

**REGULAR MEETING OF THE
PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission of the City of Kyle, Texas met in regular session July 23, 2013 at 6:30 p.m. at Kyle City Hall, with the following persons present:

Commissioner Cicely Kay
Commissioner Alfred Zambrano
Chairman Dan Ryan
Vice-Chair Pat Fernandez
Commissioner Mike Rubsam
Commissioner Michele Christie
Director of Planning, Sofia Nelson
Director of Finance, Perwez Moheet

Lynn Alderson
Hugo Elizondo, Jr.
Lila Knight

CALL MEETING TO ORDER

Chairman Ryan called the meeting to order at 6:30 p.m.

ROLL CALL OF BOARD

Chairman Ryan called for roll call. Commissioner Fulton was absent.

CITIZENS COMMENTS

Chairman Ryan opened the citizens comment period at 6:31 pm and called for comments on items not on the agenda or posted for public hearing. There were no comments. Chairman Ryan closed the citizens comment period at 6:31 pm.

MINUTES: Planning and Zoning Commission Meeting – July 9, 2013.

Commission Rubsam moved to approve the Planning and Zoning Commission Meeting Minutes from July 9, 2013. Commissioner Christie seconds the motion. All votes aye. Motion carried.

CONSENT AGENDA

PLUM CREEK PHASE 1 SECTION 6E 2-2 – PRELIMINARY PLAN (PP-12-007) 4.705 ACRES; 28 LOTS LOCATED WEST OF SANDERS, EAST OF HERZOG AND SOUTH OF EXISTING SECTION 6D.

PLUM CREEK PHASE 1 SECTION 6E 2-2 – FINAL PLAT (FP-12-010) 4.705 ACRES; 28 LOTS LOCATED WEST OF SANDERS, EAST OF HERZOG AND SOUTH OF EXISTING SECTION 6D.

PLUM CREEK PHASE 1 SECTION 11D – PRELIMINARY PLAN (PP-13-002) 1.836 ACRES; 1 LOT AND ROW, LOCATION: EXTENSION OF SAMPSON; BOUNDED BY CROMWELL ROW TO THE NORTHEAST; THE PLUM CREEK GOLF COURSE AND THE OVERLOOK AT PLUM CREEK TO THE NORTHWEST; THE PLUM CREEK GOLF COURSE TO THE SOUTH; AND A REGIONAL DETENTION POND TO THE SOUTHEAST.

PLUM CREEK PHASE 1 SECTION 11D – FINAL PLAT (FP-13-007) 1.836 ACRES; 1 LOT AND ROW, LOCATION: EXTENSION OF SAMPSON; BOUNDED BY CROMWELL ROW TO THE NORTHEAST; THE PLUM CREEK GOLF COURSE AND THE OVERLOOK AT PLUM CREEK TO THE NORTHWEST; THE PLUM CREEK GOLF COURSE TO THE SOUTH; AND A REGIONAL DETENTION POND TO THE SOUTHEAST.

HAYS COMMERCE CENTER – PRELIMINARY PLAN (PP-13-005) 107.247 ACRES; 19 LOTS LOCATED NORTHWEST OF THE INTERSECTION OF KYLE CROSSING AND THE SOUTHBOUND FRONTAGE ROAD OF IH-35.

(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).

Commissioner Kay moved to approve the consent agenda with the condition that all outstanding comments be addressed for items C & D. Chairman Ryan seconds the motion. All votes aye. Motion carried.

CONSIDER AND POSSIBLE ACTION:

RECEIVE A PRESENTATION ON THE CITY'S 5 YEAR CIP & MAKE A RECOMMENDATION TO CITY COUNCIL.

Pervez Moheet, Director of Finance gave a presentation on the City's 5 year CIP.

Chairman Ryan opened the public hearing at 6:49 p.m. and called for comments for or against the City's 5 Year CIP. There were no comments. Chairman Ryan closed the public hearing at 6:49 p.m.

Commissioner Christie moved to table action until they receive feedback from the Long Range Planning Committee. Commissioner Kay seconds the motion. All votes aye. Motion carried.

SITE DEVELOPMENT PLANS:

BANK OF AMERICA (SD-13-007) 1.3392 ACRES; 1 LOT LOCATED AT 5207 KYLE CENTER DRIVE.

Chairman Ryan opened the public hearing at 6:52 p.m. and called for comments for or against Bank of America (SD-13-007). There were no comments. Chairman Ryan closed the public hearing at 6:52 p.m.

Commissioner Zambrano moved to approve Bank of America (SD-13-007) with the conditional that all outstanding comments be addressed. Chairman Rubsam seconds the motion. All votes aye. Motion carried.

CONDITIONAL USE PERMIT/CONDITIONAL USE OVERLAY DISTRICT:

CONSIDER A REQUEST BY BANK OF AMERICA – KYLE MARKETPLACE (5207 KYLE CENTER DRIVE) FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A 3,398 SQUARE FOOT BUILDING LOCATED WITHIN THE IH-35 AND FM 1626 ZONING OVERLAY DISTRICT.

Chairman Ryan opened the public hearing at 6:54 p.m. and called for comments for or against the request by Bank of America – Kyle Marketplace. There were no comments. Chairman Ryan closed the public hearing at 6:54 p.m.

Commissioner Rubsam moved to approve the request by Bank of America – Kyle Marketplace. Commissioner Christie seconds the motion. All votes aye. Motion carried.

SITE DEVELOPMENT PLANS con't:

MITCHELL MOTORSPORTS (SD-13-011) 2.24 ACRES; 1 LOT LOCATED AT 21701 IH-35.

LANDSCAPE VARIANCE REQUESTS FOR MITCHELL MOTORSPORTS LOCATED AT 21701 IH-35:

- A. Section 53-998. Variance to allow an alternative calculation for landscape area.
- B. Section 53-990. Variance to allow less than 50% of landscape area to be located in front of building.
- C. Section 53-987. To allow a 2.5 inch caliper inch tree in lieu of a 4 inch tree.
- D. Section 53-992. To allow a reduction in required trees.

Chairman Ryan opened the public hearing at 7:09 p.m. and called for comments for or against Mitchell Motorsports (SD-13-011). There were no comments. Chairman Ryan closed the public hearing at 7:09 p.m.

Commissioner Rubsam moved to approve Mitchell Motorsports (SD-13-011) with the condition that all outstanding comments be addressed and approval of variance request items A, B, C & D. Vice-Chair Fernandez seconds the motion. All votes aye. Motion carried.

ZONING:

RECEIVE A PRESENTATION ON A REQUEST BY PGI INVESTMENT, LLC TO REZONE APPROXIMATELY 47.74 ACRES FROM AGRICULTURE 'AG' TO A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT 'PUD' WITH A BASE ZONING DESIGNATION OF RETAIL SERVICES 'RS' AND MULTI-FAMILY RESIDENTIAL 'R-3-3' ON PROPERTY LOCATED AT 24800 S. IH-35 (PROPERTY IS BOUNDED BY YARRINGTON ROAD ON THE SOUTH, I-35 ACCESS ROAD ON THE EAST AND POST ROAD ON THE WEST. (Z-13-003)

Sofia Nelson, Director of Planning gave a presentation on the request by PGI Investment, LLC.

Hugo Elizondo, Jr., P.E., Cuatro Consultants, addressed the Commission and gave a presentation on behalf of the applicant PGI Investments and was available for any questions from the Commission.

Chairman Ryan opened the public hearing at 7:46 p.m. and called for comments for or against the request by PGI Investment, LLC. Lila Knight addressed the Commission and stated that she is in opposition to the proposed PUD. She stated that the document does not meet the character and intent of the Comprehensive Plan. Chairman Ryan closed the public hearing at 7:49 p.m.

CODE REVISION:

CONSIDER AN AMENDMENT TO PART II-CODE OF ORDINANCES/CHAPTER 32 – SITE DEVELOPMENT/ARTICLE II- PLAN AND PROCEDURES/ DIVISION 2 – PLAN TO AMEND TO THE APPROVAL AUTHORITY OF A SITE DEVELOPMENT APPLICATION FROM THE PLANNING AND ZONING COMMISSION TO THE PLANNING DIRECTOR, CITY ENGINEER AND PUBLIC WORKS DIRECTOR; AMEND 32-47 AND SECTION 32-48 OF THE SITE DEVELOPMENT ORDINANCE TO REMOVE THE NOTIFICATION REQUIREMENTS FOR SITE DEVELOPMENT REQUESTS NOT SEEKING A VARIANCE.

Chairman Ryan opened the public hearing at 8:35 p.m. and called for comments for or against the code revision for site development. There were no comments. Chairman Ryan closed the public hearing at 8:35 p.m.

CONSIDER AN AMENDMENT TO PART II-CODE OF ORDINANCES / CHAPTER 41 – SUBDIVISION / ARTICLE II – PROCESSING OF PROPOSED SUBDIVISIONS TO AMEND THE REQUIREMENTS FOR SHORT-FORM PLATS, TO AMEND THE APPROVAL AUTHORITY OF CONCEPT, PRELIMINARY, AND FINAL PLATS TO ALLOW THE PLANNING AND ZONING COMMISSION TO BE THE FINAL DECISION MAKER, TO AMEND THE REQUIREMENTS FOR WHEN A CONCEPT PLAN IS REQUIRED, TO ALLOW PRELIMINARY PLATS NOT TO BE REQUIRED WHEN THE SUBDIVIDER ELECTS TO SUBMIT ONLY A FINAL SUBDIVISION PLAT, TO AMEND THE SUBDIVISION ORDINANCE TO IDENTIFY THE PLANNING DIRECTOR RATHER THAN THE CITY MANAGER AS THE REQUIRED STAFF MEMBER TO PREPARE WRITTEN RECOMMENDATIONS ON SUBDIVISION PLATS.

Chairman Ryan opened the public hearing at 8:36 p.m. and called for comments for or against the code revision for processing of subdivisions. There were no comments. Chairman Ryan closed the public hearing at 8:36 p.m.

CONSIDER AN AMENDMENT TO PART II – CODE OF ORDINANCE / CHAPTER 53-ZONING/ ARTICLE IX-ADMINISTRATION TO AMEND TO REQUIRE POSTED NOTICE FOR ALL REZONING REQUESTS; SIGNS BE POSTED FOR ALL REZONING REQUEST ALONG CONTIGUOUS RIGHTS-OF-WAY AT EACH CORNER OF THE DEVELOPMENT AND AT INTERVALS THAT DO NOT EXCEED 300 FEET.

Chairman Ryan opened the public hearing at 8:36 p.m. and called for comments for or against the code revision to amend to require posted notices for all rezoning request. There were no comments. Chairman Ryan closed the public hearing at 8:36 p.m.

Commissioner Rubsam moved to approve items A, B & C – Code Revisions as they are written. Commissioner Christie seconds the motion. All votes aye. Motion carried.

STAFF REPORT:

Sofia Nelson, Director of Planning stated that the next meeting will be on August 13th.

ADJOURN

With no further business to discuss, Commissioner Kay moved to adjourn. Commissioner Christie seconds the motion. All votes aye. Motion carried.

The Planning & Zoning Meeting adjourned at 8:38 p.m.

Amelia Sanchez, City Secretary

Dan Ryan, Chairman

**REGULAR MEETING OF THE
PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission of the City of Kyle, Texas met in regular session August 13, 2013 at 6:30 p.m. at Kyle City Hall, with the following persons present:

Commissioner Cicely Kay
Commissioner Alfred Zambrano
Commissioner Mike Fulton
Chairman Dan Ryan
Vice-Chair Pat Fernandez
Commissioner Mike Rubsam
Commissioner Michele Christie
Director of Planning, Sofia Nelson

Jerry Kolacny
Jeffery Hill

CALL MEETING TO ORDER

Chairman Ryan called the meeting to order at 6:30 p.m.

ROLL CALL OF BOARD

Chairman Ryan called for roll call. Vice-Chair Fernandez was absent from roll call.

Vice-Chair Fernandez arrived at 6:30 p.m.

CITIZENS COMMENTS

Chairman Ryan opened the citizens comment period at 6:30 pm and called for comments on items not on the agenda or posted for public hearing. There were no comments. Chairman Ryan closed the citizens comment period at 6:30 pm.

CONSENT AGENDA

CREEKSIDE VILLAGE – PRELIMINARY PLAN (PP-09-002) 7.454 ACRES; 283 SINGLE FAMILY LOTS, 4 OPEN SPACE LOTS, 2 DETENTION LOTS AND 2 DRAINAGE EASEMENT LOTS LOCATED OFF OF BURLESON STREET, JUST WEST OF INTERSTATE IH-35

Sofia Nelson, Director of Planning stated that the applicant is out of town and is requesting this item be pulled off the agenda until a later date.

PLUM CREEK PHASE 1 SECTION 6E-3 – PRELIMINARY PLAN (PP-13-006) 4.689 ACRES; 28 LOTS LOCATED IMMEDIATELY NORTH OF THE INTERSECTION OF FAIRWAY AND SANDERS.

(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).

PLUM CREEK PHASE 1 SECTION 6E-3 – FINAL PLAT (FP-13-013) 4.689 ACRES; 28 LOTS LOCATED IMMEDIATELY NORTH OF THE INTERSECTION OF FAIRWAY AND SANDERS.

(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).

MEADOWS AT KYLE PHASE 3 (FP-13-012) 11.483 ACRES; 61 LOTS & RIGHT-OF-WAY LOCATED ON THE NORTH SIDE OF WINDY HILL ROAD APPROXIMATELY 1 MILE EAST OF IH-35.

(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission).

Commissioner Fulton moved to pull item 'A' from the agenda and approve the consent agenda. Commissioner Christie seconds the motion. All votes aye. Motion carried.

CONSIDER AND POSSIBLE ACTION:

CONDITIONAL USE PERMIT/CONDITIONAL USE OVERLAY DISTRICT:

CONSIDER A REQUEST BY KYLE AREA CHAMBER OF COMMERCE ON BEHALF OF EDWARD R. COLEMAN FOR A CONDITIONAL USE PERMIT TO HOLD A KYLE FAIR & MUSIC FESTIVAL ON PROPERTY LOCATED AT 24801 IH-35 (THUNDERHILL RACEWAY).

Chairman Ryan opened the public hearing at 6:33 p.m. and called for comments for or against the request by Kyle Area Chamber of Commerce. Jerry Kolacny addressed the Commission and stated that he is in favor of the Fair & Music Festival being held at Thunderhill Raceway. Chairman Ryan closed the public hearing at 6:35 p.m.

Commissioner Fulton moved to the request by Kyle Area Chamber of Commerce. Commissioner Rubsam seconds the motion. All votes aye. Motion carried.

CONSIDER A REQUEST BY TEXAS CINEMA ON BEHALF OF STERLING/BABCOCK & BROWN, LP (TEXAS CINEMA ENTERTAINMENT CENTER – LOCATED ON THE EAST SIDE OF KYLE CROSSING JUST NORTH OF KOHLER'S CROSSING IN KYLE TOWNE CENTER) FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A 75,000 SQUARE FOOT BUILDING, LOCATED WITHIN THE IH-35 ZONING OVERLAY DISTRICT.

