infrastructure that will be owned and operated by the City within the MUD.
 4. Construction or acquisition of any MUD facilities within or for the MUD consisting of water, wastewater, and drainage infrastructure facilities that will be owned and operated by the City shall not commence unless the design conforms to the City's standards and the plans and specifications have been approved by all government entities with jurisdiction, including the City. In cases where County and City standards conflict, City standards shall apply unless provided for in the 1445 Agreement between the City and Hays County.
 5. The MUD shall not provide services for, or acquire property to provide services for, any property outside its boundaries without the consent of the City.
 6. A MUD may not extend the boundaries of the MUD unless the City Council first adopts a resolution giving its consent to the extension. The conditions contained in the resolution consenting to the creation of the MUD also apply to any boundary extension, unless the resolution approving the District's proposed boundary extension states otherwise.
 7. The MUD shall not allow use of easements or stormwater drainage facilities owned or controlled by the MUD for any property or development outside its boundaries without the consent of the City.
 8. It is the policy of the City that a MUD created within the City or its ETJ should not be abolished until such time as it has retired all of its outstanding bonded indebtedness, so that the City taxpayers outside the MUD shall not have to pay off all or any part of the bonded indebtedness incurred by the MUD. The City does reserve the right to abolish any MUD as allowed by state law, regardless of whether it has any outstanding debt, if it is deemed to be in the best interest of the City.

When considering a request for a MUD, the City Council can consider the public benefit of the development by weighing the value of the benefits to the community, and to property in the MUD, against the costs to the City, including delayed annexation.

ADDITIONAL CONDITIONS FOR CITY CONSENT OF MUDS

1. An in-City Public Improvement District (PID) as alternative funding sources for the construction of public infrastructure shall be demonstrated by the applicant to not be economically feasible for the subject property; and
2. The development proposal will contain provisions limiting eminent domain powers of the MUD and further provide provisions governing annexation of additional property into the MUD, which shall be subject to City consent, in its sole discretion.

REQUIREMENTS OF PETITION

1. Attend a pre-application meeting to discuss intent to file a petition at least 30 days before filing the petition with the City.
2. With the petition, submit a completed application and associated fee to reimburse costs by the City for legal, engineering, administrative financial advisory services, and costs incurred by the City in connection with vetting the petition and negotiating any associated agreements for the MUD.
3. The petition must include the following:
 - a. Describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;
 - b. State the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and
 - c. Include a name of the district which shall be generally descriptive of the locale of the district followed by the words Municipal Utility District, or if a district is located within one county, it may be designated "Hays County Municipal Utility District No. _____." (Insert the name of the county and proper consecutive number.) The proposed district shall not have the same name as any other district in the same county.

NOTICE OF PETITION AND PUBLIC HEARING

1. City staff and consultants will assess the adequacy of the petition and its compliance with this Policy and state law and recommend to the City Council whether to proceed with consideration of the petition. The City may conduct a public hearing to consider the petition.
2. If the City Council approves setting a public hearing on the MUD petition, the City will publish the newspaper notice and the applicant shall reimburse the City for the cost of publication.
3. The City Council may hold a public hearing prior to the creation of a MUD at a regularly scheduled City Council meeting on the petition before the expiration of the period established by state law. Upon the presentation of a petition for consent for the creation of a MUD within the corporate limits of the city or ETJ, the majority in value of landowners within the proposed municipal utility district shall:

- a. Present evidence of the number of acres that the proposed MUD contains; present evidence that the petition is filed on behalf of the majority in value of landowners within the proposed MUD;
 - b. Present a preliminary report describing the MUD and proposed use of the land within the MUD showing that the proposed MUD and land use are feasible;
 - c. Present an estimate of assessed valuation of the MUD showing the value of property as it exists on date of the petition; a build-out schedule showing the projected value of the property when 50 percent of the projected vertical improvements for the MUD, exclusive of wastewater, water, sewer drainage, roads and/or park improvements, have been completed; and showing the projected value of the improvements upon completion of the development within the MUD;
 - d. Agree that the majority in value of landowners within the proposed MUD shall develop the property for the purposes substantially as described in the preliminary report, except as may otherwise be agreed by the proponent and the City, and that prior to commencement of any improvements, will comply with all provisions of the subdivision ordinances, zoning ordinances, and other land use ordinances of the City; and
 - e. The City reserves the right to impose other specific requirements relative to a given MUD, including, but not limited to parkland and open space requirements, construction material for houses and other buildings, amenities, and minimum lot sizes, which shall be agreed to and set forth in a consent or development agreement.
4. No resolution shall be adopted consenting to the creation of a MUD until the City Council finds that the proposed MUD:
- a. Will not adversely affect the existing City water, sewer, water quality, and storm facilities or other City utilities or City functions, and
 - b. Will not increase the City's taxes or utility rates or adversely impact the City's financing or bond rating, and that
 - c. All of the conditions imposed by this Policy have been agreed to by the majority in value of landowners within the proposed MUD.
5. No MUDs shall be established or expanded within the City limits or the ETJ without written consent by resolution or ordinance, of the City Council in compliance with Section 54.016 and Section 54.0165 of the Municipal Utility Districts Act. The petition to the City shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls.