Jeffery Hill, Agent for the applicant addressed the Commission and gave an overall presentation and asked the Commission to approve the Conditional Use Permit.

Chairman Ryan opened the public hearing at 6:43 p.m. and called for comments for or against the request by Texas Cinema. Jeffery Hill, Agent for the applicant addressed the Commission and

gave an overall presentation and stated that they are Jerry Kolacny addressed the Commission and stated his concerns regarding parking. Chairman Ryan closed the public hearing at 6:44 p.m.

Commissioner Fulton moved to the request by Kyle Area Chamber of Commerce. Commissioner Christie seconds the motion. All votes aye. Motion carried.

CODE REVISION:

CONSIDER AMENDING PART II – CODE OF ORDINANCES/CHAPTER 53 – ZONING/ARTICLE III. – OVERLAY DISTRICTS/DIVISION 4. – CONDITIONAL USE OVERLAY DISTRICTS TO IDENTIFY THE PLANNING AND ZONING COMMISSION TO BE THE FINAL DECISION MAKER ON CONDITIONAL USE PERMITS WITH CITY COUNCIL REVIEWING THE APPEAL OF PLANNING AND ZONING COMMISSIONS’S DECISION.

Chairman Ryan opened the public hearing at 6:45 p.m. and called for comments for or against the code revision. There were no comments. Chairman Ryan closed the public hearing at 6:45 p.m.

Commissioner Kay moves to approve the code revision. Commissioner Fulton seconds the motion. All votes aye. Motion carried.

ZONING:

CONSIDER A REQUEST BY PGI, INVESTMENT, LLC TO REZONE APPROXIMATELY 47.74 ACRES FRM AGRICULTURE ‘AG’ TO A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT ‘PUD’ WITH A BASE ZONING DESIGNATION OF RETAIN SERVICES ‘RS’ AND MULTIFAMILY RESIDENTIAL ‘R-3-3’ ON PROPERTY LOCATED AT 24800 IH-35 (THE PROPERTY IS BOUNDED BY YARRINGTON ROAD ON THE SOUTH, IH-35 ACCESS ROAD ON THE EAST AND POST ROAD ON THE WEST).

Chairman Ryan opened the public hearing at 6:46 p.m. and called for comments for or against the request by PGI, Investment, LLC. Jerry Kolacny addressed the Commission stating several concerns regarding the request. Mr. Kolacny is concerned with the large trucks going over the Yarrington Bridge, roads converted to one way and concerns with trucks running all night causing health hazards. Lou Ohdyke, Hays County resident addressed the Commission stating that he is opposed to the proposed request. Mr. Ohdyke expressed his concerns with air quality, water quality and safety involving a large truck stop. He also stated that the proposed PUD does not meet the current definition of a PUD and does not meet the intent of the Comprehensive Master Plan for Kyle. Lila Knight addressed the Commission and stated that the developer has three phases to the plan and the truck stop will be in the first phase. Ms. Knight stated she wanted to remind the Commission and people in the audience that the developer is not obligated to follow through with the other two phases. Chairman Ryan closed the public hearing at 6:51 p.m.

No action taken.

VARIANCE:

CONSIDER A REQUEST BY GUILLERMO RODRIGUEZ TO ALLOW A VARIANCE TO SEC. 41-136. – LOTS (B) ACCESS. EACH LOT SHALL FRONT UPON A PUBLIC STREET TO ALLOW TWO LOTS TO BE PLATTED WITHOUT FRONTAGE ON A PUBLIC STREET AT 2205 BEBEE ROAD.

Commissioner Rubsam moved to deny the request by Guillermo Rodriguez. Commissioner Fulton seconds the motion. All votes aye. Motion carried.

ADJOURN

With no further business to discuss, Commissioner Kay moved to adjourn. Commissioner Christie seconds the motion. All votes aye. Motion carried.

The Planning & Zoning Meeting adjourned at 6:48 p.m.

Amelia Sanchez, City Secretary

Dan Ryan, Chairman

**REGULAR MEETING OF THE
PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission of the City of Kyle, Texas met in regular session August 28, 2013 at 6:30 p.m. at Kyle City Hall, with the following persons present:

Commissioner Cicely Kay
Commissioner Alfred Zambrano
Commissioner Mike Fulton
Chairman Dan Ryan
Vice-Chair Pat Fernandez
Commissioner Mike Rubsam
Commissioner Michele Christie
Director of Planning, Sofia Nelson
Lila Knight

CALL MEETING TO ORDER

Chairman Ryan called the meeting to order at 6:30 p.m.

ROLL CALL OF BOARD

Chairman Ryan called for roll call. Vice-Chair Fernandez was absent from roll call.

CITIZENS COMMENTS

Chairman Ryan opened the citizens comment period at 6:30 pm and called for comments on items not on the agenda or posted for public hearing. There were no comments. Chairman Ryan closed the citizens comment period at 6:30 pm.

Vice-Chair Fernandez arrived at 6:31 p.m.

Commissioner Fulton recused himself from the Dias at 6:31 p.m.

CONSIDER AND ACT ON:

33.0 acres of land in Hays Co. that is generally located along Anton Drive and both North and South of Bebee Road, west of sunrise drive and east of Kensington Blvd. and contiguous to the city limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 33.0 acres.

Lila Knight, Chair of the Long Range Planning Committee addressed the Commission giving a report on the recommendation from the Committee.

Commissioner Rubsam moved to deny the proposed annexation of the 33.0 acres of land in Hays Co. that is generally located along Anton Drive and both North and South of Bebee Road, west of sunrise drive and east of Kensington Blvd. and contiguous to the city limits. Commissioner Kay seconds the motion. Commissioner Rubsam, Kay and Fernandez vote aye. Commissioners Christi and Ryan vote nay. Motion carried.

93.4 acres of land in Hays Co. that is generally located south of Goforth Rd/Bebee Rd. and both east and west sides of Goforth and contiguous to the City Limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 93.4 acres.

Lila Knight, Chair of the Long Range Planning Committee addressed the Commission giving a report on the recommendation from the Committee.

Commissioner Rubsam moved to approve the proposed annexation of 93.4 acres of land in Hays Co. that is generally located south of Goforth Rd/Bebee Rd. and both east and west sides of Goforth and contiguous to the City Limits. Commissioner Christie seconds the motion. All votes aye. Motion carried.

1.2 acres of land in Hays Co. that is generally located east of Scott Street, west of Sledge Street, and North of Park Pl. and contiguous to the city limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 1.2 acres.

Lila Knight, Chair of the Long Range Planning Committee addressed the Commission giving a report on the recommendation from the Committee.

Commissioner Rubsam moved to deny the proposed annexation of 1.2 acres of land in Hays Co. that is generally located east of Scott Street, west of Sledge Street, and North of Park Pl. and contiguous to the city limits. Commissioner Christie seconds the motion. All votes aye. Motion carried.

35.2 acres of land in Hays Co. that is generally located north of Windy Hill Road, West of Dacy Lane, and contiguous to the city limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 35.2 acres.

Commissioner Christie moved to deny the proposed annexation of 35.2 acres of land in Hays Co. that is generally located north of Windy Hill Road, West of Dacy Lane, and contiguous to the city limits. Commissioner Kay seconds the motion. Commissioner's Kay, Christie and Rubsam vote aye. Commissioner's Fernandez and Ryan vote nay. Motion carried.

32.3 acres of land in Hays Co. that is generally located south of Windy Hill Road, west of Park South Drive and contiguous to the city limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 32.3 acres.

Commissioner Rubsam move to approve the proposed annexation of 32.3 acres of land in Hays Co. that is generally located south of Windy Hill Road, west of Park South Drive and contiguous to the city limits. Commissioner Christie seconds the motion. All votes aye. Motion carried.

1.5 acres of Land in Hays County, Texas that is generally located north of Bebee road, west of Dacy Lane, and southwest of Sunflower Circle and contiguous to the City Limits on four sides.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 1.5 acres.

Commissioner Christie moved to approve the proposed annexation of 1.5 acres of Land in Hays County, Texas that is generally located north of Bebee road, west of Dacy Lane, and southwest of Sunflower Circle and contiguous to the City Limits on four sides. Commissioner Rubsam seconds the motion. All votes aye. Motion carried.

2054.8 acres of Land in Hays County, Texas that is generally located west of N. Old Stagecoach road, north of Cypress Street, and generally known as the GLO (Government Land Office) Tract and adjacent and contiguous to the City Limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 2054.8 acres.

Commissioner Rubsam moved to approve the proposed annexation of 2054.8 acres of Land in Hays County, Texas that is generally located west of N. Old Stagecoach road, north of Cypress Street, and generally known as the GLO (Government Land Office) Tract and adjacent and contiguous to the City Limits and also, recommends that City Council considers a watershed protection ordinance. Vice-Chair Fernandez seconds the motion. All votes aye. Motion carried.

871.8 acres of land in hays county, TEXAS, that is generally located north and south of E.RR 150, East and west of Heidenrich Lane, south of Grist Mill Road, and west of State Highway 21 and contiguous to the City Limits.

Sofia Nelson, Director of Planning gave a presentation regarding the proposed annexation of 871.8 acres.

Commissioner Christie moved to approve the proposed annexation of 871.8 acres of land in hays county, TEXAS, that is generally located north and south of E.RR 150, East and west of Heidenrich Lane, south of Grist Mill Road, and west of State Highway 21 and contiguous to the City Limits. Commissioner Rubsam seconds the motion. All votes aye. Motion carried.

ADJOURN

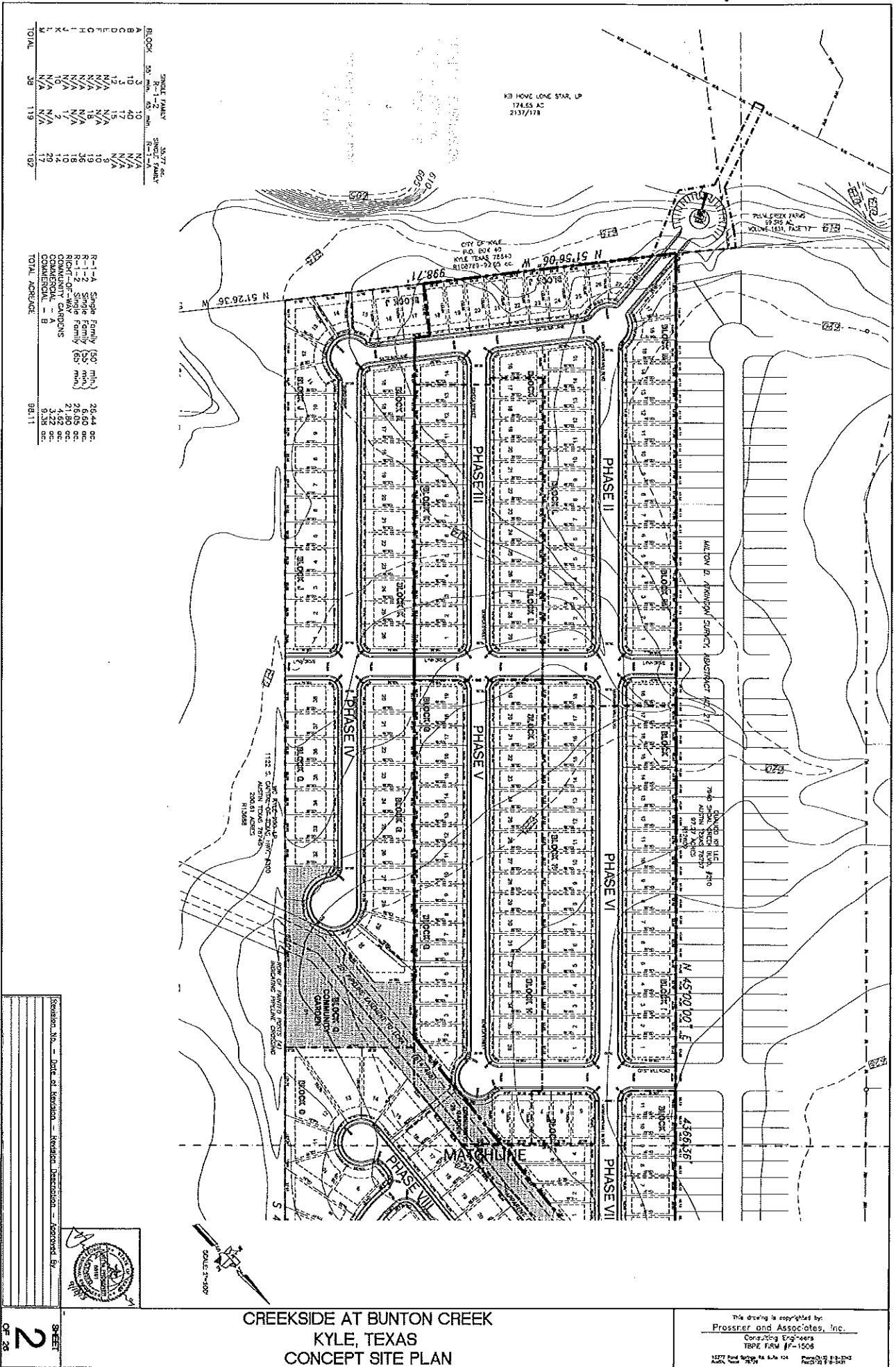
With no further business to discuss, Commissioner Kay moved to adjourn. Commissioner Christie seconds the motion. All votes aye. Motion carried.

The Planning & Zoning Meeting adjourned at 7:30 p.m.

Amelia Sanchez, City Secretary

Dan Ryan, Chairman

item 6A



BLOCK	SHRUB FARMY	SINGLE FAMILY	36.77 ac.
A	R-1-2	10	N/A
B	R-1-2	10	N/A
C	R-1-2	10	N/A
D	R-1-2	10	N/A
E	R-1-2	10	N/A
F	R-1-2	10	N/A
G	R-1-2	10	N/A
H	R-1-2	10	N/A
I	R-1-2	10	N/A
J	R-1-2	10	N/A
K	R-1-2	10	N/A
L	R-1-2	10	N/A
M	R-1-2	10	N/A
N	R-1-2	10	N/A
O	R-1-2	10	N/A
P	R-1-2	10	N/A
Q	R-1-2	10	N/A
R	R-1-2	10	N/A
S	R-1-2	10	N/A
T	R-1-2	10	N/A
U	R-1-2	10	N/A
V	R-1-2	10	N/A
W	R-1-2	10	N/A
X	R-1-2	10	N/A
Y	R-1-2	10	N/A
Z	R-1-2	10	N/A
TOTAL		119	187

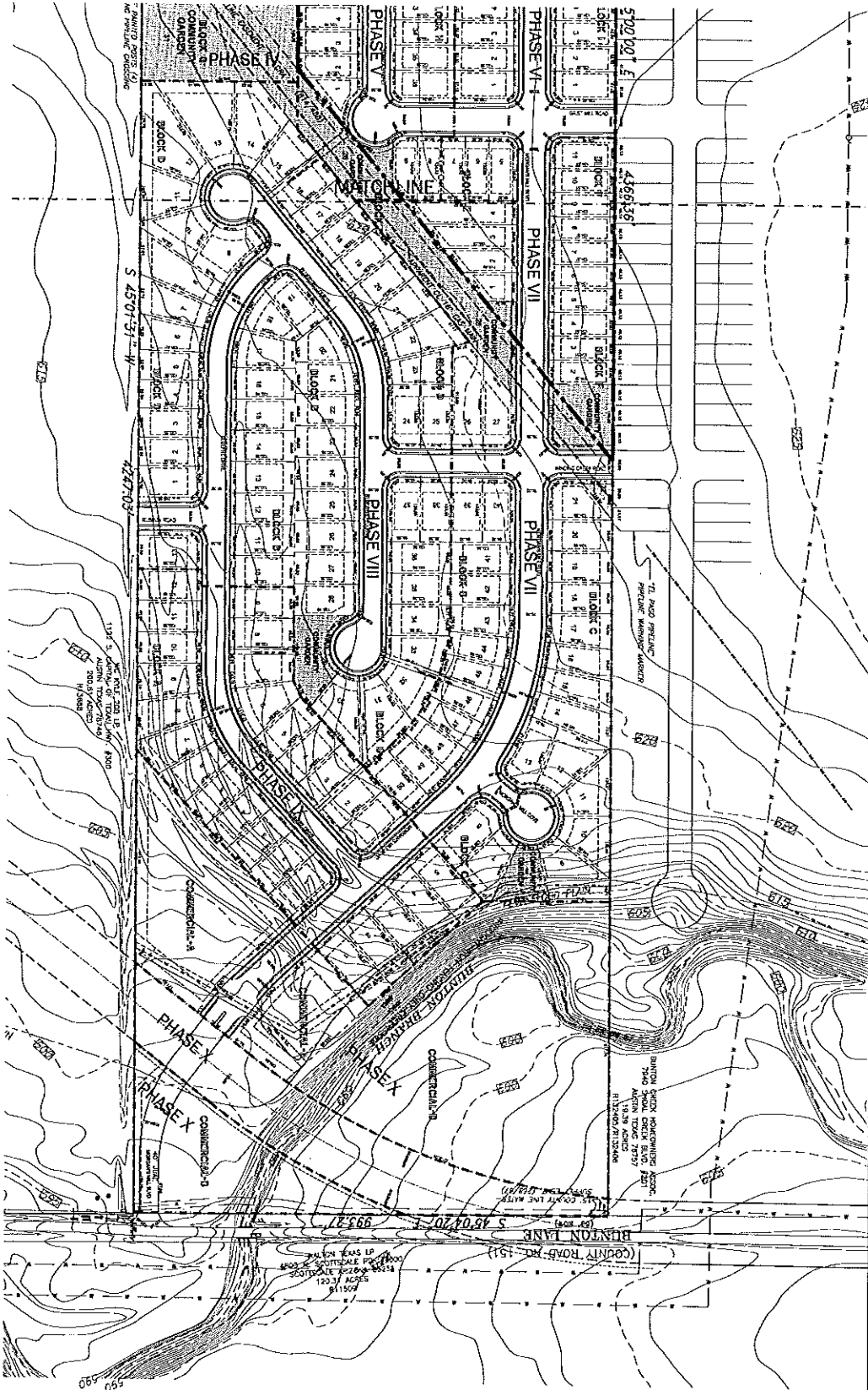
Block	Area (ac)	Volume (cc)
R-1-1	26.44	6,600
R-1-2	6.60	1,650
R-1-3	26.05	6,512
R-1-4	21.90	5,475
COMMERCIAL - A	3.22	805
COMMERCIAL - B	0.38	95
TOTAL AREA	98.11	24,437

Revision No. _____ Date of Revision _____
 SHEET 2 OF 28



CREEKSIDE AT BUNTON CREEK
 KYLE, TEXAS
 CONCEPT SITE PLAN

This drawing is copyrighted by
 Prosser and Associates, Inc.
 Consulting Engineers
 TBE FIRM #F-1508
 1577 Ford Springs Rd. Suite 104
 Austin, Texas 78754
 Phone (512) 813-2242
 Fax (512) 781-1411



BLOCK	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100																																			
PHASE I	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100

TYPE	ACRES	TOTAL ACRES
R-1-A Single Family (50' min.)	26.44	26.44
R-1-B Single Family (55' min.)	6.60	6.60
R-1-C Single Family (65' min.)	27.46	27.46
COMMERCIAL - A	4.62	4.62
COMMERCIAL - B	3.22	3.22
COMMERCIAL - C	3.22	3.22
TOTAL ACRES	98.11	98.11

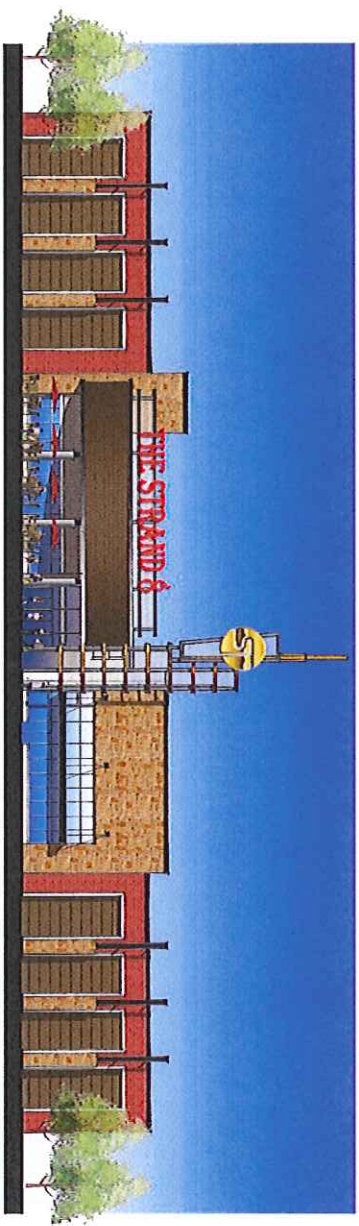
Revision No.	Date of Revision	Revision Description	Approved By



**CREEKSIDE AT BUNTON CREEK
KYLE, TEXAS
CONCEPT SITE PLAN**

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Architectural Colored Elevations



01 Schematic Elevation Study south-east

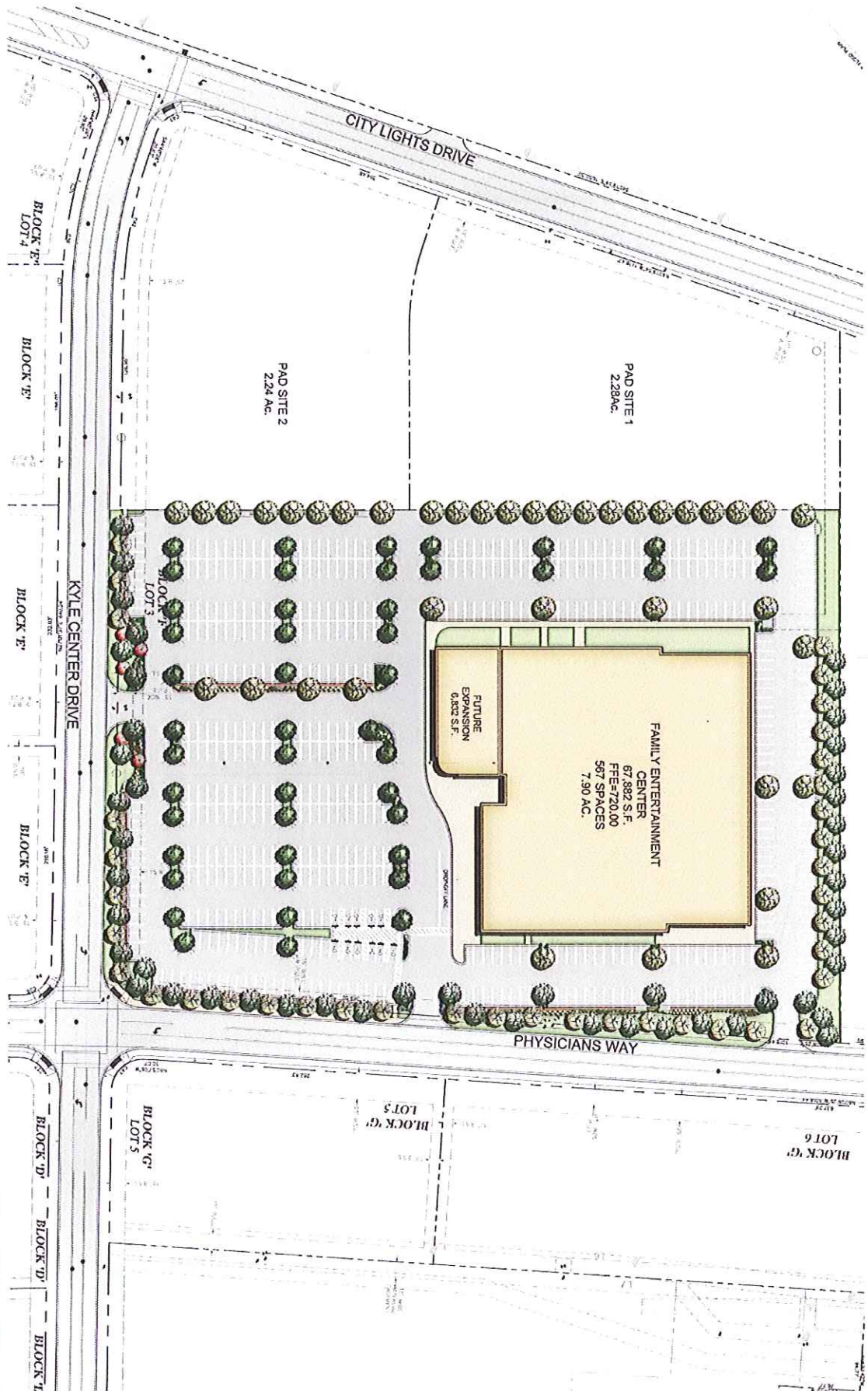


01 Schematic Elevation Study south-west

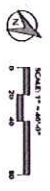
THE STRAND & SCHULMAN THEATERS Movie Bowl Grille
Kyle Crossing, Kyle, TEXAS 78120 20150070



Landscaping



CONCEPTUAL LANDSCAPE PLAN
AUGUST 2013



item 8A

September 24, 2013 Zoning	Planning and Zoning Commission
Case Number: Z-13-010	

OWNER/APPLICANT: Karlyn Ellis **AGENT:** Dustin Inderman

LOCATION: 705, 709, and 711 N. Old Hwy 81. The request for zoning consists of three parcels located along Hwy 81 (south of Martinez Loop and north of Center Street)

COUNTY: Hays County **AREA:** 3.254 acres

PROPOSED CITY COUNCIL HEARINGS: First Reading: October 2, 2013
Second Reading: October 15, 2013

EXISTING ZONING: Single Family Residential "R-1" within the I-35 overlay

PROPOSED ZONING: Retail Service "RS" within the I-35 overlay

SITE INFORMATION: The subject property fronts on N. Old Highway 81.

Surrounding Zoning:

- o *North: R-1 Single Family Residential (a zoning designation that was part of the previous zoning ordinance)*
- o *South: R/S Retail Services*
- o *East :N. Old Hwy 81*
- o *West: Bounded by the Union Pacific Railroad*

Future Land Use Designation: Regional Node / Old Town Land Use District

PUBLIC INPUT: Notice of the proposed change was sent to property owners within 200' of the subject property. Under the new notification requirements a sign was also posted on the sign.

STAFF ANALYSIS:

Background

The subject property consists of 3 separate parcels that are zoned R-1 (residential 1). As indicated above, the R-1 zoning designation was removed from the zoning ordinance in 2003 when the current zoning ordinance was approved. The applicant is seeking to develop the property into an organic nursery. As a result of the desire to develop the subject property the applicant is seeking a zoning designation of Retail Services.

Comprehensive Plan Guidance

- In the City's recent update of the future land use map, a regional node was added to the I-35/Center Street area that extended towards Goforth road on the north, the railroad tracks on the west, Lehman road on the east, and Hays County correctional facility on the south.
- In the process of updating the future land use map a small node of the Old Town Future land use district was retained east of the Union Pacific Railroad and sandwiched between the Regional Node district and the Core Area Transition District (see attached map). As a result of the map

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update the subject property straddles the boundaries of Regional Node and the Old Town Future Land Use Districts. However in reviewing the subject property, the future land use map as a whole, and the intent statements of the future land use districts the subject property most closely relates to both the core area transition district and the regional node (see attached map).

- The core area transition district is a linkage between the Super Regional Node and downtown Kyle and consists of commercial, light industrial uses, and some residential uses. Additionally, the district is important as a transitional zoned between commercial uses along I-35 and large residential area.
- The urban design plan identifies the subject property to be located along a Core Linkage within the Urban Core. Core Linkages are key streets that connect land use districts and provide places with greater appeal to retail development

RS Zoning District

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas. The conditions and limitations on uses in the RS district are as follows:

(1)The use be conducted wholly within an enclosed building, except for delivery, catering, gasoline sales, nurseries and garden centers.

(2)Required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.

(3)All merchandise to be sold on the premises, except for delivery and catering.

(4)The use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.

(5)Establishments located on property that is within 300 feet of any property zoned for a residential use when the commercial use is first established may not to be open to the general public before 6:00 a.m. and must be closed to the general public by 10:00 p.m.

The subject property is located within the I-35 Overlay District and would be subject to the adopted development standards (use, site and architectural).

Findings and Recommendation

In reviewing the requested rezoning application staff has made the following findings:

- The subject property is located along a roadway that is shifting from a residential to a commercial corridor.

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- It appears that this property functions as a transitional property (to the south the property is zoned Retail Services and to the north it is zoned and used as residential). While the corridor along Hwy 81 is transitioning from residential to commercial, it appears that the properties along Martinez loop are firmly residential.
- Due to the presence of residential uses adjacent to the northern most property (711 State Highway 81) staff is recommending an alternative zoning designation of Community Commercial for the northern most lot covered in this request.
- In reviewing a zoning request it is required that all possible uses and development standards be reviewed for their suitability on the subject property requesting rezoning. In this particular case the applicant is requesting RS due to the fact the adjacent property is zoned RS. More importantly the rezoning request of RS is the least intense zoning designation that allows the use of a plant nursery (the use the applicant is proposing to develop on the property).
- Due to use and zoning of the surrounding properties, the development standards associated with the I-35 Overlay, and the recommendation of the northern most property to be zoned Community Commercial staff is recommending approval of RS for the two southern lots (705 and 709 State Highway 81).