FINANCIAL LIMITATIONS & PERFORMANCE STANDARDS

A MUD may issue bonds for any purpose authorized by the Municipal Utility Districts Act. An annual audit of the MUD is required to be done by an independent CPA. A copy is required to be provided to the City Administrator and financial records shall be available for City inspection

during normal business hours. Bonds shall only be issued by the MUD for the purposes and in the manner provided by TCEQ, if appropriate. A copy of the bond application, including engineering report shall be submitted to the City for review at the same time the MUD submits to TCEQ. For road bonds, a copy of the notice of sale and preliminary official statement shall be provided to the City.

The following provisions must be included in a MUD consent agreement.

1. Prior to the sale or offer to sell any bonds of the MUD, the MUD must certify compliance with the applicable ordinance or resolution consenting to the creation of the MUD agreements. If requested by the City any costs incurred by the City in connection with review of the issuance of bonds shall be paid by the municipal utility district per the City fee schedule.
 - (a) If development occurs in phases, development must be sustainable by the proposed bonding capacity, bond phasing, and development approvals. Each phase of the development included in a bond issue must meet the applicable economic feasibility rules of the TCEQ which require that each phase proposed to be financed includes in the bond application the water, sewer, drainage, and other facilities to serve the development and has the requisite governmental approvals.
2. To ensure compliance by a MUD with each applicable condition or restriction imposed in connection with the consent of the City to the creation of the MUD, the Council is entitled to approve the issuance or sale of a MUD bond before the MUD issues a bid invitation for the bond. If the MUD is not in compliance with each applicable condition:
 - (a) the Council may not approve the issuance or sale of the bond; and
 - (b) the MUD may not issue or sell the bond.
3. The City, to ensure the economic vitality of a MUD and to the extent authorized by the laws of this state, may limit the amount of bonds the MUD may issue.
4. In consenting to the creation of a MUD, the City may impose an additional condition or restriction on the terms, provisions, or sale of a bond or note of the MUD. A condition or restriction imposed under this subsection may not cause the bond or note to be unmarketable.
5. The authorizing order or resolution regarding the issuance of any series of bonds, which bonds shall be and remain obligations of the MUD until its dissolution, must be approved by the City Council. The City Council may refuse to give its approval to the issuance of bonds or limit the amount of bonds issued by the MUD if the MUD is not in compliance with the City's requirements contained in the consent resolution or ancillary documents.

The City will request compliance with the following terms and reporting requirements:

- (a) The City may limit a MUD to only issue bonds for the purposes of providing water, wastewater and drainage improvements as provided in Texas Water Code, Section 54.016(e).

- (b) The City may approve the issuance of MUD bonds for park or road improvements if the park or road improvements for which the bonds are issued are included in the City's master plans.
 - (c) A MUD may not spend the proceeds of a bond or incur any indebtedness for the purpose of providing service to territory outside the boundary of the MUD without the approval of the City Council.
 - (d) At least thirty (30) days before the issuance of bonds, except refunding bonds, the MUD's financial advisor shall certify in writing that bonds are being issued within the existing economic feasibility guidelines established by the TCEQ, whether or not the MUD has been approved by the TCEQ. The report should also state the following:
 - i. The amount of bonds being proposed for issuance,
 - ii. The projects to be funded by such bonds, and
 - iii. The proposed debt service tax rate after issuance of the bonds.
 - (e) Within thirty (30) days after the MUD closes the sale of a series of bonds, if requested by City, the MUD shall deliver to the City Administrator an electronic copy of the final official statement for such series of bonds as well as any additional information requested by the City and provide the City with a complete transcript of bond proceedings within sixty (60) days after the date the bonds are delivered.
 - (f) Terms of any refunding proposed by the District must be approved by the City Council or meet standard minimum NPV savings of 3 %
6. The MUD shall send a copy of the order or other action setting an ad valorem tax rate to the City Secretary and the City Manager within thirty (30) days after District's adoption of the rate.
7. The MUD shall send a copy of its annual audit to the City Administrator. The MUD will meet accounting standards set by the Governmental Accounting Standards Board (GASB) and fulfill all arbitrage compliance reports to the satisfaction of the City Manager.
8. The MUD shall provide copies of any material event notices filed under applicable federal securities laws or regulations to the City Administrator within thirty (30) days after filing such notices with the applicable federal agency.
9. The City acknowledges that a MUD has authority to assess an unlimited tax for payment of debt service. However, prior to implementation of any increase in tax rate above its initial rate, the municipal utility district shall make a formal presentation to City Council explaining the need for the increase, at which time residents of the MUD shall be given an opportunity to be heard. The MUD shall provide notice of such presentation on the MUD's website, if applicable, and the notice shall be sent by regular mail or email to each owner of taxable property within the MUD as reflected on its most recent certified tax roll. This provision shall be in addition to any requirements of notice and hearing which may be contained in the Texas Water Code and in the Texas Tax Code which apply to the MUD.