**Landuse Districts
Around 705 N Old Hwy 81**

Mid-Town Community

Core Area Transition Community

Old Town Community

Regional Node

N BURLESON ST

DELEON ST

MARTINEZ LOOP

IH 35

CO FORTH RD

N OLD HWY 81

BLANCO ST

W CENTER ST

Legend

 Parcel Lines

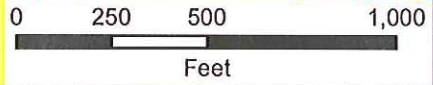


Exhibit B



Item 8B

September 24, 2013 Zoning	<h1>Planning and Zoning Commission</h1>
Case Number: Z-13-011	

OWNER/APPLICANT: Ty and Monica Davidson

LOCATION: The subject property is located at the southwest corner of Burleson and South Street. (400 S. Burleson)

COUNTY: Hays County

AREA: 0.2479 acres

PROPOSED CITY COUNCIL HEARINGS: First Reading: October 2, 2013
Second Reading: October 15, 2013

EXISTING ZONING: Single Family Residential "R-1"

PROPOSED ZONING: Single Family Attached "R-1-A"

SITE INFORMATION:

Transportation: The property will front on southbound Burleson Street with access along W. South Street.

Surrounding Zoning:

- *North: R-1 Single Family Residential*
- *South: R-1 Single Family Residential*
- *East : R-1 Single Family Residential*
- *West: R-1 Single Family Residential*

Future Land Use Designation: Old Town Land Use District

PUBLIC INPUT: Notice of the proposed change was sent to property owners within 200' of the subject property. As of the date of this report staff has received no phone calls in opposition to the requested zoning change.

STAFF ANALYSIS:

Background

The property owner is proposing to rezone the subject property from "R-1" Residential to "R-1-A" Single Family Attached. The R-1 zoning designation is a zoning designation that was included in the previous zoning ordinance. In 2003 the current zoning ordinance was adopted without the R-1 zoning designation. Because the zoning designation is not within the currently adopted zoning ordinance prior to the development of a property with a R-1 designation the property owner must rezone to a designation included within the current ordinance.

Comprehensive Plan Guidance

- The Old Town District represents the historic commercial and residential core of Kyle. This District is envisioned to offer both local service commercial activities and residential uses in order to create a lively and livable area.

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Zoning

Case Number: Z-13-011

- Elements of form and design, such as maintenance of the regular street grid, are critical to ensuring transitions between neighboring uses.
- Civic, specialty commercial, and residential are the primary uses intended for the area.
- The purpose of the Old Town District is to preserve the historic form of Kyle, while encouraging appropriate infill development and redevelopment.
- The Old Town Future Land Use district identifies R-1-A as a conditional zoning designation.

Zoning District

The single-family attached/detached district R-1-A, garden home allows attached or detached single-family structures with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 4,800 square feet. There shall be no more than 6.8 houses per buildable acre. The single-family residences authorized in this zoning district include those generally referred to as garden homes, patio homes and zero lot line homes. A maximum height of 35' is permitted for the R-1-A zoning district. All buildings and structures, garages, and/or accessory buildings constructed within this district must have all four sides composed of 100 percent brick, stone, hardiplank or other approved masonry product.

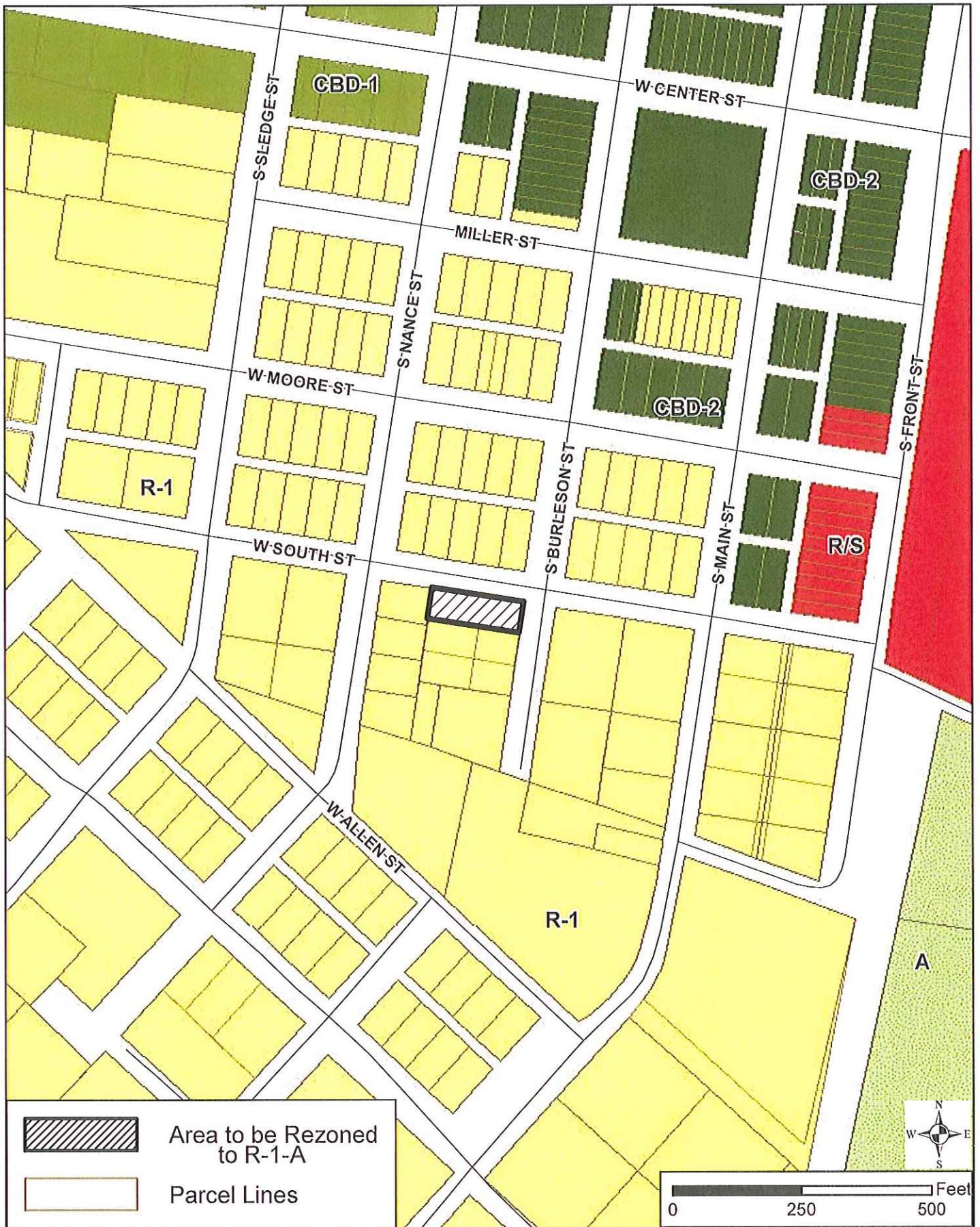
Recommendation

In reviewing the requested rezoning request staff has made the following findings:

- The current zoning category, "R-1", is no longer a recognized zoning category. Prior the redevelopment of the property the lot must be rezoned.
- The Comprehensive Master Plan calls for civic, specialty commercial, and residential development within Old Town future land use district.
- Previously existing structures on the lot have been demolished.
- The proposed rezoning appears to support the vision and character of the Old Town Future land use district.
- The proposed rezoning does not appear to substantially affect the public health, safety or welfare of adjacent property owners.

Staff is recommending approval of the request.

Exhibit B



item 8C

September 24, 2013 Zoning	Planning and Zoning Commission
Case Number: Z-13-012	

OWNER/APPLICANT: Bear River Limited LLP **AGENT:** Wade Todd, National Site Solutions

LOCATION: The subject property is located east of the Bunton Creek Subdivision, along Bunton Lane. The subject property is part of a larger subdivision, as a result the portion of the property seeking rezoning does not currently have street frontage (see attached location map).

COUNTY: Hays County **AREA:** 35.761 acres

PROPOSED CITY COUNCIL HEARINGS: First Reading: October 2, 2013
Second Reading: October 15, 2013

EXISTING ZONING: Single Family residential 2 "R-1-2"

PROPOSED ZONING: Single Family attached "R-1-A"

SITE INFORMATION:

Transportation: The property has no direct access from an existing street. It is located on the back end of a larger property along Bunton Lane.

Surrounding Zoning:

- *North: R-1-2 Single Family Residential 2*
- *South: R-1-2 Single Family Residential 2*
- *East : R-1-2 Single Family Residential 2*
- *West: R-1-2 Single Family Residential 2*

Future Land Use Designation: New Settlement Land Use District

PUBLIC INPUT: Notice of the proposed change was sent to property owners within 200' of the subject property.

STAFF ANALYSIS:

Background

The subject property is part of a larger proposed subdivision. The proposed subdivision in its entirety is a 98 acre parcel that is located next to the Bunton Creek Subdivision. The applicant is seeking to create a transition between the adjacent 40 foot lots being developed in the adjacent subdivision and the 55-65' lots that will be developed in the remainder of the proposed subdivision. A concept plan has been submitted concurrently with this zoning request to demonstrate the transition the applicant is wishing to create.

Comprehensive Plan Guidance

- The New Settlement District is comprised primarily of farm fields and new residential developments that are being carved out of the former farm fields.

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Planning and Zoning Commission

Zoning

Case Number: Z-13-012

- The City of Kyle should seek to capitalize on the develop ability while emphasizing community amenities, enhancing the neighborhood lifestyle through shared spaces, and improving connectivity within and without the future land use district.
- Use patterns should be established that complement residential development and facilitate beneficial land use transitions.

Zoning District

The single-family attached/detached district R-1-A, garden home allows attached or detached single-family structures with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 4,800 square feet. There shall be no more than 6.8 houses per buildable acre. The single-family residences authorized in this zoning district include those generally referred to as garden homes, patio homes and zero lot line homes

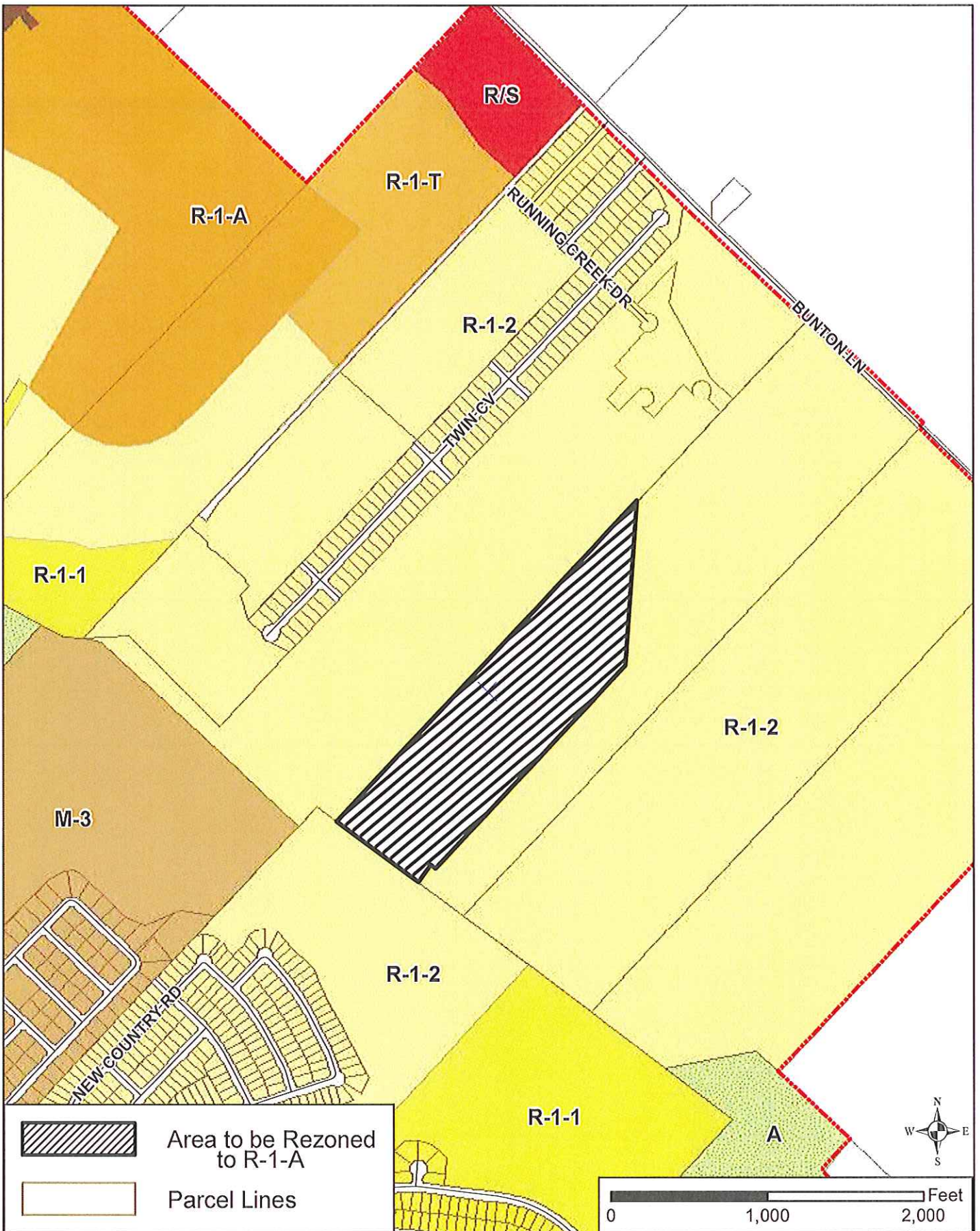
Recommendation

In reviewing the requested rezoning request staff has made the following findings:

- The proposed rezoning appears to support the majority policies adopted in the comprehensive master plan.
- The proposed rezoning does not appear to substantially affect the public health, safety or welfare of adjacent property owners.
- The R-1-A zoning designation is identified as a conditional zoning district

Staff is recommending approval of the request.

Exhibit B



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Planning and Zoning Commission

Zoning

Case Number: Z-13-013

- As new development extends into the district from the Old Town District care should be taken to ensure that the historic street pattern is preserved.
- The stated purpose of the district is to accommodate the growth of residential and neighborhood commercial uses around the Old Town district, while preserving the historic rural fabric.

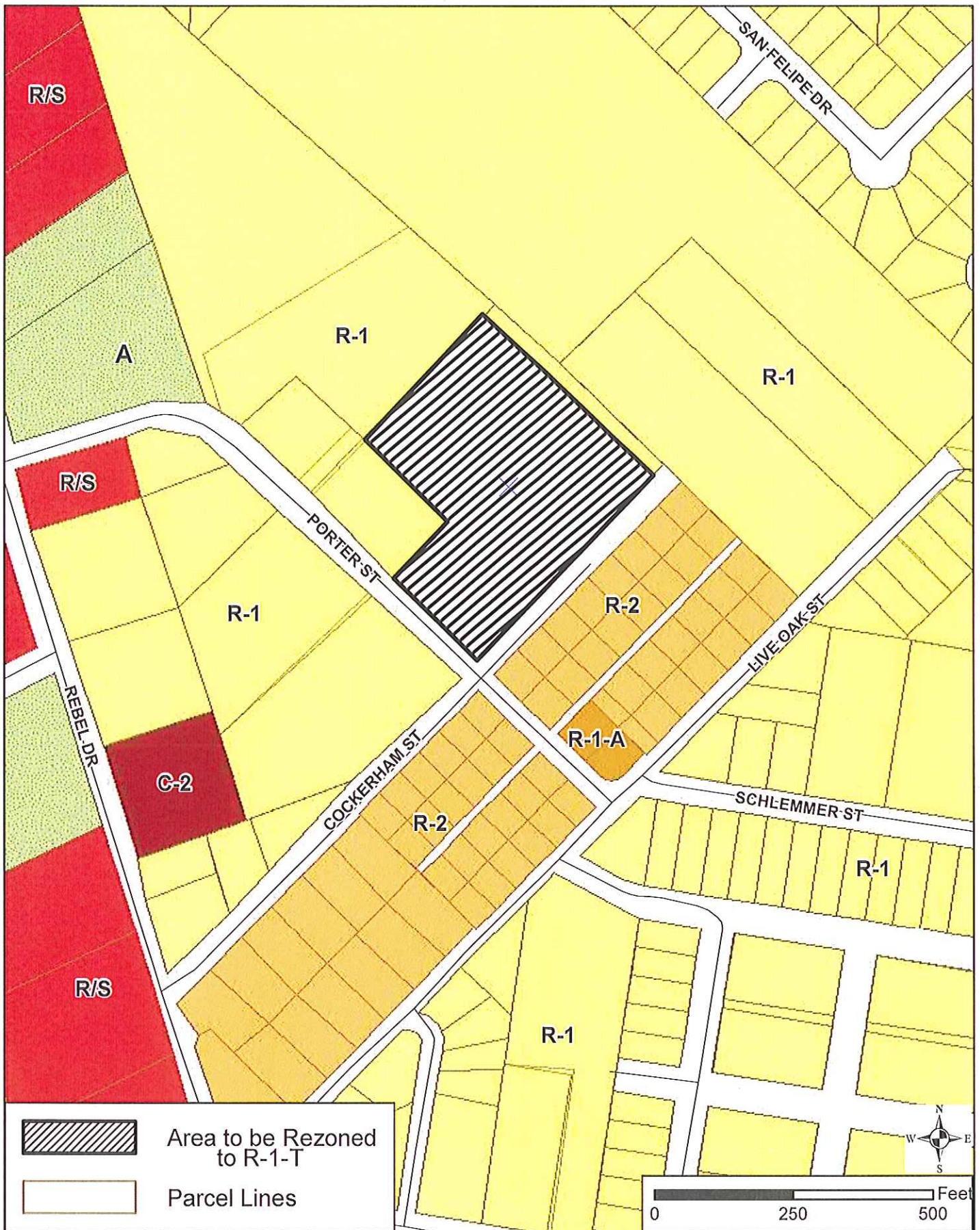
Zoning District

- The permitted density shall not exceed 2,844 square feet. There shall be no more than ten units per buildable acre of land.
- *Front yard.* There shall be a common area yard having a depth of not less than 15 feet
- *Side yard.* No side yard shall be required for individual lots. There shall be a side yard setback of not less than 15 feet from the walls of any building, or accessory building, to the nearest boundary line of any property not included within the townhouse development.
- *Rear yard minimum setback.* There shall be a rear yard setback having a depth of not less than 15 feet
- *Approved materials.* All buildings and structures, garages, and/or accessory buildings constructed within this district must have all four sides composed of 100 percent brick, stone, hardiplank or other approved masonry product.

Recommendation

- Staff is recommending approval of the request for the following reasons:
 - The proposed rezoning would allow for the infill development of property within the City core where existing utilities and infrastructure are already present.
 - The rezoning of this property would create a residential product that does not already exist within this area of Kyle
 - R-1-T is identified as recommended zoning designation within the future land use district.

Exhibit B



item 8E

September 24, 2013 Zoning	Planning and Zoning Commission
Case Number: Z-13-014	

OWNER/APPLICANT: FISERV ISS FBO Gregory Lahr **AGENT:** Gary Whited

LOCATION: The subject property is located at 101 Creekside Trail.

COUNTY: Hays County

AREA: 3.24 acres

PROPOSED CITY COUNCIL HEARINGS: First Reading: October 2, 2013
Second Reading: October 15, 2013

EXISTING ZONING: Retail Services "R/S"

PROPOSED ZONING: Residential Townhouse "R-1-T"

SITE INFORMATION:

Transportation: The subject property fronts on Creekside Trail.

Surrounding Zoning:

- *North: R/S Retail Services*
- *South: R/S Retail Services*
- *East : R/S Retail Services*
- *West: A Agricultural District*

Future Land Use Designation: New Settlement Community Future Land Use District

PUBLIC INPUT:

Notice of the proposed change was sent to property owners within 200' of the subject property. No phone calls or correspondence has been received in support or in opposition of this request.

STAFF ANALYSIS:

The property owner is proposing to rezone the subject property from Retail Services to Townhome residential. The request is a less intense zoning classification than the current commercial zoning designation of Retail Services.

Comprehensive Plan Guidance-

- The Comprehensive Plan identifies R-1-T as a conditional zoning designation.
- Traditional residential enclaves are predominate in The New Settlement District
- The Comprehensive Plan identifies the New Settlement District to have a lower density and intensity of development than the adjacent Mid-Town District.

Case Number: Z-13-014

- The Plan calls for the open character of the landscape to evoke the agricultural heritage of the District and states the physical and visual portioning and division of land should be avoided where possible in this District.
- The flat land and large parcel size in the New Settlement District result in a high level of development potential, which is beginning to be realized through market-driven demand for new housing stock.
- The City of Kyle should seek to capitalize on “develop ability,” while emphasizing community amenities, enhancing the neighborhood lifestyle through shared spaces.
- Use patterns should be established that complement residential development and facilitate beneficial land use transitions. In this way, the New Settlement District should serve as a transition between the higher intensity of use within the core Districts and the low intensity of use of the Farm District.

Zoning District Development Standards

- The permitted density shall not exceed 2,844 square feet. There shall be no more than ten units per buildable acre of land.
- *Front yard.* There shall be a common area yard having a depth of not less than 15 feet
- *Side yard.* No side yard shall be required for individual lots. There shall be a side yard setback of not less than 15 feet from the walls of any building, or accessory building, to the nearest boundary line of any property not included within the townhouse development.
- *Rear yard minimum setback.* There shall be a rear yard setback having a depth of not less than 15 feet
- *Approved materials.* All buildings and structures, garages, and/or accessory buildings constructed within this district must have all four sides composed of 100 percent brick, stone, hardiplank or other approved masonry product.

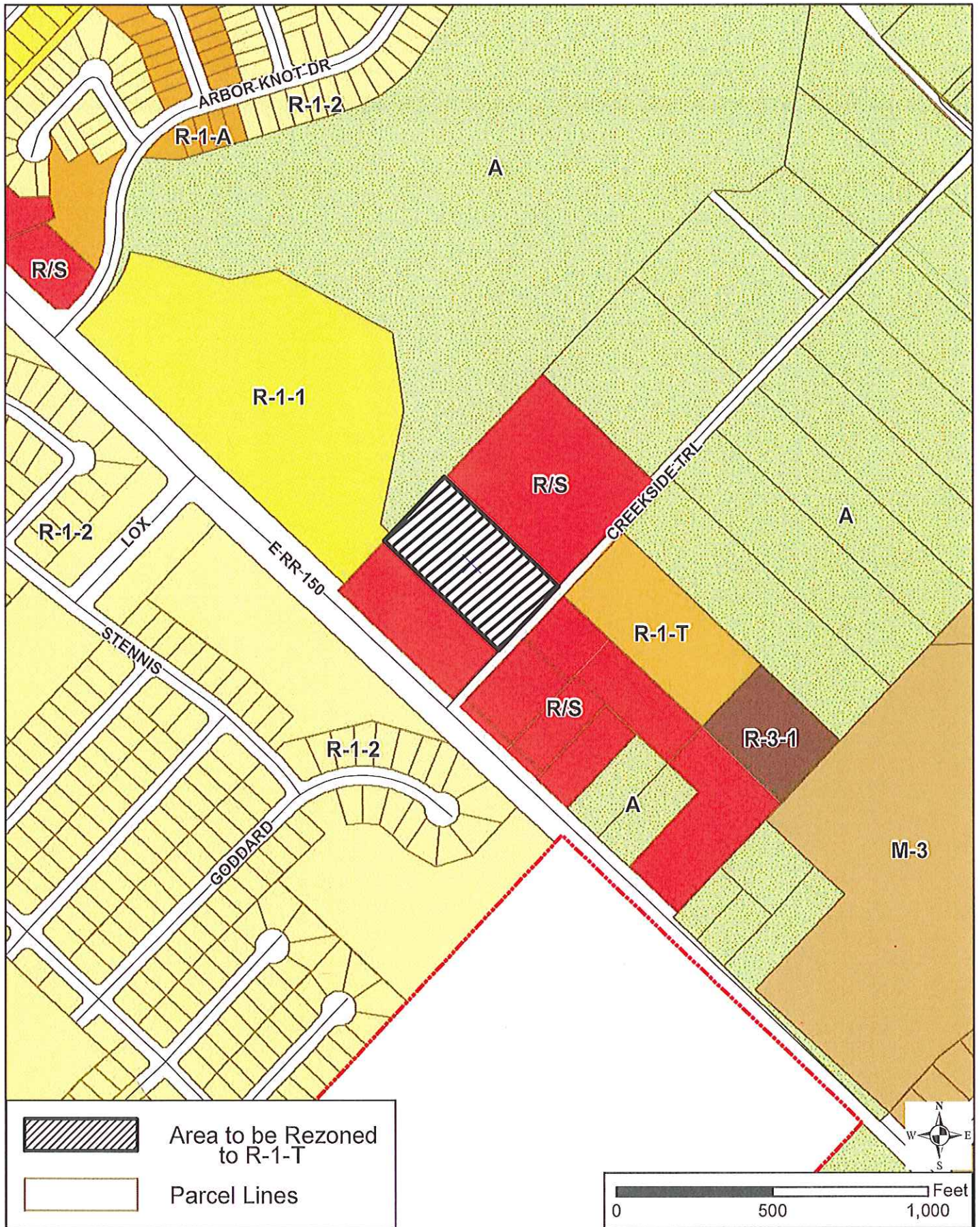
Recommendation

In reviewing the requested rezoning request staff has made the following findings:

- The proposed rezoning appears to be consistent with the surrounding uses of townhomes across the street (currently under construction) and the adjacent memory care facility (under construction), while retaining commercial zoning on the corner of Creekside trail and 150.
- The proposed rezoning appears to support the majority policies adopted in the comprehensive master plan .
- The proposed rezoning does not appear to substantially affect the public health, safety or welfare of adjacent property owners.

Staff is recommending approval of the request.

Exhibit B



item 8F

September 24, 2013	<i>Planning and Zoning Commission</i>
Zoning	PGI Investments- Yarrington and I-35
Case Number: Z-13-003	

OWNER/APPLICANT: Hugo Elizondo on behalf of PGI Investment

LOCATION: 24800 S. IH35

AREA: 47.74 acres

EXISTING ZONING: -A (Agriculture)

PROPOSED ZONING: The applicant is seeking a zoning request of PUD (Planned Unit Development Overlay District) with a base zoning district of RS (Retail Services) and R-3-3 (Apartment Residential- 28 units per acre).

SITE INFORMATION:

Transportation: The subject property fronts on I-35, Yarrington Road, and Post Road

Surrounding Zoning:

- *North- I-35*
- *South- Yarrington Road*
- *East - I-35*
- *West- Post Road*

Future Land Use Designation: New Settlement District / Regional Node

PUBLIC INPUT

See attached.

REVIEW CRITERIA FOR ZONING REQUEST:

In making a determination regarding a requested zoning change the Planning and Zoning Commission and the City Council must consider the following:

- Whether the proposed zoning change implements the intent and policies of the Comprehensive Master Plan. This includes but is not limited to the following(per Section 10.05 of the City of Kyle Charter):
 - Whether the uses and development standards are appropriate in the area and are consistent with the master plan.
 - Whether the rezoning is consistent with proposed plans for providing utilities and public services.
- Whether the proposed zoning change is in accordance with the intent and purpose of PUD Ordinance. This includes but is not limited to the following: (Section 53-669 of the City of Kyle PUD ordinance- outlined below for your review)
 - Does the development further the intent and character and policies statements outlined in the Comprehensive Master Plan.

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Planning and Zoning Commission

Zoning

PGI Investments- Yarrington and I-35

Case Number: Z-13-003

- Do the development standards create a superior development than what would otherwise be created.
- Section 53-722 of the City of Kyle Code calls for the following evaluation of the PUD preliminary site plan:
 - a. The plan's compliance with all provisions of this chapter and other ordinances of the city.
 - b. The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
 - c. The relationship of the development to adjacent uses in terms of harmonious use and design, setbacks, maintenance of property values, and negative impacts.
 - d. The provision of a safe and efficient vehicular and pedestrian circulation system.
 - e. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
 - f. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.
 - g. The coordination of streets so as to compose a convenient system consistent with the thoroughfare plan of the city.
 - h. The use of landscaping and screening to:
 - 1. Provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary; and
 - 2. Complement the design and location of buildings and be integrated into the overall site design.
 - i. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
 - j. The adequacy of water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

OPTIONS FOR ACTION:

- Approval- If the proposed development is found to be consistent with the above criteria.
- Conditional approval with modifications- If the proposed use is found to be appropriate but development standards need to be modified to meet the goals of the PUD ordinance and comprehensive plan
- Denial- If the proposed development is not found to be consistent with the above criteria.

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Planning and Zoning Commission

Zoning

PGI Investments- Yarrington and I-35

Case Number: Z-13-003

STAFF ANALYSIS:

Background

The subject property is located west of I-35 and is bounded on the west by Post Road, on the south by Yarrington Road and the north and east by IH-35. The property was initially annexed into the City on October 20, 2009 and received its current interim zoning designation of AG at that time.

Intent of Requested Zoning District

PUD- purpose and objectives
Sec. 53-669.

(a) The purpose and intent of the planned unit development district is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the city consistent with this chapter and accepted urban planning practices, with overall mixed-use regulations as set forth below and in accordance with the city's comprehensive plan. The planned unit development rules are designed to:

- (1) Allow development which is harmonious with nearby areas;
- (2) Enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance;
- (3) Provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs;
- (4) Encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods;
- (5) Facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment;
- (6) Provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and
- (7) Require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.

(b) Toward these ends, rezoning of land and development under this district will be permitted only in accordance with the intent and purpose of the city's comprehensive plan and this chapter, and to that end the planned unit development plan must be prepared and approved in accordance with the provisions of this chapter.

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Zoning

PGI Investments- Yarrington and I-35

Case Number: Z-13-003

Sec. 53-703. Flexible planning.

(a) When considering a planned unit development (PUD), the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and streetlights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc.

(b) Final approval of a PUD by the city council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances.

(c) The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

Sec. 53-704. Rules applicable.