UTILITY RATES IN A MUD

The consent of the City to the creation of a MUD shall be conditioned on a contract or Strategic Partnership Agreement between the City and the MUD. The contract must provide that at the time the City annexes the territory of the MUD, water and wastewater rates established for property in the MUD shall be sufficient to fully compensate the City for assuming the indebtedness of the MUD after the MUD is dissolved.

A water or wastewater rate established shall be based on the water or wastewater rate established for other customers in the boundary of the City and shall include a component based on the monthly debt retirement payment assumed by the City. A water or wastewater rate may be recalculated as provided in the contract.

The established rate must remain in effect until the bonded indebtedness of the District is fully retired and the City is fully compensated. The written consent of the City to the creation of the MUD shall specify the estimated date such annexation shall occur no earlier than when the following conditions have been met:

- (a) 90 percent of the water, wastewater, drainage, and road improvements and park facilities for which bonds of the MUD are authorized have been to be installed or completed and
- (b) the developer, or developer's successors or assigns, have been reimbursed by the MUD as allowed by law or the City assumes any obligation of the MUD as allowed by law.

MUD BOARDS

All MUDs shall require that board meetings be recorded, and all recordings and minutes of the meeting be available on a website and at a meeting location within the MUD, if possible

APPLICATION FOR DISSOLUTION OF MUDs

The City Council may dissolve a MUD at any time, with MUD approval by entering into a Strategic Partnership Agreement in accordance with state law. However, a MUD may provide a written request that the City consider dissolution if certain guidelines, addressed below, are met. The request should be sent to the City Secretary with the proposed date of dissolution, and supporting documentation showing that the MUD will meet the guidelines for dissolution by that date. If the City Council decides that dissolution will be beneficial to the City, the City will prepare a written implementation plan for the District's dissolution within six (6) months of the date the City Council considers the request. The City may, at its option, as a step toward dissolution, refinance the District's bond debt.

MUDs seeking dissolution should meet all of the following conditions:

1. Preferably, all MUD bond debt should be fully paid. At a minimum, the City's annual costs of paying the MUD's bond debt and reoccurring operation and maintenance expenses after dissolution will be no greater than the amount of revenues the City gains through the total ad valorem value of property within the MUD;

2. The MUD has fully reimbursed the developer for the developer's cost of installing MUD infrastructure in compliance with the MUD 's contract with the developer as permitted by Texas law and regulations;
3. The MUD is not delinquent in the payment of any other financial obligation that is due prior to the date of dissolution, other than the bond debt to be assumed by the City;
4. The MUD did not finance and does not own or operate any utility or drainage facilities that the City did not specifically approve that would become part of the City's public infrastructure system upon the MUD 's dissolution.
5. Enter into a Strategic Partnership Agreement with the City to provide for the dissolution of the MUD.

DRAFT

Municipal Utility Districts (MUD)



October 27, 2020
*Attorney/Client Privilege/Work
Product*

Laura Mueller
City Attorney

Dottie Palumbo

BOJORQUEZ
LAW FIRM, PC
TexasMunicipalLawyers.com

Overview

- ▶ What is the difference between a PID and a MUD?
- ▶ MUD Creation
- ▶ MUD Powers
- ▶ In City v. ETJ

What is a PID?