The City Council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may attach a planned unit development district designation to any tract of land equal to or greater than three buildable acres. Under the planned development designation the following rules apply:

(1) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the city council, and no such approval will be inferred or implied.

(2) Permitted uses are those listed under the applicable zoning districts for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as CBD-2, RS, W, CM districts). In addition, a planned unit development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a planned unit development, additional uses may be permitted, and specific permitted uses may be prohibited from the base district.

(3) Standards required by the base zoning apply in a planned unit development except that the following regulations and standards may be varied in the adoption of the planned unit development; provided that the plan is consistent with sound urban planning and good engineering practices.

a. Front, side and rear setbacks.

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Planning and Zoning Commission

Zoning

PGI Investments- Yarrington and I-35

Case Number: Z-13-003

- b. Maximum height.
- c. Maximum lot coverage.
- d. Floor area ratio.
- e. Off-street parking requirements.
- f. Special district requirements pertaining to the base zoning.
- g. Number of dwelling units per buildable acre.
- h. Accessory building regulations.
- i. Sign standards.

(4) In approving a planned unit development, no standards may be modified unless such modification is expressly permitted by this chapter, and in no case may standards be modified when such modifications are prohibited by this chapter.

(5) In approving a planned unit development, the city council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.

(6) The planning and zoning commission and city council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general

Comprehensive Plan Guidance

The Future Land Use map identifies the subject property to be located within the New Settlement Future Land Use District and the Regional Node Future Land Use District.

Intent of Future Land Use Districts

New Settlement

The Comprehensive Master Plan identifies the New Settlement District to have a high level of development potential. Additionally the Comprehensive Master Plan states The City of Kyle should seek to capitalize on the development ability of the future land use district, while emphasizing community amenities, enhancing the neighborhood lifestyle through shared spaces and improving connectivity within and outside the district. Furthermore the district encourages use patterns to be established in a manner that complement residential development and facilitate beneficial land use transitions. The New Settlement District **does not** recommend the R-3-3 zoning district within the future land use district and zoning district identifies the retail services zoning district as a conditional zoning category within the district.

Regional Node

The Comprehensive Master Plan identifies the Regional Nodes to have regional scale retail and commercial activity complemented by regional scale residential uses. The Regional Node districts are intended for the following:

- To represent the character and identity of Kyle, and signal these traits to the surrounding community.
- The Comprehensive Master Plan identifies appropriate uses for a Regional Node to include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers.
- The primary goal of the regional nodes is to capture commercial opportunities necessary to close Kyle's tax gap.
- Density should be aggregated to enhance value and activity levels.
- The Comprehensive Master Plan identifies the Retail Services zoning designation as a **conditional** zoning designation within the Regional Node future land use district. When a zoning district is identified conditional the comprehensive master plan states that design improvements shall be made to ensure compliance with intent and character objectives of the future land use district and implementation of the design standards as conveyed in the urban design plan shall be incorporated into the development.

Urban Design Plan Guidance

The Urban Design identifies the subject property to be located in an area that is subject to the transitional condition of the Urban Design Plan (specifically within component 3: Interstate 35 Approachways). The urban design plan identifies the primary function of the transitional district is to visually and cognitively establish a separation from the ordinary interstate landscape (as seen in Buda and San Marcos) and create a sense of approach to the destination portion of the interstate corridor. Additionally it provides the following guidance regarding development

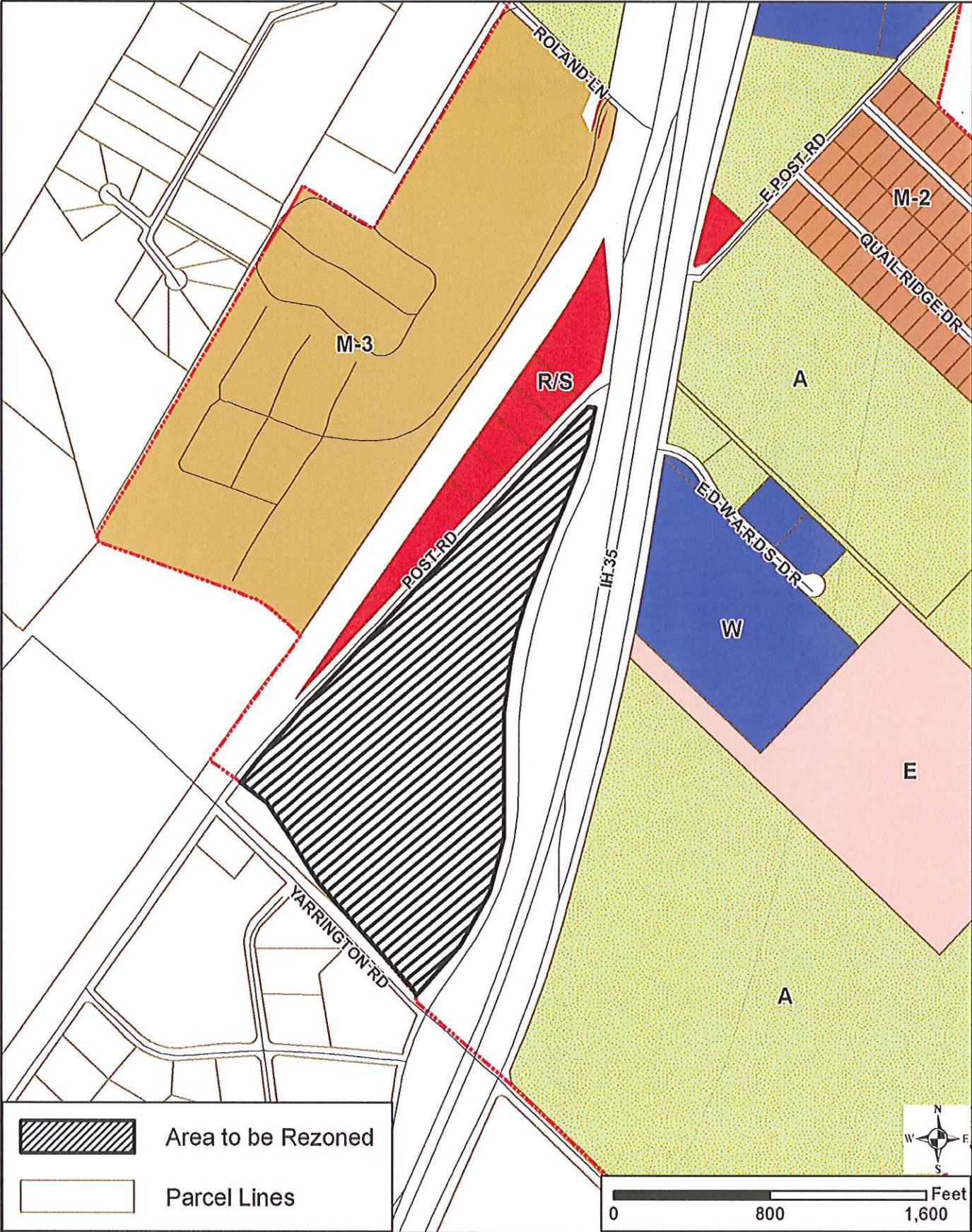
Private Realm Interface:

- Service roads prevent building development from directly fronting the Interstate edge. However, where development fronts the service road, it should relate to such roadways in a more typical pattern (e.g. parking located between the building and the roadway).
- Provisions should be made in the site design for a landscape edge of parking areas that brings a portion of the native planting (within the corridor right of way) into the private realm.

Enhancements:

- In order for a clear separation from the ordinary Interstate landscapes of Buda and San Marcos to be realized, the Approachway section of I-35 must present a more pastoral image. Therefore, key enhancements of the Approachway sections of the I-35 corridor include:
 - A forested Interstate edge created by a program of denser tree planting using native species and the use of understory plant materials to create an image of an undisturbed landscape.
 - Planting of colorful ornamental grasses on certain terraces.

Exhibit B



Sofia Nelson

From: Sofia Nelson
Sent: Friday, September 06, 2013 4:06 PM
To: 'hugo@cuatroconsultants.com'
Cc: 'Jerry Hendrix'; James Earp; Lanny Lambert; Kerry Urbanowicz; Debbie Guerra; Diana Blank
Subject: Staff Comments for PUD submittal on 8613
Attachments: staffcomments on 080613resubmital.pdf

Hugo- Attached to this email are staff comments regarding the 8-6-13 submittal. You are still on track for the P&Z meeting on 9/24/13. Any information other than what you have already submitted that you would like P&Z to receive should be in no later than next Thursday the 12th of September.

Please let me know if you have any other questions.

Sofia Nelson

--

Sofia Nelson, CNU-A
Planning Director
City of Kyle
office- 512.262.3925
cell- 512.644.5432

Staff comments
sent 9/6/13

MEMO

TO: Hugo Elizondo, Applicant for PUD
FROM: Sofia Nelson, Director of Planning
DATE: September 6, 2013
RE: Comments on 8/6/13 PUD resubmittal

- A redline word version (with track changes) of the submitted PUD copy still needs to be submitted
- Postponement fee still has not been paid; please provide the fee of \$66.40
- Sec 3.2.f- The parkland section of the PUD still does not appear to reflect all of the requirements of the parkland ordinance rather than listing specific standards please refer to the parkland dedication requirements in place at the time of final platting.
- Exhibit C- Row B.- Remove "or as governed by local airport requirements"
- Exhibit C- Row D- It is helpful for staff, the Commission, and the Council to understand why an increase is needed to the Floor to Area Ratio requirements
- Exhibit C- Row E.- The reduction in parking for the apartment complex was a point of discussion at the joint workshop will this amended?
- Multi-Family zoning district units per acre is not in keeping with comprehensive plan zoning recommended for this district. Please let me know if you are planning to amend the request for zoning.
- Exhibit C- Row B- Sidewalks and Sidewalk Trees- Please explain 20% of what calculation will be increased (i.e. are you indicating 20% of the required landscape for the lot?)
- Section 3.2 e. - Replatting- The statement should read- Any portion of the property may be replatted to change the ~~use or designation~~ lot configuration
- Exhibit D- General Design Standards: Within this section you identify general design standards for the Kyle Travel Center, however the design standards should be required for all commercial development developed within the boundaries of the PUD not just the truck stop area.
- Exhibit D-page 6 unless you can commit to the retaining the live oak trees along I-35 you should not include the statement of "as much as practicably possible"
- Exhibit D- page6/ #4-Grouping of plant materials- there are no associated standards with this section please explain why this is included.
- Exhibit D- page7- C. Parking Area Landscaping- What is a large or medium tree
- Exhibit D- page7- E. Streetscape- streetscapes shall be in accordance with the zoning ordinance- please explain what section of the zoning ordinance you are referring to for streetscape standards.

- Exhibit D- page7- E. #4- "Any landscape and irrigation location within the public..." (Are you referring to public ROW)?
- Exhibit D- page 2 C. Elevations
 - Building Elevations shall incorporate pedestrian scale features and patterns in order for this to be a reviewable requirement please identify features that are considered pedestrian in scale. If you need some examples please let me know.
 - "All anchor tenant buildings shall incorporate elements such as..." In order for this to be a reviewable requirement please indicate how many elements should be included.



Response to
staff
comments
submitted 9/18

September 17, 2013

Firm Registration No. F-3524

Sofia Nelson
City of Kyle
100 W. Center Street
Kyle, Texas 78640

**RE: KYLE TRAVEL CENTER: 24800 S IH 35 48 ACRE TRACT
KYLE, TEXAS
CCL 11-144**

Subject: PROPOSED PUD UPDATE

Dear Ms. Nelson:

Transmitted herewith, please find two (2) copies of the updated Proposed PUD for Yarrington Subdivision, per City review comments dated September 6, 2013.

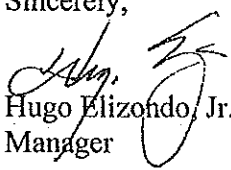
I. General Comments:

- Redline word version with tracking changes was emailed to Reviewer, September 17, 2013.
- Postponement fee in the amount of \$66.40 will be provided by Owner under separate cover.
- Section 3.2.f – Parkland Section: The parkland section has been updated accordingly.
- Exhibit C – Row B: Row B has been updated accordingly.
- Exhibit C – Row D: The FAR has been adjusted to match Code. In order to provide more dense development concurrent with increased buffering, we had asked for this increase. It now matches Code.
- In our opinion, the entire tract is technically a Regional Node. The Comprehensive Plan simplistically depicts a 1/3 mile radius from the intersection for the Regional Node. The Node boundary should follow property lines or tract boundaries so area can easily be identified. The Comprehensive Plan as currently written states the Regional Node shall “encourage high intensity residential development.” Thus, we believe R-3-3 better meets this element of the Comprehensive Plan than R-3-2. Also, we note that R-3-2 and R-3-3 both allow up to 28 units per acre under certain conditions. We ask for R-3-3, however, if Staff/Council cannot support this under the PUD Agreement, then we ask that R-3-2 be supported as the residential element of this development.

- Exhibit C – Row B: Sidewalks and Sidewalk Trees – The 20% increase is over that required by Code and by Overlay District. Exhibit C has been modified accordingly.
- Section 3.2.e – Replatting: Statement has been updated accordingly.
- Exhibit D – General Design Standards: Standards have been clarified so no question they apply to entire PUD tract.
- Exhibit D – Page 6: Statement regarding live oak trees along I-35 has been clarified. Lot owner shall have final determination on removal. We leave this verbiage in the document as an indicator to prospective buyers that intent is to retain existing trees where practicable and viable to site development
- Exhibit D – Page 6/#4 Grouping of Plant Materials: This item has been deleted. Grouping will occur on Landscape Plan, as appropriate.
- Exhibit D – Page 7-C – Parking Area Landscaping: “Large” and “medium” has been deleted to match Code definitions of trees.
- Exhibit D – Page 7-E – Streetscape: Reference has been deleted.
- Exhibit D – Page 7-E/#4: R.O.W. has been added to this sentence to clarify where this applies.
- Exhibit D – Page 2-C – Elevations:
 - Per previous discussion with variance Staff members, final building elevations showing all required elements including pedestrian scale are required at time of site plan and building permit application. We respectfully request that these detailed building elevations and review be deferred to building and site plan permitting phase.
 - Five elevations shall be in corporate into customer entrances.

Please review and advise if you have any questions regarding this matter.

Sincerely,


 Hugo Elizondo, Jr., R.E.
 Manager

Attachments

submitted
9/18

PLANNED USE DEVELOPMENT OVERLAY DISTRICT

AND

DEVELOPMENT PLAN

BETWEEN

THE CITY OF KYLE

HAYS COUNTY, TEXAS

AND

PGI INVESTMENT, LLC

PLANNED USE DEVELOPMENT OVERLAY DISTRICT

STATE OF TEXAS §

COUNTY OF HAYS §

This Planned Use Development Overlay District ("PUD") is between the City of Kyle, Texas (the "City") and PGI Investment, LLC (PGI). In this PUD, the City and PGI are sometimes individually referred to as a "Party" and collectively referred to as the "Parties".

RECITALS:

PGI, directly or through an affiliate or one or more assignees, intends to develop approximately 47.74 acres of land (the "Land") located within the City of Kyle full purpose annexation area and in Hays County, Texas (the County"). The Land is more fully described on the attached -Exhibit A. Owner and City desire that the entire Land be governed by this PUD.

The unique geometry of the Site including its triangular shape, its boundary of Interstate 35 and Post Road/Union Pacific Railroad, and the elevated Yarrington Road. The low lying area and significant tree cover also contributes to the uniqueness of the Project site topography and constraints. This PUD allows this unique site to be developed in compliance with the City of Kyle Comprehensive Plan by allowing flexibility of use, enhanced landscaping, and an enhanced commercial tax base.

PGI intends to develop the Land as a master-planned, mixed-use community that will include commercial and residential uses conforming with Chapter 53 Article III Planned Unit Development District requirements of the City of Kyle Zoning Ordinance. In this PUD, the Land, as it will be developed, is sometimes referred to as the "Project".

The City is located in a rapidly growing area of the County and new construction and land development will impact the future character of the City. The City has adopted a Comprehensive Master Plan with land use districts ("Master Plan") to guide the City in planning for future growth and development. PGI and the City wish to enter into this PUD to provide an alternative to the City's typical regulatory process for development, provide development that is harmonious with the intent of the Plan and PGI's vision for the Project development, encourage innovative and comprehensive master-planning of the Land, provide certainty of regulatory requirements throughout the term of this PUD and provide assurance of a high-quality development that will benefit the present and future residents of the City of Kyle.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and PGI agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **Applicable Fees:** The fees and charges to be paid by PGI to the City with respect to the development of the Land.

1.2 **Applicable Rules:** The City rules, regulations and official policies in effect as of Vesting Date, which, as modified by the Project Approvals, will be applicable to the development of the Land.

1.3 **CCN:** The right to service the property with water pursuant to a Certificate of Convenience and Necessity issued or established by the TCEQ or its predecessors.

1.4 **City:** The City of Kyle, Texas, a State of Texas, home rule city.

- 1.5 City Manager: The City Manager of the City of Kyle.
- 1.6 City Council: The City Council of the City.
- 1.7 City Engineer: The Engineer for the City.
- 1.8 City Rules: The City's ordinances, regulations and official policies.
- 1.9 Comprehensive Master Plan: The Comprehensive Master Plan currently in effect for the City.
- 1.10 County: Hays County, Texas.
- 1.11 Interstate: Interstate Highway 35 which bounds the Project
- 1.12 Land: Approximately 47.74 acres of land, more or less, in Hays County, Texas, and within the full purpose annexation area of the City of Kyle, as more fully described on the attached Exhibit A.
- 1.13 Planning and Zoning Commission: The Planning and Zoning Commission of the City.
- 1.14 Preliminary Site Plan: The preliminary site or conceptual plan of the entire Project attached as Exhibit B,
- 1.15 Project: The Land as it will be developed under this PUD.

1.16 Project Approvals: The approvals, variances, waivers and exceptions to the Applicable Rules approved by the City with respect to other development of the Land, as set forth on the attached Exhibit C.

1.17 TCEQ: The Texas Commission of Environmental Quality.

ARTICLE 2 PUBLIC BENEFITS, INFRASTRUCTURE AND AMENITIES

2.1 Orderly Growth. The City desires that development within its City limits occur in an orderly manner in order to protect the health, safety and welfare of its present and future citizens, protect property values and provide for the growth of the City's tax base and comply with the City's Comprehensive Plan in the manner prescribed by law. This PUD will benefit the City by facilitating the development of a master-planned community within the City, which will allow for thoughtful and high-quality planning, the development of necessary roadways and utility facilities, the provision of required fire protection services, and the development of a balanced community that includes Interstate-compatible commercial, retail and residential uses.

2.2 Economic Growth. The development of the Project as a master-planned, mixture of uses will benefit the City by providing new employers and an expanded job market for the residents of the City and its extraterritorial jurisdiction, furthering the development of an expanded commercial tax base increasing services available to residents of the City and its extraterritorial jurisdiction.

2.3 Provision of Housing. The development of Land under this PUD is intended to provide multi-family residential housing alternatives for the City's present and future citizens and, as contemplated by the City's Comprehensive Plan to allow the development of housing that will minimize negative environmental impacts and promote the aesthetic enhancement of the City and its extraterritorial jurisdiction.

ARTICLE 3 PROPERTY DEVELOPMENT

3.1 Governing Regulations. The PUD Overlay District shall constitute an "Agreement for Construction" as defined by Texas Local Gov't Code Ann. Section 245.001 with the rights attendant thereto. To the extent permitted by law, and subject to the exceptions contained in Chapter 245 Local Government Code, for the term of this agreement, the development and use of the Land will be controlled by the terms of this agreement, the base zoning district, PUD requirements of the City Code, the and the Applicable Rules.

3.2 Project Approval and Entitlements. The City has reviewed and approved certain development matters regarding the Land. The Parties have specifically agreed as follows:

- a. Project Approvals. The City confirms that the Project Approvals set forth in Exhibit C (the "Project Approval") have been reviewed, and to the extent necessary approved, by all required City departments, boards and commissions and the City Council and are granted by the City with respect to the development of the Land.
- b. Preliminary Site Plan. The City confirms that the Preliminary Site Plan attached as Exhibit B (including all footnotes and definitions thereon or attached thereto) complies with the rules and regulations set forth in this document, as amended, and that the Preliminary Site Plan has been reviewed, and to the extent necessary approved, by all requisite City departments, boards and commissions and the City Council.

A full site plan per the requirements of the City Code will be required as each individual lot is developed.

- c. Density of Development. Anything contained in this PUD or City ordinances to the contrary notwithstanding, PGI will have the right to develop land at a density as set forth on Exhibit C. For purposes of this PUD, there shall be allowed within areas noted as residential areas: R-3-3 or multifamily residential including parks, sports and playground facilities, amenity centers, clubhouses and similar uses. For purposes of this PUD there shall be allowed within areas noted as commercial areas: R.S. or Retail Services.
- d. Phasing of Development. PGI may plat the Land in phases as determined by the Parties.
- e. Replating. Any portion of the Property may be replatted to change the lot configuration of that previously platted portion so long as the entire platted portion of the Property meets the Applicable Rules.
- f. Parkland. The Project shall comply with parkland dedication and development requirements in place at the time of final platting.
- g. Land Use. The City acknowledges that the portions of the Land not under active development may remain in use for existing RV Park use or wildlife management or agricultural purposes and must conform to the requirements the City code has established for non-conforming uses, structures, and site.
- h. Prohibited Uses. The following land uses are prohibited.
 - o Sale of motor vehicles (to include but not limited to golf carts, boats, motorcycles, jet ski, new and used automobiles)

- Car Wash
 - Bus terminal Facility
 - Auto Repair
- i. Storage Requirements. Outdoor storage and container storage are permitted as an accessory use as follows:
- Such storage does not exceed twenty percent (20%) of the gross floor area of the primary building that houses the business storing such materials,
 - Such storage or container is located no closer to a street frontage than the primary building that houses the business storing such materials,
 - Such storage or container is screened from view from adjacent properties
 - Such storage or container is not permitted within required setbacks.
- j. Display Requirements.
- Outdoor display of merchandise is permitted when such display is of merchandise from a permanent business located in a permanent legal structure on site and such display is limited to not more than thirty percent (30%) of the gross floor area of the building which houses the business displaying such merchandise.
 - Display is not permitted within required setbacks.

3.3 Further Approvals. The City agrees that, upon the effective date of this PUD, PGI has the vested right to develop the Land consistent with the Project Approvals and this PUD. Any approved amendments to the Project Approvals, will become a part of the Project, and shall be

subject to the City rules, ordinances, state law and regulations then place to the extent permitted by law.

3.4 Standard for and Timing of Review. The Parties agree that they will use reasonable efforts to review and process approvals required by this PUD consistent with City rules and regulations. Final authority for the resolution of any unresolved dispute created by this PUD shall be vested in the Board of Adjustment.

3.5 Amendments. All amendments must comply with the requirements established in Section 53.724 of the City of Kyle Code.

3.6 Terms of Approval. The project is subject to the terms of approval outlined in Section 53.725 of the City of Kyle Code.

ARTICLE 4 UTILITIES/SERVICES

4.1 Wastewater. Wastewater service will be provided by the City of San Marcos until such time as the City of Kyle can provide wastewater service to this development. PGI is responsible for determining if the available wastewater infrastructure has sufficient capacity to serve the development. If the development will exceed the capacity of the City of San Marcos' existing wastewater infrastructure, improvements to the existing infrastructure to provide sufficient capacity will be provided by and at the cost of PGI. The development will also be responsible for meeting and maintaining compliance with all applicable City of San Marcos sewer use ordinance requirements such as the Industrial Waste Discharge Regulations and Sewer Surcharge Fees.

The City of Kyle shall use its best efforts to provide to the Project wastewater capacity as and when reasonably requested by PGI. PGI will at its costs install gravity flow wastewater lines within the Project necessary to service the Project in accordance with Applicable Rules (the "Wastewater Facilities"). All wastewater interceptor and offsite improvements and any

necessary onsite lift stations, force mains, pumps or similar facilities for nongravity collection of wastewater will be provided by and at the cost of the City at such location as PGI may reasonably request subject to the City's ability to obtain project financing. The City and PGI will negotiate in good faith the location for the onsite wastewater lift station and route of the planned wastewater interceptor traversing the Land. PGI will provide the land area or site needed for the wastewater lift station to be constructed including construction easements as needed from time to time and maintained by the City. Once the public wastewater onsite improvements are completed in accordance with the Applicable Rules and Project Approvals, the City will accept the same for maintenance and operation.

4.2 Water. The City will provide to the Project, water capacity as and when needed and reasonably requested by PGI. If applicable, once the water onsite improvements are completed in accordance with the Applicable Rules and Project Approvals, the City will accept the same for maintenance and operation.

4.3 Easements. PGI agrees to provide use of all necessary PGI lands, and easements and to provide further required easements or lands as may be necessary for construction of the City's segment of the wastewater Project.

4.4 Signage. Project signage will comply with the requirements set forth in this Section, Exhibit C, Exhibit F: Signage Plan, and Exhibit D. It is the intent of the Project to have less square footage of signage than what is allowed by Code, if these lots were developed individually and not as a master planned development. Sign type and location are shown on Exhibit F. The project shall include one (1) two-sided pylon sign with an 80 foot maximum height and a maximum of six (6) tenant signs and full color LED display; two (2) two-sided pylon signs, with a 50 foot maximum height and a maximum of six (6) tenant signs. In addition, at two of the joint

access driveway locations along IH 35 and one driveway entrance along Post Road, three (3) pylon signs with a 25 foot maximum height and a maximum of four (4) tenant signs. One monument sign with an 8 foot maximum height and a maximum of one (1) tenant sign. These signs shall comply with all requirements of the City Sign Ordinance as of the vested date of this document, save and except any requirements in conflict with the number, sizes and types of signs stated above.

ARTICLE 5 GENERAL PROVISIONS

5.1 Applicable Law and Venue. The interpretation, performance, enforcement, and validity of this PUD is governed by the laws of the State of Texas. Exclusive venue for any dispute, interpretation, explanation or application of the PUD will be in a court of appropriate jurisdiction in Hays County, Texas.

5.2 No Third Party Beneficiary. This PUD is not intended, nor will it be construed, to create any third beneficiary rights in any person or entity who is not a Party, unless expressly otherwise proved.

5.3 Certificate of Compliance. Upon the written request by either Party given in accordance with this PUD, the other Party will reasonably execute and deliver to the requesting Party a statement certifying that: (a) this PUD is unmodified and in full force and effect or, if there have been modifications, that this PUD is in full force and effect as modified and stating the date and

nature of each modification; (b) there are no current uncured defaults under this PUD, or specifying the date and nature of each default; and (c) any other information that may be reasonably requested. The City Manager will be authorized to execute any requested certificate on the behalf of the City.

5.4 Remedies for Default. If either Party defaults under this PUD and fails to cure the default within the applicable cure period, the non-defaulting Party will have all rights and remedies available under this PUD or applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this PUD or to enforce the defaulting Party's obligations under this PUD by specific performance or writ of mandamus, or to terminate this PUD. The City acknowledges that any refusal of or delay by the City to perform its obligations under this PUD may have a substantial and material impact on PGI, and its ability to exercise its rights and perform its obligations under this PUD. Accordingly, in the event of a default by the City, PGI will be entitled to seek a writ of mandamus, in addition to seeking any other available remedies. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.

5.5 Reservation of Rights. To the extent not inconsistent with this PUD, each Party reserves all available rights, privileges, and immunities under applicable laws. City specifically reserves all rights of sovereign immunity provided by the constitution, state law and the City Charter. Nothing contained herein shall ever be construed as a waiver of sovereign immunity the rights to which are specifically and expressly reserved herein to the fullest extent permitted by law and minimally to the extent then and there existing prior to the execution hereof.

5.6 Waiver. Any failure by a Party to insist upon strict performance by the other Party of any provision of this PUD will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right insist upon strict compliance with all terms of this PUD. In order to be effective as to a Party, any waiver of default under this PUD must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of item set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provisions of this PUD in the future.

5.7 Entire Agreement. This PUD and the Exhibits hereto contain the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this PUD. This PUD may be amended only by written agreement signed by the Parties.

5.8 Exhibits, Headings, Construction and Counterparts. All Exhibits attached to this PUD are incorporated into and made a part of this PUD for all purposes. The paragraph headings contained in this PUD are for the convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this PUD. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this PUD or its exhibits. This PUD may be executed in any number of counterparts, each of which will be deemed to be an original, all of which will together constitute

the same instrument. This PUD will become effective only when one or more counterparts, individually or taken together, bear the signatures of all the Parties.

5.9 Employment of Undocumented Workers. During the term of this PUD, if Developer shall knowingly employ any undocumented workers, and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Developer shall be in default of this PUD. Developer shall assure that any work done on the Project shall be performed by a contractor, subcontractor or other entity that shall observe the conditions provided for in this section.

5.10 Indemnity. Developer shall indemnify, defend, save and hold harmless the CITY and its officers, agents, contractors, volunteers, employees and assigns from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Developer or any of its owners, officers, directors, agents, employees or contractors, arising out of or related to Developer's occupancy and use of the Licensed Premises. It is the specific intention of the Parties that the CITY shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the CITY, be indemnified by Developer from and against any and all claims. It is agreed that the Developer will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration for the use and occupancy of the Licensed Premises, the Developer agrees to waive all rights of subrogation against the CITY its officers, officials, agents and employees for losses arising from the use, occupancy or condition of the Licensed Premises which shall be separate and apart from the required blanket waivers of subrogation contained in the mandatory insurance required by Section 5.12 hereof.