- ▶ A PID is a special purpose district created under Chapter 372, Tex.Loc.Gov't Code.
- ▶ Contiguous area of land created by Petition of land owner to a City or County.
- ▶ Within the area of land, property owners pay a special assessment for improvements in the area.
- ▶ A PID is not a political subdivision

MUDs

- ▶ If in ETJ or City Limits of a City, must have consent
- ▶ Political Subdivision
- ▶ May issue debt for water, sewer, drainage, or roads
- ▶ May levy a maintenance and unlimited debt tax
- ▶ MUD may issue bonds backed by revenues or ad valorem taxes
- ▶ Must receive approval from TCEQ to sell debt; bonds sold at competitive sale; voted by residents of MUD; sold as property develops (first issue once value created)

Chart

	PID	MUD
Creation	Landowner Petition Public Hearing, Council Creation Ordinance	Legislative Or TCEQ Petition
Source of funding	Assessments	Taxes
Oversight	City Council	TCEQ
Governing Body		Elected Board
Public Improvements	Water, Sewer, Flood Control, Streets, Right of Ways Sidewalks, Mass Transit, Libraries, Street Lights, Off Street Parking, Pedestrian Malls, Affordable Housing, Recreational Facilities, Formation Expenses	Water, Sewer, and Flood Control Roads if granted Road District powers, Recreation, Formation Expenses
Cost Recovery of Public Improvements	Advance of Construction and/or Reimbursement	Reimbursement Only
Public bidding required?	No	Yes

Chart

	PID	MUD
Security	Land and Improvements	Land and Improvements; unlimited tax obligations
Taxpayer default	Lien on property/Foreclosure	Other taxpayers in district
Pre-payment options	PID assessments may be pre-paid without penalty at any time	MUD taxes may not be pre-paid
Cost of Improvements	PID assessments are fixed for life of district	MUD taxes fluctuate with assessed value of real estate
Tax Status of Debt	Tax-Exempt	Tax-Exempt
Location	In City/ In ETJ	In City or ETJ with Consent
Annexation	Annexation as a requirement of PID creation or may occur after PID assessments are paid off	MUD in ETJ -Negotiate Strategic Partnership Agreement - must assume debt obligations

MUD Organization

- ▶ Board of Directors/Political Subdivision
- ▶ Created by TCEQ (with consent of City) or by the Texas Legislature
- ▶ MUD provides petition to the City and the City has consent or deny
- ▶ City then negotiates or have predevelopment meetings prior to petition

MUD Powers

- ▶ Water and wastewater infrastructure
- ▶ Roads
- ▶ Parks (with voter authorization)
- ▶ Issue bonds and set tax rates

MUD Consent: Possible City Conditions

- ▶ All bonds approved by City, may refuse or limit amount if MUD not in compliance with Consent Resolution
- ▶ Debt does not exceed _____years – ex. 20 or 25
- ▶ Limit purpose of MUD (water, sewer, wastewater, drainage)
Allow parks or roads only if complies with City master plans
- ▶ Bonds- TCEQ feasibility guidelines
- ▶ Owner of property in proposed MUD must contract with the City for Water, Wastewater; pay all connection fees, design utilities in conformance with City master plans

MUD Consent: Possible City Conditions

- ▶ Infrastructure must meet city design standards; city inspect all facilities and charge fee for inspection
- ▶ City approval for any wells, potable and non-potable water use – comply with Water Pollution control ordinances
- ▶ MUD cannot annex land without city consent
- ▶ Send ad valorem tax adoption and audits to City annually
- ▶ Send copies of any material notices to City
- ▶ MUD cannot own any facilities – no contracts without City approval ex. Adm expenses
- ▶ **Cannot require annexation for consent**

MUD in ETJ

- ▶ Could request city services
- ▶ **City would not get property taxes**
- ▶ **City would only be able to annex if it could assume all leftover debt of the MUD**
- ▶ City would still get platting and sign fees and be able to regulate what we can regulate in the ETJ
- ▶ City could still require building to city standards
- ▶ Would include a consent agreement with authority to review bonds and other items-but pretty ministerial

MUD in City

- ▶ MUD still has to get consent
- ▶ **Residents would pay both our property tax rate and the MUD taxes**
- ▶ **Would already be annexed (no issue with trying to annex later)**
- ▶ Would be subject to all regulations of the City
- ▶ Same consent to bonds, etc.
- ▶ City would have more obligations to provide services to the MUD

More Conditions-In City

- ▶ Developer agrees to annex _____ acres with a new MUD
- ▶ -Maximum Amount of Bonds to be issued

- ▶ -Maximum Bond Maturity (ex. 25 years)
- ▶ -Bond Issuance Period (ex. 10 years)
- ▶ -District Only Tax Rate (Maximum)

MUD Policy and Question

Would the City benefit more from a MUD than its standard development process?

Draft MUD Policy

- ▶ Services advance or exceed City's Code of Ordinances, enhances parks and open space, improves drainage, improve roadways, improve utility infrastructure
- ▶ Infrastructure design approved by Cities
- ▶ Debt protection for City
- ▶ Cannot expand MUD without asking City
- ▶ Protections for MUD debt
- ▶ Have to demonstrate why MUD is better than PID
- ▶ Petition requirements

Questions