5.11 Insurance. Developer shall procure and maintain during any term of this PUD such typical and ordinary insurance as required to secure the indemnity provisions contained herein. Such insurance shall include comprehensive general liability insurance containing coverage for public liability, bodily injury, property damage and death; automobile liability insurance; workers compensation; and errors omissions insurance. City shall be named as an additional insured on all policies required herein, shall provide certificates of insurance evidencing such coverage, with all required policies obtaining blanket waivers of subrogation.

5.12 Alternative Dispute Resolution(ADR)/Mediation. Prior to the initiation of any suit herein, and except in the case where either party may be entitled to request injunctive relief to avoid imminent and irreparable harm, the Parties shall first engage in good faith negotiations between the upper management of each. The City designates the City Manager as its representative for any negotiations provided for herein. If such negotiations are unsuccessful, the Parties will thereafter engage in mediation under the commercial mediation rules of the American Arbitration Association.

5.13 Notices. Any notices under this PUD may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the address set forth by their signatures, or as such addresses may be changed from time to time by written notice to the other Parties. Either City or PGI may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten days prior to the date such change is effected. All notices under this PUD will be deemed given on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt or facsimile confirmation.

5.14 Exhibits. The following exhibits are attached to this PUD, and made part hereof for all purposes:

- Exhibit A - Metes and Bounds Description of the Land
- Exhibit B - Preliminary Site Plan/Land Use Chart
- Exhibit C - Project Approvals, including Variances and Exceptions
- Exhibit D - PDD Development Standards
- Exhibit E - Building Elevations
- Exhibit F - Signage Plan

IN WITNESS WHEREOF, the undersigned Parties have executed this PUD on the dates indicated below, to be effective on the date the last party signs.

PGI INVESTMENT, LLC

By:-----

Name: Kamlesh Shah

Title: _____

Address: 19511 Comal River Drive, Cypress, Texas 77433

CITY OF KYLE

By:_____

Name:_____

Title: _____

Address: 100 W. Center Street, Kyle, TX 78640



Debbie Guerra <dguerra@cityofkyle.com>

Truck Stop

1 message

Patricia Moreno <pmoreno@cityofkyle.com>

Wed, Aug 15, 2012 at 2:29 PM

To: Mario Perez <mperez@cityofkyle.com>, Sofia Nelson <snelson@cityofkyle.com>, Susan Hajek <shajek@cityofkyle.com>, Debbie Guerra <dguerra@cityofkyle.com>

The concern from TCEQ was basically to see how far along in the process of the Truck Stop is in being built. After explaining to her all that we discussed, she was satisfied with the answers and didnt really need any other information from Steve W.

She said that the complaints vary from people complaining about the spring, archeological disturbance and an Indian graveyard. She said that the people complaining are residents of Plum Creek RV park and dont want to loose their homes because of this project. She also said the complaintees mentioned concerns about septic systems etc and her comment was "why now all of the sudden after many years of residency in the area is this just now a concern". So, for now this is all, but who's not to say its not the end of many other concerns.

--

Patty Moreno

City of Kyle
Building Permit Coordinator
Office (512) 262-3910
Fax (512) 262-3915



Debbie Guerra <dguerra@cityofkyle.com>

Plum Creek Campground Construction

2 messages

asimmers@centurytel.net <asimmers@centurytel.net>

Mon, Oct 15, 2012 at 2:48 PM

To: mayor@cityofkyle.com, dhervol@mac.com, brad@kylesvoice.com, samantha4kyle@gmail.com, district6rep@cityofkyle.com, district4rep@cityofkyle.com, beckydist2@yahoo.com, planning@cityofkyle.com, bertcobb@co.hays.tx.us, raywhisenant@co.hays.tx.us, healthinfo@sanmarcostx.gov, wassenich@grandecom.net, info@edwardsaquifer.org

Cc: chancewsparks@gmail.com, Julie Watkins <juliejeane.watkins@gmail.com>, jwtait <jwtait@gmail.com>, BIG CEDAR RANCH <cty86698@centurytel.net>, carrolldavid@centurytel.net, pham50@centurylink.net, eric@ericbeal.com

To Officials of: the cities of Kyle & San Marcos, county of Hays, the San Marcos River Foundation, the Edwards Aquifer Authority, Blanco Vista HOA Liason and all other interested parties.

My wife and I live on Blanco River Ranch Rd. in the subdivision of the same name and have become increasingly concerned about the ongoing construction at the Plum Creek Campground located in Hays Co. on the IH-35 access road North of and between Yarrington and Post Rd. at exit 210 on IH-35.

Through the efforts of our neighbor Mrs. Julie Watkins we have learned that the new owners of the campground intend to request a change in the zoning for this approximately 45 acre parcel from Agriculture to Commercial in order to construct an enormous truckstop/resturant/grocery with 300 pads for truck parking. As the primary access to our subdivision is via IH-35 and Yarrington Road, the establishment of such a facility at that location would have a very negative impact upon our community and the property values within it. Also of concern would be disruption to traffic flow to and from the soccer fields and park at Five Mile Dam on the Blanco River. We therefore request that those responsible for planning and zoning of this parcel take our concerns and objections into consideration.

Also of concern to us is the seeming attempt to plug the flow from the artesian spring on this site. The source of the spring is believed to be the Edwards Aquifer and fed a small lake at the campground and from there flowed as a tributary to the Blanco River. The new owners have dumped and compacted tons of fill into the pond but have as yet failed to block flow from the spring and seem to have rerouted the flow through piping under Yarrington Rd. and into an apartment complex on Post Rd. and down slope from the spring. We are concerned that this tributary to the Blanco and then to the San Marcos River will be lost or contaminated. Is an environmental impact assessment not required for this work and has one been prepared and approved?

We are firm believers in individual property rights, but we also believe that we are all stake holders in how our environment is preserved and protected and therefore request that our concerns be addressed before taking irreversible action regarding this change in land use.

Thank you for giving our concerns your consideration,

Andrew and Sally Simmers

carrolldavid@centurytel.net <carrolldavid@centurytel.net>

Mon, Oct 15, 2012 at 3:29 PM

Reply-To: carrolldavid@centurytel.net

To: mayor@cityofkyle.com, dhervol@mac.com, brad@kylesvoice.com, samantha4kyle@gmail.com, district6rep@cityofkyle.com, district4rep@cityofkyle.com, beckydist2@yahoo.com, planning@cityofkyle.com, bertcobb@co.hays.tx.us, raywhisenant@co.hays.tx.us, healthinfo@sanmarcostx.gov, wassenich@grandecom.net, info@edwardsaquifer.org, asimmers@centurytel.net

Cc: chancewsparks@gmail.com, Julie Watkins <juliejeane.watkins@gmail.com>, jwtait <jwtait@gmail.com>, BIG CEDAR RANCH <cty86698@centurytel.net>, pham50@centurylink.net, eric@ericbeal.com

Rusty and Sally. Great letter. Points well made and presented. Thanks.

Carroll David

[Quoted text hidden]



Debbie Guerra <dguerra@cityofkyle.com>

RE: Yarrington 182 Acres

1 message

viaggio@comcast.net <viaggio@comcast.net>
To: PLANNING@cityofkyle.com

Tue, Apr 9, 2013 at 9:08 AM

Ms. Solia Nelson

Planning Director,

We are presently talking to the owners of the 182 acre Yarrington property adjacent to Blanco Vista. Our interest is to purchase the property and create an upscaled subdivision.

We have attached a package on a project we are currently developing in the City of Pflugerville. We have worked closely with Pflugerville and they are very pleased with the quality of our project. We would propose a similar upscaled project on the 182 acres. We would like the opportunity to meet with you on this subject as we would like to be annexed into the City of Kyle, not San Marcos but we would like the opportunity to create a MUD for the project before it is annexed.

Please be advised that we do not own this property but have started the process of trying to acquire it.

Thank you,

William Webster

Sentinel Communities

512-351-9887

 SORENTO_COMMUNITY_VISUALIZATIONS_compressed.pdf
4845K



Debbie Guerra <dguerra@cityofkyle.com>

Attn: Sophia Nelson, Director of Planning

3 messages

Paula Hamilton <pham50@centurylink.net>
To: planning@cityofkyle.com

Mon, Sep 16, 2013 at 11:24 PM

From: Paula Hamilton [mailto:phamilton5050@gmail.com] **On Behalf Of** Paula Hamilton
Sent: Monday, September 16, 2013 10:12 AM
To: ryanskytx@gmail.com; beckydist2@yahoo.com
Subject: FW: YARRINGTON FOLLY

From: Paula Hamilton [mailto:phamilton5050@gmail.com] **On Behalf Of** Paula Hamilton
Sent: Monday, September 16, 2013 9:51 AM
To: mayor@cityofkyle.com; district1rep@cityofkyle.com; beckdist2@yahoo.com; district3rep@cityofkyle.com; district5rep@cityofkyle.com; district4rep@cityofkyle.com; district6rep@cityofkyle.com; ryanskytx@gmail.com; marubsam@earthlink.net; tallmike1@gmail.com; cicelyckay@gmail.com; pat@hart-properties.com; alfred.zambrano@yahoo.com; mpchristie46@yahoo.com
Cc: pham50@centurylink.net
Subject: YARRINGTON FOLLY

Greetings to the Kyle City Council and the Planning and Zoning Commission

On the corner of Yarrington Road, Post Road and the Yarrington Bridge over I35 is a 47 acre property which Kyle is considering for one of two largest truck terminals in the state of Texas. As presented it will be developed without benefit of franchise connections.

Phase 1 of the project will consist of a total of 344 spaces for vehicular parking, 221 designed 18-wheeler pads and 123 car spaces.

Kyle's truck terminal will be slotted under the heading of a PUD as defined in the KYLE COMPREHENSIVE MASTER PLAN for property which, among other things, will "creatively enhance" and "imaginatively improve" said property so as to bring visitors and new interests to Kyle. Blanco Vista Estates was part of a PDD which was intended to do the same. Ironically the terminal proposal submitted to Kyle as a PUD presents quite a different vision.

The proposed truck terminal will be set down adjacent to the northern edge of the San Marcos city limits, where a large apartment facility, Champions Crossing, financed in part through federal section 8 funding, is less than 300 feet away, housing many families with school age and younger children. A few yards further on Yarrington Road/Overpass from where the truck terminal is proposed sits a premier single family subdivision, Blanco Vista Estates. A well-recognized elementary school and a large church have been added in the last several years. All of these facilities constitute a growing family community with enormous potential for encouraging visitors and new families to select Kyle and San Marcos as a prime place to live. At this time no one has provided them with information as to what the nearby truck terminal will create and how it will change what currently exists.

While it is not anticipated to occur, this truck terminal provides in Phase 1 for potentially up to 221 18-wheelers

idling overnight along with an addition of 123 cars. The amount of influx into this community can guarantee:

*Air pollution which can lead to asthma and lung issues

*Noise pollution with 24 hour non-stop exhausts running, air brakes and engines rewing

*Over-lighting which will turn large sections of the surrounding communities from nighttime darkness to artificial daylight.

*Signage will not only be an eyesore but with 60-80 feet tall, heavily lit signs, the truck stop gateway to Kyle won't be missed.

*Ecology will continue to be a major concern as this development group has already proven their interests in environmental issues by

- blocking up an ancient natural spring and establishing plans to build over it

- stacking demolished trees in bonfire piles and leaving them there before zoning has been approved, creating an eyesore and significant fire hazard

*Water is a precious commodity for our state and this community. At a large facility where millions of gallons of diesel fuel and gasoline will be stored and pumped from huge underground tanks, not counting all the fuel sitting inside the 18-wheelers themselves, there cannot be a question of whether fuel runoffs will be frequent and accidents have the potential to occur. It is quite possible that our communities will see truck wash sludge, gas and oil pollutants wind up in our Blanco River and onward.

*San Marcos has signed an agreement to provide wastewater services to this site for an indefinite period of time.

*Traffic - As of today the Yarrington Bridge is anticipated to be expanded by some time in 2015, although a variety of factors could effect this timing. Meanwhile the bridge constitutes a tight squeeze for one 18-wheeler and a car passing in opposite directions. Presently there is traffic congestion for cars and school buses crossing this bridge in morning and afternoon travel times.

If the 18-wheelers coming across the bridge to the truck stop miss the Yarrington terminal entrance, the driver will be required to continue driving further on the Yarrington overpass and choose to select a turn either at the entrance to Blanco Vista Estates or further into the subdivision and closer to the elementary school.

Trucks of this size require long turn time, startup, and stopping maneuvers which will effect the citizens who live and drive in this area.

*Transient subculture provides marked potential for:

- Prostitution

- Drugs use/distribution

- Cartel trafficking

- Human trafficking

- Influx of vagrants

- Increased need for police/sheriff services and equipment

Our county and sister cities need to actively consider protecting our environment and our neighborhoods. To harm the status of what has been created for the joint good of our cities is an enormous step back from the future envisioned by so many well-meaning citizens.

The Kyle Planning and Zoning Committee meets on September 24th and the Kyle City Council meets on October 1st.

Paula Hamilton

pham50@centurylink.net

610 Blanco River Ranch Road

San Marcos, TX 78666

512.396.4800

Paula Hamilton <pham50@centurylink.net>
To: planning@cityofkyle.com

Wed, Sep 18, 2013 at 1:25 PM

Please let me know that this was delivered to Sophia Nelson.
Thank you,
Paula Hamilton

From: Paula Hamilton [mailto:phamilton5050@gmail.com] **On Behalf Of** Paula Hamilton
Sent: Monday, September 16, 2013 11:24 PM
To: planning@cityofkyle.com
Subject: Attn: Sophia Nelson, Director of Planning

[Quoted text hidden]

Debbie Guerra <dguerra@cityofkyle.com>
To: Paula Hamilton <pham50@centurylink.net>

Wed, Sep 18, 2013 at 1:31 PM

Yes, Sofia received the email.

Thank you,

Debbie

[Quoted text hidden]

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Debbie Guerra
Planning Technician
City of Kyle
100 W Center St.
Kyle, Texas 78640
(512) 262-3959
(512) 262-3987 Fax



Debbie Guerra <dguerra@cityofkyle.com>

Truck Stop

1 message

Christy Arcement <christy_arcement@yahoo.com>

Thu, Sep 19, 2013 at 9:19 PM

Reply-To: Christy Arcement <christy_arcement@yahoo.com>

To: "dguerra@cityofkyle.com" <dguerra@cityofkyle.com>

Hi,

I have recently heard about the truck stop vote that will be happening next week. When I purchased my home in Blanco Vista, I purchased it thinking the community and the city of Kyle seemed very family friendly. My husband and I now have a 5 month old baby girl. I love that our neighborhood has a school, playground, pool, shopping close by, and other family friendly amenities. We spend every weekend in the shopping center, and get excited when we see more stores and restaurants going up. We bring money to the community, our community constantly. The truck stop may bring money, but what else will come along with it? They are known for having a high crime rate.

If this truck stop goes up, it will bring strangers into my community, a mass amount of strangers at that. More people will mean more crime and pollution in my backyard. There is a reason truck stops are built in the middle of nowhere. That is not the dream I had for my family when I purchased my home. I hope that you decide to vote against this truck stop being built.

Thank you for you time,
Christy Rofoggar